

Overtime

Standard hours of work are generally 8 hours in a day and 40 hours in a week. Work beyond these hours is overtime and must be paid at 1 ½ times the employee's regular wage rate.

Most employees are paid for overtime, including students, part-time employees, and minimum wage-earners.

What are the standard hours of work?

Standard hours of work are 40 hours a week and 8 hours a day. Employees are entitled to their regular wage rate for work during these hours. Employees must be paid at the overtime wage rate if they work more than the standard hours.

What is the overtime wage rate?

Employees are paid 1 ½ times their regular hourly wage for each hour (or part of an hour) worked during overtime.

What are deemed to be hours of work when calculating overtime?

Employees whose hours of work are greater than 8 hours a day and 40 hours a week are entitled to overtime wages of 1 ½ times their regular wage rate.

General holidays, vacation leave, and paid sick time are all deemed to be hours of work for the purpose of calculating overtime.

Are there exceptions to the standard hours of work?

There are exceptions to standard hours of work, which include:

- Areas of the construction industry

- The landscaping business
- Companies with collective (union) agreements that specify different hours
- Companies with an Averaging Permit from Employment Standards
- Employees who have an Individual Flextime Agreement with their employer
- Election officials, enumerators and any other temporary person appointed under *The Elections Act*.

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

The standard hours of work for the construction industry are established in The Construction Industry Wages Act.

- For Residential Construction, the standard hours are 8 hours a day and 40 hours a week
- For ICI Construction, the standard hours are 10 hours a day and 40 hours a week
- For Heavy Construction, the standard hours are:
 - ◆ 50 hours per week outside of Winnipeg
 - ◆ 50 hours per week in Winnipeg from April 1 to October 31
 - ◆ 48 hours per week in Winnipeg from November 1 to March 31 the following year

Additional information can be found on the [Construction Industry](#), [ICI Construction](#), and [Heavy Construction](#) pages.

For employees performing landscaping work for a 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.

How are overtime hours determined?

Overtime is determined by the number of hours employees work in a day and in a week. Any hours worked over 8 hours in a day or 40 hours in a week are overtime.

Below are some examples of how to calculate overtime. 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 |

Who decides when overtime will be worked?

Employees cannot work overtime without the knowledge or permission of their employers. Employees must be paid at 1½ times their regular wage rate if employers ask, allow, or acknowledge the overtime.

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

Can employees bank overtime and take time off later?

Yes. Employers and employees can agree in writing to bank overtime. The agreement must follow these rules:

- For each hour of overtime worked, 1 ½ hours of time is banked, which is paid at the regular wage rate when the employee takes the time-off;
- Employers must schedule time-off during the employee's regular hours;
- Employers must provide the time-off within three months of it being earned, unless Employment Standards authorizes a longer period.

What if the banked time is not taken?

If banked time is not taken within three months of it being earned, employers must pay out all banked hours at the regular wage rate.

Do salaried employees receive overtime?

Yes. Employees who are paid by salary are entitled to overtime. An hourly wage can be calculated to determine the overtime pay per hour.

For example: an employee who earns a salary of \$450 per week and is expected to work a 40-hour week is paid \$11.25 per hour. Overtime is paid at 1 ½ times the regular wage rate. Using this example, the employee would earn \$16.87 per hour for overtime.

To calculate an employee's hourly wage:

$$\begin{aligned} & \text{Salary earned per week} \div \text{Total Hours} && \$450 \div 40 = \$11.25 / \text{hour} \\ = & \text{Hourly Wage} \end{aligned}$$

To calculate the overtime rate:

$$\begin{aligned} & \text{Hourly Wage} \times 1.5 = \text{Overtime} && \$11.25 \times 1.5 = \$16.87 / \text{Hour of} \\ & && \text{overtime} \end{aligned}$$

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 and must clearly identify wages for working more than the standard hours. Clearly written agreements can save future disagreements.

For example: An employee earns a salary of \$700 per week and is expected to work a 50-hour week. This agreement means the employee is working 40 regular hours and 10 hours of overtime each week as part of the salary. To calculate an hourly wage rate for the salary, the overtime hours are first converted to standard (regular) hours by multiplying them by 1 ½

In this example

$$10 \text{ overtime hours} \times 1.5 = 15 \text{ regular hours}$$

These are then added to the regular hours:

$$40 \text{ regular hours} + 15 \text{ regular hours} = 55 \text{ regular hours}$$

The hourly wage an employee should be paid for regular hours worked is then calculated by dividing the salary by the total number of regular hours:
 $\$700 \text{ salary} \div 55 \text{ regular hours worked} = \$12.73/\text{hour}$

For the overtime hours worked, the employee must be paid at 1 ½ times this hourly wage:

$$\$12.73/\text{hour} \times 1.5 = \$19.10 \text{ overtime wage}$$

If the employee works more than the agreed 50 hours, the employee must be paid at the overtime wage for those hours.

Do employees who are paid by commission receive overtime?

Yes. Employees who are paid by an incentive plan, such as commission are still 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.

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?

Election officials, enumerators and any other temporary person appointed under *The Elections Act* are not entitled to overtime.

Employees who Perform Management Functions Primarily or Employees Who Substantially Control Their 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.

For more information contact Employment Standards:

Phone: 204-945-3352 or toll free in Canada 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*, *The Construction Industry Wages Act*, *The Worker Recruitment and Protection Act*, or contact Employment Standards.

Available in alternate formats upon request.

Date Published: April 4, 2019
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