

# Public Emergency Employment Standards and Occupational Health and Safety

*After the COVID-19  
provincial public health order and  
emergency declaration*

# About Employment Standards

- Sets, administers and enforces minimum employment standards under:
  - *The Saskatchewan Employment Act*
  - *The Employment Standards Regulations*
  - *The Conditions of Employment Regulations*
  - *The Minimum Wage Regulations*

# Disclaimer

- This is for your information and education, it's not legal advice or opinion.
- Consult a lawyer for advice on how the legislation applies to your specific situation.
- Refer to *The Saskatchewan Employment Act (SEA)* and the regulations for legal interpretation and application.
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# Objectives

- To provide information about legislative responses to COVID-19.
- To review the impact of an ending of orders and restrictions on the legislation.
- To answer to some typical questions.
- To provide post-restriction occupational health and safety information.
- To share where to find more resources.

# COVID-19 Pandemic

- With the COVID-19 pandemic,
  - the Chief Medical Health Officer (CMHO) issued public health orders and restrictions; and
  - government issued an emergency declaration and directions.
- These led to:
  - employees being unable to attend work since they have to either isolate or to care for dependents; and
  - employers reduced or closed operations, and needed fewer employees at work.

# In Response

- To protect and support employment, legislation was changed to:
  - help employees remain attached to their jobs,
  - allow employees and employers to access federal financial supports, and
  - sustain employers financially by deferring pay instead notice, helping them stay in business and keep jobs for after the pandemic.
- Restrictions and public health orders and the emergency declaration ended on July 11, 2021.
- Employers and workplaces are open and employees are returning to work.

# The Employment Standards Public Emergency Provisions

- Public Health Emergency Leave
- Job protection for absences for illness (sick leave)
- Job protection during absences to access federal benefits:
  - Canada Recovery Sickness Benefit
  - Canada Recovery Caregiving Benefit
- Exemption from notice for layoffs
- Exemption from notice for group termination

What happens with the public  
emergency provisions?



# **PUBLIC HEALTH EMERGENCY LEAVE**

# Public Health Emergency Leave

- A job-protected employment leave for employees:
  - ordered to self-isolate; or
  - who need to be away from work to care for their child or adult family member who is affected by the direction or order of the Government of Saskatchewan or the Chief Medical Health Officer (CMHO).

# When Does The Leave Apply?

- When a public health emergency is determined by the World Health Organization, and the CMHO orders that:
  - it applies to Saskatchewan, and
  - individuals must take measures to prevent or reduce the spread of the disease including self-isolation; or
- The CMHO orders that individuals must take measures to prevent or reduce the spread of a disease in Saskatchewan, including isolation.

# Entitlement to Leave - Orders to self-isolate

- Employees are entitled to this leave when they are directed to self-isolate to prevent or reduce the spread of the disease in the public health order.
- Direction could be from:
  - a doctor;
  - an employer;
  - the Government of Saskatchewan; and/or
  - the CMHO.

# Entitlement to Leave – Orders and Directions

- Employers, businesses and services were restricted or closed.
- Dependents aren't able to attend schools and programs, etc. that were subject to the orders and therefore are affected by an order.
- Employees needed job protection to be off work to care for their affected dependent child or adult family member.

# Public Health Emergency Leave: Key Points

- Unpaid, but wages are owed if the employer let the employee work from home.
- Leave for length of the order to self-isolate or length of the direction/restriction affecting the employee's dependent.
- Advance notice by the employee isn't required for starting leave or returning.
- Available regardless of the employee's length of service.
- No medical note required.
- Employees who were informed in writing they are required to provide critical public health and safety services were exempt from the leave.
- Employment maintained while on leave.

# After Lifting Orders and Restrictions

- The public health emergency leave doesn't apply.
- Employees don't need the job protection as they won't need to be away from work:
  - to comply with a CMHO public health order; and/or
  - to care for their dependents as they will be able to attend programs and services that were restricted or closed.

# **PROTECTION FROM DISCRIMINATORY ACTION FOR ABSENCES DUE TO ILLNESS OR INJURY**



# Normal Protection From Discriminatory Action Due to Absences for Illness Or Injury

- Employees are protected from discriminatory action if the employee is off work because:
  - of illness or injury; or
  - the employee must care for a dependent family member who is ill or injured.
- Protection is for absences of up to 12 days in a calendar year, or 12 weeks in a period of 52 weeks if the illness is serious.

# Normal Protection From Discriminatory Action Due to Absences for Illness or Injury

- Employees must work for the employer for at least 13 consecutive weeks, and provide a medical note if requested by their employer.

# What is Discriminatory Action?

- Any adverse action or threat of action by the employer against an employee.
- Includes layoff, termination, loss of opportunity, demotion, discipline or intimidation.

# Protection From Discriminatory Action For Absences Due to Illness for COVID-19

- If the absence for illness or injury of the employee is *a result of a public health emergency*, employees are:
  - protected from their first day of work, and
  - don't need to provide medical evidence.

# After Lifting Restrictions and Orders

- The public health emergency exemptions will continue for an employee's COVID-19-related illness.
- Employees also have the normal job protections for absences due to illnesses or injuries for themselves or immediate family.

# **JOB PROTECTION FOR ABSENCES TO ACCESS FEDERAL RECOVERY (SICKNESS OR CAREGIVING) BENEFITS**

# Protection for Employees Accessing Federal Recovery Benefits

- In September 2020, the federal government announced the Canada Recovery Sickness Benefit and Canada Recovery Caregiving Benefit.
- Currently, these benefits extend until October 23, 2021.
- Saskatchewan added employee protection from discriminatory action (such as job loss) to access these benefits.

# Protection for Employees Accessing Federal Recovery Benefits

- Protects an employee who is:
  - absent from work,
  - believes they are eligible for recovery sickness or caregiving benefits,
  - may not have provided notice of absence, and
  - is in receipt of, or will be applying for either Canada Recovery Sickness or Caregiving Benefits.



# Protection for Employees Accessing Federal Recovery Benefits

- Protects employees from their first day of work, no matter their length of service.
- Employees are expected to provide their employer as much notice as possible when they are away and when returning.
- Employees aren't required to provide medical evidence or evidence of application.

# After Lifting Restrictions and Orders

- This protection applies as long as the applicable federal recovery benefits are available, which is currently until October 23, 2021.

# Canada Recovery Sickness Benefit Eligibility

- Employees are eligible if unable to work for at least 50% of a week, and:
  - are sick with COVID-19, have COVID-19 symptoms and are required to self-isolate, or have an underlying health condition which makes them susceptible to COVID-19 and isolating; or
  - must provide care for a dependent who is sick with COVID-19, has COVID-19 symptoms, or has underlying health complications if they get COVID-19 and is isolating as directed by a medical professional.

# Canada Recovery Caregiving Benefit Eligibility

- Employees are eligible if unable to work for at least 50% of a week, and:
  - must provide care to a child under 12 or family member who needs supervision because their school, daycare or day program was cancelled because of COVID-19.

Source: [www.Canada.ca](http://www.Canada.ca)

# TEMPORARY LAYOFFS DURING A PUBLIC EMERGENCY

# Public Emergency Extended Layoffs

- During the public health order and the emergency declaration and for two weeks after, employers weren't required to provide notice or pay instead of notice for layoffs.
- That is, employers were exempt from the normal layoff requirements.

# End of Public Emergency Layoffs

- Employers are no longer exempt from providing written notice to employees for a layoff longer than 6 consecutive work days.
- The exemption ended two weeks after July 11, 2021.

# The Two-Week Period...

- Employers had two weeks to schedule laid off employees back to work.
- If an employee wasn't scheduled,
  - the employee's employment is terminated; and
  - is owed pay instead of notice.



# Scheduled

- Employers show that employee were scheduled with a:
  - Return to regular rotations/shift assignments from before the layoff;
  - Clearly documented recall process;
  - Return to work date is set according to the employment relationship.

# Scheduled

- Scheduled means...
  - The employee has been given assigned times and dates to work comparable to their employment prior to layoff.
  - The employer has included the employee's name in the employer's work schedule and that schedule is provided to the employee.

# Scheduling Requirements

- Scheduling requirements include:
  - Time when work begins and ends;
  - When a meal breaks begins and ends; and
  - Covers at least one week.
- Notice of a schedule must be at least a week in advance of the start of the schedule.
- Be personally given to the employee, or posted online where the employee may access it, or any other manner that informs the employee.

# Examples of Scheduling

If the employer has had a scheduling rotation, here are some examples when the employee is scheduled.

- If there is a one-week rotation, the employee must be in the schedule in the first or in the second week.
- If there is a two-week rotation, the employee must be in the schedule no later than in the third week.
- If there is a three-week rotation, the employee must be in the schedule no later than in fourth week.
- ...And so on.

# “On Call” Employees

- Employees who were scheduled “on call” or “as needed” can be notified of a return to the previous arrangement.

# If An Employee Doesn't Return

- If an employee decides not to return to work as scheduled, the employee is deemed to have abandoned their job and quit.
- And no pay instead of notice is owed.

# Employer's Role

- Make and document reasonable attempts to contact employees to schedule.
- Make employees aware of the schedule.
- Consider employee explanations for not being able to return as scheduled once notified.
- Provide clear direction, including warnings of considered to have quit for not returning to work as scheduled.
- Show reasonable attempts to resolve reasonable employee explanations for non-attendance, as in normal times.

# Employee's Role

- Be available to return to their job as it was prior to the layoff.
- Respond and acknowledge the employer's notification of a schedule to return to work.
- Attend work as scheduled according to their employment before layoff.
- Inform their employer of any required employment accommodation.
- Provide a reasonable explanation of not returning as scheduled.



# Pay Instead of Notice on Termination

- The length of the period of employment determines the number of weeks of notice owed.
- Use normal weekly wage from before the layoff.
- Multiply the normal weekly wage by the number of weeks of notice owed.

# Notice of Layoff and Termination

## Section 2-60, SEA

<b>Period of Employment</b>	<b>Required Notice by Employer</b>
13 weeks to 1 year	1 week
1 year to 3 years	2 weeks
3 years to 5 years	4 weeks
5 years to 10 years	6 weeks
More than 10 years	8 weeks

# Back to Normal Layoff Rules

- Employers must provide the following:
  - Notice of a layoff that is more than 6 consecutive work days.
  - Pay instead of notice, if the layoff is 7 consecutive days or more.
- Applies to employees with more than 13 consecutive weeks of service.

# GROUP TERMINATION NOTICE

# Group Termination Notice

- During the public health order and emergency declaration, employers were required to provide group termination notice to the Minister of LRWS.
- Employers were exempt from providing group termination notice to employees and their unions.
- The exemption has been removed from the regulation and didn't apply after July 11, 2021.

# Group Termination Notice

- After July 11, 2021, unless exempted by regulation, employers must provide notice of group termination to employees, their union, and the Minister of LRWS.
- No two week grace period.

# QUESTIONS AND ANSWERS – Employment Standards

*Public health orders and restrictions and the emergency declaration was lifted on July 11. What COVID-19 related employment standards still apply?*

**Don't continue**

- Public health emergency leave
- Extended layoff exemption (after 2 further weeks)
- Exemption from group termination notice

**Do continue**

- Job protection for sick leave
- Job protection to access federal sickness and caregiving benefits



# *Can my employer make me get vaccinated? Or can I make my employees get vaccinated?*

- Employment Standards does not regulate health-related matters.
- The employer has a legal obligation to ensure a healthy and safe workplace.
- While employers may encourage vaccination, employers have to balance reasonable health and safety and no other alternative (e.g. masking or distancing) with employee privacy.

# *Can my employer terminate me for not getting vaccinated?*

- Generally, employers may terminate employees with more than 13 weeks with notice. (Notice isn't required for employees with 13 weeks or less of service.)
- For terminations without notice, employers would have to show just cause.
- Just cause to terminate without notice for not being vaccinated must balance of the employee's right to privacy and the employer's responsibility to provide a healthy and safe workplace.
- As in all terminations without notice, just cause will depend on a number of factors, such as the employment contract, the nature of the work itself, and any employee medical conditions requiring accommodation.

# *Can my employer require me to wear a mask at work?*

- Employment Standards doesn't regulate or prohibit an employer requiring employees to wear a mask.
- Employers can't require an employee to purchase clothing with the employer's name on it.
- If the employer requires an employee to wear a mask with the employer's name on it, it is to be provided free.

# *Can my employer terminate me for not wearing a mask?*

- Even if not mandated by public health order, some employers may implement a masking policy as a health and safety precautions.
- Not following a fair masking policy may be grounds for termination of an employee.
- Employers must have just cause for terminations without notice or pay instead of notice for not masking.

# *Can my employer send me home if I am ill? Do they have to pay me for the time I am away?*

- Employers are not prohibited from keeping an ill employee from the workplace, especially if it means protecting other employees.
- Employers are not required to pay for time away.
- Employees have job protection for 12 days in a calendar year for absences for illnesses that aren't serious, and 12 weeks in a period of 52 weeks for more serious illness.
- Until October 23, 2021, employees also have protection if they are applying for or in receipt of the Canada Recovery Sickness Benefit.

## *What if my employer closed permanently ?*

- If your employment has permanently ended, normal notice or pay instead of notice rules apply.

# *Was my employer allowed to lay me off without notice?*

- Layoffs without notice were allowed during provincial public health orders and emergency declaration plus the two weeks.

# *What's required for proper notice of a work schedule?*

- Employers must:
  - personally give it to the employee;
  - post it in the workplace;
  - post it online to a website the employee has access to; or
  - provide it in any other manner that informs employees of the schedule.



# *Can my employer provide me a different schedule than what I had before the layoff?*

- Employees are entitled to a scheduled return from layoff with the same employment arrangement in place before.
- The employer may provide you with the scheduled return or pay instead of notice, ending your employment.
- If you don't return as scheduled, you will be deemed to have resigned.

# *As the employer, can I reduce hours or pay when employees return from layoff?*

- Employees are to be scheduled to return to work to their employment as before the layoff.
- If employees aren't scheduled back to previous employment, pay instead of notice may be owed.
- Unilateral, substantial changes to essential employment terms (hours or pay) by an employer without notice may lead to claims of constructive dismissal (i.e. termination).
- Employees would have to leave the employer and file for pay instead of notice.
- Generally, employers need to provide notice of changes after the laid off employee has returned, as entitled.
- Some employees may accept the change without notice.
- “Substantial” or “essential” depends on the employment contract.

*My employer called me back to work but I am sick at home with COVID-19 related symptoms. What am I entitled to under SEA?*

- Your job is protected if you are ill for up to 12 days in a calendar year, or 12 weeks in a period of 52 weeks if it's serious.
- If your illness is a result of a public health emergency such as COVID-19, 13 weeks of employment or a doctor's note are not required.
- You are protected for absences to access the Canada Recovery Sickness Benefit.

*I need to say home from work to look after my young child with COVID-19 symptoms.*

*What provisions apply?*

- Until October 23, 2021, employees have protection for absences to access the Canada Recovery Caregiving Benefit.
- Employees with 13 weeks of employment also have protection for absences of 12 days in calendar year or 12 weeks in a period of 52 weeks for serious illness or injury of a dependent immediate family member.

# *Why can't I get a public health emergency leave?*

- If the orders and directions/restrictions are lifted, the leave doesn't apply.
- The leave provided job protection during a public health emergency when CMHO issued public health orders and Government restrictions closed facilities.
- Other protections still exist if you need to be away from work, including if you are ill, have to care for an ill dependent, or are accessing federal recovery sickness or caregiving benefits.

*Some staff working from home or laid off don't feel comfortable coming back because of COVID-19, but I need them to return.*

- Employers must provide a safe workplace, including complying with public and occupational health and safety measures.
- If occupational health and safety standards are met, employees are required to return to work.

# *What do employers need consider if employees refuse to return to work?*

- Consider if your employee:
  - has properly been notified of their schedule;
  - is entitled to illness protections;
  - requires a medical accommodation; and
  - has a reasonable workplace health and safety concern.
- After all is considered and reasonable notification of schedule is provided, employees are deemed to have quit if they don't return as scheduled.

*Do I have to tell my employer why I am away from work if it's to access the federal recovery benefits?*

- Yes. Generally, employers have a right to know when and why you are away from the workplace.
- However, you aren't required you to specify your illness or prove your application for benefits.



# Occupational Health and Safety

After restrictions.

# Exposure Control Plans

- Now that the public health orders have lifted, not all employers are required to have a COVID-19 exposure control plan.
- Employers must conduct a hazard assessment to determine if they are required to develop a COVID-19 exposure control plan for their workplace.
- If a worker works with an infectious material or organism or needs to be vaccinated against an infectious material or organism that is an infectious disease hazard, then section 6-22 of *The Occupational Health and Safety Regulations 2020* for exposure control plans apply.

# Right to Refuse

- A worker's right to refuse unusually dangerous work has not changed because of the pandemic.
- Workers have the right to refuse to perform any specific job or task which they **have reasonable grounds to believe is unusually dangerous**. The danger may be to the worker or to any other person at the workplace. An unusual danger could include:
  - A danger that is not normal for the job (e.g., repairing a roof in dangerous winds);
  - A danger that would normally stop work (e.g., operating a forklift with a flat tire); or
  - A situation for which you are not properly trained, equipped, or experienced to do the work assigned (e.g., cleaning windows on a tall building with no fall protection equipment or training).

# Right to Refuse

- Follow these steps to resolve a work refusal:
  - The employee informs their employer/supervisor that they are refusing work because of a health or safety concern pursuant to section 3-31 of *The Saskatchewan Employment Act*. The supervisor asks the employee what task or tasks they are refusing and why they believe the work is unusually dangerous.
  - The employee should not leave the worksite without their employer's permission.
  - If the worker and supervisor cannot resolve the concern to the worker's satisfaction, they contact their workplace occupational health committee (OHC).
  - The OHC investigates the refusal to determine if there are reasonable grounds to refuse the work. The OHC's decision must be a **unanimous** vote for or against the refusal.
  - If the refusal cannot be resolved within the workplace, contact the Occupational Health and Safety Division at the Ministry of Labour Relations and Workplace Safety by calling **1-800-567-7233**.
  - An occupational health officer will investigate the refusal and provide a written decision on the matter.

# **QUESTIONS AND ANSWERS – Occupational Health And Safety**

*Most vaccines require two shots. Can employees use paid time off for a minimum of three hours for each time or is it a cumulative amount of time?*

- Under the occupational health and safety regulations, paid time off is for one vaccination shot.

*With the orders lifted, do employers still need to limit exposure to COVID-19 for workers?*

- Under *The Occupational Health and Safety Regulations, 2020*, employers must take every reasonable precaution to protect the health and safety of workers.

# *Do I have to wear a mask in the workplace after I get vaccinated?*

- Workplaces will continue to follow any public health orders issued by Chief Medical Health Officer.
- Additional measures may be implemented by employers to address hazard in the workplace to protect the health and safety of the workers.
- Employees have a duty to follow these measures and use any protective equipment as provided by their employer.



# *Can I request proof from employees that they have been vaccinated?*

- In most cases the employer cannot request personal medical information such as status of vaccination from a worker.
- However, in exceptional circumstance where there is a high risk of transmission to a vulnerable client population, employers may have the ability to access limited information.
- Employers should consult a lawyer to make a determination.

# *Can a worker be fired for refusing unusually dangerous work?*

- No. Workers cannot be fired or disciplined for using this right.

# OTHER RESOURCES

# Employment Standards Division

For more information about the SEA:

- Call Centre: 1-800-667-1783 (free)
- [employmentstandards@gov.sk.ca](mailto:employmentstandards@gov.sk.ca)
- [www.saskatchewan.ca/business/employment-standards](http://www.saskatchewan.ca/business/employment-standards) – includes regular webinars on various employment standards
- Visit any of our 8 locations across the province.

# Employment Standards

- More Questions and Answers:
  - Visit [www.saskatchewan.ca](http://www.saskatchewan.ca)...Information for Businesses and Workers...Supports for Business...Managing Staffing and Leave.
- Listen to recordings and register for live webinars at [www.saskatchewan.ca](http://www.saskatchewan.ca) under:
  - [Employment Standards Training](#); and

# Some Government of Saskatchewan Resources

- Provincial Workplace Safety Questions:
  - Occupational Health and Safety: 1-800-567-7233
- General Information for Businesses
  - Business Response Team: 1-844-800-8688
    - Email - [supportforbusiness@gov.sk.ca](mailto:supportforbusiness@gov.sk.ca)
- For Non Health-Related Public Safety Questions:
  - 1-855-559-5502 (for Regina residents: 306-787-8539)
- Public health inquires: [COVID19@health.gov.sk.ca](mailto:COVID19@health.gov.sk.ca)

# Other Resources: Government of Canada

- [www.Canada.ca](http://www.Canada.ca)
  - click on “COVID-19 finance assistance” link

# Finding Employment Standards' Website

The screenshot shows the Saskatchewan.ca website. At the top, there is a yellow banner with a warning icon and the text "COVID-19 - Latest Information" followed by a "Learn more" link and a plus sign. Below this is the Saskatchewan logo and a search bar with the text "What are you looking for?". A navigation bar below the logo has four categories: "Residents and Visitors", "Business and Industry", "Government", and "Services". The main content area features a large image of a woman adjusting a black face mask on a young girl. Overlaid on the image is the text "COVID-19" and a white box with the text "Latest Updates, Vaccine Information, Public Health Measures" and a right-pointing arrow.

## I want to...

- > Purchase a hunting licence
- > Check highway conditions
- > Find licensed child care
- > Find and apply for jobs

## Workplace

- > Employment standards
- > Wages and pay
- > Vacation, leaves and absences
- > Workplace safety

## Students

- > Student loans
- > Graduate Retention Program
- > Scholarships and grants
- > Anti-Bullying

## Health

- > COVID-19 Vaccine Appointments
- > Health cards [↗](#)
- > HealthLine Online
- > MySaskHealthRecord [↗](#)



# Finding Employment Standards on the Web

**Saskatchewan** EN Language What are you looking for?

**Residents and Visitors** **Business and Industry** **Government** **Services**

Home > Business and Industry > Employment Standards

## Employment Standards

Information on employment standards and workplace rights and responsibilities for Saskatchewan employers and employees. Information on Saskatchewan legislative acts and regulations pertaining to employment and labour.

### Complaints, Appeals, Investigations, and Prosecutions

Information on employment standards complaints including how to file a complaint, employer's responsibilities, and summaries of all employment standard enforcement outcomes from the current year and archives of previous years.

### Employment Standards in Professions and Industries

Information on employment standards that is industry specific. Information for agricultural employees, independent contractors, care providers, sitters, retail industry, restaurant industry and more.

### Layoffs and Termination

Information about layoffs and termination including required notice, pay instead of notice and group termination.

### Wages and Pay

### Employment Agencies

The Saskatchewan Employment Act outlines that job seekers are not to pay fees to find or get employment.

### Employment Standards Training

Learn about the online Employment Standards webinars available to employers and employees. Find the full list of topics and registration information.

### Vacations, Public Holidays, Leaves, and Absences

Information on Saskatchewan's Public Holidays, annual vacations, and the different family, medical and service leaves available in Saskatchewan.

### Work Schedules, Permits, and Modified Work Arrangements

### Quick Links

- > [Rights and Responsibilities: A Guide to Employment Standards in Saskatchewan \(2019\)](#)

An overview of Saskatchewan's employment standards legislation under *The Saskatchewan Employment Act* for employers and employees.

> *Ce document est aussi disponible en français*
- > [File an employment standards complaint](#)

An employee may file either a formal or an anonymous complaint with the Employment Standards Division.
- > [Take the Young Worker Readiness Certificate Course](#)

Young workers, 14 and 15 years old, are required to complete the Young Worker Readiness Certificate Course (YWRCC) before entering the

# Finding LRWS Legislation


COVID-19 - Latest Information [Learn more](#) +

**Saskatchewan** EN Language

**Residents and Visitors** **Business and Industry** **Government** **Services**

[Home](#) > [Government](#) > [Cabinet, Ministries, Agencies and Other Governments](#) > [Ministries](#) > [Labour Relations and Workplace Safety](#)


## Labour Relations and Workplace Safety



[Renseignements en français >](#)

**Minister**

Hon. Don Morgan Q.C.  
Minister



Phone 306-787-7339  
Email [cic.minister@gov.sk.ca](mailto:cic.minister@gov.sk.ca)

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