



# Employment standards tool kit for employers

Module 3 | Hours of work and rest

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 3 – Hours of Work and Rest

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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 [alberta.ca/alberta-kings-printer.aspx](http://alberta.ca/alberta-kings-printer.aspx) to download these documents.

Official printed copies may be purchased from the Alberta King's Printer online at [alberta.ca/alberta-kings-printer.aspx](http://alberta.ca/alberta-kings-printer.aspx) 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](http://www.laws-lois.justice.gc.ca/eng/acts/L-2)

Labour Relations Code: [www.alrb.gov.ab.ca/legislation.html](http://www.alrb.gov.ab.ca/legislation.html)

Occupational Health and Safety Act, Code and Regulation: [alberta.ca/ohs-act-regulation-code.aspx](http://alberta.ca/ohs-act-regulation-code.aspx)

Alberta Human Rights Legislation: [www.albertahumanrights.ab.ca](http://www.albertahumanrights.ab.ca)

Workers' Compensation Board: [www.wcb.ab.ca/home](http://www.wcb.ab.ca/home)

## Employment Standards website

Visit [alberta.ca/employment-standards.aspx](http://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.

# Overview

The basic rules around hours of work and rest are:

- work days cannot be longer than 12 hours
- employees must receive at least one 30-minute break on shifts longer than 5 hours and two 30-minute breaks on shifts 10 hours or longer
- employees must receive at least one rest day in each work week
  - weeks can be combined but rest days must be consecutive, up to 4 consecutive rest days in a 4 week period

Reference: *ES Code*, Sections 16, 18, and 19

## Daily hours of work

Hours of work must be confined within a period of 12 consecutive hours. This means that an employee who starts work at 8 a.m. cannot work past 8 p.m.



Hours of work refers to the period of time during which an employee works for an employer, and includes time off with pay (instead of overtime pay) provided by an employer and taken by the employee.



### EXAMPLE

If the employee is working a split shift, the hours of work must be confined within the 12-hour period (including breaks).

Unless:

- an accident occurs
- urgent work is necessary to a plant or equipment
- other unforeseeable or unpreventable circumstances occur

Reference: *ES Code*, Section 16



In some industries and/or for specific projects, it may be necessary to keep an employee beyond the 12-hour maximum. For example, oilwell servicing employees and residential/home caregivers can work more than the 12-hour maximum.

## Notice of work times

An employer needs to give employees notice of when their work starts and ends.

They can do this by posting schedules where employees can see them or by any other reasonable method.

The posted schedule should include all required shifts for each employee for the entire period covered by the schedule.



It is always advisable to put notice of work times in writing.

## Shift changes

An employee must be notified about a shift change 24 hours beforehand. Employees must get at least eight hours of rest between shifts.

Reference: ES Code, Section 17



### **EXAMPLE**

A shift change could refer to a switch from day shift to night shift, or night shift to day shift.



Remember! An employer who allows mutual shift changes is responsible for any overtime that arises as a result of these switches.

# Daily rest periods

Employers must give their employees breaks as follows:

Length of shift	Breaks
5 hours or less	No break entitlement
More than 5 hours but less than 10 hours	At least one 30-minute break
10 hours or more	At least two 30-minute breaks



Breaks can be paid or unpaid at the employer's discretion.

Breaks do not need to be provided if:

- an accident occurs or urgent work is required
- other unforeseeable or unpreventable circumstances
- different break arrangements have been made through a collective agreement, or
- it's not reasonable for the employee to take a rest period; if the employee is unable to take their break, then it must be paid

If an employer and an employee agree, the break may be taken in 2 periods of at least 15 minutes.

A break schedule can be worked out by an employer and employee. If the employer and the employee cannot agree on a break schedule:

The employer must provide at least 30 minutes within or immediately following the first 5 hours of the shift (at a time chosen by the employer)

For shifts 10 hours or longer, the employer must provide at least 30 minutes within or immediately following the first 5 hours of the shift (at a time chosen by the employer) and a second break of at least 30 minutes after the first 5 hours of the shift



Reference: ES Code, Section 18



Remember! If the break is unpaid, the employee cannot be called upon to provide service during the unpaid time. If no break is taken, the employee is to be paid for the time worked.

## Weekly days of rest

An employer must give an employee:

- 1 day of rest each week
- 2 consecutive days of rest in each period of 2 consecutive weeks
- 3 consecutive days of rest in each period of 3 consecutive weeks
- 4 consecutive days of rest in each period of 4 consecutive weeks

After 24 consecutive days of work, employees must be provided with at least 4 consecutive days of rest.

Reference: *ES Code*, Section 19

## Industry Exceptions

Some industries and occupations follow different rules regarding hours of work, rest periods and days of rest. Industries with exceptions to the standard rules include:

- various types of salespersons
- professionals such as real estate brokers, and licensed insurance and securities salespersons
- professions such as architects, engineers, lawyers, psychologists and information systems professionals
- managers, supervisors and those employed in a confidential capacity
- licensed land agents
- instructors or counsellors at a non-profit educational or recreational camp

- extras in a film or video production
- farm and ranch employees (exempt from daily and weekly hours of work & rest periods)
- mobile workover employees
- roadbuilding and heavy construction employees
- oil and gas continuous operations employees
- municipal police
- lookout observers
- post-secondary academic staff
- domestic employees (exempt from hours of work but not rest periods)
- residential and homecare caregivers (exempt from hours of work but not rest periods)



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

## Work-related tasks

Certain work-related tasks may be considered to be hours of work. These include travel time, standby time, minimum call-out pay and training.

### Travel time

Certain travel time situations may be considered hours of work.

#### When travel time is work

Any travel time that occurs after the employee starts to provide services for the employer is considered to be hours of work. If a collective agreement is in place, provisions in the agreement may determine how travel time is managed. If travel time isn't covered by a collective agreement, it's considered work when an employee, whether driver or passenger:

- goes from the employer's business or a place designated by the employer to a work site

- goes from one job site to another job site
- is directed to pick up materials or perform other tasks on the way to work or home

### ***Rate of pay***

Travel time hours may be paid out at a different rate of pay, as long as the employee is informed ahead of time and the rate is at least minimum wage.

### **When travel time is not work**

In general, home-to-work and work-to-home travel isn't considered time spent working. If the employer pays the employee for this travel time, the payment would not generally be considered wages.

Travel time is not considered work when employees are given the choice, or an agreement between the employer and employee or union is in place, to either:

- provide their own transportation to or from the work location
- report to a certain point from which the employee may access transportation provided by the employer



Remember! Any travel time that occurs after the employee starts to provide services is recorded as hours of work.

## **Standby time (on call)**

An employer is not required to pay wages to an employee who is on call or on standby waiting to be called to work, unless the employee is waiting at the place of employment. Being 'on call' or 'on standby' while at home is not considered work. There are exceptions to the rule where standby time would be considered work, such as when the employee is required to wear a uniform and/or monitor radio calls.

If the employee is required to perform work, the employee is entitled to the 3-hour pay minimum for each period worked.

## 3-hour pay minimum

If an employee works for fewer than three consecutive hours, but is available for the full three hours, the employer must pay wages that are the higher of three hours at the minimum wage, or the employee's regular hourly rate for the actual number of hours worked.



The minimum wage is the rate of pay that employers must pay employees. Part 2 of the Employment Standards Regulation sets out this wage for employees.

If an employee has been advised in advance not to report to work, but does report, they do not have to be paid if they do not work. The 3-hour minimum is reduced to two hours for part-time employees in recreation or athletic programs run by municipalities, Metis Settlements or non-profit community service organizations, and for school bus drivers.

Reference: ES Regulation, Section 11

## Training

When an employee must attend training that is directly work-related, the employer is required to pay the wage agreed to for the training period of at least minimum wage, plus overtime if applicable.

Once an employer/employee relationship is formed, any education or training requested or required by the employer is work.



This includes job shadowing when a new employee learns from a more experienced employee.

If the employee initiates the education or training, the agreement between the parties will determine whether or not the employee will be paid for training time.

Training is not considered work:

- when an employee is obtaining qualifications necessary to be considered for hiring

- if, as a condition of hire, the employee agrees to obtain additional training on his or her own time at his or her own expense
- if a test is given to a prospective employee as part of the hiring process.