

Construction Industry

The construction industry has several minimum standards that are different from other industries. Employees performing construction work, and their employers, need to know the different rules for termination and general holidays. The *Construction Industry Wages Act* also sets the minimum wages in the industry for tradespersons and other construction workers in the Industrial, Commercial, Institutional sector (ICI) and the Heavy construction sectors.

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, but this type of employment relationship can be complicated. The nature of the relationship between the parties would determine whether someone is truly an independent contractor. Consideration needs to be given to a number of factors, such as:

- Who controls duties and schedules
- The ability to negotiate payment
- The method of payments

A person who has not been paid properly and feels they may be an employee can file a claim with Employment Standards. An Officer will make a determination if the person is an independent contractor or an employee.

What rights and responsibilities are the same for employers and employees in construction as in other industries?

Most parts of *The Employment Standards Code*, which establishes the rights and responsibilities of most employees in Manitoba, also applies to employers and employees in construction, including:

- Unpaid Leaves
- Vacations & Vacation Pay
- Deductions from Wages

- Wages for Reporting to Work

See those fact sheets for more information.

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.

If employment has ended, the employee must be paid all wages owed within 10 working days after the date of termination **or** within 5 working days after the end of the pay period, whichever is less.

Are the rules the same in all sectors of the construction industry?

The standards for general holidays and termination of employment are the same for all employees in ICI and Heavy construction, but wages and hours of work depend on the type of construction job and its location. *The Construction Industry Wages Act* covers employees working in the ICI and Heavy Construction sectors.

The Employment Standards Code covers employees in the house building sector.

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

Employees and employers in all sectors of construction can terminate employment at any time without notice. No notice is required by either party regardless of the number of years they have worked together.

How are general holidays paid in the construction industry?

Unlike employees in other industries, construction employees earn 4% general holiday wages in every pay period on all regular earnings, including vacation wages but not overtime wages.

Employers can include the general holiday pay on every cheque or pay it all out at the end of the year.

Construction employees who work on a general holiday are entitled to the overtime wage rate (1 ½ times their regular wage rate) for all hours worked on the general holiday. These earnings are not included in the calculation for general holiday wages.

What are the general holidays in Manitoba?

There are nine general holidays throughout the year:

- New Year's Day
- Louis Riel Day (3rd Monday in February)
- Good Friday
- Victoria Day
- July 1
- Labour Day
- Orange Shirt Day (National Day for Truth and Reconciliation)
- Thanksgiving Day
- Christmas Day

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

| <i>General Holiday</i> | <i>2023</i> | <i>2024</i> | <i>2025</i> |
|------------------------|-------------|--------------|--------------|
| New Year's Day | January 1 | January 1 | January 1 |
| Louis Riel Day | February 20 | February 19 | February 17 |
| Good Friday | April 7 | March 29 | April 18 |
| Victoria Day | May 22 | May 20 | May 19 |
| July 1 | July 1 | July 1 | July 1 |
| Labour Day | September 4 | September 2 | September 1 |
| Orange Shirt Day | - | September 30 | September 30 |
| Thanksgiving Day | October 9 | October 14 | October 13 |
| Christmas Day | December 25 | December 25 | December 25 |

When are construction employees paid for general holidays?

Construction employees must be paid all general holiday pay by the end of the year. Some employers add general holiday pay to every cheque or in smaller amounts throughout the year, while others pay it all at the end of the year. Employees who are not sure how they are being paid for general holidays 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 at 4% of their gross 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 4% of their regular earnings as general holiday pay.

If an employee works on a general holiday, they must be paid 1 ½ times their regular wage for all hours worked on that day.

Can employers pay vacation and general holiday wages together?

Employers in the construction industry can pay employees for their vacations and general holidays once a year, on every cheque, or in smaller amounts throughout the year.

For vacation pay, employees earn 2% of their total gross wages for each week of vacation. Employees with less than five years of service with the same employer are entitled to two weeks' vacation and receive 4% of their regular wages for vacation pay. Employees with at least five years with the same employer get three weeks' vacation and earn 6% as vacation pay.

For general holidays, the employee receives 4% general holiday pay.

For example: a construction employee who is entitled to two weeks' vacation and earns \$10,000 in wages (not including overtime) would receive \$400 vacation pay and \$416 general holiday pay.

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

If the construction employee completes five years with the same employer, the vacation allowance increases to 6% ($\$10,000 \times 6\%$).

More information can be found on the [Vacations & Vacation Pay](#) and the [General Holidays](#) fact sheets.

What is the minimum wage in the construction industry?

The Construction Industry Wages Act sets the minimum wages for most of the construction industry.

For employees working in residential construction, minimum wage falls under The Employment Standards Code, which, as of October 1st, 2020, is \$11.90 per hour in most industries. See the [Minimum Wage](#) fact sheet for more details.

For employees working in ICI or Heavy construction, the minimum wage rate depends on the type of job the employee is doing. See the [ICI Construction](#) and [Heavy Construction](#) fact sheets for more information.

What are the standard hours of work in the construction industry?

The standard hours of work in the residential construction sector are 8 hours in a day and 40 hours in a week.

In ICI construction, the standard hours are 10 hours in a day and 40 hours in a week.

In Heavy construction, the standard hours are

- If the work is being done outside Winnipeg: 50 hours per week
- If the work is being done in Winnipeg:
 - ◆ 50 hours per week from April 1 to October 31
 - ◆ 48 hours per week from November 1 to March 31

Any hours worked in excess of these standard hours must be paid at 1 ½ the employee's regular wage rate as overtime.

For more information, see the [ICI Construction](#) and [Heavy Construction](#) fact sheets.

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

The ICI and heavy construction sectors do not include:

- House building (except for major building construction projects)
- 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

Employees doing these types of construction are covered under *The Employment Standards Code*. See the [Quick Guide to Employment Standards](#) fact sheet for more information.

What types of buildings are included in house building?

Generally, the construction of a dwelling unit falls under the house building sector and is covered by *The Employment Standards Code*. However, the construction of an apartment building or complex, whether the units are rented or owned, is part of the ICI sector.

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

Generally speaking, all renovations and redecorations are excluded from the ICI sector unless the work involves the structural or architectural alteration or remodelling of the building or structure. The need for a blueprint is one sign that the work being done is likely part of the ICI sector.

Are journeypersons who perform maintenance 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 and is covered instead by *The Employment Standards Code*.

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. Employees who are required to build structures or parts of structures directly on the construction site are 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 deduct the cost from an employee's wages only if the employee agrees, and 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
- Is not required by law to be provided by the employer to the employee

See the [Deductions](#) fact sheet for more information.

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

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 Workplace Safety and Health at 204-945-3446 for more information.

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. See the [Deductions](#) fact sheet for more information.

Employers have the right to take action against an employee who caused the damages in civil court. If a court issues an order of repayment, the employer can then garnish the wages of the employee.

For more information contact Employment Standards:

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

Fax: 204-948-3046

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, The Construction Industry Wages Act, The Worker Recruitment and Protection Act, or contact Employment Standards.

**Available in alternate formats
upon request.**

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