

BILL 32 AND OVERTIME AVERAGING

Background

Bill 32, the so-called Restoring Balance in Alberta’s Workplaces Act, was passed into law on July 29, 2020. It permits overtime pay or time-off entitlements to be averaged over a 52-week period. Extending hours of work averaging to such an extreme length suggests the policy goal is to minimize overtime costs for employers and rob workers of earnings.

Before Bill 32	After Bill 32
<p>The Code formerly permitted an <i>hours of work</i> averaging agreement to be made by an employer and employees. Hours of work can be averaged over a maximum of 12 weeks for purposes of calculating overtime pay or time-off entitlements.</p> <p>An averaging agreement can be in a collective agreement. If there is no collective agreement, it can be in an agreement with one employee or a group of employees.</p>	<p>Under Bill 32, the Code will permit an employer unilaterally to implement a written “averaging arrangement” for employees not covered by a collective agreement.</p> <p>An averaging arrangement can average hours of work over a number of weeks up to 52 weeks without a variance or exemption.</p>
<p>Agreements not part of a collective agreement cannot last for more than two years and must have a start and end date.</p>	<p>Bill 32 puts all the power in the boss’s hands—the overtime averaging changes can last forever.</p>

Example:

Before Bill 32 a non-union worker worked 540 hours (45 hours/week) between January 1 and March 31. Under a 12-week averaging arrangement, the worker is owed 60 hours of overtime pay.

Under Bill 32 the employer can average out the extra 60 hours over the entire year. This allows the employer to average the accrued overtime hours to slow periods, during which the worker might have only been called in for 20- or 30-hour weeks.

