

Amendments to CLC Regulations will allow for Hours of Work Exemptions for certain Job Classes

Employment and Social Development Canada (ESDC) is amending regulations under the *Canada Labour Code* to exempt some employee job classes in the rail and air transportation, banking, and telecommunications and broadcasting sectors from certain hours of work requirements.

The *Canada Labour Code* applies to employers and employees in federally regulated private-sector industries and in federal Crown corporations.

The Exemptions from and Modifications to Hours of Work Provisions Regulations list exemptions and modifications for *Canada Labour Code* standards requiring employers to provide at least 96 hours' notice of work schedules, 24 hours' notice of shift changes, an unpaid 30-minute break during every period of at least five consecutive hours of work and an eight-hour rest period between shifts or work periods.

The regulation already includes exemptions and modifications for job classes in the road transportation and postal and courier sectors, marine sector, and grain sector. The new amendments will add exemptions and modifications for specific job classes in the air transport, rail transport, banking, and telecommunications and broadcasting sectors.

The amendments affecting the rail transportation, banking, and telecommunications and broadcasting sectors will take effect on January 4, 2024. The amendments covering the air transportation sector will come into force on June 4, 2024.

In the air transportation sector, the amendments will affect job classes such as pilots, flight engineers, flight instructors, air traffic controllers, flight attendants, and firefighters. All of the job classes listed in the regulations will be exempt from the standards for 24 hours' notice of shift changes. Certain classes will also be exempt or have modifications relating to the 30-minute break and the eight-hour rest period standards.

In the rail transportation sector, affected job classes include locomotive engineers, conductors, baggage handlers, rail traffic controllers, and service employees on passenger trains. All of the job classes listed in the regulations will be exempt from the standards for 24 hours' notice of shift changes. Certain classes will also be exempt or have modifications relating to the 30-minute break and the eight-hour rest period standards.

In the banking sector, the amendments will apply only to commission-paid salespeople. They will be exempt from all of the standards to which the regulations apply.

In the telecommunications and broadcasting sector, the amendments will cover commission-paid salespeople, technicians employed in the telecommunications sector who install, maintain, or repair telecommunications networks or equipment, and producers, technicians, and journalists

employed in the broadcasting sector who work in the production of live-broadcast events. Like the banking sector, commissioned salespeople in telecommunications and broadcasting will be exempt from all of the applicable standards. The other job classes generally will have exemptions or modifications relating to shift changes, breaks, and rest periods.

ESDC said the amendments are necessary to “balance the operational realities of certain industries with the legislative goal of providing employees with work-life balance and more predictability in relation to their hours of work.” It noted that flexibility in scheduling work is required in the rail and air transportation sectors because of their continuous 24/7 operations and in the banking and telecommunications and broadcasting sectors because of their unique scheduling practices.

The amendments also include related changes to the Administrative Monetary Penalties (*Canada Labour Code*) Regulations. They took effect August 4, 2023.

For more information on the amendments and the specific job classes affected, see SOR/2023-180, Regulations Amending the Exemptions from and Modifications to Hours of Work Provisions Regulations and the Administrative Monetary Penalties (*Canada Labour Code*) Regulations, in the August 16, 2023 issue of the *Canada Gazette Part II* (Vol. 157, No. 17), at <https://canadagazette.gc.ca/rp-pr/p2/2023/2023-08-16/pdf/g2-15717.pdf>.

FYI: Feds Launch Pilot Project for Temporary Foreign Worker Program

In September the federal government launched a three-year pilot project aimed at making it easier for repeat employers to hire workers through its Temporary Foreign Worker (TFW) Program.

In announcing the Recognized Employer Pilot (REP) in August, Minister of Employment, Workforce Development and Official Languages Randy Boissonnault said it would help address labour shortages and reduce the administrative burden for employers who have a proven history of complying with TFW Program requirements.

Under the pilot, eligible employers will be able to access Labour Market Impact Assessments (LMIAs) that are valid for up to 36 months, reducing the number of assessments they need to submit over three years. They will also benefit from a simplified LMIA application if they need to hire additional workers for the same occupation during the pilot. In general, employers require an LMIA before they can submit a work permit application to employ a temporary foreign worker.

The government is implementing the pilot in two phases. In September, employers in primary agriculture were able to begin applying for the pilot. All other eligible employers can apply as of January 2024. Employer applications for the pilot will close in September 2024. To be eligible for the pilot, employers must have at least three positive LMIAs for the same occupation over the last five years from a list of occupations classified as being in a shortage and supported using data from the Canadian Occupational Projection System.

The government will proactively invite applications from employers it expects to meet REP eligibility criteria.

For more information, please see <https://www.canada.ca/en/employment-social-development/services/foreign-workers.html>.

Reminder: Upcoming Statutory Holidays

Just a reminder... The following dates are statutory holidays:

- Mon., Aug. 7: British Columbia, New Brunswick, Northwest Territories, Nunavut, and Saskatchewan—First Monday in August (The day is also a holiday, although not a statutory holiday, in Alberta. Municipalities in some Canadian jurisdictions may also designate the day as a holiday.)
- Mon., Aug. 21: Yukon—Discovery Day
- Mon., Sept. 4: All jurisdictions—Labour Day
- Sat., Sept. 30: *Canada Labour Code*, British Columbia, Northwest Territories, Nunavut, Prince Edward Island, and Yukon—National Day for Truth and Reconciliation
- Mon. Oct. 9: All jurisdictions, except New Brunswick, Newfoundland and Labrador, Nova Scotia and, Prince Edward Island—Thanksgiving
- Sat., Nov. 11: All jurisdictions except Manitoba, Nova Scotia, Ontario, and Quebec—Remembrance Day. In Manitoba and Nova Scotia, the day is a holiday under each jurisdiction's *Remembrance Day Act*. As a result, the holiday is treated in a different way than holidays under employment/labour standards laws.

For information on entitlement to the holidays and how to compensate employees for them, please refer to the applicable jurisdiction in chapter 19, Statutory Holidays.

2024 Maximum Assessable/Insurable Earnings

The following workers' compensation bodies have announced their maximum assessable/insurable earnings for 2024:

British Columbia: \$116,700 (2023: \$112,800)

Quebec: \$93,500* (2023: \$91,000)

*Proposed

Alberta Mandate Letter Highlights Potential Payroll-related Tax Changes

The provincial government is considering creating a new 8% personal income tax rate on annual income under \$60,000, according to a recently released mandate letter for the President of Treasury Board and Minister of Finance Nate Horner.

Premier Danielle Smith released the letter on July 13, 2023. In it, she asks the minister to focus on initiatives such as implementing a new tax rate of 8% for individuals whose annual income is less than \$60,000. Currently, a tax rate of 10% applies to annual income up to \$142,292.00.

The mandate letter also calls on the president of Treasury Board and minister of Finance to continue annually indexing personal income tax brackets and to amend the *Alberta Taxpayer Protection Act* to ensure that future governments cannot raise personal or business tax rates without getting approval in a provincial referendum.

It also requires the minister to consult with Albertans on the findings of a government-commissioned report on whether the province should pull out of the Canada Pension Plan and create its own Alberta Pension Plan. The consultations would help the government determine whether to hold a referendum on establishing its own pension plan.

The letter also mandates the minister to explore the feasibility and benefits of the government creating its own Alberta Revenue Agency to collect all provincial tax revenues and to develop a detailed strategy to set it up if the government opts to pursue it.

We will continue to follow these stories and will report on further developments in upcoming releases.

B.C. Government Seeking Input on Potential Gig Worker Protections

The British Columbia government is examining ways to improve working conditions for app-based ride-hailing and food-delivery workers.

In August, the Ministry of Labour released a discussion paper on potential protections and requested feedback by September 30, 2023. Priority areas highlighted in the paper included fair compensation standards, pay and destination transparency, a fair process for terminations and deactivations, and workers' compensation coverage.

The discussion paper follows a previous round of consultations that the ministry held last fall with gig workers, platform companies, labour organizations, business and community organizations, and academics.

The earlier consultations identified worker concerns such as low, unpredictable pay, no reimbursement for fuel or vehicle costs, pressure to accept low-pay assignments, no pay while waiting for assignments, and tips not always being shared with gig workers. They also cited a lack of transparency around pay for assignments, including not knowing what the pay would be for an assignment before accepting it, and the need for better health and safety protections, including the ability to refuse unsafe work and the need for employer-based workers' compensation coverage.

In the previous consultations, app-based companies stressed the need to maintain flexibility for workers, including not designating them as employees. Many also voiced support for better working conditions, including mandatory occupational accident insurance to cover lost wages and establishing minimum standards across the industry as a way of creating additional benefits and protections for workers while maintaining a level playing field for all companies.

The discussion paper also asked for feedback on whether there should be a minimum wage for

the workers and how it should be structured, whether workers should be compensated for work-related expenses, and whether they should have tip-protection standards. It also sought input on whether there should be pay transparency to show workers the minimum they will be paid (excluding tips) prior to accepting an assignment, and verify that they have been paid correctly.

In addition, the discussion paper asked whether app-based ride-hailing and food-delivery workers should be entitled to notice of termination, or compensation in-lieu, when they are deactivated from a platform without just cause, and whether all workers should be covered by workers' compensation paid by the platform companies.

For more information on the discussion paper and the consultations, see <https://engage.gov.bc.ca/govtogetherbc/engagement/gig-workers/#papers>.

We will continue to monitor this story and will report on further developments in upcoming releases.

Reminder: N.W.T. Minimum Wage Rising Sept.1

Just a reminder... Effective September 1, 2023, the minimum wage rate in the Northwest Territories will rise from \$15.20 an hour to \$16.05.

The rate increase is the result of a change in the way the territorial government calculates and adjusts the minimum wage rate.

Beginning September 1, 2023, the government will adjust the rate annually using a formula based on the percentage change in the consumer price index for Yellowknife and the percentage change in the average hourly wage in the Northwest Territories for the previous calendar year. The government will announce minimum wage changes by August 1 each year.

Saskatchewan Government Reviewing Employment Standards Rules

The Saskatchewan government is asking for public feedback on the employment standards provisions of *The Saskatchewan Employment Act* and its regulations by October 31, 2023, as part of a review it is undertaking.

It is the first time since 2012 that the government has done a thorough examination of employment standards.

"World events, innovative ways of doing business and the use of technology have created new working arrangements for employers and employees," Labour Relations and Workplace Safety Minister Don Morgan said in a news release in August.

"Using the feedback we receive, our goal is to modernize the legislation and ensure that we are creating a fair and balanced employment environment for continued investment and economic growth in our province," he added.

Morgan said the goal of the review is to identify employer and employee concerns, any redundant requirements and unnecessary red tape, and any required updates.

In a discussion paper released in August, the Ministry of Labour Relations and Workplace Safety asked for public comment on issues such as wages and the regulation of tips, hours of work and the right to disconnect, youth employment, job protections for ill or injured employees, leaves of absence, and layoffs and terminations.

In addition, it requested comments on exclusions and exemptions, the definitions of employer and employee, and the authority of employment standards officers. Ministry officials also said the government welcomed feedback on any other issues or concerns related to employment standards in the province.

For more information on the discussion paper, see <https://www.saskatchewan.ca/government/public-consultations/engagement-on-employment-standards-provisions>.

We will continue to monitor this story and will report on further developments in upcoming releases.

Reminder: Minimum Wage Rates Rising Oct. 1

Just a reminder... Minimum wage rates will rise in a number of Canadian jurisdictions to the following amounts on October 1, 2023:

- Manitoba: \$15.30/hour (currently \$14.15)
- Newfoundland and Labrador: \$15.00/hour (currently \$14.50)
- Nova Scotia: \$15.00/hour (currently \$14.50)
- Ontario:* \$16.55/hour (currently \$15.50)
- Prince Edward Island: \$15.00/hour (currently \$14.50)
- Saskatchewan: \$14.00/hour (currently \$13.00)

*In Ontario, the following minimum wage rates are also slated to rise on October 1, 2023:

- Homeworkers (110% of general rate): \$18.20 per hour (currently \$17.05)
- Students under 18 working fewer than 28 hours per week (or more than 28 hours during school vacation): \$15.60 per hour (currently \$14.60)
- Hunting/fishing/wilderness guides
 - working for fewer than five consecutive hours a day: \$82.85 (currently \$77.60)
 - working five or more hours, whether or not consecutive: \$165.75 (currently \$155.25)

Payroll Q & A

Question: To attract and retain employees, our employer has begun offering a group tax-free savings account (TFSA), including employer contributions, for employees who wish to participate. We have a similar program for registered retirement savings plans. From a payroll perspective, how do we treat the employer's TFSA contributions?

Answer: Employer contributions to an employee's TFSA are a taxable benefit for the employees, as are any TFSA administration fees that the employer pays on their behalf. Amounts deducted from an employee for a TFSA contribution are not a taxable benefit.

The taxable benefit for the employer contributions are subject to Canada/Quebec Pension Plan (C/QPP) contributions, Employment Insurance (EI) and Quebec Parental Insurance Plan (QPIP) premiums (if paid in cash), and income tax deductions. Employer-paid administration fees are a non-cash taxable benefit. As such, they are subject to C/QPP contributions and income tax deductions, but not EI or QPIP premiums. Include any applicable GST/HST/QST in the value of the taxable benefit for employer-paid administration fees.

For year-end reporting, report the taxable benefit on a T4 in box (14) and in the "Other Information" area, using code 40. For Quebec, report the benefit on an RL-1 in boxes (A) and (L).