

Expanding into Canada: Key Employment Considerations for Federally Regulated Industries

December 2024

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For international clients seeking to expand into Canada, a thorough understanding of Canadian employment law is essential for developing effective, employer-friendly employment agreements and policies to manage Canadian employees.

Each jurisdiction in Canada sets out minimum standards for employers to follow, which could either be the respective provincial legislation in the province from which the employee performs services for provincially regulated employers or federal legislation respecting federally regulated employers. While an employer and employee may agree to benefits in excess of the minimum requirements, they cannot “contract out” of, or offer less than, the applicable minimum employment standards.

The vast majority of industries in Canada are provincially regulated. We have previously prepared a similar article for provincially regulated employers, which is available [here](#). The following is an overview of the requirements for employers in Canadian federally regulated industries, which include, but are not limited to, cross-border transportation, banks, telecommunications, radio and television broadcasting and public services. A full list of federally regulated employers can be found [here](#).

We are happy to assist with your expansion to Canada in all aspects, including employment matters. Below, we have answered several of the most frequently asked questions pertaining to federally regulated employers in Canada. If you have any questions about the information provided below or need further details on a topic not addressed here, please do not hesitate to contact us.

Category	Question	Answer
1. Minimum Wage	What is the minimum wage in Canada?	Effective April 1, 2024, the federal minimum wage is \$17.30 per hour. The federal minimum wage is adjusted annually based on the Consumer Price Index. For federally regulated employers, if a provincial minimum wage is higher than the federal minimum wage, the provincial minimum wage will be required. Currently, only British Columbia (\$17.40) and the territories of Yukon (\$17.54) and Nunavut (\$19.00) have a higher minimum wage than the federal minimum wage.

2. Benefit Coverage	Is benefit coverage for employees mandatory?	No – employers do not have an obligation to provide benefit packages to employees. However, it is standard for employers to provide their employees with private supplemental health coverage, which is intended to augment standard government health care coverage in each province, the particulars of which can vary greatly.
3. Termination	Do employers need a reason to terminate an employee?	Yes – for federally regulated employers, termination of employment for non-managerial employees who are not the subject of reduction in force (“downsizing”) or for whom cause for termination exists, do have certain job protection under the <i>Canada Labour Code</i> . However, for managerial employees, terminations can be processed without a reason (except for discriminatory reasons), upon the provision of reasonable notice or payment in lieu of notice.
4. Notice of Termination	Does “at-will” employment exist in Canada?	No – Canadian law does not recognize “at-will” employment. However, a well-drafted employment agreement can mirror “at-will” employment by limiting termination entitlements to statutory minimums for notice or pay in lieu of notice. Absent such an agreement, employees are entitled to greater amounts in respect of notice pursuant to the common law. Termination pay can be limited to the following: To terminate employment generally the employer must provide an employee with a minimum of two weeks’ written notice. If an employee has completed at least three years of service, the minimum notice requirement is equivalent to one week per week of employment for up to eight weeks of notice, or payment in lieu of this notice period. An employee who has completed more than 12 consecutive months of employment is also entitled to severance pay, which is the greater of (a) two days’ wages at the employee’s regular rate for each full year of service or (b) five days’ wages at the employee’s regular rate of pay.
5. Sick Days	Are employees entitled to paid sick time?	Yes – employees are entitled to a maximum of 10 days of medical leave with pay per year for illness or injury, organ or tissue donation, medical appointments or quarantine. Medical leave accrues based on

		service, earning three days after completing 30 days of continuous employment, and one day for every 30 days thereafter, up to a maximum of 10 days in a calendar year. Earned but unused medical leave can be carried forward year to year, subject to the maximum of 10 days in a calendar year.
6. Rest Periods	Are there mandatory eating periods for employees?	Yes – employees are entitled to an unpaid break of at least 30 minutes for every period of five consecutive hours of work. Employees are entitled to a rest period of eight consecutive hours between work periods or shifts.
7. Overtime	Are employees entitled to overtime pay?	Yes – employees are entitled to pay of at least 1.5 times the regular hourly wage or, if the employer and employee agree, 1.5 hours of time off with pay for every hour worked in excess of 40 hours a week or eight hours a day. If an employee's daily overtime hours differ from their total weekly overtime hours, an employer must use the greater of the two amounts to calculate overtime payments. For example, if an employee works for 13 hours in one day, they will be entitled to five hours of overtime pay, even if their total weekly hours are under 40 hours a week. To receive time off with pay for overtime hours, an employee must request this from their employer and enter a written agreement specifying which dates the employee will take off. The dates must be within a period of three months after the end of the pay period in which the overtime was worked, or within another period specified in the agreement. Certain industries and workers may be exempt from overtime entitlements. These exemptions include, but are not limited to, commissioned salespeople, superintendents, and managers.
8. Vacation	Are employees entitled to minimum vacation time and pay?	Yes – for employees with <u>more</u> than one year of service but <u>fewer</u> than five years, a minimum of two weeks of vacation time is required, with vacation pay entitlements at 4% of their earnings. For employees with <u>more</u> than five years of service but <u>fewer</u> than 10 years, a minimum of three weeks of vacation time is required, with vacation pay at 6% of their earnings.

		For employees with <u>more</u> than 10 years of service, a minimum of four weeks of vacation time is required, with vacation pay at 8% of their earnings.
9. Public Holidays	Are employees entitled to certain public holidays?	Yes – federally regulated employees are entitled to 10 defined public holidays: • New Year's Day • Good Friday • Victoria Day • Canada Day • Labour Day • National Day for Truth and Reconciliation • Thanksgiving Day • Remembrance Day • Christmas Day • Boxing Day Most employees are entitled to take these days off work and receive holiday pay. If an employee is required to work on a public holiday, the employee will be entitled to holiday pay <u>plus</u> an enhanced payment equal to one and a half times their regular wage for the hours worked. When a holiday falls on a weekend that the employee would not regularly work, the employee is entitled to a holiday with pay on the scheduled workday immediately before or after the general holiday.

Have more questions about expanding into Canada? Please [click here](#) or scan the following QR code to access Aird & Berlis LLP's Market Expansion Dashboard, your one-stop-shop for market expansion resources:



Disclaimer: This article offers general comments on legal developments of concern to business organizations and individuals and is not intended to provide legal advice. Readers should seek professional legal advice on the particular issues that concern them.

Contact



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Fiona has extensive experience advising international businesses entering the Canadian market. To date, she has advised more than 100 companies expanding into Canada. Fiona advises clients in this space all day, every day. She has been practising for more than a decade and is a regular speaker and writer on market expansion matters. Fiona is proud to have been recognized by *The Best Lawyers in Canada*, *The Canadian Legal Lexpert Directory* and *Benchmark Canada*.

A proactive and comprehensive approach is required to succeed in a new market. Fiona manages teams of other lawyers and patent agents to provide her clients with a full range of legal services to help their businesses grow. She acts as project manager to ensure her clients receive seamless legal services in all relevant areas.

Fiona takes great care to understand her clients' businesses and deliver advice that is tailored to meeting their specific needs. Her responsiveness, dedication to clear communication and hands-on approach show that she is personally invested in the success of her clients.

Fiona is pleased to offer a multitude of resources answering often-asked questions about expanding into Canada, including [this video](#) and [this one-page guide](#), all of which can be found on the [Market Expansion Resources Dashboard](#).



Michael Horvat

Partner

Michael is a member of the firm's Workplace Law Group. His practice focuses on all aspects of labour and employment law in both the federal and provincial jurisdictions. He advises employers in a number of industries, including manufacturing, transportation, retail, electrical distribution, construction and financial services, on various matters, including employment standards, human rights, discipline, discharge, union certification, grievances, wrongful dismissal, executive employment matters and transactions, as well as general labour and employment law issues.

Michael represents employers before the courts and administrative tribunals, such as the Ontario Labour Relations Board, the Ontario Superior Court of Justice, the Ontario Divisional Court, the Ontario Court of Appeal, the Grievance Settlement Board, the Canadian Railway Office of Arbitration, the Ontario Employment Standards Branch, the Ontario Workplace Safety and Insurance Board and in grievance arbitration and mediation.

**Bardia Jalayer**

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Bardia is a member of the firm's Workplace Law Group. He advises on employment and labour-related matters, including comprehensive policies and training, and issues within the workplace. Bardia also has experience in dispute resolution matters heard before the Superior Court, the Divisional Court and the Court of Appeal. His clients include employers in unionized and non-unionized workplaces, as well as sporting organizations and player associations.

**Lexie Misturski**

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Lexie summered at the firm in 2023. Lexie recently graduated from the Common Law program at the University of Ottawa. She has a Bachelor of Arts from Western University, where she studied Media Information and Technoculture.