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July 2016

Silviculture Workers

Specific Employment Standards regulations apply to silviculture workers in British Columbia.

Definitions

Silviculture Worker means a person who is:

- working in the silviculture industry,
- paid **primarily** on a **piece rate basis**, and
- involved in reforestation field work including clearing brush, cone picking, creek cleaning, harvesting seeds, applying herbicide, reclamation work, herding sheep, site preparation, stand sanitation, building trails, fertilizing, girdling, planting, pruning, spacing or distributing trees, weeding, or supervising any of these field activities.

Primarily means that at least 75 percent of wages for silviculture work are paid on a piece rate basis.

Piece Rate Basis means the rate of pay is based on a measurable quantity of work completed. An employer usually pays workers by the tree, the block or the hectare.

Every employee who goes to work on a piece rate basis must be told in advance what the piece rates are for a particular job. Piece rates must meet or exceed the minimum wage rate. Piece rate workers may, from time to time, be paid a set wage for specific tasks.

Collective incentive-sharing arrangements: If a group of workers agree to “co-op” – that is, they all

get paid the same amount for their crew's production – the employer has to keep a written record of the agreement.

Camp costs

If a silviculture worker agrees in writing, the employer may charge for camp costs or other accommodation. The amount charged cannot exceed \$25 per day for camp costs, or if the worker is lodged in a motel, the actual cost for the motel room.

Shift Scheduling

A silviculture worker's shift schedule must consist of:

- no more than five working days followed by a day off; and
- within each month, at least two consecutive days off or at least eight non-consecutive days off.

If work is being done at a remote camp where there is no ready access, the employer may implement a shift schedule of up to nine days of work followed by at least two days off, or no more than ten days of work followed by at least four days off as long as:

- A majority of employees have agreed in writing to the schedule; and
- Employees have at least eight days off work each month.

If employees do not get the required number of

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days off, they must be paid at 1 ½ times the piece rate or the regular wage for any hours worked on the extra days.

Meal breaks

Silviculture workers must not work more than five hours in a row without a break of at least 30 minutes. If a worker has to be available for work during a meal break, they have to be paid for the break.

Minimum pay & overtime

The length of the work day is calculated on a “portal-to-portal” basis – from the time workers leave the camp or pick-up point to the time they are returned to the camp or pick-up point.

Minimum pay for silviculture workers paid on a piece rate basis is:

	Minimum pay
First 8 hours in a day	regular piece rate, or minimum wage (whichever is greater)
8 to 12 hours	regular piece rate, or 1 ½ x minimum wage (whichever is greater)
More than 12 hours in a day	double the piece rate

If a piece rate worker is being paid a set wage rate for a particular task, they must be paid 1.5 times the normal rate for work after eight hours and double the normal rate for work after 12 hours.

If overtime is banked it has to be credited at the applicable overtime rates.

Pay days

All employees must be paid at least twice a month. All money earned in a pay period must be paid within eight days after the end of the pay period. A pay period cannot exceed 16 days.

If an employee being paid by a piece rate earns less

than minimum wage in a pay period, the employee must be paid minimum wage. Earnings from one pay period cannot be used to offset another pay period where the piece rate earnings are less than minimum wage.

No set-offs or counterclaims

A contractor cannot levy penalty or quality assessments against a silviculture worker or pass on quality penalties assessed against the contractor by a third party.

Any promised bonus or incentive based on work performed (e.g. an “end of season” bonus) is wages and must be paid as promised. It cannot be reduced or adjusted for any reason.

An employer cannot charge employees for costs resulting from damage to company property or any other costs associated with running the business.

Over-tallies

An employer is not required to pay for work not performed. A silviculture worker’s pay may be adjusted as a result of an “over-tally”.

Where an over-tally or over-count occurs, an employer may not correct it on a group basis. The employer must be able to show an individual employee over-tallied or over-counted in order to adjust that employee’s pay.

Vacation pay

A silviculture worker’s vacation pay may be paid on every pay cheque at the rate of 4% of gross earnings. After five consecutive years of employment the vacation pay rate increases to 6%.

Statutory holidays

Silviculture workers are entitled to statutory holiday pay. An employer may choose to pay it by adding 4% of the silviculture worker’s gross earnings to every cheque. If this is done, silviculture workers who work on a statutory holiday are paid at their regular rate.

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Managers

Managers are not entitled to overtime pay rates or statutory holiday pay.

A manager is someone whose primary duties are supervising and directing human or other resources. A working supervisor who spends most of the time performing the same work as the employees he or she supervises would not be considered a manager.
