



EMPLOYMENT STANDARDS CODE REVIEW SURVEY 2017

Employment Standards Code Review Survey

Section 2 – Promoting Family-Friendly Workplaces

Alberta workplaces have evolved tremendously since the Code was last significantly updated. This evolution has been due to various employment, demographic and social trends.

The rise in part-time work, increasing number of lone-parent households and the growing aging population, all highlight the importance of supporting employees to better reconcile work and life demands. Awareness of the benefits of work-life balance for employers, employees and society as a whole, are creating an impetus both nationally and internationally to develop family-friendly workplace policies and standards.

When examining unpaid, job-protected leaves, Alberta lags behind other provinces in the types and variety of leaves provided, flexible eligibility requirements and duration. Alberta also lags behind other provinces in aligning its unpaid, job-protected leaves with the federal Employment Insurance (EI) program.

Alignment with Federal Employment Insurance

When personal or family responsibilities require an employee to miss work for an extended period of time, they may be eligible for federal benefits under the *Employment Insurance Act* (Act) to offset the loss of income at that time.

The federal EI program offers a range of temporary benefits to eligible employees for sickness, and family-related circumstances, including:

- Maternity benefits (introduced in 1971) – up to 15 weeks of income support
- Parental benefits (introduced in 2000) – up to 35 weeks of income support
- Compassionate care benefits (introduced in 2004) – up to 26 weeks of income support
- Parents of Critically Ill or Injured Children (introduced in 2013) – up to 35 weeks of income support
- Crime-related death or disappearance of a child (introduced in 2013) – up to 35 weeks of income support
- Personal sickness, injury or quarantine (introduced in 1971) – up to 15 weeks of income support

While financial support may be provided by EI, an employee's job protection relies on provincial/territorial employment standards. It is common for jurisdictions to review and adjust standards surrounding unpaid, job-protected leaves to align with federal legislation, support employees in accessing these leaves, and to promote fair and equal coverage for employees across Canada.

[Aligning Existing Unpaid, Job-Protected Leaves with Employment Insurance](#)

To what extent do you support or oppose aligning job protection for unpaid leaves with federal EI benefits?

- ☐ Strongly support
- ☐ Support
- ☐ Oppose
- ☐ Strongly oppose
- ☐ Don't know / unsure

- ☐ Strongly agree
- ☐ Agree
- ☐ Disagree
- ☐ Strongly disagree
- ☐ Don't know / unsure

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- ☐ Strongly support
- ☐ Support
- ☐ Oppose
- ☐ Strongly oppose
- ☐ Don't know / unsure

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Section 2 – Promoting Family-Friendly Workplaces (cont'd)

Sick Leave

In situations where an employee is unable to work due to personal sickness or injury, employees may be eligible for income support from the federal EI benefit program, but there is currently no legislated job protection under employment standards in Alberta. Although employers may have some obligations to accommodate employees under Human Rights legislation, this would be under specific circumstances only and would not be the case in all instances. This gap may put employees in Alberta at risk of losing their jobs if they were to request time-off to deal with short-term illness or injury.

Government is considering adding a new type of unpaid, job-protected leave for personal, short-term sickness or injury, which would allow employees to earn sick time based on their length of employment service or hours of work performed.

In most Canadian jurisdictions where leave for personal illness or injury is provided, the leave is typically provided upfront rather than earned.

To what extent do you support or oppose the introduction of a job-protected leave for personal, short-term sickness or injury which allows employees to earn/accrue sick time based on their length of employment?

- ☐ Strongly support
- ☐ Support
- ☐ Oppose
- ☐ Strongly oppose
- ☐ Don't know / unsure

Please rank the following models of earned sick leave from one(1) to three (3), using one (1) as your top choice:

	1	2	3
Employees earn one hour of sick time per 30 hours worked	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Employees earn one day of sick time per 30 work days	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Employees earn one day of sick time per month of employment service	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Don't know / unsure	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
*Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

*If you selected **Other**, please specify:

What is the maximum recommended length of an unpaid, job-protected leave for personal, minor sickness or injury?

- ☐ Five days
- ☐ Twelve days
- ☐ Twelve weeks or more
- ☐ Don't know / unsure
- ☐ Other:

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Section 2 – Promoting Family-Friendly Workplaces (cont'd)

Changes to Existing Unpaid, Job-Protected Leaves

Eligibility Requirements for Existing Leaves

Alberta requires employees to work for 52 weeks for their employer before they can be eligible for most job protected leaves, including maternity, parental and compassionate care. This is generally the longest qualification period across Canada. In some jurisdictions there is no qualification period to access these leaves. In other jurisdictions employees are typically eligible to access leaves once they have completed about three months of employment.

Changes to the required qualification period for job-protected leaves are being considered to support family-friendly policies and employees who are prompted by urgent situations to seek access to these leaves.

Using the chart below, please select how long you think an employee should be working for the same employer before they can access the following leaves (Please indicate your response in each column).

	Maternity Leave	Parental Leave	Compassionate Care Leave
0 weeks (no qualifying period)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4 to 8 weeks (approx. 1-2 months)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12 to 13 weeks (approx. 3 months)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20 weeks (approx. 5 months)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
24 to 28 weeks (approx. 6-7 months)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Keep at 52 weeks (1 year)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Don't know/unsure	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



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Section 2 – Promoting Family-Friendly Workplaces (cont'd)

Notice Requirements for Compassionate Care Leave

Alberta, along with Manitoba and Newfoundland and Labrador (Newfoundland), currently require an employee to provide two weeks' notice upon commencing and returning from compassionate care leave, which is the longest notice requirement in Canada. However, Manitoba provides an exception to employees if circumstances do not allow the full two weeks' notice.

In recognition of the personal or family responsibilities that prompt employees to take compassionate care leave, government is considering reducing the amount of notice required while maintaining the need to provide medical documentation.

What do you think is a reasonable notice requirement for an employee commencing compassionate care leave?

- ☐ No change – Medical certificate and two weeks' notice
- ☐ Medical certificate and two weeks' notice, unless circumstances require shorter notice
- ☐ Medical certificate and notice as soon as reasonably possible
- ☐ Medical certificate only – No notice is required
- ☐ Don't know / unsure

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Section 2 – Promoting Family-Friendly Workplaces (cont'd)

Unpaid, Job-Protected Leaves for Family Responsibilities or Personal Emergencies

In support of family-friendly standards and in recognition of the range of situations where an employee may need to miss work for circumstances beyond their control, government is considering a leave for family responsibilities and personal emergencies. This would provide employees with job protection if they need to access leave for personal or family circumstances.

	1	2	3
An unpaid, job-protected leave that applies to situations involving family responsibilities only (i.e. issues with childcare, family sickness, bereavement)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
An unpaid, job-protected leave that applies to situations involving personal emergencies only (i.e. personal sickness or injury, domestic violence)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
An unpaid, job-protected leave that applies to situations involving both family responsibilities and personal emergencies	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Multiple, unpaid, job-protected leaves for each circumstance (i.e. bereavement leave, family sickness leave, and personal sickness leave)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
New leaves are not needed for these circumstances	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Don't know / unsure	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

☐ Three days
☐ Seven days
☐ Twelve days
☐ Don't know / unsure
☐ Other:



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Would you like to complete the next section on Modernizing and Simplifying Existing Standards?

- 51%

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Section 3 – Modernizing and Simplifying Existing Standards

Overtime

Currently, an employee can receive overtime pay after eight hours of work per day or 44 hours per week, whichever is greater.

Banked Overtime Rate

As compensation for overtime, employers and employees can agree to “banking” arrangements instead of receiving overtime pay. These arrangements can be used so that an employee can take time off at a later date – an arrangement which may be especially beneficial for employees with personal or family responsibilities. Using banked overtime in this way supports an employee’s need for flexibility as well as minimizing costs for employers. Currently, the Code allows overtime to be banked at the equivalent rate it is earned for up to three months.

In support of enhancing family-friendly policies, consideration is being given to increasing the banked overtime rate from 1:1 to 1:1.5. This means that for each hour of overtime that an employee works (under this type of agreement), they would be able to "bank" one and a half hours of time off. Alignment between banked overtime and overtime pay recognizes that taking time off to compensate for overtime should not be treated differently than being paid for it.

To what extent do you agree or disagree with increasing the banked overtime rate from 1:1 to 1:1.5?

- ☐ Strongly agree
- ☐ Agree
- ☐ Disagree
- ☐ Strongly disagree
- ☐ Don't know / unsure

53%

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Section 3 – Modernizing and Simplifying Existing Standards (cont'd)

Employers must allow employees to take a daily break. In Alberta, for every shift that is longer than five consecutive hours, the employer is required to provide the employee a total of 30 minutes of rest, either paid or unpaid. There are exceptions for urgent work, accidents, unforeseeable circumstances, or if it is not reasonable for an employee to take a break.

To what extent do you agree or disagree that an employee should earn a mandatory 30-minute rest period for every five consecutive hours of work?

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General / Statutory Holidays and Pay

- An employee must have worked 30 days for their employer in the 12 months before the general holiday;
- An employee must work on the last day they were scheduled to work before the general holiday and the first day they are scheduled to work after the general holiday, unless the employer agrees that the employee can be away; and
- An employee must work on the general holiday if the employer asks.

When determining entitlement to general holiday pay, employers in Alberta must determine whether or not the holiday falls on a regular day of work for the employee and whether or not the employee works on the holiday. Alberta is currently the only jurisdiction in Canada that requires employers to make this determination between a normal work day and a day that an employee is not usually scheduled to work.

Do you have any comments regarding the proposal to eliminate the regular/irregular work day distinction for the purposes of calculating general holiday pay?
(maximum 500 characters)

Alberta's qualifying period for general holiday pay is the longest in Canada and may require employers to review twelve months of records to determine an employee's eligibility. Several jurisdictions, do not have any qualifying period requirements, allowing employees to earn general holiday pay immediately upon employment.

	1	2	3
No change – Keep qualifying period at 30 work days in the past 12 months	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Change the qualifying period to 15 work days in the past 30 days	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Change the qualifying period to one month, or 30 days, of employment service with the same employer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Change the qualifying period to three months, or 90 days, of employment service with the same employer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Eliminate the qualifying period	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Employment Standards Code Review Survey

Section 3 – Modernizing and Simplifying Existing Standards (cont'd)

Average Daily Wage Calculation

To calculate how much general holiday pay an employee should receive, the employer must calculate the employee's average daily wage. Currently, this is done by averaging the employee's wage over the nine weeks prior to the general holiday.

Simplifying the average daily wage calculation used to determine an employee's compensation for general holiday pay may help reduce administrative burden and improve understanding for both employers and employees.

Please select the approach you prefer for calculating average daily wage:

- ☐ Keep the same – The employee's wages earned in the nine weeks preceding the general holiday, divided by the days worked.
- ☐ Change the average daily wage to the employee's wages earned in the 28-day period immediately preceding the general holiday, divided by 20
- ☐ Change the average daily wage to the employee's wages earned in the 28-day period immediately preceding the general holiday, divided by the days worked
- ☐ Eliminate average daily wage calculation and use percentage of wages to determine compensation
- ☐ Don't know / unsure

66%

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Section 3 – Modernizing and Simplifying Existing Standards (cont'd)

Deductions from Wages

Currently, the Code and Regulation limit the deductions which employers are allowed to make from an employee's pay. Deductions that employers can take from an employee's earnings are limited to those:

- required by law, such as federal and provincial tax, contributions to the Canada Pension Plan, premiums for EI or a garnishee of the court (e.g. child support);
- authorized by a collective agreement (e.g. union agreements); or
- personally authorized in writing by the employee.

Government is considering reviewing allowable deductions so an employer may deduct from an employee's wages if the employee agrees to pay for and receives a direct benefit in return (i.e. voluntary purchases of goods or services from the employer, health and insurance packages).

To what extent do you agree or disagree that employers should be allowed to deduct from an employee's wages if the employee agrees to the deduction and receives a direct benefit in return?

- ☐ Strongly agree
☐ Agree
☐ Disagree
☐ Strongly disagree
☐ Don't know / unsure

Apart from the amounts required by federal or provincial law or court order and amounts authorized by collective agreement, what kind of deductions should an employer be allowed to make from an employee's wages? Please select all that apply.

- ☐ Meals and lodging
- ☐ Voluntary charitable donations
- ☐ Voluntary contributions by employee to savings plans or bonds
- ☐ Voluntary purchase of goods or services from the employer
- ☐ Pay advances
- ☐ Payroll error corrections
- ☐ Health or insurance packages
- ☐ Cost of courses or training that an employee voluntarily attends and receives a direct benefit from
- ☐ None
- ☐ Don't know / unsure
- ☐ Other:



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Section 3 – Modernizing and Simplifying Existing Standards (cont'd)

Youth Employment

Rules for young workers should balance the need to help them develop work experience with the need to gain an education and participate in other activities to support their overall wellbeing.

For the specific rules regarding youth employment, see the [Adolescents and Young Persons fact sheet](#).

Canada recently ratified the International Labour Organization Convention 138 (C138), or the *Minimum Age Convention, 1973*. Conventions are legally binding international treaties that are ratified by member states of the International Labour Organization. Once a convention has been ratified by the Canadian government, the provinces and territories must be able to comply with its requirements. For Alberta to comply with this particular convention, it will need to amend some elements of its youth employment legislation.

Non-Hazardous Jobs for Youth

For all eligible youth ages 15 years or under, the government is proposing to identify the types of jobs that are appropriate for their age. These jobs would be non-hazardous and provide consideration of the development of young workers. Please note: proposed changes will not affect children performing chores or household duties, only those in true employment relationships.

There are some approved types of jobs for youth in the Regulation however many of the occupations are outdated and need to be reviewed.

What types of jobs would be appropriate for youth between 13 and 15 years old? Please select all that apply.

- ☐ Delivering small retail items
- ☐ Office clerk or messenger
- ☐ Retail store clerk
- ☐ Delivering newspapers or flyers
- ☐ Limited retail (i.e. not preparing meats for sale)
- ☐ Limited restaurant and food service (i.e. not operating cooking equipment)
- ☐ Movie theatre ushers
- ☐ Don't know / unsure
- ☐ Other:



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The Code requires an employer to provide the Minister of Labour with four weeks' written notice when intending to terminate the employment of 50 or more employees at a single location within a four-week period. The notice must specify the number of employees who will be affected and the effective date of terminations. Advance notice provides government with time to prepare for fluctuations in unemployment and changes to labour market demand. Group termination notice does not exclude the employer from the requirement to provide individual termination notice to each affected employee.

Please select the approach you prefer:

- 76%

Employment Standards Code Review Survey

Section 3 – Modernizing and Simplifying Existing Standards (cont'd)

Graduated Notice Requirements

Some jurisdictions set graduated notice requirements based on the number of employees affected at a single location. In order to effectively plan for workforce adjustments, government is considering increasing the length of group termination notice required based on the number of employees affected.

Option A - Change the minimum notice to:

- 10 to 49 employees - four weeks
- 50 to 99 employees - eight weeks
- 100 or more employees - 12 weeks

Option B - Change the minimum notice to:

- 50 to 100 employees - eight weeks
- 101 to 299 employees - 12 weeks
- 300 or more employees - 16 weeks

Option C - Change the minimum notice to:

- 50 to 199 employees - 10 weeks
- 200 to 499 employees - 12 weeks
- 500 or more employees - 16 weeks

Option D - Change the minimum notice to:

- 50 to 100 employees - 10 weeks
- 101 to 299 employees - 14 weeks
- 300 or more employees - 18 weeks

Please select the approach you prefer:

- ☐ No change to current notice requirements. Four weeks' notice is required if an employer intends to terminate 50 or more employees.
- ☐ Option A
- ☐ Option B
- ☐ Option C
- ☐ Option D
- ☐ Don't know / unsure

If you would like to provide reasoning for your support or opposition to any of the proposed changes to modernize and simplify existing standards, please provide your comments here: (maximum 1000 characters)



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To further support the resolution of complaints in a timely manner and improve the government's ability to deal with repeat offenders and uncooperative parties, options for new enforcement tools are being considered to support a progressive and clear system of employment standards enforcement.

Which options do you believe will help strengthen compliance and enforcement? Please select all that apply.

- ☐ Introduce progressive penalties to deal with repeat offenders
- ☐ Increase or establish fees to promote voluntary compliance
- ☐ Enhance the authorities of Officers to recover an employee's earnings
- ☐ Enhance the authorities of Officers to conduct or require an audit
- ☐ Enhance the authorities of Officers to dismiss unfounded complaints
- ☐ Review the appeal system to improve efficiency
- ☐ Allow for modern and electronic methods to serve documents
- ☐ Extend the time period for employees to file complaints
- ☐ Extend the time period to recover earnings from an employer
- ☐ Increase prosecution for serious employment standards offences
- ☐ Publicly post the names of employers who have failed to satisfy judgements that result from an employment standards investigation
- ☐ Publicly post the names of employers who have demonstrated consistent non-compliance with employment standards
- ☐ Improve educational activities or proactive enforcement
- ☐ Don't know / unsure
- ☐ Other:

87%

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Employment Standards Code Review Survey

Section 4 - Enforcement and Administration (cont'd)

Administrative Penalties

Currently, the Code prescribes a maximum fine for individuals or corporations who are guilty of an offence under the Code. There have been suggestions that the penalties for employment standards violations should be progressive, meaning the second or subsequent convictions should result in more serious penalties.

Occupational Health and Safety, as well as a number of other employment standards programs in Canada, have adopted administrative penalties as another tool to encourage employers to comply. Monetary penalties are typically awarded for particularly serious or repetitive infractions and can be appealed in all jurisdictions where they are issued. The establishment of administrative penalties in Alberta would give employment standards better tools to enforce the Code and would likely support more timely resolution where an employer has been found to have been non-compliant.

To what extent do you support or oppose the establishment of an administrative penalty system in Alberta?

- ☐ Strongly support
- ☐ Support
- ☐ Oppose
- ☐ Strongly opposed
- ☐ Don't know / unsure

Which options do you support if a system of administrative penalties were established in Alberta?
(Please select all that apply)

- ☐ Mandatory penalties
- ☐ Progressive penalties
- ☐ Stacking penalties
- ☐ None – no administrative penalties are needed
- ☐ Don't know / unsure

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Employment Standards Code Review Survey

Section 4 - Enforcement and Administration (cont'd)

Permits

Employers in Alberta can apply to the Director of Employment Standards for a permit to modify or provide an exemption from certain standards. While this process provides flexibility for unique work situations, it also creates an exception to minimum standards.

Permit applications are reviewed and permits may be issued on a case-by-case basis. Without specific criteria to guide the Director's decision of approving a permit, this approach leads to inconsistencies that can be unfair to both employers and employees. Examples of permit criteria may include ensuring the majority of affected employees support the proposed terms of the permit and verifying that the employer does not have a history of employment standards violations. For permits concerning youth employment, permit criteria may include parental consent, ensuring that the education of the child will not be interfered by the conditions of the permit, and verifying that the employer is not listed on any Child Abuse Registry.

To what extent do you support or oppose the establishment of specific criteria for the Director of Employment Standards to review permit applications?

- ☐ Strongly support
- ☐ Support
- ☐ Oppose
- ☐ Strongly oppose
- ☐ Don't know / unsure

If you would like to provide reasoning for your support or opposition to the proposed changes to enforcement and administration, please provide your comments here:
(maximum 1000 characters)

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Employment Standards Code Review Survey

Section 5 - Additional Information (optional)

If you have any additional comments on the Employment Standards Code you may provide them here.
(maximum 1000 characters)

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