

# Minimum Wage

**Effective September 1, 2014**

Section 138(1) (f) of the Employment Standards Regulation (Regulation) empowers the Lieutenant Governor in Council to make regulations respecting minimum wages.

Part 2 of the Regulation sets the minimum wage for employees.

## Minimum wage general rate

The general minimum wage is \$10.20 per hour for most employees.

## Liquor server minimum wage rate

The minimum wage rate for employees who serve liquor as part of their employment is \$9.20 per hour.

In order to qualify as a liquor server for the purpose of minimum wage under the Regulation, an employee must be serving liquor:

- as part of his or her employment;
- other than on an infrequent or occasional basis;
- directly to customers, guests, members, or patrons; and
- in a licensed premise issued under the *Gaming and Liquor Act*.

Generally speaking, the liquor server minimum wage rate will apply to waiters, waitresses, bartenders and other employees who as part of their jobs serve liquor directly to customers in bars, restaurants, clubs and other licensed premises. However, employees who rarely serve liquor are subject to the general minimum wage of \$10.20 per hour.

Refer to “Common questions about the liquor server minimum wage” at the end of this fact sheet for additional information.

There are other categories of employees, identified in the Regulation, who are subject to different minimum wage arrangements, as follows:

- Some salespersons, land agents and other professionals, who are defined in section 2(2) of the Regulation and are exempted from recording daily hours of work, are entitled to a minimum wage of \$406 per week.
- Domestic employees who live in the employer's residence are entitled to at least \$1,937 per month (regardless of the number of hours worked).

Note: Domestic employees who do not live in their employer's residence are entitled to at least \$10.20 per hour for all hours worked.

### **Minimum compensation for employees who are asked to work for short periods of time**

Employees must receive at least three hours of pay at the minimum wage on each occasion they are required to report to work, or come to work for short periods of time. This three-hour minimum does not apply if the employee is not available to work the full three hours.

The following employees must be paid minimum compensation for at least two hours at not less than the minimum wage:

- school bus drivers;
- part-time employees employed in a recreation or athletic program who are employed by a municipality, Métis Settlement or community service organization that does not operate for profit;
- home care employees; and
- adolescents (12, 13 or 14 years of age) who work on a school day.

Note: The Regulation prohibits an adolescent from working more than two hours on a school day.

### **Minimum compensation for employees who work split shifts**

If an employee is required to work a split shift and there is more than a one hour break between the two segments of the shift, an employee must be paid the minimum compensation described above for **each** segment of their shift.

### **Minimum compensation for employees attending a compulsory meeting or scheduled training session**

If the meeting or training occurs on an employee's regularly scheduled day off, the employee must receive at least the minimum compensation previously described.

If an employee returns to work to attend the meeting or training after completing their shift, the employee must be paid the wages agreed to or overtime if applicable, whichever is greater. The

rate of pay for meetings or training cannot be less than the minimum wage and the compensation received by the employee must equal or exceed the minimum compensation as outlined in the section on minimum compensation for short periods of work.

Note: If the meeting or training is not compulsory but is directly related to the employee's work and the employee attends, they must be paid the wages agreed to or overtime if applicable. The employee must receive at least the minimum compensation as previously outlined.

## **Requirement to pay an employee if they are “on call” or “on standby” at home**

If an employee is not required to perform work at home, no payment is required. If an employee is required to work at home, the employee must be paid for the actual time worked at their regular rate of pay. If the employee is required to leave home and report to the worksite, the minimum compensation for short periods of work as previously described is applicable once the employee reports to work.

## **Employees exempt from the minimum wage**

Exemptions from the minimum wage include the following employees:

- real estate brokers,
- securities sales persons,
- insurance sales persons paid entirely by commission,
- students engaged in a work experience program approved by the Minister of Enterprise and Advanced Education or the Minister of Alberta Human Services,
- students engaged in an off-campus education program provided under the *School Act*,
- extras in a film or video production,
- counsellors or instructors at an educational or recreational camp operated on a non-profit basis for children or handicapped individuals or for religious purposes, and
- farm employees.

## **Determining if an employee is receiving at least the minimum wage when paid by incentive-based pay or commission**

An employee's wages are totalled for the pay period established by the employer (maximum one month) and then divided by the total number of hours worked in that pay period. If the calculated hourly wage rate is less than the minimum wage, the employee must be paid at least the minimum wage for all hours worked. If the calculated rate is higher than the minimum wage, the employee must be paid their incentive-based pay or commission.

Note: This section does not apply to those employees who are entitled to a weekly minimum wage because no daily record of hours is required to be maintained.

For more information, please see the “Incentive-Based Pay Plans and Minimum Compensation Entitlement” Fact Sheet at <http://work.alberta.ca/esfactsheets>.

## Allowable deductions for uniforms and board and lodging

An employer can, with written authorization from the employee, make deductions for supplying or cleaning of uniforms or special wearing apparel, but cannot reduce the employee’s wages below the minimum wage or deduct more than the actual cost to the employer. An employer can reduce an employee’s wages below minimum wage by \$3.35 for each consumed meal and \$4.41 per day for lodging provided. For more information, please see the “Deductions from Earnings” Fact Sheet at <http://work.alberta.ca/esfactsheets>.

## Common questions about the liquor server minimum wage

### 1. I own a restaurant. How do I know which of my employees qualify for the liquor server minimum wage?

- Your premises must be licensed to serve liquor directly to customers, guests, members or patrons under the *Gaming and Liquor Act*.
- The employees must be serving liquor directly to customers, guests, members or patrons for consumption on the premises. Examples of employees who would not ordinarily serve liquor are kitchen staff and bus persons.
- Servers must be serving liquor more than on an infrequent or occasional basis.
- As a reminder, persons serving liquor in licensed premises must be at least 18 years of age, and liquor servers must successfully complete the Alberta Gaming and Liquor Commission’s *ProServe* Liquor Staff Training within 30 days from their employment start date. For more information on *ProServe*, please visit [www.proserve.aglc.ca](http://www.proserve.aglc.ca).

### 2. If a server switches from working mostly morning shifts, where very little liquor is served, to mostly evening shifts, where liquor is frequently served, can the employer lower the employee’s wage rate from the general minimum wage of \$10.20 to the liquor server wage rate of \$9.20 per hour?

Yes, provided that the employer meets the *Employment Standards Code*’s requirements for reducing an employee’s earnings. If the employee’s new shift schedule involved serving liquor, more than on an infrequent or occasional basis, the employer would be able to pay the employee the liquor server minimum wage rate. See the “Payment of Earnings” Fact Sheet at <http://work.alberta.ca/esfactsheets> for more information on reducing an employee’s earnings.

### 3. When an employee works a mix of shifts, some of which involve serving liquor and some of which do not, which minimum wage is the employee entitled to?

Generally, if the overall nature of an employee’s employment involves serving liquor, more than on an infrequent or occasional basis, the liquor server minimum wage of

\$9.20 per hour would apply, even on shifts where the employee does not serve liquor. Alternatively, if the employee rarely serves liquor, the minimum wage of \$10.20 per hour would apply to all shifts.

**4. Are employees in a liquor store considered liquor servers?**

No, employees in a retail liquor store are selling liquor to customers, not serving liquor. The general minimum wage of \$10.20 per hour is applicable to these employees.

**5. Are all bartenders considered to be liquor servers?**

For a bartender who serves liquor directly to customers or guests, the liquor server minimum wage of \$9.20 per hour would apply. However, if the bartender does not serve liquor directly to customers or guests (such as when the bartender prepares liquor orders, which are then taken to customers by a server) the general minimum wage of \$10.20 per hour would apply to the bartender.

**6. If an employee normally serves liquor, but does not receive tips, is the employee entitled to the general minimum wage of \$10.20 per hour?**

No. When an employee normally serves liquor directly to customers, the liquor server rate of \$9.20 per hour applies.

**7. If there is a dispute about which minimum wage an employee is entitled to, how is that dispute resolved?**

As the liquor server minimum wage is an exception to the general minimum wage, the onus is on the employer to establish that the lower rate is applicable. Employees who are paid the liquor server minimum wage, but believe they qualify for the general rate, may file a complaint with Employment Standards if they are not able to resolve the matter with their employer. For more information, please see the “Complaint Resolution Process” Fact Sheet at <http://work.alberta.ca/esfactsheets>.

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