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Introduction

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 the 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 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. See www.qp.alberta.ca to view or download these documents.

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:

- Occupational Health and Safety Act, Code and Regulation: www.work.alberta.ca/ohs
- Alberta Human Rights Legislation: www.albertahumanrights.ab.ca
- Workers’ Compensation Board: www.wcb.ab.ca/home

Employment Standards website

Visit alberta.ca/EmploymentStandards for more information on Alberta’s Employment Standards.

The website provides detailed information on the rights and obligations of employers and employees under the Code, as well as information for specific groups, occupations and industries.

The website also provides access to other resources, including an interactive self-assessment tool for employers, webinars, interactive videos, work-site posters and brochures.
Section 1: Employment Standards overview

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

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Employees covered by other Acts 7
Enforcing Alberta’s Employment Standards 8
Education and resources 8
Complaint resolution services 8
Contact 8
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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:

- General holidays and general holiday pay
- Hours of work
- Job-protected leaves (unpaid)
- Minimum wage
- Overtime and overtime pay
- Payment of earnings and employment records
- Restrictions on the employment of youth under the age of 18
- Termination of employment
- Vacations and vacation pay

The Regulation sets out exceptions and 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 youth and sets out the minimum wage. Visit www.qp.alberta.ca to see the Employment Standards Code and Regulation.

Three things employers need to know about Employment Standards:

1. Minimum standards can't 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 job-protected leaves), 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

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 some 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.
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.

**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 employers and employees. 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.

*See Additional resources: Employee or contractor: How to know the difference.*

**Collective agreements**
Some employees choose to have union representation and bargain collectively for the terms and conditions of their employment. The collective agreement is binding, so long as it provides for the minimum standards stipulated by the Code.

*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. When employers based in other jurisdictions do work and employ people to work in Alberta, they must follow Alberta’s legislation, not those of their “home jurisdiction”.*

*Note: Collective agreements entered into before January 1, 2018, continue to be binding until the earlier of: a) a new collective agreement being signed, or b) January 1, 2019*
Enforcing Alberta’s Employment Standards
To ensure employers and employees in Alberta understand and follow the minimum employment standards rules, Employment Standards provides:

Education and resources
Employment Standards staff provide education programs designed to provide participants with a better understanding of the rights and obligations of employers and employees under the Employment Standards Code and Regulation.

Visit alberta.ca/EmploymentStandards for more information.

Complaint resolution services
When employees believe they have received less than minimum employment standards and are unable to resolve the matter with their employer, an employee may file a complaint which may be investigated by Employment Standards. Employees who want to file a complaint with Employment Standards may do so at any time, and former employees may file a complaint within six months of the date on which their employment terminated.

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

For more information on the Employment Standards complaint resolution, see Section 10: Complaint resolution process.

Contact

Call us
Advisors at the Contact Centre are able to address a broad range of Employment Standards questions and issues 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.

Contact Centre
• To be connected toll-free to the province-wide information line: 1-877-427-3731
• For deaf or hearing impaired people with TDD/TTY units:
  • 780-427-9999 within Edmonton
  • 1-800-232-7215 from outside of Edmonton

Ask a question online
See alberta.ca/ESquestions to submit a question to an Employment Standards advisor.

Visit alberta.ca/EmploymentStandards for general information on Employment Standards.
**Section Overview**

This section provides information about when to pay your employees and records that must be kept.

## Section 2: Payment of earnings

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Section 2: Payment 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*

- A pay record that was created in December 2017 must be kept until December 2020.

The following records must be kept for each employee:

<table>
<thead>
<tr>
<th>Employment records checklist:</th>
</tr>
</thead>
<tbody>
<tr>
<td>✔ Name, address and date of birth</td>
</tr>
<tr>
<td>✔ Wage rate and overtime rate</td>
</tr>
<tr>
<td>✔ Regular and overtime hours of work</td>
</tr>
<tr>
<td>✔ Earnings paid showing each component of the earnings separately for each pay period</td>
</tr>
<tr>
<td>✔ Deductions from earnings and the reason for each deduction</td>
</tr>
<tr>
<td>✔ Time off instead of overtime pay provided and taken</td>
</tr>
<tr>
<td>✔ The date that the present period of employment started</td>
</tr>
<tr>
<td>✔ The date on which a general holiday is taken</td>
</tr>
<tr>
<td>✔ Each annual vacation, showing the date it started and finished and the period of employment in which the annual vacation was earned</td>
</tr>
<tr>
<td>✔ The wage and overtime rates when employment starts, the date of any change to those rates, and particulars of every change to them</td>
</tr>
<tr>
<td>✔ Copies of documentation notices relating to job-protected leave benefits</td>
</tr>
<tr>
<td>✔ Copies of termination notices and of written requests to employees to return to work after temporary lay-off</td>
</tr>
<tr>
<td>✔ Copies of overtime agreements</td>
</tr>
<tr>
<td>✔ Copies of averaging agreements</td>
</tr>
<tr>
<td>✔ Copies of parental consent for youth employment</td>
</tr>
<tr>
<td>✔ Copies of agreements to use banked overtime during termination notice period</td>
</tr>
<tr>
<td>✔ Copies of permits and variances issued</td>
</tr>
</tbody>
</table>

Reference: *ES Code, Section 14*
Pay statements
The Code requires an employer to make available or provide employees with a written pay statement at the end of each pay period.

The pay statement (or pay stub) must include:

<table>
<thead>
<tr>
<th>Payment statements checklist</th>
</tr>
</thead>
<tbody>
<tr>
<td>☑ Pay period covered by the statement</td>
</tr>
<tr>
<td>☑ Number of regular and overtime hours worked</td>
</tr>
<tr>
<td>☑ Number of hours taken off in lieu of overtime</td>
</tr>
<tr>
<td>☑ Wage rate and overtime rate</td>
</tr>
<tr>
<td>☑ Earnings paid</td>
</tr>
<tr>
<td>• showing each component of the earnings separately (e.g. wages, overtime, general holiday pay and vacation pay)</td>
</tr>
<tr>
<td>☑ Amount of deductions from earnings and the reason for each deduction</td>
</tr>
</tbody>
</table>

Remember! The pay stub must be in a form that the employee can keep for their records. Employers may provide electronic statements if employees can view and print them.

See Additional resources: Pay statement.

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

Reference: ES Code, Section 14

Recording 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.

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

Employment records must accurately show how the totals of regular and overtime hours are calculated.

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

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

See Additional resources: Employee time tracking sheet.
Section 2: Payment of earnings

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, Sections 7 and 8

<table>
<thead>
<tr>
<th>Sun</th>
<th>Mon</th>
<th>Tues</th>
<th>Wed</th>
<th>Thurs</th>
<th>Fri</th>
<th>Sat</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
<td>6</td>
<td></td>
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<tr>
<td>7</td>
<td>8</td>
<td>9</td>
<td>10</td>
<td>11</td>
<td>12</td>
<td>13</td>
</tr>
<tr>
<td>14</td>
<td>15</td>
<td>16</td>
<td>17</td>
<td>18</td>
<td><strong>19 pay day</strong></td>
<td>20</td>
</tr>
<tr>
<td>21</td>
<td>22</td>
<td>23</td>
<td>24</td>
<td>25</td>
<td>26</td>
<td>27</td>
</tr>
<tr>
<td>28</td>
<td>29</td>
<td>30</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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.

The rules: payment of earnings upon termination

<table>
<thead>
<tr>
<th>When an employee terminates employment...</th>
<th>Number of consecutive days after last day of employment when employee’s earnings must be paid</th>
</tr>
</thead>
<tbody>
<tr>
<td>…and no termination notice is required</td>
<td>10 days</td>
</tr>
<tr>
<td>…and termination is required, but not provided to the employer</td>
<td>10 days + notice period that should have been provided</td>
</tr>
<tr>
<td>…by providing notice and works out the notice period</td>
<td>3 days</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>When an employer terminates an employee’s employment...</th>
<th>Number of consecutive days after last day of employment when employee’s earnings must be paid</th>
</tr>
</thead>
<tbody>
<tr>
<td>…and no termination notice is required</td>
<td>10 days</td>
</tr>
<tr>
<td>…without notice for just cause</td>
<td>10 days</td>
</tr>
<tr>
<td>…by providing notice and the employee works out the notice period</td>
<td>3 days</td>
</tr>
<tr>
<td>…and provides termination pay (or combination of termination pay and notice)</td>
<td>3 days</td>
</tr>
</tbody>
</table>

Reference: ES Code, Sections 9 and 10
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, termination pay, gifts, non-performance-related bonuses (i.e. bonuses NOT based on hours of work, production, or efficiency), expense allowances, tips and 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) and 1(1)(x)*

**The definition of wages is important!**
The calculation for overtime pay, vacation pay and termination pay is based on an employee’s wages only – not their other 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
- social committee or other employee groups

See *Additional resources: Payroll deduction authorization forms.*
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 include:

- faulty work (examples include breakage in a restaurant or an error in a credit card transaction)
- cash shortages or loss of property if an individual other than the employee had access to the cash or property
- cash shortages resulting from a failure to collect any part of the purchase price from the purchaser (examples include ‘dine-and-dash’ or ‘gas-and-dash’ scenarios)
- any costs associated with the purchase, use, rental, cleaning or repair of uniforms

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.

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<td>Averaging Agreement requirements</td>
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<td>Length of agreement</td>
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<td>3-hour pay minimum variance/exemption</td>
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<td>Extended hours of work variance/exemption</td>
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<td>Extended days of work variance/exemption</td>
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</tr>
<tr>
<td>Applying for a variance or exemption</td>
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Section 3: Hours of work and rest

The Code requires that:

• work days cannot be longer than 12 hours
• employees must receive at least 30 minutes of rest within each 5 consecutive hours of work
• employees must receive at least one rest day in each work week

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

Daily hours of work

Hours of work must be confined within a period of 12 consecutive hours. This means that an employee who starts work at 8 am cannot work past 8 pm.

**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.

**e.g.**

If the employee is working a split shift, the hours of work must be confined within the 12-hour period (including breaks).

**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 shifts 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.

**e.g.**

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

**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
Daily rest periods

Within each shift that is five consecutive hours of work, an employee is entitled to at least a 30 minute 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 each five hours of the shift. The 30 minutes can be taken in one unbroken period, or may be provided as two 15-minute breaks.

This 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.

Reference: ES Code, Section 18

Weekly days of rest

An employer must give an employee:

• 1 day of rest each week
• 2 consecutive days of rest in each period of 2 consecutive weeks
• 3 consecutive days of rest in each period of 3 consecutive weeks
• 4 consecutive days of rest in each period of 4 consecutive weeks

After 24 consecutive days of work, employees must be provided with at least 4 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

See Additional resources: Common exceptions from Employment Standards.

Work-related tasks

Certain work-related tasks may be considered to be hours of work. These include travel time, standby time, minimum call-out pay and training.

Travel time

Certain travel time situations may be considered hours of work.
Section 3: Hours of work and rest

When travel time is work

Any travel time that occurs after the employee starts to provide services for the employer is considered to be hours of work. If a collective agreement is in place, provisions in the agreement may determine how travel time is managed. If travel time isn’t covered by a collective agreement, it’s considered work when an employee, whether driver or passenger:

• goes from the employer’s business or a place designated by the employer to a work site
• goes from one job site to another job site
• is directed to pick up materials or perform other tasks on the way to work or home

Rate of pay

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

When travel time is not work

In general, home-to-work and work-to-home travel isn’t 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 not considered work when employees are given the choice, or an agreement between the employer and employee or union is in place, to either:

• provide their own transportation to or from the work location
• report to a certain point from which the employee may access transportation provided by the employer

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/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.

3-hour pay minimum

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, or the employee’s regular hourly rate for the actual number of hours worked.

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.

If an employee has been advised in advance not to report to work, but does report, he/she does not have to be paid if he/she does not work. The 3-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 is given to a prospective employee as part of the hiring process.

Averaging agreements
An averaging agreement allows an individual employee or group of employees to average their hours worked over a specified period. This includes allowing for longer hours of work per day paid at the employee’s regular wages. There are two types of averaging agreements:
• Hours of Work Averaging Agreements (HWAA)
• Flexible Averaging Agreements (FAA)

Hours of Work Averaging Agreement
An HWAA is an agreement between an individual employee or group of employees and the employer, or as part of a collective agreement, to average work hours over a period of 1-12 weeks. The averaging period can be extended beyond the 12-week maximum, up to 26 weeks, with a variance issued by the Director of Employment Standards.

Reference: ES Regulation, Part 2.1 Division 1

Flexible Averaging Agreement
An FAA is an agreement between an individual employee and the employer, or part of a collective agreement, to average work hours over a period of one to two weeks. Agreements can only be requested by employees who work at least 35 hours a week.

An FAA allows the employee to earn flexible time when hours worked are greater than the number scheduled, but less than the daily maximum hours outlined in the agreement (daily overtime threshold) or an average of 44 hours per week (averaging period overtime threshold). Flexible time can be used as time off with regular pay.

Reference: ES Regulation, Part 2.1 Division 2

Averaging Agreement requirements
An averaging agreement must be in writing and include:
• start and end date
• term of agreement that cannot exceed two years unless it is part of a collective agreement and terminates the day a subsequent collective agreement is entered into
Section 3: Hours of work and rest

- number of weeks (up to 12 for HWAA, two for FAA) the hours will be averaged over
- number of work days and hours per day in the averaging period
- how overtime pay and time off with pay will be calculated
- daily overtime threshold (only for FAA, which cannot exceed 10 hours)

A group HWAA must be posted in a place visible to employees, such as online or in the workplace. A copy of the HWAA or FAA averaging agreement must be provided to all affected employees.

The scheduled daily and weekly hours of work must not exceed:

- 12 hours per day
- an average of 44 hours per week

An employee’s individual work schedule must be provided in advance of when they are expected to work, and an agreement can only have one work schedule.

Reference: ES Code, Section 23.1

Compressed work week arrangements entered into before January 1, 2018 will remain valid for a transitional period. This period depends on how the arrangement was entered into. If the compressed work week arrangement was entered into through a collective agreement, it remains valid until the day a new collective agreement is entered into. Otherwise, the compressed work week arrangement remains valid until the earlier of:

- January 1, 2019
- the termination of the compressed work week arrangement

Averaging agreements and compressed work week (CWW) arrangements differ in that CWW were imposed by an employer. Averaging agreements must be part of a collective agreement or authorized through a written agreement between the affected parties (individual or group agreement). HWAAAs and FAAs have a maximum averaging period, whereas CWWs did not.

Group agreement
Group agreements are only for HWAAAs. Not all employees employed by an employer are required to participate in a group averaging agreement. An employer may choose who will form the group of workers who will be scheduled under the agreement. The employer is allowed to have multiple agreements that apply to different groups or worksites.

The agreement must be authorized in writing by the bargaining agent for the group or by the majority of affected employees.

Individual agreement
In the case of individual agreements (HWAA or FAA) between an employer and employee, written authorization must be obtained directly from the employee.

Overtime
Overtime for an HWAA is calculated on the greater of any hours worked when they exceed:

- (daily) 8 hours a day (if scheduled for less than 8 hours) or daily scheduled hours (if 8 or more hours were scheduled)
- (averaging period) an average of 44 hours a week

Overtime for an FAA is calculated on the greater of any hours worked when they exceed:

- (daily) the daily overtime threshold established in the agreement (which cannot exceed 10 hours)
- (averaging period) an average of 44 hours a week
For **HWAA**s, if the employer changes the work schedule less than two weeks before the work is performed, without the employee requesting the change, the employee is to be paid overtime for all hours exceeding eight hours a day that were not part of the original schedule.

**When overtime is payable**

Overtime is payable as daily or averaging period overtime.

- daily overtime is payable at the end of the pay period
- averaging period overtime is payable at the end of the averaging period

Overtime owed is the greater of the daily or averaging period overtime. Therefore, at the end of the averaging period, employers must pay the employee any overtime remaining after the total daily overtime paid is subtracted from the total averaging period overtime owing.

Payment of any remaining averaging period overtime is to be paid within 10 days of the end of the pay period in which the averaging period ends.

**Banking overtime**

Instead of paying overtime, overtime hours can be banked at a rate of 1:1.5. Banked overtime can be taken off as time off with pay at the employer’s regular wage rate. See **Section 4: Overtime hours and overtime pay** for more information.

**Flexible time**

When an FAA is in place and an employee chooses to work more than their normally scheduled hours but less than the overtime threshold, the additional hours are considered flexible time earned at a rate of 1:1. Flexible time is to be taken off before the end of the following averaging period in which it was earned.

Reference: ES Regulation, Section 13.43

---

If averaging period overtime is owed, an additional calculation is needed to ensure that hours are not double counted as both averaging period overtime and flexible time. Averaging period overtime is subtracted from flexible time.

This calculation is not needed if only daily overtime is owed or no overtime is owed. See **Additional resources** for examples of these calculations.

**Length of agreement**

Averaging agreements cannot exceed two years, unless it is part of a collective agreement, in which case, it will expire when a subsequent collective agreement is entered into.

Employers and employees may renegotiate or cancel an individual or group agreement (if majority consents) at any time. If parties cannot come to an agreement, one party may cancel the agreement with one month’s written notice. An individual employee may not unilaterally exit a group agreement.

The Director of Employment Standards has the ability to cancel an averaging agreement at any time.

See **Additional resources: Averaging agreement examples**.
Section 3: Hours of work and rest

Variances and exemptions

Employers are required to follow the minimum standards outlined in the Code. However, employers can apply for a variance or exemption in certain circumstances that allows for exceptions to the rules.

3-hour pay minimum variance/exemption

The Employment Standards Regulation requires employers to pay a minimum of three hours of wages when an employee is called into work or attend training if the employee is available for the whole time, even if the employee works for a period of less than three hours.

The Director of Employment Standards may issue a variance authorizing the employer to pay no less than 30 minutes, but no more than 2.5 hours of wages in these instances.

Reference: ES Regulation, Section 11

Extended hours of work variance/exemption

The Code requires employers to confine hours of work, including breaks, within a 12-hour period.

The Director of Employment Standards may issue a variance authorizing extended hours of work in excess of 12 consecutive hours.

Reference: ES Regulation, Section 16

Note: If an hours of work averaging agreement is in place, an employer may apply for a variance. A variance is not permitted under flexible averaging agreements.

Extended days of work variance/exemption

The Code also requires employers to provide employees with:
- one day of rest in each consecutive work week
- 2 days of rest in 2 consecutive work weeks
- 3 days of rest in 3 consecutive work weeks
- 4 days of rest in 4 consecutive work weeks

The Director of Employment Standards may issue a variance authorizing extended consecutive work days, without a rest day, beyond 24 consecutive work days.

Reference: ES Regulation, Section 19

Applying for a variance or exemption

Applicants must submit a written application for a variance or exemption. Visit alberta.ca/EmploymentStandards for details on how to apply.

Remember!
- Applicants must provide reasons why the variance or exemption is required.
- Applicants must provide proof of support for the proposed variation or exemption by the affected employees or their bargaining agent.
- Variances and exemptions may be issued for a fixed period of time, if appropriate under the circumstances.
- Variances and exemptions may be cancelled, reviewed or altered by the Director of Employment Standards at any time.
### Section 4: Overtime hours and overtime pay

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

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<tr>
<th>Topic</th>
<th>Page</th>
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</thead>
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<td>Calculating overtime for salaried employees</td>
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<td>Paying out banked overtime upon termination</td>
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</tbody>
</table>
Section 4: Overtime hours and overtime pay

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

Visit alberta.ca/EmploymentStandards for a list of occupations that have exceptions or are exempt from the overtime rules.

Remember! All employees, including those working part-time and those who are paid a salary, must be paid overtime pay for overtime hours they work.

See Additional resources: Management or supervisory employee questionnaire.

Overtime hours

In most industries, overtime is all hours worked in excess of eight hours a day or 44 hours a week, whichever is greater. See Industries with different overtime rules in this section for a list of industries and occupations that have an exception to this overtime standard.

The minimum standard for overtime is different when an averaging agreement is in place. See Section 3: Hours of work and rest for details on averaging agreements.

See Additional Resources: Averaging agreement examples.

If overtime is banked to be taken as time off with pay instead, the overtime hours must be banked at a rate of 1.5 hours for each overtime hour.

Reference: ES Code, Sections 21 and 22

Overtime rate for commission and incentive-based pay employees

If an employee is paid entirely on commission or incentive-based pay, then the employee's wage rate is considered to be minimum wage for calculating overtime.

If an employee is paid partly by salary and partly by commission or incentive-based pay, then the employee's wage rate is the greater of the salary component or minimum wage.

Note: All employees must meet the minimum standards for overtime pay. Employers and employees cannot make agreements, verbally or in writing, that would allow the employer to pay less than the minimum overtime required.

Calculating overtime pay

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

The Basic 8/44 rule

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

<table>
<thead>
<tr>
<th></th>
<th>S</th>
<th>M</th>
<th>T</th>
<th>W</th>
<th>T</th>
<th>F</th>
<th>S</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>September</td>
<td>-</td>
<td>10</td>
<td>9</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>October</td>
<td></td>
<td>8</td>
<td>11</td>
<td>8</td>
<td>8</td>
<td></td>
<td></td>
<td>54</td>
</tr>
</tbody>
</table>
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 (statutory) holidays

- 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 employees may have averaging agreements in place, which allows for different overtime thresholds. See Section 3: Hours of work and rest for more information on averaging agreements.
## 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.

<table>
<thead>
<tr>
<th>Industry/Occupation</th>
<th>Daily hours</th>
<th>Weekly hours before O/T calculated</th>
<th>Monthly hours before O/T calculated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ambulance attendants</td>
<td>10</td>
<td>60</td>
<td></td>
</tr>
<tr>
<td>Geophysical exploration</td>
<td>10</td>
<td>191</td>
<td></td>
</tr>
<tr>
<td>Irrigation districts</td>
<td>9</td>
<td>54</td>
<td></td>
</tr>
<tr>
<td>Logging and lumbering</td>
<td>10</td>
<td>191</td>
<td></td>
</tr>
<tr>
<td>Oilwell servicing</td>
<td>12</td>
<td>191</td>
<td></td>
</tr>
<tr>
<td>Surveying</td>
<td>10</td>
<td>191</td>
<td></td>
</tr>
<tr>
<td>Trucking industry *</td>
<td>10</td>
<td>50</td>
<td></td>
</tr>
<tr>
<td>Field catering and land surveying</td>
<td>10</td>
<td>191</td>
<td></td>
</tr>
<tr>
<td>Highway and railway construction and brush clearing</td>
<td>10</td>
<td>44</td>
<td></td>
</tr>
<tr>
<td>Nursery industry</td>
<td>9</td>
<td>48</td>
<td></td>
</tr>
<tr>
<td>Road construction and maintenance</td>
<td>10</td>
<td>191</td>
<td></td>
</tr>
<tr>
<td>Taxi cab industry</td>
<td>10</td>
<td>60</td>
<td></td>
</tr>
<tr>
<td>Firefighting Services**</td>
<td>10</td>
<td>44</td>
<td></td>
</tr>
<tr>
<td>Caregivers (homecare and residential care)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*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.

**Based on an average of 44 hours per week over the period of the work cycle. The 44-hour limit does not apply when the firefighter is scheduled to work more than 44 hours in a week, in which case the scheduled hours are the threshold for overtime hours.

See the Employment Standards Regulation online at [www.qp.alberta.ca](http://www.qp.alberta.ca) for more detailed information.

## 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 in writing between employee and employer.
- There are 2 types of agreements: individual and group overtime 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.
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 contain certain requirements.

**Overtime agreement requirements**

- A copy of the written agreement must be 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 1.5 hours 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 6 months at the end of the pay period when the overtime hours were worked.
- If the time is not given/taken off within 6 months, it must be paid out at 1.5 times the rate of pay in place on the day the 6 months expired.
- An overtime agreement may be contained in a collective agreement or other written agreement.

Reference: ES Code, Section 23

**Remember!** Paid time off for banked overtime is considered wages. Vacation pay is owed on these payments.

See Additional resources: Individual overtime agreement and group overtime agreement.

**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 cannot require the employee to use up some or all outstanding banked overtime during the notice period, unless agreed to by both parties.

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.

When notice of termination is provided, any banked overtime not provided and taken with pay must be paid out at 1.5 times the employee’s regular rate of pay.
Section 5: General holidays and general holiday pay

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

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General holiday pay and vacation 31
What is average daily wage? 31
General holiday pay and salaried employees 31
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Exceptions 32
Additional rules 32
General holidays

Under the Code, the following nine days are recognized as general (statutory) holidays:

<table>
<thead>
<tr>
<th>General Holiday</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Year's Day</td>
<td>January 1</td>
</tr>
<tr>
<td>Alberta Family Day</td>
<td>3rd Monday in February</td>
</tr>
<tr>
<td>Good Friday</td>
<td>Varies with religious calendar</td>
</tr>
<tr>
<td>Victoria Day</td>
<td>Monday immediately preceding May 25</td>
</tr>
<tr>
<td>Canada Day</td>
<td>July 1*</td>
</tr>
<tr>
<td>Labour Day</td>
<td>1st Monday in September</td>
</tr>
<tr>
<td>Thanksgiving Day</td>
<td>2nd Monday in October</td>
</tr>
<tr>
<td>Remembrance Day</td>
<td>November 11</td>
</tr>
<tr>
<td>Christmas Day</td>
<td>December 25</td>
</tr>
</tbody>
</table>

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.

See Additional resources: General holidays in Alberta.

Employee eligibility

To be eligible for general (statutory) holiday pay, the employee must:
• 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

If an employee doesn’t work on a general holiday, then they are entitled to general holiday pay that’s at least their average daily wage.

If an employee works on a general holiday, they are entitled to either:
• their average daily wage, plus 1.5 times the employee’s wage rate for each hour worked
• their wage rate for each hour worked on the general holiday and a day off with pay that’s at least their average daily wage

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, they may take another day that would otherwise have been a work day, before their next annual vacation.

Reference: ES Code, Section 1(1)(6)

What is average daily wage?

Average daily wage is calculated as 5% of the employee’s wages, general holiday pay and vacation pay in the four weeks immediately preceding the general holiday.

General holiday pay example calculation

An employee makes $20/hour. Her vacation is paid out on each cheque. In the four weeks (28 days) leading up to the July 1 holiday (between June 3 and June 30), she works 141 hours.

<table>
<thead>
<tr>
<th>Wages</th>
<th>Hours worked in previous 28 days x Hourly wage</th>
<th>141 hours x $20/hr = $2,820</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vacation pay</td>
<td>4% of Wages</td>
<td>$2,820 x .04 = $112.80</td>
</tr>
<tr>
<td>General holiday pay (from previous general holidays)*</td>
<td>There were no general holidays between June 3 and June 30</td>
<td>$0</td>
</tr>
<tr>
<td>Average daily wage</td>
<td>5% of (Wages + Vacation pay + General holiday pay)</td>
<td>($2,820 + $112.80 + $0) x .05 = $146.64</td>
</tr>
</tbody>
</table>

*Any general holiday pay paid out in the previous 4 weeks.

<table>
<thead>
<tr>
<th>If the employee doesn’t work on the general holiday</th>
<th>Average daily wage</th>
<th>$146.64</th>
</tr>
</thead>
<tbody>
<tr>
<td>If the employee works on the general holiday</td>
<td>(Hours worked x Hourly wage x 1.5) + Average daily wage</td>
<td>(8 hours x $20/hour x 1.5) + $146.64 = $386.64</td>
</tr>
<tr>
<td>OR</td>
<td>(Hours worked x Hourly wage) + Paid day off at a rate of average daily wage</td>
<td>(8 hours x $20/hour) = $160 + Day off at $146.64</td>
</tr>
</tbody>
</table>

General holiday pay and salaried employees

For salaried employees, simplified general holiday calculations are permitted.

If a general holiday falls on a regular work day, an employee may receive:
• the day off work and their full salary for the day

If a general holiday does not fall on a regular work day, an employee may receive either:
• a day off in lieu and their fully salary for that day
• general holiday pay that is at least their average daily wage
Section 5: General holidays and general holiday pay

General holiday pay and employees paid incentives

Incentive pay plans include commission, flat rate, mileage or piecework compensation.

If an employee paid entirely on commission or other incentive-based pay works on a general holiday, they are to be paid their average daily wage plus 1.5 times the employee’s wage rate for hours worked. For the purposes of calculating general holiday pay, the employee’s wage rate is deemed to be the minimum wage.

<table>
<thead>
<tr>
<th>When shifts occur partially on a general holiday</th>
</tr>
</thead>
<tbody>
<tr>
<td>If an employer does not have an established practice for determining whether a shift falls on a general holiday, the following guidelines apply:</td>
</tr>
<tr>
<td>• 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.</td>
</tr>
<tr>
<td>• 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.</td>
</tr>
<tr>
<td><strong>E.g.</strong> If the employer has an established work day from 11 pm to 11 pm and the employee begins work at 11 pm on the day of the holiday – all hours worked on that shift would be deemed hours worked on a holiday.</td>
</tr>
<tr>
<td><strong>2</strong> General holiday pay and overtime</td>
</tr>
<tr>
<td>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 <strong>do not</strong> count when calculating overtime hours worked for the week in which the holiday falls.</td>
</tr>
</tbody>
</table>

Visit alberta.ca/EmploymentStandards to learn how to calculate the hourly wage for an employee paid by incentive-based pay or commission.

Reference: ES Code, Section 32

Exceptions

• Construction employees are entitled to general holiday pay equal to 3.6% of wages upon beginning employment, but not entitled to days off.
• Farm and ranch employees have rules that differ for calculating general holiday pay.

Visit alberta.ca/EmploymentStandards for more information on industries with exceptions.

Additional rules

To calculate the average hourly wage for incentive pay, determine if the employee is paid entirely by commission or incentive pay.

<table>
<thead>
<tr>
<th>If yes...</th>
<th>The employee’s wage rate for time worked on a general holiday is deemed to be minimum wage.</th>
</tr>
</thead>
<tbody>
<tr>
<td>If no and paid partly by salary...</td>
<td>The employee’s wage rate for time worked on a general holiday is based on the salary component of the wages if it’s greater than minimum wage.</td>
</tr>
<tr>
<td></td>
<td>• If the salary component is less than the minimum wage, then it’s deemed to be minimum wage.</td>
</tr>
</tbody>
</table>

Visit alberta.ca/EmploymentStandards to learn how to calculate the hourly wage for an employee paid by incentive-based pay or commission.

Reference: ES Code, Section 32

To calculate the average hourly wage for incentive pay, determine if the employee is paid entirely by commission or incentive pay.
Section 5: General holidays and general holiday pay

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 Section 3: Hours of work and rest for more information.

4 General holiday pay owed at termination

There are situations when an 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 must receive their average daily wage plus 1.5 times the regular wage rate for all hours worked on the general holiday, less any money previously paid for wages and overtime on that day.

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

The holiday falls on Monday and the employee worked 10 hours. In this example, the employee would be paid 32 hours at regular pay and 10 hours of general holiday pay. No overtime hours are earned even though over eight hours are worked because overtime is not earned when working on a general holiday.

Reference: ES Code, Section 33

<table>
<thead>
<tr>
<th></th>
<th>M</th>
<th>T</th>
<th>W</th>
<th>F</th>
<th>S</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hours worked</td>
<td></td>
<td>10</td>
<td>8</td>
<td>8</td>
<td>8</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Total hours worked (including general holiday)</th>
<th>Total hours to be paid</th>
<th>Regular hours (wage rate)</th>
<th>Overtime hours (OT rate)</th>
<th>General holiday pay ((1.5 \times \text{wage rate}))</th>
</tr>
</thead>
<tbody>
<tr>
<td>42</td>
<td>32</td>
<td>0</td>
<td>10</td>
<td></td>
</tr>
</tbody>
</table>

An employee eligible for general holiday pay who works on a holiday would be entitled to the greater of 1.5 times their wage rate for the number of hours worked or three hours paid at the minimum wage rate. In either case, the employee would also be entitled to their average daily wage.

e.g. The employee worked 10 hours on a general holiday. In this example, the employee would be paid 32 hours at regular pay and 10 hours of general holiday pay.
Section 6: Vacations 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.
Employers must follow general vacation rules:
- Employees must work for one year before they are entitled to vacation time. However, employees can take vacation with pay prior to completing a full 12 months if the employer agrees.
- 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, most employees are entitled to at least two weeks of vacation with pay, regardless of their employment status (full-time, part-time, casual). Employers are not required to provide vacation to employees who have been employed for less than one year, but may choose to do so.

Vacation pay and time off accrue over each 12-month period of employment.

*Note: Vacation time may be taken in half-day increments.*

An employee’s vacation pay entitlement is based on their length of employment and is calculated on the anniversary date of employment.

<table>
<thead>
<tr>
<th>Length of employment</th>
<th>Number of weeks' annual vacation</th>
<th>Vacation pay - paid out</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 1 year</td>
<td>Not entitled unless stated in contract</td>
<td>Not entitled unless stated in Contract</td>
</tr>
<tr>
<td>1-5 years</td>
<td>2 weeks</td>
<td>4% of wages in previous year</td>
</tr>
<tr>
<td>More than 5 years</td>
<td>3 weeks</td>
<td>6% of wages in previous year</td>
</tr>
</tbody>
</table>

*Note: If the employer agrees to provide more vacation, that agreement replaces the Code’s minimum 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

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
Section 6: Vacations and vacation pay

Calculating vacation pay

For employees paid monthly
For employees paid a monthly salary, the Code requires that the employer pay an amount equal to at least 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. The employee would be paid this amount for two or three weeks depending on their vacation entitlement.

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:

- 4% of wages earned in the year of employment prior to the vacation being taken (when entitled to two weeks’ vacation).
- 6% of wages earned in the year of employment prior to the vacation being taken (when entitled to three weeks’ vacation)

Reference: ES Code, Sections 34.1 and 34.2

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

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. 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 4% 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

An employer cannot require an employee to use accrued vacation time during the notice period.

Note: For an employee who is entitled to two weeks’ vacation, at least 4% 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 6% 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
Job-protected leaves allow employees to take an unpaid leave of absence to attend to personal and family matters without having to worry if they will still have a job upon their return.
Job-protected leaves are unpaid leaves of absence set out in the Employment Standards Code. They allow employees to take time off work for personal reasons without having to be worried about having a job when they return. An employer may not terminate or lay off an employee while they are on leave.

### Employee eligibility

With the exception of reservist leave, all employees are eligible for job-protected leaves after being employed by the same employer for 90 days.

Employees are eligible for reservist leave after 26 consecutive weeks of employment.

### Notice to take leave

An employer must be provided with written notice from the employee as soon as is reasonable if they are taking a short-term leave. Notice requirements for long-term leaves are different. See a specific long-term leave for more details.

### Short-term leaves

#### Employer obligations

An employer cannot terminate or lay off an employee while the employee is on leave.

#### Bereavement leave

Employees are entitled to bereavement leave upon the death of an immediate or extended family member.
### Employee’s family members:

| Member Type                                                                 ||
|-----------------------------------------------------------------------------|
| Spouse, adult interdependent partner or common-law partner                     |
| Children (and their partner/spouse)                                         |
| Current or former foster children (and their partner/spouse)                |
| Current or former wards                                                     |
| Parents, step-parents and/or current or former guardians (and their partner/spouse) |
| Current or former foster parents                                            |
| Siblings, half-siblings, step-siblings (and their partner/spouse)           |
| Grandchildren, step-grandchildren (and their partner/spouse)                |
| Grandparents, step-grandparents                                              |
| Aunts, uncles, step-aunts, step-uncles (and their partner/spouse)           |
| Nieces, nephews (and their partner/spouse)                                  |
| A person the employee isn’t related to but considers to be like a close relative |

### Family members of employee’s spouse, common-law or adult interdependent partner:

| Member Type                                                                 ||
|-----------------------------------------------------------------------------|
| Children (and their partner/spouse)                                         |
| Current or former wards                                                     |
| Parents, step-parents, foster parents                                       |
| Sibling, half-sibling, step-sibling                                          |
| Grandparents                                                                |
| Grandchildren                                                               |
| Aunts, uncles                                                               |
| Nieces, nephews                                                             |

Reference: ES Regulation, Section 54.1(2)

Employees can take up to **three days** of bereavement leave in each calendar year. Any leave days not used cannot be carried over into a new calendar year.
Reference: ES Code, Section 53.983

### Citizenship ceremony leave

Employees can take up to a **half-day** of citizenship ceremony leave once in their lifetime to attend their Canadian citizenship ceremony.
Reference: ES Code, Section 53.984

### Domestic violence leave

Employees can take up to **10 days** of domestic violence leave each calendar year. Any leave days not used cannot be carried over into a new calendar year.

Domestic violence leave can be taken when an employee, the employee’s dependent child or a protected adult who lives with the employee experiences an act of domestic violence.
Acts of domestic violence:
- any intentional or reckless action that causes injury or property damage while intimidating or harming a person
- any act or threat that intimidates a person by creating a reasonable fear for property damage or personal injury
- psychological or emotional abuse
- forced confinement
- sexual contact that is coerced by force or threat
- any act deemed as stalking

To be an act of domestic violence, the act must be caused by a person who:
- is or has been married to the employee
- is or has resided together in an intimate relationship
- is or has been an adult interdependent partner
- is or has been dating the employee
- is the biological or adoptive parent of a child with the employee
- is related to the employee by blood, marriage, adoption or an adult interdependent relationship
- is residing with the employee and has care and custody over the employee by court order

An employee may take domestic violence leave to:
- allow the employee, employee’s dependent child or a protected adult to seek medical attention for physical or psychological injury caused by domestic violence
- obtain services from a victim services organization
- allow the employee, employee’s dependent child or a protected adult to obtain psychological or other professional counselling
- relocate (temporarily or permanently)
- seek legal or law enforcement assistance, including time relating to legal proceedings

Reference: ES Code, Section 53.985

Personal and family responsibility leave
Employees can take up to five days of leave each calendar year if they are sick, or to attend to their personal health matters, or if they have responsibilities in relation to their family members. Any leave days not used cannot be carried over into a new calendar year.

Reference: ES Code, Section 53.982(1)

<table>
<thead>
<tr>
<th>Employee’s family members:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Spouse, adult interdependent partner or common-law partner</td>
</tr>
<tr>
<td>Children or children of the employee’s spouse/partner</td>
</tr>
<tr>
<td>Current or former foster children</td>
</tr>
<tr>
<td>Current or former wards</td>
</tr>
<tr>
<td>Parents</td>
</tr>
<tr>
<td>Current or former foster parents</td>
</tr>
<tr>
<td>Current or former guardian</td>
</tr>
<tr>
<td>Siblings, half-siblings</td>
</tr>
<tr>
<td>Grandparents</td>
</tr>
<tr>
<td>Grandchildren</td>
</tr>
<tr>
<td>A person living with the employee as a member of their family</td>
</tr>
</tbody>
</table>

Reference: ES Regulation, Section 54.1
Long-term leaves

Employer obligations
Similar to short-term leaves, employers cannot lay off or terminate an employee while the employee is on leave. For maternity and parental leave, the same rules apply when an employee is entitled to take leave. If the business has been suspended or discontinued during the employee’s leave, the employee has hiring priority if the business starts up again within 12 months after the end of the leave.

An employer must also reinstate employees returning from a long-term leave to the same or comparable position. Earnings and benefits must be at least equal to those received when the leave began.

Vacation
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 a long-term leave, the employee must use the remaining vacation time after the end of the leave or, if the employer and employee agree to a later date, by that later date.

Notice to return to work
Employers are not required to reinstate employees who fail to give notice or report to work the day after their leave ends, unless failure to provide notice is due to unforeseeable or unpreventable circumstances.

Compassionate care leave
An employee 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.

Those considered a family member may be in relation to the employee or the employee’s partner (spouse, common-law partner or adult interdependent partner).

<table>
<thead>
<tr>
<th>Employee’s family members:</th>
</tr>
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<td>Spouse, adult interdependent partner or common-law partner</td>
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<td>Nieces, nephews (and their partner/spouse)</td>
</tr>
<tr>
<td>A person the employee isn’t related to but considers to be like a close relative</td>
</tr>
</tbody>
</table>
Family members of employee's spouse, common-law or adult interdependent partner:

- Children (and their partner/spouse)
- Current or former wards
- Parents, step-parents, foster parents
- Sibling, half-sibling, step-sibling
- Grandparents
- Grandchildren
- Aunts, uncles
- Nieces, nephews

Reference: ES Regulation, Section 53.9

Note: During compassionate care leave, employees may be eligible to receive benefits from the federal Employment Insurance program.

Length of leave
Employees can take up to 27 weeks of unpaid, job-protected leave. The leave can be split into multiple instalments, but each period must be at least one week long.
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
- give their employer a medical certificate issued by a physician or nurse practitioner who is caring for the ill family member. The medical certificate must contain the following information:
  - the family member requires the care or support of one or more family members
  - 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
    - the day the leave began, if it begins before the certificate was issued

Reference: ES Code, Sections 53.9(4) and 53.9(6)

Notice to end compassionate care leave
An employee must:
- give the employer at least one 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 one weeks’ notice
- give the employer at least two weeks’ written notice if the employee chooses not to return to work

Reference: ES Code, Section 53.92

Federal assistance

Critical illness leave
An employee is entitled to critical illness leave to give care or support to a critically ill child or adult family member.

Immediate and extended family members are allowed to take this leave. See above under compassionate care leave for a list of who is considered a family member.

Reference: ES Code, Section 53.96
Section 7: Job-protected leaves

Note: During critical illness leave, employees may be eligible to receive benefits from the federal Employment Insurance program.

Length of leave
Employees can take up to 36 weeks of unpaid, job-protected leave for the critical illness of a child and 16 weeks for an adult. The leave can be split into multiple instalments, but each period must be at least one week long.
Reference: ES Code, Section 53.96

Notice to start critical illness 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 medical certificate issued by a physician or nurse practitioner who is caring for the ill family member in order to take critical illness leave. The medical certificate must contain the following information:
• the child or adult is critically ill and requires the care or support of a family member
• the start date of when the care or support is required
• the end date of when the care or support is no longer required
• If the leave started before the certificate was issued, the date the leave began is required
Reference: ES Code, Section 53.96(5)

Notice to end critical illness leave
An employee must:
• give the employer at least one 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 one weeks’ notice
• give the employer at least two weeks’ written notice if the employee chooses not to return to work
Reference: ES Code, Section 53.92

Federal assistance

Death or disappearance of child
An employee is entitled to death or disappearance of child leave if the death or disappearance is a result of a probable Criminal Code offence.
Reference: ES Code, Section 53.95

Note: During death or disappearance of child leave, employees may be eligible to receive benefits from the federal Parents of Murdered or Missing Children grant.

Length of leave
Employees can take up to 52 weeks of unpaid, job-protected leave if the child has disappeared, and up to 104 weeks if the child has died as a probable result of a crime.
Reference: ES Code, Section 53.95(2)

If the employee takes leave and the child is then found alive, the period of leave ends the earlier of:
• 14 days after the child is found, or
• 52 weeks after the day the child disappeared
Reference: ES Code, Section 53.95(8)
Notice to start death or disappearance of child leave
An employee can begin their leave on the day of the death or disappearance of the child, but must provide the employer with written notice as soon as is reasonable. Notice should include the estimated date of the employee’s return to work, if known.

An employee must inform his or her employer of any change in the estimated date of returning to work.
Reference: ES Code, Sections 53.96(4), 53.96(5), 53.96(6)

Notice to end death or disappearance of child leave
An employee must:
• give the employer at least one week’s 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 one week’s notice.
• give the employer at least 2 weeks’ written notice if the employee chooses not to return to work

Leave ends without notice if:
• the employee is charged with the crime that resulted in the death or disappearance of the child
• it is no longer probable that the death or disappearance was a result of a crime
Reference: ES Code, Sections 53.95(6), 53.95(7), 53.95(8), 53.95(9), 53.95(10)

Federal assistance

Long-term illness and injury leave
An employee is entitled to long-term illness and injury leave if they have a long-term illness, injury or are quarantined.

Note: During long-term illness leave, employees may be eligible to receive benefits from the federal Employment Insurance program.

Length of leave
Employees can take up to 16 weeks of long-term illness and injury leave each calendar year.
Reference: ES Code, Section 53.97

Notice to start long-term illness leave
An employee must:
• give the employer written notice as soon as possible and include an estimated date of return to work
• employees must give their employer a medical certificate issued by a physician or nurse practitioner before the leave begins, or as soon as possible if circumstances necessitate. The medical certificate must contain the estimated duration of leave
Reference: ES Code, Section 53.97(4)

Notice to end long-term illness leave
An employee must:
• give the employer at least one week’s 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 one week’s notice.
• give the employer at least 2 weeks’ written notice if the employee chooses not to return to work
Reference: ES Code, Section 53.972

Federal assistance
Maternity and parental leave

A pregnant employee is entitled to maternity leave for the birth of a child. Parental leave can be taken by birth mothers, fathers and/or adoptive parents.

If both parents work for the same employer, the employer is not required to grant parental leave to both parents at the same time.

If an employee has been employed for less than 90 days, an employer cannot arbitrarily lay her off, terminate her employment or require her to resign because of pregnancy or childbirth. Refer to the Alberta Human Rights Commission’s interpretive bulletin, titled Rights and Responsibilities Related to Pregnancy, Childbirth and Adoption at www.albertahumanrights.ab.ca/Documents/Bull_pregnancy.pdf for more information.

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

Length of leave

Maternity leave
Birth mothers can take up to 16 consecutive weeks of unpaid maternity leave.

Leave can start any time within the 13 weeks leading up to the estimated due date and no later than the date of birth.

Pregnancy that ends other than in a live birth
If a pregnancy ends in a miscarriage or stillbirth within 16 weeks of the estimated due date, the employee is still entitled to maternity leave but is not entitled to parental leave. The leave will end 16 weeks after it begins.
Reference: ES Code, Sections 46 and 49

Parental leave
Birth and adoptive parents can take up to 62 weeks of unpaid parental leave.

Parental leave can be taken by:
• the birth mother, immediately following maternity leave
• the other parent
• adoptive parents
• both parents, shared between them
Leave can start any time after the birth or adoption of a child, but must be completed within 78 weeks of the date the baby is born or placed with the parents.

Two employees working for the same employer may combine parental leave for a maximum of 62 weeks.
Reference: ES Code, Section 51

Things an employer should know
• If pregnancy interferes with the employee’s job performance during the 13 weeks before their due date, employers can require that the employee start maternity leave earlier by notifying the employee in writing
• An employee who takes maternity leave and parental leave must take the leaves consecutively
• Birth mothers must take at least 6 weeks after birth for health reasons, unless:
  • the employer agrees to an early return to duties, and
  • the employee provides a medical certificate stating the 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.

Remember! Employers may request a medical certificate from a physician or nurse practitioner that confirms pregnancy and expected delivery date. If an employer requests a medical certificate, employees must provide it at least six weeks before starting maternity leave.
Notice to start maternity and parental leave

An employee must:
- give the employer written notice at least 6 weeks before starting maternity or parental leave, and aren’t required to specify a return date in the notice

If circumstances prevent an employee from providing written notice and/or medical certificate 6 weeks before starting a leave, employees are still eligible but must provide notice as soon as possible. A medical certificate for maternity leave must be provided within two weeks of the mother’s last day at work, or as soon as possible.

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

Note: A birth mother on maternity leave isn’t required to provide the employer with notice before taking parental leave, unless she originally arranged to only take 16 weeks of maternity leave.

Reference: ES Code, Sections 47, 48 and 51

Notice to end maternity and parental leave

An employee must:
- give the employer at least 4 weeks’ written notice of the date the employee will return to work, or if the employee chooses not to return to work after their leave ends

Reference: ES Code, Section 53(8)

Extended leave

The Code provides for 16 weeks of maternity leave and 62 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.

Federal assistance


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.

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.

Alberta Human Rights

Under Alberta Human Rights, employers are responsible for their duty to accommodate and have responsibilities related to pregnancy, childbirth and adoption. More information can be found in these resources:
- https://albertahumanrights.ab.ca/employment/Pages/employer_info.aspx
- https://albertahumanrights.ab.ca/employment/Pages/employee_info.aspx

For more information on these and other obligations, contact your local Alberta Human Rights Commission Office:
- Edmonton: 780-427-7661
- Calgary: 403-297-6571
- Toll-free: 310-0000
- Website: www.albertahumanrights.ab.ca
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 take leave when deployed to an operation outside of Canada (including any required pre- or post-deployment activities) or within Canada to assist with an emergency.

Employees are eligible for reservist leave after 26 consecutive weeks of employment with the same employer.

Reference: ES Code, Section 53.2

<table>
<thead>
<tr>
<th>Allowed operations and activities for reservist leave:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deployment to a Canadian forces operation outside Canada.</td>
</tr>
<tr>
<td>Deployment to a Canadian forces operation within Canada that is assisting with an emergency or the aftermath of an emergency.</td>
</tr>
<tr>
<td>Annual training, included related travel time, for up to 20 days in a calendar year.</td>
</tr>
<tr>
<td>Other operations set out as such in the Employment Standards Regulation by the Minister.</td>
</tr>
</tbody>
</table>

Note: Participation in pre- or post-deployment activities in connection with an operation is also considered part of deployment for the operation.

Length of leave

Employees can take periods of unpaid, job-protected leave:

• up to 20 days each calendar year for annual training

OR

• as long as necessary to accommodate the period of service required for international or domestic deployment

Periods of leave do not have to be consecutive days.

Notice to start reservist leave

An employee must:

• give the employer at least 4 weeks’ written notice of the date on which the leave will start, and the estimated date on which the reservist intends to return to 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 4 weeks’ written notice of the date on which leave will start and the actual date on which the reservist intends to return to work

Reference: ES Code, Section 53.2

Remember! The employer may ask for a document from the employee’s commanding officer that states the employee is taking part in an operation or activity that qualifies for reservist leave, the start date of leave and the estimated or known length of leave.

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 or her notice to go on leave

Note: Written notice is required if this date changes.
Where a reservist has been on leave for a domestic or international deployment for more than four weeks:

- reservist must give at least 4 weeks’ written notice of the day on which the employee intends to return to 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
Section Overview
This section covers the employer’s responsibilities under the Code when an employment relationship ends.

Section 8: Termination of employment

- General termination rules 51
- Deadline of payments for amounts owed 51
- When an employee terminates employment 51
- When an employer terminates employment 52
  - Determining length of service 52
  - Contents of the termination notice 53
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  - Calculating termination pay 54
  - Situations where no termination is allowed 54
- What is just cause? 55
  - Employer’s responsibility 55
  - Situations that can merit just cause for dismissal 56
- What is a temporary layoff? 57
- Group termination 58
General termination rules

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:

• when an employee terminates employment
• when an employer terminates employment

Remember! Regardless of who decides to terminate the employment, if the period of employment is 90 days or less, no notice is required from either party.

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

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:

<table>
<thead>
<tr>
<th>Notice</th>
<th>Length of employment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 week</td>
<td>More than 90 days, but less than 2 years</td>
</tr>
<tr>
<td>2 weeks</td>
<td>2 years or more</td>
</tr>
</tbody>
</table>

Reference: ES Code, Section 58(1)

Employees are not required to give termination notice if:

• they have been employed for less than 90 days
• 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 casually 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)
Section 8: Termination of employment

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

When an employer terminates employment

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

<table>
<thead>
<tr>
<th>Notice</th>
<th>Length of employment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 week</td>
<td>More than 90 days, but less than 2 years</td>
</tr>
<tr>
<td>2 weeks</td>
<td>2 years or more, but less than 4 years</td>
</tr>
<tr>
<td>4 weeks</td>
<td>4 years or more, but less than 6 years</td>
</tr>
<tr>
<td>5 weeks</td>
<td>6 years or more, but less than 8 years</td>
</tr>
<tr>
<td>6 weeks</td>
<td>8 years or more, but less than 10 years</td>
</tr>
<tr>
<td>8 weeks</td>
<td>10 years or more</td>
</tr>
</tbody>
</table>

Reference: ES Code, Section 56

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

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. Reference: ES Code, Section 60

Determining length of service

An employee’s length of service is the time that the employee has been employed for the employer. It can include more than one period of employment, if the breaks between periods are not longer than 90 days. 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.
Employers are not required to give termination notice (or pay in lieu) to certain employees.

| General | Employed for 90 days or less  
| Temporary employees | 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  
| | Casual employees employed under an arrangement where they may choose to work or not work when requested to  
| Employees in industries with exceptions | Employed on-site in the construction industry  
| | Employed in the cutting, removal, burning or other disposal of trees and/or brush for the primary purpose of clearing land  
| Business circumstances | When a contract of employment becomes impossible to perform due to unforeseeable/unpreventable circumstances beyond the employer’s control  
| | Not provided with work as a result of a strike or lockout  
| | Temporarily laid off**  
| Employee decision | Refused work made available through a seniority system  
| | When employment terminates as a result of the employee failing to return to work within 7 consecutive days of a recall from temporary layoff  

*See What is just cause? in this section for more information.  
**Termination notice is not required, but a temporary layoff notice is. See What is a temporary layoff in this section for more information.

While the Code does not legislate termination notice for these employees, they may be entitled to notice under common law.  
Reference: ES Code, Section 55(2)

Contents of the termination notice

To be valid, a termination notice must:
- in writing and addressed to the employee concerned  
- given or otherwise provided to the employee  
- for the correct notice period or longer  
- include a termination date  

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

See Additional resources: Sample termination letter.

Termination pay (pay in lieu of notice)

If an employer, for any reason, does not wish to have an employee work out the remainder of the 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

When an employee terminates employment

If an employee provides notice, the employee can either work out the notice period or, if the employer wishes to dismiss them immediately, can be paid termination pay dependant on the amount of notice given.
Regardless of the amount of notice an employee provides, the most an employer is required to allow the employee to work or provide termination pay (or a combination thereof) is the amount of notice the employer would have been required to provide if they terminated the employee.

<table>
<thead>
<tr>
<th>Notice given by employee</th>
<th>Employer’s termination options</th>
</tr>
</thead>
</table>
| Less than what the employer would be required to give | • Pay termination pay for the number of weeks the employee gave notice and dismiss immediately  
• Direct the employee to work the notice period and no termination pay required |
| Greater than or equal to what the employer would be required to give | • Pay termination pay only up to the number of weeks the employer would be required to give the employee termination notice and dismiss immediately  
• Direct the employee to work part of the notice period and pay the remainder of the notice as termination pay (up to the sum of weeks the employer would be required to give the employee termination notice)  
• Direct the employee to work the notice period the employer would be required to give and provide no termination pay  
• Allow the employee to work out the full notice period if greater notice than what’s required is provided. |

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, termination pay is determined by taking the average of the employee’s regular wages in the 13 weeks preceding the termination date in which the employee actually worked, not just the 13 calendar weeks immediately preceding the termination date.

Situations where termination is not 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 exception is where the dismissal is in violation of human rights legislation.  
Go to www.albertahumanrights.ab.ca for more information.

There are also situations where an employer is not permitted to terminate an employee.

An employer may not terminate the employment of, or lay off, an employee who:
• has started a job-protected leave  
OR  
• is entitled to or has started maternity or parental leave

However, an employee on a long-term job-protected 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 and operations are resumed within 52 weeks following the end of the employee’s long-term job-protected leave, 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.

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
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.

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, terminated or have employment restricted 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 they are entitled
- 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.

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.

See Additional Resources: Sample warning letter.

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 job prospects.

Go to www.albertahumanrights.ab.ca/Documents/SexualHarass.pdf for more information on an employer’s responsibilities in cases of sexual harassment.

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.

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, and
• 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
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 **60 days within a 120-day period**.

An employee’s employment is considered to be terminated, and the employer must pay termination pay, on the 61st 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. The employee has to agree to receive wages/benefits for the employer to extend the temporary layoff period. 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

**See Additional Resources:** Sample company layoff notice.
Notice for temporary layoff must be provided to employees:
• at least one week prior to the date layoff begins if the employee has been employed by the employer for less than 2 years
• at least 2 weeks prior to the date layoff begins if the employee has been employed by the employer for 2 or more years
This notice must be provided unless there is a Collective Agreement that states otherwise, or there are unforeseeable circumstances.
Reference: ES Code, Sections 62, 63 and 64

Group terminations

If an employer intends to terminate the employment of 50 or more employees at a single location within a 4-week period, the employer must give the Minister of Labour, the affected employees and their unions(s) the following amount of written notice, according to the number of employees affected:
• 8 weeks - 50 or more employees but less than 100
• 12 weeks - 100 or more employees but less than 300
• 16 weeks - 300 or more employees

Note: Group termination notice is not required if employees are employed on a seasonal basis or for a definite term or task.

To be valid, a notice of group termination must:
• be in writing
• be provided to all affected employees as per the timelines above
• specify the number of employees whose employment will be terminated, and
• state the effective date of the terminations.

A group termination form must also be completed by the employer and submitted to Employment Standards. Visit alberta.ca/EmploymentStandards to view the form.
Reference: ES Code, Section 137

Note: Group termination notice meets the required individual termination notice if it is given directly to the employee and the employee is identified in the notice as an affected employee.

The notice may be provided to affected employees through mail, fax or email to an address provided by the employee.
Section 9: Youth employment

Section Overview
This section describes the regulations surrounding the employment of youth in the province of Alberta. It covers the rules of employing a worker under the age of 18, the types of jobs that are allowed and general restrictions concerning their employment.
Section 9: Youth employment

### Employing youth 12 years of age and under

**Updated rules around the employment of young workers who are 12 years of age came into effect January 1, 2019.**

**Types of jobs allowed**

They may be employed only in an artistic endeavour. An artistic endeavour is considered work in:

- recorded entertainment:
  - film, radio, video or television
  - television and radio commercials
- voice recordings for video and computer gaming
- live performances:
  - theatre
  - musical performances

Employees 12 and under can only be employed with a permit issued on application to the Director of Employment Standards.

Reference: ES Regulation, Section 51

**Hours of work**

Hours of work will be determined during the permit evaluation process

**Remember!** The parent or guardian of a youth aged 12 and under must agree to the employment and provide written consent to the employer, prior to starting work.

### Employing youth 13 to 14 years of age

**Types of jobs allowed**

- Any of the following jobs:
  - clerk or messenger in an office or retail store,
  - delivery person for small goods and merchandise for a retail store
  - delivering flyers, newspapers and handbills or
  - certain duties in the restaurant and food services industry

Restaurants have specific rules for employees between 13 and 14. There are certain jobs they can do, certain jobs they can never do, and specific safety rules.

Visit alberta.ca/ESyouth for more details.

- An artistic endeavour with a permit from Employment Standards
- Work not listed above with a permit from Employment Standards.

Reference: ES Code, Section 65.2

In order to employ a youth between the age of 13 and 14 in any work not mentioned above, a permit is required from the Director of Employment Standards. The application requires the consent of a parent or guardian.
Hours of work
Employees between the ages 13 and 14 are not allowed to work between 9:00 pm and 6:00 am.
On the employee’s school day, they may only work up to two hours outside of regular school hours.
On the employee’s non-school day, they may work up to 8 hours.
Reference: ES Regulation, Section 52(1)

Employing youth 15 to 17 years of age

Types of jobs allowed
They may be employed in any type of work. No permits are required.
Reference: ES Code, Section 65.3

Hours of work
Employees who are 15 years of age cannot work during regular school hours unless enrolled in an off-campus education program.
Employees 15 to 17 years of age who work in retail or hospitality (as listed below) can only work between 9 pm and 12 am with adult supervision. They can’t work between 12:01 am and 6 am even with adult supervision.
Employees 15 to 17 years of age who work in jobs that are not in retail or hospitality can work between 12:01 am and 6:00 am. However, they require:
• parental or guardian consent
AND
• adult supervision
Reference: ES Regulation, Sections 53(1) and 53(2)

Retail includes selling on premises:
• any food or beverages
• any other commodities, goods, wares or merchandise
• gasoline, diesel fuel, propane or any other product of petroleum or natural gas
Hospitality includes hotels, motels or any place that provides overnight accommodation to the public.
Reference: ES Regulation, Sections 53(1) and 53(4)

Employer’s responsibility
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 youth.

The employer must also:
• complete a written hazard assessment of the youth employee’s worksite
• keep a copy of the hazard assessment at the worksite
• control or eliminate all hazards
• warn the youth about any hazard that might affect them

See Additional resources: Sample hazard assessment form.
Section 9: Youth employment

Employment permits

Permits are required for youth to be employed in certain jobs depending on their age. 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 youth, before the employment starts.

Reference: ES Regulation, Section 54

Jobs that require permits

- Ages 14 and under – artistic endeavours
- Ages 13 - 14 – work that is not on the list of types of jobs allowed

Applying for a permit to employ a youth

Applicants must submit a written application for a permit. Visit alberta.ca/ESyouth for details on how to apply for a permit.

The youth 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 youths.

Remember! Youths and their employers have other rights and responsibilities under Alberta’s employment standards and occupational health and safety laws.
Section Overview

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

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Voluntary resolution 64
Non-voluntary resolution 65
How a complaint is filed 65
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If the minimum standards have been met 66
If the minimum standards haven’t been met 66
Administrative penalties 67
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Prosecution under the Code 67
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 through voluntary resolution, the Code provides a fair and equitable non-voluntary 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 earnings and benefits that meet or exceed the minimum standards set by law. However, in some instances employers fail to give their employees earnings and 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 through voluntary resolution.

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.

## Voluntary resolution

The first step to resolving an issue is having a discussion with the employee to see if the issue can be resolved. Voluntary resolution is a way for the employer and employee to reach an agreement that resolves some or all aspects of the complaint.

If both parties reach an agreement, it may be accompanied by a direction of officer if the employer has been found to be non-compliant with the minimum employment standards. This directs the employer on how to change their actions to be compliant.

*Note: Voluntary resolution can be an option at any point during the complaint resolution process, even if the complaint is under a formal investigation.*

Voluntary resolution can occur in three ways:

1. When notified of the complaint, the employer accepts responsibility and pays what’s owed the employee or provides the missing entitlements.
2. Discussions directly between the employer and employee result in an agreement.
3. Through a mediation process with the involvement of Employment Standards.

Visit [alberta.ca/EmploymentStandards](http://alberta.ca/EmploymentStandards) for more information on the mediation process.
Non-voluntary resolution

Non-voluntary resolution occurs when a voluntary agreement can’t be reached between the employer and employee in terms of paying money owed, reinstatement of the employee, or any other non-compliance with the employment standards.

This results in a formal investigation of a complaint submitted by an employee to Employment Standards and if it is identified that an offence has occurred, enforcement actions will be issued.

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 complaint.

Note: When a third party is concerned that an employer is not complying with the Code, they can submit an anonymous tip to Employment Standards.

An individual can make a complaint to Employment Standards:
• at any point during their employment
OR
• within 6 months of termination of their employment

Visit: www.alberta.ca/EScomplaints to submit a complaint and learn more about the 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.

Complaint investigation process

Employment Standards assesses all employee complaints and anonymous tips to determine the 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 to understand their rights and obligations under the Code.

Mediation is used by officers as a form of voluntary resolution where:
• insufficient or contradictory evidence exists concerning the exact entitlements
• the parties request assistance in mediating a resolution to their dispute
• the normal complaint process is unlikely to result in collection of the full entitlements due

Reference: ES Code, Section 84
During an investigation, an officer may request to review documentation including payroll records and timesheets. If requested, the employer must oblige.

**Enforcement actions**

Employment Standards has a variety of formal enforcement tools to enforce compliance of the legislated standards, including:

- notices
- decision of officer or Director
- direction of officer or Director
- order of officer or Director
- administrative penalties
- prosecution

If an investigation reveals that an employer has failed to meet the Code’s standards, and voluntary resolution is unsuccessful, the officer, or in some cases the Director of Employment Standards, will issue an order.

**If the minimum standards have been met**

If the employer has met the minimum standards, the officer or Director can issue a decision stating the employer is compliant with the Code and inform the employee.

**If the minimum standards haven’t been met**

If the employer hasn’t met the minimum standards and a resolution can’t be reached through mediation, an order of officer or Director can be made and issued to both the employer and the employee.

The order will state the amount owed to the employee as a result of the employer’s non-compliance of meeting the minimum standards of the Code. Non-monetary issues including improper suspension, termination or temporary lay-off can only be addressed by an order of Director.

Reference: *ES Code, Sections 87 and 89*

Failure to comply with the Code’s minimum standards or an enforcement action can result in administrative penalties issued to the employer or prosecution.

Reference: *ES Code, Sections 123.1 and 133*

Visit [alberta.ca/EmploymentStandards](http://alberta.ca/EmploymentStandards) for more information on enforcement actions.
Administrative penalties

If an employer fails to comply with the Code or an enforcement action, they may face additional penalties. An employer may be issued a notice to comply. If they are still non-compliant, a notice of administrative penalty may be issued.

Note: An administrative penalty may be appealed if the employer believes they have been wrongfully issued a notice of administrative penalty.

Reference: ES Regulation, Schedule 2

Administrative penalty amounts are progressive, and increase for repeated contraventions. If an penalty is paid and the employer becomes compliant, no further action is required. If a penalty hasn’t been paid, prosecution may result.

Reference: ES Code, Section 123.1

Visit alberta.ca/EmploymentStandards for more information on administrative penalties.

Appeals

An employer or employee can appeal an enforcement action within 21 days of receipt of the document they are appealing.

An employer may appeal:
• an order
• a single employer declaration
• a Director’s collection notice
• a notice of administrative penalty
• a Director’s cancellation of an averaging agreement

Visit alberta.ca/EmploymentStandards for more information on appeals.

Prosecution under the Code

Any serious or willful contravention or failure to comply with the Employment Standards or enforcement action by an employer may result in prosecution as an offence under the Employment Standards Code.

If a prosecution is to occur, it must be within two years of the date on which the alleged offence occurred.

When a corporation commits an offence under the Code, every director or officer of the corporation who directed, authorized, assented to, permitted, participated in or acquiesced is guilty of the offence, whether or not the corporation has been prosecuted for or convicted of the offence.

Visit alberta.ca/EmploymentStandards for more information on the complaint resolution process.
### Additional resources

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<tr>
<td>Flexible Averaging Agreement</td>
<td>84</td>
</tr>
<tr>
<td>Group Hours of Work Averaging Agreement</td>
<td>86</td>
</tr>
<tr>
<td>Individual averaging agreement</td>
<td>88</td>
</tr>
<tr>
<td>Individual overtime agreement</td>
<td>90</td>
</tr>
<tr>
<td>Group overtime agreement</td>
<td>91</td>
</tr>
<tr>
<td>Group overtime agreement – Part A and Part B</td>
<td>92</td>
</tr>
<tr>
<td>Management or supervisory employee questionnaire</td>
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<td>General holidays in Alberta</td>
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<td>Sample warning letter (on company letterhead)</td>
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<tr>
<td>Sample termination letter (on company letterhead)</td>
<td>96</td>
</tr>
<tr>
<td>Sample temporary layoff notice</td>
<td>97</td>
</tr>
<tr>
<td>Sample hazard assessment form</td>
<td>98</td>
</tr>
<tr>
<td>Sample hazard assessment and control sheet</td>
<td>99</td>
</tr>
<tr>
<td>Parent/guardian consent for employment of a youth</td>
<td>101</td>
</tr>
<tr>
<td>Common exceptions from Employment Standards</td>
<td>103</td>
</tr>
<tr>
<td>Glossary</td>
<td>105</td>
</tr>
</tbody>
</table>
**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.

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**

<table>
<thead>
<tr>
<th>Direction and control</th>
<th>Employee</th>
<th>Contractor</th>
</tr>
</thead>
</table>
| **Method of payment**     | • 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 | • 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**         | • Usually works specified hours set by the employer                      | • Generally is free to choose time of work                                 |
| **Benefit plans**         | • Receives benefits such as vacation pay, Employment Insurance and Canada Pension Plan contributions. Benefits are paid for in full or part by the employer | • May pay insurance premiums for privately held-plans  
• In most cases, does not participate in the Employment Insurance program |
| **Training**              | • Receives in-house, on-the-job or outside training that is provided, paid or reimbursed by the employer | • Has the required training before starting the job  
• Pays his or her own training costs |
| Full-time, personal and exclusive service | • 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 | • 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 | • Works under the direction and control of an employer | • 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 | • Can be discharged from work, provided Alberta’s Employment Standards Code and other requirements are met  
• Can terminate his or her employment in accordance with Alberta’s Employment Standard’s Code requirements | • Normally, as long as he/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 | • 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 | • 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 | • May perform a variety of tasks and duties (the relationship with the employer continues after these tasks or duties have been completed) | • 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 | • Usually uses a workspace, furniture, phone, computer and related equipment provided, maintained and paid for by the employer | • 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 |
| Tools and Equipment | • 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) | • 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 |
<table>
<thead>
<tr>
<th><strong>Chance of profit or risk of loss</strong></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Profit</strong></td>
<td><strong>Risk of loss</strong></td>
</tr>
<tr>
<td>• Does not necessarily earn more if work is completed more quickly than expected or if other savings occur</td>
<td>• Stands to make more money if project work is completed more quickly than expected or if other savings occur</td>
</tr>
<tr>
<td>• May earn more through bonuses or incentive pay plans</td>
<td></td>
</tr>
<tr>
<td>• May earn more as length of service or experience increases</td>
<td>• 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</td>
</tr>
<tr>
<td></td>
<td>• Risk having periods with less work (possibly after an unsuccessful contract bid) and therefore less income</td>
</tr>
<tr>
<td></td>
<td>• May have to deal with bad debts</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Integration</strong></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Independence and self-employment</strong></td>
<td><strong>Acts on his or her own behalf</strong></td>
</tr>
<tr>
<td>• Is not self-employed</td>
<td>• Is in business for his or her own benefit and is not part of the payer’s business</td>
</tr>
<tr>
<td>• Is part of the employer’s business and depends on one income source (part-time employees with several employers are still employees)</td>
<td>• Relies on several income sources or payers over time</td>
</tr>
<tr>
<td>• The longer and more permanent the working relationship, the more likely that someone is considered to be an employee</td>
<td>• Does business with the general public.</td>
</tr>
<tr>
<td></td>
<td>• May hold a business license</td>
</tr>
<tr>
<td></td>
<td>• Has a GST number or WCB account</td>
</tr>
</tbody>
</table>

Pay statement

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

- Pay period covered by the statement
- Number of regular and overtime hours worked
- Number of hours taken off in lieu of overtime
- Wage rate and overtime rate
- Earnings paid: showing each component of the earnings separately (e.g. wages, overtime, general holiday pay and vacation pay)
- 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  
Overtime hours worked: 2  
Overtime hours banked: 3

<table>
<thead>
<tr>
<th>Hours</th>
<th>Earnings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regular hours</td>
<td>30</td>
</tr>
<tr>
<td>Overtime</td>
<td>2</td>
</tr>
<tr>
<td>Time off in lieu of overtime (taken April 22, Year) (3 banked hours x $15.00/hour)</td>
<td>3</td>
</tr>
<tr>
<td>General holiday pay (8 hours x $22.50/hour +$90.00)</td>
<td>8</td>
</tr>
<tr>
<td>Vacation pay (4%) (Optional – list only if being paid)</td>
<td></td>
</tr>
<tr>
<td>Total earnings:</td>
<td></td>
</tr>
</tbody>
</table>

**Deductions: (amounts are examples only)**

<table>
<thead>
<tr>
<th>Deductions</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Income tax</td>
<td>($50.00)</td>
</tr>
<tr>
<td>EI</td>
<td>($20.00)</td>
</tr>
<tr>
<td>CPP</td>
<td>($9.00)</td>
</tr>
<tr>
<td>Total deductions:</td>
<td>($79.00)</td>
</tr>
<tr>
<td>Net pay</td>
<td>$686.00</td>
</tr>
</tbody>
</table>

*Average daily wage calculated as 5% of wages in the four weeks proceeding the holiday. Assuming $450 in wages was earned for each of the four weeks, the average daily wage is $90.00
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)

<table>
<thead>
<tr>
<th>Employee name:</th>
<th>Date:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employee number:</td>
<td>Department:</td>
</tr>
<tr>
<td>Title/Job description:</td>
<td></td>
</tr>
</tbody>
</table>

<p>| Week one: |
|---|---|---|---|---|---|</p>
<table>
<thead>
<tr>
<th>Date</th>
<th>Activity</th>
<th>Time start</th>
<th>Break</th>
<th>Time finish</th>
<th>Hours</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td></td>
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<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Week one total hours:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<p>| Week two: |
|---|---|---|---|---|---|</p>
<table>
<thead>
<tr>
<th>Date</th>
<th>Activity</th>
<th>Time start</th>
<th>Break</th>
<th>Time finish</th>
<th>Hours</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Week one total hours:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Authorization required for all overtime hours

Total regular hours: 

Total overtime hours:

Supervisor’s signature: 

Supervisor’s signature: 

Authorization required for all overtime hours 

Total regular hours: 

Total overtime hours:
## Employee weekly time tracking record (template 2)

<table>
<thead>
<tr>
<th>Date</th>
<th>Start time</th>
<th>Breaks</th>
<th>End time</th>
<th>Regular hrs.</th>
<th>Overtime hrs.</th>
<th>Total hrs.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
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<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Weekly totals:**

Employee signature: Date:  
Supervisor signature: Date:
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 Act or regulation, including a regulation under this Act, 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 must not deduct from earnings a sum for
(a) faulty work, as defined in the regulations, of the employee or damage caused by the employee
(b) cash shortages or loss of property if an individual other than the employee had access to the cash or property,
(c) cash shortages resulting from a failure to collect all or any part of the purchase price from a purchaser, or
(d) any other circumstance specified by the regulations.

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, 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
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, 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

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 paycheque.

- Faulty work includes accidental damage to an employer’s vehicle or mistakes in production.
- Cash shortages or loss of property include “walkouts” in a bar or restaurant, “gas and dash” at a service station, or breakage in a restaurant.

- 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 work, cash shortages, uniforms or loss of property.
- In order to change or stop an ongoing deduction from occurring, a new authorization form must be completed.
Averaging Agreement examples

Rules that apply to both Flexible Averaging Agreements (FAA) and Hours of Work Averaging Agreements (HWAA):

- No more than 12 hours per day and an average of 44 hours per week are allowed to be scheduled.
  - All work days and the number of hours to be worked have to be identified in the schedule.
- The averaging period overtime threshold is an average of 44 hours per week for all averaging agreements.

The examples for Hours of Work Averaging Agreements can apply to either individual or group agreements. The calculations in these agreements are the same. There are some differences between individual and group agreements around providing copies of agreements and entering/exiting an agreement. See Section 3: Hours of work and rest more information.

Examples of work schedules for typical averaging agreements

Example 1 – Flexible Averaging Agreement (FAA) work schedule
Averaging period: One week
Daily overtime threshold: 10 hours
Hours scheduled: 44

An employee is provided the following one-week work schedule in their Flexible Averaging Agreement. The employee's daily overtime threshold is a maximum of 10 hours as stated in their flexible averaging agreement.

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Week 1</td>
<td>0</td>
<td>8</td>
<td>8</td>
<td>9</td>
<td>9</td>
<td>10</td>
<td>0</td>
<td>44</td>
</tr>
</tbody>
</table>

Any hours worked over the daily scheduled hours, but less than the overtime threshold of 10, is earned as flexible time. Any hours worked over 10 a day are calculated as daily overtime hours. Additionally, any hours worked over 44 hours per week are calculated as weekly/averaging period overtime hours.

Example 2 – Hours of Work Averaging Agreement (HWAA) work schedule
Averaging period: 6 weeks
Average hours scheduled: 44

An employee with an individual HWAA is provided with the following work schedule. The employee works four days on and two days off over an averaging period of six weeks. The number of scheduled hours average 44 hours a week over the 6-week period.
The scheduled hours averaged over the period cannot exceed 44 a week.

Note: This example could also be provided to a group of employees as part of a group HWAA as the scheduling rules are the same for both individual and group HWAs.

**Examples of overtime calculations for Flexible Averaging Agreement**

**Example 3 - FAA**
Averaging period: 2 weeks
Average hours scheduled: 35
Daily overtime threshold: Nine hours

**Example 3(a) – Daily overtime and flexible time**

An employee is provided the following 2-week schedule in their Flexible Averaging Agreement. For one averaging period, the employee works their scheduled hours and some additional hours. Their scheduled hours are averaged over a 2-week period for an average of 35 hours a week and their agreement states that the daily overtime threshold is 9 hours per day.

<table>
<thead>
<tr>
<th>Week 1</th>
<th>Week 2</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Day 1</strong></td>
<td><strong>Day 1</strong></td>
</tr>
<tr>
<td>Hours scheduled</td>
<td>Hours scheduled</td>
</tr>
<tr>
<td>Hours worked</td>
<td>Hours worked</td>
</tr>
<tr>
<td>Daily OT hours</td>
<td>Daily OT hours</td>
</tr>
<tr>
<td>Flexible hours</td>
<td>Flexible hours</td>
</tr>
<tr>
<td>Total hours</td>
<td>Total hours</td>
</tr>
<tr>
<td><strong>Day 2</strong></td>
<td><strong>Day 2</strong></td>
</tr>
<tr>
<td>9</td>
<td>9</td>
</tr>
<tr>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td><strong>Day 3</strong></td>
<td><strong>Day 3</strong></td>
</tr>
<tr>
<td>9</td>
<td>9</td>
</tr>
<tr>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td><strong>Day 4</strong></td>
<td><strong>Day 4</strong></td>
</tr>
<tr>
<td>9</td>
<td>8</td>
</tr>
<tr>
<td>10</td>
<td>8</td>
</tr>
<tr>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td><strong>Total hours</strong></td>
<td><strong>Total hours</strong></td>
</tr>
<tr>
<td>36</td>
<td>34</td>
</tr>
<tr>
<td>37</td>
<td>35</td>
</tr>
<tr>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>0</td>
<td>1</td>
</tr>
</tbody>
</table>

**Week 1, Day 4**: The employee worked one additional hour over their scheduled hours (10 instead of the scheduled 9). Since the total hours worked are more than the daily overtime threshold outlined in the agreement (9 hours per day), the additional hour is considered overtime.

**Week 2, Day 1**: The employee worked one additional hour over their scheduled hours (nine instead of 8). Since the total hours worked are not more than the daily overtime threshold outlined in the agreement (nine hours per day), the additional hour is considered flexible time. This hour of flexible time is to be taken as one hour of time off with regular pay. It must be taken as time off before the end of the next averaging period.

*Note: The weekly hours worked do not exceed the averaging period threshold of 44 hours a week. Therefore, no averaging period overtime is owed.*

Additional resources
Example 3(b) – Averaging period overtime and flexible time

During a different period, the employee continues to work their scheduled hours, as well as some additional hours on days the employee is not scheduled to work.

<table>
<thead>
<tr>
<th>Week 1</th>
<th>Hours scheduled</th>
<th>Hours worked</th>
<th>Daily OT hours</th>
<th>Flexible hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>Day 1</td>
<td>9</td>
<td>9</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Day 2</td>
<td>9</td>
<td>9</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Day 3</td>
<td>9</td>
<td>9</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Day 4</td>
<td>9</td>
<td>10</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Day 5</td>
<td>0</td>
<td>9</td>
<td>0</td>
<td>9</td>
</tr>
<tr>
<td>Total hours</td>
<td>36</td>
<td>46</td>
<td>1</td>
<td>9</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Week 2</th>
<th>Hours scheduled</th>
<th>Hours worked</th>
<th>Daily OT hours</th>
<th>Flexible hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>Day 1</td>
<td>8</td>
<td>8</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Day 2</td>
<td>9</td>
<td>9</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Day 3</td>
<td>9</td>
<td>9</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Day 4</td>
<td>8</td>
<td>8</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Day 5</td>
<td>0</td>
<td>10</td>
<td>1</td>
<td>9</td>
</tr>
<tr>
<td>Day 6</td>
<td>0</td>
<td>6</td>
<td>0</td>
<td>6</td>
</tr>
<tr>
<td>Total hours</td>
<td>34</td>
<td>50</td>
<td>1</td>
<td>15</td>
</tr>
</tbody>
</table>

Average hours per week 48
Total averaging period overtime 8
Total daily overtime 2

Week 1, Day 4: The employee worked one additional hour over their scheduled hours (10 instead of the scheduled 9). Since the total hours worked are more than the daily overtime threshold outlined in the agreement (9 hours per day), the additional hour is considered overtime.

Week 1, Day 5, the employee worked 9 hours when the employee was not scheduled to work and these hours are calculated as daily flexible time since the total does not exceed the daily overtime threshold.

Week 2, Day 5: The employee worked 10 hours when the employee is not scheduled to work. Since the daily overtime threshold is 9 hours, 9 of the hours worked are calculated as daily flexible time and the other hour is overtime.

Week 2, Day 6: All hours worked are calculated as daily flexible time since the hours worked are less than the daily overtime threshold.

Overtime is owed on the greater of daily overtime or averaging period overtime.

- Average hours worked in excess of 44: 48-44 = 4 hours
- Total averaging period overtime = 4 hours/week x 2 weeks = 8 hours
- Total daily overtime = 1 (Week 1) + 1 (Week 2) = 2 hours

The employee would receive the greater amount of daily or averaging period overtime, and therefore would be owed 8 hours of averaging period overtime.

In addition to overtime, flexible time is owed. When averaging period overtime is owed, an additional calculation is needed to ensure that hours are not double counted as both averaging period overtime and flexible time. Flexible time owed is calculated by taking the total daily flexible time (24 hours) and subtracting averaging period overtime owed (8 hours).

- 24 – 8 = 16 hours of flexible time

Flexible time hours are banked and must be used before the end of the next averaging period.

*Note: If flexible time is not used by the end of the next averaging period, it must be paid at the employee’s regular wage rate in the following pay period.*
Examples of overtime calculations for Hours of Work Averaging Agreements

Example 4 - HWAA
Averaging period: One week
Average hours scheduled: 40

Example 4(a) – Daily overtime
An employee is provided the following schedule in an HWAA agreement. Their scheduled hours over the period add up to 40 hours. During one period an employee works the following hours, which include hours in addition to what is scheduled:

<table>
<thead>
<tr>
<th>Day</th>
<th>Hours scheduled</th>
<th>Hours worked</th>
<th>Daily OT hours</th>
<th>Weekly OT hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>Day 1</td>
<td>8</td>
<td>10</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Day 2</td>
<td>9</td>
<td>9</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Day 3</td>
<td>8</td>
<td>11</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>Day 4</td>
<td>4</td>
<td>4</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Day 5</td>
<td>6</td>
<td>6</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Day 6</td>
<td>5</td>
<td>5</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>40</td>
<td>45</td>
<td>5</td>
<td>1</td>
</tr>
</tbody>
</table>

Overtime is owed on the greater of daily overtime or averaging period overtime:

- The total daily overtime is five hours.
- Overtime is not owed for Day 2 even though the employee worked more than 8 hours since the employee was scheduled to work 9 hours. Overtime would be due if the employee worked more than their scheduled 9 hours on this day.
- The averaging period overtime is one hour since the hours worked exceed 44.

The employee would receive the greater amount of daily or averaging period overtime, and therefore would be owed five hours of daily overtime.

Example 4(b) – Changes to work schedules with less than two weeks’ notice
During the next period, the employer changed an employee’s schedule without the employee requesting the change and with less than two weeks’ notice. The employer changes the schedule to decrease the hours on Day 1 to 3 hours and increase the hours on Day 4 to 9 hours. An employee works the new scheduled hours for the week:

<table>
<thead>
<tr>
<th>Day</th>
<th>Original hours scheduled</th>
<th>Changed schedule</th>
<th>Hours worked</th>
<th>Daily OT hours</th>
<th>Weekly OT hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>Day 1</td>
<td>8</td>
<td>3</td>
<td>3</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Day 2</td>
<td>9</td>
<td>9</td>
<td>9</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Day 3</td>
<td>8</td>
<td>8</td>
<td>8</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Day 4</td>
<td>4</td>
<td>9</td>
<td>9</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Day 5</td>
<td>6</td>
<td>6</td>
<td>6</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Day 6</td>
<td>5</td>
<td>5</td>
<td>5</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>40</td>
<td>40</td>
<td>40</td>
<td>1</td>
<td>0</td>
</tr>
</tbody>
</table>
Since the employer provided less than two weeks' notice for a schedule change, the daily overtime threshold for the changed schedule is 8 hours. One hour of overtime is owed for Day 4 even though nine hours are scheduled and the employee does not work in excess of those hours. The employee is owed the greater of daily or averaging period overtime, which is daily overtime in this scenario.

Note: An employer cannot change an employee’s work schedule permanently or frequently as this would breach the terms of the agreement.

Example 5 - HWAA overtime scenarios
Averaging period: 3 weeks
Average hours scheduled: 35

Example 5(a) – Scheduled vs. unscheduled hours
An employee is provided the following 3-week work schedule as part of an HWAA. The scheduled hours averaged over the period are 35 hours a week. During Week 2 and Week 3 of the averaging period the employee works hours in addition to what is scheduled.

<table>
<thead>
<tr>
<th>Week 1</th>
<th>Hours scheduled</th>
<th>Hours worked</th>
<th>Daily OT hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>Day 1</td>
<td>8</td>
<td>8</td>
<td>0</td>
</tr>
<tr>
<td>Day 2</td>
<td>10</td>
<td>10</td>
<td>0</td>
</tr>
<tr>
<td>Day 3</td>
<td>8</td>
<td>8</td>
<td>0</td>
</tr>
<tr>
<td>Day 4</td>
<td>10</td>
<td>10</td>
<td>0</td>
</tr>
<tr>
<td>Day 5</td>
<td>8</td>
<td>8</td>
<td>0</td>
</tr>
<tr>
<td>Total hours</td>
<td>44</td>
<td>44</td>
<td>0</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Week 2</th>
<th>Hours scheduled</th>
<th>Hours worked</th>
<th>Daily OT hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>Day 1</td>
<td>8</td>
<td>8</td>
<td>0</td>
</tr>
<tr>
<td>Day 2</td>
<td>10</td>
<td>9</td>
<td>0</td>
</tr>
<tr>
<td>Day 3</td>
<td>7</td>
<td>8</td>
<td>0</td>
</tr>
<tr>
<td>Day 4</td>
<td>10</td>
<td>10</td>
<td>0</td>
</tr>
<tr>
<td>Day 5</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Total hours</td>
<td>34</td>
<td>35</td>
<td>0</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Week 3</th>
<th>Hours scheduled</th>
<th>Hours worked</th>
<th>Daily OT hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>Day 1</td>
<td>9</td>
<td>10</td>
<td>1</td>
</tr>
<tr>
<td>Day 2</td>
<td>9</td>
<td>10</td>
<td>1</td>
</tr>
<tr>
<td>Day 3</td>
<td>8</td>
<td>9</td>
<td>1</td>
</tr>
<tr>
<td>Day 4</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Day 5</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Total hours</td>
<td>26</td>
<td>29</td>
<td>3</td>
</tr>
</tbody>
</table>

Weeks 1 and 2: No overtime is due even though the employee worked more than eight hours a day on some days, since the employee was scheduled to work these hours.

Week 2, Day 3: No overtime is due even though the employee worked more than their scheduled seven hours because the employee did not work more than eight hours that day.

Week 3: Three hours of overtime is owed to the employee since the employee worked more than their daily scheduled hours. The daily overtime threshold is the greater of eight hours a day or their daily scheduled hours (if more than eight were scheduled).

No overtime for the averaging period is to be considered since the average does not exceed 44 hours.
Example 5(b) – Making up missed shifts

The employee missed their scheduled shift on Day 2 of Week 2 and made it up on Day 4 of Week 3 when the employee was not scheduled to work. The employee is to be paid their regular wage rate for hours that were previously scheduled/originally scheduled. Overtime may apply if asked to work beyond the newly scheduled hours.

<table>
<thead>
<tr>
<th>Week 1</th>
<th>Hours scheduled</th>
<th>Hours worked</th>
<th>Daily OT hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>Day 1</td>
<td>8</td>
<td>8</td>
<td>0</td>
</tr>
<tr>
<td>Day 2</td>
<td>10</td>
<td>10</td>
<td>0</td>
</tr>
<tr>
<td>Day 3</td>
<td>8</td>
<td>8</td>
<td>0</td>
</tr>
<tr>
<td>Day 4</td>
<td>10</td>
<td>10</td>
<td>0</td>
</tr>
<tr>
<td>Day 5</td>
<td>8</td>
<td>8</td>
<td>0</td>
</tr>
<tr>
<td>Total hours</td>
<td>44</td>
<td>44</td>
<td>0</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Week 2</th>
<th>Hours scheduled</th>
<th>Hours worked</th>
<th>Daily OT hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>Day 1</td>
<td>8</td>
<td>8</td>
<td>0</td>
</tr>
<tr>
<td>Day 2</td>
<td>9</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Day 3</td>
<td>7</td>
<td>8</td>
<td>0</td>
</tr>
<tr>
<td>Day 4</td>
<td>10</td>
<td>10</td>
<td>0</td>
</tr>
<tr>
<td>Day 5</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Total hours</td>
<td>34</td>
<td>26</td>
<td>0</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Week 3</th>
<th>Hours scheduled</th>
<th>Hours worked</th>
<th>Daily OT hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>Day 1</td>
<td>9</td>
<td>10</td>
<td>1</td>
</tr>
<tr>
<td>Day 2</td>
<td>9</td>
<td>9</td>
<td>0</td>
</tr>
<tr>
<td>Day 3</td>
<td>8</td>
<td>9</td>
<td>1</td>
</tr>
<tr>
<td>Day 4</td>
<td>0</td>
<td>10</td>
<td>1</td>
</tr>
<tr>
<td>Day 5</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Total hours</td>
<td>26</td>
<td>29</td>
<td>3</td>
</tr>
</tbody>
</table>

In Week 3 while making up the missed shift, the employee worked 10 hours. The employee is entitled to 9 hours of regular pay (based on the number of hours originally scheduled) and one hour of overtime. The employee also worked an additional hour on Day 1 and 3 and is owed two hours of daily overtime for those days. Total overtime for the period is 3 hours.

Note: No overtime for the averaging period is owed since the average does not exceed 44 hours.
Example 6 – HWAA averaging period overtime
Averaging period: 4 weeks
Average hours scheduled: 44

An employee is provided the following 4-week work schedule as part of an HWAA. The scheduled hours averaged over the period are 44 hours a week. During Week 2 and Week 4 of the averaging period the employee works hours in addition to what is scheduled.

<table>
<thead>
<tr>
<th>Week 1</th>
<th>Week 2</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Hours scheduled</td>
</tr>
<tr>
<td>Day 1</td>
<td>10</td>
</tr>
<tr>
<td>Day 2</td>
<td>10</td>
</tr>
<tr>
<td>Day 3</td>
<td>10</td>
</tr>
<tr>
<td>Day 4</td>
<td>10</td>
</tr>
<tr>
<td>Day 5</td>
<td>10</td>
</tr>
<tr>
<td>Total</td>
<td>50</td>
</tr>
</tbody>
</table>

|        | Hours scheduled | Hours worked | Daily OT hours |
| Day 1  | 10          | 10           | 0             |
| Day 2  | 10          | 10           | 0             |
| Day 3  | 10          | 10           | 0             |
| Day 4  | 10          | 12           | 2             |
| Day 5  | 0           | 6            | 0             |
| Total  | 40          | 48           | 2             |

Total hours worked 196
Average total weekly hours 49

Overtime is paid on the greater of daily or averaging period overtime. In Week 2 and Week 4 the employee worked a total of four hours of daily overtime.

The averaging period hours average 49 hours per week, which exceeds the overtime threshold of 44 hours per week. Averaging period overtime must be calculated.

Average hours worked in excess of 44: 49-44 = 5

Total averaging period overtime = 5 hours/week x 4 weeks = 20 hours

The employee would receive the greater amount of daily or averaging period overtime, and therefore would be owed 20 hours of averaging period overtime.

Note: Daily overtime must be paid at the end of each pay period. Averaging period overtime must be paid at the end of the averaging period. If the employer had already paid the employee daily overtime owed (four hours), the employer would pay the balance of overtime owed (20-4 = 16 hours) at the end of the averaging period.
Flexible Averaging Agreement

1. __________________________ of __________________________ with __________________________ ("Employee")
   and
   __________________________ / __________________________ of __________________________
   (employer legal name) / (employer operating name) of (employer/company address)
   ("Employer") have agreed to enter into a flexible averaging agreement which commences on
   __________________________ and ends on __________________________.¹

2. The Employer and Employee (the “Parties”) agree that the number of weeks over which the Employee’s
   hours of work will be averaged is _____ weeks.²

3. The Employment Standards Code states that the work week runs from midnight on Saturday to midnight
   on the following Saturday unless the employer has established a different 7 day period as the work week by
   consistent practice. The Parties acknowledge and agree that the work week is
   __________________________ to __________________________ (day of the week).

4. The Parties acknowledge and agree that:
   a. the Employee requested to enter into this agreement;
   b. the Employee was regularly working at least 35 hours per week at the time of the request;
   c. the Employee will continue to regularly work at least 35 hours per week during the term of the
      agreement; and,
   d. this agreement is authorized by the collective agreement, if a collective agreement applicable to
      the Employee.

5. The Parties acknowledge and agree that the Employee’s work schedule, as required by the Employment
   Standards Code and regulations, is attached to this agreement as “Appendix A.”

6. The Parties agree that the Employer shall provide, and the Employee shall take, overtime pay or, subject
   to clause 7, time off instead of overtime pay for overtime hours. Overtime hours are the greater of hours
   worked in excess of:
   a. ______ per work day,³ or
   b. an average of 44 hours per work week in the averaging period.

7. The Parties acknowledge and agree that instead of overtime pay, time off, calculated at 1.5 hours off for
   each overtime hour, with pay, will be provided, taken, and paid at the Employee’s wage rate at a time the
   Employee could have worked and received wages from the Employer. Time off with pay must be taken
   within 6 months of the end of the pay period in which it was earned unless a collective agreement
   applies to this agreement and provides for a longer period in which the time off with pay is to be provided
   and taken.

8. If time off with pay instead of overtime pay is not provided in accordance with clause 7, the Employee will
   be paid overtime pay at an overtime rate of at least 1.5 times the Employee’s wage rate for the overtime
   hours worked.

9. The Parties acknowledge and agree that any hours worked in excess of the scheduled hours and below the
   daily overtime threshold, as specified in 6(a) of this agreement, are considered flexible time.
10. The Parties acknowledge that:
   a. where the Employee works flexible time, the Employer shall provide the Employee with flexible time off with pay at the Employee’s regular wage rate;
   b. the Employee’s flexible time off must be taken before the end of the next averaging period; and,
   c. if flexible time off is not taken before the end of the next averaging period, the Employer shall pay the flexible time owed at the Employee’s regular wage rate.

11. The Parties acknowledge that the Employer must provide a copy of this agreement to the Employee before the commencement date included above or, where the agreement is amended, as soon as possible after the amendment is entered into but before the amendment takes effect.

12. The Parties acknowledge that either Party may cancel this agreement by providing at least 30 days’ notice to the other Party.4

Dated this ______________________ day of ______________________ 20 ______

Signed ______________________ ______________________
(for employer/company) (employee)

Required Appendices:
A. Work Schedule

Optional Appendices:
B. Copy of Employee’s Request to Enter Flexible Averaging Agreement

Notes:
1. Term cannot be longer than 2 years unless it is part of a collective agreement.
2. Averaging period must be 1 or 2 weeks.
3. Daily overtime threshold cannot be set higher than 10.
4. Where a collective agreement applies, cancellation is subject to the collective agreement.
5. The work schedule attached as Appendix A must include the number of hours scheduled for each shift but does not need to include shift start/end times. Start/end times must be provided separately for all shifts following the regular rules (s. 17 of the Employment Standards Code).
Group hours of work Averaging Agreement

1. The employees listed on Part A attached (“Employees”) and

_________________________ / ______________________ of ______________________

(employer legal name) (employer operating name) (employer/company address)

(“Employer”) have agreed to enter into an hours of work averaging agreement which commences on __________________ and ends on __________________ .

(d/m/y) (d/m/y)  

2. The Employer and the Employees (the “Parties”) agree that, at the time this agreement was formed, a majority of the Employees agreed to enter into this agreement.

3. The Parties acknowledge that any new employees will be bound by this agreement if the description of the group of employees listed in Part A applies to them.

4. The Parties agree that the number of weeks over which the Employees’ hours of work will be averaged is ______ weeks.

5. The Employment Standards Code states that the work week runs from midnight on Saturday to midnight on the following Saturday unless the employer has established a different 7 day period as the work week by consistent practice. The Parties acknowledge and agree that the work week is __________________ to __________________ .

6. The Parties acknowledge and agree that the Employees’ work schedule, as required by the Employment Standards Code and regulations, as amended, is attached to this agreement as “Appendix A.”

7. The Parties agree that the Employer shall provide, and the Employees shall take, overtime pay or, subject to clause 8, time off instead of overtime pay for overtime hours. Overtime hours are the greater of hours worked in excess of:

a. 8 hours per work day (if less than 8 hours were scheduled on that work day) or, the scheduled hours per work day (if 8 or more hours were scheduled on that work day); and

b. an average of 44 hours per work week in the averaging period.

8. The Parties acknowledge that a group or individual overtime agreement(s), as the case may be, must be separately entered into where the Employer provides time off with pay instead of overtime pay to the Employees or some of the Employees.

9. The Parties acknowledge that, from time to time, the Employer may make temporary changes to an Employee’s work schedule that were not requested by the Employee as long as two weeks’ notice of the change is provided to the Employee. The Parties acknowledge that if less notice is provided, any hours exceeding 8 hours per work day that were not set out in the Employee’s current work schedule are overtime hours. The Parties acknowledge that notice is not required where an accident has occurred, urgent work is necessary, or other unforeseen or unpreventable circumstances have occurred. The Parties acknowledge that a change to the current work schedule in respect to one employee does not trigger this rule with respect to other employees.

10. The Parties acknowledge that, if within the same averaging period, an Employee makes up a shift on an unscheduled work day for being absent on a scheduled work day, the Employee shall receive their regular wage rate and any applicable overtime in accordance with the originally scheduled shift that was missed.

11. The Parties acknowledge that the Employer must provide a copy of this agreement to each Employee before the commencement date included above or, where the agreement is amended, as soon as possible after the amendment is entered into but before the amendment takes effect. Where new employees have entered into this agreement, the employer must provide a copy as soon as possible after the employee is bound by this agreement. The Employer shall also post a copy of this agreement on the Employer’s website, if the Employer has one, and in one or more conspicuous place(s) in the workplace.
12. The Parties acknowledge that either Party may cancel this agreement by providing at least 30 days’ notice to the other Party and, in the case of cancellation of the agreement by the Employees, where a majority of the Employees consent to the cancellation.4

13. This Agreement may be executed in any number of counterparts or by facsimile or electronically, each of which shall be deemed an original and all of which shall together constitute one and the same contract.5

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

Dated this __________________ day of __________________ 20 __________

(date) (month)

Signed by ____________________________

(for employer/company)

Required Appendices:
A. Work Schedule6
B. Part A – Description of group
C. Part B – Indication of Employee Support

Notes:
1. Term cannot be longer than 2 years unless it is part of a collective agreement.
2. Averaging period must be between 1 to 12 weeks unless a longer period has been authorized by a variance issued by the Director of Employment Standards.
3. Records specifying the group and indicating employee support, samples of which are provided in Part A and Part B of this agreement, must be maintained by the employer but need not be posted publically. Consider the privacy implications of publically posting Part A and Part B of this agreement. Appendix A must be posted publically.
4. Where a collective agreement applies, cancellation is subject to the collective agreement.
5. Part B of the sample agreement is drafted to be signed in counterparts but employers may choose to record indications of employee support in any manner consistent with the Employment Standards Code and relevant privacy legislation.
6. The work schedule attached as Appendix A must include the number of hours scheduled for each shift but does not need to include shift start/end times. Start/end times must be provided separately for all shifts following the regular rules (s. 17 of the Employment Standards Code).

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 __________

Print names legibly.

Part B (to be completed by each employee who supports entering into the agreement)

The employee whose signature appears below wishes to join the group hours of work averaging agreement attached to this form.

Signature ____________________________

Print name legibly ____________________________ Date ____________________________
Individual hours of work Averaging Agreement

1. ___________________________ of ___________________________ with ___________________________ (“Employee”) and ___________________________ (employer legal name) / ___________________________ (employer operating name) of ___________________________ (employer/company address) (“Employer”) have agreed to enter into an hours of work averaging agreement which commences on ___________________________ and ends on ___________________________.

2. The Employer and Employee (the “Parties”) agree that the number of weeks over which the Employee’s hours of work will be averaged is _____ weeks.

3. The Employment Standards Code states that the work week runs from midnight on Saturday to midnight on the following Saturday unless the employer has established a different 7 day period as the work week by consistent practice. The Parties acknowledge and agree that the work week is ___________________________ to ___________________________.

4. The Parties acknowledge and agree that the Employee’s work schedule, as required by the Employment Standards Code and regulations, is attached to this agreement as “Appendix A.”

5. The Parties agree that the Employer shall provide, and the Employee shall take, overtime pay or, subject to clause 6, time off instead of overtime pay for overtime hours. Overtime hours are the greater of hours worked in excess of:
   a. 8 hours per work day (if less than 8 hours were scheduled on that work day) or, the scheduled hours per work day (if 8 or more hours were scheduled on that work day); and
   b. an average of 44 hours per work week in the averaging period.

6. The Parties acknowledge that an overtime agreement must be separately entered into where the Employer provides time off with pay instead of overtime pay to the Employee.

7. The Parties acknowledge that, from time to time, the Employer may make temporary changes to the Employee’s work schedule that were not requested by the Employee as long as two weeks’ notice of the change is provided to the Employee. If less notice is provided, any hours exceeding 8 hours per work day that were not set out in the Employee’s current work schedule are overtime hours. The Parties acknowledge that notice is not required where an accident has occurred, urgent work is necessary, or other unforeseen or unpreventable circumstances have occurred.

8. The Parties acknowledge that, if within the same averaging period, the Employee makes up a shift on an unscheduled work day for being absent on a scheduled work day, the Employee shall receive their regular wage rate and any applicable overtime in accordance with the originally scheduled shift that was missed.

9. The Parties acknowledge that the Employer must provide a copy of this agreement to the Employee before the commencement date included above or, where the agreement is amended, as soon as possible after the amendment is entered into but before the amendment takes effect.

10. The Parties acknowledge that either Party may cancel this agreement by providing at least 30 days’ notice to the other Party.

Dated this ___________________________ day of ___________________________ 20 _______

Signed ___________________________ (for employer/company) ___________________________ (employee)
Required Appendices:
A. Work Schedule

Notes:
1. Term cannot be longer than 2 years unless it is part of a collective agreement.
2. Must be between 1 to 12 weeks unless a longer period has been authorized by a variance issued by the Director of Employment Standards.
3. Where a collective agreement applies, cancellation is subject to the collective agreement.
4. The work schedule attached as Appendix A must include the number of hours scheduled for each shift but does not need to include shift start/end times. Start/end times must be provided separately for all shifts following the regular rules (s. 17 of the Employment Standards Code).
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.

   The work week is ____________________ to ____________________.

   (Day of the week) (Day of the week)

2. Time off with pay is banked at a rate of 1.5 hours for each overtime hour worked.

3. 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.

4. The time off with pay shall be provided, taken and paid within six 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.

5. If the time off with pay instead of overtime is not provided, taken and paid in accordance with paragraph 3, the employee shall be paid overtime pay of at least 1.5 times the employee’s wage rate for the overtime hours worked.

6. Time off in place of overtime shall be treated as hours of work and remuneration paid in respect to time off in place of overtime pay shall be treated as wages.

7. The employer shall provide a copy of this agreement to the employee.

8. No amendment or termination of this agreement shall be effective without at least one month’s notice in writing by one party to the other.

   Dated this __________________ day of ____________________ 20 ______

   Signed ____________________________________________

       For employer/company

   ____________________________

       Employee

Additional resources
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.

   The work week is _____________________________ to _____________________________.

   (Day of the week) (Day of the week)

2. Time off with pay is banked at a rate of 1.5 hours for each overtime hour worked.

3. 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.

4. The time off with pay shall be provided, taken and paid within six 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.

5. If the time off with pay instead of overtime is not provided, taken and paid in accordance with paragraph three, the employee shall be paid overtime pay of at least 1.5 times the employee’s wage rate for the overtime hours worked.

6. Time off in place of overtime shall be treated as hours of work and remuneration paid in respect to time off in place of overtime pay shall be treated as wages.

7. The employer shall provide a copy of this agreement to all employees in the group and to any employee who joins the group during the course of the agreement.

8. No amendment or termination of the agreement shall be effective without at least one month’s notice in writing by one party to the other. In the case of the group giving notice, the notice in writing must be signed by the majority of the employees in the group.

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

Dated this ___________________________ day of ___________________________ 20 ________

Signed _____________________________________________________________

For employer/company

__________________________

Employee
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 legibly

<table>
<thead>
<tr>
<th>Signature</th>
<th>Print name legibly</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tr>
</tbody>
</table>

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.

<table>
<thead>
<tr>
<th>Signature</th>
<th>Print name legibly</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>
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.

<table>
<thead>
<tr>
<th>Employee duties</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Does the individual direct the activities of other employees?</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>Does the individual supervise the activities of other employees?</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>Do the individual’s duties differ from other persons who are supervised?</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>Does the individual receive payment or time off for extra time worked?</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>Does the individual receive a rate of pay that is higher than those supervised?</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>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)?</td>
<td>☐</td>
<td>☐</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Employee authority</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Does the individual have the authority to grant time off or grant leaves of absence?</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>Does the individual make work schedules and assign work to other employees?</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>Does the individual have the authority to authorize overtime?</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>Does the individual have the authority to authorize wage increases for other employees?</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>Does the individual have cheque-signing authority?</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>Does the individual have the authority to discipline workers (such as warn, reprimand and/or suspend employees)?</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>Does the individual have the authority to promote, demote or transfer employees?</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>Does the individual complete performance appraisals for the employees he/she supervises?</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>Does the individual have the authority to hire and fire?</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>Does the individual participate in meetings where policies are made?</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>Does the individual participate in meetings where business decisions are made?</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>Does the individual have the authority to order supplies and pay for them without prior approval by the company?</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>Does the individual’s authority include approving maintenance orders for equipment, repairs, etc.?</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>How do other employees perceive this individual?</td>
<td>☐ Manager  ☐ Supervisor  ☐ Co-Worker</td>
<td></td>
</tr>
</tbody>
</table>
General holidays in Alberta

Under the Code, the following nine days are recognized as general (statutory) holidays:

<table>
<thead>
<tr>
<th>General holiday</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Year’s Day</td>
<td>January 1</td>
</tr>
<tr>
<td>Alberta Family Day</td>
<td>3rd Monday in February</td>
</tr>
<tr>
<td>Good Friday</td>
<td>Varies with religious calendar</td>
</tr>
<tr>
<td>Victoria Day</td>
<td>Monday immediately preceding May 25</td>
</tr>
<tr>
<td>Canada Day</td>
<td>July 1*</td>
</tr>
<tr>
<td>Labour Day</td>
<td>1st Monday in September</td>
</tr>
<tr>
<td>Thanksgiving Day</td>
<td>2nd Monday in October</td>
</tr>
<tr>
<td>Remembrance Day</td>
<td>November 11</td>
</tr>
<tr>
<td>Christmas Day</td>
<td>December 25</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>General holiday</th>
<th>2018</th>
<th>2019</th>
<th>2020</th>
<th>2021</th>
<th>2022</th>
</tr>
</thead>
<tbody>
<tr>
<td>Canada Day</td>
<td>July 2, 2018*</td>
<td>July 1, 2019</td>
<td>July 1, 2020</td>
<td>July 1, 2021</td>
<td>July 1, 2022</td>
</tr>
<tr>
<td>Remembrance Day</td>
<td>Nov. 11, 2018</td>
<td>Nov. 11, 2019</td>
<td>Nov. 11, 2020</td>
<td>Nov. 11, 2021</td>
<td>Nov. 11, 2022</td>
</tr>
</tbody>
</table>

*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.
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.
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

- 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.
Sample temporary layoff notice

Legal Name of Company and Address: ____________________________________________

Company Phone Number: __________________________________________________________

Employee's Name: ________________________________________________________________

Date the temporary layoff will commence: ___________________________________________

In accordance with Section 62 of the Employment Standards Code, this is a notification of temporary layoff.

This layoff is temporary. You will receive a written recall notice if you are recalled by your employer.

If this layoff lasts longer than 60 days within a 120 period, you may be entitled to termination pay.

A simple language guide on the rules around temporary layoff can be found on the Employment Standards website: alberta.ca/EmploymentStandards.

Temporary Layoff Rules
The rules for temporary layoff are listed in Sections 62, 63 and 64 of the Employment Standards Code. These are provided here as required by law.

62 Temporary layoff
62(1) An employer who wishes to maintain an employment relationship without terminating the employment of an employee may temporarily lay off the employee only by giving the employee a written layoff notice.

(2) Unless a collective agreement provides otherwise, a layoff notice must be given to the employee
   (a) at least one week prior to the date that the layoff is to commence, if the employee has been employed by the employer for less than 2 years,
   (b) at least 2 weeks prior to the date that the layoff is to commence, if the employee has been employed by the employer for 2 years or more, or
   (c) if unforeseeable circumstances prevent an employer from providing the notice in accordance with clause (a) or (b), as soon as is practicable in the circumstances.

(3) The layoff notice must
   (a) state that it is a temporary layoff notice,
   (b) state the date that the layoff is to commence,
   (c) include a copy of this section and sections 63 and 64, and (d) include any other information provided for in the regulations.

63 Termination pay after temporary layoff
63(1) The employment of an employee who is laid off for one or more periods exceeding, in total, 60 days within a 120 day period is deemed to have been terminated unless
   (a) during the layoff the employer, by agreement with the employee,
      (i) pays the employee wages or an amount instead of wages, or
      (ii) makes payments for the benefit of the laid-off employee in accordance with a pension or employee insurance plan or similar plan, or
   (b) there is a collective agreement binding the employer and employee containing recall rights for employees following layoff.

(2) When payments cease under subsection (1)
   (a) cease or recall rights under subsection (1)
   (b) expire, the employment of the employee terminates and termination pay is payable.

64 Recall
64(1) An employer may request an employee to return to work by providing the employee with a recall notice.

(2) A recall notice must
   (a) be in writing,
   (b) be served on the employee, and
   (c) state that the employee must return to work within 7 days of the date the recall notice is served on the employee.

(3) If an employee fails to return to work within 7 days of being served with the recall notice, the employee is not entitled to termination notice or termination pay if the employer decides to terminate the employee’s employment as a result of the employee’s failure to return to work in accordance with the notice.

(4) Subsection (3) does not apply to an employee bound by a collective agreement containing recall rights for employees following a layoff.
Sample hazard assessment form

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

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: ___________________

<table>
<thead>
<tr>
<th>Physical hazards</th>
<th>Chemical hazards</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lifting and handling loads</td>
<td>Chemicals (identify types)</td>
</tr>
<tr>
<td>Repetitive motion</td>
<td>• Type:</td>
</tr>
<tr>
<td>Slipping and tripping</td>
<td>• Type:</td>
</tr>
<tr>
<td>Moving parts of machinery</td>
<td>• Type:</td>
</tr>
<tr>
<td>Working at heights</td>
<td>• Type:</td>
</tr>
<tr>
<td>Pressurized systems</td>
<td>• Type:</td>
</tr>
<tr>
<td>Vehicles</td>
<td>Dusts</td>
</tr>
<tr>
<td>Fire</td>
<td>Fumes (identify types)</td>
</tr>
<tr>
<td>Electricity</td>
<td>• Type:</td>
</tr>
<tr>
<td>Noise</td>
<td>• Type:</td>
</tr>
<tr>
<td>Lighting</td>
<td>• Type:</td>
</tr>
<tr>
<td>Temperature – heat or cold</td>
<td>Mists and vapours (identify types)</td>
</tr>
<tr>
<td>Vibration</td>
<td>• Type:</td>
</tr>
<tr>
<td>Ionizing radiation</td>
<td>• Type:</td>
</tr>
<tr>
<td>Workplace violence</td>
<td>• Type:</td>
</tr>
<tr>
<td>Working alone</td>
<td>Other:</td>
</tr>
<tr>
<td>Other:</td>
<td>Other:</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Biological hazards</th>
<th>Psychological hazards</th>
</tr>
</thead>
<tbody>
<tr>
<td>Viruses</td>
<td>Working conditions</td>
</tr>
<tr>
<td>Fungi (mould)</td>
<td>Fatigue</td>
</tr>
<tr>
<td>Bacteria</td>
<td>Stress</td>
</tr>
<tr>
<td>Blood and bodily fluids</td>
<td>Other:</td>
</tr>
<tr>
<td>Sewage</td>
<td>Other:</td>
</tr>
<tr>
<td>Other:</td>
<td>Other:</td>
</tr>
</tbody>
</table>

Note: If you work in a high hazard industry, an industry specific checklist may be required.
Sample hazard assessment and control sheet

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: __________________________

<table>
<thead>
<tr>
<th>Hazard</th>
<th>Controls in place (list)</th>
<th>Follow-up action(s) required</th>
<th>Due date/Person responsible</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Engineering</td>
<td>Administrative</td>
<td>PPE</td>
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</tbody>
</table>

**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.

Controls, in order of preference include:

<table>
<thead>
<tr>
<th>Engineering controls:</th>
<th>Administrative controls:</th>
<th>Personal protective equipment (PPE):</th>
</tr>
</thead>
<tbody>
<tr>
<td>Try to eliminate the hazard completely. This could mean removing trip hazards on the floor or disposing of unwanted chemicals, etc.</td>
<td>Use safe work procedures</td>
<td>Includes gloves, hard hats, hearing and eye protection, safety harnesses, protective clothing, respirators, steel-toed boots</td>
</tr>
<tr>
<td>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</td>
<td>Provide training and supervision for workers</td>
<td>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</td>
</tr>
<tr>
<td></td>
<td>Ensure regular maintenance of machinery and equipment</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Limit exposure times by using job rotation</td>
<td></td>
</tr>
</tbody>
</table>

Additional resources
Parent/guardian consent for employment of a youth

Written consent from a parent or guardian is required in an application for permit to the Director of Employment Standards in order to hire youth under the age of 18.

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.

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.
### Consent for employment of a youth

#### Section A: Youth information

<table>
<thead>
<tr>
<th>Name of young person</th>
<th>Last</th>
<th>First</th>
<th>Middle initial</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mailing address</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Street/PO Box number</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>City</td>
<td>Province</td>
<td>Postal Code</td>
<td></td>
</tr>
<tr>
<td>Telephone</td>
<td>Date of birth</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Home</th>
<th>Cell</th>
<th>Month/Day/Year</th>
</tr>
</thead>
</table>

#### Section B: Employer information

<table>
<thead>
<tr>
<th>Name of business</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Mailing address</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Street/PO Box number</td>
<td></td>
<td></td>
</tr>
<tr>
<td>City</td>
<td>Province</td>
<td>Postal Code</td>
</tr>
<tr>
<td>Telephone</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Business</th>
<th>E-mail</th>
</tr>
</thead>
</table>

#### 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

<table>
<thead>
<tr>
<th>Mailing address</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Street/PO Box number</td>
<td></td>
<td></td>
</tr>
<tr>
<td>City</td>
<td>Province</td>
<td>Postal Code</td>
</tr>
<tr>
<td>Telephone</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Home</th>
<th>Cell</th>
<th>E-mail</th>
</tr>
</thead>
</table>

|     |     |     |
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.

<table>
<thead>
<tr>
<th>Type of salesperson, professional or worker for whom exceptions apply</th>
<th>Records, hours of work and overtime</th>
<th>General holidays and general holiday pay</th>
<th>Vacations and vacation pay</th>
<th>Minimum wage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agrologist or agrologist-in-training</td>
<td>x</td>
<td>–</td>
<td>–</td>
<td>W</td>
</tr>
<tr>
<td>Ambulance attendant</td>
<td>✔</td>
<td>–</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Architect</td>
<td>x</td>
<td>–</td>
<td>–</td>
<td>W</td>
</tr>
<tr>
<td>Automotive, recreational vehicle, truck or bus salesperson</td>
<td>x</td>
<td>x</td>
<td>–</td>
<td>W</td>
</tr>
<tr>
<td>Caregiver (home care and residential care)</td>
<td>✔</td>
<td>–</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Certified general accountant or student member</td>
<td>x</td>
<td>–</td>
<td>–</td>
<td>W</td>
</tr>
<tr>
<td>Certified management accountant or student member</td>
<td>x</td>
<td>–</td>
<td>–</td>
<td>W</td>
</tr>
<tr>
<td>Chartered accountant or student</td>
<td>x</td>
<td>–</td>
<td>–</td>
<td>W</td>
</tr>
<tr>
<td>Chiropractor</td>
<td>x</td>
<td>–</td>
<td>–</td>
<td>W</td>
</tr>
<tr>
<td>Construction equipment (heavy duty or road construction) salesperson</td>
<td>x</td>
<td>x</td>
<td>–</td>
<td>W</td>
</tr>
<tr>
<td>Construction worker*</td>
<td>–</td>
<td>✔</td>
<td>✔</td>
<td>–</td>
</tr>
<tr>
<td>Counsellor or instructor at an educational or recreational camp operated on a charitable/not-for-profit basis</td>
<td>x</td>
<td>x</td>
<td>–</td>
<td>x</td>
</tr>
<tr>
<td>Dentist</td>
<td>x</td>
<td>–</td>
<td>–</td>
<td>W</td>
</tr>
<tr>
<td>Denturist or student</td>
<td>x</td>
<td>–</td>
<td>–</td>
<td>W</td>
</tr>
<tr>
<td>Domestic employee</td>
<td>✔</td>
<td>–</td>
<td>–</td>
<td>M</td>
</tr>
<tr>
<td>Engineer, geoscientist or member-in-training, engineering technologist, Professional Licensee (regulated by APEGA), Professional Technologist (regulated by ASET)</td>
<td>x</td>
<td>–</td>
<td>–</td>
<td>W</td>
</tr>
<tr>
<td>Extra in a film or video production</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Farm machinery salesperson</td>
<td>x</td>
<td>x</td>
<td>–</td>
<td>W</td>
</tr>
<tr>
<td>Farm and ranch worker**</td>
<td>x</td>
<td>✔</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Field catering employee</td>
<td>✔</td>
<td>–</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Occupation</td>
<td>Exception</td>
<td>Exemption</td>
<td>Other</td>
<td>Weekly</td>
</tr>
<tr>
<td>---------------------------------------------------------</td>
<td>-----------</td>
<td>-----------</td>
<td>-------</td>
<td>--------</td>
</tr>
<tr>
<td>Geophysical exploration employee</td>
<td>✓</td>
<td>–</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Information systems professional</td>
<td>x</td>
<td>–</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Insurance salesperson</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Irrigation district employee</td>
<td>✓</td>
<td>–</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Land agent (licensed)</td>
<td>x</td>
<td>–</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Land surveying employee</td>
<td>✓</td>
<td>–</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Lawyer or student-at-law</td>
<td>x</td>
<td>–</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Logging or lumbering employee</td>
<td>✓</td>
<td>–</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Managers, supervisors and those employed in a confidential capacity</td>
<td>x</td>
<td>–</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Mobile/manufactured home salesperson</td>
<td>x</td>
<td>x</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>New home salesperson</td>
<td>x</td>
<td>x</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Oilwell servicing employee</td>
<td>✓</td>
<td>✓</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Optometrist</td>
<td>x</td>
<td>–</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Open-air nursery employee</td>
<td>✓</td>
<td>–</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Podiatrist</td>
<td>x</td>
<td>–</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Psychologist</td>
<td>x</td>
<td>–</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Realtors</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Road construction and maintenance</td>
<td>✓</td>
<td>–</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Salespersons for direct sellers***</td>
<td>x</td>
<td>x</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Securities salesperson</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Taxi cab driver</td>
<td>✓</td>
<td>–</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Traveling salesperson</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>W</td>
</tr>
<tr>
<td>Truck driver</td>
<td>✓</td>
<td>–</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Veterinarian</td>
<td>x</td>
<td>–</td>
<td>–</td>
<td>–</td>
</tr>
</tbody>
</table>

✓ 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
** minimum standards only apply to waged, non-family employees. Therefore, these provisions only apply to those employees.
*** these provisions only apply to those 16 years of age or older.
<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Alberta Human Rights Act (AHR Act)</strong></td>
<td>In Alberta, the <em>Alberta Human Rights Act (AHR Act)</em> protects Albertans from discrimination in certain areas based on specified grounds. The <em>AHR Act</em> 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.</td>
</tr>
<tr>
<td><strong>Alberta Human Rights Commission</strong></td>
<td>The Alberta Human Rights Commission carries out functions under the <em>AHR Act</em>. 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 <a href="http://www.albertahumanrights.ab.ca">www.albertahumanrights.ab.ca</a>.</td>
</tr>
<tr>
<td><strong>Administrative penalty</strong></td>
<td>An administrative penalty is issued to an employer as a result of non-compliance with the minimum employment rules or an enforcement action against the employer.</td>
</tr>
<tr>
<td><strong>Anniversary date</strong></td>
<td>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.</td>
</tr>
<tr>
<td><strong>Average daily wage (as used for calculating general holiday pay)</strong></td>
<td>The average daily wage is used for calculating how much an employee must be paid for a general holiday that was or wasn’t worked. It is calculated as 5% of the employee’s wages, vacation pay and general holiday pay earned in the 4 weeks leading up to the general holiday.</td>
</tr>
<tr>
<td><strong>Averaging agreement</strong></td>
<td>An averaging agreement is a way to average the number of hours an employee works to determine overtime pay or time off with pay. There are two types of agreements: Hours of Work Averaging Agreement (HWAA) and Flexible Averaging Agreements (FAA).</td>
</tr>
<tr>
<td><strong>Bereavement leave</strong></td>
<td>Eligible employees who experience the death of an immediate or extended family member are entitled to an unpaid, job-protected leave of absence for up to three days per year.</td>
</tr>
<tr>
<td><strong>Breach of duty</strong></td>
<td>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.</td>
</tr>
<tr>
<td><strong>Citizenship ceremony leave</strong></td>
<td>Eligible employees who receive notice to receive their Canadian citizenship certificate are entitled to a half-day of unpaid, job-protected leave of absence once in their lifetime.</td>
</tr>
<tr>
<td><strong>Collective agreement</strong></td>
<td>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.</td>
</tr>
<tr>
<td>Term</td>
<td>Description</td>
</tr>
<tr>
<td>-------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Compassionate care leave</td>
<td>Eligible employees 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 27 weeks, and may be broken into multiple periods at least one week in length, within the 27 weeks.</td>
</tr>
<tr>
<td>Continuous employment</td>
<td>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).</td>
</tr>
<tr>
<td>Critical illness of leave</td>
<td>Eligible employees who need to provide care for a critically ill child under the age of 18 are entitled to an unpaid, job-protected leave of absence for up to 36 weeks. Eligible employees who need to provide care to a critically ill adult family member are entitled to 16 weeks.</td>
</tr>
<tr>
<td>Daily overtime hours</td>
<td>Any hours more than eight hours worked in each day are considered daily overtime hours.</td>
</tr>
<tr>
<td>Daily wage</td>
<td>Daily wages means the wage of an employee on a normal work day.</td>
</tr>
<tr>
<td>Date of delivery</td>
<td>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.</td>
</tr>
<tr>
<td>Death or disappearance of child leave</td>
<td>Eligible employees who have experienced the death or disappearance of a child under the age of 18, as a result of a probable crime, are entitled to an unpaid, job-protected leave of absence for up to 52 weeks if the child disappeared of 104 weeks if the child died.</td>
</tr>
<tr>
<td>Domestic violence leave</td>
<td>Eligible employees who have experienced domestic violence are entitled to an unpaid, job-protected leave of absence for up to 10 days per year.</td>
</tr>
<tr>
<td>Earnings</td>
<td>Earnings refer to wages, overtime pay, vacation pay, general holiday pay and termination pay.</td>
</tr>
<tr>
<td>Employee</td>
<td>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.</td>
</tr>
<tr>
<td>Employer</td>
<td>An employer is a person who employs an employee.</td>
</tr>
<tr>
<td>Employment Insurance</td>
<td>Employment Insurance 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.</td>
</tr>
<tr>
<td>Employment record</td>
<td>An employment record is the employment information required by the Code for the employer to keep up to date and any other record needed to determine whether an employee is entitled to anything under the Employment Standards Code.</td>
</tr>
<tr>
<td><strong>Flexible Averaging Agreements (FAA)</strong></td>
<td>At the request of the employee, these agreements allow employers to schedule an individual employee to work longer hours per day paid at their regular wage rate and average the number of hours worked over a period of 1-2 weeks to determine overtime.</td>
</tr>
<tr>
<td><strong>Group overtime agreements</strong></td>
<td>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.</td>
</tr>
<tr>
<td><strong>Hazard</strong></td>
<td>A hazard is any situation, condition or thing that may be dangerous to the safety or health of an employee.</td>
</tr>
<tr>
<td><strong>Hazard assessment</strong></td>
<td>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.</td>
</tr>
<tr>
<td><strong>Hours of work</strong></td>
<td>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.</td>
</tr>
<tr>
<td><strong>Hours of Work Averaging Agreements (HWAA)</strong></td>
<td>Allow employers to schedule an individual employee or group of employees to work longer hours per day paid at their regular wage rate and average the number of hours worked over a period of one to 12 weeks to determine overtime.</td>
</tr>
<tr>
<td><strong>Individual overtime agreements</strong></td>
<td>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 months' notice in writing.</td>
</tr>
<tr>
<td><strong>Just cause</strong></td>
<td>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.</td>
</tr>
<tr>
<td><strong>Length of service</strong></td>
<td>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 90 days.</td>
</tr>
<tr>
<td><strong>Long-term illness and injury leave</strong></td>
<td>Eligible employees who have a long-term illness or injury are entitled to an unpaid, job-protected leave of absence for up to 16 weeks per year.</td>
</tr>
<tr>
<td><strong>Manager</strong></td>
<td>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.</td>
</tr>
<tr>
<td><strong>Maternity leave</strong></td>
<td>Maternity leave is for birth mothers only. It is up to 16 consecutive weeks in duration. It is intended to help mothers recover from the physical strain of childbirth.</td>
</tr>
<tr>
<td><strong>Minimum wage</strong></td>
<td>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</td>
</tr>
</tbody>
</table>
### Glossary

<table>
<thead>
<tr>
<th><strong>Occupational Health and Safety Act (OHS Act)</strong></th>
<th>The <em>OHS Act</em> 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. For more information visit <a href="http://www.work.alberta.ca/ohs">www.work.alberta.ca/ohs</a></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Overtime agreement</strong></td>
<td>An overtime agreement is an agreement between an employer and employees that explains how overtime and overtime pay will be dealt with.</td>
</tr>
<tr>
<td><strong>Parental leave</strong></td>
<td>Mothers, fathers and/or adoptive parents are eligible for up to 62 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 62 weeks.</td>
</tr>
<tr>
<td><strong>Pay period</strong></td>
<td>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.</td>
</tr>
<tr>
<td><strong>Personal and family responsibility leave</strong></td>
<td>Eligible employees who need to address health matters or family responsibilities are entitled to an unpaid, job-protected leave for up to five days per year.</td>
</tr>
<tr>
<td><strong>Record of Employment (ROE)</strong></td>
<td>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 <a href="http://www.canada.ca/en/employment-social-development/programs/ei.html">www.canada.ca/en/employment-social-development/programs/ei.html</a></td>
</tr>
<tr>
<td><strong>Regular schedule</strong></td>
<td>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.</td>
</tr>
<tr>
<td><strong>Reservist leave</strong></td>
<td>Eligible employees who are reservists are entitled to an unpaid, job protected leave of absence when deployed to an international operation or domestic emergency.</td>
</tr>
<tr>
<td><strong>Rest periods</strong></td>
<td>The 30 minutes of rest, paid or unpaid, within each five consecutive hours of work in each shift.</td>
</tr>
<tr>
<td><strong>Split shift</strong></td>
<td>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.</td>
</tr>
<tr>
<td><strong>Statement of earnings</strong></td>
<td>A statement of earnings is a written statement detailing the hours of work and rate of pay, that the Code requires employers to provide employees at the end of each pay period.</td>
</tr>
<tr>
<td><strong>Temporary layoff</strong></td>
<td>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 60 days within a 120-day period.</td>
</tr>
<tr>
<td><strong>Termination notice</strong></td>
<td>Notification provided by either the employer or the employee to signify the end of an employment relationship.</td>
</tr>
<tr>
<td><strong>Termination pay</strong></td>
<td>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.</td>
</tr>
<tr>
<td>---------------------</td>
<td>-------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td><strong>The 8/44 rule</strong></td>
<td>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.</td>
</tr>
<tr>
<td><strong>Wage rate</strong></td>
<td>A wage rate refers to the hourly rate of pay for wages.</td>
</tr>
<tr>
<td><strong>Wages</strong></td>
<td>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.</td>
</tr>
<tr>
<td><strong>Weekly overtime hours</strong></td>
<td>Weekly overtime hours are any hours more than 44 hours worked in a week.</td>
</tr>
<tr>
<td><strong>Work</strong></td>
<td>Includes providing a service.</td>
</tr>
<tr>
<td><strong>Work day</strong></td>
<td>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).</td>
</tr>
<tr>
<td><strong>Work month</strong></td>
<td>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.</td>
</tr>
<tr>
<td><strong>Work week</strong></td>
<td>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.</td>
</tr>
<tr>
<td><strong>Year of employment</strong></td>
<td>A year of employment is a period of 12 consecutive months.</td>
</tr>
<tr>
<td><strong>Youth</strong></td>
<td>A youth is anyone under the age of 18.</td>
</tr>
</tbody>
</table>