



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.

August 2017

## Restaurant Employees

### Paying wages

**Q: What is the minimum wage in British Columbia?**

A: September 15, 2016 - \$10.85 per hour  
Liquor server rate \$9.60 per hour

September 15, 2017 - \$11.35 per hour  
Liquor server rate \$10.10 per hour

For more information on minimum wage, please see the *Minimum Wage* and the *Minimum Wage for Liquor Servers* factsheets.

**Q: How often should employees be paid?**

A: Employees must be paid at least twice a month and no later than eight days after the end of each pay period. Paydays cannot be more than 16 calendar days apart.

**Q: What can be deducted from wages?**

A: The only lawful deductions that can be taken from pay cheques are those for Canada Pension Plan, Employment Insurance, Income Tax and any other deductions authorized by the employee in writing to pay on their behalf money to a union, charity, insurance company (medical, dental, insurance plan) or to meet a credit obligation.

Employers cannot require an employee to pay for any portion of an employer's business costs, including "dine and dash", breakage, till shortages

etc. For more information, please see the *Deductions from Wages* factsheet.

### Special clothing (Uniforms)

**Q: Can an employer require an employee to wear a uniform?**

A: Yes, but employers must provide, clean and maintain clothing that they require their employees to wear. The employer and a majority of the employees can enter into an agreement where the employees are reimbursed by the employer for the cost of cleaning and maintaining the uniform.

**Q: What is a uniform?**

A: Any clothing that identifies an employee as part of the employer's business and is usually the same for all employees. A standard look (for example, an expectation that servers wear white shirts and black pants) is considered a dress code, not a uniform.

**Q: Can an employer require payment of a deposit from an employee when issuing a uniform?**

A: No, but employees are reminded that it is their responsibility to return their uniform(s) when they leave a job.

### Employing Young People

**Q: An employer wants to hire a 14-year-old. Are there any special rules that would apply?**



A: An employer who wishes to hire a young person 12- 14 years old must receive the written permission of the young person's parent or guardian before employment begins. The parent or guardian is responsible for their children and must determine that the employment situation meets the best interests of the child and will not adversely affect the child's social, physical or educational needs.

**Q: What is the pay rate for teenagers?**

A: All workers, regardless of age, are entitled to the regular minimum wage or the liquor server minimum wage, depending on their job duties. There is no reduced rate for inexperienced workers.

**Termination of employment**

**Q: What entitlement is there to notice or compensation if an employee's job ends?**

A: If the employee quits, none. If the employer ends the employment relationship and the employee worked for more than three months, the employee is entitled to written notice of termination or compensation for length of service, or a combination of the two, unless it can be shown that there was just cause to terminate the employee. The amount of notice or compensation is based on the employee's length of consecutive service as follows:

<u>Length of service</u>	<u>Notice /compensation required</u>
0 – 3 months	0
After 3 months	1 week
After 1 year	2 weeks
After 3 years	3 weeks
After 4 years	4 weeks
After 5 years	5 weeks
After 6 years	6 weeks
After 7 years	7 weeks
After 8 years	8 weeks (maximum)

**Hours of work and overtime**

**Q: What is considered overtime?**

A: Overtime means any hours worked over eight hours in a day and over 40 hours in a week. Overtime rates apply to any time worked in excess of these hours.

**Q: How is overtime paid?**

A: On a daily basis, time-and-a-half the regular rate for all hours worked over eight in a day and double time in excess of 12. On a weekly basis, time-and-a-half for all hours worked over 40 in the week, excluding any daily overtime hours.

**Q: How long is an employee's lunch break?**

A: An employee is entitled to a half-hour meal break so that the employee does not work more than five hours in a row without a break. This meal break is unpaid unless the employee is required to work or be available for work during the break.

**Q: Is an employee entitled to coffee breaks?**

A: There is no requirement under the Employment Standards Act for employers to provide coffee breaks.

**Q: What are the minimum daily pay requirements?**

A: An employee is entitled to two hours pay if the employee reports to work and/or starts work. If the employee is scheduled to work more than eight hours, the entitlement increases to four hours pay. An employee who reports to work, but is not fit for work, is not entitled to minimum daily pay. Employees sent home for reasons entirely beyond the employer's control must be paid for two hours or the actual time worked, whichever is greater. Such events as power outages, floods and fires may be beyond an employer's control. Lack of customers does not fall into that definition.

**Q: Can an employee work a split shift?**

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A: Yes. A split shift occurs when an employee's workday consists of two or more separate periods of work. The split shift, including all breaks, must be completed within a period of 12 consecutive hours. For each split shift an employee is entitled to be paid for the hours worked at their applicable wage rate.

**Q: Can an employee work seven days a week?**

A: Yes, but if an employee does not receive 32 consecutive hours free from work each week, some hours must be paid at time and a half. If an employee works seven days in a week, even if the total hours are less than 40, all hours worked on one day must be paid at time and a half. As the timing for the 32 hour period is not specified, the employer can choose which day to pay time and a half.

**Vacations and vacation pay**

**Q: What is an employee's vacation entitlement?**

A: An employee is entitled to at least two weeks' vacation with pay after 12 consecutive months of employment and at least three weeks' vacation after five consecutive years of employment.

**Q: What is the rate of vacation pay?**

A: Vacation pay is four percent of total wages earned during the year of employment and six percent after five consecutive years of employment. Total wages include the previous year's vacation pay.

**Q: When should vacation pay be paid?**

A: Seven days before the employee's annual vacation or when employment ends. Vacation pay may be paid on each pay cheque if the employer and the employees agree to this in writing.

**Statutory holidays**

**Q: What are the statutory holidays in B.C.?**

A: There are ten statutory holidays:

<i>New Year's Day</i>	<i>British Columbia Day</i>
<i>Family Day</i>	<i>Labour Day</i>
<i>Good Friday</i>	<i>Thanksgiving Day</i>
<i>Victoria Day</i>	<i>Remembrance Day</i>
<i>Canada Day</i>	<i>Christmas Day</i>

Easter Sunday, Easter Monday and Boxing Day are not statutory holidays.

**Q: How does an employee qualify for statutory holidays?**

A: To qualify for statutory holidays, an employee must:

- Have been employed for at least 30 calendar days; and
- Have worked or earned wages on at least 15 of the 30 days before the holiday.

"Earned wages" includes paid vacation days and other statutory holidays. If an employee works under an Averaging Agreement, he or she does not have to meet the 15-day minimum.

**Q: How much statutory holiday pay should be paid?**

A: If an employee qualifies for statutory holiday pay, the employee is entitled to be paid an average day's pay for the holiday. An average day's pay is calculated by dividing total wages in the 30 calendar days before the statutory holiday by the number of days worked. Total wages includes wages, commissions, statutory holiday pay and vacation pay but does not include overtime pay.

**Q: What if the employee works on the statutory holiday?**

A: If the employee is eligible for statutory holidays, he or she is entitled to be paid time-and-a-half for the first 12 hours worked and double time after 12 hours. In addition, the employee must be paid an average day's pay.

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**Q: What happens if the holiday falls on a day off?**

A: If the employee is eligible for statutory holiday pay and the holiday falls on a non-working day, the employee must be given an average day's pay for the statutory holiday.

**Q: What do I pay an employee who works on a statutory holiday if they are not eligible for the statutory holiday?**

A: If the employee is not eligible, he or she would just receive regular pay for all hours up to eight and applicable overtime if he or she works more than eight hours.

### Statement of wages

**Q: Does the employee get a record of wages paid?**

A: Yes, each payday employees are entitled to receive a statement showing the hours worked, the wage rate, all deductions, and how the wages were calculated.

**Q: What is an averaging agreement?**

A: An averaging agreement is an individual agreement between an employer and an employee to schedule hours outside the standard eight-hour day and 40-hour week over one, two, three or four weeks. An averaging agreement must meet all of the following conditions:

- The agreement is in writing;
- The agreement specifies a start date and an end date for the work schedule;
- The employer and the employee sign the agreement before the start date;
- The agreement specifies the number of weeks in the schedule - one, two, three or four weeks;
- The agreement specifies the hours scheduled for each day covered by the agreement;
- The agreement specifies the number of times the agreement may be repeated;

- The hours scheduled may not average more than 40 per week over the period of the agreement; and
- The employee has received a copy of the agreement before the agreement takes effect.

An averaging agreement that does not meet all of the above conditions is not valid and overtime will be calculated according to Section 40 of the Act.

**Q: How do employees file a complaint with the Employment Standards Branch?**

A: Before filing a complaint, employees are expected to attempt to resolve the matter directly with the employer by using a Self-Help Kit. If the matter is not resolved, a complaint can be filed in person at any Employment Standards Branch office, sent by mail or fax, or submitted online.

A complaint must be received within six months after the last day of employment, or within six months of when the problem occurred, whichever comes first.

Complaint forms are available at Employment Standards Branch offices, Service BC offices or on the Employment Standards Branch website.