Presenters:

Karima Balfoul CPM

Tina Beauchamp CPM
Agenda

- Determining eligibility
- Calculating statutory holiday pay
- Other considerations
  - Shift work
  - Overtime
- Dealing with leaves of absence and terminations
PaySource

Covers a wide range of information on **Statutory Holidays** across Canada:

- Length of employment required
- Pay for holidays worked and not worked
- Holidays occurring on non-working days
- Qualifying for disentitlement
- Special provisions and industries
- Excluded persons
Top Audit Review

- Non-payment of statutory holidays is among the top complaints made to employment standards
Compliance Requirements

• Each jurisdiction establishes
  - Recognized holidays
  - Minimum standards
    • Time off
    • Holiday pay
Which Act?

- Jurisdiction employee physically works in
- Federally regulated employers follow Canada Labour Code Part III
  - Banks
  - Airlines
  - Radio & television broadcasting
  - Federal government
Collective Agreement / Company Policies

• Organizations with union employees will follow the terms of the collective agreement

• An organization may choose to provide employees with a greater benefit
Polling Question 1
Section 1

- Eligibility
  - Eligibility criteria by jurisdiction
  - Statutory holidays falls on
    - Regular working day
    - Non-working day
Recognized Holidays

Five days common to all jurisdictions

1. New Years Day
2. Good Friday
3. Canada Day
4. Labour Day
5. Christmas
Recognized Holidays

- Other holidays specific to each jurisdiction
  - Total days per year range from 6 - 10
Multi-jurisdictional Employers

- Follow each act
- Provide all employees an equal number of days

BC = 10 holidays

NS = 6 holidays + 4 float days
Religious Holidays and Human Rights

Canadian Human Rights Act

- Employers have a duty to accommodate
  - Unless to do so will cause undue hardship
- Equality of treatment
  - Paid religious holidays off
Holiday Substitutions

• Jurisdictions may allow
  - Majority employee agreement could be a factor
Polling Question 2
Eligibility Criteria

• All employees may be entitled
  - Full time
  - Part time
  - Casual
  - Contract
  - Students
Eligibility Criteria

• Vary by jurisdiction may include:
  - Length of service
  - Earned wages on specific number of days prior to holiday
  - Holiday falls on regular working day
  - Worked scheduled shifts before and after holiday
Eligibility Criteria

Employed specified number of days:

*Example:*
Lee is employed by a NL company and his first day of employment was June 24th.

Lee has not met the eligibility criteria for a Statutory Holiday for July 1st Canada Day.

NL requirements:
• employed 30 days prior to holiday
Eligibility Criteria

Earned wages on a specific number of days prior to holiday:

Example:
Rohan has been employed part time with a company in BC for 2 years. During the month of June he was scheduled to work on 18 days.

Rohan will be eligible for a statutory holiday on July 1st for Canada Day.

BC requirements:
• Employed 30 days
• Earned wages on 15 of 30 days prior to the holiday
Eligibility Criteria

Holiday occurs on a regular working day

*Example:*
Delia is an employee in AB who regularly works Tue-Thu each week.

Delia will not be eligible for the July 1\textsuperscript{st} holiday which falls on a Monday in 2013.

**AB requirement:**
- Employee worked on day of the week holiday occurs at least 5 times in the 9 weeks prior
Eligibility Criteria

Worked scheduled shifts before and after holiday:

*Example:*
Amanda, an employee in ON, was scheduled to work on June 25 and then again on July 3. She reported to work on both of these shifts.

Amanda will be eligible for a statutory holiday on July 1\textsuperscript{st} for Canada Day.

ON requirements:
• Worked regular shift before and after holiday
Exemptions

- Each employment standards act provides certain exemptions
  - Example: Construction employees
    - AB - not eligible receive 3.6% of wages
    - ON - not eligible receive 7.7% of wages for holidays and vacation

Explore the Special Rule Tool
Polling Question 3
Section 2

- Calculate Statutory Holiday Pay
  - Employee eligible for day off
  - Employee required to work on holiday
Payment for Eligible Employee

• Regular daily wage
• Fraction or percentage of earnings during period prior to holiday
  - 1/20 of regular wages in 4 weeks prior to holiday
  - 5% of regular wages in 4 weeks prior to holiday
Payment for Eligible Employee

- Regular work day, employee does not work
- Day off with pay
Statutory Holiday Pay

AB example:
In the 9 weeks before the holiday Clayton worked 176 hours over 22 days and earned $2,640 in regular wages.

His payment for the statutory holiday is $2,640 ÷ 22 = $120
Payment for Eligible Employee

- Not a regular work day, employee does not work
  - Another day off with pay
  - Next regular work day off with pay
  - An average day’s pay no day off
Statutory Holiday Pay

NS example:
Ruth normally works Wed-Fri each week and in the 30 days prior to the holiday she worked 12 days and earned $1,920 in regular earnings.

Ruth is eligible for the July 1st Canada Day holiday and will take off Wednesday July 3rd.
She will be paid: $1,920 ÷ 12 = $160
Payment for Eligible Employee

- Employee works on holiday
  - 1.5X regular rate for hours worked + statutory holiday pay
  - Regular rate for hours worked - alternate day off with statutory holiday pay
Statutory Holiday Pay

ON example
Max agreed to work 6 hours on July 1 and will not take an alternate day off for the statutory holiday.

In the 4 weeks before the holiday Max earned $3,200 in regular wages.

Max will be paid:
6 hrs X regular rate X 1.5
+ $160 statutory holiday pay ($3,200 ÷ 20)
Statutory Holiday Pay

ON example
Max agreed to work 6 hours on July 1 and will take August 2\textsuperscript{nd} off in lieu.

Max will be paid:
6 hrs X regular rate for July 1st
$160 statutory holiday pay on August 2\textsuperscript{nd}
Non-eligible Employee Works

• Not eligible for a paid statutory holiday, but works the holiday
  - Regular rate for hours worked
  - 1.5X regular rate for hours worked
Statutory Holiday Pay

SK example:
Alice began employment on July 1 with a new employer. She had no wages in the 4 weeks prior to the holiday so does not qualify for statutory holiday pay. However she has worked 8 hours on Canada Day.

Alice will be paid:
8 x regular rate x 1.5
Earnings Subject to Statutory Holiday Pay Calculation

- **Regular wages**
  - Excludes overtime & shift premiums
  - But may include:
    - Bonuses
    - Commission
    - Vacation (paid each pay or if employee is on scheduled vacation)
Polling Question 4
Section 3

• Other statutory holiday considerations
  - Shift work
  - Impact on overtime
  - Employee on vacation
  - Pay day impacted by holiday
## Shift Work

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<th>Jurisdiction</th>
<th>Shift begins on non-stat holiday</th>
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<td>No hours considered worked on stat holiday</td>
<td>Total shift considered worked on stat holiday</td>
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<td>Only hours worked on actual holiday to be considered as having been worked on a stat holiday</td>
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Ontario example:
Emilio works from 11pm January 1 to 7am January 2, which includes a half hour unpaid break from 3:30 to 4:00am.

All 7.5 hours are considered as having been worked on the January 1 statutory holiday since the shift began on a statutory holiday.
Shift Work

*New Brunswick example:*
Michelle works from 11pm January 1 to 7am January 2, which includes a half hour unpaid break from 3:30 to 4:00am.

Only the 1 hour worked on January 1 is to be considered as having been worked on a statutory holiday.
Overtime

• Weekly overtime threshold adjusted
• Statutory holiday hours
  - Include or exclude
• Hours worked on statutory holiday
  - Include or exclude
## Overtime

**SK employee weekly OT after 32 hours**

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Overtime

QC employee holiday hours included

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# Overtime

**ON employee holiday hours not included**

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Impact on Vacation

- Statutory holiday occurs during an employee’s vacation
  - Employee entitled to additional day off
  - Employee to be paid statutory holiday pay
Impact on Vacation

Wilson has scheduled a vacation from July 1 through July 12. July 1 is a statutory holiday which he is entitled to.

Wilson may:
Extend his leave for one additional day; or
His leave will consist of 9 vacation days + 1 stat leaving him with 1 vacation day to use at a later date.
Vacationable Earnings

- Statutory holiday pay is vacationable in all jurisdictions except:
  - AB
  - NB
Statutory Holiday and Pay Day

- Regular pay day falls on Statutory Holiday
  - QC legislates pay must move to the day prior
  - Other jurisdictions, timing of payment
    - Number of days from period end date
Statutory Holiday and Pay Day

SK example
Remembrance Day, Nov 11 is on Thursday, which is the employers regular pay day for the period ending the prior Friday.

Employees must be paid within 6 days of period end date.

Pay day must be moved back to Wednesday.
Section 4

- Leaves and Termination
  - Entitlement to holidays
Leaves of Absence

• Employee begins or returns from leave
  - Have eligibility criteria been met
    • Work shift before and after holiday
  - Calculate holiday pay
    • As per employment standards
    • As per company policy
Leaves of Absence

Laura is an Ontario employee returning from maternity leave. She has satisfied the requirement to work the scheduled shift before and after the holiday.

Returned to work June 24\textsuperscript{th}. One week regular wages $1,000.

Statutory holiday pay $1,000 ÷ 20 = $50
Leaves of Absence

Laura’s Ontario employer provides all active employees with a full regular days pay for all statutory holidays.

Greater benefit provided does not limit holiday pay to 1/20 calculation.

Annual salary $52,000 ÷ 260 days = $200
Terminations

- Termination date falls on or before a statutory holiday
- Have eligibility criteria been met?
Terminations

BC example:
Patrick provides his employer 2 weeks notice that his last day of employment will be Friday March 29. This day is a statutory holiday, Good Friday.
Assuming Patrick was employed at least 30 days and had earnings on at least 15 of the 30 days prior to the holiday he is eligible for the statutory holiday.
Terminations

ON example:
Patrick provides his employer 2 weeks notice that his last day of employment will be Friday March 29. This day is a statutory holiday, Good Friday.

Patrick will not be entitled to a statutory holiday because he will not work a schedule shift following the holiday.
Create a Policy

• Include the following:
  - List of recognized holidays
  - “Other” holidays employer recognizes
  - Requirements to work on a holiday
  - Impact on:
    • Vacation leave
    • Scheduled pay date
    • Overtime
    • Leaves of absence
    • Termination
Polling Question 5
PaySource

Relevant to the information learned today, PaySource offers forms, charts and expert commentary on various Payroll related issues.

A few reliable charts include:
- Statutory Holidays for all Jurisdictions
- Statutory Holidays Requirements

Webinar participants can Save 40% off PaySource! Use promo code: STAT40

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Questions
Thank you!

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Karima Balfoul CPM

Tina Beauchamp CPM