

A Quick Guide to Employment Standards

Who is covered by the Employment Standards laws in Manitoba?

Most employees in Manitoba fall under provincial jurisdiction. The legislation covers employees, people who are employed by employers to do work. Independent contractors are not employees and the legislation does not apply to them.

Parts of legislation do not apply to; agriculture workers, baby sitters, professionals, part-time domestic workers, family members employed in family businesses, some provincial civil servants and temporary election workers. Some employees work in industries that are regulated by the federal rather than the provincial government. These employees are not affected by Manitoba's employment standards legislation.

What is the minimum wage?

On October 1, 2009 the minimum wage became \$9.00 per hour.

Can employers provide more than what the legislation sets as minimum standards?

Yes, the legislation sets only the minimum workplace standards that must be respected. Many employers provide more benefits, or pay higher wages.

Can a contract offer benefits that are lower than employment standards?

No, employers and employees cannot agree to work for less than the minimum standard, whether they have a contract or not. There are some situations where employers and employees can agree to different provisions, but they can never agree to less than the minimum standards.

Are the standards different for part-time employees?

No, the amount employees' work does not change their rights. Some of the standards, such as vacation pay and general holiday pay, are based on a percentage of earnings. Therefore part-time employees may not earn as much as full-time, but they are still entitled to the benefit.

Are self-employed people covered by The Employment Standards Code?

Some are. Although many people are called self-employed or independent contractors they may not be when it comes to employment standards. Determining if a person is an employee or a independent contractor can be very complex. Signing a document that states a person is an independent contractor does not make it so. It is the nature of the relationship between both parties that determines if someone is truly an independent contractor.

Contact the Employment Standards Branch for more details. Independent contractors are not covered by employment standards legislation.

Are people employed in agriculture covered by employment standards legislation?

Yes, Effective June 30, 2008 many employees working in agriculture are covered by employment standards legislation. Employees working on a farm owned by a family member are excluded from most standards. Other employees working in agriculture are covered by most standards. There are some exceptions regarding general holidays, wages for reporting for work and overtime. Please see the [fact sheets on agriculture](#) for more details.

Do young people have the same rights as other employees?

Yes, young people have the same rights and the same obligations. They are entitled to vacation pay, overtime, minimum wage, general holiday pay and all other rights under The Employment Standards Code. The website at www.manitoba.ca/labour/standards has information on employee and employer rights and responsibilities.

How old must a person be to work?

Generally, children under 12 years old are only allowed to work for an employer in exceptional circumstances. Employees under 16 years old must have a permit from the Employment Standards Branch before they can work.

Are there restrictions on where and when young people can work?

Yes. People under 18 years old are not allowed to work alone between the hours of 11:00 p.m. and 6:00 a.m. They are also not allowed to work in the following industries:

- forestry
- saw or pulp mills
- confined spaces
- underground in mines or on the face of open pit quarries
- asbestos abatement and removal

Employees under 16 years old are not allowed to work between the hours of 11:00 p.m. and 6:00 a.m. or work:

- on a construction site
- in the industrial or manufacturing processes
- drilling or servicing rigs
- on scaffolds or swing stages
- pruning, repairing, maintaining, or removing of trees

How often can young people work?

During a school week, employees under 16 years old can only work 20 hours or less. During vacations like Christmas and summer, it may be possible to work more. There may also be restrictions on employment permits about when young people can work.

How do I apply for an employment permit?

An application form can be found on the web site at www.manitoba.ca/labour/standards/forms.html or by contacting the Employment Standards Branch. The application requires information from the applicant, a parent/guardian, the school principal and the employer. The completed form can be taken, mailed, or faxed to the nearest Employment Standards Branch office.

What happens to the permit if the job changes?

The permit specifies the job duties the applicant is approved to do. In some cases, job duties or hours of work may change after the employment begins. Either the worker or the employer must call the Employment Standards Branch to update the information on the permit.

Because permits are approved for a specific job with a specific employer, employees looking for a new job with a new employer; must apply for a new permit, even if the job tasks and hours do not change.

Can young people work alone?

People under 18 years old cannot work alone between 11:00 p.m. and 6:00 a.m. . People under 16 years of age can not work at all between 11:00 p.m. and 6:00 a.m.

Workplace safety and health legislation requires all employers who have employees working alone to have a clear plan that ensures employees' safety. This is needed whenever an employee is asked to work alone, not just at night.

People under 16 years of age may be asked to work alone at times. Usually, the employment permit has special instructions about working alone. Anyone with concerns about working alone, or someone they know working alone, should contact both the Employment Standards Branch and the Workplace Safety and Health Branch to discuss the situation.

Should employees get pay statement with their wages?

Employers must give all employees written pay statements when they are paid wages. Pay statements are sometimes referred to as pay stubs.

What must pay statements show?

Pay statements must show:

- the regular wage and the number of regular hours worked in the pay period
- the overtime wage and any overtime hours worked in the pay period
- all deductions from wages, with a date and reason for each deduction
- the total amount of wages paid to the employee

Who must keep records?

Employers must keep records of their employees, the hours they work and the wages paid. Although it is not a requirement, it is strongly suggested that employees also keep records of when they work and what they have been paid.

What records are employers required to maintain?

Employers must keep records for all employees that show:

- name, address, date of birth and occupation
- date the employee starts work
- regular wage and overtime wage when employment starts, the dates of changes to the wage and the new wage
- regular hours of work and overtime, recorded separately and daily
- dates wages are paid and the amount paid on each date;
- deductions from wages, dates and reasons for each deduction
- dates of time off taken instead of overtime wages
- dates each general holiday is taken
- dates and wages paid for hours worked or required to be worked on a general holiday;
- start dates of annual vacations, dates work resumes, period of employment in which it is earned, amount of vacation allowance paid and date paid
- amount of outstanding vacation allowance paid upon termination, and payment date
- copies of documents on maternity leave, parental leave, compassionate care leave or other leaves, including dates and number of days taken as leave
- dates of termination of the employment

Employment Standards requires employers to keep these records for at least 3 years. It is important to note that other agencies, such as the Canada Revenue Agency, may require employers to keep different types of records, for different lengths of time.

Can employers take any deductions from employees wages?

Employers can deduct:

- statutory deductions
- court orders or garnishments

- charges for board, lodging and meals as permitted under *The Employment Standards Code*
- recovery of pay advances and corrections of payroll errors
- the minimum amount payable by the employer for a red light or photo radar ticket with the employees written permission for each infraction
- any other deduction agreed to by employees as long as it directly benefits the employees

What types of things cannot be deducted from employees wages?

Employers cannot deduct the costs of:

- vehicle, equipment and tool repair or loss
- breakage or other damages
- faulty work or poor quality work
- Theft, including dine-and-dash incidents
- cash shortages
- inventory shortages
- safety equipment
- uniforms and special clothing required by employers
- business supplies
- interest charges or other fees for cash advances or cashing cheques
- education expenses that only benefit the employer
- any other deductions that are of no direct benefit to the employees

What is a direct benefit to employees?

Examples of deductions that directly benefit employees can include: health or insurance packages, social funds, voluntary purchases of goods or services from the employer and some types of educational expenses. Expenses that are required by employers that do not benefit employees directly, must be paid by the employers.

Can employers deduct the costs of a uniform, or require employees to buy uniforms?

No, uniforms are a direct benefit to employers. Employers cannot make employees buy uniforms.

What is considered a uniform?

A uniform is a form of dress that is unique to a business. Uniforms are identified with the employers logo or symbol, name or colours; making it of no practical use outside of that workplace. Employees often have no choice in style, colour or supplier. Employers can require items of clothing, in specific colours be worn, as long as employees can reasonably use them elsewhere.

Can employers have a dress code?

Employers can establish a dress code, require certain types of clothing and establish standards for the look of employees while they are working. For example, a restaurant can require all serving employees to wear a clean pressed white shirt and black pants while working.

The clothing required by a dress code cannot be specific to an employer. When deciding whose responsibility the cost of clothing is (employees' or employers'), the main issue is the amount of choice employees have in choosing where and what to buy. The more choice, the more likely it is part of a dress code and not a uniform. Clothing with a logo, or a certain design or style normally identified with a company, or that must be bought from employers, are likely uniforms and must be paid for by employers.

Who pays for damages to company vehicles, valuable equipment or other losses?

Employers may not deduct wages to cover any costs for faulty work, poor quality work, loss of customers, cash shortages or damages to their property. This includes: the cost of car accidents and parking tickets involving company vehicles; dishes broken by employees, customers leaving without paying, etc.

Employers have the right to sue employees who caused the damages in criminal or civil court. If a court issues an order of repayment, the employers can then garnish the wages of that employee.

See the [Deductions](#) page for more details about what cannot be deducted from employees wages.

What are the standard hours of work?

Standard hours of work are the hours employees work for their regular wage. It is usually 40 hours in a week and eight hours in a day. Hours worked over standard hours are overtime hours, and need to be paid at 1 ½ times the regular wage. There are exceptions in some construction industries, or by collective agreement or averaging permit. More information on the standard hours of work can be found on the [Overtime](#) page.

Who controls scheduling?

Employers make or approve work schedules. Sometimes employers involve employees in schedule decisions, but are not required to do so.

Do Employers need to provide transportation to or from work?

When an employer's place of business and an employee's residence are located within the boundaries of a city or town, the employer must provide the employee with adequate transportation between the residence and the work place when the employee's hours of work begin or end after 12 midnight and before 6:00 a.m. The only exception is if the employee is a police officer.

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.

When are employees entitled to breaks?

Employees are entitled to a 30 minute unpaid break after completing five hours of work. They are entitled to another unpaid break after completing a second, five-hour work period.

Employees are also entitled to at least one day of rest per week.

For more information on breaks and a day of rest see the [Hours of work and breaks](#) page

Are employees entitled to a day off?

Yes, employees are entitled to have 24 hours off without pay in each week. There are some exceptions, please [call Employment Standards](#) if you have questions.

Can employers change employees schedules?

Yes, employers make schedules that suit their businesses and can change work schedules at any time. This includes deciding to close on a certain day, or reduce the number of hours they are open each week.

Can employees change schedules?

Employers control schedules. Some employers allow employees to switch shifts with co-workers or change schedules. For workplaces that do not allow this, schedule changes must be discussed with the employers.

Do employers need to pay overtime when schedules have been changed?

If employees work overtime, they must be paid overtime wages. Employers cannot refuse to pay overtime because the overtime resulted from a switched shift. Employers who allow employees to switch shifts may set a policy that prevents employees from changing shifts in a way means other employees must work overtime.

Can employers change schedules even after shifts have started?

Employers can ask employees to end their shifts, or start additional ones. As of April 30, 2007, employees generally must be paid for the length of their shifts or for three hours, whichever is less, once they have reported for work. More information can be found on the [Wages for reporting for work](#) page.

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	8	48	40	8
	8	6	6	8	10		38	36	2
	10	6	10	6	10		42	36	6
7	6	8	7	7	8		43	40	3

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.

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.

Overtime exclusions

Employees who substantially control their hours of work and earn more than twice the Manitoba average industrial wage may be exempt from the hours of work and overtime provisions. More information can be found on the [Overtime exemption – workers who substantially control their hours of work](#) page.

Employees who primarily perform management functions may be exempt from the hours of work and overtime provisions. This does not necessarily include all employees who are called managers or supervisors. More information can be found on the [Overtime exemption – workers who perform management functions primarily](#) page.

Who is exempt from overtime and hours of work under this provision?

Employees who perform management functions primarily are exempt from overtime under this provision. Management functions affect the control and direction of a business. A key factor is the amount of independent judgment and discretion employees have when operating the business. The more discretion and authority employees have to make business decisions, the more likely it is they are performing management functions primarily.

For example in a franchise business where all of the major decisions on staff, budget and marketing are made at the corporate office, employees might not be considered to be performing management functions primarily.

Are employees called "manager" or "supervisor" exempt from overtime and hours of work?

Job titles have no impact on whether an employee is exempt or not. The determining factor is the role the person plays in the organization. The more independent authority and discretion employees have, the more likely they perform management functions primarily.

Who is exempt from overtime and hours of work under this provision?

Employees who have substantial control over their hours of work and earn a regular annual income of at least two times the Manitoba average industrial wage are exempt from overtime. Both criteria are required for an employee to be exempt from overtime.

What is the Manitoba average industrial wage?

Employment Standards will announce the Manitoba average industrial wage in June of each year. It is calculated using information available from Statistics Canada for the previous year. In 2008, the Manitoba average industrial wage was \$39,042.64. Therefore, to qualify for this exemption from after June 1, 2009 an employee must have a regular annual wage greater than \$78,085.28 per year.

How is substantial control over hours of work defined?

Most employees are told by the employer when they are required to work, what days they will work, the hours

they will work. Although these employees can request changes to their schedules, they do not have the final say if the request would be allowed. Most employees do not have substantial control over their hours of work.

Other employees have the ability to organize their work schedule to suit the needs of themselves and clients. They may need to check in with their employer occasionally, but the employer generally doesn't set the schedule or control their day-to-day activities. These employees would generally have "substantial control over their hours of work."

Do both criteria need to be met to be exempt from overtime?

Yes, to be exempt from overtime, employees must have substantial control over their hours of work and earn an annual regular wage of greater than twice the Manitoba industrial average wage.

Overtime for incentive-based pay plans

Most employees who work more than eight hours in a day and 40 hours in a week are entitled to overtime. This includes employees who are paid either entirely or partly by incentive pay. Overtime for an employee paid by incentive is calculated based on an average hourly wage. More information on how to calculate overtime for incentive based pay plans can be found on the [Overtime – Incentive Pay Workers](#) page.

How is overtime pay calculated for employees who are paid by incentive?

For incentive pay, calculating overtime is a two-step process:

- Calculate the hourly wage.
- Calculate the regular and overtime pay.

To calculate the hourly wage, the incentive pay is divided by the total hours worked in the pay period. The hourly wage usually changes in each pay period, since it depends on the pay earned and the number of hours worked.

Overtime hours are those worked over the standard hours. In most cases, they are the hours worked after eight hours in a day and 40 hours in a week. The [Overtime](#) page provides more details on how to determine overtime hours.

In each pay period, employees must be paid their hourly wage for all standard hours they worked and their overtime wage, which is 1 ½ the hourly wage, for all overtime hours they worked.

What is incentive pay?

In some workplaces, employees are paid based on how productive they are rather than the number of hours they work. Common examples include commission salespeople, flat-rate mechanics and pieceworkers.

Are employees still entitled to minimum wage for all hours worked?

Yes, employees are entitled to at least minimum wage in each pay period and cannot agree to work for less. The [Minimum wage](#) page has more information.

How much are employees paid for reporting to work?

Employees who work for three hours or more are paid their regular wage for all hours worked.

Employees scheduled to work three hours or more but work less than three hours are paid for three hours at their regular wage.

Employees scheduled to work less than three hours and who work their scheduled hours are paid their regular wage for all hours worked.

Employees scheduled to work less than three hours and who work less than their scheduled hours are entitled to their regular wage for the full scheduled hours.

What types of leave are available to employees?

There are six unpaid leave options for employees

<u>Maternity Leave</u>	17 weeks	for an employee expecting to give birth to a child
<u>Parental Leave</u>	37 weeks	for parents to care for their new child
<u>Family Leave</u>	3 days	for an employee to deal with family responsibilities or personal illness
<u>Compassionate Care Leave</u>	8 weeks	for an employee to care for a very ill family member
<u>Bereavement Leave</u>	3 days	for an employee to deal with the death of a family member
<u>Reservist Leave</u>	When needed for service.	For an employee in the Canadian Forces Reserve who needs time to serve.

Who decides what type of leave an employee is taking?

Employees must tell their employer what type of leave they are taking. The employer will need enough detail to show the time-off meets the requirements for a statutory leave.

If an employee requests time-off without specifying a statutory leave, the employer should ask whether they are advising of a leave under the Code or requesting permission for unpaid time-off. Employers do not control when an employee can take an unpaid leave under the Code, but they do control other types of time-off.

Does the employer pay during the leave?

No, the legislation only requires employers to provide time off and allow employees to return to their job when the leave has ended. Employers are not required to pay wages during the leave. Employers can, and often will, give greater benefits than those provided for in the legislation.

Are there programs to pay employees while on leave?

Yes, the federal government provides programs through Employment Insurance (EI) to cover this type of leave. Please check with your local EI office or call 1-800-206-7218 for details.

What happens when the leave ends?

Employees must be allowed to return to their job, or a comparable job with the same or greater benefits and pay, when they return from leave. Employers may not discriminate or attempt to punish employees for taking a leave.

What if the employees' job is no longer available?

Generally, a comparable position with the same pay and benefits must be offered. In special circumstances, employers may not have a position available for reasons completely unrelated to the leave. For example, if employers shut down part of their operations and reduce their workforce based on a seniority system, employees who are on unpaid leave would not necessarily be protected from losing their jobs.

Employers must show that the leave has no impact on the decision to lay off or terminate the employment.

Who qualifies for maternity leave?

Employees, who have worked with the same employer for at least seven consecutive months and are expecting to give birth to a child, are entitled to take maternity leave.

Who qualifies for parental leave?

Employees who have worked with the same employer for at least seven consecutive months and have become a parent by birth or adoption are entitled to the leave.

How long is family leave?

The legislation provides three unpaid days per year as family leave. Many employers give greater benefits than those provided for in the legislation, such as more days off or paid leave.

Who qualifies for compassionate care leave?

Employees who have worked with the same employer for at least 30 days qualify for this leave. Employees must provide a certificate from a doctor indicating that a family member has a serious medical condition, has a significant risk of death in the next 26 weeks and needs care and support.

Who can take bereavement leave?

Anyone employed for at least 30 days with the same employer is entitled to this leave.

Are employees paid while on bereavement leave?

No, the legislation only requires an employer to provide time off and allow an employee to return to their job when the leave has ended. Employers are not required to pay wages during the leave. Employers can, and often do, give greater benefits than those provided for in the legislation.

How long is a vacation?

After completing one year with an employer employees must receive two weeks of vacation. After completing their fifth year of work with the same employer, employees must receive three weeks of vacation.

What are employees paid while on vacation?

Vacation pay is calculated based on the earnings in the previous year. For each week of vacation, employees earn two per cent of their gross wages as vacation pay. For example: employees who earn two weeks of vacation receive four per cent of their gross wages as vacation pay. Employees with three weeks vacation receive six per cent of their gross wages as vacation pay.

When are employees paid their vacation pay?

Employers decide when vacation pay is to be paid. However, it must be paid no later than the last day of work before the vacation and within 10 months of earning it.

Can employers pay vacation pay on every pay cheque?

Employers may pay vacation pay on every pay cheque. Employees are still entitled to take time off as vacation, but do not receive any additional vacation pay while they are off, because it has already been paid on each cheque.

When can employees take their vacation?

Employees are eligible for vacation once they have completed one year of work and must take their vacation within 10 months of it being earned. Employees and their employers can agree on when vacation will be taken.

If an employer and employee cannot agree on when the vacation will be taken, the employer decides. The employer must give the employee notice of 15 days before the vacation will be, and cannot divide the vacation into periods shorter than one week. Employers can schedule their employees' vacations as part of an annual shut down.

Can vacation be used as notice of termination?

Vacation cannot be used as notice of termination. Employees are entitled to all outstanding vacation pay when their employment ends.

What are the general holidays in Manitoba?

There are eight general holidays throughout the year:

- New Year's Day
- Louis Riel Day (3rd Monday in February)
- Good Friday
- Victoria Day
- Canada Day
- Labour Day
- Thanksgiving Day
- Christmas Day

Most employees are paid general holiday pay for these days whether they work or not.

Are Easter, the August Civic Holiday, Remembrance Day and Boxing Day holidays?

Easter Sunday, the August Civic holiday, and Boxing Day are not general holidays. Employees who do not work those days do not have to be paid.

Although Remembrance Day is not a general holiday, there are restrictions for operating businesses and special requirements for paying employees who work that day. See the [Remembrance Day](#) page for more details.

How is general holiday pay calculated?

General holiday pay is five percent of an employees total wages in the four-week period immediately before the holiday. Overtime should not be included in this calculation.

For a part-time employee, this amounts to a percentage of his/her regular day of pay. For example: a part-time employee may work about 25 hours each week at \$10 per hour, but his/her schedule is different each day. In the four weeks before the holiday, he/she earned \$1,000. General holiday pay is \$1,000 times five per cent, or \$50.

For an employee that works the same number of hours, every day, five days a week, the five per cent calculation will equal his/her regular day of pay. For example if an employee worked 8 hours a day, 5 days a week at \$10 per hour, for the previous 28 days, 5% would equal \$1600 times five per cent, or \$80 for the general holiday.

Do all employees receive general holiday pay?

All employees receive general holiday pay unless:

- They are absent from work on a general holiday that is normally a workday and they are expected to work.
- They are absent from work, without permission, on their last scheduled workday before the holiday or their first scheduled workday after the holiday, unless they are absent because they are ill.

What if employees work on the general holiday?

Employees who work on a general holiday are normally entitled to 1 ½ times their regular rate of pay for the hours worked. In addition they also receive their general holiday pay.

What if employment ends in the four weeks before a general holiday?

If employees end the employment before a general holiday there is no entitlement to general holiday pay for that holiday.

If employers end the employment before a general holiday, employees are entitled to general holiday pay of five per cent of total wages, excluding overtime wages but including wages in lieu of notice, for the four-week period immediately before the holiday. The general holiday pay must be paid with the last wages, no later than 10 days after the employment ended.

Can a retail business be open on Sundays?

A retail business that operates with fewer than four employees can be open on Sundays. Municipalities can pass a bylaw to allow Sunday and holiday shopping at larger retail businesses within their communities.

Are there restrictions on when stores can be open in communities?

In communities like Brandon and Winnipeg that have passed a Sunday shopping bylaw, retail businesses can be open between 12:00 p.m. and 6:00 p.m. on Sundays, Louis Riel Day, Victoria Day and Thanksgiving Day.

Can retail stores be open on General Holidays?

In communities with a Sunday and Holiday shopping by-law retail stores can be open Sunday shopping hours on Louis Riel Day, Victoria Day and Thanksgiving Day.

Most retail businesses cannot be open on New Years Day, Good Friday, Easter Sunday, Canada Day, Labour Day or Christmas Day.

Remembrance Day is not a holiday. Retail stores cannot be open between 9:00 a.m. and 1:00 p.m. on Remembrance Day. More information is available on the [Remembrance Day](#) page.

What is termination of employment?

Common expressions for termination of employment include:

- fired
- quit
- let go
- discharged
- dismissed
- permanently laid off
- terminated

Do employees need to give notice of termination?

Yes, employees who have been employed by an employer for at least 30 calendar days but less than one year, must give at least one week's notice before the last day they plan to work. After employees have completed one full year with the same employer, at least two weeks notice is required.

Do employers need to give notice of termination?

Yes, when employers wish to terminate employees they must give notice of termination or pay wages equal to what would normally be earned during the notice. This is often called wages in lieu of notice. The notice period varies depending how long employees have worked.

How much notice of termination must employers give to their employees?

The amount of notice employers must provide employees depends on the length of time that employee has worked for them.

Period of employment	Notice period
less than one year	one week
at least one year and less than three years	two weeks
at least three years and less than five years	four weeks
at least five years and less than 10 years	six weeks
at least 10 years	eight weeks

Employers can still either allow the employee to work out this notice period, or pay wages in lieu of notice, for the same number of weeks.

Is there a no-notice period?

When the period of employment has been less than 30 days the legislation states that employers and employees have the right to end the working relationship without notice.

Can employers have notice policies for their businesses that are different from the legislation?

No. Effective April 30, 2007, employers cannot have alternate notice policies. A notice policy set under the previous legislation is not valid. The only exclusion is a unionized workplace, where a collective agreement has a probationary period that is one year or less.

Can employers pay wages instead of providing notice of termination?

Yes, employers can either allow employees to work out the notice period, or pay wages in lieu of notice. Employers can also allow employees to work part of the notice and pay wages in lieu of notice for the remainder.

Can employers keep employees' wages if employees terminate without notice?

No. Effective April 30, 2007, employers cannot keep wages from employees who quit without notice. Employers must pay employees all earned wages within 10 days of the last day of work.

Are there times employers and employees do not need to give notice of termination?

There are some cases where employers or employees, do not need to give notice of termination:

- when employment is for a specific length of time or a specific task or job
- when it is only casual employment and the employees have substantial control over whether they accept shifts or not and are not penalized by employers for choosing not to work
- employees act in a manner that constitutes wilful misconduct, disobedience or wilful neglect of duty and the behaviour is not condoned by the employer
- if employees act in a manner that is violent in the workplace or is dishonest in the course of employment
- when employees are placed on a temporary layoff

Employers who want to terminate employees without notice must note that the exemptions can be complex and each case needs to be examined individually to determine if notice is required.

Do employers need to have just cause to terminate employees?

Under employment standards legislation employers and employees can terminate employment at any time, for any reason if they provide notice of termination. Just cause may be relevant in a civil action, but The Employment Standards Code does not require a reason for a termination.

Do notice provisions cover construction?

No, employees who work in the construction industry are excluded from notice of termination requirements. For more information, see the [Construction industry](#) page.

For more information contact the Employment Standards Branch:

Phone: 204-945-3352; or toll free in Manitoba 1-800-821-4307

Fax: 204-948-3046

E-mail: Employmentstandards@gov.mb.ca

Website: www.manitoba.ca/labour/standards

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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