



Labour

Information on **LABOUR STANDARDS**

9A HOURS OF WORK – MOTOR TRANSPORT

Part III of the *Canada Labour Code* (Labour Standards)

The *Motor Vehicle Operators Hours of Work Regulations* modify sections 169 and 171 of Part III of the *Canada Labour Code*.

They cover employees in the federal motor transport industry including bus operators, city motor vehicle operators and highway motor vehicle operators involved in the interprovincial and international transport of goods or passengers and in the transport of mail on contract with Canada Post. (These are further defined in Section I – Definitions, below.)

The *Motor Vehicle Operators Hours of Work Regulations* do not replace Division I – Hours of Work of Part III of the *Canada Labour Code*. They replace sections 169 and 171 for the employees mentioned above in the areas of standard hours of work, averaging, standard working hours for a week in which a holiday occurs, and maximum hours of work.

Information concerning subjects such as standard hours, maximum hours of work, and averaging for all employees other than those employed in the motor transport industry can be found in Pamphlet 9 – *Hours of Work*.

Information will be presented as follows:

- I. Definitions
- II. Standard Hours of Work
- III. Maximum Hours of Work
- IV. Standard Hours of Work After Which Overtime Must be Paid

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- V. Standard Hours of Work in a Week in Which a Holiday Occurs
 - VI. Averaging
 - VII. Mixed Employment
 - VIII. Weekly Day of Rest
 - IX. Recording the Hours of Work

I. DEFINITIONS

The following definitions may assist you in understanding the provisions of the *Motor Vehicle Operators Hours of Work Regulations*.

Motor Vehicle Operator

Means a person who operates a motor vehicle. This includes highway and city truck drivers and bus operators.

Motor Vehicle

Means any vehicle that is operated by an employee and is run by other than muscular power but does not include any vehicle designed for running on rails.

Highway Motor Vehicle Operator

Means a motor vehicle operator who is not a bus operator or a city motor vehicle operator.

City Motor Vehicle Operator

Means a motor vehicle operator who operates only within a 16 km radius of his or her home terminal and is not a bus operator. It includes any motor vehicle operator who is classified as a city motor vehicle operator in a collective agreement or is not classified in any such agreement but is considered to be a city motor vehicle operator according to the industry practice in the geographical area where he or she is employed.

Bus Operator

Means a motor vehicle operator who operates a bus.

Non-driving Personnel

Means an employee engaged in the motor transport industry, including maintenance personnel, warehousemen and office staff, whose hours of work are not described in the *Motor Vehicle Operators Hours of Work Regulations*.

II. STANDARD HOURS OF WORK

1. How do the Regulations limit the hours of work?

The Regulations set standard hours of work in a day and in a week. If an employee is requested to work longer than the standard hours, he or she must be paid at least one and one-half times the regular rate of pay. The purpose of standard hours is to allow employees a reasonable amount of free personal time.

III. MAXIMUM HOURS OF WORK

1. What is the maximum number of hours that motor vehicle operators may work?

Motor vehicle operators, including all employees normally referred to as truck drivers and bus drivers, may work those hours permitted by the *Commercial Vehicle Drivers Hours of Service Regulations* (Administered by Transport Canada. See Appendix A.)

2. What is the maximum number of hours that non-driving personnel in the motor transport industry may work?

The maximum number of hours in a week is 48. (See Appendix A.)

3. Are there exceptions to these standards?

Yes. There are circumstances in which an employer may require or permit employees, who are not motor vehicle operators, to work more than 48 hours in a week.

- a) In exceptional circumstances as per section 176 of the Code.
- b) To do emergency work as per section 177 of the Code.
- c) Where averaging is permitted.

4. In the case of city and highway motor vehicle operators, must all the time spent on the job be counted when calculating working hours?

No. Certain hours need not be counted.

- a) Authorized meals and rest while en route, where the employee has been relieved of his or her job responsibilities.
- b) En route rest stops due to illness or fatigue.
- c) Time spent resting while en route as one of two operators of a motor vehicle that is fitted with a sleeper berth.

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- d) Time spent resting while en route in a motel, hotel or other similar place of rest where sleeping accommodation is provided. (The motor vehicle operator need not actually be in the hotel or other place of rest, but must be free to spend leisure time as he or she pleases.)

These are the only periods not counted as hours of work. All other time from the beginning of an operator's shift to the end of that shift must be counted.

5. For bus operators, must all time spent on the job be counted when calculating working hours?

No. Time spent does not count when the bus is in the garage or parked and the employee is not required to stay with it.

IV. STANDARD HOURS OF WORK AFTER WHICH OVERTIME MUST BE PAID

1. What are the standard hours of work for motor vehicle operators, in a day and in a week, after which overtime must be paid?

The standard hours of work after which the overtime rate must be paid for all motor vehicle operators, including city operators, highway operators and bus operators, can be found in Appendix A.

NOTE: Section 166 of the Code defines a day as any period of 24 consecutive hours. A week is the period between midnight on Saturday and midnight on the immediately following Saturday.

2. Are there exceptions to these standards for bus operators?

Yes. Under certain circumstances, the standard hours of bus operators may be averaged over a period of two or more weeks.

3. What are the standard hours of work for non-driving personnel, in a day and in a week, after which overtime must be paid?

The standard hours of work after which overtime must be paid for non-driving personnel can be found in Appendix A.

4. Are there any exceptions to these standards for non-driving personnel?

Yes. Where the employer is entitled to average, the following applies:

- a) overtime need not be paid on a daily basis; and
- b) the standard hours become the weekly standard multiplied by the number of weeks in the averaging plan.

V. STANDARD HOURS OF WORK IN A WEEK IN WHICH A HOLIDAY OCCURS

1. What are the standard hours of work in a week in which a holiday occurs for city and highway motor vehicle operators, for bus drivers and for non-driving personnel?

The standard hours in a week in which a holiday occurs, for all these employees, are found in Appendix A.

VI. AVERAGING

1. Can the hours of work of highway or city motor vehicle operators be averaged?

No. In no case may the working hours of a highway or city motor vehicle operator be averaged.

2. Can the hours of a bus operator or of non-driving personnel in the motor transport industry be averaged?

Yes. Under certain circumstances, the standard working hours may be averaged over a period of two or more weeks. The rules of averaging are the same as for all employees under Division I – Hours of Work of Part III of the *Canada Labour Code*. These rules are explained more fully in Pamphlet 9 – *Hours of Work*. For more detail, obtain information from a Labour Program.

VII. MIXED EMPLOYMENT

1. What happens in cases of mixed employment in the motor transport industry?

Mixed employment can take the form of a city motor vehicle operator performing the work of a highway motor vehicle operator and vice versa or a motor vehicle operator performing the work of a non-driving employee and vice versa.

Appendix B may help in determining the hours of work in these situations.

VIII. WEEKLY DAY OF REST

1. What is understood by “weekly day of rest”?

Section 173 of the Code stipulates that hours of work shall be scheduled or worked so that each employee has at least one full day of rest in a week. (Wherever practicable, this day of rest should be Sunday.)

2. Are there exceptions to this requirement?

Yes. The Regulations provide that hours may be scheduled without regard to section 173 when:

- a) the hours of work of non-driving employees are averaged; or
- b) the hours of work of motor vehicle operators (whose hours may not be averaged) meet the conditions of averaging.

IX. RECORDING THE HOURS OF WORK

All employers are required to make, and keep for 36 months after the work is performed by an employee, complete and accurate records. Among the items that must be shown are the hours worked each day.

Under the *Commercial Vehicle Drivers Hours of Service Regulations*, an employer must also keep detailed logs of the hours of work of motor vehicle operators. These are acceptable for the purpose of calculating overtime pay.

This pamphlet is provided for information only. For interpretation and application purposes, please refer to Part III of the *Canada Labour Code* (Labour Standards), the *Canada Labour Standards Regulations*, and relevant amendments.

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Appendix A

Class	Industry	Standard Hours After Which Overtime is Payable		Standard Hours in a Week in Which a Holiday Occurs	Averaging Permitted	Maximum Hours
		Daily	Weekly			
1. Highway Motor Vehicle Operators	Transport of Goods and Mail	-	60	50	No	As per <i>Commercial Vehicle Drivers' Hours of Service Regulations</i>
2. City Motor Vehicle Operators	Transport of Goods and Mail	9	45	36	No	" "
3. Bus Operators	Transport of passengers	8	40	32	Yes	" "
4. Non-driving Personnel (including maintenance personnel, warehouse workers, office staff)	All sectors	8	40	32	Yes	48 – Averaging permitted where applicable

Appendix B

Examples of Mixed Employment

Example 1

Monday to Thursday	Friday
48 hours as a highway driver	10 hours as a city driver and 2 hours as a warehouse worker

- On a weekly basis, there is no overtime to be paid since the majority of hours worked in that week are as a highway driver (48 hours). The standard hours per week for that class of employee are 60. (See Appendix A.)
- However, on a daily basis, for Friday, there is a mixed employment situation. A total of 12 hours were worked. Since the majority of these hours were as a city motor vehicle operator and the standard daily hours as a city motor vehicle operator are nine (refer to Appendix A), then the employee is entitled to three hours overtime for Friday.

Example 2

Monday to Wednesday	Thursday	Saturday
24 hours (eight hours per day) as a city driver	10 hours as a warehouse worker	10 hours as a highway driver

- On a weekly basis, there is no overtime to be paid because the majority of hours worked were as a city driver (24 hours). Overtime for city drivers on a weekly basis is required after 45 hours. (See Appendix A.)
- On a daily basis, no overtime is required except for Thursday, where the majority of hours worked were as a warehouse worker (ten hours). Since overtime is required on a daily basis for non-driving personnel, including warehouse workers, after eight hours (refer to Appendix A), then the employee is entitled to overtime pay for two hours worked on Thursday.

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