



Wildfire recovery:

Employment Standards information for employers

Recovering after a disaster is a massive undertaking, and no one knows that more than business owners/operators. It will take patience, hard work and innovative thinking. Your employees will play a crucial role in getting things back up and running, but they also face difficult challenges in their personal and work lives. With this in mind, the Alberta government has developed this tip sheet to help employers and their employees to find ways to get their jobs done while dealing with extraordinary circumstances.

Every evacuee's circumstances are different, and everyone will deal with this disaster in their own way. Employers are strongly encouraged to be as accommodating and flexible as possible with employees during this difficult time.

Your business may be resuming in Fort McMurray, but employees may have lost their homes. Can you force employees to return to work when they have nowhere to live?

Employers can set work schedules for employees and are not responsible for their housing, commuting costs or other expenses, but are encouraged to be as flexible as possible under the circumstances. Making housing available for all returning workers will take considerable time, however not all will be required immediately. Teachers and other school staff, for example, will not be required to work their full, normal schedules since the remainder of the 2015/16 school year has been cancelled.

As an employer, am I required to pay employees who have not been able to work because of business closure?

The Employment Standards Code does not require an employer to continue to pay an employee during a business closure due to fires or other natural disaster, but we encourage employers to consider the needs of their staff and their families when making these decisions. This type of benefit may be found in an employment contract or collective agreement, or an employer may choose to provide this type of benefit during this time. If employees are covered under a collective agreement, employers should check what provisions the collective agreement has.

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Do I owe employees stand-by pay while they wait to get back to work?

Not generally, but employers are encouraged to consider all reasonable options. If an employment contract or collective agreement exists it should be reviewed to determine whether this issue is addressed. In the absence of such an agreement, an employer is not required to pay wages to someone waiting to be called in to work. There may be exceptions, such as when the employee is required to wear a uniform or monitor radio calls.

Can I require employees to go to a different location for work due to fire damage at their normal workplace?

There is nothing in the Employment Standards Code which requires an employer to maintain the same workplace at all times. If there is fire damage to your normal workplace, it may be unsafe for workers to continue working there. An employer can require employees to work in a different location, including their homes, if the workplace is inaccessible or unsafe to work in. Employers are encouraged to communicate with their employees about these issues. The usual entitlements such as your rate of pay, hours of work, vacation pay, and other entitlements must remain the same. Employers are encouraged to discuss relocation requirements with affected employees.

Do I have to give employees time off from work if their house has been damaged or if they have been evacuated?

The Employment Standards Code does not require an employer to give an employee time off in these circumstances, but they are encouraged to keep in mind each worker's circumstances. However, your collective agreement or workers' employment contracts may allow for time off in this situation. If they have vacation leave or personal leave available, they may be able to arrange with their employer for the use of these benefits during this time. Employers and employees are encouraged to discuss what is appropriate given the unique circumstances of each situation.

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If my business has been destroyed or damaged by a natural disaster, can I lay off or terminate employees?

Temporary lay-off

Yes. An employer may choose to layoff its employees if the business or workplace has been destroyed by a natural disaster, such as a fire. The Employment Standards Code allows an employer to lay-off an employee for a period up to 59 days. If the employee is not recalled by the 60th day of the lay-off, the employment is deemed to have terminated, and the employer must provide termination pay to the employee. Employers should consider any and all options before imposing layoffs. However, in some cases, laying off employees who are not currently being paid may make them eligible for EI assistance. Employers are strongly encouraged to consult with their employees about what options make sense for them during this time.

Termination of employment

Yes. An employer does not need to provide termination notice to an employee if the employment has become impossible to perform due to unforeseeable or unpreventable causes beyond the employer's control. Employment Standards considers natural disasters, such as fires, as an example of unforeseeable or unpreventable cause. In this situation, an employer may terminate an employee's employment without the need to provide termination notice or pay in lieu of notice, but they are encouraged to explore alternate options wherever possible.

Where an employer expects to terminate 50 or more employees at a single location within a four week period, the employer must provide the Minister of Labour with written notice of its intent to do so. This notice must include the number of employees who will be terminated and the effective date of the terminations. This notification is intended to support the government's ability to mobilize the appropriate support services.

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What supports are available to employees if they are laid off or terminated?

Employees who have been temporarily laid off may be eligible for Employment Insurance benefits provided by the Federal Government. To find out more about these benefits, contact Service Canada at 1-800-206-7218 (toll-free) or visit them online at: <http://www.servicecanada.gc.ca/eng/home.shtml>.

The Government of Canada has issued a special access code for those seeking Employment Insurance as a result of the fires. This code will streamline the process for employees seeking assistance. See http://www.esdc.gc.ca/en/ei/important_notice.page for details.

If employees feel they need more assistance, they can contact Alberta Supports which provides social-based assistance services, including in the areas of employment and training. Employees can contact them online at: www.AlbertaSupports.ca or toll-free at 1-877-644-9992. If you have temporary foreign workers, they can contact the Temporary Foreign Worker Advisory Office at 1-877-944-9955 or online at: <http://humanservices.alberta.ca/working-in-alberta/12606.html>.

How do employees sign up for EI? Where do they go?

Affected workers can apply for EI benefits online (www.esdc.gc.ca/en/ei/apply.page) or in-person, even without a Record of Employment. Workers are asked to enter the following reference code online: **4812 01 2016 030516**.

The Fort McMurray Service Canada Centre is currently closed. The closest Service Canada Centres are located at:

St. Paul Service Canada Centre 4807-50 Avenue St. Paul, Alberta	Edmonton Millbourne Service Canada Centre 148 Millbourne Market Mall 38 Avenue & Millwoods Road Edmonton, Alberta
Slave Lake Service Canada Centre Sawridge Plaza Mall Unit 109 – 100 Main Street SW Slave Lake, Alberta	Edmonton Hermitage Service Canada Centre Hermitage Square 12735 50th Street Northwest Edmonton, Alberta
Edmonton Canada Place Service Canada Centre Canada Place, Floor Main 9700 Jasper Avenue Edmonton, Alberta	Edmonton Westlink Service Canada Centre 16826 107th Avenue, Suite 100 Edmonton, Alberta

Workers are encouraged to sign up for direct deposit when completing their application. It is the most efficient and surest method of payment that will not be impacted in the event of a potential postal disruption or natural disaster.

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Does the state of emergency mean employment standards do not apply?

No. The declaration of a state of emergency by the province does not mean that the Employment Standards Code and Regulation no longer apply. Legislation can allow for extending hours of work, which means an employer could extend an employee's hours of work beyond 12 hours in a day. Again, employers are urged to consider their employees' circumstances in this difficult time. An employee would still be entitled to overtime and rest periods and subject to any Occupational Health and Safety considerations as well. Employees and employers should refer to their collective agreement (if unionized) or employment contracts which may identify expectations during an emergency.

Can employers cancel an employee's paid vacation due to an emergency impacting the workplace?

Employers are encouraged to talk to their employees to determine what, if any, impacts an emergency may have on their vacation plans. A collective agreement or employment contract may specify how an employer may handle approved vacation requests during an emergency situation. When an employer and employee are unable to agree on a mutually satisfactory date for annual vacation, the employer does have the ability to determine when an employee will take vacation and must inform the employee with at least two weeks' written notice of when they must start his or her annual vacation. The Government of Alberta encourages cooperation between employers and employees during an emergency or natural disaster.

Can an employer extend working hours because of the fire?

Yes, employers can require employees to work more than 12 hours a day only so far as to avoid serious interference with the ordinary working of their business. When you ask employees to work extended hours, the normal overtime requirements and rest periods under the Employment Standards Code continue to apply. You should also note that both you and your employees have an obligation to ensure that workplace health and safety is appropriately managed. If employees feel unsafe working extended hours due to fatigue or other causes, you are encouraged to discuss the issue with them or seek more information by contacting the Occupational Health and Safety Contact Centre at 1-866-415-8690 (toll-free in Alberta).

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Can an employer make employees participate in workplace clean-up?

The Employment Standards Code does not regulate what type of work an employer can ask an employee to do; however, employers should consider what type of work is appropriate for employees to participate in. If your employees are participating in workplace clean-up, they are providing a service and they should be paid for that service as well as receiving the usual entitlements such as overtime pay and vacation pay.

Your employees may also have health and safety concerns with regards to the activities you are asked to do as part of the clean-up. Remember that workers (employees and non-employees) have the right to refuse work that is an 'imminent danger', which means:

- a danger that is not normal for their job; or
- a danger under which they would not normally carry out their job.

For example, asking a worker to perform cleanup or restoration activities that are not normally part of their job may create an imminent danger. Asking a worker to work in a situation of imminent danger is against the law. Employers cannot discipline or dismiss workers for refusing unsafe work (for more information, see the "Wildfire recovery: OHS information for employers" document or call the OHS Contact Centre at 1-800-415-8690). If employers think they are may be asking workers to work in a situation of imminent danger but are unsure, please call the OHS Contact Centre.

Employers may have employees who are members of the Canadian Forces Reserve Force. If their unit has been called up to go help out with the emergency situation, are they eligible for reservist leave?

Employees may be eligible for unpaid, job protected reservist leave if they have been employed by you for at least 26 consecutive weeks and have been asked to deploy to provide assistance in dealing with an emergency or its aftermath. There is a requirement to provide written notice to an employer as soon as is reasonable in the circumstances (the standard requirement is to provide an employer with four weeks' notice prior to the date the leave is to start, however in an emergency where this is not possible, this notice can be provided as soon as is reasonable. For more information please see our fact sheet on reservist leave at <http://humanservices.alberta.ca/documents/Reservist-Leave.pdf>.

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If employees are still working but now have to commute an hour to work since they have lost their homes, is this new travel time considered work?

No, unless your employment contract or collective agreement says otherwise, commuting to work is an employee's responsibility. Travel time is not generally considered work time unless the employee is travelling between jobs during work time, or if the employee is picking up materials or is doing other tasks on the way to work.

If employees can't get to their work sites, do employers have to arrange for other means to get them their paycheques?

Employees must be paid within 10 days of a pay period. Employers are expected to pay employees regularly, although in an emergency situation a delay may be unavoidable. If an employer is having difficulty in this regard, they are encouraged to discuss it with employees to avoid any misunderstandings.

If you are planning to resume operations in Fort McMurray, you may be asking employees to be available for work as soon as possible. Some may have been using child care facilities that are no longer available. Are they obligated to return now?

Under Alberta's Employment Standards Code, an employer can ask employees to return to work as scheduled. The Code does not require employers to accommodate the child care needs of employees, to hold their positions until child care can be arranged, or to cover any other expenses associated with returning to work. We encourage employers and employees to work together to find arrangements that are agreeable to both parties.

Under Alberta's Human Rights Act, employers must make a reasonable effort to accommodate an employee's family status, up to the point of undue hardship for the employer. This may include the duty to accommodate an employee's search for alternative childcare. Contact the [Alberta Human Rights Commission](#) for more information.

Individuals seeking assistance can visit the [Regional Municipality of Wood Buffalo website](#) for information on local accommodation options. The province of Alberta is offering the Wildfire Evacuee Transitional Accommodation benefit to residents who have insufficient insurance to pay for temporary accommodation costs. The benefit covers rent, damage deposit and utility connections for up to 90 days from the date of evacuation. Eligible residents can contact 310-4455 for information. See the Government of Alberta's [emergency web page for details](#). The website of [Rent Cafe](#) is one source for rental listings in Fort McMurray.

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For employers of Temporary Foreign Workers:

Employers may have Temporary Foreign Workers (TFWs) who have lost their jobs. Do they have to get another LMIA? Can they get Employment Insurance (EI) in the meantime?

TFWs who have lost their jobs need to find an employer willing to hire him/her. The new employer will have to have a valid LMIA or apply for a new one. Many TFWs are eligible for EI. Contact Service Canada for more information. TFWs can also call the TFW Advisory Office at 1-877-944-9955.

If a TFW has lost their work permit and other important documents, can they stay in Alberta?

TFWs should contact their country's consular office for replacement passports. A list of offices can be found at <http://alberta.ca/consultesinalberta.cfm>. TFWs can stay in Canada until the expiry date of their original work permit, which remains valid even if it has been lost. Call the TFW Advisory Office at 1-877-944-9955 for help contacting the appropriate agencies.

Important Contacts

Employment Standards Contact Centre

- 1-877-427-3731

OHS Contact Centre

- 1-866-415-8690

Temporary Foreign Worker Helpline

- 1-877-944-9955

Website

work.alberta.ca

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