

## Overtime

The standard hours of work are generally eight hours in a day and 40 hours in a week. Work beyond the standard hours is overtime. Employees who work overtime are entitled to be paid 1 ½ times their regular wage for the hours worked during overtime. Overtime must be authorized by employers.

### What are the standard hours of work?

Standard hours of work are the maximum number of hours employees may be required to work at regular wage. In most cases, it is eight hours in a day and 40 hours in a week. Hours worked over the standard hours are considered overtime hours.

### What are employees paid for overtime?

Employers who ask or allow employees to work longer than the standard hours of work must pay these employees 1 ½ times their regular hourly wage for each hour worked during overtime.

### How are overtime hours determined?

Overtime is determined by the number of hours worked in a day and the number of hours worked in a week. Days where Overtime hours are worked are shown in bold:

Sun	Mon	Tue	Wed	Thu	Fri	Sat	Total	Regular	Overtime
	8	8	8	8	8	<b>8</b>	48	40	<b>8</b>
	8	6	6	8	<b>10</b>		38	36	<b>2</b>
	<b>10</b>	6	<b>10</b>	6	<b>10</b>		42	36	<b>6</b>
7	6	8	7	7	8		43	40	<b>3</b>

### Who decides when overtime will be worked?

Employers control scheduling in the workplace. Employees cannot work overtime without the knowledge or permission of their employers. If employers ask, allow or acknowledge the overtime work, it must be paid at the overtime wage.

Employees and employers can agree as part of the terms of employment, that a certain amount of overtime is required. Except in declared emergencies, overtime is voluntary or by agreement.

## **Can employers require employees who normally work less than 40 hours a week to work more hours without paying overtime?**

Yes, overtime is normally only calculated after eight hours in a day or 40 hours in a week. Employers control scheduling and can change schedules if they wish.

For example, an employer who has employees that normally work a seven hour day and a 35 hour week, could require the employees to work an additional hour each day without paying overtime.

## **Can employees bank overtime and take time off later?**

Yes, employers and employees can agree, to bank overtime if they agree in writing. The agreement must include the time off at 1 ½ times the number of overtime hours worked. For each hour of overtime worked, employees get 1 ½ hours off work with regular pay. Employers must schedule this time during regular hours.

The banked time must be taken within three months of being earned, unless the director of the Employment Standards Branch authorizes a longer period. Employees have earned the overtime wages once the hours have been worked, and can ask to be paid out at any time.

## **What if the banked time off is not taken?**

Employees must take the banked time off within three months. If the time is not taken within three months, employers must pay out the overtime wages, at 1 ½ times the regular wage for each hour of overtime worked.

## **How does overtime affect payment for vacations and general holidays?**

General holiday pay and vacation pay are calculated as a percentage of total earnings. Overtime pay is normally not included in the calculation. There is an exception when these wages are banked and taken as time off: they are then included in the calculation for general holiday pay and vacation pay.

## **Do salaried employees receive overtime?**

Yes, employees who are paid by salary are entitled to overtime. For salaries, an hourly wage may be calculated to determine the overtime pay per hour.

For example: employees who earn a salary of \$400 per week and are expected to work a 40-hour week are paid \$10 per hour for the standard hours. If they work overtime, they are paid 1 ½ times their regular wages. In this case, \$15 per hour.

## **Can a salary include some overtime?**

Yes, employers and employees can agree on a salary that includes a specific amount of overtime. Agreements should be made before any overtime is worked. The agreement must clearly identify what the employees are paid for working more than the agreed standard hours. Written agreements can save future disagreements.

For example: employees who earn a salary of \$550 per week and are expected to work a 50-hour week are paid \$10 per hour for the standard hours (40) and \$15 for each hour of overtime (10). If the employees work more than 50 hours, they are paid the overtime rate of \$15 per hour.

## **Do employees who are paid by commission receive overtime?**

Yes, employees who are paid by an incentive plan, such as commission are entitled to receive overtime pay. Employees earning incentive pay are entitled to at least minimum wage and the correct overtime pay for any overtime hours worked.

As of April 30, 2007, employees who are paid on an incentive plan are entitled to overtime based on their average hourly wage, instead of minimum wage. See the [Incentive-based overtime](#) page for more information.

## **Are there employees who are not entitled to overtime?**

As of April 30, 2007 there are some groups of employees who are not entitled to overtime. Employees who perform management functions primarily and employees who substantially control the hours of work and earn twice the Manitoba average industrial wage are excluded from standard hours of work and overtime. More information can be found on those pages.

## **Are there exceptions to the standard hours of work?**

There are exceptions, which include:

- areas of the construction industry
- companies with collective agreements containing different hours
- companies with a variance order from the Manitoba Labour Board or the Employment Standards Branch
- the landscaping business

## **What are the standard hours of work for the construction or a landscaping business?**

The standard hours of work for the construction industry are established in The Construction Industry Wages Act. Information can be found on the [ICI wage schedule](#) and [Heavy wage schedule](#) pages

For employees working in the landscaping business, the standard hours are varied from April 15 to November 30 each year. During that period, the standard hours are 10 hours a day, 50 hours a week and 2,080 hours a year.

## **What is a landscaping business?**

Landscaping businesses involve construction or maintenance of a landscape, including lawn cutting, fertilizing, applying sod and controlling weeds. They do not include the maintenance or cleaning of parking lots or snow removal, or working with inventory or customers at a gardening/ landscaping retail outlet.

## **For more information contact the Employment Standards Branch:**

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This is a general overview and the information used is subject to change. For detailed information, please refer to current legislation including *The Employment Standards Code* and *The Worker Recruitment and Protection Act*, or contact the Employment Standards Branch to ask for advice.

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