Overtime – Know The Laws Of Your Province



Overtime regulations are vital for ensuring fair compensation and preventing worker fatigue in Canadian workplaces. These regulations require **employers** to pay employees at least one and one-half times their regular wage for hours worked beyond standard daily or weekly limits. In many jurisdictions, alternatives such as time off with pay may be granted through written agreements. **Employers must** also provide reasonable notice for overtime work and ensure that it does not compromise worker health and safety. While the general principles of overtime protection apply nationwide, specific provisions and thresholds vary by province and territory. Compliance with these regulations helps balance operational needs with employee well-being, supporting productivity and a safe work environment.

FEDERAL

In Canada, **employers must** comply with the Canada Labour Code, **Part III, Division I, Sections 174 and 174.1**, by paying at least 1.5 times the regular wage for overtime or providing equivalent paid time off if agreed in writing. If time off isn't taken or employment ends, wages **must** be paid instead. Employees may refuse overtime for family responsibilities unless it's an emergency, and **employers** cannot penalize them for doing so.

PART III – Standard Hours, Wages, Vacations, and Holidays

DIVISION I – Hours of Work

Overtime Pay or Time Off

(1) Subject to any regulations made under section 175, when an employee is **required** or permitted to work overtime, they are entitled to:

> **(a)** be paid for the overtime at a rate of wages not less than one and one-half times their regular rate of wages; or
>
> **(b)** be granted not less than one and one-half hours of time off with pay for each hour of overtime worked, subject to subsections (2) to (5).

Conditions

(2) An employee is entitled to time off for overtime worked only if,

(a) at their request, they and the **employer** enter into an agreement in writing providing for the taking of time off, subject to paragraph (b) and subsections (3) to (5), on a date or dates agreed on by them and the **employer**; and

(b) the time off is taken within a period of three months after the end of the pay period in which the overtime was worked, or within any longer period set out in

(i) if the employee is subject to a collective agreement, the collective agreement, or

(ii) if the employee is not subject to a collective agreement, the agreement referred to in paragraph (a) or any other agreement in writing entered into by them and the **employer**.

Maximum Period

(3) The longer period referred to in paragraph (2)(b) **shall** not be more than 12 months for an employee who is not subject to a collective agreement.

Time off not Taken Within Specified Period

(4) If the employee does not take all or part of the time off within the applicable period referred to in paragraph (2)(b), the **employer shall**, within 30 days after the day on which that period ends, pay the employee's wages for the overtime for which the time off was not taken, at a rate of wages not less than one and one-half times the employee's regular rate of wages on the day on which they worked the overtime.

Termination of Employment

(5) If an employee ceases to be employed before the employee takes all or part of the time off referred to in paragraph (1)(b), the **employer shall**, within 30 days after the day on which the employee ceases to be employed, pay the employee's wages for the overtime for which the time off was not taken, at a rate of wages not less than one and one-half times the employee's regular rate of wages on the day on which the employee worked the overtime. **Section 174 (1) to (5).**

Right to Refuse

(1) Subject to subsections (2) and (3), an employee may refuse to work the overtime requested by the **employer** in order to carry out the employee's family responsibilities referred to in paragraph 206.6(1)(b) or (c).

Reasonable Steps

(2) An employee may refuse to work overtime only if:

(a) they have taken reasonable steps to carry out their family responsibility by other means, so as to enable them to work overtime; and

(b) even though the steps referred to in paragraph (a) have been taken, they are still **required** to carry out that responsibility during the period of overtime.

Exceptions

(3) An employee is not to refuse to work overtime if it is necessary for them to work overtime to deal with a situation that the **employer** could not have reasonably

foreseen and that presents or could reasonably be expected to present an imminent or serious:

(a) threat to the life, health or safety of any person;

(b) threat of damage to or loss of property; or

(c) threat of serious interference with the ordinary working of the **employer**'s industrial establishment.

Prohibition

(4) An **employer shall** not dismiss, suspend, lay off, demote or discipline an employee because the employee has refused to work overtime under subsection (1) or take such a refusal into account in any decision to promote or train the employee. **Section 174.1 (1) to (4).**

Further details on the Canada Labour Code can be found at justice.gc.ca.

ALBERTA

In Alberta, under the **Employment Standards Code, RSA 2000, c E-9, Sections 21–24**, **employers must** pay overtime at 1.5 times the regular wage for hours over 8 per day or 44 per week. Alternatively, written overtime or averaging agreements may allow time off instead of pay, with specific timelines and conditions. If employees are paid by commission, overtime is based on either the salary portion or minimum wage. **Employers must** follow all agreement terms and provide copies to affected employees.

Division 4 – Overtime and Overtime Pay

Overtime Hours

Overtime hours in respect of a work week are:

(a) the total of an employee's hours of work in excess of 8 on each work day in the work week, or

(b) an employee's hours of work in excess of 44 hours in the work week, whichever is greater, and, if the hours in clauses (a) and (b) are the same, the overtime hours are those common hours. **Section 21.**

Overtime pay

(1) An **employer must** pay an employee overtime pay for overtime hours at an overtime rate that is at least 1.5 times the employee's wage rate.

(2) Subsection (1) does not apply to an **employer** or employee who has entered into an overtime agreement. **Section 22 (1)(2).**

Overtime Agreements

(1) An employee or the majority of a group of employees may enter into an overtime agreement:

(a) as part of a collective agreement, or

(b) if there is no collective agreement, in a written agreement between the

employee or group of employees and the **employer**, that provides that, wholly or partly instead of overtime pay, the **employer** will provide, and the employee or group of employees will take, time off with pay instead of overtime pay.

(1.1) An agreement under subsection (1) applies to an employee in a group of employees bound by the agreement whether or not the employee was employed by the **employer** at the time the agreement was entered into.

(2) An agreement referred to in subsection (1) is deemed to include at least the following provisions:

(a) time off with pay instead of overtime pay will be provided, taken and paid at the employee's wage rate at a time that the employee could have worked and received wages from the **employer**;

(b) if time off with pay instead of overtime pay is not provided, taken and paid in accordance with clause (a), the employee will be paid overtime pay at an overtime rate of at least 1.5 times the employee's wage rate for the overtime hours worked;

(c) instead of overtime pay, time off with pay will be provided, taken and paid to the employee within 6 months of the end of the pay period in which it was earned unless the agreement is part of a collective agreement and the collective agreement provides for a longer period within which the time off with pay is to be provided and taken;

(d) no amendment or termination of the agreement is to be effective without at least one month's written notice given by one party to the agreement to the other.

(3) An **employer must** provide a copy of the overtime agreement to each employee affected by it.

(4) An **employer must** comply with an overtime agreement entered into under this section.

(5) Time off with pay earned under section 23(2)(a) of the former Act that has not been provided, taken or paid before September 1, 2019 **must** be provided in accordance with section 23(2)(a) of the former Act unless the overtime agreement or overtime agreement that is part of a collective agreement provides for a higher rate.

(6) In subsection (5), "former Act" means the *Employment Standards Code* as it read before September 1, 2019. **Section 23 (1) to (6)**

Hours of Work Averaging Arrangements

(1) Subject to the regulations, if an **employer** and an employee or a group of employees are not bound by a collective agreement, the **employer** may require or permit the employee or group of employees to work an averaging arrangement that provides that the **employer** will average an employee's hours of work over a period of one to 52 weeks for the purpose of determining the employee's entitlement to overtime pay or, instead of overtime pay, time off with pay.

(1.1) An **employer must** give at least 2 weeks' written notice of a requirement to work an averaging arrangement to each employee to whom the requirement applies unless the **employer** and the employee agree otherwise.

(1.2) Subsection (1.1) does not apply in respect of an employee if the **employer** gave

written notice of the requirement to work the averaging arrangement to the employee before the employee's employment began.

(1.3) Subject to the regulations, an **employer** or an **employer**'s organization and a bargaining agent may agree to an averaging arrangement as part of a collective agreement.

(2) If there is no collective agreement, an averaging arrangement under this section **must** be a written arrangement applying to an **employer** and an employee or a group of employees.

(3) An averaging arrangement **must:**

(a) be in writing,

(c) specify the number of weeks over which hours will be averaged, which **must** not exceed 52 weeks unless authorized by a variance or exemption under section 74 or 74.1,

(d) unless a collective agreement provides otherwise, include a schedule setting out the daily and weekly hours of work for the averaging period and, if the averaging arrangement specifies the matters set out in subsection (4), a statement that the **employer** may amend the schedule in accordance with the averaging arrangement, and

(e) specify the manner in which overtime pay and time off with pay instead of overtime pay will be calculated as provided for in the regulations.

(4) Despite the requirement for at least 24 hours' written notice in section 17(2), if an averaging arrangement specifies the manner in which an **employer** may amend the schedule of daily and weekly hours of work in respect of an employee, the notice **required** to be given to the employee and the manner in which the notice **must** be given, the **employer** may amend the schedule in accordance with the averaging arrangement.

(5) The **employer must** provide each employee to whom an averaging arrangement applies a copy of the averaging arrangement in accordance with the regulations.

(6) No **employer** to which an averaging arrangement applies **shall** fail to pay overtime in accordance with the averaging arrangement or otherwise fail to comply with the averaging arrangement.

(7) The Director may, subject to and in accordance with the regulations, cancel an averaging arrangement and **must** notify the **employer** of the cancellation.

(8) An **employer** may appeal the decision of the Director under subsection (7) to an appeal body.

(9) A compressed work week arrangement entered into before the repeal of section 20 that is in effect when this section comes into force remains valid:

(a) until the earlier of the following:

(i) one year after the date this section comes into force;

(ii) the termination of the compressed work week arrangement, or

(b) in the case of a compressed work week agreement made as part of a collective agreement, the day a subsequent collective agreement is entered into. **Section**

23.1 (1) to (9).

Incentive Pay – Hourly Wage for Calculation of Overtime

(1) If an employee is paid entirely on commission or other incentive-based remuneration, then, for the purpose of calculating overtime pay, the employee's wage rate is deemed to be the minimum wage prescribed by the regulations.

(2) If an employee is paid partly by salary and partly by commission or other incentive-based remuneration, then, for the purpose of calculating overtime pay, the employee's wage rate:

(a) is based on the salary component of the wages, if the salary component is greater than the minimum wage, or

(b) is deemed to be the minimum wage, if the salary component of the employee's wages is equal to or less than the minimum wage. **Section 24 (1)(2).**

Further details on the Employment Standards Code, RSA 2000, c E-9 can be found at canlii.org.

BRITISH COLUMBIA

In British Columbia, under the **Employment Standards Act Part 4, Sections 35–42**, **employers must** pay overtime wages when employees work over 8 hours a day or 40 hours a week, unless covered by a valid averaging agreement. Overtime pay is 1.5 times the regular wage and double after 12 hours. **Employers must** ensure employees have at least 32 consecutive hours free from work per week and **must** not allow excessive hours that could harm health or safety. Overtime may be banked with written employee consent, and time off or payouts **must** follow strict timelines.

Part 4 – Hours of Work and Overtime

Maximum Hours of Work Before Overtime Applies

(1) An **employer must** pay an employee overtime wages in accordance with section 40 if the **employer** requires, or directly or indirectly allows, the employee to work more than 8 hours a day or 40 hours a week.

(2) Subsection (1) does not apply for the purposes of an employee who is working under an averaging agreement under section 37. **Section 35 (1)(2).**

Hours Free From Work

(1) An **employer must** either:

(a) ensure that an employee has at least 32 consecutive hours free from work each week, or

(b) pay an employee 1 1/2 times the regular wage for time worked by the employee during the 32 hour period the employee would otherwise be entitled to have free from work.

(2) An **employer must** ensure that each employee has at least 8 consecutive hours free from work between each shift worked.

(3) Subsection (2) does not apply in an emergency. **Section 36 (1) to (3).**

Agreements to Average Hours of Work

(1) Despite sections 35, 36 (1) and 40 but subject to this section, an **employer** and employee may agree to average the employee's hours of work over a period of 1, 2, 3 or 4 weeks for the purpose of determining the employee's entitlement, if any, to overtime wages under subsections (4) and (6) of this section and wages payable under subsection (8) or (9) (b).

(2) An averaging agreement under subsection (1) is not valid unless:

(a) the agreement

(i) is in writing,

(ii) is signed by the **employer** and employee before the start date provided in the agreement,

(iii) specifies the number of weeks over which the agreement applies,

(iv) specifies the work schedule for each day covered by the agreement,

(v) specifies the number of times, if any, that the agreement may be repeated, and

(vi) provides for a start date and an expiry date for the period specified under subparagraph (iii),

(b) the schedule in the agreement under paragraph (a) (iv) is in compliance with subsection (3), and

(c) the employee receives a copy of the agreement before the date on which the period specified in the agreement begins.

(3) A work schedule in an agreement under this section **must** not provide for more than the following hours of work for the employee:

(a) 40 hours, if the agreement specifies a 1 week period under subsection (2) (a) (iii);

(b) an average of 40 hours per week, if the agreement specifies more than a 1 week period under subsection (2) (a) (iii).

(4) An **employer** under this section who requires, or directly or indirectly allows, an employee to work more than 12 hours a day, at any time during the period specified in the agreement, **must** pay the employee double the employee's regular wage for the time over 12 hours.

(5) An **employer** under this section who requires, or directly or indirectly allows, an employee to work more than an average of 40 hours a week within the period specified in the agreement **must** pay the employee 1 1/2 times the employee's regular wage for the time over 40 hours.

(6) An **employer** under this section who requires, or directly or indirectly allows, an employee to work more than the hours scheduled for a day during the period of the agreement **must** pay the employee:

(a) 1 1/2 times the employee's regular wage for,

(i) if fewer than 8 hours were scheduled for that day, any time worked over

8 hours, or

(ii) if 8 or more hours were scheduled for that day, any time worked over the number of hours scheduled, and

(b) double the employee's regular wage for any time worked over 12 hours that day.

(7) For the purpose of calculating average weekly hours for an employee under subsection (5),

(a) only the first 12 hours worked by the employee in each day are counted, no matter how long the employee works on any day of the week, and

(b) if subsection (6) applies, the time that the employee works beyond the scheduled hours and for which the employee is paid in accordance with that subsection, is excluded.

(8) Section 36 (1) applies in relation to an averaging agreement if the period specified in the agreement is 1 week.

(9) If the period specified in an averaging agreement is more than 1 week, the **employer must** either:

(a) ensure that for each week covered by the agreement, the employee has an interval free from work of 32 consecutive hours, whether the interval is taken in the same week, different weeks or consecutively any time during the weeks covered by the agreement, or

(b) pay the employee 1 1/2 times the regular wage for time worked by the employee during the periods the employee would otherwise be entitled to have free from work under paragraph (a).

(10) At the employee's written request, the **employer** and employee may agree to adjust the work schedule referred to in subsection (2) (a) (iv) provided that the total number of hours scheduled in the agreement remain the same.

(11) The parties to an averaging agreement under this section are bound by that agreement until the expiry date set out in the agreement or a later date provided in an agreement to repeat the averaging agreement, as the case may be, and the provisions of the averaging agreement apply for the purpose of determining the employee's entitlement, if any, to overtime wages under subsections (4) and (6) and wages payable under subsection (8) or (9) (b).

(12) Subsections (2) to (11) are deemed to be incorporated in an averaging agreement under this section as terms of the agreement.

(13) An **employer must** retain an averaging agreement under this section for 4 years after the following, as applicable:

(a) the expiry date set out in the averaging agreement, unless paragraph (b) applies;

(b)the expiry date set out in one or more agreements to repeat the averaging agreement, whichever date is the latest.

(14) The application and operation of an averaging agreement under this section **must** not be interpreted as a waiver described in section 4. **Section 37 (1) to (14).**

For more information:

- No excessive hours. **Section 39.**
- Overtime wages for employees not working under an averaging agreement. **Section 40 (1) to (3).**
- Banking of overtime wages. **Section 42 (1) to (5).**

Further details on the Employment Standards Act can be found at gov.bc.ca.

MANITOBA

In Manitoba, **employers** are **required** to manage overtime in accordance with the **Employment Standards Code, Division 3, Sections 17 to 19**. **Employers must** pay at least 150% of the regular wage for overtime hours, unless a written or collective agreement allows for banked time off at the same rate. Banked time **must** be used within three months or paid out, and **employers** are only permitted to mandate overtime in emergency situations.

DIVISION 3 — Overtime

Overtime to be Paid at Overtime Wage Rate

(1) Subject to section 18 and the regulations, an **employer must** pay an employee a wage for overtime at an hourly rate that is not less than 150% of the employee's regular wage rate.

Overtime Does not Include Certain Break Time

(2) Overtime does not include time that an **employer** provides an employee as a break if the employee is not **required** to stay on the business premises or be on duty during the break. **Section 17 (1)(2).**

"Banked Time" Defined

(1) In this section, **"banked time"** means time that an **employer** is to provide to an employee as time off with pay under this section in lieu of wages for overtime.

Agreement for Paid Time Off in Lieu of Overtime Pay

(2) If a collective agreement or a written agreement between an **employer** and employee so provides, the **employer** may credit the employee with banked time in lieu of wages for some or all of the employee's overtime.

Rate of Time Off

(3) The amount of banked time credited by the **employer must** not be less than 150% of the overtime for which the employee is to receive time off with pay in lieu of wages for overtime.

When Banked Time Off to be Provided

(4) The time off to be provided in respect of banked time **must** be provided during the employee's regular hours of work within:

(a) three months after the end of the pay period in which the overtime giving rise to the banked time occurred; or

(b) any longer period prescribed by regulation or approved by the director.

Regular Wage Rate Applies to Time Off

(5) For each hour or part of an hour of time off in respect of banked time, the **employer must** pay the regular wage rate that applies to the employee's regular hours of work during the pay period in which the time off occurs.

Effect of Time Off

(6) For the purpose of this Code, the hours of time off in respect of banked time are deemed to be regular hours of work.

Wage Payable for Banked Time not Taken

(7) The **employer must** pay the employee a wage in accordance with section 86 (wages to be paid within certain time), at the regular wage rate, for any banked time:

(a) that the employee has remaining when his or her employment terminates; or

(b) for which the employee did not receive time off with pay by the end of the period within which it was to have been provided under subsection (4). **Section 18 (1) to (7).**

No Implied Right to Require Overtime

(1) An **employer**'s management rights do not include an implied right to require an employee to work overtime.

Employer May Require Overtime in Emergency

(2) An **employer** may require an employee to work overtime in the following circumstances, but only for so long as they continue to exist:

(a) where it is urgently **required** because of a present or imminent situation or condition that requires prompt action to avoid or limit

(i) loss of life,

(ii) harm to an individual's health or a threat to an individual's safety, or

(iii) a serious interference with the ordinary operation of the **employer**'s business;

(b) where it is urgently **required** because of a present or imminent situation or condition that is interrupting or threatens to interrupt

(i) the provision of an essential service by the government, an agency of the government, a municipality or a public utility, or

(ii) the provision of municipal services or health services;

(c) where it is urgently **required** by or under an Act of the Legislature in relation to an existing or threatened disaster or emergency. **Section 19 (1)(2).**

Further details on the Employment Standards Code can be found at canlii.org.

NEW BRUNSWICK

In New Brunswick, under the **Employment Standards Act, Sections 14 to 16**, **employers must** comply with regulations regarding hours of work and overtime. Although there is no general limit on hours, if maximum hours are prescribed by regulation, employees who work beyond those limits **must** be paid at least 1.5 times the minimum wage rate.

Hours of Work

No Limitation on Numbers of Hours of Work

Subject to sections 17, 39 and 41 and to any other Act, there is no limit on the number of hours an employee may work during any daily, weekly or monthly period. **Section 14.**

Maximum Number of Hours of Work at Minimum Wage Rate

(1) The Lieutenant-Governor in Council may by regulation prescribe the maximum number of hours an **employer** may require an employee to work during a daily, weekly or monthly period at the minimum wage rate, and may prescribe the employees or categories of employees in any industry, business, trade or occupation to which the prescribed maximum number of hours will apply.

(2) A regulation made under this section **shall** be posted in like manner as a regulation made under section 9. **Section 15 (1)(2).**

Overtime Rate of Pay

Where a regulation is in effect under subsection 15(1), an employee who works for an **employer** in excess of the prescribed maximum hours of work **shall** be paid by the **employer** at a rate of not less than one and one-half times the minimum wage rate. **Section 16.**

Further details on the Employment Standards Act can be found at laws.gnb.ca.

NEWFOUNDLAND & LABRADOR

In Newfoundland and Labrador, **employers must** comply with the **Labour Standards Act, Sections 25 to 26**, regarding overtime. **Employers must** pay overtime at a rate prescribed by regulation when employees exceed standard working hours, unless compensatory time off is agreed upon and taken within the **required** timeframe. If employment ends before time off is used, payment **must** be made. **Employers** are not **required** to pay overtime when schedule changes are employee-initiated and approved in writing.

PART III – Hours of Work

Overtime

(1) Where an employee works in excess of the standard working hours as permitted by this Part, the **employer shall** pay to the employee the rate of wages for overtime that may be set out in the regulations by prescribed formula, which may differ for different classes of employees in different undertakings or a part of them.

(2) An **employer** may compensate an employee for overtime hours by giving one and a half hours of paid time off work for each hour of overtime worked instead of overtime

pay where,

(a) the **employer** and the employee agree to do so; and

(b) the paid time off work is taken within 3 months of the work week in which the overtime was earned or, with the employee's agreement, within 12 months of that work week.

(3) Where the employment of an employee ends before the paid time off is taken under subsection (2), the **employer shall** pay the employee overtime pay for the overtime hours that were worked. **Section 25 (1) to (3).**

Overtime not Compensable

Where an employee agrees with one or more other employees to a change in their work schedule and the **employer** of the employee grants the employee, after the employee has requested in writing to do so, a change in the employee's work schedule that results in the employee working in excess of the standard working hours as permitted by this Part, the **employer** is not **required** to pay the employee the rate of wages for overtime set by the regulations. **Section 25.1** .

Regulations

The Lieutenant-Governor in Council may make regulations for the purpose of this Part:

(a) fixing the number of hours in a week to comprise the standard working hours for the purpose of paragraph 21(a), and prescribing the same or different hours for employees or classes of employees employed in different specified undertakings;

(b) fixing the day when a week is to begin for a specified undertaking, or part of it, for the purposes of paragraph 21(b);

(c) fixing the maximum number of hours and days in each week to be worked by employees or classes of employees in particular specified undertakings, or a part of them;

(d) setting the minimum rates of wages for overtime referred to in section 25 to be paid to employees or classes of employees who work in excess of the standard working hours in a particular specified undertaking;

(e) exempting employees or classes or groups of employees of **employers** in specified undertakings or classes of undertakings from the application of all or a part of this Part;

(f) regulating periods of work in each day to be carried out by employees or groups or classes of employees working for **employers** in specified undertakings or classes of undertakings; and

(g) varying the rest period set out in section 24 and setting the same or different rest periods for different undertakings or groups or classes of employees in undertakings. **Section 26 (a) to (g).**

Further details on the Labour Standards Act, RSNL 1990, c L-2 can be found at canlii.org.

NOVA SCOTIA

In Nova Scotia, overtime **must** be paid fairly and without discrimination. **Under the Human Rights Act (Section 5)**, **employers must** ensure equal treatment in access to and compensation for overtime. **The Labour Standards Code (Sections 15–16)** requires overtime pay at 1.5x the regular rate for hours exceeding 48 per week, unless an exemption applies. **Employers** who withhold overtime pay or apply exemptions in a discriminatory way may be in violation of both acts.

Nova Scotia Human Rights Act (RSNS 1989, c. 214)

Equal Treatment in Employment

Prohibits discrimination in any aspect of employment—including compensation, hours, and overtime—based on race, religion, sex, sexual orientation, gender identity, disability, age, marital status, family status, source of income, or other protected characteristics.

Implication: Employers must apply overtime policies equally and may not discriminate by denying overtime opportunities or pay based on prohibited grounds.

Labour Standards Code (RSNS 1989, c. 246)

(Regulates the entitlement and payment of overtime). **Section 5(1).**

Overtime Pay Requirement

An **employer must** pay an employee 1.5 times the regular wage rate for hours worked in excess of 48 hours per week, unless the employee is exempt under regulations. **Section 15(1).**

Exemptions

Lists categories of employees exempt from overtime provisions, such as certain professionals, farm workers, and those in supervisory roles, but these exemptions **must** still comply with human rights principles. **Section 16(1).**

Complaints

Employees who are not paid appropriate overtime or who are discriminated against in wage-related matters may file a complaint with the Labour Standards Division, and possibly also with the Nova Scotia Human Rights Commission if discrimination is involved. **Section 86(1).**

Further details on the Human Rights Act and Labour Standards Code can be found at canlii.org and canlii.org.

NORTHWEST TERRITORIES

In the Northwest Territories, **employers** are **required** to comply with the **Employment Standards Act, Sections 9 and 12**. **Employers must** pay employees at least 1.5 times their regular rate for work exceeding standard hours, unless a written overtime agreement allows time off instead. Such agreements **must** follow specific rules, including timing and wage equivalency. Failure to provide the agreed time off requires the **employer** to pay the owed overtime wages.

PART 2 – Pay and Wages

Overtime Pay

(1) An employee is entitled to be paid at an overtime rate of wages equal to at least 1.5 times his or her regular rate for any work the employee performs that exceeds the standard hours of work in a day or a week.

Condition

(2) This section is subject to any provisions in respect of standard hours of work and maximum hours of work contained in an order made under section 11.

Condition Regular Rate if Basis Other Than Time

(3) If the employee's wages are not computed and paid solely on the basis of time, the regular rate of wages for calculating overtime pay is deemed to be the prescribed minimum wage or the minimum wage fixed by an order made under subsection 6(2) applicable to the employee.

Regular Rate if Combined Basis

(4) If the employee's wages are computed and paid on a combined basis of time and some other basis, the regular rate of wages for calculating overtime pay is deemed to be the greater of:

(a) the hourly rate applicable to the time component of the wages; and

(b) the wage deemed under subsection (3).

Exception Where Statutory Holiday in a Week

(5) For the purpose of calculating overtime during a week that contains a statutory holiday for which an employee is entitled to a holiday with pay,

(a) the standard hours of work in that day are deemed to be eight hours;

(b) the standard hours of work in that week are deemed to be 32 hours; and

(c) the overtime does not include the standard hours worked by the employee on the statutory holiday. **Section 9 (1) to (5).**

Agreements

Ententes Overtime Agreements

(1) An **employer** and an employee, or the majority of a group of employees, may enter into an overtime agreement that the **employer** will provide, and the employee or group of employees will take, time off with pay, wholly or partly, instead of overtime pay.

Nature of Agreement

(2) An overtime agreement may be part of a collective agreement, or if there is no collective agreement, may be a separate written agreement.

Contents

(3) An overtime agreement is deemed to include at least the following provisions:

(a) each hour of overtime entitles the employee to one and a half hours of time off with pay instead of overtime pay;

(b) time off with pay will be provided and taken at the employee's regular wage rate;

(c) time off with pay will be provided and taken at a time when the employee could have worked and received wages from the **employer**;

(d) if time off with pay is not provided or taken in accordance with paragraphs (a) to (c), the **employer shall** pay the employee overtime pay;

(e) time off with pay will be provided and taken within three months after the end of the pay period in which it was earned, unless

(i) the agreement is part of a collective agreement and the collective agreement provides for a longer period within which the time off with pay is to be provided and taken, or

(ii) the Employment Standards Officer makes an order authorizing a longer period within which the time off with pay is to be provided and taken;

(f) no amendment or termination of the overtime agreement is to be effective without at least one month's written notice given by one party to the agreement to the other.

Copy to Employees

(4) An **employer shall** provide a copy of the overtime agreement to each employee affected by it. **Section 12 (1) to (4).**

Further details on the Employment Standards Act can be found at gov.nt.ca.

NUNAVUT

In Nunavut, **employers** are responsible for properly managing and compensating overtime under the **Labour Standards Act**, **Sections 7, 11, 43(1)(b), and 69(1)(4). Employers must** ensure that when employees work beyond the standard hours, they are paid at least 1.5 times their regular wage. If hours are irregular, **employers must** obtain written permits from the Labour Standards Officer to average hours or authorize extended daily work under specific conditions. Failure to pay proper overtime can result in orders to repay arrears, and if records are inaccurate, the law presumes maximum hours were worked.

PART I – Hours of Work

Averaging Hours of Work

(1) Where the nature of the work in an industrial establishment necessitates irregular distribution of an employee's hours of work, the Labour Standards Officer may, by permit in writing, authorize the standard and maximum hours of work in a day and in a week to be calculated as an average for a period of one or more weeks.

Permit to Exceed Maximum Hours Per Day

(2) The Labour Standards Officer may, by permit in writing, on application by an **employer** and his or her employees,

(a) reduce the days of work in a week by permitting hours of work in a day in excess of the standard hours of work, in respect of those employees; and

(b) specify the conditions under which the permit applies.

Content of Permit

(3) Every permit granted under this section **must** specify the hours of work that are overtime. **Section 7(1) to (3).**

Overtime Pay

(1) When an employee is **required** or permitted to work in excess of the standard hours of work, the employee **shall** be paid for the overtime at a rate of wages not less than 1.5 times his or her regular rate.

Condition

(2) Subsections (1) and (3) are subject to the provision for overtime contained in a permit issued under section 7.

Exception Where General Holiday in a Week

(3) Where a week contains a general holiday in respect of which an employee is entitled to a holiday with pay under Part IV,

(a) for the purpose of calculating overtime under subsection (1), the standard hours of work **shall** be considered to be eight hours in a day and 32 hours in that week; and

(b) the calculation of overtime under subsection (1) **shall** not include the hours worked by the employee on the general holiday. **Section 11(1) to (3).**

Where Underpayments Found on Inspection

(1) Where an inspector finds that an **employer** has failed to pay an employee:

(b) any overtime pay to which the employee is entitled under this Act, the inspector may determine the difference between the wages actually paid to the employee and the wages to which the employee is entitled and, if the amount of the difference is agreed to in writing by the **employer** and the employee, the **employer shall**, within five days after the date of the agreement, pay that amount to the Labour Standards Officer who **shall** pay it over to the employee without delay on receipt of that amount by the Labour Standards Officer. **Section 43.**

Order to Pay Arrears of Wages

(1) Where an **employer** has been convicted of an offence under this Act in respect of any employee, the convicting court may, in addition to any other punishment, order the **employer** to pay to the employee any overtime pay, vacation pay, holiday pay or other wages to which the employee is entitled under this Act, the non-payment or insufficient payment of which constituted the offence for which the **employer** was convicted.

Where Inaccurate Records Kept

(4) In determining the amount of wages or overtime for the purposes of subsection (1), if the convicting court finds that the **employer** has not kept accurate records as

required by this Act or the regulations, the employee affected **shall** be conclusively presumed to have been employed for the maximum number of hours a week allowed under this Act and to be entitled to full wages for those hours. **Section 69(1)(4).**

Further details on the Labour Standards Act can be found at nunavutlegislation.ca.

ONTARIO

In Ontario, **employers must** comply with the **Employment Standards Act, Part VIII, Sections 22 to 25**. **Employers** are **required** to pay employees at least 1.5 times their regular rate for work exceeding 44 hours per week. Overtime may be compensated with time off instead of pay if agreed upon, and taken within three to twelve months. **Employers** and employees may also agree to average hours over up to four weeks, subject to conditions. If employment ends before time off is taken, overtime pay **must** be provided. **Employers must** ensure compliance with these provisions to protect workers' rights.

PART Viii – Overtime Pay

Overtime Threshold

(1) Subject to subsection (1.1), an **employer shall** pay an employee overtime pay of at least one and one-half times his or her regular rate for each hour of work in excess of 44 hours in each work week or, if another threshold is prescribed, that prescribed threshold.

Same, Two or More Regular Rates

(1.1) If an employee has two or more regular rates for work performed for the same **employer** in a work week,

> (a) the employee is entitled to be paid overtime pay for each hour of work performed in the week after the total number of hours performed for the **employer** reaches the overtime threshold; and
>
> (b) the overtime pay for each hour referred to in clause (a) is one and one-half times the regular rate that applies to the work performed in that hour.

Averaging

(2) An employee's hours of work may be averaged over separate, non-overlapping, contiguous periods of two or more consecutive weeks for the purpose of determining the employee's entitlement, if any, to overtime pay if,

> (a) the employee has made an agreement with the **employer** that his or her hours of work may be averaged over periods of a specified number of weeks; and
>
> (b) the averaging period does not exceed four weeks or the number of weeks specified in the agreement, whichever is lower.
>
> **Transition: Certain Agreements**

(2.2) For the purposes of this section, each of the following agreements **shall** be treated as if it were an agreement described in clause (2) (a):

1. An agreement to average hours of work made under a predecessor to this Act.
2. An agreement to average hours of work made under this section as it read on

February 28, 2005.

3. An agreement to average hours of work that complies with the conditions prescribed by the regulations made under paragraph 7 of subsection 141 (1) as it read on February 28, 2005.

Term of Agreement

(3) Subject to subsections (3.1) and (3.2), an averaging agreement is not valid unless it provides for a start date and an expiry date.

Limit on Agreement, not Represented by Trade Union

(3.1) If the employee is not represented by a trade union, the averaging agreement's expiry date **shall** not be more than two years after the start date.

Limit on Agreement, Collective Agreement Applies

(3.2) If the employee is represented by a trade union and a collective agreement applies to the employee, an averaging agreement **shall** expire no later than the day a subsequent collective agreement that applies to the employee comes into operation.

Agreement may be Renewed or Replaced

(4) For greater certainty, an averaging agreement may be renewed or replaced if the requirements set out in this section are met. **Section 22 (1) to (4).**

For more information:

- Existing agreement. **Section 22(5).**
- Agreement irrevocable. **Section 22(6).**
- Time off in lieu. **Section 22(7).**
- Where employment ends. **Section 22(8).**
- Changing work. **Section 22(9).**

Further details on the Employment Standards Act can be found at ontario.ca.

PRINCE EDWARD ISLAND

In Prince Edward Island, **employers** are **required** to comply with the **Employment Standards Act, Part 2, Sections 15** and **15.1. Employers must** ensure that the standard work week does not exceed 48 hours unless modified by a board order based on factors such as seasonal work or industry norms. According to Section 15.1, **employers must** pay employees 1.5 times their regular rate for overtime hours, unless the employee requests equivalent paid time off within three months. If employment ends before the time off is taken, the **employer must** pay the overtime wages owed.

Hours of Work

Standard Number of Hours of Work

(1) The standard number of hours of work that an **employer** may require of an employee during a work week is 48 hours.

Exemptions

(2) The board may, by order,

(a) prescribe standard work weeks, other than the one established in subsection (1), comprising the number of hours of work in excess of the number established in subsection (1) that the board considers appropriate;

(b) prescribe

(i) the specific **employers** or classes of **employers**, and

(ii) the specific employees or classes of employees of such **employers**, to whom a standard work week prescribed under clause (a) applies; and

(c) exempt the **employers** and employees, or any classes thereof, for whom a standard work week is prescribed in an order made under this subsection from the standard work week established in subsection (1).

Factors Considered

(3) Before making an order under subsection (2), the board **shall** take into account the following factors:

(a) the seasonal nature of the work;

(b) the effect of the extended hours on the health and safety of workers and the public;

(c) work requirements that include the need to have employees in the work premises while not always engaged in work-related activities; and

(d) the duration of the work schedule customary in the industry. **Section 15 (1) to (3).**

Overtime Hours – Pay Rate

(1) An **employer shall** pay an employee at the rate of one and one-half times the employee's regular rate of pay for each overtime hour of work performed by the employee for the **employer** during a work week.

Overtime Hours- Paid Time Off Work

(2) Where an employee of an **employer** performs one or more overtime hours of work for the **employer** during a work week, the **employer** may, instead of paying the employee for that work in accordance with subsection (1), give the employee one and one-half hours of paid time off work for each overtime hour worked, if:

(a) the employee requests such compensation in writing; and

(b) the paid time off work is taken by the employee within three months of the work week in which the overtime was earned.

Where Employment Ends Before Paid Time off is Taken

(3) Where the employment of an employee ends before any paid time off requested under subsection (2) has been taken by the employee, the **employer shall** pay the employee overtime pay in accordance with subsection (1) for any overtime hours that the employee worked and has not been compensated for. **Section 15.1 (1) to (3).**

Further details on the Employment Standards Act can be found at princeedwardisland.ca.

QUÉBEC

In Québec, **employers** are **required** to address overtime under the Act **Respecting Labour Standards**, **Sections 52 to 56**. The regular workweek is set at 40 hours, and any hours beyond this threshold **must** be paid at a rate of 1.5 times the regular hourly wage. **Employers** may stagger work hours over a period of up to four weeks by written agreement, provided weekly hours do not exceed the standard by more than 10 hours. Some categories of employees, such as farm workers and certain caregivers, are excluded from these overtime rules. If overtime is not compensated with paid time off within 12 months, it **must** be paid, especially upon termination. Leave and holidays count toward overtime calculation.

DIVISION II — Hours of Work

For the purposes of computing overtime, the regular workweek is 40 hours except in the cases where it is fixed by regulation of the Government. **Section 52.**

An **employer** may, with the authorization of the Commission, stagger the working-hours of his employees on a basis other than a weekly basis, provided that the average of the working-hours is equivalent to the standard provided for in the law or the regulations.

A collective agreement or a decree may provide, on the same conditions, without the authorization provided for under the first paragraph being necessary, for the staggering of working hours on a basis other than a weekly basis.

The **employer** and the employee may also agree, on the same conditions, on the staggering of working hours on a basis other than a weekly basis, without the authorization provided for in the first paragraph being necessary. In such a case, the following conditions also apply:

(1) the agreement **must** be evidenced in writing and provide for the staggering of working hours over a maximum period of four weeks;

(2) a work week may not exceed the standard provided for in the law or the regulations by more than 10 hours; and

(3) either the employee or the **employer** may resiliate the agreement with notice of at least two weeks before the expected end of the staggering period agreed upon. **Section 53. (1) to (3).**

The number of hours of the regular workweek determined in section 52 does not apply, as regards the computing of overtime hours for the purpose of the increase in the usual hourly wage, to the following employees:

(1) *(subparagraph repealed)*;

(2) a student employed in a vacation camp or in a social or community non-profit organization such as a recreational organization;

(3) the managerial personnel of an undertaking;

(4) an employee who works outside an establishment whose working-hours cannot be controlled;

(5) an employee assigned to canning, packaging and freezing fruit and vegetables during the harvesting period;

(6) an employee of a fishing, fish processing or fish canning industry;

(7) a farm worker;

(8) *(subparagraph repealed)*;

(9) an employee whose exclusive duty is to take care of or provide care to a child or to a sick, handicapped or aged person, in that person's dwelling, including, where so **required**, the performance of domestic duties that are directly related to the immediate needs of that person, unless the work serves to procure profit to the **employer**.

However, the Government may, by regulation, prescribe the number of hours it determines as the regular workweek for the categories of employees mentioned in subparagraphs 2, 5 to 7 and 9 of the first paragraph. **Section 54. (1) to (9).**

Any work performed in addition to the regular work-week entails a premium of 50% of the prevailing hourly wage paid to the employee except premiums computed on an hourly basis.

Notwithstanding the first paragraph, the **employer** may, at the request of the employee or in the cases provided for by a collective agreement or decree, replace the payment of overtime by paid leave equivalent to the overtime worked plus 50%.

Subject to a provision of a collective agreement or decree, the leave **must** be taken during the 12 months following the overtime at a date agreed between the **employer** and the employee; otherwise the overtime **must** be paid. However, where the contract of employment is terminated before the employee is able to benefit from the leave, the overtime **must** be paid at the same time as the last payment of wages. **Section 55.**

For the purposes of computing overtime, annual leave and statutory general holidays with pay are counted as days of work. **Section 56.**

Further details on the Act Respecting Labour Standards can be found at gouv.qc.ca.

SASKATCHEWAN

In Saskatchewan, **employers** are **required** to manage overtime under **Sections 2-11 to 2-14** of **The Saskatchewan Employment Act**. These sections state that without the employee's consent, **employers** cannot require more than 44 hours of work per week, except in emergencies. **Employers must** also provide proper notice of work schedules and ensure rest periods, including at least eight consecutive hours off daily and a 30-minute unpaid meal break within every five-hour work period.

Subdivision 2 — Hours of Work

Work Schedules

(1) An **employer shall** give notice to an employee of a work schedule containing the following:

(a) the time when work begins and ends;

(b) if work is done in shifts, the time when each shift begins and ends; and

(c) the time when a meal break begins and ends.

(2) The notice **required** pursuant to subsection (1) **must** cover at least one week.

(3) If the days or times when an employee is **required** or permitted to work or to be at the **employer**'s disposal change, the **employer shall** provide to the employee written notice of the change.

(4) The notice **required** pursuant to subsection (3) **must**:

(a) be given in a schedule that contains the information **required** pursuant to subsection (1) covering at least one week;

(b) be given at least one week before the start of the schedule;

(c) if the schedule mentioned in clause (a) changes after the schedule is provided as **required** pursuant to clause (b), be given one week before the employee is **required** or permitted to work or to be at the **employer**'s disposal; and

(d) be personally given to the employee, posted in the workplace, posted online on a secure website to which the employee has access or provided in any other manner that informs the employee of the schedule.

(5) An **employer** may provide notice of less than one week of a variation to an employee's schedule if unexpected, unusual or emergency circumstances arise.

(6) The director of employment standards may permit a variation from the requirements of this section if the **employer** has obtained the written consent to the variation from the union that is the bargaining agent for the employees. **Section 2-11 (1) to (6).**

Overtime Hours not to be Required

(1) Subject to subsections (2) and (3), without the consent of an employee, no **employer shall** require the employee to work or to be at the **employer**'s disposal for more than:

(a) 44 hours in a week; or

(b) in a week that contains a public holiday, 44 hours reduced by eight hours for each public holiday in that week.

(2) Subject to subsection (3), if an employee is working in accordance with a modified work arrangement or in accordance with an averaging authorization that satisfies the requirements of section 2-20, the **employer shall** not require the employee to work or be at the **employer**'s disposal for more than:

(a) 44 hours in a week;

(b) in a week that contains a public holiday, 44 hours reduced by eight hours for each public holiday in that week; or

(c) the hours in a week as set out in the modified work arrangement or averaging authorization.

(3) Subsections (1) and (2) do not apply if unexpected, unusual or emergency circumstances arise. **Section 2-12 (1) to (3).**

For more information:

- Required period of rest. **Section 2.13 (1) to (6).**
- Meal break. **Sections 2.14 (1) to (4).**

Further details on the Saskatchewan Employment Act can be found at saskatchewan.ca.

YUKON TERRITORY

In Yukon, **employers must** manage overtime in accordance with **Sections 8 and 9** of the **Employment Standards Act**. Overtime pay is **required** at one and one-half times the regular wage for hours worked over 8 per day or 40 per week (Section 8), with adjustments if a general holiday occurs. **Employers must** give reasonable advance notice for overtime, except in emergencies, and employees may refuse overtime for just cause. Section 9 allows for written agreements to substitute paid time off for overtime pay, calculated at time-and-a-half, and mandates that unused time off **must** be compensated within a set period or converted to wages owed.

PART 2 – Hours of Work

Overtime Pay

(1) If an **employer** requires or permits an employee to work in excess of the standard hours of work, the **employer shall** pay to the employee one and one-half times the employee's regular wages for all hours worked in excess of:

(a) eight in a day; or

(b) 40 in a week, but excluding from this calculation hours worked in excess of eight in a day.

(2) If a week contains a general holiday to which an employee is entitled,

(a) the references to hours in a week in subsection (1) **shall** be reduced by eight hours for each general holiday in the week; and

(b in calculating the overtime hours worked by an employee in that week, no account **shall** be taken of hours worked by the employee on the general holiday.

(3) Subject to operational requirements an **employer shall** make reasonable efforts to give an employee who is **required** to work overtime reasonable advance notice of this requirement.

(4) Despite subsection (3), when there is an emergency, an **employer** may require an employee to work overtime on shorter notice than would have to be provided under subsection (3).

(5) An employee may refuse to work overtime for just cause but is **required** to state the refusal and the cause for refusing to the **employer** in writing. **Section 8 (1) to (5).**

Time off With Pay Instead of Overtime

(1) An employee or a majority of a group of employees may as part of a collective agreement or if there is no collective agreement, in a written agreement between the employee or group of employees and the **employer** agree that, wholly or partly instead of overtime pay, the **employer** will provide and the employee will take time off with pay instead of overtime pay.

(2) An agreement referred to in subsection (1) **shall** be deemed to include at least the following provisions:

(a) that the employee **shall** receive time off calculated by multiplying the hours of overtime worked by the employee by time and a half;

(b) that the time off with pay instead of overtime pay **shall** be provided, taken, and paid at the regular rate of pay at a time when the employee could have worked and received wages from their **employer**;

(c) that if time off with pay is not provided, taken, and paid in accordance with paragraph (b), the employee **shall** be paid at the overtime rate for all the overtime hours with respect to which time off was not provided, taken, or paid;

(d) that time off with pay instead of overtime pay **shall** be earned by the employee and provided, taken, and paid to the employee within a 12 month period as stated in the agreement or, if no 12 month period is stated, within a calendar year; and

(e) that no amendment or termination of the agreement referred to in subsection (1) **shall** be effective without at least one month’s notice in writing by the **employer** or the employee or group of employees, as the case may be, to the other party to the agreement.

(3) For the purposes of this Act:

(a) time off with pay instead of overtime pay provided by an **employer shall** be treated as hours of work; and

(b) remuneration paid to an employee in respect of the time off with pay instead of overtime pay **shall** be treated as wages.

(4) For the purposes of Part 10, time off with pay instead of overtime pay which is not provided, taken, or paid to the employee in accordance with paragraphs 2(c) or 2(d) **shall** become wages owing to the employee at the time the **employer** is in breach of paragraph 2(c) or 2(d).

(5) The **employer shall** provide a copy of the agreement referred to in subsection (1) to each employee affected by it. **Section 9 (1) to (5).**

Further details on the Employment Standards Act can be found at yukon.ca.