

UNEDITED

The Thresher Employees Act

being

Chapter 209 of *The Revised Statutes of Saskatchewan, 1920*
(assented to November 10, 1920).

FOR HISTORICAL REFERENCE ONLY

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 209

An Act for the Protection of Wages of Threshing Machine Employees

Short title

1 This Act may be cited as *The Thresher Employees Act*.

R.S.S. 1909, c.153, s.1; R.S.S. 1920, c.209, s.1.

Interpretation

2 In this Act, unless the context otherwise requires, the expression:

“Employer”

1. “**Employer**” includes any person or body of persons corporate or unincorporate with whom an employee as defined by this Act has entered into a contract of service whether such employer is the owner, lessee or bailee of the threshing machine on or about which such contract of service is performed;

“Employee”

2. “**Employee**” includes every person who is engaged in an employment of threshing on or about any threshing machine and means any person who has entered into or works under a contract of service with an employer as defined by this Act whether the contract is expressed or implied, is oral or in writing;

“Court”, “Judge”

3. “**Court**” means the district court of the judicial district within which the threshing or some part thereof has been performed; and “**judge**” means the judge of the said court.

R.S.S. 1909, c.153, s.2; R.S.S. 1920, c.209, s.2.

Priority of lien

3(1) Any employee who works for wages on or about any threshing machine shall to the extent of his wages have a claim against the earnings of his employer in the hands of a third person for whom such threshing has been done by his employer and in the course of which such employee was engaged; and such claim shall have priority over all assignments, attachments or garnishments of such earnings whensoever made and over every claim or right of every kind and description whatsoever.

(2) No such third person shall be liable to any action or proceeding by such employer or his assigns in respect of such earnings while retained by him pursuant to the provisions of this Act.

R.S.S. 1909, c.153, s.3; R.S.S. 1920, c.209, s.3.

Conditions of claim

4(1) Such claim shall cease to exist unless such employee serves a claim, and proceeds as provided by this Act.

Substitutional or other service

(2) When an employee is unable to effect prompt personal service, he may apply to the judge of the district court of the judicial district in which is situated the land upon which the work was done, and the judge may make such order, for substituted or other service or for the substitution for service of notice by letter, public advertisement, or otherwise, and upon such evidence as appears just.

R.S.S. 1909, c.153, s.4; 1916, c.37, s.26;
R.S.S. 1920, c.209, s.4.

Claim

- 5(1) Such claim (form A) shall be in writing and shall set out:
- (a) the full name and post office address of such employee together with the post office address and full name of such employer where practicable with as much certainty and particularity as possible;
 - (b) a short description of the work or service done together with a statement of the length of time worked by such employee;
 - (c) the sum of money claimed as due.
- (2) Such claim shall be verified by the affidavit of such employee.
- (3) Such claim shall within twenty days after such threshing is completed be served on such third person and on such employer.

R.S.S. 1909, c.153, s.5; 1912-13, c.46, s.39(1);
R.S.S. 1920, c.209, s.5.

Liability of third person

6 Every such third person for whom such threshing has been done shall hold in his possession until the expiration of the said twenty days the sum of money earned by such employer:

Provided however that in case a claim under this Act has within the said twenty days been served upon him such third person shall continue to hold in his possession such sum of money until the expiration of thirty days from the completion of such threshing or for such further time as is provided by this Act;

Provided further that such third person shall, on default so to hold in his possession such sum of money, be to the extent thereof liable for the wages due to every employee in respect of such threshing.

R.S.S. 1909, c.153, s.6; 1917-18, c.46, s.39(2);
R.S.S. 1920, c.209, s.6.

Payments by third person

7(1) Subject to the provisions of section 8 such person shall after the expiration of the said thirty days pay to such employee upon demand the amount of his claim unless within the said thirty days such employer has served upon such third person a notice of contest as herein provided.

(2) All payments lawfully made under this Act by such third person shall be deemed to be payment *pro tanto* to such employer.

(3) In case such third person neglects or refuses to pay such wages upon demand as provided by this section he may be proceeded against by such employee under *The Masters and Servants Act*, the provisions whereof are hereby declared to be applicable to any proceedings taken by such employee under this section.

R.S.S. 1909, c.153, s.7; R.S.S. 1920, c.209, s.7.

Procedure in case claims exceed earnings

8 In case the total sum of money in respect of which such claims have been served on such third person exceeds the total sum of money earned by such employer in threshing for such third person such third person shall after the expiration of twenty days and not later than thirty days after such threshing was completed pay into the district court such total sum of money which payment shall be a valid discharge to him against such employer to the amount paid and shall at the same time deliver or transmit by registered letter to the clerk of such court all claims, notices of contest and all other documents served upon him relating to such sum of money.

R.S.S. 1909, c.153, s.8; R.S.S. 1920, c.209, s.8.

Procedure in case claim contested

9 Whenever the provisions of section 8 do not apply to the circumstances of the case such third person shall in case within the said thirty days he has been served with a notice of contest by such employer in respect of any claim as herein provided forthwith but not later than forty days after such threshing was completed and subject to the provisions of section 8 pay into the district court the sum of money claimed in such claim which payment shall be a valid discharge to him against such employer to the amount paid and he shall at the same time deliver or transmit by registered letter to the clerk of such court the claim, notice of contest and all other documents served upon him and relating to the said sum of money:

Provided however that in case the provisions of section 8 do apply to the circumstances of the case such third person shall forthwith after being served with any notice of contest of such employer but not later than forty days after such threshing was completed deliver or transmit by registered letter to the said clerk all claims, notices of contest and all other documents served upon him and relating to the said sum of money.

R.S.S. 1909, c.153, s.9; R.S.S. 1920, c.209, s.9.

Paying into court

10 The person so paying money into court under the provisions of section 8 or 9 shall be entitled to deduct therefrom his necessary disbursements and costs (not exceeding five dollars) excepting when such sum of money is larger than the amount of the claim of the employee in which case the person so paying money into court may deduct such costs and disbursements out of the balance in his hands but if such balance is not sufficient to cover such disbursements and costs he may deduct the difference from the amount to be paid into court.

R.S.S. 1909, c.153, s.10; R.S.S. 1920, c.209, s.10.

Notice of contest

11 The notice of contest (form B) shall contain a brief statement of the nature or grounds of contest and the post office address of such employer and be verified by the affidavit of the employer.

R.S.S. 1909, c.153, s.11; R.S.S. 1920, c.209, s.11.

Procedure by clerk of court

12 The clerk of the court shall from time to time:

- (a) forthwith after receipt by him of money paid into court pursuant to section 8 or 9 notify by registered letter such employer and all employees claiming in respect of such money; and
- (b) forthwith after receipt by him of notice of contest under this Act notify by registered letter every employee in respect of whose claim such notice of contest is given:

Proviso

Provided that if an employer in his notice of contest omits to state his post office address the notice to him shall be mailed to the address stated by the employee in his claim as required by section 5.

R.S.S. 1909, c.153, s.12; R.S.S. 1920, c.209, s.12.

Procedure in district courts

13(1) Where a sum of money is paid into court under this Act any employee claiming under this Act (or in case there are more than one claiming then any one of such employees) may sue out an interpleader summons (form C) to determine, adjust and finally settle the rights of the several claims and parties to such sum of money paid into court and in such proceedings between employees and employers the former shall be plaintiff and the latter defendant; and in the event of such interpleader summons not being sued out by any such employee within twenty days after such sum of money has been paid into court such sum of money shall be paid out only in pursuance of an order of the judge of the said court to such employer or his assigns or to such other person as is entitled thereto.

(2) Any number of claimants may be joined in such interpleader summons.

R.S.S. 1909, c.153, s.13(redrawn); R.S.S. 1920, c.209, s.13.

Adjudication

14 Upon the return of such interpleader summons the judge shall summarily determine the rights of the said several parties to the moneys so paid into court and may make such order in the premises and as to costs as appears just.

R.S.S. 1909, c.153, s.14; R.S.S. 1920, c.209, s.14.

Rateable distribution

15 Where a sum of money has been paid into court by such third person and an order has been made for the payment of the sum out of court to such employees or any of them and such sum of money is not sufficient to satisfy in full the claims of such employees, such sum of money shall be distributed rateably among such employees subject to any order of the court as to costs:

Provided however that any sum of money so paid into court as to which no order of payment out to such employees or any of them has been made shall be paid out as provided by section 13.

R.S.S. 1909, c.153, s.15; R.S.S. 1920, c.209, s.15.

Statement of wages

16 Every employer shall upon demand at any time of any of wages employee or of any third person for whom threshing has been done forthwith furnish to such employee or to such third person a written statement setting forth the length of time for which such employee is entitled at the time of such demand to be paid for such work and setting forth the sum of money earned by such employee for such work up to that time which written statement shall be signed by such employer or by his foreman or agent acting for him; and if such employer or his foreman or agent refuses or neglects to furnish such written statement on demand he shall be liable upon summary conviction to a penalty of \$5 for every day during which such statement is withheld:

Provided however that any contravention of this section by the foreman or agent of any such employer shall be presumed to be the act of such employer but such presumption may be rebutted by proof of explicit instructions to the contrary by such employer and any such foreman or agent contravening the provisions of this section and disobeying such explicit instructions shall be liable to the penalty provided by this section.

R.S.S. 1909, c.153, s.16; R.S.S. 1920, c.209, s.16.

Fees

17 The following fees shall be paid to the clerk of the district court in respect of the following matters herein provided for and may be by him retained as to paragraphs 1 and 2 out of the money paid into court pursuant to section 8 or 9:

1. Filing claim, twenty-five cents;
2. Filing notice of contest, twenty-five cents;
3. Interpleader summons, fifty cents.

R.S.S. 1909, c.153, s.17; R.S.S. 1920, c.209, s.17.

Conviction against partnership

18 Any order or conviction by a justice of the peace under this Act against a member of a partnership shall be deemed to be an order or conviction against each member of such partnership.

R.S.S. 1909, c.153, s.18; R.S.S. 1920, c.209, s.18.

SCHEDULE

FORM A

(Section 5)

THRESHER EMPLOYEES' CLAIM

To _____
 of _____

in the Province of Saskatchewan:

SIR,—Take notice that I, the undersigned, claim from you payment of the sum of _____ dollars as the balance of my wages for work done for (*insert here name in full and post office address of employer*) in threshing your grain; that I was employed at such work _____ days (*or weeks or as the case may be*) at _____ dollars per day (*or as the case may be*) commencing the _____ day of _____ 19____ and ending on the _____ day of _____ 19____.

My post office addresses is _____

Dated at _____ in the Province of _____ this _____ day of _____ 19____.

.....
Name in full of Employee.

I (*name in full of employee*) of _____ in the Province of Saskatchewan, labourer, make oath and say that I am the above named employee, that I have executed the above claim, that the statements contained therein are true both in substance and in fact and that there is still due to me for wages as above set forth the sum of _____ dollars.

Sworn before me at _____
 in the Province of _____
 this _____ day of _____ 19____.

}

.....
Name of Employee

.....
 (A Commr. for Oaths, N.P. or J.P.)

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FORM B

(Section 11)

NOTICE OF CONTEST

To _____ of _____
in the Province of Saskatchewan:

SIR,—Take notice that the undersigned contests the claim served upon you by _____ on or about the _____ day of _____ 19____ on the following grounds:

(Here state, briefly the grounds of contest in such manner that the particular nature thereof may be readily ascertained).

And further take notice that I require you to pay all money the subject of such claim into court as required by law.

My post office address is _____

Dated at _____ in the Province of _____ this _____ day of _____ 19____.

.....
Name in full of Employee.

I (*name of employer in full*) of _____ in the Province of Saskatchewan, thresher, make oath and say:

That I am the employer above mentioned, that I have duly executed the above notice of contest and that the statements therein contained are true both in substance and in fact.

Sworn before me at _____
in the Province of _____
this _____ day of _____ 19____.

}

.....
Name of Employee

.....
(*A Commr. for Oaths, N.P. or J.P.*)

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FORM C

(Section 13)

INTERPLEADER SUMMONS

Canada:
Province of Saskatchewan.

In the District Court of the Judicial District of _____
Between _____ of _____

_____ *Plaintiff.*
_____ and _____
_____ of _____
_____ *Defendant.*

To the above named defendant:

You are hereby summoned to appear at the sittings of this court to be holden at _____ on the _____ day of _____ 19____ at ____ o'clock in the ____ noon when the claim of yourself and the plaintiff to the money paid into court by _____ under the provisions of *The Thresher Employees Act* will be adjudicated upon and such order may thereupon be made as the court may deem fit.

Dated at _____ in the said Province of Saskatchewan this _____ day of _____ 19____.

By the court

.....
Clerk of the Court.

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