



## **Hours of Work Averaging Agreement (HWAA)**

Waymark Interior Demolition Inc. (WID) is a construction service company that operates 7 days per week, 365 days of the year. Due to the project nature of the demolition business, there are daily, weekly and monthly fluctuations in activity levels and therefore associated fluctuations in staffing requirements.

The Province of Alberta introduced an amended Employment Standards Code on January 1, 2018 which made some fundamental changes to the relationship between employers and employees. One of these changes was the introduction of the Hours of Work Averaging Agreement to manage variable work requirements for companies like WID. These agreements allow employers to schedule a group of employees to work longer hours per day paid at the employee's regular wage rate. The employer will average an employee's hours of work over a period of up to 12 weeks to determine overtime pay or time off with pay.

The background information for this agreement includes the statutory requirements under Employment Legislation for HWAA agreements (Part 1 below), the Employment Standards guidelines and exceptions specific to construction workers (Part 2 below), and the rationale for WID to utilize this HWAA (Part 3 below).

### **1. HWAA requirements (per Employment Legislation)**

Group HWAA's can be entered into at the request of a group of employees or employer, with consent to enter the agreement by majority support of the affected employees. If a group agreement applies, any new employees hired into the group after the agreement is made are deemed to consent and are bound by the agreement.

HWAA's must be in writing between a group of employees and the employer and include:

- start and end date (term of agreement cannot exceed 2 years)
- number of weeks the hours will be averaged over (up to 12 weeks)
- work schedule which identifies all the work days and the number of hours to be worked on each of those work days in the averaging period
- only one work schedule per agreement
- scheduled daily and weekly hours of work cannot exceed:
  - 12 hours per day, and
  - 44 hours per week or an average of 44 hours per week
- how overtime pay and time off with pay will be calculated

Employees must be provided with a copy of the agreement, whether it's an individual or group agreement, as soon as possible. However, before the commencement of the agreement the employer must:

- post a copy on the employer's website and in the workplace where it can be seen by affected employees (for group agreements)

- provide a copy to each employee who is party to the agreement
- These requirements also apply when HWAAs are amended as a copy must be provided before the amendments come into effect.
- Hours of work

The averaging agreement must specify only one work schedule that applies to the employee or employees bound by it.

Overtime calculated on a daily and averaging period basis. Overtime is calculated on the greater of hours worked in excess of:

- 8 hours a day (if scheduled for less than 8 hours) or daily scheduled hours (if 8 or more hours were scheduled)
- 44 hours a week (in a 1-week averaging period) or an average of 44 hours a week (in a multi-week averaging period)

Overtime is payable as daily overtime or averaging period overtime.

- Daily overtime is payable at the end of the pay period.
- Averaging period overtime is payable at the end of the averaging period.
- Overtime owed is the greater of the daily or averaging period overtime. Therefore, if the employee is to receive overtime pay, employers must subtract the total daily overtime paid to employees from the total averaging period overtime owed to determine whether overtime is owed at the end of the averaging period.
- Payment of any remaining averaging period overtime is to be paid within 10 days of the end of the pay period that the averaging period ends.

## **2. Construction - Employment standards exceptions (per Employment Legislation)**

There are special provisions to the rules outlined in the Employments Standards Code for some employees in construction related jobs.

Basic rules

- All construction employees are entitled to vacation pay, from the start of employment, at the rate of at least 6% of their regular wages.
- All construction employees are entitled to general holidays, from the start of employment, at the rate of at least 3.6% of their regular wages.
- Construction employees are not entitled to notice of termination or pay in lieu of notice of termination.

Who's considered a construction employee? A construction employee is someone employed at the site of and in the construction, erection, repair, remodelling, alteration, painting and interior decoration or **demolition** of any:

- building or structure
- road, highway, railway or airfield
- sidewalk, curb or gutter
- pipeline

- irrigation or drainage system
- earth and rock fill dam
- sewage system
- power transmission line or power distribution system, or
- gas distribution system

### **Exceptions to the minimum standards for general holidays and general holiday pay:**

- Employees aren't required to be given a day off for the general holiday.
- If an employee works on a general holiday, it's treated as a regular day of work with respect to the calculation and payment of wages and overtime pay.
- General holiday pay must be paid on or before December 31 of each year, or on termination of employment.
- General holiday pay may be paid each pay period.

Time off with pay instead of overtime pay, as part of an overtime agreement, is considered regular wages and must be included when calculating general holiday pay.

### **Exceptions to the minimum standards for vacations and vacation pay**

- Employers aren't required to give their construction employees vacation time.
- If an employee is given vacation time off, they must receive their vacation pay before the vacation begins.
- If the employee isn't given vacation time off, vacation pay must be paid on or before December 31 of each year or on termination of employment. The vacation pay may be paid each pay period.
- Earning paid time off instead of overtime pay as part of an overtime agreement is considered regular wages and must be included when calculating vacation pay.

### **Termination and termination pay**

Construction employees are not entitled to notice of termination or pay in lieu of notice of termination.

### **Additional Employment Standards Exceptions**

#### **Days of rest**

Employees are entitled to at least 1 day of rest each work week. Work weeks can be combined so the employee receives the following days of rest:

- 2 consecutive days of rest in each period of 2 consecutive work weeks
- 3 consecutive days of rest in each period of 3 consecutive work weeks
- 4 consecutive days of rest in each period of 4 consecutive work weeks

Every employer must allow each employee at least 4 consecutive days of rest after each period of 24 consecutive work days.

## **Waymark Demolition Business Requirements**

As a project based, time sensitive business, it is critical for WID management to have a flexible and cost effective labor force. Meeting customer requirements on each and every project is essential to future success in a competitive bid environment. Project needs can change on a daily, and sometimes hourly, basis and the flexibility and responsiveness that would be provided under the HWAA is essential to our business model.

In the absence of an effective and reliable HWAA, WID management would be forced to schedule project staffing in a sub-optimal way to manage costs. Weekdays would be restricted to 8 hour days with the majority of overtime on Saturdays and Sundays once the 44 hour weekly threshold had been achieved. This would mean less days off and more travel requirements for our staff, and a much less efficient job site.

Waymark has also provided other forms of compensation for its staff in the past to recognize their efforts. Programs such as health spending credits, RRSP eligibility, cost sharing for life insurance premiums, work boot allowance, PPE provision, etc. have all been provided at the employers cost. Should WID find itself in a situation where both employment costs and the ability to effectively and efficiently deploy our resources become uncertain or impaired, WID would need to review all of these programs to determine if they would remain viable under the circumstances going forward.

## Hours of Work Averaging Agreement

Waymark Interior Demolition Inc. will average scheduled hours on a monthly basis. Based on the number of days in the month, full time employees will be scheduled to work an average of 44 hours per week. Monthly schedules will be calculated as follows:

28 days in the calendar month	176 scheduled hours
29 days in the calendar month	183 scheduled hours
30 days in the calendar month	189 scheduled hours
31 days in the calendar month	195 scheduled hours

Effective Date of the Agreement	The date that this agreement is ratified by 50% +1 Waymark Demolition Employees. This date will be noted at the end of this schedule
Term of the Agreement	This agreement will be in effect for two years from the date of ratification, and will renew for additional two year terms unless cancelled in writing by WID management or 50%+1 WID employees
Averaging Period	Hours will be averaged on a monthly basis as described above.
Work Schedule	Each employee will be provided with their work schedule as projects are approved to proceed. Where possible, work schedules will be provided for the upcoming week in advance, however both parties acknowledge that schedules may change due to changing conditions on each job site.
Scheduled Shifts	Scheduled shifts cannot exceed 12 hours per day.
Daily Overtime	Daily overtime will be payable should a requirement arise for an employee to work longer than their scheduled shift.
Averaging Period Overtime	Averaging period overtime will be payable for all monthly hours worked in excess of the base monthly hours noted in the schedule above. Base monthly hours are determined by the number of days in each month.
Payment of Overtime	Employees may choose to be paid for all overtime hours at a rate of 1.5 times their base hourly pay rate, or they may elect to take time off in lieu instead. In accordance with Employment Legislation, time off will be awarded based on base wage rates and will be included for purposes of vacation pay calculations.
General Holidays	Alberta Employment legislation for

	construction deems general holidays to be a normal work day, however WID will honor our current practice of awarding overtime pay for worked hours in excess of 36 hours in the week of a general holiday. Any overtime hours earned during the week of a general holiday will be included in the averaging period calculation for that month.
General Holiday and Vacation Pay	All employees will be paid 3.6% general holiday pay and 6.0% vacation pay in accordance with Employment Legislation.
Days off	In accordance with Employment Legislation, employees will be given a minimum of 4 days of rest in each consecutive 4 week work period.
New Employees	New employees will be provided with a copy of this agreement during orientation for their information, however acceptance of employment with WID will be deemed to be acceptance of this agreement and consent to be bound by the terms of this agreement.
Binding Agreement	The parties to an averaging agreement are bound by the terms of that agreement until the expiry date of the agreement, or a later date following the renewal of the agreement if this has been provided for in the agreement.
Termination of Employment	The presence of this agreement and its binding nature has no impact or effect on the employment termination provisions of Alberta Employment Legislation for the Construction Industry.

**This agreement must be approved by a majority of WID employees. A signature page has been attached for this purpose which forms part of this agreement as of the effective date of June 12, 2018.**



# Waymark Interior Demolition Inc.

## Daily Work Schedule under HWAA

Work Day Scheduled Hours	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
	8	8	8	8	8	4	