



Employment standards tool kit for employers

Module 1 | Overview

Disclaimer: Information in this publication was accurate, to the best of our knowledge, at the time of publication. However, legislation, websites and programs are subject to change. The material in this publication is intended for informational purposes only and is not intended to be used as a source of legal advice.

Employment Standards Tool Kit for Employers: Module 1 - Overview

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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.

The *Employment Standards Code*

The *Employment Standards Code* (Code) is a provincial law describing the minimum standards that must be provided to employees working in Alberta. The Code includes the following:

- General holidays and general holiday pay
- Hours of work
- Job-protected leaves (unpaid)
- Minimum wage
- Overtime and overtime pay
- Payment of earnings and employment records
- Restrictions on the employment of youth under the age of 18
- Termination of employment
- Vacations and vacation pay

The Employment Standards Regulation (regulation) sets out exceptions and exemptions from the Code for certain employees and modifies the rules relating to hours of work, overtime and other standards for certain industries. The regulation also provides special rules for the employment of youth and sets out the minimum wage. Visit www.qp.alberta.ca to see the *Employment Standards Code* and Regulation.

Three things employers need to know about employment standards

1. Minimum standards cannot be avoided

This means the Code has a rule that prevents people from opting out of the core standards, either directly or indirectly.

2. Greater benefits

There are cases when employers and employees agree to benefits that are greater than what the Code outlines. These agreements are enforceable under the Employment Standards legislation.



EXAMPLE

Under the Code, an employee must get an annual vacation of at least two weeks after one year of employment. If the employer agrees to provide more than two weeks of vacation, that agreement becomes a greater benefit that will be enforced.

3. Employment deemed continuous

When a business changes ownership and the employees continue to work for that business, the Code considers the employees' employment to be continuous.

This guarantees that entitlements provided by the Code (such as general holiday pay, vacation pay, termination notice, and job-protected leaves), which have been earned by the employees through length of service, are not lost due to the change of ownership.



This rule also applies when a company is placed in receivership and when the receiver sells the company to a new owner.

Reference: ES Code, Part 1

Workers who are covered by the Code

With some exceptions, the Code applies to all employees and employers in Alberta. Most employees have full coverage of earnings under the Code, whether they are considered full-time, part-time, casual, temporary, pieceworkers, commissioned, students or salaried.

Exceptions for specific industries

There are some exceptions to the rules for specific industries. These are discussed where they are relevant throughout this tool kit.



See additional resources: [Common Employment Standards Exceptions](#)

Workers who are not covered by the Code

There are several groups of workers who fall outside of the Code's jurisdiction:

Employees who work out of the province, inter-provincially or internationally

If an employee works in another province or country, that province's or country's labour laws may apply.



When working outside Alberta for an Alberta employer, the application of Alberta's legislation will depend on the circumstances and the nature of the employment contract. When employers based in other jurisdictions do work and employ people to work in Alberta, they must follow Alberta's legislation, not those of their home jurisdiction.

Employees who fall under federal jurisdiction

Employees who work in the following industries fall under federal jurisdiction and are covered by the Canada Labour Code:

- airports and air transportation
- inter-provincial transportation
- chartered banks
- broadcasting and telecommunications
- railways
- postal service
- grain elevators
- shipping and navigation

- canal, ferries, tunnels and bridges
- inter-provincial/international pipelines
- First Nations
- uranium mining and atomic energy

Employees covered by other acts

Coverage under the Code excludes employers and employees who are covered by other more specific legislation.



EXAMPLE

Municipal police covered by the Police Act are excluded from the entire Code except for job-protected leave benefits. Academic staff covered by the Post-secondary Learning Act are excluded entirely from the Code.

Self-employed workers/contractors

Under the Code, an employer is “a person who employs an employee.” The definition includes former employers. An employee is defined as “an individual employed to do work who receives or is entitled to wages.” The definition includes former employees.

The Code applies only to employers and employees. Self-employed workers are not covered by the Code, unless they are also employers, in which case the Code will protect the employees who they hire.



See additional resources: [Employee or contractor: How to know the difference](#)

Collective agreements

Some employees choose to have union representation and bargain collectively for the terms and conditions of their employment. The collective agreement is binding, so long as it provides for the minimum standards stipulated by the Code.

Variations and Exemptions

Employers are required to follow the minimum standards outlined in the Code. However, employers can apply for a variance or exemption in certain circumstances that allows for exceptions to the rules.

There are two types of variations: those issued by the Director of Employment Standards and those issued by the Minister of Labour and Immigration.



Applications for a variance can be made by individual employers, employer associations, or groups of employers. This applies to both Director's and Ministerial variations.

Director's Variations

Applications can be submitted to the Director of Employment Standards for the following types of variations:

Three-hour pay minimum

This variance allows employers to provide less than 3 hours' pay when calling in an employee.

Extend days of work

This variance allows employers to extend the consecutive days of work for employees beyond the maximum of 24 consecutive days.

Extend hours of work

This variance allows employers to extend the hours of work in a day for employees beyond the maximum of a 12 consecutive hour period.

Extend period of averaging

This variance allows employers to extend the averaging period for averaging arrangements beyond the maximum 52 weeks.

Notice of work times

This variance allows employers to follow modified arrangements for providing notice of work times.

Rest periods

This variance allows employers to follow modified arrangements for providing breaks (rest periods).

Overtime hours

This variance allows employers to specify different overtime thresholds.

Visit alberta.ca/apply-employment-standards-variance.aspx for details on how to apply for a Director's variance.

Ministerial Variances or Exemptions

Applications can be submitted to the Minister of Labour and Immigration for a variance or exemption to any provision of the *Employment Standards Code*. Ministerial variances or exemptions are exceptional, and certain criteria must be met and outlined in the application.

Visit alberta.ca/es-variance-minister-order.aspx for details on how to apply for a Ministerial variance or exemption.



- Applicants must provide reasons why the variance or exemption is required.
- Variances and exemptions may be issued for a fixed period of time, if appropriate under the circumstances.
- Variances and exemptions may be cancelled, reviewed or altered by the Minister of Labour and Immigration at any time.

Enforcing Alberta's Employment Standards

To ensure employers and employees in Alberta understand and follow the minimum employment standards rules, Employment Standards provides:

Education and resources

Employment Standards staff provide education programs designed to provide participants with a better understanding of the rights and obligations of employers and employees under the *Employment Standards Code* and Regulation.

Visit alberta.ca/employment-standards-education-resources.aspx for more information.

Complaint resolution services

When employees believe they have received less than minimum employment standards and are unable to resolve the matter with their employer, an employee may file a complaint which may be investigated by Employment Standards. Employees who want to file a complaint with Employment Standards may do so at any time, and former employees may file a complaint within six months of the date on which their employment terminated.

Unionized employees are covered by the Code, but minimum employment standards are enforced through the grievance procedures of the collective agreement in place. Employees should contact their union to learn more about the grievance procedures.

For more information on the Employment Standards complaint resolution, see [Module 11: Complaint resolution process](#).

Contact

Call us

Advisors at the Contact Centre are able to address a broad range of Employment Standards questions and issues during regular business hours (8:15 am to 4:30 pm, Monday to Friday).

Recorded messages on Employment Standards are available 24 hours a day.

Contact Centre

To be connected toll-free to the province-wide information line: 1-877-427-3731

For deaf or hearing impaired people with TDD/TTY units:

780-427-9999 within Edmonton

1-800-232-7215 from outside of Edmonton

Ask a question online

See alberta.ca/contact-employment-standards.aspx to submit a question to an Employment Standards advisor.

Visit alberta.ca/employment-standards.aspx for general information on Employment Standards.