2007

CHAPTER 34

An Act to amend The Occupational Health and Safety Act, 1993

(Asented to May 17, 2007)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

Short title

1 This Act may be cited as The Occupational Health and Safety (Harassment Prevention) Amendment Act, 2007.

S.S. 1993, c.O-1.1 amended


Section 2 amended

3(1) Subsection 2(1) is amended:

(a) by repealing clause (a) and substituting the following:

“(a) ‘adjudicator’ means an adjudicator who is designated pursuant to section 48;

“(a.1) ‘biological substance’ means a substance containing living organisms or parts of organisms or products of organisms in their natural or modified forms”;

(b) by repealing clause (l) and substituting the following:

“(l) ‘harassment’ means any inappropriate conduct, comment, display, action or gesture by a person:

(i) that either:

(A) is based on race, creed, religion, colour, sex, sexual orientation, marital status, family status, disability, physical size or weight, age, nationality, ancestry or place of origin; or

(B) subject to subsections (3) and (4), adversely affects the worker’s psychological or physical well-being and that the person knows or ought reasonably to know would cause a worker to be humiliated or intimidated; and

(ii) that constitutes a threat to the health or safety of the worker”; and
(c) by adding the following clause after clause (cc):
“(cc.1) ‘special adjudicator’ means a person appointed pursuant to section 48.1 as a special adjudicator”.

(2) The following subsections are added after subsection 2(2):

“(3) To constitute harassment for the purposes of paragraph (1)(l)(i)(B):

(a) repeated conduct, comments, displays, actions or gestures must be established; or

(b) a single, serious occurrence of conduct, or a single, serious comment, display, action or gesture, that has a lasting, harmful effect on the worker must be established.

“(4) For the purposes of paragraph (1)(l)(i)(B), harassment does not include any reasonable action that is taken by an employer, or a manager or supervisor employed or engaged by an employer, relating to the management and direction of the employer’s workers or the place of employment”.

Section 3 amended
4 Clause 3(c) is repealed and the following substituted:

“(c) ensure, insofar as is reasonably practicable, that the employer’s workers are not exposed to harassment with respect to any matter or circumstance arising out of the workers’ employment”.

Section 44 amended
5 Clause 44(1)(nn) is amended by adding “or special adjudicators” after “adjudicators”.

Section 48 amended
6 Subsection 48(1) is amended by adding “, other than appeals respecting decisions that may be appealed to a special adjudicator pursuant to section 56.1” after “this Part”.

New section 48.1
7 The following section is added after section 48:

“Special adjudicators

48.1(1) The Lieutenant Governor in Council, on the recommendation of the minister, shall appoint one or more special adjudicators to hear appeals from a decision of an occupational health officer respecting any matter involving harassment.

(2) In addition to any powers conferred on special adjudicators by this Part, a special adjudicator has:

(a) the powers of a commissioner pursuant to The Public Inquiries Act; and

(b) any prescribed powers.
(3) A special adjudicator holds office at pleasure for a term not exceeding five years and until a successor is appointed.

(4) A special adjudicator is eligible to be reappointed.

(5) The minister may provide any professional, technical or clerical support or other assistance that a special adjudicator may request and that the minister considers reasonable and necessary”.

Section 49 amended

8 Subsection 49(1) is amended by adding “, other than a decision that may be appealed to a special adjudicator pursuant to section 56.1,” after “a decision of an occupational health officer”.

New section 56.1

9 The following section is added after section 56:

“Appeals to special adjudicator – re harassment

56.1(1) A person who is directly affected by a decision of an occupational health officer respecting any matter involving harassment may appeal the decision to a special adjudicator.

(2) Subsections 50(2) and (3) and sections 52 to 56 apply, with any necessary modification, to any appeals to a special adjudicator, any hearings conducted by a special adjudicator, any decisions of a special adjudicator and any appeals of a decision of a special adjudicator.

(3) On receipt of a notice of appeal pursuant to this Part from the director, a special adjudicator:

(a) shall make every effort that the special adjudicator considers reasonable to meet with the parties affected by the occupational health officer’s decision that is being appealed with a view to encouraging a settlement of the matter that is the subject of the occupational health officer’s decision; and

(b) with the agreement of the parties, may use mediation, conciliation or other procedures to encourage a settlement of the matter mentioned in clause (a) at any time before or during a hearing pursuant to this section.

(4) Unless the matter that is the subject of the occupational health officer’s decision has been settled, a special adjudicator shall render a decision in accordance with this Part within one year after the date the director received the notice of appeal”.

Section 58 amended

10 Subsection 58(2) is amended by adding “or a special adjudicator” after “adjudicator”.

Coming into force

11 This Act comes into force on proclamation.