Avoid 7 Common Payroll Pitfalls When Hiring Seasonal Employees

From a compliance perspective, managing seasonal employment isn't as simple as it may appear. Employees don't give up their anti-discrimination, privacy, occupational health and safety (OHS), and other employment law protections just because their employment is short-term. Seasonal employment also creates its own set of payroll challenges, particularly with regard to accrual and payment of termination notice, vacations, statutory holiday pay, and other employment standards law entitlements. Here are seven compliance pitfalls for HR directors of companies that hire seasonal employees to avoid.

Pitfall 1. Assuming Seasonal Employees Don't Qualify for Termination Notice

Many seasonal employees don't qualify for termination notice under employment standards laws. The reason for this is not because their employment is seasonal but because it ends before the minimum period required for termination notice entitlement—typically three to six months of employment. In some jurisdictions termination notice requirements also don't apply to employment for a fixed term, even if that term is longer than the three to six months required for termination notice entitlement to accrue.

Practical Impact: Being a seasonal employee doesn't automatically mean a worker isn't entitled to termination notice, especially if their employment lasts longer than the three-to-six months required for vesting. In addition, "seasonal employee" and "fixed-term employee" aren't necessarily synonymous.

Compliance Strategy: Don't assume termination notice isn't due just because the offer letter or contract describes the employment as "seasonal." And don't assume that describing the employment as "seasonal" automatically makes it a fixed-term employment arrangement. Decide and spell out what the employment actually is and document the start date, expected end date, and terms governing an early end to the assignment.

Pitfall 2. Assuming Seasonal Employees Don't Qualify for

Vacation Pay

Seasonal employees normally don’t work long enough to take a week or two of vacation. But that doesn’t necessarily mean they have no vacation entitlement. In many jurisdictions, employees accumulate vacation pay from earnings even when the employment relationship is short. The precise percentage and calculation method depend on the jurisdiction and circumstances. **Example:** Under the *Canada Labour Code*, federally regulated employees who leave before completing a full year may still be entitled to vacation pay for the partially completed year, which the employer must pay within 30 days after employment ends.

Compliance Strategy: Build the applicable vacation-pay calculation into the seasonal payroll process from the beginning. Rather than simply running a seasonal employee’s final regular paycheque and closing the file, require payroll to specifically verify that all vacation pay owing has been included when seasonal employment ends.

Pitfall 3. Assuming Seasonal Employees Don’t Qualify for Overtime Pay

Seasonal employment is subject to employment standards overtime requirements. That’s important because seasonal employees typically work during peak periods in which work schedules run longer than the 8 hours per day and 40 hours per week after which overtime pay is generally required.

Compliance Strategy: Consider overtime averaging and other arrangements to keep seasonal employee overtime costs from getting out of hand. Also recognize that payroll risk isn’t limited to an employee deliberately working extra hours. Managers may tell seasonal workers to arrive early, stay late, finish a job after the scheduled shift, or attend mandatory meetings without recording the time. So, tell supervisors explicitly that all hours actually worked must be recorded and that “seasonal” is not a substitute for overtime rules.

Pitfall 4. Improper Calculation of Seasonal Employee Vacation Pay, Overtime, & Other Earnings

What counts as wages for vacation-pay purposes varies by jurisdiction. Thus, for example, under federal law, regular earnings, overtime premiums, general-holiday premiums, and certain other amounts may be included in wages used to calculate vacation pay. This may have significant payroll implications, especially where overtime represents a substantial proportion of a seasonal employee’s earnings.

There are also payroll tax issues. CRA requires vacation pay to be reported as employment income, with applicable income-tax, CPP/QPP and EI deductions. Withholding methods may differ depending on when and how the vacation pay is paid.

Compliance Strategy: Don’t assume that vacation pay is calculated only on the seasonal employee’s straight-time wages. Have payroll specifically verify both the employment-standards calculation and CRA treatment before processing the paycheque.

Pitfall 5. Assuming Seasonal Employees Don’t Qualify for Statutory Holiday Pay

Seasonal employees can easily fall into payroll gaps around public holidays.

As with many other employment standards entitlements, statutory holiday pay requirements may apply to seasonal employment. This becomes an issue where a seasonal worker is hired immediately before a statutory holiday that falls during a scheduled shift and either works on the holiday and/or leave shortly afterward.

Compliance Strategy: There are two things HR and payroll must determine:

- Whether the employee entitled to holiday pay.
- If so, how to calculate the employee's compensation for the work performed on that holiday.

The answers to these questions will depend on the jurisdiction, length of employment, schedule, and other factors. In all cases, give payroll a list of seasonal employees before each statutory holiday and verify that the system is applying the correct jurisdictional rules rather than treating these workers as ordinary casual labour.

Pitfall 6. Assuming Seasonal Employees Don't Qualify for Post-Termination Payments

A common but dangerous assumption that companies make is that their payment obligations to seasonal employees end when the season closes and the contract ends. Post-termination payment obligations will depend on how the employment ended—was it because the agreed term expired or did the company terminate the employee before the contractual or expected end of employment. Depending on jurisdiction, notice obligations may end in the former situation but not the latter.

Compliance Strategy: When seasonal employment ends, conduct a final payroll review covering not just regular wages but other payments, which may include, depending on the jurisdiction:

- Outstanding regular wages
- Overtime
- Public holiday pay
- Vacation pay
- Termination pay or pay in lieu of notice, and
- Other amounts owing under the employment agreement or employment standards law.

Pitfall 7. Confusing Seasonal Employees with Independent Contractors

CRA rules require employers to withhold and report applicable deductions from employment income, including overtime and vacation pay. These requirements don't generally apply to independent contractors. Seasonal operations often use people described as "contractors," particularly where the work lasts only a few weeks. But short duration doesn't make someone an independent contractor. The distinction between employee and independent contractor is based on control over the work, ownership of tools and equipment, whether the worker has a financial stake in the business, and other factors other than duration of employment.

Compliance Strategy: Don't conflate the term "seasonal contractor" with seasonal employee. Review the actual working relationship applying the above CRA factors before deciding how to classify and pay seasonal workers.

Takeaway: Review Payroll Treatment Before the First Paycheque—Not After the Season

Seasonal hiring involves a kaleidoscope of payroll variables, such as short periods of employment, irregular schedules, overtime, holiday pay, vacation pay, bonuses or premiums, etc. The objective is not simply to ensure seasonal employees are paid but to ensure they're paid correctly under the employment standards and tax rules that actually apply to them. That makes it imperative for the payroll department to be involved **before** seasonal employees are hired. This is particularly important where the seasonal workforce is hired rapidly through several managers or locations. HR should confirm:

- The correct employee classification.
- Which province's employment standards laws apply with regard to overtime, termination notice, vacation, statutory holiday pay, etc.
- The appropriate wage rate.
- The payroll deductions to be made.
- The procedures for tracking work hours.
- The wage payment procedures.