

Employee Entitlement to Wages for Training Time – Know The Laws Of Your Province



Employment standards laws clearly say that employees must be paid wages for the time they spend performing work for their employer. What they don't say is whether the time employees spend receiving job training is considered work time for which wages are due. **Exception:** Québec is the only jurisdiction whose employment/labour standards law specifically says that employees are deemed to be at work during training or trial periods required by their employer.

In the rest of the country, the rules governing compensability of training time must be pieced together indirectly, either by how the jurisdiction defines an employee" covered by the employment standards act (ESA) and/or government guidance specifically addressing the question.

Bottom Line: Employers do have to pay employees for training time if that training is required either by the employer or law, such as mandatory safety training under OHS laws. However, training time is not compensable when it's undertaken voluntarily by employees to get a promotion or otherwise advance their career, such as Class 1 driver's license training sought by workers who want to enhance their marketability with trucking companies.

But the clarity of that rule varies by province:

- The rule is clearest in Québec where the LSA says that employees are deemed at work when they're taking training required by the employer.
- The next clearest jurisdiction are Ontario and BC where the respective ESA defines "employee" as including a person receiving training required by the employer to perform the job **and** government guidelines make the distinction between mandatory training, which is compensable, and voluntary training, which is not.
- The next tier are the 4 jurisdictions (New Brunswick, PEI, Saskatchewan and Yukon) that define an "employee" covered by the Act as including a person receiving training for the job or employer's business but which don't also have government guidance reiterating this rule a la BC and Ontario.
- One rung down the clarity continuum are the 3 jurisdictions (Federal, Alberta and Newfoundland) whose Acts don't include training in the definition of "employee" but have issued government guidance indicating that training time is

- compensable when the training is mandatory.
- The rules are least clear in Manitoba, Nova Scotia, Northwest Territories and Nunavut where the issue is addressed in neither the employment standards law nor government guidance.

Here's a summary of the current state of training compensability requirements in each part of Canada.

FEDERAL

Government Guidance

- Training required by law (for example, hazardous products training) constitutes hours of work.
- Training required by the employer (for example, instructing for a new aspect of the employee's job) constitutes hours of work.
- Training initiated by preference of the employee doesn't constitute hours of work.
- Developmental voluntary training which prepares the employee for another job doesn't constitute hours of work.

(Employment and Social Development Canada, *Interpretations, Policies and Guidelines (IPGs)*, Hours of Work, IPG-002).

ALBERTA

Government Guidance

If a compulsory meeting or training occurs on an employee's regularly scheduled day off, the employee must be paid at least the minimum wage and overtime if applicable. If the meeting or training is less than 3 hours in length, the 3-hour minimum rule applies. In addition:

- If an employee returns to work to attend the meeting or training after completing their shift, the employee must be paid the wages agreed to or overtime if applicable, whichever is greater.
- The rate of pay for meetings or training can't be less than the minimum wage.
- The pay received by the employee must equal or exceed the amount described in the section on minimum compensation for short periods of work.
- If the meeting or training is not compulsory but is directly related to the employee's work, and the employee attends, they must be paid the wages agreed to, and overtime if applicable; the employee must receive at least the minimum compensation as described above.

(*Alberta Employment Standards Rules, Hours of Work & Rest, Compulsory Meetings or Training*).

BRITISH COLUMBIA

Employment Standards Act

- “Employee” covered by ESA defined as including a person being trained by an employer for the employer's business (ESA, Sec. 1(1)(c)).

Government Guidance

- **When training time is considered “work” under the Act:** Employers must pay for the training an employee needs to learn how to do their job at the employer’s business. Training directed by the employer, or on the employer’s behalf, which is related to performing the employment duties the employee has been hired to do is considered work. For example, an employee must be paid while they’re being trained how to do such things as use tools and equipment, follow procedures in the workplace, assist customers and handle money and other forms of payment.
- **When training time is not considered “work” under the Act:** Training to obtain or maintain a permit, license, certificate or ticket which enables the holder to seek employment with any number of employers is not considered to be “work”. Therefore, an employer is not required to pay for time spent by an employee to obtain and maintain “portable” permits issued, certified or mandated by the government. Some examples are a driver’s license, a “FOODSAFE” food handling certificate, or a security guard license.

(*Employment Standards Act & Regulation Definitions, Wages for Training*).

MANITOBA

Neither the *Employment Standards Code* nor Government Guidance specifically addresses the issue of whether employees are entitled to wages for training time.

NEW BRUNSWICK

Employment Standards Act

- “Employee” covered by ESA defined as including a person who receives training, if the skill in which the person is being trained is a skill used by other employees at the place of employment, regardless of whether the person receives accommodations to meet the person’s needs (ESA, Sec. 1).

NEWFOUNDLAND & LABRADOR

Government Guidance

Employees are required to be paid for the time they spend at the workplace at the employer’s request. Examples of when employees should be paid attending training required by the employer.

(Labour Standards Division Government of Newfoundland and Labrador, *Labour Relations at Work, Meetings & Extra Duties*).

NOVA SCOTIA

Neither the *Labour Standards Code* nor Government Guidance specifically addresses the issue of whether employees are entitled to wages for training time.

NORTHWEST TERRITORIES

Neither the *Employment Standards Act* nor Government Guidance specifically address the issue of whether employees are entitled to wages for training time.

NUNAVUT

Neither the *Labour Standards Act* nor Government Guidance specifically addresses the issue of whether employees are entitled to wages for training time.

ONTARIO

Employment Standards Act

- “**Employee**” covered by ESA defined as including a person who receives training (including work performed during a trial period) 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 (ESA, Secs. 1(1)(c) + 1(2.1)).
- Being assigned to perform work for a client of a temporary help agency includes being assigned to the client to receive training for the purpose of performing work for the client (ESA, Sec. 1(2)).

Government Guidance

- Time spent by an employee in training that’s required by the employer or by law **is** counted as work time, such as where the training is required because the employee is a new employee or as a condition of continued employment in a position.
- Time spent in training that’s not required by the employer or by law for an employee to do his or her job **is not** counted as work time, such as where an employee hoping for a promotion with the employer takes training to qualify for the promotion.
- Effective March 21, 2024, a person who performs work for an employer during a trial period is an employee under the ESA if the skills being assessed during the trial period are skills used by the employer’s employees or could be used by employees if the employer has no other employees, such as where an employer asks a job candidate to work a trial shift to demonstrate their ability to perform the job, even where no employment offer has been made to that candidate. The person is still deemed an employee under the ESA, which means the hours worked during the trial period must be counted as work time.

(Ontario Ministry of Labour, *Your Guide to the Employment Standards Act, Hours of Work, Training Time*).

PRINCE EDWARD ISLAND

Employment Standards Act

“**Employee**” covered by ESA defined as including a person who’s being trained by an employer to perform work for or supply services to the employer (ESA, Sec. 1(c)(ii)).

Government Guidance

In certain instances, the employer may request that a new employee participate in a short orientation period without pay to become familiar with the organization and learn the techniques involved with the job. This arrangement is allowed provided the individual agrees to the orientation period and the individual does not physically perform work for the employer which would provide financial gain or would otherwise be performed by another employee.

(*Guide to Employment Standards, Orientation/Training*).

QUÉBEC

Labour Standards Act

An employee is deemed to be at work during any trial period or training required by the employer (*LSA*, Sec. 57(4)).

SASKATCHEWAN

Saskatchewan Employment Act

“Employee” covered by *SEA* defined as including a person being trained by an employer for the employer’s business (*SEA*, Sec. 2-1(f)(iii)).

YUKON TERRITORY

Employment Standards Act

“Employee” covered by *ESA* defined as including a person who’s being trained by an employer for the purpose of the employer’s business (*ESA*, Sec. 1(b)).