

Canada Labour Code

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What is the Canada Labour Code?

Canada Labour Code defines the rights and responsibilities of workers and employers in federally regulated workplaces and sets out federal laws

The Labour Program at Employment and Social Development Canada is responsible for protecting the rights and well-being of both workers and employers in those workplaces

The Code is divided into 4 parts

Canada Labour Code

Part I: Industrial Relations

Part I of the Code governs workplace relations and collective bargaining between unions and employers

This part contains provisions related to dispute resolution, strikes and lockouts

It outlines the labour relations rights and responsibilities of employers, trade unions and employers

What industries fall under Canada Labour Code: Part I?

- ▶ Air transportation (including airlines, airports, aerodromes and aircraft operations)
- ▶ Banks
- ▶ Grain elevators, feed and seed mills, feed warehouses and grain-seed cleaning plants
- ▶ First Nations Band Councils (including certain community services on reserve)
- ▶ Most federal Crown corporations (i.e. Canada Post)
- ▶ Port services, marine shipping, ferries, tunnels, canals, bridges and pipeline that cross international or provincial borders
- ▶ Radio and television broadcasting

What industries fall under Canada Labour Code: Part I?

- ▶ Railways that cross provincial or international borders and some short-line railways
- ▶ Road transportation services, including trucks and buses that cross provincial or international borders
- ▶ Telecommunication
- ▶ Uranium mining and processing and atomic energy
- ▶ Any business that is vital, essential or integral to the operation of one of the above activities
- ▶ Private sector firms and municipalities in Yukon, Northwest Territories and Nunavut

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Part II: Occupational Health and Safety

Part II of the Code establishes provisions to prevent workplace-related accidents and injuries, including occupational diseases

Under Part II, the employer has a general obligation to protect the health and safety of employees while at work, as well as non-employees (such as contractors or members of the public) who are granted access to the workplace

It also places obligations on employees and the health and safety committee or its representatives to help occupational-related injuries and diseases

What industries fall under Canada Labour Code: Part II?

- ▶ Air transportation (including airlines, airports, aerodromes and aircraft operations)
- ▶ Banks
- ▶ Grain elevators, feed and seed mills, feed warehouses and grain-seed cleaning plants
- ▶ First Nations Band Councils (including certain community services on reserve)
- ▶ Most federal Crown corporations (i.e. Canada Post)
- ▶ Port services, marine shipping, ferries, tunnels, canals, bridges and pipeline that cross international or provincial borders
- ▶ Radio and television broadcasting

What industries fall under Canada Labour Code: Part II?

- ▶ Railways that cross provincial or international borders and some short-line railways
- ▶ Road transportation services, including trucks and buses that cross provincial or international borders
- ▶ Telecommunication
- ▶ Uranium mining and processing and atomic energy
- ▶ Any business that is vital, essential or integral to the operation of one of the above activities
- ▶ Federal public service
- ▶ Parliament (i.e. the Senate, the House of Commons and the Library of Parliament)

What are the employees' rights under Part II?

The Canada Labour Code provides an employee with three rights:

- ▶ The right to know
- ▶ The rights to participate
- ▶ The right to refuse dangerous work

Employees' rights under Part II – The right to know

Employees have the right to be informed of known or foreseeable hazards in the work place and to be provided with the information, instruction, training and supervision necessary to protect their health and safety

This is strengthened by ensuring that the methods of communication are appropriate for all employees, including employees with special needs

Through their health and safety committees or representative, employees are given the right to have access to government or employer reports relating to the health and safety of employees, but not to have access to medical records of any person except with that person's consent

Employees' rights under Part II – The right to participate

As health and safety representatives or committee members, employees have the right and the responsibility to participate in identifying and correcting job-related health and safety concerns

Employers who employ 300 or more employees are required to establish a policy health and safety committee. The purpose of the committee is to handle issues that are organization-wide in nature. Because these types of issues go beyond a single workplace, there is a need for a more strategic or global approach for their resolutions

Part II provides the employee participation through the use of an internal complaint resolution process

Employees' rights under Part II – The right to refuse dangerous work

An employee, at work, has the right to refuse dangerous work if they have reasonable cause to believe that:

- ▶ A condition exists at work that presents a danger to themselves;
- ▶ The use or operation of a machine or thing presents a danger to the employee or a co-worker; and
- ▶ The performance of an activity constitutes a danger to the employee or to another employee

In order for an employee to be protected by the Code when exercising the right to refuse, the employee must follow the proper procedure

Canada Labour Code

Part III: Standard hours, vacations and holidays etc.

Part III of the Code establishes and protects workers' rights to fair and equitable conditions of employment

The provisions of the Code set labour standards for employment conditions by establishing minimum working conditions in the federally regulated private sector, such as hours of work, minimum wages, statutory holidays and annual vacation as well as various types of leave

They also create a level playing field for employers by requiring them to meet these minimum entitlements

What industries fall under Canada Labour Code: Part III?

- ▶ Air transportation (including airlines, airports, aerodromes and aircraft operations)
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- ▶ Grain elevators, feed and seed mills, feed warehouses and grain-seed cleaning plants
- ▶ First Nations Band Councils (including certain community services on reserve)
- ▶ Most federal Crown corporations (i.e. Canada Post)
- ▶ Port services, marine shipping, ferries, tunnels, canals, bridges and pipeline that cross international or provincial borders
- ▶ Radio and television broadcasting

What industries fall under Canada Labour Code: Part III?

- ▶ Railways that cross provincial or international borders and some short-line railways
- ▶ Road transportation services, including trucks and buses that cross provincial or international borders
- ▶ Telecommunication
- ▶ Uranium mining and processing and atomic energy
- ▶ Any business that is vital, essential or integral to the operation of one of the above activities

Employees' rights under Part III – Wages, pay and deductions

Minimum wage

- ▶ The federal hourly minimum wage is the same as the general adult hourly minimum wage set by each province or territory

Yukon \$13.71	NWT \$13.46	Nunavut \$16.00	BC \$14.60
Alberta \$15.00	Sask. \$11.56	Man. \$11.90	Ontario \$14.25
Quebec \$13.10	NF&L. \$12.15	NB \$11.70	NS \$12.55
PEI \$12.85	(as of October 1, 2020)		

- ▶ Every time a provincial or territorial government raises its minimum wage, the federal rate for that region automatically increase

Employees' rights under Part III – Hours of work

Standard hours of work

- ▶ The standard hours of work for an employee in a federally regulated industry are:
 - ▶ 8 hours in a day (any period of 24 consecutive hours)
 - ▶ 40 hours in a work (the period between midnight on Saturday and midnight on the Saturday that immediately follows)
- ▶ Federally regulated employees are all entitled to 1 full day of rest each week, which usually falls on Sunday
- ▶ During the week when 1 or more holidays occur, the standard hours of work is reduced by 8 hours for each holiday
- ▶ Regulations allow for different standard hours of work for certain industries and types of work, such as drivers in the trucking industry, employees on ships in the East Coast and Great lakes shipping industry and the West Coast shipping industry, running trades employees in the railway industry, the commission salespersons in the broadcasting industry and the commission-paid salespeople in the banking industry

Employees' rights under Part III – Hours of work

Overtime hours of work

- ▶ Any hours worked in excess of the standard hours of work are considered overtime hours
- ▶ Overtime pay at a rate of a minimum of 1.5 times the regular hourly wage for those hours would apply, with the following exceptions
 - ▶ Managers and professionals, such as doctors, lawyers, dentists, architects and engineers, are exempt from overtime

Employees' rights under Part III – Hours of work

Maximum hours of work

- ▶ In most cases, the maximum number of hours worked in a week is 48
- ▶ There can be exceeded in exceptional circumstances including permits, for emergency work, under an averaging plan or modified work schedule

Employees' rights under Part III – Hours of work

Trucking

- ▶ Hours of work for drivers including bus operators, city motor vehicle operators and highway motor vehicle operators involved in interprovincial and international transportation of goods or passengers and in the transport of mail on contract with Canada Post

Employees' rights under Part III – Hours of work

Trucking

Hours of work for operators classified in 4 different categories.

Class	Industry	Standard Hours After Which Overtime is Payable		Standard Hours in a Week in Which a Holiday Occurs	Averaging Permitted	Maximum Hours
		Daily	Weekly			
1. Highway Motor Vehicle Operators	Transport of Goods and Mail	-	60	50	No	As per Commercial Vehicle Drivers Hours of Service Regulations
2. City Motor Vehicle Operators	Transport of Goods and Mail	9	45	36	No	As per Commercial Vehicle Drivers Hours of Service Regulations
3. Bus Operators	Transport of Passengers	8	40	32	Yes	As per Commercial Vehicle Drivers Hours of Service Regulations
4. Non-driving Personnel (including maintenance personnel, warehousemen, office staff)	All sectors	8	40	32	Yes	48 - Averaging permitted where applicable

Employees' rights under Part III – Vacation

During the first year of employment, you are not entitled to any vacation time

In Year	Weeks of Vacation	Rate of Pay
2	2 work weeks	4% of regular earnings
3	2 work weeks	4% of regular earnings
4	2 work weeks	4% of regular earnings
5	2 work weeks	4% of regular earnings
6 to forever	3 work weeks/year	6% of regular earnings

Employees' rights under Part III – Vacation

Vacation must begin no later than 10 months after completion of the “year of completion”

Vacation Pay Calculator: http://wages.esdc.gc.ca/OLSCT-OCNT/vacation_pay.aspx?GoCTemplateCulture=en-CA

Any vacation pay owed to an employee by the employer must be paid at the time the employee takes their vacation. If the employment ends and the employee is owed vacation pay, the employer must pay it within 30 days after the employee's last day

Employees' rights under Part III – General Holidays

Federally regulated employees are entitled to 9 paid general holidays each year

- ▶ New Year's Day (January 1)
- ▶ Good Friday (varies from year to year but always on a Friday)
- ▶ Victoria Day (The Monday before May 24)
- ▶ Canada Day (July 1)
- ▶ Labour Day (First Monday in September)
- ▶ Thanksgiving Day (Second Monday in October)
- ▶ Remembrance Day (November 11)
- ▶ Christmas Day (December 25)
- ▶ Boxing Day (December 26)

Employees' rights under Part III – General Holidays

General Holiday Pay calculator: [http://wages.esdc.gc.ca/OLSCT-
OCLNT/gen_holiday.aspx?GoCTemplateCulture=en-CA](http://wages.esdc.gc.ca/OLSCT-
OCLNT/gen_holiday.aspx?GoCTemplateCulture=en-CA)

Employees' rights under Part III – Termination of Employment

Notice required

- ▶ Federally regulated employees do not have to give their employer notice if they choose to quit
 - ▶ If the employment contract states notice is required the employee may be required to provide notice to the employer
- ▶ If an employer is terminating the employment and the employee has worked for more than 3 consecutive months, is not being dismissed for just cause and has not finished a set term contract, they must either:
 - ▶ Provide the employee with at least 2 weeks' written notice, or
 - ▶ In lieu of such notice, pay the employee 2 week's regular wages

Employees' rights under Part III – Termination of Employment

Severance pay

- ▶ Employees have the right to collect severance pay if they have completed at least 12 consecutive months of continuous employment
- ▶ They are entitled to 2 days of regular wages for each full year that they worked for the employer before their employment ended
 - ▶ The minimum benefit is 5 days' wages

Employees' rights under Part III – Complaint Process

There are 4 types of complaints that can be filed:

- ▶ Monetary complaints
- ▶ Non-monetary complaints
- ▶ Unjust dismissal complaints
- ▶ Genetic testing complaints

Employees' rights under Part III – Complaint Process

Monetary complaints

- ▶ Need to be filed within 6 months of your last day of work
- ▶ Unpaid wages
 - ▶ Wages for hours worked including overtime
 - ▶ Vacation pay
 - ▶ General holiday pay
- ▶ Other amounts owed
 - ▶ Severance pay
 - ▶ Pay in lieu of notice or termination of employment

Employees' rights under Part III – Complaint Process

Non-monetary complaints

- ▶ Must be filed within 6 months from the day you became aware of the issue
- ▶ Examples of non-monetary complaints are:
 - ▶ Not receiving a response from your employer following a request for a flexible work agreement
 - ▶ Not being granted authorized breaks

Employees' rights under Part III – Complaint Process

Unjust dismissal complaints

- ▶ Must file an unjust dismissal complaint within 90 days from the date of dismissal
- ▶ To be eligible you must:
 - ▶ Have at least 12 consecutive months of employment
 - ▶ Not be covered by a collective agreement and not be a manager

Employees' rights under Part III – Complaint Process

Genetic testing complaints

- ▶ If your complaint is related to the following disciplinary actions, you must file your complaint no later than 90 days after the date on which you knew of the action or circumstances giving rise to the complaint:
 - ▶ On the basis of a genetic test result
 - ▶ Because you refused to take a genetic test, or
 - ▶ Because you refused to disclose the results of a genetic test
- ▶ If your complaint is related to your employer collecting or using the genetic test results without your written consent, you must file it within 6 months from the date on which the subject-matter of the complaint arose
- ▶ If your complaint is related to third-party disclosure of genetic results, you must file it with:
 - ▶ The provincial or territorial Privacy Commissioner, or
 - ▶ The Privacy Commissioner of Canada

Employees' rights under Part III – Leaves

Paid Leaves

- ▶ Maternity-related reassignment and leaves
 - ▶ Paid leave while your employer is examining the request
- ▶ Personal leaves
 - ▶ The first 3 days of personal leave are paid if you have 3 consecutive months of employment
- ▶ Leaves for victims of family violence
 - ▶ The first 5 days of leave are paid if you have 3 consecutive months of continuous employment
- ▶ Bereavement leave
 - ▶ The first 3 days of leave are paid if you have 3 consecutive months of employment

Employees' rights under Part III – Leaves

Unpaid Leaves

- ▶ Maternity Leave
 - ▶ Pregnant employees may take up to 17 weeks of maternity leave
 - ▶ Can be extended if the baby isn't born within the 17 weeks
 - ▶ Leave can begin 13 weeks before the due date
 - ▶ Leave ends 17 weeks after the date of birth
 - ▶ 4 weeks notice prior to leave and must advise of length of leave
- ▶ Parental Leave
 - ▶ 63 weeks for your birth child or adopted child
 - ▶ If both parents work for federally regulated employer the leave can be shared and extended by 8 weeks to a total of 71 weeks
 - ▶ Leave ends 78 weeks after date of birth or placement of child into your home
 - ▶ 4 weeks notice prior to leave and must advise of length of leave

If combining maternity and parental leave employee may take a maximum of 78 weeks of leave

Employees' rights under Part III – Leaves

Unpaid Leaves

- ▶ Compassionate Care Leave
 - ▶ 28 weeks to look after a family member who has a serious medical condition with a significant risk of death
 - ▶ 4 weeks notice to employer is required, unless this is not possible
- ▶ Critical Illness Leave
 - ▶ Leave to look after a family member who has a critical illness or injury and require care and support
 - ▶ Child under the age of 18 years – 37 weeks
 - ▶ Adult – 17 weeks
 - ▶ 4 weeks notice to employer is required, unless this is not possible

Employees' rights under Part III – Leaves

Unpaid Leaves

- ▶ Medical Leave
 - ▶ 17 weeks
 - ▶ Illness or injury
 - ▶ Organ or tissue donation, or
 - ▶ Attending medical appointments
 - ▶ 16 weeks
 - ▶ Because you have to quarantine

On a temporary basis (ending September 25, 2021), you are not required to provide a medical certificate to take this leave

Employees' rights under Part III – Leaves

Unpaid Leaves

- ▶ Leave related to COVID-19
 - ▶ Up to 2 weeks
 - ▶ As many times as necessary
 - ▶ Contracted or may have contracted COVID-19
 - ▶ Underlying health conditions that would make you more susceptible to COVID-19
 - ▶ Have to isolate for reasons related to COVID-19
 - ▶ Up to 26 weeks
 - ▶ Must care for a child under the age of 12 due to facility, daycare, school, program closure or who can not attend program due to COVID-19
 - ▶ Must care for a family member due to facility, school, program closure or who can not attend program due to COVID-19

Employees' rights under Part III – Leaves

Unpaid Leaves

- ▶ Personal Leaves
 - ▶ 5 personal leave days per year
 - ▶ *if you have worked for an employer for more than 3 consecutive months, the first 3 days of leave are **with** pay
- ▶ Leave for Traditional Aboriginal Practices
 - ▶ *Aboriginal means Indigenous, Metis or Inuit
 - ▶ If employed for at least 3 consecutive months, may take 5 days per year to take part in Aboriginal practices including:
 - ▶ Fishing
 - ▶ Hunting
 - ▶ Harvesting
 - ▶ All practices prescribed by regulation

Employees' rights under Part III – Leaves

Unpaid Leaves

- ▶ Court/Jury Leave
 - ▶ You are entitled to leave for the time necessary to participate in judicial proceedings as a:
 - ▶ Witness
 - ▶ Juror
 - ▶ Candidate in a jury selection process
 - ▶ Must provide written notice to your employer
- ▶ Bereavement Leave
 - ▶ 5 days leave for the death of an immediate family member
 - ▶ Can be taken at once or over a period beginning on the day of the death and ending 6 weeks after the date of the:
 - ▶ Funeral
 - ▶ Burial
 - ▶ Memorial service

Employees' rights under Part III – Leaves

Unpaid Leaves

- ▶ Reserve Forces Leave
 - ▶ If employed for 3 consecutive months, you are entitled to a leave of absence to participate in:
 - ▶ An operation in Canada or abroad that is designated by the Minister of National Defense
 - ▶ An activity set out in the regulations
 - ▶ Canadian Armed Forces military skills training
 - ▶ Training that you are ordered to take under the National Defense Act
 - ▶ Duties that you are called out on service to perform (any lawful duty other than training) under the National Defense Act
 - ▶ Service in Aid of a civil power for which you are called out under the National Defense Act
 - ▶ Treatment, recovery or rehabilitation in respect of a physical or mental health problem that results from service in an operation or activity listed in the Code
 - ▶ Entitled to 24 months of leave in a 60-month period, except in the event of a national emergency, within the meaning of the Emergencies Act
 - ▶ 4 weeks notice to employer is required, unless this is not possible

Employees' rights under Part III – Leaves

Unpaid Leaves

- ▶ Disappearance of Child Leave
 - ▶ Disappearance is a result of a probable crime
 - ▶ 52 weeks of leave
- ▶ Death of Child Leave
 - ▶ Death is a result of a probable crime
 - ▶ 104 weeks of leave

Canada Labour Code

Part IV: Administrative Penalties

Part IV of the Code allows for :

- ▶ The new administrative Monetary Penalties system, and
- ▶ The public naming of employers who have committed a violation under:
 - ▶ Part II of the Code
 - ▶ Part III of the Code, or
 - ▶ The related regulations

What industries fall under Canada Labour Code: Part IV?

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- ▶ Federal public service
- ▶ Parliament (i.e. the Senate, the House of Commons and the Library of Parliament)

What should I do if I need help with Canada Labour Code?

If you need assistance with Canada Labour Code
please contact

Workers' Resource Centre
at 403-264-8100

to make an appointment with one
of the WRC caseworkers