

Introduction to the Labour Standards Code

The Labour Standards Code sets the rules for employers and employees in Nova Scotia to follow. The Code sets rules for pay, vacation pay, holidays, pregnancy and parental leave, notice for someone who is fired or laid off, and other things.

There are six Basic Facts sheets and they cover these areas of the Code:

- **Deductions**
- **Holiday Pay**
- **Minimum Wage**
- **Overtime**
- **Vacation Time and Vacation Pay**
- **Making a Complaint**
- **FAQs and Words We Use**

These sheets give you basic information only.

Basic Facts Sheets

The Labour Standards Code sets the rules for employers and employees in Nova Scotia to follow in workplaces where there are no unions. Some rules apply where there are unions. These fact sheets give you the basics.



If you have more questions please ASK.

For a more complete explanation of the Labour Standards Code, go to ► www.gov.ns.ca/lwd/employmentrights.

If you have questions, you are welcome to contact the Labour Standards Division.

What does the Code do?

When an employer hires an employee, they must agree to offer the employee at least the terms, conditions, and benefits in the Code. The agreement between an employer and an employee is called the employment contract. It may be written down, but often it is not written. It is not legal for employers and employees to use a contract of employment that offers less than the minimum.

Employers can give their employees greater benefits than those set out in the Code.

The Code also offers help for employers and employees in several areas

- ways for employees and employers to sort out problems they may have at work
- a process for employees and employers to follow to have someone enforce the things they are entitled to

Who is the Code for?

The Code is for employees and employers and it applies to relationships between them. The rules apply to employees who do work that is permanent, full time, part time, or casual. It does not apply to people who are self employed or are independent contractors.

The Code generally applies to workplaces that do not have unions. Employees in a union can use a union grievance to get what they are entitled to. Not all employees are covered by all the areas of the Code. The rules can be complicated. If you have questions contact the Labour Standards Division.

The Code applies to employers and employees if the business is regulated by the provincial government and not by the federal government. Some businesses such as banks, most telecommunications companies, and long-haul trucking companies, are regulated by the federal government and follow the rules in the Canada Labour Code.

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You can take many kinds of deductions off an employee's pay cheque. Some can take their wage below minimum wage and some can not. For some you must have a written or verbal agreement and for some you do not need an agreement.

What types of deductions can take an employee's wage below minimum wage?

- ▶ for income tax, CPP, and EI
- ▶ for payments on a debt when the government or the court makes an order, such as a garnishment order
examples: for things like child support payments, or to pay back an overpayment from EI
- ▶ to give an employee a benefit
example: a health and dental plan at your workplace. You may deduct an amount off each pay cheque to pay for the plan [FAQ](#)
- ▶ to pay for a pay advance or an overpayment.
example: You make an error and pay an employee more than their wage or holiday pay. You deduct an amount from each cheque until it is paid back or you deduct the whole amount from 1 pay cheque.
- ▶ to dry clean a uniform that is made out of heavy material such as wool [FAQ](#)

- ▶ to pay for things that an employee buys from your business. You usually set up an account with the business in the employee's name
example: You run a shop that sells car parts. Your employee buys parts for their car on an account that they pay back from time to time.
example: You own a corner store and several of your employees buy coffee and snacks on an account.

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If you have more questions please ASK.

Do you need an agreement? No

Do you need an agreement? Yes

These types of deductions must have a CLEAR agreement.

A clear agreement means that your employee must UNDERSTAND WHAT the deductions are, and KNOW HOW they will be deducted, and AGREE to them. A clear agreement can be verbal or in writing. [FAQ](#)

What types of deductions can NOT take an employee's wage below minimum wage?

- ▶ to pay back a PERSONAL LOAN you made to an employee
example: for a downpayment on a car or a plane ticket to visit their mother. You loan money to an employee and the employee understands that they will pay it back. You deduct an amount from each pay cheque. [FAQ](#)
- ▶ to pay for a UNIFORM, apron, or smock

Do you need an agreement? Yes

You can make these deductions when you have a VERBAL OR WRITTEN agreement.

- ▶ for GENERAL SHORTAGES, DAMAGES, and LOSSES to the business
examples:
losses
 - an employee leaves food out and it spoils
 damages
 - an employee breaks a plate while serving a customer
 - an employee damages a company truck while making a delivery
 shortages
 - the cash is short after a particular employee's shift

Do you need an agreement? Yes

You must have a WRITTEN agreement with your employee to make these deductions.

- ▶ to pay for losses to the business that happen because a customer LEAVES THE BUSINESS WITHOUT PAYING for goods or services [FAQ](#)

examples:

A customer steals a watch and leaves the store.
A customer puts gas in their car and drives away.
A customer eats their meal at a restaurant and leaves without paying.

Do you need an agreement? Yes

You must have a WRITTEN agreement with your employee to make these deductions AND the losses must be their FAULT.

IF an employer can not take the employee's wage below minimum wage THEN how do they calculate the deduction?

example:

The employee works 30 hours a week and they earn \$9.70 per hour. They get \$291.00 (30 x \$9.70 = \$291.00).

However minimum wage would be \$289.50 (30 x \$9.65 = \$289.50).

The most you can deduct is \$1.50 a week (\$291.00 - \$289.50 = \$1.50).



Employees NOT covered

These rules do NOT apply to these employees

- ⊗ most farm workers [FAQ](#)
- ⊗ anyone who works on a fishing boat
- ⊗ a salesperson when they sell vehicles or real estate
- ⊗ a salesperson when they work for commission AND work away from your office UNLESS they have an established route, such as a milk-delivery route
- ⊗ anyone who works under a collective agreement
- ⊗ anyone who works in the petrochemical industry when they work in manufacturing or refining but not when they work in retail
- ⊗ a caregiver when they take care of someone
 - in their immediate family
 - in a private home
 - working for you, the householder
- ⊗ anyone who does domestic work or gives personal care
 - in a private home
 - working for you, the householder
 - for 24 HOURS OR LESS per week

What holidays qualify for holiday pay?

New Year's Day • Good Friday • Canada Day • Labour Day • Christmas Day
Remembrance Day* is a separate holiday with its own set of rules.

What qualifies an employee for holiday pay?

Answer these two questions to find out if an employee qualifies for holiday pay.

1

Was the employee ENTITLED TO BE PAID for at least 15 of the 30 calendar days before the holiday?

They do NOT have to work on each of those calendar days. ENTITLED TO BE PAID means those 15 days could include paid sick time, vacation, or days when the employee is being paid but is away from work taking a course.

YES ► go to question 2

NO they do NOT get paid for the holiday

2

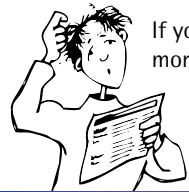
Did the employee work the last shift they were SCHEDULED to work BEFORE the Holiday AND the first shift they were SCHEDULED to work AFTER the holiday? [FAQ](#)

YES they get paid for the holiday ► go to "How much do I pay an employee?"

NO they do NOT get paid for the holiday

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Remembrance Day, November 11

Remembrance Day is a separate holiday with its own set of rules.

IF the employee is ENTITLED to get their wages for 15 of the 30 days before November 11 AND they work ON Remembrance Day THEN give them 1 more day off, with pay, at the end of their vacation leave or another day that you and your employee agree on.

The Remembrance Day holiday does not apply to many workers.

Do you have a question or a problem at work?

You can call Labour Standards at 1-888-315-0110 (toll free).
Or you can walk in and talk to someone in person. You don't need an appointment.
Or you can check our web site at www.gov.ns.ca/lwd/employmentrights.

Other fact sheets: Introduction; FAQs and Words We Use; Making a Complaint; Deductions; Minimum Wage; Overtime; and Vacation Time and Vacation Pay.

October 2010

How much do I pay an employee?

Find out how much you pay them.

If this day was not a holiday, would the employee be working? No ▶

they get another day off with pay*

Yes ▶

Did they work on the holiday?

No ▶

they get the day off with pay*

Yes ▶

they get paid their regular full day's wage, PLUS 1½ times their regular rate of pay for the HOURS they work

IF the business is a continuous operation* THEN you have the option to pay an employee their regular wages for the holiday AND give them another day off with pay.



How much is a day off with pay?

IF the employee works the same hours every day
THEN that amount is what you pay them for their holiday pay.
IF they work different hours on different days
THEN you use an AVERAGE DAILY WAGE to calculate their holiday pay.

You calculate it

Add up all the wages the employee earned for each day they worked during the 30 days before the holiday.
Divide by the number of days they worked during those 30 days.
This is their AVERAGE DAILY WAGE.

$$\begin{array}{c} \$ _ _ _ . _ _ \\ \text{total wages over 30 days} \end{array} \div \begin{array}{c} _ _ _ \\ \text{number of days} \\ \text{they worked} \end{array} = \begin{array}{c} \$ _ _ _ . _ _ \\ \text{average daily wage} \end{array}$$



What is a Continuous Operation?

A business that normally runs 7 days a week.

Do you run a continuous operation?

IF an employee was SCHEDULED to work on a holiday
or CALLED IN to work but they did NOT report to work
THEN they lose the right to get paid for the holiday.



Employees NOT covered

These rules do NOT apply to these employees

- ⊘ certain farm workers [FAQ](#)
- ⊘ anyone who works on a fishing boat
- ⊘ anyone who is covered by one of these Minimum Wage Orders: Logging and Forest Operations, or Construction and Property Maintenance
- ⊘ an apprentice who works under the terms of the Apprenticeship and Trades Qualifications Act
- ⊘ anyone who is taking a training program that is sponsored and approved by the government, either federal or provincial, such as on-the-job training
- ⊘ anyone who works at a non-profit playground or summer camp
- ⊘ a salesperson when they sell vehicles or real estate
- ⊘ a salesperson when they work for commission AND work away from your office UNLESS they have an established route, such as a milk-delivery route
- ⊘ an insurance agent who is licenced under the Insurance Act
- ⊘ a caregiver when they take care of someone
 - in their immediate family
 - in a private home
 - working for you, the householder
- ⊘ anyone who does domestic work or gives personal care
 - in a private home
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 - for 24 HOURS OR LESS per week

What is minimum wage?

Minimum wage is the least amount of money you can pay for work. The General Minimum Wage Order sets the minimum wage rate. The rules are meant to give an employee a fair day's wage for a fair day's work.

How much is minimum wage?

This applies to part-time and full-time work.

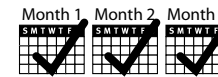
Nova Scotia has two minimum wage rates

1

employees with experience ▶ that means the employee has done the KIND of work you are paying them to do or worked for you for AT LEAST three calendar months

you pay \$9.65 per hour

at least

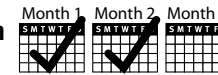


2

employees with no experience ▶ that means the employee has done the KIND of work you are paying them to do and has worked for you for LESS THAN three calendar months

you pay \$9.15 per hour

less than



Are there rules for making deductions?

Sometimes there are. ▶ See [Basic Facts Deductions](#)

Basic Facts Sheets

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If you have more questions please ASK.

Do you have a question or a problem at work?

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What else is covered by minimum wage rules besides an employee's basic wage?

There are rules for all of these situations:

When an employee works overtime ▶ See [Basic Facts Overtime](#)

When an employee works partial hours

How you pay an employee for working partial hours.

IF the employee works between 15 and 30 minutes at some time during their shift THEN you must round up their time, and pay them for a complete half hour.

IF the employee works between 31 and 59 minutes at some time during their shift THEN you must round up their time and pay them for a full hour.

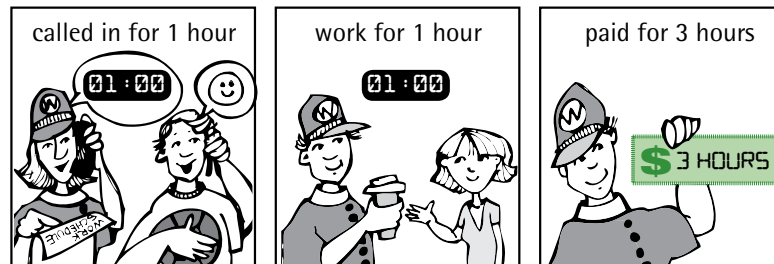
00:20	work time	00:50
00:30	paid time	01:00

This rule applies to employees who earn minimum wage or slightly more than minimum wage.

Not sure? ▶ Check with the Labour Standards Division.

When you call in an employee when they AREN'T SCHEDULED to work

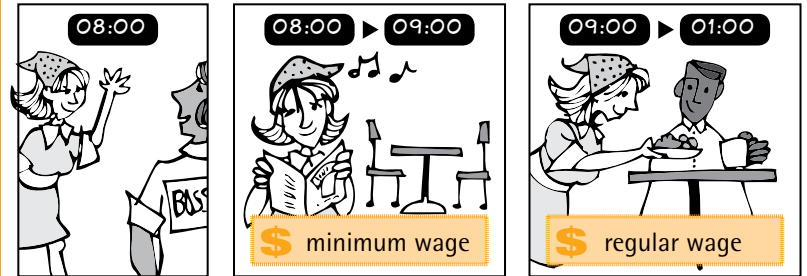
You must give them at least 3 HOURS pay at minimum wage even if they work less than 3 hours.



example 1: IF you pay an employee \$10.00 an hour and you call them in to work for 1 hour THEN you must pay them for at least 3 hours at minimum wage, \$28.95.
example 2: IF you call them in to work for 4 hours THEN you must pay them their regular wage.

When an employee waits at the workplace to start

IF you set the time for an employee to arrive at your workplace THEN you must pay them at least minimum wage for the time they are required to wait before they start work. You pay them their regular pay once they start work.



example: You ask an employee to be at the restaurant to start work at 8:00 am. They get there at 8:00 but they don't start working until 9:00 when the restaurant gets busy. You pay them **minimum wage** from 8:00 to 9:00 am. IF they work from 9:00 am until their shift is over at 1:00 pm THEN you pay them their **regular wage** from 9:00 am to 1:00 pm.

When an employee does piecework

IF you pay an employee by the pieces of work they produce rather than the hours they work THEN the amount you pay them must add up to at least minimum wage for the HOURS they worked.

\$5.00

example: An employee sews hats at your workplace and you pay \$5.00 per hat.

They sew 35 hats in 20 hours. It looks like you pay them \$5.00 per hat for 35 hats =

expect ▶ \$175.00

But the Code says you pay them by the hour. Minimum wage for 20 hours =

actual ▶ \$193.00

The rules for paying overtime are complicated. There are rules that apply to employees in most workplaces, there are special rules, and there are workplaces where no rules apply. If you have a question, get in touch with the Labour Standards Division.

These rules apply to employees in most work places.

FIRST 48 HOURS of work in a week ▶ you pay their regular wage

Every hour they are REQUIRED to work OVER 48 hours in one week ▶ you pay 1½ times their regular wage

What are the rules that apply to most employees?

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Employees NOT covered

These rules do NOT apply to these employees

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- ⊘ anyone who works on a fishing boat
- ⊘ anyone who works in the logging and forest industry
- ⊘ an apprentice who works under the terms of the Apprenticeship and Trades Qualifications Act
- ⊘ anyone who is taking a training program that is sponsored and approved by the government, either federal or provincial, such as on-the-job training
- ⊘ anyone who works at a non-profit playground or summer camp
- ⊘ a salesperson when they sell vehicles or real estate
- ⊘ a salesperson when they work for commission AND work away from your office UNLESS they have an established route, such as a milk-delivery route
- ⊘ an insurance agent who is licenced under the Insurance Act
- ⊘ a live-in health or personal care worker
- ⊘ a janitor or building superintendent when they WORK in the building where they LIVE
- ⊘ a caregiver when they take care of someone
 - in their immediate family
 - in a private home
 - working for you, the householder
- ⊘ anyone who does domestic work or gives personal care
 - in a private home
 - working for you, the householder
 - for 24 HOURS OR LESS per week

What are the special rules?

The special rules are based on the number of hours an employee works. They apply **ONLY** when you **REQUIRE** an employee to work overtime. [FAQ](#)

S M T W T F S
 □ □ □ □ □ □ □ □

after more than 48 hours ► 1½ minimum wage

You pay at least 1½ times **MINIMUM WAGE** for every hour you **REQUIRE** an employee to work over 48 hours in 1 week.

S M T W T F S S M T W T F S
 □ □ □ □ □ □ □ □ □ □ □ □ □ □

after more than 96 hours ► 1½ minimum wage

You pay 1½ times **MINIMUM WAGE** for every hour you **REQUIRE** an employee to work over 96 **HOURS** in 2 weeks.

S M T W T F S S M T W T F S
 □ □ □ □ □ □ □ □ □ □ □ □ □ □

after more than 110 hours ► 1½ regular wage

You pay 1½ times their **REGULAR WAGE** for every hour you **REQUIRE** an employee to work over 110 **HOURS** in 2 weeks.

The jobs that have these special rules

- ▶ employ people in the oil and gas industry when your business is manufacturing or refining but not when your business is retail
 - ▶ employ people as managers or supervisors
 - ▶ employ people to process raw fish or raw farm products or Christmas trees, but **NOT** meat [FAQ](#)
example: employees work in aquiculture, load and unload raw fish from fishing boats on a wharf, drive fish to a plant for processing, or work at a fish processing plant
example: employees make apples into apple juice, load and unload raw vegetables, or drive apples to a plant for processing
 - ▶ employ people as auto mechanics or auto body technicians **WHEN** they work for a flat rate of pay (per-job rate)
 - ▶ employ people in the *IT industry but **NOT** if they work as technical and operating support such as at a call centre
 - ▶ employ people to build ships or work in the shipbuilding industry but **NOT** if they sell boats
 - ▶ employ people as professionals in some fields
example: employees work as architects or chiropodists or as public or chartered accountants
-
- ▶ employ people in a workplace that is governed by the province where transport is the main part of the business, such as driving a short-haul delivery truck [FAQ](#)
-
- ▶ employ people to do construction work unless you are the municipal government
 - ▶ employ people to do any type of paving
 - ▶ employ people to install water and sewage systems
 - ▶ employ people to do landscaping
 - ▶ employ people to do any kind of snow removal
 - ▶ employ people in a saw mill
 - ▶ employ people as metal fabricators or in a machine shop

Basic Facts

for EMPLOYERS

Vacation Time & Vacation Pay

Nova Scotia Labour Standards Code



Employees NOT covered

These rules do NOT apply to these employees

- ⊗ anyone who works on a fishing boat
- ⊗ a salesperson when they sell vehicles, mobile homes, or real estate
- ⊗ a salesperson when they work for commission AND work away from your office UNLESS they have an established route, such as a milk-delivery route
- ⊗ a caregiver when they take care of someone
 - in their immediate family
 - in a private home
 - working for you, the householder
- ⊗ anyone who does domestic work or gives personal care
 - in a private home
 - working for you, the householder
 - for 24 HOURS OR LESS per week

Vacation is something an employee earns in a 12-month period. They start to earn both vacation pay and vacation time as soon as they start work. Vacation pay is part of their taxable income. **FAQ**

You MUST give your employee vacation pay. You pay them vacation pay AS WELL AS their wage. IF they work full time, THEN you MUST give them vacation time and they MUST take the time. In most workplaces, **the employee is responsible to use their vacation pay to pay for their vacation time.**

IF you employ part time employees ▶ Go to "What happens if the employee works part time?"

First 8 years of employment ▶ 4% of an employee's wages to pay for their unpaid vacation time
When they work full time their vacation is 2 weeks.

Once they have worked more than 8 years at 1 workplace ▶ 6% of an employee's wages to pay for their unpaid vacation time
When they work full time their vacation is 3 weeks.

An employee must TAKE THEIR VACATION time within the 10 months after they earn it.

- ▶ You CAN set an employee's vacation date **FAQ** but you MUST tell them the date at least 1 week before their vacation starts.
- ▶ They must take 1 week all at once.
- ▶ They may break up the rest of their vacation OR take it all at once. You and your employee must agree on how they take this time.

Note: Some employers let an employee take vacation time as they earn it. **FAQ**

How much do you pay for vacations? **FAQ**

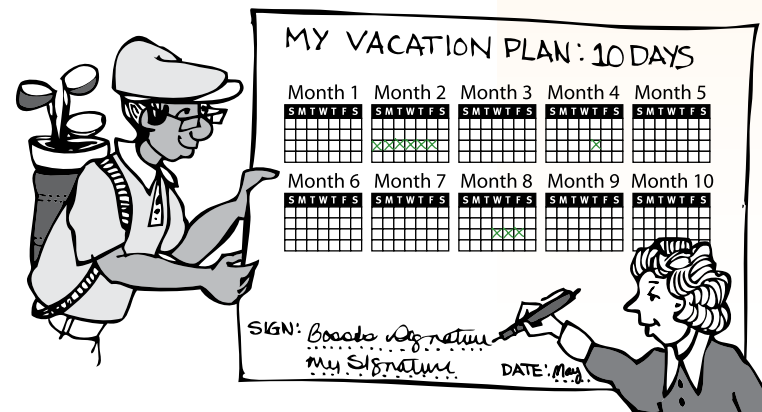
What are the rules around giving employees vacation time? **FAQ**

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What happens if the employee works part time? [FAQ](#)

Part time means less than 90 per cent of the regular working hours.

If you employ someone part time they can EITHER

- ▶ take vacation time

OR


- ▶ work and get vacation pay AS WELL AS their regular pay. They take NO vacation time.

They MUST tell you IN WRITING that they will NOT take vacation time.

How do you pay an employee's vacation pay?

Once-a-year option



Pay it as a lump sum after the 12-month period when they earned it.

 vacation pay

Every-pay options


Option 1

Add it as a separate amount to each pay cheque.

 regular pay +
 vacation pay


Option 2

Make vacation pay part of their wage. When you hire an employee, let them know IN WRITING that vacation pay is part of their wage.

 hourly wage includes vacation pay

Option 3

Average out their wage and vacation pay together over 12 months so that they get the same pay every pay cheque including during their vacation.

 average of pay and vacation

This is the ONLY option that gives an employee a cheque during their vacation time.

How do you show what's in an employee's vacation bank?

You must be able to show how you pay your employee's vacation pay.

Show it as a lump sum paid after the 12-month period when they earned it.

Show it as a separate amount on each pay cheque.

Show in the payroll records that vacation pay is added to their wage.

Show their wage and vacation pay averaged together over 12 months in the payroll records.

You must keep a record that shows when each employee took their vacation, how long they took, and what vacation pay you have paid them.

When the job ends

You pay the employee the vacation pay they have earned AND that they have NOT already been paid. You pay them that money within 10 business days of their last day of work.

There is a problem at my workplace.

How can I deal with it?

You can call Labour Standards for information and assistance.

What actions can an employee take?

An employee can file a complaint with the Labour Standards Division. If the situation is something that is dealt with by the Labour Standards Code then an officer will contact you.

example:

- ▶ an employee lost their job and believes you did not give them proper notice

Do I have special responsibilities if an employee files a complaint or acts as a witness?

It is against the law for you to fire an employee, lay them off, or discriminate against them in any way because they take any of these actions

- ▶ file a complaint with the Labour Standards Division
- ▶ testify in a Labour Standards Tribunal hearing
 - this is also true if you believe they will testify
- ▶ give any information that they are asked to give to an officer from the Labour Standards Division
 - this is also true if you believe they will give information to an officer

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If you have more questions please ASK.

Can I file a complaint?

Employers can file complaints when employees quit without giving proper notice. You must prove that you suffered a loss because the employee quit suddenly.

To file a complaint, you get in touch with the Labour Standards office. You can call, send an email, or go to the office. You do NOT need an appointment to see an officer at the Labour Standards office. An officer will tell you if the situation is one that the Labour Standards Division has the authority to deal with.

If it is ▶ they will give you a complaint form to fill out.

If it is not ▶ they will try to help you identify where you can go for help.

Your complaint is filed when you return your form. You can ask an officer for help if you have questions about filling out the form.

You must file a complaint within SIX MONTHS of when you had the problem.

What are the options for dealing with a problem?

You or your employee has filed a complaint. An officer in the Labour Standards office then gathers information from you and your employee

- ▶ to help you understand the situation
- ▶ to help to see if it qualifies as a violation under the Labour Standards Code

If it does qualify, the officer will follow several steps to help you resolve the problem.

Can you and your employee agree to settle the dispute?

The officer first tries to resolve the situation without doing a full investigation. To do this they explain the legislation to you and your employee, share the evidence they have gathered with both of you, and check to see if you are willing to resolve the dispute.

examples:

Your employee claims that you owe them money.

- ▶ You see the evidence that the officer has gathered and agree to pay all or some of that amount.
Your employee accepts the amount that you offer.
- ▶ You claim that your employee quit without giving proper notice, and this caused a loss to the business.
Your employee agrees to allow you to withhold all or part of their final pay cheque to cover the loss.
You accept the amount that the employee agrees to.
- ▶ Your employee decides that there is not enough evidence to support their complaint once they see the evidence the officer has gathered, and they withdraw it.

Will you and your employee accept the officer's decision?

If it is not possible to resolve the complaint, the officer will finish investigating and will use this evidence to make a decision. They will gather evidence by checking things like payroll documents, employment contracts, and statements from witnesses.

The officer tells you and your employee what their decision is. You each have the option to agree with the decision and do what the officer says or appeal the decision.

Most of the time, both parties agree with the officer's decision.

If you are ordered to pay money to your employee and do not pay the amount you were ordered to pay and do not appeal the decision, THEN the officer proceeds to enforce the decision and collect the money. For example, the officer may register a judgment against you or the business. **FAQ**

Is there a process for appealing the officer's decision?

You or your employee may appeal the officer's decision to the Labour Standards Tribunal. The Tribunal will review the appeal and decide if it qualifies for a hearing.

If it qualifies, the Tribunal will

- ▶ hear all of the evidence from you and your employee **FAQ**
- ▶ review the officer's decision
- ▶ make one of these decisions: to overturn the officer's decision, to uphold the officer's decision, or to overturn part of the officer's decision and uphold part of it

To find out more about the Labour Standards Tribunal you can go to their web page

- ▶ www.gov.ns.ca/lwd/Lst/ , call 902-424-6730, or send a letter to P.O. Box 697, Halifax, NS, B3J 2T8

1



Employee complains to Labour Standards

Does Labour Standards have authority to deal with this situation?

YES ► GO TO 2

NO ► THE END or officer may refer you to somewhere else for help.

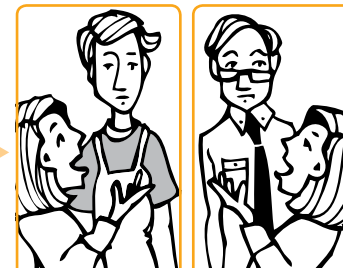
2



Employee fills out complaint form and files



Officer begins to investigate



Officer explores resolution



Resolution ► THE END



No resolution ► GO TO 3

3



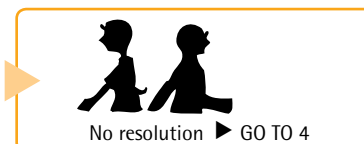
Officer does full investigation



Officer gives decision



Resolution ► THE END



No resolution ► GO TO 4

4



Labour Standards Tribunal hears and makes decision

Decision

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FAQs for Deductions

Can an employee opt out of the health plan at their workplace?

The Labour Standards Code does NOT have any rules or guidelines for dealing with employees who want to opt out of a health plan.

When a workplace issues uniforms to employees, who pays for dry cleaning and replacing the uniforms?

It is usually the employee who dry cleans their uniform. However, an employer may deduct the cost of dry cleaning from an employee's final pay cheque EVEN IF it takes the employee's wage below minimum wage if these two things are true

- ▶ the uniform is made of a heavy material such as wool AND
- ▶ the uniform NEEDS cleaning when the employee leaves the job

An employer may also deduct the cost to replace a uniform from an employee's pay if these three things are true

- ▶ the employee does not return the uniform
- ▶ the deduction does NOT take the employee's wage below minimum wage
- ▶ the employer and employee have an agreement that says the employer can make the deduction

What does the Code mean when it says an employer must have a "clear agreement" for making a deduction from an employee's pay cheque?

An employer can show that there is a clear agreement in two ways

- ▶ an employee's actions over time show that they accept the deduction. For example, this type of deduction has come off the employee's pay cheque several times and the employee has not objected
- ▶ the agreement is IN WRITING and includes the employee's signature or initials. The agreement usually also includes the date it was signed

Can an employer decide how an employee will pay back a personal loan?

The employer can deduct an amount, such as \$25, from each pay cheque. The regulations do not set a maximum amount for these deductions. However, the employer and employee must have an agreement that says the employer can make the deduction and the amount can NOT take the employee's wage below minimum wage.

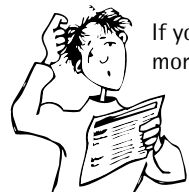
Can an employer take deductions from an employee's pay cheque to pay for the loss to the business when a customer leaves the business without paying?

There are four things that must be in place before an employer can take deductions from an employee's pay cheque to pay for these types of losses

- ▶ It must be clear that the employee understands the KINDS of deductions that the employer can make and the AMOUNTS
- ▶ The employer must ask the employee to agree to this type of deduction BEFORE the loss. IF an employer asks an employee to pay for this type of loss after the loss has already happened THEN the employee can go to the Labour Standards Division and file a complaint.
- ▶ An employer must be able to show that a loss is the employee's fault.
- ▶ The deduction must NOT take the employee's wage below minimum wage.

Basic Facts Sheets

The Labour Standards Code sets the rules for employers and employees in Nova Scotia to follow in workplaces where there are no unions. Some rules apply where there are unions. These fact sheets give you the basics.



If you have more questions please ASK.

FAQs for Making a Complaint

What does “register a judgement” mean?

The judgement made by the Tribunal is registered in a property registry. This judgement acts as a charge against the employer or a lien on their property. This ties up the property, making it difficult for the person to sell it or get a mortgage on it, and it follows the owner when they buy another property.

Do you need a lawyer to give your evidence and represent you at a Tribunal hearing?

You can hire a lawyer to represent you at a Tribunal hearing or you may represent yourself. You may bring someone who knows the law to help you as you argue your case if you represent yourself.

Hearings take place during working hours, and may be held in Halifax or Sydney. The other party will also be at the hearing to argue their side. They may also represent themselves or hire a lawyer.

FAQs for Holiday Pay

Which farm workers qualify for holiday pay?

The rules are complicated. Contact the Labour Standards Division if you have questions.

Does an employee get holiday pay if the employer tells them to take another day off along with the holiday?

Sometimes an employer will tell an employee to NOT come to work on the day just before or just after a holiday. The employee is still entitled to holiday pay, as long as they worked on the last day that the employer told them to work and AS LONG AS they also meet the other qualifications for getting paid for that holiday.

FAQs for Minimum Wage

Which farm workers qualify for minimum wage?

The rules are complicated. Contact the Labour Standards Division if you have questions.

FAQs for Overtime

Which farm workers do not qualify for overtime pay?

The rules are complicated. Contact the Labour Standards Division if you have questions.

What does the Code mean by “required to work”?

The rules for paying an employee for overtime apply only when the employer schedules or asks an employee to work overtime.

IF it is the employee who asks to work extra hours AND the employee knows that they will get paid their regular wage THEN they are paid their regular wage for the hours they work.

Example of an employee who is NOT REQUIRED to work

An employee at a toy store wants a few extra hours to help pay for a bike for his son's birthday. His supervisor agrees that there is enough work to keep him busy but the store can only pay him his regular wage for the extra hours. The employee agrees and gets paid his regular wage for the extra hours.

Example of employees who are REQUIRED to work

A large order comes in at the warehouse. The manager schedules two employees to stay and work with her an extra four hours to fill the order.

The employees end up working 52 hours that week. They get paid 1½ times their REGULAR wage for the extra four hours because they were asked to work. Being asked to work is part of what the Code means by being required to work.

How much do managers and supervisors get paid for overtime?

In the previous example, the manager ends up working 52 hours that week. She gets paid 1½ times minimum wage for the extra four hours OR her regular wage, whichever is higher, because she is a manager.

Why are the rules different for people who process meat from the rules for people who process fish and other farm products?

These rules are complicated. Contact the Labour Standards Division if you have questions.

What trucking businesses are governed by the province and what ones are not—and what is the difference?

Employees who do long-haul trucking are governed by the federal government and NOT by the provincial Labour Standards Code. Long-haul trucking usually means that an employee drives a truck out of the province AND is delivering goods for another company.

An employee who delivers goods for their own company is governed by the provincial Labour Standards Code.

FAQs for Vacation Time and Vacation Pay

Do employees always start to earn their wage and their vacation pay as soon as they start work?

An employee may begin work with an unpaid training period. The employer does not have to begin to pay the employee vacation pay during that time. The training period **MUST INCLUDE** such things as watching a supervisor carry out a task in order to learn how to do it, for example. If an employee is doing work during the training period, they should be paid.

Do these rules apply to employees who work part time and employees who work full time?

Yes, the rules apply to both.

Are there rules for an employer to follow when they set an employee's vacation dates?

The employer must allow the employee to take 1 week of vacation time all at once. The employer and employee must agree on how the employee takes the rest of their vacation time.

An employer can also change a vacation date after it's set.

example:

A box factory has an unexpected, large order coming. The employer may delay the employee's vacation in order to get the work done.

Can an employer give an employee a longer vacation than the Code gives the employee?

An employer may agree to give an employee a longer vacation than the time that is set in the Code, with pay. If this agreement is written into the employee's job contract, the Labour Standards Division can enforce the length of the vacation in the contract.

What happens if an employee leaves a workplace when they have taken more vacation time than they have earned?

An employee who takes vacation as they earn it may leave a workplace without earning all of the vacation time they have taken. There is nothing in the regulations to help an employer deal with this situation.

Sometimes an employee may not wait until the end of the 12-month period to use their vacation time and vacation pay. The employer could end up giving the employee too much vacation pay. An employer may take the amount of the overpayment from the employee's final pay cheque.

How does vacation time work for an employee who works part time?

The rules are complicated.

example:

An employee who works only two days a week can end up with two weeks off work by taking only four days vacation.

Words We Use

CPP – Canada Pension Plan

EI – Employment Insurance

independent contractors, self employed – people who work for themselves rather than an employer. Labour standards rules do not apply to independent contractors. Figuring out whether you are really an independent contractor can be complicated. Contact the Labour Standards Division if you have questions.

householder – the person who lives in the house and runs the household

IT – information technology – developing, installing, and working with computers and computer software and organizing communications through electronic systems

gross wages – the total amount of wages. If a job is listed in an ad for \$25,000 a year, the gross wages are \$25,000 a year

garnishee – the court orders an employer to take a set amount out of an employee's pay each pay cheque to pay a debt that has been ruled on by the court, for such things as child support, an EI overpayment, or unpaid income tax

General Minimum Wage Order – deals with issues about the general minimum wage. There are other minimum wage orders as well, such as the Construction and Property Maintenance Minimum Wage Order

piecework – work where an employee is paid for each piece they produce rather than by the hour

take-home pay – the amount listed as pay on an employee's pay cheque, usually the amount the cheque is written for

wage rate – the amount an employee is paid for the hours they work