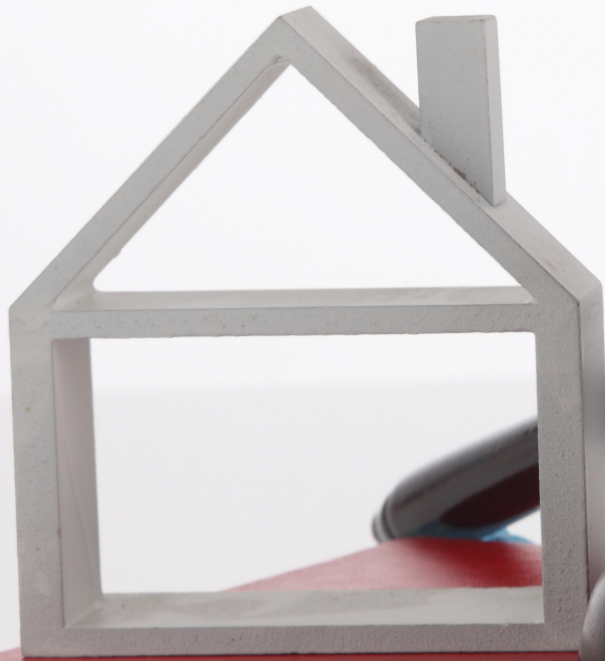




CHF Canada

You, your staff and the law

Alberta 2019



Contents

1	About this guide	1
2	Employment: Basic rules for 2019	2
	Work hours	2
	Transportation	3
	Wages	3
	Deductions	4
	Leaves	6
	Holidays and vacations	11
	When employment ends	12
	Records	15
	Social insurance number	15
	Complaints and appeals	16
3	The Human Rights Act	17
	Fairness	17
	Harassment	17
	Making complaints	18
4	Workplace health and safety	20
	Occupational health and safety	20
	WHMIS 2015 and the GHS	22
	Workers' Compensation	24
	Reporting	25
	Records	26
5	Where to get more information	27
	Employment standards	27
	Income tax, CPP and EI deductions	27
	Employment insurance	27
	Human rights	27
	Workplace health and safety	28
	Provincial legislation	28



1 About this guide

In different ways the board and staff are both important parts of the co-op. They need to see themselves as a team. Housing co-ops depend on the success of this working partnership to meet members' needs. Treating each other with fairness and respect is basic to good teamwork.

The board also needs to understand the rules it must follow as an employer. In fact, respecting employment laws is the best place to start building the partnership.

This publication is a quick guide to employment rules for 2019. It explains:

- what the co-op's board of directors *must do* as an employer—by law
- what the board *may do* as an employer
- where you can get more information.

It is important to remember that this guide describes the minimum employment standard. Your staff deserve fair treatment, which often means more than the bare requirements by law. After all, doesn't your co-op want staff who will go that extra mile?

Check this guide first. When in doubt, use the internet, check with your local federation, call the government phone numbers listed online, read the acts and talk to your lawyer to find out more. Section 5 of this guide includes a list of websites and phone numbers for employment-related websites of your provincial and federal governments. These websites include a wealth of information including providing some materials in multiple languages. You can also subscribe to various email updates and newsletters. Increasingly, forms can be submitted online or at least completed online and printed for mailing. Some websites also include calculation tools, videos, and other learning resources. For general topics like health and safety or human rights, you may also wish to look at resources available in other provinces.

***You, Your Staff and the Law* is intended only as a guide for general information.**



2 Employment: Basic rules for 2019

The *Employment Standards Code and Regulation* covers working conditions in Alberta. In 2017 the Alberta government passed the *Fair and Family-friendly Workplaces Act*, which amended the Employment Standards Code. The purpose was to modernize the Code and make it more comparable to employment legislation in other provinces. Most changes were effective January 1, 2018.

The government has developed several on-line assessment tools to help employers determine if they are meeting the new standards. You will find them at:

www.alberta.ca/employment-standards-self-assessment-tool.aspx

Work hours

A normal day

In general, a normal workday is eight hours. Under the *Employment Standards Code*, staff cannot work more than 12 hours in one day. There are two exceptions to this rule:

- an emergency or serious situation requires staff to work excess hours
- Director of Employment Standards issues a permit for extended hours.

Staff have a right to an unpaid ½ hour rest period after five hours of work. This break can be taken as two 15-minute breaks. This is the minimum standard, and in practice for a full day shift the amount of break time provided is frequently more than the specified minimum. Coffee breaks or other rest periods are not required by law, so it's up to the co-op. If the employer places restrictions on activities during the break, then they it must be a paid break.

Staff must have at least eight hours off between shifts and one day off each week. If staff work two consecutive weeks they are entitled to two consecutive days of rest. They can work 24 days without a break, but this must be followed by four days off in a row.

Overtime

Under the law, "overtime" means more than 44 hours in a work week (seven days in a row) and/or eight hours in a day (whichever is greater). This is referred to as the 8/44 rule.

Full-time and part-time staff must be paid for *all* the time they work, unless the board has already told them not to work extra hours, even if this means that work doesn't get done.

Staff must be paid at 1½ times their regular hourly rate for the overtime. The number of overtime hours is calculated by adding the time in excess of eight hours per day or 44 hours per week. Staff should be paid the overtime rate on the greater number of hours.

A co-op and its staff may create a written overtime agreement to bank overtime. This agreement means that, instead of overtime pay, staff receive time off with regular pay. Overtime is banked at a rate of 1.5 hours for each hour of overtime worked.



Overtime hours are calculated the same way as overtime pay is compensated (1½ times hourly rate of pay). Staff must take this time off within six months of the pay period in which it was worked unless the Director of Employment Standards provides for a different term. If time off is not taken, overtime hours must be paid out at time-and-a-half.

Staff may also work a compressed work week. A compressed work week is a scheduling of hours of work that has employees working longer hours each day, and is balanced by having employees working fewer days each week.

Under this arrangement, staff is paid at their regular rate of pay and cannot work more than 12 hours per day. Hours worked in excess of the scheduled daily hours, and/or in excess of 44 hours per week, are overtime hours.

*Do co-ops have to pay every employee for extra time and overtime? Yes, with one exception. A very large co-op could have a manager whose *only work* is supervising and directing other staff, or who can hire and fire other employees without the board's permission and make important financial decisions alone. Any co-op that has given its manager this much responsibility and authority doesn't have to pay that manager overtime.*

Coming in to work

If the co-op tells an employee to come into work and they work less than three hours, the co-op must pay them for:

- three hours at minimum wage, or
- their regular wage for the time actually worked (if this pays more than three hours at the minimum wage).

Does this rule apply to all staff? Yes, except for:

- staff who normally work less than three-hour shifts.

Transportation

Under the *Employment Standards Code* the co-op does not have to provide transportation for staff, even if they work very late at night or early in the morning. So it's up to the co-op and its staff to work out a suitable arrangement about transportation.

Wages

Minimum wage for 2019

The minimum wage is the lowest hourly wage a co-op can pay its staff. Effective October 1, 2018 the minimum wage is \$15.00 per hour. This rate also applies to students and youth.

How to pay

The co-op must pay its staff not later than 10 days after the end of each pay period. The pay period cannot be longer than one month.

Staff can be paid at either the co-op office or, if the employee agrees, by direct deposit into any bank or credit union account. The law allows payment in cash, but co-ops should pay staff by cheque or direct deposit only.

Statements

The co-op must give each employee a statement along with their paycheque that shows:

- pay period covered by the statement
- number of regular and overtime hours worked
- number of hours taken off in lieu of overtime
- wage rate and overtime rate
- earnings paid: showing each component separately (e.g., wages, overtime, general holiday pay and vacation pay)
- amount of deductions from earnings and the reason for each deduction

Pay statements can be provided electronically as long as the employee has reasonable access to view and print the electronic version in the workplace.

Wage Earner Protection Program

The federal government's Wage Earner Protection Program (WEPP) reimburses eligible workers for unpaid wages, vacation pay, severance pay and termination pay they are owed when their employer declares bankruptcy or becomes subject to a receivership. The maximum payment is the equivalent of seven weeks Employment Insurance (EI) earnings. For more information:

www.canada.ca/en/employment-social-development/services/wage-earner-protection.html

Deductions

From salaries and wages

The co-op can only take deductions from an employee's earnings if the deduction is:

- required by law such as federal and provincial taxes, contributions to CPP, EI premiums or a garnishee of the court
- authorised by a collective agreement, or
- authorised by the employee

Employees can agree in writing to other deductions. The amount and purpose must be clear. Examples include company pension, medical/dental plans, social funds or RRSPs.



The amount of tax, CPP and EI to be deducted is calculated using tables supplied by the Canada Revenue Agency (CRA). Once a month the co-op must pay the Receiver General for these deducted amounts plus the co-op's contribution. Some small employers can apply to CRA to remit on a quarterly basis.

Sometimes a co-op arranges for an independent contractor, such as a bookkeeper, to spend a certain number of hours each month working at the co-op on a freelance basis. In this case, the co-op doesn't hold back income tax, CPP or EI.

How can a co-op tell if a staff member should be treated as an independent contractor or an employee?
An employee:

- has a permanent job that takes more than a few hours a week
- works only for that co-op and has no other clients
- works regular, fixed hours
- is not registered as a business.

If the board decides to overlook these hallmarks and treat someone as an independent contractor, it's taking a risk. Alberta Ministry of Labour & Immigration or Canada Revenue Agency might decide the "freelancer" is really an employee. The co-op would then have to send the Receiver General all the deductions it should have collected but didn't. The Canada Revenue Agency publication *Employee or Self-Employed* (RC4110) has more information:

www.canada.ca/en/revenue-agency/services/forms-publications/publications/rc4110.html

Note: The directors are personally liable for these deductions if the co-op fails to make them.

The co-op can't make deductions from staff wages, unless the law requires it or the employee agrees in writing. The co-op can't ask an employee to agree to a deduction for:

- faulty work
- loss of property or cash shortages, if other individual had access to the property or cash
- uniforms, including costs to rent, clean or repair them

An employee may agree, in writing, to a deduction for benefits not paid for by the co-op, pension plans, personal charges to corporate credit cards, donations to a charity, or for a staff social activities fund.

From bonuses and gifts

A bonus, gift or award is a taxable benefit whether it is cash, near-cash (i.e., gift card) or non-cash. If a benefit is taxable then you must also deduct CPP. If the gift or award is cash then you must also deduct EI.

CRA's administrative policy exempts some non-cash gifts and awards in some cases:

- You may give an employee an unlimited number of non-cash gifts and awards that do not have a total value of more than \$500 in one year. If the fair market value of the gift/award is more than \$500 then the amount over \$500 must be included in the employee's income.
- Items of a small or trivial value are not considered a taxable benefit and do not count toward the \$500 threshold. Examples include coffee or tea, plaques, T-shirts with employee logos.



- Once every five years the employer can give a tax-free non-cash long service or anniversary award valued at \$500 or less. Five years must elapse between awards. This is in addition to the annual allowance for a \$500 non-cash gift or award.
- The employer can provide a free social event once a year for all employees and if the cost is less than \$150 per person, it is not a taxable benefit.
- Hospitality provided as part of a work session (i.e., planning, training, and networking) is not a taxable benefit. Hospitality provided to celebrate work or thank an employee is taxable and must be included in income.

Leaves

The 2018 amendments to the Employment Standards Code included several new leaves plus significant changes to the eligibility for leaves.

Alberta has 11 unpaid leave options. These leaves are job-protected leaves but unpaid. An employer may not terminate or lay off an employee while they are on leave. With the exception of reservist leave, all employees are eligible for job-protected leave after being employed by the same employer for 90 days. Employees must tell the co-op what type of leave they are taking when they provide their notice of leave. At the end of the leave the employee returns to their job or a comparable job and their employment is considered continuous, so they continue to earn length of service credits.

Employment Insurance Caregiving benefits and the federal income support for Parents of Young Victims of Crime benefits may complement some provincial leave entitlements. They each have their own eligibility requirements.

TYPE OF LEAVE	MAXIMUM LENGTH OF LEAVE	PURPOSE OF LEAVE
SHORT-TERM LEAVES		
Bereavement leave	3 days	For the death of an immediate or extended family member
Citizenship ceremony leave	½ day	For a new Canadian to attend their citizenship ceremony
Domestic violence leave	10 days	For an employee to address a situation of violence in the home
Personal and family responsibility leave	5 days	For personal illness to attend to personal health matters or for family matters
LONG-TERM LEAVES		
Compassionate care leave	27 weeks	For an employee to care for a very ill extended family member
Critical illness leave	16 weeks to care for an adult 36 weeks to care for a child	To give care or support to a family member



TYPE OF LEAVE	MAXIMUM LENGTH OF LEAVE	PURPOSE OF LEAVE
<i>LONG-TERM LEAVES continued</i>		
Death or disappearance of a child leave	104 weeks (death) 52 weeks (disappearance)	For parents dealing with the death or disappearance of a child that occurred as a result of a crime
Long-term leave for injury or illness	16 weeks	For an employee who has a long-term illness or injury
Maternity leave	16 weeks	For an employee expecting to give birth to a child
Parental leave	62 weeks	For parents to care for their new child
Reservist leave	When needed for service	For an employee in the Canadian Forces Reserve who needs time to serve

Bereavement leave

Employees can take up to three days of bereavement leave in each calendar year upon the death of an immediate or extended family member. Unused days do not carry forward into a new calendar year. The Employment Standards Code definition of immediate and extended family includes common-law, adult interdependent partner and unrelated persons considered to be like a relative.

Citizenship ceremony leave

Employees can take up to a half-day of citizenship ceremony leave once in their lifetime to attend their Canadian citizenship ceremony.

Domestic violence leave

Domestic violence leave can be taken when an employee, the employee's dependent child or a protected adult who lives with the employee experiences and act of domestic violence. Employees can take up to 10 days of leave each calendar year. Unused days do not carry forward into a new calendar year.

Personal and family responsibility leave

Employees can take up to 5 days leave each calendar year if they are sick, or to attend to their personal health matters, or if they have responsibilities in relation to their family members. Unused days do not carry forward into a new calendar year.



Compassionate care leave

An employee who is a caregiver is entitled to compassionate care leave to give care or support to a seriously ill family member who is at risk of death within 26 weeks. The ill family member is not required to live in Alberta. The employee can take up to 27 weeks of unpaid, job-protected leave. It can be split into multiple installments, but each period must be at least one-week long.

An employee must give at least two weeks' written notice of the date leave will start, unless circumstances necessitate a shorter period. They must also provide a medical certificate. The employee must give at least one week's written notice of a return to work or at least two weeks' if they choose not to return to work.

The employee may be eligible for benefits under the federal Employment Insurance Caregiving Benefits. Eligibility for leave is not the same as eligibility for benefits. See below.

Critical illness leave

An employee is entitled to critical illness leave to give care or support to a critically ill child or adult family member. Immediate and extended family members are eligible to take this leave. Employees can take up to 16 weeks (adult) or 36 weeks (child) of unpaid, job-protected leave. It can be split into multiple installments, but each period must be at least one-week long.

An employee must give at least two weeks' written notice of the date leave will start, unless circumstances necessitate a shorter period. They must also provide a medical certificate. The employee must give at least one week's written notice of a return to work or at least two weeks' if they choose not to return to work.

The employee may be eligible for benefits under the federal Employment Insurance Caregiving Benefits. Eligibility for leave is not the same as eligibility for benefits. See below.

Death or disappearance of child leave

An employee is entitled to death or disappearance of child leave if the death or disappearance is a result of a probable Criminal Code offence. Employees can take up to 52 weeks unpaid, job-protected leave if the child has disappeared, and up to 104 weeks if the child has died as a probable result of a crime.

An employee can begin their leave on the day of the death or disappearance of the child but must provide the employer with written notice as soon as is reasonable. It should include the estimated date of return to work. The employee must give at least one week's notice of a return to work and two weeks' notice if they choose not to return to work.

The employee may be eligible for federal income support under the Canadian Benefit for Parents of Young Victims of Crimes. It provides \$450 every two weeks for up to 35 weeks during the two-year period immediately following the incident.

www.canada.ca/en/employment-social-development/services/parents-young-victims-crime.html



Long-term illness and injury leave

An employee is entitled to long-term illness and injury leave if they have a long-term illness, injury or are quarantined. Employees can take up to 16 weeks of leave each calendar year.

The employee must give written notice as soon as possible and include an estimated date of return to work. They must also provide a medical certificate. The employee must give at least one week's written notice of the date of return to work and at least two weeks' if they choose not to return to work. Under Employment Insurance, the employee may be eligible for up to 15 weeks of sickness benefits at 55% of your insurable earnings to a maximum of \$562.

Federal caregiving benefits

Through Employment Insurance, employees may be eligible to receive financial assistance of up to 55% of earnings, to a maximum of \$562 per week. These benefits will help the employee take time away from work to provide care or support to a critically ill or injured person or someone needing end-of-life care. The employee does not need to be related to or live with the person they care for or support, but they must be considered to be like family.

THREE TYPES OF CAREGIVING BENEFITS		
BENEFIT NAME	MAXIMUM WEEKS PAYABLE	WHO IS RECEIVING CARE
Family caregiver benefit for children	Up to 35 weeks	A critically ill or injured person under 18
Family caregiver benefit for adults	Up to 15 weeks	A critically ill or injured person 18 or older
Compassionate care benefits	Up to 26 weeks	A person of any age who requires end of life care

For more detail: www.canada.ca/en/services/benefits/ei/caregiving.html

Maternity and parental leave

A pregnant employee is entitled to maternity leave for the birth of a child. Parental leave can be taken by birth mothers, fathers and/or adoptive parents.

Maternity leave – Birth mothers can take up to 16 consecutive weeks of unpaid maternity leave. Leave can start any time within 13 weeks leading up to the estimated due date and no later than the date of the birth.

Parental leave – Birth and adoptive parents can take up to 62 weeks of unpaid parental leave. It can be taken by the birth mother immediately following maternity leave; the other parent; adoptive parents; or shared between both parents. Leave can start any time after the birth or adoption of a child but must be completed with 78 weeks of the date the baby is born or placed with the parents.

To start with leave, the employee must give written notice at least six weeks before the start date. They are not required to specify a return date in the notice. A medical certificate is required for maternity leave. Employees must give at least four weeks' written notice of the date of return to work, or if the employee chooses not to return to work.

The Employment Standards Code does not require the co-op to make any payments to an employee or pay for any benefits during maternity or parental leave. If an employer benefit plan exists, there may be Alberta Human Rights obligations.

EI maternity and parental benefits

EI maternity benefits are offered to biological mothers, who cannot work because they are pregnant or have recently given birth. A maximum of 15 weeks of EI maternity benefits is available. The weekly benefit rate is 55% of the claimant's average insurable earnings up to the maximum amount.

EI parental benefits are offered to parents who are caring for a newborn or newly adopted child or children. There is a choice of standard or extended parental benefits.

- Standard parental benefits can be paid for a maximum of 35 weeks and must be claimed with a 52-week period after the week the child was born or placed for the purpose of adoption. The weekly benefit rate is 55% of the claimant's average insurable earnings up to the maximum amount. The two parents can share these 35 weeks of standard parental benefits, which adds 5 weeks (total 40 weeks).
- Extended parental benefits can be paid for a maximum of 61 weeks and must be claimed within 78-week period after the week the child was born or placed for the purpose of adoption. The benefit rate is 33% of the claimant's average insurable earnings up to the maximum amount. The two parents can share these 78 weeks of extended parental benefits, which adds 8 weeks (total 69 weeks).

Reservist leave

A reservist is a member of the reserve force of the Canadian Forces. Employees who are reservists are entitled to take leave when deployed to an operation outside of Canada (including any required pre- or post-deployment activities) or within Canada to assist with an emergency. Annual training for up to 20 days in a calendar year is also included. Employees are eligible for reservist leave after 26 weeks of consecutive weeks of employment with the same employer. Employees can take periods of unpaid, job-protected leave. Periods of leave do not have to be consecutive days.

The employee must give at least four weeks' written notice (if reasonable) of the date on which the leave will start, and the estimated day on which the reservist intends to return to work. Written notice is required if the date of return changes.

Time to vote

Staff are entitled to the following voting time on election day while the polls are open:

- three consecutive hours for a federal election
- three consecutive hours for a provincial election
- three consecutive hours for a municipal election.

Staff may shorten their work day to ensure that they have time to vote before the polls close, or just after they open.

Holidays and vacations

General holidays

These holidays are:

- New Year's Day
- Alberta Family Day
- Good Friday
- Victoria Day
- Canada Day
- Labour Day
- Thanksgiving Day
- Remembrance Day
- Christmas Day

Full-time and part-time employees get these days off with pay if they:

- worked their regularly scheduled day before and after the holiday
- not have refused to work on the general holiday when requested to

Employees who do not qualify for a paid holiday are paid at least their regular rate for working that day.

If an employee who qualifies for a paid holiday has to work on the holiday, the co-op must either:

- pay regular wages for the holiday and give a "substitute holiday" (day off with pay), if the employee agrees to it, before their next yearly vacation, or
- pay them at least 1 ½ times their normal rate of pay for the hours they work, *plus* one full day's pay.

An employee does not get holiday pay if the holiday falls on their regular day *off* work.

Civic holidays

Civic holidays are:

- Easter Monday
- Alberta Heritage Day
- Boxing Day

These are not paid holidays by law, but co-ops often give staff one or more of these days off, with or without pay. The co-op and its staff should work out an agreement about this.

The co-op may choose to designate any day as a general holiday and the general holiday pay rules would apply.

Vacations

The co-op must give its staff and they must take:

- at least two weeks paid vacation after one year of employment
- at least three weeks paid vacation after five years of employment.

Staff can take their vacation in periods of 1/2 day or more, but the co-op can't ask them to take a vacation of less than two (or three) weeks. Staff must take their vacation no later than 12 months after the end of the year in which it was earned.

If an employee cannot decide on a vacation date, the co-op can choose the date as long as the employee is notified in writing at least two weeks before the vacation is to start.

If a general holiday occurs while an employee is on vacation, they must take off the first working day after their vacation or another working day agreed to by the co-op before the next annual vacation.

While staff are taking their vacation, the co-op must continue to pay them at their regular rate. Their pay must be at least:

- 4% of total yearly earnings for staff employed less than five years
- 6% of total yearly earnings for staff employed more than five years.

An employee who asks must be given vacation pay one day to two weeks before their vacation begins. Those who don't ask are paid on their regular payday during the vacation. Staff can't take vacation pay and work through their vacation.

When employment ends

Dismissal

Under the *Employment Standards Code*, a co-op can dismiss an employee at any time but must provide the employee with proper notice or pay in place of notice.

Note: Before dismissing an employee, consult your lawyer. Do it right, or not at all. This is because the law for independent contractors and employees hired for specific periods is different.

The process

The board hires and dismisses staff by majority decision, unless it has chosen to give a senior employee authority to make this decision. The normal legal rules are that a staff person who has worked for the co-op at least three months must be dismissed in writing.

Once a decision has been made, a director or senior manager hands the employee the letter of dismissal or sends it by registered mail. The board of directors must be able to confirm that the employee received the letter.

The dismissal letter should include:

- the date of the last day to be worked
- the reason for dismissal
- when benefits end
- the length of notice, or amount of payment in place of notice.

The co-op must complete a *Record of Employment* (ROE). If a paper version is completed, a copy must be sent to Service Canada and the employee *within* five calendar days of the dismissal. If the ROE is submitted electronically the deadline is *within* five days of the end of the pay period in which the dismissal occurred. Federal Employment Insurance rules require this. The co-op as the employer can be subject to penalties if this information is not filed.

The co-op must also pay the employee:

- all wages owed to them *within* three days
- any vacation they have earned but not taken by the end of the notice period.

Employment Standards prohibit an employer from dismissing an employee under these situations (some exceptions apply):

- when an employee is entitled to or has started maternity, parental or reservist leave and
- when an employee's wages are or might be garnisheed
- when an employee has demanded rights under the *Employment Standards Code*

Notice

Most staff have a right to notice if they are being dismissed. The co-op can't just order them to leave. The length of notice that must be given under the law depends on how long staff have been employed by the co-op:

EMPLOYMENT	NOTICE (IN WEEKS)
3 months–2 years	1
2–4 years	2
4–6 years	4
6–8 years	5
8–10 years	6
10+ years	8

The general rule is that length of notice increases with length of service. Remember that these standards are the legal minimum. In general, the more responsibility an employee has, the longer they have worked for the co-op and the greater their age, the more notice the co-op needs to give them.

During the notice period, the co-op can't make the employee use banked overtime (unless the employee agrees in writing) or to take a vacation (unless it was already scheduled) and must continue to pay them at their regular rate for no less than their usual number of hours. An employee must be paid for any vacation they have earned but not taken by the end of the notice period.

Dismissal without notice

The board may dismiss an employee without notice if it pays the employee in place of giving notice (severance pay) and continues employee benefits for what would have been the notice period. Employees don't earn vacation pay on severance pay.

The board may also dismiss an employee without notice if they were:

- hired less than three months earlier
- are still in a probationary period (as agreed to upon hiring)
- hired for a stated task of 12 months or less (for example, to do yearly calculations of housing charge assistance) and the work is finished
- hired for a stated period of time (for example, to replace another employee during maternity or adoption leave and the employee has returned)
- casual employees
- offered reasonable alternate work and refused
- dismissed for "just cause" (wilful misconduct, disobedience, deliberate neglect of duty).

Be very, very careful—"just cause" for dismissal is a legal term. It is not the same as the reasons the co-op might use to describe why it intends to dismiss an employee. "Just cause" means the employee has conducted themselves in a way the courts would approve to allow the co-op to terminate employment without notice or payment of an amount of money instead of notice. Often an employee dismissed for "just cause" will take the co-op to court, a costly route even if the co-op ultimately wins.

The co-op is always on safer grounds if it dismisses an employee "without cause" even if it feels it has good reason because, while the co-op will have to pay an amount equal to the notice period the law requires, any disputes about the proper amount or period of notice are often settled without having to go to court.

The safest route is to consult a lawyer.

Resignation

Under the *Employment Standards Code* an employee who is resigning must give the co-op written notice of:

- one week if they have worked for over three months and less than two years
- two weeks if they have worked for more than two years.

By the end of the notice period the co-op must pay all wages, overtime, general holiday and vacation pay owed to the employee who has resigned within three days of the last day worked. An employee who does not need to give notice must be completely paid on the next scheduled payday. If an employee leaves without having given proper notice, the co-op must pay all money owed to the employee within ten days after the date notice would have expired if it had been given.

For its own protection, the co-op needs a written agreement with its employees that covers pay rate, hours, benefits, notice period and other employment matters. If your co-op would like to explore this further, contact your local federation or CHF Canada for help.

Records

The ESC requires the co-op must keep updated employment records for at least three years from the date each record is made. The records should include the following information for each employee:

- name, address and date of birth
- wage rate and overtime rate
- regular and overtime hours of work
- earning paid showing each component of earnings separately for each pay period
- deductions from earning and the reasons for each deduction
- time off instead of overtime pay provided and taken
- the date the present period of employment started
- the date on which a general holiday is taken
- each annual vacation, showing the date it started and finished and the period of employment in which the annual vacation was earned
- the wage and overtime rates when employment starts, the date of any changes to those rates, and particulars of every change to them
- copies of documentation notices relating to job-protected leave benefits
- copies of termination notices and of written requests to employees to return to work after temporary lay-off
- copies of overtime agreements
- copies of averaging agreements
- copies of parental consent for youth employment
- copies of agreements to use banked overtime during termination notice period
- copies of permits and variances issued

Canada Revenue Agency requires the co-op to keep payroll records (hours of work and statutory deductions) for six years. This includes TD1s, information slips and returns that are filed.

Social insurance number

Every person who works in Canada must have a social insurance number (SIN). The SIN is a personal identification number that is used by government departments and agencies (e.g., Canada Revenue Agency) for income-related information. SINs are issued only as a confirmation letter, no longer as a plastic card. Employers are required to request a new employee's SIN number within 3 days of the employment start date and to record the name and number.

If a Social Insurance Number (SIN) begins with 9 it is only valid until the expiry date on their immigration document. SINs that begin with the number 9 are issued to temporary foreign workers who are neither Canadian citizens nor permanent residents.

Complaints and appeals

If an employee thinks the co-op hasn't obeyed the *Employment Standards Code*, they may first try to settle the matter through direct discussion with the co-op.

If the employee still isn't satisfied, they may file a claim online with the Employment Standards Branch within 6 months of the date you ended your employment or at anytime while you are employed. The co-op can't punish staff in any way for doing this. The status of a complaint can be checked online.

An Employment Standards Officer will review the complaint and may conduct an investigation. They will get in touch with the co-op, explain the employee's position and invite the co-op to respond. The officer has a right to see the records described in the above section, as well as the co-op's books.

If the officer can't settle the dispute, an *Order* may be sent to the co-op or its directors and the co-op will have to pay the employee plus an administrative fee to the government. Alternative dispute resolution including mediation can be used to resolve a dispute.

3 The Human Rights Act

The *Alberta Human Rights Act* (the *Act*) protects employees by ensuring their right to equal treatment on the job and when applying for a job.

Employees are guarded by the *Act* against harmful actions or comments of certain kinds, and from unwelcome sexual behaviour. The *Act* also provides a way of making complaints in case any of these actions happen in spite of the law.

The Alberta Human Rights Commission was set up to educate citizens, advise on human rights legislation, mediate grievances and try to work out settlements. If a settlement can't be reached and the Commission believes the complaint may have merit, the complaint can be referred to a Human Rights Tribunal to make a ruling on the matter. Complaints must be filed with the Commission no more than one year after the incident.

Fairness

The *Act* ensures a fair basis for hiring and promotion. The co-op can't discriminate on the basis of:

- race
- place of origin
- religious beliefs
- colour
- gender
- gender identity
- gender expression
- physical or mental disability
- marital status
- family status
- source of income
- age (18 years or older)
- ancestry
- sexual orientation.

The *Act* protects workers over 18 years of age from discrimination in employment on the basis of their age. This includes the co-op's decisions about hiring, promotion, training opportunities or termination plus.

The *Act* also protects workers in the area of equal pay. When employees of any sex perform the same or substantially similar work, they must be paid the same rate.

The Commission provides some detailed information about what questions can be asked and what cannot during the hiring process:

www.albertahumanrights.ab.ca/Documents/RecommGuidePreEmpl.pdf

Harassment

Harassment is a form of discrimination. It means being the object of unwelcome actions or comments based on any of the characteristics listed above.

Co-op staff have a right to a healthy and safe workplace. When a conflict occurs between members and staff, the co-op needs to have a way to resolve it. A model policy and procedure is available. Contact your local federation, staff association or CHF Canada for more information.

The co-op must protect its staff from harassment by people they come into contact with at work, such as:

- directors
- agents of the co-op
- co-op members
- other employees.

The co-op must also protect its staff from unwelcome conduct of a sexual nature, such as the following:

- suggestive remarks, sexual jokes or compromising invitations
- verbal abuse
- visual display of suggestive images
- leering or whistling
- patting, rubbing or other unwanted physical contact
- outright demands for sexual favours
- physical assault.

There is more information on violence and harassment in this guide in Section 4 Health and Safety.

Making complaints

As an employer, the co-op needs to know what to do and what to expect if harassment takes place. The co-op's board must clearly support the right of staff, paid or volunteer, to work without harassment. A carefully written policy will help people understand that the board is serious about protecting their employees.

If possible, the employee should tell the person harassing them that they object to this conduct.

If harassment continues, the employee should complain to the board, a senior employee, or the director they are closest to. Their local federation may be able to help them present the problem. If the employee works for an operational services company, they may prefer to have their supervisor raise the matter with the client co-op's board. The co-op's representatives should take appropriate action. The co-op board must handle the complaint discretely but must also be fair in listening to both sides.

An employee can take their complaint to the Alberta Human Rights Commission within one year of the alleged incident. The Director of the Commission will try to settle the complaint through conciliation or will appoint an investigator to look into the matter and prepare a report. Both parties are sent a copy of the report, which states whether the complaint has merit or is dismissed. If the investigator dismisses the complaint, the employee has 30 days to make an appeal in writing. If the complaint has merit, the investigator will propose a settlement. The Commission's chief commissioner reviews all merit files and takes appropriate action, such as trying to get agreement on a settlement or referring the matter to a human rights tribunal.

Appeals also go to the chief commissioner who can drop a matter, appoint a human rights tribunal, or take other action to resolve a problem. If the parties are unable to settle the complaint, or if the chief commissioner decides that the dismissal or settlement were unfair, a human rights tribunal will be appointed to rule on the issue. Members of a human rights tribunal have the power to make legally enforceable decisions. All parties are told in writing about the decision and the reasons for it.

The co-op and its staff should be aware that some time may pass between the date of the incident and the settlement of a complaint by the Commission. Mediation arranged outside the Commission may be faster and less stressful.

4 Workplace health and safety

The *Occupational Health and Safety Act*, (*OHS Act*) is Alberta's cornerstone legislation for workplace health and safety. Other contributing legislation includes the *Workers' Compensation Act* and the *Human Rights Act*, which often has to be considered in dealing with OHS issues. WHMIS is a Canada-wide law relating to hazardous materials in the workplace. The government passed *An Act to Protect the Health and Well-being of Working Albertans*, amending the *Occupational Health and Safety Act*. The changes come into effect on June 1, 2018.

www.alberta.ca/assets/documents/ohs-changes-highlights.pdf

Occupational health and safety

The purpose of the *Occupational Health and Safety Act* is to help protect and promote the health and safety of workers. The *Act* establishes procedures for dealing with workplace hazards and rights for workers plus enforcement if compliance is not voluntary. The *Act* includes Regulations which establish broad rules with minimum requirements to ensure workers' protection and the Code which contains detailed technical requirements.

To encourage compliance with Occupational Health and Safety provisions, Alberta uses an administrative penalties system. OHS officials will determine the amount of fines against employers and workers who put health and safety at risk. The maximum is \$10,000 per violation per day.

An OHS officer can issue an immediate ticket to a worker or employee for an observable violation of the OHS Code. The purpose is to provide immediate consequence to a worker or employer when violations of specific provisions of the OHS legislation are observed by an OHS officer. The ticket can be paid voluntarily on or before a court day specified in the ticket.

Rights and responsibilities

The employer has a duty to:

- ensure the health, safety and welfare of workers
- ensure workers are aware of their rights and duties under the law and are aware of any health and safety issues
- provide competent supervisors, training workers, and preventing violence and harassment
- ensure public safety at or in the vicinity of work sites
- involve workers in hazard assessment and control

In addition, the co-op must:

- comply with the *OHS Act*, OHS Regulation and the OHS Code
- develop and implement a health and safety program and policy, including an emergency plan
- make a copy of the *OHS Act*, Regulations and Code readily available in the workplace.

Workers are responsible to:

- ensure the health and safety of themselves and others
- cooperate with their employer/supervisor for purposes of health and safety
- use all devices and wear all required personal protective equipment (PPE)
- report unsafe or unhealthy conditions
- refrain from causing or participating in violence and harassment

Housing co-ops with less than 20 employees are not required to have joint health and safety committees, although they may choose to voluntarily establish one to improve the health and safety culture in the workplace. If the co-op has 5 or more employees, the worksite must have a health and safety representative. Workers have a right to be involved in health and safety discussions.

Unsafe working conditions and workplace injuries

Health and safety concerns should first be brought to the attention of a supervisor. If the co-op does not correct the situation, the worker can report it to the nearest Workplace Health and Safety office. The worker is protected from any reprisals for reporting or refusing unsafe work.

Workers have a right to refuse work if the worker believes on reasonable grounds that there is a dangerous condition at the work site or that the work constitutes a danger to the worker's health and safety (*OHS Act* 40(6)).

There is a section below under Workers' Compensation that covers accidents and injuries in the workplace.

Harassment and violence in the workplace

Employers and supervisors must ensure workers are not subject to nor participate in workplace harassment or violence. Harassment includes even single instances of objectionable or unwelcome conduct, comment, bullying or action that the perpetrator knows or ought reasonably to know will offend or humiliate the worker, or adversely affects the worker's health and safety.

Special health and safety issues

The Canadian Centre for Occupational Health and Safety (www.ccohs.ca) is a federal agency that provides resources on work-related injury and illness prevention initiatives and occupational health and safety information.

Some particular health and safety issues for co-ops to consider:

- working alone – many co-op staff work alone and this places them at a higher risk for violence
- sun exposure – landscape workers will spend long periods outside exposed to the sun
- youth workers – statistics show that youth workers are at a higher risk for injury
- repetitive strain injury – anyone who repeatedly makes the same motion, using a keyboard or turning a screw, is at risk for long-term damage
- workplace violence – the incidence is higher in workplaces dealing with the public, dealing with people with mental illness or that are responsible for enforcement

- infectious diseases – workers who clean up bodily fluids and waste are at risk for various infectious diseases
- asbestos – a hazardous material found in many building components used before 1990
- confined spaces – workers in an enclosed or partially enclosed space not primarily designed for human occupancy (i.e., duct work) are at increased risk due to poor air quality, temperature extremes, fire and evacuation in the event of an emergency.

First aid

All co-ops should:

- be safe workplaces
- have a first aid station with:
 - a first aid box
 - certificates for staff trained in first aid and on duty
 - an inspection card (for quarterly staff inspections)

Based on the general responsibilities of maintenance workers and cleaners, a housing co-op is considered a medium hazard workplace. The contents of the first aid box and the number of trained first aiders that are required are determined by the number of workers on shift and the distance to a hospital. See the OHS Code, Schedule 2. The government provides a list of approved first aid trainers.

Smoking in the workplace

The *Tobacco and Smoking Reduction Act* prohibits smoking in any public places or workplaces (including vehicles). This includes common areas in residential buildings. Smoking is prohibited within 5 metres of a doorway, window or air intake of a public place or workplace. There may also be municipal by-laws which apply stricter standards.

The non-medical use of cannabis became legal in 2018. The province's existing occupational health & safety regulations cover impairment in the workplace. To help ensure a safe workplace, the co-op may wish to develop a policy on the use of any substance that can cause impairment in the workplace.

WHMIS 2015 and the GHS

WHMIS 2015 (Workplace Hazardous Materials Information System) is a national information system for hazardous substances in the workplace. It builds on the original 1988 WHMIS by incorporating the Globally Harmonized System of Classification and Labelling of Chemicals (GHS) for workplace chemicals. WHMIS 2015 includes new international harmonized criteria for hazard classification and requirements for labels and safety data sheets (SDS). The roles and responsibilities for suppliers, employers and workers have not changed.

To give suppliers, employers and workers time to adjust to the new system, implementation of WHMIS 2015 will take place over a three-stage transition period that is synchronized nationally across federal, provincial and territorial jurisdictions. As of December 1, 2018, WHMIS 1988 no longer applies.

WHMIS is administered through co-ordinated federal, provincial and territorial regulation. The basic requirements are set out in the federal *Hazardous Products Act* and the *Controlled Products Regulations*. The *Occupational Health and Safety Code* (Section 29) establishes WHMIS requirements in Alberta.

The key elements of the WHMIS system are:

- cautionary labelling
- Safety Data Sheets (SDS)
- worker education and training programs.

Suppliers will continue to:

- identify whether their products are hazardous products
- prepare labels and SDSs
- provide these SDSs to purchasers of hazardous products intended for use in the workplace

Employers will continue to be responsible to:

- educate and train workers on hazards and safe use of hazardous products in the workplace
- ensure that hazardous products are properly labelled and provide access to SDSs
- ensure appropriate control measures are in place to protect the health and safety of workers

Workers will continue to:

- participate in WHMIS and chemical safety training programs
- take necessary steps to protect themselves and their co-workers
- participate in identifying and controlling hazards

Labelling

The employee has a right to know when a product they are dealing with is dangerous. Flammable or other potentially deadly substances must be properly labelled. WHMIS 2015 labels use pictograms as well as a signal word – Warning or Danger.

Safety Data Sheets

The Safety Data Sheet or “SDS” on a hazardous substance provides detailed and comprehensive safety information about it. It covers proper handling and protection against overexposure, the health effects of overexposure, and emergency procedures. The SDS on each hazardous substance in a workplace must be in the workplace and available for workers. The SDS are standardized in a 16-section format. The 9-section WHMIS format for MSDSs is no longer acceptable.

Worker education and training

The purpose of education and training is to ensure that workers understand the hazards of the materials they are exposed to, and the measures they should take to protect themselves. The co-op is required to maintain written records of employee education programs. The co-op must review the WHMIS training program at least once a year, in consultation with workers.

Education refers to the instruction of workers in general information about how WHMIS works and the hazards of controlled products. Training refers to the instruction on site-specific information such as work and emergency procedures. Both education and training are an important part of understanding the hazards that may be present in the workplace. Not all employees in one workplace will need the same training. For example, maintenance workers are exposed to different hazardous materials than office workers.

The Canadian Centre for Health and Safety (CCOHS) in partnership with Health Canada has released a free on-line training course to help workplace prepare for *WHMIS After GHS: An Introduction*:

www.ccohs.ca/catalog/product_info_ccohs.php?products_id=349

They have also developed a series of free fact sheets about WHMIS 2015:

www.ccohs.ca/products/publications/whmis_ghs

Workers' Compensation

What is it?

The Workers' Compensation Board – Alberta is a not-for-profit organization legislated to administer the workers' compensation system for the province. The Workers' Compensation system:

- offers workers and co-ops modest no-fault insurance against workplace injuries and diseases
- refunds medical and drug costs not already covered by provincial health insurance
- largely replaces lost wages
- provides rehabilitation to help workers return to work
- provides programs to encourage workplace safety.

Does the co-op need it?

Most workplaces in Alberta, including housing co-ops, are covered by Workers' Compensation. The Workers' Compensation Board (WCB) decides what premiums to charge and how much compensation to award. Injured workers give up the right to sue the other workers or the co-op, even if the accident was the co-op's fault. However, they can still sue directors, who should have liability insurance or personal coverage either through the WCB or another insurance provider.

Contractors and subcontractors

Any contractor or subcontractor hired by the co-op probably has a right to Workers' Compensation. If they don't have their own Workers' Compensation account, the co-op must report their earnings and pay the premium as if they were employees. Check the WCB's *Employer Handbook* on how to do this.

If the contractor or subcontractor has a Workers' Compensation account, but it is past due, the co-op may have to pay the missed premiums. When the contracted project is finished, the co-op should ask for a letter of clearance from the WCB. It's important to hold back the final payment due to the contractor until receiving this letter, in case the contractor's Workers' Compensation account is in arrears. Clearances can be obtained on-line.

Premiums

The cost of this insurance is determined based on a minimum non-refundable premium applied on the assessable earnings of all the co-op's employees. Premiums are based on average claims in your industry classification/rate group and the individual co-op's accident experience. If the annual premium is over \$200, the co-op may pay by instalments.

The WCB charges interest of up to 24% on payments more than 30 days late. The co-op can pay by mail, credit card, in person, at many credit unions and banks or online.

Note: The co-op cannot deduct from its employees' earnings to pay for the premium.

Reporting

Earnings and premium remittance

The co-op must notify the WCB within 15 days of hiring its first employee to set up an account. A co-op that applies late may have to pay a penalty.

Each year the employer must file an annual return online by the last day of February.

This return is to:

- report employees' insurable earnings for the past year
- give a reasonable estimate of earnings for the current year.

If the co-op realizes later that this estimate of earnings was not accurate, it should be revised as soon as possible. Call the WCB to find out how to do this.

Accidents

Co-ops should tell employees and volunteers to report any accidents to senior staff or board without delay. Fatalities must be reported immediately. If an employee can't return to work the day after an accident or requires even temporary modification of work, the co-op must send the WCB an *Employer Report of Injury Form (C040)* within 72 hours of learning about the injury. This can be done online. The co-op should provide the injured worker with a copy of the completed form, the *Worker's Report of Injury or Occupational Disease Form (C060)* and the Worker Handbook. Reports can be submitted online or by fax.

Note: A co-op can be fined up to \$25,000 for late (more than 72 hours) notice, or the WCB may refuse to cover the claim.

Injured employees should see their doctor or other health care provider within 48 hours. The doctor must complete and send a *First Report* to the WCB within 48 hours of treatment.

The co-op must pay the employee their regular pay for the day of the accident. Benefits start the first working day after the accident and are not taxable. WCB cheques are usually sent every two weeks.

The co-op must tell the WCB when an employee comes back to work after an absence due to injury within the first 24 hours of the employee's return.

Under the OHS Act the co-op is required to report and investigate serious injuries and incidents to the OHS Contact Centre immediately. Examples of serious incidents include death, hospital admission of more than two days, unplanned explosion, fire or flood with the potential to cause serious injury. This responsibility is separate from reporting requirements under the Workers' Compensation Act.

Posting

The co-op is required to hang the *123 Poster* (Aug. 2018) in a place where employees can see it. It outlines the basic steps of who to contact to report a workplace injury. It is available in 15 languages.

Being prepared

It's important that staff and volunteers know what the co-op must do in case of injury. Get the *Employer Handbook* brochure from the WCB, read it, and put it where it's easy to find. Someone needs to know, for example, that the co-op is responsible for getting an injured employee to a hospital or clinic as quickly as possible, at the co-op's expense.

Under the *Occupational Health and Safety Act*, the co-op must ensure an injured worker receives immediate first aid.

Records

Earnings

Co-ops must keep accurate records of:

- individual employee earnings
- payments to contractors and subcontractors
- volunteer work hours if they are covered by the WCB.

Accidents

The co-op must also keep records of accidents for at least three years, including:

- name of injured worker
- date, place and time of accident
- date and time accident was reported or known to have occurred
- cause of accident
- description of the injury
- description of first aid/medical treatment given
- name and qualifications of the person giving first aid.

5 Where to get more information

***You, Your Staff and the Law* is intended only as a guide for general information.**

The guide is based on information as of April 2019 from the Alberta ministries and departments plus the federal government listed below. For more detail, check these government sources, and consult your lawyer.

For province-wide free phone calls to the Alberta government offices from a land-line:

- dial 310-000 then the area code and phone number.

For province-wide free phone calls to the Alberta government offices from a cell phone:

- enter *310 (for Rogers)
- enter #310 (for TELUS and Bell)

followed by the area code and phone number.

Employment standards

Human Service: Employment & Immigration

Toll free: 1-877-427-3731

Edmonton and area: 780-427-3731

www.alberta.ca/employment-standards.aspx

Income tax, CPP and EI deductions

Canada Revenue Agency

Toll free: 1-800-959-5525 (business enquiries)

www.cra-arc.gc.ca

Employment insurance

Service Canada

www.canada.ca/en/services/benefits/ei.html

Human rights

Alberta Human Rights and Citizenship Commission

Southern Region office: 403-297-6571

Northern Region office inquiry: 780-427-7661

www.albertahumanrights.ab.ca

humanrights@gov.ab.ca



Workplace health and safety

Workers' Compensation Board

Calgary area: 403-517-6000

Edmonton area: 780-498-3999

Toll free: 1-866-WCB-WCB1 or 1-866-922-9221

www.wcb.ab.ca

WHMIS

Health Canada

WHMIS:

www.canada.ca/en/health-canada/services/environmental-workplace-health/occupational-health-safety/workplace-hazardous-materials-information-system.html

WHMIS 2015/GHS:

www.canada.ca/en/health-canada/services/environmental-workplace-health/occupational-health-safety/workplace-hazardous-materials-information-system/whmis-2015.html

National WHMIS portal: www.whmis.org

Occupational Health and Safety (OHS) contact centre

Toll free: 1-866-415-8690

www.alberta.ca/occupational-health-safety.aspx

Provincial legislation

Alberta statutes and regulations are available on-line at the Alberta Queen's Printer – Laws Online/Catalogue:

www.qp.alberta.ca/Laws_Online.cfm

For information on bills before the Legislative Assembly of Alberta – Bills & Amendments go to:

www.assembly.ab.ca



You, your staff and the law

www.chfcanada.coop

   @chfcanada

© CHF Canada, 2019. Members of CHF Canada may copy and use this guide.
This material is not to be used or copied by others without the written
consent of the Co-operative Housing Federation of Canada.