

## **Frequently Asked Questions 600 – 699**

### **When November 11 falls on a Sunday, what rules do stores need to follow on Remembrance Day?**

When Remembrance Day is a Sunday retail businesses must follow both the Remembrance Day legislation and the Sunday Shopping legislation. Therefore in municipalities that allow Sunday shopping, retail businesses may be open between 1:00 pm and 6:00 pm on Remembrance Day.

More information is available on the [Remembrance Day](#) page.

### **Can employers substitute another day for Remembrance Day?**

No, Remembrance Day is November 11 and the rules apply for that day. If employers wish to treat Remembrance Day as a General Holiday and provide an additional day off they can, but they are not required to do so.

### **Are restaurants and hotels allowed to be open on Remembrance Day?**

Yes, restaurants and hotels are allowed to be open on Remembrance Day. A restaurant includes street vendors, kiosks, coffee shops, patios and indoor restaurants. This type of business is not restricted on Remembrance Day.

### **How do I apply for a permit?**

An application form can be found on the web site at [www.manitoba.ca/labour/standards/forms.html](http://www.manitoba.ca/labour/standards/forms.html) or by contacting the Employment Standards Branch. The employer applies providing the rationale and information about the workplace environment and proof of the employees agreement with the proposal. The completed form can be taken, mailed or faxed to the nearest Employment Standards Branch office.

### **Are there restrictions on who can apply?**

No, but consideration will only be given to workplaces that meet the legislated criteria and have proposed a set schedule or schedule cycle. Permits are not generally given to individual employee schedules or to accommodate "flex-time". Permits are also not given to workplaces where the majority of employees disagree with the proposal.

There are some industries that have different standard hours of work outlined in legislation. You can find more information regarding overtime on our [Overtime Fact Sheet](#).

## **Do employees have a choice about the proposed schedule?**

The opinion of the affected employees' must be considered. In most cases, a significant majority of employees must agree in writing to the proposal before it will be considered. Employees with questions about their rights should call Employment Standards. If a permit is approved, the employer may require the minority of employees, who did not agree, to work the new schedule.

## **What constitutes "employees' agreement"?**

Applications for averaging the standards hours of work and varying the break period must include the written opinion of the affected employees. The document must clearly show that the employees knew what they were agreeing to and understood they have a choice. See the sample [Employees Written Agreement](#) page for more information.

## **Are employees entitled to see the permit and know the terms and conditions?**

Yes. Permits must be posted at the workplace at all times, in a place where employees have access to see it. Employers who do not post the permit, or restrict access to it, risk having the permit canceled or denied.

## **Do employees working under a permit receive overtime?**

Yes. Employers who ask or allow employees to work longer than the hours allowed in the permit must pay these employees 1 ½ times their regular hourly wage for each hour worked during overtime. Overtime does not apply when the employer schedules within the terms of the permit.

For example: a permit allows an employee to work a maximum of 10 hours per day, 50 hours per week and 80 hours in a two-week period. If the employee is asked, or allowed, to work more than 10 hours in a day they are owed overtime pay (1 ½ times their regular hourly wage) for the extra hours. If the employee works more than 50 hours in a week or more than 80 hours in two weeks, they are also owed overtime pay.

## **When can the new schedule begin?**

New schedules can begin once a permit is received and posted. Before that the standard hours of work remain eight hours a day and 40 hours a week, and hours worked beyond this are overtime.

The schedule can remain in effect until the permit expires. To maintain a continuous schedule, employers must get a new permit before the old permit expires. Each application needs the written support of the current employees. Employers who do not apply for a new permit must return to the standards hours of work in the Employment Standards Code, or pay overtime for longer hours.

## **What factors will Employment Standards consider in reviewing the application?**

To approve a permit, Employment Standards must be satisfied that the new schedule is similar to what is usual for that industry, does not increase risks in the workplace, and benefits the affected employees. Repeat violations of the Employment Standards Code can also result in the denial of a permit.

Factors affecting averaging and work break applications:

- industry custom or practice
- opinion of a significant majority of the affected employees
- safety, health and welfare of the public and employees
- employers history of compliance or non-compliance with the Code

Factors affecting weekly day of rest applications:

- undue hardship or severe loss to the employer
- realities of the benefit to employees, such as in remote locations
- restricting a business that operates only part of the year

## **What is an averaging permit?**

The standard hours of work are eight (8) hours in a day and forty (40) hours in a week. Hours worked above these are overtime. Employers may apply to increase the daily hours in a 40-hour work week or to average the hours across a longer period such as 80 hours in a two-week period, 120 hours in a three-week period, 240 hours in a six-week period, and so on.

## **What is a work break order?**

The Code provides employees with a 30 minute work break after five consecutive hours of work. During this time the employee is free from duties and responsibilities. Employers may apply to reduce or eliminate this break with employee agreement, if they can demonstrate a need, and a benefit to the affected employees.

## **What is a weekly day of rest order?**

The Code provides employees with a weekly rest period of not less than 24 consecutive hours. Employers may apply to have their workplace exempt in order to change the timing of the rest period and lengthen the number of consecutive work days. The number of days of rest employees are entitled to at the end of the work period is still equal to one per week.

## **Employees' Survey for Written Agreement**

To constitute a valid written employee agreement/opinion, the document must clearly show that the employees knew what they were agreeing to and understood they have a choice.

The document must contain:

1. The proposed terms to which the employees are agreeing, on the same page as the signature(s).
2. A list of employees that will be affected by the schedule change.
3. Each affected employees signature, either agreeing or disagreeing with the proposal.
4. Explanation for any employees unavailable to sign, such as those on leave.
5. Contact information for the employees to contact the Employment Standards Branch with questions or concerns. The phone number is 204-945-3352, or 1-800-821-4307 (toll free in Manitoba). E-mail [employmentstandards@gov.mb.ca](mailto:employmentstandards@gov.mb.ca)

Below is a sample of what an employees agreement sheet might look like.

*We would like you to consider the request of COMPANY XYZ to apply to the Employment Standards Branch for a permit seeking certain exemptions from the provisions of The Employment Standards Code. Please review the proposed terms and sign your opinion to the proposed application below.*

*Proposal: (clearly state all terms related to new schedule)*

*(example) Employees in the sifting department will work 10 hours per day (from 8:00 a.m. to 6:00 p.m.), 50 hours per week, 80 hours in a two-week cycle, without overtime pay. Employees will receive one 15-minute break at 10:00 a.m., one 30-minute break at noon, and a second 15-minute break at 3:00 p.m. Overtime will be paid after 10 hours per day, 50 hours per week, and 80 hours in a two-week period.*

*If you have any questions or concerns about this proposal that COMPANY XYZ is unable to address, you may call the Employment Standards Branch at (204) 945-3352 or 1-800-821-4307 (toll free in Manitoba).*

*Please sign below to indicate your support or disagreement with the proposal.*

<i>Employee</i>	<i>Signature</i>	<i>Date</i>	<i>Agree</i>	<i>Disagree</i>
Albert Einstein				
Bob Newhart				
Carmen Electra				
Davie Jones				
Ed Asner				
Frankie Avalon				
Gina Lollobrigida				

## **Is Louis Riel Day a General Holiday?**

Yes, Louis Riel Day is Manitoba's 8th General Holiday. The other general Holidays are: New Year's Day, Good Friday, Victoria Day, Canada Day, Labour Day, Thanksgiving Day and Christmas Day.

## **Where can I find more information on what employees should be paid for General Holidays like Louis Riel Day?**

Most employees will receive pay for Louis Riel Day whether they work or not. You can find more information on payment for General Holidays on our [General Holiday Fact Sheet](#) on our web site.

## **Are retail businesses allowed to be open on Louis Riel Day?**

Yes, in communities with a Sunday and Holiday shopping by-law retail stores can be open Sunday shopping hours (12:00 pm to 6:00 pm) on Louis Riel Day. This is the same as Victoria Day and Thanksgiving Day.

## **How did Louis Riel Day get its name?**

Schools in the province were asked to submit one name that would be of relevance to Manitoba and reference citizenship, history, culture, the arts, sports or a significant individual. 11 schools submitted the name "Louis Riel Day".

## **Who was Louis Riel?**

A passionate Métis leader, Louis Riel was the driving force behind Manitoba becoming Canada's fifth province. Louis Riel's dream of a province that embraces all cultures is still shared by Manitobans today as we strive to build a society that honours and respects all people.

## **Is Louis Riel Day a General Holiday for everyone?**

Louis Riel Day is a General Holiday for all employees who work in a provincially regulated business. Louis Riel Day does not affect employees who work for businesses regulated by the federal government.

## **When is Louis Riel Day?**

Louis Riel Day is the third Monday in February.

Date Published: July 6, 2012