

HR WEBINAR #1

ALBERTA EMPLOYMENT LEGISLATION: *EMPLOYMENT STANDARDS & HUMAN RIGHTS*

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STRATEGIC PLANNING • HUMAN RESOURCES • BOARD GOVERNANCE

A LITTLE BIT ABOUT US ...

- A team of 20 consultants who work across Canada and support organizations with HR, Board Governance & Strategy
- Outsourced HR Department for many organizations
- In business since 2006 and have supported over 200 organizations in both the profit and non-profit sector
- Consultants have designations within the Human Resources profession
- Senior Consultants have over 15 years experience and Specialists have received their Masters, PhDs or other advanced designations

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TODAY I WILL TALK ABOUT ...

➤ **Minimum Standards of Employment:**

- Wages and payment of earnings
- Hours of work and rest periods
- Overtime
- Statutory holidays and pay
- Job-protected leaves
- Termination of employment
- Bill 32: Recent Changes

➤ **Human Rights Legislation**

- Complaints & Investigations



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KEY OBJECTIVES

Understanding of specific Employment Standards and Human Rights legislation with regard to how it pertains to your employment practices.

- Aware of employment rules and regulations
- Not in violation of any standards
- To mitigate your risk



WAGES AND PAYMENT OF EARNINGS

Basic Rules:

- Pay at least the minimum wage (\$15/hour)
- Except students under 18
- At least 3 hours of pay

Compulsory meeting/training session:

- Day off, minimum wage and overtime if applicable must be paid
- 3-hour minimum rule applies

On-Call:

- No payment is required



EXAMPLE: MANDATORY STAFF MEETING

You are hosting a mandatory staff meeting (1 hour long) for your office personnel in the evening after clinic hours. Joe and Sam, who are your full time employees, are already at work and Tina is on a scheduled day off (she is also full time working 40 hours per week).

Q: What is your obligation for paying the employees?

A: Joe and Sam = OT for any hours in excess of 8 per day or 44 per week.

Tina = a minimum of 3 hours pay at the minimum wage (at least \$45) or at her hourly wage for the hour spent at the meeting whichever is greater.

POLLING QUESTION #1

**Do you owe Tina Overtime
pay?**

PAYMENT OF EARNINGS

- Statement of earnings for each pay period
- Keep employment records for **3 years**
- Within **10 consecutive days** after the end of the pay period (*unless employment is terminated)



PAYMENT OF EARNINGS: TERMINATION OF EMPLOYMENT

- Within **3 days** after the last day of employment with appropriate notice given
- Within **10 days** if an employer is not required by the code to give notice of termination (i.e. Just Cause)
- Within **17 or 24 days** after the last day of employment if an employee fails to give the required amount of notice
- Calculated based on calendar days, not business days



PAYMENT STATEMENTS

The pay statement (or pay stub) must include:

Payment statements checklist

- ✓ Pay period covered by the statement
- ✓ Number of regular and overtime hours worked
- ✓ Number of hours taken off in lieu of overtime
- ✓ Wage rate and overtime rate
- ✓ Earnings paid
 - showing each component of the earnings separately (e.g. wages, overtime, general holiday pay and vacation pay)
- ✓ Amount of deductions from earnings and the reason for each deduction

HOURS OF WORK AND REST PERIODS

Basic Rules:

- A maximum of **12-hours** (consecutive) a day unless an exception occurs
- **30 minutes** of rest (break) during 5-hour work period (may be taken in 2 periods of at least 15 minutes)
- Employees are entitled to at least one day of rest each work week
- OT is payable after 8 /44 hours, whichever is greater

*Breaks can be paid or unpaid however it must be paid if employer prohibits employee from leaving the premises



EXAMPLE: OVERTIME

Jane is a medical office assistant in your clinic, she works full time, 8 hours per day 5 days per week (40 hours per week), however the clinic has been busier than normal.

You require her to stay two extra hours after her normal hours for a week (5 days) to get caught up on her work. She's agreed to work the extra hours.

Q: How much OT is Jane owed?

A: Jane would qualify for 2 hours of OT for 5 days which is a total of 10 hours.

OVERTIME BANKING

- Option to allow employee time off work with pay (banked OT)
- Rate of at least 1 hour for each OT hour worked
- Must have a written Overtime Agreement
- Must use up banked Overtime within 6 months of the end of the pay period in which it's earned



POLLING QUESTION #2

**Do you have OT agreements
with each employee?**

STATUTORY HOLIDAYS & PAY

- Only employees who have worked for the same employer for 30 workdays or more in the 12 months preceding the general holiday will be entitled to general holiday pay

- New Year's Day
- Alberta Family Day
- Good Friday
- Victoria Day
- Canada Day
- Labour Day
- Thanksgiving Day
- Remembrance Day
- Christmas Day



STATUTORY HOLIDAY PAY

	Regular day of work	Not a regular day or work
Employee works	Hours worked x hourly wage x 1.5 + average daily wage Or Hours worked x hourly wage + Paid day off at average daily wage	Hours worked x hourly wage x 1.5
Employee doesn't work	Average daily wage	Not eligible for general holiday pay

JOB PROTECTED LEAVES

Type of Leave	Maximum Length
Maternity Leave	16 weeks
Parental Leave	62 weeks
Reservist Leave	As needed
Compassionate Care Leave	27 weeks per year
Bereavement Leave	3 days per year
Domestic Violence Leave	10 days per year
Citizenship Ceremony Leave	Half day – Once in lifetime
Critical Illness Leave	36 weeks for a child, 16 weeks for an adult
Long Term Illness & Injury Leave	16 weeks per year
Personal & Family Responsibility Leave	5 days per year
Death or Disappearance of a Child leave	52 weeks or 104 weeks

TERMINATION OF EMPLOYMENT

Basic Rules:

- Employees and employers must give each other notice of their intention to end the employment
- An employer may end the employment of an employee by giving them:
 - *termination notice,*
 - *termination pay, or*
 - *a combination of termination notice and termination pay*



BILL 32: RESTORING BALANCE IN ALBERTA'S WORKPLACES ACT

Changes that took effect Aug 15, 2020:

- Simpler rules for terminations of 50 or more people in a 4-week period
- Rules for temporary layoffs (non-COVID related) – extended to 90 days in total within a 120-day period
- COVID related – Remains at up to 180 consecutive days
- More flexible rules for variances and exemptions

BILL 32: RESTORING BALANCE IN ALBERTA'S WORKPLACES ACT CONTINUED....

Changes to take effect November 1, 2020:

- Rules for Payroll: Employer's no longer require an employee's written authorization to correct payroll errors or recover overpayments (ie. vacation paid out in advance)
- Simpler rules for calculating general holiday pay (Avg daily wage will not need vacation pay and general holiday pay in calculation)
- Rules for payment of final pay upon termination: To align with pay cycles

BILL 32: RESTORING BALANCE IN ALBERTA'S WORKPLACES ACT CONTINUED...

Changes to take effect November 1, 2020:

- More flexible rules for hours of work averaging arrangements
- Changes to administrative penalties to employers breaking rules
- Additional new rules if your employees are part of a union
- Clearer rules for vacation time while on leave.
- Rest Periods: Must provide at least 30 minutes of rest for shifts that are longer than 5 hours (can be within or immediately after the 5 hours of work)

HUMAN RIGHTS LEGISLATION

Purpose: Alberta Human Rights Act (the *Act*) is to provide Albertans with protection of their human rights

The **Act** prohibits discrimination in the following protected areas:

- employment practices
- employment applications or advertisements



PROTECTED GROUNDS

- ✓ *Race*
- ✓ *Religious Beliefs*
- ✓ *Colour*
- ✓ *Gender*
- ✓ *Gender Identity*
- ✓ *Gender Expression*
- ✓ *Physical Disability*
- ✓ *Mental Disability*
- ✓ *Age*
- ✓ *Ancestry*
- ✓ *Place of Origin*
- ✓ *Marital Status*
- ✓ *Source of Income*
- ✓ *Family Status*
- ✓ *Sexual Orientation*



COMPLAINTS & INVESTIGATIONS


- **Time limit:** Within one year of incident
- **Jurisdiction:** Must have occurred in Alberta or with an Alberta employer
- **Protected areas and grounds:** Only considered discrimination if the negative treatment experienced happened in one of the **protected areas** *and* under one of the **protected grounds** in the *Alberta Human Rights Act*



WHAT DOES THIS MEAN TO YOU?

- Practice fair **hiring and pre-employment practices**
- Exercise caution in cases of **DUTY TO ACCOMMODATE**
- Need a **policy and internal process** to deal with complaints (ie. Harassment Policy)
- Provide **education and training** to employees

If External (Risks):

- Defending a claim can be lengthy, expensive and draining
 - It can have a damaging impact on the reputation of your organization
 - Decisions could be made that may not be in your best interest
- 

WHAT CAN BE PUT INTO A POLICY:



- Define Human Rights protected grounds
- Guidelines
- Ensure confidentiality is addressed
- Clear complaints and investigation process

EXAMPLE: DUTY TO ACCOMMODATE

John has been suffering with excruciating back pain since his cycling accident. He has requested he have a part time work schedule, a sit/stand desk as well as various ergonomic friendly equipment to help him with managing his pain. Your office has 5 employees total.

POLLING QUESTION #3

**DO YOU HAVE TO ACCOMMODATE
JOHN'S REQUEST?**

EXAMPLE: PRE-EMPLOYMENT DON'TS

- Ask the applicant to specify ***Mr., Mrs., Miss or Ms.*** on an application form
- Ask for a previous or **maiden name**
- Ask for information about **childcare** arrangements or their plans to have more children
- Ask for information about a spouse's or **partner's employment**





**How do you know if your
organization is COMPLIANT with
Alberta's Employment
Standards/Human Rights
Legislation?**

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FIRST ...

- Conduct an **ASSESSMENT** to determine if there are gaps in your organization's policies, procedures and practices



SECOND ...

- Put a **PLAN** in place to close the gaps

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QUESTIONS & ANSWERS



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