

Unpaid Internship Laws Across Canada



UNPAID INTERNSHIP LAWS ACROSS CANADA

FEDERAL

Definition of "Employee"	A person employed by an employer
Unpaid Internship Rules	Students undertaking a work-integrated learning placement with an employer to fulfill requirements of an educational program may be unpaid , including students registered in secondary, post-secondary + vocational educational institutions, or their equivalents outside Canada <u>Student must give employer documents issued by educational institution listing:</u> *Educational institution name + address *Name of student + program of enrolment *Employer name + address
Other	*Description of work-integrated learning activities that fulfill requirements of a program *Start date + either end date or total number of hours of work-integrated learning activities *Title + contact information of program administrator ⁽¹⁾

ALBERTA

Definition of "Employee"	An individual employed to do work who receives or is entitled to wages, including a former employee <u>Minimum wage requirements don't apply to a student engaged in a/an:</u>
Unpaid Internship Rules	*Formal course of training approved by the Director or *Off-campus education program provided under the <i>Education Act</i> or *Work experience program approved by Minister of Advanced Education (<i>Emp Stds Regs</i> , Sec. 8(g))
Other	

BRITISH COLUMBIA

Definition of "Employee"	Employee: Includes a person:
	*Including a deceased person, receiving or entitled to wages for work performed for another
	*An employer allows, directly or indirectly, to perform work normally performed by an employee
	* Being trained by an employer for the employer's business
Unpaid Internship Rules	*On leave from an employer
	*Who has a right of recall "Work" means the labour or services an employee performs for an employer whether in the employee's residence or elsewhere; an employee is deemed to be at work while on call at a location designated by the employer unless the designated location is the employee's residence
	BC govt. guidelines clarify that:
	* Internship must be paid if interns do "work" as part of an "internship," defined as on-the-job training offered by an employer to provide a person with practical experience, e.g., to persons who've diploma or degree program + are seeking employment + that completing an internship doesn't itself result in an academic certificate or diploma
Other	* "Practicums" can be unpaid. A practicum is part of a formal education process for students enrolled in a public or private post-secondary institution that involves supervised practical application of previously classroom taught theory related to course study + where students are usually engaged in studies to obtain a degree so as to pursue a career in education, medicine, or engineering. A practicum is "hands-on" training that's required by the curriculum + will result in a certificate or diploma. It's not considered "work" for purposes of the Act.

MANITOBA

Definition of "Employee"	"Employee" means an individual employed by an employer to do work, + includes a former employee
	"Work" means skilled or unskilled manual, clerical, domestic, professional or technical labour performed or services provided by an employee
Unpaid Internship Rules	<i>Emp. Stds. Code</i> doesn't cover an employee who is given training or work experience for a limited period of time through a program implemented or approved by (i) a provincial or federal government authority, or (ii) a school board (<i>Emp. Stds. Reg.</i> , Sec. 2(c))

NEW BRUNSWICK

Definition of "Employee"	A person who performs work for or supplies services to an employer for wages, not including an independent contractor
	Unclear if unpaid internships allowed. Explanation: No ESA exceptions stated for internships and it's unclear whether interns included in definition of "employee."
Unpaid Internship Rules	

NEWFOUNDLAND & LABRADOR

Definition of "Employee"	"Employee": A natural person who works under a contract of service for an employer
	"Contract of service": A contract, whether or not in writing, in which an employer, either expressly or by implication, in return for the payment of a wage to an employee, reserves the right of control + direction of the manner + method by which the employee carries out duties to be performed under the contract, not including a contract entered into by an employee qualified in or training for qualification in + working for an employer in practice of (i) accountancy, architecture, law, medicine, pharmacy, professional engineering, surveying, teaching, veterinary science + (ii) other professions + occupations that may be prescribed
	<u>Unpaid internships appear to be illegal.</u> Explanation: LSA doesn't specifically address unpaid internships or list applicable exemptions from minimum wage requirements but definition of "employee" is so broad that it appears to cover interns
Unpaid Internship Rules	
Other	

NOVA SCOTIA

Definition of "Employee"	A person employed to do work, including a deceased employee but not including a teacher employed by Her Majesty, the Minister of Education, an education entity as defined in the <i>Education Act</i> , or other employer, to teach, supervise or administer in a public school, a school established or maintained under the <i>Education Act</i> or in a school system
	<u>Unpaid government sponsored or approved internships OK.</u>
	Explanation: Minimum wage regulations don't apply to persons receiving training under government sponsored + government approved plans (<i>Minimum Wage Order</i> , Sec. 2(e))
Unpaid Internship Rules	
Other	

ONTARIO

Definition of "Employee"	"Employee" includes: *A person. . . who performs work for or supplies services to an employer for wages *A person who receives training from a person who is an employer, if the skill in which the person is being trained is a skill used by the employer's employees *A homemaker *A former employee
	<u>Unpaid internships exempt from ESA requirements in 3 narrow situations:</u> 1. A secondary school student who performs work under a work experience program authorized by the school board that operates the school in which the student is enrolled 2. An individual who performs work under a program approved by a college of applied arts and technology or a university 3. Internships that provide training for certain professions, e.g., architecture, law, public accounting, veterinary science, dentistry, etc.
	Ontario MOL repealed previous exception allowing unpaid internships for "trainees" that were not part of a secondary, post-secondary or professional training program ⁽²⁾
Unpaid Internship Rules	
Other	

PRINCE EDWARD ISLAND

Definition of "Employee"	<p>A person who performs any work for or supplies any services to an employer for pay, including</p> <ul style="list-style-type: none"> (i) a person who's on leave from an employer; (ii) a person who is being trained by an employer to perform work for or supply services to the employer; or (iii) a former employee
Unpaid Internship Rules	<p><u>Unclear if unpaid internships allowed.</u> Explanation: No ESA exceptions stated for internships and it's unclear whether interns included in definition of "employee," although an argument can be made that the subsection (ii) reference to an employee receiving training would include an intern</p>
Other	
QUÉBEC	
Definition of "Employee"	<p>A person who works for an employer and who's entitled to a wage, including a worker who's a party to a contract, under which he/she</p> <ul style="list-style-type: none"> i. Undertakes to perform specified work for a person within the scope and in accordance with the methods + means determined by that person; ii. Undertakes to furnish, for carrying out the contract, the material, equipment, raw materials or merchandise chosen by that person + to use them in the manner indicated by him/her; and iii. Keeps, as remuneration, the amount remaining to him/her from the sum he/she has received in conformity with the contract, after deducting expenses entailed in the performance of contract
Unpaid Internship Rules	<p><u>Act doesn't cover</u> a student who works during the school year in an establishment selected by an educational institution pursuant to a job induction program approved by the Ministère de l'Éducation, du Loisir et du Sport or Ministère de l'Enseignement supérieur, de la Recherche, de la Science et de la Technologie;</p> <p><u>Minimum wage rules don't apply to:</u></p> <ul style="list-style-type: none"> (1) A student employed in non-profit organization with social or community purposes, like vacation camp or recreational organization; (2) A trainee under a legally recognized vocational training program; (3) A trainee under a program of vocational integration under section 61 of the <i>Act to secure handicapped persons in the exercise of their rights with a view to achieving social, school and workplace integration</i>
Other	<p>New pay equity laws banning pay differentials on basis of employment status would also ban paying an intern less than a part- or full-time employee for doing the identical work in the same establishment</p>
SASKATCHEWAN	
Definition of "Employee"	<p><u>"Intern" means:</u></p> <ul style="list-style-type: none"> (i) A person whom an employer permits, directly or indirectly, to perform work or services normally performed by an employee; or (ii) A person being trained by an employer for the employer's business; <p><u>"Student learner" means a person who:</u></p> <ul style="list-style-type: none"> (i) Is enrolled in an educational program at an educational institution recognized by the minister; and (ii) Is receiving skills training that is a requirement to receive a designation from an educational institution recognized by the minister; <p><i>But does not include an intern (Emp. Stds. Regs., Sec. 2(l) and (t), respectively)</i></p>

Unpaid internships OK for student learners but not interns.

Explanation: Sec. 2⁽²⁾ of the Regs. specify that:

Unpaid Internship Rules (a) A person who is engaged in the activities associated with being a **student learner is not considered an employee** under the Act; and
(b) A person engaged in the activities associated with being an **intern is considered an employee** under the Act

Other

NORTHWEST TERRITORIES

Definition of "Employee" A person employed to do skilled or unskilled manual, clerical, technical, operational or administrative work

Unpaid Internship Rules Unpaid internships OK for students. Explanation: Regs. state that ESA doesn't apply to a student employed in a work program as part of his/her school curriculum

Other

NUNAVUT

Definition of "Employee" A person employed to do skilled or unskilled manual, clerical, technical, operational or administrative work

Unpaid Internship Rules Unpaid internships OK for students with govt. approval.
Explanation: *Educ. Work Experience Regs.* say Labour Standards Officer may make an exemption from minimum wage requirements for an employer engaged in providing employment to a school student who's engaged in a work program that's part of his/her school curriculum

Other

YUKON TERRITORY

"Employee" includes:

(a) A person, including a deceased person, in receipt of or entitled to wages for employment or services performed for another,
(b) **A person being trained by an employer for purpose of employer's business,**

(c) A contract worker +

Definition of "Employee" (d) A former employee "Contract worker:" A worker, whether or not employed under an employment contract, + whether or not furnishing tools, vehicles, equipment, machinery, material, or any other thing owned by the worker, who performs work or services for

another person for compensation or reward on such terms + conditions that

(a) the worker is in a position of economic dependence on, + under an obligation to perform duties for, that person, +

(b) the relationship is more like an employer-employee rather than independent contractor relationship

Unpaid internships for trainees OK with govt. approval.

Unpaid Internship Rules Explanation: Sec. 18⁽²⁾(g) of Act gives board authority to grant application to exempt from minimum wage requirements any class of employees being trained on the job, if the training facilities provided +

used by employer are adequate to provide a training program that will increase an employee's skill or proficiency

Other

Notes:

(1) Other non-wage protections apply to unpaid interns in federally regulated workplaces, including: 40 hours/week + 8 hours/day + 1 rest day per week; unpaid breaks for every 5 hours of work, medical reasons or nursing; 8-hour rest period between shifts; right to modified work schedules + 96 hours advance notice of

schedule; 9 general holidays per year; leave for family violence, bereavement, medical, work-related illness + injury; right to maternity-related reassignment; protection from reprisals + genetic discrimination

(2) The now repealed Ontario exception used to apply under 6 conditions: 1. Training was similar to that given in a vocational school; 2. Training was for benefit of the individual; 3. Person providing training derived little, if any, benefit from activity of the individual while he/she was being trained; 4. Individual didn't displace employees of person providing the training; 5. Individual wasn't given a right to become an employee of person providing the training; and 6. Individual was advised that he/she she would receive no remuneration for time he/she spent in training