

Paying Wages: Minimum Wages for Federally Regulated Employees



Who could have predicted that the \$15 minimum wage would become the hottest issue in Canadian HR law? In the past months, provinces have been forced to declare themselves on the issue:

- Yes in Alberta, BC and Ontario;
- No in Manitoba and the Maritimes;
- Sorta' yes/sorta' no in Québec; and
- Still to be determined in Saskatchewan and the territories.

But one group is conspicuously absent from this discussion: employees of federally regulated companies who represent roughly 15% of the Canadian workforce.

Minimum Wages & Federal Employees

The *Canada Labour Code* regulates employment in the federal sector. And unlike its provincial and territorial (which, for simplicity's sake, we'll refer to collectively as "provincial") employment standards laws counterparts, it doesn't establish a minimum wage. Instead, federally regulated employees are subject to the minimum wage in the province or territory where they're usually employed.

Federal Minimum Wages in Provinces with Separate Minimum Wage Rates

Another difference between the *Code* and non-federal employment standards laws: Many of the latter provide for several different minimum wages for different types of employment. For example, Ontario is among several provinces to have a separate, lower minimum wage (currently \$13.05 per hour) for liquor servers who normally earn tips. In Nova Scotia, the minimum wage for employees with less than 3 months' job experience is 50¢ lower than the general minimum wage.

Under the *Code*, there's only one minimum wage. The Rule: Federal employees get the general provincial minimum wage not the distinct rates that apply based on occupation, job status or work experience.

Example: A brand-new employee earning minimum wage for a provincially regulated company in Nova Scotia would get \$10.50 per hour because she has less than 3 months' experience. But if her company were federally regulated, she'd be entitled to the general minimum wage of \$11 despite her lack of experience.

Exceptions to the Rule

However, there are exceptions to the rule that federally regulated employees are entitled to the general provincial minimum wage:

Apprentices: Under the *Code*, there's no minimum wage for employees being trained on the job under a provincially regulated apprenticeship program.

Room & Board Deductions: Specific amounts in provincial minimum wage that employers may deduct for room and board without counting for purposes of determining whether an employee is getting the required minimum wage don't apply to federally regulated employees. Separate deduction limits apply instead, i.e., 50¢ for each meal and 60¢ per day for accommodations.

Example: An employee of a federally regulated company in BC, where the minimum wage will be \$12.65 on June 1, 2018, who works 7.5 hours and is provided a meal, must be paid a minimum of \$94.38 as of that date (\$12.65 at 7.5 hours, less 50¢).

Note: These provisions don't override the requirement that employees consent to the deduction. They just set the maximum amount that may be deducted with the employee's consent, even with the employee's consent.

Differences in Legal Powers

The final thing to keep in mind is that the federal government *could* establish a nationwide minimum wage for all federally regulated employees regardless of province. The fact that there is no nationwide minimum wage is due not to the absence of legal authority to impose one but the government's unwillingness to use it and defer to provincial law (at least to date).

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