



EMPLOYMENT IN CANADA



Canada is the second largest country in the world by total area consisting of 10 provinces, 3 territories, and has the longest coastline. Canada, similar to the United States permits some decision-making power to territories and provinces, allowing them to set rules and regulations such as tax in addition to federal regulations. Canada adopted a policy of multiculturalism “embracing diversity,” It was one of the first countries in the world to do so. Over 99% of businesses in Canada are classed as small businesses and employ approximately 90% of the population. Key sectors within the economy are services industries, logging, oil, manufacturing, and natural resources. Below is some key information regarding employment in Canada, intended to provide a brief overview of employment law in Canada. It is not intended as substitute for professional legal advice and counsel.



WORKING TIME AND OVERTIME

The standard working hours in Canada can vary according to jurisdiction as well as job, and industry, on average it is 40 hours per week. Overtime rules may also vary significantly across Canada, most jurisdictions have an overtime rate of 1.5 times the regular rate of pay. Some positions are exempt from hours of work and overtime rules such as doctors, lawyers, managers, supervisors, and IT professionals. Below is a guide per territory and province.

British Columbia	Daily: standard rate + 1/2 after 8 hours, double time after 12 hours Weekly: standard rate + 1/2 after 40 hours
Alberta	Standard rate + 1/2 after 8 hours a day or 44 hours a week
Saskatchewan	Standard rate + 1/2 after 8 or 10 hours a day or 40 hours a week
Manitoba	Standard Rate+ 1/2 after 8 hours a day or 40 hours a week
Ontario	Standard Rate + 1/2 after 44 hours a week
Quebec	Standard Rate+ 1/2 after 40 hours a week
New Brunswick	Not less than minimum wage + 1/2 after 44 hours a week (minimum overtime wage rate is \$17.25)
Nova Scotia	Standard Rate + 1/2 after 48 hours a week
Prince Edward Island	Standard Rate + 1/2 after 48 hours a week
Newfoundland	Minimum overtime wage \$17.10 in excess of 40 hours per week
Yukon	Standard Rate + 1/2 after 8 hours a day or 40 hours a week
Northwest Territories	Standard Rate + 1/2 after 8 hours a day or 40 hours a week
Nunavut	Standard Rate + 1/2 after 8 hours a day or 40 hours a week
Federal	Standard Rate + 1/2 after 8 hours a day or 40 hours a week

ANNUAL LEAVE

Most employees are entitled to paid annual leave in Canada. In most jurisdictions employees are entitled to 2 weeks of annual leave after completing 12 months of service. Typically, employees in professional level positions can expect 3 – 4 weeks of annual leave. Some jurisdictions offer vacation pay, where from the first day of employment an employee will begin to accrue an additional allowance for vacation, usually at 4% of the standard salary. Most jurisdictions do not allow a 'use it or lose it' policy. Canada has 5 nationwide public holidays, there are also a number of other public holidays that are recognised in provinces and territories.

PROBATION PERIOD

A probation period in Canada is permitted for up to 3 months in most jurisdictions.

RESIGNATION AND DISMISSAL

Unlike the U.S, Canada does not recognise 'at will' dismissal. An employer must provide an employee with at least two weeks written notice of their intention to terminate employment. In lieu of written notice, the employer must pay two weeks salary at the regular rate to the employee. This will apply to any employees except for the following circumstances. An employee who has not completed three consecutive months of continuous employment, an employee who resigns, and employee dismissed with just cause, an employee on a fixed contract where an end date is included in the contract of employment and the work ends on this date, and an employee who is on a lay-off that does not account for a termination of employment. An employee who has completed at least 12 consecutive months of continuous employment qualifies for severance pay. Severance payments are 2 days for each full year of service. Notice periods, severance payments, and certain termination laws can vary between provinces and territories. Any collective agreements often provide protection against termination without cause in Canada.

Upon termination, employers must process the final payment and pay it by the next pay date, issue the Record of Employment (ROE) to the employee, and report the termination to the authorities. If there're any outstanding payments from unpaid time off or bonuses, they must be paid by the next pay date.

If an employee feels they have been unjustly dismissed they can request in writing, a written statement from their employer giving the reasons for dismissal. This request must be responded to within 15 days by the employer. Or the employee can file a complaint alleging unjust dismissal at any Labour Program office no later than 90 days from the date of the dismissal.

If an employee wishes to resign, then notice period will vary from province or territory. This will also depend on factors such as length of service and job specific factors. Many employers will choose to include in a contract of employment any notice period requirements.

In Canada, the concept of redundancy is not recognised as it is within other countries. Instead, layoffs are recognised. These are periods during which employers do not provide work to employees, but where the employee will retain certain reinstatement rights should the company situation improve. During layoffs, employees may keep their entitlement to benefits. For a layoff to turn into dismissal, a certain period must pass, this does vary as per the below.

- Alberta - a layoff for one or more periods exceeding 90 days within a 120-day period.
- Ontario - 35 weeks of layoff in a 53-week period when benefits are continued. Or, 13 weeks of layoff in a 20-week period when no benefits are provided.
- Labrador, Newfoundland, British Columbia, and Yukon - 13 weeks of layoff in a 20-week period.
- Manitoba - 8 weeks of layoff in a 16-week period.
- New Brunswick and Nova Scotia - A layoff lasting 12 months, or longer.
- Quebec - A layoff that is continuous for 6 months.
- Prince Edward Island - Currently no time limit is specified.
- Nunavut and Northwest Territories - 45 days of layoff within 60 consecutive days.
- Saskatchewan - A layoff of 6 consecutive working days.





RESTRICTIVE COVENANTS

Any restrictions should go no further than to protect an employers legitimate business interests. Non-complete clauses are generally not enforceable for employees unless they hold a senior, position of trust, or where a non-solicitation provision could have been sufficient. Non-compete clauses must be reasonable in scope geographically, in some authorities they must also specify the type of restricted employment, and restricted job functions. Non-solicitation agreements are generally more enforceable but must still be reasonable in terms of geographical scope, and length of time. Employee non-solicits can be enforceable if clear and reasonable. Any kind of enforcement and agreements will vary between province and territory.

CONTRACT OF EMPLOYMENT

A written contract of employment is not required by law but is recommended. Canada has two official languages, French and English. If a contract is provided in writing this will be in either English or French depending on the territory or province.

MATERNITY AND PATERNITY LEAVE

Most jurisdictions in Canada offer 17 weeks of unpaid maternity leave, however, this can vary slightly. In most jurisdictions new parents also have the option to take parental leave between 52 and 65 weeks. There is the option to apply for government paid employment insurance (EI) benefits if the employee meets the eligibility requirements. Women on maternity leave maybe able to receive up to 55% of their standard salary, the maximum amount is 638 CAD per week. Parental leave maybe lower. One of the eligibility requirements will be based on the number of hours worked in the 12 months before the claim was requested.

SICKNESS LEAVE

Sick leave is generally without pay in most jurisdictions, an exception to this is British Columbia which offers 5 days paid sick leave, and Quebec offers 2 days. Employees can apply for paid sick leave from the government employment insurance (EI). A medical certificate must be provided and there are limits on the number of hours that must have been worked in the last 12 months. Employees maybe entitled to up to 55% of their standard salary. Some companies do offer company sick pay as a benefit to employees.

SOCIAL SECURITY

Every employee and employer in Canada must pay social security contributions. It is the employer's responsibility to make the relevant deductions from an employee's salary. Social security will assist in covering items such as retirement, unemployment, maternity leave, and sick leave.

HEALTHCARE AND INSURANCE

Canada has a universal health care system funded through taxes known as Medicare. Each province and territory are responsible for its own healthcare services, so the standard of care may vary depending on location. Medicare will not cover all health services, generally it will only cover essential services such as emergency hospital treatment, primary care to diagnose and treat injuries or illness, and maternity services. However, this can vary according to the province or territory. Additional services are available for people on low incomes, over the age of 65, and children. Anyone moving to Canada on a work visa can apply for a Medicare health insurance card in the province they will be moving to. This will take approximately three months to be issued, once this is issued the person is able to access Medicare coverage in their province or territory. Many Canadians choose to also enrol for private health insurance. It is estimated that approximately over 60% of Canadians have some form of private medical cover, commonly through an employer.



EMPLOYMENT OF FOREIGN NATIONALS

Most foreign nationals will need a visa to work in Canada. There are two main types of work permits in Canada, employer specific works permits, and open work permits. An employer specific permit allows the applicant to work for a specific employer according to any conditions within the permit. It is important to consider that the applicant will only be authorised to work for one

employer, generally at a specific location, for a certain duration.

This type of permit will need a Labour Market Impact Assessment (LMIA) showing that there are no Canadian citizens or permanent residents available to fill the job.

The employer is responsible for applying for a LIMA and paying the application fee.

Open work permits generally do not require a LIMA. A foreign national with a valid open work permit may work for multiple employers, in multiple locations. Some open work permits may have additional requirements or restrictions which must be respected by foreign nationals. Even with an open work permit, foreign nationals are not able to accept employment from employers listed as ineligible for having been non-compliant with IRCC regulations. The eligibility requirements, and application procedure vary depending on the situation, or skills the foreign national may meet.





SALARY AND SALARY TAXES

MINIMUM WAGE

The federal minimum wage is \$15.55 Canadian Dollars per hour (CAD). Provinces and territories do also set their own minimum wage, this varies from between \$11.81 per hour to \$16 per hour.

INCOME TAX

The Canadian tax year runs from January to December. It is the employer's responsibility to ensure taxes are paid from salaries before payments are made to employees. Income tax is composed of federal, provincial, and territorial income taxes based on the province and territories where employees are paid. Below are federal income tax rates. Provincial and territorial taxes vary.



Tax Payable	Salary
15%	\$0 to \$50,197
20.5%	\$50,197 - \$100,392
26%	\$100,392 - \$155,625
29.38%	\$155,625 - \$221,708
33%	\$221,708 +



SALARY PAYMENTS

Employees in Canada can be paid on either a weekly, bi-weekly, or monthly basis.

SOCIAL SECURITY CONTRIBUTIONS

Social security in Canada is the responsibility of the employer to deduct from an employee's salary before payment. Both the employer and employee are subject to social security contributions. Typical employer contributions are 7.46%, and employees 6.83%. This covers contributions for Employment Insurance and the Canada Pension Plan. Please note these can vary, and there may be additional contributions depending on the province or territory the employee is based in.



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