

## Overtime Exemptions - Workers Who Perform Management Functions Primarily

Most employees are entitled to be paid 1 ½ times their wage for hours worked beyond eight hours in a day or 40 hours in a week. Employees are only entitled to overtime wages for work that is requested, acknowledged or authorized by the employer. In some cases, employees are not entitled to overtime wages because they perform management functions primarily.

### Who is exempt from overtime?

Some employees do not have to be paid overtime, including those who either

- perform management functions primarily; **or**
- have substantial control over their hours of work **and** make at least two times the Manitoba Industrial Average Wage.

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

Job titles have no impact on whether employees are exempt or not. The factors that are considered include the nature of their work functions and their level of control and authority in the organization.

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

Employees who perform management functions primarily are exempt from overtime. These are functions that affect the control and direction of a business. Employees who have the authority to independently make key business decisions on most issues are likely to be exempt. Employees who only sometimes perform management duties are generally not exempt from overtime and must be paid accordingly.

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

## **What are considered to be management functions?**

Employees with the power to make a final decision on most issues without needing approval of another person are likely performing management functions.

Some examples of management functions would include, but are not limited to, the ability to:

- Hire and fire employees
- Change the job duties or wage rates of other employees
- Authorize overtime
- Make decisions on how business dollars are spent
- Act on behalf of the employer

## **Are employees who supervise other employees exempt from hours of work and overtime?**

Supervisory duties alone are not usually considered to be management functions. To determine if employees perform management functions primarily, all of their job duties must be examined. One of the questions to consider is who makes the final decision on things like terminations and discipline. Many supervisors make recommendations on these issues, but someone with more authority in the company makes the final decision. Generally, supervisors are not exempt from overtime and hours of work.

## **Who determines if employees primarily perform management functions?**

Employers who wish to exclude employees from overtime must be able to show that they are performing management functions primarily.

## **Are managers who take direction from a board of directors exempt from hours of work and overtime?**

It depends on the level of authority the manager has been given to make decisions affecting the business. Many factors may be considered, including: how active the board of directors is in the day-to-day operation of the business, how involved they are in monitoring expenditures, and whether the manager has the authority to interpret and implement board policies and procedures.

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

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Website: [www.manitoba.ca/labour/standards](http://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.

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Date Published: April 14, 2020

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