



# INDUSTRIAL WORKERS OF THE WORLD

VANCOUVER GENERAL MEMBERSHIP BRANCH

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## Variations

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*This Employment Standards Factsheet is also available in a [printable pdf format](#)*

### Applying for a Variance from the Employment Standards Act

Variations are for employers and employees who need the flexibility to establish work arrangements and schedules that do not strictly meet the requirements of the *Employment Standards Act*. In these cases, the employer and affected employees can apply to the Director of Employment Standards for a 'Variance.'

The Director has the authority to grant variations from the following sections of the Act:

- a. The time period specified in the definition of "temporary layoff"
- b. Section 17(1): paydays
- c. Section 25: special clothing
- d. Section 33: split shifts
- e. Section 34: minimum daily hours
- f. Section 35: maximum hours of work
- g. Section 36: hours free from work
- h. Section 40: overtime wages for employees not working under an averaging agreement
  - h.1. Section 37: number of weeks in an averaging agreement
- i. Section 64: notice and termination pay requirements for group termination.

Applications for variations must be in the form of a letter to the Director of Employment Standards. The letter can be sent to any Employment Standards Branch office.

The employer and more than 50 percent of the affected employees must sign the variance application.

The variance application must include the following information:

- a. The employer's name, address, and telephone number.
- b. The sections of the Act the Director is requested to vary.
- c. A detailed description of the variance being requested.
- d. How long the variance will be in place.
- e. The reason for requesting the variance.
- f. The name and home telephone number of each employee who signs the application.
- g. The names of all employees who will be affected by the variance.

When considering a variance application, the Director must ensure that it is not inconsistent with the purposes of the Employment Standards Act and Regulations. The Director will also consider whether advantages gained by the employees balance any losses.

The Director's decision to grant or reject a variance application will normally be communicated to the applicants within two weeks of the date the application is received. In some cases the Director may need additional time to study the application or may request additional information from the applicant.

Once a variance has been approved it will be set out as a Determination (a decision) and delivered to the workplace by the Employment Standards Branch. Copies of the Determination must be displayed in the workplace where all affected employees can read them.