

The Crown Employment Contracts Act

being

Chapter C-50.11 of the *Statutes of Saskatchewan, 1991* (effective October 31, 1991) as amended by the *Statutes of Saskatchewan, 1993, c.F-13.4; 1998, c.P-42.1; 2002, c.R-8.2; 2006, c.C-1.1; 2009, c.5; 2013, c.S-15.1; 2014, c.E-13.1; and 2018, c.42.*

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.

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CHAPTER C-50.11

An Act to Provide for the Public Disclosure of Crown Employment Contracts, to Prescribe Provisions in Crown Employment Contracts governing Payments and Benefits on Termination or Expiration of those Contracts, to Void Provisions in those Contracts respecting those matters and to Extinguish any Right of Action and Right to Compensation for any Loss or Damage resulting from the Enactment or Application of this Act

Short title

1 This Act may be cited as *The Crown Employment Contracts Act*.

Interpretation

2 In this Act:

- (a) **“certified trade union”** means a union that has been certified as the bargaining agent for a bargaining unit pursuant to Part VI of *The Saskatchewan Employment Act*;
- (b) **“court”** means the Court of Queen’s Bench;
- (c) **“Crown”** means the Crown in right of Saskatchewan;
- (d) **“Crown employee”** means a person who is employed under a Crown employment contract;
- (e) **“Crown employer”** means:
 - (i) the Crown represented by the Office of the Executive Council, a ministry as defined in *The Executive Government Administration Act* or other similar agency of the executive government of Saskatchewan or a member of the Executive Council;
 - (ii) a board, commission or other body that:
 - (A) is established or continued by or pursuant to an Act; and
 - (B) has all its members appointed by the Lieutenant Governor in Council or by a member of the Executive Council;
 - (iii) a Crown corporation; or
 - (iv) a body corporate:
 - (A) with respect to which at least 90% of the members or directors of the body corporate are appointed or elected by the Lieutenant Governor in Council, a member of the Executive Council, a Crown corporation or another body corporate that meets the requirements of this subclause; or

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(B) with respect to which a Crown corporation owns or beneficially owns, other than by way of security only, or controls, either directly or in combination with another Crown corporation or another body corporate that meets the requirements of this subclause, at least 90% of the shares or capital of the body corporate;

but does not include the Saskatchewan Cancer Agency continued pursuant to *The Cancer Agency Act*, a board of governors appointed pursuant to *The Public Health Act* or a regional college established pursuant to *The Regional Colleges Act*;

(f) **“Crown employment contract”** means a contract, with all amendments to the contract, that is entered into by a Crown employer in which a person enters into an employee-employer relationship with the Crown employer and includes a contract described in this clause that is entered into under the authority of the Lieutenant Governor in Council;

(g) **“Crown corporation”** means a corporation that is:

(i) established by or pursuant to, or is subject to the provisions of, *The Crown Corporations Act, 1978*; or

(ii) incorporated or continued pursuant to an Act and has all its members or directors appointed or elected by the Lieutenant Governor in Council or a member of the Executive Council;

(h) **“permanent head”** means:

(i) a permanent head as defined in *The Public Service Act, 1998*; or

(ii) in the case of a Crown employer that is a Crown corporation or body corporate, the chief executive officer of the Crown employer;

(i) **“termination”** means termination of a Crown employment contract for any reason.

1991, c.C-50.11, s.2; 1998, c.P-42.1, s.42; 2002, c.R-8.2, s.117; 2006, c.C-1.1, s.25; 2013, c.S-15.1, s.10-18; 2014, c.E-13.1, s.38; 2018, c.42, s.65.

Application of Act

3(1) This Act applies to and governs all Crown employment contracts that:

(a) were made before October 31, 1991 and were in force on October 31, 1991; or

(b) were or are made on or after October 31, 1991.

- (2) This Act does not apply to Crown employment contracts in which the employees are:
- (a) employees covered by a collective bargaining agreement entered into between:
 - (i) a Crown employer; and
 - (ii) a certified trade union;
 - (b) employees who have a right to the appeal procedure provided by section 30 of *The Public Service Act, 1998*; or
 - (c) employees who are appointed pursuant to an order-in-council if:
 - (i) there are no terms or provisions dealing with payments or benefits on termination or expiration attached to, referenced in or forming part of the order-in-council other than those prescribed in the regulations made pursuant to *The Public Service Act, 1998*; and
 - (ii) there is no contract, apart from the order-in-council, between the person and a Crown employer that deals with payments or benefits on termination or expiration.
- (3) Notwithstanding any provisions of a Crown employment contract or any other Act or law, all provisions that by this Act are deemed to be included in Crown employment contracts are deemed to have been included in the contract from the date the contract was made.
- (4) Notwithstanding any provisions of a Crown employment contract or any other Act or law, all provisions that by this Act are deemed to be void in Crown employment contracts are deemed to be void from the date the contract was made.
- (5) This Act overrides the provisions of Crown employment contracts.
- (6) If there is any conflict between this Act and:
- (a) any Crown employment contract;
 - (b) any other Act or regulation made pursuant to an Act; or
 - (c) any other law;
- this Act prevails.

1991, c.C-50.11, s.3; 1998, c.P-42.1, s.42; 2009, c.5, s.13.

Contracts to be publicly disclosed

- 4(1) All provisions in a Crown employment contract providing that all or any part of the contract is to remain confidential are void.
- (2) Every Crown employment contract is deemed to include a provision that the contract is a public document and is available for public disclosure in accordance with this Act.

- (3) Subject to the other provisions of this section, every person has a right of access to and shall be permitted access to all Crown employment contracts that are in the possession of or under the control of a Crown employer.
- (4) A person who wishes to apply for access to a Crown employment contract that is in the possession of or under the control of a Crown employer shall:
- (a) apply on the form prescribed in the regulations; and
 - (b) pay the fee prescribed in the regulations.
- (5) An application pursuant to subsection (4) shall be made to:
- (a) the permanent head of the Crown employer; or
 - (b) an employee of the Crown employer designated for the purpose by the permanent head; or
 - (c) the Minister responsible for the specific Crown employer, in which case the Minister shall ensure the application is forthwith delivered to the appropriate permanent head.
- (6) The permanent head or designated person shall respond within 15 days of receiving the application by:
- (a) providing the applicant with a copy of the Crown employment contract or giving the applicant an opportunity to examine the contract, at the discretion of the applicant;
 - (b) providing the applicant with written notice that the Crown employment contract is not in the possession of or under the control of the Crown employer and providing any information known to the permanent head or designated person respecting which Crown employer, if any, may possess or have control over the Crown employment contract; or
 - (c) providing the applicant with written notice that the contract requested in the application is not a Crown employment contract that is subject to this Act.
- (7) Where a permanent head designates an employee for the purpose of receiving applications under this section, the permanent head shall give the Clerk of the Executive Council written notice of the name, address and telephone number of that employee.
- (8) The Clerk of the Executive Council:
- (a) shall keep a list of the names, addresses and telephone numbers given pursuant to subsection (7); and
 - (b) shall cause that list to be made public in any manner that the Clerk of the Executive Council considers appropriate.

Filing of certain contracts

5(1) Every:

- (a) permanent head; and
- (b) Crown employee who reports directly to a permanent head;

shall file with the Clerk of the Executive Council a true copy of his or her Crown employment contract.

(2) A Crown employee described in subsection (1) shall file his or her Crown employment contract:

- (a) in the case of a contract entered into before this Act is assented to, within 30 days of the Act being assented to;
- (b) in the case of a contract entered into on or after this Act is assented to, within 14 days of the day the contract was entered into.

(3) The Clerk of the Executive Council may require a Crown employee described in subsection (1) to supply any information, within any period directed by the Clerk of the Executive Council, that the Clerk of the Executive Council may require to be satisfied that the copy of the Crown employment contract being filed is a true copy.

(4) Every Crown employment contract with a Crown employee described in subsection (1) is deemed to include a provision that the Crown employee shall file a true copy of the contract with the Clerk of the Executive Council in accordance with this Act.

(5) If a Crown employee fails:

- (a) to file his or her Crown employment contract in accordance with this section; or
- (b) to supply the Clerk of the Executive Council with the information requested by the Clerk of the Executive Council within the period directed by the Clerk of the Executive Council;

the Crown employer may void the Crown employment contract.

(6) The Clerk of the Executive Council shall make available for public inspection, during normal office hours, copies of all Crown employment contracts filed pursuant to this section.

1991, c.C-50.11, s.5.

Certain provisions void

6(1) In this section, “**payment**” or “**benefit**” means any payment or any benefit and includes:

- (a) any payment or any benefit that may be characterized as deferred income, a retirement allowance, a separation allowance, a severance payment or a payment in lieu of notice, whether that payment or benefit is earned or deemed to have been earned before the termination or expiration of a Crown employment contract; and

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- (b) an obligation or promise by the Crown or a Crown employer to:
 - (i) pay premiums or make contributions after termination or expiration of a Crown employment contract, on behalf of or for the benefit of a Crown employee or his or her family, respecting any benefit program or insurance policy; or
 - (ii) provide any benefit to the Crown employee or his or her family on or after termination or expiration of a Crown employment contract;
 but does not include any payment that is described in section 7 or 8.
- (2) All provisions in a Crown employment contract respecting:
 - (a) making any payments; or
 - (b) providing any benefits;
 by the Crown or a Crown employer resulting from the termination or expiration of the Crown employment contract are void.
- (3) Subject to sections 7 and 8, neither the Crown nor any Crown employer are required to make any payments or provide any benefits resulting from the termination or expiration of the Crown employment contract.

1991, c.C-50.11, s.6.

Deemed termination provisions

- 7(1) Every Crown employment contract is deemed to include the provisions prescribed in this section.
- (2) The Crown employer may terminate the Crown employment contract with cause or without cause.
- (3) If a Crown employer terminates a Crown employment contract without cause, the Crown employer shall provide the Crown employee with:
 - (a) written notice equal to the least of:
 - (i) the remaining term of the contract;
 - (ii) the period of notice provided in the contract; or
 - (iii) the period of notice that common law principles would provide for:
 - (A) without considering the provisions of the contract mentioned in subclauses (i) or (ii); and
 - (B) if the contract is for a definite term, as if the contract were for an indefinite term; or
 - (b) payment in lieu of the notice mentioned in clause (a) equal to the least of:
 - (i) the amount payable under the contract for the remaining term of the contract;

- (ii) the amount payable during the period of notice provided in the contract; or
 - (iii) the amount payable for the period of notice that common law principles would provide for:
 - (A) without considering the provisions of the contract mentioned in subclauses (a)(i) or (ii); and
 - (B) if the contract is for a definite term, as if the contract were for an indefinite term.
- (4) If a Crown employment contract is terminated by a Crown employer with cause, the Crown employer is not obligated to make any payment in lieu of notice resulting from the termination.
- (5) If a Crown employment contract is terminated for any reason other than one described in subsection (3), the maximum payment resulting from the termination that a Crown employer may make, subject to subsections (6) and (7), shall not exceed the amount the Crown employer would have to pay pursuant to subsection (3) if it terminated the contract without cause.
- (6) On termination of a Crown employment contract, the Crown employer may provide for an allowance for relocation expenses if the Crown employee had moved to his or her place of employment within three years of the date of termination of the contract.
- (7) On termination of a Crown employment contract, a Crown employer may pay for employment counselling for a period of not more than four months.
- (8) Every Crown employee shall mitigate the employee's damages on termination of the Crown employment contract.

1991, c.C-50.11, s.7.

Entitlements

8 In addition to any payments to which a Crown employee may be entitled to under section 7, a Crown employee is entitled, on termination or expiration of a Crown employment contract, to:

- (a) a payment for holidays that the employee has earned up to the date of termination or expiration but not used;
- (b) any pension benefits or refund of pension contributions to which the Crown employee is entitled by law; and
- (c) any payments that the Crown employee is entitled to under any plan which is designated as a benefit program pursuant to *The Financial Administration Act, 1993*.

1991, c.C-50.11, s.8; 1993, c.F-13.4, s.73.

Actions and rights extinguished

9(1) In this section, “**claim for loss or damage**” includes any claim in damages or debt for unjust dismissal, breach of contract, inducing breach of contract, interference with a contract, mental distress, loss of reputation, defamation or any other cause of action in contract, tort or equity arising from or incidental to the creation, termination or expiration of a Crown employment contract.

(2) No action or proceeding lies or shall be instituted against:

- (a) the Crown;
- (b) a Crown employer;
- (c) a member or former member of a Crown employer;
- (d) a member or former member of the Executive Council; or
- (e) any officer, director, employee or agent or former officer, director, employee or agent of the Crown or of a Crown employer;

based on any claim for loss or damage as a result of the enactment or application of this Act.

(3) Every claim for loss or damage resulting from the enactment or application of this Act is extinguished.

(4) This section does not apply with respect to the rights provided to a Crown employee by section 7 or 8.

1991, c.C-50.11, s.9.

Act not constructive dismissal

10 Neither:

- (a) the enactment or application of this Act; or
- (b) the changes in:
 - (i) the relationship between a Crown employee and the Crown employer; or
 - (ii) the Crown’s or Crown employer’s obligations under a Crown employment contract;

resulting from the enactment or application of this Act;

amount to constructive dismissal or a breach of contract.

1991, c.C-50.11, s.10.

Directions applicable to certain proceedings

11(1) The court shall apply this Act to all actions and proceedings respecting Crown employment contracts whether commenced on or after October 31, 1991.

- (2) If a court is required to determine whether a contract is a Crown employment contract, the court:
- (a) shall review the entire relationship between the Crown employer and the employee and make its determination in accordance with common law principles; and
 - (b) in its review under clause (a), shall not consider any provisions in the contract that define or attempt to characterize the relationship between the Crown employer and the employee.
- (3) If a court is required to determine the entitlements of any person resulting from the termination or expiration of a Crown employment contract, the court shall:
- (a) not consider:
 - (i) any representations, enticements or inducements made by any Crown employer or any person on behalf of a Crown employer;
 - (ii) any other agreements that may have been entered into with the Crown employer;
 - (iii) any provisions of the Crown employment contract dealing with termination or expiration; or
 - (iv) the term of the contract for the purpose of making a determination under subclause 7(3)(a)(iii) or (b)(iii); and
 - (b) take into account and make allowance for the Crown employee's duty to mitigate under section 7.

1991, c.C-50.11, s.11.

Regulations

12 The Lieutenant Governor in Council may make regulations:

- (a) prescribing a form for applications pursuant to section 4;
- (b) prescribing a fee for the purposes of section 4.

1991, c.C-50.11, s.12.

