

Employment Standards Code

RIGHTS AND OBLIGATIONS

of Employers and Employees

Alberta's Employment Standards Code sets out the minimum standards that apply to employees and employers under provincial jurisdiction. The Employment Standards Code is administered by Alberta Human Resources and Employment, Employment Standards.

■ Minimum Wages

- The general minimum wage is \$7.00 per hour.
- For certain salespersons the minimum wage is \$280.00 per week.
- School bus drivers, an adolescent (12, 13 or 14 years old) employed on a day when required to attend school and part-time employees in certain non-profit recreation or athletic programs are entitled to not less than 2 hours pay at the minimum wage if they are employed for less than 2 hours.

All other employees are entitled to not less than 3 hours at the minimum wage if they are employed for less than 3 hours and they are available to work for the full 3 hours.

- A deduction for a meal or lodging cannot reduce the minimum wage by more than the following amounts: \$2.30 per meal consumed and \$3.05 per day of lodging.

■ Payment of Earnings

Employees must be paid not later than 10 days after the end of each pay period.

When employment ends:

1. If the employer terminates an employee's employment:
 - a) with notice and/or payment in lieu — pay is due not later than 3 days after the last day of work;
 - b) and no termination notice is required to be given — pay is due not later than 10 days after the last day of work.
2. If the employee terminates their own employment:
 - a) by giving a termination notice — pay is due not later than 3 days after the last day of work;
 - b) and no termination notice is required to be given — pay is due not later than 10 days after the last day of work;
 - c) and failed to give the required termination notice — pay is due not later than 10 days after the date on which the notice would have expired had it been given.

■ Employment Records, Statement of Earnings and Deductions

An employer must record the hours of work of employees daily. Additional records that must be maintained include: wage and overtime rates; wage and overtime pay; vacation and general holiday payments; and deductions from employee earnings.

An employer may deduct from an employee's earnings, amounts permitted by an Act, regulation, judgement, order of a court or amounts personally authorized in writing by an employee.

No deduction can be made from an employee's earnings for (i) faulty workmanship, or (ii) cash shortages or loss of property if anyone other than the employee had access to the cash or property.

■ Hours of Work and Rest

Hours of work must be confined within a period of 12 consecutive hours in any one day. An exception to this requirement exists for employees in the geophysical exploration and oilwell servicing industries.

An employer must provide at least one day of rest in each week. Rest days may be accumulated for up to 4 weeks and given as consecutive days off within this 4 week period.

Employees must receive an 1/2 hour rest period, paid or unpaid, during each shift in excess of 5 consecutive hours of work. Some exceptions apply.

■ Overtime and Overtime Pay

In each week, hours worked in excess of 8 per day must be totalled and the number of hours worked in excess of 44 must be calculated. The greater of the two numbers are the number of hours to be paid at the overtime rate.

An employer must pay an employee overtime pay of at least 1.5 times the employee's wage rate for overtime hours.

Note: Some exceptions apply. Refer to the Employment Standards Regulation.

Overtime Agreements

Employees and employers may enter into a written overtime agreement. With an agreement, instead of overtime pay, employees receive time off with regular pay equal to the number of overtime hours worked.

■ Vacations and Vacation Pay

Employees are entitled to a minimum of 2 weeks' vacation with pay after 1 year of employment and 3 weeks' vacation with pay after 5 years of employment with an employer.

Monthly paid employees are entitled to vacation pay based on their current salary.

Employees paid other than by the month are entitled to 4% of their regular wages for vacation pay. After 5 years this increases to 6%.

Employees employed less than 1 year receive 4% of their regular wages for vacation pay on termination of employment.

Vacation pay may be paid at any time, but not later than the next scheduled pay day after the employee starts vacation.

On written request of any employee, the employer may grant an employee's annual vacation in periods of not less than 1 day. The employer has final say over the time when the annual vacation is to be taken.

Employees employed in the *construction industry or brush clearing* are entitled to 6% of their regular wages as vacation.

■ General Holidays and General Holiday Pay

In Alberta the following are general holidays:

New Year's Day; Alberta Family Day; Good Friday; Victoria Day; Canada Day; Labour Day; Thanksgiving Day; Remembrance Day; Christmas Day; and any other day designated by the employer.

Employees who have worked for an employer 30 days in the 12 month period before the holiday are entitled to general holidays and general holiday pay.

If an employee works an irregular schedule and there is doubt about whether a general holiday falls on a day that would normally have been a work day, review the 9 week period preceding the work week in which the general holiday occurs. If the employee worked on the same day of the week as the day on which the general holiday falls in at least 5 of the 9 weeks, the general holiday is to be considered a day that would normally have been a work day for the employee.

When the holiday falls on a regular workday and the employee is not required to work, the employee will receive a regular day's pay.

If employees are required to work on the holiday and the holiday is a normal day of work, they must receive 1.5 times their regular rate of wages for each hour worked in addition to receiving a regular day's pay. Alternatively, they may be paid their regular rate for each hour worked on the holiday and receive another regular working day off with pay.

If an employee is on a regular day off and is required to work on the holiday, the employee will receive 1.5 times the regular rate of pay for all hours worked.

If a general holiday falls during an employee's annual vacation, the employer must extend the employee's vacation by one day with pay. Alternatively, by agreement, the employer must provide an additional day off with pay before the employee's next annual vacation.

Employees employed in the *construction industry or brush clearing* are entitled to 3.6% of their regular wages as general holiday pay.

■ Termination of Employment

Employees wishing to terminate their employment must give the employer a written termination notice of at least:

- 1 week, if employed more than 3 months but less than 2 years
- 2 weeks, if employed 2 years or more.

Employers wishing to terminate the employment of an employee must give the employee written termination notice of at least:

- 1 week, if employed more than 3 months but less than 2 years
- 2 weeks, if employed 2 years but less than 4 years
- 4 weeks, if employed for 4 years but less than 6 years
- 5 weeks, if employed 6 years but less than 8 years
- 6 weeks, if employed 8 years but less than 10 years
- 8 weeks, if employed over 10 years,

or

the wages the employee would have earned for the applicable period of notice,

or

a combination of written termination notice and the wages the employee would have earned for the applicable period of notice.

Some exceptions apply.

■ Maternity and Parental Leave

The *Employment Standards Code* provides mothers, fathers and adoptive parents with parental leave. In addition, birth mothers are eligible for maternity leave. These leaves are available to parents of children born or adopted on, or after December 31, 2000.

Eligibility Requirements

Employees must have 52 consecutive weeks of employment with their employer to be eligible for maternity and/or parental leave under the Code. This applies both to full-time and part-time employment.

(Maternity and Parental Leave Cont.)

If a pregnant employee has less than 52 consecutive weeks of employment, and is therefore not entitled to maternity leave, an employer cannot arbitrarily lay her off, terminate her employment, or require her to resign because of pregnancy or childbirth. 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. Contact the Alberta Human Rights and Citizenship Commission for further information on these rights and responsibilities

Length of Leave

- Birth mothers can take up to 52 weeks of unpaid, job-protected leave from employment, made up of 15 weeks of maternity leave and 37 weeks of parental leave.
- Fathers and adoptive parents are eligible for 37 weeks of unpaid, job-protected parental leave. Adoptive parents can take parental leave when they adopt a child under the age of 18.

If both parents are employees, the 37 weeks of parental leave may be taken entirely by one of the parents, or can be shared between the mother and father. If the leave is to be shared, the employer must be notified.

Notice Requirements

- Employees must give their employers at least six weeks' written notice to start maternity or parental leave.
- Employees must provide at least 4 weeks' written notice to return to work or to change the date they will be returning to work. This notice must be provided at least four weeks before the end of the leave to which employees are entitled.
- If an employee fails to provide the required notice or fails to report to work the day after the leave ends, the employer does not have to reinstate the employee unless the failure to notify the employer is due to unforeseen or unpreventable circumstances.

■ Employment of Adolescents and Young Persons

Adolescents are persons 12 years but under 15 years of age. They may be employed to:

- make deliveries for a retail store,
- deliver newspapers or flyers; or
- be a clerk in an office or retail store,

if the employment is not injurious to the adolescent's life, health, education or welfare. Other similar type of work may be approved by Alberta Human Resources and Employment, Director of Employment Standards. The parent or guardian of an adolescent must agree to the employment and provide written consent to the employer.

Adolescents can only work 2 hours on a school day and a maximum of 8 hours on a non-school day. They cannot work between the hours of 9:00 pm and 6:00 am.

Young persons are persons 15 years but under 18 years of age. They cannot be employed between the hours of midnight and 6:00 am at, or in connection with:

- any retail store selling food or beverages or any other merchandise,
- a retail business selling gasoline or other petroleum products, or
- a motel, hotel, inn, etc.

Employment is permitted in such premises between 9:00 pm and midnight if the employee works with and is in the continuous presence of at least one other individual 18 years old or older.

Note: This poster is designed to highlight key provisions of the Employment Standards Code and Regulation. If you have further questions or require more information, please refer directly to the legislation or contact any of the Employment Standards offices listed below.



■ Employment Standards Office Locations

Main Flr, 717 - 7 Ave. SW Calgary T2P 0Z3 Fax: (403) 297-5843	Rm 360, 200 - 5 Ave. Lethbridge T1J 4C7 Fax: (403) 382-4426
Main Flr, 9940 - 106 St. Edmonton T5K 2N2 Fax: (780) 422-4349	1st Flr, 346 - 3 St. SE Medicine Hat T1A 0G7 Fax: (403) 529-3632
Box 6780, 4904 - 4 Ave. Edson T7E 1V2 Fax: (780) 723-8200	Main Flr, 9621 - 96 Ave. Peace River T8S 1T4 Fax: (403) 624-6552
7th Flr, 9915 Franklin Ave. Fort McMurray T9H 2K4 Fax: (780) 743-7226	2nd Flr, 4920 - 51 St. Red Deer T4N 6K8 Fax: (403) 340-7035
Rm 3201, 10320 - 99 St. Grande Prairie T8V 6J4 Fax: (780) 538-5462	5126 - 50 Ave. St. Paul T0A 3A4 Fax: (780) 645-6352

To be connected toll-free to the province-wide information line, call 310 - 0000 and dial (780) 427 - 3731.

Employment Standards Website:
<http://www.gov.ab.ca/hre/employmentstandards>



Deaf or hearing impaired with TDD/TDY units, call 427-9999 in Edmonton. Other locations call 1-800-232-7215.