

Employment Standards

for the Food and Restaurant Industry

Under the Employment Standards Code, both employers and employees have certain rights and responsibilities in the workplace.

- An employee is expected to perform the job duties and meet or exceed the expectations of their employer.
- An employer must comply with the rules established in Alberta's Employment Standards Code.

Minimum Wage

1. What is Alberta's minimum wage?

The minimum wage for all employees, including students under the age of 18, is \$7.00 per hour.

Statement of Earnings

2. Does an employer have to provide employees with an explanation of their pay cheque?

Yes. When employees receive their pay cheque they must receive a statement showing their hours of work, rate of pay for both regular and overtime hours and any deductions from earnings and payments for vacation or (general) statutory holiday pay.

Payment of Wages

3. What payment must employees receive when they report to work as scheduled or as requested and there is no work available or work is provided for only a short period?

Employees must receive an amount that is at least equal to three hours pay at minimum wage. Currently this amounts to \$21.00 (3 hours x \$7.00 per hour).

Example: 1.5 hours worked times the employee's regular rate of \$.

10/hour = \$15. The \$15 payment is less than \$21.00. Therefore, the employee must receive at least \$21.00 for this time worked.

4. If employees ask to leave work after working for less than three hours, are they entitled to be paid the equivalent of three hours at minimum wage?

No. The employee is only entitled to wages for the hours actually worked and the three-hour minimum requirement does not apply. The employer must be able to demonstrate, however, that the employee voluntarily chose to make the request. A good practice is to have the employee initial the time sheet to verify that leaving early was at the employee's request.

Example: After two hours, an employee asks to leave to attend a parent-teacher meeting. The employee is entitled to be paid for the two hours only.

5. If an employee is only available to work for a period of less than three hours, what must he or she be paid?

The employee must be paid for the actual hours worked. The three-hour minimum requirement does not apply.

Example: A student is only available for two hours of work. The employee is entitled to be paid only for the two hours.

6. Is payment required if an employee reports to a work site as scheduled and there is no work but the employee is required to remain on the site ready for work?

Yes. An employee is considered to be working from the time the shift was scheduled to begin and must be paid from that time on.

7. Is an employee entitled to be paid for work performed before or after the scheduled shift for duties such as clean-up, getting the float, reviewing the menu, cashing out or making bank deposits?

Yes. These duties are work and are to be paid at regular or overtime rates, as appropriate.

8. Must employees be paid when they are being trained for their job?

Employees must be paid when they work or perform a service for their employer. Once hired, employees receiving training are performing a service for the employer and are entitled to be paid for all hours worked.

If training is provided or required before hiring, the prospective employee is not required to be paid for this time. However, the employer must be able to demonstrate the employee is not working or providing a service to the employer.

Note: "Job Shadowing" before an employee has been hired does not have to be paid time as long as the employee is not performing the services done by established employees.

Tips

9. Are tips wages?

No, tips are not considered wages and are not covered under the Employment Standards Code. Each workplace decides how tips are to be handled among employees.

Deductions From Earnings

10. What deductions can an employer make from an employee's earnings?

Deductions required or permitted by law or order of a court, including deductions for CPP, EI, income tax, garnishees or court judgments, can be made from earnings without the employee's permission or approval.

All other deductions **must be personally authorized in writing** by the employee or by a collective agreement that applies to the employee.

11. Can an employer deduct from an employee's earnings if there are cash shortages or lost property and the employee was the only one to have access to the cash or property?

Yes, but only if the employee had sole access to the cash or property and the employer obtained written permission from the employee to deduct for specific cash shortages or property. The authorization must state the date and dollar amount of the shortage.

12. Can an employer deduct an amount for cash shortages or lost property if more than one individual has access to the cash or property?

No. A deduction cannot be made and an employee cannot authorize a deduction under these circumstances.

13. Can an employer require employees to supply floats with their own money?

No. An employer cannot require employees to supply their own float.

14. Can a deduction be made from an employee's earnings for unpaid customer bills (i.e. dine and dash), dish breakage or other types of faulty workmanship?

No.

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

Yes, but the deduction can only be made with the written approval of the employee.

A deduction for a uniform cannot be higher than the employer's actual cost of the uniform.

16. Are there other restrictions on uniforms and deductions for uniforms?

Yes. Deductions made from an employee's wages cannot reduce the employee's earnings below the minimum wage. Therefore, if the employee is earning minimum wage, no deduction can be made.

When the employee has paid for the uniform it becomes his or her property, and the employer cannot require the uniform to be returned without compensating the employee.

When the employer has paid for the uniform it remains the property of the employer, who is entitled to the return of the uniform when employment ends.

17. Where a deduction from an employee's earnings is not permitted, can an employer require the employee to make the payment in cash or by other means?

No. Where a deduction cannot be made directly, it cannot be made indirectly.

Meetings

18. Must an employee be paid for attending a meeting?

Yes. An employee must be paid:

- if attendance at the meeting is mandatory and the employee attends, or
- if attendance at the meeting is optional but the meeting is directly related to the employee's work or the employer's business and the employee attends.

The employee must be paid the wage rate agreed to for meetings, which must be at least minimum wage. If overtime is applicable, it must be paid.

Work Breaks

19. Must an employer provide lunch or coffee breaks?

An employer must allow an employee at least one half hour of rest time, either paid or unpaid, during each shift that is longer than five consecutive hours. The break does not need to be continuous and could consist of two 15-minute breaks.

Note: There are some situations when an employer need not provide a break, including when an accident occurs or urgent work is necessary.

20. What is a split shift and what rules apply?

A split shift occurs when the employee's workday consists of two or more separate periods of work. The split shift, including all breaks, must be confined within a period of 12 consecutive hours in any workday. For each split-shift, an employee is entitled to be paid for the hours worked at the applicable wage rate, or at least three hours pay at minimum wage, whichever is greater.

Example: An employee is scheduled to work from 11:30 a.m. to 2:00 p.m. (2.5 hours) and from 5:00 p.m. to 7:00 p.m. (2 hours). This creates a split shift and the employee must be paid for the hours worked during each shift at their applicable rate or three hours at minimum wage, whichever is greater.

21. Do meal or coffee breaks create a split-shift?

No, a split-shift is not created if the meal break is one hour or less or if the break is a legitimate coffee break.

Example: The employee works from 6:00 a.m. to 2:00 p.m. and takes a meal break from 10:00 – 11:30 a.m. (1.5 hours). A split-shift is created.

Work Schedules

22. How must employees be informed of their work schedules?

The employer must post the work schedule where it can be seen by the employees. It must address when work starts and ends. It is acceptable to schedule an employee to work from 6 p.m. to the close of business.

General Holidays

23. When is an employee eligible for general holiday pay?

An employee must have worked for the same employer for 30 working days in the 12 months prior to the holiday.

24. Is an eligible employee automatically entitled to general holiday pay?

No. An otherwise eligible employee is entitled to general holiday pay only if the general holiday falls on a day that is normally a working day for the employee.

25. Are part-time employees eligible for general holiday pay?

Yes, subject to the rules in questions 23 and 24.

26. How does an employee who is working an irregular schedule qualify for general holiday pay?

By working on the same day as the general holiday for at least five of nine of the preceding weeks to the general holiday.

27. If an employee is eligible and qualifies for general holiday pay, what must he or she be paid for working on a general holiday?

The employees must be paid either 1.5 times their regular wage rate for each hour worked in addition to receiving the average daily wage, or receive their regular wage rate for each hour worked on the holiday and receive another working day off with pay.

Employment of Adolescents and Young People

28. Can a person under 15 work in a restaurant?

Yes, in specific jobs and under specific circumstances.

29. Are there restrictions on the employment of those between the ages of 15 and 17?

Yes. A young person working in a hotel, motel, inn, restaurant etc., must be in the continuous presence of an adult if working between 9:00 p.m. and midnight and cannot be employed between midnight and 6:00 a.m.

For more information on general holiday pay, vacation pay, termination pay, maternity or parental leave and additional information: visit www.gov.ab.ca/hre/employmentstandards or call the Employment Standards Contact Centre at (780) 427-3731, toll-free by first dialing 310-0000.

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