



Province of Alberta

EMPLOYMENT STANDARDS CODE

**EMPLOYMENT STANDARDS  
REGULATION**

**Alberta Regulation 14/1997**

With amendments up to and including Alberta Regulation 145/2016

Office Consolidation

© Published by Alberta Queen's Printer

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(Consolidated up to 145/2016)

**ALBERTA REGULATION 14/97**

**Employment Standards Code**

**EMPLOYMENT STANDARDS REGULATION**

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#### **Definition**

1 In this Regulation, "Act" means the *Employment Standards Code*.

## **Part 1 Exemptions**

### **Farm or ranch employee exemptions**

1.1 An operation that produces cultured fish within the meaning of the *Fisheries (Alberta) Act* is specified as a primary agricultural operation for the purpose of section 2(3)(i) of the Act.

AR 114/2000 s2

**Hours of work, overtime and records**

**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 salesman registered under the *Securities Act*,
  - (ix) an individual holding an insurance agent's certificate of authority under section 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 *Fair Trading 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 student within the meaning of the *Regulated Accounting Profession 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 College of Chiropractor of Alberta, 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 podiatrist as defined in the *Podiatry Act*,
- (k) a person who is registered as a regulated member of, and has a practice permit issued by, 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 *Agrologists 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

### **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 salesman registered under the *Securities Act*,
- (h) an individual holding an insurance agent's certificate of authority under section 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 *Fair Trading 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

#### **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 salesman registered under the *Securities Act*,
- (d) an individual holding an insurance agent's certificate of authority under section 470 of the *Insurance Act* who is compensated for activities performed under that certificate entirely by way of commission income, or
- (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

#### **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(1) 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 *School 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

### **Domestic employment**

**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 salesman registered under the *Securities Act*,
- (e) an individual holding an insurance agent’s certificate of authority under section 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 *School Act*, or
  - (iii) in a work experience program approved by the Minister of Enterprise and Advanced Education or the Minister of Human Services,
- (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

#### **Basic minimum wage**

**9** Employers must pay wages to employees at at least the following rates:

- (a) except where clause (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;
- (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 *Fair Trading 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  
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

#### 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), 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 adolescent employed on a day when the adolescent 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

**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

**Other deductions**

**13** No employer may reduce the wage of an employee below the minimum wage to which the employee is entitled by making a deduction from or receiving payment out of wages 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.



**Deductions above or below minimum wage**

**13.1** Without limiting section 13, any deduction or receipt of payment out of wages for a purpose referred to in section 13 may not exceed the cost to the employer for the article or service in question, whether the reduction results in a wage that is below minimum wage or not.

AR 114/2000 s13

**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 290/89), and
- (b) 8 consecutive hours of rest.

**(2)** An employee who is subject to the *Drivers' Hours of Service Regulation* (AR 290/89) is exempt from section 16 of the Act.

AR 14/97 s43;114/2000

## **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** For persons to whom this Division applies, this Division applies in substitution for sections 16, 17, 20 and 21 of the Act.

AR 114/2012 s2

### **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

## **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**

### **Adolescents and Young Persons**

**Definitions**

**51** In this Part,

- (a) “adolescent” means an individual 12 years old or older but under 15 years old;
- (b) “young person” means an individual 15 years old or older but under 18 years old.

**Adolescent’s employment**

**52(1)** No employer may employ an adolescent outside of normal school hours unless

- (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.

#### **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 is authorized to impose conditions on the employment of an adolescent or young person whenever the director considers it necessary to do so.

**(2)** The employer, adolescent or young person who is subject to the conditions must comply with them.

## **Part 5.1 Compassionate Leave**

**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(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(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.

AR 232/2013 s2

## **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 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 of the Act an officer or the Director revokes, amends or varies 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.

#### **Fees on appeal**

**61** If an order of an officer or the Director under section 87 or 89 of the Act is appealed to an umpire,

- (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 umpire 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 umpire 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 umpire's order.

#### **Umpire's costs**

**62(1)** Subject to subsection (2), an umpire who 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 umpire 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 umpire's order for the payment of costs is part of an order of the umpire for the purposes of the Act.

### **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 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.

**Expiration**

**66** For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on June 30, 2018.

AR 14/97 s66;249/97;135/99;114/2000;354/2003;78/2011;93/2012

**Schedule**

<b>Column 1 Reciprocating Jurisdiction</b>	<b>Column 2 Designated Authority</b>
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 Labrador	Director of Labour Standards for Newfoundland and Labrador

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



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