



Labour

Information on

Labour Standards

4A

GENERAL HOLIDAYS – CONTINUOUS OPERATIONS

(This pamphlet should be read in conjunction with
Information Sheet 4 – *General Holidays* of this series)

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

The *Canada Labour Code* provides for nine paid holidays per year. The following questions and answers, based on Division V – General Holidays of Part III of the *Code*, will be of interest to employers and employees under federal jurisdiction. Information Sheet 1 – *Summary* of this series describes the types of businesses covered by the *Code*. It is available on the Labour Program website at labour.gc.ca.

1. What is a “continuous operation”?

A continuous operation is:

- a) any industrial establishment in which, in each seven-day period, operations once begun normally continue without cessation until the completion of the regularly scheduled operations for that period;
- b) any operations or services concerned with the running of trains, planes, ships, trucks and other vehicles, whether in scheduled or non-scheduled operations;
- c) any telephone, radio, television, telegraph or other communication or broadcasting operations or services; or
- d) any operation or service normally carried on without regard to Sundays or general holidays.

Continuous operations do not run on a fixed, Monday to Friday, 9 am to 5 pm work schedule. These types of operations run “continuously”, without stopping their operations for holidays or weekends. Therefore, special provisions exist in the law to accommodate these operations.

2. Are all employees in such industries considered to work in a “continuous operation”?

Not always. For example, in some trucking enterprises, the organization is divided into various groups such as drivers, loaders, dispatchers, mechanics, etc. Many of the above employees may be necessary to the operation of the running of trucks, so are considered to be working in a “continuous operation”.

For others, such as office employees, they usually work to support the operation by handling paperwork, billing, payroll, etc. These employees are not considered to be working in a “continuous operation” since their attendance is not required outside of normal business hours to keep the trucks running.

However, if they regularly need to work weekends and holidays, take calls from drivers on the road, or are generally concerned with dispatching, it may be appropriate to determine that certain office employees are employed in a continuous operation.

3. Can employers add money to an employee’s kilometer rate or hourly rate to compensate for holiday pay? What if the employee agrees to a flat rate for each holiday?

All employees must be paid using the method stated in the *Canada Labour Code*. The law does not allow holiday pay to be included in the mileage rate, or any other rate of pay. The *Code* will not allow the employee to settle for less than the minimum required by law even if the employee agrees to an alternate arrangement.

4. If an employee working in a continuous operation does not report to work as scheduled on a general holiday, or makes themselves unavailable to work in accordance with certain conditions of employment, are they still entitled to holiday pay?

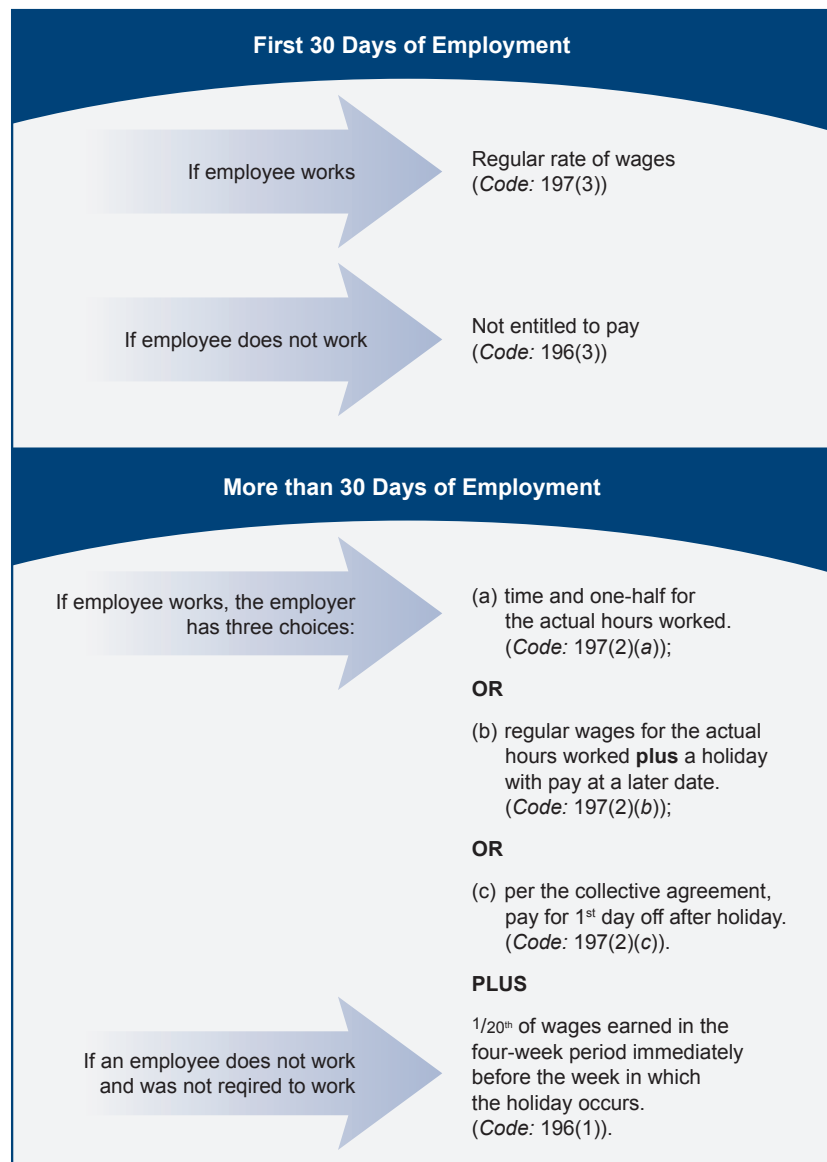
- a) If an employer schedules an employee to work on a general holiday and the employee does not report to work on that day, the employer is not required to pay that employee for the general holiday. It should be noted, however, that an employee simply stating a preference ahead of time as to days off, does not mean that an employee would refuse a shift if one was scheduled.
- b) Some collective agreements or company policies allow employees to make themselves unavailable for work. The collective agreement or company policy must establish a practice that allows an employee to remove their name from a future work schedule for a specific time period; which in effect does not allow the employer to schedule the employee for work during that time period. If an employee is unavailable to work on a general holiday, the employer does not have to pay the employee for the general holiday.

5. What are the special provisions for general holiday in a continuous operation when an employee is required to work on the general holiday?

In such circumstances, the *Code* provides different options to the employer. The options are:

- the employee may be paid a regular rate of pay for the general holiday and, for the actual hours worked on that day, no less than time and one-half the regular rate of pay;
- the employee may be paid for the actual hours worked on the general holiday, plus a holiday with pay at some other time, which is convenient to both the employee and the employer; or
- the employee may be paid for the first day on which the employee does not work after that general holiday, where a collective agreement so provides.

Division V General Holidays Payment Options for Continuous Operations



* An employee who does not work on the holiday because he/she has made themselves unavailable to work is not entitled to pay for the holiday (subsection 196(4)). See question 4 for more information.

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

Information about these provisions may be obtained from the Labour Program by calling toll free at 1-800-641-4049, by visiting the website at www.labour.gc.ca or by submitting your questions or comments through the Labour Program [Contact Us form](#).

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