

Employment standards tool kit for employers

Module 6 | General holidays

Out of date

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Employment Standards Tool Kit for Employers: Module 6 – General Holidays

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Introduction

This tool kit was developed by the Government of Alberta to help business owners and their employees understand and comply with the *Employment Standards Code* and Regulation.

Following the Code is your responsibility, and this tool kit is designed to help you do that.

The laws for Employment Standards are minimum requirements. Some tools, forms and a list of resources are provided to assist business owners in meeting or exceeding the minimum requirements. You may use the sample tools provided, or you may develop your own.

This resource does not outline all the requirements under the *Employment Standards Code* and Regulation.

This is not a definitive guide to the legislation and does not exempt readers from their responsibilities under applicable legislation.

In case of inconsistency between this resource and employment standards legislation, the legislation will always prevail.

Availability of legislation

In Alberta, the *Employment Standards Code* and Regulation outlines the requirements for employment standards. See www.qp.alberta.ca to download these documents.

Official printed copies may be purchased from the Alberta Queen's Printer online at www.qp.alberta.ca or in person at:

7th floor, Park Plaza
10611-98 Avenue Edmonton, Alberta T5K 2P7

Phone: 780-427-4952

Call any Government of Alberta office toll-free: Dial 310-0000, then the area code and telephone number you want to reach.

Other legislation that may apply to you includes:

Canada Labour Code: www.laws-lois.justice.gc.ca/eng/acts/L-2

Labour Relations Code: www.alrb.gov.ab.ca/legislation.html

Occupational Health and Safety Act, Code and Regulation: www.alberta.ca/occupational-health-safety.aspx

Alberta Human Rights Legislation: www.albertahumanrights.ab.ca

Workers' Compensation Board: www.wcb.ab.ca/home

Employment Standards website

Visit alberta.ca/employment-standards.aspx for more information on Alberta's employment standards.

The website provides detailed information on the rights and obligations of employers and employees under the *Employment Standards Code*, as well as information for specific groups, occupations and industries.

The website also provides access to other resources, including an interactive self-assessment tool for employers, webinars, and other publications.

General holidays

Under the Code, the following nine days are recognized as general (statutory) holidays:

General Holiday	Date
New Year's Day	January 1
Alberta Family Day	3rd Monday in February
Good Friday	Varies with religious calendar
Victoria Day	Monday immediately preceding May 25
Canada Day	July 1*
Labour Day	1st Monday in September
Thanksgiving Day	2nd Monday in October
Remembrance Day	November 11
Christmas Day	December 25

Reference: *ES Code*, Section 25

*By federal law, when July 1 falls on any day of the week other than Sunday, it is celebrated on that day; however, when it falls on a Sunday, it is treated as if it fell on the Monday immediately following.

Boxing Day, Easter Monday and Heritage Day (first Monday in August) are not considered general holidays. However, an employer can designate these, or any other day, as a general holiday. When this occurs, that day will be subject to the same rules as the nine statutory general holidays.



See additional resources: [General holidays in Alberta](#)

Employee eligibility

An employee is entitled to general holiday pay if they have worked for the same employer for at least 30 workdays in the 12 months prior to the holiday. To be eligible for general (statutory) holiday pay, the employee must:

- not have been absent without employer's consent on the last scheduled day before the holiday or the first scheduled day after the holiday
- not have refused to work on the general holiday when requested/scheduled

Failure to meet any of these requirements results in the disentitlement of an employee to general holiday pay.

Reference: *ES Code*, Section 26

What to pay

General holiday pay varies depending on:

- whether the employee works on the holiday or not
- whether the holiday falls on the employee's regular vs. non-regular day of work

What is a regular day of work?

A regular day of work is every workday in an employee's normal schedule: if the employee works the same days every week, those days are considered their regular days of work. Other days are not regular days of work.

What if an employee doesn't work the same days every week?

Even if an employee works an irregular schedule, some days in their schedule may still be considered regular days of work. To see which days those are, we look at what happens the majority of the time:

- if in the last nine weeks before the holiday, the employee has worked five of the same weekdays, then that weekday is considered a regular day of work and the rules for regular days of work apply.

This rule is sometimes called "The 5 of 9 rule".



EXAMPLE

If a holiday falls on a Monday, and the employee has worked five Mondays in the last nine weeks before the holiday, then Monday is a regular day of work for them.

When a holiday falls on a regular day of work

Not working on a general holiday

If an eligible employee does not work on a general holiday that is a regular day of work, the employee is entitled to their average daily wage.

Working on a general holiday

If an eligible employee works on a general holiday that is a regular day of work, the employer has 2 options:

- pay average daily wage plus 1.5 times employee's wage rate for all hours worked OR
- pay regular wages (and overtime, if applicable) plus provide a future day off with payment of average daily wage

What is average daily wage?

Average daily wage is calculated as the employee's wages divided by the number of days worked in either:

- the four weeks immediately preceding the general holiday, or
- the four weeks ending on the last day of the pay period that immediately preceded the general holiday

The employer may choose whichever option best suits their needs.



Best practice

Employers can avoid confusion by using a consistent method of calculating average daily wage and making that method clear to employees.



Overtime pay is not included in the calculation of average daily wage.

Example of two options for calculating Average Daily Wage

An employee has biweekly pay periods which end on Fridays. In this example, Family Day falls on February 20.

Option 1 – four weeks immediately preceding the general holiday (in yellow below)

In this case, the four week period ends on the day before the general holiday (February 19). The start date of the period is determined by counting back 28 days, which is January 23.

Option 2 - four weeks ending on the last day of the pay period that immediately preceded the general holiday (in blue below)

In this case, the first step is to determine the last day of the pay period immediately preceding the general holiday (February 10). The start date of the period is determined by counting back 28 days, which is January 14.

Calendar of regular pay period and regular pay day

January							February						
Sun	Mon	Tues	Wed	Thurs	Fri	Sat	Sun	Mon	Tues	Wed	Thurs	Fri	Sat
1	2	3	4	5	6	7				1	2	3	4
8	9	10	11	12	13	14	5	6	7	8	9	10	11
15	16	17	18	19	20	21	12	13	14	15	16	17	18
22	23	24	25	26	27	28	19	20 Family Day	21	22	23	24	25
29	30	31					26	27	28				

End Pay Period

When a holiday does not fall on a regular day of work

Not working on a general holiday

If an employee does not work on a general holiday that is not a regular day of work, the employee is not eligible for general holiday pay.

Working on a general holiday

If an employee works on a general holiday that is not a regular day of work, the employee is entitled to pay that is at least 1.5 times the employee's wage rate for all hours worked.

Summary table

	Regular day of work	Not a regular day of work
Employee works	Hours worked x hourly wage x 1.5 + average daily wage OR Hours worked x hourly wage + future day off at average daily wage	Hours worked x hourly wage x 1.5
Employee doesn't work	Average daily wage	Not eligible for general holiday pay

General holiday pay example calculation

Regular day of work

An employee works regular hours and makes \$20 per hour. The employer decides to use the option to calculate general holiday pay in the 4 weeks immediately preceding the holiday. In the four weeks (28 days) leading up to the July 1 holiday (between June 3 and June 30), the employee worked 14 days. They work for a total of 84 hours regular (non-overtime) hours.

Calculating average Daily wage

	CALCULATION/DETAILS	TOTAL
Wages	Hours worked in previous 28 days x Hourly wage	84 hours x \$20/hr
Average daily wage	Wages/Number of Days Worked	\$1,680/14 = \$120

Calculating general holiday pay

	CALCULATION/DETAILS	TOTAL
If the employee doesn't work on the general holiday	Average daily wage	\$120
If the employee works on the general holiday	(Hours worked x Hourly wage x 1.5) + Average daily wage	(8 hours x \$20/hour x 1.5) + \$120 = \$360
	OR	
	(Hours worked x Hourly wage) + Paid day off at a rate of average daily wage	(8 hours x \$20/hour) = \$160 + Day off at \$120

Not a regular day of work

An employee makes \$20/hour and works an irregular schedule. The general holiday falls on a Monday. The employee has only worked three Mondays in the nine weeks prior to the holiday. So, according to the "5 of 9 rule", Monday is not a regular day of work.

	CALCULATION/DETAILS	TOTAL
If the employee doesn't work on the general holiday	Not eligible for general holiday pay	\$0
If the employee works on the general holiday	Hours worked x Hourly wage x 1.5	8 hours x \$20/hour x 1.5 = \$240

General holiday pay and salaried employees

For salaried employees, simplified general holiday calculations are permitted.

If a general holiday falls on a regular work day, an employee may receive:

- the day off work and their full salary for the day

If a general holiday does not fall on a regular work day, an employee may receive either:

- a day off in lieu and their full salary for that day
- general holiday pay that is at least their average daily wage

General holiday pay and employees paid incentives

Incentive pay plans include commission, flat rate, mileage or piecework compensation.

If an employee paid entirely on commission or other incentive-based pay works on a general holiday, they are to be paid their average daily wage plus 1.5 times the employee's wage rate for hours worked. For the purposes of calculating general holiday pay, the employee's wage rate is deemed to be the minimum wage.

To calculate the average hourly wage for incentive pay, determine if the employee is paid entirely by commission or incentive pay.	
If yes...	The employee's wage rate for time worked on a general holiday is deemed to be minimum wage.
If no and paid partly by salary...	The employee's wage rate for time worked on a general holiday is based on the salary component of the wages if it's greater than minimum wage. If the salary component is less than the minimum wage, then it's deemed to be minimum wage.

Visit [alberta.ca/employmentstandards](https://open.alberta.ca/publications/employment-standards-tool-kit-for-employers-module-6) to learn how to calculate the hourly wage for an employee paid by incentive-based pay or commission.

Reference: ES Code, Section 32

Additional rules

1) When shifts occur partially on a general holiday

If an employer does not have an established practice for determining whether a shift falls on a general holiday, the following guidelines apply:

- If an employee's shift begins on the day before a general holiday and ends during the holiday, all hours worked on that shift will be credited to the day preceding the holiday.
- If an employee's shift begins on the general holiday, all hours worked during the shift will be credited to the day of the general holiday and would be paid accordingly.



EXAMPLE

If the employer has an established work day from 11 p.m. to 11 p.m. and the employee begins work at 11 p.m. on the day of the holiday – all hours worked on that shift would be deemed hours worked on a holiday.

2) General holiday pay and overtime

When an employer pays for hours worked on a general holiday at 1.5 times the employee's wage rate, the hours worked on a holiday do not count when calculating overtime hours worked for the week in which the holiday falls.

	S	M	T	W	T	F	S	Total hours worked (including general holiday)	Total hours to be paid	Regular hours (wage rate)	Overtime hours (OT rate)	General holiday pay (1.5 x wage rate)
Hours worked	-	10	8	8	8	8	-	42	42	32	0	10

The holiday falls on Monday and the employee worked 10 hours. In this example, the employee would be paid 32 hours at regular pay and 10 hours of general holiday pay. No overtime hours are earned even though over eight hours are worked because overtime is not earned when working on a general holiday.

Reference: *ES Code*, Section 33

3) Employees who work fewer than three hours

If an employee works fewer than three hours on a general holiday, the rule regarding three hours at minimum wage applies. For more information, see [Module 3: Hours of work and rest](#).



EXAMPLE

An employee eligible for general holiday pay who works on a holiday would be entitled to the greater of 1.5 times their wage rate for the number of hours worked or three hours paid at the minimum wage rate.

4) Substitute holiday not taken

A general holiday can be postponed to a later date. If an employee is terminated before this holiday is taken, the following rules apply:

If terminated, the employee must receive their average daily wage plus 1.5 times the regular wage rate for all hours worked on the general holiday, less any money previously paid for wages and overtime on that day.

If the employee quits, the employee is entitled to be paid his or her average daily wage for each general holiday deferred and still not taken.

5) When a general holiday falls during a vacation

If an eligible employee is on vacation when a general holiday occurs, the employee can take off with pay the first scheduled working day after their vacation.

If the employee and employer agree, the employee can take off a different day that would otherwise have been a work day, as long as this day is before the employee's next annual vacation.

6) Industries with different rules

- Construction employees are entitled to general holiday pay equal to 3.6% of wages upon beginning employment, but not entitled to days off.
- Farm and ranch employees have rules that differ for calculating general holiday pay.

Visit alberta.ca/employmentstandards for more information on industries with exceptions.