

Labour Program: fair, safe and productive workplaces

Information on **LABOUR STANDARDS**

9

Hours of Work

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

Division I – Hours of Work of Part III of the *Canada Labour Code* sets out the requirements an employer must meet with respect to hours of work and overtime.

The following questions and answers will be of interest to employers and employees under federal jurisdiction. Pamphlet 1 of this series describes the types of businesses covered by the Code. It is available from any Labour Program office and on the labour.gc.ca website.

1 Do the hours of work and overtime provisions apply to all employees?

No. Managers, superintendents, and employees who carry out management functions are exempted. Architects, dentists, engineers, lawyers, and medical doctors are also excluded. Special hours of work regulations in several industries exempt or set different standards for certain employees. The major examples are the following:

Industry	Class
Trucking	Drivers (refer to pamphlet 9A for details)
East Coast and Great Lakes shipping	Employees on ships
West Coast shipping	Employees on ships
Railways	Running trades employees
Broadcasting	Commission salespersons

2

What are the standard hours of work under the *Canada Labour Code*?

Eight hours in a day and 40 hours in a week except in the case of averaging (see question 8), special regulations (see question 1), or modified work schedules (see question 13). Hours worked in excess of standard hours must be paid for at the overtime rate. In the Code and Regulations, standard hours are also referred to as “working hours”.

Note: 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.

3

What is considered overtime?

Overtime means any hours worked in excess of the standard hours specified in the Code or Regulations, in most cases 8 in a day or 40 in a week. If the total of daily overtime hours differs from the total of weekly overtime hours, the greater of the two amounts is used in calculating overtime payments.

4

What is the overtime rate?

A minimum of one and one-half times the regular rate of wages.

5

When are employees entitled to overtime pay in a week in which a general holiday occurs?

The weekly standard hours (normally 40) must be reduced by 8 hours for each holiday. Therefore, in a week in which a holiday occurs, overtime would apply after 32 hours. Any time worked on a holiday is not counted in calculating overtime entitlement. (See pamphlet 4 on the pay requirements for hours worked on a holiday.)

6

What is the maximum number of hours that employees may work in a week?

The maximum time an employee may work each week is normally 48 hours.

Can the maximum hours of work be exceeded?

Yes, in the following situations:

a) Exceptional circumstances

If the employer can satisfy the Minister of Labour that exceptional circumstances make extra hours necessary, a permit specifying the number of hours employees may work over a limited period may be granted.

The permit may also exempt the employer from the “day of rest” requirement referred to in question 12. Applications must normally be made 60 days in advance, and the employer must satisfy the Minister that the application for the permit is being posted for employees to see for at least 30 days prior to its proposed effective date. Obtaining a permit does not exempt the employer from the obligation to pay overtime.

The employer must report in writing to the Minister within 15 days after the permit expires or at another date specified in the permit. The report must show the number of employees who worked more than 48 hours in a week and the number of additional hours in a week each employee worked.

Federally regulated employers may apply for a ministerial permit for hours in excess of the maximum number of hours of work at the following link:

<https://catalogue.servicecanada.gc.ca/content/EForms/en/Profile.html?Group=HRSDC/LAB/LS>.

b) Emergency work

In the case of an emergency, such as an accident or essential work to be done to equipment, the maximum hours may be exceeded without a permit. A written report to the regional director and to a trade union representing affected employees, if applicable, must be made within 15 days of the end of the month in which the emergency hours were worked. The report must state the nature of the emergency, the number of employees working in excess of the maximum hours, and the number of additional hours each employee worked.

c) Averaging

Information on when an employer may average the working hours is found in questions 8 to 12.

Can hours of work be averaged?

Yes. If the nature of the work in an establishment necessitates irregular hours due to seasonal or other factors, resulting in employees having no regularly scheduled hours or having regularly scheduled hours that vary from time to time, then the hours can be averaged. In such cases, the employer may average the working hours of employees over a selected period of two or more weeks.

Please refer to the *Canada Labour Standards Regulations* for specific information on implementing an averaging plan. Also, because of the complexities involved in the use of averaging, it is recommended that more detailed information be obtained from a Labour Program of fice.

9 When does the overtime rate apply in an averaging situation?

Overtime applies after exceeding the standard hours in an averaging period. Standard hours are determined by multiplying the number of weeks in the averaging period by 40.

10 What happens if employment is terminated during an averaging period?

- a) If termination is at the employee's choice, the employee is entitled only to be paid at the regular rate for hours worked during the completed part of the averaging period.
- b) If termination is by the employer, the employee is entitled to overtime pay for all hours worked in excess of 40 times the number of weeks in the completed part of the averaging period.

11 How do general holidays and other leave affect the maximum and standard hours in an averaging period?

The maximum and standard hours are reduced as follows:

For any holiday with pay	by 8 hours
For any day of annual vacation	by 8 hours
For any day of bereavement leave with pay	by 8 hours
For any day that is normally a working day for a class of employee when he or she is not entitled to the regular remuneration or salary (for example when an employee is off sick)	by 8 hours
For every such week	by 40 hours
If there are no fixed working days, for every such period of seven consecutive days	by 40 hours

12 What is the normal day of rest?

The Code provides for at least one full day of rest a week – Sunday where practicable. During an averaging period, hours may be scheduled and worked without regard to the normal requirement for weekly rest.

Modified Work Schedules

13 What are modified work schedules?

The term “modified work schedules” includes such schemes as compressed work weeks and flexible hours of work. For example, employees scheduled to work 10 hours per day, four days a week can be said to be on a modified work schedule.

14 What is required in order to adopt a modified work schedule?

An employer may establish a modified work schedule or modify or cancel an existing schedule under which the hours of work may exceed the standard hours if certain conditions are met. Where there is a trade union involved, there must be written agreement between the employer and the union to adopt a new work schedule or to cancel or modify an existing one.

Where the employees are not subject to a collective agreement, the work schedule or its modification or cancellation must be approved by at least 70 per cent of the affected employees.

The employer is required to post a notice of the new schedule, or its modification or cancellation for at least 30 days before it comes into effect.

15 Are there any restrictions?

Yes. In any modified work schedule, the standard hours of work for a period of two or more weeks cannot exceed an average of 40 hours a week, and the maximum hours for the same period cannot exceed an average of 48 hours a week.

16 Is overtime paid after eight hours in a day?

Not necessarily. Overtime must be paid after the approved daily or weekly hours. For example, when the schedule is for a compressed work week consisting of four days of 10 hours each, overtime is payable after 10 hours in a day and 40 hours in a week. Overtime must also be paid after an average of 40 hours in a week where the schedule consists of two or more weeks.

This document is provided for information purposes 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.

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 http://www.esdc.gc.ca/en/jobs/workplace/employment_standards/labour/index.page or by submitting your questions or comments through the Labour Program [Contact Us](#) form.

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