

# Termination Notice Amounts & Exceptions – Know The Laws Of Your Province



How much notice must you pay the employees you terminate?

One of the biggest differences between Canadian and U.S. employment law is that employers in this country must provide employees notice or wages in lieu of notice before terminating them. How much notice depends on how long the employee has been employed with the company. The employment standards laws also set out exceptions where termination notice is not required, which typically includes termination for just cause. Here are the minimum employment standards termination notice requirements and exceptions in each jurisdiction.

## **Employers' Duty to Provide Termination Notice to Employees**

### **FEDERAL**

- <3 consecutive months: 0 notice
- 3 consecutive months or more: 2 weeks
- 12 consecutive months or more: 2 weeks + severance of whichever is greater: (i) 2 days' wages at regular rate for each year of employment; or (ii) 5 days' wages at regular rate [*Canada Labour Code*, Secs. 230 & 235].

**Exception:** Termination notice and severance not required if termination for just cause [*CLC*, Secs. 230(1) & 235(1)]

### **ALBERTA**

- <90 days: 0 notice
- >90 days and <2 years: 1 week
- >2 years and <4 years: 2 weeks
- >4 years and <6 years: 4 weeks
- >6 years and <8 years: 5 weeks
- >8 years and <10 years: 6 weeks
- 10 years or more: 8 weeks [*Employment Standards Code*, Sec. 56]

**Exceptions:** Notice not required if: a. Employee terminated for just cause; b. Employment was 90 days or less; c. Employment is for definite term or task for period

not more than 12 months and employment ends upon completion; d. Layoff occurs after employer offers reasonable alternative work and employee refuses; e. Employee refuses work offered via seniority system; f. Employee not provided work due to strike or lockout at his workplace; g. Employee employed under agreement by which employee may elect either to work or not work for a temporary period when requested to work by employer; h. Contract is or becomes impossible to perform due unforeseeable or unpreventable causes beyond employer's control; i. employment is seasonal and ends at season's end; or j. Employment ends via temporary layoff (ESC, Sec. 55(2))

## BRITISH COLUMBIA

- <3 months: 0 notice
- >3 months and <1 year: 1 week
- >12 consecutive months: 2 weeks
- >3 consecutive years: 3 weeks
- >4 consecutive years: 4 weeks
- >5 consecutive years: 5 weeks
- >6 consecutive years: 6 weeks
- >7 consecutive years: 7 weeks
- >8 consecutive years: 8 weeks [*Employment Standards Act, Sec. 63*]

**Exceptions:** Notice not required if: a. Employee terminated before end of probationary period; b. Termination for just cause; c. Arrangement lets employer request that employee come to work at any time for a temporary period and employee may accept or reject one or more of the temporary periods; d. Employment is for a definite term; e. Employment is for specific work to be completed in a period of up to 12 months; f. Contract is impossible to perform due to an unforeseeable event or circumstance other than receivership or insolvency proceedings; g. Employee is employed at construction site(s) by employer whose principal business is construction; h. Employee is offered and refuses reasonable employment by employer; i. Employee is a teacher; or j. Employee is covered by collective agreement: i. in seasonal industry where the practice is to lay off and recall employees each year; ii. employee was notified of such when hired; and iii. Employee is laid off or terminated as result of normal seasonal reduction, suspension or closing of operation [ESA, Sec. 65]

## MANITOBA

- <30 days: 0 notice
- 90 days or more and <1 year: 1 week
- 1 year or more and <3 years: 2 weeks
- 3 years or more and <5 years: 4 weeks
- 5 years or more and <10 years: 6 weeks
- 10 years or more: 8 weeks [*Employment Standards Code, Sec. 61(2)*].

**Exceptions:** Notice not required if: a. Employment ends before probationary period expires; b. Employment is for fixed term and terminates at end of term; c. Employment is for specific task lasting 12 months or less and ends upon completion of that task; d. Employee is employed in construction; e. Arrangement lets employee choose to work or not work for temporary period when employer requests; f. Contract is impossible to perform or frustrated by fortuitous or unforeseeable circumstance; g. Employee is on strike or locked out and termination meets requirements for termination in those circumstances; h. Employee is terminated for just cause; i. Employee gives written notice of intent to quit or retire on specific date and employment is terminated on that date; j. Employer's business or part of business in which employ works is sold or transferred, and employee is immediately re-hired on equivalent or better terms and conditions [ESC, Sec. 62(1)]; or k. Temporary help employee is subject to exception e. above unless he/she is regularly assigned to perform temporary work for

one or more clients for at least 12 hours per week [*Employment Standards Regulations*, Sec. 24.2]

## NEW BRUNSWICK

- <6 months: 0 notice
- 6 months or more and <5 years: 2 weeks
- 5 years or more: 4 weeks [*Employment Standards Act*, 30(1)]

**Exceptions:** Notice not required: a. If employee terminated for just cause; b. For layoff of up to 6 days for any reason; c. For layoff due to lack of work for unforeseen reason lasting as long as lack of work continues; d. If employment is for definite assignment lasting 12 months or less and ends upon completion of that assignment regardless of whether term set out in contract; e. If employee completes fixed term of employment set in contract—but notice is due if works at least 3 months past that date; f. If employee retires under bona fide retirement plan; g. If employee does construction work in construction industry; h. If termination is part of normal seasonal reduction, suspension or closing of operation; or i. If regulation otherwise says notice not required for termination [*ESA*, Secs. 30(1) & 31].

## NEWFOUNDLAND

- <3 months: 0 notice
- 3 months or more and <2 years: 1 week
- 2 years or more and <5 years: 2 weeks
- 5 years or more and <10 years: 3 weeks
- 10 years or more and <15 years: 4 weeks
- 15 years or more: 6 weeks [*Labour Standards Act*, Sec. 55]

**Exceptions:** Notice not required if: a. Employee willfully refused to obey employer's lawful instruction, or has committed misconduct or been so neglectful of duty that the interest of the employer is adversely affected, or has otherwise been in breach of a material condition of the contract of service that in the opinion of the director or the Labour Relations Board summary dismissal; b. Employer pays employee wages equal to the normal wages covering the period of notice that the employer would otherwise be required to give under this Act; c. Employee is laid off for a period not exceeding 1 week; d. Employee is employed for a firm non-renewable term or for a specific task, where the term or task doesn't exceed 12 months and the employment isn't terminated before completion of term or task; e. Employee rejects employer's offer of reasonable alternative employment of a similar nature requiring similar skill, effort and ability that would enable the employee to earn during a similar number of working hours a total wage comparable to that earned by the employee for services rendered under the contract of service being terminated; f. Employee reaches the age of retirement according to the established practice of the undertaking; g. Employer is required to terminate contract due to: (i) destruction of or major breakdown to plant machinery or equipment, or (ii) climatic or economic conditions that are beyond employer's foreseeable control and that necessitate declaration of redundancy; or h. The employee's contract has existed for less than 30 days [*LSA*, Sec. 53]

## NOVA SCOTIA

- <3 months: 0 notice
- 3 months or more and <2 years: 1 week
- 2 year or more and <5 years: 2 weeks
- 5 years or more and <10 years: 4 weeks
- 10 years or more: 6 weeks [*Labour Standards Code*, Sec. 72(1)]

**Exceptions:** Employer not required to provide notice to a person: a. Employed less than 3 months; b. Employed for a definite term or task for a period not exceeding twelve months; c. Who's laid off or suspended for a period not exceeding 6 consecutive days; d. Who's discharged or laid off for any reason beyond employer's control including complete or partial destruction of plant, destruction or breakdown of machinery or equipment, unavailability of supplies and materials, cancellation, suspension or inability to obtain orders for the products of the employer, fire, explosion, accident, labour disputes, weather conditions and actions of any governmental authority, if the employer has exercised due diligence to foresee and avoid the cause of discharge or lay-off; e. Who's been offered reasonable other employment by employer; f. Who, having reached the age of retirement established by the employer on the basis of a bona fide occupational requirement for the position, has his employment terminated; g. Who's laid off in circumstances established by regulation as an exception to subsection (1) or (2); h. Employed in the construction industry; or i. Employed in an activity, business, work, trade, occupational profession that's exempted by regulation (LSC, Sec. 72(3))

## ONTARIO

- <3 months: 0 notice
- <1 year: 1 week
- 1 to 3 years: 2 weeks
- 3 to 4 years: 3 weeks
- 4 to 5 years: 4 weeks
- 5 to 6 years: 5 weeks
- 6 to 7 years: 6 weeks
- 7 to 8 years: 7 weeks
- 8 years or more: 8 weeks [*Employment Standards Act, Sec. 57*].

**Severance:** Employees also entitled to severance if: a. Employed for 5 years and more; and b. Either: i. Severance occurred because of a permanent discontinuance of all or part of employer's business at an establishment and the employee is one of 50 or more employees who have their employment relationship severed within a 6-month period as a result; or ii. Employer has a payroll of \$2.5 million or more [ESA. Sec. 64]

**Exceptions (Termination Notice):** Employer need not provide termination notice to an employee: 1. Hired on basis of employment slated to terminate on expiry of a definite term or completion of a specific task; 2. On a temporary lay-off; 3. Who's been guilty of willful misconduct, disobedience or willful neglect of duty that isn't trivial and hasn't been condoned by employer; 4. Whose employment contract has become impossible to perform or has been frustrated by a fortuitous or unforeseeable event or circumstance; 5. Whose employment is terminated after refusing an offer of reasonable alternative employment with the employer; 6. Whose employment is terminated after refusing alternative employment made available through a seniority system; 7. Who's on a temporary lay-off and doesn't return to work within a reasonable time after having been requested by his or her employer to do so; 8. Whose employment is terminated during or as a result of a strike or lock-out at place of employment; 9. Who's employed in construction; 10. Whose employment is terminated when he or she reaches the age of retirement in accordance with the employer's established practice, but only if the termination wouldn't violate the Human Rights Code; 11. i. Whose employer is engaged in the building, alteration or repair of a ship or vessel with a gross tonnage of over ten tons designed for or used in commercial navigation: ii. to whom a legitimate supplementary unemployment benefit plan agreed on by the employee or his or her agent applies, and iii. who agrees or whose agent agrees to application of this exemption [*Ontario Reg. 288/01, Termination and Severance of Employment, Sec. 2(1)*]

**Exceptions (Severance):** Employer need not provide severance to an employee: 1. Whose employment is severed as a result of a permanent discontinuance of all or part of the employer's business that the employer proves was caused by economic consequences of a strike; 2. Whose contract of employment has become impossible to perform or has been frustrated, UNLESS the impossibility or frustration is due to: i. Employee's death, illness or injury; ii. Permanent discontinuance of all or part of the employer's business because of a fortuitous or unforeseen event; 3. Who, on having his or her employment severed, retires and receives an actuarially unreduced pension benefit that reflects any service credits which the employee, had the employment not been severed, would have been expected to have earned in the normal course of events for purposes of the pension plan; 4. Whose employment is severed after refusing an offer of reasonable alternative employment with the employer; 5. Whose employment is severed after refusing reasonable alternative employment made available through a seniority system; 6. Who's been guilty of willful misconduct, disobedience or willful neglect of duty that isn't trivial and hasn't been condoned by employer; 7. Who's employed in construction; or 8. Who's engaged in the on-site maintenance of buildings, structures, roads, sewers, pipelines, mains, tunnels or other works [Regulation, Sec. 9]

## PRINCE EDWARD ISLAND

- <6 months: 0 notice
- 6 months or more and <5 years: 2 weeks
- 5 years or more and <10 years: 4 weeks
- 10 years or more and <15 years: 6 weeks
- 15 years or more: 8 weeks [*Employment Standards Act, Sec. 29(1)*]

**Exceptions:** Notice not required if: a. Employee terminated for just cause; b. Employment is to perform definite task for period not exceeding 12 months; c. Person is laid off for period not exceeding 6 consecutive days; d. Employer offers reasonable other employment; e. Person is terminated or laid off for any cause beyond employer's control, as long as employer exercises due diligence to foresee or avoid the cause; or f. Termination or layoff is due to labour disputes, weather conditions or government actions directly affecting the employer's operations [*ESA, Sec. 29(2)*]

## QUÉBEC

- <3 months: 0 notice
- >90 days and <1 year: 1 week
- >1 year and <5 years: 2 weeks
- >5 years and <10 years: 4 weeks
- 10 years or more: 8 weeks [*Labour Standards Act, Sec. 82*]

**Exceptions:** Notice not required if: a. Employee has less than 3 months of uninterrupted service; b. Contract is for a fixed term or specific undertaking that has expired; c. Employee commits a "serious fault"; or d. The end of the contract or layoff is the result of "superior force" [*LSA, Sec. 82.1*]

## SASKATCHEWAN

- <13 consecutive weeks: 0 notice
- >13 consecutive weeks and 1 year or less: 1 week
- >1 year and 3 years or less: 2 weeks
- >3 years and 5 years or less: 4 weeks
- >5 years and 10 years or less: 6 weeks
- >10 years: 8 weeks [*Sask Employment Act, Sec. 2-60*]

**Exceptions:** Notice not required if: a. Employee terminated for just cause; or b. Employee is a care provider, other than a live-in care provider [Act, Sec. 2-60(1)]

## NORTHWEST TERRITORIES & NUNAVUT

- <90 days: 0 notice
- >90 days and <3 years: 2 weeks
- >3 years and <4 years: 3 weeks
- >4 years and <5 years: 4 weeks
- >5 years and <6 years: 5 weeks
- >6 years and <7 years: 6 weeks
- >7 years and <8 years: 7 weeks
- 8 years or more: 8 weeks [*NWT Employment Standards Act*, Sec. 37; *Nunavut Labour Standards Act*, Sec. 14.03(2)]

**Exceptions:** Notice not required if: a. Employment is less than 90 days; b. Employee is temporarily laid off; c. Employee terminated in a trade exempt from ESA/LSA notice requirements; d. Employee is terminated for just cause; e. Termination is because of employee's refusal of employer offer of reasonable alternative work; or f. Employee on temporary layoff doesn't return to work within 7 days after employer's written request that he return [*NWT ESA*, Sec. 37(2); *Nunavut LSA*, Sec. 14.04]

## YUKON

- <6 months: 0 notice
- >6 months and <1 year: 1 week
- >1 year and <3 years: 2 weeks
- >3 years and <4 years: 3 weeks
- >4 years and <5 years: 4 weeks
- >5 years and <6 years: 5 weeks
- >6 years and <7 years: 6 weeks
- >7 years and <8 years: 7 weeks
- >8 years: 8 weeks [*Employment Standards Act*, Sec. 50(1)]

**Exceptions:** Notice not required: a. In construction industry; b. For seasonal or intermittent undertaking operating less than 6 month in a year; c. If employee discharged for just cause; d. To employee whose employer failed to abide by the terms of the employment contract; e. To employee on temporary layoff; f. If contract is impossible to perform due to unforeseen events or circumstances; g. If employee refuses employer's offer of reasonable alternative employment; h. If termination is due to employee's completion of project or assignment he was hired to perform over period not exceeding 12 months (regardless of whether contract lists exact period); or i. If employee is still employed after completing term of employment set in contract unless that employment is more than one month after the term's completion [*ESA*, Sec. 49(1)].

**Employer Remedies:** If an employee quits without giving the required notice: a. the employer may, with the employee's consent, deduct from wages due 1 week's wages at the employee's regular rate of pay for the employee's normal hours of work; b. if the employee doesn't consent to the deduction, the employer must pay the 1 week's wages to the Yukon Employment Standards Director who will then investigate and determine whether to repay the money to the employer or employee (*ESA*, Sec. 52).