

Labour Standards – Employment Standards

Learning Objectives:

Upon completion of this chapter, you should be able to apply the employment standards in each jurisdiction that regulate employees’:

1. Pay statements
2. Minimum age
3. Minimum wage
4. Hours of work – maximum and minimum hours of work, rest periods, averaging hours and compressed work weeks
5. Overtime – daily and weekly maximum hours, overtime rates and overtime pay for statutory holidays
6. Statutory and legislated holidays – observance, pay requirements, and employee eligibility
7. Vacation – vacation time, vacation pay, vacationable earnings
8. Leaves – bereavement, citizenship, compassionate care, domestic violence, family responsibility, jury duty, maternity, organ donor, parental, paternal, adoption, child care, reservist, sick, voting and wedding
9. Terminations – individual, group, severance pay, temporary layoffs and timing of payments on termination

Communication Objectives:

Upon completion of this chapter, you should be able to:

1. Explain employment standards legislation to employers and employees
2. Draft organizational policy recommendations for single- and multi-jurisdictional employers

Chapter Contents

Introduction.....	5-4
Pay Statement.....	5-7
Content Review	5-13
Review Questions.....	5-14
New Hires	5-15
Minimum Age	5-15
Minimum Wage	5-17
Content Review	5-19
Review Questions.....	5-20
Hours of Work	5-21
Hours of Work: Minimum and Maximum Hours of Work	5-21
Hours of Work: Averaging Hours	5-24
Hours of Work: Compressed Work Week	5-24
Hours of Work: Rest Periods	5-27
Content Review	5-31
Review Questions.....	5-32
Overtime	5-34
Overtime: Banking of Overtime Hours	5-37
Overtime: Daily and Weekly Maximum Hours	5-38
Overtime: More Than One Overtime Rate	5-40
Content Review	5-41
Review Questions.....	5-42
Time Off From Work	5-43
Statutory Holidays	5-43
Overtime Pay for Weeks with Statutory Holidays	5-52
Legislated Holidays.....	5-60
Civic holidays	5-61
Vacation.....	5-62
Vacation Time	5-62
Vacationable Earnings	5-63
Vacation Pay	5-64
Content Review	5-66
Review Questions.....	5-67
Employment Leaves.....	5-68
Leaves: Bereavement.....	5-69
Leaves: Citizenship	5-70
Leaves: Caregiver.....	5-70
Leaves: Compassionate Care	5-72
Leaves: Crime-related child disappearance or death.....	5-73
Leaves: Domestic or Sexual Violence.....	5-75
Leaves: Family Responsibility	5-76
Leaves: Jury Duty.....	5-77
Leaves: Maternity (Pregnancy), Parental, Paternal, Adoption and Child Care	5-77
Leaves: Organ Donor	5-81

Leaves: Reservist	5-82
Leaves: Sick	5-83
Leaves: Voting	5-84
Leaves: Wedding	5-85
Other Types of Leaves	5-85
Content Review	5-86
Review Questions	5-87
Terminations	5-88
Terminations: Notice of Individual Terminations	5-88
Terminations: Notice of Group Terminations	5-91
Terminations: Severance Pay	5-94
Terminations: Temporary Layoffs.....	5-95
Timing of Payments upon Termination	5-99
Content Review	5-101
Review Questions	5-102
Chapter Review Questions and Answers	5-104

Introduction

Employment/labour standards are legislated rules about working conditions, for example:

- the hours that you can expect an employee to work
- the minimum amount that you must pay an employee per hour of work
- how much vacation time you must give an employee and how much they must be paid for that time
- which days are considered statutory holidays and which employees are entitled to the day off with pay
- what an employer is required to pay an employee when employment is terminated

The federal government, provinces and territories have all passed legislation outlining the minimum employment/labour standards in their jurisdictions. The purpose of these standards is to encourage fairness, responsibility and cooperation between employers and employees. Payroll practitioners need to be familiar with the employment/labour standards that apply to their employees to help ensure fair treatment for the employees, and compliance for the employer.

The information contained in this chapter is an overview of the employment/labour standards in all jurisdictions and is up-to-date as of the time of writing. The specific jurisdictional legislation should be consulted in real situations as the legislation may be amended from time to time to reflect changes in working conditions and to respond to the special needs of different workplaces. This chapter provides a condensed version of the legislation.

Note:

Due to the amount of legislative information provided in this chapter, questions on the mid-term and final exam will only be on basic concepts related to Chapter 5. For exam purposes, students will not be required to know the exact details of employment standards for each province and territory (for example, students will not be required to know how many hours of call-in pay an employee in Newfoundland and Labrador will receive). However, students will be asked about the details in the review questions, exercises and quizzes relating to this chapter.

Federal versus Provincial/Territorial Legislation

Every employer and employee in Canada is covered under either the federal *Canada Labour Code, Part III* (CLC) labour standards legislation or provincial/territorial employment/labour standards legislation. Approximately 6% of the Canadian workforce is covered by the CLC, while the remaining 94% is governed by provincial/territorial labour laws.

The CLC applies to employees working in certain industries and occupations that freely cross provincial boundaries or those under the legislative authority of the federal government. Organizations that perform a function or duty on behalf of the government of Canada are also governed by the CLC.

If the organization falls under federal jurisdiction, it does not matter where the employee works; the standards set out in the federal *Canada Labour Code, Part III* apply. The *Canada Labour Code, Part III* applies to:

- industries and undertakings of an inter-provincial/territorial, national or international nature, for example, transportation, communications, radio and television broadcasting, banking, uranium mining, grain elevators, and flour and seed operations
- organizations whose operations have been declared for the general advantage of Canada or two or more provinces, and Crown corporations such as the Canadian Broadcasting Corporation

Employees who are not governed under the CLC are subject to the employment/labour standards legislation of the province in which they work. For instance, an employee who lives in Hull, Québec and works in Kanata, Ontario is subject to Ontario employment standards. In another case, an employee who normally works in Toronto, Ontario might travel to Montreal, Québec for a few days of work. In this situation, Québec employment/labour standards do not apply, unless the employee primarily (more than 50 %) performs work in Québec during the pay period in question.

Union Agreements and Organizational Policies

When employees are working under union agreements, the terms of the agreement take precedence over the employment/labour standards as long as the terms and conditions in the agreement at least meet the minimum standards. Neither employees nor employers can “contract out” of any legislated employment/labour standard. This means employers must provide, and employees must receive, at least the minimum standards set out in the legislation in their jurisdiction. Most union agreements, however, provide better standards than the provincial minimums. Some organizational policies also provide better than the minimum employment/labour standards, in which case the policy or collective agreement prevails.

Note:

Some jurisdictions may allow a collective agreement to take precedence without meeting a specific minimum standard if the agreement as a whole provides better standards. It is recommended that payroll professionals who practice in a unionized environment familiarize themselves with the employment/labour standards legislation relating to collective agreements in the jurisdictions in which the employees work.

Chapter 5

Labour Standards – Employment Standards

Exemptions

Not all employees or types of employment are covered under employment/labour standards acts and regulations. For example, many jurisdictions exempt supervisors, managers and professional employees, such as accountants, doctors and lawyers from certain sections of the act; for example, hours of work and overtime.

Example:

A sample of occupations in Ontario that are exempt from sections of the *Employment Standards Act* is illustrated in the following chart:

C – COVERED NC – NOT COVERED	MINIMUM WAGE	HOURS OF WORK	DAILY REST PERIODS	OVERTIME	PAID PUBLIC HOLIDAYS	VACATION WITH PAY	TERMINATION/ NOTICE PAY
Firefighters	C	NC	NC	NC	NC	C	C
Information Technology Professionals	C	NC	NC	NC	C	C	C
Managerial and Supervisory Employees	C	NC	NC	NC	C	C	C
Professionals	NC	NC	NC	NC	NC	NC	C

In Alberta, the *Employment Standards Code* does not apply to employees of municipal police services (except for the maternity, parental or reservist provisions), or to employees whose jobs are covered by laws that apply to specific occupations and professions, for example, lawyers and dentists.

Each employer should refer to the act or regulations of their jurisdiction for complete details, since the list of exemptions varies by jurisdiction, and in some cases is quite extensive.

Pay Statement

Every employee must receive a paper or electronic statement with their pay that details information about the payment. The common information that must appear on the pay statement in most jurisdictions is:

- employee name
- pay period dates
- rate of pay and hours of work at each rate
- gross earnings
- itemized deductions
- net pay

The complete requirements by jurisdiction are provided in the chart that follows. In some jurisdictions, the note refers to an administrative position. An administrative position is used by government departments to further detail how to apply legislative policy and regulation. For example, an act may not include details about electronic pay statements, but employment standards officers may have an interpretation of how they would instruct an employer to proceed in such cases.

Illustration: Pay Statement Requirements by Jurisdiction

JURISDICTION	PAY STATEMENT REQUIREMENTS	
Federal (<i>Canada Labour Code, Part III</i>)	1. Pay period dates 2. Total hours worked 3. Rate	4. Deductions 5. Net pay Note: Any or all of the above requirements may be extended by Ministerial order. Employers are allowed to provide electronic pay statements as long as access and confidentiality exist, that copies may be printed, and that access remains for 3 years from the first use (Legislation: The Electronic Alternatives Regulations for the Purposes of subsection 254(1) of the Canada Labour Code).
Alberta	1. Pay period dates 2. Total regular hours worked 3. Total overtime hours worked 4. Wage rate 5. Overtime rate 6. Regular wages 7. Overtime wages	8. a) Overtime hours banked b) Banked overtime hours taken 9. Vacation pay 10. General holiday pay 11. Earnings paid that show each component separately 12. Purpose and details of deductions amounts Note: Employers are allowed to provide electronic pay statements as long as access and confidentiality exist and copies may be printed. (Legislation: Alberta Employment Standards Regulation Part 7.2 section 63.41)

Chapter 5

Labour Standards – Employment Standards

JURISDICTION	PAY STATEMENT REQUIREMENTS	
British Columbia	<ol style="list-style-type: none"> 1. Employer's name and address 2. Total hours worked 3. Wage rate, regardless of method of payment 4. Overtime hours and rate 5. If the employee is paid other than hourly or by salary, how the wages were calculated 	<ol style="list-style-type: none"> 6. Any money, allowance or other payment the employee is entitled to such as bonus, vacation and statutory holiday pay 7. Purpose and details of deductions amounts 8. Gross and net wages 9. Wages taken from time bank and the remaining balance
	<p>Note: Employers are allowed to provide electronic pay statements as long as access and confidentiality exist. Employees must be able to print a paper copy of the wage statement (Legislation: Section 27(2) of the <i>Employment Standards Act</i>).</p>	
Manitoba	<ol style="list-style-type: none"> 1. Total hours worked 2. Rate and changes in rate 3. Overtime hours 4. Regular wages 5. Gross wages 	<ol style="list-style-type: none"> 6. Purpose and details of deductions amounts 7. Changes in deduction amounts 8. Net pay
	<p>Note: Employers are allowed to provide electronic pay statements as long as access and confidentiality exist and copies may be printed (administrative position).</p>	
New Brunswick	<ol style="list-style-type: none"> 1. Pay period dates 2. Gross wages 	<ol style="list-style-type: none"> 3. Purpose and details of deductions amounts 4. Net pay
	<p>Note: Employers are allowed to provide electronic pay statements if the employer provides the employee with confidential access to the electronic statement and also provides the employee with a means of making a paper copy of the electronic statement. (Legislation: Section 36(1.1) of the <i>Employment Standards Act</i>).</p>	
Newfoundland and Labrador	<ol style="list-style-type: none"> 1. Gross wages 2. Pay period dates 3. Rate(s) 4. Total hours worked at each rate 	<ol style="list-style-type: none"> 5. Deductions and details of the purpose 6. Net pay
	<p>Note: Employers are allowed to provide electronic pay statements as long as access and confidentiality exist and copies may be printed (administrative position).</p>	
Northwest Territories	<ol style="list-style-type: none"> 1. Pay period dates 2. Total hours worked 3. Statutory holiday hours 4. Rate 	<ol style="list-style-type: none"> 5. Purpose and details of deductions amounts 6. Net pay 7. Details of bonus/living allowance upon employee's request
	<p>Note: Employers are allowed to provide electronic pay statements as long as access and confidentiality exist and copies may be printed. If employees object to electronic statements, employers may be required to produce printed copies (Legislation: subsection 19(3) of <i>Employment Standards Act</i>).</p>	

JURISDICTION	PAY STATEMENT REQUIREMENTS	
Nova Scotia	1. Pay period dates 2. Total hours worked 3. Rate Note: Employers are allowed to provide electronic pay statements as long as access and confidentiality exist and copies may be printed (Subsection <i>Employment Standards Act</i> (S.N.B. 1982, c. E-7.2)).	
Nunavut	1. Pay period dates 2. Total hours 3. Rate Note: Employers are allowed to provide electronic pay statements as long as access and confidentiality exist and copies may be printed (administrative position).	
Ontario	1. Pay period dates 2. Rate 3. Other payment or living allowances such as room and board 4. Gross wages 5. Purpose and details of deductions amounts 6. Net pay	
	A record containing the following information should be kept for five years. 1) vacation time earned but not taken before the vacation year 2) the vacation time earned during the current vacation year 3) the amount of vacation time taken during the current vacation year 4) the amount of vacation time earned since employment date and not taken to date 5) the amount of vacation pay paid during the current vacation year 6) the amount of wages on which the vacation pay paid under #5 was calculated, and the period the wages were earned An employee may request, in writing, a copy of the above statement once per year. Note: Employers are allowed to provide electronic pay statements as long as access and confidentiality exist and copies may be printed (Legislation: subsection 12(3) and administrative position regarding confidentiality).	
Prince Edward Island	1. Name of employer and address 2. Name of employee 3. Pay period dates 4. Rate 5. Gross wages	6. Purpose and details of deductions amounts 7. Any bonus, living allowance or other payments 8. Total hours worked 9. Vacation pay paid 10. Gross amount of any wages in lieu of notice of termination 11. Net pay

Chapter 5

Labour Standards – Employment Standards

JURISDICTION	PAY STATEMENT REQUIREMENTS	
	Note: Employers are allowed to provide electronic pay statements as long as access and confidentiality exist and the employer can produce printed copies (Legislation: subsection 5.3(2) of the <i>Employment Standards Act</i>).	
Québec	1. Name of employer 2. Name of employee 3. Employee's occupation 4. Date of payment and pay period of payment 5. Hours paid at the prevailing rate 6. Overtime hours and rate or overtime hours replaced by leave with the applicable premium	7. Bonuses, indemnities (such as vacation or statutory holiday pay), allowances or commissions 8. Wage rate 9. Gross wages 10. Nature and amount of deductions 11. Net pay 12. Declared gratuities 13. Allocated gratuities
	Note: Employers are allowed to provide electronic pay statements as long as access and confidentiality exist and that copies may be printed. Employers must inform employees each payday that electronic statements are available. However, the employee must be given a paper statement if requested (administrative position)	
Saskatchewan	1. Name of employee and employer 2. Pay period dates 3. Total hours worked 4. Rate 5. Gross earnings	6. Purpose and details of deductions amounts 7. Public and annual holiday, vacation pay and wages in lieu of notice as required 8. Payment method 9. Net pay Note: The pay statement must be easily separated from the cheque or bank deposit slip. An employer may provide electronic pay statements as long as access and confidentiality exist and copies may be printed (Legislation and administrative position regarding confidentiality).
Yukon	1. Pay period dates 2. Total hours worked 3. Rate	4. Purpose and details of deductions amounts 5. Net pay Note: Employers are allowed to provide electronic pay statements as long as access and confidentiality exist and copies may be printed (administrative position).

Timing of Payments

All jurisdictions, except for Ontario and federal (*Canada Labour Code, Part III*), require that employees receive their pay according to a specified frequency and that the pay date falls within a specified number of days, or within a specified interval, after the end of the pay period.

When a pay date falls on a floating statutory holiday such as Christmas Day, New Year's Day or Canada Day, Québec is the only province that legislates that the payment must be paid the day before the holiday. In all other jurisdictions, the payment must be paid within, not after, the legislated time frame as specified in the chart that follows. It should be noted that Manitoba and Nova Scotia use working days as opposed to calendar days in their timing of payments.

It is a general practice across Canada that most employers adopt the Québec rule and pay the payment the day before the holiday, although this practice is not enforced by legislation.

Separate rules dealing with payments on termination of employment will be discussed later in this chapter.

Illustration: Timing of Payments by Jurisdiction

JURISDICTION	PAY FREQUENCY	TIMING OF REGULAR PAYMENTS
Federal (<i>Canada Labour Code, Part III</i>)	No set frequency	On an established day and within 30 days of entitlement
Alberta	At least monthly	Within ten consecutive days of the end of each pay period, at least once per month
British Columbia	At least semi-monthly	Within eight days from the end of the pay period. A pay period may not exceed 16 days
Manitoba	At least semi-monthly	Within ten working days of the end of the pay period
New Brunswick	At least every 16 days	Within seven calendar days of the end of each pay period
Newfoundland and Labrador	At least semi-monthly	Within seven days of the end of each pay period
Northwest Territories/ Nunavut	At least monthly	Within ten days of the end of a pay period
Nova Scotia	At least semi-monthly	Within five working days of the end of each pay period
Ontario	No specific legislation within the Act	On regularly established pay day

Chapter 5

Labour Standards – Employment Standards

JURISDICTION	PAY FREQUENCY	TIMING OF REGULAR PAYMENTS
Prince Edward Island	At least every 16 days	Must include all wages earned up to and including a day that is not more than five working days before the actual pay day
Québec	At least semi-monthly	At regular intervals of not more than 16 days, or once a month for senior management positions
Saskatchewan	At least monthly (if the employee is on a monthly salary), semi-monthly or every 14 days	Within six days of the end of each pay period.
Yukon	At least semi-monthly	Within 10 days of the end of the pay period

Content Review

- Employment/labour standards are legislated rules about working conditions.
- Every employer and employee in Canada is covered under either the federal *Canada Labour Code, Part III* – (CLC) labour standards legislation or provincial/territorial employment/labour standards legislation.
- If the organization falls under federal jurisdiction, it does not matter where the employee works; the standards set out in the federal *Canada Labour Code, Part III* apply.
- Employees who are not governed under the CLC are subject to the employment/labour standards legislation of the province in which they work.
- When employees are working under union agreements, the terms of the agreement take precedence over the employment/labour standards as long as the terms and conditions in the contract at least meet the minimum standards.
- Every employee must receive a paper or electronic statement with their pay that details information about the payment.
- The common information that must appear on the pay statement in most jurisdictions is:
 - employee name
 - pay period dates
 - rate of pay and hours of work at each rate
 - gross earnings
 - itemized deductions
 - net pay
- All jurisdictions, except for Ontario and federal (*Canada Labour Code, Part III*), require that employees receive their pay according to a specified frequency and that the pay date falls within a specified number of days, or within a specified interval, after the end of the pay period.

Review Questions

1. True or False. An employee's province/territory of employment always determines the employment/labour standards under which they are covered.
2. Sylvester works in Manitoba. Which of the following items must appear on the pay statement?
 - a. Declared gratuities
 - b. Public and annual holiday as required
 - c. Overtime hours
 - d. Wages taken from time bank and the remaining balance

Using the same items, if Sylvester worked in Saskatchewan, which of the items must appear on the pay statement?

3. True or False. Employers can choose when they will pay their employees, based on the organization's cash situation.
4. True or False. Employment/labour standards always take precedence over union collective agreements.
5. True or False. Organizational policies that exceed minimum employment/labour standards take precedence over the standards.
6. True or False. Electronic pay statements can be provided in every jurisdiction.

New Hires

Employers must comply with many pieces of legislation when hiring new employees. For example, the minimum age of an employee is established by employment/labour standards, and also, in certain jurisdictions, by occupational health and safety, youth employment and construction safety legislation. Employment/labour standards set the minimum hourly rate that employers must pay their employees. The minimum age and hourly rate vary among jurisdictions.

There are also exemptions in the areas of minimum age and minimum wage in certain jurisdictions; employers must reference the legislation for compliance.

Employers must also comply with hours of work legislation relating to:

- daily and weekly maximum hours
- minimum hours (call-in pay)
- the rates they must pay employees who work hours over the maximums (overtime)
- the rates they must pay employees who work on a designated statutory holiday
- averaging hours of work
- compressed work weeks

Minimum Age

As previously mentioned, in certain jurisdictions the minimum age at which an individual can be employed is established not only by employment/labour standards but also by occupational health and safety, youth employment and construction safety legislation. The legislation provides age restrictions based on the nature of the employment (for example, construction, agricultural or entertainment), the time of day or night the hours are worked, and how the work hours relate to the employee's school responsibilities.

The following table provides an overview of the minimum age requirements in each jurisdiction and the legislation that applies. Note that the minimum ages listed in this table provide only general guidelines. Many jurisdictions allow the employment of individuals under the minimum age quoted provided certain conditions are met. Some jurisdictions set a higher minimum age than quoted for certain industries, particularly where safety is an issue.

Chapter 5

Labour Standards – Employment Standards

Illustration: Legislated Minimum Age by Jurisdiction

JURISDICTION	MINIMUM AGE	LEGISLATION
Federal (<i>Canada Labour Code, Part III</i>)	17	<i>Canada Labour Code and Regulations</i>
Alberta	15	<i>Employment Standards Code; Adolescents and Young Persons Employment Regulations; Child Welfare Act; School Act</i>
British Columbia	15	<i>Employment Standards Act and Regulations</i>
Manitoba	16	<i>Employment Standards Code</i>
New Brunswick	16	<i>Employment Standards Act; Occupational Health and Safety Act</i>
Newfoundland and Labrador	16	<i>Labour Standards Act</i>
Northwest Territories	16	<i>Employment Standards Act</i>
Nova Scotia	14	<i>Labour Standards Code; Construction Safety Act</i>
Nunavut	17	<i>Labour Standards Act</i>
Ontario	14-18	<i>Occupational Health and Safety Act</i>
Prince Edward Island	16	<i>Youth Employment Act</i>
Québec	18	<i>The Construction Safety Code. Act Respecting Labour Standards</i> defines ‘adult’ at this age
Saskatchewan	16	<i>The Minimum Wage Regulations – General Minimum Age</i>
	14	<i>The Minimum Wage Regulations – ‘Absolute’ Minimum Age</i> provided the 14 and 15-year-old workers meet certain requirements
	16	<i>The Education Act</i>
	16 – 18	<i>The Saskatchewan Employment Act. The Occupational Health & Safety Act</i>
Yukon	17	<i>Employment Standards Act</i>

Example:

National Distributors (ND) have employees in every province/territory and is not federally regulated. ND has a summer student hiring program where they hire the children of their employees who are at least 16 years old to work in their offices. Because of employment/labour standards legislation in Nunavut and the Yukon, they can only hire students who are 17 or older in those jurisdictions.

Minimum Wage

The minimum wage is the lowest hourly rate that an employer can pay an employee. It varies by jurisdiction and exemptions may apply. This table illustrates the legislated minimum wage (in effect at the time of writing) as well as the classifications for different minimum rates, where they exist. Where future minimum wages have already been legislated, the rates are shown.

Illustration: Legislated Minimum Wage by Rate and Jurisdiction

JURISDICTION	RATE/HOUR	EFFECTIVE DATE
Federal (<i>Canada Labour Code, Part III</i>)	\$15.00 ¹	December 29, 2021
Alberta <ul style="list-style-type: none"> General Students 	\$15.00 \$13.00	October 1, 2019 June 26, 2019
British Columbia <ul style="list-style-type: none"> General Liquor servers 	\$15.20 \$15.20	June 1, 2021 June 1, 2021
Manitoba <ul style="list-style-type: none"> Security Guard 	\$11.95 \$12.50	October 1, 2021 October 1, 2017
New Brunswick	\$11.75	April 1, 2021
Newfoundland and Labrador	\$12.50	April 1, 2021
Northwest Territories	\$15.20	September 1, 2021
Nova Scotia	\$12.95	April 1, 2021
Nunavut	\$16.00	April 1, 2020
Ontario <ul style="list-style-type: none"> General Students under 18 working 28 hours/week or less 	\$15.00 \$14.10	January 1, 2022 January 1, 2022

Chapter 5

Labour Standards – Employment Standards

JURISDICTION	RATE/HOUR	EFFECTIVE DATE
Prince Edward Island	\$13.00	April 1, 2021
Québec		
• General	\$13.50	May 1, 2021
• Employees receiving tips	\$10.80	May 1, 2021
Saskatchewan	\$11.81	October 1, 2021
Yukon	\$15.20	August 1, 2021

¹ If the minimum wage rate in the province or territory of employment is higher than the federal minimum wage, that higher rate will apply.

Example:

The Canadian Broadcasting Corporation (CBC) hires summer students to work as journalism interns. The CBC is governed by the *Canada Labour Code, Part III*; however, if the minimum wage under the provincial/territorial standards where the employees work is higher, that rate will apply.

Content Review

- In certain jurisdictions, the minimum age for an employee is established by employment/labour standards, occupational health and safety, youth employment and construction safety legislation.
- The minimum wage is the lowest hourly rate that an employer can pay an employee.

7. In addition to employment/labour standards, what other pieces of legislation might be used to establish the minimum age for an employee?

8. True or False. The minimum wage rate is the same in each jurisdiction.

Hours of Work

Hours of work legislation covers:

- Minimum hours (call-in pay)
- Maximum hours
- Averaging hours
- Compressed work week
- Overtime
- Rest periods

Hours of Work: Minimum and Maximum Hours of Work

The hours of work legislation sets the maximum number of hours, per day or per week, an employee is allowed to work, regardless of overtime pay provisions.

All jurisdictions, except New Brunswick, have legislation in this area.

Minimum Hours (Call-in Pay)

Legislation on the minimum hours of work, also known as call-in pay, sets the minimum number of hours of work an employee must be paid for if called into work by the employer. All jurisdictions across Canada have call-in pay legislation that covers employees called in to work outside of their regularly scheduled shift. Most jurisdictions also require that employees be paid for a minimum number of hours when they show up for a regularly scheduled shift and are sent home before starting work, or before the end of the shift.

Minimum hours rules generally do not apply if the employee is unable or unfit to work. For instance, if an employee requests to leave work early when feeling ill.

Maximum Hours

Employers who require employees to work beyond the legislated maximum hours must get written permission, where required, from the legislative authority.

Illustration: Legislated Minimum and Maximum Hours of Work

JURISDICTION	MINIMUM HOURS TO BE PAID IF CALLED INTO WORK	MAXIMUM HOURS
Federal (<i>Canada Labour Code, Part III</i>)	At least three hours at the employee's regular rate, whether or not work is available	48 hours per week; in exceptional circumstances, an employer may apply to the Minister of Labour for a permit authorizing employees to work more than 48 hours per week.
Alberta	No less than three hours at minimum wage	12 hours per day; except in emergency situations, an employer must apply to the Director of Employment Standards for permission to allow employees to work more than 12 hours per day.
British Columbia	For at least: <ul style="list-style-type: none"> two hours at their regular rate, even if the employee works less than two hours four hours at their regular rate of pay if scheduled for more than eight hours of work 	An employee may not work more than eight hours in a day or 40 hours in a week before overtime is to be paid unless an averaging agreement is in place.
Manitoba	Not less than three hours at regular wage	An employee may not work more than eight hours in a day or 40 hours a week. Employers may apply to the Labour Board for permission to increase working hours.
New Brunswick	A non-union employee must be paid no less than the greater of three hours paid at the minimum wage rate or for the hours worked at the employee's regular rate of pay.	There is no limit on the number of hours an employee may work.
Newfoundland and Labrador	Not less than three hours at minimum wage	The standard work week is 40 hours per week. With some exceptions, an employee may not work more than 14 hours per day.
Northwest Territories/Nunavut	Not less than four hours at regular rate	Eight hours per day and 40 hours per week. Under certain conditions and with permission from a Labour Standards Officer, ten hours per day and 60 hours per week may be established.

Labour Standards – Employment Standards

JURISDICTION	MINIMUM HOURS TO BE PAID IF CALLED INTO WORK	MAXIMUM HOURS
Nova Scotia	Not less than three hours at minimum wage	Maximum work week of 48 hours except in emergencies.
Ontario	Not less than three hours at the regular rate	Maximum work week of 48 hours. Employers need a written agreement from the employees, or union if applicable, to have employees work more than 48 hours. The hours must not exceed the agreed-upon hours or 60 hours per week, whichever is less.
Prince Edward Island	Not less than three hours at the regular rate	Standard work week of 48 hours. Certain industries are exempt from the standard 48 hours. These industries have specific hours for each type.
Québec	Not less than three hours at the regular rate	The standard work week is 40 hours per week with some exceptions.
Saskatchewan	Not less than three hours at the regular wage	Eight hours per day or 40 hours in a week. No employer shall require an employee to work more than 44 hours without the employee's consent. Employees of Commercial Hog Barn operations may be scheduled to work 10 hours per day or 80 hours over a two-week period before getting authorization from the Director of Labour Standards.
Yukon	Not less than two hours at the regular rate	Standard hours of 8 per day and 40 in a week.

Example:

National Distributors has employees on call to unload shipments arriving at their warehouses. This week they have called in 12 employees to unload a shipment at the Regina, Saskatchewan warehouse. It turns out that they only have enough work to keep six employees for the day; the other six employees are sent home after one hour. Saskatchewan requires that the employees sent home must be paid for not less than three hours at their regular rate.

Hours of Work: Averaging Hours

Averaging hours mean an employee's hours of work are averaged over two or more weeks if the nature of the work results in irregular distribution of hours, as long as the averaged hours do not exceed the daily or weekly legislated maximum hours of work.

The intent of averaging hours is not to eliminate the requirement for paying overtime but to provide the employee with the same amount of pay for each pay. In most jurisdictions, the employer must obtain written permission from the employee, the employment/labour standards department or have an agreement with the trade union, if applicable, to average hours.

Example:

At National Distributor's facility in Ontario, an averaging agreement is in place. Frank Peters works 50 hours in one week and 30 hours in the next week. The average hours for each of the two weeks are 40 hours; 40 hours does not exceed the weekly allowable maximum of 48 hours in Ontario. This means that there would be no overtime paid for the week in which Frank worked 50 hours.

Hours of Work: Compressed Work Week

A compressed work week is one in which the number of working days per week is reduced and the number of hours worked per day is increased. This type of arrangement is suitable for jobs such as nursing and fire-fighting where employees generally work long hours for a few days in a row and then are off for a few days. In most cases, an employer needs to apply for permission before establishing a compressed work week.

Example:

National Distributors established a compressed work week. The employees in their shipping department work four 12 hour days each work week. Their total hours comply with the maximum 48 hours per week legislation in Nova Scotia.

Illustration: Average Hours and Compressed Work Week by Jurisdiction

JURISDICTION	CAN AN EMPLOYER AVERAGE HOURS?	CAN AN EMPLOYER ESTABLISH A COMPRESSED WORK WEEK?
Federal (<i>Canada Labour Code, Part III</i>)	Yes, if the nature of the work results in irregular distribution of hours. Employers are advised to contact their local Canada Labour Office due to the complexities involved.	Yes, provided the week does not exceed 40 hours and is approved by the Minister of Labour. Under the flexible work arrangement, an employee with six consecutive months of employment can request a change to their hours of work schedule.
Alberta	Yes, known as “Averaging Agreements”. These can be implemented by an employer at any time by preparing a schedule that meets the required criteria for an averaging arrangement. Hours over 44 per week or more than the new daily hours are considered overtime hours. No approval is needed from Employment Standards. This agreement requires the support of the majority of affected employees. It allows employers and employees to agree to average work hours over 1 to 52 weeks to determine overtime eligibility.	No.
British Columbia	Yes, up to four weeks; otherwise permission must be obtained from the Director of Employment Standards.	Yes, if an employee works more than 12 hours on any given day, they must be paid overtime for the hours over 12 at double the employee’s regular rate of pay. Also, overtime is payable at a rate of 1.5 the employee’s regular rate of pay if the average weekly hours exceed 40 hours per week.

Chapter 5

Labour Standards – Employment Standards

JURISDICTION	CAN AN EMPLOYER AVERAGE HOURS?	CAN AN EMPLOYER ESTABLISH A COMPRESSED WORK WEEK?
Manitoba	Yes, with written agreement a single employee or a group of employees who must regularly work 30 hours or more in a week. If standards hours exceed 12 hours per day or 60 hours per week (or if the agreement exceeds 12 weeks), An averaging permit is required from Employment Standards.	Yes, provided the hours do not exceed 40 per week and 10 hours per day (it is called flex time arrangement). No approval is needed from Employment Standards.
New Brunswick	No legislation exists.	Yes, no stated limit on hours worked. Overtime rates apply after 44 hours per week.
Newfoundland and Labrador	No legislation exists.	Yes, provided the employees do not suffer a loss of wages. Overtime applies after 40 hours per week.
Northwest Territories/ Nunavut	Yes, if the nature of the work results in irregular distribution of hours, and if the employer applies for and obtains permission from the Labour Standards Officer.	Yes, if permission is obtained from the Labour Standards Officer. Overtime is paid for hours over 40 per week.
Nova Scotia	Yes, with written agreement from the employee.	Yes, overtime must be paid on hours worked over 48 hours per week. No approval is needed from Labour Standards.
Ontario	Yes, with written agreement from the employee. For non-unionized employees, an averaging agreement must contain an expiration date that is not more than 2 years from the date the agreement begins.	Yes, provided the total hours worked do not exceed 48 hours in a week. Overtime must be paid for hours worked over 44 per week. No approval is needed from Employment Standards.
Prince Edward Island	No legislation exists.	Yes, however, it is not legislated. Overtime must be paid for hours worked over 48 per week unless the Employment Standards Board has issued an exemption order extending overtime hours to the specific industry.

JURISDICTION	CAN AN EMPLOYER AVERAGE HOURS?	CAN AN EMPLOYER ESTABLISH A COMPRESSED WORK WEEK?
Québec	Yes, the employer and the employee may agree on the staggering of working hours on a basis other than weekly, without the authorization of the Commission (CNESST) when the agreement is made with an individual employee.	Yes, under the provisions of a collective agreement or authorization from Labour Standards (CNESST). Overtime must be paid for hours worked over 40 per week.
Saskatchewan	Yes, upon authorization from the Director of Labour Standards or upon written consent of the trade union. Employers are allowed to establish a work week based on 10 hours in a day and four days a week	Yes, to a maximum of 10 hours per day, 40 hours per week. Permission is not required from the Director of Labour Standards.
Yukon	Yes, over a period of 2 or more weeks if the nature of the work results in irregular distribution of hours, provided the employer obtains permission from the Director of Employment Standards or an agreement with a trade union.	Yes, an employee may work more than 8 hours but not more than 12 hours provided that the total hours of work do not exceed 80 hours in a two-week period. This must be provided in a collective agreement or agreed to in writing by the majority of employees.

Hours of Work: Rest Periods

The employment/labour standards outline the required rest periods that must be respected in each jurisdiction. Under federal jurisdiction, *The Lord's Day Act* precludes commercial dealing or paid employment on Sunday, but the provincial/territorial rulings are more permissive. The following chart outlines the required rest period regulations for each jurisdiction for meal breaks, coffee breaks, daily rest periods, time off between shifts, hours free from work and weekly rest periods.

Illustration: Rest Periods by Jurisdiction

JURISDICTION	MEAL BREAKS, COFFEE BREAKS, DAILY REST PERIODS	TIME OFF BETWEEN SHIFTS	HOURS FREE FROM WORK/WEEKLY PERIODS OF REST
Federal (<i>Canada Labour Code, Part III</i>)	30-minute break for every five hours of consecutive employment. If the employer requires the employee to be at their disposal during the break, the employee must be paid for the break.	At least 8 hours' rest between shifts.	One full day of rest a week, Sunday where practical.
Alberta	30-minute break for every five hours of consecutive employment. If agreed to by the employer and employees, breaks can be taken as two 15-minute breaks. Break periods can be paid or unpaid at the employer's discretion.	At least 8 hours' rest between shifts.	One day of rest each week; two consecutive days of rest in each period of two consecutive weeks; three consecutive days of rest in each period of three consecutive weeks; four consecutive days of rest in each period of four consecutive weeks Employees cannot be required to work more than 24 consecutive days unless it is followed by four consecutive days off.
British Columbia	Half-hour meal break after working five hours in a row.	Eight hours off between shifts.	32 hours in a row free from work each week.
Manitoba	Unpaid meal break of at least 30 minutes for every five hours worked.		24 consecutive hours off in each seven-day period (with some exceptions).
New Brunswick	Break periods of one half-hour after each five consecutive hours of work are legislated under the <i>Occupational Health and Safety Act</i> and Regulations. Reg. 91-191 S 8.		Weekly rest period of at least 24 hours to be taken if possible on Sunday (with exceptions).
Newfoundland and Labrador	Unbroken rest period of one hour immediately following each five consecutive hours of work.	Eight consecutive hours off in each 24-hour period.	Period of rest not less than 24 consecutive hours each week of employment preferably Sunday (with some exceptions).

JURISDICTION	MEAL BREAKS, COFFEE BREAKS, DAILY REST PERIODS	TIME OFF BETWEEN SHIFTS	HOURS FREE FROM WORK/WEEKLY PERIODS OF REST
Northwest Territories/ Nunavut	Meal breaks of at least 30 minutes after each five consecutive hours of work.		Each employee must have at least one full day of rest in each work week; two consecutive days of rest in each period of two work weeks; or three consecutive days of rest in each period of three consecutive work weeks.
Nova Scotia	Half-hour after five consecutive hours of work.		Rest period of 24 hours every seven days (preferably on a Sunday with exceptions).
Ontario	Half an hour after five consecutive hours of work. Half-hour eating period can be split into two 15-minute breaks (with agreement).	Employees are entitled to a period of at least eight hours free from work between shifts (with exceptions) unless the total hours worked do not exceed 13 hours.	Employees are entitled to a period of at least 11 consecutive hours free from work in a 24-hour period; at least 24 consecutive hours free from work each work week or 48 hours free from work each two consecutive weeks (with exceptions).
Prince Edward Island	Half-hour unpaid break every five consecutive hours of work.		Rest period of at least 24 consecutive hours in every seven-day period, and whenever possible, the rest period will be on a Sunday.
Québec	Coffee breaks are not mandatory, but when granted they must be paid and counted as hours worked. After a period of five consecutive hours, the employee is entitled to a 30-minute rest period without pay. If the employee is not allowed to leave their work station, the rest period must be paid.		Rest period of not less than 32 consecutive hours each week (with exceptions).

Chapter 5

Labour Standards – Employment Standards

JURISDICTION	MEAL BREAKS, COFFEE BREAKS, DAILY REST PERIODS	TIME OFF BETWEEN SHIFTS	HOURS FREE FROM WORK/WEEKLY PERIODS OF REST
Saskatchewan	<p>When working six hours or more, the employee gets a 30-minute unpaid meal break within every five hours.</p> <p>Coffee breaks are not mandatory, but when granted they must be paid and counted as hours worked.</p>		For employees who work more than 20 hours per week, 24 consecutive hours per week. Where there are more than ten staff members, all employees who work more than 20 hours per week must be given 48 consecutive hours off, preferably including Sunday.
Yukon	<p>Half-hour after five consecutive hours of work for employees who work ten hours or less each day.</p> <p>Half-hour after six consecutive hours for employees who work more than ten hours per day.</p>	A rest period of eight consecutive hours daily.	A rest period of two days per week, preferably including Sunday.

Example:

In British Columbia and Prince Edward Island, if emergency telephone operators are required to remain at their stations during the break, the break time must be paid.

Content Review

- Hours of work legislation sets the maximum number of hours, per day and/or per week an employee is allowed to work, regardless of overtime pay provisions.
- Legislation on the minimum hours of work, also known as call-in pay, sets the minimum number of hours of work an employee must be paid for if called into work by the employer.
- Employers who require employees to work beyond the legislated maximum hours must get written permission, where required, from the legislative authority.
- Averaging hours mean an employee's hours of work are averaged over two or more weeks if the nature of the work results in irregular distribution of hours, as long as the averaged hours do not exceed the daily or weekly legislated maximum hours of work.
- A compressed work week is one in which the number of working days per week is reduced and the number of hours worked per day is increased.
- Employment/labour standards outline the required rest periods that must be respected in each jurisdiction, where legislated, for meal breaks, coffee breaks, daily rest periods, time off between shifts, hours free from work and weekly rest periods.

Review Questions

9. Shauna works in Winnipeg, Manitoba. The regular pay is \$1.50 an hour above Manitoba's minimum wage. Shauna was called into work for two hours by the employer. The employer must pay Shauna:
 - a. minimum wage for two hours
 - b. the regular wage for two hours
 - c. minimum wage for three hours
 - d. the regular wage for three hours

10. The manager of Circle Internet Café, located in Ontario, has decided to average the employees' hours of 50 hours worked in the first week and 30 hours worked in the second week. What does the employer need to obtain before implementing this averaging arrangement?

11. List two types of employment for which a compressed work week is suitable.

12. State if the following shift schedules follow the applicable labour standards for rest periods. Record the relevant rules as outlined in the material above.

SHIFT SCHEDULE	LEGAL (YES OR NO)	RELEVANT RULE
A Newfoundland and Labrador worker is scheduled to work 12 hours, have an eight-hour break and work a ten-hour shift.		
An Ontario worker gets a 30-minute rest period after four hours on an eight-hour shift.		
A Québec worker received two unpaid 15-minute coffee breaks each workday.		
A Yukon worker is scheduled to work six days a week for two weeks and then have four days off.		

13. True or False. An employer in Newfoundland and Labrador can schedule an employee to work six consecutive hours without a meal break.

Overtime

Each jurisdiction has legislation that states the maximum number of hours per day and/or per week that an employee can work before the work is considered overtime. When an employee is asked to work beyond the maximum hours of work per day and/or per week, also called the overtime threshold, the employer must pay overtime rates for each hour worked. Overtime pay, in all jurisdictions except for British Columbia, is 1.5 times the employee's regular rate or minimum wage.

Special attention is required in calculating overtime when:

- there is both a daily and a weekly overtime threshold after which overtime must be calculated and paid
- there is more than one overtime rate, for example, in British Columbia 1.5 times the regular wage is paid for hours over 8, up to 12, worked per day and two times applies after 12 hours worked per day
- hours worked on a statutory holiday are to be considered worked hours for overtime purposes

Overtime hours worked in a pay period are to be paid on each pay day or they can be banked if permitted in the jurisdiction. Banked hours are either paid at a later date or taken as time off work.

Some *Employment Standards Acts* mention overtime (OT) provisions for managers, whereas others do not provide any OT legislation. In those jurisdictions that do not mention OT provisions for managers, we recommend that the employer contact the Employment Standard branch in which that manager works.

Illustration: Overtime Requirements by Jurisdiction

JURISDICTION	OVERTIME HOURS THRESHOLD	OVERTIME CALCULATION (IF APPLICABLE)	OVERTIME RATE	BANKING OVERTIME PERMITTED
Federal (<i>Canada Labour Code, Part III</i>)	8 per day 40 per week	Daily or weekly, whichever is greater	1.5 x regular rate	Yes
Alberta	8 per day 44 per week	Daily or weekly, whichever is greater	1.5 x regular rate	Yes
British Columbia	8 per day (1.5) 12 per day (2) 40 per week (1.5)	<ul style="list-style-type: none"> Overtime at 1.5 times after eight hours worked in a day Double time is paid after 12 hours worked in a day To calculate weekly overtime, only use the first eight hours per day Overtime payable at 1.5 times the regular rate after 40 hours per week Averaging Agreement <ul style="list-style-type: none"> Overtime payable after eight hours per day if extra hours have been added to the employee's schedule, or Overtime payable if the employee works more than an average of 40 hours per week over the averaging period 	1.5 x and 2 x regular rate	Yes
Manitoba	8 per day 40 per week	Daily or weekly, whichever is greater	1.5 x regular rate	Yes
New Brunswick	44 per week		The greater of 1.5 x minimum wage or regular rate for hours worked	No
Newfoundland and Labrador	40 per week		The greater of 1.5 x regular rate or minimum wage if time is taken. If time is not taken and cash is paid, payment is no less than 1.5 x minimum wage for the hours worked	Yes

Chapter 5

Labour Standards – Employment Standards

JURISDICTION	OVERTIME HOURS THRESHOLD	OVERTIME CALCULATION (IF APPLICABLE)	OVERTIME RATE	BANKING OVERTIME PERMITTED
Northwest Territories/ Nunavut	8 per day 40 per week	Daily or weekly, whichever is greater	1.5 x regular rate	Yes
Nova Scotia	48 per week		1.5 x regular wage	Not addressed
Ontario	44 per week		1.5 x regular rate	Yes
Prince Edward Island	48 per week		1.5 x regular rate	Yes
Québec	40 per week		1.5 x regular rate	Yes
Saskatchewan	8 per day 40 per week	Daily or weekly, whichever is greater	1.5 x regular rate	Yes
Yukon	8 per day 40 per week	Daily or weekly, whichever is greater	1.5 x regular rate	Yes

Overtime: Banking of Overtime Hours

Banking overtime allows an employee to defer the payment of overtime, or the taking of an equivalent time off, until a later date within a regulated period. The time off is paid at the employee's regular rate of pay.

The *Canada Labour Code, Part III*, Alberta, British Columbia, Manitoba, Newfoundland and Labrador, Northwest Territories, Ontario, Prince Edward Island, Québec, Saskatchewan and the Yukon allow the banking of overtime hours if an overtime agreement has been signed by both the employee and the employer.

Illustration: Banking of Overtime Hours by Jurisdiction

JURISDICTION	ONE BANKED OVERTIME HOUR EQUALS	BANKED OVERTIME PAID AT	BANKING PERIOD	EXTENSION PERMITTED
Federal (<i>Canada Labour Code, Part III</i>)	1.5 hours off	Regular rate of pay	Three months. Note: Hours not taken within the specified period or upon termination are to be paid out at 1.5 the rate on the day the hours were worked	Yes, on employee and employer agreement up to twelve months from when overtime is earned.
Alberta	1 hour time off	1.5 times the regular rate of pay	Six months.	Yes, on the authority of the Director of Employment Standards.
British Columbia	1.5 hours off, if overtime banked at 1.5 times regular rate OR 2 hours off, if overtime banked at 2.0 times regular rate	1.5 times regular rate of pay, if banked at 1.5 times regular rate OR 2 times regular rate of pay, if overtime banked at 2.0 times regular rate	Six months.	Not addressed.

Chapter 5

Labour Standards – Employment Standards

JURISDICTION	ONE BANKED OVERTIME HOUR EQUALS	BANKED OVERTIME PAID AT	BANKING PERIOD	EXTENSION PERMITTED
Manitoba	1.5 hours off	Current regular rate of pay	Three months.	Yes, on the authority of the Director of Employment Standards.
Newfoundland and Labrador	1.5 hours off	No less than minimum overtime wage for the hours worked	Three months.	Yes, on employee and employer agreement up to twelve months from when overtime is earned.
Northwest Territories	1.5 hours off	Regular rate of pay	Three months.	Yes, if approved by the Director of Employment Standards or a collective agreement.
Ontario	1.5 hours off	Regular rate of pay	Three months.	Yes, on employee and employer agreement up to twelve months from when overtime is earned.
Prince Edward Island	1.5 hours off	Regular rate of pay	Three months.	Not addressed.
Québec	1.5 hours off	Regular rate of pay	Twelve months.	Not addressed.
Saskatchewan	1.5 hours off	Regular rate of pay	Twelve months.	Not addressed.
Yukon	1.5 hours off	Regular rate of pay	Twelve months.	Not addressed.

Overtime: Daily and Weekly Maximum Hours

Calculating overtime in jurisdictions with only a weekly overtime threshold is straightforward. The overtime rate applies to all hours beyond the weekly overtime threshold.

Example:

An employee in Québec works 50 hours during the current week; the weekly maximum, or threshold, for overtime in Québec is 40 hours. The employee will be paid for working ten hours of overtime at 1.5 times the regular wage rate.

Calculating overtime in jurisdictions with both daily and weekly overtime thresholds is more complicated. Overtime will be paid for the hours worked beyond the daily or weekly overtime threshold, whichever is greater.

Example:

An employee works in a small firm (six employees) in Saskatchewan, where the maximum hours for overtime pay are eight hours a day or 40 hours per week. Overtime is paid for hours worked over the daily (eight hours) or weekly (40 hours) maximum hours, whichever is greater.

WEEK	HOURS WORKED IN A MONTH BY AN EMPLOYEE IN SASKATCHEWAN							TOTAL HOURS WORKED	REGULAR HOURS	OVERTIME HOURS
	S	M	T	W	T	F	S			
1		10	8	8	8	8	6	48	40	8
2		10	6	8	6	4	0	34	32	2
3		8	8	4	10	8	8	46	40	6
4		8	8	10	10	10	8	54	40	14

S – Sunday; M – Monday; T – Tuesday; W – Wednesday; T – Thursday; F – Friday;
S – Saturday:

In week 1, the weekly overtime threshold of 40 hours was exceeded by eight hours. The employee must be paid for eight hours of overtime, as this is greater than the overtime daily. The overtime calculation daily would only provide for two hours of overtime for the work on Monday.

In week 2, although the weekly maximum of 40 hours was not reached, the employee worked two hours beyond the eight-hour daily maximum on Monday. The employee must therefore be paid for two hours of overtime for that week. In this case, the two-hour excess for daily overtime was greater than the weekly excess, which was zero.

In week 3, the daily overtime rate only applies to two hours on Thursday, but the weekly overtime rate applies to six hours (46 hours worked minus 40 regular hours), which is greater than two hours. Therefore, the employee will be paid overtime for six hours.

In week 4, the employee worked beyond the daily maximum on three days and accumulated six hours of overtime based on the daily maximum. However, the weekly total hours worked of 54 exceeds the weekly maximum by 14 hours (54 hours – 40 hours = 14 hours), which is greater than the total daily overtime. Therefore, the employee must be paid overtime for 14 hours.

Overtime: More Than One Overtime Rate

British Columbia is the only jurisdiction where there is more than one overtime rate, calculated as follows:

- an overtime rate of 1.5 times the regular rate for hours worked over 8 up to 12, per day or more than 40 per week
- an overtime rate of two times the regular rate for hours worked over 12 per day

The following table outlines the steps to follow to calculate an employee's overtime in British Columbia.

STEP	ACTION
1	Total the hours worked each day.
2	Total the regular weekly hours worked.*
3	Calculate 1.5 times the regular rate for hours worked over 8 up to 12 hours per day and 1.5 times the regular rate for hours worked more than 40 per week.
4	Calculate two times the regular rate for hours worked over 12 hours per day.

*When calculating *weekly* overtime, only the first eight hours worked by an employee in each day are counted, no matter how long the employee works on any day of the week.

Example:

	S	M	T	W	T	F	S	TOTAL HOURS
Hours worked		10	13	8	8	10	8	57
Regular		8	8	8	8	8		40
Overtime @ 1.5 x		2	4			2	8	16
Overtime @ 2 x			1					1

S – Sunday; M – Monday; T – Tuesday; W – Wednesday; T – Thursday; F – Friday;
S – Saturday

Regular hours = 40 (8 hours per day)
 Overtime hours @ 1.5 x = 16 (8 hours worked over 8 hours per day plus 8 hours worked more than 40 hours per week)
 Overtime hours @ 2 x = 1 (1 hour worked over 12 hours per day)
 57 hours worked for the week

Content Review

- When an employee is asked to work beyond the maximum hours of work per day and/or per week, also called the overtime threshold, the employer must pay overtime rates for each hour worked.
- Overtime pay, in all jurisdictions except for British Columbia, is 1.5 times the employee's regular wage or minimum rate.
- Banking overtime allows an employee to defer the payment of overtime, or the taking of an equivalent time off, until a later date within a regulated period.
- In jurisdictions with both daily and weekly overtime thresholds, overtime is paid on the hours worked beyond the daily or weekly overtime threshold, whichever is greater.

Review Questions

14. Complete the following tables based on overtime hours worked in a four-week period.

HOURS WORKED BY A QUÉBEC EMPLOYEE							OVERTIME RULES FOR QUÉBEC:		
S	M	T	W	T	F	S	TOTAL HOURS	REGULAR HOURS	OVERTIME HOURS
	10	8	5	8	10				
	10	10	10	10	10				
	12	8	8	8	12				
	8	8	8	8	10				

S – Sunday; M –Monday; T – Tuesday; W – Wednesday; T –Thursday; F –Friday;
S – Saturday

HOURS WORKED BY AN ALBERTA EMPLOYEE							OVERTIME RULES FOR ALBERTA:		
S	M	T	W	T	F	S	TOTAL HOURS	REGULAR HOURS	OVERTIME HOURS
		10	10	10	10				
		8	8	8	8				
8	8	8	8	8	8				
	8	10	8	10	8				

HOURS WORKED BY A BRITISH COLUMBIA EMPLOYEE							OVERTIME RULES FOR BRITISH COLUMBIA:			
S	M	T	W	T	F	S	TOTAL HOURS	REGULAR HOURS	OVERTIME HOURS @ 1.5	OVERTIME HOURS @ 2.0
		4	10	10	8	10				
	8	8	8	8	8	8				
	8	8	10	10	8	10				
	10	13	8	8	10	8				

Time Off From Work

Employees are entitled, under employment/labour standards, to have time off from work for statutory holidays, vacations and leaves. Depending on the jurisdiction and type of leave, the employee may also be paid for the time off work.

Statutory Holidays

Legislated holidays are designated days that require employers to exempt employees from work or to pay them for working on that day. Each jurisdiction has legislated holidays under employment standards; these days are known as statutory, general or public holidays, depending on the terminology used in the legislation in each jurisdiction. For this course, we will use the term ‘statutory’ holidays for all holidays that come from the employment standards legislation. The table on the following pages shows the statutory holidays observed in each jurisdiction.

Employees in all jurisdictions can enjoy a holiday on:

- January 1 (New Year’s Day)
- Good Friday
- July 1 (Canada Day, Memorial Day in Newfoundland and Labrador)
- the first Monday in September (Labour Day)
- December 25 (Christmas Day)

Chapter 5

Labour Standards – Employment Standards

Illustration: Statutory Holidays by Jurisdiction

STATUTORY HOLIDAY	ALL	CLC*	AB*	BC*	MB*	NB*	NL*
January 1 New Year's Day	X	X	X	X	X	X	X
Second Monday in February Family Day							
Third Monday in February Family Day			X	X		X	
Third Monday in February Louis Riel Day					X		
Good Friday	X	X	X	X	X	X	X
Easter Monday							
Victoria Day (Patriots Day in Québec) usually the third Monday in May		X	X	X	X		
June 21 National Aboriginal Day							
June 24 National Holiday (Fête nationale, QC) ¹							
July 1 Canada Day ² Memorial Day (NL)	X	X	X	X	X	X	X
July 9 Nunavut Day (NU)							
First Monday in August				X BC Day		X NB Day	
Third Monday in August Discovery Day (Yukon)							
First Monday in September Labour Day	X	X	X	X	X	X	X
September 30 National Day for Truth & Reconciliation		X					
Second Monday in October Thanksgiving Day		X	X	X	X		
November 11 Remembrance Day		X	X	X	X ³	X	X
December 25 Christmas Day	X	X	X	X	X	X	X
December 26 Boxing Day		X					
Total	5	10	9	10	8+1	8	6

*CLC – *Canada Labour Code*; AB – Alberta; BC – British Columbia; MB – Manitoba; NB – New Brunswick;
NL – Newfoundland and Labrador

¹ Québec - June 25, if June 24 is a Sunday and the employee does not normally work on a Sunday per the *National Holiday Act*

² July 2 if July 1 is a Sunday

³ Manitoba - Legislated under the *Remembrance Day Act*. Employees are entitled to take the day off; however, employers are not required to pay for it. Employees who are required to work must be paid the same wages as the requirement under a statutory holiday. In addition to payment of 1.5 times regular rate for hours worked, the payment must be for at least half of a regular workday paid at 1.5 times.

Illustration: Statutory Holidays by Jurisdiction

STATUTORY HOLIDAY	NS*	NT*	NU*	ON*	PE*	QC*	SK*	YT*
January 1 New Year's Day	X	X	X	X	X	X	X	X
Third Monday in February Islander Day					X			
Third Monday in February Family Day				X			X	
Third Monday in February Heritage Day	X							
Good Friday	X	X	X	X	X	X Or X	X	X
Easter Monday								
Victoria Day (Patriots Day in Québec) usually the third Monday in May		X	X	X		X	X	X
June 21 National Aboriginal Day		X						X
June 24 National Holiday (Fête nationale, QC) ¹						X		
July 1 Canada Day ² Memorial Day (NL)	X	X	X	X	X	X	X	X
July 9 Nunavut Day			X					
First Monday in August Saskatchewan Day (SK)		X	X	³			X	
Third Monday in August Discovery Day (Yukon)								X
First Monday in September Labour Day	X	X	X	X	X	X	X	X
September 30 National Day for Truth & Reconciliation					X			
Second Monday in October Thanksgiving Day		X	X	X		X	X	X
November 11 Remembrance Day	X ⁴	X	X		X		X	X
December 25 Christmas Day	X	X	X	X	X	X	X	X
December 26 Boxing Day				X				
Total	7	10	10	9	8	8	10	10

* NS – Nova Scotia; NT – Northwest Territories; NU – Nunavut; ON – Ontario; PE – Prince Edward Island; QC – Québec; SK – Saskatchewan; YT – Yukon

¹ Québec June 25, if June 24 is a Sunday and the employee does not normally work on a Sunday per the *National Holiday Act*

² July 2 if July 1 is a Sunday except in Nova Scotia

³ Ontario- the first Monday in August is a civic holiday only, and doesn't take on statutory holiday entitlement under the legislation. Therefore, employers, through standard practice, determine whether or not they will be closed for the day and pay their employees.

⁴ Nova Scotia - Legislated under the *Remembrance Day Act*. Employees who work on Remembrance Day and who have worked on at least 15 of the 30 calendar days immediately before Remembrance Day, may be entitled to receive a holiday with pay, taken at the end of their vacation or at any other agreed on time.

Eligibility Criteria for Statutory Holiday Pay

An employee's eligibility for statutory holiday pay will depend on whether the employee meets the criteria for entitlement.

Illustration: Statutory Holiday Pay Criteria by Jurisdiction

JURISDICTION	TO BE ELIGIBLE FOR STATUTORY HOLIDAY PAY, AN EMPLOYEE MUST
Federal (<i>Canada Labour Code, Part III</i>)	<ul style="list-style-type: none">• if in a continuous operation, report to work on the holiday when requested
Alberta	<ul style="list-style-type: none">• have worked 30 days in the last 12 months before the holiday• have worked that day of the week 5 times in the last 9 weeks• have worked last regular workday preceding and first regular workday after the holiday• have worked on the holiday if asked• have the holiday fall on a regular workday (except when Canada Day falls on a Sunday)
British Columbia	<ul style="list-style-type: none">• have been employed at least 30 days• have worked on at least 15 of the 30 days before the statutory holiday
Manitoba	<ul style="list-style-type: none">• have worked regular schedule before and after the holiday unless the employee is absent because of illness or consent from the employer• have not refused to work on the holiday falling on a regular workday if expected to work
New Brunswick	<ul style="list-style-type: none">• have been employed for at least 90 calendar days in the 12 calendar months before the holiday• have worked the days they were scheduled to work both before and after the holiday unless there is a good reason for not doing so• have reported for and worked their shift if they have agreed to work the holiday unless there is a good reason for not doing so• not be employed under an arrangement in which they can decide when to work or when not to work
Newfoundland and Labrador	<ul style="list-style-type: none">• have been employed at least 30 calendar days before the holiday• have worked the days they were scheduled to work both before and after the holiday

JURISDICTION	TO BE ELIGIBLE FOR STATUTORY HOLIDAY PAY, AN EMPLOYEE MUST
Northwest Territories/Nunavut	<ul style="list-style-type: none"> • have worked 30 days in the last 12 months • have worked regular schedule before and after the holiday • have reported to work when scheduled to work on holiday • not be on maternity, parental, compassionate or court leave exceeding ten days
Nova Scotia	<ul style="list-style-type: none"> • be entitled to be paid for at least 15 out of the 30 calendar days before the holiday (for example, on paid sick or education leave) • have worked the last scheduled shift or day before the holiday, and the first one after the holiday (this does not apply if the employee is told not to report for one of these periods)
Ontario	<ul style="list-style-type: none"> • work their full regularly scheduled day/shift before and their full regularly scheduled day/shift after the holiday • have reasonable cause not to work their entire shift on the holiday if they agreed to, or were required to work that day (note that some employees can be required to work on a holiday)
Prince Edward Island	<ul style="list-style-type: none"> • have been employed with the same employer for 30 calendar days before the holiday • have earned wages on 15 of the 30 calendar days before the holiday • work the scheduled shifts right before and right after the holiday • not have the option of refusing work when offered by the employer • not employed under an elect to work contract of service
Québec	<ul style="list-style-type: none"> • not be absent without valid cause or employer consent on the working day before or the working day after the holiday • be employed on the day of the holiday and work on that day if required (for the June 24 National Holiday only)
Saskatchewan	Not stated
Yukon	<ul style="list-style-type: none"> • have been employed for at least 30 calendar days before the holiday • report to work on the holiday after being requested to do so • not be absent on the regularly scheduled shifts, before and after the holiday, without consent • not be absent for 14 consecutive days immediately before the holiday on an unpaid leave of absence

Statutory Holiday Pay for Eligible Employees

Eligible employees who do not work on the statutory holiday must be paid either their regular daily wage or if their daily wages vary, an average or percentage of their daily earnings over a period preceding the holiday. For example, if an employee is sick and the employer has a paid sick time policy, or if the employee is attending a course and is being paid wages for attending, the employee may still qualify for the paid holiday. The payment for hours worked on a statutory holiday depends on whether the holiday falls on a regular workday or a day that is not normally worked.

Illustration: Statutory Holiday Pay for Eligible Employees by Jurisdiction

JURISDICTION	STATUTORY HOLIDAY NOT WORKED	STATUTORY HOLIDAY FALLS ON A REGULAR WORKDAY AND IS WORKED	STATUTORY HOLIDAY FALLS ON A NON-WORKING DAY AND IS WORKED
Federal (<i>Canada Labour Code, Part III</i>)	Regular daily wage If wages vary, 1/20th of wages earned in the four weeks immediately before the holiday For commission employees, 1/60 of wages in the 12 weeks immediately before the holiday	Regular daily wage + 1½ times regular rate for hours worked	A regular workday off with pay at a mutually agreed upon time If New Year's Day, Canada Day, Remembrance Day, Christmas Day or Boxing Day fall on a Saturday or Sunday, a day off with pay must be granted on the workday immediately preceding or following the holiday
Alberta	Average daily wages, excluding general holiday pay and vacation pay earned in the previous four weeks immediately before the holiday or four weeks ending on the last day of the pay period that occurred just before the general holiday	Average daily wage + 1½ times regular rate for hours worked OR Regular wages for hours worked + a day off with pay	1½ times regular rate for any hours worked but no holiday pay, no other day off
British Columbia	Regular daily wage If wages vary, the average wage (including vacation pay, but excluding overtime) for the preceding 30 days	1½ times regular rate for the first 12 hours worked; 2 times regular rate for each additional hour worked + one day's average pay The employer is not required to give an additional day off with pay	An average day's pay OR A regular workday off with pay no later than the next annual vacation

Labour Standards – Employment Standards

JURISDICTION	STATUTORY HOLIDAY NOT WORKED	STATUTORY HOLIDAY FALLS ON A REGULAR WORKDAY AND IS WORKED	STATUTORY HOLIDAY FALLS ON A NON-WORKING DAY AND IS WORKED
Manitoba	Regular daily wage If wages vary, the average daily wage is five percent of the employee's total wages in the four-week period immediately before the holiday	Regular daily wage + 1½ times regular rate for hours worked OR Where the employee and the employer agree, regular daily wages plus a day off with pay.	A regular workday off with pay, no later than the next annual vacation
New Brunswick	Regular daily wage If wages vary, the average daily wage for the preceding 30 days	Regular daily wage + 1½ times regular rate for hours worked	Regular daily wage OR A regular workday off with pay not later than the next annual vacation
Newfoundland and Labrador	Regular daily wage If wages vary, the average daily wage for the 3 weeks before the holiday	2 times regular wage for hours worked OR One day off with pay added to annual vacation or taken within next 30 days	Next regular workday with pay, or another mutually agreed upon day off with pay
Northwest Territories/ Nunavut	Regular daily wage If wages vary, the average daily wage for the preceding 4 weeks	Regular daily wage + 1½ times regular rate for hours worked OR Regular rate for hours worked + a day off with pay no later than next vacation	Regular daily wage OR A regular workday off with pay no later than the next vacation
Nova Scotia	Regular daily wage If wages vary, the average daily wage for the preceding 30 days	Regular daily wage + 1½ times regular rate for hours worked	Next regular workday off with pay, or another mutually agreed upon day off with pay
Ontario	Average daily wage If wages vary, the rate is arrived at by taking 1/20 th of the regular wages earned in the last four weeks worked before the holiday (including any vacation pay payable, but excluding overtime)	Regular daily wage + a substitute holiday (a different day off with regular pay) OR Regular daily wage + 1½ times the regular rate for each hour worked on the holiday	Regular daily wage OR A working day off with pay, taken no later than the next annual vacation

Chapter 5

Labour Standards – Employment Standards

JURISDICTION	STATUTORY HOLIDAY NOT WORKED	STATUTORY HOLIDAY FALLS ON A REGULAR WORKDAY AND IS WORKED	STATUTORY HOLIDAY FALLS ON A NON-WORKING DAY AND IS WORKED
Prince Edward Island	Regular daily wage If the wages vary, the daily rate is arrived at by dividing the total hours in the 30 calendar days before the holiday by the total number of days worked in the same 30-day period	Regular daily wage + 1½ times regular rate for hours worked OR Regular rate plus a day off with pay no later than next vacation	Regular daily wage OR A regular workday off with pay no later than the next vacation
Québec	Average daily wage If wages vary, the rate is arrived at by taking 1/20 th of the wages in the last four weeks worked before the holiday (excluding overtime) For commissioned employees, the payment must be equal to 1/60 th of the wages earned during the 12 complete weeks of pay before the holiday	Average daily wage + regular rate for hours worked OR Regular rate for hours worked plus a day off with pay within 3 weeks before or after the holiday unless a collective agreement or an official order provides for a longer period	Average daily wage OR Working day off with pay, taken no later than the next annual vacation
Saskatchewan	Regular daily wage If wages vary, the employee is entitled to holiday pay consisting of 5% of their regular wages in the four weeks before the holiday (including wages and holiday pay, but not overtime)	Regular daily wage + 1½ times regular rate for hours worked OR 1½ times regular rate for hours worked + another day off with regular pay	If New Year's Day, Christmas Day or Remembrance Day falls on a Sunday and the establishment is normally closed, the following Monday is granted as a day off with pay
Yukon	Regular daily wage If wages vary, payment is 10 percent of the wages earned (excluding vacation pay) for the hours worked in the preceding 2 weeks	Regular daily wage + 1½ times regular rate for hours worked OR Regular rate of pay for the hours worked plus one day off	Next regular workday off with pay

Statutory Holiday Pay for Non-Eligible Employees

Employees who do not meet the eligibility criteria for statutory holiday entitlement must be paid for any hours worked on the holiday. Non-eligible employees are only paid for hours worked on the statutory holiday. The rate of statutory holiday pay for these employees varies by jurisdiction.

Illustration: Statutory Holiday Pay for Non-Eligible Employees by Jurisdiction

JURISDICTION	PAY IF STATUTORY HOLIDAY WORKED
Federal (<i>Canada Labour Code, Part III</i>)	1½ times regular rate for hours worked
Alberta	1½ times regular rate for hours worked
British Columbia	Regular rate for hours worked
Manitoba	1½ times regular rate for hours worked
New Brunswick	1½ times regular rate for hours worked
Newfoundland and Labrador	2 times regular rate for hours worked or regular pay plus another day off, provided they work their full shift
Northwest Territories/Nunavut	Regular rate for hours worked
Nova Scotia	Regular rate for hours worked
Ontario	1½ times regular rate for hours worked
Prince Edward Island	1½ times regular rate for hours worked
Québec	Regular rate for hours worked
Saskatchewan	1½ times regular rate for hours worked
Yukon	1½ times regular rate for hours worked

Note:

Many provinces exclude certain types of employment from eligibility or have specific legislation. We have not listed all cases particular to each jurisdiction here. Refer to the employment/labour standards for each jurisdiction for details should the need arise outside of this course.

Overtime Pay for Weeks with Statutory Holidays

Depending on the jurisdiction, hours worked on a statutory holiday can either be included or excluded when calculating the employee's weekly overtime hours. This means that the hours worked on a statutory holiday are either used (included) or not (excluded) to determine whether the employee has met the weekly overtime threshold.

In some jurisdictions (Federal, Northwest Territories/Nunavut, Saskatchewan, Yukon), the weekly overtime threshold hours are decreased when a statutory holiday falls in the week. In these jurisdictions, when a statutory holiday occurs in the week, the 40-hour work week is reduced by eight hours, making the weekly overtime threshold 32 hours. Hours worked on the statutory holiday are paid at the jurisdictional statutory holiday pay rate and are not included in the overtime calculation.

This table summarizes the legislation related to overtime calculations for weeks in which there is a statutory holiday.

Illustration: Overtime Pay for Weeks with a Statutory Holiday by Jurisdiction

JURISDICTION	WEEKLY STANDARD HOURS DECREASED IN WEEK WHERE THERE IS A STATUTORY HOLIDAY	STATUTORY HOLIDAY INCLUDED IN OVERTIME CALCULATION
Federal (<i>Canada Labour Code, Part III</i>)	YES (regular weekly hours reduced by one day e.g. $40 - 8 = 32$)	NO
Alberta	NO	NO (unless the hours worked are paid at less than 1.5 times the employees regular rate)
British Columbia	NO	Hours included if worked, excluded if not worked
Manitoba	NO	YES
New Brunswick	NO	NO
Newfoundland and Labrador	NO	Hours included if worked, excluded if not worked
Northwest Territories/ Nunavut	YES (Overtime applies after 32 hours worked)	NO
Nova Scotia	NO	Hours included if worked, excluded if not worked
Ontario	NO	NO (unless paid at regular rate)
Prince Edward Island	NO	NO
Québec	NO	Hours included when holiday falls on a normal work day and the hours are not worked
Saskatchewan	YES (Overtime applies after 32 hours worked)	NO
Yukon	YES (Overtime applies after 32 hours worked)	NO

Federal (*Canada Labour Code, Part III*): The weekly standard hours (normally 40) are reduced by 8 hours for each public holiday. Therefore, overtime applies after 32 hours and any time worked on a holiday is excluded when calculating weekly overtime.

Alberta: Hours worked on a holiday are not included in the determining weekly overtime applicable after 44 hours, unless hours worked are paid at less than 1.5 times the employee's regular wage.

British Columbia: Hours worked on a public holiday are included in calculating weekly overtime applicable after 40 hours. Hours worked on the holiday are to be paid at 1.5 times the employee's regular rate of pay for the first 12 hours and at double time thereafter. If the employee is given another paid day off in lieu of working on the holiday, the hours worked on the holiday are to be used in the calculation of weekly overtime. If the statutory holiday is not worked, then the statutory holiday hours for which the employee is paid are excluded from the weekly overtime calculation.

According to employment standards, if an employee earns statutory holiday pay and weekly overtime pay, the employer is not required to pay both.

The Employment Standards Interpretation Guidelines Manual states, "Where an employee earns two combined entitlements, they do not "double up" but, rather, the employee would get paid in a fashion that provides the greater benefit to the employee." When the statutory holiday is not worked, the statutory holiday hours are excluded from the calculation of overtime.

Manitoba: Hours worked or not worked on a statutory holiday are included in the calculation of overtime. If an employee does not work on a holiday that falls on a normal workday, the employee is deemed to have worked their regular hours of work that day for computing overtime. Hours worked on the holiday are to be paid at 1.5 times the employee's regular rate of pay for the hours worked.

New Brunswick: Statutory holidays whether worked or not, are excluded from the calculation of overtime. If the employee is given a substitute day off, the hours worked would be included.

Newfoundland and Labrador: Hours worked on statutory holidays are included in the calculation of weekly overtime hours. If the statutory holiday is not worked, then the hours are excluded. Therefore, hours are included if worked and excluded if not worked.

Employees required to work on the holiday receive double their regular rate for the hours worked if they work a complete shift. If employees work less than a regular shift on the holiday, they are to be paid their regular rate for the hours worked, plus regular pay for the holiday.

Northwest Territories/Nunavut: The weekly standard hours (normally 40) are reduced by eight hours for the holiday, which means overtime applies after 32 hours. Any time worked on the holiday is excluded for weekly overtime purposes.

Nova Scotia: In Nova Scotia, hours worked on a statutory holiday are included in the calculation of weekly overtime hours. Any hours over the weekly threshold of 48 are calculated at 0.5 times the regular rate since the hours worked on the holiday would have already been paid at 1.5 times the regular rate.

Ontario: Hours worked on a public holiday, paid at 1.5 times the regular rate, are excluded for weekly overtime purposes. If the employee works and is given a substitute day off, the hours worked are to be counted toward the weekly overtime hours.

Prince Edward Island: No special provisions exist. As the hours worked on a statutory holiday are already paid at 1.5 times the regular rate, they are not included in the weekly hours for overtime. If the employee is given a substitute day for the holiday (with pay), the hours worked on the holiday are included in the weekly overtime calculation.

Québec: Statutory holidays, just like annual vacation, are considered paid workdays, therefore, the corresponding hours paid are included in the total number of hours worked during the week. For statutory holiday hours to be included in the calculation of overtime, the holiday would have had to fall on a day normally worked by the employee and the holiday is not worked. This means overtime is paid after 40 hours per week.

Saskatchewan: The weekly standard hours (normally 40) are reduced by eight hours for the holiday, which means overtime applies after 32 hours. Any time worked on the holiday is excluded for weekly overtime purposes.

Yukon: The weekly standard hours (normally 40) are reduced by eight hours for the holiday, which means overtime applies after 32 hours. Any time worked on the holiday is excluded for weekly overtime purposes.

Examples for Saskatchewan

Overtime is paid for more than eight hours worked in a day or 40 hours worked in a week, whichever is greater. When a statutory holiday falls in the work week, the standard work week of 40 hours is reduced by eight, resulting in overtime hours being paid after 32 hours worked. Any hours worked on the statutory holiday are excluded from overtime calculations.

All eligible employees receive statutory holiday pay, in this case, their regular daily wage. For employees who work on the statutory holiday, they are paid 1.5 times the regular rate for hours worked.

Employee #1 regularly works eight hours a day, five days a week, and worked on the statutory holiday.

	SUNDAY	MONDAY (HOLIDAY)	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	TOTAL
Hours worked	0	8	8	12	8	8	0	44
Regular hours @ 1.0			8	8	8	8		32
Overtime hours @ 1.5				4 (more than 8 hours in a day)				4
Statutory holiday pay @ 1.0		8						8
Statutory holiday pay @ 1.5 (For hours worked)		8						8

Therefore, employee #1 would receive:

- 32 hours at the regular rate
- 8 hours at the regular rate (statutory holiday pay)
- 12 hours at 1.5 times the regular rate (4 for overtime, 8 for hours worked on the statutory holiday)

Labour Standards – Employment Standards

Employee #2 regularly works eight hours a day and did not work on the statutory holiday.

	SUNDAY	MONDAY (HOLIDAY)	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	TOTAL
Hours worked	0	0	8	12	8	8	0	36
Regular hours @ 1.0			8	8	8	8		32
Overtime hours @ 1.5				4				4
Statutory holiday pay @ 1.0		8						8
Statutory holiday pay @ 1.5 (For hours worked)		0						0

Therefore, employee #2 would receive:

- 32 hours at regular rate
- 8 hours at the regular rate (statutory holiday pay – not worked)
- 4 hours at 1.5 times regular rate (overtime rate)

Chapter 5

Labour Standards – Employment Standards

Examples for Québec

Statutory holidays are considered paid workdays, therefore, the statutory holiday hours paid are included in the total number of hours worked during the week. This means overtime is paid after 40 hours per week.

Employees who work on a statutory holiday earn their average daily wage for statutory holiday pay plus regular rate for all hours worked.

Québec employee #1 regularly works 8 hours a day and worked on the statutory holiday.

	SUNDAY	MONDAY (HOLIDAY)	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	TOTAL
Hours worked	0	8	8	12	8	8	0	44
Regular hours @ 1.0			8	8	8	8		32
Overtime hours @ 1.5				4				4
Statutory holiday pay @ 1.0		8						8
Hours worked on the statutory holiday @ 1.0 regular rate		8 hours @ regular rate *						8

*Alternatively another day off within 3 weeks before or after the holiday at average daily wages.

Therefore, Québec employee #1 would receive:

- 32 hours at the regular rate
- 8 hours at the regular rate (statutory holiday pay)
- 8 hours at the regular rate (statutory holiday pay – worked)
- 4 hours at 1.5 times the regular rate (overtime) as the hours exceed 40 hours in the week

Québec employee #2 regularly works eight hours a day and did not work on the statutory holiday.

	SUNDAY	MONDAY (HOLIDAY)	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	TOTAL
Hours worked	0	0	8	12	8	8	0	36
Regular rate @ 1.0		0	8	8	8	8		32
Overtime Hours @ 1.5				4				4
Statutory Holiday Pay @ 1.0		8						8

Therefore, Québec employee #2 would receive:

- 32 hours at the regular rate
- 8 hours at the regular rate (statutory holiday pay)
- 4 hours at 1.5 times the regular rate (overtime) as the hours exceed 40 hours in the week

Since the employee physically worked 36 hours plus the eight statutory hours (considered work hours in Québec) for a total of 44 hours worked, 4 hours of overtime would be paid.

Legislated Holidays

Some holidays are legislated under jurisdictional acts rather than employment standards; this is the case in three jurisdictions. Manitoba and Nova Scotia have a *Remembrance Day Act* that legislates Remembrance Day, November 11, as a holiday. In Québec, the *National Holiday Act* legislates June 24 as the National Holiday (Fête Nationale).

Manitoba

In Manitoba, employees who work on Remembrance Day must:

- be paid at 1½ times their regular rate for the hours worked or
- receive their regular rate for hours worked but not less than ½ the hours of a normal working day plus receive another day off with pay if qualified

Employees who do not work on Remembrance Day are not entitled to any payment unless it is organizational policy.

Nova Scotia

In Nova Scotia, employees who have worked for the employer on at least 15 of the 30 calendar days immediately preceding Remembrance Day are entitled to a paid day off if they are required to work on the holiday.

Eligible employees who work on this day must be:

- paid their regular wage for that day
- granted another day off with pay

Employees who have not worked for the employer on at least 15 of the 30 calendar days immediately preceding Remembrance Day are non-eligible. If non-eligible employees work on Remembrance Day, they are paid for the hours they work at their regular rate. Employees who are not required to work do not get paid unless the employer has a policy to do so.

Québec

Employees covered under Québec jurisdiction are entitled to a day off with pay in observance of the National Holiday (Fête Nationale), which falls on June 24.

An employee who normally works on Sunday, June 24 is entitled to leave on the 24th. An employee who normally does not work on Sunday is entitled to leave the following Monday, June 25th.

Eligible employees who work on this day must be paid:

- regular rate of pay for any hours worked in addition to statutory holiday pay or
- their regular rate for any hours worked plus be given a day off with pay on the working day which precedes or follows June 24th

If the holiday falls on a non-working day, eligible employees must:

- be given another working day off with pay or
- be paid 1/20th of their average earnings, including tips and excluding overtime, earned during the four work weeks before the holiday

For eligible employees paid wholly or partly by commission, the payment is equal to 1/60th of the wages earned during the 12 complete weeks of pay before the holiday.

If the National Holiday (Fête Nationale) falls within an employee's vacation, they are entitled to another day off mutually agreed upon by the employer and employee, paid at the specified statutory holiday pay calculation.

Civic holidays

A civic holiday is a holiday that is observed by several provinces and territories on the first Monday of August. In some jurisdictions such as Alberta, Ontario, Manitoba, Newfoundland and Labrador, Nova Scotia and Prince Edward Island (PEI), employers can choose whether or not they will be closed for business. Employers that choose to close their business on the Civic Holiday must also determine whether or not employees will be paid for the holiday that is not considered a statutory holiday.

The holiday is known by different names across Canada. It is called Heritage Day in Alberta, Civic Holiday in Ontario, Terry Fox Day in Manitoba, Regatta Day in Newfoundland and Labrador, and Natal Day in Nova Scotia and Prince Edward Island.

In British Columbia, New Brunswick, Saskatchewan and Northwest Territories/Nunavut the first Monday in August is considered a statutory holiday.

Vacation

Some of the details covering employees' vacation are:

- the minimum amount of vacation time they are entitled to
- when they are entitled to take vacation (within what period after working the year they must use their vacation time)
- the vacationable earnings on which their vacation pay will be based
- the percentage of their vacationable earnings they will receive as vacation pay

Vacation Time

All jurisdictions require that employees, including part-time and managerial staff, take a minimum of two weeks off work after each year of employment (except for Saskatchewan which provides for a minimum of three weeks). In most jurisdictions (except Yukon), the legislated vacation time increases with an employee's years of service. Employees are entitled to take their vacation within a period ranging from 4 to 12 months of their earning it, depending on the jurisdiction. The employer has the right to decide when the employee takes vacation time each year but must provide the employee with adequate notice as stipulated by the jurisdiction.

Many jurisdictions legislate how employees take vacation time for example, as either two periods of one week each, or as one period of two weeks. The province of Alberta permits vacation to be taken in half-day increments and Ontario permits vacation to be taken in one-day increments. It is the employer's responsibility to ensure that employees take their annual vacation entitlement.

It is important to note that an employee cannot waive their rights to the minimum legislated vacation time without permission from the Director/Minister of Employment/Labour Standards. In other words, if this permission is not obtained, an employee cannot be paid in lieu of taking the minimum vacation time, except on termination of employment.

The only exception to the waiving of vacation time off occurs in the Yukon. The employer and employee may agree in writing that the employee will not take an annual vacation. Although the employee is not taking a vacation the employer must pay the vacation pay which the employee has earned.

Vacationable Earnings

Each jurisdiction defines what earnings are considered “vacationable” to calculate vacation pay. Regular wages or salary, which includes call-in pay, shift premium, retroactive pay and commissions earned (see the chart below), are included in the calculation of vacation pay in all jurisdictions. The following table shows the earnings that are considered vacationable in each jurisdiction.

Illustration: Vacationable Earnings by Jurisdiction

TYPE OF EARNING	INCLUDED IN THE CALCULATION OF VACATION PAY IN...
Regular wages or salary (including call-in pay, shift premium, retroactive pay and commissions earned by a route salesperson or at the employer’s premises)	All jurisdictions
Overtime pay	All jurisdictions except Alberta and Manitoba
Bonuses (work-related)	All jurisdictions if tied to hours of work, production or efficiency
Wages in lieu of notice of termination	All jurisdictions except <i>Canada Labour Code, Part III</i> , Alberta, Manitoba and Newfoundland and Labrador
Statutory/general/public holiday pay	All jurisdictions except Alberta and New Brunswick
Previously paid vacation pay	<i>Canada Labour Code, Part III</i> , Alberta, British Columbia, Quebec, Newfoundland and Labrador and Saskatchewan
Directors’ fees	New Brunswick (if considered a wage) and Québec
Board and lodging taxable benefit (if it forms a part of the remuneration)	<i>Canada Labour Code, Part III</i> , Alberta, Manitoba, Nova Scotia, Ontario, Prince Edward Island and Saskatchewan
Personal emergency leave pay	<i>Canada Labour Code, Part III</i> and Quebec
Domestic or sexual violence leave pay	<i>Canada Labour Code, Part III</i> , Manitoba, New Brunswick, Ontario and Quebec

Vacation Pay

In every jurisdiction except Saskatchewan, vacation pay is calculated as a percentage of gross vacationable earnings. In Saskatchewan, vacation pay is calculated as a fraction of vacationable earnings. Employees earn vacation pay for a 12-month period (vacation year) and are paid vacation pay based on their earnings during that same 12-month period. The definition of “vacationable earnings” varies from jurisdiction to jurisdiction. Vacation pay is to be paid at the time the employee takes their vacation, or on termination of employment, whichever occurs first.

Some employers grant vacation before it has been earned. These employers should be aware that, except for the *Canada Labour Code, Part III*, Newfoundland and Labrador, and Prince Edward Island, if an employee leaves the organization before earning the vacation, the employer cannot withhold any overpayment of vacation pay from the employee’s final earnings, unless the employee has agreed to this in writing. Nova Scotia and Manitoba allow recovery/deductions of pay advances and payroll errors. However, for Nova Scotia, written permission is needed for an overpayment of vacation pay to be deducted.

In British Columbia, an employer may reduce the employee’s annual vacation or vacation pay if the employee requested in writing to the employer, and the request was granted, to take vacation pay and time in advance as long as it was reflected on the payroll records as vacation taken in advance.

Illustration: Minimum Vacation Time and Pay Requirements by Jurisdiction

JURISDICTION	LENGTH OF ANNUAL VACATION	ENTITLEMENT PERIOD*	VACATION PAY (% x VACATIONABLE EARNINGS)
Federal (<i>Canada Labour Code, Part III</i>)	2 weeks 3 weeks after 5 consecutive years 4 weeks after 10 consecutive years	10 months	4% 6% after 5 years 8% after 10 years
Alberta	2 weeks 3 weeks after 5 consecutive years	12 months	4% 6% after 5 years
British Columbia	2 weeks 3 weeks after 5 consecutive years	12 months	4% after 5 calendar days of employment 6% after 5 years
Manitoba	2 weeks 3 weeks after 5 consecutive years	10 months	4% 6% after 5 years
New Brunswick	2 weeks 3 weeks after 8 consecutive years	4 months	4% 6% after 8 years
Newfoundland and Labrador	2 weeks 3 weeks after 15 consecutive years	10 months	4% after 5 workdays 6% after 15 years

JURISDICTION	LENGTH OF ANNUAL VACATION	ENTITLEMENT PERIOD*	VACATION PAY (% x VACATIONABLE EARNINGS)
Northwest Territories/Nunavut	2 weeks 3 weeks after 6 consecutive years	6 months	4% 6% after 6 years
Nova Scotia	2 weeks 3 weeks after 8 consecutive years	10 months	4% 6% after 8 years
Ontario	2 weeks 3 weeks after 5 consecutive years	10 months	4% 6% after 5 years
Prince Edward Island	2 weeks 3 weeks after 8 consecutive years	4 months	4% 6% after 8 years
Québec	2 weeks 3 weeks after 3 consecutive years	12 months	4% 6% after 3 years
Saskatchewan	3 weeks 4 weeks after 10 consecutive years	12 months	3/52 4/52 after 10 years
Yukon	2 weeks after 12 months	10 months	4% after 14 consecutive days of employment

*Entitlement period refers to the time frame in which earned vacation must be used.

An employer may choose to offer a greater right or benefit, by granting vacation time and pay above the legislative requirement. In some instances, employment standards legislation will view that greater right as the employee's entitlement under the applicable Act.

Content Review

- Each jurisdiction has legislated holidays under employment standards; these days are known as statutory, general or public holidays, depending on the terminology used in the legislation in each jurisdiction.
- Employees in all jurisdictions can enjoy a holiday on:
 - January 1 (New Year's Day)
 - Good Friday
 - July 1 (Canada Day, Memorial Day in Newfoundland and Labrador)
 - the first Monday in September (Labour Day)
 - December 25 (Christmas Day)
- An employee's eligibility for statutory holiday pay will depend on whether the employee:
 - meets the criteria for entitlement
 - works on the holiday
- Eligible employees who do not work on the statutory holiday must be paid either their regular daily wage or if their daily wages vary, an average or percentage of their daily earnings over a period preceding the holiday.
- Employees who do not meet the eligibility criteria for statutory holiday entitlement must be paid for any hours worked on the holiday. The rate of statutory holiday pay for these employees varies by jurisdiction.
- Depending on the jurisdiction, hours worked on a statutory holiday can either be included or excluded when calculating the employee's weekly overtime hours. In some jurisdictions, the weekly overtime threshold hours are decreased when a statutory holiday falls in the week.
- Manitoba and Nova Scotia have a *Remembrance Day Act* that legislates Remembrance Day, November 11, as a holiday. In Québec, the *National Holiday Act* legislates June 24 as the National Holiday (Fête Nationale).
- A civic holiday is a holiday that is observed by several provinces and territories on the first Monday of August.
- All jurisdictions require that employees take a minimum of two weeks off work after each year of employment (except for Saskatchewan that provides for a minimum of three weeks).
- Vacation pay is calculated in all jurisdictions as a percentage of gross vacationable earnings (except for Saskatchewan that calculates vacation pay as a fraction of vacationable earnings).
- Vacationable earnings include regular wages or salary, call-in pay, shift premium, retroactive pay, and commissions earned by a route salesperson or at the employer's premises in all jurisdictions.

Review Questions

15. Calculate the hours in the following examples for an employee in Ontario who works eight hours a day, five days a week.

a. Hours worked in a week where there was no holiday:

S	M	T	W	T	F	S	TOTAL HOURS WORKED	REGULAR HOURS	O/T HOUR @ 1.5	STATUTORY HOLIDAY HOURS
	8	10	9	5	8	8				

S – Sunday; M – Monday; T – Tuesday; W – Wednesday; T – Thursday; F – Friday;

S – Saturday; O/T – overtime

b. Hours worked in a week where the eligible employee did not work on the holiday Monday:

S	M	T	W	T	F	S	TOTAL HOURS WORKED	REGULAR HOURS	O/T HOUR @ 1.5	STATUTORY HOLIDAY HOURS
	0	12	9	8	8	8				

c. Hours worked in a week where the eligible employee did work on the holiday Monday, and a substitute holiday is not taken:

S	M	T	W	T	F	S	TOTAL HOURS WORKED	REGULAR HOURS	O/T HOUR @ 1.5	STATUTORY HOLIDAY HOURS
	8	12	9	8	8	8				

Employment Leaves

There are several types of leaves (time away from work) that are available to employees. Not all jurisdictions offer the same types of leaves. For example, Québec is the only jurisdiction that has legislation dealing with leaves for weddings.

An overview on the following types of leaves will be provided by jurisdiction, where legislated:

- Bereavement
- Citizenship
- Compassionate care
- Domestic Violence
- Family responsibility
- Jury duty
- Maternity (pregnancy), parental, paternal, adoption and child care
- Organ donor
- Reservist
- Sick
- Voting
- Wedding

Employee rights

Under jurisdictional legislation, an employee may exercise their right to a leave of absence with the knowledge that their job is protected. Employers should pay close attention to the rules on leaves and reinstatement, especially as some leaves may be for a longer duration.

In many cases, an employee's seniority continues to accrue during a legislated leave and upon their return, they would be entitled to any increases in salary, wages or benefits that they would have been eligible for if the leave was not taken.

Consult the applicable legislation for details, provincial employment/labour standards websites have valuable reference material available to assist employers with some of the more unique situations that may arise related to these leaves. While an employer may think they have a unique situation, it is often dealt with in a fact sheet or frequently asked questions (FAQ) document on the jurisdiction's website.

A list of the provincial/territorial government websites that provide information on labour and employment standards can be found at the following federal government website:

<http://www.cic.gc.ca/english/work/labour-standards.asp>.

Information on the *Canada Labour Code, Part III* can be found at the following Government of Canada website: <https://laws-lois.justice.gc.ca/eng/acts/L-2/>.

Leaves: Bereavement

Where legislated, employees are permitted to take time off work when a family member dies. The length of the leave depends on whether the deceased individual was a member of the employee's immediate or extended family. The definition of an immediate and extended family member is provided in the legislation for each jurisdiction. This leave is unpaid in most jurisdictions.

For example, bereavement leave is unpaid in New Brunswick for close family members. A close family member is defined as:

the relationship between persons who are married to one another, between parents and their children, between siblings and between grandparents and their grandchildren, and includes a relationship between persons who, though not married to one another and whether or not a blood relationship exists, demonstrate an intention to extend to one another the mutual affection and support normally associated with those relationships first mentioned.

JURISDICTION	WHO QUALIFIES?	DURATION
Federal	All employees	10 days unpaid
	Employees with 3 months or more of service	3 days paid + 7 days unpaid
Alberta	All employees	3 days unpaid
British Columbia	All employees	3 days unpaid
Manitoba	Employees with 30 days or more of service	3 days unpaid
New Brunswick	All employees	5 days unpaid
Newfoundland and Labrador	Employees with 30 days or more of service	1 day paid + 2 days unpaid
Northwest Territories	All employees	3 days unpaid if local 7 days unpaid if out of town
Nova Scotia	All employees	5 days unpaid
Ontario	Employees with at least two weeks of service	2 days unpaid
Prince Edward Island	All employees	1 day paid + 2 days unpaid
Quebec	All employees	2 days paid + 3 days unpaid
	Employees with 3 months or more of service	Up to 104 weeks in the event of the death of a minor child

JURISDICTION	WHO QUALIFIES?	DURATION
Quebec (continued)	Employees with 3 months or more of service	Up to 104 weeks in the event of the suicide of: <ul style="list-style-type: none">• A spouse• A parent• An adult child
Saskatchewan	Employees with 13 weeks of continuous service or more	2 days paid + 3 days unpaid
Yukon	All employees	7 days unpaid

Leaves: Citizenship

Citizenship leave is an unpaid, authorized absence from work for an employee to attend their citizenship ceremony. The Citizenship Act (Canada) requires all new citizens over the age of 14 to attend their citizenship ceremony, but the act itself does not make provisions for the new citizens to take a leave from work to attend. Canada Labour Code, Part III, Alberta, Manitoba, Nova Scotia and Saskatchewan are the only jurisdictions that have explicit provisions for citizenship leave.

JURISDICTION	WHO QUALIFIES?	DURATION
Federal	All employees	See Family Responsibility /Personal Leave for details.
Alberta	Employees with 90 days or more of service	½ a day unpaid
Manitoba	Employees with 30 days or more of service	4 hours unpaid
Nova Scotia	All employees	1 day unpaid
Saskatchewan	All employees	1 day unpaid

Leaves: Caregiver

Leave may be available allowing an employee time off work to act as a caregiver to a family member with a serious injury or illness. The duration of the leave may be different if the family member is a child (a minor dependent under the age of 18) or an adult.

The leave from the employer will be unpaid. However, a Caregiver Benefit is available through Employment Insurance following a one week waiting period that will provide:

- Family caregiver benefit for children – up to 35 weeks of benefits
- Family caregiver benefit for adults – up to 15 weeks of benefits

To be eligible for caregiver benefits the individual must apply and show that:

- their regular weekly earnings from work have decreased by more than 40% and
- they have accumulated 600 insured hours in the last 52 weeks or since the start of their last Employment Insurance claim.

The following chart indicates any qualifying period under employment/labour standards legislation that must be met before an employee is entitled to caregiver leave and the duration of the leave.

JURISDICTION	WHO QUALIFIES?	DURATION
Federal	All employees	37 weeks to care for a child 17 weeks to care for an adult
Alberta	Employees with 90 days or more of service	36 weeks to care for a child
British Columbia	All employees	36 weeks to care for a child 16 weeks to care for an adult
Manitoba	Employees with 30 days or more of service	37 weeks to care for a child
	Employees with 90 days or more of service	17 weeks to care for an adult
New Brunswick	Employees with 90 days or more of service	37 weeks to care for a child 16 weeks to care for an adult
Newfoundland and Labrador	Employees with 30 days or more of service	37 weeks to care for a child 17 weeks to care for an adult
Northwest Territories	All employees	37 weeks to care for a child 17 weeks to care for an adult
Nova Scotia	Employees with 3 months or more of service	37 weeks to care for a child 16 weeks to care for an adult
Ontario	Employees with 6 months or more of service	37 weeks to care for a child 17 weeks to care for an adult
Prince Edward Island	Employees with 3 months or more of service	37 weeks to care for a child
Quebec	Employees with 3 months or more of service	36 weeks to care for a child 16 weeks to care for an adult
Saskatchewan	Employees with 13 weeks or more of service	37 weeks to care for a child
Yukon	Employees with 6 months or more of service	52 weeks to care for a child 17 weeks to care for an adult

Leaves: Compassionate Care

Compassionate care leave is an authorized leave from work to support and take care of a terminally ill family member.

The leave from the employer will be unpaid. However, a Compassionate Care Benefit is available through Employment Insurance following a one week waiting period that will provide up to 26 weeks of benefits.

To be eligible for compassionate care benefits the individual must apply and show that:

- their regular weekly earnings from work have decreased by more than 40% and
- they have accumulated 600 insured hours in the last 52 weeks or since the start of their last Employment Insurance claim.

The following chart indicates any qualifying period under employment/labour standards legislation that must be met before an employee is entitled to compassionate care leave and the duration of the leave.

JURISDICTION	WHO QUALIFIES?	DURATION
Federal	All employees	28 weeks
Alberta	Employees with 90 days or more of service	27 weeks
British Columbia	All employees	27 weeks
Manitoba	Employees with 90 days or more of service	28 weeks
New Brunswick	All employees	28 weeks
Newfoundland and Labrador	Employees with 30 days or more of service	28 weeks
Northwest Territories	All employees	27 weeks
Nova Scotia	Employees with 3 months or more of service	28 weeks
Nunavut	All employees	8 weeks
Ontario	All employees	28 weeks
Prince Edward Island	All employees	28 weeks
Quebec	Employees with 3 months or more of service	27 weeks
Saskatchewan	Employees with 13 weeks or more of service	28 weeks
Yukon	All employees	28 weeks

Communication of caregiver or compassionate care leave

Communicating the details of caregiver or compassionate care leave to employers and employees requires clarity as well as sensitivity. Employers need to be aware of the definition of qualifying ‘family members’ that entitles an employee to an unpaid leave of absence under employment/labour standards legislation. In some situations, the family member who is ill and in need of care may not be included in the qualifying list. The employee will need to be informed if they will be entitled to the leave.

Employers who operate in more than one province or territory should know each jurisdiction’s definition of qualifying family members that entitles an employee to compassionate care leave. The employer may have to apply different rules to employees depending on which province/territory they report to work in. In such situations an employer may want to establish an organization-wide policy that covers all employees, using the standards from the jurisdiction that provides the best benefits to all employees.

Employers also need to be aware of Employment and Social Development Canada’s definition of family members for Employment Insurance (EI) benefit qualification and provide this information to employees. This is most critical, because even if the employee qualifies for benefits under Employment Insurance legislation, the employee may not qualify for leave under provincial employment/labour standards. While money alone is unlikely to be a determining factor in taking caregiver or compassionate care leave, a lengthy leave may require serious consideration if it is to be unpaid.

Employers are advised to monitor legislation relating to these leaves as there may be further modifications to the definition of qualifying family members in both employment/labour standards legislation and EI legislation. All employers are encouraged to effectively communicate caregiver and compassionate care issues through organizational policy.

Leaves: Crime-related child disappearance or death

Many jurisdictions have introduced leave for the parents of a child, under age 18, that has either disappeared or died as a result of a crime.

The leave from the employer will be unpaid. However, the Parents of Murdered or Missing Children (PMMC) federal support grant is available to provide financial benefits during this leave.

Chapter 5

Labour Standards – Employment Standards

JURISDICTION	WHO QUALIFIES?	DURATION
Federal	All employees	Disappearance: 52 weeks Death: 104 weeks
Alberta	Employees with 90 days or more of service	Disappearance: 52 weeks Death: 104 weeks
British Columbia	All employees	Disappearance: 52 weeks Death: 104 weeks
Manitoba	Employees with 30 days or more of service	Disappearance: 52 weeks Death: 104 weeks
New Brunswick	Employees with 90 days or more of service	Disappearance: 37 weeks Death: 37 weeks
Newfoundland and Labrador	Employees with 30 days or more of service	Disappearance: 52 weeks Death: 104 weeks
Nova Scotia	Employees with 3 months or more of service	Disappearance: 52 weeks Death: 104 weeks
Ontario	Employees with 6 months or more of service	Disappearance: 104 weeks Death: 104 weeks
Prince Edward Island	Employees with 3 months or more of service	Disappearance: 52 weeks Death: 104 weeks
Quebec	Employees with 3 months or more of service	Disappearance: 104 weeks Death: 104 weeks
Saskatchewan	Employees with 13 weeks or more of service	Disappearance: 52 weeks Death: 104 weeks
Yukon	Employees with 6 months or more of service	Disappearance: 52 weeks Death: 104 weeks

Leaves: Domestic or Sexual Violence

If an employee, their minor child (under age 18) or another person in the employee's primary care has been the victim of domestic or sexual violence leave of absence may be available. In many jurisdictions, a portion of this leave will be paid with the balance being unpaid.

The leave may be requested to seek services such as medical, counselling, legal, law enforcement or to relocate temporarily or permanently.

The following chart indicates any qualifying period under employment/labour standards legislation that must be met and the duration of the leave.

JURISDICTION	WHO QUALIFIES?	DURATION
Federal	All employees	10 days unpaid (5 days are paid if employee has 3 months or more of service)
Alberta	Employees with 90 days or more of service	10 days unpaid
British Columbia	All employees	5 days paid + 5 days unpaid Up to 15 additional weeks unpaid
Manitoba	Employees with 90 days or more of service	10 days Up to 17 additional weeks (5 days of either leave are with pay)
New Brunswick	Employees with 90 days or more of service	10 days Up to 16 weeks (5 days of either leave are with pay)
Newfoundland and Labrador	Employees with 30 days or more of service	3 days paid + 7 days unpaid
Northwest Territories	All employees	5 days paid + 5 days unpaid Up to 15 additional weeks unpaid
Nova Scotia	Employees with 3 months or more of service	3 days paid + 7 days unpaid Up to 16 additional weeks unpaid
Ontario	Employees with 13 weeks or more of service	5 days paid + 5 days unpaid Up to 15 additional weeks unpaid

JURISDICTION	WHO QUALIFIES?	DURATION
Prince Edward Island	Employees with 3 months or more of service	3 days paid + 7 days unpaid
Quebec	Employees with 3 months or more of service	Up to 26 weeks ¹
Saskatchewan	Employees with 13 weeks or more of service	5 days paid + 5 days unpaid
Yukon	Employees with 90 days or more of service	5 days paid + 5 days unpaid Up to 15 additional weeks unpaid

Leaves: Family Responsibility

Several jurisdictions provide a specific number of days each year that an employee may request as leave to handle family matters such as medical emergencies, urgent matters related to childcare or eldercare, meetings with a school counsellor regarding educational or behavioural issues.

JURISDICTION	WHO QUALIFIES?	DURATION
Federal	All employees	5 days unpaid (3 days are paid if employee has 3 months or more of service) ²
Alberta	Employees with 90 days or more of service	5 days unpaid
British Columbia	All employees	5 days unpaid
Manitoba	Employees with 30 days or more of service	3 days unpaid
New Brunswick	All employees	3 days unpaid
Newfoundland and Labrador	Employees with 30 days or more of service	7 days unpaid ³
Ontario	Employees with 2 weeks or more of service	3 days unpaid
Prince Edward Island	Employees with 6 months or more of service	3 days unpaid
Quebec	All employees	10 days unpaid

¹ Quebec employers are required to provide 2 paid days each year that may be used for either, illness, accident or domestic violence leave.

² Employees of federally regulated organizations may also use this leave for time off work to attend a citizenship ceremony.

³ An employee in Newfoundland and Labrador may use the 7 days of leave for either family responsibility or personal illness. A maximum of 7 days per year may be used.

Leaves: Jury Duty

Each province has a *Jury Act* or *Juries Act* which requires that an employee who does not belong to an exempted category be allowed leave from employment to fulfill jury duty without fear of losing their job. The federal *Criminal Code* outlines the selection and operation of juries but does not outline exemptions from jury duty or obligations of employers when an employee serves on a jury.

The reasons a potential juror may be exempted from jury duty vary by jurisdiction, but can include:

- age (for example, individuals over age 65 may be exempt)
- individuals in poor health
- those who have limited ability to speak or understand the language of the court

Except in Newfoundland and Labrador, employers are not obligated to pay an employee their wages while they are off on jury duty leave.

Newfoundland and Labrador's *Jury Act* requires that the employer of a person summoned for jury service or who is required to attend court as a witness, pay that person the same wages and provide the same benefits during the absence that they would have received if reporting for work.

Canada Labour Code, Part III, New Brunswick and Prince Edward Island legislate unpaid court leave in their employment standards legislation.

Leaves: Maternity (Pregnancy), Parental, Paternal, Adoption and Child Care

Every jurisdiction has legislation regarding maternity/pregnancy leaves. Some jurisdictions also legislate parental, paternal, adoption and child care leaves. The legislation intends to provide unpaid leaves of absence, with job protection, to allow qualifying employees to care for a new child entering into the household and to provide recovery time to women who have given birth. Maternity leave, also called pregnancy leave in some jurisdictions, can only be taken by the birth mother. Parental, adoption and child care leaves can be taken by natural or adoptive mothers and fathers.

As this is one of the more common leaves payroll professionals will be required to manage in addition to the eligibility criteria and duration of the leave we have also included the requirements for an employee to provide advance notice and the employer's responsibility related to reinstatement and continuation of seniority and benefits.

Chapter 5

Labour Standards – Employment Standards

Illustration: Maternity, Parental, Paternal, Adoption and Child Care Leave Regulations by Jurisdiction

JURISDICTION	QUALIFYING PERIOD	LENGTH OF LEAVE	REQUIRED NOTICE	REINSTATEMENT	SENIORITY/BENEFITS
Federal (<i>Canada Labour Code, Part III</i>)					
Maternity	None	17 weeks	4 weeks	Same or similar position with same wages/benefits	Employment deemed continuous for benefit and seniority purposes; employer to continue payments to benefit plans if employee pays own share
Parental/adoption	None	71 weeks	4 weeks		
Alberta					
Maternity	90 days	16 weeks	6 weeks	Same or comparable position	Same wages and benefits that accrued to date leave commenced
Parental/adoption	90 days	62 weeks	6 weeks		
British Columbia					
Pregnancy	None	17 weeks	4 weeks	Same or comparable position with all increases in wages and benefits as if leave not taken	Employment deemed continuous; employer to continue making payments to benefit plans unless the employee chooses not to continue paying their portion of the premium
Parental, if pregnancy leave taken	None	61 weeks	4 weeks		
Parental, if pregnancy leave not taken	None	62 weeks	4 weeks		
Manitoba					
Maternity	7 months	17 weeks	4 weeks	Same or similar position	Employment deemed continuous; employer to continue payments to benefit plans if employee pays own share
Parental	7 months	63 weeks	4 weeks		
New Brunswick					
Maternity	None	17 weeks	Notify the employer four months prior to the due date and two weeks prior to start of leave	Same or equivalent position with same wages	No loss of seniority or benefit accrued up to the commencement of the leave
Child Care (includes adoption)	None	62 weeks			
Maternity and childcare	None	78 weeks			

Labour Standards – Employment Standards

JURISDICTION	QUALIFYING PERIOD	LENGTH OF LEAVE	REQUIRED NOTICE	REINSTATEMENT	SENIORITY/ BENEFITS
Newfoundland and Labrador					
Pregnancy	20 weeks	17 weeks	2 weeks	Same or similar position with same wages	No loss of seniority; no provisions for benefits during leave
Adoption	20 weeks	17 weeks	2 weeks		
Parental	20 weeks	61 weeks	2 weeks		
Northwest Territories					
Pregnancy	12 months	17 weeks	4 weeks	Same or similar position with same wages/benefits	No loss of seniority accrued to date leave commenced; wage/benefit increments as if leave not taken
Parental, if pregnancy leave taken	12 months	61 weeks	4 weeks		
Parental, if pregnancy leave not taken	12 months	61 weeks	4 weeks		
Adoption					
Nunavut					
Pregnancy	12 months	17 weeks	4 weeks	Same or similar position with same wages/benefits	No loss of seniority accrued to date leave commenced; wage/benefit increments as if leave not taken
Parental, if pregnancy leave taken	12 months	35 weeks	4 weeks		
Parental, if pregnancy leave not taken	12 months	37 weeks	4 weeks		
Adoption					
Nova Scotia					
Pregnancy	12 months	16 weeks	4 weeks	Same or comparable position, wages and benefits	No loss of seniority or benefits accrued to date leave commenced
Parental, if pregnancy leave taken	12 months	61 weeks	4 weeks		
Parental, if pregnancy leave not taken	12 months	77 weeks	4 weeks		
Ontario					
Pregnancy	13 weeks prior to estimated delivery date	17 weeks	2 weeks	Same or comparable position; same wages as if leave not taken	Seniority and benefits continue to accrue during leave; employer not required to maintain benefits during the leave
Parental, if pregnancy leave taken	as above	61 weeks	2 weeks		
Parental, if pregnancy leave not taken	as above	63 weeks	2 weeks		

Chapter 5

Labour Standards – Employment Standards

JURISDICTION	QUALIFYING PERIOD	LENGTH OF LEAVE	REQUIRED NOTICE	REINSTATEMENT	SENIORITY/ BENEFITS
Prince Edward Island					
Maternity	20 weeks	17 weeks	4 weeks	Same or comparable position; same wages and benefits as if leave not taken	No loss of seniority; an employer must continue benefits coverage if it is a shared plan and the employee agrees to pay their share of the cost. There is no provision for the continuation of pension contributions or benefits
Parental	20 weeks	62 weeks	4 weeks		
Adoption	20 weeks	62 weeks	4 weeks		
Combined maternity & parental for birth mothers	20 weeks	78 weeks	4 weeks		
Québec					
Maternity	None	18 weeks	3 weeks	Same or similar position with same wages	Same benefits as if no leave; employer to continue benefit payment if employee pays own share
Parental	None	65 weeks	3 weeks		
Paternity—father	None	5 days (first 2 paid, next 3 unpaid)	ASAP		
Additional paternity leave		An employee is entitled to an additional paternity leave of not more than 5 consecutive weeks without pay, on the birth of a child			
Saskatchewan					
Maternity	13 weeks	19 weeks	4 weeks	Same or similar position; not less than same wages/ benefits	Seniority and all benefits continue to accrue during leave including pension and RRSP Employees must pay their share if the benefit plans are shared
Parental, if pregnancy leave taken	13 weeks	59 weeks	4 weeks		
Parental, if pregnancy leave not taken	13 weeks	71 weeks	4 weeks		
Adoption	13 weeks	71 weeks	4 weeks		
Yukon					
Maternity	12 months	17 weeks	4 weeks	Same or similar position; same wages/benefits as if leave not taken	Employment deemed continuous; employer not required to maintain benefits during the leave
Parental	12 months	63 weeks	4 weeks		
Adoption	12 months	63 weeks	4 weeks		

Leaves: Organ Donor

An employee who is a donor of an organ or tissue may be eligible for a leave of absence to recover from the surgical procedure.

JURISDICTION	ELIGIBILITY	DURATION
Federal	All employees	17 weeks unpaid. An extension may be available related to ongoing health concerns.
Manitoba	Employees with 30 days or more of service	13 weeks unpaid. An extension of up to 13 additional weeks may be available.
Ontario	Employees with 13 weeks or more of service	13 weeks unpaid. An extension of up to 13 additional weeks may be available.
Quebec	All employees	26 weeks unpaid
Saskatchewan	Employees with 13 weeks or more of service	26 weeks unpaid.

Leaves: Reservist

All jurisdictions have now passed legislation protecting seniority and benefits to qualified employees who are members of the Canadian Forces Reserves and who are deployed for active service. Annual leave to attend training may also be provided.

JURISDICTION	WHO QUALIFIES?	DURATION
Federal	Employee with 3 months or more of service	Until service is complete – up to a maximum of 24 months
Alberta	Employees with 26 weeks or more of service	Until service is complete
British Columbia	All employees	Until service is complete
Manitoba	Employees with 3 months or more of service	Until service is complete
New Brunswick	Employees with 6 months or more of service	18 months Annual training leave of 30 days
Newfoundland and Labrador	Employees with 6 months or more of service	Until service is complete
Northwest Territories	Employees with 6 months or more of service	Until service is complete
Nova Scotia	Employees with 3 months or more of service who is a “Class C” reservist	24 months Annual training leave of 20 days
Nunavut	Employees with 6 months or more of service	Until service is complete
Ontario	Employees with 6 months or more of service	Until service is complete
Prince Edward Island	Employees with 6 months or more of service	Until service is complete
Quebec	Employees with 12 months or more of service	18 months
Saskatchewan	Employees with 13 weeks or more of service	Until service is complete
Yukon	Employees with 6 months or more of service or a shorter period based on reservist class.	Until service is complete

Leaves: Sick

Although almost all employees will become ill at some point in their working lives, not all jurisdictions have legislation in place relating to sick leave. Those jurisdictions that offer leave provide it in one of the following ways:

- A designated number of days each year that may be used for personal illness or injury
- A long-term injury or illness leave for more serious situations

The leave will generally be unpaid however an employee may be entitled to financial assistance through an employer benefit for paid sick days or a wage loss replacement plan. If an employer benefit is not available an employee may also be entitled to up to 15 weeks of EI sick benefits if:

- their regular weekly earnings from work have decreased by more than 40% and
- they have accumulated 600 insured hours in the last 52 weeks or since the start of their last Employment Insurance claim.

JURISDICTION	WHO QUALIFIES?	DURATION
Federal	All employees	Up to 17 weeks unpaid
Alberta	Employee with 90 days or more of service	Up to 16 weeks unpaid
British Columbia	Employees with 90 days or more of service	5 days paid, and 3 days unpaid
Manitoba	Employees with 90 days or more of service	Up to 17 weeks unpaid
New Brunswick	Employees with 90 days or more of service	5 days unpaid
Newfoundland and Labrador	Employees with 30 days or more of service	7 days unpaid ¹
Northwest Territories	Employees with 30 days or more of service	5 days unpaid
Nova Scotia	All employees	3 days unpaid
Ontario	Employees with 2 weeks or more of service	3 days unpaid

¹ An employee in Newfoundland and Labrador may use the 7 days of leave for family responsibility or personal illness. A maximum of 7 days per year may be used.

Chapter 5

Labour Standards – Employment Standards

JURISDICTION	WHO QUALIFIES?	DURATION
Prince Edward Island	Employees with 3 months or more of service	3 days unpaid
	After 5 years of service	1 day paid + 3 days unpaid
Quebec	All employees	Up to 26 weeks ²
Saskatchewan	Employees with 13 weeks or more of service	Up to 12 weeks 12 days if the illness or injury is not serious
Yukon	All employees that have completed at least one month of service	1 day per month of service to a maximum of 12 days per year

Leaves: Voting

For federal, provincial/territorial or municipal elections, employees who qualify as electors are entitled to a specified number of consecutive hours in which to vote while the polls are open. Upon request, employers must grant eligible employees time off work with no loss of earnings.

Example:

In British Columbia employees are entitled to four consecutive hours in which to vote in a provincial election. An employee's normal work hours are from 9:00 a.m. to 5:00 p.m., and the polls are open until 8:00 p.m. Upon receiving the employee's request, the employer would have to let the employee leave at 4:00 p.m., without loss of pay, giving the employee four consecutive hours to vote.

² Quebec employers are required to provide 2 paid days each year that may be used for either, illness, accident or domestic violence leave.

Illustration: Time Off for Voting Legislation by Jurisdiction

TYPE OF ELECTION	TIME OFF
Federal	The <i>Canada Elections Act</i> allows three consecutive hours while the polls are open in which to vote.
Provincial/ Territorial	The provincial and territorial <i>Elections Acts</i> legislate the following: Alberta, Manitoba, New Brunswick, the Northwest Territories, Nova Scotia, Nunavut, Ontario and Saskatchewan allow three consecutive hours' absence from work while the polls are open. British Columbia, Newfoundland and Labrador, Québec and the Yukon allow four consecutive hours' absence from work while the polls are open. Prince Edward Island allows a one-hour absence while the polls are open.
Municipal	The <i>Municipal Elections Act</i> in Alberta, New Brunswick, Northwest Territories, Ontario and the Yukon allow three consecutive hours for voting while the polls are open. Québec and Newfoundland and Labrador allow four consecutive hours while the polls are open.

Leaves: Wedding

Québec is the only jurisdiction that requires the employer to grant the employee a day off with pay should their wedding occur on a working day. The employer must also grant a day off without pay on the wedding day of an immediate family member of the employee or a member of the immediate family of the employee's partner.

Other Types of Leaves**Declared Emergency Leave**

Under certain circumstances, a public emergency order may be issued by a province that would allow employees the right to job protected leave to care for themselves or a family member.

These types of orders happened in 2020 and 2021 as a result of the COVID-19 pandemic.

Other Leaves

There is no legislation in any jurisdiction requiring the employer to grant time off for reasons such as moving, citizenship (except Canada Labour code, Alberta, Manitoba, Nova Scotia and Saskatchewan), or religious holidays that are not recognized as statutory holidays, examinations for courses, birthday, or extended maternity/parental leave beyond what is legislated.

Content Review

- Where legislated, employees are permitted to take time off work when a family member dies. The length of the leave depends on whether the deceased individual was a member of the employee's immediate or extended family and the jurisdiction the employee works in.
- In most jurisdictions, Employment Standards legislation allows employees to take twenty-eight weeks' job protected compassionate care leave to care for a gravely ill family member; the definition of a family member is different in each jurisdiction.
- In certain jurisdictions, legislation exists to provide leave for employees who need to deal with family responsibilities for their immediate and, in some jurisdictions, extended family members.
- Each province has a *Jury Act* or *Juries Act* which requires that an employee who does not belong to an exempted category be allowed leave from employment to fulfill jury duty without fear of losing their job.
- Every jurisdiction has legislation regarding maternity/pregnancy leaves. Some jurisdictions also legislate parental, paternal, adoption and child care leaves. The legislation intends to provide unpaid leaves of absence, with job protection, to allow qualifying employees to care for a new child entering into the household and to provide recovery time to women who have given birth.
- All jurisdictions have now passed legislation protecting seniority and benefits to qualified employees who are members of the Canadian Forces Reserves and who are deployed for active service.
- Sick leave is legislated in certain jurisdictions; the remaining jurisdictions rely on employer sick leave policies or general/emergency leave provisions in their legislation to cover individuals who are absent due to illness.
- For federal, provincial/territorial or municipal elections, employees who qualify as electors are entitled to a specified number of consecutive hours in which to vote while the polls are open. Upon request, employers must grant eligible employees time off work with no loss of earnings.
- Québec is the only jurisdiction that requires employers to grant their employees a day off with pay should their wedding occur on a working day. The employer must also grant a day off without pay on the wedding day of an immediate family member of the employee or a member of the immediate family of the employee's partner.

Review Questions

16. An employee in Prince Edward Island has been called for jury duty. What is the employer required to pay this employee?

17. An employee in Québec, who has been working for your organization for 2 years, is 6 months pregnant.
 - a. How much notice is the employee required to give prior to going on maternity leave?

 - b. How many weeks of combined maternity and parental leave is the employee entitled to take?

18. For a provincial election, how many hours is an employee in British Columbia granted in which to vote?

19. Which province(s) entitle(s) employees to take a wedding leave with pay if the wedding day of the employee occurs on a working day?

Terminations

Employment/labour standards related to the termination of employment deal with the legislation surrounding:

- Notice of individual termination
- Notice of group termination
- Severance pay
- Temporary layoffs
- Payment of wages on termination

Terminations: Notice of Individual Terminations

When employment is being terminated, the employer must either:

- give the employee a period of working notice or
- pay the employee wages in lieu of working the notice period (known as wages in lieu of notice)

The length of the period of working notice will depend on:

- the jurisdiction under which the employee is covered
- how long the employee has been employed with the organization

The notice of termination of employment must be in writing and served in person or by registered mail. Where the employer is unable to or chooses not to, provide a working notice period, the employee must be paid wages in lieu of notice. The intent of wages in lieu of notice is to pay an amount equal to what the employee would have earned, excluding overtime, if the employee had worked the notice period. No notice is required if the employee has worked for the employer for less than 30 days in Manitoba, less than 90 days in the Northwest Territories or Nunavut, less than 6 months' continuous employment in New Brunswick, Prince Edward Island and Yukon, and less than 3 months in all other jurisdictions.

If terminating an employee for just cause, that is willful misconduct, disobedience or neglect of duty that has not been condoned by the employer, no notice of termination is required. However, since just cause can be difficult to prove to the satisfaction of a judge, the employer should seek legal advice before proceeding with termination on these grounds.

The following should be noted concerning the period of notice:

- at no time can any part of the vacation entitlement be used as part of the period of notice
- there can be no reduction in pay during the period of notice
- payment in lieu of notice will be based on basic wages without overtime. If an employee works variable hours an average rate should be used
- if the employee works past the period of notice, a new period of notice must be provided

The following chart shows the requirements for individual terminations, by the length of service and province or territory.

Illustration: Individual Employer Notice of Termination Regulations by Jurisdiction

LENGTH OF SERVICE	EMPLOYER NOTICE REQUIRED FOR INDIVIDUAL TERMINATION (IN WEEKS)												
	CLC	AB	BC	MB ³	NB	NL	NS	NT/NU ⁴	ON	PE	QC	SK	YT
30 days				1									
90 days				1				2					
3 months	2	1	1	1		1	1	2	1		1	1	
6 months	2	1	1	1	2	1	1	2	1	2	1	1	1
1 year	2	1	2	2	2	1	1	2	2	2	2	2	2
2 years	2	2	2	2	2	2	2	2	2	2	2	2	2
3 years	2	2	3	4	2	2	2	3	3	2	2	4	3
4 years	2	4	4	4	2	2	2	4	4	2	2	4	4
5 years	2	4	5	6	4	3	4	5	5	4	4	6	5
6 years	2	5	6	6	4	3	4	6	6	4	4	6	6
7 years	2	5	7	6	4	3	4	7	7	4	4	6	7
8 years	2	6	8	6	4	3	4	8	8	4	4	6	8
9 years	2	6	8	6	4	3	4	8	8	4	4	6	8
10 years	2	8	8	8	4	4	8	8	8	6	8	8	8
After 15 years	2	8	8	8	4	6	8	8	8	8	8	8	8

CLC – Federal (*Canada Labour Code, Part III*), AB – Alberta, BC – British Columbia, MB – Manitoba, NB – New Brunswick, NL – Newfoundland and Labrador, NS – Nova Scotia, NT/NU – Northwest Territories/Nunavut, ON – Ontario, PE – Prince Edward Island, QC – Québec, SK – Saskatchewan, YT – Yukon)

¹Notice not required for employment of less than 30 days.

²Notice is not required in NT if an employee is seasonal or works less than 25 hours per week.

Chapter 5

Labour Standards – Employment Standards

Some jurisdictions also require the employee to give written notice when they are resigning from employment. As with employer notice, the length of the notice period depends on the length of employment. The following chart shows the requirements by the length of service and jurisdiction. Employees who have worked less than 3 months are not required to provide notice of resignation to their employer. If the column is blank, it means that there are no legislative requirements for the employee to provide notice for the jurisdiction referenced, excluding Manitoba whose legislation is described in the footnote below.

Illustration: Individual Employee Notice of Termination Regulations by Jurisdiction

LENGTH OF SERVICE	Employee notice required (weeks)												
	CLC	AB	BC	MB ¹	NB	NL ⁴	NS	NT/NU	ON ²	PE	QC ³	SK ⁵	YT ⁶
30 days				1									
3 months		1		1		1	1		1			2	
6 months		1		1		1	1		1	1		2	1
1 year		1		2		1	1		1	1		2	1
2 years		2		2		2	2		2	1		2	2
3 years		2		2		2	2		2	1		2	2
4 years		2		2		2	2		2	1		2	3
5 years		2		2		3	2		2	2		2	3
6 years		2		2		3	2		2	2		2	4
7 years		2		2		3	2		2	2		2	4
8 years		2		2		3	2		2	2		2	4
9 years		2		2		3	2		2	2		2	4
10 years		2		2		4	2		2	2		2	4
After 15 years		2		2		6	2		2	2		2	4

CLC – Federal (*Canada Labour Code, Part III*), AB – Alberta, BC – British Columbia, MB – Manitoba, NB – New Brunswick, NL – Newfoundland and Labrador, NS – Nova Scotia, NT/NU – Northwest Territories/Nunavut, ON – Ontario, PE – Prince Edward Island, QC – Québec, SK – Saskatchewan, YT – Yukon)

¹Manitoba - No notice is required for employment of less than 30 days.

²Ontario - Ontario employees are only required to give notice in the following situations: four weeks' notice if they are not returning from maternity/parental leave and one or two weeks if they have received notice of a group termination as specified above.

³Québec - The Quebec *Civil Code* requires employees to give "reasonable notice", which is not defined.

⁴Newfoundland - If an employee does not provide the proper notice, the employer may, with the consent of the employee, deduct the legislative weeks' wages. If the employee does not consent to the deduction of the pay, the employer can still make the deduction but must pay the amount in question to the Director of Labour Standards, who will investigate the matter. The Director is authorized to make a decision resolving the issue. (Sec 54(2)).

⁵Saskatchewan - No notice required for employment less than 13 weeks

⁶Yukon - If an employee does not provide the proper notice, the employer may, with the consent of the employee, deduct one week's wages. If the employee does not agree to the deduction of one week's wages, the employer may still make the deduction but must forward the payment to the Director of Employment Standards who will investigate the matter. Either party may appeal the Director's decision. (Sec 52(1)(2)(3)).

Terminations: Notice of Group Terminations

A group termination, often referred to as a mass layoff, occurs when many employees, defined by legislation, are having their employment terminated within a specified period. This may be a result of the closure of a plant or section of a plant, office or another site due to financial loss, sale of the organization, or relocation of the operation. To protect the worker in this situation, legislation has been enacted to minimize the impact of the termination on the individual.

A group of employees hired to work for a temporary period of less than 12 months, such as students employed for the summer, or those employed on a casual basis, where they may choose whether or not to work at any given time, are not included in this application of the legislation.

The federal and provincial/territorial jurisdictions' legislation details the criteria of a mass layoff, in terms of the number of employees being laid off within a certain period (four weeks in most jurisdictions), the amount of notice the affected employees must be given, and other special situations such as the setting up of committees to assist in the relocation of workers.

The table below outlines the group termination regulations for each jurisdiction. When faced with a group termination you should refer to the legislation to ensure the procedure is carried out correctly. If there is no legislation for group termination, the legislation regarding individual termination applies.

Illustration: Group Terminations Regulations by Jurisdiction

JURISDICTION	NUMBER OF EMPLOYEES TERMINATED AND TIME PERIOD	NUMBER OF WEEKS NOTICE TO EMPLOYEES	NUMBER OF WEEKS NOTICE TO MINISTRIES – SEE NOTES FOR WHICH MINISTRIES
Federal (<i>Canada Labour Code, Part III</i>)	50+ over 4 weeks	Same as for individual	16 weeks Note 1
Alberta	50 + over 4 weeks	4	4 Note 2
British Columbia	50 - 100 over 2 months 101 - 300 over 2 months 301+ over 2 months	8 12 16	8 12 16 Note 3
Manitoba	50 - 100 over 4 weeks 101 - 299 over 4 weeks 300+ over 4 weeks	10 14 18	10 14 18 Note 4
New Brunswick	10 over 4 weeks if they represent at least 25% of the workforce	6	6 weeks Note 5

Chapter 5

Labour Standards – Employment Standards

JURISDICTION	NUMBER OF EMPLOYEES TERMINATED AND TIME PERIOD	NUMBER OF WEEKS NOTICE TO EMPLOYEES	NUMBER OF WEEKS NOTICE TO MINISTRIES – SEE NOTES FOR WHICH MINISTRIES
Newfoundland and Labrador	50 – 199 over 4 weeks 200 – 499 over 4 weeks 500+ over 4 weeks	8 12 16	8 12 16 Note 6
Northwest Territories/ Nunavut	25 – 49 over 4 weeks 50 – 99 over 4 weeks 100 – 299 over 4 weeks 300+ over 4 weeks	Same as for individual	4 8 12 16 Note 7
Nova Scotia	10 – 99 over 4 weeks 100 – 299 over 4 weeks 300+ over 4 weeks	8 12 16	8 12 16 Note 8
Ontario	50 – 199 over 4 weeks 200 – 499 over 4 weeks 500+ over 4 weeks	8 12 16	8 12 16 Notes 9 & 10
Prince Edward Island	No legislation – Use individual termination rules (under review)		
Québec	10 – 99 over 2 months 100 – 299 over 2 months 300+ over 2 months	8 12 16	8 12 16 Note 11
Saskatchewan	10 – 49 over 4 weeks 50 – 99 over 4 weeks 100+ over 4 weeks	Same as for individual	4 8 12 Note 12
Yukon	25 – 49 over 4 weeks 50 – 99 over 4 weeks 100 – 299 over 4 weeks 300+ over 4 weeks	Same as for individual	4 8 12 16 Note 13

Table Notes:

NOTE	NOTICE MUST BE FORWARDED TO:
1	Minister of Labour, Minister of Employment and Social Development Canada, Canada Employment Insurance Commission. When there is a trade union, the union representing the affected employees. When there is no union, posted in a prominent place where all the employees can see it.
2	Minister of Labour.
3	Minister of Labour, any trade union representing the affected employees.
4	Minister of Labour and Immigration. When there is a trade union, the union representing the affected employees. When there is no union, posted in a prominent place.
5	Minister of Post Secondary Education, Training and Labour, any trade union representing the affected employees. Not required if the layoff is 6 days or less.
6	Minister Responsible for the Labour Relations Agency.
7	Employment/Labour Standards Officer and any trade unions involved.
8	Minister of Labour and Workforce Development.
9	Director of Employment Standards, Minister of Labour.
10	If 50 or more employees are terminated over 4 weeks and this is not more than 10 percent of the employees, individual notice requirements apply. However, the individual notice would not apply if the termination is caused by shutting down all or some of the organization.
11	Minister of Employment and Social Solidarity and Secrétaire général of the Commission des normes du travail (CNESST).
12	Minister of Labour Relations and Workplace Safety, any trade union representing the affected employees.
13	Director of Employment Standards.

Note:

To clarify the issue of group termination notice, please note that except for British Columbia, the notice periods are paid notice periods. If the employees are working the notice period, there is **no** further payment. If the employees are **not** working the notice period, they are to be paid the specified weeks in lieu of working. The period can also be a combination of work and payment.

In British Columbia, in addition to the group notice period, employees are to be paid the additional wages in lieu of notice for individual termination as well.

Terminations: Severance Pay

The term severance pay has commonly been used to refer to all payments on separation, whether the payment is wages in lieu of notice or a retiring allowance. In this material, the term means the severance pay requirements under the federal *Canada Labour Code, Part III* and Ontario's *Employment Standards Act, 2000*. In these two jurisdictions, severance pay, in addition to employer notice of termination, is a requirement based on length of service and in Ontario, based on the amount of the employer's payroll.

Federal:

Employees who have 12 months of continuous service are entitled to the greater of:

- two days' wages at the regular rate, excluding overtime, for each completed year of employment or
- five days' wages at the regular rate, excluding overtime

Where the employee's wages vary, severance pay is calculated using an average of the employee's earnings, exclusive of overtime, for the last four complete weeks of employment.

Example:

Shanti Ranjbar has worked as a receptionist at Via Rail since August 1, 2015. Via Rail is governed under the *Canada Labour Code, Part III*. Employment is being terminated due to restructuring on August 9, 2021. Shanti is entitled to ten days of severance pay at the current rate of regular rate (two days for each completed year of service).

Ontario:

Under Ontario legislation, each employee with five or more years of service is entitled to receive severance pay when:

- fifty or more employees are terminated in a period of less than six months as a result of the discontinuation of all or part of the employer's business or
- the organization's annual global payroll is at least \$2.5 million

In Ontario, severance pay is calculated as:

- one week's regular wages for each full year of service plus
- for part years of service (including the legislated notice period), one week's regular wages times the number of full months of service, divided by 12

The maximum severance payment is 26 weeks of regular wages.

Example:

Anne Evans started working for an Ontario organization on March 1, 13 years prior. On May 4 of the current year the employer initiated a termination of employment. Anne is entitled to be paid through June 29 (8 weeks wages in lieu of notice). Severance pay is also required as the organization's annual global payroll is \$6.3 million and the employee has more than five years of service.

In Ontario, employment is deemed continuous through the notice period; therefore, the length of service for the calculation of the severance payment is 13 years and 4 months and the severance payment will be calculated as 13 weeks + 4/12 week of regular wages.

Severance pay will be calculated on the full length of service even when the service is broken into several periods or spread between two employers in the case of a sale of a business.

Employees entitled to severance pay include:

- regular full-time and part-time employees
- an employee terminated due to strike or lock-out, except where the strike or lock-out caused the economic hardship which led to the mass termination
- an employee terminated due to another employee exercising seniority rights
- an employee who, on termination, retires and accepts a reduced pension

Employees are **not** entitled to severance pay when they:

- refuse a reasonable offer of alternate employment
- refuse to exercise seniority rights
- retire in receipt of an actuarially unreduced pension or
- are engaged in any aspect of the construction industry
- are terminated for just cause

Terminations: Temporary Layoffs

Temporary layoffs occur when there is a shortage of work or materials or there is another problem that interferes with the organization doing its work and the organization must reduce its workforce. In most cases, this interruption lasts for a short time and the employer expects to recall the workers. Except in Newfoundland and Labrador, the Northwest Territories, Nunavut and Prince Edward Island, employers are permitted to lay off employees without notice, for limited periods. If, however, this interruption lasts longer than a specified period, it becomes a termination and must be handled according to individual termination requirements.

Chapter 5

Labour Standards – Employment Standards

The following chart and notes provide details on the treatment of layoffs in each jurisdiction. “Layoff notice” refers to the period of notice required before the layoff is treated as a termination.

Illustration: Temporary Layoff Regulations by Jurisdiction

JURISDICTION	EXCLUDED FROM LAYOFF	MAXIMUM LAYOFF WITH NO RECALL RIGHTS	MAXIMUM LAYOFF WITH RECALL RIGHTS	LAYOFF NOTICE REQUIRED	TERMINATION DATE
Federal (<i>Canada Labour Code, Part III</i>)	Any re-employment of less than 14 days	3 months ¹	12 months ¹	No	Layoff date
Alberta ¹⁵		90 days	90 days	Yes	End of layoff
British Columbia ¹³		13 weeks in 20	Recall period as defined by a collective agreement	No	Layoff date
Manitoba		8 weeks in 16 ²	Set by Minister ²	No	Layoff date
New Brunswick		6 days ³	6 days ³	No	End of layoff
Newfoundland and Labrador		13 weeks in 20 ¹⁴	13 weeks in 20 ¹⁴	No, if less than 1 week	Layoff date
Northwest Territories/ Nunavut		45 days in 60	Fixed by Labour standards officer	Yes	End of layoff
Nova Scotia		6 days ⁴	6 days ⁴	No	Layoff date
Ontario	Employees paid at least 50% of their regular weekly wage ⁵	13 weeks in 20 ⁶	13 weeks in 20 ⁶⁺⁷	No	Layoff date
Prince Edward Island ⁸		None	None	Not specified	Layoff date
Québec ⁹		6 months	1 year ¹⁰	No	End of layoff
Saskatchewan		26 weeks or less ¹²	26 weeks or less ¹²	No	Layoff date
Yukon		13 weeks in 20 ¹¹	Fixed by Director	No	Layoff date

Table Notes:

NOTE	DETAIL
1	<p>No limit if:</p> <ul style="list-style-type: none"> the layoff is caused by a strike or lockout the employee receives agreed-upon payments from the employer while on layoff the employer contributes to a registered pension plan or a group or individual insurance plan the employee is either in receipt of supplementary employment benefits or would be except for disqualification under the <i>Employment Insurance Act</i> the layoff is more than 3 months but not more than 12 months and the employee maintains recall rights under a collective agreement or any period of re-employment of less than 2 weeks is not to be included in the calculation of the layoff period
2	<p>Layoff will not be a termination if:</p> <ul style="list-style-type: none"> annual layoff and recall is an industry practice, communicated to employees on hire or recall the employer continues to pay wages, or amounts in lieu of wages, to employees while on layoff the employer maintains contributions to a pension plan (not necessarily registered) the employer maintains contributions to group or individual insurance plans (such as extended medical coverage) the layoff is for 8 weeks or less in a period of 16 consecutive weeks the layoff is for more than 8 weeks and the employer recalls the employee within the additional time specified by the Director (Reg. 23(1))
3	<p>After 6 days' layoff, employers are liable for wages in lieu of notice, except when the layoffs are seasonal or are caused by unforeseen events.</p>
4	<p>A layoff will not become a termination when the employee is laid off for any unforeseen reason beyond the control of the employer or is laid off or suspended for a period not exceeding six days.</p>
5	<p>For severance purposes, a week of layoff occurs when a person earns less than 25 percent of the regular weekly wage. For both termination and severance purposes, a week of layoff excludes any period when an employee was:</p> <ul style="list-style-type: none"> not able or available to work on suspension laid off because of a strike or lockout
6	<p>A layoff may last as long as 35 weeks in 52, where:</p> <ul style="list-style-type: none"> the employee continues to receive substantial payments from the employer the employer continues to make payments for the benefit of the employee under a legitimate retirement or pension plan or a legitimate group or employee insurance plan the employee receives supplementary unemployment benefits the employee is employed elsewhere during the layoff and would be entitled to receive supplementary unemployment benefits if that were not so the employer recalls the employee within the time approved by the Director or in the case of an employee who is not represented by a trade union, the employer recalls the employee within the time set out in an agreement between the employer and the employee

Chapter 5

Labour Standards – Employment Standards

NOTE	DETAIL
7	When recall rights exist under a collective agreement, the union may apply to have the 35 weeks in 52 limit extended. This only applies to employees who meet the requirements of note 6 above. Employees with recall rights may opt to either accept the termination and severance pay owing or retain their recall rights. Recall rights may exist past the point at which termination pay must be paid.
8	In Prince Edward Island, there is no distinction between layoff and termination. Notice is required equally in both cases. The exceptions given previously under employer notice for individual termination apply equally to the employer notice required for a layoff.
9	A temporary layoff is for a period of 6 months or less.
10	The longer period only applies to employees whose recall rights are greater than six months. Employees recalled within this longer period lose their rights to wages in lieu of notice when work after the recall lasts at least as long as the notice period itself.
11	At the employer's request, the Employment Standards Board may extend the layoff.
12	Termination includes a layoff with no recall date or a layoff of 26 weeks or more. The employer must give notice of group termination. Individual layoff is a period exceeding six scheduled working days.
13	A week in which the employee earns more than 50% of their regular earnings averaged over the previous eight weeks is not considered a layoff.
14	<p>Not exceeding 13 weeks in any 20 consecutive week period. Notice of a temporary layoff must be given, in writing, to employees as follows: one to six weeks' notice depending on the length of service (same as individual termination). No notice is required if the layoff is less than one week.</p> <p>If the employee is not recalled after the 13-week period, the layoff becomes a termination. The termination is deemed to have occurred at the beginning of the layoff to calculate wages in lieu of notice.</p>
15	A layoff of 90 days within a 120-day period. Layoffs could be extended if wages and/or benefits are paid and the employee agrees.
<p>Note: In both British Columbia and Ontario, employees with recall rights under a collective agreement have the option of exchanging those recall rights for any payments owing on termination, under the collective agreement. When such employees decide to retain their recall rights, employers must pay into the employment standards body the amount that would be owing to the employee on termination. Any such amount is held in trust and:</p> <ul style="list-style-type: none"> • paid to the employee, if recall rights are later renounced • paid to the employee, on expiry of the recall period or • returned to the employer, on the employee's recall to work 	

Timing of Payments upon Termination

When an employee is terminated, the employer is required to pay all final wages within a specified time frame. Payments that may be owing to the employee include regular wages, wages in lieu of notice, severance pay and vacation pay. The following chart shows the requirements for paying wages on termination.

Illustration: Timing of Payments upon Termination by Jurisdiction

JURISDICTION	REGULAR WAGES	WAGES IN LIEU OF NOTICE/ SEVERANCE PAY	VACATION PAY
Federal (<i>Canada Labour Code, Part III</i>)	No later than the end of the next regular pay period	Upon termination or no later than 30 days after the termination	Upon termination or no later than 30 days after the termination
Alberta	Ten consecutive days after the end of the pay period in which they were terminated, or 31 consecutive days after the last day of employment	Ten consecutive days after the end of the pay period in which they were terminated, or 31 consecutive days after the last day of employment	Ten consecutive days after the end of the pay period in which they were terminated, or 31 consecutive days after the last day of employment
British Columbia	Within 48 hours (or where the employee quits, within 6 days)	Within 48 hours	Within 48 hours (or where the employee quits, within 6 days)
Manitoba	Within 10 working days	Within 10 working days	Within 10 working days
New Brunswick	No later than the next regular pay day or no later than 21 days after the termination date	Within 21 days	Within 21 days
Newfoundland and Labrador	Within one week of the date of termination	Within one week of the date of termination	Within one week of the date of termination
Northwest Territories/ Nunavut	Within 10 days of the date of termination	Within 10 days of the date of termination	With the final pay
Nova Scotia	Within 5 working days after the end of the pay period in which the final wages were earned	Within 5 working days after the end of the pay period in which the final wages were earned	Within 10 business days after the employment ends

Chapter 5

Labour Standards – Employment Standards

JURISDICTION	REGULAR WAGES	WAGES IN LIEU OF NOTICE/ SEVERANCE PAY	VACATION PAY
Ontario	Within seven days after the date of termination or the day that would have been the employee's next pay day, whichever is later	Within seven days after the date of termination or the day that would have been the employee's next pay day, whichever is later. With an employee's agreement, severance pay may be paid in installments	Within seven days after the date of termination or the day that would have been the employee's next pay day, whichever is later
Prince Edward Island	No later than the end of the next regular pay period	No later than the end of the next regular pay period	No later than the end of the next regular pay period
Québec	Upon termination*	Upon termination*	Upon termination*
Saskatchewan	Within 14 days of termination	Within 14 days of termination	Within 14 days of termination
Yukon	Within seven days of termination	Can be paid in installments equal to regular pay period earnings, on the regular pay day	Within seven days

* Québec: The Act also permits an employer to pay the payments due upon termination on the next regular pay day following the termination.

Content Review

- When employment is being terminated, the employer must either give the employee a period of working notice or pay the employee wages in lieu of working the notice period (known as wages in lieu of notice).
- The length of the period of notice will depend on which jurisdiction the employee is covered under and how long the employee has been employed with the organization.
- The notice of termination of employment must be in writing and served in person or by registered mail.
- If terminating an employee for just cause, no notice of termination is required.
- A group termination, often referred to as a mass layoff, occurs when several employees are having their employment terminated within a specified period.
- Under the Federal and Ontario jurisdictions, severance pay is a requirement based on length of service, in addition to employer notice of termination requirements.
- Temporary layoffs occur when there is a shortage of work or materials or there is another problem that interferes with the organization doing its work and causes the organization to reduce its workforce.
- When an employee is terminated, the employer is required to pay all final wages within a specified time frame.

Review Questions

20. Harold owns a company in Newfoundland and Labrador. To save money, Harold wishes to terminate the position and employment of Louis. Louis makes \$1,200.00 a week and has been working for Harold for 11 months. Which of the following options are available to Harold, keeping with employment standards regarding termination?
- a. Speak to Louis and give him two weeks' notice of termination in writing.
 - b. Terminate Louis immediately, but give Louis \$1,000.00 to compensate for lost wages.
 - c. Give Louis notice, but reduce the hours of work reducing earnings to \$1,000.00 a week.
 - d. Terminate Louis immediately, sending him on two weeks' vacation.
21. A sales representative in Ontario who has been employed by an organization for 3½ years is going to be given notice of termination. How many weeks' notice is required?
22. An employee in Ontario, who has been with the present employer for nine months, was caught stealing property that belonged to the organization and is going to have their employment terminated. How much notice is the employer required to provide?

23. Which of the following employers have followed the employment standards regarding mass layoffs? (There may be more than one correct answer)
- a. An employer in Manitoba gives four months' notice to the 200 employees whose jobs are being terminating.
 - b. An employer in Ontario terminates 64 employees (5% of the staff) following the requirements for individual termination.
 - c. An employer in British Columbia, planning to terminate 62 employees over a one-month period of time, gives the employees, the Minister of Labour, and any trade union representing the affected employees six weeks' notice.
 - d. An employer in New Brunswick terminates 1/3 of the 33-person workforce (11 people) over four weeks by giving them one month's notice.
24. Which jurisdictions have legislation regarding severance pay?
25. Which of the following qualify as temporary layoffs? (There may be more than one correct answer)
- a. Employees in the federal jurisdiction who are laid-off but return to work after 13 days.
 - b. Employees in Manitoba who have been laid off for eight straight weeks but whose employer still contributes to the employee's unregistered pension plan.
 - c. Employees in Prince Edward Island who are immediately laid-off for three months' time.
 - d. An employee on the first of three weeks of suspension from work in Ontario is laid-off for 14 straight weeks with no recall rights.
26. An employee in the Yukon has just quit their job. Within what period of time are they entitled to receive payment of earnings?
27. A postal service employee (federal jurisdiction) in Nova Scotia has quit their job after eight years. Within what period of time are they entitled to receive vacation pay?
28. Which jurisdiction requires an employer to pay individual notice periods as well as group notice periods in a group termination?

Chapter Review Questions and Answers

1. True or False. An employee's province/territory of employment always determines the employment/labour standards under which they are covered.

False. If the organization falls under federal jurisdiction, it does not matter where the employee works; the standards set out in the federal *Canada Labour Code, Part III* (CLC) apply. Employees who are not governed under the CLC are subject to the employment/labour standards legislation of the province in which they work.

2. Sylvester works in Manitoba. Which of the following items must appear on the pay statement?
- a. Declared gratuities
 - b. Public and annual holiday as required
 - c. Overtime hours
 - d. Wages taken from time bank and the remaining balance

C is correct. 'A' is required in Québec, 'B' in Saskatchewan and 'D' in British Columbia.

Using the same items, if Sylvester worked in Saskatchewan, which items must appear on the pay statement?

B is correct. 'A' is required in Québec, 'C' in Manitoba and 'D' in British Columbia.

3. True or False. Employers can choose when they will pay their employees, based on the organization's cash situation.

False. All jurisdictions, except for Ontario and federal (*Canada Labour Code, Part III*), require that employees receive their pay according to a specified frequency and that the pay date falls within a specified number of days, or within a specified interval, after the end of the pay period. While Ontario and federal do not have a specified frequency, employees must receive their pay on the regularly established pay day.

4. True or False. Employment/labour standards always take precedence over union collective agreements.

False. When employees are working under a union agreement, the terms of the union collective agreement take precedence over the employment/labour standards.

5. True or False. Organizational policies that exceed minimum employment/labour standards take precedence over the standards.

True. Some organizational policies provide working conditions that exceed the minimum employment/labour standards, and in these cases, the organizational policy prevails.

6. True or False. Electronic pay statements can be provided in every jurisdiction.

True. Employers in all jurisdictions are allowed to provide electronic pay statements as long as access and confidentiality exist. Québec employers must inform their employees each pay day that the electronic statements are available.

7. In addition to employment/labour standards, what other pieces of legislation might be used to establish the minimum age for an employee?

The minimum age for an employee is established by employment/labour standards, and also, in certain jurisdictions, by occupational health and safety, youth employment, education and construction safety legislation.

8. True or False. The minimum wage rate is the same in each jurisdiction.

False. The minimum wage varies by jurisdiction.

9. Shauna works in Winnipeg, Manitoba. The regular pay is \$1.50 an hour above Manitoba's minimum wage. Shauna was called in to do two hours' work by the employer. The employer must pay Shauna:

- a. minimum wage for two hours
- b. the regular wage for two hours
- c. minimum wage for three hours
- d. the regular wage for three hours**

D is correct. In Manitoba, the minimum hours to be paid if called into work is not less than three hours at regular wage.

Chapter 5

Labour Standards – Employment Standards

10. The manager of Circle Internet Café, located in Ontario, has decided to average the employees' hours of 50 hours worked in the first week and 30 hours worked in the second week. What does the employer need to obtain before implementing this averaging arrangement?

In Ontario, the employer needs to get the employee's agreement; no permission is required from the Director of Employment Standards to implement an averaging agreement.

11. List two types of employment for which a compressed work week is suitable.

Nursing and fire-fighting.

12. State if the following shift schedules follow the applicable labour standards for rest periods. Record the relevant rules as outlined in the material above.

SHIFT TERMS	LEGAL (YES OR NO)	RELEVANT RULE
A Newfoundland and Labrador worker is scheduled to work 12 hours, have an eight-hour break and work a ten-hour shift.	Yes	Newfoundland and Labrador: eight consecutive hours off in each 24-hour period
An Ontario worker gets a 30-minute rest period after four hours on an eight-hour shift.	Yes	Ontario: half an hour break after five consecutive hours of work.
A Québec worker received two unpaid 15-minute coffee breaks each workday.	No	Québec: coffee breaks are not mandatory, but when granted they must be paid and counted as hours worked.
A Yukon worker is scheduled to work six days a week for two weeks and then have four days off.	No	Yukon: a rest period of two days per week, preferably including Sunday

13. True or False. An employer in Newfoundland and Labrador can schedule an employee to work six consecutive hours without a meal break.

False. In Newfoundland and Labrador, an employee must be given an unbroken rest period of one hour immediately following each five consecutive hours of work.

14. Complete the following tables based on overtime hours worked in a four week period.

HOURS WORKED BY A QUÉBEC EMPLOYEE							OVERTIME RULES FOR QUÉBEC: Threshold: 40 hours/week @ 1.5		
S	M	T	W	T	F	S	Total hours	Regular hours	Overtime hours
	10	8	5	8	10		41	40	1
	10	10	10	10	10		50	40	10
	12	8	8	8	12		48	40	8
	8	8	8	8	10		42	40	2

HOURS WORKED BY AN ALBERTA EMPLOYEE							OVERTIME RULES FOR ALBERTA: Threshold: 8 hours/day @ 1.5, 44 hours/week @ 1.5		
S	M	T	W	T	F	S	Total hours	Regular hours	Overtime hours
		10	10	10	10		40	32	8
		8	8	8	8		32	32	0
8	8	8	8	8	8		48	44	4
	8	10	8	10	8		44	40	4

HOURS WORKED BY A BRITISH COLUMBIA EMPLOYEE							OVERTIME RULES FOR BRITISH COLUMBIA: Threshold: 8 hours/day @ 1.5, 12 hours/day @ 2 40 hours/week @ 1.5			
S	M	T	W	T	F	S	Total Hours	Regular Hours	Overtime Hours @ 1.5	Overtime Hours @ 2.0
		4	10	10	8	10	42	36	6	0
	8	8	8	8	8	8	48	40	8	0
	8	8	10	10	8	10	54	40	14	0
	10	13	8	8	10	8	57	40	16	1

Chapter 5

Labour Standards – Employment Standards

15. Calculate the hours in the following examples for an employee in Ontario who works eight hours a day, five days a week.

a. Hours worked in a week where there was no holiday

S	M	T	W	T	F	S	TOTAL HOURS WORKED	REGULAR HOURS	O/T HOUR @ 1.5	STATUTORY HOLIDAY HOURS
	8	10	9	5	8	8	48	44	4	0

b. Hours worked in a week where the employee did not work on the holiday Monday

S	M	T	W	T	F	S	TOTAL HOURS WORKED	REGULAR HOURS	O/T HOUR @ 1.5	STATUTORY HOLIDAY HOURS
	0	12	9	8	8	8	45	44	1	8

c. Hours worked in a week where the eligible employee did work on the holiday Monday, and a substitute holiday is not taken:

S	M	T	W	T	F	S	TOTAL HOURS WORKED	REGULAR HOURS	O/T HOUR @ 1.5	STATUTORY HOLIDAY HOURS
	8	12	9	8	8	8	53	44	1	8 @ 1.0 + 8 @ 1.5 (for hours worked on the holiday)

16. An employee in Prince Edward Island has been called for jury duty. What is the employer required to pay this employee?

Nothing.

17. An employee in Québec, who has been working for your organization for two years, is six months pregnant.

a. How much notice is the employee required to give prior to going on maternity leave?

Three weeks.

- b. How many weeks of combined maternity and parental leave is the employee entitled to take?

70 weeks.

18. For a provincial election, how many hours is an employee in British Columbia granted in which to vote?

Four consecutive hours while the polls are open.

19. Which province(s) entitle(s) employees to take a wedding leave with pay if the wedding day occurs on a working day?

Québec.

20. Harold owns a company in Newfoundland and Labrador. To save money, Harold wishes to terminate the position and employment of Louis. Louis makes \$1,200.00 a week and has been working for Harold for 11 months. Which of the following options are available to Harold, keeping with employment standards regarding termination?

- a. Speak to Louis and give him two weeks' notice of termination in writing.
- b. Terminate Louis immediately, but give Louis \$1,000.00 to compensate for lost wages.
- c. Give Louis notice, but reduce the hours of work reducing earnings to \$1,000.00 a week.
- d. Terminate Louis immediately, sending him on two weeks' vacation.

- a. **Yes. Only one weeks' notice of termination is necessary.**
- b. **No. If Louis is terminated immediately compensation must be for one week's wages (\$1,200.00).**
- c. **No. Louis' hours of work cannot be reduced. During the notice, an employee must continue to make the same wages and receive the same hours as they did before receiving the notice.**
- d. **No. At no time can vacation entitlement be used as part of the notice period.**

21. A sales representative in Ontario who has been employed by an organization for 3½ years is going to be given notice of termination. How many weeks' notice is required?

Three weeks.

22. An employee in Ontario, who has been with the present employer for nine months, was caught stealing property that belonged to the organization and is going to have their employment terminated. How much notice is the employer required to provide?

None – because the employee was terminated for just cause.

23. Which of the following employers have followed the employment standards regarding mass layoffs?
- a. An employer in Manitoba gives four months' notice to the 200 employees whose jobs are being terminating.
 - b. An employer in Ontario terminates 64 employees (5% of the staff) following the requirements for individual termination.
 - c. An employer in British Columbia, planning to terminate 62 employees over a one-month period of time, gives the employees, the Minister of Labour, and any trade union representing the affected employees six weeks' notice.
 - d. An employer in New Brunswick terminates 1/3 of the 33-person workforce (11 people) over four weeks by giving them one month's notice.
- a. **Yes. An employer in Manitoba terminating 100-299 employees over four weeks must give them 14 weeks' notice. This employer is giving more than 14 weeks' notice of termination.**
- b. **Yes. An employer in Ontario terminating 50+ employees (who do not constitute more than 10% of the staff) over four weeks should follow the individual termination requirements for Ontario.**
- c. **No. An employer in British Columbia terminating 50-100 employees over two months should give the employees, the Minister of Labour, and any trade union representing the affected employees eight weeks' notice of termination.**
- d. **No. An employer in New Brunswick terminating 10 or more employees (if they represent at least 25% of the workforce) over four weeks should give six weeks' notice of termination.**

24. Which jurisdictions have legislation regarding severance pay? (There may be more than one correct answer)

Federal and Ontario.

25. Which of the following qualify as temporary layoffs?

- a. Employees in the federal jurisdiction who are laid-off but return to work after 13 days.
- b. Employees in Manitoba who have been laid off for eight straight weeks but whose employer still contributes to the employee's unregistered pension plan.
- c. Employees in Prince Edward Island who are immediately laid-off for three months' time.
- d. An employee on the first of three weeks of suspension from work in Ontario is laid-off for 14 straight weeks with no recall rights.

- a. **No. In the Federal jurisdiction, employees returning to work after less than 14 days are excluded from layoff.**
- b. **Yes. In Manitoba, a layoff is not a termination if the employer maintains contributions to a pension plan (not necessarily registered).**
- c. **No. In Prince Edward Island there is no distinction between a layoff and a termination. Both should follow the individual termination requirements, giving notice (or wages in lieu of notice) depending on the period of service.**
- d. **Yes. In Ontario, a temporary layoff exists when the layoff period is 13 weeks in 20. However, a week of layoff excludes any period when an employee was on suspension so this employee still qualifies as being temporarily laid off.**

26. An employee in the Yukon has just quit their job. Within what period of time are they entitled to receive payment of earnings?

Seven days.

27. A postal service employee (federal jurisdiction) in Nova Scotia has quit their job after eight years. Within what period of time are they entitled to receive vacation pay?

Upon termination or no later than 30 days.

28. Which jurisdiction requires an employer to pay individual notice periods as well as group notice periods in a group termination?

In British Columbia, in addition to the group notice period, employees are to be paid the additional wages in lieu of notice for individual termination as well.