

Saskatchewan Employment Act Update – The Supervisory Employee Provisions Under Review

The Government of Saskatchewan has opened a consultation on the supervisory employee provisions found in Part VI of *The Saskatchewan Employment Act*.

Under the supervisory employment provisions, the Labour Relations Board on an application to certify or amend a certification order is required to exclude supervisory employees from belonging to the same bargaining unit as those they supervise, unless the parties agree by signing an irrevocable elections.

There have been challenges on these provisions, and a recent ruling, *University of Saskatchewan v Administrative and Supervisory Personnel Association, 2021*, has reignited the discussion. The Labour Relations Board has now clarified that supervisory employees may be excluded from *existing* bargaining units upon an application to the Board, which differs from a previous 2017 Board ruling which held that supervisory employees would not be excluded from *existing* bargaining units and instead would only be excluded where there is a *new* certification application.¹

The theory behind these provisions, the result of input from union members and employers, was that excluding supervisory employees from the same bargaining unit as the employees they supervise helps prevent a conflict of interest, specifically as supervisory employees may find it difficult to discipline a fellow union member or fully participate in union activities.

The altered interpretation of the supervisory employee provisions, in addition to concerns regarding whether these provisions interfere with the ability of workers and unions to engage in a meaning process of collective bargaining, has moved the Government of Saskatchewan to review the supervisory employment provisions of Part VI of *The Saskatchewan Employment Act*.

If you are interested in providing comments to the Saskatchewan Chamber of Commerce on this issue for inclusion in the Chamber's response to the Government of Saskatchewan, please send them to mkendrick@saskchamber.com by May 25th, 2021.

We are particularly interested in the following information:

- Does this specific regulation (Part V1) of *The Saskatchewan Employment Act* impact your operations?
 - If yes, what are the impacts? Are they positive or negative?
- What is your organization's perspective regarding the impact of repealing these provisions? Specifically, how would that impact existing supervisory employee bargaining units.

Reference

1. Kevin Wilson, and Brent Matkowski. ¹ *SK Labour Relations Board Changes Approach to Supervisory Employees*. MLT Aikins. March 5, 2021. <https://www.mltaikins.com/labour-employment/sk-labour-relations-board-changes-approach-to-supervisory-employees/>