

Alberta's Employment Standards Code amended

On July 29, 2020, [Bill 32: Restoring Balance in Alberta's Workplaces Act](#) received Royal Assent, *inter alia* amending Alberta's [Employment Standards Code](#) (ESC). The effective dates of the various amendments are staggered, with certain amendments to the ESC coming into effect as early as August 15, 2020; and other amendments coming into effect on November 1, 2020.

The act introduces numerous amendments to the ESC. Key amendments to the ESC are discussed below.

Affected employers and employees

Unless otherwise specified, the amendments introduced by Bill 32: Restoring Balance in Alberta's Workplaces Act pertain to all employers and their employees.

Terminations and Lay-offs

Effective August 15, 2020 the amendments increase the period of time before employees on layoff are deemed to have been terminated to 90 days within a 120-day period (from previously 60 days), while maintaining the exception for COVID-19 related layoffs, which may last for up to 180 consecutive days before they are deemed to have been terminated.

Group termination notice

Effective August 15, 2020 employers who intend to terminate the employment of 50 or more employees at a single location must give the Minister of Labour and Immigration written notice at least four weeks before the date on which the first termination is to take effect or as soon as is reasonable, if the four-week requirement is not possible.

This requirement does not apply to seasonal employees or to those employed for a definite term or task.

Furthermore, the amendments abolish the requirement to provide notice to affected employees and/or to their bargaining agent.

Annual leave entitlement and pay

The amendments clarify that an employee's annual leave (general holiday) time continues to accrue while an employee is on a job-protected leave.

The amendments also clarify the calculation of the average wage that applies during annual leave days. Specifically, daily wages will be calculated by averaging the employee's wages either over the four week period before the annual leave (general

holiday), or the four week pay period immediately preceding the general holiday, at the employer's discretion.

Pay and deductions upon termination

Effective November 1, 2020 upon termination, an employee's earnings must be paid either within 10 consecutive days after the end of the pay period during which the termination occurs, or within 31 consecutive days after the last day of employment, as decided by the employer.

Employers may, for up to six months following a payroll over-payment error and upon providing notice to the employee, deduct any overpayment of earnings and vacation pay advances – that is, without a written authorization from the employee as was previously required. However, an employer must give an employee written notice of a deduction from earnings before making the deduction.

Hours of work averaging arrangements

Effective November 1, 2020 the concept of "averaging agreements is amended" and will be referred to as "averaging arrangements."

Specifically the amendments abolish the requirement for employees' agreement with an averaging arrangement and allow an employer to require or permit employees or groups of employees to agree on an averaging arrangement, provided the affected employees are not bound by a collective agreement. In the absence of a collective agreement, the averaging arrangements must be in writing.

Furthermore, the employer must give at least two weeks' written notice of a requirement to work an averaging arrangement to each employee to whom the requirement applies unless the employer and the employee agree otherwise, or if the employer gave written notice of the requirement to work the averaging arrangement to the employee before the employee's employment began. Additionally, under an averaging arrangement, employers must provide a schedule of daily and weekly work hours, subject to amendment by the employer.

The amendments also increase the effective period of averaging arrangements – the number of weeks over which an employer can average employees' hours, to determine overtime pay or time off with pay, from previously one to 12 weeks to one to 52 weeks.

Furthermore, the current two-year term limit of averaging arrangements is abolished.

Shifts and rest periods

Effective November 1, 2020 the amendments replace the requirement of a 30-minute rest period after every five consecutive hours worked with a 30-minute rest period for a shift lasting anywhere between five to 10 hours and a second 30-minute rest period (which may be paid or unpaid) for shifts exceeding 10 hours. The timing of the second rest period is at the discretion of the employer.

The amendments further provide the option of dividing each 30 minute rest periods into two 15-minuted rest periods when this is agreed to by the employer and the employee.

As discussed in the section below, an employer may modify employee shifts without a written prior notice of 24 hours if a different notice period or hours of rest are provided for under a collective agreement.

Collective agreements

Effective November 1, 2020 the amendments allow for collective agreements to include provisions regulating maximum daily hours of work, notice of work times, rest periods, number of days of rest required per consecutive weeks worked, and temporary layoffs.

Additionally, subject to regulations, the amendments also allow averaging arrangements to be provided for by collective agreement between an employer and a bargaining agent.



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