



CHF Canada

You, your staff and the law

Manitoba 2019



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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 Act* covers working conditions in Manitoba. Effective in June 2018 there were a number of changes to employment standards.

Work hours

A normal day

Under the *Employment Standards Code*, a normal workday can be no more than eight hours and a normal week no more than 40 hours. There are three exceptions to these rules:

- a collective agreement exists that supports extended hours
- the employee has a flex-time agreement with the co-op
- the co-op obtained permission for extended hours from the Manitoba Labour Board.

Employees can negotiate a written flex-time agreement with their employer to change their standard hours of work. Agreements cannot allow employees to work longer than 10 hours in a day or 40 hours in a week. To be eligible, employees must work at least 35 hours per week.

Staff have a right to at least an unpaid ½ hour meal break for every five hours of work. Coffee breaks or other rest periods are not required by law, so it's up to the co-op.

Employees are also entitled to at least one day of rest per week.

Overtime

Under the law, "overtime" means more than eight hours in a day or 40 hours in a week. Staff can't be forced to work overtime.

Staff must be paid for *all* the time they work, but an official representative of the co-op must ask for, or know about, the overtime in advance. An employee gets paid at 1½ times their regular hourly rate for working more than eight hours in one day or 40 hours in one week.

The co-op and staff can agree in writing to bank overtime. They can make rules about how time is provided or paid. The minimum rules are:

- for each hour of overtime worked, the employee gets 1½ hour off with regular pay
- employers must schedule time off during regular hours of work
- employers must provide time off within three months of the overtime being earned.

Do co-ops have to pay every employee for overtime? Yes, with one exception. A very large co-op could have a manager whose *only work* is supervising other staff, or who could hire and fire other staff without the board's permission. This manager may also be able to make important financial decisions alone, such as buying expensive equipment without consulting the board or members. Any co-op that has given its manager this much responsibility and authority doesn't have to pay that manager overtime.

The co-op and staff may agree in writing to compensate staff with paid time off instead of overtime pay. Paid time off must be at a rate of 1½ times the number of hours of overtime worked. If paid time off has not been taken within 3 months, the overtime must be paid.

Coming in to work

If the co-op tells an employee to come in to work, the co-op must pay them for at least three hours at the regular wage, even if they only work for a few minutes, or if it turns out that there is no work for them to do. This applies to all situations except for staff who have a regular scheduled work period of less than three hours.

Transportation

When an employee starts or ends work between midnight and six in the morning, the co-op must pick them up at home or take them home at its own expense, unless the employee lives outside the city or town limits of where the co-op is located.

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 in Manitoba is \$11.35 per hour. The minimum wage will be adjusted annually effective October 1, to reflect changes in the Manitoba CPI. On October 1, 2019 it will increase to \$11.65.

Note: There is no separate minimum wage for students.

How to pay

The co-op must pay its staff at least twice a month and no more than ten working days after the pay period ends.

The employee can be paid at either the co-op office or, if the employee agrees, by direct deposit into a 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 written statement with their paycheque that shows:

- The regular wage and the number of regular hours worked in the pay period
- The overtime wage and any overtime hours worked in the pay period
- All deductions from wages, with a date and reason for each deduction
- The total amount of wages paid to the employee

This statement can be electronic as long as the employee:

- has access to a computer to view the statement at work
- is able to print their statement at work
- has reasonable expectations of privacy and security in accessing their pay statements

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 of Employment Insurance (EI) earnings. For more information:

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

Deductions

From salaries and wages

The co-op must make some deductions from staff paycheques, including cheques for vacation and overtime pay. These statutory deductions are for:

- income tax
- Canada Pension Plan (CPP)
- Employment Insurance (EI)

The amount to be deducted is calculated using tables supplied by the Canada Revenue Agency. 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. The Manitoba Employment Standards or the 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 staff member agrees in writing and it directly benefits the employee. The co-op can't ask a staff member to agree to a deduction for:

- careless work
- damages
- cash short-changes
- uniforms or special clothing required by the employer.

If the co-op wants to recover money from an employee, it can start civil or criminal legal action to make up for any loss. Because these cases are expensive, the co-op should think carefully and talk to a lawyer who knows the field before taking action.

An employee may agree in writing to a deduction for benefits not paid for by the co-op, donations to a charity, or staff social activities.

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

Under the Employment Standards Code, Manitoba has twelve unpaid, job-protected leave options. 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.

LEAVE	QUALIFYING PERIOD	LENGTH OF LEAVE	PURPOSE OF LEAVE
Maternity leave	7 months	17 weeks	For an employee expecting to give birth to a child
Parental leave	7 months	63 weeks	For parents to care for their new child
Family leave	30 days	3 days	For an employee to deal with family responsibilities or personal illness
Bereavement leave	30 days	3 days	For an employee to deal with the death of a family member
Compassionate care leave	90 days	28 weeks	For an employee to care for a seriously ill family member
Long-term leave for serious injury or illness	90 days	17 weeks	For an employee who has a long-term serious injury or illness
Domestic violence leave	90 days	10 days and 17 weeks	For an employee to address a situation of violence in the home
Leave for citizenship	30 days	4 hours	For a new Canadian to receive their certificate of citizenship
Leave related to the death or disappearance of a child	30 days	52 weeks, 104 weeks	For parents dealing with the death or disappearance of a child that occurred as a result of a crime
Leave for a reservist	7 months	When needed for service	For an employee in the Canadian Forces Reserve who needs time to serve
Leave for organ donation	30 days	13 weeks	For an employee to donate an organ or tissue
Leave related to critical illness	90 days/ 30 days	37 weeks/ 17 weeks	For family members to provide care and support to a critically ill child or adult
Jury duty	n/a	n/a	To serve as a juror

Maternity leave

An employee qualifies for maternity leave if she has worked for the co-op for at least 7 consecutive months before her baby is due.

A qualified employee has a right to take unpaid maternity leave of up to 17 weeks starting any time during the 17 weeks before her baby is due.

An employee must give the co-op written notice at least four weeks before starting her maternity leave. The Employment Standards Branch encourages staff to tell the co-op when they'll be coming back to work, so the co-op can replace them while they're gone.

While an employee is on maternity leave, the co-op must continue to contribute to any pension, Registered Retirement Savings Plan, life insurance, extended health, dental, and other benefit plans, unless the employee has told the co-op in writing that she doesn't want to pay her normal share (if any) to keep the benefit.

The co-op must give the employee back her job without any drop in pay when her maternity leave ends.

Parental leave

Any employee who is an adoptive or natural parent can claim parental leave of up to 63 weeks if they have worked for at least 7 consecutive months for the co-op.

An employee who has given birth has a right to parental leave as well as maternity leave. She can take off up to 80 weeks of combined leave.

For a woman, the leave starts:

- when her maternity leave ends or
- within 52 weeks of the date when the child comes into her actual custody, or of her partner's giving birth (for a same sex couple).

For a man, the leave starts within 52 weeks of:

- the birth or
- the date when the child comes into his actual custody.

An employee must give the co-op written notice at least four weeks before starting their parental leave.

While an employee is on parental leave, the co-op must continue to contribute to any pension, Registered Retirement Savings Plan, life insurance, extended health, dental or other benefit plans unless the employee has told the co-op in writing that they don't want to pay their normal share (if any) to keep the benefit.

The co-op must give the job back to the employee without any drop in pay or benefits when their parental leave ends.

EI maternity and EI 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 within 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 to the leave (total 40 weeks).
- Extended parental benefits can be paid for a maximum of 62 weeks and must be claimed within a 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 extended parental benefits, which adds 8 weeks to the leave (total 60 weeks).

Family leave

The *Employment Standards Code* provides up to 3 days per year of unpaid leave to take care of the immediate needs of an employee's family or a personal illness. The co-op can provide longer leave and/or paid leave. It's up to the co-op to discuss this matter with its staff, agree on what seems fair, and record their agreement in a letter or contract.

Note that the *ESC* defines family broadly to include extended family members and individuals not related but who are considered family by the employee.

Bereavement leave

The *Employment Standards Code* provides up to 3 days per year of unpaid leave to deal with the death of a family member. The co-op can provide longer leave and/or paid leave. It's up to the co-op to discuss this matter with its staff, agree on what seems fair, and record their agreement in a letter or contract.

Compassionate care leave

Co-ops must allow staff to take up to 28 weeks Compassionate Care Leave to provide care and support to a family member with a serious medical condition with a significant risk of death within 26 weeks. It can be taken in one or two periods of at least one week each.

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.

Long-term leave for serious injury or illness

Employees who are suffering from a serious injury or illness which will prevent them from being at work for at least two weeks may be entitled to this leave. It can be up to 17 weeks long in a 52-week period. The leave provides time off and protects the employee from layoff or job termination during the period of leave. 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.

Domestic violence leave

Domestic violence leave provides job protection to eligible employees to take time off work for specified purposes to address the situation of violence in the home. There are two parts to this leave:

- i) up to 10 days per year in consecutive or intermittent days, as needed by the employee
- ii) up to 17 weeks per year in one continuous period.

Employees are entitled to be paid for up to 5 days of domestic violence leave per year.

Leave for citizenship

The ESC provides unpaid leave of up to 4 hours for a new Canadian to attend their citizenship ceremony.

Leave related to the death or disappearance of a child

This leave is for parents dealing with the death (104 weeks) or disappearance (52 weeks) of a child that occurred as a result of a crime.

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/brochure.html

Leave for reservists

The ESC provides unpaid, job-protected leave to members of the Canadian Reserve Forces while they are in training or active duty. To be eligible the reservist must have worked for the co-op for 7 consecutive months. The reservist must provide reasonable notice in writing.

Leave for organ donation

This is an unpaid, job-protected leave. It provides 13 weeks of leave to donate an organ or tissue to another individual. Based on medical need, there is an option for an extension of a further 13 weeks.

Leave related to critical illness

This unpaid leave provides up to 37 weeks for parents to provide care and support to a critically ill child and 17 weeks for an adult family member.

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.

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

Jury duty

The Jury Act provides for unpaid, job protected leave for an employee to serve as a juror.

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.

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
- Louis Riel Day
- Good Friday
- Victoria Day
- Canada Day
- Labour Day
- Thanksgiving Day
- Christmas Day.

All staff get these days off with pay unless they:

- are absent from work on a holiday that is a normal work day
- are absent from work, without permission, on their last day of work before the holiday or the first day after, unless they are sick.

If an employee who qualifies for a paid holiday has to work on the holiday, the co-op must pay them at least 1½ times their normal rate of pay for the hours they work, plus one full day's pay.

If the holiday falls on a non-working day, a qualified employee gets another day off with general holiday pay, before their next annual vacation, or at a time they both agree on.

Civic holidays

Civic holidays are:

- Easter Monday
- Terry Fox Day (first Monday in August)
- 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.

Remembrance Day (November 11)

Remembrance Day is not a general holiday but most non-essential businesses are not permitted to operate between 9:00 and 13:00. Staff who do not work on Remembrance Day do not have to be paid but many employers do. Employees who work on Remembrance Day must be paid as for a general holiday.

Vacations

After one full year of employment at the co-op, staff get at least two weeks paid vacation. Regular working time does not include:

- vacation time
- over 30 working days off owing to sickness
- overtime hours.



Vacation pay is 4% of the employee's gross earnings for the full year.

After five years with the co-op an employee gets three weeks off and the vacation allowance increases to 6% of gross earnings.

While the employee is taking their vacation, the co-op must continue to pay them at their regular rate. Vacation pay is due no later than the last day of work before the vacation and within 10 months of earning it.

The timing of vacations is usually agreed to by both the staff and co-op. If agreement cannot be reached the co-op must give staff at least 15 days notice of when their vacation begins. The co-op cannot require staff to take less than one week's vacation at once. Vacation must be taken within 10 months of being earned.

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 the decision. The normal legal rule is 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 must 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, it must be sent a copy 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* ten days
- any vacation they have earned but not taken by the end of the notice period.

This rule is the same whether the employee was dismissed or resigned.

Notice

Most staff have a right to notice, if they are dismissed. The co-op can't just order them to leave. In Manitoba, staff who have worked for the co-op for more than 30 calendar days and less than one year must be given notice of at least one week. Notice increases with years worked to 8 weeks of notice after 10 years of employment.

The general rule is that length of notice increases with length of service. 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 should give them.

Dismissal without notice

The board may dismiss an employee without notice if it pays the employee in place of giving notice. Staff don't earn vacation pay on severance pay.

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

- hired less than 30 calendar days earlier
- hired for a specific task (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 parental leave) and the period is up
- dismissed for "just cause," such as violent or improper conduct, insubordination or dishonesty.

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 the 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 legal notice period or give the employee 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

During the first 30 days of employment an employee can quit without notice.

After 30 days but less than one year of work, staff must give the co-op notice of at least one week, before leaving their job with the co-op. After one year, the employee must give two weeks notice.

For its own protection, the co-op needs a written contract with its staff, agreeing on a fair notice period and other employment matters. If your co-op would like to explore this approach, contact your local office of CHF Canada for help.

Records

The co-op must keep updated employment records for at least three years after employment ends:

- name, address, date of birth, and occupation
- the date the employment started
- the regular wage and overtime wage at the start of employment and whenever the wage rate changes
- the regular and overtime hours of work, recorded separately and daily
- date wages are paid and the amount paid on each date
- deductions from wages, and the reason for each deduction
- if applicable, overtime that is banked with the written agreement of the employee and employer and the dates the employee takes the banked time off with pay
- the dates on which general holidays are taken
- the employee's hours of work on a general holiday and the wages paid
- start and end dates of annual vacations, the period of employment in which the vacation is earned, and the date and amount of vacation wages paid
- the amount of any outstanding vacation wages when the employment ends and the date this is paid to the employee
- copies of documents on maternity leave, parental leave, compassionate care leave or other leaves, including dates and number of days taken as leave
- dates of termination of the employment
- copies of work schedules

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 not satisfied, they can place a complaint with Employment Standards. The co-op can't punish staff in any way for doing this.

An Employment Standards Officer 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 above, as well as the co-op's books.

If the Officer can't settle the dispute, a *Payment of Wages Order* may be sent to the co-op or its directors. The co-op can appeal by asking the Manitoba Employment Standards in writing to hear the case within seven days of getting this order. There is an administrative fee to appeal. Call the Manitoba Labour Board, listed in Section 5, for more details.



3 The Human Rights Code

In Manitoba, the *Human Rights Code* protects workers by giving them a right to equal treatment on the job, when applying for a job and in other situations. Workers are also guarded by law from hurtful actions or comments of certain kinds, and from unwelcome sexual behaviour.

A way of making complaints has been laid out, in case any of these actions happen in spite of the law. A government body called the Manitoba Human Rights Commission (HRC) has been set up to educate citizens, look at complaints and to try to work out a settlement. If a settlement can't be reached, a member of the HRC will hold a hearing to resolve the matter.

Fairness

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

- ancestry
- nationality or national origin
- ethnic background or origin
- religion or creed
- age
- sex (including pregnancy)
- gender identity
- sexual orientation
- family or marital status
- source of income
- political belief
- physical or mental disability
- social disadvantage.

The Code 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.

Co-ops are required to reasonably accommodate the special needs of individuals where these needs stem from the group factors specified in the Human Rights Code.

Harassment

Actions or comments that are known, or reasonably should be known, to be bothersome, threatening or insulting are considered harassment. The co-op must protect its staff from harassment for 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 in contact with at work, such as:

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



Co-op staff have a right to protection from sexual harassment. This is abusive conduct of a sexual nature, such as:

- unwelcome sexual jokes or remarks that insult the employee's gender
- demands for sexual favours where punishment is threatened for refusal
- sexual advances or requests where a reward is promised
- display of offensive pictures, cartoons or printed material
- unnecessary physical contact, such as touching, patting or pinching
- sexual assault (also a criminal matter).

By adopting a formal written policy on sexual harassment, the co-op sends a clear signal that it will not allow behaviour of this kind.

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 an employee is harassed.

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. At this time, the co-op's representatives should tell the employee that the co-op will treat the complaint seriously. They should look into the accusation without delay, and take action to stop any harassment. If it has taken place, the co-op is responsible for making sure it doesn't happen again.

The Code isn't meant to punish the co-op or the harasser. It's intended to end this kind of bad behaviour and help relieve the pain it may have caused. Some of the ways the co-op can try to make it up to the person who was harassed include:

- a letter of apology
- a statement from the co-op that it won't let this kind of thing happen again.

Complaints must generally be filed within one year of the incident(s). An Intake Officer will decide if there are grounds for a complaint. The HRC can order the co-op to make up for wages or anything else lost, owing to harassment. It can also tell the co-op to apologize or grant damages for hurt feelings.

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 HRC. Remedies outside the system, such as voluntary pre-complaint conciliation, mediation or arbitration, may be less stressful and have better results. Mediation can happen at any stage in the complaint.

Accessibility for Manitobans Act

The purpose of the *Accessibility for Manitobans Act* is to provide a clear and proactive process for the identification, prevention and removal of barriers that prevent people disabled by barriers from full participation. The Accessibility for Manitobans Act will accomplish this by developing accessibility standards with respect to customer service, information and communication, transportation, employment practices and the built environment. The government expects to have all five standards developed by the fall of 2020.

Standards will be adopted as regulations setting out requirements for identifying, preventing and removing barriers. Standards will be developed through extensive input and consultation with stakeholders. All standards created under the *Act* will apply to the provincial government, the broader public sector and the private and not-for-profit sectors of Manitoba.

The new Accessibility Standard for Customer Service applies to not-for-profit organizations as of November 1, 2018. To provide accessible customer service, the Accessibility Standard for Customer Service requires that organizations introduce measures, policies and practices on its eight requirements:

1. meet the communications needs of customers, clients or members
2. allow assistive devices
3. welcome support persons
4. welcome people with service animals
5. maintain barrier free access
6. let customers know when accessibility features are not available
7. invite customers to provide feedback
8. train staff on accessible customer service

Both the Employment Accessibility and the Information and Communication Accessibility standards are under development.

4 Workplace health and safety

The *Workplace Safety and Health Act (WSHA)* is Manitoba's cornerstone legislation for workplace health and safety. Other contributing legislation includes the *Workers' Compensation Act*, which deals with the prevention of workplace injury and disease and the *Human Rights Code*, which often has to be considered in dealing with health and safety issues. WHMIS is a Canada-wide law relating to hazardous materials in the workplace.

Occupational health and safety

The purpose of Manitoba's *Workplace Safety and Health Act (WSHA)* and the *Workplace Safety and Health Regulation* is to secure workers from risk to their safety, health and welfare arising out of, or in connection with their activities in the workplace. In addition, it protects other persons from risks to their safety and health arising out of, or in connection with, activities in workplaces. It establishes procedures for dealing with workplace hazards and provides for enforcement of the law where compliance has not been achieved voluntarily.

SAFE Work is a program that promotes health and safety for workers and employers sponsored by the provincial government and the Workers' Compensation Board.

Rights and responsibilities

The employer has a duty to:

- take all reasonable precautions to protect the health, safety and welfare of workers
- provide and maintain a workplace, equipment, systems and tools that are safe
- provide information, instruction, training and competent supervision to protect workers' health, safety and welfare

In addition, the co-op must:

- comply with the *Act* and regulations
- ensure that workers are supervised by a person who is competent to ensure work is performed in a safe manner and who is familiar with the *Act* and its regulations
- conduct inspections on a regular basis
- inform pregnant or nursing workers of any risk that conditions in the workplace may pose to them or their unborn or nursing child
- develop and implement a health and safety program and policy
- provide access to a copy of the *WSHA* in the workplace.

Workers have the right to:

- know about hazards in the workplace and which precautions must be taken to prevent injury or illness from these hazards
- participate in safety and health activities at the workplace

- refuse work for anything that the worker believes will cause immediate and serious, or long-term effects on their safety and health or the safety and health of others
- carry out duties or exercise safety and health rights, as set out in the *Manitoba Workplace Safety and Health Act* without being subject to reprisal

Workers have the legal responsibility to:

- take reasonable care to protect themselves and others who may be affected by their actions or omissions
- make proper use of safety equipment, clothing and devices
- cooperate with workplace health and safety representative (if there is one)
- cooperate with other persons regarding workplace safety and health matters

Workplaces of 5 to 19 workers must designate workplace safety and health representative. Smaller workplaces should still consult regularly with workers about health and safety.

Unsafe working conditions and workplace injuries

Safety and health concerns should first be brought to the attention of their direct supervisor or the co-op. If the co-op does not correct the situation, the worker can report it to the Workplace Safety and Health (WSH) client services. The co-op cannot take or threaten reprisal against a worker exercising their rights under the *WSHA*.

Workers have a right to refuse work if they believe it will cause immediate and serious, or long-term effects on their health or that of another person. The procedure is outlined in the *WSHA*, Section 43.

In the Workers' Compensation section of this guide there is information about accidents and injuries in the workplace.

Violence and harassment in the workplace

The *WSHA* provides workers with the right to a workplace free of harassment and violence, and require employers to protect works from workplace-related harassment and violence. Workplaces must develop written harassment and violence prevention policies in consultation with workers, including how to deal with complaints. They must be posted in the workplace where they will be easy for everyone to see. The policies must include some specific statements and address particular topics. There is more information in these publications: *Understanding Manitoba's Requirements for Preventing Harassment at Work* (November 2015), *Guide for Preventing Violence in the Workplace* (updated 2016) and *Preventing Workplace Harassment* (Bulletin No. 275/October 2010).

Employers are responsible for helping to control violence in the workplace by identifying and assessing risks and developing a written policy both in consultation with staff; providing training; and ensuring compliance with the policy.

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 items for co-ops to consider:

- working alone – many co-op coordinators work alone and this is known to place them at a higher risk for violence. Employers must have a safety plan for employees who work alone.
- sun exposure – landscape workers will spend long periods outside exposed to the sun
- youth workers – statistics demonstrate that youth workers are at a higher risk for injury
- repetitive strain injury (RSI) – 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

The co-op must provide a first aid kit and all workers must be aware of the kit and know where it is located. The contents of the kit are listed in the regulations. In workplaces of less than 11 workers that are close to a hospital, a trained first aider is not required.

Smoking in the workplace

The *Non-Smokers Health Protection Act* prohibits smoking in enclosed public places and indoor workplaces. This prohibition also includes the use of vapour (e-cigarettes) and non-medical cannabis products. Problems should be reported to the provincial government, General Inquiry.

The non-medical use of cannabis became legal 2018. The province's existing occupational health and 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 *Workplace Safety and Health Act* (Reg No. 52/88) establishes WHMIS requirements in Manitoba.

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:

- 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?

Workers' Compensation is a provincial program that offers workers and co-ops modest no-fault insurance against workplace accidents and illness.

Does the co-op need it?

Housing co-ops are required to insure their staff by making yearly payments into the program. The Workers' Compensation Board (WCB) decides what premiums to charge and how much 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.

Contractors and subcontractors

Any contractor or subcontractor hired by the co-op probably has a right to WCB coverage. If they don't have their own WCB account, the co-op must report their earnings and pay the premium as if they were staff.

If the contractor or subcontractor has a WCB account, but it is past due, the co-op may have to pay the missed premiums. When the contracted project starts, the co-op should ask for a letter of clearance from WCB. The co-op can check their status on-line and request authorised clearance status documents. It's important to hold back the final payment due to the contractor, until receiving this letter, in case the contractor's WCB account is in arrears.

Premiums

The cost of this insurance is paid by a non-refundable premium applied to all accounts. The size of the premium depends on industry risk, history of accidents in the co-op and payroll, up to a maximum for each employee. Assessments are calculated consistent with the employer's claims experience (Experience Ratings). If the annual premium is over \$500, the co-op may pay by instalment.

Note: Directors may be billed for unpaid premiums.



Reporting

Earnings and premium remittance

Early each year WCB sends the co-op an *Annual Payroll Report*. It must be submitted by mail, fax or on-line by February 28. This return:

- reports staff insurable earnings for the past year
- gives a reasonable estimate of earnings for the current year
- provides other general information.

If the co-op realizes later that this estimate of earnings wasn't accurate, it should be revised as soon as possible. Call WCB at the phone number listed in Section 5 to find out how to do this.

Note: Fines are charged for knowingly giving wrong information or not sending in reports on time.

Accidents

Workplace injuries must be reported to WCB as soon as possible by calling WCB or filling out the Online Forms. If an employee is injured:

- the co-op must send WCB an *Employer's Incident Report* within five business days of learning about the injury.
- the employee should complete a *Worker Incident Report* and return it to WCB.

The WCB's on-line Incident Reporting System allows for easier and more timely processing of claims.

Injured workers should tell their doctor, physiotherapist or other caregiver to file an accident report immediately with WCB.

Co-ops should tell staff to report any accidents in writing to the senior staff or board without delay (not later than 30 days after the accident). Their report should include how, when and where the accident happened, as well as the names of any witnesses. They may use the *Notice of Injury to Employer* (Green Card) form to do this.

Serious injuries must be reported to WCB immediately. These include death, any injury from electrical contact, unconsciousness, fracture or amputation that involves structural failure or collapse, explosion, fire flood or hazardous waste spill.

Posting

The co-op is required to post the WCB *Hurt at Work Poster* (2017-01-22) in the workplace. It is available in 22 languages.

Being prepared

It's important that senior staff and volunteers know what the co-op must do in case of injury. Get information from the WCB website address in Section 5, 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 worker to a hospital or clinic as quickly as possible, at the WCB's expense.

Records

Earnings

The co-op must keep records of:

- individual employee earnings
- payments to contractors and subcontractors
- any first aid treatment given.

Accidents

The co-op must also keep records of accidents, including:

- name of injured worker
- time, place, and date of accident
- cause of accident
- description of injury
- name and address of physician
- description of medical treatment given



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 Manitoba ministries and departments plus the federal government listed below. For more detail, check these government sources, and consult your lawyer.

Employment standards

Manitoba Labour Board, Employment Standards Branch

204-945-3352

Toll free: 1-800-821-4307

www.gov.mb.ca/labour/standards

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

Human rights

Manitoba Human Rights Commission

204-945-3007

Toll free: 1-888-884-8681

www.manitobahumanrights.ca

hrc@gov.mb.ca

Accessibility Manitoba

www.accessibilitymb.ca



Workplace health and safety

Ministry of Labour, Workplace Safety & Health Division

204-957-SAFE (7266)

Toll free: 1-855-957-SAFE (7233)

www.gov.mb.ca/labour/safety

SAFE Work Manitoba

204-957-SAFE (7233)

Toll free: 1-855-957-SAFE (7233)

www.safemanitoba.com

information@safeworkmanitoba.ca

Workers' Compensation Board of Manitoba

204-954-4321

Toll free: 1-855-954-4321

www.wcb.mb.ca

wcb@wcb.mb.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:

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

National WHMIS Portal: whmis.org

Provincial legislation

Provincial statutes and regulations are available at Manitoba Laws:

www.gov.mb.ca/laws

For the current status of bills before the legislature go to The Legislative Assembly of Manitoba:

www.gov.mb.ca/legislature





You, your staff and the law

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