



# Employment Records

*This information sheet tells about how the Labour Standards Code requires employers to keep records about employees.*

Employers must keep employment records to show that employees receive at least the benefits they are entitled to under the Labour Standards Code. These records must be kept at the employers' main place of business and must be kept for at least 12 months after the work has been performed. As well, employers must be prepared to show that all outstanding pay has been paid. In the case of vacation pay, the employer must be able to show payroll records going back 28 months from the date a complaint was filed.

Employers must keep the following information:

- a list of the names of all employees, showing the employees' age, sex, and last known home address
- a record of the rates of wages, hours of work, vacation periods, leaves of absence, pay, and vacation pay each employee received
- a record of the date each employee began work and, if the employee no longer works for that employer, the last day he was employed
- a record of when employees were laid off or fired and the dates when those employees received notice of the end of their jobs
- a record of how much each employee has been paid

## Method of Keeping Records

Employers may keep employment records using any method from a manual system using a payroll book from a stationery store to a computerized bookkeeping/payroll program. The records must be organized, easy to read, accurate, and up to date.

## Pay Stubs

Employers must give employees pay stubs when paying their wages.

The pay stub must show:

- the pay period the employee is being paid for
- the number of hours the employee is being paid for
- the wage rate (for example, \$10.00 per hour)
- all the deductions made from the employee's pay
- how much the employee is being paid after deductions are made

## Inspection of Records

Labour Standards officers can inspect an employer's payroll records.

They also have the right to enter any work place at any reasonable time to inspect any place where people might work and to talk to any employee during or outside working hours. The Labour Standards Code also says that this can be done when the employer is not at the place of work.

Employers who fail to keep records or to keep them up to date and who fail to give information to the Director of Labour Standards or a Labour Standards officer may be guilty of a violation under the Labour Standards Code.



# Protecting Employees

*This information sheet tells about how the Labour Standards Code protects employees.*

## Personal Information

---

The Labour Standards Code provides that when anyone makes a complaint to the Labour Standards Division and asks that their identity be withheld, their name or any identifying information will not be revealed. However, some complaints cannot be pursued on a confidential basis.

## Garnishment of Wages

---

An employer may not fire, lay off, or discriminate in any way against an employee whose wages are being garnished.

## Discrimination Against a Complainant or Witness

---

It is against the law to fire, lay off, or discriminate in any way against an employee who has:

- made a complaint under the Labour Standards Code
- testified or is going to testify or if the employer believes that person is going to testify in any investigation or hearing that takes place under the Labour Standards Code
- disclosed or is about to disclose information that is required under the Labour Standards Code
- taken or said that he intends to take or if the employer believes he will take a leave of absence that an employee may take under the Labour Standards Code



# Vacations and Vacation Pay

*This information sheet tells about the Labour Standards Code rules on vacations and vacation pay.*

The Labour Standards Code says that employers must give every employee:

- a vacation of two weeks after 12 months of work and within the following 10 months or, if the employee has been employed with the same employer longer than 8 years, a vacation of at least three weeks
- vacation pay of at least 4 per cent of gross wages (6 per cent for employees after 8 years), which the employer must pay at least one day before the vacation begins

An employer must tell the employee of her vacation at least one week before it begins.

## Workers Not Covered

---

The following workers are not covered by the Labour Standards Code rules on vacations and vacation pay:

- real estate and car salespeople
- certain commissioned salespeople who work outside the employer's place of business, but not anyone with an established route
- anyone who works on fishing boats
- people employed in a private home by the householder to provide domestic service for a member of the employee's immediate family or for 24 hours or less per week

## When an Employee Earns Vacation Pay

---

An employee earns vacation pay and vacation during the first 12 months of work for an employer and every 12 months after that.

## Vacation May Be Broken

---

If the employer and employee agree, the vacation and vacation pay may be broken into two or more vacation periods if the following are true:

- the employee will have two weeks' vacation, or three weeks after 8 years
- the employee receives at least one week of unbroken vacation

## Does an Employee Have to Take Vacation Time?

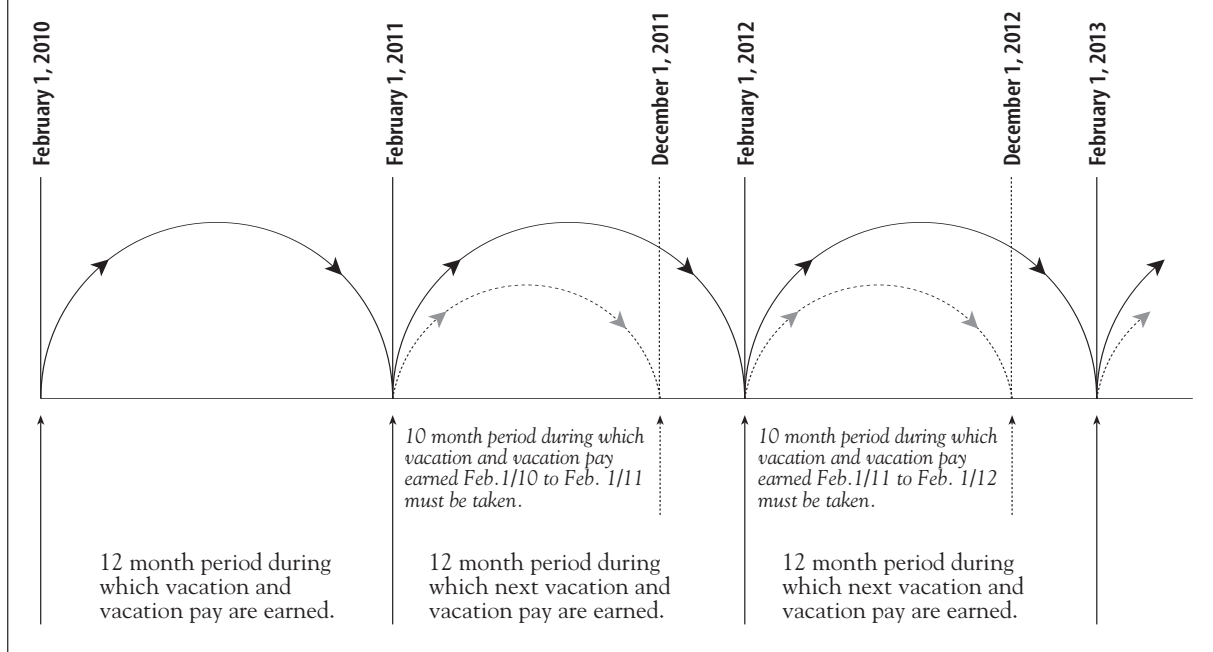
---

Employees who work full time must take vacation time.

Employees who work less than 90 per cent of the regular working hours during the 12 months when they earned vacation can give up vacation time and just collect their vacation pay.

When an employee tells an employer in writing that she will not take vacation time, the employer must pay vacation pay no later than one month after the date the 12-month period ends.

## An employee begins employment on February 1, 2010



## Vacation Pay Included in the Hourly Rate

An employer can include vacation pay in an employee's hourly rate, which would be paid in every pay cheque.

In that case, the employer will need to:

- have proof that the employee knows that vacation pay will be paid on every pay cheque
- show on payroll records that vacation pay has been paid to the employee
- show on the employee's pay stub that vacation pay is included in the pay cheque
- ensure that the employee's rate of pay is at least minimum wage plus 4 per cent, (6 per cent for employees after 8 years), if the Minimum Wage Order applies to the employee

## Keeping Records

Employers must keep accurate payroll records, including information on vacations taken and vacation pay paid. If a Labour Standards officer audits and finds no record of vacation pay, the Director of Labour Standards might find that the employer still owes the employee vacation pay. See the information sheet titled "Employment Records" for more information on records.

## Vacation Pay When Employment Ends

When employment ends, the employee is entitled to receive all accumulated vacation pay that has been earned. The employer must pay it within 10 business days after the employment relationship ends.



# Holiday Pay

*This information sheet tells about the holidays and holiday pay employers must give to their employees under the Labour Standards Code.*

The Labour Standards Code gives employees who qualify five holidays with pay: New Year's Day, Good Friday, Canada Day, Labour Day, and Christmas Day. A separate law covers Remembrance Day; it is explained at the end of this information sheet.

## Who Qualifies for Paid Holidays?

To have a day off with pay for these holidays, an employee must:

1. be entitled to receive pay for at least 15 of the 30 calendar days before the holiday
2. have worked her last scheduled shift or day before the holiday and the first scheduled shift or day after the holiday

First, during the 30 calendar days right before the holiday, the employee must be entitled to receive pay for 15 of those days. This does not mean that the employee must have worked 15 out of 30 days. The important words to remember are "entitled to receive pay." For example, if an employee is sick and the employer has a paid sick time policy, or if the employee is attending a course and is being paid wages for attending, the employee may still qualify for the paid holiday.

Second, the employee must have worked her last scheduled shift or day before the holiday and the first scheduled shift or day after the holiday. Again, the important word to remember is "scheduled." Many people believe this means that if the employee does not work the day after the holiday then the employee is not qualified to receive holiday pay. If the day is one when the employee is not scheduled to work, then she may still qualify for the paid holiday.

## Exception

If an employer tells an employee not to report for work on his last scheduled work day immediately before the holiday, or the next scheduled work day after the holiday, then the employee is still entitled to receive holiday pay if he meets the first qualification.

## Workers Who Are Not Covered

The following workers are not covered by the rules for holiday pay:

- anyone who works under a collective agreement
- certain farm workers
- real estate and car salespeople
- certain commissioned salespeople who make sales at locations other than at the employer's premises, except those on an established route
- anyone who works on a fishing boat
- anyone who works in the manufacturing or refining processes of the petrochemical industry
- anyone employed in a private home by the householder to provide domestic service for a member of the employee's immediate family or for 24 hours or less per week

## **Paying an Employee for a Holiday**

---

If an employee qualifies for the holiday and is given the day off, the employer must pay a regular day's pay for that holiday. If the employee's hours of work change from day to day, or if wages change from pay to pay, the employer could average hours or wages over 30 days to calculate what to pay the employee for the holiday.

For example, if an employee worked 20 of the 30 calendar days before the holiday for a total of 170 hours, the calculations would be as follows:  
 $170 \div 20 = 8.5$  average hours worked per shift.

If the holiday falls on an employee's regular day off, the employee is entitled to another day off with pay.

## **Calculating a Wage When the Employee Works on a Holiday**

---

An employee who works on a holiday and who is qualified to be paid holiday pay is entitled to receive **both** of the following:

- the amount the employee would have normally received for that day
- one and a half times the employee's regular rate of wages for the number of hours worked on that holiday

## **When the Employee Works in a Continuous Operation**

---

Employees who work in a continuous operation are paid for holidays in a different way.

A continuous operation is:

- any industrial establishment in which production continues without stopping
- any service that runs trucks and other vehicles
- any telephone or other communications service
- any service or production in which employees work normally on Sundays or public holidays

In a continuous operation, the employer can pay for holidays worked in one of two ways:

- according to the calculation already described
- by paying straight time for the hours worked and giving the employee another day off with pay

## **Remembrance Day**

---

An employee who works on Remembrance Day and who has worked on at least 15 of the 30 calendar days immediately before Remembrance Day may be entitled to receive a holiday with pay. That day with pay may be taken at the end of the employee's vacation or any other day the employee and employer may agree upon.



# Equal Pay for Equal Work

*This information sheet tells about how the Labour Standards Code requires that employers pay male and female employees the same pay for similar work. An employer cannot pay one employee a lesser wage than an employee of the other gender if both employees do similar work.*

Men and women who work in the same workplace doing work that is the same or very much the same must receive the same rate of pay. For example, if a restaurant owner has both male and female waiters, the owner cannot pay the woman less just because she is a woman. If they both do very much the same work, then the owner must pay them both the same. The equal pay rules in the Labour Standards Code are different from pay equity or equal pay for work of equal value.

Employers may pay different rates between men and women doing work that is very much the same when one of the following is in place:

- a seniority system
- a merit pay system
- a system that measures by quantity or quality of work produced
- a factor other than sex that makes a difference between employees doing the same work

An employer must not cut the employee's rate of pay in order to make the rate of pay of all employees equal.



# Leaves of Absence

## Pregnancy/Parental, Court, and Bereavement Leave

*This information sheet tells about the leaves of absence that the Labour Standards Code says employers must allow employees to take.*

During a leave of absence, an employee leaves the job intending to return. Leaves of absence are pregnancy and parental leave, court leave, bereavement leave, sick leave, and compassionate care leave.

### **Pregnancy and Parental Leaves**

---

Pregnancy leave is an unpaid leave for pregnant employees. It can last up to 17 weeks. The employee can start the leave up to 16 weeks before the expected date of delivery. She must also take at least one week after the date of delivery. Employees who have worked for an employer for at least one year may qualify for this leave. An employer can require that an employee take an unpaid leave of absence if her pregnancy interferes with her work. There are times when the Human Rights Act or the employee's contract prevents this.

The Labour Standards Code also allows parents to take parental leave to care for their newborn or newly adopted children. This unpaid leave is up to 52 weeks and is available to every parent that qualifies for it. To qualify for the leave an employee must have worked for the employer for at least one year and must become a parent to the child as a result of its birth or adoption.

### **To Take Pregnancy or Parental Leave**

---

To take pregnancy or parental leave, an employee must give the employer at least four weeks' notice of both the date on which leave will start and, if the employee plans to return early, the planned date of return to work.

If the employee cannot give four weeks' notice of leave because the baby is born early, because of a medical condition, or because of an unexpected adoption placement, then the employee must give as much notice as possible.

An employer can ask for proof of entitlement for pregnancy or parental leave. This can include a certificate from a doctor or adoption worker.

If an employee is taking both pregnancy and parental leaves, she must take them one right after the other and not go back to work between the two leaves. In this case, she can take up to 52 weeks' total leave (17 pregnancy and 35 parental). If an employee is taking parental leave but not pregnancy leave, he can take up to 52 weeks' leave in the time after the child is born or arrives in the home. The employee loses this right if the leave is not taken within 52 weeks after the child arrives in the home. Employees who do not take pregnancy leave but who do take parental leave include natural fathers and adoptive mothers and fathers.

If a newly arrived child must go into hospital for more than one week, the employee can return to work and use the rest of the parental leave after the child comes out of hospital.

### **The Employee's Rights during Leave**

---

During pregnancy and parental leave, employers must let employees keep up at their own expense any benefits plan in which they belong. Employers must give 10 days' written notice before the option to keep up employee benefits is no longer in effect.

When an employee returns from parental leave, the employee must be accepted back into the same position or a comparable one with no loss of seniority or benefits.



## **Bereavement Leave**

---

Employees can take unpaid leave of up to three working days in a row if their spouse, parent, guardian, child, or a child under their care dies.

Employees can take one calendar day's leave without pay if their grandparent, grandchild, sister, brother, mother-in-law, father-in-law, daughter-in-law, son-in-law, sister-in-law, or brother-in-law dies.

Employees must give their employers as much notice as they can that they will take this leave.

## **Court Leave**

---

Employees can take unpaid leave if they must serve on a jury or the court says that they must appear as a witness. They must give their employer as much notice as they can that they will take court leave.

## **Discrimination Against a Complainant or Witness**

---

It is against the law to fire, lay off, or discriminate in any way against employees who have taken a leave of absence that the Labour Standards Code says they should be able to take. This also applies if the employee said that they intend to take such a leave or if the employer believes that they may take a leave of absence.

The Director of Labour Standards will investigate a complaint of discrimination regarding pregnancy and parental leaves if the discrimination the complainant says took place occurs within three months that the employee took leave, said that she would take leave, or even if the employer believes the employee may take the leave unless:

- the employer has good reason to fire or suspend the employee and can show that they have not allowed the behaviour in the past
- there is a lack of work that the employer could not foresee and avoid
- the business stops operating or the employee's job is no longer needed and the employer is unable to provide other reasonable employment. The employer must show that they acted in good faith



# Leaves of Absence

## Compassionate Care and Sick Leave

*This sheet tells about the leaves of absence that the Labour Standards Code says employers must allow employees to take.*

A leave of absence occurs when an employee leaves the job intending to return. Leaves of absence are pregnancy leave, parental leave, court leave, bereavement leave, compassionate care leave, and sick leave.

### Compassionate Care Leave

---

Compassionate care leave is an unpaid, eight-week leave for employees who need to care for a seriously ill family member who has a high risk of dying within 26 weeks.

To take compassionate care leave, employees must be employed for more than three months with the same employer. Also, they must give their employer as much notice as possible before taking the leave. An employer can ask an employee to provide a medical certificate, from a medical doctor, stating that the employee's family member is seriously ill. The leave can be broken up into separate periods of no less than one-week blocks.

Employees who take a compassionate care leave may qualify for a six-week compassionate care leave benefit under the federal government's Employment Insurance program.

### Employee Rights during the Leave

---

During compassionate care leave, an employer must let the employee keep up any benefit plans to which the employee belongs at the employee's own expense. If this option to keep up the benefits has an expiry date, the employer must give 10 days' written notice before the option to keep up the benefits is no longer in effect.

An employee who returns from compassionate care leave must be accepted back into the same position or a comparable one with no loss of seniority or benefits.

### Sick Leave

---

Employees are entitled to receive up to three days, unpaid sick leave each year. This leave may be used to care for an ill parent, child, or family member. It can also be used for medical, dental, or other similar appointments.

An employee who is denied sick leave may make a complaint with the Labour Standards Division.

### Discrimination Against a Complainant or Witness

---

It is against the law to fire, lay off, or discriminate in any way against an employee who has taken or has said that he intends to take—or if the employer believes he may take—a leave of absence that the Labour Standards Code says he should be able to take. If a complaint is filed the Director of Labour Standards will investigate to determine if:

- the employer has good reason to fire or suspend the employee and can show that the behaviour has not been allowed in the past
- there is lack of work that the employer could not foresee and avoid
- the business has stopped operating or the employee's job is no longer needed and the employer is unable to provide other reasonable employment; the employer must show that they acted in good faith



# Hours of Labour

*This information sheet tells about how long an employer can expect employees to work.*

Under normal circumstances, according to the Labour Standards Code, employers must grant employees a rest period of at least 24 hours in every 7 days.

## Allowing Employees to Work Longer than 7 Days

Employers may apply to the Director of Labour Standards for an exemption from this requirement of the Labour Standards Code. The Director or a Labour Standards Officer will find out if the employer and most of the employees agree and may grant the exemption or require another arrangement for a rest period.

## Emergency Situations

An employer can require more than six days of work in a row if there has been an accident or if urgent work must be done to the machinery or plant, but can require only as much work as is needed to avoid serious interference with the ordinary operation of the workplace.

## Workers Not Covered for Hours of Labour

- certain farm workers
- certain commissioned salespeople who work outside the employer's place of business
- anyone who works on fishing boats
- practitioners or students in training for architecture, dentistry, law, medicine, chiropractic, professional engineering, public or chartered accounting, psychology, surveying, or veterinary science
- people employed in a private home by the household-er to provide domestic service for a member of the employee's immediate family or for 24 hours or less per week



# Employment of Children

*This information sheet tells about the rules in the Labour Standards Code on paying children for work. If you know of a child who works, or if you are an employer with employees who are under the age of 16, then this information sheet may be important for you.*

The Labour Standards Code tells when children may be employed in Nova Scotia. The laws about the employment of children do not apply to people who are 16 years and over.

The law divides children into two groups: those under 14 and those under 16.

## Children Under 14

---

It is against the law to pay wages to a child under the age of 14 to do work that:

- is likely to be unwholesome or harmful to the child's health or normal development
- is likely to keep the child out of school or make it hard for the child to learn at school

It is against the law to employ a child under 14 to do work:

- for more than 8 hours a day
- for more than 3 hours on a school day unless a certificate has been issued under the Education Act to allow the child to work
- for any time during the day when that time plus the time the child is in school adds up to more than 8 hours
- between the hours of 10 pm of any day and 6 am of the next day

## Children Under 16

---

The Labour Standards Code says that no one is to employ a child under the age of 16 in any work that risks the child's well-being, such as:

- mining
- manufacturing
- construction
- forestry
- work in garages and automobile service stations
- work in hotels and restaurants
- work in billiard rooms

## Exception

---

The Labour Standards Code rules for children under 16 do not apply to the owner of a business who employs members of his or her own family.

## Liability of a Parent or Guardian

---

Any parent or guardian of a child whose employment violates the Labour Standards Code can be fined unless he or she can prove that the child worked without his or her knowledge.



# When the Employer Ends the Employment

*This information sheet tells about when an employer fires, suspends, or lays off a worker.*

Under the Labour Standards Code, employers must tell an employee in writing that they will fire or suspend or lay off that employee. This is called giving notice. "Notice" is the letter telling the employee that he will no longer work for the employer after a given date. It is also the time between when the employee receives the letter and the date the letter says is the employee's last day of work.

How much notice an employer must give an employee depends upon how long the employee was employed. The following table shows the notice times for each period of employment.

## How Much Notice in Writing?

<b>If the employee has worked for</b>	<b>then the employer must give</b>
more than 3 months but less than 2 years	1 week
between 2 years and 5 years	2 weeks
between 5 years and 10 years	4 weeks
more than 10 years	8 weeks

If the employer does not want to give the employee notice, the employer must give the employee pay in lieu of (in place of) notice. This means that the employer must pay the employee as much pay as he would receive if he worked for his notice period.

## The Right to End Employment Without Notice

There are times when an employer does not have to give an employee notice or pay in lieu of notice when ending the employee's job. In order to end an employee's job without notice or pay in lieu of notice, the employer must show that the employer has:

- made their expectations clear to the employee
- warned the employee to change his behaviour
- warned the employee that not improving his behaviour could lead to his being fired

This kind of action would be acceptable if, for example, the employee was late for work again and again. There are times when the steps above would not need to be followed. For example, if the employer can prove that the employee has stolen from the employer, then the employee can be fired without warning or notice.

Ending an employee's job is not always the best way to handle problems with an employee. In some cases, progressive discipline may be used to deal with problems.

## **Progressive Discipline**

---

Depending on the problem an employer is having with an employee, it may be better to correct the problem by using progressive discipline rather than by ending the employee's job. Progressive discipline can begin with spoken warnings, move to written warnings and suspensions, and then end with firing the employee. For example, an employee who has trouble learning the job may just need several spoken and written warnings. The discipline must depend on how severe the problem is.

- when a person works for the employer for a set term or task no longer than 12 months
- when there is a lack of work that the employer did not expect and could not avoid
- when the employer offers the employee other reasonable employment
- when a person has reached the age of retirement according to the employer's established practice or policy
- when a person works in the construction industry
- when a person is laid off or suspended for 6 days or less

## **Condonation**

---

Condonation means that the employer has not corrected a behaviour in the past. Condonation is an issue if, for example, an employer ignores an employee's poor performance at work and then one day fires the employee for the same poor behaviour. If an employer condones an employee's behaviour and then fires him without notice, the employer may be in violation of the Labour Standards Code. An employee has to be told that the employer will no longer allow the poor performance. The employee must understand what will happen if his performance does not improve.

## **Other Times When Notice Does Not Need to Be Given**

---

The Labour Standards Code says that there are times when an employer does not have to give notice or pay in lieu of notice that the employee will be fired or laid off. Some examples are listed below:

- when an employee works for the employer for less than three months

## **Employees with 10 Years of Service**

---

The Labour Standards Code says that an employee with more than 10 years of service cannot be fired or suspended without good reason. What is good reason will depend on the employee's and employer's circumstances.

To show that the employer had good reason, he may have to show all of the following:

- The employer has made their expectations clear to the employee
- The employer has warned the employee to change behaviour
- The employer has warned the employee that not improving behaviour could lead to being fired

There may be circumstances, like a theft, in which an employer may fire an employee with 10 years of service and not have to follow those three steps.

When the Director of Labour Standards or the Labour Standards Tribunal finds that an employee with more than 10 years of service has been fired without good reason, the employer may be ordered to bring the employee back to the job with full back pay dating to the date the employee was fired. If the employee does not wish to go back to the job, the Director of Labour Standards may order a reasonable alternative remedy.

## **Firing 10 or More Employees**

---

The Labour Standards Code says that an employer must give notice to employees and the Minister of Environment and Labour when firing or laying off 10 or more employees within four weeks. The amount of notice groups of employees are entitled to receive depends on the numbers being laid off:

- 8 weeks for between 10 and 99 employees
- 12 weeks for between 100 and 299 employees
- 16 weeks for 300 or more employees

## **When the Employer Gives Notice**

---

When an employer has given the employee proper notice that the job is ending, the employer:

- may not change the employee's rate of pay or any other condition of employment, such as benefits
- may not require the employee to use remaining vacation during the notice period unless the employee agrees
- must pay the employee all the wages that he or she is entitled to receive at the end of the notice period

## **When a Business Is Transferred or Sold**

---

It is important to know that the Labour Standards Code says that an employee's employment is not broken if a business is transferred or sold in any manner. If an employee worked for both the seller and purchaser of a business, he or she may be entitled to notice that the job is ending or pay in lieu of notice based on how long the employee worked with both the past owner and the person who buys the business.

## **Jobs Not Included under the Labour Standards Code**

---

People who work in the following professions are not covered by the Labour Standards Code's rule about the employer ending the employment:

- real estate and car salespeople
- certain commissioned salespeople who work outside the employer's place of business, but not those on an established route
- anyone who works on fishing boats
- anyone in a union with a collective agreement in force
- practitioners or students in training for architecture, dentistry, law, medicine, chiroprody, professional engineering, public or chartered accounting, psychology, surveying, or veterinary science (for the purposes of reinstatement claims for 10-year employees only)
- people employed in a private home by the householder to provide domestic service for a member of the employee's immediate family or for 24 hours or less per week



# When an Employee Ends the Employment

*This information sheet tells about employee and employer rights and responsibilities when an employee ends the employment.*

Employees who come under the Labour Standards Code normally must give their employers written notice that they are quitting their jobs. “Notice” in this case is the amount of time between when the employee tells the employer in writing that she is leaving her job and the time that she actually leaves.

How much written notice a worker must give depends on how long she has worked for the same employer. She must give:

- one week’s written notice if she worked between three months and two years
- two weeks’ written notice if she worked more than two years

## When an Employee Does Not Need to Give Notice

Just as an employer sometimes does not always have to give an employee notice that his employment is ending, there are also times when employees do not have to give notice. These are:

- when the employee has been employed less than three months
- when the employer breaks the terms and conditions of employment. This may mean, for example, that the employer has failed to pay the employee's wages
- when the worker works in the construction industry

## Duty of the Employer When Notice Is Given

When an employee has given the employer proper notice that she is quitting, the employer:

- may not change the employee’s rate of pay or any other condition of employment, such as benefits
- may not require the employee to use remaining vacation during the notice period, unless the employee agrees
- must pay the employee all the wages he or she is entitled to receive at the end of the notice period

## Periods of Employment

An employee’s period of employment (how long she worked) at one workplace may have been broken because she was laid off, suspended, or fired. This is important to know if she is about to resign and has to decide whether to give her employer one or two weeks’ notice.

The Labour Standards Code states that an employee’s period of employment is considered unbroken unless it is broken:

- by 12 months of layoff or suspension
- by 13 weeks that resulted from the employee resigning or the employer firing the employee



## When an Employee Does Not Give Notice

---

When an employee quits without notice, the employer may file a complaint with the Labour Standards Division and claim any wages owed to the employee. The maximum amount the employer may receive is normally the amount of wages the employee would earn in the one- or two-week notice period. For example, if an employee must give the employer one week's written notice, but quits without notice, then the employer may make a claim on unpaid wages equal to one week's pay.

To claim the employee's unpaid wages the employer must be able to show that he or she lost money or had **extra** costs because of the employee quitting without notice. As an example, this loss or costs may be the cost of paying employees overtime to finish work.

## Professions Not Covered

---

People employed in certain jobs do not have to give notice that they are quitting their jobs. These people include:

- real estate and automobile salespersons
- certain commissioned salespersons who work outside the employer's place of business, except those on established routes
- anyone who works in the construction industry
- anyone who works on fishing boats
- anyone in a union with a collective agreement in force
- people employed in a private home by the householder to provide domestic service for a member of the employee's immediate family or for 24 hours or less per week



# Protecting Pay

*This information sheet tells about how the Labour Standards Code protects workers' pay.*

One of the most common complaints filed with the Labour Standards Division is protection of an employee's pay.

The Labour Standards Code says that:

- an employee must be paid for her work
- the employee must be paid at least two times each month
- the employee must be paid within five days after the end of the pay period

## When an Employee Is Not at Work to Receive Pay

---

If an employee is not at work when he would normally be paid, or is not paid for any other reason, then that employee must be paid when he asks for it at any time during regular working hours.

## Forms of Wages

---

Employers must pay wages in Canadian money by cheque or cash or demand for payment drawn upon a chartered bank, credit union, trust company, or any company insured under the Canada Deposit Insurance Corporation Act by direct deposit.

## When an Employee Can Complain

---

If an employer fails or refuses to pay an employee or fails to pay any benefit in the last 6 months, then the employee can file a complaint with the Labour Standards Division.

## When an Employee Cannot Complain

---

The Labour Standards Division might not take a complaint about unpaid pay if the employee has sued the employer in court. If the employee belongs to a union that has a collective agreement and could file a grievance for unpaid wages, the employee cannot complain through the Labour Standards Division.



# Minimum Wage

*If you are an employee under the Labour Standards Code, that is, if you are not a member of a labour union, or if you are an employer with employees who have no union, then the General Minimum Wage Order is important to you. This information sheet tells you about the General Minimum Wage Order.*

## What the Minimum Wage Order Does

First, the General Minimum Wage Order sets wage rates. A wage rate is the amount of money an employer pays an employee for each hour of work. The General Minimum Wage Order sets the minimum wage rate, which is the least amount of money an employer must pay an employee for each hour of work.

In Nova Scotia there are two wage rates, one for inexperienced employees and one for experienced employees. An inexperienced employee has done a kind of work for less than three calendar months. An experienced employee has done a kind of work for more than three calendar months.

Second, the General Minimum Wage Order sets employment standards for the following:

- overtime, for some groups
- partial hours
- being called into work at times other than scheduled working hours
- employees waiting for work on the owner's premises
- piecework
- the cost of uniforms
- the cost of board, lodging, and meals

## The New Minimum Wage Rate

Starting October 1, 2005, employers must pay inexperienced employees at least \$6.35 per hour. They must pay experienced employees at least \$6.80 for each hour of work. Starting April 1, 2006, employers must pay inexperienced employees at least \$6.70 per hour. They must pay experienced employees at least \$7.15 for each hour of work. The minimum wage rate applies to a work week of less than 48 hours.

## Overtime

The General Minimum Wage Order contains some overtime requirements for some groups. Overtime is also addressed in the Code and other special minimum wage orders. For more information see the "Overtime" insert.

## Partial Hours

An employer who pays minimum wage and who pays employees by the hour must also pay employees for parts of hours worked after the first 15 minutes. If an employee works for between 15 and 30 minutes, the employer must pay for one half-hour (or for 30 minutes). If the employee works for between 31 and 60 minutes, the employer must pay the employee for one full hour (or for 60 minutes).

Here are some examples:

- an employee who works for 7 hours and 10 minutes must be paid for at least 7 hours
- an employee who works for 7 hours and 20 minutes must be paid for at least 7 1/2 hours
- an employee who works for 7 hours and 40 minutes must be paid for at least 8 hours

Even if the employee is paid more than minimum wage, the amount paid for partial hours cannot be less than the amount that would have been paid for the day at minimum wage. For example, if an employee works for 2.25 hours at \$6.85, her wage would be \$15.41. If she worked at minimum wage (currently \$6.80/hour), she would earn \$17.00 because the employer would have to pay her for 2.5 hours. She is, therefore, owed an additional \$1.59 for this day (\$17.00 - \$15.41). Note: minimum wage increases April 1, 2006.

## **Call In**

---

If you are an employee and you are called in to work outside your regular work hours, your employer must pay you for at least three hours of work at the minimum wage rate, that is, at least \$20.40 (\$6.80 x 3 hours). This is true even if you work only one or two hours. For example, if you make \$9 per hour and you are called in for 1 hour's work, your employer must pay you at least \$20.40. Note: minimum wage increases April 1, 2006.

## **Piecework**

---

Many employers in Nova Scotia pay employees by the amount they produce and not by the hour. This arrangement is called "piecework." The Minimum Wage Order says that an employer cannot pay an employee less for piecework than that employee would have earned at the minimum wage for the number of hours worked. This does not apply to employees employed on a farm whose work is directly related to harvesting fruit, vegetables, and tobacco.

For example, an employee is paid \$4 for each hat she sews. During a one-week period the employee produces 40 hats. The employee is entitled to be paid: \$4 per hat x 40 hats, or \$160.

To produce the 40 hats, the employee worked 30 hours. At the minimum wage the employee would have earned \$204.00 (\$6.80 x 30 hours of work).

The employee is entitled to be paid at least the same as if he or she was being paid the minimum wage for each hour worked. She is, therefore, owed an additional \$44.00 (\$204.00 - \$160.00). Note: minimum wage increases April 1, 2006.

## **Deductions for Uniforms**

---

If you are an employer whose employees wear uniforms, aprons, or smocks, you may not take the cost of the uniform from the employees' wages if doing so will take their hourly rate below the minimum wage.

For example, if an employee works 30 hours each week earning \$6.95 per hour then the employee earns \$208.50 (\$6.95 x 30) each week. If the employer takes \$20 off the pay for a uniform, then the employee will have earned \$188.50 that week, or \$6.28 per hour (\$188.50 ÷ 30). Since \$6.28 per hour is below the minimum wage, the employer cannot take that much from the employee's wages for the cost of the uniform.

The employer may take from the employee's wages the cost of dry cleaning a uniform that is made of wool or a heavy material. The employer may do this even if the employee's wages then fall below minimum wage. Note: minimum wage increases April 1, 2006.

## **Board and Lodging**

---

The Minimum Wage Order tells employers how much they can take from an employee's minimum wage for board and lodging that the employer provides. As of April 1, 2004, these amounts are as follows:

For board and lodging, for each week: \$59.80

For board only for each week: \$48.45

For lodging only for each week: \$13.50

For a single meal: \$3.15

An employer cannot charge an employee for a meal not received.

## **Who Is Not Covered by the General Minimum Wage Order**

---

- certain farm workers
- apprentices employed under the terms of an apprenticeship agreement under the Apprenticeship and Trades Qualifications Act
- anyone receiving training under government-sponsored and government-approved plans
- anyone employed at a non-profit playground or summer camp
- real estate and car salespeople
- certain commissioned salespeople who work outside the employer's premises, but not those on established routes
- insurance agents licensed under the Insurance Act
- anyone working on a fishing boat
- anyone who comes under the Minimum Wage Orders concerning Logging and Forest Operations and Construction and Property Maintenance
- anyone employed in a private home by the householder to provide domestic service for a member of the employee's immediate family or for 24 hours or less per week



# Overtime

*This sheet tells about overtime and overtime provisions for different groups of workers.*

The general rule for overtime is that employees are entitled to receive 1 1/2 times **their regular wage** for each hour worked after 48 in a week.

For example, if an employee makes \$10.00 per hour, that employee would make \$15.00 per hour for every hour worked over 48 hours. These rules also apply to some salaried workers.

Certain industries are characterized by irregular working hours and conditions and do not follow the general rule. Some have special rules about overtime and some others are not covered by overtime.

## Special Rules

Some groups of workers have special rules to deal with overtime, called wage orders. The jobs covered by these wage orders are listed below.

### **General Minimum Wage Order** overtime is based on minimum wage

The following groups of workers receive overtime at 1 1/2 times **the minimum wage** after 48 hours worked in a week:

- oil and gas workers (but not those in retail)
- managers, supervisors, and employees employed in a confidential capacity
- transport (this group can average over 96 hours in two weeks)
- primary fish and agricultural processors (but not meat)
- flat-rate auto mechanics / auto body technicians
- certain professionals and their trainees
- IT professionals (but not employees who provide basic operational/technical support)
- shipbuilders and related workers (but not those in retail)

### **Construction and Property Maintenance Minimum Wage Order**

The following groups of workers receive 1 1/2 times their regular wage **after 110 hours worked in two weeks**, based on a 55 hour work week:

- those constructing, restoring or maintaining roads, streets, sidewalks, structures or bridges (except municipal)
- those doing paving of all sorts
- water and sewer installers
- landscapers and snow removal workers
- saw mill workers
- metal fabricators and machine shop workers

## Workers Not Covered by Overtime Rules

The following groups of workers are not covered by overtime rules:

- certain farm workers
- apprentices employed under the terms of an apprenticeship agreement under the Apprenticeship and Trades Qualifications Act
- anyone receiving training under government sponsored and government approved plans
- anyone employed at a non-profit playground or summer camp
- real estate and car salespeople
- certain commissioned salespeople who work outside the employer's premises, but not those on established routes
- insurance agents licensed under the Insurance Act
- anyone working on a fishing boat
- anyone employed in a private home by the householder to provide domestic service for a member of the employee's immediate family or for 24 hours or less per week
- those in the logging and forest industry