

The Employment Standards Regulations

being

Chapter S-15.1 Reg 5 (effective April 29, 2014) as amended by
Saskatchewan Regulations [95/2016](#).

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

CHAPTER S-15.1 REG 5
The Saskatchewan Employment Act

PART I
Preliminary Matters

Title

1 These regulations may be cited as *The Employment Standards Regulations*.

Interpretation

2(1) In these regulations:

- (a) “**Act**” means *The Saskatchewan Employment Act*;
- (b) “**approved home**” means:
 - (i) an approved home within the meaning of *The Mental Health Services Act* and the regulations made pursuant to that Act; or
 - (ii) a private-service home certified or licensed pursuant to *The Residential Services Act* and the regulations made pursuant to that Act;
- (c) “**care provider**” means an employee who provides services in the private residence of the employer or a private residence of a member of the employer’s immediate family that relate primarily to the provision of care and supervision of a person who is a member of the employer’s immediate family;
- (d) “**city**” includes the City of Lloydminster;
- (e) “**commercial hog operation**” means any undertaking:
 - (i) that is engaged in the breeding, farrowing, weaning or finishing of porcine animals; and
 - (ii) that employs six or more full-time-equivalent employees calculated in accordance with subsection 33(2) or (3);
- (f) “**domestic worker**” means an employee who provides services in the private residence of the employer that relate primarily to the management and operation of that residence;
- (g) “**employer’s immediate family**” means:
 - (i) a spouse of the employer or a person with whom the employer cohabits and has cohabited as a spouse in a relationship of some permanence;
 - (ii) a parent, grandparent, child, grandchild, brother or sister of the employer; or
 - (iii) a parent, grandparent, child, grandchild, brother or sister of a person mentioned in subclause (i);

- (h) “**finishing**” means bringing an animal to market weight in preparation for slaughter but does not include the slaughter of the animal;
- (i) “**full-time employee**” means an employee who regularly works full-time hours;
- (j) “**full-time hours**”, with respect to a place of employment, means the greater of:
 - (i) the hours established by the employer for that place of employment; and
 - (ii) 30 hours per week;
- (k) “**hotel**” includes a boarding house or rooming house in which there are more than five beds set apart for the use of boarders or lodgers;
- (l) “**intern**” means:
 - (i) a person whom an employer permits, directly or indirectly, to perform work or services normally performed by an employee; or
 - (ii) a person being trained by an employer for the employer’s business;
- (m) “**live-in care provider**” means a care provider who resides in the private residence in which he or she provides the services described in clause (c);
- (n) “**live-in domestic worker**” means a domestic worker who resides in the private residence in which he or she provides the services described in clause (f);
- (o) “**minimum wage**” means the hourly minimum wage fixed pursuant to section 2-16 of the Act and the regulations made pursuant to the Act;
- (p) “**oil truck driver**” means an employee who is employed principally in delivering gasoline, lubricating oils and other petroleum products by truck from a refinery, bulk filling station or other similar premises to farms, garages or automobile service stations, but does not include an employee who regularly travels in the course of his or her duties to two or more cities, towns or villages that are at least 20 kilometres apart;
- (q) “**public holiday**” means a public holiday as defined in section 2-30 of the Act, and includes any other day agreed to be observed or directed to be observed as a public holiday pursuant to section 2-31 of the Act;
- (r) “**restaurant**”

but does not include a person who is employed and working as:

- (iii) a nurse;
- (iv) a therapist;
- (v) a care provider;
- (vi) an employee of a child care facility; or
- (vii) an employee of a business or a regional health authority that is engaged in providing a service described in this clause;

(t) “**student learner**” means a person who:

- (i) is enrolled in an educational program at an educational institution recognized by the minister; and
- (ii) is receiving skills training that is a requirement to receive a designation from an educational institution recognized by the minister;

but does not include an intern.

(2) For the purposes of clause 2-1(f) of the Act:

(a) a person who is engaged in the activities associated with being a student learner is not an employee for the purposes of Part II of the Act and these regulations; and

(b) a person engaged in the activities associated with being an intern is an employee for the purposes of Part II of the Act and these regulations.

(3) For the purposes of subsection 2-27(4) of the Act, “**monetary loss**” means the amount of any non-refundable deposit, penalty or other prepaid expense that is directly related to an employee’s cancelled vacation and that the employee can verify as having been paid.

(4) For the purposes of clauses 2-56(4)(a) and 2-57(3)(a) of the Act, “**providing care or support**” means all or any of the following:

(a) directly providing or participating in providing care of the family member or critically ill child;

(b) providing psychological or emotional support of the family member or critically ill child;

(c) arranging for the care of the family member or critically ill child by another care provider.

(5) For the purposes of calculating when an employee’s period of leave has been fully used in accordance with section 2-56 or 2-57 of the Act:

(a) the employee is not considered to have ceased to provide care or support to a family member or critically ill child despite returning to work from time to time if:

- (i) between each return to work, the employee takes leave of at least one week to provide care or support; and

(ii) the total length of the period of leave taken by the employee does not exceed the total set out in section 2-56 or 2-57 of the Act, as the case may be; and

(b) only the periods during which the employee is on leave are to be used in making the calculation and not the periods during which the employee has returned to work.

2 May 2014 cS-15.1 Reg 5 s2; 23 Dec 2016 SR
95/2016 s2.

Exemptions from Part II of the Act

3(1) Part II of the Act does not apply to:

(a) employees in an undertaking in which only members of the employer's immediate family are employed;

(b) sitters; or

(c) athletes while engaged in activities related to their athletic endeavour.

(2) Section 2-16 of the Act does not apply to employees who:

(a) have a physical or mental disability or impairment; and

(b) work for a non-profit organization or institution in programs that are educational, therapeutic or rehabilitative.

(3) Subdivisions 1 to 7 and 12 of Division 2 of Part II of the Act do not apply to employees who are commercial fishers or commercial trappers, as defined in *The Fuel Tax Regulations, 2000*.

(4) Except for sections 2-15 and 2-16, Subdivisions 2 and 3 of Division 2 of Part II of the Act do not apply to an employee who performs services that are entirely of a managerial character.

(5) Except for sections 2-15 and 2-16, Subdivisions 2, 3, 6 and 7 of Division 2 of Part II of the Act do not apply to teachers as defined in section 2 of *The Education Act, 1995*.

2 May 2014 cS-15.1 Reg 5 s3.

PART II
Firefighters

Interpretation of Part

4 nC 1 nt de t 10 :2.4 -182cal or mental disability or impairment; and

(c) “**firefighter**” means a person regularly employed in a fire department on a full-time basis and assigned exclusively to fire protection or fire prevention duties but does not include:

- (i) the fire chief or a deputy fire chief;
- (ii)

Full attendance at conflagrations

8 Notwithstanding any other provision of this Part, if the fire chief is of the opinion that the attendance of all officers and employees of the fire department is necessary to control a conflagration, the fire chief may require the attendance of all the officers,

(6) The employer shall retain a copy of the agreement and provide a copy of the agreement by:

- (a) personally giving it to the employee or each employee bound by the agreement;
- (b) posting it in the workplace;
- (c) posting it online on a secure website to which the employee or each employee bound by the agreement has access; or
- (d) providing it in any other manner that informs the employee or each employee bound by the agreement of the agreement.

(7) If an employer requires or permits the employee to work or to be at the employer's disposal for a period in excess of the dai(agi)37 for weki(agi).8 average hoursh o claushe 2

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(b) at a time or times agreed to by the employer and employee, or, in the

(9) In calculating the number of hours worked in a week in which a public holiday occurs:

(a) the 40-hour standard in a week mentioned in subsection (2) is to be reduced by eight hours with respect to each public holiday that occurs in the week; and

Exemption from section 2-12, subsection 2-13(1) and sections 2-17, 2-18 and 2-19 of Act - residential-service facility workers

15(1) In this section:

- (a) **“operator”** means an operator, as defined in *The Residential-service Facilities Regulations*, who is designated by the employer for the purposes of this section;
- (b) **“residential-service facility”** means a residential-service facility

- (4) If the employee is paid wages on a monthly basis:
- (a) the hourly wage of the employee is the amount HW calculated in accordance with the following formula:

$$HW = \frac{RW}{NH}$$

where:

RW is the product of:

- (i) 12; and
- (ii) regular wages of the employee for one month; and

NH is the amount equal to the product of:

- (i) 52; and
- (ii) the number of hours of the week during which the employee is required or permitted to work or to be at the disposal of his or her employer; and

- (b) for the purposes of clause (a), the number of hours of the week must not exceed 40.

2 May 2014 cS-15.1 Reg 5 s16.

Calculation of hourly wage on other basis

17(1) Subject to subsections (2) to (4), if an employee is paid his or her wages on a basis other than an hourly, daily, weekly or monthly basis, the hourly wage of the employee is the amount obtained by dividing the wages of the employee earned during the pay period, exclusive of overtime, vacation pay and public holiday pay, by the actual number of hours worked during the pay period, exclusive of overtime.

(2) In making a calculation for the purposes of subsection (1), an hourly wage is to be determined as being not greater than five times the minimum wage and not less than the minimum wage.

(3) If an employee is paid wages on the basis of distance travelled, the employee's hourly wage is deemed to be the product of 64 and the rate per kilometre.

(4) If an employee is employed as a salesperson who receives all of his or her remuneration as commissions, the employee's hourly wage is deemed to be the minimum wage.

2 May 2014 cS-15.1 Reg 5 s17.

Application of section 2-13 of Act - retail trade

18(1) In this section, "**retail trade**" means the selling or offering for sale to the general public of consumer products for personal, family or household use or consumption.

(2) Subject to subsection (3), for the purposes of subsection 2-13(5) of the Act, an employer who is primarily engaged in retail trade and whose workplace has more than 10 employees shall grant to an employee who usually works or is at the disposal of the employer for 20 hours or more in a week two consecutive days of rest in a week, one of which is a Saturday or Sunday whenever possible.

(3) Subsection (2) does not apply to an employer mentioned in that subsection if:

(a) the employer's workplace is subject to a municipal bylaw requiring the workplace to be closed during the whole or part of any day of the week other than Saturday, Sunday or Monday; or

(b) the employer and employee are subject to a modified work arrangement pursuant to section 2-19 of the Act or an overtime authorization pursuant to section 2-20 of the Act.

2 May 2014 cS-15.1 Reg 5 s18.

Exemption from section 2-13 of the Act - employees engaged in controlling or suppressing fires
19 Subsections 2-13(3) to (6) of the Act do not apply to any employee engaged in the control or suppression of prairie and forest fires.

2 May 2014 cS-15.1 Reg 5 s19.

Exemption from section 2-13 of Act - live-in care providers and live-in domestic workers

20(1) Subsection 2-13(3) of the Act does not apply to:

(a) live-in care providers; or

(b) live-in domestic workers.

(2) An employer of an employee who is a live-in care provider or a live-in domestic worker shall grant to the employee a rest period of two consecutive days in every week, at a time that is mutually acceptable to the employer and the employee.

2 May 2014 cS-15.1 Reg 5 s20.

Exemption from section 2-16 of Act - care providers and live-in domestic workers

21(1) Subject to subsection (2), section 2-16 of the Act does not apply to:

(a) care providers; or

(b) live-in domestic workers.

(2) The minimum wage established pursuant to section 2-16 of the Act applies for the first eight hours worked in one day by a live-in care provider or a live-in domestic worker.

2 May 2014 cS-15.1 Reg 5 s21.

Cash value of board and lodging

22 The charge for board and lodging received by a live-in care provider or live-in domestic worker from the employer of the live-in care provider or live-in domestic worker must not exceed \$250 per month.

2 May 2014 cS-15.1 Reg 5 s22.

PART IV
Employment Leave

Benefits while on employment leave

23(1) For the purposes of subsection 2-48(2) of the Act, the following are benefit plans that an employee is entitled to continue participating in while taking employment leave:

- (a) a medical plan;
- (b) a dental plan;
- (c) a disability or life insurance plan;
- (d) a registered retirement savings plan;
- (e) a pension plan;
- (f)

(2) Subject to any agreement made pursuant to subsection (5), the minimum sum of money to be paid for public holidays by an employer to an hourly-paid employee employed in the construction industry is:

- (a) if the employee does not work on a public holiday, 4% of the wages, exclusive of overtime and vacation pay, earned by the employee in each calendar year;
- (b) if the employee works on a public holiday, the amount calculated in accordance with clause (a), plus an additional amount equal to 1.5 times the

- (2) If a public holiday falls on the regular day of work of an employee to whom subsection (1) applies and the employee works on that day, the employee is entitled:
- (a) to be paid at the rate of 1.5 times the employee's regular rate of wages in addition to his or her regular wages; or
 - (b) to be paid at the rate of 1.5 times the employee's regular rate of wages and, in addition, to be granted one working day off at the employee's regular wage within a four-week period during which the public holiday occurs.

2 May 2014 cS-15.1 Reg 5 s27.

Employees in commercial hog operations

28(1) Subject to subsection (2), employees employed in a commercial hog operation must be paid for a public holiday in accordance with section 2-32 of the Act.

- (2) If a public holiday falls on the regular day of work of an employee to whom subsection (1) applies and the employee works on that day, the employee is entitled:
- (a) to elect by written request to receive another day as a holiday designated by the employer within one year of the public holiday; and
 - (b) notwithstanding subsection 2-32(3) of the Act, to be paid regular wages for the public holiday on which the employee works and for the designated day on which the employee does not work.

PART VII
Additional Obligations of Employers

Interpretation of section 2-39 of Act and sections 34 and 35

32(1) In section 2-39 of the Act and in sections 34 and 35 of these regulations, “**benefit**” means:

(a) the following insurance plans in which the employer pays all or part of the contributions on behalf of the employee:

- (i) a dental plan;
 - (ii) a group life plan;
 - (iii) an accidental death and dismemberment plan;
 - (iv) a plan for employee and dependant coverage for prescription drugs;
- or

(b) a plan that provides coverage similar to the coverage provided by a plan described in clause (a), but that is self-funded by the employer.

(2) In section 34, “**full-time student**” means a person who is registered for at least 60% of a full course load as:

- (a) a pupil within the meaning of *The Education Act, 1995*; or
- (b) a student at a university, a regional college, private vocational school or the Saskatchewan Institute of Applied Science and Technology.

2 May 2014 cS-15.1 Reg 5 s32.

Calculation re number of employees

33(1) In this section, “**all employees**”, with respect to an employer, means all employees employed at all establishments of the employer.

(2) Subject to subsection (3), for the purposes of subsection 34(2) and clause 2(1)(e), the number of full-time-equivalent employees is to be calculated in accordance with the following formula:

$$\text{FTE} = \frac{H}{2,080}$$

where:

FTE is the number of full-time-equivalent employees; and

H is the sum of the total number of hours worked by all employees in the previous year and the number of paid hours associated with vacation and public holidays in the previous year.

(3)

- (5) If a group life plan or accidental death and dismemberment plan provides for a benefit formula based on the employee's earnings, the level of benefit provided to eligible employees is to be calculated in the same manner as the level of benefit for full-time employees.
- (6) If an employer is required by section 2-39 of the Act and these regulations to provide to eligible employees:
- (a) a dental plan, the employer will satisfy the requirements of section 2-39 of the Act and these regulations respecting that dental plan if the employer provides a dental plan for eligible employees, but not necessarily their spouses or dependants, containing the following basic services at the level of benefits determined in accordance with subsection (4):
 - (i) routine dental examinations at least once every 12 months;
 - (ii) full mouth X-rays at least once every 24 months;
 - (iii) fillings;
 - (iv) extractions;
 - (v) oral surgery;
 - (vi) cleaning and scaling, to a maximum of eight units per year;
 - (vii) space maintainers and relining dentures;
 - (viii) repair of dentures;
 - (b) a prescription drug plan, the employer will satisfy the requirements of section 2-39 of the Act and these regulations respecting that prescription drug plan if the employer provides a prescription drug plan for eligible employees and their spouses and dependants that reimburses for the cost of drugs listed in the Saskatchewan Drug Formulary or equivalents of those drugs at the level of benefits determined in accordance with subsection (4);
 - (c) a group life plan or accidental death and dismemberment plan, the employer will satisfy the requirements of section 2-39 of the Act and these regulations respecting that plan if the employer provides a plan that covers eligible employees, but not necessarily their spouses or dependants, at the level of benefits determined in accordance with subsection (4) or (5).
- (7) If a benefit plan requires contributions to be made by eligible employees, those contributions must:
- (a) be paid in the same manner as payments are required to be paid by full-time employees;
 - (b) be in an amount that is in the same proportion to the contributions of full-time employees as the level of benefits to be provided to eligible employees bears to the level of benefits provided to full-time employees; and
 - (c) be shared between the employer and eligible employees in the same proportion that contributions are shared between the employer and full-time employees.

PART VIII
Reservists

Employment leave for reservists

- 36** For the purposes of section 2-53 of the Act, the following requirements apply:
- (a) the employee requesting the leave shall inform the employer in writing of the anticipated period of service;
 - (b) at the employer's request, the employee requesting the leave shall provide to the employer a certificate from an official with the reserve force that:
 - (i) states that the employee is a member of the reserve force and is required for service; and
 - (ii) if possible, confirms the anticipated dates for the period of service.

2 May 2014 cS-15.1 Reg 5 s36.

PART IX
Other Matters

Amount on deposit

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Post-judgment interest

40 For the purposes of enforcing a certificate pursuant to Part II, Division 4 of the Act, wages includes interest calculated pursuant to section 113 of *The Enforcement of Money Judgments Act* and section 10 of *The Enforcement of Money Judgments Regulations*.

2 May 2014 cS-15.1 Reg 5 s40.

School boards and conseil scolaire

41 With respect to teachers as defined in section 2 of *The Education Act, 1995*, subclauses 2-38(1)(c)(v), (vi) and (x) to (xiii) of the Act do not apply to boards of education or the conseil scolaire.

2 May 2014 cS-15.1 Reg 5 s41.

Employee living accommodation

42 If an employer provides living accommodation for an employee, the employer shall not compel or require the employee to live in or reside in that accommodation if the accommodation is unsuitable, unsafe or unsanitary.

2 May 2014 cS-15.1 Reg 5 s42.

Service on director of employment standards

43(1) For the purposes of subsection 9-9(3) of the Act, a document or notice may be served on the director of employment standards:

- (a) by personal service during normal business hours at the business address of the director of employment standards;
- (b) by prepaid registered or certified mail addressed to the director of employment standards at the business address of the director; or
- (c) by telephone transmission to a number provided by the director of employment standards of a facsimile of the document or notice together with a cover page that indicates:
 - (i) the title of the person being served;
 - (ii) the name, address and telephone number of the sender;
 - (iii) the date and time of the transmission;
 - (iv) the number of pages transmitted, including the cover page;
 - (v) the telephone number from which the document is transmitted; and
 - (vi) the name and telephone number of a person to contact if there are transmission problems.

(2) If a document or notice is served pursuant to clause (1)(b), service is deemed to have been effected:

- (a) on the delivery date shown on the signed post office receipt card; or
- (b) if the delivery date is not shown, on the day on which the signed post office receipt card is returned to the sender.

2 May 2014 cS-15.1 Reg 5 s43.

