Employment Standards Branch

FACTSHEET

This factsheet has been prepared for general information purposes. It is not a legal document. Please refer to the *Employment Standards Act* and Regulation for purposes of interpretation and application of the law.

June 2025

Commission Sales

Commissioned salespeople are employees who are paid on a commission or incentive basis. They may be paid entirely by commission or by a combination of salary and incentives.

Heavy industrial or agricultural equipment, sailing or motor vessels

Salespersons who sell, or sell a lease arrangement for:

- Heavy industrial or agricultural equipment, or
- Sailing or motor vessels

are excluded from the minimum wage, overtime and statutory holiday requirements of the Act.

Automobiles, trucks, recreation vehicles and campers

Salespersons who sell, or sell a lease arrangement for, automobiles, trucks, recreation vehicles or campers are excluded from the overtime requirements of the Act.

The statutory holiday provisions of the Act do not apply to a salesperson who sells automobiles or trucks if the employer pays 4.4% of gross earnings on every cheque in the place of statutory holiday pay. This amount is separate from and in addition to the commission rate.

Salespersons who sell recreational vehicles and campers are excluded from the statutory holiday provisions of the Act.

Other Commission Sales

Commissioned salespeople are excluded from the overtime and statutory holiday pay provisions of the Act if their earnings exceed what they would have earned at the greater of minimum wage or their base rate with those provisions applied.

If their earnings are less, the employer must pay the difference.

> *Example 1*: Judy sells carpets. She is paid a base rate of ~~$20~~ per hour plus commissions. In a two-week pay period, she earns $500 in commissions.
>
> During the pay period, she works 80 regular hours and 24 hours of overtime. She is paid 104 hours at $20 plus $500 for a total of $2,580 for the pay period.

On her base rate, Judy would have been entitled to $2,320 (80 hours at $20 and 24 hours at $30).

Judy does not have to be paid extra for working overtime because her base rate plus commissions is more than what she would have earned on her base rate with overtime.

> *Example 2*: Don sells furniture and is paid entirely by commission. In a two-week pay period he earns $1,000 for 80 hours of work, which includes working eight hours on a statutory holiday.

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Don's earnings for this pay period must at least equal minimum wage ($18.25 per hour effective June 1, 2026) for all hours worked, as follows:

- 72 regular hours $1,314.00
- 8 hours at time and one half $219.00
- Average day's pay for stat $146.00
- Total $1,679.00

In this case Don will be paid an extra $679.00 to make up the difference between what he earned in commissions and what he is entitled to under the Act.

When are commissions payable?

The date when commissions become payable depends on when they are earned under the terms of the employment contract. For example, a commission may not be earned until a customer takes delivery of the product.

Employers must pay employees' wages at least twice a month. The mid-month pay must be equal to at least minimum wage for all hours worked.

Advances

Some commissioned salespersons receive an advance on commissions in each pay period. If the commissions for the pay period exceed the advance, the employee is entitled to the difference. If the commissions for the pay period are less than the advance amount, the employee is entitled to be paid at least the minimum wage for all hours worked in that pay period.

No Offsets Allowed

Commissions earned in excess of minimum wage in one pay period cannot be used to offset earnings during another pay period when no commissions are earned or the commissions earned are less than minimum wage.

> *Example*: Gary sells mobile homes and is paid entirely by commission. He sells a mobile home in the beginning of March and earns a commission of $4,000.00 He does not sell anything else for the rest of the month. Gary is entitled to be paid minimum wage for the second pay period of March.

Costs of doing business

An employer cannot pass on the costs of doing business to an employee. An employee cannot be required to pay for samples, sales kits or demonstration products used in the course of employment. Deductions from wages or payments made for items of this nature can be recovered under the Act.

Annual vacation

Employees who are paid by commission must take annual vacation and receive vacation pay the same as other employees. Vacation pay cannot be incorporated into the commission rate. Commissions which become payable during an employee's annual vacation do not become vacation pay. Vacation pay must be paid on all commissions earned, and the amount of vacation pay paid must be indicated on the employee's pay statement.