

Frequently Asked Questions 200 – 299

What types of buildings fall under the house building exclusion?

Generally, any construction of a dwelling unit is excluded from the ICI sector.

An apartment building or complex, whether the units are rented or owned, is considered part of the ICI sector.

Is the construction, renovation or redecoration of a tenant space in a shopping mall part of the ICI sector?

It depends on the extent of the construction, renovations or redecorations. Generally speaking, all renovations and redecorations are excluded. However, if the work involves the structural or architectural alteration or remodelling of the building or structure, the work falls under the ICI sector. A good test is the requirement of a blueprint.

Are maintenance journeypersons part of the ICI or heavy sectors?

No, the onsite maintenance of an industrial, commercial or institutional building is specifically excluded from the ICI and heavy construction sectors.

Are employees in a shop that prefabricate a structure used on a construction site included in the ICI sector?

Employees who prefabricate a structure or part of a structure away from a construction site are excluded from the ICI and Heavy sectors. The sectors do include employees on a construction site. For example: employees who build customized railings in a shop that are then installed on a construction site would not be included in the heavy or ICI sectors. However, employees who were required to build those railings directly on the construction site would be part of the ICI sector.

Are all farm buildings excluded from the heavy and ICI sectors?

Construction of farm buildings is not part of the ICI or heavy sector. A farm building is a building or structure, other than a dwelling, situated on a farm and used in the actual farming operation. This includes buildings used to house equipment or livestock, or those used for production, storage, or processing agricultural produce or feeds. For example: the construction of a hog barn, milking centre, grain bin or silo would be excluded from the ICI and heavy sectors.

Can the cost of tools be deducted from wages?

Some employees may want to buy tools from their employers. The tools may even be a condition of employment, which employees must have for that workplace. Common examples are automotive mechanics and construction workers. Employers can make the tools a condition of employment and can deduct the cost from employees wages only if the tool:

- remains the property of the employee
- is not unique to this particular employer
- is available for purchase from different suppliers
- can reasonably be expected to be used at different employers in the same occupation
- is voluntarily bought from the employer instead of another supplier

Can the cost of personal safety equipment be deducted from wages or made a condition of employment?

No, workplace safety and health legislation states any equipment, device or clothing required to be worn to help with rescue or to provide protection from health and safety hazards at a workplace must be provided and paid for by employers. There are exceptions for safety headwear and some safety footwear. Contact The Workplace Safety and Health Branch at 200 – 401 York Avenue, Winnipeg, MB, R3C 0P8 for more information.

Safety equipment is a direct benefit to employers so the cost cannot be deducted from employees' wages.

Who pays for damages to company vehicles, valuable equipment or other losses?

Employers may not deduct wages to cover any costs for faulty work, poor quality work, loss of customers, cash shortages or damages to their property. This includes: the cost of car accidents and parking tickets involving company vehicles; dishes broken by employees, customers leaving without paying, etc.

Employers have the right to sue employees who caused the damages in criminal or civil court. If a court issues an order of repayment, the employers can then garnish the wages of that employee.

Coverage

Wage rates and hours of work for employees in the industrial, commercial, and institutional sector of the construction industry are regulated under *The Construction Industry Wages Act*. All construction employees, unless excluded by the code, are covered by *The Employment Standards Code*.

Lower rates prohibited

Employers and employees cannot make deals, contracts or arrangements that result in payment at rates lower than those in this document. They cannot make agreements contrary to or less than the provisions of *The Employment Standards Code* or *The Construction Industry Wages Act*.

Payment of wages

An employer must pay employees their wages within five working days after the end of each pay period or within five working days of the termination of employment.

Employment records

Employers and subcontractors must maintain proper payroll records, including a record of hours worked by employees, for not less than three years after the record is made.

Vacations with pay

For each year employees work for the same employer, they are entitled to a two week paid vacation equal to at least four per cent of wages earned during the qualifying year (excluding overtime). After five years this rises to a three week paid vacation equal to at least 6% of wages earned during the qualifying year (excluding overtime).

General holidays

All construction employees are entitled to be paid general holiday pay based on four per cent of their total wages and vacation allowance (excluding overtime) over the period worked during the year. These wages must be paid no later than December 31 of that year or on termination of employment.

The generally accepted practice of paying four per cent holiday wages on each cheque meets the minimum standard. Employees who work on a general holiday are entitled to 1 1/2 times their regular rate of pay for hours worked on that day.

Termination

Notice of termination of employment is not required by employers or employees employed in the construction industry.

The Heavy Construction Sector

The Construction Industry Wages Act states: the heavy construction sector includes employees engaged in:

- a. the construction and maintenance of highways, roads, railroads, or runways, together with minor drainage divider and retaining works incidental thereto,
- b. the construction and maintenance of wharfs, docks, sidewalks, curbs or gutters,
- c. the paving and maintenance of parking lots and the preparation thereof,
- d. the removal of snow from and blading of highways, roads, railroads, runways or parking lots,
- e. the construction and maintenance of the earth moving and fill portions of irrigation and drainage projects, and minor works incidental thereto,
- f. the use of heavy construction equipment for the construction and maintenance of dams, tunnels, bridges or overpasses, and works incidental thereto, including the moving of earth or rock relating thereto,
- g. the construction and maintenance of water lines, sewer lines, pipelines, sewage lagoons, sewage lift stations, and appurtenances, and underground service lines, but not including the contents thereof,

- h. the use of heavy construction equipment for piling, shoring, building excavation or site preparation, including the stripping of overburden and grading to new contours,
- i. the transportation of rock, gravel, sand, clay, asphalt, or concrete to and from batching plants for use in construction,
- j. the processing and batching of rock, gravel or sand aggregate,
- k. the use or operation of crushers, screeners, wash plants or heavy construction equipment associated with extractions of rock, gravel or sand aggregate for use in construction,
- l. the transportation of earth, soil, or rubble from a construction site, and the hauling of granular material to a construction site,
- m. the hauling of heavy construction equipment by heavy construction contractors to perform any or all of the tasks or activities described in clauses (a) to (l), (o) and (p),
- n. the repair and maintenance of heavy construction equipment by employees in heavy construction, whether the work is performed in a shop or on a construction site,
- o. the demolition of any building or structure, whether or not heavy construction equipment is used in the demolition,
- p. the construction and maintenance of transmission lines.

Heavy Construction Industry Wages

The following table sets notes the minimum wages rates payable to employees in the heavy construction industry by regulation under *The Construction Industry Wages Act*. The rates came into effect January 1, 2007.

Hours of Work and Overtime (Heavy Construction)

All hours worked over the standard weekly hours must be paid at not less than 1 ½ times the regular wage rate. The standard weekly hours for heavy construction employees are:

- 50 hours outside of Winnipeg
- 50 hours in Winnipeg from April 1 to October 31 of each year,
- 48 hours in Winnipeg from November 1 each year to March 31 the following year.

To determine standard hours, Winnipeg is defined as all the land within one-half mile beyond the Perimeter Highway. The definition of Winnipeg also includes any land that is within the limits of *The City of Winnipeg Act*, even if that land extends more than one-half mile beyond the Perimeter Highway.

Heavy Construction Industry Minimum Wages

	June 1, 2006	January 1, 2007
1. Mobile Crane Operator working on heavy construction	\$16.75	\$17.70
2. Heavy Duty Mechanic or Welder working on heavy equipment	\$15.30	\$16.20
3. Operator of a dragline, clam shell, shovel, hydraulic excavator, pile driver and other equipment requiring similar skills	\$15.10	\$16.00
4. Plant operator, Operator of paving machines, dozer, loader, loader backhoe, grader,	\$13.50	\$14.25

scraper, hydro excavator, tractor with controlled attachments, and other equipment requiring similar skills		
5. Truck Operator of trucks with four or more axles, fuel truck, distribution truck, truck with hydraulic boom hoist	\$13.30	\$14.00
6. Truck Operator of trucks with less than 4 axles and more than 2,500 kgs	\$12.50	\$13.20
7. Operator of light trucks (less than 2,500 kgs) ride on/tractor pulled compaction equipment and other equipment requiring similar skills	\$11.50	\$12.40
8. Skilled Labourer including Concrete Finisher, Pipelayer, Screedman and jobs requiring similar skills in the heavy construction industry	\$12.10	\$12.80
9. General labourer in heavy construction industry not otherwise classified	\$10.50	\$11.40
10. Watcher, Flagger and Rodman	\$ 9.00	\$ 9.90

The Industrial, Commercial and Institutional Sector

The Construction Industry Wages Act states the industrial, commercial, and institutional sector includes employees engaged in:

- a. the on–site building, erection, decoration, removal or relocation of a building, structure, apartment building or complex whether or not the units contained therein are rented or owned, or other work, or portion thereof, not specifically defined in the Act or the regulations as constituting part of the heavy construction sector of the construction industry but not including the on–site maintenance, redecoration, renovation, remodelling or repair of an industrial, commercial, institutional, public building or structure or apartment building or complex whether or not the units contained therein are rented or owned, or portion thereof, unless the work involves the structural or architectural alteration or structural or architectural remodelling of the building or structure,
- b. the assembly, manufacture or installation on a construction site of any equipment, machinery or fixtures or components, including allied parts, that form an integral part of the building or structure but not including activity that is specifically defined in the Act or the regulations as being work constituting part of the heavy construction sector of the construction industry,
- c. the prefabrication of every item built to a custom design for a building or structure or portion thereof, but not including prefabrication work performed in a permanent shop or factory or a manufacturing plant by persons regularly employed therein.

Industrial, Commercial and Institutional Wages and Overtime

There are two wage schedules for the industrial, commercial, and institutional sector in Manitoba: the Winnipeg/Major Building Project Schedule and the Rural Schedule.

The Winnipeg/Major Building Project Schedule applies in Winnipeg (the area within a 30–mile radius of the intersection of Osborne Street and Broadway in the City of Winnipeg) and on major building projects anywhere in Manitoba. A major building project is defined as:

- a. the construction of or an addition to

- i. a power generating station or spillway
 - ii. an oil refinery,
 - iii. a chemical plant,
 - iv. a steel mill,
 - v. a pulp mill, paper mill, or pulp and paper mill,
 - vi. a brewery,
 - vii. a distillery,
 - viii. a compressor station,
 - ix. a mining installation above the surface of the ground,
 - x. a mineral refinery,
 - xi. a smelter, or
 - xii. a petroleum processing plant, a gas processing plant, a petroleum and gas processing plant, or a petroleum pumping station,
- b. the construction of an apartment building or a residential, commercial, industrial, community, government, municipal or school building or hospital where the total aggregate floor space exceeds 2,325 square metres (25,000 square feet) or an addition to such a building where the total aggregate floor space of the addition exceeds 2,325 square metres (25,000 square feet)
- c. the construction of several buildings of the types mentioned in clause (b) under a single contract or under several contracts between the same parties entered into at the same time in respect of the same project, where the total aggregate floor space of all the buildings under the contract exceeds 2,325 square metres (25,000 square feet).

The Rural Wage Schedule applies to all industrial, commercial and institutional construction carried out in Manitoba that is not covered by the Winnipeg/Major Building Project Schedule wage schedule.

The table at the end of this section notes the minimum wage rates payable to employees in the industrial, commercial and institutional construction sector by regulation under *The Construction Industry Wages Act*. The rates came into effect October 1, 2006. For the purposes of this table:

What is a journeyperson?

A *journeyperson* is someone who:

- holds a certificate of qualification or proficiency from a recognized authority or
- acquires the skills of a trade by working in it for a period of not less than six years.

What is a Skilled Tradesperson?

A *skilled tradesperson* is someone who has worked at least 2,400 cumulative hours in the applicable trade.

Hours of Work and Overtime

The standard hours of work are 10 hours per day and 40 hours per week. All hours worked beyond that must be paid not less than 1 ½ times the regular wage rate.

Ratio of Construction Workers to Employees

An employer can only employ one construction worker for up to the first 10 employees, onsite, and one additional construction worker for every 10 employees thereafter. This ratio applies to the number of workers employed by an employer on a particular worksite.

Ratio of Trainees to Skilled Tradespersons

An employer can only employ one trainee for each skilled tradesperson employed by the employer at the worksite.

Ratio of Apprentices to Journeypersons

Designated trades under *The Apprenticeship and Trades Qualifications Act* (ATQA) have ratios based on the number of apprentices allowable for each journeyperson. For more information on these ratios, contact the provincial Apprenticeship Branch (Contact information following.).

Trade Qualifications

The Manitoba government has established standards under *The Apprenticeship and Trades Qualifications Act* (ATQA) for journeyperson certification in most of the construction industry trades. The government strongly encourages everyone employed in the construction industry to obtain journeyperson certification. In trades designated under the ATQA, experienced workers may be certified by successfully challenging the certification examination, or workers at any level may train for certification through a formal apprenticeship training program.

For further information about trades certification, contact:

The Apprenticeship Branch,
Room 1010 Norquay Building
401 York Avenue
Winnipeg, MB, R3C 0P8
Phone: 945-3337
Toll free: 1 – 877 – 978-7233
Web: www.gov.mb.ca/tradecareers

What are employment standards?

The Employment Standards Code and *The Construction Industry Wages Act* set the minimum standards for workplaces that fall under provincial jurisdiction. These laws help all Manitobans by setting a basic level of rights and responsibilities that employees and employers must maintain in the employment relationship.

Who is protected by employment standards?

Employment standards help balance the interests and needs of both employers and employees. Many of these protections and benefits improve working conditions for employees who do not have the bargaining power of

unions or employee groups. This legislation also creates a level playing field for employers and ensures they all meet basic standards when directing their employees. The Employment Standards Code covers approximately 90% of employers and employees in Manitoba. See the [Who is Covered by the Employment Standards Code](#) page for more information on who we cover.

Can employers provide more than what the legislation sets as minimum standards?

Yes, the legislation sets only the minimum workplace standards that must be respected. Many employers provide more benefits, or pay higher wages.

Are employees entitled to a day off?

Yes, employees are entitled to have 24 hours off without pay in each week. There are some exceptions, please [call Employment Standards](#) if you have questions.

Are there exceptions to the weekly day of rest and breaks?

Yes, employers can apply to the Employment Standards Branch to eliminate breaks or a weekly day of rest.

What are the standard hours of work?

Standard hours of work are the hours employees work for their regular wage. It is usually eight hours in a day and forty hours in a week. Hours worked over standard hours are overtime hours, and need to be paid at 1 ½ times the regular wage. There are exceptions in some construction industries, or by collective agreement or averaging permit. More information on the standard hours of work can be found on the [Overtime](#) page.

Are there industries where the standard hours of work are different?

In some industries, like construction or landscaping, the standard hours of work are different. More information can be found on the [construction industry](#) page.

In some circumstances, employers can apply to change the standard hours of work. This is sometimes called averaging – where there is an increase in the number of hours that can be worked in each day or in each week but it still averages 40 hours per week.

Can a contract offer benefits that are lower than employment standards?

No, employers and employees cannot agree to work for less than the minimum standard, whether they have a contract or not. There are some situations where employers and employees can agree to different provisions, but they can never agree to less than the minimum standards.

Are the standards different for part–time employees?

No, the amount employees' work does not change their rights. Some of the standards, such as vacation pay and general holiday pay, are based on a percentage of earnings. Therefore part–time employees may not earn as much as full–time, but they are still entitled to the benefit.

What can employees do if they believe they have not been paid correctly?

Employees with concerns about their wages or who believe their employers might be violating a minimum standard should contact the Employment Standards Branch. Employees can file a claim with an officer who will investigate the situation. See the [Filing a claim](#) page for more details.

Who is covered by the Employment Standards laws in Manitoba?

Most employees in Manitoba fall under provincial jurisdiction. The legislation covers employees, people who are employed by employers to do work. Independent contractors are not employees and the legislation does not apply to them.

Parts of legislation do not apply to; agriculture workers, baby sitters, professionals, part–time domestic workers, family members employed in family businesses, some provincial civil servants and temporary election workers. Some employees work in industries that are regulated by the federal rather than the provincial government. These employees are not affected by Manitoba's Employment Standards legislation.

Who is covered by federal jurisdiction?

Approximately 10 per cent of employees in Manitoba fall under federal jurisdiction. They work in industries such as:

- railways, highway transport, trucking, pipelines, ferries, tunnels, bridges, canals, telephone and cable systems
- all intra–provincial shipping and services connected with such shipping,
- air transport, aircraft, airports, and aerodomes
- radio and television broadcasting
- banks (except credit unions and trust companies)
- flour, feed and seed cleaning mills, feed warehouses, grain elevators and uranium mining and processing
- federal Crown corporations or agencies of the Crown, such as the Canadian Broadcasting Corporation and the St. Lawrence Seaway Authority

The laws affecting federally regulated industries are quite different from provincial employment standards. People unsure of which jurisdiction affects them should contact either The Employment Standards Branch or the federal government.

Where do employees who fall under federal labour laws file complaints?

Employees who are covered federally fall under the Canada Labour Code which is enforced by Human Resources and Social Development Canada (HRSDC). They can be reached at 983–6375 in Winnipeg or toll free at 1–800–641–4049.

Are self-employed people covered by The Employment Standards Code?

Some are. Although many people are called self-employed or independent contractors they may not be when it comes to Employment Standards. Determining if a person is an employee or an independent contractor can be very complex. Signing a document that states a person is an independent contractor does not necessarily make it so. It is the nature of the relationship between both parties that determines if someone is truly an independent contractor. Independent contractors are not covered by employment standards legislation.

Contact the Employment Standards Branch for more details.

Are people employed in agriculture covered by Employment Standards legislation?

Yes, effective June 30, 2008 many employees working in agriculture are covered by Employment Standards legislation. Employees working on a farm owned by a family member are excluded from most standards. Other employees working in agriculture are covered by most standards. There are some exceptions regarding general holidays, wages for reporting for work and overtime. Please see the [fact sheets on agriculture](#) for more details.

Can employers or employees create a contract that has lower provisions than those outlined in the legislation?

No, the legislation sets the minimum standard for all employers and employees. They cannot agree to minimum standards outside the legislation. Some provisions of the legislation allow employers and unions to agree to different terms in a collective agreement.

Are all aspects of employment law covered by The Employment Standards Code?

No, the Employment Standards legislation sets the minimum standards employers must follow. Employers and employees can also sue in civil court for items like breach of contract or unjust dismissal under the legislation. Employers and employees with questions on civil law should contact a lawyer.

What can employees do if they believe they are owed wages?

Employees should first discuss their concerns with their employers. There may have been a mistake or the employer may not realize there is a problem. If there is still a disagreement, employees can contact the Employment Standards Branch for more information, or for information on filing a claim.

Do employers and employees have to file claims if they contact Employment Standards Branch?

No, anyone can call the Employment Standards Branch to get more information. Employment Standards Officers will answer questions and offer help understanding the rights and responsibilities in the workplace. This is not a formal investigation.

When can employees file claims?

Employees who believe their employers did not pay them correctly, can file a claim with the Employment Standards Branch. Claims must be filed within six months of the last day of work or when the incident happened. Employment Standards Staff can only investigate and collect up to six months of unpaid and overtime wages and up to 22 months for vacations and general holiday pay.

What if workplaces are unionized?

Workplaces with unions have specific rules for resolving disagreements. In unionized workplaces, employees should contact their union representatives to find out the proper way to resolve employment standards concerns.

How do employees file claims?

The [Claim form](#) is available on the Internet, or from any Employment Standards Branch office. The Employment Standards Branch will also mail, e-mail or fax claim forms on request. Employment Standards Officers contact both employers and employees to gather more information, as soon as claims are received.

Are appointments needed to file claims?

Claims can be filed any time during office hours. Completed forms can be brought to an Employment Standards Branch office in person, or faxed or mailed to the office. The office address and fax number are on the forms.

Are claims confidential?

Talking to Employment Standards Officers on the general inquiry line is confidential. Once a claim is filed, Officers must investigate and must speak to anyone who has information about the claim, including the employer. That is the only way Officers can make proper decisions.

How long before employees are contacted after filing a claim?

When claims are received by Employment Standards Branch for investigation, officers phone the employers and employees to get more information. Sometimes it can take several weeks for investigations to begin. It depends on the number claims the Employment Standards Branch is processing at the time.

How long before decisions are made?

In some cases, the claims are settled as soon as employees and employers get correct information. Many claims are closed in only a few weeks. Other claims are more complicated and can take months or years to complete.

What happens if complaints aren't settled by cooperation, education and information?

Employment Standards Branch Officers can order employers to provide records needed for an investigation. Once investigations are complete, Officers can either order employers to pay wages or dismiss claims if they find that no wages are owed. Employers can pay the wages voluntarily at any time. However, if employers are ordered to pay wages, Employment Standards Branch administration fees are added to the payment order.

What if employees or employers disagree with an Officers' decisions?

Employers or employees can appeal payment of wages or dismissal orders to the Manitoba Labour Board. Employers who wish to appeal an order must send a written request to Employment Standards within seven days of the order and provide a deposit for the full amount of the order. Employees who wish to appeal an order must also do so in writing within seven days of receiving the order but are not required to provide a deposit.

At this point in the investigation, Employment Standards Officers also provide employers and employees with complete information about appealing a decision, and will answer any questions.

Who answers questions about things like wages, hours of work, holidays, or terminating employment?

The Employment Standards Branch, can answer your questions. It investigates complaints and gives employers and employees information about minimum standards like general holidays, vacations, hours of work, leaves of absence, terminations and the minimum wage. The Employment Standards Branch is a neutral party required to enforce the legislation without taking sides.

What is the Manitoba Labour Board?

The Manitoba Labour Board is a special three-person board (tribunal), separate from the Employment Standards Branch. Its powers are like those of a judge or court, which re-hears disagreements that could not be resolved by the Employment Standards Branch. *The Employment Standards Code* is one of several acts the board administers.

How do employees and employers file a complaint?

Employees and employers should first discuss the issue to see if it can be settled without an Employment Standards investigation. Either party can call the branch to get more information or explanation about an issue.

If employers or employees cannot settle a matter, and believe their rights are being violated, it is best to speak with the Employment Standards Branch, and perhaps file a claim. A complaint form must be filled out and sent to the branch to begin an investigation. Forms are available from any Employment Standards Office, or online at the [Claim Form](#) page. More information can be found on the [Filing a Claim](#) page.

How are complaints investigated?

Employment Standards Officers investigate the complaints. Both the employee and the employer involved are generally contacted to gather information. After investigating, the Employment Standards Officer determines if the legislation has been followed.

How are complaints resolved?

Officers try to settle complaints by explaining the legislation to employers and employees. Often the parties involved voluntarily agree, once they understand the legislation. If the matter is not settled this way, or is too complicated, there will be an investigation and the Employment Standards Branch will order the payment of any owed wages and an administration fee.

Can an order be appealed?

Yes, either party named in an order has the right to appeal. An appeal must be made within seven days of receiving an order. Employers who appeal, must include a deposit equal to the wage amount owing.

A request must be made in writing to have the matter heard by the Manitoba Labour Board. It must include detailed reasons for the appeal. Send the request to the director of the Employment Standards Branch by the appropriate date.

What are residential caregivers?

Residential Caregivers care for or supervise minors or adults who need help to live independently. They must live in the homes of the people they help, at least during working hours.

Are residential caregivers covered by Employment Standards legislation?

Residential Caregivers are covered by Employment Standards legislation. There are unique provisions related to the hours of work and day of rest

What does it mean to reside in the home of the person requiring care?

Employees who help people live independently generally need to stay with them, in their homes, for many hours. Residential Caregivers live, at least during working hours, in the homes of the people in their care.

Residential Caregivers generally stay in the homes, have their own rooms or places to sleep, leave personal belongings and freely use appliances and common things around the house. Employees who come in only during sleep or rest periods do not live in the homes.

How are residential caregivers paid?

Generally, residential caregivers must be paid for 12 hours for each day they work. They receive eight hours of

regular wages and four hours of overtime wages, regardless of the number of hours worked. If they work more than 12 hours, they are paid overtime wages, for up to four more hours.

Time that employers agree is free of work duties, or time when residential caregivers are eating, resting, sleeping or attending to private business or interests, is not considered time worked and is not included in the calculation of overtime.

When employers agree to give employees time off for part of a day, employees are paid regular wages for the first eight hours and overtime wages for each hour after.

Do residential caregivers get a day of rest?

Residential caregivers must get 36 consecutive hours each week when they are not required to work. If employers ask, and residential caregivers agree, they can work instead of taking the time off. The caregivers are either paid overtime wages for that time (whether it is overtime or not), or paid regular wages and take off the additional hours worked as part of their rest period, sometime in the next eight weeks.

Can employers charge for room and board?

Employers can charge for room and board and employees can agree to have those charges deducted from their wages. The amount that employers can charge for room and board is limited. The deductions for room and board can not reduce employees earnings below minimum wage for the pay period by more than \$7 per week for the room and by more than \$1 for each meal the employees have.

More information can be found on the [Deductions](#) page

Can employers charge for uniforms?

No, employers cannot charge employees for uniforms nor can they ask or expect workers to buy them. Employers are to provide uniforms at no charge to workers. Employers can also require a dress code. For more information on required clothing see the [Deductions](#) page.

Do residential caregivers get vacations?

Residential caregivers get vacations. Unless employers provide a greater benefit, caregivers are entitled to two weeks of vacation each year after working for the employer for one year. They must be paid four per cent of their regular wages as vacation pay. More information can be found on the [Vacations and Vacation Pay](#) page.

Do residential caregivers get general holidays?

Residential caregivers are entitled to have the day off and to be paid general holiday pay. If they work they are entitled to 1 ½ times their regular wages for the day. More information can be found on the [General holidays](#) page.

Are residential caregivers protected during unpaid leaves?

Residential caregivers have the same job protection as other employees when taking unpaid leave. The six unpaid leaves are Maternity, Parental, Compassionate Care, Bereavement, Family and Reservist Leave. More information, can be found on the [Unpaid Leaves](#) page.

What are domestic workers?

Domestic workers are hired to work mainly in private homes, cleaning, laundering, cooking, gardening, etc. Employees who live in homes to take care of, or supervise someone are also domestic workers, including live-in nannies.

People who care for children or the elderly as sitters are generally not considered domestic workers, unless they live in the home with them.

Are domestic workers covered by Employment Standards legislation?

Most domestic workers are covered by Employment Standards legislation. However, domestic workers who work less than 12 hours per week are not generally covered. See protections for [Young Workers](#) and [Unpaid Leaves](#) pages because those regulations still apply regardless of the number of hours worked.

What is the minimum wage for domestic workers?

The current minimum wage for domestic workers is \$7.60 per hour. On April 1, 2007, it will increase to \$8 per hour.

Do domestic workers get a day of rest?

Domestic workers must get 36 consecutive hours each week where they are not required to work. If the employers ask, and domestic workers agree, they can work instead of taking the time off. The domestic workers are either, paid overtime wages for that time (whether it is overtime or not), or paid regular wages, the additional hours worked off as part of their rest period, sometime in the next eight weeks.

Are domestic workers paid for overtime?

Domestic workers get overtime pay like other employees. More information can be found on the [Overtime](#) page. Time that employers agree is free of work duties, or time when domestic workers are eating, resting, sleeping or attending to private business or interests is not considered time worked and is not included in the calculation of overtime.

Do domestic workers get vacations?

Domestic workers get vacations. Unless employers provide a greater benefit, domestic workers are entitled to two-weeks of vacation each year after working for the employer for one year. They must be paid four per cent of

their regular wages as vacation pay. More information can be found on the [Vacations and vacation pay](#) page.

Do domestic workers get general holidays?

Domestic workers are entitled to have the day off and to be paid general holiday pay. If they work, they are entitled to 1 ½ times their regular wages for the day or another regular day off, with pay, within the next 30 days. More information can be found on the [General Holidays](#) page.

Are domestic workers protected during unpaid leaves?

Domestic workers have the same job protection as other employees when taking unpaid leave. The six unpaid leaves are Maternity, Parental, Compassionate Care, Bereavement, Family and Reservist leave. More information can be found on the [Unpaid Leaves](#) page.

How much are employees paid for reporting to work?

- If they were scheduled to work more than 3 hours, and work more than 3 hours but not their entire scheduled shift, they must be paid for all hours worked.
- If they were scheduled to work more than 3 hours, but work less than 3 hours, they must be paid for at least 3 hours.
- If they were scheduled to work less than 3 hours they must be paid for their entire scheduled shift.

Employees are scheduled to work five hours, but are sent home when they arrive at work. Are they paid for this shift?

Yes. The employees must receive three hours of pay at their regular wage for reporting for work.

Employees are scheduled to work five hours later this week, but the schedule changes and they are no longer working that shift. Are they paid for the shift?

No. Reporting pay only applies when employees report to work when requested or scheduled. When employees know or should know that a shift is canceled or changed, they are not entitled to reporting pay.

If a shift is scheduled for two hours, does this mean employees must be paid for three hours?

No. Employers can schedule shifts of less than three hours and pay employees for the hours scheduled.

Employees report for their two–hour shift, but are sent home after an hour because business was slow. What are they paid?

The employees are paid for their scheduled shift, which was two hours.

Employees are scheduled to work eight hours, but are sent home after five hours. What are they paid?

Since the employees worked more than the three hour minimum for reporting pay, they are paid for the five hours worked.

Employees were supposed to have the day off, but are asked to come into work for one hour. What are they paid?

The employees are paid for one hour. Reporting pay protects employees from unknown changes after they report to work. In this case, the employees knew before reporting how long the shift would be, and agreed to come in. They are paid for the hours worked.

An employer regularly schedules employees to work less than three hours, but they usually work longer than three hours. If they work less than three hours, what are they paid?

Although an employer can schedule shifts under three hours and pay for only the scheduled shift, in this case, the short shift schedule does not reflect what is actually happening once the employees report to work. Reporting pay would apply here. The employees must be paid for the hours worked or for three hours, whichever is greater.

Employees are scheduled to work a six–hour day, but are asked to stay for an extra hour. Does reporting pay apply?

No. Since the shift is longer than three hours, and the employees worked more than three hours, reporting pay does not apply. The employees are paid for the hours worked. If the extra hours make the shift longer than eight hours in a day or more than 40 hours in a week, overtime will likely apply. Please see the [Overtime](#) page for more details.

What is incentive pay?

In some workplaces, employees are paid based on how productive they are rather than the number of hours they work. Common examples include commission salespeople, flat–rate mechanics and pieceworkers.

How is overtime pay calculated for employees who are paid by incentive?

For incentive pay, calculating overtime is a two–step process:

1. Calculate the hourly wage.
2. Calculate the regular and overtime pay.

To calculate the hourly wage, the incentive pay is divided by the total hours worked in the pay period. The hourly wage usually changes in each pay period, since it depends on the pay earned and the number of hours worked.

Overtime hours are those worked over the standard hours. In most cases, they are the hours worked after eight hours in a day and 40 hours in a week. The Overtime page provides more details on how to determine overtime hours.

In each pay period, employees must be paid their hourly wage for all standard hours they worked and their overtime wage, which is 1 ½ times the hourly wage, for all overtime hours they worked.

How are employees who are paid commission only, paid for overtime?

To calculate overtime for commission employees, establish the hourly wage for the pay period, determine their standard and overtime hours worked in the pay period and calculate the wages.

For example: a commission salesperson paid once a week. In this pay period he/she earns \$1000 commission and work 50 hours.

To calculate the hourly wage use the formula:

$$\frac{\textit{Incentive Pay (commissions)}}{\textit{Total Hours}} = \textit{Hourly Wage} \quad \textit{or} \quad \frac{\$1,000}{50} = \$20$$

The salesperson works 40 standard hours and 10 overtime hours. The hourly wage (\$20) times the standard hours (40) equals the regular pay for the period (\$800).

The overtime wage is the hourly wage (\$20) times 1 ½ (\$30). The overtime wage (\$30), times the overtime hours (10), equals the overtime pay for the period (\$300).

The total is the regular pay (\$800) plus the overtime pay (\$300) for a total of \$1100.

Since the salesperson has already earned \$1,000 in incentive pay, the top up for the overtime would be \$100.

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