



Province of Alberta

EMPLOYMENT STANDARDS CODE

EMPLOYMENT STANDARDS REGULATION

Alberta Regulation 14/1997

With amendments up to and including Alberta Regulation 159/2020

Current as of September 9, 2020

Office Consolidation

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(Consolidated up to 159/2020)

ALBERTA REGULATION 14/97

Employment Standards Code

EMPLOYMENT STANDARDS REGULATION

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Definition

1(1) In this Regulation, “Act” means the *Employment Standards Code*.

(2) For the purpose of restricting the meaning of “employee” in section 1(1) of the Act, an individual who is an amateur athlete engaged in activities directly or indirectly related to the individual’s athletic endeavours is not an employee.

(3) In the Act and this Regulation, “amateur athlete” means an athlete who is a registered player or registered participant with, or member of, an amateur athletic association, an amateur sports league or a development sports league, and includes an individual who is a player on a Western Hockey League team.

AR 14/97 s1;181/2019

Part 1 Exemptions

Farm or ranch employee exemptions

1.1(1) For the purpose of section 2.1(4) of the Act, an operation that produces cannabis within the meaning of the *Cannabis Act* (Canada) in a greenhouse does not constitute a “farming or ranching operation”.

(2) For the purpose of section 2.1(4)(c) of the Act, an operation that produces cultured fish within the meaning of the *Fisheries (Alberta) Act* is specified as a “primary agricultural operation”.

AR 114/2000 s2;246/2017;182/2019

Lookout observer exemptions

1.2(1) In this section, “lookout observer” means an employee stationed at a wildfire lookout site whose primary responsibilities are to

- (a) provide early detection of smoke and fires,
- (b) report smoke, fire and lightning observations, and
- (c) monitor and record observed smoke and fires.

(2) Section 14(1)(a) (relating to the keeping of employment records for regular and overtime hours of work), section 16 (relating to hours of work), section 19 (relating to days of rest) and Part 2, Division 4 (relating to overtime and overtime pay) of the Act do not apply to a lookout observer or to the lookout observer’s employer while acting in the capacity of employer.

AR 72/2019 s2

Hours of work, overtime and records exemptions

2(1) Section 14(1)(a) of the Act (relating to the keeping of employment records for regular and overtime time hours of work) and Part 2, Divisions 3 and 4 of the Act (relating to hours of work, overtime and overtime pay) do not apply to

- (a) an employee who is employed in
 - (i) a supervisory capacity,
 - (ii) a managerial capacity, or

(iii) a capacity concerning matters of a confidential nature and whose duties do not, other than in an incidental way, consist of work similar to that performed by other employees who are not so employed;

(b) an employee who is

- (i) a salesperson, other than a route salesperson, remunerated in whole or in part by commission, who is engaged in soliciting orders, principally outside of the employer's place of business, for goods or services that will subsequently be delivered or provided to the purchaser,
- (ii) an automobile, recreational vehicle, truck or bus salesperson,
- (iii) a manufactured home salesperson,
- (iv) a farm machinery salesperson,
- (v) a heavy duty construction equipment or road construction equipment salesperson,
- (vi) a person employed by a person who builds residential homes to sell those homes,
- (vii) authorized to trade in real estate as a real estate broker under the *Real Estate Act*,
- (viii) a person who is employed by a dealer or adviser as defined in the *Securities Act* as a representative for the purposes of making trades in securities or derivatives for the benefit of that dealer or adviser,
- (ix) an individual holding an insurance agent's certificate of authority under section 454 or 470 of the *Insurance Act* who is compensated for activities performed under that certificate entirely by way of commission income,
- (x) an individual who has attained the age of 16 years and who engages in a direct selling business within the meaning of the *Direct Selling Business Licensing Regulation* (AR 190/99) under the *Consumer Protection Act* on behalf of the holder of a direct selling business licence established by that Regulation,
- (xi) a land agent licensed under the *Land Agents Licensing Act*,

- (xii) an extra in a film or video production, or
- (xiii) a counsellor or instructor at an educational or recreational camp that is operated on a charitable or not-for-profit basis
 - (A) for children or handicapped individuals, or
 - (B) for religious purposes,or to their respective employers while acting in the capacity of employer.

(2) Section 14(1)(a) of the Act (relating to keeping of employment records for regular and overtime hours of work) and Part 2, Divisions 3 and 4 of the Act (relating to hours of work, overtime and overtime pay) do not apply to an employee or to the employee's employer while acting in the capacity of employer if the employee is

- (a) a registered architect, restricted practitioner or visiting project architect, as defined in the *Architects Act*,
- (b) a member or candidate within the meaning of the *Chartered Professional Accountants Act*,
- (c), (d) repealed AR 108/2004 s14,
- (e) a person who is registered as a regulated member of, and has a practice permit issued by, the registrar of the Alberta College and Association of Chiropractors, or a professional corporation that is registered on the record of professional corporations of that College and has an annual permit, under the *Health Professions Act*,
- (f) a person who is registered as a regulated member of, and has a practice permit issued by the registrar of, The Alberta Dental Association and College, or a professional corporation that is registered on the record of professional corporations of that Association and College and has an annual permit, under the *Health Professions Act*,
- (g) a professional member or member-in-training, as defined in the *Engineering and Geoscience Professions Act*,
- (h) an active member or a student-at-law, as defined in the *Legal Profession Act*,
- (i) a person who has a practice permit issued by the registrar of The Alberta College of Optometrists, or a corporation that is registered on the record of professional

corporations of that College or has an annual permit, under the *Health Professions Act*,

- (j) a person who is registered as a regulated member of, and has a practice permit issued by, the registrar of the College of Podiatric Physicians of Alberta, under the *Health Professions Act*,
- (k) a person who is registered as a regulated member of, and has a practice permit issued by, the registrar of the College of Alberta Psychologists, under the *Health Professions Act*,
- (l) a registered veterinarian or permit holder as defined in the *Veterinary Profession Act*,
- (m) a member within the meaning of the *Agrology Profession Act* or a person registered with the Alberta Institute of Agrologists as an agrologist in training,
- (n) a person who is registered as a regulated member of, and has a practice permit issued by the registrar of, the College of Alberta Denturists under the *Health Professions Act*, or
- (o) an information systems professional, being an employee who is primarily engaged in the investigation, analysis, design, development, implementation, operation or management of information systems based on computer and related technologies through the objective application of specialized knowledge and professional judgment,

so long as that person is carrying on the occupation governed by the Acts referred to in this subsection.

AR 14/97 s2;114/2000;108/2004;8/2005;170/2012;
246/2017;56/2019

General holidays and general holiday pay exemptions

3 Part 2, Division 5 of the Act (relating to general holidays and general holiday pay) does not apply to an employee who is

- (a) a salesperson, other than a route salesperson, remunerated in whole or in part by commission, who is engaged in soliciting orders, principally outside of the employer's place of business, for goods or services that will subsequently be delivered or provided to the purchaser,
- (b) an automobile, recreational vehicle, truck or bus salesperson,
- (c) a manufactured home salesperson,

- (d) a farm machinery salesperson,
- (e) a heavy duty construction equipment or road construction equipment salesperson,
- (f) authorized to trade in real estate as a real estate broker under the *Real Estate Act*,
- (g) a person who is employed by a dealer or adviser as defined in the *Securities Act* as a representative for the purposes of making trades in securities or derivatives for the benefit of that dealer or adviser,
- (h) an individual holding an insurance agent's certificate of authority under section 454 or 470 of the *Insurance Act* who is compensated for activities performed under that certificate entirely by way of commission income,
- (i) an extra in a film or video production,
- (j) a person employed by a person who builds residential homes to sell those homes,
- (k) an individual who has attained the age of 16 years and who engages in a direct selling business within the meaning of the *Direct Selling Business Licensing Regulation* (AR 190/99) under the *Consumer Protection Act* on behalf of the holder of a direct selling business licence established by that Regulation, or
- (l) a counsellor or instructor at an educational or recreational camp that is operated on a charitable or not-for-profit basis
 - (A) for children or handicapped individuals, or
 - (B) for religious purposes,

or to their respective employers while acting in the capacity of employer.

AR 14/97 s3;114/2000;8/2005;246/2017;56/2019

General holidays, general holiday pay, vacation and vacation pay exemptions

3.1(1) In this section and section 3.2, "teacher" means a teacher as defined in the *Education Act* who is employed, in a position that requires the employee to hold a certificate of qualification as a teacher issued under that Act, by

- (a) a board as defined in the *Education Act*,

- (b) a Francophone regional authority as defined in the *Education Act*,
- (c) the person responsible for the operation of a private school accredited under the *Education Act*,
- (d) the operator of a charter school established under the *Education Act*, or
- (e) the board as defined in the *Northland School Division Act*.

(2) Part 2, Divisions 5 and 6 of the Act (relating to general holidays, general holiday pay, vacations and vacation pay) do not apply to an employee who is a teacher or to the teacher's employer while acting in the capacity of employer.

AR 181/2019 s3

Transitional

3.2(1) Subject to subsection (2), section 3.1 does not apply in respect of a teacher who, on the date this section comes into force,

- (a) is not bound by a collective agreement entered into under the *Public Education Collective Bargaining Act*, and
- (b) is a party to a collective agreement or an employment contract that provides specific entitlements to general holiday pay or vacation pay, or both, under the *Employment Standards Code*

to the extent that the collective agreement or employment contract provides for the specific entitlements.

(2) Section 3.1 applies in respect of a teacher referred to in subsection (1)

- (a) in the case of a collective agreement referred to in subsection (1)(b), the date the collective agreement expires,
- (b) in the case of an employment contract referred to in subsection (1)(b) that has an expiry date, the date the employment contract expires, or
- (c) in the case of an employment contract referred to in subsection (1)(b) that does not have an expiry date, 2 years after the date this section comes into force.

AR 181/2019 s3

Vacation and vacation pay exemptions

4 Part 2, Division 6 of the Act (relating to vacations and vacation pay) does not apply to an employee who is

- (a) a salesperson, other than a route salesperson, remunerated in whole or in part by commission, who is engaged in soliciting orders, principally outside of the employer's place of business, for goods or services that will subsequently be delivered or provided to the purchaser,
- (b) authorized to trade in real estate as a real estate broker under the *Real Estate Act*,
- (c) a person who is employed by a dealer or adviser as defined in the *Securities Act* as a representative for the purposes of making trades in securities or derivatives for the benefit of that dealer or adviser,
- (d) an individual holding an insurance agent's certificate of authority under section 454 or 470 of the *Insurance Act* who is compensated for activities performed under that certificate entirely by way of commission income,
- (e) an extra in a film or video production,

or to their respective employers while acting in the capacity of employer.

AR 14/97 s4;114/2000;8/2005;246/2017

No notice of termination

5(1) No termination notice is required to be given by an employee, and no termination notice, termination pay or combination of termination notice and termination pay is required to be given or paid by an employer to terminate the employment of an employee if

- (a) the employee is employed at the site of and in the construction, erection, repair, remodelling, alteration, painting, interior decoration or demolition of any
 - (i) building or structure,
 - (ii) road, highway, railway or airfield,
 - (iii) sidewalk, curb or gutter,
 - (iv) pipeline,
 - (v) irrigation or drainage system,

- (vi) earth and rock fill dam,
 - (vii) sewage system,
 - (viii) power transmission line or power distribution system, or
 - (ix) gas distribution system
- unless the employee
- (x) is employed to perform ongoing maintenance, or
 - (xi) is employed as an office employee;
- (b) the employee is employed in the cutting, removal, burning or other disposal of trees and brush, or either of them, for the primary purpose of clearing land and not for the harvesting of timber on it.

(2) For the purpose of subsection (1)(a)(x), a person is deemed to be employed to perform ongoing maintenance if the person is continuously employed to maintain anything referred to in subsection (1)(a)(i) to (ix).

(3) Notwithstanding section 55(2) of the Act, to the extent that section 55(2)(c) of the Act applies with respect to an employee engaged in oilwell drilling, that clause is deemed to read

- (c) when the employee is employed for a definite term or task on completion of which the employment terminates,

(4) In subsection (3), “oilwell drilling” means the drilling of an oil or gas well, and includes any work performed with a mobile or completion servicing rig.

AR 14/97 s5;114/2000

Termination pay

5.1 Section 63 of the Act does not apply with respect to an employee who

- (a) is employed to work in a school within the meaning of the *Education Act*, or is employed as a school bus driver,
- (b) works until the end of one school year, and
- (c) at and from the beginning of the next school year
 - (i) continues to work for the same employer, or

- (ii) is given the opportunity (whether the employee takes it or not) to continue to work for that employer.

AR 114/2000 s8;246/2017;81/2019

Domestic employee exemptions

6 The following provisions do not apply to employees employed in domestic work in a private dwelling, or to their employer while the employer is ordinarily resident in the dwelling and acting in the capacity of employer:

- (a) Part 2, Divisions 3 and 4 of the Act (relating to hours of work, overtime and overtime pay), except for sections 18 and 19 of the Act (relating to rest periods and days of rest).

(b), (c) repealed AR 114/2000 s9.

AR 14/97 s6;114/2000

Part 2 Minimum Wage

Definition

7 In this Part, “minimum wage” means the minimum wage that an employer must pay an employee under this Part.

Application

8 This Part does not apply to an employee who is

- (a), (b) repealed AR 114/2000 s10,
- (c) authorized to trade in real estate as a real estate broker under the *Real Estate Act*,
- (d) a person who is employed by a dealer or adviser as defined in the *Securities Act* as a representative for the purposes of making trades in securities or derivatives for the benefit of that dealer or adviser,
- (e) an individual holding an insurance agent’s certificate of authority under section 454 or 470 of the *Insurance Act* who is compensated for activities performed under that certificate entirely by way of commission income,
- (f) repealed AR 114/2000 s10,
- (g) a student engaged

- (i) in a formal course of training approved by the Director,
 - (ii) in an off-campus education program provided under the *Education Act*, or
 - (iii) in a work experience program approved by the Minister of Advanced Education,
- (h) an extra in a film or video production, or
- (i) a counsellor or instructor at an educational or recreational camp that is operated on a charitable or not-for-profit basis
 - (i) for children or handicapped individuals, or
 - (ii) for religious purposes,

or to their respective employers while acting in the capacity of employer.

AR 14/97 s8;114/2000;8/2005;105/2005;35/2007;
68/2008;31/2012;170/2012;246/2017;81/2019

Basic minimum wage

9(1) Employers must pay wages to employees at at least the following rates:

- (a) except where clause (a.1), (b) or (c) applies, the rate is
 - (i) from October 1, 2016 to September 30, 2017, \$12.20 per hour,
 - (ii) from October 1, 2017 to September 30, 2018, \$13.60 per hour, and
 - (iii) from October 1, 2018, \$15.00 per hour;
- (a.1) except where clause (b) or (c) applies, for an employee who is under the age of 18 years and is a student enrolled in an educational institution, the rate is \$13.00 per hour for
 - (i) work performed during a school break for the employee, or
 - (ii) the first 28 hours in a work week for work performed other than during a school break for the employee;
- (b) for an employee employed as

- (i) an individual who has attained the age of 16 years and who engages in a direct selling business within the meaning of the *Direct Selling Business Licensing Regulation* (AR 190/99) under the *Consumer Protection Act* on behalf of the holder of a direct selling business licence established by that Regulation,
- (ii) a salesperson, other than a route salesperson, remunerated in whole or in part by commission, who is engaged in soliciting orders, principally outside of the employer's place of business, for goods or services that will subsequently be delivered or provided to the purchaser,
- (iii) an automobile, truck, recreational vehicle or bus salesperson,
- (iv) a manufactured home salesperson,
- (v) a farm machinery salesperson,
- (vi) a heavy duty construction equipment or road construction equipment salesperson,
- (vii) a residential home salesperson employed by a person who builds those homes,
- (viii) a land agent licensed under the *Land Agents Licensing Act*, or
- (ix) any person referred to in section 2(2),
the rate is
 - (x) from October 1, 2016 to September 30, 2017, \$486 per week,
 - (xi) from October 1, 2017 to September 30, 2018, \$542 per week, and
 - (xii) from October 1, 2018, \$598 per week;
- (c) in the case of an employer and employee referred to in section 6, where the employee lives or lives primarily in the employer's home, the rate is
 - (a) from October 1, 2016 to September 30, 2017, \$2316 per month,
 - (b) from October 1, 2017 to September 30, 2018, \$2582 per month, and

(c) from October 1, 2018, \$2848 per month.

(2) In subsection (1)(a.1),

(a) “educational institution” means

- (i) a school as defined in the *Education Act*,
- (ii) a private post-secondary institution or a public post-secondary institution as those terms are defined in the *Post-secondary Learning Act*,
- (iii) an institution that provides vocational training under the *Private Vocational Training Act*,
- (iv) a secondary school, post-secondary institution or vocational training institution outside Alberta that is comparable to an educational institution referred to in any of subclauses (i) to (iii), or
- (v) a school or institution designated by the Director;

(b) “school break”, in relation to an employee, means

- (i) a spring break, a Christmas or winter break or a summer vacation period recognized by the educational institution in which the employee is enrolled, and
- (ii) any period in addition to a period referred to in subclause (i) that is determined by the Director to be a school break for the employee.

(3) Work performed by an employee during a school break for the employee is not included in a calculation of hours worked by the employee in a work week for the purpose of determining the minimum wage applicable to the employee under subsection (1)(a.1)(ii).

(4) An employee must provide, on the request of the employee’s employer, the information necessary for the employer to determine the minimum wage applicable to the employee under subsection (1)(a) or (a.1).

AR 14/97 s9;135/98;114/2000;60/2005;134/2007;39/2008;
45/2009;102/2011;93/2012;84/2013;97/2014;130/2015;
145/2016;45/2019;56/2019;81/2019

Calculation of minimum wage

10 In determining whether the minimum wage has been paid to an employee who is paid entirely or partly by commission or other incentive-based pay, the determination must be based on the wages

paid over the pay period established by the employer for the calculation of wages or a period of one month, whichever is the shorter period.

Employment for less than 3 hours

11(1) Subject to subsection (3) and sections sections 51.3(3) and 52(6), if an employee is employed for less than 3 consecutive hours of work, the employer must pay the employee for 3 hours of work at not less than the minimum wage to which the employee is entitled.

(2) For the purposes of subsection (1),

- (a) a meal period of one hour or less is not to be considered as part of the 3 consecutive hours of work, and
- (b) hours of work immediately following the meal period referred to in clause (a) are to be counted as if they were hours of work following consecutively the hours of work before the meal period.

(3) If an employee is

- (a) employed in a recreation or athletic program on a part time basis by a municipality, Metis settlement or community service organization that is not operated for profit,
- (b) employed as a school bus driver, or
- (c) an individual 13, 14 or 15 years of age employed when the individual is required to attend school,

for less than 2 consecutive hours of work, the employer must pay the employee for 2 hours of work at not less than the minimum wage to which the employee is entitled.

(4) Repealed AR 135/98 s3.

AR 14/97 s11;135/98;114/2000;246/2017;182/2019

Faulty work

11.1 For the purpose of section 12(3)(a) of the Act, “faulty work” includes any act or omission of an employee that results in a loss to the employee’s employer.

AR 246/2017 s9

Board and lodging deductions

12(1) If board and lodging or either of them are furnished by an employer to an employee, the amount by which the wages of the employee may be reduced below the minimum wage to which the employee is entitled by way of a deduction from wages or a payment out of wages, or both, must not exceed the following:

- (a) for a single meal, \$3.35;
- (b) for lodging, \$4.41 a day.

(2) Despite subsection (1)(a), an employer must not make deductions from the minimum wage for a meal not consumed by an employee.

AR 14/97 s12;135/98;60/2005;134/2007;39/2008;45/2009;
102/2011;93/2012;84/2013;97/2014

Unauthorized deductions

13 No employer may make a deduction from or receive payment out of earnings for the furnishing, use, repair or laundering of any uniforms or special articles of wearing apparel that the employer requires the employee to wear during the employee's hours of work.

AR 14/97 s13;246/2017

13.1 Repealed AR 246/2017 s10.

Part 2.1 Hours of Work Averaging Agreements

Definitions

13.2 In this Part,

- (a) "averaging agreement" means an hours of work averaging agreement under section 23.1 of the Act;
- (b) "averaging period" means the number of weeks over which hours of work will be averaged;

(c), (d) repealed AR 71/2019 s2.

AR 246/2017 s11;71/2019

Division 1 Hours of Work Averaging Agreements

Threshold

13.3 An employee is entitled to overtime under an averaging agreement if the employee's hours of work

- (a) exceed
 - (i) 8 hours on a work day, if the hours scheduled for that day are less than 8 hours, or
 - (ii) the daily scheduled hours, if 8 or more hours are scheduled,

or

- (b) exceed
 - (i) 44 hours in a week, or
 - (ii) an average of 44 hours in a week, if the averaging period exceeds one week in a multi-week averaging period.

AR 246/2017 s11

Requirement to pay

13.31(1) An employee who has worked overtime is entitled to be paid the greater of

- (a) the total of the employee's overtime hours calculated in accordance with section 13.3(a) for the averaging period, and
- (b) overtime hours calculated in accordance with section 13.3(b).

(2) Overtime is payable in accordance with section 8(1) of the Act but if the calculation in subsection (1)(b) exceeds the amounts already paid under subsection (1)(a), the difference in overtime is payable 10 consecutive days after the end of the pay period in which the averaging period ends.

AR 246/2017 s11

Work schedules

13.32(1) An averaging agreement between an individual employee and an employer must specify the employee's work schedule for the averaging period.

(2) An averaging agreement affecting a group of employees must specify the work schedule for the employees bound by the agreement.

(3) An averaging agreement referred to in subsection (2) must not specify more than one work schedule.

(4) A work schedule must identify all work days and the number of hours to be worked on each of those work days.

AR 246/2017 s11

Change in schedule

13.33(1) An employer may from time to time make a temporary change to an employee's work schedule that was not requested by the employee, if the change is made with at least 2 weeks' notice to the employee before the change is to take effect.

(2) If an employer makes a change under subsection (1) but does not provide the required notice, any hours that exceed 8 hours in a work day that were not set out in the current work schedule are overtime hours for which overtime is payable.

(3) Subsection (1) does not apply if the employer's change to the employee's work schedule is made because

- (a) an accident has occurred,
- (b) urgent work is necessary, or
- (c) of other unforeseen or unpreventable circumstances.

AR 246/2017 s11

Missed shifts

13.34 If within the same averaging period an employee makes up a shift on an unscheduled work day because of having been absent on a scheduled work day, the employee is entitled to be paid the employee's regular wage rate and any applicable overtime pay in accordance with the originally scheduled shift.

AR 246/2017 s11

Termination or no longer bound

13.35 Where, before the end of an averaging period, an employee's employment terminates or an employee is no longer bound by the agreement before the end of an averaging period, the employee's overtime hours for that averaging period are to be

calculated as if the employee had worked the remainder of the scheduled shifts in the averaging period.

AR 246/2017 s11

Cancellation

13.36(1) Either party to an averaging agreement may cancel the agreement with 30 days' notice given to the other party.

(2) A group of employees may cancel an averaging agreement only if a majority of the employees to which the agreement applies consent.

(3) The cancellation of the averaging agreement takes effect at the end of the averaging period in which the 30 days' notice ends.

(4) The parties to an averaging agreement may, at any time, renegotiate the agreement, including to cancel the agreement.

(5) Where a collective agreement provides otherwise, the cancellation of the averaging agreement must be in accordance with the collective agreement.

AR 246/2017 s11

Copies of agreements

13.37(1) The employer shall, as soon as possible after entering into an averaging agreement, or an amendment to the agreement, affecting a group of employees but before the commencement of the agreement or the amendment takes effect, post the agreement

- (a) on the employer's website, if the employer has a website, and
- (b) in one or more conspicuous places in the workplace where the agreement can be viewed by the employees affected by the agreement.

(2) In addition to subsection (1), the employer shall,

- (a) as soon as possible after entering into an averaging agreement but before the commencement of the agreement, or
- (b) when an averaging agreement is amended, as soon as possible after the amendment is entered into but before the amendment takes effect,

provide a copy of the agreement, whether the agreement was with a group of employees or an individual employee, to each employee who is a party to the agreement.

(3) Where, during the term of an averaging agreement, a new employee becomes bound by the agreement, the employer shall, as soon as possible after the employee becomes bound by the agreement, provide a copy of the agreement to the employee.

(4) Where a collective agreement provides otherwise, the cancellation of the averaging agreement must be in accordance with the collective agreement.

AR 246/2017 s11

Division 2 Flexible Averaging Agreements

13.4 to 13.48 Repealed AR 71/2019 s3.

Transitional

13.49(1) This section provides for the transitional application of the repeal of section 13.2(c) and (d) and sections 13.4 to 13.48.

(2) In this section, “flexible averaging agreement” means an averaging agreement entered into under section 13.4(1) (repealed) before this section comes into force.

(3) A flexible averaging agreement that is in effect when this section comes into force remains valid until the earliest of the following:

- (a) the date the flexible averaging agreement is cancelled;
- (b) in the case of a flexible averaging agreement made as part of a collective agreement, the date a subsequent collective agreement is entered into;
- (c) 2 years after the date this section comes into force.

(4) An agreement under section 13.45(1) (repealed) entered into by the parties to a flexible averaging agreement that is in effect when this section comes into force remains valid until the earliest of the following:

- (a) the date the agreement or the flexible averaging agreement is cancelled;
- (b) in the case of an agreement entered into by the parties to a flexible averaging agreement made as part of a collective agreement, the date a subsequent collective agreement is entered into;
- (c) 2 years after the date this section comes into force.

(5) Section 13.2(c) and (d) and sections 13.4 to 13.48 continue to apply with respect to

- (a) a flexible averaging agreement that remains valid under subsection (3), and
- (b) an agreement under section 13.45(1) (repealed) that remains valid under subsection (4).

AR 71/2019 s4

Part 3

Special Provisions for Specific Industries and Occupations

Division 1

Ambulance Attendants

Application

14 This Division applies to all employees employed as ambulance attendants, and to their respective employers while acting in the capacity of employer.

AR 14/97 s14;114/2000

15 Repealed AR 114/2000 s17.

Overtime hours

16(1) Overtime hours in respect of a work week are

- (a) the total of an employee's hours of work in excess of 10 on each work day in the work week, or
- (b) an employee's hours of work in excess of 60 hours in the work week,

whichever is greater, and, if the hours in clauses (a) and (b) are the same, the overtime hours are those common hours.

(2) This section applies in substitution for section 21 of the Act.

AR 14/97 s16;114/2000

Calculation of hours of work

17(1) Notwithstanding section 16 of the Act, if

- (a) a shift starts at or after 4:00 p.m. on one day and ends not later than 9:00 a.m. on the following day, and
- (b) the employee is provided with sleeping accommodation,

the shift may last up to 14 hours in aggregate.

(2) A shift described in subsection (1) is, for the purposes of determining the number of hours of work, to be considered 10 hours of work.

(3) Notwithstanding subsection (2) but subject to subsection (4), where the employee provides active services for the employer for more than 10 hours during the shift, those excess hours are overtime hours.

(4) Subsection (3) does not apply where a collective or other agreement provides that all the hours in a shift to which subsection (1) applies, whether or not active services for the employer are performed during the shift, are to be compensated at the employee's regular rate of pay.

AR 14/97 s17;114/2000

Relief from on-call duties

17.1 On at least 4 days in every 28-day period, an employee must be relieved of on-call duties unless the employee has expressly agreed to be on call.

AR 114/97 s19

Division 2 Miscellaneous Services (Field Catering, Geophysical Exploration, Surveying, Logging and Lumbering and Road Maintenance Activities)

Definitions

18 In this Division,

- (a) "field catering" means work performed or services provided in the operation of field camps that provide food services or accommodation;
- (b) "geophysical exploration" means the application of a physical science in the determination of geologic or other conditions for the location of oil, natural gas, coal or other minerals;
- (c) "land surveying" means the practice of land surveying within the meaning of the *Land Surveyors Act*;
- (d) "logging and lumbering" means
 - (i) the cutting of primary timber products,

- (ii) the sawing of primary timber products into rough lumber, or
- (iii) the planing of rough lumber,
and work incidental to any of them that is performed at or in the immediate vicinity of the logging and lumbering;
- (e) “urban municipality” means any of the following that has a population of 1000 or more: a city, town, village, summer village or hamlet.

AR 14/97 s18;114/2000

Application**19** This Division applies to

- (a) employees employed in an undertaking that consists of
 - (i) field catering,
 - (ii) geophysical exploration but not including a professional member or member-in-training, as defined in the *Engineering and Geoscience Professions Act*,
 - (iii) land surveying, or
 - (iv) logging and lumbering,if the undertaking does not take place within an urban municipality or within 16 km of an urban municipality,
- (b) the respective employers of the employees referred to in clause (a) while acting in the capacity of employer, and
- (c) employees of a municipal district or Metis settlement employed in road construction, road maintenance or the removal of snow from roads and to their respective employers while acting in the capacity of employer.

AR 14/97 s19;170/2012

Substitution for Act**20** This Division applies in substitution for section 21 of the Act.**Overtime hours****21(1)** Overtime hours in respect of a work month are

- (a) the total of an employee’s hours of work in excess of 10 on each work day in the work month, or

- (b) an employee's hours of work in excess of 191 hours in the work month,

whichever is greater, and, if the hours in clauses (a) and (b) are the same, the overtime hours are those common hours.

(2) If an employee, in the first or last work month of the employee's employment, completes less than 191 hours of work, the overtime hours in respect of a work week in that first or last work month are

- (a) the total of an employee's hours of work in excess of 10 on each work day in the work week, or
- (b) an employee's hours of work in excess of 44 hours in the work week,

whichever is greater, and, if the hours in clauses (a) and (b) are the same, the overtime hours are those common hours.

Geophysical exploration

21.1 Section 16 of the Act does not apply with respect to geophysical exploration.

AR 114/2000 s22

Division 3 Highway and Railway Construction and Brush Clearing

Definitions

22 In this Division,

- (a) "brush clearing" means the cutting, removal and burning or other disposition of trees or brush for the primary purpose of clearing land and not for the harvesting of timber on it;
- (b) "railway construction" means work performed in respect of the construction, maintenance or repair of a railway;
- (c) "road construction" means work performed in respect of the construction, maintenance or repair of a road or highway.

Application

23 This Division applies to

- (a) employees employed in brush clearing, and

- (b) employees engaged in railway construction and highway construction
 - (i) outside the boundaries of a city, town or village, and
 - (ii) inside the boundaries of a city, town or village where the railway construction or road construction is a continuation of railway construction or road construction carried on by the same employer outside the boundary of the city, town or village,

and to their respective employers while acting in the capacity of employer.

Substitution for Act

24 This Division applies in substitution for section 21 of the Act.

Overtime hours

25 Overtime hours in respect of a work week are

- (a) the total of an employee's hours of work in excess of 10 on each work day in the work week, or
- (b) the employee's hours of work in excess of 44 hours in the work week,

whichever is greater, and, if the hours in clauses (a) and (b) are the same, the overtime hours are those common hours.

Division 4 Irrigation Districts

Application

26(1) This Division applies to employees of irrigation districts, other than office employees, who are

- (a) employed full time, and
- (b) paid wages on a monthly basis,

and to their respective employers while acting in the capacity of employer.

(2) This Division applies during April 1 to October 31 each year.

Substitution for Act

27 This Division applies in substitution for section 21 of the Act.

Overtime hours

28 Overtime hours in respect of a work week are

- (a) the total of an employee's hours of work in excess of 9 on each work day in the work week, or
- (b) the employee's hours of work in excess of 54 hours in the work week,

whichever is greater, and, if the hours in clauses (a) and (b) are the same, the overtime hours are those common hours.

Division 5 Nursery Industry

Application

29 This Division applies to employees employed in the propagation and the preparation for sale of trees, shrubs and plants and to their respective employers while acting in the capacity of employer, except when the employer's operation is principally carried on in a greenhouse.

Substitution for Act

30 This Division applies in substitution for section 21 of the Act.

Overtime hours

31 Overtime hours in respect of a work week are

- (a) the total of an employee's hours of work in excess of 9 on each work day in the work week, or
- (b) the employee's hours of work in excess of 48 hours in the work week,

whichever is greater, and, if the hours in clauses (a) and (b) are the same, the overtime hours are those common hours.

Division 6 Oilwell Servicing

Definition

32 In this Division, "oilwell servicing" means

- (a) the operation performed or service provided that is necessary for the completion, recompletion or remedial treatment of an oil or gas well, or

- (b) the supplementary operation performed or service provided that is necessary to the drilling of an oil or gas well,

when the operation performed or service provided is applied in respect of the well, but does not include the operation performed in respect of the actual drilling of the well and does not include work performed with a mobile workover or completion service rig.

Application

33 This Division applies to employees employed in oilwell servicing and to their respective employers while acting in the capacity of employer.

Hours of work

33.1 Section 16 of the Act does not apply with respect to oilwell servicing.

AR 114/2000 s23

Substitution for Act

34 This Division applies in substitution for section 21 of the Act.

Overtime hours

35(1) Overtime hours in respect of a work month are

- (a) the total of an employee's hours of work in excess of 12 on each work day in the work month, or
- (b) the employee's hours of work in excess of 191 hours in the work month,

whichever is greater, and, if the hours in clauses (a) and (b) are the same, the overtime hours are those common hours.

(2) If an employee, in the first or last work month of the employee's employment, completes less than 191 hours of work, the overtime hours in respect of a work week in that first or last work month are

- (a) the total of an employee's hours of work in excess of 12 on each work day in the work week, or
- (b) an employee's hours of work in excess of 44 hours in the work week,

whichever is greater, and, if the hours in clauses (a) and (b) are the same, the overtime hours are those common hours.

Payment of bonus component of wages

35.1 Any bonus component of wages that, but for this section, would have to be paid in accordance with section 8(1) of the Act must, notwithstanding that section, be paid within 10 days after the end of the pay period subsequent to the one in which the bonus was earned.

AR 114/2000 s24

Bonus treatment in calculating general holiday pay

35.2 Notwithstanding section 28 of the Act, if an employee is paid a combination of salary and bonus, then, for the purpose of calculating general holiday pay, the bonus component is not considered to be wages.

AR 114/2000 s24

Overtime pay where bonus component

35.3 Notwithstanding sections 24(2) and 32(2) of the Act, where an employee is paid a combination of salary and bonus, then, for the purpose of calculating minimum entitlement to overtime pay and pay for time worked on a general holiday, the employee's wage rate is deemed to be the minimum wage.

AR 114/2000 s24

Division 7 Taxi Cab Industry

Application

36 This Division applies to all employees employed as taxi cab drivers and to their respective employers while acting in the capacity of employer.

Substitution for Act

37 This Division applies in substitution for section 21 of the Act.

Overtime hours

38 Overtime hours in respect of a work week are

- (a) the total of an employee's hours of work in excess of 10 on each work day in the work week, or
- (b) the employee's hours of work in excess of 60 in the work week,

whichever is greater, and, if the hours in clauses (a) and (b) are the same, the overtime hours are those common hours.

Division 8 Trucking Industry

Application

39 This Division applies

- (a) to an employee employed as
 - (i) a truck driver to operate a truck that has a manufacturer's rated carrying capacity of 910 kilograms net weight or over and that is a commercial vehicle within the meaning of the *Traffic Safety Act*, and to an employee employed as the truck driver's helper, or
 - (ii) a bus driver to operate a bus within the meaning of and in accordance with the *Traffic Safety Act*,

other than a truck driver, bus driver or helper whose duties are performed entirely within the same city, and
- (b) to the respective employers of the employees to which this Division applies while acting in the capacity of employer.

AR 14/97 s39;114/2000

Substitution for Act

40 Sections 41 and 42 apply in substitution for section 21 of the Act.

Overtime hours

41 Overtime hours in respect of a work week are

- (a) the total of an employee's hours of work in excess of 10 on each work day in the work week, or
- (b) the employee's hours of work in excess of 50 hours in the work week,

whichever is greater, and, if the hours in clauses (a) and (b) are the same, the overtime hours are those common hours.

Working period

42 For the purposes of this Division, an employee is to be considered to be working or performing a service from the time that the employee is required to report and does report until the time that the employee is relieved from work and all responsibility for work.

Hours of rest

43(1) After an employee completes a shift, the employer must not require the employee to resume work, nor may the employee resume work, unless the employee has had at least the longer of

- (a) the consecutive period of rest, if applicable, required by the *Drivers' Hours of Service Regulation* (AR 317/2002), and
- (b) 8 consecutive hours of rest.

(2) An employee who is subject to the *Drivers' Hours of Service Regulation* (AR 317/2002) is exempt from section 16 of the Act.

AR 14/97 s43;114/2000;246/2017

Division 9 Caregivers

Definitions

43.1 In this Division,

- (a) “caregiver” means an employee who provides home care or residential care;
- (b) “designated sleep time” means the period, to a maximum of 8 hours, designated by the employer as sleep time on a shift that is not a 24-hour shift;
- (c) “home care” means the provision of
 - (i) a health care service,
 - (ii) a personal care service, or
 - (iii) a homemaking serviceas defined in the *Co-ordinated Home Care Program Regulation* (AR 296/2003) to home care clients in their homes, but does not include
 - (iv) heavy housework service,
 - (v) handyman service,
 - (vi) the services commonly known as “Meals on Wheels” and “Wheels to Meals”,
 - (vii) transportation service, or
 - (viii) office or administrative services;

- (d) “home care client” means an individual, regardless of age, who
 - (i) requires home care,
 - (ii) is unable to perform daily living activities independently, and
 - (iii) is not the employer of the caregiver;
- (e) “residential care” means the provision of
 - (i) a health care service, or
 - (ii) a personal care service,
as defined in the Co-ordinated Home Care Program Regulation (AR 296/2003) to residential care clients, but does not include
 - (iii) office or administrative services,
 - (iv) menu planning or meal preparation,
 - (v) housekeeping, janitorial and maintenance services, or
 - (vi) other services not directly related to the personal care and health care of the client;
- (f) “residential care client” means an individual, regardless of age, who
 - (i) requires residential care,
 - (ii) lives or stays in a residential setting, and
 - (iii) is not the employer of the caregiver;
- (g) “residential setting” means a facility that provides any of the following:
 - (i) emergency shelter;
 - (ii) addiction treatment;
 - (iii) supervision and treatment of young offenders;
 - (iv) care and treatment of individuals with emotional or behavioural difficulties;
 - (v) care and treatment of individuals with physical or developmental disabilities;

- (h) “24-hour shift” means a shift during which a caregiver is providing home care or residential care for a continuous period of 24 hours.

AR 28/2004 s2

Application**43.2** This Division applies

- (a) to caregivers who are employed to provide home care or residential care, and
- (b) to the respective employers of the caregivers referred to in clause (a) while acting in the capacity of an employer.

AR 28/2004 s2

Substitution for Act**43.3** This Division applies in substitution for sections 16 and 21 of the Act.

AR 28/2004 s2

Caregiver payment for hours of work and overtime**43.4(1)** Where a caregiver is employed for a 24-hour shift,

- (a) the caregiver
 - (i) who provides home care must be paid an amount that is at least equivalent to the minimum wage for 12 hours, and
 - (ii) who provides residential care must be paid an amount that is at least equivalent to the minimum wage for 24 hours,
- (b) 12 hours of each 24-hour shift are used to calculate the total number of hours worked in a work month for overtime purposes, and
- (c) any hours worked in excess of 264 hours in a work month are overtime hours.

(2) Where a caregiver is employed for less than a 24-hour shift,

- (a) the caregiver must be paid at least the minimum wage for each hour of the shift,
- (b) overtime hours in respect of a work month are
 - (i) the total of the caregiver’s hours of work in excess of 12 hours for each work day in the work month, or

- (ii) the caregiver's hours of work in excess of 264 hours in the work month,

whichever is greater, and where the number of hours calculated under subclause (i) is equal to the number of hours calculated under subclause (ii), then those hours are the overtime hours, and

- (c) any hours in a designated sleep time are not used to calculate overtime hours except where the caregiver is providing home care or residential care during all or a portion of those hours.

AR 28/2004 s2

Caregiver payment for outings with client

43.5(1) Where a caregiver accompanies a home care client or residential care client on a vacation, a recreational or educational outing or some other outing, the caregiver must be paid an amount that is at least equal to the amount payable to the caregiver when providing home care in the home care client's home or residential care to the residential care client in a residential setting, as the case may be.

- (2) Subsection (1) does not apply if the caregiver and client have agreed otherwise.

AR 28/2004 s2

Caregiver payment for less than 2 hours

43.6(1) A caregiver who is providing home care for less than 2 consecutive hours must be paid for 2 hours of work at not less than the minimum wage.

- (2) For the purposes of subsection (1),
 - (a) an unpaid meal period of one hour or less is not to be considered as part of the 2 consecutive hours of work, and
 - (b) hours of work immediately following the meal period referred to in clause (a) are to be counted as if they were hours of work following consecutively the hours of work before the meal period.

AR 28/2004 s2

Division 10 Fire Fighting Services

Definition

43.7 In this Division, “firefighter” means an employee who is regularly employed by a municipality or a Metis settlement in its fire service and assigned to active duty with respect to fire protection, fire prevention, rescue or emergency medical services offered by that service.

AR 114/2012 s2

Application

43.71 This Division applies to firefighters and their employers with respect to their employment relationship.

AR 114/2012 s2

Substitution for Act provisions

43.72(1) For persons to whom this Division applies, this Division applies in substitution for sections 16, 17, 20 and 21 of the Act.

(2) Persons to whom this Division applies are exempted from the application of section 23.1 of the Act.

AR 114/2012 s2;246/2017

Hours of work

43.73(1) In this section, “shift” means a consecutive period throughout which a firefighter is scheduled to work.

(2) A firefighter may not have a shift exceeding 24 hours.

(3) For a firefighter who has a 24-hour shift, the employer may not schedule any work to begin within the 24-hour period immediately following the scheduled ending of that shift.

AR 114/2012 s2

Emergencies

43.74 A firefighter may work for any period that would otherwise be in contravention of section 43.73 in the event of any emergency or if there are unforeseen or unpreventable circumstances requiring the firefighter’s work.

AR 114/2012 s2

Overtime hours

43.75(1) In this section, the cycle consists of

- (a) the working cycle, to a maximum however of 26 weeks, in accordance with which the firefighter currently works, or
- (b) if there is no such current working cycle, 26 weeks.

(2) Overtime hours in respect of a work week are the total of hours worked in that work week in excess of the greater of

- (a) a firefighter's regularly scheduled work shifts in that work week, and
- (b) an average of 44 hours per week, with the average being calculated over the period of the current cycle.

AR 114/2012 s2

Division 11 Farming and Ranching Operations

Application of Division

43.8 This Division applies to employees and employers to which section 2.1(1) of the Act applies.

AR 246/2017 s14

Substitution for Act provisions

43.81 For persons to whom this Division applies, this Division applies in substitution for sections 19, 28 and 29 of the Act.

AR 246/2017 s14

Days of rest

43.82 Every employer must allow each employee at least 4 days of rest in each period of 28 consecutive work days.

AR 246/2017 s14

**General holiday pay – not working
on the general holiday**

43.83 If an employee does not work on a general holiday, the employer shall pay the employee general holiday pay of an amount that is at least 4.2% of the employee's wages, vacation pay and general holiday pay earned in the 4 weeks immediately preceding a general holiday.

AR 246/2017 s14

General holiday pay – working

43.84 If an employee works on a general holiday, the employer shall pay the employee an amount that is at least the employee's wage rate multiplied by the number of hours worked that day, and

- (a) provide the employee with one day's holiday on a day that would normally be a work day for the employee, to be taken within 30 days of the general holiday or at a later time agreed to, in writing, by the employer and employee, and pay the employee general holiday pay in an amount that is at least 4.2% of the employee's wages, vacation pay and general holiday pay earned in the 4 weeks immediately preceding the general holiday on which the employee worked, or
- (b) provide the employee with general holiday pay of an amount that is at least 4.2% of the employee's wages, vacation pay and general holiday pay earned in the 4 weeks immediately preceding the general holiday on which the employee worked.

AR 246/2017 s14

Division 12
Mobile Workover or Completion Service Drilling Operations,
Oil and Gas Continuous Operations and Roadbuilding or
Heavy Construction Operations

Definitions

43.841 In this Division,

- (a) "mobile workover or completion service drilling operations employee" means an employee employed in work performed with a mounted mobile service rig or completion service rig, including the moving of the worksite and rig, but not including the actual drilling of a well;
- (b) "oil and gas continuous operations employee" means an employee employed in developing, producing or refining natural gas or oil who works in a continuous operation setting;
- (c) "roadbuilding or heavy construction operations employee" means an employee employed in the construction, maintenance, repair or demolition, for residential, commercial, industrial, oilfield, oil sands, agriculture or forestry purposes, of
 - (i) highways or roadways, including private roadways,
 - (ii) highway or roadway appurtenances,

- (iii) material processing,
- (iv) sidewalks or curbs,
- (v) bridges,
- (vi) site development,
- (vii) earth or rock fill dams,
- (viii) water or sewer management systems,
- (ix) drainage or irrigation systems,
- (x) urban rail or transit systems, or
- (xi) traffic control accommodations.

AR 172/2019 s2

Application of Division

43.842 This Division applies to mobile workover or completion service drilling operations employees, oil and gas continuous operations employees and roadbuilding or heavy construction operations employees, other than employees who provide office or administrative services, and to their respective employers while acting in the capacity of employer.

AR 172/2019 s2

Substitution for Act

43.843(1) Sections 43.844 and 43.845 apply in substitution for section 16(1) of the Act.

(2) Section 43.846 applies in substitution for section 19(1)(d) of the Act with respect to roadbuilding or heavy construction operations employees and their respective employers while acting in the capacity of employer.

(3) In the case of oil and gas continuous operations employees and their respective employers while acting in the capacity of employer, the reference to “12 hours per day” in section 23.1(3)(d)(i) of the Act is to be read as a reference to “13 hours per day”.

(4) For greater certainty, sections 43.844 and 43.845 do not apply with respect to

- (a) geophysical exploration as defined in section 18(b), or
- (b) an employee who is subject to Division 8 of this Part.

AR 172/2019 s2

Hours of work confined

43.844(1) An employer must confine the hours of work of a mobile workover or completion service drilling operations employee or a roadbuilding or heavy construction operations employee within a period of 16 consecutive hours in any one work day unless an accident occurs, urgent work is necessary to a plant or machinery, or other unforeseeable or unpreventable circumstances occur.

(2) An employer must confine the hours of work of an oil and gas continuous operations employee within a period of 13 consecutive hours in any one work day unless an accident occurs, urgent work is necessary to a plant or machinery, or other unforeseeable or unpreventable circumstances occur.

(3) Despite subsections (1) and (2), an employer must comply with a request by an employee that the employee's hours of work be confined within a period of 12 consecutive hours in any one work day unless an accident occurs, urgent work is necessary to a plant or machinery, or other unforeseeable or unpreventable circumstances occur.

AR 172/2019 s2

Hours of rest

43.845 An employer must allow an employee whose hours of work exceed a period of 12 consecutive hours in any one work day at least 8 consecutive hours of rest after the employee completes a shift.

AR 172/2019 s2

Days of rest

43.846(1) An employer must allow a roadbuilding or heavy construction operations employee at least 4 days of rest in each period of 4 consecutive work weeks.

(2) For the purposes of determining the days of rest under subsection (1), if the hours of work of a roadbuilding or heavy construction operations employee in a work day total 4 or fewer hours, the remainder of the work day is to be considered to be one-half day of rest.

(3) Subsection (2) does not apply if the employer provides the roadbuilding or heavy construction operations employee 4 consecutive days of rest in a period of 4 consecutive work weeks.

(4) An employer must comply with a request by a roadbuilding or heavy construction operations employee for one 24-hour period of rest in a work week.

(5) Subsection (4) does not apply if the employer provides the roadbuilding or heavy construction operations employee

- (a) one day of rest in the work week, or
- (b) 4 consecutive days of rest in a period of 4 consecutive work weeks.

AR 172/2019 s2

Part 3.1

Variations and Exemptions

Application for variance or exemption

43.85(1) An application for a variance or exemption under section 74 of the Act must contain the content and be in the form required by the Director.

(2) An application for an order to vary or exempt under section 74.1 of the Act must contain the content and be in the form required by the Minister.

AR 246/2017 s15

Variations under section 74 of the Act

43.86(1) The Director may issue a variance or exemption that varies or exempts, in whole or in part, any requirement in any of the following:

- (a) section 16 of the Act;
- (a.1) section 17 of the Act;
- (a.2) section 18 of the Act;
- (b) section 19 of the Act;
- (b.1) section 21 of the Act;
- (c) section 23.1 of the Act by extending the averaging period to no longer than 26 weeks;
- (d) section 11(1) of this Regulation by reducing the minimum hours of pay to not less than 30 minutes but not more than 2.5 hours.

(2) Where the Director issues a variance referred to in subsection (1)(a), the Director may also extend the maximum scheduled daily hours of work from 12 hours per day to no more than 16 hours per day under section 23.1(3)(d)(i) of the Act.

(3) Repealed AR 159/2020 s17.

(4) If a variance or exemption is issued under this section, it may only be to the extent necessary to avoid serious interference with

the ordinary working of the employer's business, undertaking or other activity.

AR 246/2017 s15;159/2020

Notice to employees and employers of orders under section 74.1 of the Act

43.87(1) Repealed AR 159/2020 s18.

(2) The Minister shall determine, on a case by case basis, how affected employers and employees, and the bargaining agents if applicable, are to be notified of the Minister's order under section 74.1 of the Act to vary or exempt the application of one or more provisions of the Act or the regulations or to amend or revoke an order to vary or exempt.

AR 246/2017 s15;159/2020

Part 4
Construction Industry and Brush
Clearing (General Holiday Pay and
Vacation Pay)

Definitions

44 In this Part,

- (a) "construction employee" means an employee employed
 - (i) at the site of and in the construction, erection, repair, remodelling, alteration, painting and interior decoration or demolition of any
 - (A) building or structure,
 - (B) road, highway, railway or airfield,
 - (C) sidewalk, curb or gutter,
 - (D) pipeline,
 - (E) irrigation or drainage system,
 - (F) earth and rock fill dam,
 - (G) sewage system,
 - (H) power transmission line or power distribution system, or
 - (I) gas distribution system,

but does not include employees employed to perform ongoing maintenance at the site or office employees employed at the site, or

- (ii) in the cutting, removal, burning or other disposition of trees and brush or either of them for the primary purpose of clearing land and not for the harvesting of timber on it;
- (b) “construction employer” means an employer of a construction employee while acting in the capacity of employer.

Substitution for Act

45 This Division applies in substitution for sections 26 to 33 of the Act and Part 2, Division 6 of the Act (relating to vacations and vacation pay).

General holiday pay

46 A construction employer must pay to a construction employee in respect of general holidays, general holiday pay in an amount that is at least 3.6% of the employee’s wages.

When paid

47 Despite section 8 of the Act, an employer must pay general holiday pay referred to in section 46

- (a) on or before December 31 each year, or
- (b) if the employment of a construction employee is terminated, whether by the construction employer or the construction employee, after the termination of employment within the time described in section 9 or 10 of the Act.

Vacation pay

48 A construction employer must pay to a construction employee vacation pay in an amount that is at least 6% of the employee’s wages.

When paid

49 Subject to section 50, an employer must pay vacation pay referred to in section 48

- (a) on or before December 31 each year, or

- (b) on the day before the construction employee commences annual vacation, if the employee is to receive one,

whichever first occurs.

Vacation pay on termination

50 If the employment of a construction employee is terminated, whether by the construction employer or the construction employee, the construction employer must pay the construction employee the vacation pay to which the employee is entitled after the termination of employment within the time described in section 9 or 10 of the Act.

Part 5 Employment of Individuals Under 18 Years Old

Definitions

51 In this Part,

- (a) “adolescent” means an individual who is 13 or 14 years old;
- (b) “artistic endeavour” means work in
- (i) recorded entertainment, such as film, radio, video or television, including television and radio commercials,
 - (ii) voice recording for video and computer gaming, and
 - (iii) live performances, including theatre and musical performances;
- (c) “young person” means an individual who is 15, 16 or 17 years old.

AR 14/97 s51;218/2018

Application of Part

51.1 This Part does not apply to employees and employers to which section 2.1(1) of the Act applies.

AR 182/2019 s1

Permit

51.2 An approval referred to in section 65(2) of the Act must be given by a permit issued by the Director.

AR 218/2018 s4;182/2019

12 years old or younger employment

51.3(1) The Director may issue a permit for an individual who is 12 years old or younger only for employment in an artistic endeavour.

(2) Notwithstanding section 65(1) of the Act, the permit may authorize employment during normal school hours.

(3) Notwithstanding section 11, the permit must include a condition that the employer must pay the individual for a minimum number of hours of work determined by the Director at not less than the minimum wage to which the employee is entitled.

AR 218/2018 s4;182/2019

Adolescent's employment

52(1) An employer may employ an adolescent without a permit outside of normal school hours if

- (a) the adolescent is employed as a
 - (i) delivery person of small wares for a retail store,
 - (ii) clerk or messenger in an office,
 - (iii) clerk in a retail store,
 - (iv) delivery person for the distribution of newspapers, flyers or handbills, or
 - (v) worker in an occupation approved by the Director,
- (b) the employment is not or is not likely to be injurious to the life, health, education or welfare of the adolescent, and
- (c) a parent or guardian of the adolescent gives the prospective employer written consent to the employment.

(2) Section 66 of the Act does not apply to the employment of an adolescent if the employment occurs outside of normal school hours.

(3) No employer may employ an adolescent

- (a) for longer than 2 hours outside of normal school hours on a day during which the adolescent is required to attend school, or
- (b) for longer than 8 hours on a day during which the adolescent is not required to attend school.

- (4) During the period of time from 9:00 p.m. to the following 6:00 a.m., no employer may employ an adolescent and no adolescent may work in any employment.
- (5) Where a permit is issued for employment in an artistic endeavour, the permit may authorize
- (a) employment for periods that exceed the hours referred to in subsection (3),
 - (b) employment during the period of time referred to in subsection (4), and
 - (c) employment during normal school hours, notwithstanding section 65(1) of the Act.
- (6) Notwithstanding section 11, the permit referred to in subsection (5) must include a condition that the employer must pay the individual for a minimum number of hours of work determined by the Director at not less than the minimum wage to which the employee is entitled.
- (7) Pursuant to section 98 of the *Fair and Family-friendly Workplaces Act*, section 97 of that Act does not apply to the Director's approval related to the employment of adolescents in the restaurant and food services industry issued on November 2, 2009.

AR 14/97 s52;218/2018

Young persons employment

- 53(1)** During the period of time from 9:00 p.m. to the following 12:01 a.m., no employer may employ a young person and no young person may work in any employment on or in connection with any of the following premises unless the young person works with and is in the continuous presence of at least one other individual 18 years old or older:
- (a) the premises of any retail business selling
 - (i) food or beverages, whether alcoholic or not, or
 - (ii) any other commodities, goods, wares or merchandise;
 - (b) the premises of a retail business in which gasoline, diesel fuel, propane or any other product of petroleum or natural gas is sold;
 - (c) a hotel, motel or other place that provides overnight accommodation to the public.

(2) During the period of time from 12:01 a.m. to the following 6:00 a.m., no employer may employ a young person and no young person may work, in any employment on or in connection with any of the premises specified in subsection (1).

(3) With respect to the employment of young persons on premises not specified in subsection (1) during the period of time from 12:01 a.m. to the following 6:00 a.m., no employer may employ a young person and no young person may work in any employment unless

- (a) a parent or guardian of the young person gives the prospective employer written consent to the employment, and
- (b) during the employment the young person works with and is in the continuous presence of at least one individual 18 years old or older.

Conditions on employment

54(1) The Director may impose conditions on the employment of an individual under 18 years old whenever the Director considers it necessary to do so, including imposing conditions with respect to any permit referred to in this Part or an approval referred to in section 52(1)(a)(v).

(2) The employer or an individual under 18 years old who is subject to conditions imposed under subsection (1) must comply with them.

(3) The Director may at any time amend or revoke a permit referred to in this Part or an approval referred to in section 52(1)(a)(v).

AR 14/97 s54;218/2018

Part 5.1 Job-protected Leaves

Classes of persons included in the definition of family member

54.1(1) In this section,

- (a) “adult interdependent partner” does not include a spouse or common-law partner;
- (b) “common-law partner” means a common-law partner as defined in section 53.9(1)(a) of the Act;
- (c) “partner” means a spouse, a common-law partner or an adult interdependent partner.

(2) The following classes of persons, in relation to an employee, are family members for the purposes of section 53.9(1)(b)(iv) of the Act:

- (a) a child of
 - (i) the employee's parent, or
 - (ii) the partner of the employee's parent;
- (b) a grandparent of
 - (i) the employee, or
 - (ii) the employee's partner;
- (c) the partner of the employee's grandparent;
- (d) a grandchild of
 - (i) the employee, or
 - (ii) the employee's partner;
- (e) the partner of the employee's grandchild;
- (f) the partner of
 - (i) the employee's child, or
 - (ii) the child of the employee's partner;
- (g) a parent of the employee's partner;
- (h) the partner of a parent of the employee's partner;
- (i) the partner of
 - (i) a child of the employee's parent, or
 - (ii) a child of the partner of the employee's parent;
- (j) a child of
 - (i) a parent of the employee's partner, or
 - (ii) the partner of the parent of the employee's partner;
- (k) an uncle or aunt of
 - (i) the employee, or
 - (ii) the employee's partner;

- (l) the partner of the employee's uncle or aunt;
 - (m) a nephew or niece of
 - (i) the employee, or
 - (ii) the employee's partner;
 - (n) the partner of the employee's nephew or niece;
 - (o) a current or former foster parent of
 - (i) the employee, or
 - (ii) the employee's partner;
 - (p) a current or former foster child of the employee;
 - (q) the partner of a current or former foster child of the employee;
 - (r) a current or former ward of
 - (i) the employee, or
 - (ii) the employee's partner;
 - (s) a current or former guardian of the employee;
 - (t) the partner of a current or former guardian of the employee;
 - (u) the adult interdependent partner of the employee;
 - (v) a child of the employee's adult interdependent partner;
 - (w) the adult interdependent partner of the employee's parent;
 - (x) a person, whether or not related to the employee by blood, adoption, marriage or common-law partnership, or by virtue of an adult interdependent relationship, who considers the employee to be like a close relative or whom the employee considers to be like a close relative.
- (3)** For the purpose of personal and family responsibility leave, "family member", in relation to an employee, means
- (a) a spouse or common-law partner of the employee,
 - (b) a child of the employee or a child of the employee's spouse or common-law partner,

- (c) a parent of the employee,
- (d) a child of the employee's parent,
- (e) a grandparent of the employee,
- (f) a grandchild of the employee,
- (g) a current or former foster parent of the employee,
- (h) a current or former foster child of the employee,
- (i) a current or former ward of the employee,
- (j) a current or former guardian of the employee,
- (k) the adult interdependent partner of the employee,
- (l) a child of the employee's adult interdependent partner,
and
- (m) any other person living with the employee as a member of
the employee's family.

(4) For the purpose of bereavement leave, "family member" means a family member for the purpose of compassionate care leave.

AR 232/2013 s2;246/2017

Medical certificates

54.2(1) For the purpose of "medical certificate" as defined in section 1(1)(p) of the Act, a nurse practitioner is authorized for the purpose of that definition, and the authorization applies with respect to the signing of any medical certificate referred to in the Act.

(2) In this section, "nurse practitioner", means a regulated member of the College and Association of Registered Nurses of Alberta under the *Health Professions Act* authorized to use the title "nurse practitioner" who holds a practice permit issued under that Act and who is not under suspension, or an individual who has a similar status under similar legislation in a jurisdiction outside Alberta.

AR 246/2017 s19

Changes to leaves resulting from EI amendments

54.3 Pursuant to section 138(1)(a.6) of the Act,

- (a) the following is substituted for section 46(1) of the Act:

46(1) The maternity leave to which a pregnant employee is entitled is a period of not more than 16 weeks starting at

any time during the 13 weeks immediately before the estimated date of delivery.

(b) the following is substituted for section 50(1) of the Act:

50(1) Subject to subsection (2), an employer must grant parental leave to an employee as follows:

- (a) in the case of an employee entitled to maternity leave under this Division, other than an employee described in section 46(1.1), a period of not more than 62 consecutive weeks immediately following the last day of maternity leave;
 - (b) in the case of a parent who has been employed by the same employer for at least 90 days, a period of not more than 62 consecutive weeks within 78 weeks after the child's birth;
 - (c) in the case of an adoptive parent who has been employed by the same employer for at least 90 days, a period of not more than 62 consecutive weeks within 78 weeks after the child is placed with the adoptive parent for the purpose of adoption.
- (c) the critical illness of child leave in Part 2, Division 7.4 of the Act is substituted by the critical illness leave set out in Schedule 3.

AR 246/2017 s19

Part 6 Reciprocating Jurisdictions

Reciprocal enforcement of orders

55(1) A jurisdiction set out in column 1 of the Schedule is declared, under section 113 of the Act, to be a reciprocating jurisdiction for the purpose of enforcing orders, awards, certificates or judgments for the payment of earnings made under an enactment of that jurisdiction.

(2) The authority set out in column 2 of the Schedule is designated as the authority within that jurisdiction who may make applications or issue certificates under section 113 of the Act.

Part 6.1 Administrative Penalties

Notice of administrative penalty

55.1 A notice of administrative penalty must contain the following information:

- (a) the name of the employer that is required to pay the administrative penalty;
- (b) the identification of
 - (i) the provision of the Act or regulations that was contravened, or
 - (ii) the provision of an authorizing or enforcement instrument that was contravened,whichever is applicable;
- (c) a brief description of the nature of the contravention or failure to comply identified under clause (b);
- (d) the amount of the administrative penalty, determined in accordance with Schedule 2, including whether the administrative penalty is a daily amount or a one-time amount to address an economic benefit;
- (e) the date the notice of administrative penalty is issued;
- (f) the date by which the administrative penalty must be paid;
- (g) a statement describing the right to appeal to the appeal body under section 123.1(7) of the Act and particulars of how the appeal is to be made and the time within which it must be made.

AR 246/2017 s20

Time for payment

55.2(1) Subject to any stay that is in effect under section 123.1(8) of the Act, an employer that is required to pay an administrative penalty shall pay the amount of the administrative penalty on or before the date specified in the notice of administrative penalty.

(2) Unless the notice of administrative penalty specifies a later date, the payment must be made within 21 days of the notice being served.

AR 246/2017 s20

Part 7 Fees and Costs

Fee is debt

56(1) A fee that is payable under this Part constitutes a debt owing from the person liable to pay it to the person to whom it is to be paid and is recoverable by an action in debt.

(2) The remedy in subsection (1) is in addition to any other remedy given in this Part.

General fees

57(1) For the purpose of recovering the costs of the Government in administering Part 2 of the Act in cases not otherwise specifically provided for in this Part, the Director must charge fees established by the Minister.

(2) The Director may, if the Director considers it appropriate,

- (a) waive the payment of a fee under subsection (1) or reduce the amount of the fee, or
- (b) refund a fee paid under subsection (1).

58 Repealed AR 114/2000 s27.

Audit fees

59(1) If an audit of employer records is conducted by an employee of the Crown, the employer is liable to pay to the Crown a fee equal to 10% of the earnings alleged to be owing to employees.

(2) If an audit of employer records is conducted by a person under the authority of section 72 of the Act, the Director is liable to pay to that person the fees charged by the auditor and approved by the Director, and the employer is liable to pay the same amount to the Director.

(3) No fee is payable under this section unless the Director has first notified the employer in writing that the audit will be conducted.

(4) If as a result of an audit referred to in subsection (2) the Director is satisfied that the employer does not owe earnings to employees, the Director may reimburse the employer for all or part of the fee the employer paid to the person referred to in subsection (2).

AR 14/97 s59;114/2000

Additional fee

60(1) Where an officer or the Director makes an order under section 87 or 89 of the Act, an additional fee is payable by the employer to the Crown in an amount equal to

- (a) 10% of the amount ordered to be paid under section 87 or 89 of the Act, or
- (b) \$100,

whichever is greater, for each employee in respect of whom the order was made.

(2) If under the authority of section 92 or 92.1 of the Act an officer or the Director revokes or amends an order under section 87 or 89 of the Act, the fee under subsection (1) must

- (a) be refunded if the order is revoked,
- (b) be reduced proportionately and the amount of the reduction refunded if the amount payable under the order is reduced, or
- (c) be increased proportionately and the amount of the increase be paid to the Crown by the employer if the amount payable under the order is increased.

AR 14/97 s60;246/2017

Fees on appeal

61(1) If an order of an officer or the Director under section 87 or 89 of the Act is appealed to an appeal body,

- (a) the additional fee under section 60(1) and any audit fee under section 59(1) must
 - (i) be refunded to the employer if the order is revoked,
 - (ii) be reduced proportionately and the amount of the reduction refunded if the amount payable under the order is reduced by the appeal body or by agreement of the parties before the hearing date, or
 - (iii) be increased proportionately and the amount of the increase be paid by the employer to the Crown if the amount payable under the order is increased by the appeal body or by agreement of the parties before the hearing date,

and

- (b) the Director may reimburse the employer for all or part of an audit fee paid to a person under section 59(2), having regard to the nature of the appeal body's order.

(2) The fee for an appeal of an administrative penalty is 10% of the administrative penalty that was imposed or \$100, whichever is greater, but the fee must

- (a) be refunded to the employer if the notice of administrative penalty is revoked,
- (b) be reduced proportionately and the amount of the reduction refunded if the amount payable under the notice of administrative penalty is reduced by the appeal body, or
- (c) be increased proportionately and the amount of the increase be paid by the employer to the Crown if the amount payable under the notice of administrative penalty is increased by the appeal body.

AR 14/97 s61;246/2017

Appeal body order for costs

62(1) Subject to subsection (2), an appeal body that hears an appeal under Part 3, Division 4 of the Act may, having regard to the conduct of the parties, order any of the parties to the appeal to pay any or all of the Government's direct or indirect costs of the appeal as determined by the appeal body including, without limitation,

- (a) research and preparation costs,
- (b) the fee or salary paid or attributable to persons involved in the hearing and those persons' travel and accommodation costs, and
- (c) other expenses that are incidental to conducting the hearing.

(2) No order for the payment of costs may be made against the Director.

(3) An appeal body's order for the payment of costs is part of an order of the appeal body for the purposes of the Act.

AR 14/97 s62;246/2017

Third party collection costs**63(1)** If

- (a) a person other than an employee of the Crown (in this section referred to as the collector) collects on behalf of an employee money owing to the employee pursuant to an order that is filed in the Court of Queen's Bench under section 110 of the Act, and
- (b) the collector is acting on the written authority of the employee, given through the Director,

the employer is liable to pay and the collector is entitled to collect from the employer an additional amount calculated in accordance with the formula

$$A = B \times C$$

where

- A is the additional amount,
- B is a percentage specified by the Minister for the purposes of this section, and
- C is the amount owing to the employee.

(2) The additional amount under subsection (1) is in addition to any other costs to which the collector is entitled by law.

(3) A collector is entitled to receive from the Director a collection certificate that sets out

- (a) the additional amount that may be collected under this section, and
- (b) the person who is liable to pay the additional amount.

(4) A collector may file a collection certificate with the court clerk of the Court of Queen's Bench at the judicial centre at which the judgment is filed and the collection certificate is then enforceable as an order or judgment of the Court of Queen's Bench.

(5) Where a collector collects money owing pursuant to an order referred to in subsection (1)(a) or a collection certificate under this section, the collector is entitled to retain a fee that is a portion of the collected amount determined in accordance with the formula

$$Y = \frac{A}{C+A}$$

where

Y is the portion the collector is entitled to retain, and

A and C have the same values as they have under subsection (1).

(6) For the purposes of the calculation under subsection (5), “collected amount” is the amount remaining after deduction of the other costs to which the collector is entitled by law that are referred to in subsection (2).

(7) After deducting the collector’s fee under subsection (5), the collector must distribute the balance as follows:

- (a) first, to pay the money owing to the employee under the order;
- (b) second, to pay any remainder to the Government in satisfaction of fees and other amounts owing to the Government in connection with the order.

(8) The Director may require a collector to pay the balance referred to in subsection (7) to the Director, in which case the Director is responsible for distributing the balance in accordance with subsection (7).

(9) No person may act as a collector under this section unless that person has entered into an agreement with the Director for that purpose.

AR 14/97 s63;164/2010

Part 7.1 Service of Documents and Publication of Documents

Division 1 Service of Documents

Service of documents

63.1(1) In this section, “recorded mail” means any form of delivery of notices or other documents by mail or courier in which receipt of the notice or other document must be acknowledged in writing by the addressee or another individual present at the addressee’s address.

(2) If a notice or other document is required to be served under the Act on an officer, the Director or the Registrar, the notice or other document must be served in the manner specified in the document, or as otherwise specified by the officer, Director or Registrar.

(3) Subject to subsection (2), a notice or other document that is required to be served under the Act may, in addition to any other method provided by law, be served,

- (a) in the case of service on an individual,
 - (i) by personal service on the individual or by being left for the individual
 - (A) at an address provided by the individual pursuant to section 82(3) of the Act with an individual present at that address,
 - (B) at the individual's residence or last known residence or with an individual present at that address who appears to be 18 years of age or older, or
 - (C) at the individual's workplace or last known workplace with an individual who represents that the individual is in charge of that workplace,
 - (ii) by ordinary mail or recorded mail sent to the individual
 - (A) at an address provided by the individual pursuant to section 82(3) of the Act,
 - (B) at the individual's residence or last known residence, or
 - (C) at the individual's workplace or last known workplace,
 - (iii) by fax or e-mail sent to the individual at a fax number or e-mail address
 - (A) provided by the individual pursuant to section 82(3) of the Act, or
 - (B) provided by the individual to an officer, the Director or the Registrar for the purposes of service on that individual,

or

- (iv) as directed by the Court of Queen's Bench on application,
- (b) in the case of service on a corporation,

- (i) by being left
 - (A) with a director or officer of the corporation,
 - (B) with an individual who represents that the individual is in charge of a place where the corporation carries on business, or
 - (C) with an individual at the registered office of the corporation or, for an extra-provincial corporation, at the office of the attorney of the corporation,
 - (ii) by being sent by ordinary mail or recorded mail
 - (A) to a place of business of the corporation,
 - (B) to the registered office of the corporation,
 - (C) to a director of the corporation at the director's residence or last known residence, or
 - (D) to an address designated by the corporation as its address for service under an enactment of Alberta,
 - (iii) by fax or e-mail sent to a fax number or e-mail address provided by a representative of the corporation to an officer, the Director or the Registrar for service on that corporation, or
 - (iv) as directed by the Court of Queen's Bench on application,
- (c) in the case of service on a partnership
- (i) by being left with any partner of the partnership or an individual who represents that the individual is in charge of a place where the partnership carries on business,
 - (ii) by being sent by ordinary mail or recorded mail
 - (A) to a place of business of the partnership,
 - (B) to a partner of the partnership at the partner's residence or last known residence, or
 - (C) to an address designated by a partnership as its address for service under an enactment of Alberta,

- (iii) by fax or e-mail sent to a fax number or e-mail address provided by a representative of the corporation to an officer, the Director or the Registrar for service on that corporation,
- (iv) as directed by the Court of Queen's Bench on application, or
- (v) in the case of a partner that is a corporation, by service on a partner in accordance with clause (b),

or

- (d) in the case of service on a lawyer or agent representing an individual, corporation or partnership,
 - (i) by personal service on the lawyer or agent at the lawyer's or agent's place of business or by being left with an individual who represents that the individual is in charge of that place of business,
 - (ii) by ordinary mail or recorded mail sent to the lawyer's or agent's place of business,
 - (iii) by fax or e-mail sent to the lawyer's or agent's place of business at a fax number or e-mail address provided by the lawyer or agent, or a representative of the lawyer or agent, or
 - (iv) as directed by the Court of Queen's Bench on application.

(4) Where it is necessary to prove service of any notice or other document in the course of any proceeding or prosecution under the Act, service is effected

- (a) if the notice or other document is served personally or left in accordance with subsection (3)(a)(i), (b)(i), (c)(i) or (d)(i), on the date it is served or left,
- (b) if the notice or other document is sent by recorded mail, the date acknowledgment of receipt is signed,
- (c) if the notice or other document is sent by fax, on the date the notice or other document is confirmed to have been successfully transmitted,
- (d) if the notice or other document is sent by e-mail, on the date the e-mail was sent, or
- (e) if the notice or other document is sent by ordinary mail,

- (i) 7 days from the date of mailing if the notice or other document is mailed in Alberta to an address in Alberta, or
- (ii) subject to subclause (i), 14 days from the date of mailing if the notice or other document is mailed in Canada to an address in Canada,

unless the notice or other document is returned to the sender other than by the addressee, or the addressee proves that he or she did not receive the document.

(5) Service by mail or recorded mail is not invalid only by reason that

- (a) the addressee refuses to accept the mail,
- (b) the addressee returns the mail,
- (c) in the case of recorded mail, the addressee refuses to take delivery of the recorded mail, or
- (d) the addressee no longer resides or is otherwise not present at the address and has not provided the postal service with a current or forwarding mailing address.

AR 246/2017 s24

Division 2 Publication of Documents

Permits

63.2 The Director shall publish, in a form or manner the Director considers appropriate, the following with respect to a permit issued under the Act:

- (a) the name of the employer or the name under which the employer carries on business;
- (b) the effective date and the duration of the permit.

AR 246/2017 s24

Variations, exemptions and orders

63.3(1) The Director shall publish, in a form or manner the Director considers appropriate, the following with respect to a variance or exemption granted under section 74 of the Act:

- (a) the name of the employer or the name under which the employer carries on business;

- (b) the provision of the Act or regulation that was varied or exempted;
- (c) the effective date and duration of the variance or exemption.

(2) The Director shall publish, in a form or manner the Director considers appropriate, the following with respect to an order issued under section 74.1 of the Act:

- (a) the name of the employer's association or the names of the employers in a group;
- (b) the provision of the Act or regulation that was varied or exempted;
- (c) the effective date and the duration of the order.

AR 246/2017 s24

Enforcement actions

63.4(1) In this section, "enforcement action" means

- (a) any of the following that have been filed as a judgment with the Court of Queen's Bench under the Act:
 - (i) an order of an officer or order of the Director;
 - (ii) a decision of an appeal body or a court;
 - (iii) a notice of administrative penalty;
 - (iv) a director's certificate referred to in section 112(4) of the Act;
- (b) a conviction arising out of a prosecution under section 133 of the Act.

(2) The Director shall publish, in a form or manner the Director considers appropriate, the following with respect to an enforcement action:

- (a) the name of the employer, the name under which the employer carries on business, or the name of the corporate director, as the case may be;
- (b) the address of the employer's business in respect of which the order, decision, notice or certificate was filed;
- (c) the provision of the legislation that was contravened;
- (d) the unpaid earnings that were the subject of the order, decision, notice or certificate;

- (e) the amount of any fine or penalty imposed, if applicable;
- (f) the date the order, decision, notice or certificate was filed in the court.

(3) Where a person subject to an enforcement action referred to in subsection (1)(a) has satisfied the judgment to which the enforcement action applies, the information published under this section with reference to that enforcement action must be removed.

AR 246/2017 s24

Part 7.2 Miscellaneous Provisions

63.5 Repealed AR 159/2020 s28.

Part 8 Repeal, Commencement and Expiry

Repeal

64 The following Regulations are repealed:

- (a) *Adolescents and Young Persons Employment Regulation* (Alta. Reg. 82/81);
- (b) *Construction Industry and Brush Clearing (Vacation Pay and General Holiday Pay) Regulation* (Alta. Reg. 81/81);
- (c) *Exemption Regulation* (Alta. Reg. 296/88);
- (d) *Fees and Costs Regulation* (Alta. Reg. 309/94);
- (e) *Hours of Work and Overtime Pay (Ambulance Drivers and Attendants) Regulation* (Alta. Reg. 77/81);
- (f) *Hours of Work and Overtime Pay (Field Services) Regulation* (Alta. Reg. 73/81);
- (g) *Hours of Work and Overtime Pay (Highway and Railway Construction and Brush Clearing) Regulation* (Alta. Reg. 79/81);
- (h) *Hours of Work and Overtime Pay (Irrigation Districts) Regulation* (Alta. Reg. 75/81);
- (i) *Hours of Work and Overtime Pay (Nursery Industry) Regulation* (Alta. Reg. 76/81);
- (j) *Hours of Work and Overtime Pay (Oilwell Servicing) Regulation* (Alta. Reg. 74/81);

- (k) *Hours of Work and Overtime Pay (Taxi Cab Industry) Regulation* (Alta. Reg. 80/81);
- (l) *Hours of Work and Overtime Pay (Trucking Industry) Regulation* (Alta. Reg. 78/81);
- (m) *Minimum Wage Regulation* (Alta. Reg. 145/81);
- (n) *Reciprocating Provinces Regulation* (Alta. Reg. 277/83);
- (o) *Scheme of Employment Regulation* (Alta. Reg. 101/81).

Commencement

65 This Regulation comes into force when the *Employment Standards Code*, SA 1996 cE-10.3, is proclaimed in force.

66 Repealed AR 172/2019 s3.

Schedule 1

Column 1 Reciprocating Jurisdiction	Column 2 Designated Authority
1 British Columbia	Director of Employment Standards for British Columbia
2 Yukon Territory	Director of Employment Standards for the Yukon Territory
3 Saskatchewan	Director of Labour Standards for Saskatchewan
4 Northwest Territories	Labour Standards Board of the Northwest Territories
5 Manitoba	Director of Employment Standards for Manitoba
6 Nova Scotia	Director of Labour Standards for Nova Scotia
7 Ontario	Director of Employment Standards for Ontario
8 New Brunswick	Director of Employment Standards of New Brunswick
9 Nunavut	Director of Court Services for Nunavut
10 Newfoundland and	Director of Labour Standards for

Labrador

Newfoundland and Labrador

AR 14/97 Sched 1;158/97;88/99;327/2003

Schedule 2**Schedule of Administrative Penalties**

The following Table sets out the administrative penalties that may be imposed for a contravention or failure to comply with the provisions of the *Employment Standards Code* and the *Employment Standards Regulation* (AR 14/97).

The Director may increase the minimum penalty set out in the Table based on the circumstances of the contravention or failure to comply, including the number of employees who were affected by the contravention or the failure to comply. The amount of any penalty, other than an amount to address economic benefit, must not exceed the amount referred to in section 123.1(3) of the *Employment Standards Code*.

Under section 123.1(2)(b) of the *Employment Standards Code*, a one-time amount to address economic benefit may be imposed where the Director is of the opinion that the person has derived an economic benefit directly or indirectly as a result of the contravention or failure to comply. The amount cannot exceed the amount of the economic benefit that was derived as a result of the contravention or failure to comply.

TABLE

Employment Standards Code/Employment Standards Regulation	Minimum Administrative Penalty for 1st contravention or failure to comply	Minimum Administrative Penalty for 2nd contravention of the 1st contravention, or 1st repetition of a failure to comply, within 3 years	Minimum Administrative Penalty for 3rd or subsequent contravention of the 1st contravention, or 2nd repetition of a failure to comply, within 3 years
LEVEL 1 – Minimum Administrative Penalty <ul style="list-style-type: none"> ● Part 2, Divisions 1 to 8, except Divisions 7 to 7.6, of the Act; ● Section 79 of Part 3, Division 2 of the Act; ● Section 91 of Part 3, Division 3 of the Act; ● Sections 7 to 13 of Part 2 of the Regulation; ● Part 2.1 of the Regulation; ● Part 3, Divisions 1 to 11 of the Regulation; ● Sections 46 to 50 of Part 4 of the Regulation; 	\$500.00	\$1000.00	\$2000.00
LEVEL 2 – Minimum Administrative Penalty <ul style="list-style-type: none"> ● Part 2, Divisions 7 to 7.6 of the Act; ● Section 128 of the Act with respect; ● Sections 51 to 54 of Part 5 of the Regulation; ● Part 5.1 of the Regulation; ● Schedule 3 of the Regulation; 	\$1000.00	\$2000.00	\$4000.00

LEVEL 3 – Minimum Administrative Penalty <ul style="list-style-type: none"> ● Part 3, Division 1, sections 74 to 74.1 of the Act ● Sections 78 to 78.1 and 81 of Part 3, Division 2 of the Act; ● Sections 125, 127, 128 and 137 of Part 5, Division 1 of the Act. 	\$1500.00	\$3000.00	\$6,000.00
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AR 246/2017 s28;218/2018

Schedule 3

Division 7.4 Critical Illness Leave

Critical illness leave

53.96(1) In this Division,

- (a) “child” means a person who is under 18 years of age;
- (b) “common-law partner” has the same meaning as in section 53.9(1)(a) of the Act;
- (c) “family member “ means family member for the purposes of compassionate care leave.

(2) Subject to this section, an employee who has been employed by the same employer for at least 90 days and is a family member of a critically ill child or a critically ill adult is entitled to an unpaid leave

- (a) of up to 36 weeks for the purpose of providing care or support to the critically ill child, and
- (b) of up to 16 weeks for the purpose of providing care or support to the critically ill adult.

(3) If more than one employee who is employed by the same employer is entitled to leave under this Division with respect to the same critically ill child or critically ill adult, the employer is not required to grant the leave to more than one employee at a time.

(4) If more than one child of the employee is critically ill as a result of the same event, the period during which the employee may take a leave under this Division

- (a) begins on the earlier of the dates specified in subsection (5)(b) and (d) on the first medical certificate issued in respect of any of the children that are critically ill, and
 - (b) ends on the earliest of the following occurrences:
 - (i) the last day of the work week in which the last of the critically ill children dies;
 - (ii) the expiry of 36 weeks following the date leave began under clause (a);
 - (iii) the expiry of the latest period referred to in subsection (5)(c) on the medical certificates for the critically ill children;
 - (iv) the last day of the work week in which the employee ceases to provide care or support to the last of the critically ill children.
- (5)** The employee must provide to the employer a medical certificate stating the following:
- (a) that the child or adult is critically ill and requires the care or support of one or more family members;
 - (b) the start date of the period during which the critically ill child or critically ill adult requires that care or support;
 - (c) the end date of the period during which the critically ill child or critically ill adult requires that care or support;
 - (d) if the leave was begun before the certificate was issued, the day leave began.
- (6)** The employee must provide a copy of the medical certificate under subsection (5) before commencing leave under this Division unless the employee is unable to do so, in which case the employee must provide the certificate as soon as is reasonable and practicable in the circumstances.
- (7)** An employee who wishes to take leave under this Division must give the employer at least 2 weeks' written notice, which notice must also include the estimated date of the employee's return to work, unless a shorter notice period is necessary in the circumstances, in which case the notice must be provided as soon as is reasonable and practicable in the circumstances.
- (8)** The employee must inform his or her employer of any change in the estimated date of returning to work.

(9) Subject to subsection (4), leave under this Division may be taken in one or more periods, but no period may be less than one week's duration.

(10) Leave under this Division ends on the earliest of the following occurrences:

- (a) the last day of the work week in which the critically ill child or critically ill adult, as the case may be, named in the medical certificate under subsection (5) dies;
- (b) the period of
 - (i) 36 weeks of leave under this Division ends, in the case of a critically ill child, or
 - (ii) 16 weeks of leave under this Division ends, in the case of a critically ill adult;
- (c) the period referred to in the certificate referred to in subsection (5)(c) ends;
- (d) the last day of the work week in which the employee ceases to provide care or support to the critically ill child or critically ill adult, as the case may be.

Termination of employment

53.961(1) No employer may terminate the employment of, or lay off, an employee who has started leave under this Division.

(2) Subsection (1) does not apply if an employer suspends or discontinues in whole or in part the business, undertaking or other activity in which the employee is employed, but the obligation of the employer to reinstate the employee or provide the employee with alternative work in accordance with section 53.963 continues to apply.

Notice to return to work

53.962(1) If an employee has been on leave under this Division, he or she must provide at least one week's written notice of the date the employee intends to return to work unless the employer and the employee agree otherwise.

(2) When an employee returns to work under this section, the employer must

- (a) reinstate the employee in the position occupied when the leave started, or
- (b) provide the employee with alternative work of a comparable nature at not less than the earnings and other

benefits that had accrued to the employee when the leave started.

(3) An employee who does not wish to resume employment after the leave under this Division ends must give the employer at least 2 weeks' written notice of the employee's intention to terminate employment.

Suspension of operations

53.963 If the business, undertaking or other activity of an employer is suspended or discontinued in whole or in part during an employee's leave under this Division and the employer has not resumed operations when the leave ends, the employer must, if the operation is subsequently resumed within 52 weeks following the end of the leave,

- (a) reinstate the employee in the position occupied at the time the leave started at not less than the earnings and other benefits that had accrued to the employee, or
- (b) provide the employee with alternative work in accordance with an established seniority system or practice of the employer in force at the time the employee's leave started, with no loss of seniority or other benefits accrued to the employee.

Leave and vacation conflict

53.964 Notwithstanding section 37(1), if an employee is on leave under this Division on the day by which his or her vacation must be used, any unused part of the vacation must be used immediately after the leave expires or, if the employer and employee agree to a later date, by that later date.

AR 246//2017 s28



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