

BILL

No. 83

An Act respecting Foreign Worker Recruitment and Immigration Services

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FOREIGN WORKER RECRUITMENT
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(Assented to)

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

PART I
Preliminary Matters

Short title

1 This Act may be cited as *The Foreign Worker Recruitment and Immigration Services Act*.

Interpretation

2 In this Act:

- (a) **“adjudicator”** means an adjudicator appointed pursuant to section 49;
- (b) **“application”** means an application for a licence or a certificate of registration and includes an application for renewal;
- (c) **“business day”** means a day other than a Saturday, Sunday or holiday;
- (d) **“certificate of registration”** means a valid certificate of registration issued pursuant to this Act;
- (e) **“code”** means the Code of Conduct adopted in the regulations;
- (f) **“director”** means the person appointed as the director by the minister pursuant to subsection 3(1);
- (g) **“foreign national”** means a person who is not a Canadian citizen or permanent resident of Canada;
- (h) **“foreign worker”** means a foreign national working in or seeking employment in Saskatchewan;
- (i) **“foreign worker recruiter”** means a person who, for a fee or compensation, provides recruitment services;
- (j) **“immigration consultant”** means a person who, for a fee or compensation, provides immigration services;
- (k) **“immigration services”** means services that assist a foreign national in immigrating to Saskatchewan, including:
 - (i) researching and advising on immigration opportunities, laws or processes;
 - (ii) preparing or assisting in the preparation, filing and presentation of applications and documents related to immigration;
 - (iii) representing a foreign national to or before immigration authorities; and
 - (iv) providing or procuring settlement services;

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- (l) **“licence”** means a valid licence issued pursuant to this Act;
- (m) **“licensee”** means a person who holds a licence;
- (n) **“minister”** means the member of Executive Council to whom for the time being the administration of this Act is assigned;
- (o) **“ministry”** means the ministry over which the minister presides;
- (p) **“prescribed”** means prescribed in the regulations;
- (q) **“recruitment services”** means services that assist a foreign national or an employer to secure employment for a foreign national in Saskatchewan, including:
 - (i) finding or attempting to find employment in Saskatchewan for a foreign national;
 - (ii) assisting or advising an employer in the hiring of a foreign national;
 - (iii) assisting or advising another person in doing the things mentioned in subclauses (i) and (ii);
 - (iv) referring a foreign national to another person who does the things mentioned in subclauses (i) and (ii); and
 - (v) providing or procuring settlement services;
- (r) **“registered employer”** means an employer that holds a certificate of registration;
- (s) **“settlement services”** means services provided by a foreign worker recruiter or an immigration consultant to assist a foreign national in adapting to Saskatchewan’s society or economy or in obtaining access to social, economic, government or community programs, networks and services.

PART II
Director

Director

- 3(1) The minister may appoint a person as director.
- (2) Subject to the direction of the minister, the director shall administer this Act and the regulations.
- (3) The director may appoint any person to carry out any responsibility imposed on the director pursuant to this Act or to exercise any of the powers conferred on the director pursuant to this Act that the director believes may be more conveniently carried out or exercised by that person.
- (4) The director may impose any limitations or terms and conditions that the director considers appropriate on an appointment pursuant to subsection (3).
- (5) The exercise of any of the director’s powers or the carrying out of any of the director’s responsibilities by a person appointed pursuant to subsection (3) is deemed to be the exercise or the carrying out by the director.

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PART III

Licensing of Foreign Worker Recruiters and Immigration Consultants

Licence required

4(1) Subject to subsection (2), no person shall:

- (a) act as or hold himself or herself out as a foreign worker recruiter or an immigration consultant or provide immigration services or recruitment services unless that person holds a licence; or
- (b) if that person holds a licence, do any of the things mentioned in clause (a) while using a name other than the name that is stated on the licence or approved by the director.

(2) Subsection (1) does not apply to:

- (a) in the case of recruitment services:
 - (i) a person who recruits or engages in activities to find foreign nationals for employment with his or her own business or for employment with his or her employer;
 - (ii) a person who, without receiving a fee or compensation directly or indirectly, provides recruitment services for a foreign national who is a member of that person's family;
 - (iii) a person who is acting on behalf of a government or a municipality;
 - (iv) a person who is acting on behalf of a university, regional college, the Saskatchewan Institute of Applied Science and Technology or any prescribed educational institution;
 - (v) prescribed classes of persons; or
 - (vi) persons who are exempted by an order of the minister; and
- (b) in the case of immigration services:
 - (i) a member in good standing of a provincial or territorial law society in Canada;
 - (ii) a person who, without receiving a fee or compensation directly or indirectly, provides immigration services to a member of that person's family;
 - (iii) a person who is representing a person who is the subject of Immigration and Refugee Board proceedings pursuant to section 167 of the *Immigration and Refugee Protection Act* (Canada);
 - (iv) prescribed classes of persons; or
 - (v) persons who are exempted by an order of the minister.

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Licensee must be individual

5 Only an individual is eligible to be issued a licence as a foreign worker recruiter or immigration consultant.

Application for licence

6(1) Every applicant for a licence shall:

- (a) apply to the director in a form acceptable to the director;
- (b) if financial security is required pursuant to section 7, file financial security with the director in accordance with that section;
- (c) provide the director with the name under which he or she intends to carry on business;
- (d) provide any information and materials that the director may reasonably require to assess the application; and
- (e) comply with any prescribed application requirements.

(2) The director may make inquiries into and conduct investigations of the character, financial history and competence of an applicant for a licence if the director considers it necessary to determine whether the applicant meets the requirements of this Act, the regulations and the code.

Financial security may be required

7(1) If the director considers it necessary and in the public interest to do so, the director may require:

- (a) an applicant to file financial security with the director as part of the applicant's application;
- (b) a licensee whose licence has been suspended to file financial security with the director before the licence is reinstated; or
- (c) subject to section 48, a licensee to file financial security with the director at any time during the term of a licence.

(2) No person required to file financial security with the director pursuant to this section shall fail at any time to maintain that financial security.

(3) Financial security filed pursuant to this section:

- (a) must be in the amount and in the form that the director considers appropriate; and
- (b) may be forfeited in the prescribed manner.

Issuance or refusal of licence

8(1) On receipt of an application for a licence, the director shall, if the director is satisfied that the applicant has complied with this Act, the regulations and the code, issue a licence to the applicant.

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(2) Subject to section 48, the director may refuse to issue a licence if the director is satisfied of any of the following:

- (a) the applicant has not complied with this Act, the regulations or the code;
- (b) the applicant has provided incomplete, false, misleading or inaccurate information in support of the application;
- (c) the applicant fails to meet any qualification or satisfy any requirement of this Act, the regulations or the code;
- (d) having regard to the past conduct of the applicant, there are reasonable grounds to believe that the applicant will not act in accordance with the law, or with integrity, honesty or in the public interest, while carrying out the activities for which the licence is required;
- (e) the applicant is carrying on activities that are in contravention of this Act, the regulations or the code, or will be in contravention if the licence is granted.

Terms and conditions

9(1) Subject to section 48, the director may, if the director is satisfied that it is in the public interest to do so, include as a provision of a licence any terms and conditions that the director considers appropriate:

- (a) at the time of issuing the licence pursuant to section 8; and
- (b) at any other time during the term of the licence.

(2) No licensee shall fail to comply with any terms and conditions imposed on his or her licence pursuant to this section.

Term of licence

10(1) Subject to subsection (2), a licence is valid for the period stated on it.

(2) No licence is valid for more than five years after the date on which it was issued.

Licence not transferable

11 A licence is not transferable.

Amendment, suspension or cancellation of licence

12(1) Subject to section 48, the director may amend, suspend or cancel a licence if:

- (a) the licensee consents;
- (b) the financial security required pursuant to section 7 has not been filed or maintained in the amount and within the time required by the director;
- (c) the licensee has provided the director with false, misleading or inaccurate information in any application or other document or has failed to provide any information the director may require;
- (d) having regard to the conduct of the licensee, there are reasonable grounds to believe that the licensee is not acting or will not act in accordance with the law, or with integrity, honesty or in the public interest, while carrying out the activities for which the licence is required; or
- (e) the licensee has contravened any provision of this Act, the regulations or the code or has failed to comply with an order made pursuant to this Act.

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(2) If the director amends, suspends or cancels a licence pursuant to subsection (1), the director shall notify the licensee as soon as possible that the licence has been amended, suspended or cancelled.

Effect of suspension or cancellation

13(1) If a licensee's licence is suspended or cancelled pursuant to this Act, that licensee's rights and privileges:

- (a) in the case of a suspension, are removed for the period during which the licence is suspended; or
- (b) in the case of a cancellation, are terminated.

(2) Nothing in this section affects the validity of any services provided by a licensee before the date on which the licensee's licence was suspended or cancelled.

PART IV

Registration of Employers of Foreign Nationals

Registration required

14(1) Subject to subsection (2), no employer shall recruit foreign nationals for employment, either directly or through the services of another person, without holding a certificate of registration.

(2) Subsection (1) does not apply with respect to:

- (a) prescribed classes of employers; or
- (b) employers that are exempted by an order of the minister.

Application for registration

15 Every applicant for registration shall:

- (a) apply to the director in a form acceptable to the director;
- (b) comply with any prescribed application requirements; and
- (c) provide any information and materials that the director may reasonably require to assess the application.

Issuance or refusal of registration

16(1) On receipt of an application pursuant to section 15, the director shall, if the director is satisfied that the applicant has complied with this Act and the regulations, register the applicant and issue a certificate of registration to the applicant.

(2) Subject to section 48, the director may refuse to issue a certificate of registration if the director is satisfied of any of the following:

- (a) the applicant has not complied with this Act or the regulations;
- (b) the applicant has provided incomplete, false, misleading or inaccurate information in support of the application;
- (c) the applicant has failed to meet any qualification or satisfy any requirement of this Act or the regulations;

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- (d) the applicant has failed to comply with any undertakings provided in an application to the Government of Canada or the Government of Saskatchewan for approval to recruit foreign workers;
- (e) the applicant has failed to comply with applicable labour legislation;
- (f) having regard to the past conduct of the applicant, there are reasonable grounds to believe that the applicant will not act in accordance with the law, or with integrity, honesty or in the public interest, while carrying out the activities for which the certificate of registration is required;
- (g) the applicant is carrying on activities that are in contravention of this Act or the regulations, or will be in contravention if the certificate of registration is issued.

Terms and conditions

17(1) Subject to section 48, the director may, if the director is satisfied that it is in the public interest to do so, include as a provision of a certificate of registration any terms and conditions that the director considers appropriate:

- (a) at the time of issuing the certificate of registration pursuant to section 16; and
- (b) at any other time during the term of the certificate of registration.

(2) No registered employer shall fail to comply with any terms and conditions imposed on his or her certificate of registration pursuant to this section.

Term of certificate of registration

18(1) Subject to subsection (2), a certificate of registration is valid for the period stated on it.

(2) No certificate of registration is valid for more than five years after the date on which it was issued.

Certificate of registration not transferable

19 A certificate of registration is not transferable.

Amendment, suspension or cancellation of certificate of registration

20(1) Subject to section 48, the director may amend, suspend or cancel a certificate of registration if:

- (a) the registered employer consents;
- (b) the registered employer has failed to comply with this Act, the regulations or an order made pursuant to this Act;
- (c) the registered employer has provided incomplete, false, misleading or inaccurate information to the director or has failed to provide any information that the director may require;
- (d) the registered employer has failed to meet any qualification or satisfy any requirement of this Act or the regulations;
- (e) the registered employer has failed to comply with any undertakings provided in an application to the Government of Canada or the Government of Saskatchewan for approval to recruit foreign workers;

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- (f) the registered employer has failed to comply with applicable labour legislation;
 - (g) having regard to the conduct of the registered employer, there are reasonable grounds to believe that the registered employer is not acting or will not act in accordance with the law, or with integrity, honesty or in the public interest, while carrying out the activities for which the certificate of registration is required.
- (2) If the director amends, suspends or cancels a certificate of registration pursuant to subsection (1), the director shall notify the registered employer as soon as possible that the certificate of registration has been amended, suspended or cancelled.

Effect of suspension or cancellation

21(1) If a registered employer's certificate of registration is suspended or cancelled pursuant to this Act, that registered employer's rights and privileges:

- (a) in the case of a suspension, are removed for the period during which the certificate of registration is suspended; or
 - (b) in the case of a cancellation, are terminated.
- (2) The suspension or cancellation of any certificate of registration does not affect the validity of any contracts entered into by a registered employer before the date on which the registered employer's certificate of registration was suspended or cancelled.

PART V
Prohibited Practices and Standards of Service

Prohibited practices

22 No foreign worker recruiter, employer or immigration consultant shall:

- (a) produce or distribute false or misleading information;
- (b) take possession of or retain a foreign national's passport or other official documents or property;
- (c) misrepresent employment opportunities, including misrepresentations respecting position, duties, length of employment, wages and benefits or other terms of employment;
- (d) threaten deportation or other action for which there is no lawful cause;
- (e) contact a foreign national or a foreign national's family or friends after being requested not to do so by the foreign national;
- (f) take action against or threaten to take action against a person for participating in an investigation or proceeding by any government or law enforcement agency or for making a complaint to any government or law enforcement agency; or
- (g) take unfair advantage of a foreign national's trust or exploit a foreign national's fear or lack of experience or knowledge.

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Recruitment fee

23(1) Subject to subsection (2), no person shall, directly or indirectly, charge any person other than an employer a fee or expense for recruitment services.

(2) Subsection (1) does not apply with respect to any settlement services provided pursuant to a contract for immigration services.

(3) The term of any contract that requires the payment by any person other than an employer of fees or expenses mentioned in subsection (1) is void and any fee or expense paid may be recovered by the person who paid the fees or expenses in any manner authorized by law.

(4) No employer shall reduce the wages of a foreign worker, or vary, reduce or eliminate any other benefit or term or condition of a foreign worker's employment in order to recover the cost of recruiting the foreign worker and any agreement by the foreign worker to a variation, reduction or elimination is void.

(5) No immigration consultant, foreign worker recruiter or employer shall, directly or indirectly, charge a fee or expense to a foreign worker for employment.

Disclosure of referral fee

24 No immigration consultant or foreign worker recruiter shall fail to clearly disclose in writing to a foreign national that he or she is receiving a fee or compensation for referring the foreign national to another person.

Disclosure if licensed as a foreign worker recruiter and as an immigration consultant

25(1) A person who is licensed as a foreign worker recruiter and as an immigration consultant and who provides recruitment services to an employer and immigration services to a foreign national who will be employed by that employer shall:

(a) disclose to both the employer and foreign national that the person is acting for both parties and the nature of the services that the person is providing to each party;

(b) obtain the written consent of the employer and the foreign national to provide those services to both parties; and

(c) have signed, written contracts with:

(i) the employer; and

(ii) the foreign national.

(2) No person licensed as a foreign worker recruiter and as an immigration consultant shall fail to comply with subsection (1).

Disclosure of partners

26 Every immigration consultant and foreign worker recruiter shall disclose to the director the names and addresses of all of his or her partners, affiliates or agents located or operating inside or outside of Saskatchewan:

(a) at the time of application for a licence; and

(b) at any other time after the time mentioned in clause (a) that there is a material change in the information.

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Contract requirements

27(1) All contracts for recruitment services or immigration services must:

- (a) be in writing;
 - (b) be written in clear and unambiguous language;
 - (c) state the services to be provided;
 - (d) state the fees and expenses to be charged to the foreign national or the employer, as the case may be, and a description of the services for each fee and expense charged;
 - (e) contain any terms required by the director; and
 - (f) contain any prescribed terms and conditions.
- (2) Immigration consultants and foreign worker recruiters shall take reasonable measures to ensure that foreign nationals whose first language is not the language of the contract understand the terms and conditions of the contract before they enter into the contract.
- (3) If a contract for immigration services or recruitment services is unclear, ambiguous or incomplete with respect to the requirements of subsection (1), the interpretation least favourable to the immigration consultant or foreign worker recruiter prevails.

Contracts governed by Saskatchewan law

28 Notwithstanding the form of any contract for immigration services or recruitment services or any Act or law, a contract for immigration services or recruitment services is to be governed by and construed in accordance with the laws of Saskatchewan, and the courts of Saskatchewan have jurisdiction over all matters arising out of or related to that contract.

No employer shall require foreign workers to use an immigration consultant

29 No employer shall require a foreign worker to use the immigration services of a specific immigration consultant.

PART VI
Registry, Records and Sharing of Information

Foreign worker recruiter and immigrant consultant registry

30(1) The director shall establish and maintain a registry that contains information respecting:

- (a) foreign worker recruiters and immigration consultants licensed pursuant to Part III; and
 - (b) employers registered pursuant to Part IV.
- (2) The director shall publish the information mentioned in clause (1)(a) in any manner that the director considers appropriate to bring the information to the public's attention, including publishing the information on the ministry's Internet website.

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Records

31(1) No licensee, former licensee, registered employer or former registered employer shall fail to prepare and retain:

- (a) complete and accurate records concerning that person's activities relating to immigration services or recruitment services; and
- (b) any other prescribed records.

(2) Records required to be retained pursuant to this section:

- (a) must be retained in the form and manner approved by the director for a period of at least five years after the date on which they were created; and
- (b) must be made available for inspection by the director on the request of the director.

(3) If a person who is required to retain records pursuant to this section retains those records in an electronic format, that person shall:

- (a) ensure that the records are easily retrievable, and easily convertible into a readable format, in the manner the director may specify; and
- (b) make those records available to the director in the format in which they are retained when requested by the director to do so.

(4) For the purposes of clause (3)(b), the person shall allow the director to access any database or computer system, or to obtain downloads or make copies from any database or computer system, that contains or may contain any records required to be retained pursuant to this section.

Sharing of information

32 For the purposes of administering and enforcing this Act, the director may provide information collected and obtained pursuant to this Act, including personal information as defined in *The Freedom of Information and Protection of Privacy Act*, to:

- (a) a ministry or agency of the Government of Saskatchewan;
- (b) a department or agency of the Government of Canada;
- (c) a department or agency of another province or territory of Canada or of another country or state within that country;
- (d) a police service;
- (e) any other person or body that governs or regulates the conduct of individuals who provide immigration services or recruitment services to foreign nationals entering Canada; and
- (f) any other prescribed persons or classes of persons.

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Interjurisdictional co-operation

33 Subject to the approval of the minister, for the purposes of fulfilling the director's responsibilities or exercising the director's powers pursuant to this Act, the director may enter into agreements with any person or body empowered by an Act of the Parliament of Canada, the legislature of any province or territory of Canada or the government of any other country or any jurisdiction within that country, to administer or regulate foreign worker recruitment and immigration services programs.

PART VII
Inspections, Investigations and Enforcement

DIVISION 1
Preliminary Matters

Interpretation of Part

34 In this Part:

- (a) “**Act**” includes the regulations, the code and any orders of the director issued pursuant to this Act;
- (b) “**Director of Labour Standards**” means the Director of the Labour Standards Branch designated pursuant to *The Labour Standards Act*;
- (c) “**property**” includes computer software.

Director of Labour Standards

35 For the purposes of administering and enforcing this Act and *The Labour Standards Act*, the director and the Director of Labour Standards may:

- (a) share any information collected and obtained pursuant to this Act or *The Labour Standards Act*, including personal information as defined in *The Freedom of Information and Protection of Privacy Act*; and
- (b) conduct joint inspections, examinations, audits and investigations pursuant to Division 2 and *The Labour Standards Act*.

DIVISION 2
Inspections and Investigations

Inspections

36(1) The director may make inquiries and conduct inspections, examinations and audits respecting the business and activities of any person governed by this Act.

(2) Subject to subsection 37(4), the director may do all or any of the following things in the course of making an inquiry or conducting an inspection, examination or audit:

- (a) enter at any reasonable time and inspect any commercial premises used by a person governed by this Act, including entering any building or structure used in connection with the provision of immigration services or recruitment services;

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- (b) enter at any reasonable time premises containing any records or property required to be kept pursuant to this Act or related to the administration of this Act and inspect, examine or audit those records or that property;
 - (c) require the person and any agent, representative, partner, director, officer or employee of the person to:
 - (i) answer any questions that may be relevant to the inquiry, inspection, examination or audit; and
 - (ii) provide the director with all reasonable assistance, including using any computer hardware or software or any other data storage, processing or retrieval device or system to produce information;
 - (d) use any machinery, equipment, appliances or things that the director considers necessary while at any premises mentioned in clause (a) or (b);
 - (e) in order to produce information, use any computer hardware or software or any other data storage, processing or retrieval device or system that is used in connection with the business or activities of any person governed by this Act;
 - (f) remove for examination and copying anything that may be relevant to the inquiry, inspection, examination or audit, including removing any computer hardware or software or any other data storage, processing or retrieval device or system in order to produce information.
- (3) The director may serve a written demand on any person requiring that person to produce any records or property:
- (a) required to be kept pursuant to this Act; or
 - (b) related to the administration of this Act.
- (4) No person on whom a written demand is served pursuant to this section shall fail to produce the records or property mentioned in the written demand within the time specified in the written demand.
- (5) If the director demands any records or property pursuant to this section, the director may examine the records or property and make copies of the records with reasonable dispatch and promptly return the originals of the records to the person who produced them.
- (6) If the director requires a person to answer questions, to produce a record or other property or to provide assistance in accordance with this section, the person shall do so in the manner and within the period specified by the director.
- (7) The director shall:
- (a) give a receipt for anything that the director removes for examination and copying;
 - (b) promptly return anything removed pursuant to this section to the place from which it was removed or any other place agreed to by the director and the person who furnished it; and
 - (c) take all reasonable steps to ensure that, if a record is taken, a copy of the record is left at the premises to allow business to be carried on.

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Investigations

37(1) If a justice or a provincial court judge is satisfied by information under oath that there are reasonable grounds to believe that an offence against this Act has occurred and that evidence of that offence is likely to be found, the justice or the provincial court judge may issue a warrant to do all or any of the following:

- (a) enter and search any place or premises named in the warrant;
 - (b) stop and search any vehicle described in the warrant;
 - (c) seize and remove from any place, premises or vehicle searched anything that may be evidence of an offence against this Act.
- (2) With a warrant issued pursuant to subsection (1), the director may:
- (a) enter at any time and search any place or premises named in the warrant;
 - (b) stop and search any vehicle described in the warrant;
 - (c) open and examine the contents within any trunk, box, bag, parcel, closet, cupboard or other receptacle that the director finds in the place, premises or vehicle;
 - (d) require the production of and examine any records or property that the director believes, on reasonable grounds, may contain information related to an offence against this Act;
 - (e) remove, for the purpose of making copies, any records examined pursuant to this section; and
 - (f) seize and remove from any place, premises or vehicle searched anything that may be evidence of an offence against this Act.
- (3) Subject to subsection (4), the director may exercise all or any of the powers mentioned in subsection (2) without a warrant issued pursuant to this section if:
- (a) the conditions for obtaining a warrant exist; and
 - (b) the director has reasonable grounds to believe that the delay necessary to obtain a warrant would result:
 - (i) in danger to human life or safety; or
 - (ii) in the loss, removal or destruction of evidence.
- (4) The director shall not enter any premises that are a private dwelling without the consent of the occupier or a warrant issued pursuant to this section.

Copies admissible as evidence

38 A record certified by the director or any person authorized by the director to be a copy of a record made pursuant to section 36 or 37 is admissible in evidence, without proof of the office or signature of the person appearing to have certified the document, and has the same probative force as the original document.

Entry on land

39 For the purposes of carrying out their duties pursuant to this Act, the director and any person lawfully accompanying the director may enter on or pass over any land, whether enclosed or not, without a warrant.

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DIVISION 3
Offences and Penalties

Offences

40(1) No person shall:

- (a) fail to provide any notice or other document that the person is required to provide pursuant to this Act;
- (b) fail to complete any information required on any notice or other document or fail to provide any information required pursuant to this Act;
- (c) make or sign any false statement or furnish any false, misleading or inaccurate information to the director, to the minister or to any employee of the ministry with respect to any matter or thing with respect to which information is required pursuant to this Act;
- (d) omit to state a fact that is required to be stated or that is necessary to make a statement not misleading in light of the circumstances in which it was made to the director or any employee of the ministry;
- (e) destroy, mutilate, alter or fail to retain any records required to be retained pursuant to this Act;
- (f) fail to produce any records required to be retained pursuant to this Act to a person entitled to inspect, examine or audit the records;
- (g) fail to provide all reasonable assistance when required to do so for the purposes of aiding in the conduct of an inquiry, inspection, examination or audit;
- (h) unlawfully obstruct or interfere with the director or any person authorized by the director while making an inquiry, inspection, examination or audit or carrying out duties pursuant to this Act or pursuant to a warrant issued pursuant to section 37; or
- (i) fail to comply with any provision of this Act.

(2) Every person who contravenes a provision of this Act is guilty of an offence and liable on summary conviction to:

- (a) in the case of an individual, a fine of not more than \$50,000, to imprisonment for a term of not more than one year or to both; and
- (b) in the case of a corporation, a fine of not more than \$100,000.

(3) If a person is convicted of an offence pursuant to this Act, the director may publish or otherwise make available to the public the name of the person, a description of the offence, the date of the conviction and the person's sentence.

(4) If the court convicts a person of an offence, the court may, in addition to any penalty it may impose, do all or any of the following:

- (a) order that person to comply with the provision of this Act with respect to which that person was convicted;

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(b) if the court is satisfied that the convicted person has acquired any monetary benefits or that monetary benefits have accrued to the convicted person or to another person associated with or related to the convicted person:

- (i) order the convicted person to pay an additional fine in an amount equal to the amount of the monetary benefits;
- (ii) order the convicted person to pay compensation or make restitution to any person to whom the monetary benefits should be paid; or
- (iii) issue both of the orders mentioned in subclauses (i) and (ii).

(5) Every director, officer or agent of a corporation who directed, authorized, assented to, acquiesced in or participated in an act or omission of the corporation that would constitute an offence by the corporation is guilty of that offence and is liable on summary conviction to the penalties provided for that offence whether or not the corporation has been prosecuted or convicted.

Evidence re certificate of director

41 A certificate of the director certifying all or any of the following facts is admissible in evidence as proof, in the absence of evidence to the contrary, of the facts stated in the certificate without proof of the signature or official position of the person purporting to have signed the certificate:

- (a) that a person named in the certificate was or was not licensed or registered;
- (b) that a licence or a certificate of registration was issued to a person on a date set out in the certificate;
- (c) that the licence or certificate of registration of a person was amended, suspended or cancelled at a particular time;
- (d) that a licence or certificate of registration issued to a person was made subject to terms and conditions.

Evidence of carrying on business without a licence

42 If, in a prosecution for an alleged contravention of this Act or in a proceeding before the director or an adjudicator, it is alleged that the accused operated or acted as a foreign worker recruiter or an immigration consultant without being the holder of a licence, evidence that the accused provided recruitment services or immigration services to a person is proof, in the absence of evidence to the contrary, that the accused operated or acted as a foreign worker recruiter or an immigration consultant without being the holder of a licence.

Vicarious liability

43 In any prosecution of a person for a contravention of this Act or in any proceeding before the director or an adjudicator, it is sufficient proof of the offence to establish, in the absence of any evidence that the offence was committed without the person's knowledge, that it was committed by an employee, contractor, helper or agent of the person, whether or not the employee, contractor, helper or agent:

- (a) is identified; or
- (b) has been prosecuted or convicted for the offence.

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Limitation on prosecutions

44 No prosecution for a contravention of this Act is to be commenced more than four years after the facts on which the alleged contravention is based first came to the knowledge of the director.

DIVISION 4
Enforcement

Legal disability

45 Any person who does not have a licence or a certificate of registration issued pursuant to this Act is not capable of commencing or maintaining any action or other proceeding in any court in Saskatchewan with respect to a contract made for immigration services or recruitment services in whole or in part within Saskatchewan, or against any person resident in Saskatchewan, in the course of or in connection with any immigration services or recruitment services.

Compensation order or reinstatement order

46(1) In this section, “**unlicensed person**” means a person who is required by this Act to hold a licence but who does not hold a licence.

(2) Subject to section 48, the director may order that a licensee compensate a person who paid a fee or expense or suffered any loss or damage if the director is satisfied that the licensee:

- (a) required the person to pay a fee, expense or other sum contrary to this Act;
- (b) charged a fee or expense not clearly stated in a contract with a foreign national; or
- (c) caused loss or damage to the person if the person satisfies the director that the loss or damage is a direct result of the licensee’s contravention of this Act.

(3) Subject to section 48, the director may order that an employer or a prospective employer of a foreign national compensate a person who paid a fee or expense or suffered any loss or damage if the director is satisfied that the employer or prospective employer:

- (a) required the foreign national to use the immigration services of an unlicensed person; or
- (b) reduced the wages of a foreign national or varied, reduced or eliminated any other benefit or term or condition of the foreign national’s employment in order to recover the cost of recruiting the foreign national.

(4) Subject to section 48, the director may order that an unlicensed person compensate a person who paid a fee or expense or suffered any loss or damage if the director is satisfied that the unlicensed person:

- (a) required the person to pay a fee, expense or other sum contrary to this Act; or
- (b) caused loss or damage to the person if the person satisfies the director that the loss or damage is a direct result of the unlicensed person’s contravention of this Act.

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(5) Subject to section 48, in addition to any compensation order provided pursuant to this section, the director may, if the director is satisfied that an employer of a foreign worker dismissed that foreign worker as a reprisal for making a complaint or taking any other action pursuant to this Act, order the employer to reinstate the foreign worker.

(6) If the director orders that compensation be paid pursuant to subsection (2), (3) or (4), the director shall determine the amount of the compensation.

(7) No amount is to be assessed by the director pursuant to this section more than four years after the act or omission that renders the person liable to the payment of that amount first came to the knowledge of the director.

(8) The director may file in the Court of Queen's Bench a certificate signed by the director and setting out:

- (a) the amount assessed pursuant to this section; and
- (b) the person from whom the amount is to be recovered.

(9) A certificate filed pursuant to this section has the same force and effect as if it were a judgment obtained in the Court of Queen's Bench for the recovery of a debt in the amount set out in the certificate, together with reasonable costs and charges with respect to its filing.

(10) The director may assess an amount of compensation pursuant to this section notwithstanding that the facts and circumstances giving rise to the order arose due to the actions of an employee, helper, contractor or agent of the person required to pay the amount.

Enforcement of compensation order

47 The Director of Labour Standards may enforce a certificate filed pursuant to section 46 with respect to an order that compensation be paid to the following as if the amount of compensation ordered to be paid were unpaid wages owing pursuant to *The Labour Standards Act*, and that Act applies, with any necessary modification, for the purposes of enforcing that order:

- (a) a foreign national;
- (b) any individual who paid a fee or expense or suffered any loss or damage on behalf of a foreign national.

PART VIII
Decisions, Hearings and Appeals

Opportunity to be heard

48(1) Before the director takes any action pursuant to clause 7(1)(c), subsection 8(2), section 9 or 12, subsection 16(2), section 17 or 20 or subsection 46(2), (3), (4) or (5), the director shall provide the person affected with:

- (a) written notice of the director's intended action and the reasons for that intended action; and
- (b) an opportunity to make written representations to the director, within a period set by the director, as to why the intended action should not be taken.

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(2) The director is not required to give an oral hearing to any person to whom a notice has been provided pursuant to subsection (1).

(3) After considering the representations mentioned in subsection (1), the director shall issue a written decision and shall serve a copy of the decision on the person.

(4) Notwithstanding subsection (1), if the director considers that it is necessary to protect the public interest, the director may immediately amend, suspend or cancel a licence or a certificate of registration without giving the licensee to whom the licence was issued or the registered employer to whom the certificate of registration was issued an opportunity to be heard, but shall give the licensee or registered employer an opportunity to be heard within 20 business days after the date on which the director takes any of those actions.

(5) If the director amends, suspends or cancels a licence or certificate of registration pursuant to subsection (4), the director shall notify the licensee or registered employer as soon as possible that the licence or certificate of registration has been amended, suspended or cancelled.

Adjudicator

49(1) The minister shall appoint an adjudicator for the purpose of conducting a hearing pursuant to section 50.

(2) The minister shall provide an adjudicator with any clerical and other support that is needed for carrying out the duties of the adjudicator pursuant to this Act.

Hearings

50(1) The director may, if the director considers it necessary to ensure that all information and representations are fairly heard:

(a) conduct a hearing with respect to any matter set out in clause 7(1)(c), subsection 8(2), section 9 or 12, subsection 16(2), section 17 or 20 or subsection 46(2), (3), (4) or (5); or

(b) request an adjudicator to conduct a hearing with respect to any matter set out in clause 7(1)(c), subsection 8(2), section 9 or 12, subsection 16(2), section 17 or 20 or subsection 46(2), (3), (4) or (5).

(2) The director shall provide all persons affected with written notice of any hearing to be conducted pursuant to subsection (1).

(3) In a hearing conducted by the director or an adjudicator pursuant to this section:

(a) subject to any regulations made pursuant to section 55, the director or the adjudicator may determine the procedures by which the hearing is to be conducted;

(b) the director or the adjudicator is not bound by the rules of law concerning evidence and may accept any evidence that the director or the adjudicator considers appropriate; and

(c) the director or the adjudicator may adjourn the hearing from time to time and for any period that the director or the adjudicator considers necessary.

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(4) A foreign national is not required to be a party in a hearing conducted pursuant to this section.

(5) Notwithstanding that a person who is directly affected by a hearing is neither present nor represented at the hearing, if written notice of the hearing has been given to the person, the director or the adjudicator may proceed with the hearing and make any decision as though that person were present.

Reconsideration

51 Notwithstanding any other provision of this Act, the director or an adjudicator may, if the director or the adjudicator receives new information or representations with respect to any decision the director or the adjudicator has made pursuant to section 48 or 50:

- (a) reconsider the matter; and
- (b) rescind, alter or amend any decision the director or the adjudicator has made.

Appeal to Court of Queen's Bench

52(1) A person who is directly affected by a decision of the director or an adjudicator may appeal the decision to a judge of the Court of Queen's Bench.

(2) A person who is directly affected by a decision of the director or an adjudicator and who intends to appeal that decision shall file the appeal within 20 business days after the date of service of the decision of the director or the adjudicator.

(3) A notice of appeal is to be served on:

- (a) the director; and
- (b) the other parties to the proceedings before the director or the adjudicator.

(4) The record of an appeal pursuant to this section is to consist of:

- (a) any records or exhibits filed before the director or the adjudicator;
- (b) any order issued by the director or the adjudicator;
- (c) any written representations made to the director or the adjudicator by the person named in the order;
- (d) any written decision of the director or the adjudicator respecting the matter that is the subject of the appeal;
- (e) the notice of appeal commencing the appeal; and
- (f) any other material that the judge of the Court of Queen's Bench may require.

(5) If an appeal is taken pursuant to this section, a judge of the Court of Queen's Bench may:

- (a) dismiss the appeal;
- (b) allow the appeal;

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- (c) allow the appeal subject to terms;
- (d) vary the decision or order of the director or the adjudicator;
- (e) refer the matter back to the director or the adjudicator for further consideration and decision; or
- (f) make any other order that the judge considers appropriate.

PART IX
General

Immunity

53 No action or proceeding lies or shall be commenced against the minister, the ministry, the director, an adjudicator, the Crown or officers, employees or agents of the Crown for any loss or damage suffered by a person by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done by any one or more of them, pursuant to or in the exercise or supposed exercise of any power conferred by this Act or in the carrying out or supposed carrying out of any duty imposed by this Act.

Service of notice or documents

54(1) Any notice, order or decision required by this Act or the regulations to be given or served is to be served personally or mailed by ordinary or registered mail to the last known address of the person being served or by any other prescribed means.

(2) A document served by ordinary mail or registered mail is deemed to have been received on the tenth business day following the day of its mailing, unless the person to whom it was mailed establishes that, through no fault of the person, he or she did not receive the document or that he or she received it at a later date.

(3) Irregularity in the service of a notice, order or decision does not affect the validity of an otherwise valid notice, order or decision.

Regulations

55(1) The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) prescribing educational institutions and classes of persons for the purposes of subsections 4(2) and 14(2);
- (c) prescribing application requirements, including respecting any application fees, for the purposes of sections 6 and 15;
- (d) respecting the forfeiture of financial security pursuant to section 7, including prescribing the conditions under which and the manner in which a bond or other financial security may be forfeited;
- (e) prescribing contract terms and conditions for the purposes of section 27;
- (f) prescribing records for the purposes of section 31;
- (g) prescribing persons or classes of persons for the purposes of section 32;

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- (h) governing procedures by which hearings are to be conducted for the purposes of section 50;
 - (i) prescribing means of service for the purposes of section 54;
 - (j) adopting a code to be known as the Code of Conduct;
 - (k) with respect to any matter governed by this Act:
 - (i) adopting, as amended from time to time or otherwise, all or any part of any relevant code or standard;
 - (ii) amending for the purposes of this Act or the regulations any code or standard adopted pursuant to subclause (i);
 - (iii) requiring compliance with a code or standard adopted pursuant to subclause (i);
 - (l) prescribing any other matter or thing that is required or authorized by this Act to be prescribed in the regulations;
 - (m) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.
- (2) The code may contain all or any of the following provisions:
- (a) provisions respecting any matter, activity or thing that is governed by this Act or that may be prescribed;
 - (b) provisions determining any criteria, terms, conditions or requirements that must be met in order to carry out any activity governed by this Act;
 - (c) provisions adopting a standard, including a standard developed or established by the director, as amended from time to time or otherwise.

PART X
Coming into Force

Coming into force

56 This Act comes into force on proclamation.