

BILL

No. 24

An Act respecting the Removal of Trade Barriers to Goods and Services
between Saskatchewan and other Jurisdictions within Canada

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(Assented to _____)

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

PART 1

Preliminary Matters

Short title

1 This Act may be cited as *The Saskatchewan Internal Trade Promotion Act*.

Definitions

2 In this Act:

“certification” means certification, registration, licensing or another form of official recognition that permits the holder to provide a good or service pursuant to the laws of another Canadian province or territory, or pursuant to a federal regulatory framework;

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“compliance order” means an order made pursuant to section 8;

“Crown” means the Crown in right of Saskatchewan;

“minister” means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

“ministry” means the ministry over which the minister presides;

“mutual recognition principle” means:

- (a) in the case of goods, the principle set out in section 5; and
- (b) in the case of services, the principle set out in section 6;

“prescribed” means prescribed in the regulations;

“regulatory authority” means a person or other body, whether or not a governmental entity, that has been granted authority pursuant to an Act to set or implement a regulatory provision, and includes any other person or body designated in the regulations, but does not include a municipality or the council of a municipality;

“regulatory provision” means a regulation, order, rule, form, bylaw, resolution, practice, policy, standard or other measure enacted in the execution of a power conferred by or pursuant to the authority of an Act and related to the trade in goods or the supply of services into Saskatchewan, including:

- (a) the establishment of standards or certification requirements relating to goods or services;
- (b) the assessment of goods or services against established standards or certification requirements; and
- (c) the official recognition that a good or service meets established standards or certification requirements;

“trade agreement” means all or any of the following:

- (a) the *Canadian Free Trade Agreement* entered into by the governments of Canada, the provinces and the territories on or about April 6, 2017, including amendments to that agreement;
- (b) the *New West Partnership Trade Agreement* entered into by the governments of British Columbia, Alberta and Saskatchewan on or about April 30, 2010, including amendments to that agreement;
- (c) any other agreement designated in the regulations, including amendments to that agreement;

and includes a decision issued by the Government of Saskatchewan and another party or parties to the agreement under a provision of the agreement that authorizes the parties to declare their agreed interpretation of the agreement.

Purposes

3 The purposes of this Act are to:

- (a) reduce or remove barriers to the trade of goods and services between Saskatchewan and other Canadian provinces and territories;

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- (b) reduce or remove barriers to the trade of goods and services between businesses and consumers in Saskatchewan and federally-regulated businesses and industries, wherever situated in Canada; and
- (c) preserve important public and social policy objectives, including:
 - (i) the protection of consumers and workers;
 - (ii) the protection of public health; and
 - (iii) the protection of the environment.

Non-application of Act

4 This Act does not apply to:

- (a) the provision of goods or services by a Crown corporation as defined in *The Crown Corporations Act, 1993*;
- (b) the acquisition of goods or services, including goods or services included in construction contracts, by any of the following:
 - (i) a ministry, agency, board or commission of the Government of Saskatchewan, including any Crown corporation or other agent of the Crown;
 - (ii) a public institution as defined in *The Purchasing Act, 2004*;
- (c) the practice of a regulated profession as defined in *The Labour Mobility and Fair Registration Practices Act*; or
- (d) any other prescribed entity, good or service.

Mutual recognition of goods

5(1) The mutual recognition principle applies to a good that has met the applicable standards and received the applicable approvals relating to the certification, composition, performance, production, manufacture, quality, marketing, labelling, testing, inspection or use of the good in force:

- (a) in another Canadian province or territory; or
- (b) pursuant to a federal regulatory framework.

(2) Subject to the regulations made pursuant to this section, a good described in subsection (1):

- (a) must be treated as if it has met the corresponding standards and received the corresponding approvals in Saskatchewan; and
- (b) must not be subject to any additional approval requirements in Saskatchewan or to any fees associated with approval requirements.

(3) Subject to subsection (2), a good described in subsection (1) is subject to all laws applicable to the provision of that good in Saskatchewan.

(4) The Lieutenant Governor in Council may make regulations:

- (a) prescribing goods that are not subject to this section;
- (b) prescribing entities that are not subject to this section;
- (c) prescribing industries and sectors that are not subject to this section;
- (d) prescribing standards and approvals that correspond to Saskatchewan standards and approvals for the purposes of clause (2)(a);

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- (e) prescribing Canadian provinces or territories, or federal regulatory frameworks, that are not subject to this section;
- (f) prescribing standards, approvals and fees that may apply to a good, notwithstanding subsection (2);
- (g) prescribing any other circumstances, terms, conditions and limitations respecting the application of this section.

Mutual recognition of services

6(1) The mutual recognition principle applies to a service that has met the applicable standards and received the applicable approvals for the service:

- (a) in another Canadian province or territory; or
- (b) pursuant to a federal regulatory framework.

(2) Subject to the regulations made pursuant to this section, a service described in subsection (1):

- (a) must be treated as if the service has met the corresponding standards and received the corresponding approvals in Saskatchewan; and
- (b) must not be subject to any additional approval requirements in Saskatchewan or to any fees associated with approval requirements.

(3) Subject to subsection (2), a service described in subsection (1) is subject to all laws applicable to suppliers of the service in Saskatchewan.

(4) If certification is required pursuant to a Saskatchewan regulatory provision to provide a service in Saskatchewan, the supplier of the service is entitled to be issued certification if the supplier:

- (a) holds equivalent certification:
 - (i) in another Canadian province or territory; or
 - (ii) pursuant to a federal regulatory framework;
- (b) is in good standing with the applicable regulatory body;
- (c) has no outstanding complaints or disciplinary proceedings against it with the applicable regulatory body; and
- (d) meets any other prescribed conditions.

(5) The Lieutenant Governor in Council may make regulations:

- (a) prescribing services that are not subject to this section;
- (b) prescribing entities that are not subject to this section;
- (c) prescribing industries and sectors that are not subject to this section;
- (d) prescribing standards and approvals that correspond to Saskatchewan standards and approvals for the purposes of clause (2)(a);
- (e) prescribing Canadian provinces or territories, or federal regulatory frameworks, that are not subject to this section;

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- (f) prescribing standards, approvals and fees that may apply to a service, notwithstanding subsection (2);
- (g) prescribing certifications that are considered equivalent for the purposes of clause (4)(a);
- (h) prescribing conditions that must be met before the issuance of a certification for the purpose of subsection (4);
- (i) prescribing any other circumstances, terms, conditions and limitations respecting the application of this section.

PART 2

Compliance by Regulatory Authorities

General duty

7 Every regulatory authority shall ensure that its regulatory provisions are consistent with:

- (a) all trade agreements; and
- (b) the mutual recognition principle.

Compliance orders

8 If, after consulting with a regulatory authority, the minister has reasonable grounds to believe that the regulatory authority has not complied with this Act or the regulations, the minister may issue an order to the regulatory authority requiring compliance with this Act or the regulations.

Notice of order

9(1) The minister shall, before making a compliance order with respect to a regulatory authority, serve written notice on the regulatory authority.

(2) A notice pursuant to subsection (1) must include the following information:

- (a) the nature of the proposed compliance order;
- (b) the steps that the regulatory authority must take to comply with the proposed compliance order, and the period within which the regulatory authority must comply with the order;
- (c) the right of the regulatory authority to make written submissions to the minister with respect to the proposed compliance order;
- (d) the period, as set out in subsection (3), within which the written submissions must be made.

(3) A regulatory authority may make written submissions with respect to a proposed compliance order within 30 days after the notice is served on the regulatory authority or within any longer period specified in the notice.

(4) The minister may extend the period mentioned in subsection (3).

(5) Subsections (1) to (4) apply if the minister proposes to vary a compliance order.

Service of order or notice

10(1) A compliance order must be served on the regulatory authority that is the subject of the order without delay after the compliance order is issued or varied.

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(2) A compliance order or a variance of an order pursuant to subsection (1) or a notice pursuant to section 9 must be served on a regulatory authority by delivering it to a representative of the regulatory authority:

- (a) by personal service;
- (b) by courier or registered mail; or
- (c) by any other prescribed means.

(3) Service of an order or a notice pursuant to subsection (2) is deemed to be effected:

- (a) if the compliance order or notice is delivered by courier or registered mail, when the acknowledgment of receipt is signed; or
- (b) if the compliance order or notice is delivered by a prescribed means, on the prescribed number of business days after the date on which the order or notice was sent.

Compliance with order

11 On being served with a compliance order, the regulatory authority shall comply with the compliance order.

Implementing compliance orders

12(1) If a compliance order requires the regulatory authority to make, amend or repeal a regulatory provision and the regulatory authority does not do so within 60 days after the order is served on the regulatory authority, the Lieutenant Governor in Council may, by order, do all or any of the following:

- (a) make a regulatory provision that is consistent with this Act or the regulations;
- (b) amend a regulatory provision to make it consistent with this Act or the regulations;
- (c) repeal a regulatory provision that is not consistent with this Act or the regulations.

(2) Notwithstanding any other Act or law, an order made pursuant to subsection (1) may be made retroactive to a day not earlier than the day on which section 1 of this Act comes into force.

(3) If there is inconsistency between a regulatory provision made or amended pursuant to clause (1)(a) or (b) and any other regulatory provision enacted by the regulatory authority, the regulatory provision made pursuant to clause (1)(a) or (b) prevails.

Exemptions

13(1) A regulatory authority may apply to the minister in the form and manner specified by the minister for an exemption from the requirements of this Act or the regulations.

(2) For the purposes of the application pursuant to subsection (1), the regulatory authority shall submit to the minister supporting documents and materials and provide reasons for requesting the exemption.

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(3) If a regulatory authority applies for an exemption pursuant to subsection (1), the minister may:

(a) grant the exemption if the minister is satisfied, on the basis of the documents, materials and reasons provided, that it is necessary and in the public interest to grant the exemption for one or more of the following purposes:

- (i) public security and safety;
- (ii) public order;
- (iii) protection of human, animal or plant life or health;
- (iv) protection of the environment;
- (v) consumer protection;
- (vi) protection of the health, safety, and well-being of workers;
- (vii) provision of adequate social or health services to all geographic regions in Saskatchewan;
- (viii) programs for disadvantaged groups;
- (ix) any other prescribed purposes; or

(b) subject to subsection (4), refuse to grant the exemption.

(4) If the minister refuses to grant the exemption pursuant to clause (3)(b), the minister shall provide the applicant with written notice of the decision together with reasons.

(5) The minister shall cause notice of every exemption granted pursuant to this section to be published on the ministry's website and made available to the public in any other manner that the minister considers appropriate.

PART 3

Compliance of Acts and Regulations

Definitions for Part

14 In this Part, “**subject regulation**” means a regulation as defined in section 4-1 of *The Legislation Act*.

Involvement of ministers and ministries

15 If the minister believes that an Act or a subject regulation is inconsistent with the mutual recognition principle or a trade agreement, the minister shall, before recommending a regulation pursuant to this Part, notify the minister responsible for the administration of that Act or subject regulation of the potential inconsistency.

Compliance of regulations

16(1) To make an Act or subject regulation consistent with the mutual recognition principle or a trade agreement, the Lieutenant Governor in Council may:

- (a) enact a regulation that is consistent with or that enables that Act to be consistent with the mutual recognition principle, a trade agreement or this Act or the regulations;

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- (b) amend a subject regulation to make it consistent with the mutual recognition principle, a trade agreement or this Act or the regulations; or
 - (c) repeal a subject regulation that is not consistent with the mutual recognition principle, a trade agreement, or this Act or the regulations.
- (2) Subject to subsection (3), nothing in subsection (1) authorizes the enactment or amendment of a subject regulation that would not have been authorized by the Act pursuant to which the subject regulation was originally made.
- (3) Notwithstanding any other Act or law, a regulation made pursuant to this section may:
- (a) amend or repeal more than one subject regulation at the same time; and
 - (b) be made retroactive to a day not earlier than the day on which section 1 of this Act comes into force.
- (4) A regulation made or amended pursuant to clause (1)(a) or (b) prevails if there is an inconsistency between that regulation and any other regulatory provision.

Consistency of statutes

17(1) Notwithstanding any other Act or law, the Lieutenant Governor in Council may make regulations:

- (a) suspending the application of any provision of any Act or law that is inconsistent with the mutual recognition principle or a trade agreement;
 - (b) exempting any person or category of persons from complying with all or any provision of any other Act or law that is inconsistent with the mutual recognition principle or a trade agreement;
 - (c) respecting any additional matter or thing that the Lieutenant Governor in Council considers necessary to ensure that another Act or law is interpreted or applied consistently with the mutual recognition principle or a trade agreement.
- (2) Regulations made pursuant to this section may prescribe the terms and conditions that a person or category of persons must comply with to be eligible for a suspension or exemption.
- (3) Notwithstanding any other Act or law:
- (a) regulations made pursuant to this section may operate to supersede another Act or law, as specified in the regulations;
 - (b) if there is a conflict between the regulations made pursuant to this section and another Act or law, the regulations made pursuant to this section prevail; and
 - (c) regulations made pursuant to this section may be made retroactive to a day not earlier than the day on which section 1 of this Act comes into force.

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PART 4
General Provisions

Reporting

18 A regulatory authority shall, at any time that the minister directs, submit a report respecting any matters governed by this Act or the regulations to the minister in the form and with the contents required by the minister, including any prescribed information.

Conflict with other Acts and regulations

19 If a provision of this Act or of the regulations made pursuant to this Act conflicts with a provision of another Act or of the regulations made pursuant to another Act, the provision of this Act or the regulations made pursuant to this Act prevails to the extent of the conflict.

Act binds the Crown

20 This Act binds the Crown.

Immunity

21 No action or proceeding lies or shall be commenced against the Crown, the minister, the ministry, an employee or agent of the ministry or any other person acting pursuant to the authority of this Act, the regulations or an order made pursuant to this Act, for anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done, by that person or by any of those persons pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any order made pursuant to this Act or any duty imposed by this Act or the regulations.

Limiting judicial review

22(1) Subject to the regulations, every decision or order of the minister made pursuant to Part 2 is final and not open to question or review in any court, and no decision or order of the minister shall be restrained by injunction, prohibition, mandamus, quo warranto, *certiorari* or other process or proceeding in any court or be removable by application for judicial review or otherwise into any court on any grounds.

(2) Subject to the regulations, every regulatory provision enacted by a regulatory body is not open to question or review in any court for compliance with this Act, and no regulatory provision enacted by a regulatory body shall, respecting its compliance with this Act, be restrained by injunction, prohibition, mandamus, quo warranto, *certiorari* or other process or proceeding in any court or be removable by application for judicial review or otherwise into any court.

Prohibition on private cause of action

23(1) Subject to subsection (2), no legal proceeding lies or may be brought or continued against the Government of Saskatchewan or another person to enforce or determine a right or obligation that is claimed or arises solely under:

- (a) this Act or the regulations; or
- (b) a trade agreement.

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- (2) Subsection (1) does not apply to:
 - (a) a proceeding provided for under the dispute resolution provisions of a trade agreement; or
 - (b) a proceeding to enforce an award that is filed with the court pursuant to Part 12 of *The King's Bench Act*.
- (3) No costs shall be awarded against any person with respect to a proceeding that cannot be brought or maintained pursuant to subsection (1).
- (4) Notwithstanding section 20, this section does not apply with respect to proceedings brought by the Crown.

Offences and penalties

24(1) No person shall:

- (a) contravene any provision of this Act, the regulations or an order of the minister pursuant to this Act or the regulations;
 - (b) refuse or fail to provide information as required by this Act or the regulations, or provide false or misleading information to any person acting pursuant to this Act or the regulations; or
 - (c) obstruct or fail to cooperate with any person acting pursuant to this Act or the regulations in the exercise of the powers or the performance of the duties or functions pursuant to this Act or the regulations.
- (2) Any individual who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine of not more than \$35,000.
 - (3) Any corporation that contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine of not more than \$75,000.
 - (4) If a corporation commits an offence pursuant to this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is guilty of the offence and liable on summary conviction to the penalties mentioned in this section whether or not the corporation has been prosecuted or convicted.

Limitation on prosecution

25 No prosecution for a contravention of this Act or the regulations is to be commenced more than 2 years after the facts on which the alleged contravention is based first came to the knowledge of the minister.

PART 5

Regulations and Coming into Force**Regulations**

26(1) The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;

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- (b) for the purposes of the definition of “regulatory authority” in section 2:
 - (i) designating any person or body as a regulatory body; or
 - (ii) excluding any person or body from the definition;
 - (c) for the purposes of the definition of “trade agreement” in section 2, designating any other agreement as a trade agreement;
 - (d) for the purposes of section 4, prescribing entities, goods and services to which this Act does not apply;
 - (e) for the purposes of subsection 10(2), prescribing other means of service;
 - (f) for the purposes of subsection 10(3), prescribing the number of business days;
 - (g) prescribing purposes for which the minister may grant an exemption pursuant to clause 13(3)(a);
 - (h) respecting the records and other information to be provided by a regulatory authority pursuant to this Act;
 - (i) respecting appeals from a decision or order of the minister made pursuant to this Act;
 - (j) for the purposes of subsection 22(1), respecting the availability of judicial review of decisions or orders of the minister made pursuant to this Act;
 - (k) for the purposes of subsection 22(2), respecting the availability of judicial review of regulatory provisions enacted by regulatory authorities in compliance with this Act;
 - (l) respecting the collection, use and disclosure of information obtained by the minister for the purposes of this Act and the regulations;
 - (m) providing for any transitional matters arising from the enactment of this Act or the regulations;
 - (n) prescribing any matter or thing required or authorized by this Act to be prescribed in the regulations;
 - (o) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.
- (2) Any regulation made pursuant to subsection (1) may be made retroactive to a day not earlier than the day on which section 1 of this Act comes into force.

Coming into force

27 This Act comes into force on assent.

