Banking of Overtime – Know The Laws Of Your Province



All but 3 jurisdictions allow employees to trade overtime for extra paid time off.

Like overtime averaging, overtime banking is subject to specific requirements under employment standards laws. While you don't need government approval for banking the way you do for averaging, there must be a written agreement. There are also rules for how overtime is banked and paid out. Saskatchewan's rules are the strictest. Here's a summary of the requirements in all parts of Canada.

Overtime Banking Laws Across Canada

FEDERAL

(a) Employee can make request for written overtime banking agreement; (b) Banked time must be used within 3 months after pay period in which it's earned unless collective agreement or employment contract provides longer period, subject to 12-month maximum for latter; (c) Employer must pay time-and-a-half wages for banked time employee doesn't use within 30 days after period for use ends or employee's employment ends (*Canada Labour Code*, Sec. 174)

ALBERTA

(a) Employees and employers may agree in writing to overtime banking; (b) Banked time off must be taken within 6 months of pay period unless collective agreement or government permit allows longer period; (c) Either party can terminate or change agreement upon one month's written notice; (d) Employer must give employee a copy of agreement; (e) Employer must pay time-and-a-half wages for banked time employee doesn't use; and (f) Employer must give each affected employee a copy of the agreement (*Employment Standards Code*, Sec. 23)

BRITISH COLUMBIA

(a) Employee can make written request for a "time bank" into which employer credits overtime wages; (b) Employee gets wages of time-and-a-half for each hour of overtime over 8 hours, and double wages for each hour of overtime over 12 hours worked in one day; (c) Employee may request at any time that employer: (i) pay all or part of overtime wages in bank, (ii) let the employee use the credits to take time off at a mutually agreed time, or (iii) close the bank; and (d) Employer may close banks upon

one month’s written notice and then has 6 months to either pay the overtime or let the employee take time off (*Employment Standards Act*, Sec. 42)

MANITOBA

(a) Employees and employer can agree in writing to banking of some or all of employees’ overtime; (b) Employee gets at least 1.5 hours of time off at regular wage rate for each hour of overtime; (c) Banked time must be used during regular working hours within 3 months after end of pay period it’s earned unless regulation or director of employment standards branch permits longer time; and (d) Employer must pay employee at regular wage rate for banked time unused, either because period for use expires or termination of employment, in accordance with section 86 (wages to be paid within certain time) (*Employment Standards Code*, Sec. 18)

NEW BRUNSWICK

Overtime banking not allowed

NEWFOUNDLAND

(a) Employer and employee may agree to overtime banking; (b) Employees gets 1.5 hours off for each hour of overtime; (c) Time off must be taken within 3 months of work week in which overtime is earned unless employee agrees to 12-month period; and (d) Employees get overtime pay for banked hours they don’t use within the 3- to 12-month period (*Labour Standards Act*, Sec. 25)

NOVA SCOTIA

Overtime banking not addressed in *Labour Standards Code* but government guidance permits fixed cycle averaging agreements

ONTARIO

(a) Employer and employee may agree in writing to overtime banking at rate of 1.5 hours paid time off for every hour of overtime; (b) Employee must take paid time off within 3 months of week it’s earned, or within 12 months if the employee agrees; and (c) If employment ends before banked time is used, employer must pay employee overtime pay for the unused hours within 7 days after date employment ends or on what would have been the employee’s next pay day (*Employment Standards Act*, Sec. 22)

PRINCE EDWARD ISLAND

(a) Employee may request overtime banking in writing; (b) Employee gets 1.5 hours paid time off work for each overtime hour worked; (c) Paid time off must be taken within 3 months of work week in which overtime was earned; and (d) If employment ends before banked time is used, employer must pay employee overtime pay for the unused hours (*Employment Standards Act,* Sec. 15.1)

QUÉBEC

(a) Overtime banking allowed by employee request or collective agreement; (b) Employee gets 1.5 paid hours off for each hour of overtime worked; (c) Unless otherwise agreed, banked time must be taken within 12 months after overtime earned; (d) Employer and employee must agree on date to take time off; and (e) If employment ends before employee takes banked time off, overtime must be paid at same date as last pay cheque issued (*Labour Standards Act*, Sec. 55)

SASKATCHEWAN

(a) Employer and employee may agree to overtime banking (*Sask. Employment Act*, Sec. 2-18(3)); (b) Agreement must be in writing and signed by employer and employee; (c) Employee gets 1.5 hours for each overtime hour worked; (d) Banked hours must be taken: (i) during employee's regularly scheduled work hours, (ii) at a time(s) agreed to by employer and employee, or, in the absence of agreement, as scheduled by the employer, (iii) at the employee's hourly wage, and (iv) within 12 months after end of the pay period in which overtime hours were banked; (d) Employer must keep a copy of the time bank agreement and give a copy to the employee; (e) Employer must pay employee wages for unused banked time; (f) At any time, employer or employee may give written notice of at least one pay period of his or her intention to: (i) issue or obtain payment for all or part of the hours in the time bank, or (ii) terminate the time bank; (g) Upon getting written notice for payment, employer must pay the employee wages for the banked overtime hours no later than the end of the pay period following the pay period in which written notice was provided; (h) If written notice is given, employer must, no later than the end of the next day period after the notice is given, either pay the employee wages for the banked overtime hours or schedule the times at which the employee must take the banked hours; and (i) If employer lays off or terminates employee, it may not require the employee to take banked overtime hours off with pay as part of the required notice period (*Employment Standards Regulations*, Sec. 12)

NORTHWEST TERRITORIES

(a) Overtime banking allowed by agreement of employer and employee or majority of employees or by collective agreement; (b) Employee gets 1.5 hours paid time off for each hour of overtime; (c) Time off must be taken within 3 months of end of the pay period in which overtime was earned unless the collective agreement or Employment standards officer permits longer period; (d) Either party can change or end agreement with one month's written notice; and (e) Employer must give employee copy of agreement (*Employment Standards Act*, Sec. 12)

NUNAVUT

Labour Standards Act allows overtime averaging but doesn't address overtime banking

YUKON

(a) Overtime banking allowed by written agreement of employer and employee or majority of employees or by collective agreement; (b) Employee gets 1.5 hours time off at regular pay for each hour of overtime; (c) Employee must take time off within a 12 month period if agreed or within calendar year if no period agreed to; (d) Either party can change the agreement with one month's written notice; and (e) Employer must give employee copy of agreement (*Employment Standards Act*, Sec. 9)

*Many employees prefer trading overtime pay for extra paid time off. Banking of overtime, aka time-off in lieu, is an arrangement that enables employees to earn paid time off by working overtime hours. The way it works: For each hour of overtime worked, the employee earns 1.5 hours of time off paid at their regular wage rate. The earned hours go into an overtime bank that the employee can draw from within a certain period. But employment standards laws impose strict limitations on overtime banking; some jurisdictions even ban it altogether. Here's a visual depiction of where banking is and isn't allowed.