



HOW TO HIRE MY FIRST EMPLOYEE IN CANADA

Employment in Canada is a heavily regulated area, governed by either federal or provincial legislation. The majority of employers are covered by provincial legislation, with the exception of "federal works or undertakings," which include businesses involved in banking, shipping, railways, pipelines, airlines and airports, inter-provincial transportation, broadcasting and telecommunications.

The types of employment-related legislation with which employers operating in Canada should be familiar include: employment standards legislation; labour relations legislation; human rights legislation; occupational health and safety legislation; federal and provincial privacy legislation; and employment benefits, including pension, employment insurance and workers' compensation.

All jurisdictions in Canada have enacted legislation that governs minimum employment standards. Generally, employment standards acts (ESAs) are broad and apply to employment contracts, whether oral or written. Although standards vary across jurisdictions, many topics covered are common to all ESAs, including minimum wages, maximum hours of work, overtime hours and wages, rest and meal periods, statutory holidays, vacation periods and vacation pay, termination and severance pay and leaves of absence. The leaves of absence protected by ESAs vary across provinces, but may include sick leave, bereavement leave, maternity/parental/adoption leave, reservist leave, compassionate care/family medical leave, organ donor leave, personal emergency leave and family responsibility leave.

The Canada Revenue Agency (CRA) will generally consider a company to be an employer if it pays salaries, wages (including advances), bonuses, vacation pay, or tips to individuals; or provides them with certain taxable benefits or allowances, such as board and lodging. An employer will need a registered Business Number with a payroll deductions account before the employee starts work.

It is recommended that the terms for employment be outlined in a letter or contract. New employees should sign the letter, confirming that they understand and accept these terms and conditions. The employment agreement should include position title, scope of responsibility, identity of manager or supervisor, compensation details (salary, bonuses and incentives, stock options), vacation entitlement, description of benefits (eg. health plans, life insurance, pension plan) and any other relevant points.

It is important to determine whether a worker is an employee or a self-employed individual. The facts of the working relationship as a whole determine the employment status. If the worker is an employee (employer-employee relationship), the payer is considered an employer. Employers are responsible for deducting Canada Pension Plan (CPP) contributions, (Employment Insurance) EI premiums, and income tax from remuneration or other amounts they pay to their employees. They have to remit these deductions along with their share of CPP contributions and EI premiums to the Canada Revenue Agency. An employer who fails to deduct the required CPP contributions or EI premiums has to pay both the employer's share and the employee's share of any contributions and premiums owing, plus penalties and interest. The intentions of the parties and the signed contract can affect whether it is an employee or non-employee relationship but will not override the factual arrangements.

If a worker or payer is not sure of the worker's employment status, either party can request a ruling to have the status determined. A ruling determines whether a worker is an employee or is self-employed, and whether that worker's employment is pensionable or insurable.