



Administrative Penalties

Administrative penalties are intended to enhance enforcement tools available under *the Employment Standards Act* and to ensure compliance.

It is important to note that penalties are not intended to be punitive but rather meant to enhance compliance and as a deterrent to non-compliance in prescribed provisions of the *Act* and its regulations.

The provisions subject to penalties are:

1. failure to pay minimum wage;
2. failure to pay *overtime wage*;
3. failure to pay vacation pay;
4. failure to keep employment records;
5. failure to pay wages within the required timeframe;
6. failure to comply with public holiday pay requirements; and
7. failure to register with the Registry of Employers of Foreign Workers.

A notice of non-compliance per violation, *per employee*, or per violation, *per group of employees*, for each of the above-mentioned provisions can be issued. The employer who receives a non-compliance notice shall comply with the provision set out in the notice within 30 days of the receipt of the notice, failing to do so; an **administrative penalty** may be imposed. This notice is issued only in respect of contraventions occurring within the 12 months preceding the date of the complaint.

The penalties are set by regulation in the amount of \$150 for a first violation. In order to respond to repeat violators, the second and any subsequent violations of the same provision in the *Act* continue to increase by increments of \$150 for each violation, up to a maximum of \$900.

Examples Follow:

An investigation reveals that five employees were not paid minimum wage and two employees were not paid vacation pay. The penalty options could be :

1. One penalty for the whole workplace (1 minimum wage violation penalty at \$150)
OR
Five penalties - one for each employee (5 minimum wage violation penalties at $\$150 \times 5 = \750)
2. One penalty for the whole workplace (1 vacation pay violation penalty at \$150)
OR
Two penalties - one for each employee (2 vacation pay violation penalties at $\$150 \times 2 = \300)
3. Two penalties for the whole workplace (1 minimum wage violation penalty at \$150 + 1 vacation pay violation penalty at \$150 = \$300)
OR
Seven penalties - one for each employee (5 minimum wage violation penalties at $\$150 \times 5 + 2$ vacation pay violation penalties at $\$150 \times 2 = \1050 ($\$300 + \750)).

TOLL FREE INFORMATION

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Outside New Brunswick, Fredericton

(506) 453-2725

www.gnb.ca/labour

Employers and employees may enter into an agreement for greater benefits than provided for in the *Employment Standards Act*. Such agreements shall be respected and enforced by the Employment Standards Branch.

This is a guide only. For interpretation and application purposes, please refer to the *Employment Standards Act*, its regulations and amendments.