

Compliance Cheat Sheet: Maximum Work Hours & Minimum Rest Periods



Note: This is an article from 2020, reflective upon the COVID-19 pandemic, but the principles and strategies mentioned are still applicable for HR directors trying to remain compliant when it comes to worker safety and maintaining an appropriate work/life balance.

You may need to require healthy employees to work longer hours to make up for staff shortages. But in so doing, you'll need to be careful to comply with the hours of work requirements of your jurisdiction's employment standards laws. Here's a rundown of the requirements HR directors need to be aware of and a summary of how the rules apply in each part of Canada.

Exemptions for Emergency Workers

Keep in mind that the work hours restrictions discussed below typically don't apply to medical, ambulance, emergency response and other employees expected to provide crucial public services during the coronavirus emergency. This article is thus targeted to employers and organizations running private, profit-based businesses outside of healthcare and scientific research.

The 2 Key Restrictions on Working Hours

While employment standards requirements vary slightly by jurisdiction, they all follow the same general approach of setting work hour limits but also providing for broad exceptions, including in emergencies. There are 2 basic parts of the law that come into play:

1. Limits on Daily Work Hours

The standard work day after which overtime at time and a half required is typically 8 hours. Several jurisdictions establish a specific maximum daily hourly limit:

- Federal: 8 hours;
- Alberta: 12 hours;
- Ontario: 8 hours;
- Northwest Territories and Nunavut: 10 hours.

BC, Saskatchewan and Newfoundland don't have specific daily hour limits but achieve

the same basic result by requiring a minimum of 8 consecutive hours between shifts, which has the effect of capping daily work hours at 16.

2. Limits on Weekly Work Hours

The same basic principles apply to weekly hours. The standard work week after which overtime at time and a half required is typically 40 hours. Jurisdictions with a specific limit on work hours per week include:

- Federal: 40 hours;
- Ontario: 48 hours;
- Northwest Territories and Nunavut: 60 hours.

Alberta, Ontario Nunavut, Northwest Territories, New Brunswick, Newfoundland and Nova Scotia indirectly limit work to 6 days per week by requiring that employees get at least one day off per week (which floats in Alberta and Ontario depending on the number of consecutive work weeks in the work period).

The 3 Key Exceptions

The key thing to keep in mind for coronavirus response is that both types of restrictions, i.e., maximum daily and weekly work hours and minimum required rest per week and between shifts, are subject to broad exceptions. It's essential to know about these exceptions if you want your employees to put in unusually long hours. In addition to hour caps and minimum rest periods, these exceptions may also create the opportunity to not have to pay overtime wages to employees working beyond standard daily and/or weekly hours.

Exception 1: Exemptions for Emergency Response Employees

For coronavirus purposes, the most significant employment standards exceptions that allow employers to require employees to work longer than normally allowed to deal with unforeseen emergencies. Although most jurisdictions have emergency provisions (the exceptions are Yukon and Prince Edward Island), the scope varies. The key question: Does the disruption and dislocation to business caused by coronavirus count as an emergency?

The answer is YES in Alberta, Manitoba, Ontario, Nova Scotia and Federal, in which emergency is defined as including prevention of disruption to the continuity of the business at the particular establishment. But after that, things get tricky:

- In Québec and Newfoundland, the definition of emergency is limited to imminent danger to health and safety or imminent threat of property damage; and
- BC, Northwest Territories, Nunavut, Saskatchewan and New Brunswick, there is no definition of what constitutes an emergency.

Is Coronavirus Business Disruption an Emergency Exempt from Work Hour Restrictions?

Yes	Probably Not	Unclear	NA because there is no emergency exception
Fed, AB, MB, NS, ON	NL, QC	BC, NB, SK, NT, NU	PEI, YK

Keep in mind that the emergency exception applies only for as long as the emergency lasts and that you must comply with the usual maximum hours and rest periods after the situation is resolved.

Exception 2: Employee Agreements

Rather than relying on an emergency exception, you can do is contract with your employees or their unions to provide for longer work hours. Such arrangements may include:

- Averaging agreements (available in all jurisdictions except New Brunswick and Prince Edward Island), although hours caps may apply during the averaging period; and
- Flexible, modified or staggered work schedules (available federally and in Alberta, Saskatchewan, Ontario and Québec); and

Exception 3: Government Permits

Most jurisdictions allow employers to apply to the employment standards agency for a permit authorizing longer work schedules and exemptions from hour maximums and minimum rest periods.

Maximum Work Hours Across Canada

FEDERAL

Daily Hours	<u>8 hours maximum EXCEPT for:</u> *Modified work schedule in collective agreement as long as average weekly hours for period of 2 or more weeks don't top 40 *Flexible work schedule, averaging agreement or govt. permit as long as average weekly hours for period of 2 or more weeks don't top 48 ⁽¹⁾
Weekly Hours	<u>40 hours maximum EXCEPT for:</u> *Modified work schedule in collective agreement as long as average weekly hours for period of 2 or more weeks don't top 40 *Flexible work schedule, averaging agreement or govt. permit as long as average weekly hours for period of 2 or more weeks don't top 48 *Maximums may be exceeded in emergency but only to extent necessary to prevent serious interference with ordinary working of industrial establishment affected, in cases of: (a) accident to machinery, equipment, plant or persons; (b) urgent and essential work to be done to machinery, equipment or plant; or (c) other unforeseen or unpreventable circumstances ⁽¹⁾
Minimum Rest Periods	Minimum 8 consecutive hours between shifts EXCEPT where necessary to deal with situation that employer could not have reasonably foreseen and that poses an imminent or serious: (a) threat to life, health or safety; (b) threat of damage to or loss of property; or (c) threat of serious interference with the ordinary working of employer's industrial establishment

ALBERTA

Daily Hours	12 consecutive hours maximum EXCEPT if accident occurs, or urgent work necessary to a plant or machinery, or other unforeseeable or unpreventable circumstances occur but only to extent necessary to avoid serious interference with the ordinary working of a business, undertaking or other activity
Weekly Hours	<u>No specific weekly hour limit but weekly limits do apply to averaging agreements:</u> *44 hours if agreement lasts 1 week *Average of 44 hours over entire agreement if agreement lasts >1 week
Minimum Rest Periods	<u>Minimum days of rest:</u> * 1 day in each work week * 2 consecutive days in each period of 2 consecutive work weeks *3 consecutive days in each period of 3 consecutive work weeks *4 consecutive days in each period of 4 consecutive work weeks *4 consecutive days after each 24 consecutive work days

BRITISH COLUMBIA⁽²⁾

Daily Hours	No specific limit on hours per day subject to minimum 8 hours between shifts, which doesn't apply in an emergency
Weekly Hours	<u>No specific weekly hour limit but weekly limits do apply to averaging agreements:</u> *40 hours if agreement lasts 1 week *Average of 40 hours over entire agreement if agreement lasts >1 week *8 consecutive hours work between shifts EXCEPT in an emergency
Minimum Rest Periods	*32 consecutive hours per week or pay at 1 1/2 x regular wage for time worked by the employee during 32-hour period employee would otherwise get free from work

MANITOBA

Daily Hours	<u>8 hours standard work day but up to:</u> *12 hours under averaging agreement *10 hours under flex-time agreement with individual employee
Weekly Hours	40 hours standard work week but up to 60 hours under averaging agreement
Minimum Rest Periods	Employer may require employee to work overtime: (a) if urgently required by present or imminent situation or condition that requires prompt action to avoid or limit (i) loss of life, (ii) harm to health or a threat to safety, or (iii) a serious interference with the ordinary operation of the employer's business; (b) if urgently required by a present or imminent situation or condition interrupting or threatening to interrupt (i) provision of an essential service by the government, a municipality or a public utility, or (ii) provision of municipal services or health services; (c) if urgently required by or under an Act of the Legislature due to an existing or threatened disaster or emergency

NEW BRUNSWICK

Daily Hours	No daily limit
Weekly Hours	Employees can work maximum 6 days per week EXCEPT in an emergency
Minimum Rest Periods	Weekly rest period of at least 24 consecutive hours, to be taken, if possible, through Sunday or, if the Director approves, to be accumulated and taken later EXCEPT in an emergency ⁽³⁾

NEWFOUNDLAND & LABRADOR

Daily Hours	No daily limit subject to minimum 8 hours rest between shifts which doesn't apply in emergency constituting an imminent hazard to life or property
Weekly Hours	Employees can work no more than 6 days per week EXCEPT employees doing work of an emergency nature requiring immediate remedial action *Minimum 24 consecutive hours rest for each week of employment (preferably Sunday) EXCEPT employees doing work of an emergency nature requiring immediate remedial action
Minimum Rest Periods	*Minimum 8 consecutive hours rest in each unbroken 24-hour period of employment EXCEPT in emergency constituting an imminent hazard to life or property

NOVA SCOTIA

Daily Hours	No daily limit
Weekly Hours	Maximum 6 days per week EXCEPT in case of: (a) an accident; (b) work required to be done to employer's machinery or establishment; (c) an occurrence beyond human control, but only to extent necessary to avoid serious interference with the ordinary working of the employer's undertaking; (d) Director's approval

Minimum Rest Periods	Minimum 24 consecutive hours rest every 7 days (preferably Sunday) EXCEPT in case of: (a) an accident; (b) work required to be done to employer's machinery or establishment; (c) an occurrence beyond human control, but only to extent necessary to avoid serious interference with the ordinary working of the employer's undertaking; (d) Director's approval
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ONTARIO

Daily Hours	<p>Maximum 8 hours EXCEPT: *Under agreement with employee *Established regular work day >8 hours <u>EXCEPTION: Employer can require work beyond daily limits:</u> *To deal with an emergency *If something unforeseen occurs, to ensure continued delivery of essential public services, regardless of who delivers those services *If something unforeseen occurs, to ensure that continuous processes or seasonal operations aren't interrupted *To carry out urgent repair work to the employer's plant or equipment</p>
Weekly Hours	<p>Maximum 48 hours EXCEPT under agreement with employee <u>EXCEPTION: Employer can require work above weekly limits:</u> *To deal with an emergency *If something unforeseen occurs, to ensure continued delivery of essential public services, regardless of who delivers those services *If something unforeseen occurs, to ensure that continuous processes or seasonal operations aren't interrupted *To carry out urgent repair work to the employer's plant or equipment</p>
Minimum Rest Periods	<p><u>Minimum time free from work of:</u> *11 consecutive hours per day EXCEPT if employee is on call *8 hours between shifts EXCEPT where total time worked on successive shifts doesn't top 13 hours or employer + employee agree otherwise *Either: (a) 24 consecutive hours in every work week; or (b) 48 consecutive hours in every period of 2 consecutive work weeks <u>EXCEPTION: Employer can require work without granting above rest periods:</u> *To deal with an emergency *If something unforeseen occurs, to ensure continued delivery of essential public services, regardless of who delivers those services *If something unforeseen occurs, to ensure that continuous processes or seasonal operations aren't interrupted *To carry out urgent repair work to the employer's plant or equipment</p>

PRINCE EDWARD ISLAND

Daily Hours	No daily limit
Weekly Hours	Standard work week of 48 hours
Minimum Rest Periods	Minimum 24 consecutive hours rest every 7 days (preferably Sunday) ⁽³⁾

QUÉBEC

Daily Hours	No daily limit
Weekly Hours	Standard work week of 40 hours EXCEPT up to 50 hours under work hour staggering agreement

Employee may refuse to work more than 2 hours after regular daily working hours or more than 14 working hours per 24 hour period, whichever is shorter or, for an employee whose flexible or non-continuous hours, more than 12 working hours per 24 hour period EXCEPT if:

- Minimum Rest Periods**
- *There's a danger to the life, health or safety of employees or population
 - *There's a risk of destruction or serious deterioration of movable or immovable property
 - *In any other case of superior force
 - *The refusal is inconsistent with employee's professional code of ethics

SASKATCHEWAN

- Daily Hours** No daily limit subject to requirement that averaging agreements provide for no more than 12 hours per day
- Weekly Hours** 44 hours or higher total set by modified work arrangement or averaging agreement⁽⁴⁾ EXCEPT if unexpected, unusual or emergency circumstances arise
- Minimum Rest Periods** *Minimum 8 consecutive hours rest per day EXCEPT in an emergency
*Minimum days off per week of either: (a) 1 day for employees who usually work 20 or more hours per week; or (b) 2 consecutive days for workplaces with more than 10 employees, or prescribed categories of employees, EXCEPT if employer gets written authorization from Director allowing continued work without above required weekly day(s) of rest

NORTHWEST TERRITORIES

- Daily Hours** 8 hours standard, 10 hours maximum EXCEPT if Employment Standards Officer authorizes, or where employee must keep working due to: (a) an accident to machinery, equipment, a plant or person; (b) urgent + essential work required to be done to machinery, equipment or a plant; or (c) other unforeseen or unavoidable circumstances
- Weekly Hours** 40 hours standard, 60 hours maximum EXCEPT if Employment Standards Officer authorizes, or where employee must keep working due to: (a) an accident to machinery, equipment, a plant or person; (b) urgent + essential work required to be done to machinery, equipment or a plant; or (c) other unforeseen or unavoidable circumstances
- Minimum Rest Periods** Minimum days of rest of:
*1 day per work week; or
*2 consecutive days per period of 2 consecutive work weeks; or
*3 consecutive days per period of 3 consecutive work weeks

NUNAVUT

- Daily Hours** 8 hours standard, 10 hours maximum EXCEPT if Labour Standards Officer authorizes, or where employee must keep working due to: (a) an accident to machinery, equipment, a plant or person; (b) urgent + essential work required to be done to machinery, equipment or a plant; or (c) other unforeseen or unavoidable circumstances
- Weekly Hours** 40 hours standard, 60 hours maximum EXCEPT if Labour Standards Officer authorizes, or where employee must keep working due to: (a) an accident to machinery, equipment, a plant or person; (b) urgent + essential work required to be done to machinery, equipment or a plant; or (c) other unforeseen or unavoidable circumstances
- Minimum Rest Periods** At least 1 full day of rest per week, preferably Sunday

YUKON TERRITORY

- Daily Hours** 8 hours standard or higher total under averaging agreement
- Weekly Hours** 40 hours standard or higher total under averaging agreement

Minimum Rest Periods *At least 2 full days per week, preferably one of them Sunday
*Employer may require up to 28 consecutive days of work if additional work is necessary to complete the project

Notes:

- (1) Under federal law, where hours to be worked in excess of the maximum hours of work are agreed to in writing, the work schedule must include no fewer days of rest than the number of weeks in the work schedule; where excess hours approved under permit, MOL may prescribe alternative days of rest to protect employees' welfare
- (2) BC specifies that employer may not require or directly or indirectly allow an employee to work excessive hours or hours detrimental to the employee's health or safety
- (3) In NB and PEI, retail workers also have the right to refuse to work on Sundays
- (4) In Sask, averaging agreements can provide for average work hours of 40 hours over one week, 80 hours over 2 weeks, 120 hours over 3 weeks and 160 hours over 4 weeks