

UNEDITED

The Wages Recovery Act

being

Chapter 267 of *The Revised Statutes of Saskatchewan, 1953*
(effective February 1, 1954).

FOR HISTORICAL REFERENCE ONLY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 267

An Act respecting the Summary Recovery of Wages by Employees

SHORT TITLE

Short title

- 1 This Act may be cited as *The Wages Recovery Act*.

R.S.S. 1953, c.267, s.1.

INTERPRETATION

Interpretation

- 2 In this Act:

“employee”

1. “**employee**” means a person who is in receipt of or entitled to any wages;

“employer”

2. “**employer**” includes every person responsible for the payment of the wages of an employee under any Act or law;

“magistrate”

3. “**magistrate**” means a justice of the peace or a police magistrate;

“wages”

4. “**wages**” means all wages, salaries, pay, commission and any compensation for labour or personal services measured by the time, piece or otherwise.

1951, c.97, s.2; R.S.S. 1953, c.267, s.2.

APPLICATION OF ACT

Application

- 3 Subject to section 13, this Act applies to every hiring or contract of personal service.

1951, c.97, s.3; R.S.S. 1953, c.267, s.3.

CONTRACTS OF SERVICE

Certain contracts to be in writing

- 4 Every hiring or contract of personal service for a period of more than one year shall be in writing and be signed by the contracting parties, otherwise it shall be void and of no effect.

1951, c.97, s.4; R.S.S. 1953, c.267, s.4.

RECOVERY OF WAGES

Information and summons

5(1) An employee who has cause of complaint against his employer, whether the relationship of employer and employee has been determined or not, for:

- (a) the non-payment of wages actually earned in his employment; or
- (b) wages payable under a contract of service;

may lay an information in writing and under oath before a magistrate, stating the cause of complaint and the amount of wages claimed.

(2) Upon receiving the information the magistrate shall issue a summons requiring the employer to appear before him at the time and place mentioned therein to answer the claim made.

1951, c.97, s.5; R.S.S. 1953, c.267, s.5.

Service of summons

6(1) The summons may be served by any adult person upon the person to whom it is directed, either personally by delivering to him a copy, or, if such person cannot conveniently be found, by leaving a copy for him at his last or most usual place of abode with some inmate thereof apparently of the age of sixteen years or over.

(2) The following fees shall be payable for service of the summons:

1. Serving summons and returning same, including affidavit of service or attending to prove same, 50 cents;
2. Mileage to serve summons, one way, per mile, 15 cents; (if no public conveyance is available reasonable livery charges to be allowed);
3. Mileage when service cannot be effected, upon proof of due diligence, one way, per mile, 15 cents.

1951, c.97, s.6; R.S.S. 1953, c.267, s.6.

Order of magistrate on hearing

7(1) If, upon the hearing of a complaint, the magistrate is satisfied that the cause has been proven, he:

- (a) may discharge the complainant from his employment if the term of service has not expired, and whether he is still in actual service with the employer or not; and
- (b) shall order the employer to pay to the complainant the amount of wages found to be due to him and may also order the employer to pay to the complainant the amount of wages found to be due up to the time when the service could or would be legally ended by notice from the employer or by effluxion of time, not to exceed in all the sum of \$200, together with costs of the prosecution.

(2) Costs of the prosecution shall include:

- (a) such sum as the magistrate may allow for solicitor's costs, which shall not exceed \$25; and
- (b) an allowance to the complainant for his personal attendance as a witness in his own behalf.

1951, c.97, s.7; R.S.S. 1953, c.267, s.7.

Jurisdiction of magistrate

8(1) An information shall be heard and determined before a magistrate who ordinarily exercises his office in the locality where the cause of the complaint arose, but any magistrate may receive the information and issue a summons requiring the employer to appear before another magistrate having such jurisdiction.

(2) A magistrate before issuing a summons requiring the employer to appear before another magistrate shall satisfy himself that the magistrate will be in attendance at the time and place mentioned in the summons.

1951, c.97, s.8; R.S.S. 1953, c.267, s.8.

Power to dispense with or postpone payment of costs

9(1) Where an employee desires to proceed under section 5, the magistrate before whom the information is laid, upon being satisfied that the complainant is unable, by reason of lack of funds or otherwise, to pay the costs and fees payable in respect of the proceedings instituted, including the cost of service of the summons, may dispense with the payment of them or extend the time of payment of them until after the determination of the proceedings.

(2) Where payment of costs and fees has been dispensed with or postponed under subsection (1) and judgment is given in favour of the complainant, these costs, including any other costs allowed, shall be included in the amount ordered to be paid.

1951, c.97, s.9; R.S.S. 1953, c.267, s.9.

Enforcement of magistrate's order

10(1) In case of non-payment of any sum ordered to be paid, the magistrate may issue his warrant for the distress and sale of the goods and chattels of the employer other than those exempt from seizure under writs of execution.

(2) If the complaints of two or more employees are determined before a magistrate on the same day and sums of money are ordered to be paid to the employees by the same employer, the magistrate may issue one distress warrant covering all the sums of money ordered to be paid to the employees, and in the event of realization thereon, the employees shall share therein in the proportion that their claims bear to the total of all claims included therein.

(3) The provisions of the *Criminal Code* for enforcing an order requiring payment of a sum of money do not apply to proceedings under this Act.

1951, c.97, s.10; R.S.S. 1953, c.267, s.10.

MISCELLANEOUS**Appeal**

11(1) Subject to subsection (2), there shall be no appeal from any order made under this Act and no judge or court shall entertain any application for *certiorari* or motion to quash or set aside the order.

(2) An appeal shall lie from any such order to the judge of the district court of the judicial district in which the cause of complaint arose, sitting in chambers, and in case of an appeal the judge shall proceed by way of a trial *de novo*, and the decision of the judge shall be final.

- (3) Notice of intention to appeal shall be given:
- (a) by filing in the office of the clerk of the said court, within fifteen days after the making of the order complained against, a notice of intention to appeal setting forth with reasonable certainty the order complained against; and
 - (b) by serving the respondent and the magistrate who made the order with a copy of the notice.
- (4) Such service shall be made within fifteen days after the making of the order complained against or within such further time, not exceeding an additional fifteen days, as the judge may see fit on *ex parte* application to allow, either before or after the expiration of the first mentioned fifteen days.
- (5) The appellant may apply *ex parte* to the judge for an appointment to hear the appeal, and such application shall be made within thirty days after the making of the order complained against.
- (6) Upon such application the judge shall grant an appointment and make such order with respect to service of notice of the hearing as the judge deems fit.
- (7) Upon the hearing the judge may confirm, reverse or vary the decision of the magistrate or make such other order in the matter as the judge deems fit.

1951, c.97, s.11; R.S.S. 1953, c.267, s.11.

Foreign contracts

12 The provisions of this Act apply to contracts and agreements made out of Saskatchewan in respect of service or labour performed in Saskatchewan.

1951, c.97, s.12; R.S.S. 1953, c.267, s.12.

Other remedies preserved

13 With the exception of section 4, nothing in this Act shall curtail, abridge or defeat any civil or other remedy for the recovery of wages by an employee from his employer, except in so far as any complaint under this Act has been determined by an order made under this Act.

1951, c.97, s.13; R.S.S. 1953, c.267, s.13.

Limitation of action

14 Proceedings may be taken under this Act within six months after the engagement or employment has ceased or been terminated, or within three months after the last instalment of wages under the agreement of hiring has become due whichever date may be the later.

1951, c.97, s.14; R.S.S. 1953, c.267, s.14.