

# Group Termination Compliance Game Plan



Terminating an employee is never easy. Unlike in the U.S. where employment is at will, Canadian employers must provide termination notice or wages in lieu of notice to the employees they terminate. The price and complications of termination increase significantly when a company lays off a group of employees. In addition to the higher costs, group termination requires more time to carry out due to the special notice requirements of employment standards laws. As HR director, you must understand the group termination requirements in each jurisdiction that your business operates, especially in these uncertain financial times where layoffs and restructuring have become the order of the day. Here's a 9 step Compliance Game Plan to help you navigate the complexities of group termination.

## **Step 1. Understand the Differences & Interplay between Group Termination & Temporary Layoff**

Terminations affecting multiple employees are often referred to as "layoffs." While okay for everyday parlance, in the context of employment standards laws, "layoff" is usually preceded by the word "temporary" to describe a process in which employers temporarily suspend employees' employment for a period of time as it works its way through difficulties hoping to be able to recall the employees later. The employment standards laws limit how long temporary layoffs can last. If employees aren't recalled by the deadline, the layoff becomes permanent termination and the company must furnish the notice and other employment standards payments that it was able to defer during the temporary layoff.

"Group termination" refers to permanent termination of a minimum number of employees either at the same time or within a short, typically 4-week period. Group termination may be an alternative to group termination; it may also occur at the end of a temporary layoff if the laid off employees aren't recalled. In either case, special notice and other employment standards requirements apply.

**Compliance Pointer:** Prince Edward Island is the only jurisdiction without special requirements for group termination. So, you don't need this Game Plan if you're subject to PEI and only PEI employment standards laws.

## Step 2. Be Aware of the Group Termination Triggers

The first key to compliance is recognizing when the staff reductions you make trigger group termination requirements. There are actually 5 factors to consider in making this determination.

### Factor 1. Number of Employees Terminated

Start by calculating the number of employees terminated and determining whether it's at, above or below the group termination threshold of your jurisdiction:

- 10: NS, QC, SK.
- 11 if they represent 25% of the employer's workforce: NB.
- 25: the 3 territories.
- 50: FED, AB, BC, MB, NL, ON, SK.

### Factor 2. Employees to Count in Termination Total

To calculate the number of employees terminated you also must know who to count. Thus, many jurisdictions exclude:

- Employees who've worked less than 3 months.
- Employees terminated for just cause.
- Seasonal employees.
- Employees employed for a definite period or task.
- Employees in the construction industry.
- Employees who've refused "reasonable" alternative employment.

### Factor 3. Length of Time Over Which Terminations Occur

Group terminations don't have to happen all at once. Instead, you count the number of terminations taking place over a particular time period. In 11 jurisdictions (Fed, AB, MB, NB, NL, NT, NU, NS, ON, SK and YT), the window is 4 consecutive weeks; in BC and QC, the window is 2 consecutive months.

**Example:** ABC Company terminates 3 employees per week over a 6-week period, for a total of 18:

- **No group termination** in jurisdictions where the threshold is 50 terminations over 4 weeks (FED, AB, MB, NL, ON) nor in BC where the threshold is 50 over 2 months.
- **Yes group termination** in jurisdictions where the threshold is 10 employees over 4 weeks (NB, NS, SK) and in QC where it's 10 over 2 months.

### Factor 4. Whether Terminations Are Counted Business-Wide or By Facility

Calculating terminations gets tricky when terminations are spread out among different facilities. Under FED, NS, ON, QC, and SK law, you count all employees within the employer's "establishment," which could include multiple facilities. Thus, employers in these jurisdictions may be unable to avoid reaching the threshold by spreading out terminations among different facilities. However, in AB and BC, the group termination number applies to terminations occurring within a single location.

**Example:** A BC employer who lays off 140 employees over a 2-month period may still remain under the 50 employee threshold by spreading the layoffs out evenly among 3 different facilities. The other provinces and territories don't say whether the number is based on the whole business or separate facilities. But experts say that

termination would presumably be calculated company-wide unless expressly spelled out otherwise.

## **Factor 5. Whether Any Exceptions Apply**

Employment standards laws lay out exceptions when the group termination rules don't apply. For example, in BC, NB, NL, NS, SK, and YK, employers don't have to follow the group termination provisions for terminations caused by unforeseen events. Many jurisdictions exempt certain industries, such as construction, fishing, and firefighting, from group termination rules. In ON, the group termination rules don't apply regardless of how many employees are terminated as long as at least 90% of the workforce continues to work and the termination isn't the result of a permanent shutdown of all or part of the employer's business.

## **Step 3. Give Extra Termination Notice**

Unlike termination of individuals where notice is based on length of service, group termination notice is based on the number of employees terminated. Required notice for group termination is generally longer than notice for individual terminations—ranging anywhere from 4 to 18 weeks, depending on the number of terminated employees. Most provinces, allow employers to overlap the notice periods. In other words, individual and group notice periods are concurrent and don't count separately, and employees get whichever notice is longer. But in BC, the notice period for group terminations is **in addition to** the notice the individual is entitled to based on length of employment. In other words, the 2 notice periods are counted consecutively and don't overlap.

**Example:** A BC machine operator with 2 years of service is let go as part of a group termination involving 150 employees:

- Individual Notice: 2 weeks.
- Group Notice: 12 weeks.
- Total Notice: 14 weeks.

In a province where the notice periods overlap (and employees with 2 years of service get 2 weeks of notice), e.g., SK, the same machine operator would get 12 weeks' notice.

**Another twist:** For staggered terminations, 2 jurisdictions—BC and MB—require employers to give notice of termination to all terminated employees before the date the first employee is terminated. So, if a company initiates rolling lay offs, it must give the appropriate amount of notice in advance of the first wave. Thus, employees in the first wave will actually get more than the minimum notice required by law.

**Example:** A BC company announces that it will permanently lay off 500 employees over a 2-month period. The first wave will be let go on March 31; the rest will be terminated on May 31. The company must give all 500 employees notice of termination in mid-December (16 weeks before the first wave). So, employees in the first wave get 16 weeks' notice and employees in the second wave 25.

## **Step 4. Give Employees Written Notice of Group Termination**

Although it's something you should probably do anyway, some provinces don't require employers to give employees written notice of termination in individual terminations.

But written notice is required for group terminations in most jurisdictions. Written notice must also list specific information, typically including:

- The effective date of termination (or terminations, if they're staggered).
- The reasons for termination.
- The total number of employees terminated.

Some jurisdictions require even more detailed information. For example, in MB, notice of termination must include the names of at least 2 people who may be the employer's representatives on a joint planning committee. Regardless of what your jurisdiction requires, if the notice isn't written properly, it won't be effective. And if notice isn't effective, employees will continue to earn wages until proper notice is provided and the additional service time they accrue after improper notice is served will have to be factored into the determination of how much notice they get.

## **Step 5. Provide Written Notice of Group Termination to Third Parties**

Employers must provide written notice of group termination to not just the employees but also third parties.

**The Government:** In every province except PEI, employers must alert the government about the group termination. In many cases, notice to the government is required even before the employer notifies the employees. For example, ON requires employers to complete a specific form and forward it to the Director of Employment Standards before giving notice to the affected employees.

**Trade Unions:** Nine jurisdictions—FED, AB, BC, MB, NB, NT, NU, QC, and SK—require employers to notify the terminated employees and/or their trade unions or bargaining agents. Even if you're not located in one of these jurisdictions, such notice is likely to be required under the terms of your collective agreements.

## **Step 6. Post Written Notice of Group Termination in the Workplace**

Five jurisdictions—FED, MB, NB, ON, and QC—require employers to post a copy of the termination notice in a conspicuous place in the workplace where the affected employees work and ensure that it remains posted throughout the notice period. Posting is required in Manitoba only for group termination of non-union employees.

## **Step 7. Form a Joint Planning Committee**

Four jurisdictions also require employers to form a committee once they determine that a group termination is necessary. Called a Joint Policy Committee under FED and MB law, an Adjustment Committee in BC and a Reclassification Assistance Committee in QC, the committee must have an equal number of employer and employee representatives. Its objective: Determine whether terminations can be avoided. If the committee agrees that there are no realistic alternatives and that termination is necessary, it must establish methods for helping terminated employees obtain other employment. The government can also order employers to establish a committee in some provinces. Committees can review and make recommendations but can't invalidate or delay the employer's underlying termination decision.

## Step 8. Consider Seeking a Group Termination Requirements Waiver

Employment standards laws typically give employers the right to request a waiver exempting them from having to follow the group termination rules under certain conditions, e.g., because terminated employees are adequately protected by their collective agreement. But experts say that waivers are rarely granted and aren't usually a viable option.

## Step 9. Give Affected Employees Job Search Leave If You're in Ontario

In May 2025, Ontario tabled and will likely soon pass first of its kind legislation requiring employers to provide the employees to which it provides notice of group termination 3 days of unpaid leave during the notice period for job searches, interviews, training, and other activities related to finding new employment. Basic rules:

- Employees who want to take leave must give employers at least 3 days' notice.
- Employers may require employees to provide evidence "reasonable in the circumstances" of their entitlement to leave, that is, that they're taking the leave for a permitted purpose.
- Employers may take parts of a day taken as leave as a full day for purposes of determining the employee's remaining allotment.

Juris. (1)	Group Termination Window	Notice Period by Employees Terminated	Who Notice Must Be Provided to	What Notice Must List	Other Requirements
FED	4-week period within an establishment	50 or more: 16 weeks	<ul style="list-style-type: none"> <li>• Ministry of Labour.</li> <li>• ESDC.</li> <li>• EI Commission.</li> <li>• Unions.</li> <li>• Employees terminated (or can be posted instead).</li> </ul>	<ul style="list-style-type: none"> <li>• Employer's name.</li> <li>• Termination date(s).</li> <li>• Estimated number of terminated employees in each occupational classification.</li> <li>• Termination location.</li> <li>• Employer's industry.</li> <li>• Name of any trade union certified to represent any employee in terminated group.</li> <li>• Reason for termination.</li> </ul>	<ul style="list-style-type: none"> <li>• Notice to employees may be posted instead of provided individually.</li> <li>• Employer must establish Joint Policy Committee, which can seek arbitration.</li> <li>• Arbitrator can review but can't nullify or delay employer's decision to terminate.</li> </ul>

Juris. (1)	Group Termination Window	Notice Period by Employees Terminated	Who Notice Must Be Provided to	What Notice Must List	Other Requirements
AB	4-week period within a single location	50 or more employees: 4 weeks	<ul style="list-style-type: none"> <li>Minister of Employment.</li> <li>Trade unions.</li> <li>Affected employees (delivered personally or by mail, email, or fax).</li> </ul>	<ul style="list-style-type: none"> <li>Number of employees terminated.</li> <li>Termination date(s).</li> </ul>	
BC	within 2-month period in a single location	<ul style="list-style-type: none"> <li>50-100: 8 weeks</li> <li>101-300: 12 weeks</li> <li>Over 300: 16 weeks</li> </ul>	<ul style="list-style-type: none"> <li>Minister of Labour.</li> <li>Each terminated employee.</li> <li>Trade union.</li> </ul>	<ul style="list-style-type: none"> <li>Number of affected employees.</li> <li>Effective date(s).</li> <li>Reasons for termination.</li> </ul>	<ul style="list-style-type: none"> <li>Group termination notice is in addition to individual termination notice.</li> <li>Employer must establish Adjustment Committee.</li> </ul>
MB	within 4-week period	<ul style="list-style-type: none"> <li>*50-100: 10 weeks</li> <li>*101-299: 14 weeks</li> <li>*300 or more: 18 weeks</li> </ul>	<ul style="list-style-type: none"> <li>Minister of Labour.</li> <li>Terminated employees' bargaining agent.</li> <li>Each terminated employee not represented by a bargaining agent.</li> </ul>	<ul style="list-style-type: none"> <li>Effective dates of terminations.</li> <li>Reasons for terminations.</li> <li>Names of at least 2 individuals nominated to represent the employer on joint planning committee.</li> <li>Estimated number of affected employees in each occupational classification.</li> </ul>	<ul style="list-style-type: none"> <li>Notice to employees may be posted instead of provided individually.</li> <li>Employer must establish Joint Policy Committee.</li> </ul>
NB	within 4-week period	11 or more, if they represent 25% of employer's workforce: 6 weeks	<ul style="list-style-type: none"> <li>Minister of Post-Secondary Education, Training and Labour.</li> <li>Bargaining agent.</li> <li>Affected employees if they don't have a bargaining agent.</li> </ul>	Not specified.	Copy of group termination notice must be posted.

Juris. (1)	Group Termination Window	Notice Period by Employees Terminated	Who Notice Must Be Provided to	What Notice Must List	Other Requirements
NL	within 4-week period	<ul style="list-style-type: none"> <li>• 50-199: 8 weeks</li> <li>• 200-499: 12 weeks</li> <li>• 500 or more: 16 weeks</li> </ul>	<ul style="list-style-type: none"> <li>• Minister of Environment and Labour.</li> <li>• Each terminated employee.</li> </ul>	<p>Employer must notify Minister in writing of:</p> <ul style="list-style-type: none"> <li>• Number of persons given notice.</li> <li>• Notice period.</li> <li>• Reasons for termination.</li> </ul>	Notice must also be posted.
NS	4-week period within an establishment	<ul style="list-style-type: none"> <li>• 10-99: 8 weeks</li> <li>• 100-299: 12 weeks</li> <li>• 300 or more: 16 weeks</li> </ul>	<ul style="list-style-type: none"> <li>• Minister of Labour.</li> <li>• Each affected employee.</li> </ul>	Not specified.	Notice must also be posted.
NT	within 4-week period	<ul style="list-style-type: none"> <li>• 25-49: 4 weeks</li> <li>• 50-99: 8 weeks</li> <li>• 100-299: 12 weeks</li> <li>• 300 or more: 16 weeks</li> </ul>	<ul style="list-style-type: none"> <li>• Employment Standards Officer.</li> <li>• Trade union.</li> <li>• Affected employees.</li> </ul>	Not specified.	
NU	within 4-week period	<ul style="list-style-type: none"> <li>• 25-49: 4 weeks</li> <li>• 50-99: 8 weeks</li> <li>• 100-299: 12 weeks</li> <li>• 300 or more: 16 weeks</li> </ul>	<ul style="list-style-type: none"> <li>• Labour Standards Officer.</li> <li>• Trade union.</li> <li>• Affected employees.</li> </ul>	Not specified.	

Juris. (1)	Group Termination Window	Notice Period by Employees Terminated	Who Notice Must Be Provided to	What Notice Must List	Other Requirements
ON	within 4-week period at same establishment	<ul style="list-style-type: none"> <li>• 50-199: 8 weeks</li> <li>• 200-499: 12 weeks</li> <li>• 500 or more: 16 weeks(2)</li> </ul>	<ul style="list-style-type: none"> <li>• Director of Employment Standards.</li> <li>• Each affected employee.</li> </ul>	<ul style="list-style-type: none"> <li>• Employer's name + mailing address.</li> <li>• Termination location(s).</li> <li>• Number of employees working at each location paid: i. on hourly basis, ii. on salaried basis, and iii. other basis.</li> <li>• Number of employees terminated at each location paid: i. on hourly basis, ii. salaried basis, and iii. other basis.</li> <li>• Termination date(s).</li> <li>• Name of any trade union local representing any employees terminated.</li> <li>• Economic circumstances of terminations.</li> <li>• Name, title, and phone number of person who completed form on employer's behalf.</li> <li>• Employer or establishment name and address.</li> <li>• Sector of activity.</li> <li>• Names and addresses of any associations of employees.</li> <li>• Reason for termination.</li> <li>• Date of termination.</li> <li>• Number of employees likely affected.</li> </ul>	<ul style="list-style-type: none"> <li>• Employer must post notice in workplace.</li> <li>• Employer must provide affected employees up to 3 days of unpaid leave during notice period for job search activities.</li> </ul>
QC	2 consecutive months	<ul style="list-style-type: none"> <li>• 10-99: 8 weeks</li> <li>• 100-299: 12 weeks</li> <li>• 300 or more: 16 weeks</li> </ul>	<ul style="list-style-type: none"> <li>• Minister of Employment and Social Solidarity.</li> <li>• Labour Standards Commission.</li> <li>• Trade union.</li> </ul>	<ul style="list-style-type: none"> <li>• Reason for termination.</li> <li>• Date of termination.</li> <li>• Number of employees likely affected.</li> </ul>	<ul style="list-style-type: none"> <li>• Employer must post notice in workplace.</li> <li>• Employer must establish Reclassification Assistance Committee.</li> </ul>

Juris. (1)	Group Termination Window	Notice Period by Employees Terminated	Who Notice Must Be Provided to	What Notice Must List	Other Requirements
SK	within 4-week period in a workplace	<ul style="list-style-type: none"> <li>• 10-49: 4 weeks</li> <li>• 50-99: 8 weeks</li> <li>• 100 or more: 12 weeks</li> </ul>	<ul style="list-style-type: none"> <li>• Minister of Labour.</li> <li>• Each terminated employee.</li> <li>• Trade union.</li> </ul>	<ul style="list-style-type: none"> <li>• Number of employees terminated.</li> <li>• Effective termination date(s).</li> <li>• Reasons for the terminations.</li> </ul>	
YK	within 4-week period	<ul style="list-style-type: none"> <li>• 25-49: 4 weeks</li> <li>• 50-99: 8 weeks</li> <li>• 100-299: 12 weeks</li> <li>• 300 or more: 16 weeks</li> </ul>	<ul style="list-style-type: none"> <li>• Director of Employment Standards.</li> <li>• Affected employees.</li> </ul>	Not specified.	

Notes:

(1) PEI's *Employment Standards Act* doesn't include specific requirements for group terminations.

(2) Ontario's group termination provisions apply only where the employer terminates more than 10% of the number of employees who have worked for at least 3 months, unless the termination is the result of a permanent closure of all of part of the employer's business.