

Construction Industry

The construction industry has several minimum standards that are different from other industries. Termination, general holidays and minimum wage are all handled differently in this industry. *The Construction Industry Wages Act* sets the minimum wage for tradespeople and other construction workers in the industrial, commercial, institutional sector (ICI) and the heavy construction sector.

What is construction?

Construction includes alteration, building, decoration, demolition, erection, maintenance, relocation, renovation or repair of buildings, structures, roads, sewers, water or gas mains, pipelines, transmission lines, tunnels, bridges or canals.

Does the legislation apply to independent contractors?

The legislation only applies to employees. True independent contractors are not employees and are excluded from the legislation.

How is construction different from other industries?

There are several different standards in construction including standards for termination of employment, general holidays, minimum wage and hours of work.

Are construction employees entitled to vacation or unpaid leave?

Yes, *The Employment Standards Code* does apply to employers and employees in construction.

This includes rules on Deductions, Unpaid Leave, Vacations and Wages for Reporting for Work.

When must employees in the construction industry be paid?

Employees who work in the construction industry must be paid within 5 days after the end of the pay period for which the wages are payable.

Are the minimum standards the same for all construction employees?

The standards for general holidays and termination of employment are the same for all employees in construction.

However, minimum standards for wages and hours of work depend on the type construction job and its location.

How is the termination of employment handled in the construction industry?

Employees who do construction work are excluded from the notice requirements. Construction workers and their employers, can terminate employment at any time without notice. The number of years employers and employees work together does not affect the notice requirement.

How are general holidays paid in the construction industry?

Construction employees who work on general holidays are entitled to overtime wages for all hours worked.

Unlike employees in other industries, construction employees are paid their general holiday pay as a percentage of regular earnings. Regular earnings include vacation wages but do not include overtime wages. Employers can pay the four per cent at the end of the year or on every cheque.

What are the general holidays in Manitoba?

There are eight general holidays throughout the year:

- New Year's Day
- Louis Riel Day (3rd Monday in February)
- Good Friday
- Victoria Day
- Canada Day
- Labour Day
- Thanksgiving Day
- Christmas Day

Most employees are paid general holiday pay for these days whether they work or not.

When are construction employees paid general holiday pay?

Construction employees must be paid all general holiday pay by the end of the year. Some employers give general holiday pay on every pay cheque, others pay it all at the end of the year, or in smaller amounts throughout the year. Employees who are not sure how holidays are paid should ask their employers.

Do construction employees have to work on the general holiday to get general holiday pay?

Construction employees earn general holiday pay as four percent of their regular wages. They receive this pay, even if they never work on a general holiday. For example: if employees work from June 1 to June 30, a period where there is not a general holiday, they would still receive their general holiday pay.

Can employers pay vacation pay and general holiday pay together?

Employers can pay employees vacation pay and general holiday pay once a year or on every cheque. For vacation pay, employees earn two per cent of their total wages for each week of vacation. Employees who get two weeks vacation receive four per cent of their total wages for vacation pay. Employees who get three weeks vacation earn six per cent.

For example: a construction employee earns \$10,000 in wages, not including overtime. That employee receives \$400 vacation pay and \$416 general holiday pay.

Total gross regular wages (excluding overtime)	\$10,000
Vacation allowance (6% after 5 years)	$(\$10,000 \times 4\%) + 400$
Subtotal	\$10,400
General holiday pay	$(\$10,400 \times 4\%) + 416$
Total pay	\$10,816

More information can be found on the [Vacations and vacation pay](#) page.

What is the minimum wage in the construction industry?

The Construction Industry Wages Act sets the minimum wages for most of the construction industry. It covers employees working in heavy and industrial, commercial and institutional (ICI) sectors. More information on these can be found on the [Heavy Construction Industry](#) and the [ICI Construction Industry](#) pages.

The rest of the construction industry uses the general minimum wage and standard hours of work outlined in *The Employment Standards Code*. Overtime is payable when hours of work exceed eight in a day and 40 in a week. See the [Minimum wage](#) and [Overtime](#) pages for more details.

What are the hours of work and overtime rules for the ICI sector?

The standard hours of work are 10 hours per day and 40 hours per week. All additional hours are overtime and must be paid at the overtime rate. More information on calculating the regular and overtime hours can be found on the [Overtime](#) page

Before 2006, different trade classifications and areas in Manitoba had different hours of work and overtime standards. The standards are now the same for all employees working in the industrial, commercial and institutional construction sector.

What are the hours of work and overtime rules for employees in the heavy construction sector?

The standard hours of work in the heavy sector are:

- 50 per week hours outside of Winnipeg
- 50 per week hours in Winnipeg from April 1 to October 31
- 48 per week hours in Winnipeg from November 1 to March 31 in the following year

All hours worked above the standard hours must be paid at the overtime rate of 1 ½ times the regular wage.

What types of construction activities are excluded from the heavy and ICI sectors?

The ICI and heavy construction sectors do not include:

- house–building
- renovations and redecorations (unless the work requires structural or architectural renovations);
- onsite maintenance by regular maintenance staff
- in–shop prefabrication of structures
- construction of farm buildings

What types of buildings fall under the house building exclusion?

Generally, any construction of a dwelling unit is excluded from the ICI sector.

An apartment building or complex, whether the units are rented or owned, is considered part of the ICI sector.

Is the construction, renovation or redecoration of a tenant space in a shopping mall part of the ICI sector?

It depends on the extent of the construction, renovations or redecorations. Generally speaking, all renovations and redecorations are excluded. However, if the work involves the structural or architectural alteration or remodelling of the building or structure, the work falls under the ICI sector. A good test is the requirement of a blueprint.

Are maintenance journeypersons part of the ICI or heavy sectors?

No, the onsite maintenance of an industrial, commercial or institutional building is specifically excluded from the ICI and heavy construction sectors.

Are employees in a shop that prefabricate a structure used on a construction site included in the ICI sector?

Employees who prefabricate a structure or part of a structure away from a construction site are excluded from the ICI and Heavy sectors. The sectors do include employees on a construction site. For example: employees who build customized railings in a shop that are then installed on a construction site would not be included in the heavy or ICI sectors. However, employees who were required to build those railings directly on the construction site would be part of the ICI sector.

Are all farm buildings excluded from the heavy and ICI sectors?

Construction of farm buildings is not part of the ICI or heavy sector. A farm building is a building or structure, other than a dwelling, situated on a farm and used in the actual farming operation. This includes buildings used to house equipment or livestock, or those used for production, storage, or processing agricultural produce or feeds. For example: the construction of a hog barn, milking centre, grain bin or silo would be excluded from the ICI and heavy sectors.

Can the cost of tools be deducted from wages?

Some employees may want to buy tools from their employers. The tools may even be a condition of employment, which employees must have for that workplace. Common examples are automotive mechanics and construction workers. Employers can make the tools a condition of employment and can deduct the cost from employees wages only if the tool:

- remains the property of the employee
- is not unique to this particular employer
- is available for purchase from different suppliers
- can reasonably be expected to be used at different employers in the same occupation
- is voluntarily bought from the employer instead of another supplier

Can the cost of personal safety equipment be deducted from wages or made a condition of employment?

No, workplace safety and health legislation states any equipment, device or clothing required to be worn to help with rescue or to provide protection from health and safety hazards at a workplace must be provided and paid for by employers. There are exceptions for safety headwear and some safety footwear. Contact The Workplace Safety and Health Branch at 200 – 401 York Avenue, Winnipeg, MB, R3C 0P8 for more information.

Safety equipment is a direct benefit to employers so the cost cannot be deducted from employees' wages.

Who pays for damages to company vehicles, valuable equipment or other losses?

Employers may not deduct wages to cover any costs for faulty work, poor quality work, loss of customers, cash shortages or damages to their property. This includes: the cost of car accidents and parking tickets involving company vehicles; dishes broken by employees, customers leaving without paying, etc.

Employers have the right to sue employees who caused the damages in criminal or civil court. If a court issues an order of repayment, the employers can then garnish the wages of that employee.

For more information contact Employment Standards:

Phone: 204-945-3352; or toll free in Canada 1-800-821-4307

Fax: 204-948-3046

E-mail: employmentstandards@gov.mb.ca

Website: www.manitoba.ca/labour/standards

This is a general overview and the information used is subject to change. For detailed information, please refer to current legislation including *The Employment Standards Code* and *The Worker Recruitment and Protection Act*, or contact Employment Standards to ask for advice.

Date Published: February 24, 2012