

Employment Standards

Frequently Asked Questions – September 2013

This frequently asked questions document has been prepared to provide information to employers and employees about the *Employment Standards Act* and Regulations.

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No. 1 INTRODUCTION TO THE EMPLOYMENT STANDARDS ACT

1. WHAT IS THE EMPLOYMENT STANDARDS ACT?

The *Employment Standards Act* sets the minimum standards for employment in Yukon. It sets out such things as minimum wage, hours of work, vacation pay, notice provisions and special leave.

2. WHO DOES THE ACT APPLY TO?

The act applies to all employers and employees in Yukon, with some exceptions. Employees of the territorial and federal governments are exempt. Employees working in inter-provincial undertakings, i.e., trucking companies, banks, airports and the postal service are covered by federal legislation administered by Labour Canada. As well, some employees are exempted from the *Employment Standards Act* by regulation. An Employment Standards Officer should be consulted if employers or employees are unsure whether they are covered by the act.

3. HOW ARE THE PROVISIONS OF THE ACT ENFORCED?

Employment Standards Officers are responsible for the interpretation and administration of the act. A variety of methods are used by the officers to ensure that employers and employees are in compliance with the law. Some methods are public education programs, payroll audits, complaint investigation, mediation, conciliation and, as a last resort, prosecution. The officers are granted a number of powers under the act to assist them in their duties.

4. WHAT CAN AN EMPLOYEE DO IF AN EMPLOYER VIOLATES THE ACT?

The employee can file a complaint with Employment Standards where an Employment Standards Officer will investigate and attempt to resolve the complaint in accordance with the act.

5. WHERE CAN AN EMPLOYEE FILE A COMPLAINT IF THE EMPLOYEE IS NOT COVERED BY THE ACT?

If it is determined that the employee is not covered by the act or that the complaint is beyond Employment Standards' jurisdiction, the officer may direct the complainant to an appropriate agency, such as: Labour Canada; Service Canada; Canada Revenue Agency; Public Service Alliance of Canada; Small Claims Court; the Human Rights Commission; and other provinces or territories.

6. WHAT TYPES OF COMPLAINTS CAN BE FILED?

Complaints are of two types:

- **Monetary** - The majority of complaints are claims for unpaid wages, arising from violations of the provisions governing hours of work, overtime payment, vacation pay, minimum wages, unauthorized deductions, and notice of termination.
- **Non-monetary** - Complaints arise from violations of the leave provisions. Contravention of the act for any reason may result in prosecution, but best results are achieved through education and compliance, not in court action.

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7. CAN THE EMPLOYER AND EMPLOYEE MAKE AN AGREEMENT THAT IS NOT ADDRESSED BY THE ACT?

Employers and employees can agree to more favourable conditions than the act provides. An agreement for less favourable conditions, no matter the reasons underlying the arrangement, is not a valid agreement.

8. CAN AN EMPLOYEE TRY TO CLAIM MORE THAN THE MINIMUM STANDARDS?

The employee is entitled to receive wages and benefits established by the terms of employment. Therefore, if the employer and employee have agreed to more favourable conditions than the minimum standards, the employee is entitled to file a claim based on that agreement. The employee should be prepared to provide Employment Standards with documentation that supports their claim such as wage statements, an employment contract, and other work-related records.

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No. 2 GENERAL INFORMATION

1. EMPLOYMENT STANDARDS

Employment Standards Officers deal with problems arising from the employer-employee relationship. Employers and employees are urged to contact an Employment Standards Officer for information on all matters arising from the *Employment Standards Act* and its Regulations.

2. DEFINITIONS

The following definitions will assist you in understanding the terms affecting the employer-employee relationship:

"conditions of employment" means all matters and circumstances in any way affecting employers and employees in respect of the employment relationship;

"day" means any period of 24 consecutive hours after the commencement of work;

"contract worker" means a worker, whether or not employed under a contract of employment, and whether or not furnishing tools, vehicles, equipment, machinery, material, or any other thing owned by the worker, who performs work or services for another person for compensation or reward on such terms and conditions that:

(a) the worker is in a position of economic dependence upon and under an obligation to perform duties for, that person, and

(b) the relationship between the worker and that person more closely resembles the relationship of employee to employer than the relationship of an independent contractor to a principal or of one independent contractor to another independent contractor.

"employee" includes:

a) a person, including a deceased person, in receipt of or entitled to wages for employment or services performed for another;

b) a person being trained by an employer for the purpose of the employer's business;

c) a contract worker; and

d) a person who was an employee.

"employer" means a person having control or direction of, or responsibility for the employment of, or payment of wages to, an employee and includes a former employer;

"overtime" means hours of work in excess of the standard hours of work;

"standard hours of work" means the hours of work described in Section 6 (8 hours in a day and 40 hours in a week);

"wages" means any monetary remuneration payable by an employer to an employee under the terms of a contract of employment, any payment to be made by an employer to an employee under this *Act*, and any allowance for travel as prescribed in the Regulations, but does not include gratuities, money that is paid at the discretion of the employer and that is not related to hours of work, production or efficiency, damages awarded in a wrongful dismissal action, travelling expenses, or other expenses;

"week" means a period of seven consecutive days established by the employer's payroll records or determined by an Employment Standards Officer.

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3. RECORD-KEEPING

Employers must keep a record of the employee's name and address, the number of hours worked by the employee in each day and each week, the employee's wages, gross earnings, and deductions, the overtime accumulated by the employee each week, the time off with pay instead of overtime pay accumulated and taken by the employee each week, the vacations taken by the employee, the leaves of absence taken by the employee, and the conditions of employment for each employee regardless of the method of payment. The records must be kept in the employer's principle place of business *in Yukon* for a period of twelve (12) months after work is performed or services are supplied by an employee.

4. MINIMUM STANDARDS

The minimum standards provided in the act cannot be waived by any agreement between an employer and employee, but an agreement allowing for more favourable conditions is valid. For example, the parties can agree that any work after 8 hours per day will be paid at double time but they cannot agree that any work after 8 hours per day will be paid at straight time.

5. DEDUCTIONS FROM WAGES

An employer is not allowed to make any deductions, other than statutory deductions, from an employee's wages. However, an employer can honour an employee's written authorization to pay wages to a charitable or other organization, a pension or superannuation plan, an insurer licensed under the *Insurance Act*, to meet credit obligations and for a purpose that the Director of Employment Standards considers is for the benefit of the employee. Amounts deducted without proper authorization are recoverable as unpaid wages.

6. TERMINATION OF EMPLOYMENT

Termination provisions are designed to ensure both employees and employers provide the minimum amount of written notice. Failure by either the employer or the employee to give the proper written notice when required may result in either the employer being required to pay wages or in the employee forfeiting wages in lieu of notice. There are special provisions governing termination or layoff of groups. For additional information refer to Bulletin #8, Termination of Employment.

7. WHY IS IT NECESSARY TO INCLUDE CONTRACT WORKERS IN THE *EMPLOYMENT STANDARDS ACT*?

Contract workers are included in the *Employment Standards Act* because employers often misclassify them as "independent contractors". Indeed, contract workers themselves make the same error. Employers may realize significant liabilities because of this mistake and employees may lose the protection of the act. It is very important to both parties that the true legal relationship in existence between them is properly classified. **Contract workers are employees, not independent contractors.**

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8. WHAT IS THE DIFFERENCE BETWEEN AN EMPLOYEE AND A VOLUNTEER?

An employee is a person who receives or is entitled to wages for employment or services performed for someone; this includes a person who is being trained by an employer for their business. Typically, volunteers are persons who choose to provide services for non-profit organizations or charities for which they do not expect compensation. In a profit-based organization, any person allowed, directly or indirectly, to perform work normally done by employees is considered to be an employee, not a volunteer; however every situation would require an individual assessment and determination

9. WHAT CONSTITUTES AN EMPLOYMENT RELATIONSHIP?

The two most important elements in defining an employment relationship are economic dependency and the worker is under an obligation to perform duties (subordination) for another. If those two elements exist, and the relationship more closely resembles an employment relationship (rather than one independent contractor to another independent contractor, or principle to independent contractor relationship), it is an employment relationship.

10. IS ADDING CONTRACT WORKERS TO THE DEFINITION OF EMPLOYEE GOING TO CHANGE TRULY INDEPENDENT CONTRACTORS INTO EMPLOYEES?

The question of whether a person is an employee or an independent contractor is always a question of fact. The traditional Common Law tests of employment analyze the facts using the following tests: the master's right to control the methods used to perform the work; the master's obligation to pay wages or other remuneration; the master's right of selection of the servant; the master's right to discipline or discharge the servant; control; ownership of tools; chance of profit; risk of loss; economic dependency; and the organization or integration test.

By concentrating on economic dependency and subordination as well as the relationship more closely resembling that of employment rather some other type of relationship, employers and employees will be less likely to misclassify the worker as an independent contractor. If you are still uncertain about the type of relationship you are entering into, contact Employment Standards or your legal advisor for clarification.

11. IF I GET A BUSINESS LICENCE, DOES THAT MAKE ME AN INDEPENDENT CONTRACTOR?

Many workers, either on their own or at the request of an employer, attempt to reclassify themselves from an employee to an independent contractor. They may purchase a business licence, arrange for Yukon Workers' Compensation Health & Safety Board (WCB) coverage, register a trade name and get a GST account, and even create a contract which states that they are not an employee. If the worker is economically dependent on a person and in a position of subordination to that person, the worker is an employee regardless of attempts made to change the nature of the relationship. Determining whether or not one is an employee or an independent contractor is always a question of fact.

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No. 3 GENERAL EXEMPTION REGULATION

1. WHAT IS THE GENERAL EXEMPTION REGULATION?

This regulation identifies an industry or class of employees not subject to some provisions of the act.

2. WHO IS EXEMPTED BY THIS REGULATION?

Sitters and persons working on an Employment Insurance "top-up" program are exempted from the entire act.

Exemptions from Part 2, Hours of Work and Overtime include:

- Guides, outfitters, farm workers, domestics, watchmen or security guards (unless working for a security firm); and
- a person other than a percussion drill or diamond drill operator or drill helper, employed in staking, line cutting, geological mapping, geochemical sampling or testing, geophysical surveying or manual stripping activities.

3. WHAT IS THE DIFFERENCE BETWEEN A SITTER AND A DOMESTIC?

- Sitters are persons employed in a private residence solely to care for a child or a disabled, infirm or other person. Nurses, therapists, domestics, homemakers, day care workers or employees of a business providing that service are not sitters.
- Domestics are persons employed to provide cooking, cleaning, gardening, maintenance, chauffeuring, sitting, nursing, tutoring or other services to households.

4. ARE THE EMPLOYEES OF PLACER MINERS EXEMPT FROM OVERTIME?

Employees of placer miners are not exempt. The employer must comply with the hours of work requirements set out in Part 2.

Only employees working in specified occupations in the course of mineral exploration are exempt from Part 2, Hours of Work of the *Employment Standards Act*.

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No. 4 HOURS OF WORK AND OVERTIME

1. WHAT ARE THE STANDARD HOURS OF WORK?

The standard hours of work are 8 in a day and 40 in a week. A general holiday reduces the standard hours in a week by 8 hours in the week the general holiday occurs.

2. WHAT IS OVERTIME?

Overtime is any hours worked in excess of 8 in a day or forty (40) in a week.

3. WHAT IS THE OVERTIME RATE OF PAY?

The overtime rate is one and one-half times the employee's regular pay rate.

4. DO THE HOURS OF WORK AND OVERTIME PROVISIONS APPLY TO ALL EMPLOYEES?

They do not apply to members of the employer's family, travelling salespersons and persons whose duties are primarily supervisory/managerial and persons identified as exempt under the General Exemption Regulation.

5. CAN OVERTIME BE TAKEN IN PAID TIME OFF RATHER THAN A CASH PAYMENT?

As long as there is an agreement in writing or as part of a Collective Agreement, time off with pay in lieu of overtime is provided for in the act. The time off must be calculated by multiplying the hours of overtime worked by the employee by time and one-half and be paid at his/her regular rate of pay at the time it was earned. Any unused lieu time must be paid out within a 12 month period stated in the agreement or if none is specified, within a calendar year.

6. IS THERE REPORTING PAY?

An employer who requires an employee to report to work must pay the employee minimum reporting pay of 2 hours' wages at the applicable regular or overtime rate whether or not the employee works part or all of the 2 hours. There are some exceptions to this requirement. For further details, refer to the Reporting Pay Order (O.I.C. 1991/113), or contact the Employment Standards office.

7. WHAT ARE THE MAXIMUM HOURS OF WORK IN A WEEK?

Generally, the act does not limit the maximum hours, but the employer must pay overtime, where applicable, for all hours worked in excess of the standard hours and must comply with the rest period provisions. When an employee considers that he or she is required to work hours that are excessive or detrimental to his or her health and safety, a complaint should be filed with the Director of Employment Standards. If the Director is satisfied that the complaint is justified, the employer may be ordered to limit the daily or weekly hours of work to not less than 8 in one day or 40 in one week.

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8. WHAT ARE THE REST PERIOD PROVISIONS?

Rest periods are not considered as hours worked. An employee:

- who works 10 hours per day or less must work no longer than 5 hours without a 30 minute unpaid eating period. An employee who works more than 10 hours per day cannot work longer than 6 hours without an unpaid eating period. For the purpose of computing hours worked by an employee, the period allowed for a eating period is not counted as time worked unless the employee is required to work during that period;
- must have 8 consecutive hours off between shifts. The rest period may be reduced to 6 hours in an emergency, or on the order of the Director of Employment Standards;
- hours of work shall whenever practicable be so scheduled so that each employee has at least 2 full days of rest in a week. An employee may be required to work up to 28 continuous days or 35 continuous days if the additional 7 days will complete the project. The employee is then entitled to at least 1 day of rest for each 7 continuous days worked. These days of rest are to be taken consecutively.
- working a split shift must complete the split shift within 12 hours of its commencement. An employer can apply to the Director of Employment Standards to have the 12 hour limit varied.

9. CAN A 40-HOUR WEEK BE WORKED IN LESS THAN 5 DAYS?

A short work week may be implemented when there is a written agreement between the employer, employee and or a majority of the employees or the employees' bargaining agent that states any hours worked in excess of 12 in a day and 80 in a 2 week period must be paid the applicable overtime rate.

10. CAN THE OVERTIME REQUIREMENTS BE ALTERED?

Employers can apply to the Director to issue a permit to average the hours of work. Permits may be granted when:

- the nature of the work justifies the irregular distribution of the hours of work; or
- the employer and the trade union representing employees agree to an averaging arrangement; or
- the employer, employee and or a majority of employees at a non-union worksite agree in writing to averaging.

An averaging permit allows hours of work to be averaged over a specific period of time.

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11. MUST A SALARIED EMPLOYEE BE PAID OVERTIME?

The *Employment Standards Act* applies in all respects to salaried employees as it does to hourly paid employees. This includes the payment of overtime, general holiday pay, vacation pay and the record keeping provisions of the act. A salary is just a method of payment.

There is a common misconception that a salaried worker is paid a specific sum regardless of the hours worked. The reality is, should an employee work in excess of the hours he/she contracted to work for a given salary, they are entitled to overtime pay. It is important for the employer to specifically state the number of hours of work they expect the employee to work for the salary they intend to pay. This should be in writing. Without an expressed term of an employment contract which deals with hours of work, the courts could assume that the salary is based upon 8 hours per day and 40 hours per week.

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No. 5 MINIMUM WAGE & MINIMUM WAGE REGULATION

1. WHAT IS THE MINIMUM WAGE?

Each April 1, the minimum wage is adjusted based on the previous calendar year's Consumer Price Index for Whitehorse. The current minimum wage rate can be found online at:

<http://srv116.services.gc.ca/dimt-wid/sm-mw/rpt1.aspx?lang=eng>

2. MUST ALL EMPLOYEES BE PAID MINIMUM WAGE?

Regardless of their age, all employees must be paid at least the minimum wage.

3. WHAT IS THE MINIMUM WAGE FOR A DOMESTIC, FARM WORKER, GUIDE OR PERSON EMPLOYED AS AN OUTFITTER?

If these employees are not paid an hourly rate or on piece work, then their minimum wage is 8 hours multiplied by the current minimum wage rate to calculate the minimum amount for each day or part day worked.

4. WHAT ABOUT A PIECE WORKER OR SOMEONE PAID A COMMISSION?

The minimum wage for an employee who works on a piece work basis or who is paid in whole or in part by commission, shall be determined by multiplying the number of standard hours worked by the employee in a pay period by the minimum hourly rate. Where the amounts paid to an employee are less than the amounts calculated as above, the employer shall forthwith pay the employee an amount equal to the difference.

5. DO TAXI DRIVERS HAVE TO BE PAID MINIMUM WAGE?

Minimum wage for a taxi driver is calculated by multiplying the number of standard and overtime hours worked in a pay period by the regular and overtime minimum wage. If the commissions earned by the taxi driver in a pay period do not equal the amount calculated as the minimum wage, the employer must pay the difference.

Any agreement between the employer and employee above these minimum standards is what will be enforced.

7. CAN EMPLOYEES EARNING MINIMUM WAGE BE CHARGED FOR ROOM AND BOARD?

An employee earning minimum wage can be charged for room and board provided there is a written agreement and provided the charge is not more than \$5.00 per day.

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8. WHAT CAN A PERSON EARNING MORE THAN THE MINIMUM WAGE BE CHARGED FOR ROOM AND BOARD?

A person earning more than minimum wage can be charged more than \$5.00 per day for room and board provided there is a written agreement, and provided the charge does not reduce the employee's earnings below the minimum wage minus \$5.00 per day.

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No. 6 VACATION AND VACATION PAY

1. ARE ALL EMPLOYEES ENTITLED TO ANNUAL VACATIONS?

Members of the employer's family are excluded from the vacation requirements. All other employees, whether part-time, seasonal or temporary, are entitled to an annual vacation with vacation pay after each completed year of employment.

2. HOW MANY WEEKS OF VACATION MUST THE EMPLOYEE BE GRANTED?

The employee must be granted at least 2 weeks of vacation after completing 1 year of employment.

3. WHAT IS THE VACATION PAY RATE?

Vacation pay is 4% of the gross wages earned by the employee during the year in which the employee earned the vacation time.

4. WHEN CAN THE EMPLOYEE TAKE ANNUAL VACATION?

The vacation must be granted within 10 months of the year the vacation was earned. For example, an employee who works from January 1 to December 31 must be granted their vacation before the end of the following October.

5. WHEN MUST VACATION PAY BE PAID?

Vacation pay must be paid at least 1 day before the employee starts the vacation.

6. IS AN EMPLOYEE WHO TERMINATES BEFORE WORKING A FULL YEAR ENTITLED TO VACATION PAY?

An employee must be employed 14 continuous days before they are entitled to vacation pay. If the employee has been employed 14 continuous days they are entitled to 4% of their gross wages as vacation pay. Vacation pay must be paid to them within 7 calendar days from the termination of employment.

7. MUST THE EMPLOYEE TAKE ANNUAL VACATION?

The employer and employee may agree in writing that the employee will not take an annual vacation. Although the employee is not taking a vacation the employer must pay the vacation pay which the employee has earned.

8. WHAT IF A GENERAL HOLIDAY OCCURS DURING THE VACATION?

The employee's vacation is extended by 1 day for each general holiday. The employer must pay the wages to which the employee is entitled for the general holiday.

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9. WHAT HAPPENS IF A BUSINESS IS TRANSFERRED?

Transfer of a business includes a sale, lease, or other disposition of the business and a merger of the business with another business and does not interrupt the employee's continuous service if the employee continues to be employed. All aspects of the *Employment Standards Act* still apply.

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No. 7 GENERAL HOLIDAYS

1. WHAT ARE GENERAL HOLIDAYS?

General holidays are days on which qualified employees receive a day off with general holiday pay. There are 9 general holidays in the *Employment Standards Act*; New Year's Day, Good Friday, Victoria Day, Canada Day, Discovery Day, Labour Day, Thanksgiving Day, Remembrance Day and Christmas Day.

PLEASE NOTE - EASTER SUNDAY AND BOXING DAY ARE NOT LEGISLATED GENERAL HOLIDAYS IN YUKON.

2. HOW DOES AN EMPLOYEE QUALIFY FOR GENERAL HOLIDAY PAY ON A DAY THEY DO NOT WORK?

If the employee does not work the general holiday, they must meet the following three conditions:

- the employee must have been employed 30 calendar days before the holiday;
- the employee must work their last scheduled shift before and their first scheduled shift after the holiday (unless they have their employer's permission* to be absent or unless the absence is permitted by the act);
- the employee must work on the holiday if called to work.

3. DOES AN EMPLOYEE QUALIFY FOR GENERAL HOLIDAY PAY ON A DAY THEY DO NOT WORK?

If the employee does not work the general holiday, they must meet the following three conditions:

- the employee must have been employed 30 calendar days before the holiday;
- the employee must work their last scheduled shift before and their first scheduled shift after the holiday (unless they have their employer's permission* to be absent or unless the absence is permitted by the act);
- the employee must work on the holiday if called to work.

* * Employees have their employer's permission to be absent if it is their scheduled day off, or if they have asked for and been granted the day off.

4. WHAT HAPPENS IF THE GENERAL HOLIDAY FALLS ON AN EMPLOYEE'S DAY OFF?

The first working day immediately following the general holiday becomes the general holiday for that employee.

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5. WHAT IS THE GENERAL HOLIDAY PAY ENTITLEMENT?

The amount an employee must be paid as general holiday pay depends on whether they work regular hours and how they are paid.

REGULAR HOURLY RATE: An employee who works regular hours and is paid an hourly rate must be paid the equivalent of their regular rate of pay for their normal hours of work. For example, an employee who works 8 hours per day, **which never varies**, is entitled to 8 hours pay.

REGULAR MONTHLY/WEEKLY SALARY: An employee who works regular hours and is paid a salary must be given a day off without a reduction in their normal salary.

REGULAR COMMISSION/PIECE WORK: An employee who works regular hours and is paid a commission or on a piece work basis must be paid their average daily wage, exclusive of overtime or bonus, earned in the week of the holiday.

IRREGULAR HOURS: An employee who works less than the standard hours or who works irregular hours must be paid general holiday pay of 10% of the wages (excluding vacation pay) earned for the hours worked in the 2 calendar weeks immediately prior to the week in which the holiday falls. This would include any overtime earned during that period.

6. WHAT IF AN EMPLOYEE ENTITLED TO THE GENERAL HOLIDAY WORKS ON THE HOLIDAY?

In addition to their general holiday pay, there are two payment options when an employee works on a general holiday:

- 1) be paid at the applicable overtime rate for all hours worked on the general holiday; or
- 2) be paid at their regular rate for hours worked on the general holiday and be given a day off which may be added to the employee's annual vacation or be granted a day off at a time convenient to the employer and the employee.

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No. 8 TERMINATION OF EMPLOYMENT

1. WHEN IS NOTICE OF TERMINATION REQUIRED?

Termination notice is required after the employee completes 6 consecutive months of employment with the employer.

2. WHO IS REQUIRED TO GIVE TERMINATION NOTICE?

Once 6 months of employment are completed, both employers and employees are required to give written notice.

3. ARE THERE EXCEPTIONS TO THE REQUIREMENTS FOR NOTICE OR PAY IN LIEU OF NOTICE?

The termination requirements do not apply to:

- an employee who has not completed 6 months of consecutive employment,
- an employee discharged for just cause,
- an employee whose employer has failed to abide by the terms of the employment contract,
- an employee being temporarily laid off (less than 13 weeks),
- an employee unable to perform an employment contract due to an unforeseeable event or circumstance,
- an employee who has refused reasonable alternative employment,
- an employee working in the construction industry,
- an employee working in a seasonal or intermittent undertaking operating less than 6 months in a year,
- the termination of an employment relationship due to the completion by the employee of a project or assignment that the employee was hired to perform over a period not exceeding 12 months, whether or not the exact period was stated in the employment contract and,
- an employee who is still employed after completing the term of employment that was fixed in the employment contract, unless the employee is employed for a period of more than 1 month after the completion of that term.

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4. HOW MUCH NOTICE OR PAY IN LIEU IS REQUIRED?

The amount of notice varies depending on the length of time the individual was employed. The notice must be in writing and if the employer fails to do so, the employee may be entitled to 1 week's wages for each week of notice to which he or she was entitled. The graduating scale of notice is as follows:

- a) employed greater than 6 months but less than 1 year - 1 week
- b) employed greater than 1 year but less than 3 years - 2 weeks
- c) employed greater than 3 years but less than 4 years - 3 weeks
- d) employed greater than 4 years but less than 5 years - 4 weeks
- e) employed greater than 5 years but less than 6 years - 5 weeks
- f) employed greater than 6 years but less than 7 years - 6 weeks
- g) employed greater than 7 years but less than 8 years - 7 weeks
- h) employed 8 years or more - 8 weeks

An employee who has been employed for more than 6 months must also provide written notice of resignation to an employer. The amount of notice required is as follows:

- a) 1 weeks' notice if the period of employment is less than 2 years
- b) 2 weeks' notice if the period of employment is two 2 years or more but less than 4 years
- c) 3 weeks' notice if the period of employment is 4 years or more but less than 6 years
- d) 4 weeks' notice if the period of employment is 6 years or more

If an employee does not provide the proper notice, the employer may, with the consent of the employee, deduct 1 weeks' wages.

5. WHAT CAN THE EMPLOYER DO WHEN THE EMPLOYEE FAILS TO GIVE NOTICE BUT DOES NOT CONSENT TO THE DEDUCTION?

If the employee does not consent to the deduction of 1 week's pay, the employer can still make the deduction but must pay the amount in question to the Director of Employment Standards, who will investigate the matter. The Director is authorized to make a decision resolving the issue. If either party disagrees with that decision, they may appeal to the Employment Standards Board.

6. WHAT IS TEMPORARY LAYOFF?

Temporary layoff is an interruption of the employee's employment by the employer for a period not greater than 13 out of 20 consecutive weeks.

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7. WHEN DOES TEMPORARY LAYOFF BECOME TERMINATION?

Termination occurs if the employee is on layoff for more than 13 out of 20 consecutive weeks, unless the Director has fixed a later recall date or unless the Employment Standards Board has ordered an extension of the layoff period, or both. Upon expiry of the layoff period, the employee is considered to have been terminated at the beginning of the period and pay in lieu of notice must be paid to the employee.

8. CAN TERMINATION NOTICE BE GIVEN WHEN THE EMPLOYEE IS ON AN ANNUAL VACATION?

The act specifically prohibits the employer from giving notice of termination when the employee is on annual vacation.

9. DOES THE ACT PROHIBIT AN EMPLOYER FROM FIRING EMPLOYEES?

The employer retains the right to hire and to fire an employee. The employer is not always free to fire an employee without notice or pay in lieu of notice because the employer must meet the minimum standards and legislative requirements established under the act. Employers and employees should be aware that the *Yukon Human Rights Act* prohibits discriminatory practices on a number of grounds relevant to the employer-employee relationship.

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Employment Standards

Frequently Asked Questions – September 2013

No. 9 RECORDKEEPING

1. WHAT TYPES OF RECORDS MUST BE KEPT?

Employers must keep a complete and accurate record of the employee's name, address, the number of hours worked by the employee in each day and each week, the employee's gross earnings and deductions, accumulated overtime, time off with pay in lieu of overtime pay, vacations taken by the employee, leaves of absence taken by the employee, the employee's conditions of employment.

In addition to these payroll records, employers are obligated to keep records of any written agreements to take time off in lieu of overtime, written agreements to average hours over a 2 week pay period, employee's wage statements and written notice of reductions in an employee's wage rate.

These records must be kept for all employees, regardless of how they are being paid, i.e. salary.

Employee records must be kept in the principal place of business in Yukon, regardless of where the head office is located. Employers are required to provide payroll records to the Director of Employment Standards upon official notice to supply the requested records.

2. HOW LONG DO EMPLOYERS HAVE TO KEEP THESE RECORDS?

Employers are required to keep payroll records for a period of 12 months after work is performed or services are supplied by an employee.

3. WHAT HAPPENS IF AN EMPLOYER VIOLATES THE EMPLOYMENT STANDARDS ACT?

Employers, who choose not to comply with the provisions of the *Employment Standards Act*, may face an administrative penalty of \$500.00 or a fine of up to \$10,000.00, upon summary conviction.

4. WHAT ADVANTAGE DOES KEEPING PROPER RECORDS GIVE AN EMPLOYER?

By maintaining proper records as required in the act, employers have evidence of the exact number of hours employees worked and what the employees were paid for. In the event of a wage complaint being filed against the employer, these records will be requested by the Director of Employment Standards.

The onus is on the employer to maintain accurate records and proof that employees have been paid in accordance with the act. In the absence of employer records, the employee's records of hours may be used in the calculation of wages. An employer's best defence against an inflated wage claim is complete and accurate payroll records.

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Employment Standards

Frequently Asked Questions – September 2013

No. 10 PAYMENT OF WAGES

1. HOW OFTEN MUST WAGES BE PAID?

A pay period cannot exceed 16 days. The employer has 10 days after the end of the pay period to pay all wages owing for that period.

2. WHAT WAGES MUST THE EMPLOYER PAY?

The employer must pay all wages owing to the employee each pay period, except vacation pay. Wages include overtime, commissions, regular wages, and general holiday pay.

3. WHEN AN EMPLOYEE IS TERMINATED WHEN MUST THEY BE PAID?

All wages including vacation pay, but not including pay in lieu of notice, must be paid to an employee within 7 calendar days from the date of termination. Pay in lieu of notice can be paid to the employee by instalments of the same amount which would have been paid to the employee had he/she been allowed to work out the notice period.

4. HOW SHOULD WAGES BE PAID?

Wages must be paid in cash (lawful currency of Canada), by cheque or by deposit in the employee's account in a savings institution designated by the employee.

5. MUST A WAGE STATEMENT BE PROVIDED?

A wage statement must be provided at least once a month. The wage statement must set out the pay period, the number of hours being paid, the wage rate, details of deductions, and the amount being received.

6. WHAT DEDUCTIONS CAN BE MADE FROM THE EMPLOYEE'S WAGES?

An employer can make statutory deductions such as income tax, Employment Insurance (EI), and Canada Pension Plan (CPP). An employer cannot withhold wages or make deductions from an employee's wages for set-offs or counterclaims. Employers and employees with questions regarding allowable deductions are encouraged to speak to an Employment Standards Officer.

7. WHAT IF AN EMPLOYEE WHO IS OWED WAGES CANNOT BE LOCATED?

The employer must fulfil their obligation to the employee by paying the amount owed to the employee to the Director of Employment Standards. The Director deposits the money in trust in the Yukon Employment Standards Suspense Account. If the wages are unclaimed after 3 years, the funds are forfeited to the government.

Employment Standards

Frequently Asked Questions – September 2013

8. WHAT IF THE EMPLOYER FAILS TO PAY THE WAGES OWED?

Employment Standards encourages employees to speak to the employer first. The failure may be unintentional and easily remedied. If the problem remains unresolved, the employee is entitled to file a complaint and initiate the wage claim procedure. If wages are found owing and the employer does not voluntarily pay the wages, the Director may issue a Certificate to enforce payment. If a Certificate is issued, an administrative fee in the amount of \$100 or 10% of the wages found owing, whichever is greater, will be added to the Certificate.

9. WHY IS A 10% ADMINISTRATIVE FEE BEING ADDED TO A CERTIFICATE ISSUED BY THE DIRECTOR?

The addition of the 10% or \$100 administrative fee, whichever is greater, will encourage employers in default of their obligation to pay wages to pay the employee. The administrative fee creates a consequence for an employer who does not live up to its obligation to pay wages in a timely and proper manner.

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Employment Standards

Frequently Asked Questions – September 2013

No. 11 COMPLAINTS

1. ARE THERE TIME LIMITS FOR FILING EMPLOYMENT STANDARDS COMPLAINTS?

A complaint must be filed at Employment Standards within 6 months of the day the wages should have been paid or the day the issue arose.

2. WHO CAN FILE A COMPLAINT?

Any employee who believes they have not been paid in accordance with the *Employment Standards Act* can file a complaint. The Director of Employment Standards can also initiate an investigation if there is reason to believe there are violations of the act.

3. CAN A THIRD PARTY FILE A COMPLAINT THAT AN EMPLOYER IS VIOLATING THE ACT?

Any person may make a complaint that an employer is or has violated a provision of the *Employment Standards Act*. The Director will not accept a complaint based on rumour or innuendo. Reasonable and probable cause must be established. Cause can be established through, for instance, a payroll statement showing an employee worked overtime but was not paid at the time and one-half rate. In some cases, the complainant will be required to swear an affidavit attesting to the truth of their statement regarding the complaint.

Anyone who knowingly files a false third party complaint commits an offence and is liable on summary conviction to a fine not exceeding \$10,000.

4. HOW MUST A COMPLAINT BE FILED?

A complaint may be filed in person, by mail, or by downloading a Complaint Information Form from: http://www.gov.yk.ca/forms/forms/5000/yg5600_e.pdf

5. WHAT INFORMATION MUST THE EMPLOYEE PROVIDE WHEN FILING A COMPLAINT?

The employee should be prepared to supply details of their employment such as date of hire and termination, hours of work, wage rate, location, etc. If the employee kept an independent record of the hours of work, those should be supplied as well as copies of their pay slips and Record of Employment. Additional information about the employer such as the business name, owner or manager, and the employer's contact information, is also useful.

6. WHAT HAPPENS AFTER THE COMPLAINT IS FILED?

The Employment Standards Officer will investigate the complaint and determine the proper course of action. During the investigation, the officer will discuss the complaint with the employer, the employee, and any other person who has relevant information.

7. HOW SOON CAN AN EMPLOYEE EXPECT A COMPLAINT TO BE RESOLVED?

The employee should not expect an immediate resolution. The time it takes to resolve a complaint is affected by the timeliness of the complaint, the validity of the complainant's information, the availability of the employer and the employer's records, the employer's and the complainant's right to dispute or to appeal results of the investigation, and the need for court action to resolve the complaint.

Employment Standards

Frequently Asked Questions – September 2013

8. WHAT ARE THE EMPLOYER'S OBLIGATIONS WHEN RESPONDING TO A COMPLAINT?

The employer may be requested to produce payroll records and other documents the officer considers relevant to the complaint. If the employer fails to comply with the request, the officer can obtain a court order requiring the employer to produce the records or can prosecute the employer for failing to produce the records.

Employers are encouraged to co-operate with the officer in order to obtain a speedy resolution to the complaint.

9. CAN THE EMPLOYER BE CHARGED FOR FAILING TO RESPOND TO THE COMPLAINT OR FOR FAILING TO COMPLY WITH THE REQUIREMENTS OF THE ACT?

Employment Standards is focused on education and compliance with the *Employment Standards Act*, not in prosecution. Court action is taken only when all other means of resolution have failed. However, as an alternative to prosecution, there are provisions to administer a \$500.00 levy against an employer for any violation under the act.

10. WHAT PROTECTION IS AVAILABLE TO THE EMPLOYEE AFTER A COMPLAINT IS FILED?

An employee can request that their name be kept confidential when filing a complaint. In that case, the complainant's name will not be released unless absolutely necessary.

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Employment Standards

Frequently Asked Questions – September 2013

No. 12 FAIR WAGE SCHEDULE

1. WHAT IS THE FAIR WAGE SCHEDULE?

The Fair Wage Schedule sets the minimum wage rates that are paid to persons working on Yukon Government public tender contracts. Please contact Employment Standards for the current list of the 4 Categories and the prevailing rates or visit the web site at

<http://www.community.gov.yk.ca/es/>

2. WHEN MUST AN EMPLOYER PAY EMPLOYEES THE RATES SET OUT IN THE FAIR WAGE SCHEDULE?

Both general contractors and sub-contractors, who employ workers on Fair Wage projects, are required to pay the applicable Fair Wage Schedule rates. The act defines what types of projects are covered in the Fair Wage Schedule. The Contract Administration Branch of Yukon Government can clarify if a specific contract is a public tendered contract.

3. ARE APPRENTICES ENTITLED TO BE PAID ACCORDING TO THE FAIR WAGE SCHEDULE?

A registered apprentice working in a Category A occupation can be paid the appropriate percentage of the wage rate for that trade as specified in the Apprentice Training Act, RSY 1986 c.6. If a Category A occupation is not identified in the *Yukon Apprentice Training Act*, an employee can be paid an apprentice rate provided the employee is engaged in activities at the same level and in circumstances similar to those of a registered apprentice. The parties in this case must determine the skill level of the employee and pay them the applicable percentage set out in the *Apprentice Training Act*.

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Employment Standards

Frequently Asked Questions – September 2013

No. 13 MATERNITY AND PARENTAL LEAVE

1. WHO IS ENTITLED TO MATERNITY LEAVE?

An employee who has been continuously employed by her employer for at least 12 months is entitled to maternity leave. The employee must submit to her employer a written request for maternity leave and a doctor's certificate stating she is pregnant and her probable due date. That request must be made no later than 4 weeks prior to the day the employee intends to start leave.

2. ARE PART-TIME EMPLOYEES ENTITLED TO MATERNITY LEAVE?

The act makes no distinction between part-time and full-time employees; a part-time employee who meets the requirements is entitled to maternity leave.

3. HOW MUCH MATERNITY LEAVE IS THE EMPLOYEE ALLOWED?

The employee is entitled to a maximum of 17 weeks of unpaid leave. The employee may apply for fewer weeks, may return to work before the leave expires, or both if the employer agrees. There is no provision for extending maternity leave beyond 17 weeks.

4. CAN THE EMPLOYER REQUIRE THE EMPLOYEE TO COMMENCE MATERNITY LEAVE?

The employer may require the employee to take maternity leave any time within the 6 weeks prior to her estimated due date. The employer may require the employee to start her leave sooner than 6 weeks prior to her estimated due date only with the consent of the Director of Employment Standards and only if the employee cannot reasonably be expected to perform her duties because of her pregnancy.

5. HOW SOON AFTER THE CHILD'S BIRTH MAY THE EMPLOYEE RETURN TO WORK?

The employee may return to work at any time with the employer's consent or by providing the employer with 4 weeks written notice of the day she/he intends to return to work.

6. CAN AN EMPLOYEE TAKE A LEAVE OF ABSENCE FOR A PREMATURE BIRTH, MISCARRIAGE OR OTHER HEALTH PROBLEMS ASSOCIATED WITH THE PREGNANCY?

An employee is entitled to a maximum of 17 weeks of unpaid leave for reasons related to the birth of a child, the termination of a pregnancy or health problems associated with the pregnancy, providing she requests the leave and supplies a doctor's certificate. The employee may request a shorter leave period, but cannot be required to return earlier than 6 weeks after the birth or termination of the pregnancy occurred.

7. WHO IS ENTITLED TO PARENTAL LEAVE?

A birth mother, birth father or a person who adopts a child under the laws of the Yukon or of a province and who has been continuously employed for 12 months is entitled to a maximum of 37 weeks of unpaid parental leave. The employee must submit a written request for the leave at least 4 weeks in advance.

Employment Standards

Frequently Asked Questions – September 2013

8. WHAT IF THE CHILD COMES INTO CUSTODY SUDDENLY?

If the child suddenly comes into the custody of the employee before he/she is able to give the employer the necessary 4 weeks of notice, the requirement is waived and the leave will be granted.

9. CAN AN EMPLOYEE TAKE MATERNITY AND PARENTAL LEAVE?

Provided that the maternity and parental leave is continuous or the employee and employer agree otherwise, an employee is entitled to take both maternity and parental leave.

10. CAN PARENTAL LEAVE BE TAKEN ANY TIME?

An employee must complete the parental leave no later than the first anniversary date of the birth or adoption of the child or of the date the child came into the employee's care and custody.

11. CAN BOTH SPOUSES TAKE PARENTAL LEAVE?

Parental leave can be taken wholly by one spouse or be shared by both but the cumulative total of the leave cannot exceed a continuous period of 37 weeks and cannot be taken at the same time unless one parent is unable to care for the child due to illness, injury, death or other hardship for the family.

12. CAN THE EMPLOYMENT BE TERMINATED BECAUSE OF PREGNANCY?

An employer is prohibited from terminating the employee unless the employee has been absent longer than permitted by the maternity leave provisions. An employer cannot change the conditions of employment because of the pregnancy or authorized leave unless the employee consents, in writing, to the change.

13. CAN THE EMPLOYMENT BE TERMINATED BECAUSE OF PARENTAL LEAVE?

An employer is prohibited from terminating the employee unless the employee has been absent longer than permitted by the parental leave provisions. An employer cannot change the conditions of employment because of an authorized parental leave unless the employee consents, in writing, to the change.

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Frequently Asked Questions – September 2013

14. WHAT CONDITIONS OF EMPLOYMENT ARE PROTECTED DURING MATERNITY AND PARENTAL LEAVE?

The employee's service is considered continuous during maternity and parental leave and upon return she/he must be reinstated in the position occupied by her/him on the date her/his leave started, or in a comparable position. An employee is entitled to receive the wages and benefits she/he was entitled to prior to the leave plus all increments they would have received had leave not been taken, unless they have agreed to the change in writing.

An employer who has suspended or discontinued operation during the employee's maternity or parental leave and who has not resumed operation before the leave expired must, on the resumption of operations, fully reinstate the employee.

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Employment Standards

Frequently Asked Questions – September 2013

No. 14 EQUAL PAY

1. DOES THE ACT CONTAIN EQUAL PAY PROVISIONS?

The intention of the equal pay provisions of the act is to ensure that employers do not discriminate between employees on the basis of sex. For example, male and female employees in the same establishment cannot be paid at different rates if the employees' working conditions and duties are similar.

2. ARE THERE ANY EXCEPTIONS?

Pay rates can differ if the difference is due to a merit or seniority system, a system that measures earnings by quality or quantity, or a differential based on any factor other than sex.

Employers should be aware that the *Yukon Human Rights Act* prohibits discrimination on a number of grounds that may affect the employer-employee relationship.

3. CAN THE EMPLOYER REDUCE A PAY RATE IN ORDER TO COMPLY?

An employer cannot reduce the pay rate of one group of employees in order to comply with the requirement to pay two groups of employees the same rate.

4. CAN AN EMPLOYER OR EMPLOYEE ORGANIZATION BARGAIN FOR DIFFERENT PAY RATES?

Any agreement which contravenes the act is illegal. The equal pay provisions cannot be avoided by virtue of a collective or written agreement.

5. WHAT ACTION MAY BE TAKEN SHOULD A BREACH OF THE EQUAL PAY PROVISIONS OCCUR?

The Director of Employment Standards would determine the amount owing as unpaid wages. These wages can be collected by the procedures established under the act.

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Employment Standards

Frequently Asked Questions – September 2013

No. 15 SPECIAL LEAVE WITHOUT PAY

1. WHAT IS SPECIAL LEAVE?

Special leave is an unpaid leave of absence available to the employee. The types of special leave are:

- sick leave,
- bereavement leave,
- compassionate care leave,
- reservist leave,
 - leave related to critical illness of a child and,
- leave related to the disappearance or death of a child

2. WHAT IS THE SICK LEAVE ENTITLEMENT?

An employee is entitled to a maximum of 12 days of unpaid sick leave. The leave is earned at the rate of 1 day per completed month of employment. Sick leave cannot be carried over to another calendar or fiscal year.

• IS A DOCTOR'S CERTIFICATE REQUIRED?

An employer can require an employee who is claiming sick leave to produce a medical certificate.

• CAN AN EMPLOYEE WHO IS ILL OR INJURED BE FIRED?

No employer shall dismiss or lay off an employee solely because of the employee's absence *due to illness or injury if the period of absence does not exceed the employee's entitlement to sick leave.*

3. WHAT IS THE BEREAVEMENT LEAVE ENTITLEMENT?

The employee is entitled to and shall be granted bereavement leave without pay for up to one week provided that the funeral of the member of the employee's immediate family falls within that week. (A week is defined as seven consecutive days.)

If the employee is designated by the family of a deceased member of a First Nation as the person responsible for organizing the funeral potlatch for the deceased, the employee is entitled to bereavement leave.

Employment Standards

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4. WHAT IS COMPASSIONATE CARE LEAVE?

Compassionate Care Leave may allow an employee up to 8 weeks of unpaid leave and job protection to provide care or support to a family member with a serious medical condition and a significant risk of death within a specified 26 week period.

- WHO QUALIFIES FOR COMPASSIONATE CARE LEAVE?**

Employees regulated by the *Employment Standards Act* qualify for Compassionate Care Leave. There is no length of service required to qualify for this leave, but a medical certificate is necessary before the leave is taken. The employer must be provided with a copy of the medical certificate on request.

- IS COMPASSIONATE CARE LEAVE PAID?**

Compassionate Care Leave under the *Employment Standards Act* entitles an employee to leave without pay for up to 8 weeks, and protects the employee's job until the expiration of the leave. Employees may qualify for Employment Insurance (EI) and are encouraged to contact Service Canada to obtain this information.

- CAN THE LEAVE BE SHARED?**

The leave may be broken up, but must be taken in minimum blocks of 1 week. The leave may be shared between 2 or more employees and may be taken outside of Canada.

- WHAT CONDITIONS OF EMPLOYMENT ARE PROTECTED DURING COMPASSIONATE CARE LEAVE?**

Compassionate Care Leave provides employees with the right to job protection. Employees who take Compassionate Care Leave must be reinstated in their former positions, or be given a comparable position in the same location and with the same wages and benefits. The employer may not dismiss or discipline the employee for taking this leave and the employee's years of service remains continuous while on this leave.

5. WHAT IS RESERVIST LEAVE?

This leave provides job protection to Reservists deployed for overseas missions, including pre and post-deployment duties related to the operation, and to both Reservists and Rangers deployed for domestic emergencies, for up to 15 days of annual training.

- WHO QUALIFIES FOR RESERVIST LEAVE**

An employee who is a member of the reserve force and has completed 6 consecutive months of continuous employment with an employer, or a shorter period that is prescribed for a class of employees to which the employee belongs.

- WHO PAYS THE EMPLOYEE'S WAGE WHILE ON RESERVIST LEAVE?**

Reservist Leave under the *Employment Standards Act* entitles an employee to leave without pay for the duration of the leave.

Employment Standards

Frequently Asked Questions – September 2013

6. WHAT IS LEAVE FOR A CRITICALLY ILL CHILD?

This leave provides job protection for an employee who is the parent of a critically ill child. This leave entitles a parent to a leave of absence without pay from employment for a period of up to 37 weeks in order to care for or support that child.

- **WHO QUALIFIES FOR LEAVE OF A CRITICALLY ILL CHILD?**

The employee must have completed 12 months of continuous employment with an employer. A medical certificate must be supplied.

- **CAN THE LEAVE BE SHARED?**

The leave may be shared by two or more employees in respect to the same child or children who are critically ill as a result of the same event. This leave may not exceed 37 weeks.

7. WHAT IS LEAVE RELATED TO THE DISAPPEARANCE OR DEATH OF A CHILD?

This leave provides job protection for an employee who is the parent of a child who has disappeared or died as a probable result of a crime. This leave entitles a parent to a leave of absence without pay for up to 35 weeks.

- **WHO QUALIFIES FOR LEAVE RELATED TO THE DISAPPEARANCE OR DEATH OF A CHILD?**

The employee must have completed 12 months of continuous employment with the same employer to qualify for this leave. The employee must provide two weeks written notice to their employer prior to starting the leave unless the circumstances necessitate a shorter period.

- **CAN THE LEAVE BE SHARED?**

The leave may be shared by two or more employees in respect of the same death or disappearance of a child or the same children who die or disappear as a result of the same crime. This leave may not exceed 35 weeks.

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8. WHO IS A "FAMILY MEMBER"?

"Family Member" means:

| | |
|---|---|
| the employee's spouse or common-law spouse | child, including a child to whom the employee stands in the place of the parent |
| parent | brother, sister |
| mother-in-law, father-in-law | step-mother, step-father |
| son-in-law, daughter-in-law | grandchild |
| grandparent | any relative permanently residing in the employee's household |
| uncle, aunt | step-parent-in-law of the employee |
| step-sibling of the employee | niece or nephew of the employee or of the employee's spouse or common law partner |
| sibling-in-law | step-sibling-in-law of the employee |
| foster child | current or former foster parent |
| ward or guardian of the employee | spouse or common law partner of a child |
| current or former foster parent or ward of the employee's spouse or common law partner and a person who considers the employee to be, or whom the employee considers to be, like a close relative | grandparent, grandchild, uncle, aunt, niece, nephew, current or former guardian or current or former foster child of the employee |
| step-child-in-law of the employee | |

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Employment Standards

Frequently Asked Questions – September 2013

No. 16 EMPLOYMENT STANDARDS BOARD

1. WHAT IS THE EMPLOYMENT STANDARDS BOARD?

The Employment Standards Board is a quasi-judicial body comprised of representatives from the business and labour community. The board is empowered by the *Employment Standards Act* to hear complaints and appeals, to make decisions and orders, to give declaratory opinions and to fulfil other functions and duties referred to it.

2. WHAT ARE SOME OF THE POWERS OF THE BOARD?

The board has the authority to make orders fixing the minimum wage and to establish minimum call-in hours, maximum deductions for room and board among other things. Before these orders of the board come into effect, they must be approved by Cabinet.

3. WHO SITS ON THE BOARD?

The board consists of 5 persons appointed by the Minister of Community Services. There is a chairperson, 2 persons representing employers and 2 persons representing employees.

4. WHAT IS THE LENGTH OF A BOARD MEMBER'S TERM?

Members are appointed for 3 years, or less if indicated by the Minister, and are eligible for re-appointment upon expiry of their term.

5. ARE BOARD MEMBERS PAID?

Members receive remuneration for each day that duties are performed as a board member. If members must travel out of town to attend to board business, their expenses are paid.

6. DOES THE WHOLE BOARD HEAR EVERY MATTER?

The chairperson can appoint a panel of one or more Board members to hear a matter. The panel has all the powers of the board.

7. WHO HAS THE "DECIDING VOTE?"

If there is no majority decision, the presiding chairperson's decision is the decision of the board or panel.

8. HOW SOON MUST THE BOARD TAKE ACTION ON A MATTER?

The board must begin its inquiry within 14 days of having a matter referred.

9. HOW ARE INQUIRIES CONDUCTED?

The board may hold a hearing or accept written submissions. The board will ensure that all the parties have the opportunity to present evidence or to make submissions.

Employment Standards

Frequently Asked Questions – September 2013

10. WHO MAY APPEAR BEFORE THE BOARD?

The "parties to a proceeding" are the employer, the employee, the Director or the Director's authorized representative and any other person the board specifies. All parties are entitled to be represented by a lawyer or an agent if they wish.

11. ARE BOARD DECISIONS FINAL AND BINDING?

All orders or decisions of the board are final and binding except for an order of the board relating to the appeal of an amount of wages shown on a certificate. That order can be appealed to the Yukon Supreme Court.

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