

Introduction

As an employer, you may have concerns about how to manage your business and protect the health and safety of your employees during the COVID-19 pandemic. Below, we have addressed some of the common questions we have heard from employers. This information, which is current as of the date of publication (March 13, 2020), is not legal advice and we recommend consulting with your legal advisors for advice which is specific to your business.

Occupational Health and Safety

The Saskatchewan Employment Act imposes upon every employer an obligation to ensure, insofar as is reasonably practicable, the health, safety and welfare at work of all of the employer's workers. This obligation includes a requirement to take reasonable preventative steps to ensure that the health, safety and welfare of employees is not harmed by an infectious disease such as COVID-19 in the course of their employment.

What constitutes "reasonable" steps will depend on the nature of the workplace (for instance, whether the employees interact with members of the public, whether tools or electronics are shared with other workers, whether employees have an ability to work remotely). An employer should carefully consider the potential sources of risk to employees in the course of their work, and what reasonable steps might be taken to alleviate those risks.

Employers may find it helpful to have a robust and comprehensive policy which outlines the responses that the organization will take in response to a pandemic.

Refusal to Work

Workers in Saskatchewan have the right to refuse to perform unsafe work if the employee has reasonable grounds to believe that the work is unusually dangerous to their health or safety (or the health or safety of any other person at the place of employment).

Any claim by an employee that it is unsafe to work is a serious matter which must be investigated by the employer. As indicated above, the employer must take all reasonable measures to protect the health and safety of its employees. It is not yet clear whether employees in Saskatchewan may be justified in refusing work because of potential for exposure to COVID-19. In the meantime, employers are encouraged to work with their employees to find solutions which address the employees' concerns, while allowing the employer to continue to carry on business.

Absences from Work

Generally speaking, and as with any other illness, if an employee discloses that they are not feeling well or are showing symptoms which are consistent with COVID-19, it is reasonable for the employer to request that the employee refrain from reporting to work until they are well. In addition, the employer should have regard for the latest provincial and federal directions regarding the self-isolation of employees who have travelled or been in contact with others who may have been exposed. In some cases, it may be possible to allow the employee to work from home during a period of minor illness or self-isolation.

An absence due to COVID-19 should be handled the same as any other absence due to illness. Under *The Saskatchewan Employment Act*, an employee is generally not entitled to be paid while absent from work; however, some employees have entitlement to paid sick leave under a workplace policy, collective agreement or other employment contract.

The Saskatchewan Employment Act protects the jobs of employees who are absent from work due to illness or serious illness for up to 12 weeks. In addition, *The Saskatchewan Human Rights Code, 2018* protects employees from discrimination on the basis of a prohibited ground, including disability. We strongly recommend that employers seek out legal advice specific to their situation before making any long term decisions with respect to their employees.

For further information, please contact:

Candice D. Grant

Direct: 306.933.1304

Email: c.grant@rslaw.com