2007

CHAPTER 34

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

(Assented 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

2 *The Occupational Health and Safety Act, 1993* is amended in the manner set forth in this Act.

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4 Clause 3(c) is repealed and the following substituted: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

REGINA, SASKATCHEWAN
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