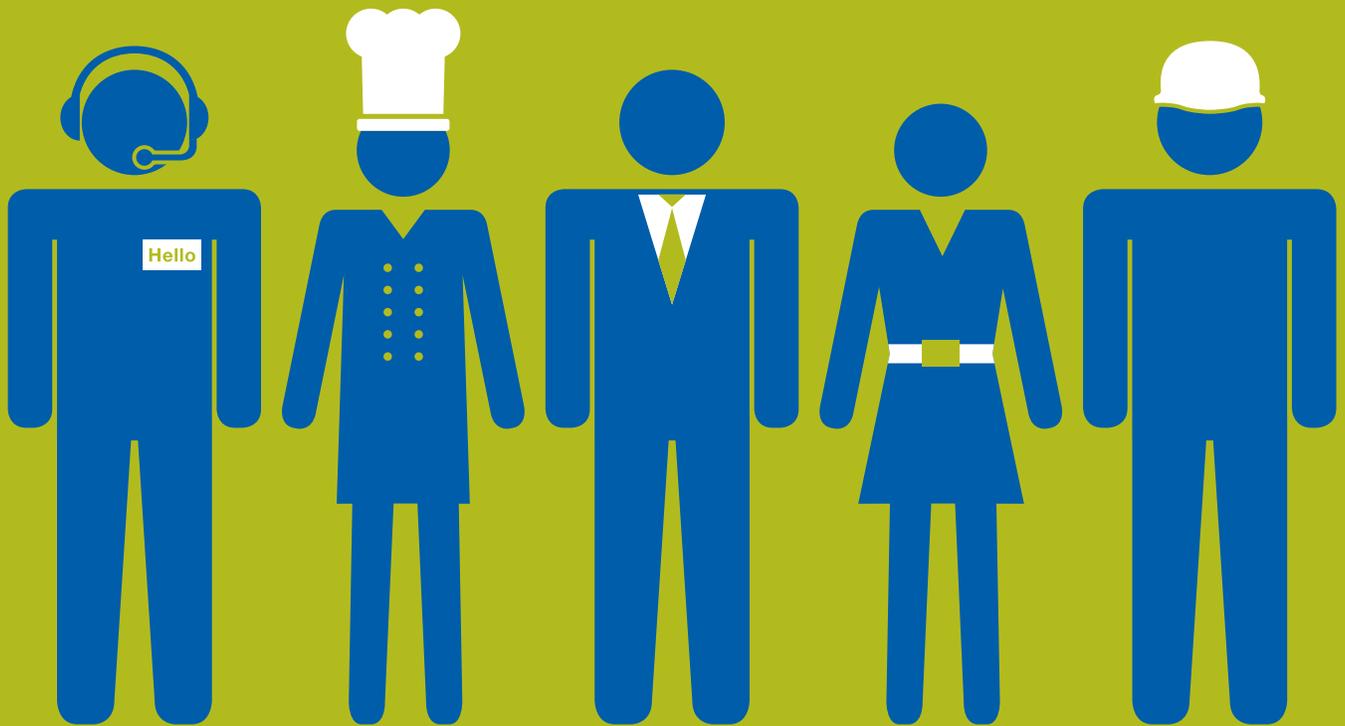


Employment Standards

Tool Kit for Employers



Disclaimer

Information in this publication was accurate, to the best of our knowledge, at the time of printing. However, legislation, websites and programs are subject to change. The material in this publication is intended for informational purposes only and is not intended to be used as a source of legal advice.

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09/2016

Table of Contents

| | |
|--|-----------|
| Introduction | 4 |
| Section 1: Employment Standards Overview | 5 |
| Section 2: Employment Records and Statement of Earnings | 9 |
| Section 3: Hours of Work and Rest | 15 |
| Section 4: Overtime and Overtime Pay | 21 |
| Section 5: General Holidays and General Holiday Pay | 28 |
| Section 6: Vacation and Vacation Pay | 34 |
| Section 7: Job-Protected Leaves | 38 |
| Section 8: Termination of Employment | 46 |
| Section 9: Adolescents and Young Persons | 55 |
| Section 10: The Employment Standards Process | 59 |
| Additional Resources | 63 |
| Glossary | 89 |

This tool kit was developed by the Government of Alberta to help business owners and their employees understand and comply with the *Employment Standards Code* and Regulation.

Following the Code is your responsibility and this tool kit is designed to help you do that.

The laws for Employment Standards are minimum requirements. Some tools, forms and a list of resources are provided to assist business owners in meeting or exceeding their minimum requirements. You may use the sample tools provided, or you may develop your own.

Not all requirements under the *Employment Standards Code* and Regulation are discussed in this resource.

This is not a definitive guide to the legislation and does not exempt readers from their responsibilities under applicable legislation.

In case of inconsistency between this resource and the Employment Standards legislation, the legislation will always prevail.

Availability of legislation

In Alberta, the requirements for Employment Standards are outlined in the *Employment Standards Code* and Regulation. These documents are available for viewing or downloading on the Employment Standards website at: www.work.alberta.ca/es.

Official printed copies may be purchased from the Alberta Queen's Printer online at: www.qp.alberta.ca or in person at:

7th floor, Park Plaza
10611-98 Avenue
Edmonton, Alberta T5K 2P7
Phone: 780-427-4952

Call any Government of Alberta office toll-free:
dial 310-0000, then the area code and telephone
number you want to reach.

Other legislation that may apply to you includes:

- Alberta Human Rights Legislation: www.albertahumanrights.ab.ca
- Canada Labour Code: www.laws.justice.gc.ca/eng/acts/L-2
- *Occupational Health and Safety Act*, Code and Regulation: www.work.alberta.ca/ohs
- Workers' Compensation Board: www.wcb.ab.ca/home
- Labour Relations Code: www.alrb.gov.ab.ca/legislation.html

Employment Standards fact sheets

Employment Standards fact sheets are available online at:
www.work.alberta.ca/esfactsheets.

These fact sheets provide detailed information on the rights and obligations of employers and employees under the *Code*, as well as information for specific groups, occupations and industries.

Fact sheets can be used together with the *Employment Standards Tool Kit for Employers* to help employers understand and comply with Employment Standards legislation.

Section 1: Employment Standards Overview

Section Overview

This section will provide you with an overview of the *Employment Standards Code*, who is covered, the core standards and your basic responsibilities as an employer in Alberta.

The Employment Standards Code 6

Who is covered by the Code? 6

Who is not covered by the Code? 7

Enforcing Alberta's Employment Standards 8

Telephone services 8
Online services 8
Educational programs 8
Investigations and compliance initiatives 8

Contact 8

Call us 8
Employment Standards website 8
Employment Standards office locations 8

Section 1: Employment Standards Overview

The *Employment Standards Code*

The *Employment Standards Code (Code)* is a provincial law describing the minimum standards that must be provided to employees working in Alberta. The *Code* includes the following:

- Minimum wage
- Hours of work
- Overtime and overtime pay
- General holidays and general holiday pay
- Vacations and vacation pay
- Maternity, parental, reservist and compassionate care leave
- Termination of employment
- Restrictions on the employment of employees younger than 18
- Payment of earnings and employment records

The Regulation sets out exemptions from the *Code* for certain employees and modifies the rules relating to hours of work, overtime and other standards for certain industries. The Regulation also provides special rules for the employment of adolescents and young persons, and sets out the minimum wage. To see the *Employment Standards Code* and Regulation visit www.work.alberta.ca/escode.

Three things employers need to know about Employment Standards

1. Minimum standards cannot be avoided

This means the *Code* has a rule that prevents people from opting out of the core standards, either directly or indirectly.

2. Greater benefits

There are cases when employers and employees agree to benefits that are greater than what is provided by the *Code*. These agreements are enforceable under the Employment Standards legislation.

3. Employment deemed continuous

When a business changes ownership and the employees continue to work for that business, the *Code* considers the employees' employment to be continuous.

This guarantees that entitlements provided by the *Code* (such as general holiday pay, vacation pay, termination notice, and maternity, parental, reservist and compassionate care leave), which have been earned by the employees through length of service, are not lost due to the change of ownership.

Note: This rule also applies when a company is placed in receivership and when the receiver sells the company to a new owner.

Reference: *ES Code*, Part 1



Example

Under the *Code*, an employee must get an annual vacation of at least two weeks after one year of employment. If the employer agrees to provide more than two weeks of vacation, that agreement becomes a greater benefit that will be enforced.

Who is covered by the *Code*?

With few exceptions, the *Code* applies to all employees and employers in Alberta. Most employees have full coverage of earnings under the *Code*, whether they are considered full-time, part-time, casual, temporary, pieceworkers, commissioned, students or salaried.

Section 1: Employment Standards Overview

Who is not covered by the *Code*?

There are several groups of workers who fall outside of the *Code*'s jurisdiction:

... Employees who work out of the province, inter-provincially or internationally

If an employee works in another province or country, that province's or country's labour laws may apply.

... Employees who fall under federal jurisdiction

Employees who work in the following industries fall under federal jurisdiction and are covered by the *Canada Labour Code*:

- Airports and air transportation
- Inter-provincial transportation
- Chartered banks
- Broadcasting and telecommunications
- Railways
- Postal service
- Grain elevators
- Shipping and navigation
- Canal, ferries, tunnels and bridges
- Inter-provincial/international pipelines
- First Nations (any work completed on a Reserve for the Band)
- Uranium mining and atomic energy

... Employees covered by other Acts

Coverage under the *Code* excludes employers and employees who are covered by other more specific legislation. This exclusion applies to the entire *Code* except for maternity, parental, reservist and compassionate care leave benefits.

Examples include: members of a municipal police service covered by the *Police Act*, or academic staff covered by the *Post-secondary Learning Act*.

... Self-employed workers/contractors

Under the *Code*, an employer is "a person who employs an employee". The definition includes former employers. An employee is defined as "an individual employed to do work who receives or is entitled to wages". The definition includes former employees.

The *Code* applies only to employees and employers. Self-employed workers are not covered by the *Code*, unless they are also employers, in which case the *Code* will protect the employees that they hire.

For guidelines on determining if an individual is an employee or contractor, look for *Employee or contractor: How to know the difference* in the Additional Resources section.

Remember! When working outside Alberta for an Alberta employer, the application of Alberta's legislation will depend on the circumstances and the nature of the employment contract.

Information



Section 1: Employment Standards Overview

Enforcing Alberta's Employment Standards

To ensure Alberta employers and employees understand and follow employment standards, Employment Standards provides:

Telephone services

Information on employment standards is available by calling our Contact Centre at 1-877-427-3731 (dial 780-427-3731 in Edmonton and surrounding areas), or from the Employment Standards offices listed below.

Advisors are able to address a broad range of employment standards questions and issues, and are available during regular business hours (8:15 am to 4:30 pm, Monday to Friday).

Recorded messages on core employment standards are available 24 hours a day.

Employers and employees who fall under federal jurisdiction should contact the Federal Labour Program of Human Resources and Skills Development Canada at 1-800-641-4049 for information about their rights and responsibilities.

Online services

Employment Standards advisors answer many questions electronically. Submit your questions online at: www.work.alberta.ca/esinquiry.

Visit the Employment Standards website at: www.work.alberta.ca/es.

Educational programs

Employment Standards staff provide hands-on training designed to provide participants with a better understanding of the rights and obligations of employers and employees under the *Employment Standards Code* and Regulation. We offer webinars and other training opportunities. Visit: <http://work.alberta.ca/eseducation>

Investigations and compliance initiatives

When employees believe they have received less than minimum employment standards and are unable to resolve the matter with their employer, Employment Standards staff will investigate the matter on receipt of a written or online complaint. Employees who want to file a complaint with Employment Standards must file within six months of the date on which their employment terminated. The Director of Employment Standards may grant an extension if there are extenuating circumstances. Current employees can also file a complaint.

Unionized employees are covered by the *Code*, but minimum standards are generally enforced through the collective agreement's grievance procedures. Employees should contact their union to learn more about the grievance procedures.

For more information on the enforcement of Alberta's employment standards, see Page 59.

Contact

Call us

To be connected **toll-free** to the **province-wide information line**, call **1-877-427-3731**.

Deaf or hearing impaired with TDD/TTY units, **Call: 780-427-9999** in Edmonton.

Other locations call 1-800-232-7215

Employment Standards website

www.work.alberta.ca/es

Employment Standards office locations

- Suite 150, 717 – 7 Ave. SW
Calgary T2P 0Z3
Fax: 403-297-5843
- 8th Floor South Tower, Seventh Street Plaza
10030 107 St.
Edmonton T5J 3E4
Fax: 780-422-4349
- 2nd Floor, 4920 – 51 St.
Red Deer T4N 6K8
Fax: 403-340-7035

Section 2: Employment Records & Statement of Earnings

Section Overview

Information provided in this section is intended to help you, as an employer, understand your responsibilities under the Employment Standards legislation and give you tips and tools on how to comply with the law.

| | |
|---|-----------|
| Employment records | 10 |
| Employment records checklist | 10 |
| Statement of earnings | 11 |
| Statement of earnings checklist | 11 |
| Hours of work | 11 |
| Pay periods | 12 |
| Payment of earnings upon termination | 12 |
| The rules: payment of earnings upon termination | 13 |
| Wages and earnings | 13 |
| The definition of wages is important! | 13 |
| Deductions from earnings | 14 |
| Deductions that are not allowed | 14 |

Section 2: Employment Records & Statement of Earnings

Under the Code employers are responsible for:

- Keeping accurate employment records; and
- Providing employees with a statement of earnings (pay stub).

Employment records

The Code requires employers to keep accurate and current employment records for each of their employees.

An employer must keep records for **at least three years** from the date each record is made.

Reference: ES Code, Section 15



Example

A pay record that was created in December 2015 must be kept until December 2018.

The following records **must** be kept for each employee:

| Must include | Employment records checklist |
|--------------------------|---|
| <input type="checkbox"/> | Name, address and date of birth |
| <input type="checkbox"/> | Wage rate and overtime rate |
| <input type="checkbox"/> | Regular and overtime hours of work |
| <input type="checkbox"/> | Earnings paid showing each component of the earnings separately for each pay period |
| <input type="checkbox"/> | Deductions from earnings and the reason for each deduction |
| <input type="checkbox"/> | Time off instead of overtime pay provided and taken |
| <input type="checkbox"/> | The date that the present period of employment started |
| <input type="checkbox"/> | The date on which a general holiday is taken |
| <input type="checkbox"/> | Each annual vacation, showing the date it started and finished and the period of employment in which the annual vacation was earned |
| <input type="checkbox"/> | The wage and overtime rates when employment starts, the date of any change to those rates, and particulars of every change to them |
| <input type="checkbox"/> | Copies of documentation notices relating to maternity, parental, reservist and compassionate care leave benefits |
| <input type="checkbox"/> | Copies of termination notices and of written requests to employees to return to work after temporary lay-off |

Reference: ES Code, Section 14

Section 2: Employment Records & Statement of Earnings

Statement of earnings

The *Code* requires an employer to make available or provide employees with a written statement of earnings at the end of each pay period.

The statement of earnings (or pay stub) must include:

| Must include | Statement of earnings checklist |
|--------------------------|--|
| <input type="checkbox"/> | Pay period covered by the statement |
| <input type="checkbox"/> | Number of regular and overtime hours worked |
| <input type="checkbox"/> | Number of hours taken off in lieu of overtime |
| <input type="checkbox"/> | Wage rate and overtime rate |
| <input type="checkbox"/> | Earnings paid <ul style="list-style-type: none">• showing each component of the earnings separately (e.g. wages, overtime, general holiday pay and vacation pay) |
| <input type="checkbox"/> | Amount of deductions from earnings and the reason for each deduction |

Remember! The pay stub must be in a form that the employee can keep for their records.

Information



To see an example of a pay stub, search for *Statement of earnings* under the Additional Resources section.

Keeping good records is important. Protect yourself. If an employee asks, the employer **must** provide a detailed statement showing how the employee's earnings were calculated.

Reference: *ES Code*, Section 14

Hours of work

The *Code* requires employers to record the actual hours of work for each employee for each working day.

Hours of work are defined as:

- Doing work as requested by employer
- Taking a paid break provided by the employer if the employee is providing a service

Note: Breaks must be paid if the employee is not allowed to leave the premises in case they are needed to work.

Doris is asked to remain at her desk over her lunch break in case a client calls. Whether Doris receives the phone call or not, her break must be paid.

Example



- Taking time-off provided by the employer (instead of overtime pay)

Section 2: Employment Records & Statement of Earnings

Employment records must accurately show how the totals of regular and overtime hours are calculated, including paid and unpaid breaks.

This information does not need to be kept for managers and supervisors.

Reference: *ES Code*, Section 1(1)(n)

For ideas on how to track your employee's hours of work, look for the *Employee time tracking sheet* under the Additional Resources section.

Pay periods

The *Code* requires employers to establish pay periods for the calculation of wages and overtime. A pay period can be daily, weekly, bi-weekly, semi-monthly or monthly. It cannot be longer than one month.

An employee must be paid all wages, overtime and general holiday pay earned in a pay period **within 10 consecutive days after the end of the pay period**.

Reference: *ES Code*, Section 7 and 8

| Calendar of regular pay period & regular pay day | | | | | | |
|--|-----|------|-----|-------|-------------------|-----|
| Sun | Mon | Tues | Wed | Thurs | Fri | Sat |
| | 1 | 2 | 3 | 4 | 5 | 6 |
| 7 | 8 | 9 | 10 | 11 | 12 | 13 |
| 14 | 15 | 16 | 17 | 18 | 19 pay day | 20 |
| 21 | 22 | 23 | 24 | 25 | 26 | 27 |
| 28 | 29 | 30 | | | | |

Example pay period

In this example, the pay period runs from Wednesday to Tuesday. The resulting pay day is the following Friday. All of the employee's wages, overtime and general holiday pay earned during the pay period from the 3rd to the 9th of the month must be paid by the 19th. (Earnings from the 10th to the 16th will be paid by the 26th.)

Payment of earnings upon termination

The circumstances surrounding an employee's termination will dictate when their final pay cheque must be issued.

The following table shows **maximum times** set out by the *Code* when a terminated employee must be paid. However, employers are encouraged to pay employees as soon as possible after termination.

Section 2: Employment Records & Statement of Earnings

The rules: payment of earnings upon termination

| Conditions of termination | Number of consecutive days after last day of employment when employee's earnings must be paid |
|---|---|
| Employee quits and no termination notice is required. | 10 days |
| Employer terminates employee and no termination notice is required. | 10 days |
| Employee quits without giving the notice required by the <i>Code</i> . | 10 days + notice period that should have been provided |
| Employer gives employee (or vice versa) termination notice and the employee works out the notice period. | three days |
| Employer terminates an employee's employment and provides termination pay (or combination of termination pay and notice). | three days |
| Employer terminates employee without notice for just cause and the employee disagrees. | 10 days |

Reference: *ES Code*, Sections 9 and 10

It is always a good idea to review the rules on termination of employment **before** terminating an employee.

Information



Wages and earnings

Even though these terms are often used interchangeably, for Employment Standards, wages and earnings are different things.

Wages are payment for work that has been done. This definition **excludes** overtime pay, vacation pay, general holiday pay and termination pay, gifts or non-performance related bonuses (i.e. bonuses NOT based on hours of work, production, or efficiency) or expense allowances and tips or other gratuities.

Earnings means wages, overtime pay, vacation pay, general holiday pay and termination pay. Earnings are paid in cash, cheque, money order or direct deposit.

Note: When paying in cash, it is always a good idea to keep records confirming payment and receipt by the employee.

Reference: *ES Code*, Section 1(1)(j), (x)

The definition of wages is important!

The calculation for overtime pay, vacation pay, general holiday pay and termination pay is based on an employee's wages only – not their other earnings.

Section 2: Employment Records & Statement of Earnings

Deductions from earnings

Employers are only allowed to make certain deductions from an employee's pay. Some deductions are mandatory and some are optional.

The employer must deduct the following from an employee's earnings:

- Federal and provincial income tax;
- Employment Insurance premiums;
- Canada Pension Plan contributions;
- Judgment or an order of the Court.

Other deductions must be authorized, in writing, by the employee. The authorization must be clear and specific as to the amount that is being deducted, the date when it is to be deducted and its purpose.

Common optional deductions include:

- Childcare costs
- Personal savings plans
- Medical and/or dental premiums

For examples of authorization for payroll deduction forms, search for *Payroll deduction authorization forms* under the Additional Resources section.

Deductions that are not allowed

There are some deductions that are **not allowed**, even with written authorization from the employee.

Deductions that are not allowed:

- Faulty workmanship (examples include: breakage in a restaurant, an error in a credit card transaction, or a drive-away at a gas station)
- Cash shortages or loss of property if an individual other than the employee had access to the cash or property

Reference: *ES Code*, Section 12

Section 3: Hours of Work and Rest

Section Overview

This section is about the maximum allowable hours of work in a day, mandatory rest periods and clarification on what is considered hours of work.

Hours of work in a day 16

| | |
|----------------------|----|
| Notice of work times | 16 |
| Shift changes | 16 |

Rest periods 17

| | |
|------------------|----|
| Weekly rest days | 17 |
|------------------|----|

Defining hours of work 18

| | |
|------------------------|----|
| Travel time | 18 |
| Standby time (on call) | 18 |
| Minimum hours of work | 18 |
| Training | 19 |

Compressed work week 19

Permits for extended hours of work 20

| | |
|---|----|
| Rationale for permit approval of extended hours | 20 |
| Applying for a permit to extend hours of work | 20 |

Permits for extended days of work 20

| | |
|--|----|
| Rationale for permit approval of extended days of work | 20 |
| Applying for a permit to extend days of work | 20 |

Section 3: Hours of Work and Rest

The *Code* requires that:

- The workday cannot be longer than 12 hours;
- Employees must receive at least 30 minutes of rest in each shift that exceeds 5 hours;
- Employees must receive at least one rest day in each work week.

Reference: *ES Code*, Sections 16, 18, and 19

Hours of work in a day

The maximum allowable hours of work in a day is 12 hours. This means that an employee who starts work at 8 am cannot work past 8 pm.

Unless:

- An accident occurs;
- Urgent work is necessary to a plant or equipment;
- Other unforeseeable or unpreventable circumstances occur.

Reference: *ES Code*, Section 16

Note: in some industries and/or for specific projects, it may be necessary to keep an employee beyond the 12-hour maximum. For example, oilwell servicing employees and residential/home caregivers can work more than the 12-hour maximum.

Notice of work times

The *Code* requires an employer to give employees notice of when their work starts and ends. They can do this by posting schedules where employees can see them or by any other reasonable method.

The posted schedule should include all required work periods for each employee for the entire period covered by the schedule.

Note: it is always advisable to put notice of work times in writing.

Shift changes

An employee must be notified about a shift change 24 hours beforehand. Employees must get at least eight hours of rest between shifts.



Example

A shift change could refer to a switch from day shift to night shift, or night shift to day shift.



Information

Remember! An employer who allows mutual shift changes is responsible for any overtime that arises as a result of these switches.

Reference: *ES Code*, Section 17

Section 3: Hours of Work and Rest

Rest periods

During each shift that is longer than five consecutive hours of work, an employee is entitled to at least a half-hour break, except where it is unreasonable or impossible. The break can be paid or unpaid at the employer's discretion.

This means that where a shift is less than five hours in length, the employer is not required to provide a rest period. Where the shift is longer than five hours (e.g. eight or nine hours), the employer is required to provide at least 30 minutes of break time sometime during the shift. The 30 minutes can be taken in one unbroken period, or may be provided as two 15-minute or three 10-minute breaks.

This, of course, is the minimum standard, and in practice for a full day shift the amount of break time provided is frequently more than the specified minimum.

Remember! If the break is unpaid, the employee cannot be called upon to provide service during the unpaid time. If no break is taken, the employee is to be paid for the time worked.

Information



Reference: *ES Code*, Section 18

Weekly rest days

An employer must give an employee:

- One day of rest each week;
- Two consecutive days of rest in each period of two consecutive weeks;
- Three consecutive days of rest in each period of three consecutive weeks;
- Four consecutive days of rest in each period of four consecutive weeks.

After 24 consecutive days of work, employees must be provided with at least four consecutive days of rest.

Reference: *ES Code*, Sections 18 and 19

Employees who are exempt from hours of work, rest periods and days of rest:

- Various types of salespersons
- Professionals such as real estate brokers, and licensed insurance and securities salespersons
- Professions such as architects, engineers, lawyers, psychologists and information systems professionals
- Managers, supervisors and those employed in a confidential capacity
- Licensed land agents
- Instructors or counsellors at a non-profit educational or recreational camp
- Extras in a film or video production

Reference: *ES Regulation*, Section 2

For a more detailed listing of occupations and professionals exempt from these sections of the *Code*, look at the *Common exceptions from Employment Standards* table under the Additional Resources section.

Section 3: Hours of Work and Rest

Defining hours of work



Definition

Hours of work

Hours of work refers to the period of time during which an employee works for an employer, and includes time off with pay (instead of overtime pay) provided by an employer and taken by the employee.

What is included in hours of work can often be confusing. Some common areas of interest are discussed below.

Travel time

In general, home-to-work and work-to-home travel is **not** considered time spent working.

If the employer pays the employee for this travel time, the payment would not generally be considered wages.

Travel time is work, when:

- Travelling between two job locations during the time of work;
- The employee is directed to:
 - Pick up materials or perform other tasks on the way to work or home.
 - Report to a given location (hours of work will begin on arrival at that location).

Travel time is not work, when:

- Employees are given the choice of providing their own transportation to or from the work location or reporting to a certain point from which they may take a company-provided bus or receive a ride with the employer.



Information

Remember! Any travel time that occurs after the employee starts to provide services is recorded as hours of work.

Travel time hours may be paid out at a different rate of pay, as long as the employee is informed and the rate is at least minimum wage.

Standby time (on call)

An employer is not required to pay wages to an employee who is on call or on standby waiting to be called to work, unless the employee is waiting at the place of employment. If work is done in the employee's home, he or she is entitled to his or her regular wage for all hours worked.

If the employee is called away from home, the employee is entitled to at least three hours at the minimum wage for each call-out.

There are exceptions to the rule where standby time would be considered work, such as when the employee is required to wear a uniform and/or monitor radio calls.

Minimum hours of work

If an employee works for fewer than three consecutive hours, but is available for the full three hours, the employer must pay wages that are the higher of three hours at the minimum wage that applies to the worker, or his regular hourly rate for the actual number of hours worked.

Section 3: Hours of Work and Rest

Minimum wage

The minimum wage is the rate of pay that employers must pay employees. Part 2 of the Employment Standards Regulation sets out this wage for employees.

Definition



If an employee has been advised in advance not to report to work, but does report, he does not have to be paid if he does not work. The three-hour minimum is reduced to two hours for part-time employees in recreation or athletic programs run by municipalities, Metis Settlements or non-profit community service organizations, and for school bus drivers.

Reference: ES Regulation, Section 11

Training

When an employee must attend training that is directly work related, the employer is required to pay the wage agreed to for the training period of at least minimum wage, plus overtime if applicable.

Once an employer/employee relationship is formed, any education or training requested or required by the employer is work.

Note: this includes job shadowing, when a new employee learns from a more experienced employee.

If the employee initiates the education or training, the agreement between the parties will determine whether or not the employee will be paid for training time.

Training is not considered work:

- When an employee is obtaining qualifications necessary to be considered for hiring;
- If, as a condition of hire, the employee agrees to obtain additional training on his or her own time at his or her own expense;
- If a test or training is given to a prospective employee as part of the hiring process.

Compressed work week

A compressed work week (CWW) is a way of scheduling hours of work that:

- Has employees working longer hours each day, and
- Is balanced by having employees working at least one fewer day each week.

A compressed work week must meet the following conditions:

- Be scheduled in advance;
- Not exceed 12 hours per day;
- Not exceed 44 hours per week; or
- Not exceed 44 hours per week on average, if the work week is part of a cycle that spans more than one week.

Reference: ES Code, Section 20

Hours worked in excess of the scheduled daily hours, and/or in excess of 44 hours per week, are overtime hours.

A compressed work week can be implemented by an employer at any time by preparing a schedule that meets the required criteria for a compressed work week arrangement. No permission from Employment Standards is required.

For answers to the most frequently asked questions about compressed work weeks, look for the *Frequently asked questions about compressed work week arrangements (CWW)* under the Additional Resources section.

Section 3: Hours of Work and Rest

Permits for extended hours of work

The *Code* requires that hours of work, including breaks, be confined within a 12-hour period.

However, the Employment Standards Director (Director), may issue a permit authorizing extended hours of work in excess of 12 consecutive hours.

Reference: *ES Code*, Section 16

Rationale for permit approval of extended hours

- Applicants must provide reasons why hours cannot be confined within 12 consecutive hours.
- A majority of employees must agree to the extended hours.
- Permits may be issued for a fixed period of time, if appropriate under the circumstances.
- Permits may be cancelled, reviewed or altered by the Director at any time.
- Permits will not alter, or in any way affect, the overtime provisions that otherwise apply.

Applying for a permit to extend hours of work

Both the employer and the employees affected must submit a joint application to extend hours of work (*Application to Extend Consecutive Hours of Work*). The application must be submitted in writing. This application can be found at: www.work.alberta.ca/espermits.

Permits for extended days of work

The *Code* also requires employers to provide employees with one day of rest in each consecutive work week, or two days of rest in two consecutive work weeks, or three days of rest in three consecutive work weeks, or four days of rest in four consecutive work weeks.

The Director may issue a permit authorizing extended consecutive work days without a rest day beyond 24 consecutive work days.

Rationale for permit approval of extended days of work

- Applicants must provide reasons why the days of work need to be extended beyond 24 days and an explanation of why other solutions are not available.
- A majority of employees must agree to the extended hours.
- Permits are issued for a fixed period of time to allow the employer to address the situation that has arisen.
- Permits may be cancelled, reviewed or altered by the Director at any time.
- Permits do not alter the *Code's* overtime provisions.

Applying for a permit to extend days of work

Both the employer and the employees affected must submit a joint application to extend days of work (*Application to Extend Consecutive Days of Work*). The application must be submitted in writing. This application can be found at: www.work.alberta.ca/espermits.

Section 4: Overtime and Overtime Pay

Section Overview

This section is about overtime, how it is paid and how it is calculated.

Overtime **22**

Calculating overtime pay **22**

| | |
|--|----|
| Applying the 8 and 44 rule | 22 |
| Time off with pay | 23 |
| Calculating overtime when pay period ends mid-week | 23 |
| Calculating overtime for salaried employees | 24 |
| Calculating overtime on general holidays | 24 |

Industries with different overtime rules **25**

Overtime agreements **25**

| | |
|---|----|
| Individual overtime agreements | 25 |
| Group overtime agreements | 25 |
| Overtime agreement requirements | 26 |
| Paying out banked overtime upon termination | 26 |

Permits to extend overtime banking period **27**

| | |
|---|----|
| Rationale for extending overtime banking period | 27 |
| Applying for a permit to extend overtime banking period | 27 |

Section 4: Overtime and Overtime Pay

With the exception of some supervisory and managerial positions, most employees are entitled to overtime pay for overtime hours worked.

All employees, including those who are paid a salary, must be paid overtime pay for overtime hours they work.

Note: For help determining if a worker is a management or supervisory employee exempt from overtime pay, go to the *Management or supervisory employee questionnaire* found under the Additional Resources section.

Overtime

In most industries, overtime is all hours worked in excess of eight hours a day or 44 hours a week, whichever is greater.

Overtime pay must be at least 1.5 times the regular rate of pay.

Reference: *ES Code*, Sections 21 and 22

If an employee is paid a wage that is different in every pay period (e.g. commission or on a piecework basis), then, the employee's wage rate is the minimum wage.

Reference: *ES Code*, Section 24(1)

Calculating overtime pay

Overtime hours are to be calculated both on a daily and on a weekly basis. The greater of the two totals is the correct number of overtime hours worked in the week.



Definition

The Basic 8 and 44 rule

Overtime is all hours worked in excess of eight hours a day, or 44 hours a week, whichever is greater.

Applying the 8 and 44 rule

1. Calculate the total daily overtime hours for the week.

Each day worked in the week must be considered individually. Any hours more than eight hours worked in each day will be daily overtime hours.

2. Calculate the weekly overtime hours.

You must also look at the week as a whole. Any hours more than 44 hours worked in a week will be weekly overtime hours.

Note: If the employer uses a work week that is less than 44 hours, overtime pay will still be payable under the basic 8/44 rule unless there is a collective agreement in place, or some other agreement, or it is the consistent practice of the employer that overtime hours are counted after less than 8/44.

3. Compare the daily and weekly totals.

4. Pay the greater number of overtime hours.

Section 4: Overtime and Overtime Pay

The *Code* defines a work day, work week and work month for the purposes of calculating hours of work and overtime.

A work day is generally the 24-hour period from midnight to midnight.

Note: An employer can establish a different 24-hour period by consistent practice (e.g. 7 pm to 7 pm the next day).

Unless otherwise established by the employer, a work week begins and ends at midnight on Saturday and a work month is a calendar month.

Reference: *ES Code*, Section 21

Time off with pay

Sometimes, instead of paying overtime, an employer will give an employee time off with pay as part of an overtime agreement.

Time off with pay instead of overtime pay is considered hours of work when calculating weekly and daily hours of work.

Calculating overtime when pay period ends mid-week

When a pay period ends mid-week, calculating overtime hours can be confusing.

The following example shows how to calculate overtime hours when pay periods end mid-week. In this case, the employee gets paid on the last day of each month. Look at the hours of work done in the last week of September and the first week of October.

Note: Tuesday is the last day of the September pay period.

| | S | M | T | W | T | F | S | Total |
|-----------|---|----|---|---|----|---|---|-------|
| September | - | 10 | 9 | | | | | |
| October | | | | 8 | 11 | 8 | 8 | 54 |

1. Calculate the daily overtime hours

September: Monday + Tuesday = three hours

October: Wednesday + Thursday + Friday + Saturday = three hours

There is a total of six daily overtime hours worked this week.

2. Calculate the weekly overtime hours

Adding all six workdays in the work week equals 54 hours.

This means that 10 of the hours worked are weekly overtime hours (according to the 8 and 44 rule).

3. Pay the greater number of overtime hours

4. Decide what to pay and when

If the employer does not have all of the information necessary to consider the full week calculation, then he/she would pay the employee for the three hours of overtime earned in September, and pay for the remaining seven hours of overtime in October.

Section 4: Overtime and Overtime Pay



Information

Remember! The 8 and 44 rule requires employers to pay the greater of the two overtime hour calculations.

Calculating overtime for salaried employees

Calculating overtime hours for salaried employees is no different than employees paid hourly.

Salary is payment only for the regular hours of work. Overtime hours must be compensated for in addition to the regular hours.

To calculate the overtime rate of pay for salaried employees:

1. Calculate the average number of weeks in a month

Divide 52 weeks (in a year) by 12 months = 4.3333

2. Calculate the employee's weekly wage

Divide the employee's monthly salary by 4.3333

3. Calculate the employee's hourly rate of pay

*Divide the employee's weekly wage by 44 hours **or** by the number of hours that make up the employee's regular work week*

4. Calculate the employee's overtime rate of pay

Multiply the hourly rate of pay by at least 1.5 to get the overtime rate.

All of the calculated overtime hours should be multiplied by this result to figure out the total pay.

Calculating overtime on general holidays

When calculating overtime hours on a general holiday,

- if the hours worked on a general holiday are paid at 1.5 times the regular rate, the hours of work for that day(s) **are not used** when calculating overtime hours.
- if the employee is paid straight time plus a day off, the hours worked on that day(s) **are used** for calculating overtime hours.

Reference: *ES Code*, Section 33

Note: Some individuals work compressed work weeks, which often include longer hours per day but fewer days per week. For more information on compressed work weeks, please see Page 19.

Section 4: Overtime and Overtime Pay

Industries with different overtime rules

A number of industries and occupations are subject to variations in daily and weekly hours worked before overtime is payable.

| Industry/Occupation | Daily hours | Weekly hours before O/T calculated | Monthly hours before O/T calculated |
|---|-------------|------------------------------------|-------------------------------------|
| Ambulance attendants | 10 | 60 | |
| Geophysical exploration | 10 | | 191 |
| Irrigation districts | 9 | 54 | |
| Logging and lumbering | 10 | | 191 |
| Oilwell servicing | 12 | | 191 |
| Surveying | 10 | | 191 |
| Trucking industry * | 10 | 50 | |
| Field catering | 10 | | 191 |
| Highway and railway construction and brush clearing | 10 | 44 | |
| Nursery industry | 9 | 48 | |
| Road maintenance activities | 10 | | 191 |
| Taxi cab industry | 10 | 60 | |

* Trucking overtime can be calculated based on the 8/44 rule or a 10/50 rule. If you're not sure which, call the Contact Centre for assistance at 1-877-427-3731.

For more detailed information, see the Employment Standards Regulation online at www.work.alberta.ca/escode.

Overtime agreements

- An employer may give paid time off instead of paying overtime pay.
- Time off in place of overtime pay is a **mutual** agreement between employee and employer.
- There are two types of agreements:

Individual overtime agreements

An individual overtime agreement is between one employee and an employer. Either the employee or the employer can cancel or change the agreement by giving the other party one-month's notice in writing.

Group overtime agreements

A group overtime agreement is between an employer and a designated group of employees. The employer and a majority of the employees in the designated group must sign the agreement. The agreement can be cancelled or changed by either party by giving one month's notice to the other.

Section 4: Overtime and Overtime Pay

Note: If the employees want to cancel the agreement, the notice to cancel must be signed by a majority of the employees affected by the agreement.

Overtime agreements must be in writing, be signed by both parties, and must contain certain requirements.

Overtime agreement requirements

- A copy of the written agreement is given to each employee affected by it.
- When overtime hours are worked, they are banked.
- The banked hours are given/taken off at a time when the employee could have worked.
- At least one hour of time off must be given for each hour of overtime worked.
- Regular wages are paid for the hours when they are given/taken off.
- Time off must be given/taken within three months at the end of the pay period when the overtime hours were worked.
- If the time is not given/taken off within three months, it must be paid out at time-and-a-half and at the rate of pay in place on the day the three months expired.
- An overtime agreement may be contained in a collective agreement, some other written agreement or through consistent practice of an employer.

Reference: *ES Code*, Section 23



Information

Remember! Banked overtime hours are considered wages and vacation pay is owed on them.

For sample overtime agreements, search for *Individual overtime agreement* and *Group overtime agreement* under the Additional Resources section.

Whenever an overtime agreement is in place, the employer must:

- Document and retain an up-to-date record of the number of overtime hours banked and taken with regular pay by the employee.
- Provide the employee with a pay statement showing the number of banked overtime hours taken with regular pay by the employee, for each pay period.

Reference: *ES Code*, Section 23

Paying out banked overtime upon termination

When either the employer or employee ends the employment relationship by giving a written notice of termination, an employer can require the employee to use up some or all outstanding banked overtime during the notice period.

When overtime is paid for hours worked over eight hours in a day or 44 hours in a week, the total of any hours worked, plus banked overtime taken, cannot exceed eight hours in a day or 44 hours in a week.

Whether or not any notice of termination was provided, any banked overtime not provided and taken with pay by the end of the last day of employment must be paid out at time-and-one-half the employee's regular rate of pay.

Section 4: Overtime and Overtime Pay

Permits to extend overtime banking period

The *Code* requires that banked overtime be used up within three months of the end of the pay period in which it was earned except where a collective agreement specifies otherwise.

In all other situations where three months is insufficient and flexibility in using up the banked time is necessary to meet particular conditions encountered by employers and employees, a permit from the Director is required.

Rationale for extending overtime banking period

- Applicants must be able to demonstrate difficulty in complying with the requirement that time off must be taken within three months after being earned.
- Approvals only affect the period for which the time off may be taken, and in no way alter any of the other rules for overtime agreements.
- Permits issued approving the time off extension can be reviewed, altered or cancelled by the Director at any time.
- The extension period for which time off may be taken is limited to six months.

Applying for a permit to extend overtime banking period

Both the employer and the employees affected must submit a joint application to extend overtime banking period (*Joint Application to Extend the Overtime Banking Period*). The application must be submitted in writing. This application can be found at:

www.work.alberta.ca/espermits.

Section 5: General Holidays & General Holiday Pay

Section Overview

This section is about general holidays, who is eligible, how to calculate what to pay and special circumstances.

| | |
|--|-----------|
| General holidays | 29 |
| Employee eligibility | 30 |
| What to pay | 30 |
| When an employee works on a general holiday | 30 |
| When an employee does not work on a general holiday | 30 |
| General holiday pay and vacation | 31 |
| Schedules | 31 |
| What is the average daily wage? | 31 |
| General holiday pay and salaried employees | 32 |
| General holiday pay and employees paid incentives | 32 |
| Additional rules | 32 |

Section 5: General Holidays & General Holiday Pay

General holidays

Under the *Code*, the following nine days are recognized as general holidays:

| General holiday | Date |
|---------------------------|-------------------------------------|
| New Year's Day | January 1 |
| Alberta Family Day | 3 rd Monday in February |
| Good Friday | Varies with religious calendar |
| Victoria Day | Monday immediately preceding May 25 |
| Canada Day | July 1* |
| Labour Day | 1 st Monday in September |
| Thanksgiving Day | 2 nd Monday in October |
| Remembrance Day | November 11 |
| Christmas Day | December 25 |

Reference: *ES Code*, Section 25

**By federal law, when July 1st falls on any day of the week other than Sunday, it is celebrated on that day; however, when it falls on a Sunday, it is treated as if it fell on the Monday immediately following.*

Boxing Day, Easter Monday and Heritage Day (1st Monday in August) are **not** considered general holidays. However, an employer can designate these, or any other day, as a general holiday.

When this occurs, that day will be subject to the same rules as the nine statutory general holidays.

For a calendar of general holiday dates for 2016 to 2020, go to *General holidays in Alberta* under the Additional Resources section.

Section 5: General Holidays & General Holiday Pay

Employee eligibility

To be eligible for general holiday pay, the employee must:

- Have worked and/or reported to work 30 work days or more for the employer in the 12 months before the general holiday.
- Not have been absent without employer’s consent on the last scheduled day before the holiday or the first scheduled day after the holiday.
- Not have refused to work on the general holiday when requested/scheduled to.

Failure to meet any of these requirements results in the disentitlement of an employee to general holiday pay.

Reference: *ES Code*, Section 26

What to pay

| When an employee works on a general holiday | When an employee does not work on a general holiday |
|--|--|
| Is it the employee’s normal day of work? | Is it the employee’s normal day of work? |
| If yes, it is the employee’s normal day of work | |
| <p>The employer has 2 options:</p> <p>Option 1: Pay average daily wage plus 1.5 times employee’s wage rate for all hours worked.</p> <p>Option 2: Pay regular wages (and overtime, if applicable) plus provide a future day off with payment of average daily wage.</p> <p>Note: this day off must be taken no later than employee’s next annual vacation and on a day that would normally be a work day for the employee.</p> | <p>The employee is entitled to their average daily wage.</p> |
| If no, it is not the employee’s normal day of work | |
| <p>Employee is entitled to 1.5 times wage rate for all hours worked</p> | <p>Employee is not entitled any general holiday pay</p> |

If an employee is working on a general holiday and it is not a normal day of work, the employee is entitled to 1.5 times their hourly rate (employee must still meet eligibility requirements).

Section 5: General Holidays & General Holiday Pay

General holiday pay and vacation

If an eligible employee is on vacation when a general holiday occurs, the employee is entitled to one day's holiday paid at the average daily wage on their first scheduled working day after their vacation. Or, in agreement with their employer, take another day that would otherwise have been a work day, before their next annual vacation.

Schedules

Not all employees work Monday through Friday, 9 am to 5 pm.

Some employees work **irregular schedules**. Irregular schedules occur when employees work an irregular pattern of days in a week (i.e. employee is scheduled to work only on days when work is available).

In this case, use the **5 of 9 rule** to determine an employee's eligibility.

The 5 of 9 rule

If at least five of the nine weeks preceding the work week in which the holiday occurs, the employee worked on the same day of the week as the day on which the holiday falls, the general holiday is to be considered a normal working day.

Reference: *ES Code*, Section 27

Definition



What is the average daily wage?

The average daily wage is calculated by adding the regular wages earned during the nine weeks before the week in which the general holiday occurs, and dividing by the number of regular days worked in that nine-week period. Remember, "wages" does not include overtime pay, vacation pay, general holiday pay or termination pay.

The formula: average daily wage

Total wages earned
in nine weeks
preceding holiday



Total number of days
worked in nine weeks
preceding holiday



Average daily wage

Note: When calculating the average daily wage, always begin with the first full week immediately before the holiday. If the employee has worked less than nine weeks, the average is calculated on whatever period of time the employee has worked.

Reference: *ES Code*, Section 1(1)(b)

Section 5: General Holidays & General Holiday Pay

General holiday pay and salaried employees

If an employee:

- Receives a salary;
- Does not work on the general holiday; and
- Gets paid full salary, as usual;

then Employment Standards accepts that the employee has received general holiday pay. No further calculations are needed.

General holiday pay and employees paid incentives

Employees paid by commission or other incentive pay plans are entitled to the average daily wage **plus** 1.5 times the hourly wage, when they work on general holidays.

To learn how to calculate the hourly wage for an employee paid by commission or incentive pay, refer to the *Incentive-Based Pay Plans and Minimum Compensation Entitlement* fact sheet at www.work.alberta.ca/esfactsheets.

Reference: *ES Code*, Section 32

Additional rules

1. When shifts occur partially on a general holiday

If an employer does not have an established practice for determining whether a shift falls on a general holiday, the following guidelines apply:

- If an employee's shift begins on the day before a general holiday and ends during the holiday, all hours worked on that shift will be credited to the day preceding the holiday.
- If an employee's shift begins on the general holiday, all hours worked during the shift will be credited to the day of the general holiday and would be paid accordingly.



Example

If the employer has an established work day from 11 pm to 11 pm and the employee begins work at 11pm on the day of the holiday – all hours worked on that shift would be deemed hours worked on a holiday.

Section 5: General Holidays & General Holiday Pay

2. General holiday pay and overtime

When an employer pays for hours worked on a general holiday at 1.5 times the employee's wage rate, the hours worked on a holiday **do not** count when calculating overtime hours worked for the week in which the holiday falls.

| | S | M | T | W | T | F | S | Total hours worked (incl. general holiday) |
|--|--------------|---|----|---|----|---|---|--|
| | Hours worked | - | 10 | 8 | 11 | 8 | 8 | |

| Total hours to be paid | Regular hours (wage rate) | Overtime hours (OT rate) | General holiday pay (1.5 x wage rate) |
|------------------------|---------------------------|--------------------------|---------------------------------------|
| 56 | 40 | 6 | 10 |

The holiday falls on Monday. The employee normally works eight hours per day, but on this holiday Monday, he worked 10 hours. In this example, the employee would be paid 40 hours at regular pay, six hours of OT and 10 hours of general holiday pay.

Reference: *ES Code*, Section 33

3. Employees who work fewer than three hours

If an employee works fewer than three hours on a general holiday, the rule regarding three hours at minimum wage applies (see Page 18).

An employee eligible for general holiday pay who works on a holiday would be entitled to an average day's pay **plus** 1.5 times their wage rate for the number of hours worked, or 1.5 times the minimum wage rate, whichever is higher.

Example



4. General holiday pay owed at termination

There are situations when a former employee would be eligible for general holiday pay:

Substitute holiday day not taken

Under the *Code*, general holidays can be postponed to a later date. If an employee's employment is terminated before this holiday is taken, the following rules apply:

If terminated: the employee is entitled to general holiday pay as calculated under Option 1 (see Page 30).

If employee quit: the employee is entitled to be paid his or her average daily wage for each general holiday deferred and still not taken.

Section 6: Vacation and Vacation Pay

Section Overview

Vacations ensure that employees have a rest from work without a loss of income and return to work refreshed. This section will cover who is entitled to vacation, vacation pay and how to calculate it.

| | |
|---|-----------|
| General vacation rules | 35 |
| Vacation entitlements | 35 |
| Employer's responsibility | 35 |
| Vacation pay | 36 |
| Calculating vacation pay | 36 |
| For salaried employees | 36 |
| For employees paid other than by salary | 36 |
| Vacation pay for entitled employees | 36 |
| Vacation pay owed at termination | 37 |

Section 6: Vacation and Vacation Pay

General vacation rules

- Employees must work for one year before they are entitled to vacation time.
- Vacation pay and vacation time accrues during each 12 month period.
- Vacations must be granted in one unbroken period, unless the employee requests a shorter period in writing.
- An employer must give employees their annual vacation within 12 months of the date it is earned.
- An employer can give two weeks' notice in writing as to when the employee shall take his/her vacation.

Vacation entitlements

After one year of employment, employees are entitled to at least two weeks' vacation with pay.

Vacation pay and time off accrue during this 12-month period. An employee qualifies to take vacation 12 months after his/her anniversary date, or the day that the employee started to work for the employer.

Note: The minimum amount of time that may be requested is one day.

Reference: *ES Code*, Section 37

Vacation Entitlements

| After (number of years of employment) | Number of weeks annual vacation employee entitled to |
|---------------------------------------|--|
| 1 year | 2 weeks |
| 2 years | 2 weeks |
| 3 years | 2 weeks |
| 4 years | 2 weeks |
| 5 years | 3 weeks |
| 6 or more years | 3 weeks |

Note: If the employer agrees to provide more vacation, that agreement replaces the *Code's* annual vacation requirements and is a greater benefit.

Reference: *ES Code*, Section 34

Employer's responsibility

An employer must give their employees their annual vacation within 12 months of the date it is earned.

Reference: *ES Code*, Section 37

Section 6: Vacation and Vacation Pay

Vacation pay

The *Code* allows an employer to pay vacation pay at any time as long as it is paid no later than the next regularly scheduled payday after the employee starts annual vacation.

Sometimes annual payments of vacation pay that coincide with an employee's vacation are not desirable for the employer. In this case, employers can also choose to pay vacation pay on a regularly scheduled basis (for example, with every pay period, quarterly, etc.).

Note: If vacation pay is not paid before the employee's vacation starts, the employee may request their employer to pay the vacation pay at least one day before the vacation starts. The employer must comply with this request.

Reference: *ES Code*, Section 41

Calculating vacation pay

For employees paid monthly

For employees paid a monthly salary, the *Code* requires that the employer pay an amount at least equal to the employee's current wage for a normal work week.

A week's wage can be calculated by dividing the wages for normal hours of work in a month by 4.3333.

Note: Vacation pay is based on the employee's wages (current salary) at the time the vacation is taken.

For employees paid other than monthly

For employees who are paid hourly, weekly, by commission or other incentive pay, the *Code* requires that the employer pay:

- **For two weeks' vacation:** Four per cent of wages earned between anniversary dates in the year before the vacation is taken.
- **For three weeks' vacation:** Six per cent of wages earned between anniversary dates in the year before the vacation is taken.

Reference: *ES Code*, Sections 39 and 40

Vacation pay for entitled employees

| Number of weeks' vacation entitled to: | % of yearly wages (or number of weeks' salary) |
|--|--|
| 2 weeks | 4% of yearly wages (or 2 weeks' salary) |
| 3 weeks | 6% of yearly wages (or 3 weeks' salary) |

Section 6: Vacation and Vacation Pay

Employers need to know:

...Vacation pay is based on an employee's wages (not earnings)

Remember! Wages are payment for work. For the purpose of calculating vacation pay, this definition excludes overtime pay, general holiday pay and termination pay.

Information



Generally, a year's paid vacation pay **is considered wages** for the purpose of calculating vacation pay for the following year.

However, if an employer pays vacation pay frequently, such as on every pay period or on a quarterly basis, they do **not** have to calculate vacation pay on the previously paid vacation pay.

...Disagreements about vacation dates

Most employers and employees are able to agree to a mutually convenient date(s) for annual vacations. However, if they cannot agree, it is up to the employer to give the employee at least two weeks' written notice of when an employee's vacation is to start. The employee must take the vacation during that time.

...Reduction of vacation entitlements

An employee's annual vacation period can be reduced if that employee is absent from work (maternity, parental, reservist and compassionate care leave is included). The reduction in vacation period may be made in proportion to the number of days the employee was or would normally have been scheduled to work, but did not.

Vacation pay owed at termination

If employment terminates before an employee is entitled to take a first vacation, the employer must pay the employee four per cent of the employee's wages earned during employment.

If employment terminates after an employee becomes entitled to annual vacation, the employer must pay the employee vacation pay of an amount equal to the vacation pay to which the employee would have been entitled in that year of employment if the employee had remained employed by the employer.

Reference: *ES Code*, Section 42

Note: For an employee who is entitled to two weeks' vacation, at least four per cent of the employee's wages for the period from the date the employee last became entitled to an annual vacation to employment termination date.

Note: For an employee who is entitled to three weeks' vacation, at least six per cent of the employee's wages for the period from the date the employee last became entitled to an annual vacation to employment termination date.

Section 7: Job-Protected Leaves

Section Overview

Maternity and parental leave **39**

| | |
|---|----|
| Employee entitlements | 39 |
| Maternity leave | 39 |
| Parental leave | 39 |
| Employee eligibility | 39 |
| When can leave begin? | 40 |
| Things an employer should know | 40 |
| Notice to start maternity or parental leave | 40 |
| Notice to end maternity or parental leave | 40 |
| Extended leave | 41 |
| Employer obligations | 41 |

Reservist leave **42**

| | |
|---------------------------------|----|
| Employee entitlements | 42 |
| Employee eligibility | 42 |
| Notice to start reservist leave | 42 |
| Notice to end reservist leave | 42 |
| Employer obligations | 43 |

Compassionate care leave **43**

| | |
|--|----|
| Employee entitlements | 43 |
| Employee eligibility | 44 |
| Notice to start compassionate care leave | 44 |
| Notice to end compassionate care leave | 44 |
| Employer obligations | 44 |

Additional resources **45**

Section 7: Job-Protected Leaves

Maternity and parental leave are employee entitlements set out in the *Employment Standards Code*. The legislation entitles employees who qualify to a period of leave without pay. At the end of this leave without pay, the employee must be reinstated to their same or an equivalent job.

Reservist leave entitles employees who qualify to a period of leave without pay. It is intended to provide employees who are reservists and qualify, with unpaid job protected leave while they are away serving their country. Like maternity and parental leave, at the end of a reservist leave, employees must be reinstated to their same or an equivalent job.

Compassionate care leave entitles employees who qualify and are the primary caregiver an unpaid, job-protected leave to give care or support to a seriously ill family member who is at risk of death within 26 weeks. Employees must be reinstated to their same or an equivalent job.

Maternity and parental leave

Note: During maternity and parental leave employees may be eligible to receive maternity and parental benefits from the federal Employment Insurance (EI) program.

Employee entitlements

Under the *Employment Standards Code*, eligible employees are entitled to up to 52 weeks of **unpaid, job protected leave** in the event of the birth and up to 37 weeks on the adoption of a child.

Reference: *ES Code*, Sections 45 and 50

There are two types of leave for new parents:

1. Maternity leave

Maternity leave is for birth mothers only. It is up to 15 consecutive weeks in duration. It is intended to help mothers recover from the physical strain of childbirth.

2. Parental leave

Mothers, fathers and/or adoptive parents are eligible for up to 37 consecutive weeks of unpaid, job protected parental leave. This leave can be taken by one parent or shared between two parents, but the total combined parental leave cannot exceed 37 weeks.

Note: Adoptive parents can take parental leave for an adopted child less than 18 years of age.

Employee eligibility

Eligible employees must:

Have 52 consecutive weeks of employment with the same employer to be eligible for maternity and/or parental leave.

Note: This requirement applies to full-time and part-time employees.

If an employee has less than 52 consecutive weeks of employment, an employer cannot arbitrarily lay her off, terminate her employment or require her to resign because of pregnancy or childbirth. For more information, refer to the Alberta Human Rights Commission's interpretive bulletin, titled *Rights and Responsibilities Related to Pregnancy, Childbirth and Adoption*. www.albertahumanrights.ab.ca/Bull_pregnancy.pdf

Section 7: Job-Protected Leaves

When can leave begin?

Maternity leave can begin at any time within 12 weeks of the estimated date of delivery.

Parental leave can begin at any time after the birth or adoption of a child. It must be completed within 52 weeks of the date the baby was born or an adopted child was placed with the parent.

Things an employer should know

- If a pregnancy interferes with an employee's job performance during the 12 weeks before the estimated due date, the employer can require the employee to start maternity leave. **The employee must be notified in writing.**
- An employee who takes both maternity leave and parental leave **must take** the leaves consecutively.
- Birth mothers **must take** at least six weeks of maternity leave after the birth of her child (unless the employer agrees and she provides a medical certificate stating an early return will not endanger her health).
- If the employer employs both parents of a child, the employer is not required to grant leave to both employees at the same time.

Notice to start maternity or parental leave

An employee must:

- Give the employer at least six weeks' written notice of the date when she will start maternity leave.



Information

Remember! The employer may ask for a medical certificate certifying the pregnancy and giving the estimated due date.

If the employee fails to give the necessary notice, she is still entitled to maternity leave if she notifies the employer within two weeks of her last day at work and provides a medical certificate.

Note: An employee who takes maternity leave is not required to give notice before going on parental leave (unless she originally agreed to only take 15 weeks of maternity leave).

An employee must:

- Give the employer at least six weeks' written notice of the date when he/she will start parental leave.

Parents will still be eligible for the leave if medical reasons, or circumstances related to the adoption, prevent the employee from giving the notice. When this happens, written notice must be given to the employer as soon as possible.

Employees who intend to share parental leave with their spouse must advise their employer of their intention to do so.

Reference: *ES Code*, Section 51

Section 7: Job-Protected Leaves

Notice to end maternity or parental leave

An employee must:

- Give at least four weeks' written notice of the date that they intend to return to work (or to change their return date).

This notice must be provided **at least four weeks** before the end of the leave. The employer does not have to reinstate an employee until four weeks **after** the receipt of this notice.

If an employee fails to provide notice, or fails to report to work the day after leave ends, **the employer is under no obligation to reinstate the employee** unless the failure is the result of unforeseen/unpreventable circumstances.

Employees are required to provide four weeks' written notice if they do not intend to return to work after their leave ends.

Reference: *ES Code*, Section 53(8)

Extended leave

The *Code* provides for 15 weeks of maternity leave and 37 weeks of parental leave. There are no provisions for extensions. It is up to the employer to decide whether to extend leave should unforeseen circumstances arise.

Employer obligations

An employer must:

- Reinstate employees returning from maternity or parental leave to the same or comparable position.

Note: Earnings and benefits must be at least equal to those received when the leave began.

- Not terminate an employee on maternity leave or eligible for parental leave, unless the employer suspends or discontinues the business.

Note: if the business has been suspended or discontinued during the employee's maternity/parental leave, the employee has hiring priority if the business starts up again within 12 months after the end of the leave.

- Be aware of his/her responsibilities under human rights legislation.

Reference: *ES Code*, Section 53

Did you know: The *Employment Standards Code* does not require an employer to make any payments to an employee, or pay for any benefits during maternity or parental leave? However, if an employer benefits plan exists, there may be Alberta Human Rights obligations.

Information



Did you know: Under human rights law, employers are required to accommodate the health-related consequences of an employee's pregnancy and childbirth up to the point of undue hardship, regardless of how long she has worked for the employer.

Information



For more information on these and other obligations, contact your local Alberta Human Rights Commission Office:

Edmonton: 780-427-7661

Toll-free: 310-0000

Calgary: 403-297-6571

Website: www.albertahumanrights.ab.ca

Section 7: Job-Protected Leaves

Reservist leave

A reservist is a member of the reserve force of the Canadian Forces referred to in the *National Defence Act* (Canada).

Under the *Code*, employees who are reservists are entitled to an unpaid, job protected leave of absence when deployed to an operation outside of Canada (including any required pre- or post-deployment activities) or inside Canada to assist with an emergency.

Reference: ES Code, Section 53.2

Employee entitlements

When a reservist is deployed to an international operation or domestic emergency, leave may last as long as is necessary to accommodate the period of service.

- There are no restrictions on how often a reservist can go on a domestic or international deployment.

A reservist is also entitled to unpaid leave of up to 20 days each calendar year to participate in annual training. Annual training days may be taken non-consecutively.

Employee eligibility

Eligible employees must:

- Have 26 consecutive weeks of employment with the same employer to be eligible for reservist leave.

Note: This requirement applies to both full-time and part-time employees.

Reference: ES Code, Section 53.2

Notice to start reservist leave

An employee must:

- Give the employer at least four weeks' written notice of the date on which the leave will start and the estimated date on which the reservist intends to resume work.

Note: a reservist will not be required to comply with the notice requirement if unable to do so, due to deployment in urgent circumstances. In this case, written notice as soon as reasonable is sufficient.

In the case of leave for annual training, an employee must:

- Provide at least four weeks' written notice of the date on which leave will start and the actual date on which the reservist will be back at work.

Reference: ES Code, Section 53.2

Notice to end reservist leave

Where a reservist has been on annual training:

- No additional notice to return to work is required for a reservist who returns to work on the date specified in his/her notice to go on leave.

Note: written notice is required if this date changes.

Section 7: Job-Protected Leaves

Where a reservist has been on leave for a domestic or international deployment for more than four weeks:

- Reservist must give at least four weeks' written notice of the day on which the employee intends to resume work.

Note: if this doesn't happen, the employer can postpone the reservist's return to work for up to four weeks from the date of the reservist's notice.

Where the reservist has been on leave for a domestic or international deployment for four weeks or less:

- Reservist must provide advance written notice of the return-to-work date.

Note: In this case, notice can be less than four weeks and employer cannot delay the return date.

Reference: *ES Code*, Section 53.5

Employer obligations

An employer must:

- Reinstate employees returning from reservist leave to the same or a comparable position.

Note: Earnings and benefits must be at least equal to those received when the leave began.

- Not terminate an employee on reservist leave, unless the employer suspends or discontinues the business.

Note: if the business has been suspended or discontinued during the employee's reservist leave, the employee has hiring priority if the business starts up again within 12 months after the end of the leave.

Reference: *ES Code*, Sections 53.4 and 53.5

Compassionate care leave

Under the *Code*, an employee who is the primary caregiver is entitled to compassionate care leave to give care or support to a seriously ill family member who is at risk of death within 26 weeks. The ill family member is not required to live in Alberta.

The definition of "family member" is very broad and includes many family relationships. These family members may be in relation to the employee or to the employee's partner (spouse, common-law partner, or adult interdependent partner).

Reference: *ES Code*, Section 53.9

Employee entitlements

The maximum amount of compassionate care leave that may be taken is eight weeks. The eight weeks of leave must fit into the 26-week window as established by the physician's medical certificate. A leave may be broken into two different periods. The second period of leave must be taken before the 26-week window expires. A leave period must be at least one week long.

Section 7: Job-Protected Leaves

Employee eligibility

Eligible employees must:

- Have 52 consecutive weeks of employment with the same employer to be eligible for compassionate care leave.

Note: This requirement applies both to full-time and part-time employees.

Reference: *ES Code*, Section 53.9

Notice to start compassionate care leave

An employee must:

- Give the employer at least two weeks' written notice of the date on which the leave will start, unless circumstances necessitate a shorter period.
- Employees must give their employer a certificate issued by the physician who is caring for the ill family member in order to take compassionate care leave. The physician's certificate must contain the following information:
 - The family member has a serious medical condition and there is a significant risk that the family member will die within 26 weeks. The 26 weeks is calculated by the earlier of:
 - The day the certificate is issued by the physician; or
 - The day the leave began, if it begins before the certificate was issued.
 - The family member requires the care or support of one or more family members.

Reference: *ES Code*, Section 53.92

Notice to end compassionate care leave

An employee must:

- Give the employer at least two weeks' written notice of the date the employee will return to work. However, an employer and employee may agree in writing to a return to work date with less than two weeks' notice.

Note: if this doesn't happen, the employer may postpone the employee's return-to-work date by up to four weeks from the day the employee notifies the employer that he or she will be returning to work.

Reference: *ES Code*, Section 53.92

Employer obligations

An employer must:

- Reinstate employees returning from compassionate care leave to the same or a comparable position.

Note: Earnings and benefits must be at least equal to those received when the leave began.

- Not terminate an employee on compassionate care leave, unless the employer suspends or discontinues the business.

Section 7: Job-Protected Leaves

Note: If the business has been suspended or discontinued during the employee's compassionate care leave, the employee has hiring priority if the business starts up again within 12 months after the end of the leave.

An employer must give an employee annual vacation no later than 12 months after the employee becomes entitled to it. If this time falls during the period while the employee is taking compassionate care leave, the employee must use the remaining vacation time after the end of the compassionate care leave or, if the employer and employee agree to a later vacation date, by that later date.

Reference: *ES Code*, Sections 53.91, 53.92, 53.93 and 53.94

Additional resources

- Duty to accommodate:
www.albertahumanrights.ab.ca/Bull_DutytoAccom_web.pdf
- Pregnancy, childbirth and adoption:
www.albertahumanrights.ab.ca/Bull_pregnancy.pdf
- Becoming a Parent in Alberta:
www.work.alberta.ca/documents/becoming-a-parent.pdf
- Employment Insurance Maternity and Parental Benefits:
www.servicecanada.gc.ca/eng/sc/ei/benefits/maternityparental.shtml

Section 8: Termination of Employment

Section Overview

This section covers the employer's responsibilities under the Code depending on whose idea it is to end employment.

Deadline of payments for amounts owed 47

1. When an employee terminates employment 47

2. When an employer terminates employment 48

Determining length of service 49

Contents of the termination notice 50

Termination pay (pay in lieu) 50

Calculating termination pay 50

Situations where no termination is allowed 50

What is just cause? 51

Situations that can merit just cause for dismissal 52

What is a temporary layoff? 54

Section 8: Termination of Employment

The *Code* requires both employees and employers to give each other notice of their intention to end the employment relationship.

This section is divided into two parts:

1. When an employee terminates employment
2. When an employer terminates employment

Remember! Regardless of who decides to terminate the employment, if the period of employment is three months or less, no notice is required from either party.

Information



Deadline of payments for amounts owed

Employer's responsibility

Regardless of who ends the employment relationship with the proper notice, upon termination, an employee's earnings (wages, overtime pay, vacation pay, general holiday pay and termination pay) **must be paid no later than three days after the last day of employment.**

However, if an employer or employee terminates employment and **no termination notice or termination pay is required**, earnings must be paid **no later than 10 days** after the last day of employment.

Reference: *ES Code*, Sections 9 and 10

Note: If an employee fails to give the required notice before ending his/her employment, the employer must pay the employee no later than 10 days after the date on which the notice would have expired.

Reference: *ES Code*, Sections 9 and 10

1. When an employee terminates employment

If an employee wishes to terminate his/her employment, a **written notice** must be given to the employer as follows:

| Notice | Length of service |
|---------|--|
| 1 week | When employee has more than three months, but less than two years of service |
| 2 weeks | When employee has two years or more of service |

Reference: *ES Code*, Section 58(1)

Section 8: Termination of Employment

Employees are not required to give termination notice if:

- They have been employed for less than three months.
- There is a different established custom or practice in an industry.
- Continuing to be employed by the employer would endanger their personal health or security.
- The contract of employment is impossible to perform due to unforeseeable or unpreventable causes beyond their control.
- They are temporarily laid off or laid off after having refused reasonable alternate employment.
- They are not provided with work as the result of a strike or lockout.
- They are employed under an arrangement whereby they may elect to work or not when requested to do so.
- They terminate their employment because of a reduction in wage rate, overtime rate, vacation pay, general holiday pay or termination pay.

Reference: *ES Code*, Section 58(2)

Note: Most construction employees are excluded from the *Code's* notice of termination and termination pay provisions. School employees and school bus drivers are not entitled to termination pay if they work until the end of the school year and are given the opportunity to work at the beginning of the next school year.

Reference: *ES Regulation*, Sections 5 and 5.1

2. When an employer terminates employment

Under the *Code*, an employer who terminates an employee's employment must give **written termination notice** of at least:

| Notice | Length of service |
|---------|---|
| 1 week | For employment of more than three months, but less than two years |
| 2 weeks | For employment of two years or more, but less than four years |
| 4 weeks | For employment of four years or more, but less than six years |
| 5 weeks | For employment of six years or more, but less than eight years |
| 6 weeks | For employment of eight years or more, but less than 10 years |
| 8 weeks | For employment of 10 years or more |

Reference: *ES Code*, Section 56

The employer may provide termination pay for the appropriate period **or** a combination of **termination notice** and **termination pay**.

Section 8: Termination of Employment

Remember! A termination notice is null and void if an employee continues to be employed by the same employer after the date specified for termination of employment.

Information



Reference: *ES Code*, Section 60

Determining length of service

An employee's length of service is the time that the employee has worked for the employer. It can include more than one period of employment, if the breaks between periods are not longer than three months.

Reference: *ES Code*, Section 54

Remember! If a business, or any part of it, is bought, sold, leased or transferred and an employee continues to work for the business, the employee retains all previous length of service and would be entitled to a notice of termination based on their full length of service. The original hire date with the initial business would be used for determining termination pay.

Information



Employers are not required to give termination notice (or pay in lieu) to employees who are:

- Employed on a seasonal basis (if their employment is terminated on completion of the season).
- Employed for a definite term or task for a period not exceeding 12 months.
- Employed for three months or less.
- Temporarily laid off.
- Terminated for just cause.
- Laid off after having refused reasonable alternate employment.
- Not provided with work as the result of a strike or lockout.
- Employed under an arrangement where they may elect to work or not when requested to.

Termination notice or termination pay is also not required to be given to employees:

- Who have refused work made available through a seniority system;
- Whose employment has been terminated for failing to return to work within seven consecutive days of a recall (unless provided otherwise in a collective agreement); or
- Whose contract of employment has become impossible to perform because of unforeseeable or unpreventable causes beyond the control of their employer.

The *Code* does not legislate termination notice for some employees, but these employees may be entitled to notice at common law.

Reference: *ES Code*, Section 55(2)

Section 8: Termination of Employment

Contents of the termination notice

To be valid, a termination notice must be:

- In writing and addressed to the employee concerned;
- Given or otherwise provided to the employee; and
- For the correct notice period or longer.

Note: it is not sufficient to post a termination notice on a bulletin board or other public area.

To see a sample termination letter, search for *Sample termination letter* under the Additional Resources section.

Termination pay (pay in lieu)

If an employer, for any reason, does not wish to have an employee work out a notice period, the employer may give the employee pay in lieu in the amount the employee would have earned had the employee worked out the required notice period.

An employer may combine notice (which the employee works out) and pay in lieu of notice to make up the required notice period.

Reference: *ES Code*, Section 57

Calculating termination pay

Termination pay must be at least equal to the wages the employee would have earned if the employee had worked regular hours for the termination period.

When an employee's wages vary from one pay period to another, the weekly average of the employee's regular wages for the three-month period (13 weeks) immediately preceding the date of termination is used to determine the employee's termination pay.

Situations where no termination is allowed

Generally, an employer has the right to terminate an employee at any time, as long as they provide the required length of notice or pay in lieu.

The major exception is where the dismissal is in violation of human rights legislation. Go to: www.albertahumanrights.ab.ca/default.asp for more information.

There are also situations where it is considered a violation to terminate an employee.

An employer may not terminate the employment of, or lay off, an employee who:

- Has started maternity leave;
- Is entitled to or has started parental leave;
- Has started reservist leave.
- Has started compassionate care leave.

Reference: *ES Code*, Sections 52, 53.4 and 53.91

Section 8: Termination of Employment

However, an employee on maternity, parental, reservist or compassionate care leave can be terminated or laid off if the employer suspends or discontinues the business, undertaking or other activity in which the employee was employed.

Note: If this happens, the employer is obligated to reinstate the employee or provide the employee with alternative work in accordance with an established seniority system or employer practice, if operations are resumed within 52 weeks following the end of the employee's maternity, parental, reservist or compassionate care leave.

An employer may not terminate the employment of, or lay off, an employee:

- For the sole reason that **garnishment proceedings** are being or may be taken against the employee.

Reference: *ES Code*, Sections 82 and 124

An employer may not terminate the employment of, lay off, or discriminate against an employee:

- For **exercising their rights – or complying with certain obligations** – under the *Code*.

For example, an employee cannot be discriminated against for:

- Making a complaint;
- Giving or having the potential to give evidence at any inquiry or in any proceeding or prosecution;
- Requesting or demanding anything to which he/she is entitled; or
- Making or being about to make any statement or disclosure that may be required.

Reference: *ES Code*, Sections 82 and 125

What is just cause?

An employer can terminate an employee **without notice** for just cause.

Termination for just cause typically involves conduct that is serious enough (either on its own account or in combination with other factors) to justify the employer ending the employment relationship.

Employer's responsibility

... The employer is responsible for proving that the dismissal is justified.

The employer must show more than just dissatisfaction with an employee's performance. Real misconduct or incompetence must be demonstrated.

It is also the employer's responsibility to prove that:

... The employee was aware of the consequences of failure to perform certain duties or obey certain rules.

Section 8: Termination of Employment



Information

Employer tip! There are lots of ways to ensure that your employees know the consequences of breaking the rules. Here are a few:

- **Develop an employee handbook and distribute it to all staff.** Include information on vacation and general holidays, overtime, as well as disciplinary measures for misconduct. Post a copy of this handbook in a public place for all staff.
- **Issue warning letters.** If an employee's conduct becomes problematic, issue a warning letter describing the disciplinary action that will be taken if behaviour is not corrected. A *Sample warning letter* is available for review under the Additional Resources section.

As an employer, **it is important to keep accurate records.**

It is a good practice to document the time, date and outcome of any conversations or encounters that you have with an employee about inappropriate behaviour or conduct. This information could be useful if you decide to terminate the employment relationship in the future.

Having an effective policy in place on appropriate workplace behaviour can decrease an employer's liability in the event of a complaint being filed.

Situations that can merit just cause for dismissal

... Misrepresentation of qualifications

If an employee does not tell the truth about his or her skills and qualifications, the employer may have just cause for dismissing the employee after determining his or her true abilities.

... Sexual harassment

Sexual harassment is any unwelcome behaviour that is sexual in nature (either direct or indirect) that negatively affects (or threatens to affect) a person's job security, working conditions, prospects for promotion, earnings or from getting a job.

For more information on an **employer's responsibilities** in cases of sexual harassment, go to: www.albertahumanrights.ab.ca/SexualHarass.pdf.

... Breach of duty

Breach of duty can occur when an employee knowingly jeopardizes the interests of the employer, reveals confidential information, breaches company policies or conducts him/herself dishonestly.

... Conflict of interest

Just cause for dismissal exists when an employee uses special information obtained while employed for his or her own purposes, and without the consent of the employer.

... Competing with employer's interest

If an employee knowingly competes with an employer's interests, it can be just cause for dismissal.

Section 8: Termination of Employment

Establishing a competing business while still working for the employer, soliciting employer's customers for a new business or taking benefits from competitors are some examples of just cause.

Example



... Willful disobedience

Willful disobedience occurs when an employee disobeys an employer's lawful and reasonable order.

... Theft

Theft is just cause for dismissal. The employer is responsible for providing tangible proof that the employee committed the theft.

... Fraud and dishonesty

Any fraudulent activity committed by an employee is just cause for dismissal. Unless the employee is in a position of trust, the fraud:

- Must be committed against the employer or as part of the job;
- Must be deliberate (intent to defraud exists).

... Insolence and insubordination

Rude and offensive behaviour toward the employer can be just cause for dismissal. It must be deliberate.

Note: Just cause does not exist if the behaviour is a result of the employee being provoked or a personality clash.

... Absenteeism or lateness

Chronic and excessive absences or lateness (even if for a valid reason) is just cause for dismissal. The absences and late arrivals must be the fault of the employee.

Some examples of just cause include:

- Failing to return to work after vacation.
- Leave of absence without notifying the employer.
- Taking time off under false pretenses.
- Chronic tardiness that is intentional and deliberate.

... Illness

Temporary illness or disability is **not** just cause for dismissal. However permanent illness or disability may be.

For more information, go to: www.albertahumanrights.ab.ca/employment/employer_info/termination_and_severance.asp.

... Intoxication and substance abuse

Intoxication and substance abuse are not just cause for dismissal. It is the consequences of the intoxication or abuse that are significant.

Section 8: Termination of Employment

... Serious incompetence

Being unable to demonstrate the skills and abilities the employee claims to possess is just cause for dismissal. To prove incompetence the employer must:

- Set objective standards of the competence needed to do the job and make this known to the employee; and
- Give the employee suitable instruction and support to enable him or her to meet the standard required.



Information

Remember! The incompetence must be serious enough to justify dismissal.

... Personality conflict

The inability to get along with fellow workers is **not** just cause for dismissal.



Information

Employer tip! If in doubt, call a lawyer! When dealing with termination for just cause, it is a good practice to seek legal counsel prior to issuing a termination notice.

What is a temporary layoff?

A temporary layoff occurs when an employer wishes to maintain an employment relationship without terminating the employment of an employee. In Alberta, the maximum duration of a temporary layoff is **59 days**.

An employee's employment is considered to be terminated, and the employer must pay termination pay, on the 60th day of a temporary layoff.

The period of temporary layoff can be extended beyond 60 days if:

- The employer makes regular payment to or on behalf of the employee, such as continuing to pay wages, employee pensions or benefits.

Termination pay is payable when benefits cease.

If there is a collective agreement that contains recall rights following lay off, the employment terminates and termination pay is owed when recall rights expire.

To be valid, a notice of temporary layoff must:

- Be in writing;
- State that it is a temporary layoff notice and its effective date; and
- Include sections 62, 63 and 64 of the *Code* regarding layoffs.

Reference: *ES Code*, Sections 62, 63 and 64

Section 9: Adolescents and Young Persons

Section Overview

This section describes the regulations surrounding the employment of adolescents and young people in the province of Alberta. It covers the rules of employing a worker between the ages of 12 to 17 years, the types of jobs that are allowed and general restrictions concerning their employment.

Employing an adolescent (age 12 to 14 years) 56

| | |
|---------------------------------------|----|
| Types of jobs not allowed | 56 |
| Hours of work | 56 |
| Safety considerations | 57 |
| Employer's responsibility | 57 |
| Restaurant and food services industry | 57 |

Employing a young person (age 15 to 17 years) 57

| | |
|--|----|
| Hours of work and required adult supervision | 57 |
|--|----|

Employment permits 58

| | |
|---|----|
| Applying for a permit to employ an adolescent | 58 |
| Types of jobs considered potentially harmful to adolescents | 58 |

Section 9: Adolescents and Young Persons

Employing an adolescent (age 12 to 14 years)

Adolescents are 12, 13 and 14 years old. They may be employed as:

- Delivery person for newspapers, flyers and handbills.
- Delivery person for small goods and merchandise for a retail store.
- Clerk in a retail store.
- Clerk or messenger in an office.
- Certain duties in the restaurant and food services industry (**must work with and be in the continuous presence of an adult**).
 - Host/hostess
 - Cashier
 - Dishwasher
 - Table bussing
 - Server or waiter
 - Providing customer service
 - Assembling food orders



Information

Remember! The parent or guardian of any adolescent must agree to the employment and provide written consent to the employer prior to starting work.

Reference: ES Regulation, Sections 51 and 52(1)

Types of jobs not allowed

An adolescent cannot:

- Use deep fryers, grills, slicers, or other potentially dangerous equipment, or work in areas where deep fryers, grills, slicers or other potentially dangerous equipment are in operation.
- Work in areas where smoking is permitted.
- Sell or serve liquor in licensed premises.

Hours of work

An adolescent cannot:

- Work during normal school hours (unless enrolled in an education program under the *School Act*, such as: Work Experience Program or the Registered Apprenticeship Program (RAP)).
- Work for longer than two hours on a school day.
- Work for longer than eight hours on a non-school day.



Information

Remember! Adolescents cannot work between 9 pm and 6 am.

Reference: ES Regulation, Section 52(3)

Section 9: Adolescents and Young Persons

Safety considerations

It is the employer's responsibility to ensure that the job is not likely to be dangerous to the life, health, education or welfare of the adolescent.

Employer's responsibility

- It is the employer's responsibility to complete a written hazard assessment of the adolescent employee's worksite.

The employer must also:

- Keep a copy of the hazard assessment at the worksite;
- Control or eliminate all hazards; and
- Warn the adolescent about any hazard that might affect them.

To see a sample hazard assessment form, search for the *Sample hazard assessment form* under the Additional Resources section of this publication.

Note: Part 2 of the *Occupational Health and Safety Code 2009 Explanation Guide* gives employers information about hazard assessments, elimination and control. For more information call the Occupational Health and Safety Contact Centre at: 1-866-415-8690 or visit: www.work.alberta.ca/ohscode-guide.

Restaurant and food services industry

In the restaurant and food services industry, the employer must also complete the *Safety Checklist for Adolescent Employees in Restaurant and Food Services* found at: www.work.alberta.ca/adolescentpermits.

The employer must:

- Keep an original copy of the checklist at the worksite; and
- Mail or fax a copy of the checklist to the Permit Administrator at Employment Standards.

Employing a young person (age 15 to 17 years)

Young persons are 15, 16 and 17 years old. The *Code* does not prohibit a young person from working in any occupation. However, there are requirements for supervision.

Reference: ES Regulation, Section 51

Hours of work and required adult supervision

A young person can work between midnight and 6 am only if:

- The young person's parent or guardian gives the prospective employer written consent to the employment; and
- The young person is in the continuous presence of an employee over the age of 18 at all times.

Note: Continuous presence means that the young person must work alongside and within visual and hearing distance of an adult employee.

Section 9: Adolescents and Young Persons

A young person who works in a retail store, retail business selling gas or petroleum/natural gas products, hotel, motel or place that sells food or drink:

- Cannot work between midnight and 6 am.
- Can work between 9 pm and midnight only if he/she is in the continuous presence of an employee age 18 or older.
- A young person cannot sell or serve liquor in licensed premises.
- A young person who is required to attend school under the *School Act* cannot work during normal school hours (unless enrolled in an education program under the *School Act*, such as: *Work Experience Program* or the *Registered Apprenticeship Program (RAP)*).

Reference: ES Regulation, Section 53

Employment permits

For adolescents, some jobs require an employment permit. The permit system gives parents or guardians, employers and Employment Standards a chance to investigate if the employment could harm the life, health, education or well-being of the adolescent, before the employment starts.

Reference: ES Regulation, Section 54

Applying for a permit to employ an adolescent

Complete and submit an *Application for a Permit to Employ an Adolescent* found at: www.work.alberta.ca/espermits.

The application requires information from the applicant, the parent or guardian, and the employer. The application will be reviewed and a response will be sent to both the employer and the employee. The adolescent may not begin work unless the application is approved and a permit is received. The permit may include conditions such as always working with an adult, or receiving specific training.

Note: An Employment Standards officer may conduct a site visit of any worksite requesting a permit to employ adolescents.

Types of jobs considered potentially harmful to adolescents

- Jobs in the construction industry.
- Jobs requiring heavy lifting.
- Jobs working with or near moving vehicles and equipment (including forklifts).
- Jobs working with potentially hazardous equipment, such as pneumatic drills, conveyors for bulk materials, hand grinders, welding equipment, hammers, blowtorches, deep fryers, grills, slicers, or sharp knives, etc.



Information

Remember! Adolescents and their employers have other rights and responsibilities under Alberta's employment standards and occupational health and safety laws.

Section 10: The Employment Standards Process

Section Overview

This section is about the Employment Standards process and what happens when a complaint is filed.

| | |
|---|-----------|
| Complaints to Employment Standards | 60 |
| How a complaint is filed | 60 |
| Investigating complaints | 61 |
| Order of Officer or Director | 62 |
| Appeals | 62 |
| Prosecution under the <i>Code</i> | 62 |



Section 10: The Employment Standards Process

Both employers and employees share the responsibility to comply with Employment Standards legislation and are best able to manage their affairs when statutory rights and responsibilities are clearly established and understood.

Where employment disputes arise and the parties are unable to resolve the matter on their own, the *Code* provides a fair and equitable dispute resolution mechanism that includes investigation, enforcement and appeal provisions.

It is an employee's right to be able to file a complaint with Employment Standards when they believe that the *Code*'s minimum standards are not being met.

Complaints to Employment Standards

Most employers provide benefits that meet or exceed the minimum standards set by law. However, in some instances employers fail to give their employees benefits sufficient to meet these minimum standards.

When this happens, Employment Standards encourages parties to first try to resolve workplace disputes without direct government intervention.

Employment Standards provides employers and employees with access to a wide range of information resources, publications, a website, a call centre and education services to help develop strategies for dispute resolution.

Note: If efforts to resolve the matter using the Self-Help Kit and other resources have been unsuccessful, the employee may then file a complaint. This may be done online.

How a complaint is filed

If a dispute arises and the employer and employee cannot resolve it on their own, the employee (or former employee) may file a written complaint.

Note: When a third party is concerned that an employer is not complying with the *Code*, the third party can also bring the concern to the government's attention.

A written complaint can be made by an individual to an Employment Standards officer:

- At any time during their employment, or
- Within six months of termination of their employment.

Note: The Director of Employment Standards has the authority to extend this time period if necessary.



Information

Remember! Individuals are protected from discrimination and termination of employment if they make a complaint or give information relating to a complaint.

Complaints can be received by Employment Standards online at:
www.work.alberta.ca/escs.

Section 10: The Employment Standards Process

Note: If an employee is unable to access a computer with internet connection (such as at a local library, friend, family member or local government office), a paper complaint form may be accepted. For more information, please call our Contact Centre at 1-877-427-3731.

Investigating complaints

Employment Standards assesses all employee complaints and third party inquiries to determine the most appropriate course of action based on the circumstances. The overall objective is to ensure employees receive their full entitlements under the *Code*.

An officer will seek to resolve a complaint through voluntary agreement. Each investigation includes an educational component for both parties to the dispute.

Employment Standards also has a variety of formal enforcement tools at its disposal, including:

- Notice to Produce Employment Records
- Notice of Decision of Officer
- Order of Officer
- Direction of Officer
- Audits
- Director's Demands to Third Parties
- Single Employer Declarations
- Director's Certificates

Mediation is also used by officers as a form of dispute resolution where:

- Insufficient or contradictory evidence exists concerning the exact entitlements,
- The parties request assistance in mediating a resolution to their dispute, or
- The normal complaint process is unlikely to result in collection of the full entitlements due.

Remember! If an employer, employee or other person delays or obstructs an officer, falsifies an employment record or gives false or misleading information about employment records, they are liable to prosecution.

Information



If an investigation reveals that an employer has failed to meet the *Code's* standards, and mediation is unsuccessful, the officer or, in some cases, the Director of Employment Standards, will make an Order.

Order of Officer or Order of Director of Employment Standards

This Order declares how much the employer owes to the employee as a result of the failure to provide the minimum benefits.

Definition



Reference: *ES Code*, Sections 87 and 89

Section 10: The Employment Standards Process

Order of Officer or Director

An Order of Officer or the Director will contain the following basic information:

- The legal name of the employer to whom the order is directed,
- The name of the employee about whom the order is made, and
- The amount payable to the employee.

Note: Copies of an Order must be served on the employer and employees affected by it.

The amounts ordered to be paid can take into account deductions authorized or permitted by the *Code*, but must not take into account a claim, counterclaim, or set-off by an employer against an employee.

Following an inspection, investigation or inquiry, an officer may direct an employer or employee to comply with the *Code*, or an Order, award, demand, declaration, permit, approval or notice issued under the *Code*.

Reference: *ES Code*, Section 79

Failure to comply could result in a prosecution under section 126(a). In addition, an Order may require an employer to pay to the Director fees that are prescribed in the Regulation.

Reference: *ES Code*, Section 126(a).

Appeals

If an employee or an employer believes that the Order of Officer is wrong, they may appeal the Order within 21 days.

Otherwise, the Order is binding and will lead to enforcement. Where an officer decides that an employee is not entitled to a remedy under the *Code*, the employee may appeal the officer's decision within 21 days.

Prosecution under the *Code*

A prosecution for an offence under the *Code* must begin within one year from the date on which the alleged offence occurred.

Reference: *ES Code*, Section 133

Employment Standards will consider the following three factors before recommending prosecution under the *Code*:

- The seriousness of the offence;
- Whether alternatives to prosecution have proven ineffective;
- Whether there is sufficient evidence to conclude there is a reasonable likelihood of conviction.

If a recommendation to commence prosecution proceedings is supported in the department, an Alberta Crown prosecutor will assess the recommendation and determine if it is in the public interest to proceed with a prosecution under the *Code*.

Section Overview

| | |
|--|----|
| Employee or contractor: How to know the difference | 64 |
| Statement of earnings | 67 |
| Employee time tracking sheet | 68 |
| Frequently asked questions about work clothes | 69 |
| Payroll deduction authorization forms | 70 |
| Frequently asked questions about compressed work week arrangements (CWW) | 73 |
| Examples of typical compressed work week arrangements | 75 |
| Individual overtime agreement | 76 |
| Group overtime agreement | 77 |
| Group overtime agreement – Part A and Part B | 78 |
| Management or supervisory employee questionnaire | 79 |
| General holidays in Alberta | 80 |
| Sample warning letter (On company letterhead) | 81 |
| Sample termination letter (On company letterhead) | 82 |
| Sample hazard assessment form | 83 |
| Hazard Assessment and Control Sheet | 84 |
| Parent/guardian consent for employment of adolescent | 85 |
| Common exceptions from Employment Standards | 87 |

Employee or contractor? How to know the difference

Employment Standards deals with questions, requests for information and complaints related to Alberta's *Employment Standards Code*. Sometimes interpreting these pieces of legislation can raise questions about the distinction between contractors and employees. For example, who is entitled to certain payments? Or to take time off work?

Most employees and employers in Alberta are covered by the *Code*. However, the *Code* does not apply to the self-employed/contractor.

Note: the *Code* does apply to contractors if they are also employers; the *Code* will protect the employees that they hire.

Under the *Code*, an employer is “a person who employs an employee”. The definition includes former employers. An employee is defined as “an individual employed to do work who receives or is entitled to wages”. The definition includes former employees.

Here are some general guidelines to help you determine whether or not an individual is an employee or a contractor.



Information

Remember! While general guidelines apply, it's important to know that different government organizations use their own specific considerations to decide if a worker is an employee or a contractor (for example: the Canada Revenue Agency (CRA)).

Table 1': Working conditions that determine if someone is an employee or a contractor

| | Employee | Contractor |
|------------------------------|--|--|
| Direction and control | | |
| Method of payment | <ul style="list-style-type: none"> Receives an hourly, weekly or monthly wage or salary, or is paid on commission. Receives a pay-related document such as a pay cheque and statement of earnings. | <ul style="list-style-type: none"> Submits invoices. Receives pay as a lump sum or in installments, often on contracts received as the result of a successful project bid. |
| Hours of work | <ul style="list-style-type: none"> Usually works specified hours set by the employer. | <ul style="list-style-type: none"> Generally is free to choose time of work. |
| Benefit plans | <ul style="list-style-type: none"> Receives benefits such as vacation pay, Employment Insurance and Canada Pension Plan contributions. Benefits are paid for in full or part by the employer. | <ul style="list-style-type: none"> May pay insurance premiums for privately held-plans. In most cases, does not participate in the Employment Insurance program. |

| | | |
|---|--|--|
| Training | <ul style="list-style-type: none"> Receives in-house, on-the-job or outside training that is provided, paid or reimbursed by the employer. | <ul style="list-style-type: none"> Has the required training before starting the job. Pays his or her own training costs. |
| Full-time, personal and exclusive service | <ul style="list-style-type: none"> Usually devotes all working time to one employer. (Someone with several part-time jobs with different employers is still considered an employee.) Personally performs the work or service and cannot hire someone else to do it. | <ul style="list-style-type: none"> Typically has many potential income streams and serves a number of payers during a given period. (On a large project, for a while, most of the contractor's time may be spent on that project.) May employ or subcontract others to do the work. |
| Schedules and routines | <ul style="list-style-type: none"> Works under the direction and control of an employer. | <ul style="list-style-type: none"> May have to meet deadlines, but can set the schedule, sequence or manner in which the work is done. |
| Right to discharge or terminate employment | <ul style="list-style-type: none"> Can be discharged from work, provided Alberta's <i>Employment Standards Code</i> and other requirements are met. Can terminate his or her employment in accordance with Alberta's <i>Employment Standard's Code</i> requirements. | <ul style="list-style-type: none"> Normally, as long as he or she has complied with the requirements of the contract, cannot be discharged by the payer without compensation. Normally, as long as the payer has complied with the requirements of the contract, cannot terminate the contract without liability. If the contract allows for termination, the payer of the contractor can do so under the specified conditions. |
| Supervision and compliance with instructions | <ul style="list-style-type: none"> Works under the supervision of the employer. Generally must follow the employer's instruction on how, when and where the work is performed. Generally must follow the employer's instructions regarding the quality or volume of work. | <ul style="list-style-type: none"> Generally works without supervision to meet the requirements of the contract. Does not receive or follow ongoing instructions on when, where and how to work. Decides what methods will be used to achieve the final outcome. |
| Specific results | <ul style="list-style-type: none"> May perform a variety of tasks and duties. (The relationship with the employer continues after these tasks or duties have been completed.) | <ul style="list-style-type: none"> Supplies a project or service as required by the contract. (Once these requirements have been met, the contractual relationship ends.) |
| Ownership of facilities, supplies, tools and equipment | | |
| Facilities and premises | <ul style="list-style-type: none"> Usually uses a workspace, furniture, phone, computer and related equipment provided, maintained and paid for by the employer. | <ul style="list-style-type: none"> Usually supplies (leases, rents or owns) the space, furniture, phones, computers and other equipment needed to work. When possible or necessary, may work at the payer's premises. |

Additional Resources

| | | |
|---|--|---|
| Tools and Equipment | <ul style="list-style-type: none"> Usually uses tools, equipment and materials provided and paid for by the employer. (Some tradespeople, including mechanics and carpenters, provide their own hand tools even when they are employees.) | <ul style="list-style-type: none"> Usually buys, rents or leases the tools, equipment, materials and supplies – including letterhead and business cards – required for the job. Usually arranges and pays for tools and equipment maintenance and upgrades. |
| Chance of profit or risk of loss | | |
| Profit | <ul style="list-style-type: none"> Does not necessarily earn more if work is completed more quickly than expected or if other savings occur. May earn more through bonuses or incentive pay plans. May earn more as length of service or experience increases. | <ul style="list-style-type: none"> Stands to make more money if project work is completed more quickly than expected or if other savings occur. |
| Risk of loss | <ul style="list-style-type: none"> Is paid for labour or services provided. Receives pay at an established rate that is independent of the employer's sales, profits or losses. Is not responsible for covering bad debts: debts are the employer's responsibility. | <ul style="list-style-type: none"> Stands to make less money if project work takes longer to complete, if a bid is inaccurate or if costs increase because of damage or for other reasons. Risk having periods with less work (possibly after an unsuccessful contract bid) and therefore less income. May have to deal with bad debts. |
| Integration | | |
| Independence and self-employment | <ul style="list-style-type: none"> Is not self-employed. Is part of the employer's business and depends on one income source. (Part-time employees with several employers are still employees.) The longer and more permanent the working relationship, the more likely that someone is considered to be an employee. | <ul style="list-style-type: none"> Acts on his or her own behalf. Is in business for his or her own benefit and is not part of the payer's business. Relies on several income sources or payers over time. Does business with the general public. May hold a business license. Has a GST number or WCB account. |

¹ Table adapted from: Employee or Contractor? Know the Difference. Catalogue Item # 708399. Alberta Employment and Immigration. 2008. Government of Alberta.

Statement of earnings

The *Employment Standards Code* requires an employer to provide employees with a written statement of earnings at the end of each pay period.

There are several pieces of information that a statement of earnings must include. Use the statement of earnings checklist to ensure your company's pay stub includes all the necessary information.

Statement of earnings checklist

| | |
|--------------------------|---|
| <input type="checkbox"/> | Pay period covered by the statement |
| <input type="checkbox"/> | Number of regular and overtime hours worked |
| <input type="checkbox"/> | Number of hours taken off in lieu of overtime |
| <input type="checkbox"/> | Wage rate and overtime rate |
| <input type="checkbox"/> | Earnings paid: showing each component of the earnings separately (e.g. wages, overtime, general holiday pay and vacation pay) |
| <input type="checkbox"/> | Amount of deductions from earnings and the reason for each deduction |

Sample pay stub

Name: Jack G. Candle

Pay period: April 21 - 25, Year

Wage rate: \$15.00/hour

Overtime rate: \$22.50/hour

| | Hours | Earnings | |
|--|------------|----------|----------|
| Earnings: | | | |
| Regular hours | 30 | \$450.00 | |
| Overtime | 4 (banked) | | |
| Time off in lieu (taken April 22, Year) (4 banked hours x \$15.00/hour) | 4 | \$60.00 | |
| General holiday pay (8 hours x \$15.00/hour) | 8 | \$120.00 | |
| Vacation pay (4%) (Optional – list only if being paid) | | | |
| Total earnings: | | | \$630.00 |

| | | | |
|--|--|-----------|-----------------|
| Deductions: (amounts are examples only) | | | |
| Income tax | | (\$50.00) | |
| EI | | (\$20.00) | |
| CPP | | (\$9.00) | |
| Total deductions: | | | (\$79.00) |
| Net pay | | | \$551.00 |

Additional Resources

Employee time tracking sheet

The *Employment Standards Code* requires employers to record the actual hours of work of each employee for each working day. These employment records must accurately show how the totals of regular and overtime hours are calculated, including paid and unpaid breaks.

Time that does not have to be recorded includes: time off provided by the employer when the employee is free to leave the workplace, or time off provided by the employer as sick time, bereavement or leave of absence.

Two sample employee time tracking sheets are attached.

Note: These forms are proposed as examples. They can be modified or adapted to meet your needs. *No form is imposed by the Code respecting Employment Standards.*

Employee biweekly time record (template 1)

| | |
|------------------------|-------------|
| Employee name: | Date: |
| Employee number: | Department: |
| Title/Job description: | |

| Week one: | | | | | |
|-----------------------|----------|------------|-------|-------------|-------|
| Date | Activity | Time start | Break | Time finish | Hours |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| Week one total hours: | | | | | |

| Week two: | | | | | |
|---|----------|------------|-------|-------------|-----------------------|
| Date | Activity | Time start | Break | Time finish | Hours |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| Week one total hours: | | | | | |
| Authorization required for all overtime hours | | | | | Total regular hours: |
| Supervisor's signature: | | | | | Total overtime hours: |

Employee weekly time tracking record (template 2)

| | |
|--------------------------|--------------------|
| Employer name Address | Timesheet |
| Employee name: | Title: |
| Employee number: | Status: |
| Department: | Supervisor: |

| Date | Start time | Breaks | End time | Regular hrs. | Overtime hrs. | Total hrs. |
|-----------------------|------------|--------|----------|--------------|---------------|------------|
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| Weekly totals: | | | | | | |
| Employee signature: | | | | Date: | | |
| Supervisor signature: | | | | Date: | | |

Frequently asked questions (about work clothes)

Can an employer make a deduction for a uniform or other work clothes that the employee is required to wear during work hours?

Yes. But the deduction can only be made with the written authorization of the employee. A deduction for a uniform cannot be more than the employer's actual cost to buy the uniform.

What kind of written authorization must I have to make a deduction for uniforms?

A date-specific, amount-specific authorization should be signed by the employee for that one deduction. The deduction must not take an employee's earnings below minimum wage.

Can I deduct the cost of or the cleaning of the uniform from an employee's pay cheque if they are paid minimum wage?

No. Deductions made from an employee's wages for supplying or looking after uniforms or other articles that must be worn on the job cannot reduce the employee's earnings below the minimum wage.

Additional Resources

Can I ask for a deposit from the employee for work clothes?

Yes. However, it is recommended that the terms of the agreement be in writing. If the deposit is to come off the paycheque, you cannot take the employee's earnings below minimum wage and you must have signed authorization to make the deduction.

Can I withhold the employee's final pay cheque if the work clothes are not returned?

No. An employee's final earnings must be paid according to the provisions of the *Employment Standards Code*.

If I provide new work clothes in the future, must I have a new authorization?

Yes. You must have a new written authorization.

Can I dictate to employees that they are expected to wear their work clothes at all times?

Yes. If they don't, employees can be disciplined. Employees must be aware that failure to wear their work clothes may lead to the discipline process.

Are there other restrictions on work clothes and deductions for them?

Yes. When employees pay for their work clothes, the clothing becomes their property and the employer cannot require the work clothes to be returned without compensating the employee. When the employer pays for the work clothes, it remains their property and the employers are entitled to have the work clothes returned once employment ends. The terms of the arrangement should be outlined in writing at the beginning of the employment relationship.

Can I have an appearance/dress code for my place of business?

An employer can set reasonable appearance and grooming standards necessary for the safe and effective conduct of the business. Employees must be made aware that failure to adhere to these standards may lead to the discipline process.

Payroll deduction authorization forms

Excerpt from the Employment Standards Code, Part 2, Division 1, Section 12

Deductions from earnings

- 12(1)** An employer must not deduct, set off against or claim from the earnings of an employee any sum of money, unless allowed to do so by subsection (2).
- (2)** An employer may deduct from the earnings of an employee a sum of money that is
- (a) permitted or required to be deducted by an enactment or a judgment or order of a court,
 - (b) authorized to be deducted by a collective agreement that is binding on the employee, or
 - (c) personally authorized in writing by the employee to be deducted.
- (3)** Despite an authorization in a collective agreement or a written authorization by an employee, an employer may not deduct from earnings a sum for
- (a) faulty workmanship, or
 - (b) cash shortages or loss of property if an individual other than the employee had access to the cash or property.

Payroll deduction authorization form (multiple instalment deductions)

Legal Name of Company and Address:

Company Phone Number:

.....

In accordance with Part 2, Division 1, Section 12 of the Employment Standards Code, and, by signature below:

I (print employee's name)
authorize my employer, (name of employer)
to deduct the total amount of \$ (total amount to
be deducted **or** amount to be deducted per pay period when total amount is unknown)
off my earnings for receipt of the following:
(specify purpose of the deduction/rationale, e.g. cell phone, rent, meals, childcare, uniform
payment, any invoice #, etc. that is applicable).

This payroll deduction will be effective (start date)
to (end date, e.g. indefinitely or until repayment to
the employer is complete).

The amount of \$ (exact dollar amount) will be
deducted from my (specify monthly / semi-monthly /
bi-weekly / weekly or other) pay periods and is no longer payable after pay period
ending (state payroll end date or upon termination, etc).

.....
Employee signature

.....
Date

- Authorizations for payroll deductions must be given by the employee to the employer **in writing**.
- The authorization must be clear and specific to the amount that is being deducted and its purpose.
- **Always keep copies of letters on the employee's file.**
- There are some deductions that are **not** allowed – even with written authorization from the employee. These include deductions for: faulty workmanship, cash shortages or loss of property.
- In order to change or stop an ongoing deduction from occurring, a new authorization form must be completed.

Information



Additional Resources

Payroll deduction authorization form (unique/one time deductions)

Legal Name of Company and Address:

Company Phone Number:

.....

In accordance with Part 2, Division 1, Section 12 of the Employment Standards Code, and, by signature below:

I *(print employee's name)*
authorize my employer, *(name of employer)*
to deduct the total amount of \$ *(total amount to be deducted)*
off my earnings for receipt of the following:
(specify purpose of the deduction/rationale, e.g. cell phone, rent, meals, childcare, uniform payment, any invoice #, etc. that is applicable).

This payroll deduction will be deducted off my *(specify monthly / semi-monthly / bi-weekly / weekly)* pay period ending *(state payroll end date or upon termination).*

.....

Employee signature

.....

Date



Example

A letter format like this one could be used if:

An employee rents the company's maintenance shop for personal use on the weekends. The employer charges the employee an hourly rate when used and deducts payment from the employee's paycheck.



Information

- Authorizations for payroll deductions must be given by the employee to the employer **in writing**.
- The authorization must be clear and specific to the amount that is being deducted and its purpose.
- **Always keep copies of letters on the employee's file.**
- There are some deductions that are **not** allowed – even with written authorization from the employee. These include deductions for: faulty workmanship, cash shortages or loss of property.

Frequently asked questions (about compressed work week arrangements (CWW))

Is employee approval required for an employer to implement a CWW?

No. An employer can require an employee to work a CWW.

When is it appropriate to institute a CWW?

When the work is scheduled on a consistent and repetitive basis, it lends itself to a CWW. If the work schedule is dependent on other factors such as work availability or the weather, a CWW would not be appropriate.

Is there a limit to the number of hours which may be scheduled in a day as part of a CWW?

Yes. An employee can only be scheduled to a maximum of 12 hours (including breaks) in a work day.

What is a CWW 'cycle'?

A cycle is a work schedule covering more than one week that repeats itself in the same order. The work schedule must show all the work weeks that make up the cycle.

How are new employees paid for hours of work if they start employment part way into the cycle?

All scheduled hours will be paid at regular pay. The employer must establish the cycle. Once this is done, any employee working within that cycle is subject to payment under the CWW. The employer must inform the new employee of this before the employee starts work.

If a casual or part time employee fills in for another employee on a CWW, can the scheduled hours worked be paid at regular pay?

Yes, as long as the employee is informed prior to working the shift that they are filling in on a CWW and will not be paid overtime for any of the scheduled hours.

Can two employees job-share on a CWW schedule?

Yes. However, it is the employer's responsibility to ensure that the employees are informed of the arrangement before the work begins.

Can an employee be required to make up a shift when they have been absent, for any reason, on a scheduled work day?

Yes, but the employee must be paid regular wages and any applicable overtime for the day.

If an employee was absent from work for a scheduled shift and was paid sick pay by the employer for that day, can the employee be required to make up a shift?

Yes. Sick pay is not wages and sick days do not constitute hours of work.

Can any scheduled work days be eight hours or less under a CWW?

Yes. The scheduled work days under a CWW can be a combination of work days greater or less than eight hours per day.

Can a CWW average more than 44 hours per week?

No, unless the Employment Standards Regulation specifies more than 44 hours per week before overtime is payable for a specific industry.

General holiday pay for employees working a compressed work week?

Qualified employees are entitled to have a general holiday off with pay only if they are normally scheduled to work on the general (statutory) holiday.

Vacations and vacation pay for employees working a compressed work week?

Vacation entitlements are usually described in terms of number of weeks. However, since compressed work weeks sometimes involve a different number of days or hours on different weeks during the cycle, vacation entitlement in those cases has to be calculated based on the average weekly hours worked. Vacation pay continues to be calculated as four per cent of gross regular earnings for two weeks' vacation entitlement, and six per cent for three weeks.

Overtime pay for employees working a compressed work week?

Overtime is still possible with a CWW arrangement, but it may not be scheduled as part of the CWW. Overtime is calculated both on a daily and a weekly (or cycle) basis. The greater number of overtime hours is what must be paid. Alternatively, overtime worked under the CWW arrangement could be given as time off through an overtime agreement.

Examples of typical compressed work week arrangements

Example 1: Daily hours are increased from eight to 11 and days worked reduced from six to four.

| Original six-day work schedule | | New four-day work schedule | |
|--------------------------------|----------|----------------------------|----------|
| Day 1 | 8 hours | Day 1 | 11 hours |
| Day 2 | 8 hours | Day 2 | 11 hours |
| Day 3 | 8 hours | Day 3 | 11 hours |
| Day 4 | 8 hours | Day 4 | 11 hours |
| Day 5 | 8 hours | Total | 44 hours |
| Day 6 | 4 hours | | |
| Total | 44 hours | | |

Example 2: Daily hours are increased from eight to 10 and days worked reduced from five to four.

| Original five-day work schedule | | New four-day work schedule | |
|---------------------------------|----------|----------------------------|----------|
| Day 1 | 8 hours | Day 1 | 10 hours |
| Day 2 | 8 hours | Day 2 | 10 hours |
| Day 3 | 8 hours | Day 3 | 10 hours |
| Day 4 | 8 hours | Day 4 | 10 hours |
| Day 5 | 8 hours | Total | 40 hours |
| Total | 40 hours | | |

Example 3: Daily hours are increased from seven to 12 and days worked reduced from six to three in the first week and four in the second week. **The average total weekly hours is 42.**

| Original six-day work schedule | | New two-week work schedule | |
|--------------------------------|----------|----------------------------|----------|
| Day 1 | 7 hours | Week 1 | |
| Day 2 | 7 hours | Day 1 | 12 hours |
| Day 3 | 7 hours | Day 2 | 12 hours |
| Day 4 | 7 hours | Day 3 | 12 hours |
| Day 5 | 7 hours | Total | 36 hours |
| Day 6 | 7 hours | Week 2 | |
| Total | 42 hours | Day 1 | 12 hours |
| | | Day 2 | 12 hours |
| | | Day 3 | 12 hours |
| | | Day 4 | 12 hours |
| | | Total | 48 hours |

Example 4: Employee works three days of 12 hours, followed by three days off. The cycle is repeated every six weeks. **The average total weekly hours is 42.**

| Original six-day work schedule | | New three-day work; three-day off schedule | | | | | | | |
|--------------------------------|----------|--|---|---|---|---|---|---|---|
| Day 1 | 7 hours | Week 1 | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| Day 2 | 7 hours | Week 2 | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| Day 3 | 7 hours | Week 3 | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| Day 4 | 7 hours | Week 4 | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| Day 5 | 7 hours | Week 5 | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| Day 6 | 7 hours | Week 6 | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| Total | 42 hours | Days off are shaded | | | | | | | |

Individual overtime agreement

1. It is agreed between:

Employee name:

Address:

and

Employer/company name:

Address:

that either wholly or partly the employer will provide and the employee will take, time off with pay in place of overtime pay for those hours worked in excess of in a work day or in a work week, whichever is greater, comprised of to
(Day of the week) (Day of the week)

2. The time off with pay in place of overtime pay shall be provided, taken and paid at the regular rate of wages at a time that the employee could have worked and received wages from the employer.
3. The time off shall be provided, taken and paid within three months of the end of the pay period in which it was earned unless:
 - the agreement is part of a collective agreement which provides for a longer period of time; or
 - the Director of Employment Standards issues a permit providing for a longer period of time.
4. If the time off in place of overtime pay is not provided, taken and paid in accordance with paragraph 2, the employee shall be paid at the overtime rate for all the overtime hours for which time off was not provided, taken and paid.
5. Time off in place of overtime shall be treated as hours of work, and remuneration paid for time off in place of overtime pay shall be treated as wages.
6. The employer shall provide a copy of this agreement to the employee.
7. No amendment or termination of this agreement shall be effective without at least one months' notice in writing by one party to the other.

Dated this day of 20

Signed
For employer/company Employee

Group overtime agreement

1. It is agreed between:

The employees listed on Part A attached

and

Employer/company name:

Address:

that either wholly or partly the employer will provide and the employees will take time off with pay in place of overtime pay for those hours worked in excess of in a work day or in a work week, whichever is greater, comprised of to
(Day of the week) (Day of the week)

2. The time off with pay in place of overtime pay shall be provided, taken and paid at the regular rate of wages at a time that the employee could have worked and received wages from the employer.
3. The time off shall be provided, taken and paid within three months of the end of the pay period in which it was earned unless:
 - the agreement is part of a collective agreement which provides for a longer period of time; or
 - the Director of Employment Standards issues a permit providing for a longer period of time.
4. If the time off in place of overtime pay is not provided, taken and paid in accordance with paragraph 2, the employee shall be paid at the overtime rate for all the overtime hours for which time off was not provided, taken and paid.
5. Time off in place of overtime shall be treated as hours of work, and remuneration paid for time off in place of overtime pay shall be treated as wages.
6. The employer shall provide a copy of this agreement to the employee.
7. No amendment or termination of this agreement shall be effective without at least one months' notice in writing by one party to the other.

I certify that the employees who have signed Part B attached to this form represent a majority of the employees in the group described and named on Part A attached.

Dated this day of 20

Signed

Group overtime agreement – Part A and Part B

Part A (to be completed by the employer)

Description of group:

.....
(Provide a complete description, e.g., “all office employees” or “all shipping and receiving employees”)

Following is a complete list of all employees who together form the group described above
as of
Day/Month/Year

Type or print names

| Signature | Print name | Date |
|-----------|------------|-------|
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Part B (to be completed by participating employees)

The employees whose signatures appear below wish to join the group overtime agreement attached to this form.

| Signature | Print name | Date |
|-----------|------------|-------|
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Management or supervisory employee questionnaire

The Employment Standards Regulation exempts supervisory, managerial and employees employed in a confidential capacity from the *Employment Standards Code's* provisions relating to overtime, hours of work and keeping records of hours of work. The purpose of this questionnaire is to assist in determining whether an individual falls within the exemptions set out in the Regulation.

This questionnaire is only an indicator of an employee's status.

The more "yes" answers you check, the greater the likelihood that the employee is working in a managerial or supervisory role.

| Employee duties | Yes | No |
|---|---|--------------------------|
| Does the individual direct the activities of other employees? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the individual supervise the activities of other employees? | <input type="checkbox"/> | <input type="checkbox"/> |
| Do the individual's duties differ from other persons who are supervised? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the individual receive payment or time off for extra time worked? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the individual receive a rate of pay that is higher than those supervised? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the individual have privileges over and above those of the employees he/she supervises/manages (e.g., company car, expense account, more vacation, more work flexibility)? | <input type="checkbox"/> | <input type="checkbox"/> |
| Employee authority | Yes | No |
| Does the individual have the authority to grant time off or grant leaves of absence? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the individual make work schedules and assign work to other employees? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the individual have the authority to authorize overtime? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the individual have the authority to authorize wage increases for other employees? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the individual have cheque-signing authority? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the individual have the authority to discipline workers (such as warn, reprimand and/or suspend employees)? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the individual have the authority to promote, demote or transfer employees? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the individual complete performance appraisals for the employees he or she supervises? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the individual have the authority to hire and fire? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the individual participate in meetings where policies are made? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the individual participate in meetings where business decisions are made? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the individual have the authority to order supplies and pay for them without prior approval by the company? | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the individual's authority include approving maintenance orders for equipment, repairs, etc.? | <input type="checkbox"/> | <input type="checkbox"/> |
| How do other employees perceive this individual? | <input type="checkbox"/> Manager <input type="checkbox"/> Supervisor <input type="checkbox"/> Co-Worker | |

Additional Resources

General holidays in Alberta

Under the *Code*, the following days are recognized as general holidays:

| General holiday | Date |
|--------------------|-------------------------------------|
| New Year's Day | January 1 |
| Alberta Family Day | 3 rd Monday in February |
| Good Friday | Varies with religious calendar |
| Victoria Day | Monday immediately preceding May 25 |
| Canada Day | July 1* |
| Labour Day | 1 st Monday in September |
| Thanksgiving Day | 2 nd Monday in October |
| Remembrance Day | November 11 |
| Christmas Day | December 25 |

| General holiday | 2016 | 2017 | 2018 | 2019 | 2020 |
|--------------------|---------------|---------------|---------------|---------------|---------------|
| New Year's Day | Jan. 1, 2016 | Jan. 1, 2017 | Jan. 1, 2018 | Jan. 1, 2019 | Jan. 1, 2020 |
| Alberta Family Day | Feb. 15, 2016 | Feb. 20, 2017 | Feb. 19, 2018 | Feb. 18, 2019 | Feb. 17, 2020 |
| Good Friday | Mar. 25, 2016 | Apr. 14, 2017 | Mar. 30, 2018 | Apr. 19, 2019 | Apr. 10, 2020 |
| Victoria Day | May 23, 2016 | May 22, 2017 | May 21, 2018 | May 20, 2019 | May 18, 2020 |
| Canada Day | July 1, 2016 | July 1, 2017 | July 2, 2018* | July 1, 2019 | July 1, 2020 |
| Labour Day | Sep. 5, 2016 | Sep. 4, 2017 | Sep. 3, 2018 | Sep. 2, 2019 | Sep. 7, 2020 |
| Thanksgiving Day | Oct. 10, 2016 | Oct. 9, 2017 | Oct. 8, 2018 | Oct. 14, 2019 | Oct. 12, 2020 |
| Remembrance Day | Nov. 11, 2016 | Nov. 11, 2017 | Nov. 11, 2018 | Nov. 11, 2019 | Nov. 11, 2020 |
| Christmas Day | Dec. 25, 2016 | Dec. 25, 2017 | Dec. 25, 2018 | Dec. 25, 2019 | Dec. 25, 2020 |

**By federal law, when July 1st falls on any day of the week other than Sunday, it is celebrated on that day; however, when it falls on a Sunday, it is treated as if it fell on the Monday immediately following.*

Sample warning letter (on company letterhead)

Date:

Employee address:

Dear employee:

Paragraph 1:

Describe incident/situation/etc. which has led to the warning. Be clear and specific, using dates and times where possible. Avoid making assumptions about the employee's conduct where possible. Stick to facts. If the employee has received prior verbal or written warnings, make note of this in this letter.

Paragraph 2:

Describe specifically the change(s) you want to see and your expectations of the employee.

Paragraph 3:

Advise the employee of a 'review date', to meet and discuss progress. You may wish to include a positive statement regarding your belief in the employee's ability to make the changes necessary. If this is the final warning letter, advise the employee that any further incidences of the behaviour, etc., will result in termination.

Sincerely,

Supervisor's/manager's name

Title

- Disciplinary warnings and termination notices **should be in writing**.
- Use your **company letterhead** or include the **company address** in the letter. **Always keep copies of letters on the employee's file.**
- **Stick to the facts.** Be specific about the issue to be addressed.
- Be sure to **reference previous warning letters or disciplinary action** that has been taken on this matter.
- **Be clear about next steps.** Identify future disciplinary action that will be taken if the issue is not corrected.
- **Keep it professional.** Avoid allowing the letter to become personal. It is best to write when you are calm and in control of your emotions.
- Keep in mind that your letters may be needed in the future to support your case for termination.

Information



Sample termination letter (on company letterhead)

Date:

Employee address:

Dear employee:

Paragraph 1:

Advise the employee that they are terminated effective date (usually the date you are giving the letter).

Paragraph 2:

Include a statement reflecting that the reasons for termination have been outlined in the previous warning letters. State that the employee has not corrected these issues, which has led to their termination.

Paragraph 3:

Request the return of any company equipment, etc. State when the employee will receive the final pay cheque (under the *Employment Standards Code*, the employee must be paid within 10 calendar days of their last day worked).

Sincerely,

Supervisor's/manager's name

Title



Information

- Be sure to include the employer's address or use company letterhead.
- A termination letter **must be in writing and addressed to the employee concerned**.
- **Stick to the facts.** Be sure to mention any discussions or written warnings the employee previously received and explain how they lead to the decision for termination.
- **Be specific.** Provide specific reasons for firing the employee, their problematic behaviour and the dates they occurred.
- Include a termination date.
- **A termination letter is a legal document.** You may need it if the employee sues for wrongful dismissal. Carefully consider the contents of your letter.
- The termination letter should include all information on final paycheques, a severance package and when health benefits will end.

Hazard assessment form ² (Sample)

A hazard is any situation, condition or thing that may be dangerous to the safety or health of workers.

Reference: OHS Code Part 1.

Assessing hazards means taking a careful look at what could harm workers at the work site. The purpose of hazard assessment is to prevent work-related injury or illness to workers.

Step 1: On the Hazard identification checklist, check off all the hazards or potential hazards that are present at your work site. Add any identified hazards specific to your work site to the list:

Company: **Location:**

Date of assessment: **Completed by:**

| Hazard identification checklist | |
|---|---|
| Physical hazards | Chemical hazards |
| Lifting and handling loads <input type="checkbox"/> | Chemicals (identify types) <input type="checkbox"/> |
| Repetitive motion <input type="checkbox"/> | · Type: <input type="checkbox"/> |
| Slipping and tripping <input type="checkbox"/> | · Type: <input type="checkbox"/> |
| Moving parts of machinery <input type="checkbox"/> | · Type: <input type="checkbox"/> |
| Working at heights <input type="checkbox"/> | · Type: <input type="checkbox"/> |
| Pressurized systems <input type="checkbox"/> | · Type: <input type="checkbox"/> |
| Vehicles <input type="checkbox"/> | Dusts <input type="checkbox"/> |
| Fire <input type="checkbox"/> | Fumes (identify types) <input type="checkbox"/> |
| Electricity <input type="checkbox"/> | · Type: <input type="checkbox"/> |
| Noise <input type="checkbox"/> | · Type: <input type="checkbox"/> |
| Lighting <input type="checkbox"/> | · Type: <input type="checkbox"/> |
| Temperature – heat or cold <input type="checkbox"/> | Mists and vapours (identify types) <input type="checkbox"/> |
| Vibration <input type="checkbox"/> | · Type: <input type="checkbox"/> |
| Ionizing radiation <input type="checkbox"/> | · Type: <input type="checkbox"/> |
| Workplace violence <input type="checkbox"/> | · Type: <input type="checkbox"/> |
| Working alone <input type="checkbox"/> | Other: <input type="checkbox"/> |
| Other: <input type="checkbox"/> | Other: <input type="checkbox"/> |
| Biological hazards | Psychological hazards |
| Viruses <input type="checkbox"/> | Working conditions <input type="checkbox"/> |
| Fungi (mould) <input type="checkbox"/> | Fatigue <input type="checkbox"/> |
| Bacteria <input type="checkbox"/> | Stress <input type="checkbox"/> |
| Blood and bodily fluids <input type="checkbox"/> | Other: <input type="checkbox"/> |
| Sewage <input type="checkbox"/> | Other: <input type="checkbox"/> |
| Other: <input type="checkbox"/> | Other: <input type="checkbox"/> |

Note: If you work in a high hazard industry, an industry specific checklist may be required.

Additional Resources

Hazard Assessment and Control Sheet²

Step 2: Take the hazards identified on the checklist above and list them on the Hazard Assessment and Control Sheet. Identify the controls that are in place: engineering, administrative, personal protective equipment (PPE) or combination for each hazard.

Company: **Location:**

Date of assessment: **Completed by:**

| Hazard | Controls in place (list) | | | Follow-up action(s) required | Due date/Person responsible |
|--------|--------------------------|----------------|-----|------------------------------|-----------------------------|
| | Engineering | Administrative | PPE | | |
| | | | | | |
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² Hazard Identification Checklist and Hazard Assessment and Control Sheet adapted from Small Business Health and Safety Tool kit, Occupational Health and Safety, Alberta Employment and Immigration (2006).

Employer tip! Whenever possible, **hazards should be eliminated**. If this is not possible they must be controlled. Control means reducing the hazard to levels that do not present a risk to worker health.

Information



Controls, in order of preference include:

| Engineering controls: | Administrative controls: | Personal protective equipment (PPE) |
|--|---|--|
| <ul style="list-style-type: none"> • Try to eliminate the hazard completely. This could mean removing trip hazards on the floor or disposing of unwanted chemicals, etc. • Isolate the hazard: for example, use sound proof barriers to reduce noise levels, use an enclosed spray booth for spray painting, use remote control systems to operate machinery | <ul style="list-style-type: none"> • Use safe work procedures • Provide training and supervision for workers • Ensure regular maintenance of machinery and equipment • Limit exposure times by using job rotation | <ul style="list-style-type: none"> • Includes gloves, hard hats, hearing and eye protection, safety harnesses, protective clothing, respirators, steel-toed boots • Ensure that the right type of PPE is selected for the job, the PPE fits properly and is comfortable under working conditions, the workers are trained in the need for PPE, its use and maintenance • PPE is stored in a clean and fully operational condition |

Parent/guardian consent for employment of an adolescent³

The written consent of a parent or guardian is required before an adolescent (ages 12 to 14) can be hired. The written consent of a parent or guardian is required before a young person (ages 15 to 17) can be hired and asked to work between the hours of midnight and 6 am.

The consent of only one parent or guardian is required. Parents and guardians do not have to use a specific prescribed consent form, but they must give the employer written consent.

An employer must retain a copy of this consent form on the employee's file and a copy of the form should be retained by the parent.

Note: This form is proposed as an example. It can be modified or adapted to meet your needs. *No form is imposed by the Code respecting Employment Standards.*

³ Adapted from Saskatchewan Ministry of Advanced Education, Employment and Labour, Minimum Age of Employment Tool kit: Information for Parents and Guardians of 14 and 15 year old Workers.

Additional Resources

Consent for employment of an adolescent form

| Section A: Youth information | | |
|------------------------------|----------|----------------------|
| Name of young person | | |
| Last | First | Middle initial |
| Mailing address | | |
| Street/PO Box number | | |
| City | Province | Postal Code |
| Telephone | | Date of birth |
| Home | Cell | Month/Day/Year |

| Section B: Employer information | | |
|---------------------------------|----------|-------------|
| Name of business | | |
| Mailing address | | |
| Street/PO Box number | | |
| City | Province | Postal Code |
| Telephone | | |
| Business | | E-mail |

| Section C: Written consent | | |
|--|----------|-------------|
| I (print your name) | | |
| Confirm that I am the parent and/or guardian (specify) | | |
| This is my written consent for the aforementioned to be employed by | | |
| Name of employer | | |
| I certify that the information I have provided is true and correct to the best of my knowledge and belief. This consent can be withdrawn at any time without notice. | | |
| Signature of parent or guardian | | |
| Mailing address | | |
| Street/PO Box number | | |
| City | Province | Postal Code |
| Telephone | | |
| Home | Cell | E-mail |

Common exceptions from Employment Standards

The Employment Standards Regulation makes exceptions to the minimum standards for employees in certain industries and occupations. In addition, employees in certain industries and occupations are exempted from some of the minimum standards. The table below provides a summary of employees, professions and occupations to whom exceptions and exemptions apply. For more information, please see the *Code* and Regulation.

| Type of salesperson, professional or worker for whom exceptions apply | Records, hours of work and overtime | General holidays and general holiday pay | Vacations and vacation pay | Minimum wage |
|---|-------------------------------------|--|----------------------------|--------------|
| Agrologist or agrologist-in-training | X | – | – | W |
| Ambulance attendant | ✓ | – | – | – |
| Architect | X | – | – | W |
| Automotive, recreational vehicle, truck or bus salesperson | X | X | X | W |
| Caregiver (home care and residential care) | ✓ | – | – | |
| Certified general accountant or student member | X | – | – | W |
| Certified management accountant or student member | X | – | – | W |
| Chartered accountant or student | X | – | – | W |
| Chiropractor | X | – | – | W |
| Construction equipment (heavy duty or road construction) salesperson | X | X | X | W |
| Construction worker* | – | ✓ | ✓ | – |
| Counsellor or instructor at an educational or recreational camp operated on a charitable/not-for-profit basis | X | X | – | X |
| Dentist | X | – | – | W |
| Denturist or student | X | – | – | W |
| Domestic employee | ✓ | – | – | M |
| Engineer, geoscientist or member-in-training, engineering technologist | X | – | – | W |
| Extra in a film or video production | X | X | X | X |
| Farm machinery salesperson | X | X | X | W |
| Farm and ranch worker** | X | X | X | X |
| Field catering employee | ✓ | – | – | – |
| Geophysical exploration employee | ✓ | – | – | – |

Additional Resources

| | | | | |
|---|---|---|---|-----|
| Information systems professional | x | - | - | W |
| Insurance salesperson | x | x | x | x |
| Irrigation district employee | ✓ | - | - | - |
| Land agent (licensed) | x | - | - | W |
| Land surveying employee | ✓ | - | - | - |
| Lawyer or student-at-law | x | - | - | W |
| Logging or lumbering employee | ✓ | - | - | - |
| Managers, supervisors and those employed in a confidential capacity | x | - | - | - |
| Mobile/manufactured home salesperson | x | x | - | W |
| New home salesperson | x | - | - | W |
| Oilwell servicing employee | ✓ | - | - | - |
| Optometrist | x | - | - | W |
| Open-air nursery employee | ✓ | - | - | - |
| Podiatrist | x | - | - | W |
| Psychologist | x | - | - | W |
| Realtors | x | x | x | x |
| Salespersons for direct sellers | x | x | - | ♦♦♦ |
| Securities salesperson | x | x | x | x |
| Taxi cab driver | ✓ | - | - | - |
| Traveling salesperson | x | x | x | W |
| Truck driver | ✓ | - | - | - |
| Veterinarian | x | - | - | W |

✓ indicates an exception

x indicates an exemption

- no exception or exemption

W these employees are subject to a weekly rather than hourly minimum wage

M these employees are subject to a monthly rather than hourly minimum wage

♦ employees specified in the Regulation are also exempt from termination notice and pay provisions in the *Code*

♦♦ exempted farm and ranch workers are specified in the *Code* and Regulation, and they are also exempt from provisions prohibiting or regulating the employment of individuals under 18 years of age

♦♦♦ these salespersons are subject to a weekly rather than hourly minimum wage unless they are under 16 years of age

| Term | Definition |
|---|--|
| Adolescent | In the case of Employment Standards, an adolescent is a person between the ages of 12 to 14 years of age. |
| Alberta Human Rights Act (AHR Act) | In Alberta, the <i>Alberta Human Rights Act (AHR Act)</i> protects Albertans from discrimination in certain areas based on specified grounds. The <i>AHR Act</i> prohibits discrimination in the area of employment. Specifically it prohibits discrimination based on the protected grounds of race, colour, ancestry, place of origin, religious beliefs, gender, age, physical disability, mental disability, marital status, family status, source of income and sexual orientation. |
| Alberta Human Rights Commission | The Alberta Human Rights Commission carries out functions under the <i>AHR Act</i> . The Commission's purpose is to foster equality and to reduce discrimination. It fulfills this mandate through public education and community initiatives, through the resolution and settlement of complaints of discrimination, and through human rights tribunal and court hearings. For more information visit: www.albertahumanrights.ab.ca . |
| Anniversary date | This date is important for calculating entitlements for annual vacation and vacation pay. The anniversary date is the date that the employee started to work for the employer. |
| Average daily wage (as used for calculating general holiday pay) | The average daily wage is used for calculating how much an employee must be paid for a general holiday that was not worked. It is calculated by adding the regular wages earned during the nine weeks before the week in which the general holiday occurs, and dividing by the number of days worked in that nine-week period. |
| Breach of duty | Breach of duty can occur when an employee knowingly jeopardizes the interests of the employer, reveals confidential information, breaches company policies or conducts him/herself dishonestly. |
| Collective agreement | A collective agreement is an agreement, in writing, between an employer or an employers' organization and a bargaining agent containing terms or conditions of employment. It may include one or more documents containing one or more agreements. |
| Compassionate care leave | Eligible employees who are primary caregivers are entitled to an unpaid, job-protected leave of absence to give care or support to a seriously ill family member who is at risk of death within 26 weeks. The maximum amount of compassionate care leave is eight weeks, and may be broken into two different periods within the 26 weeks. |
| Compressed work week (CWW) | A compressed work week is a way of scheduling hours of work that has employees working longer hours each day, but fewer days each week. |

| | |
|----------------------------------|--|
| Continuous employment | Continuous employment refers to the continuity of service, and all of the benefits that this brings, that an employee who remains employed at a company has when ownership of the company changes hands. It is important for employment records and calculating length of service (upon termination). |
| Daily overtime hours | Any hours more than eight hours worked in each day are considered daily overtime hours. |
| Daily wage | Daily wages means the wage of an employee on a normal work day. |
| Date of delivery | The date of delivery refers to the date when the pregnancy of an employee terminates with the birth of a child or when the pregnancy otherwise terminates. |
| Earnings | Earnings refer to wages, overtime pay, vacation pay, general holiday pay and termination pay. |
| Employee | An employee (worker) is someone who works for an employer. He/she is employed to do work and receives wages in exchange for his/her efforts. |
| Employer | An employer is a person who employs an employee. |
| Employment Insurance (EI) | Employment Insurance (EI) provides temporary financial assistance to unemployed Canadians who have lost their job through no fault of their own, while they look for work or upgrade their skills. Canadians who are sick, pregnant, or caring for a newborn or adopted child, as well as those who must care for a family member who is seriously ill with a significant risk of death, may also be assisted by Employment Insurance. |
| Employment record | An employment record is the employment information required by the <i>Code</i> for the employer to keep up to date and any other record needed to determine whether an employee is entitled to anything under the <i>Employment Standards Code</i> . |
| General holidays | There are nine general (statutory) holidays in Alberta. New Year's Day, Alberta Family Day, Good Friday, Victoria Day, Canada Day, Labour Day, Thanksgiving Day, Remembrance Day and Christmas Day. |
| Group overtime agreements | A group overtime agreement is between an employer and a designated group of employees. The employer and a majority of the employees in the designated group must sign the agreement. The agreement can be cancelled or changed by either party by giving one months' notice to the other. |
| Hazard | A hazard is any situation, condition or thing that may be dangerous to the safety or health of an employee. |
| Hazard assessment | A process used to identify the health and safety hazards and evaluate the risk associated with job tasks. Covered under OHS – but necessary when employing adolescents. |

| | |
|---|---|
| Hours of work | Hours of work refer to the period of time during which an employee works for an employer, and time off with pay instead of overtime pay provided by an employer and taken by the employee. |
| Individual overtime agreements | An individual overtime agreement is between one employee and an employer. Either the employee or the employer can cancel or change the agreement by giving the other party one month's notice in writing. |
| Irregular schedules | Irregular schedules are a type of work schedule that occur when employees work a different number of hours each day (i.e. hours scheduled on any given day depend on work available), or when employees work an irregular pattern of days in a week (i.e. employee is scheduled to work only on days when work is available). Irregular schedules can make determining eligibility for general holidays complicated. For help, see the 5 of 9 rule. |
| Just cause | An employer can terminate an employee, without notice, for just cause. Termination for just cause typically involves conduct that is serious enough to justify the employer ending the employment relationship. |
| Length of service | Length of service refers to the amount of time that an employee has worked for an employer. It can include more than one period of employment if the breaks between periods are not longer than three months. |
| Manager | The guideline for Employment Standards is that a manager directs and supervises the activities of other employees and has duties and a level of authority that differ from those individuals. |
| Maternity leave | Maternity leave is for birth mothers only. It is up to 15 consecutive weeks in duration. It is intended to help mothers recover from the physical strain of childbirth. |
| Minimum wage | The minimum wage is the rate of pay that employers must pay employees in the province of Alberta. This wage is set out in Part 2 of the Employment Standards Regulation |
| Occupational Health and Safety Act (OHS Act) | The <i>OHS Act</i> describes obligations and duties that serve to protect and promote the occupational health and safety of workers throughout Alberta. It describes the rights and responsibilities of employers, workers, and others connected with the work site. www.work.alberta.ca/ohs |
| Overtime agreement | An overtime agreement is an agreement between an employer and employees that explains how overtime and overtime pay will be dealt with. |
| Parental leave | Mothers, fathers and/or adoptive parents are eligible for up to 37 consecutive weeks of unpaid, job protected parental leave. This leave can be taken by one parent or shared between two parents, but the total combined parental leave cannot exceed 37 weeks. |

| | |
|-----------------------------------|--|
| Pay period | A pay period can be daily, weekly, bi-weekly, semi-monthly or monthly. It cannot be longer than one month. An employee must be paid all wages, overtime and general holiday pay earned in a pay period within 10 consecutive days after the end of the pay period. |
| Record of employment (ROE) | A Record of Employment (ROE) is a form (either paper or electronic) that employers complete for employees receiving insurable earnings who stop working and experience an interruption of earnings. It is the single most important document in the Employment Insurance (EI) program and employees require a ROE before they can apply for and receive Employment Insurance benefits. For more information on ROEs and Employment Insurance visit: www.servicecanada.gc.ca . |
| Regular schedule | A regular schedule is a type of work schedule where employees may work the same or different hours on different days of the week, but in a pre-determined and repetitive pattern. |
| Reservist leave | Eligible employees who are reservists are entitled to an unpaid, job protected leave of absence when deployed to an international operation or domestic emergency. |
| Rest periods | Refers to the ½ hour period of time that an employer must give to each employee during a shift that is longer than five consecutive hours. |
| Split shift | A type of work schedule that is divided into two or more periods of time, such as morning and evening, with a break of several hours between them. |
| Statement of earnings | A statement of earnings is a written statement detailing the hours of work and rate of pay, that the <i>Code</i> requires employers to provide employees at the end of each pay period. |
| Temporary layoff | A temporary layoff occurs when an employee is temporarily laid off from a position, but will be returning to that position. In Alberta, the maximum duration of a temporary layoff is 59 days. |
| Termination notice | Notification provided by either the employer or the employee to signify the end of an employment relationship. |
| Termination pay | Termination pay is a payment that an employer can give an employee in lieu of the amount that the employee would have earned had the employee worked out the required termination notice period. |
| The 5 of 9 rule | This is a rule used in determining an employee's eligibility for general holiday pay. If at least five of the nine weeks preceding the work week in which the holiday occurs, the employee worked on the same day of the week as the day on which the holiday falls, the general holiday is considered a normal working day. |
| The 8 and 44 rule | This is a rule used to calculate overtime. Overtime is all hours worked in excess of eight hours a day, or 44 hours a week, whichever is greater. |
| Wage rate | A wage rate refers to the hourly rate of pay for wages. |

| | |
|------------------------------|---|
| Wages | Wages can include: salary, pay, money paid for time off instead of overtime pay, commission or remuneration for work. It does not include: overtime pay, vacation pay, general holiday pay and termination pay; payments made as a gift or bonus that is dependent on the discretion of an employer and that is not related to hours of work, production or efficiency; expenses or an allowance provided instead of expenses; or tips or other gratuities. |
| Weekly overtime hours | Weekly overtime hours are any hours more than 44 hours worked in a week. |
| Work | Includes providing a service. |
| Work day | The work day is a 24-hour period ending at midnight or another 24-hour period as established by the consistent practice of an employer (e.g. 8 pm to 8 pm). |
| Work month | A work month is a calendar month or the period from a time on a specific day in a month to the same time on the same day in the following month as established by the consistent practice of an employer. |
| Work week | A work week is the period between midnight on a Saturday and midnight on the following Saturday, or seven consecutive days as established by the consistent practice of an employer. |
| Year of employment | A year of employment is a period of 12 consecutive months. |
| Young person | In the case of Employment Standards, a young person is an employee between the ages of 15 and 17 years of age. |

