

## **Statutory Holidays – Model Legislation Proposals**

### **ESA Section 1 – Definition of Statutory Holiday**

Nine Statutory Holidays are listed:

- New Year's Day
- Good Friday
- Victoria Day
- Canada Day
- British Columbia Day
- Labour Day
- Thanksgiving Day
- Remembrance Day
- Christmas Day

In October 2011 Premier Christie Clark announced through the Speech from the Throne that a 10th statutory holiday, Family Day, will come into effect on February 18, 2013.

The Saskatchewan Labour Standards Act has had 10 statutory holidays, including Family Day, for a number of years. Ontario and Alberta have also had Family Day for some time.

Other statutory holidays federally and/or provincially are:

- Easter Monday
- National Aboriginal Day (Northwest Territories)
- Boxing Day

Propose: The above three public holidays (plus Family Day) be added to the definition of Statutory Holiday in the BC ESA so that there will be 13 in total.

### **Section 44 – Entitlement to Statutory Holiday**

In order to be entitled to statutory holiday pay an employee must have been employed by an employer for 30 calendar days, and worked or earned wages for 15 of the 30 calendar days preceding the statutory holiday.

Under the Labour Standards Act of Saskatchewan (Part VI, Sections 38, 39 & 40) there is no qualifying period of employment with an employer for employees to be entitled to statutory holiday pay.

Propose: Delete Section 44 from the BC ESA.

## Section 45 – Statutory Holiday Pay

Currently the calculation of pay for a day off work on a statutory holiday, or for a day off instead of statutory holiday, is based on the Section 44 restriction of entitlement.

Propose: Replace Section 45(1) with the following from Section 39(1) of the Saskatchewan Act:

*The minimum sum of money to be paid for a statutory holiday or for another day designated for observance of the statutory holiday by an employer to any employee who does not work on that day shall be:*

*(a) where the employer pays to the employee the employee's regular wages for the that includes that day, is equal to those wages;*

*(b) in any other case, is the amount A calculated in accordance with the following formula:*

$$A=W/20$$

*where W is the total of the wages earned by the employee during the four weeks immediately preceding the statutory holiday, exclusion of overtime.*

Amend Section 45(2) so as to be consistent with deletion of Section 44 and replacement Section 45(1), as follows:

*The statutory holiday pay provided for under subsection (1) applies whether or not the statutory holiday falls on the employee's regularly scheduled day off.*

## Repealed Sections 47 & 49

Up until the 2002 amendments Section 47 required that if a statutory holiday falls on a non working day for an employee the employer must give the employee a work day off with pay.

Propose: Old Section 47 provisions be re-written into the Act.

Up until the 2002 amendments Section 49 required that the standards for employees covered by a collective agreement must meet or exceed the statutory holiday provisions of the Act.

Propose: Old Section 49 provisions be re-written into the Act.