

# Rights and Responsibilities

## A Guide to Employment Standards in Saskatchewan Part II of *The Saskatchewan Employment Act*

2019



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The material is not a legal document.

*The Saskatchewan Employment Act* should be consulted for all purposes of legal interpretation and application.

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## Introduction

This guide is intended to provide basic employment standards information as set out in Part II of *The Saskatchewan Employment Act* (the Act). These are the minimum standards that employers must provide. Employers can choose to exceed these standards in contracts of employment, but cannot offer their employees less.

For information about workplace health and safety, please contact the Ministry of Labour Relations and Workplace Safety - Occupational Health and Safety Division at:

Regina and Southern Region Occupational Health and Safety  
300 - 1870 Albert Street  
Regina, Saskatchewan S4P 4W1  
**Toll-free: 1-800-567-7233**

Saskatoon and Northern Region Occupational Health and Safety  
8th Floor, 122 3rd Avenue North  
Saskatoon, Saskatchewan S7K 2H6  
**Toll-free: 1-800-567-7233**

## Who Part II Covers and Does Not Cover

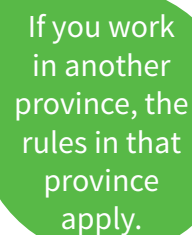
Part II of *The Saskatchewan Employment Act* applies to most employees and employers in the province.

### Who Part II Does Not Cover

Some employers, employees, and individuals are not covered. These include, but are not limited to, the following:

- athletes while participating in their athletic endeavour;
- federally-regulated businesses and industries;
- family businesses;
- self-employed individuals;
- sitters; and
- student learners.

Family businesses mean businesses that employ only the employer's immediate family members.



If you work in another province, the rules in that province apply.

## Important Terms and Definitions

### **Day:**

- for the purpose of scheduling hours of work and calculating overtime, a “day” means any period of 24 consecutive hours starting with the employee’s first shift in the 24-hour period; and
- for any other purpose, a calendar day.

### **Discriminatory action:**

- any action or threat of action by an employer that does or would adversely affect an employee with respect to any terms or conditions of employment or opportunity for promotion, and includes termination, layoff, suspension, demotion or transfer of an employee, discontinuation or elimination of a job, change of a job location, reduction in wages, change in hours of work, reprimand, coercion, intimidation or the imposition of any discipline or other penalty but does not include:
  - any reassignment of duties for the reasons set out in section 2-41 (employer must reassign employee or modify employee’s duties due to a disability) or subsection 2-49(4) (accommodation due to pregnancy); or
  - any other prescribed action.

### **Emergency:**

- a situation where there is an imminent risk or danger to a person, property or an employer’s business that could not have been foreseen by the employer.

### **Employee:**

- a person whom an employer permits, directly or indirectly, to perform work or services and receives or is entitled to wages.

### **Employee’s immediate family:**

- the employee’s spouse, parent, grandparent, child, grandchild, brother or sister or the spouse of the brother or sister; or
- the employee’s spouse’s parent, grandparent, child, grandchild, brother or sister or the spouse of the brother or sister.

### **Employer:**

- a person/business who operates a place of employment and employs the services of one or more employees. Part II of the Act only applies where there is an employer-employee relationship.

**Employer's immediate family:**

- a spouse of the employer or a person with whom the employer cohabits and has cohabited as a spouse in a relationship of some permanence;
- a parent, grandparent, child, grandchild, brother or sister of the employer; or
- a parent, grandparent, child, grandchild, brother or sister of a person mentioned above.

**Layoff:**

- the temporary interruption by an employer of the services of an employee for a period exceeding six consecutive work days.

**Spouse, with respect to an employee:**

- the legally married spouse of the employee; or
- a person with whom the employee cohabits and has cohabited as spouses:
  - continuously for a period of not less than two years; or
  - in a relationship of some permanence if the person and the employee are the parents of a child.

**Wages**

- Salary, commission and any other monetary compensation for work or services or for being at the disposal of an employer.
- Wages includes overtime, public holiday pay, vacation pay and pay instead of notice.

**Week:**

- for the purposes of scheduling, hours of work, and overtime:
  - the period between midnight on a Saturday and midnight on the following Saturday;  
or
  - any other period of seven consecutive days that the employer has consistently used when determining the schedule of an employee; and
  - for all other purposes, a period of seven consecutive calendar days. For example: vacation leaves and notice periods.

## Payment of Wages and Payroll Administration

### What Employees Must be Paid

Most employees must be paid at least minimum wage for each hour they are required or permitted to work, or are at the employer's disposal.

Increases to the minimum wage are calculated using an indexation formula. Changes are announced on or before June 30 of each year and take effect on October 1 of the same year. To find the current minimum wage in Saskatchewan, visit [saskatchewan.ca/business/employment-standards](http://saskatchewan.ca/business/employment-standards).

### Employees Who Do Not Have to be Paid the Minimum Wage

Some employees do not have to be paid the minimum wage. These include:

- farming, ranching or market garden labourers;
- some care providers employed in private homes;
- babysitters (only those that are of a very temporary or sporadic nature);
- athletes while engaged in their athletic endeavour;
- volunteers for non-profit organizations, and
- individuals who have a physical or mental disability or impairment and work for a non-profit organization or institution in programs that are educational, therapeutic, or rehabilitative.

Due to the very limited application of a minimum wage exemption, readers are encouraged to check the legislation and/or contact the Employment Standards Division for more information.

### Reporting for Duty Pay

Most employees receive a minimum payment (called reporting for duty pay) every time they report for work, other than for overtime. Employees who report to work must receive at least three hours pay at the employee's hourly wage, even if there is no work to do or the employee works for less than three hours.

For example, if an employee earning \$12 an hour is called in to work for two hours. The employee must be paid \$36.

In another situation, an employer schedules an employee earning \$12 per hour to work for two hours. The employer takes the employee off the schedule for that shift without telling the employee. The employee shows up for work as originally scheduled. In this case, the employee must be paid \$36 in reporting for duty pay for reporting to work.



### Reporting for Duty Pay and Overtime

Employees called in to work overtime receive their overtime pay rate for each hour worked. Reporting for duty pay rules do not apply to overtime work.

For example, an employee earning \$12 per hour who is called in to work for one hour of overtime would receive \$18 in overtime pay ( $\$12 \times$  the overtime rate of 1.5), not \$36 in reporting for duty pay. See [Overtime](#) for more information.

### Reporting for Duty Pay and Work on Public Holidays

Regular minimum call-out pay rules apply on public holidays. However, the employee earns whichever is greater: reporting for duty pay or wages for the hours worked at premium pay. (Premium pay for each hour worked on a public holiday is 1.5 times the employee's hourly wage rate.)

For example, an employee earning \$12 per hour who is required to work for one hour on a public holiday would receive \$36 ( $\$12 \times 3 = \$36$ ) in reporting for duty pay because this is greater than \$18 ( $\$12 \times 1.5 = \$18$ ) in premium pay. If the employee worked for three hours, the employee would earn \$54 ( $\$18 \times 3 = \$54$ ) in premium pay because this is greater than \$36 in reporting for duty pay. See [Public Holidays](#) for more information.

### Reporting for Duty Pay Exceptions and Special Rules

Reporting for duty pay is a minimum of one hour at the employee's hourly wage for:

- students working during part of an instructional day within the school year;
- school bus drivers employed by a school board to transport students to and from school; and
- noon hour supervisors employed by a school board.

For example, a primary or secondary student earning \$12 an hour who is called in to work for 30 minutes on a school day must be paid at least \$12. If the student works for two hours, they must be paid \$24.

Regular reporting for duty pay rules apply to these employees during school breaks.

Regular reporting for duty pay rules apply to post-secondary students all year.

### **“Sick Leave”**

Employers do not have to pay wages to employees who are away sick. However, employers may agree to be paid for what is commonly called “sick leave.”

## **When Employees Get Paid**

Employers must pay employees on their regularly scheduled paydays.

Salaried employees must be paid at least once every month. Employees paid by the hour, or in some other way, must be paid semi-monthly, or every 14 days.

Employees must be paid within six days of the end of the payroll cut off. For example, if the payroll cut off is March 17th, the employees must be paid no later than March 23rd.

### **Deadline for Being Paid After Your Last Day of Work**

The employer must pay all outstanding wages (such as vacation pay or pay for banked overtime hours) in full to employees within 14 days after their last day of work.

Regular pay days must be maintained. If a pay day falls within the 14-day period, then the employer must provide an employee's normal pay on that day. Any outstanding wages must be paid out within 14-days from the last day worked.

## **What Must Appear on Pay-Stubs (Statements of Earnings)**

Employers must provide a statement of earnings or pay stub on each pay day and when making payments of wage adjustments. They must also maintain payroll records required by the legislation.

The pay stub must be separate from the wage cheque. It must list:

- the name of the employee;
- the period for which the payment is made;
- regular, overtime, and public holiday hours worked;
- the rate of pay;
- the amount paid for each of wages, overtime and public holiday pay and work on a public holiday, vacation pay, and pay instead of notice;
- the employment category of employment for which payment of wages is being made;
- the amount of total wages or earnings;
- an itemized list of any deductions made from wages;
- total earnings; and
- the actual amount of the payment being made.

Ideally, the pay stub should have the name and address of the employer.

## **How Employees Must Be Paid**

### **Payment of Wages and Payroll Administration**

An employer must pay all wages to an employee:

- in Canadian currency;
- by cheque drawn on a bank, credit union or trust corporation; or
- by deposit to the employee's account in a bank, credit union or trust corporation.

### **Digital Pay Management Systems**

Employers who provide electronic pay statements must provide printed copies to employees who request it or allow those employees to print off a copy.

### **Unrecorded Payments**

Unless the employer can show otherwise, wages and other amounts that are not shown on the pay stub or in payroll records are considered not to have been paid.

## **What Deductions Must be Listed**

Deductions required by law include:

- Income Tax;
- Canada Pension Plan (CPP); and
- Employment Insurance (EI).

Other allowable deductions include:

- employee contributions to pension plans or registered retirement savings plans;
- employee contributions to other benefit plans;
- charitable donations voluntarily made by the employee;
- voluntary contributions by the employee to savings plans or the purchase of bonds;
- initiation fees, dues, and assessments to a union that is the bargaining agent for the employee;
- court-ordered maintenance payments; and
- voluntary employee purchases from the employer for any goods, services or merchandise.

## **Illegal Deductions**

Unless the employer obtains a court judgment, an employer may not, directly or indirectly, withhold, deduct, or require payment of all or part of an employee's wages for any purpose. Examples that are not allowed include deductions for alleged:

- theft;
- damage;
- breakage;
- poor quality work;
- damage to employer's property including accidents involving employer vehicles or equipment; or
- failure to collect payment by a customer, including "dine-and-dashes" and shoplifting.

For example, an employee is working alone at night in a gas bar. A customer arrives, fills their tank with gasoline, and leaves without paying. The employer is not allowed to deduct the unpaid gasoline cost from the employee's wages.

In addition, employers cannot require employees to return wages.

Employers wishing to recover money from current or former employees should get legal advice.

## **Uniforms and Special Clothing**

An employer who requires an employee to wear uniforms or special clothing that identifies the employer's business must provide it at no cost to the employee. The employer cannot charge a deposit on uniforms.

If an employer requires staff members to wear certain clothing such as black pants or a skirt and a white shirt or blouse that can be worn off the job, this is not considered a uniform.

In addition, employers in restaurants, hotels, nursing homes, hospitals, or educational institutions who require their employees to wear a uniform must provide, launder and repair the uniform at no cost to the employee. Registered nurses are exempt from this provision.

Employers cannot require employees to purchase goods, merchandise or services from the employer as a condition of employment.

Please contact the Occupational Health and Safety Division for information about payment for safety clothing, gear, and equipment.

### **Payroll Records**

All employers must keep payroll records for each employee, including:

- the particulars of every employment contract;
- the name and address of the employee;
- a brief job description;
- the start and end dates of employment;
- hours at which work begins and ends each day;
- the times for breaks;
- the total number of hours worked each day and each week;
- the regular rate of pay (hourly wage);
- total wages paid;
- dates on which each vacation is taken;
- the amount paid to the employee with respect to each vacation to which the employee is entitled and the date of payment;
- the amount paid to the employee with respect to each public holiday and the date of payment; and
- all deductions from wages and the reason for each deduction.

Employers must also keep records of all shift schedules stating daily start and end times as well as any applicable modified work arrangements and overtime bank agreements.

### **Records for Employees Whose Work is Ordinarily Performed at Home**

An employer must keep records showing the address where the work is performed and identify the portion of the work done at home.

### **How Long Payroll Records Must be Kept**

For current employees, payroll records must be kept for the most recent five years of the employee's employment.

After an employee leaves a job, records must be kept for an additional two years.

Modified Work Arrangement agreements must be kept for five years after they end.

### **Contacts for Income Tax and Records of Employment (ROEs)**

Contact the Canada Revenue Agency (CRA) toll-free at 1-800-959-5525 for information about income tax, T4 slips, EI, and CPP contributions.

Contact Service Canada toll-free at 1-800-206-7218 to get information about a Record of Employment (ROE separation slip).

## Pay Discrimination

Employers cannot discriminate against their employees by paying them differently for performing similar work based solely on the employee’s sex, or on the basis of any of the prohibited grounds in *The Saskatchewan Human Rights Code*.

“Similar work” means:

- work for the employer that is done in the same workplace;
- under similar working conditions; and
- work that requires similar skill, effort, and responsibility to perform.

### Acceptable Grounds for Paying Employees Differently

Employers can pay their employees differently if the difference is based on:

- seniority; or
- a merit system.

Employers should ensure that wages paid to employees are based on objective criteria such as an employee’s seniority, performance, skill requirements, and responsibility levels.

### Complaints of Pay Discrimination on the Basis of Prohibited Grounds in *The Saskatchewan Human Rights Code*

If the Employment Standards Division investigates a complaint of pay discrimination and it is found to be valid, the employer cannot reduce the wages of the higher paid employee(s) to match the lower paid employee(s). Instead, the employees’ wages must be increased to match the higher paid employees’ wages.

## Benefits for Part-Time Employees

A business with 10 or more full-time equivalent employees must provide benefits to eligible part-time employees.

### Definition of “Full-Time Employee”

A full-time employee, for this section of the Act, is any employee who works 30 hours or more per week.

### Benefit Plans for Part-Time Employees

Eligible benefits include dental plans, group life, accidental death or dismemberment plans, and prescription drug plans.

### When Benefits Should Start for a Part-Time Employee

Part-time employees must be offered coverage under the four benefit plans when:

- they have been continuously employed for 26 weeks and have worked at least 390 hours in that period;

- after the qualifying period, they work at least 780 hours in each calendar year;
- they are not full-time students; and
- full-time employees who work in comparable positions receive some or all of the four benefit plans (i.e., part-time managerial employees are compared to full-time managerial employees, and part-time non-management workers are compared to full-time non-management workers).

### Benefits for Students Working Part-Time

Full-time students are not eligible for coverage. This includes students enrolled in 60 per cent of a full course load at a school, university, technical institute, regional college or private vocational school.

### Maintaining Eligibility

To maintain eligibility, an employee must work at least 780 hours in a calendar year. Employees on maternity, adoption, or parental leave maintain their eligibility if they would have worked 780 hours had the leave not been taken.

### How to Notify an Employee Losing Eligibility

When an employer becomes aware that an employee will lose eligibility, the employer must advise the employee, in writing, of the loss of eligibility.

### Benefit Levels for Part-Time Employees

Part-time employees who work between 15 and 30 hours a week receive 50 per cent of the benefits provided to comparable full-time employees. Part-time employees who work 30 or more hours in a week receive 100 per cent of the benefits provided to comparable full-time employees.

If plan benefits are determined by a formula based on annual earnings, the same formula is to be applied to part-time workers (e.g., group life insurance formula of two times annual income).

Benefit levels that must be offered to part-time employees for dental and drug plans are “basic plans.” Except for drug plans, an employer can provide plans to part-time employees based on employee-only coverage, without coverage for spouses and dependents.

### How Contributions for Part-Time Employees are Determined

The contributions must be paid in the same way as the payment from full-time employees, and be proportional to the level of benefits received.

### When an Employer Has Employees in More Than One Bargaining Unit

Part-time employees should receive the same benefits as the full-time employees in the same bargaining unit.

## Work Schedules, Modified Work Arrangements (MWAs), and Permits

### Work Schedules

#### Notification of the Hours of Work

Employers must provide work schedules to their employees at least one week before the schedule starts. An employer can change an employee's schedule with less than one week of advance notice if unexpected, unusual or emergency circumstances arise. For example, if a large storm forces a business to temporarily shut down, the employer will need to notify employees not to report to work with very little notice.

#### Information That Schedules Must Provide

Work schedules must cover at least one week (seven days in a row). The schedule must state:

- when work will begin and end each day; and
- when meal breaks will begin and end.

#### How Schedules Can be Provided

Schedules can be given to the employee personally, posted in the workplace, posted online on a secure website to which the employee has access, or provided in any other manner that informs the employee of the schedule.

#### Permits to Vary the Scheduling Rules

Employers may apply for an authorization from the Director of Employment Standards to vary the requirement to post a work schedule or a change to the work schedule (see [Permits and Variances](#) for information about how to apply for a permit).

In unionized workplaces, the Director of Employment Standards may permit a variation from the requirements of this section if the employer has obtained the written consent to the variation from the union that is the bargaining agent for the employees.

#### Meal Breaks and Medical Accommodations

Most employees are entitled to an unpaid meal break of at least 30 minutes within every five hours of work.

An employer must provide an employee with an unpaid meal break at a time or times necessary for medical reasons. The employee is expected to work with the employer to set up a satisfactory accommodation.



### When a Meal Break is Paid Work Time

If an employee is directed to work or be at an employer's disposal during a meal break, the employee must be paid for the time. For example, an employee who has been directed to stay in the office over lunch to answer phone calls is at the disposal of the employer and must be paid for the time, even if no one calls.

### Coffee Breaks

The legislation does not require the employer to provide coffee breaks. However, if coffee breaks are provided, they are paid breaks.

### **Hours of Rest in a Day**

Employees must receive at least eight consecutive hours of rest in any period of 24 hours. Employees must receive this break unless there is an emergency.

### **Days of Rest in a Week**

#### Rules Applying to Most Employers and Employees

Employees who usually work 20 hours or more per week must receive at least 24 consecutive hours away from work every seven days (except when fighting forest or prairie fires).

Employees who must be “on call” cannot be “on call” during their day(s) of rest.

#### Retail Employers and Employees

Employees in the retail trade get two consecutive days off in every seven days, with one day off being a Saturday or Sunday whenever possible. This rule does not apply to:

- retail businesses with fewer than 10 employees;
- retail employees who work less than 20 hours per week;
- retail businesses subject to a municipal bylaw requiring closing on a day other than Saturday, Sunday, or Monday; or
- retail businesses that have collective agreements, modified work arrangements, or averaging of hours permits.

#### Permits to Vary the Rules

Employers can apply for a permit or variance to change the days of rest requirements (see [Permits and Variances](#) for more information).

### **Limit on Hours of Work Per Week**

Overtime rules apply to eligible employees after 40 hours in a regular work week. An employer must get the employee's consent to work more than 44 hours in a week. The employee cannot be disciplined for refusing unless there is an emergency.

Overtime rules apply to eligible employees after 32 hours in a week with a public holiday. If a public holiday occurs in a week, the employer must have the employee's consent before

having the employee work more than 36 hours in that week. The employer can require the employee to work more than 36 hours when there is an emergency circumstance. See [Overtime](#) for more information.

### **Special Rules: Employers in a Hotel, Restaurant, Educational Institution, Hospital, or Nursing Home**

#### Transportation Home for Certain Employees

Employers in these industries must provide employees who finish work between 12:30 a.m. and 7:00 a.m. with free transportation to their place of residence.

#### Working Shifts

Employers must confine the hours of work of each employee to a period of 12 hours in any one day. The employer must not require or permit any employee to report for duty on more than two occasions in that 12-hour period.

### **Modified Work Arrangements (MWAs)**

A Modified Work Arrangement (MWA) is an agreement between the employer and an employee or a group of employees to average the hours of work. The agreement allows employees to work up to 12 hours in 24 hours before overtime applies and average:

- 40 hours over one week; or
- 80 hours over two weeks; or
- 120 hours over three weeks; or
- 160 hours over four weeks.

This allows employees to work more hours in one part of the averaging period in return for more time off in another part of the averaging period. Overtime applies once employees work more hours than stated in the MWA's daily limit or averaging period.

Modified work arrangements do not allow employers to avoid paying overtime. Instead, they increase workplace flexibility by allowing employers and employees to compress work time in return for more time off.

### **Requirements for MWA Agreements**

Agreements must:

- be in writing;
- be signed by the employer and employee, or a majority of the employees affected;
- specify the number of weeks over which the hours will be averaged;
- specify the daily hours of work after which an employee becomes entitled to overtime (this must match the affected employee's daily schedule);
- specify the work schedule that reflects the daily and weekly hours agreed to by the parties;
- provide a start date and an expiry date for the modified work agreement; and
- be in place at least one week before any work schedule changes.

In addition, agreements:

- cannot be longer than two years;
- cannot require employees to work more than 12 hours in a day without overtime pay; and
- must be given to all employees covered by the agreement, and/or posted in the workplace.

Regular overtime rules apply if the conditions set out in the Modified Work Arrangement are not met or maintained.

A permit from the Director of Employment Standards would still be required by an employer who wishes to arrange a longer averaging period than allowed by a MWA, or wishes to vary the rules for days off per week.

Managerial and professional staff that are exempt from overtime cannot be part of a MWA.

To view a sample Modified Work Arrangement template, please visit [saskatchewan.ca](http://saskatchewan.ca).

### Part-time Employees Working Less Than 30 Hours Per Week

Employees working on average less than 30 hours per week cannot be part of a MWA. They can participate in a time bank agreement.

Non-unionized employees working less than 30 hours per week are entitled to overtime after working more than eight hours per day or 40 hours per week (32 hours in a week with a public holiday).

Unionized employees receive overtime based on their collective bargaining agreement.

## Permits and Variances

Part II of *The Saskatchewan Employment Act* and its regulations set minimum employment standards. Since the rules cannot fit every circumstance, variations are allowed, provided the appropriate permission is obtained.

Employers must apply to the Director of Employment Standards for permission to deviate from the rules, or obtain the written agreement of the trade union representing the affected employees.

### **Averaging of Hours Permit**

This permit allows an employer to average the hours of work of an employee or group of employees over a period greater than four weeks. Where a shift cycle requires a longer day or a longer averaging period, an employer, with the support of a majority of the employees, can apply for an Averaging of Hours Permit from the Director of Employment Standards.

This permit does not eliminate the requirement to pay overtime. Overtime must be paid if the hours worked by the affected employees exceed the hours stated in the permit.

Unionized employees receive overtime under the terms of their collective agreement.

### **One Day's Rest in Seven Permit**

Authorization to vary the rule that employees who work more than 20 hours per week get one day off per week.

### **Two Days' Rest in Seven Permit**

Authorization to vary the rule that employees working more than 20 hours in a retail business with 10 or more employees get two consecutive days off per week.

### **Scheduling Variation Permit**

Authorization to vary the requirement to post a work schedule or a change to the work schedule.

### **Move a Public Holiday Permit**

Authorization to move a public holiday to another day.

### **Youth Employment Permit**

Authorization to vary youth employment rules.

### **Authorization to Permit the Payment of Wages During a Strike on a Day Other Than the Day on Which They Would Usually be Paid**

Application for this authorization is by a letter of request to the Director of Employment Standards.

### **Authorization to Waive the Requirement to Provide Notice of Group Termination**

Application for this authorization is by a letter of request to the Director of Employment Standards.

### **Obtaining a Permit**

Permit applications should be submitted at least two weeks before the permit is required.

An employer can request an application form from the Employment Standards Division or find more information and download the forms from [saskatchewan.ca](http://saskatchewan.ca).

The form should be completed and returned to:

Director, Employment Standards  
Ministry of Labour Relations and Workplace Safety  
300 - 1870 Albert Street  
Regina, Saskatchewan S4P 4W1

Applications forms can also be submitted by fax to 306-787-4780.

If approved, the authorization will be returned to the employer.

The permit must be posted in a location that is accessible to the affected employees. Newly hired employees should be informed about the permit if it will apply to them.

### **Employee Approval**

Before an authorization is granted, permits require approval of the majority of employees affected. The employees must show their approval by signing the application form. In certain instances, a secret ballot can be arranged. Once a majority of employees agree to the permit, the permit may be issued and will only apply to those employees in the classifications affected.

### **Denying or Revoking a Permit**

The Director of Employment Standards can cancel or revoke a permit for any lawful reason, including if the:

- employer coerces employees into supporting an application for a permit;
- employer has outstanding health, safety or employment standards complaints;
- safety of employees might be in jeopardy as a result of the permit; or
- employer has a history of multiple violations of *The Saskatchewan Employment Act*.

The Director of Employment Standards must provide employers with due process before cancelling an authorization. “Due process” includes giving the employer notice and providing an opportunity to make written representations. The Director will provide the decision to the employer in writing.

### **Employees Can Ask the Director to Revoke a Permit**

Employees can ask the Director to revoke a permit. This request must be in writing and should outline the reason for the request. An investigation will be conducted to determine if the permit should be revoked. If the permit is to be revoked, the employer will be notified and given due process.

### **Permit Expiration and Limitations**

The time limits will be stated on the permit. Regular overtime rules apply once a permit expires.

Employers are responsible for renewing their permits.

## Overtime

An employee must be paid for each hour or part of an hour worked. Paid time at work includes time when an employee is required (scheduled) to work; permitted to work; or required to remain at the disposal of the employer. All three of these considerations go into calculating when the overtime threshold has been crossed.

### “Permitted to Work”

An employer has permitted an employee to work if the employer:

- knows or ought reasonably know that the employee is working; and
- does not cause the employee to stop working.

For example, employees scheduled hours of work are from 8:00 a.m. to 5:00 p.m. each day with a one hour unpaid lunch break (eight hours). The employer knows that some of them come to work at 7:30 a.m. and start working, but does not say anything about it and allows this practice to continue. In this situation, the employer has “permitted these employees to work.” The employees must be paid for the extra time.

### “At the Disposal of the Employer”

“At the disposal of the employer” means any time that the employee must remain under the direction and control of the employer and be available for work, even if the employee does not actually have to work. For example, if employees are required to report for work 15 minutes before the scheduled shift starts, or if they must remain after work to complete paperwork and prepare for the next business day, the employees are at the disposal of the employer and entitled to be paid for the extra time.

## Overtime Rate

Overtime must be paid at the rate of at least 1.5 times the employee’s hourly wage rate. For example, the overtime rate for an employee earning \$12 per hour is \$18 ( $\$12 \times 1.5$ ). Employees earn overtime by the day and week.

## Overtime in a Day

Employees who are scheduled to work for eight hours per day earn overtime after working more than eight hours in 24 hours.

Employees who are scheduled to work for 10 hours per day earn overtime after working more than 10 hours in 24 hours.

## Short-shifting

For the purpose of calculating overtime, the employee’s work “day” starts with the employee’s first shift and ends 24 hours later. All hours worked within that 24-hour period count towards the overtime threshold.

Example:

Date	Shift Starts	Shift Ends	Hours Worked
May 3	3 p.m.	11 p.m.	8 hours
May 4	7 a.m.	3 p.m.	8 hours

During the 24-hour period, beginning 3:00 p.m. on May 3 and ending 3:00 p.m. on May 4 the employee worked 16 hours. This employee must be paid eight hours regular pay and eight hours overtime pay.

### Maximum Hours of Work in a Day

Even if the employer pays overtime, employees cannot be scheduled to work more than 16 hours in any 24-hour period unless there is an emergency. Employees must receive at least eight consecutive hours of rest in every 24-hour period.

## Overtime in a Week

### Overtime in a Regular Work Week

Overtime in a regular work week starts after 40 hours.

A regular work week has 40 hours. The employer may choose to schedule the 40 hours over five eight hour days or four ten hours days.

### Overtime in a Week With a Public Holiday

A week with a public holiday has 32 hours. Employers can schedule employees to work those 32 hours in four eight-hour days OR three 10-hour days.

Overtime is payable after 32 hours in a week with a public holiday. For example, if a workplace has a week that runs from Sunday to Saturday and employees work eight hours per day Monday to Friday and a public holiday falls on Saturday, the 32 hour weekly overtime limit will be reached on Thursday.

See [Public Holidays](#) for more information about the rules for work in a week with a public holiday.

## Overtime by the Day and Week

Employees receive whichever is greater – overtime earned by the day or overtime earned in the week.

### Overtime by the Day, but Not by the Week

Example: An employee is scheduled to work for eight hours per day. The employee is asked to work ten hours on one day. The employee works 40 hours for the week. This employee would be paid two hours of daily overtime for Thursday.

Sun	Mon	Tues	Weds	Thurs	Fri	Sat	Hours	OT
off	8	8	8	10	6	0	40	2



### Overtime by the Week, but Not by the Day

Example: An employee is scheduled to work six, eight hour days from Monday to Saturday for a total of 48 hours for the week. This employee would be eligible for eight hours of overtime pay.

Sun	Mon	Tues	Weds	Thurs	Fri	Sat	Hours	OT
off	8	8	8	8	8	8	48	8

### Overtime in a Modified Work Arrangement or Averaging of Hours Permit

Employers who have a Modified Work Arrangement (MWA) or an Averaging of Hours Permit must pay overtime after the daily limit or the hours in the averaging period are exceeded.

For example, if the daily limit in a permit is 12 hours, employees earn overtime after working more than 12 hours in 24 consecutive hours. If the averaging period is 80 hours over two weeks, employees earn overtime after working more than 80 hours.

If a public holiday falls within the averaging period, the overtime threshold is reduced by eight hours. For example, if a public holiday fell during an averaging period of 80 hours over two weeks, the overtime threshold would be 72 hours.

### Calculating Overtime for Employees Paid by the Month

Regular overtime rules apply to salaried employees who are not covered by an exemption or special rule.

To calculate the hourly rate for eligible employees paid on a monthly basis, multiply the monthly wage by 12, divide the result by 52, and then divide by the regular weekly hours (weekly hours cannot be more than 40).

Example:

Monthly wage rate: \$2,500.00

Multiplied by the yearly rate:  $\$2,500 \times 12 \text{ months} = \$30,000.00$

Divided by the weekly rate:  $\$30,000.00 \div 52 \text{ weeks} = \$576.92$

Divided by the hourly rate:  $\$576.92 \div 40 \text{ hours} = \$14.42$

Multiplied by the overtime rate:  $\$14.42 \times 1.5 = \mathbf{\$21.63}$

Note: If the regular weekly hours worked were 37.5 hours, the weekly rate (\$576.92) would be divided by 37.5 to give an hourly rate of \$15.38.

### Overtime Exemptions

Some employees are exempt from overtime or covered by special overtime rules.

Overtime provisions do not apply to:

- managerial and professional employees;
- employees primarily engaged in mineral exploration operations north of Township 62 (Township 62 is roughly along the northern boundary of Meadow Lake Provincial Park);
- logging industry employees, including employees providing food services and security services, but employees working in an office, saw mill or planing mill get overtime pay;
- certain types of travelling salespersons;
- motor vehicle salespersons;
- persons employed by rural municipalities in connection with road construction or maintenance, or servicing of road repair or maintenance equipment that is not done in the shop;
- employees working for outfitters, fishers, or trappers; or
- come-in care providers working in private homes.

Please call the Employment Standards Division at 1-800-667-1783 for more information about overtime exemptions and special rules.

## **Special Overtime Rules**

Special overtime rules apply to some types of employees, including live-in care providers, live-in domestics, ambulance attendants, firefighters on a platoon system, oil truck drivers delivering fuel to farms, commercial hog operation employees, some city newspaper employees and highway construction workers.

Overtime rules are also modified for employers who have negotiated modified work arrangements or time bank agreements with their employees, or who have received an Averaging of Hours Permit from the Director of Employment Standards.

Please call the Employment Standards Division at 1-800-667-1783 for more information about special overtime rules and permits.

Please contact the Occupational Health and Safety Division for information about fatigue management for employees working extensive overtime.

## **Part-Time Employees Working Less Than 30 Hours Per Week**

Non-unionized employees working less than 30 hours per week are entitled to be paid overtime after working more than eight hours in 24 consecutive hours. These employees cannot be covered by a Modified Work Arrangement. They can participate in an overtime bank agreement.

Collective bargaining agreements may govern rules for part-time employees working in unionized environments.

## **Overtime Banks**

An overtime bank (time bank) is an agreement between the employer and individual employees that allow overtime hours to be banked in exchange for time off at regular pay

during regular working hours at some later date.

### **Employees Who Can Ask for an Overtime Bank Agreement**

All employees who are eligible for overtime can request an overtime bank, including those working fewer than 30 hours per week. However, the employer cannot require employees to enter into an overtime bank agreement. Visit [saskatchewan.ca](http://saskatchewan.ca) to download a Time Bank Agreement Template.

### **How Overtime Bank Agreements Work**

For every hour of overtime worked, 1.5 hours must be banked. Hours withdrawn from a bank must be taken during an employee's regularly scheduled work hours, and at a time or times agreed to by the parties. If there is no agreement, the employer can schedule the time off by providing the employee with at least one week of notice.

All banked hours withdrawn from the bank are considered regular hours worked and go towards calculating the overtime threshold for the week. Time taken from the bank is paid at the employee's current regular hourly wage.

All banked time must be taken off or paid out at the employee's current regular wage rate within 12 months of the time it was banked. Any banked time not taken within the 12 month period must be paid out at the employee's current hourly wage. Employees can request payouts of banked time; and the employer may make payouts, without closing the bank.

### **Requirements for Overtime Bank Agreements**

All overtime bank agreements must be:

- in writing;
- agreed to and signed by both employer and employees; and
- retained by the employer, with a copy going to each employee covered by the agreement.

### **Ending or Changing an Agreement**

The employer and employee cannot end or change the agreement without giving advance notice in writing. The notice must be given at least one pay period in advance.

If the employee or employer ends the agreement, the employee can be required to use some or all of the time in the bank before the agreement ends. The employer could also choose to pay out the overtime in the bank.

### **Overtime Banks and Ending Employment**

Any remaining banked overtime must be paid out within 14 days of the employee's last day of work.

If the employer is laying off or terminating the employee, the employer cannot substitute banked time for a working notice period required under the Act. In addition, overtime bank payouts cannot replace pay instead of notice.

## Vacations

### Vacation Entitlements

Employees receive a minimum of three weeks of vacation after each year of employment. Employees who complete 10 years of work with the same employer receive a minimum of four weeks of vacation.

### Paying Vacation Pay

All eligible full-time, part-time, casual, temporary, and seasonal employees (including those who have not worked a full year with the same employer) receive vacation pay.

Employees receive vacation pay:

- at their request before taking vacation; or
- on a normal payday during a vacation; or
- within 11 months after earning their annual vacation, if they have not taken all their vacation time; and
- within 14 days of termination.

### Taking Vacation

The employer must allow the employee to take vacation within 12 months after the date on which the employee becomes entitled to it.

An employee is entitled to take vacation in one continuous period, unless he or she requests shorter periods of at least a week at a time. Employees must receive approval from the employer in advance for each vacation period.

### Common Vacation Entitlement Date

An employer may use a common date for calculating vacation entitlement of all employees, but only if this does not result in a reduction of any of the employee's rights.

### Requiring an Employee to Take Vacation

Employees and employers should negotiate when annual vacation will be taken. If no agreement is reached, the employer can schedule the employee's vacation by giving the employee a written notice at least four weeks before the employee's vacation must begin.

If the employee does not take a vacation, the employee must get vacation pay no later than 11 months following the date when the annual vacation was earned.

### Requiring Employees to Take Vacation During Workplace Closures

An employer can require all employees, or all employees in part of a workplace, to take their vacation at a time when the employer has closed all or part of the workplace. However, this applies only if those vacation periods are not less than one week in length.

The employer can do this by providing the employees with a written notice at least four weeks before the vacation must begin.

### **Calculating Vacation Pay**

Vacation pay is calculated on an employee's wages for a year of employment or portion of a year which includes all salary, commission, earned bonuses and any other monetary compensation for work or services for being at the disposal of an employer. It also includes overtime, public holiday pay, vacation pay and pay instead of notice.

The vacation pay calculation depends on how many years the employee has worked for the same employer:

- during the first nine years of employment, multiply the wages for the 12-month period by  $3/52$  (5.77%); and
- during year 10 and the following years of employment, multiply the wages for the 12-month period by  $4/52$  (7.69%).

Example:

A full-time employee has worked for less than 10 years for the same employer. When the employee takes a three-week vacation, the vacation calculation is:

Annual salary (April to May): \$25,000.00

Add commission: \$25,000.00 + \$3,000.00 = \$28,000.00 Total Annual Salary

Multiply by vacation pay rate: \$28,000.00 x  $3/52$  = **\$1,615.39**

Vacation pay of \$1,615.39 would be payable for the three week vacation.

Employees are entitled to four weeks of annual vacation after the completion of 10 years of employment with the same employer. Their vacation pay would be  $4/52$  of the wages earned in the previous year.

If the employee in the above example had worked for the same employer for 10 years or more, the vacation pay calculation would be  $(\$28,000 \times 4/52) = \$2,153.85$ .

Visit the [Vacation Calculator](#) to calculate the amount of vacation pay owed to an employee.

## **Paying Vacation Pay at the End of Employment**

Vacation pay is calculated on the employee's "wages" for each year. Since pay instead of notice is part of an employee's wages, the vacation pay calculation must include any pay instead of notice.

Vacation pay cannot be used to replace pay instead of notice.

See [Layoffs and Terminations](#) for more information.

## **Using Vacation Pay When Employees are Away Due to Illness**

Vacation pay may be used when an employee is away due to illness only by mutual agreement between the employer and employee. The payment should be identified as vacation pay on the pay stub. An employee's vacation leave entitlement is not reduced if vacation pay is paid out while they are away due to illness or injury. However, the amount of vacation pay will be reduced by the amount paid to cover the time away from work due to illness.

## **Wages and Vacation Pay**

Employees on vacation do not get wages and vacation pay. This would be a double payment.

Employees called in to work while on vacation must be paid wages and not vacation pay while working.

## **Public Holidays While on Vacation**

If there is a public holiday during an employee's annual vacation, the vacation is extended by one day, even if the holiday falls on an employee's day off. Most employees should also get public holiday pay for the holiday. Please read [Public Holidays](#) for more information.

## **Cancelling an Employee's Vacation**

An employer who cancels or reschedules a previously-approved vacation must pay all non-refundable deposits, penalties, and pre-paid expenses paid by the employee that are related to the vacation. The employee must provide receipts for these expenses.

## Public (Statutory) Holidays

Employees get paid for 10 public holidays per year in Saskatchewan: New Year's Day, Family Day, Good Friday, Victoria Day, Canada Day, Saskatchewan Day, Labour Day, Thanksgiving Day, Remembrance Day, and Christmas Day, no matter how they are paid or what hours they work.

Easter Monday, Christmas Eve, and Boxing Day are not public holidays.

The Director of Employment Standards may authorize that a public holiday be observed on a specified working day other than the date of the public holiday. See [Permits and Variances](#) for more information.

### Paying Employees in a Week Containing a Public Holiday

There are three payments:

#### 1. Premium Pay for Working on a Public Holiday

Employees working on a public holiday earn premium pay of 1.5 times their regular hourly rate for all hours worked. This includes managerial and professional employees and operators of group homes. The premium pay rate of 1.5 is in addition to the normal day's pay calculated below in Public Holiday Pay.

#### 2. Overtime Payable During the Week of a Public Holiday

During a week with a public holiday, employees receive overtime after working 32 hours. The 32 hours does not include any hours worked on the public holiday.

Daily overtime depends on the employees' schedule. Employees scheduled to work eight hours per day receive overtime after eight hours. Employees scheduled to work 10 hours per day receive overtime after 10 hours.

#### Workplaces With a MWA or Averaging of Hours Permit

Where a workplace has a Modified Work Arrangement, or an Averaging of Hours Permit, each public holiday in the averaging period will reduce the number of hours before overtime is to be paid by eight hours. For example, if a public holiday falls within an averaging period of 160 hours over four weeks, overtime becomes payable after 152 hours.

Overtime is also payable after employees work more hours than the daily limit stated in the MWA or averaging permit.

#### 3. Public Holiday Pay

Most employees receive five per cent of their wages in the 28 days (four weeks) before a public holiday as public holiday pay, no matter what their days of work.

The calculation includes all wages earned in the 28 days (four weeks) and vacation pay that has been paid in the four weeks before the public holiday for holidays taken. The calculation does not include overtime.

A new employee is entitled to public holiday pay even if he or she has been employed for less than four weeks before the public holiday. The amount of public holiday pay would be five per cent of the regular wages earned by the new employee before the public holiday.

Example:

An employee earns regular wages of \$600.00/week, plus commission. In the four weeks before a public holiday, the employee takes one week of vacation for which the employee receives \$600.00. The employee also earns \$1,000 in commission. The calculation would be:

Regular wages: \$600.00

Multiplied by three weeks:  $\$600.00 \times 3 = \$1,800.00$

Add one week of vacation pay:  $\$1,800.00 + \$600.00 = \$2,400.00$

Add commission:  $\$2,400 + \$1,000 = \$3,400.00$

Multiplied by public holiday pay rate of 5%:  $\$3,400 \times 0.05 = \mathbf{\$170.00}$

#### Salaried Employees Who Receive a Day off With Pay

If the employee receives the day off with pay, then this amount would be taken off the \$170.00 calculated above. Assuming a five day week, the employee would earn a base wage of  $\$600.00 \div 5 \text{ days} = \$120.00$ . Taking off the \$120.00 would leave a balance of \$50.00 to be paid ( $\$170.00 - \$120.00 = \$50.00$ ).

In some cases, employees on a fixed salary that have the day off with pay will have received proper payment for the public holiday. When the public holiday falls on an employee's day off, some employers may give the employee the option of receiving five per cent of their pay or taking an additional day off with pay.

#### New Hires

A new employee is entitled to public holiday pay even if employed for less than 28 days before the public holiday. In this case, public holiday pay would be five per cent of the regular wages earned by the new employee before the holiday.

#### Hourly-Paid Construction Employees

Public holiday pay for hourly-paid construction employees is four per cent of wages (excluding overtime and vacation pay) earned in the calendar year. Public holiday pay must be paid on or before December 31 in the year in which it was earned, or within 14 days of termination.

Public holiday pay can also be paid on each paycheque during the year.

#### Employees Who Quit, are Laid Off or Terminated Before a Public Holiday

An individual must be employed by the employer on the day of the public holiday to get public holiday pay. For example, someone who was laid off or quit before a holiday would not get public holiday pay for that holiday.



## **Special Public Holiday Pay Rules**

There are special public holiday pay rules for employees engaged in the operation of a well drilling rig, employees of commercial hog operations, and full-time employees working in a hospital, educational institution, nursing home, hotel, or restaurant.

### **Employees Operating Well Drilling Rigs**

An employee who is engaged in the operation of a well drilling rig receives:

- public holiday pay of five per cent of their wages in the 28 days (four weeks) before a public holiday if the employee does not work on the public holiday; or
- if the employee works on the holiday, the employee receives public holiday pay and the employee's regular wages for the time worked.

Employees are also entitled to any overtime earned in the week of the public holiday and on the public holiday if they work on the holiday.

### **Employees Working in Commercial Hog Operations**

Employees working in commercial hog operations receive public holiday pay and 1.5 times their hourly wage rate for each hour worked on the public holiday.

If the public holiday falls on a regular day of work for the employee and the employee works it, the employee can elect by written request to receive another day off with pay on a day designated by the employer within 12 months of the public holiday. If this occurs, the employee would be paid:

- regular wages for time worked on the public holiday; plus,
- public holiday pay for the designated day.

Payment for the designated holiday is payable in the pay period during which the designated day occurs, or within 14 days of termination of the employee's employment, whichever comes first.

### **Full-Time Employees Working in a Hospital, Educational Institution, Nursing Home, Hotel, or Restaurant**

Employees who work on a public holiday get premium pay for each hour worked, plus either public holiday pay or a day off at regular pay within a four-week period during which the public holiday occurs.

## **Public Holidays Falling on Sunday**

If the employer's establishment is normally open on Sunday, the public holiday pay rules apply to that Sunday. Where businesses are normally closed on Sunday, and New Year's Day, Christmas Day, or Remembrance Day fall on a Sunday, the following Monday is observed as a public holiday.

Canada Day is covered by federal legislation. Currently, federal law says when July 1 falls on a Sunday, the holiday is observed on Monday, July 2.

Note: When a public holiday falls on a Saturday, it is not observed on a different day.

## **Observing a Public Holiday on a Different Day**

Employers can ask the Director of Employment Standards for a permit to observe a public holiday on another day. To request authorization, employers must complete a Move a Public Holiday Permit Application Form and send it to the Director for approval. A majority of employees must agree to the public holiday being observed on another day by signing the application form. If a permit is granted, the public holiday pay rules will apply to the day stated on the permit.

If employees are represented by a trade union, the employer and trade union can agree in writing to observe the public holiday on another day.

In recognition of the significance of Remembrance Day, permission to observe that holiday on another day will only be granted in exceptional circumstances.

Permit application forms can be downloaded from [saskatchewan.ca](http://saskatchewan.ca).

Applications should be submitted at least two weeks before the holiday.

## Job-Protected Leaves

Several job-protected employment leaves are available, including:

- family (maternity, adoption, parental, bereavement, crime-related child death or crime related child disappearance leaves, and interpersonal violence leave);
- service (reserve force, nomination/election and candidate/public office, and citizenship ceremony leaves); and
- medical (organ donation, critically ill child care, and compassionate care).

### Requirements for All Leaves

#### Leaves are Unpaid

Job-protected leaves under employment standards are unpaid. However, an employee who wishes to take a leave may be eligible for Employment Insurance. Contact Service Canada toll-free at 1-800-206-7218 for more information.

#### Eligibility

A full-or part-time employee who is currently employed, and has been employed for more than 13 consecutive weeks by the same employer before the day the leave is to begin, qualifies for leave.

#### Notice Before Taking Leave and Before Returning to Work

An employee who wishes to take any of the following leaves must provide the employer with at least four weeks' written notice:

- maternity, parental or adoption (MAP) leave;
- reserve force service leave (for regular deployment); or
- nomination/election and candidate/public office leave.

The notice must state:

- the date the employee intends to start their leave; and
- the date the employee intends to return to work.

An employee taking a leave longer than 60 days must provide the employer with at least four weeks' written notice before returning to work. This written notice must be given to the employer before the leave expires. The employer is not required to take the employee back until this notice is received.

## Exceptions

The obligation to provide four weeks' written notice before taking leave does not apply:

- to bereavement leave, compassionate care leave, critically ill child care leave, crime-related child death or disappearance leave, interpersonal violence leave and citizenship ceremony leave; or
- if the date of commencement of the employment leave or the date of return to work from the employment leave is not known and cannot be reasonably known by the employee (such as an emergency deployment of reservists).

An employee who takes a leave of 60 days or less does not have to provide the employer with four weeks' written notice before returning to work.

An employee who is not required to provide four weeks' written notice must provide notice as far as possible in advance of the start and end of the leave.

### **Where a Medical Certificate Must be Provided With the Notice**

If an employment leave involves a medical issue, the employer has a right to ask for the employee to provide a medical certificate from a duly qualified medical practitioner as to the reason for the leave or the extension of the leave.

### **Length of Service and Rights of Recall**

An employee continues to accrue seniority, service, and rights of recall while on an employment leave or a combination of employment leaves to a maximum of 52 weeks.

### **Vacation Entitlements**

An employee on leave continues to accrue vacation seniority, to a maximum of 52 weeks. After returning from leave, an employee gets the same vacation entitlements that the employee would have received if the leave had not been taken. Vacation pay may be lower since it is a percentage of the previous year's earnings.

For example, an employee with nine years of service has three weeks of vacation entitlements. If the employee takes 52 weeks of maternity and parental leave, the employee would have 10 years of seniority upon return to work. The employee would then be eligible for four weeks of vacation.

### **Participation in Benefit Plans While on Leave**

An employer who provides benefit plans to employees must offer to continue to provide those benefits to an employee who is on leave, or a combination of leaves. The employee may be required to pay all premiums to maintain benefits.

Except for employees on some types of service leaves, there is no regulatory time limit on continued participation.

Benefit plans that an employee can continue participating in while on leave include medical, dental, disability or life insurance, accidental death or dismemberment, a registered

retirement savings plan, and other pension plans.

### **Employees Returning From Leave**

An employee returning from leave of 60 days or less must be re-employed in the same job they had before the leave. An employee returning from a leave longer than 60 days can be reinstated into a comparable job with no loss in pay or benefits.

### **Discriminatory Action**

Section 2-8 of *The Saskatchewan Employment Act*, forbids an employer from taking discriminatory action against an employee because the employee:

- is pregnant or is temporarily disabled because of pregnancy;
- has applied for or taken an employment leave or is otherwise absent from the workplace as allowed by the legislation; or
- has requested a modification of the employee's duties or a reassignment to other duties because of a disability, including a temporary disability due to pregnancy.

Employers who terminate an employee in one of these protected categories must show that the termination was not related to the leave. For example:

- the project that the employee was employed to work on is completed and all employees are laid off;
- the employer can show just cause for dismissal; or
- the employer can show that the employee voluntarily resigned.

Employers who are thinking about terminating an employee who is on a job-protected leave or is returning from a job-protected leave should get legal advice before taking action.

## **Family Leaves**

Eligible employees can get maternity, adoption, and parental leave. Eligible employees can also take bereavement leave, crime-related child death, and crime-related child disappearance leave.

### **Maternity Leave**

#### Length of Leave

Pregnant employees can get 18 weeks of maternity leave.

An employee whose pregnancy terminates up to 12 weeks before the estimated date of birth due to a miscarriage or a stillbirth may also take 18 weeks of leave.

#### Giving Notice of Leave

An employee must give four weeks' written notice before the day her leave begins. This notice must include a medical certificate that states the estimated date of birth. The note should also provide the estimated date of return to work.

### Accommodating a Pregnant Employee

If a pregnancy unreasonably interferes with the performance of an employee's job, the employer can modify the employee's job or reassign the employee. If so, the employee's wages and benefits cannot be reduced.

If it is not possible to accommodate the employee, she can be required to commence maternity leave up to 12 weeks before the estimated date of birth.

### Beginning Leave Early Due to Illness

A pregnant employee who can provide a medical certificate saying she must stop work for medical reasons may leave work immediately. She is not required to start her maternity leave at this time and can delay the start of her 18-week maternity leave up to the estimated date of birth.

Contact the Saskatchewan Human Rights Commission toll-free at 1-800-667-9249 or [www.saskatchewanhumanrights.ca](http://www.saskatchewanhumanrights.ca) for more information about the rights of ill or injured pregnant employees.

Sick leave benefits may also be available through Employment Insurance. Visit a [Service Canada Office](#) or call them toll-free at 1-800-206-7218.

### Starting Maternity Leave

Maternity leave can start at any time during the 12 weeks before the estimated date of birth, and/or no later than the date of birth. If the employee does not give the employer at least four weeks' written notice before starting leave, the 18-week maternity leave is reduced to 14 weeks. The 14-week leave can start at any time during the eight weeks before the estimated date of birth.

### If Birth is Delayed

If the actual date of birth is later than the estimated date of birth, the employee is entitled to not less than six weeks' leave after the actual date of birth.

### Extending Maternity Leave for Medical Reasons

Maternity leave can be extended six weeks (for a total of 24 weeks) if there is a medical reason for not returning to work. A medical certificate is needed for this extension.

Employers and employees can agree to a longer leave. To prevent misunderstanding, such agreements should be in writing.

## **Adoption Leave**

### Length of Leave

The primary caregiver of an adopted child can take 18 weeks of adoption leave. Only the primary caregiver of an adopted child can get adoption leave. The adopting family decides who the primary caregiver will be.

### Giving Notice of Leave

The employee's written notice four weeks before the day leave begins should state what date the child is expected to come into the employee's care. If this date is not known, if requested by the employer, the notice should include whatever notice has been given by Social Services, the adoption agency, or the birth parent.

### Starting Leave

Adoption leave starts on the day the child becomes available for adoption or the child comes into the employee's care.

### **Parental Leave**

#### Length of Leave

The parent taking maternity or adoption leave can also take up to 34 consecutive weeks of parental leave.

The parent or caregiver who does not take maternity or adoption leave can take up to 37 consecutive weeks of parental leave.

#### Giving Notice of Leave

If the employee is on maternity or adoption leave and is requesting parental leave, the written notice must be submitted at least four weeks before the employee was to return to work. The new estimated date of return to work should be included in the notice. The parental leave notice can be included with the maternity or adoption leave notice.

#### Starting Leave

Parental leave taken with maternity or adoption leave must start immediately after the maternity or adoption leave ends and completed within 52 weeks after the date the child was actually born or came into the employee's care.

Parental leave taken by the parent or caregiver who does not take maternity or adoption leave can be taken any time between 12 weeks before the estimated date of birth or the day the child will come into the employee's care and 52 weeks after the date the child was actually born or came into the employee's care.

**Quick Reference Chart: Maternity, Adoption, and Parental Leave**

Contact Service Canada about Employment Insurance eligibility rules at [www.servicecanada.gc.ca](http://www.servicecanada.gc.ca).

	<b>Maternity</b>	<b>Adoption</b>	<b>Parental</b>
<b>Leave Notice</b>	At least four weeks written notice before the leave is estimated to begin and four weeks written notice before it ends.	Four weeks written notice before the leave is estimated to begin and end.	If taken after maternity or adoption leave, four weeks written notice before the end of the maternity or adoption leave.  If taken separately, the notice must be given four weeks before the leave is to begin.
<b>Required Certificates</b>	Medical Certificate.	Adoption documents, if requested.	Verification/Birth Certificate or Adoption documents, if requested.
<b>Leave Duration</b>	<ul style="list-style-type: none"> <li>• 18 unpaid weeks; or</li> <li>• 14 unpaid weeks, if the employee has failed to give the employer the required four weeks of notice and has not provided her employer with a medical certificate requiring the employee to cease work immediately.</li> </ul>	18 unpaid weeks.	<ul style="list-style-type: none"> <li>• 34 unpaid weeks for the birth parent or the primary caregiver in an adoption.</li> <li>• 37 unpaid weeks for the parent who did not take maternity or adoption leave.</li> </ul>
<b>Eligible Employee</b>	Birth parent/pregnant employee with more than 13 consecutive weeks of service with the employer.	The parent or caregiver with more than 13 weeks of service with the employer who is designated as the primary caregiver.	Either or both parents with more than 13 consecutive weeks of service with the employer.



	<b>Maternity</b>	<b>Adoption</b>	<b>Parental</b>
<b>Leave Start</b>	<ul style="list-style-type: none"> <li>Any time in the 12 weeks before the estimated date of birth; or</li> <li>Any time in the eight weeks before the estimated date of birth if the employee has failed to give the employer notice or a medical certificate requiring the employee to leave work immediately.</li> </ul>	Adoption leave begins on the day on which the child comes into the employee's care or becomes available for adoption.	<p>Maternity and parental leaves or adoption and parental leaves taken by the same parent or caregiver must run consecutively and end within 52 weeks after the actual date of birth or adoption.</p> <p>The other parent or caregiver's parental leave can begin within 12 weeks before the estimated date of birth or adoption, and end within 52 weeks after the actual date of birth or adoption.</p>
<b>Leave Extensions</b>	<p>Can be extended by six weeks after the date of a late birth.</p> <p>Six week extension, if the employee is not able to return to work after the leave expires because of medical reasons (medical certificate required).</p>	Leaves can be extended by mutual agreement between the employer and the employee. The agreement should be in writing and should confirm that reinstatement and other leave rules continue to apply.	
<b>Notice of Return to Work</b>	<p>Written notice must be provided at least four weeks before the leave ends and the employee intends to return to work.</p> <p>The employer is under no obligation to take the employee back until this notice is received.</p>		
<b>Reinstatement Rights and Other Benefits</b>	<p>An employee is entitled to return to the same job if the employment leave is for 60 days or less.</p> <p>If the leave is longer than 60 days, the employee can be reinstated to a comparable job.</p> <p>The employee must receive at least the same wages and benefits as before the leave. Seniority, service (including vacation and notice entitlements), and the right of recall continue to accrue while the employee is on leave, to a maximum of 52 weeks. While on leave, the employee continues to participate in benefit plans, provided that the employee pays the premiums or contributions.</p>		

	Maternity	Adoption	Parental
<b>Job Protection</b>	<p>No employer shall take discriminatory action against an employee because the employee:</p> <ul style="list-style-type: none"> <li>• is pregnant or is temporarily disabled because of pregnancy;</li> <li>• has applied for or taken an employment leave or is otherwise absent from the workplace in accordance with the legislation; or</li> <li>• has requested a modification of the employee’s duties or a reassignment to other duties because of the pregnancy.</li> </ul>	<p>No employer shall take discriminatory action against an employee because the employee has applied for or taken an employment leave or is otherwise absent from the workplace in accordance with this Part.</p>	

**Bereavement Leave**

When a member of an employee’s immediate family dies, an employee with more than 13 weeks of employment with an employer is entitled to take unpaid bereavement leave.

Length and Use of Leave

Bereavement leave can be up to five working days. It must be taken within one week before the funeral to one week after the funeral.

**Crime-Related Child Death and Crime-Related Child Disappearance Leaves**

Crime-related child death and crime-related child disappearance leaves can last up to 104 weeks. An employee, with more than 13 weeks of employment service with the employer is entitled to this leave if their child has disappeared or died due to a crime-related incident. The employee must also provide notice to the employer as soon as possible before the leave begins.

**Interpersonal Violence Leave**

Interpersonal violence leave is an unpaid, job-protected leave of up to 10 days for survivors of interpersonal violence to access supports or relocate to a new home. The leave can be broken down into days or hours as required. Only time spent away from work would be considered leave time.

Eligibility applies to an employee who is a victim of interpersonal violence or an employee who is a parent of a child who is a victim or an employee who is a caregiver of a victim of interpersonal violence and the employee requires time off work to:

- seek medical attention for a victim with respect to a physical or psychological injury or disability caused by interpersonal violence;
- obtain services from a victim services organization;
- obtain psychological or other professional counselling;
- relocate temporarily or permanently; or
- seek legal or law enforcement assistance, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from the interpersonal violence.

Employees must have worked for an employer for a minimum of 13 weeks and will be required to provide evidence of the services being received if the employer requests it. This could be written confirmation from:

- a social worker;
- a member of the College of Psychologists;
- a practicing member of the Saskatchewan Registered Nurses Association or the Registered Psychiatric Nurses Association of Saskatchewan;
- a member of the Royal Canadian Mounted Police or another police service; or
- another person approved by the employer who is employed by an agency or organization that provides emergency or transitional shelter or support for victims of interpersonal violence.

For more information refer to 12(4)4 of The Victims of Interpersonal Violence Act to learn more about the acts governing membership of those groups.

Employers are required to ensure personal information about employees accessing the leave is kept confidential.

**Quick Reference Chart: Family Leave**

	<b>Maternity</b>	<b>Adoption</b>	<b>Parental</b>	<b>Bereavement</b>	<b>Crime-related child death or disappearance</b>	<b>Interpersonal Violence</b>
<b>Employee Qualifying Period</b>	More than 13 weeks	More than 13 weeks	More than 13 weeks	More than 13 weeks	More than 13 weeks	More than 13 weeks
<b>Employee Notice to Employer</b>	Four weeks	Four weeks	Four weeks	As far as possible in advance	As far as possible in advance	As far as possible in advance
<b>Evidence Required</b>	Medical Certificate	If requested	If requested	If requested	If requested	If requested
<b>Eligible Employee</b>	Birth-parent/ pregnant employee	Primary caregiver	Either or both parents	Immediate family	Either or both parents or caregivers	Survivor of interpersonal violence OR a caregiver/parent of a survivor of interpersonal violence
<b>Leave Period</b>	18 weeks	18 weeks	34/37 weeks	Five days unpaid	104/52 weeks	10 days unpaid (can be taken hours or days a time as required)
<b>Benefit Participation</b>	Yes	Yes	Yes	Yes; employee payment not required	Yes	Yes
<b>Seniority Accrual</b>	Yes	Yes	Yes	Yes	Yes	Yes
<b>Employee Return Notice to Employer</b>	Four weeks	Four weeks	Four weeks	As far as possible in advance	As far as possible in advance	As far as possible in advance
<b>Reinstatement Rights</b>	Same or comparable job	Same or comparable job	Same or comparable job	Same job	Same or comparable job	Same job
<b>Wage Protection</b>	Yes	Yes	Yes	Yes	Yes	Yes

## **Service Leaves**

This includes Reserve Force, Nomination/Election and Candidate/Public Office, and Citizenship Ceremony leaves.

### **Reserve Force Service Leave**

Reserve force service leave is an unpaid, job-protected leave for the required period of service.

Employees with more than 13 consecutive weeks of service with the employer, who are military reservists and are deployed to an international operation or an operation within Canada, that is or will be providing assistance in dealing with an emergency or its aftermath, training, and regular deployment, are eligible for reserve force service leave.

#### Regular Deployment

Written notice must be provided to the employer at least four weeks before leave will begin. The notice should state when leave will begin and when the employee expects to return to work.

The employer may ask the employee to provide confirmation from a reserve force official of the employee's reserve force status, and the anticipated period of service.

#### Emergency Deployment

If it is not possible to give four weeks' written notice due to the emergent nature of the leave, then an employee must give notice as soon as possible. The employee must also notify the employer as soon as possible of his or her anticipated period of service.

#### Reinstatement

Upon returning, an employee is entitled to return to the same job if the employment leave is for 60 days or less. If the leave is longer than 60 days, the employee can be reinstated to a comparable job. The employee must receive at least the same wages and benefits as before the leave.

### **Nomination/Election and Candidate/Public Office Leave**

Nomination/election and candidate/public office leaves are unpaid, job-protected leaves for as many days as required.

An employee seeking or holding public office may be eligible for nomination/election and candidate/public office leave.

An employee must have worked with the employer for more than 13 consecutive weeks to be eligible for this leave. Written notice must be provided to the employer at least four weeks before the leave begins. The employee must also notify the employer four weeks before their return date on when they will be returning.

Upon returning, an employee is entitled to return to the same job if the employment leave is for 60 days or less. If the leave is longer than 60 days, the employee can be reinstated to a comparable job. The employee must receive the same wages and benefits as before the leave.

### Citizenship Ceremony Leave

Employees who have worked with an employer for more than 13 consecutive weeks and who are new Canadian citizens are eligible for one day of unpaid Citizenship Ceremony Leave. Employees must provide notice to the employer as soon as possible before the leave.

### Quick Reference Chart: Service Leave

	Reserve Force	Nomination/Election and Candidate/Public Office	Citizenship Ceremony
<b>Employee Qualifying Period</b>	More than 13 weeks	More than 13 weeks	More than 13 weeks
<b>Employee Notice to Employer</b>	Four weeks or reasonable notice for emergency deployment	Four weeks	As far as possible in advance
<b>Evidence Required</b>	Reserve Official's Certificate	If requested	If requested
<b>Eligible Employee</b>	Reserve Member	Employee seeking or holding public office	New citizens
<b>Leave Period</b>	As required	As required	One day unpaid
<b>Benefits Participation</b>	Yes, up to a maximum of 52 weeks	Yes, up to a maximum of 52 weeks	Yes, employee payment not required
<b>Seniority Accrual</b>	Yes	Yes	Yes
<b>Employee Return Notice to Employer</b>	Four weeks or reasonable notice	Four weeks	As far as possible in advance
<b>Reinstatement Rights</b>	Same or comparable job	Same or comparable job	Same job
<b>Wage Protection</b>	Yes	Yes	Yes

## Medical Leaves

This includes Organ Donation Leave, Critically Ill Child Care Leave, and Compassionate Care Leave.

### Organ Donation Leave

Organ donation leave is unpaid, job-protected leave of up to 26 weeks for the purpose of undergoing surgery to donate all or part of an organ.

An employee must have worked with the employer for more than 13 weeks to be eligible for this leave. Written notice must be provided to the employer as soon as possible before the leave begins. The employee must also notify the employer as soon as possible about their return date. An employer may ask for a medical certificate with the notice.

Upon return, an employee is entitled to return to the same job if the employment leave is for 60 days or less. If the leave is longer than 60 days, the employee can be reinstated to a comparable job. The employee must receive at least the same wage and benefits as before the leave.

### Critically Ill Child Care Leave

Critically Ill Child Care Leave is an unpaid, job-protected leave of up to 37 weeks. This leave can be taken in one block of time or in multiple blocks of time within a 52-week period providing no block is shorter than one week in duration.

Parents are eligible for this leave to provide care or support to a critically ill or injured child. Eligible parents who take this leave from work may be eligible for Employment Insurance Special Benefits for Parents of Critically Ill Children. Visit a [Service Canada Office](#) or call them toll-free at 1-800-206-7218.

An employee must have worked with the employer for more than 13 consecutive weeks to be eligible for this leave. Written notice must be provided to the employer as soon as possible before the leave begins. The employee must also notify the employer as soon as possible on their return date.

Upon returning, an employee is entitled to return to the same job if the employment leave is for 60 days or less. If the leave is longer than 60 days, the employee can be reinstated to a comparable job. The employee must receive at least the same wage and benefits as before the leave.

### Compassionate Care Leave

Compassionate Care leave is an unpaid, job-protected leave of up to 28 weeks. This can be taken in single or multiple blocks of time within a 52-week period providing no block is shorter than one week in duration. The leave is intended to provide employees the opportunity to provide care and support to a family member who is gravely ill and who has a significant risk of death within 26 weeks.

You can receive compassionate care benefits for a variety of family members—both yours

and those of your spouse or common-law partner.

Note: A common-law partner is a person who has been living in a conjugal relationship with another person for at least a year.

To be eligible for this leave, an employee must have worked with the employer for more than 13 consecutive weeks. Written notice must be provided to the employer as soon as possible before the leave begins. The employee must provide a doctor's note at the employer's request. Employees who take this leave may be eligible for Employment Insurance Compassionate Care Benefits through Service Canada. The employee must notify the employer of their intended return to work date as soon as possible.

The employee can return to the same job if the leave is 60 days or less. The employer may reinstate the employee into a comparable job if the leave is longer than 60 days. The employee must receive at least the same rate of pay and benefits as before the leave.

Employees who take this leave may be eligible for [Employment Insurance Compassionate Care Benefits](#) through Service Canada. Contact Service Canada toll-free at 1-800-206-7218 or [www.servicecanada.gc.ca](http://www.servicecanada.gc.ca) for more information.

Note: Under employment insurance rules for compassionate care leave, a common-law partner is a person who has been living in a conjugal relationship with another person for at least a year.

Under Canada's *Employment Insurance Act*, employees can receive leave to care for their family members or a family member of a spouse or common-law partner. Refer to the *Employment Insurance Act* for clarification.



A family member or a family member of a spouse or common-law partner includes:

### **Family Members**

- Children
- Wife, husband, common-law partner
- Father, mother
- Father's wife, mother's husband
- Common-law partner of the father or the mother
- Brothers, sisters, stepbrothers, stepsisters
- Grandparents, step-grandparents
- Grandchildren, their spouses or common-law partners
- Sons-in-law, daughters-in-law (married or common law)
- Father-in-law, mother-in-law (married or common law)
- Brothers-in-law, sisters-in-law (married or common law)
- Uncles, aunts, their spouses or common-law partners
- Nephews, nieces, their spouses or common-law partners
- Current or former foster parents
- Current or former foster children, their spouses or common-law partners
- Current or former wards
- Current or former guardians, their spouses or common-law partners

### **Family Members of Spouse or Common-Law Partner**

- Children
- Father, mother (married or common law)
- Father's wife, mother's husband
- Common-law partner of the father or the mother of your spouse or common-law partner
- Brothers, sisters, stepbrothers, stepsisters
- Grandparents
- Grandchildren
- Sons-in-law, daughters-in-law (married or common law)
- Uncles, aunts
- Nephews, nieces
- Current or former foster parents
- Current or former wards

## Quick Reference Chart: Medical Leaves

	Organ Donation	Critically Ill Child Care	Compassionate Care
<b>Employee Qualifying Period</b>	More than 13 consecutive weeks	More than 13 consecutive weeks	More than 13 consecutive weeks
<b>Employee Notice to Employer</b>	As far as possible in advance	As far as possible in advance	As far as possible in advance
<b>Evidence Required</b>	Medical Certificate	Medical Certificate	Medical Certificate
<b>Eligible Employee</b>	Organ Donor	Either or both parents	Member of employee's family
<b>Leave Period</b>	As required, up to a maximum of 26 weeks	37 weeks	Up to 28 weeks in a 52 week period
<b>Benefit Participation</b>	Yes	Yes	Yes
<b>Seniority Accrual</b>	Yes	Yes	Yes
<b>Employee Return Notice to Employer</b>	As far as possible in advance	As far as possible in advance	As far as possible in advance
<b>Reinstatement Rights</b>	Same job if leave is less than 60 days Same or comparable job if leave is more than 60 days	Same job if leave is less than 60 days Same or comparable job if leave is more than 60 days	Same job if leave is less than 60 days Same or comparable job if leave is more than 60 days
<b>Wage Protection</b>	Yes	Yes	Yes

## Absence From Work Due to Illness or Injury

If certain conditions are met, employment standards provides unpaid job protection to employees who are absent from work due to their own illness or injury or because of the illness or injury of a family member.

### Missing Work Due to an Illness or Injury

Employers may not discharge or discipline employees who have worked for them for more than 13 consecutive weeks because of absence due to the illness or injury of the employee:

- if the absence does not exceed 12 days in a calendar year for an illness or injury that is not serious;
- if the absence is due to serious illness or injury, and does not exceed 12 weeks in a period of 52 weeks; or
- if the employee is injured and receiving benefits under *The Workers' Compensation Act*, and the absence does not exceed 26 weeks in a period of 52 weeks.

Employment standards do not require employers to pay employees who are away sick. However, employers and employees may agree to paid sick leave.

### Using Vacation as "Sick Leave"

Vacation pay can be used as "sick leave" only by mutual agreement between an employer and employee. Vacation days used as "sick leave" should be clearly identified on the employee's pay stub.

An employee's vacation entitlement is not reduced if vacation pay is paid out when they are away due to illness or injury.

### Missing Work Due to a Family Member's Illness or Injury

Employees may also be entitled to job protection while they are absent from work due to the serious illness or injury of a member of the employee's immediate family who is dependent on the employee. An employer may request that the employee provide a doctor's certificate certifying that the family member was ill or injured.

### Duty to Accommodate Disabled Employees

An employer is required to modify an employee's duties or re-assign the employee to other duties if the employee become disabled. Accommodation will typically require participation by both the employer and employee.

## Layoffs and Terminations

There are rules that employers must follow when an employee is laid-off or terminated. There are additional rules that an employer must follow if there is a group termination. A group termination occurs when an employer terminates 10 or more employees at one place of employment within a four-week period.

### Individual Termination

A “layoff” means the temporary interruption of the employment of an employee for a period longer than six consecutive work days. A “termination” means a dismissal (firing) or a forced resignation.

#### Minimum Notice Employees Must Provide Employers

Employees with at least 13 weeks of service with the employer must give written notice at least two weeks before leaving the job. The notice must state the last day on which the employee is ending his or her employment.

#### Minimum Notice Employers Must Provide Employees

Employees who have been employed by the employer for more than 13 consecutive weeks must be given written notice or pay instead of notice before they can be terminated or laid-off. The minimum notice or pay instead of notice depends on an employee’s length of service with the employer.

Required Minimum Notice Periods or Pay Instead of Notice	
Employee’s Period of Employment	Minimum Period of Written Notice
More than 13 weeks but one year or less	One week
More than one year but three years or less	Two weeks
More than three years but five years or less	Four weeks
More than five years but 10 years or less	Six weeks
More than 10 years	Eight weeks

During the notice period, the employee’s pay rate and normal hours of work cannot be reduced.

#### Rights of Employees Under *The Common Law*

Notice requirements set by employment standards are minimums. Employers should be aware that employees, especially long-term employees, might be entitled to more notice or pay instead of notice under *The Common Law*. Employers and employees should consult their lawyers.

#### *The Saskatchewan Human Rights Code*

Complying with employment standards will not protect an employer who is found to have discriminated against an employee for a prohibited reason under *The Saskatchewan Human Rights Code*.

*The Saskatchewan Human Rights Code* prohibits employers from terminating employees on the basis of race or perceived race, creed, religion, colour, sex, sexual orientation, family status, marital status, disability, age, nationality, ancestry, place of origin, or receipt of welfare. Contact the Saskatchewan Human Rights Commission toll-free at 1-800-667-9249 or [www.saskatchewanhumanrights.ca](http://www.saskatchewanhumanrights.ca) for more information.

### **Pay Instead of Notice**

An employer must give written notice to an employee with more than 13 consecutive weeks of service before a layoff or a termination, unless the employer has just cause to dismiss the employee or the employee resigns. If the employee is not allowed to work out the notice period, pay instead of notice is required.

“Pay instead of notice” means payment of the employee’s normal weekly wages for the required notice period.

If wages vary from week to week, a normal week’s wages is the average wage for the last 13 weeks of work, not including overtime.

Example:

If an employee earns \$7,000 in regular wages in the 13 weeks before a notice is given, normal wages will be \$7,000 divided by 13 weeks (\$538.46 per week).

If the employee is given a working notice, the employee’s schedule should ensure that they would earn no less than their normal wages for each week (\$538.46 in this example) during the notice period.

If they earn less than their normal wages, the employer must make up the difference. For example, if the employee’s schedule only allowed them to earn \$400 per week during the notice period, the employer must provide an extra \$138.46 per week ( $\$538.46 - 400 = \$138.46$ ).

### **Vacation Pay is Payable on Pay Instead of Notice**

Vacation pay is payable on pay instead of notice due to the definition of “wages” under Part II, subsection 2-1(v) of The Saskatchewan Employment Act.

To make the calculation, figure out the total wages, including pay instead of notice, and then calculate vacation pay on the total.

### **Paying Out Departing Employees**

Employees must be paid out in full within 14 days of their last day of work. If a pay period falls within those 14 days, the employee must be paid for the pay period on their regular payday.

Wages that must be paid out by the end of the 14 day period include:

- regular wages (including banked overtime);
- public holiday pay and premium pay;

- pay instead of notice (if required);
- overtime pay; and
- vacation pay.

### Cautions

If the employee is given notice:

- banked overtime cannot replace a notice period;
- vacation days cannot replace a notice period; and
- the employee's hours and wages cannot be reduced during the notice period.

If an employee is given pay instead of notice:

- banked overtime payouts cannot replace pay instead of notice; and
- vacation pay cannot replace pay instead of notice.

### **Mitigation of Losses**

The legislation allows for mitigation of losses. A claim for unpaid wages can be reduced by whatever amount the Director of Employment Standards believes the former employee earned or should have earned during the notice period. However, the employer must convince the Director that the employee's pay instead of notice should be reduced and by how much.

### **Where Notice or Pay Instead of Notice is not Required**

Notice or pay instead of notice is not required if the:

- employee has less than 13 weeks of continuous employment with the employer;
- employee refuses to work out a notice period or otherwise voluntarily resigns;
- contract of employment has a definite end date; or
- employer has "just cause" to dismiss the employee.

### **Just Cause**

Generally, courts have ruled that just cause may exist if the employee is guilty of serious misconduct, such as theft, violence, insubordination, or willful misconduct. Just cause may also include excessive employee absenteeism, chronic tardiness, and other unscheduled absences from work.

The facts and circumstances surrounding the misconduct must be examined carefully. Each case is different. The employee's position and length of service must be considered.

Personality conflicts, general dissatisfaction with performance, petty issues, or one incident of inappropriate behaviour or misconduct, are usually not serious enough to warrant dismissal for just cause. In these instances, corrective action may be more appropriate.

The employer should encourage improvement by identifying reasonable performance standards, conducting performance reviews over a reasonable period, and warning the employee of the consequences for failing to meet the required standards.

Good record keeping can be helpful in showing due diligence.

Employers who condone or ignore misconduct may be prevented from claiming that the dismissal was for just cause.

Employers who are thinking about dismissing an employee for “just cause” should get legal advice before taking action.

### **Protection for Employees who are Ill, Injured or on Workers’ Compensation**

Except for just cause unrelated to injury or illness, no employer shall terminate or take discriminatory action against an employee due to illness or injury of the employee or illness or injury of the employee’s immediate family member who is dependent on the employee.

Employers are prohibited from firing employees who are absent due to sickness or injury. This protection is based on an employee having 13 weeks of service.

The only exception to this protection is where the employer has just cause that is unrelated to the employee’s absence.

## **Group Termination**

A group termination occurs when an employer terminates 10 or more employees in one community within a four-week period. “Termination” includes a layoff with no recall date or a layoff of 26 weeks or more. The employer must give notice of group termination.

### **Minimum Notice Required for Group Terminations**

The minimum notice for a group termination is:

- 10 to 49 employees: four weeks
- 50 to 99 employees: eight weeks
- 100 or more employees: 12 weeks

### **Individual Notice Requirements Affect Group Terminations**

Individual notice of termination is required whether the termination is part of a group termination. Employees affected by a group termination must also receive both group and individual notice of termination.

The employer can give notice of individual and group termination in the same document and at the same time, provided the notice given meets the time required for both individual and group terminations.

### **Where Notice of Group Termination is Not Required**

An employer is not required to give notice of group termination where the employees:

- work on an “on call” basis;
- are employed for a definite period (e.g., eight weeks);
- are employed for a specific project with a completion date that is reasonably foreseeable in any industry, other than the construction industry, or occupation;
- are employed in the construction industry for a specific project with a completion date that is reasonably foreseeable, except if the employment is any occupation carried on in an office;
- are offered and refuse reasonable alternate work;
- are employed on a seasonal basis;
- are laid off for a period less than 26 weeks; or
- are unable to work because of an unforeseen event.

### **Who Must Receive Written Notice of Group Termination**

An employer must provide written notice to:

- the Minister of Labour Relations and Workplace Safety;
- each employee whose employment will be terminated; and
- any trade union representing the affected employees.

The written notice must indicate the:

- number of employees who will be terminated;
- effective date or dates of their terminations; and
- reason(s) for the terminations.



## Home Workers, Care Providers, Domestic Workers, and Sitters

### Home Workers

Any employee who works out of their own home for someone else is a “home worker”. The employee may do work such as sewing, taking orders for goods or services over the phone, or office work via computer. Home workers are entitled to all employment standards rights and benefits including leaves, notice of work schedules, meal breaks, notice of termination, and so on.

Employers of home workers must keep the same payroll information as any other employer. As well, home workers must be provided with pay stubs. See [Payment of Wages and Payroll Administration](#) for more information. For information on EI, CPP, and income tax deductions, contact the Canada Revenue Agency toll-free at 1-800-959-5525 or [www.canada.ca/en/services/taxes/income-tax.html](http://www.canada.ca/en/services/taxes/income-tax.html).

Self-employed persons without employees who use their home as a base of operations are not covered by employment standards.

### Care Providers, Domestic Workers, and Sitters

The *Employment Standards Regulations* define three categories of “household” workers:

1. A **care provider** is someone hired primarily for the care and supervision of an immediate family member in either the home of the employer or the home of the family member requiring care.
2. A **domestic worker** is someone hired primarily to perform work in the private residence of the employer related to the management and operation of the household (i.e., cleaning, washing and gardening). This does not include the supervision and care of an immediate family member.
3. A **sitter** is the traditional “babysitter” who comes in on an occasional, short-term basis to allow parents time to go shopping, to the movies, etc. ‘Sitter’ also refers to a worker who relieves a proprietor of an “approved home” for a period of not more than 21 days in a year.

Employees who work for a company that provide similar services are eligible for all of the benefits provided by the *Act*. This would include commercial home cleaning services, home care services, and so forth.

#### Rules for Care Providers

Come-in care providers (that is, care providers who do not live in the home of the employer) are exempt from the minimum wage, overtime, and the requirement to provide notice of termination or pay instead of notice. All other employment standards apply.

For live-in care providers, the hourly rate during the first eight hours is always at least the minimum wage. The hourly rate for any hours in excess of eight can be negotiated without

reference to the minimum wage. If there is compensation negotiated for hours in excess of eight hours in a day, overtime rules would apply to that compensation at 1.5 times the rate of compensation. Live-in care providers must also receive two consecutive days off per week. Other special provisions include a maximum deduction of \$250.00 per month for room and board. Except for these special rules, all other employment standards apply, including overtime.

### **Rules for Domestic Workers**

Come-in domestic workers are fully covered by employment standards.

For live-in domestic workers, the hourly rate during the first eight hours is always at least the minimum wage. The hourly rate for any hours in excess of eight can be negotiated without reference to the minimum wage. If there is compensation negotiated for hours in excess of eight hours in a day, overtime rules would apply to that compensation at 1.5 times the rate of compensation. Live-in domestic workers must also receive two consecutive days off per week. Other special provisions include a maximum deduction of \$250.00 per month for room and board. Except for these special rules, all other employment standards apply, including overtime.

### **Rules for Sitters**

Sitters are completely exempt from Part II of *The Saskatchewan Employment Act*.

### **Employment Standards for Taking Children to a Caregiver's Home**

If a parent takes a child to the house of the caregiver, that caregiver is viewed as an independent agent and employment standards do not apply.

### **Records for Hired Care Providers and Domestic Workers**

Employers have to maintain payroll records that include: hours worked each day, the time when work begins and ends, the wages paid, the dates annual vacation is taken and vacation pay paid, the details of the employment contract (including the hourly rate), and the deductions made from the employee's wages. See [Payment of Wages and Payroll Administration](#) for more information.

### **Pay Stubs and Income Tax Deductions**

Pay stubs must be provided to all employees including domestic workers and care providers. For information on EI, CPP, and income tax deductions, contact the Canada Revenue Agency toll-free at 1-800-959-5525 or [www.canada.ca/en/services/taxes/income-tax.html](http://www.canada.ca/en/services/taxes/income-tax.html).

**Quick Reference Chart: Employment Standards Coverage for Home Workers, Care Providers, Domestic Workers, and Sitters**

	Minimum Wage	Overtime	Vacation Pay	Public Holiday Pay	Unpaid Maternity Leave	Notice of Termination
<b>Come-in Care Provider</b>	No	None, unless negotiated	Yes	Yes	Yes	No
<b>Live-in Care Provider</b>	Yes, first eight hours/day*	Yes*	Yes	Yes	Yes	Yes
<b>Come-in Domestic Worker</b>	Yes	Yes	Yes	Yes	Yes	Yes
<b>Live-in Domestic Worker</b>	Yes, first eight hours/day*	Yes*	Yes	Yes	Yes	Yes
<b>Sitter</b>	Does not apply					

\*Note: come-in and live-in care providers and live-in domestic workers must negotiate pay for any additional hours worked over eight hours in a 24-hour period. If there is compensation negotiated for hours in excess of eight hours in a day, overtime rules would apply to that compensation at 1.5 times the rate of compensation.

## Youth in the Workplace

### Minimum Age of Employment

In Saskatchewan, the minimum age of employment is 16 years of age. Fourteen- and 15-year-olds may work if they provide their employer with copies of:

- the written permission of one of their parents or guardians;
- a Certificate of Completion from the Young Worker Readiness Certificate Course (YWRCC) signed by one of the youth's parents or official guardians; and
- proof of age.

If the employer pays by direct deposit the young person must provide the employer with their banking information. Employers must keep these documents on file.

Fourteen- and 15-year-olds cannot work:

- more than 16 hours in a week in which school is in session;
- after 10:00 p.m. on a day preceding a school day; and
- before classes begin on a school day.

### Exceptions

These restrictions apply in any week where there is a school day. Hours of work restrictions do not apply during school holidays and extended breaks in the school year.

There are minimum age restrictions under other laws, such as Part III of *The Saskatchewan Employment Act* (Occupational Health and Safety) and *The Education Act*. These restrictions limit the type of jobs young people can do.

### Young Worker Readiness Certificate Course

The Young Worker Readiness Certificate Course (YWRCC) introduces young people to their rights and responsibilities in the workplace. The course includes information about health, safety, and employment standards legislation. It contains important information they need to know before entering the job market. The [YWRCC](#) is available from [saskatchewan.ca](http://saskatchewan.ca).

## Complaints and Enforcement

### How to Get More Information About a Workplace Concern

If the concern is about wages including overtime, public holiday (statutory) pay, vacation pay, dismissal, or any other topics covered in this booklet, call the Employment Standards Division toll-free at 1-800-667-1783.

### How to Make a Formal Complaint for Unpaid Wages

To make a formal employment standards complaint, an employee can complete the online [Formal Complaint Form](#). A PDF version of the form can be also be downloaded from [saskatchewan.ca](#) or obtained from any of the Employment Standards Division's offices listed on [saskatchewan.ca/business/employment-standards](#).

Employees who need help filling out the form can visit or call the nearest Employment Standards Division district office. The form should be completed in full with as much information as possible to assist the Employment Standards Officer investigating the complaint.

To fill out the form the employee will need the following information:

- the employer's name, address, telephone number, postal code and the name of the employee's supervisor;
- the employee's address, postal code, phone number, and date of birth;
- the date the employee started work and the date the employee ended work (if no longer employed);
- the employee's wage rate, regular hours of work per day and per week;
- supporting documents such as a pay stubs; and
- details about the claim, for example a record of the hours worked, the dates for which wages are being claimed and the amounts claimed.

Note: Supporting documents cannot be attached through the online form. Employees filing a formal complaint through the online application will be requested to provide all supporting documents once their complaint has been received.

### How to Make an Anonymous Employment Standards Complaint

Employees who want to recover unpaid wages must file a formal complaint.

Employees can make an anonymous complaint if they believe that employment standards are not being followed. The anonymous complaint process is for those employees who would like the situation corrected but do not wish to make a formal complaint. The complaint could involve monetary or non-monetary issues. Only written complaints with supporting evidence of wrongdoing will be investigated.

This process is designed to assist those employees who are still employed. The Division will work with the employer to ensure that from this point on, the provisions of the Act are followed in this workplace. If the employee no longer works there, she or he should file a formal complaint.

An Anonymous Complaint Form can be downloaded from [saskatchewan.ca](http://saskatchewan.ca) or obtained by visiting any of the Employment Standards Division's office listed on [saskatchewan.ca](http://saskatchewan.ca).

Please mail or fax your completed Anonymous Complaint Form to:

**Compliance and Review Unit**

Employment Standards Division  
300 - 1870 Albert Street  
Regina, Saskatchewan S4P 4W1  
Fax: 306-798-8001

If you require more information, call toll-free 1-800-667-1783 or email the Division at [employmentstandards@gov.sk.ca](mailto:employmentstandards@gov.sk.ca).

**After Submitting a Complaint**

An Employment Standards Officer reviews the complaint form and may call the employee for more information. The officer will also contact the employer and may inspect the employer's payroll records, talk with other employees and gather other evidence.

**Time Limit for Claiming Unpaid Wages**

Where an employee is still working, a claim must be submitted to the Employment Standards Division within 12 months of the unpaid wages being due and payable. Where an employee is no longer employed, the claim must be submitted to the Employment Standards Division within 12 months of the final wages being due and payable.

The Employment Standards Division can only recover wages that should have been paid to the employee during the year before the complaint was filed or during the last year the employee worked for the employer.

Employees who are owed wages that should have been paid more than one year before the complaint was filed, or before the last year of employment, may be able to recover the wages in a court action. A lawyer should be consulted.

## **Cost to Make a Complaint**

It does not cost anything to make a complaint or talk to someone in the Employment Standards Division. If wages are found owing, and the parties can reach an agreement, no fees will be charged to the employer or corporate directors.

## **Protection for Employees Filing Complaints**

Employers cannot terminate or threaten to terminate, take any action against or in any manner discriminate against an employee because the employee has reported or proposed to report to a lawful authority any activity that is or may be unlawful, as long as the action of the employee is not vexatious.

## **What the Division Will do if Wages are Owing**

If the Employment Standards Officer finds that wages are owed to the employee, the officer will let the employer know and will try to get payment from the employer. If an employer offers to settle a claim by paying less than what the officer asked for, the officer will tell the employee. The employee then has to decide whether to accept the amount offered. If the complaint is not resolved, the Director of Employment Standards may issue a document called a “Wage Assessment.”

## **Wage Assessment**

A Wage Assessment is a legal document issued by the Director of Employment Standards. It sets out the amount of wages the Director believes are owed to the employee. The Wage Assessment can be issued against the employer, the corporate directors, or both.

If a Wage Assessment is issued to recover the employee’s wages, then an administrative fee will be charged to the employer or corporate directors named in the Wage Assessment. The fee is 10 per cent of the Wage Assessment from a minimum of \$100 to a maximum of \$500. There are no additional administrative fees for appealing a Wage Assessment. If the Wage Assessment is appealed, the administrative fee is only payable if the final decision says wages are owing. The fee will be based on the amount in the final decision.

## How to Appeal a Wage Assessment

Wage assessments can be appealed by both employers and employees if they disagree with the amount of wages assessed. A letter indicating that either the employer or the employee wishes to appeal the Wage Assessment must be sent to the Director of Employment Standards **within 15 business days** of the time when you received the Wage Assessment. A “business day” is a day other than a Saturday, Sunday, or holiday.

The notice of appeal must give the reasons why the sender wishes to appeal the decision.

The notice of appeal can be mailed or faxed to:

**Director of Employment Standards** - Employment Standards Division  
300 - 1870 Albert Street  
Regina, Saskatchewan S4P 4W1  
Fax: 306-787-4780

If you mail your notice of appeal, please send it by registered or certified mail so that you can prove the letter was delivered within the 15 business day time limit.

If an employer appeals, he or she must also include the amount of the Wage Assessment up to \$500, to be held as a deposit for payment of the wage claim. If no wages are found owing, the deposit is returned.

### Who Hears the Appeal

An impartial adjudicator will conduct a hearing to give everybody a chance to tell their side of the story. The adjudicator will then make a decision as to how much, if any, wages are owing to the employee. Either side can represent themselves, or be represented by a lawyer or another person. Normally, the Employment Standards Officer will give the evidence in support of the Wage Assessment.

### Appealing an Adjudicator’s Decision

This decision can be appealed to the Saskatchewan Labour Relations Board and the Saskatchewan Court of Appeal, but only on questions of law.

### How the Employment Standards Division Collects Wages From the Employer

The Employment Standards Division can receive money from the employer or corporate directors if they choose to pay voluntarily, and this money will be paid to the employee.

If the employer does not pay, the Division will issue a Certificate that sets out how much money is owed to the employee. This Certificate is filed in the Court of Queen’s Bench and becomes a judgment of that Court. The Division’s Collection Unit may use it to collect the wages owing. Typical collection actions include garnishing money and registering liens on assets and land.



## Employment Agencies

An employment agency is an agency that matches workers with jobs. Section 2-5 of *The Saskatchewan Employment Act* states that job seekers are not to pay fees to find a job or keep a job.

### Employment Agency Business Model

In Saskatchewan, the employment agency business model is based around the following principles:

- employment agencies do not require a provincial license to operate;
- employment agencies can charge employers for their employee recruitment services; and
- employment agencies cannot charge job seekers fees for finding employment.

In other words, no person can request or receive money from job seekers for help in finding employment. This includes employment agencies and employers.

Note: Agencies involved in foreign worker recruitment require licensing under *The Foreign Worker Recruitment and Immigration Services Act* (FWRISA). More information about licensing is available on [saskatchewan.ca](http://saskatchewan.ca).

### Prohibited Fees for Employment Agencies

Employers and/or employment agencies cannot require job seekers to pay for finding or getting a job. Employee recruitment is a business cost. If a person pays an employer or an employment agency for a job, either up-front, as a fee, or later through a deduction from wages, the Employment Standards Division can recover that money as unpaid wages.

### Recovering Illegal Fees

Under the law, any illegally charged fees are considered wages owing, and can be recovered from the agency by the Employment Standards Division on behalf of a job seeker.

### Employment Advertising

Job seekers may pay fees to advertise their availability as part of a job search. These types of advertising fees are allowed in the Act.

## Foreign Worker Protection

Foreign workers employed in Saskatchewan are covered by *The Saskatchewan Employment Act* and enjoy all of the rights, and protection provided thereunder.

Foreign workers recruited outside of Saskatchewan have certain protections under *The Foreign Worker Recruitment and Immigration Services Act* (FWRISA) such as:

- employers must register with Employment Standards Division before hiring foreign workers;
- employers cannot charge foreign workers for the cost of recruiting them; and
- employers must hire recruiters or immigration consultants licensed by the government of Saskatchewan.

For more information, please contact the Program Integrity Unit at (306) 798-1350, email [FWRISA@gov.sk.ca](mailto:FWRISA@gov.sk.ca), or visit [saskatchewan.ca](http://saskatchewan.ca).

## Contact Information

### Employment Standards Division

For more information on employment standards in Saskatchewan, call our toll-free number at 1-800-667-1783 or visit one of the Employment Standards Division's offices nearest to you.

Employment Standards has office in communities throughout the province. Visit [Saskatchewan.ca](http://Saskatchewan.ca) for current addresses and phone numbers for our offices in:

- Estevan (123-1302 3rd Street)
- North Battleford (140-1146 102nd Street)
- Moose Jaw (222-110 Ominica Street West)
- Swift Current (2014350 Cheadle Street West)
- Yorkton (72 Smith Street East)
- Prince Albert (3rd Floor, 800 Central Street)
- Regina (300-1870 Albert Street)
- Saskatoon (809-122 3rd Avenue North)

#### Employment Standards Division - Program Integrity Unit (Foreign Worker Protection)

Phone: 306-798-1350

Fax: 306-787-4780

Email: [FWRISA@gov.sk.ca](mailto:FWRISA@gov.sk.ca)

Mailing Address: 300 - 1870 Albert Street  
Regina, Saskatchewan S4P 4W1

#### Employment Standards Training Unit

For more information on Employment Standards training services visit [saskatchewan.ca/business/employment-standards/employment-standards-training](http://saskatchewan.ca/business/employment-standards/employment-standards-training).

### Occupational Health and Safety Division

#### Regina and Southern Region

300 - 1870 Albert Street  
Regina, Saskatchewan S4P 4W1

#### Saskatoon and Northern Region

8th Floor, 122 3rd Avenue North  
Saskatoon, Saskatchewan S7K 2H6

Toll-free: 1-800-567-7233

## **Saskatchewan Human Rights Commission**

Phone: 306-933-5952

Toll-free: 1-800-667-9249

Fax: 306-933-7863

E-mail: [shrc@gov.sk.ca](mailto:shrc@gov.sk.ca)

Mailing Address: 816 - 122 3rd Avenue North  
Saskatoon, Saskatchewan S7K 2H6

## **Canada Revenue Agency (CRA)**

Toll-free (Canada and United States): 1-800-959-5525

## **Service Canada**

Toll-free (North America): 1-800-206-7218



# Rights and Responsibilities

## A Guide to Employment Standards in Saskatchewan

### Part II of *The Saskatchewan Employment Act*

2019

For more information, please contact the Employment Standards Division of the Ministry of Labour Relations and Workplace Safety:

#### **Regina**

300 - 1870 Albert Street  
Regina, Saskatchewan S4P 4W1

Inquiry: 306-787-2438  
Toll Free: 1-800-667-1783

#### **Saskatoon**

8<sup>th</sup> Floor, 122 3<sup>rd</sup> Avenue North  
Saskatoon, Saskatchewan S7K 2H6

Inquiry: 306-933-5042  
Toll Free: 1-800-667-1783

[saskatchewan.ca](http://saskatchewan.ca)