

BULLETIN

Changing work schedules to 7.2-hour days

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Our employer is planning to unilaterally change our work schedules to 7.2-hour days. What do we do?



Your employer must follow a process laid out in a memorandum of agreement. Appendix 7 of the current paramedical professional collective agreement arose as a result of numerous disputes with employers following the transition in 1993 to a 36-hour work week. The memorandum of agreement was negotiated in 1998, and provides a two-part process for resolving issues where employers want to modify existing Earned Days Off / Accumulated Time Off (EDO/ATO) schedules. Since 1994, the Health Employers Association of BC has been relentless in encouraging employers to introduce 7.2-hour work days and eliminate EDOs/ATOs wherever possible. The memorandum allows this modification, but sets out steps which must be followed before schedules are modified.

The memorandum is related to Article 24 of the collective agreement:

Article 24 - Hours of Work

24.01 There shall be thirty-six (36) work hours per week, exclusive of meal periods or a mutually-agreed equivalent. (Reference Memorandum of Agreement, Re: Article 24.01 ... Hours of Work).

The first part of Appendix 7 requires the employer to approach the employees in a work unit to try to negotiate a schedule for that specific work unit. If this process fails, then there is a further process referring the matter to a third party for a -final offer selection."

The process works this way: Appendix 7 sets out the employers duties and responsibilities when they want to change current EDO/ATO schedules for specific work units. Specifically, Appendix 7 provides a list for a consultation process with employees that the employer must follow.

The process is mandatory and was achieved by agreement of the parties through collective bargaining.

The employer must take the following six steps under Appendix 7:

- give the employees a clear and detailed outline of what changes the employer wants to make;
- have good reasons for the changes and be prepared to discuss them;
- provide opportunity for employees to reply and make their own proposals;
- give *bona fide* consideration to employee ideas and provide reasons if they are rejected;
- make every reasonable effort to secure agreement; and,
- the agreement must not violate the terms of the collective agreement.

If the employer cant get agreement with members of the work unit to change the schedule, Appendix 7 sets out a process for dispute resolution through expedited final offer selection arbitration.

The employer and the union both have a responsibility to demonstrate that their respective positions conform to the process detailed above. The parties must fax their position to the arbitrator within three days of referral to arbitration.

The arbitrator may discuss the respective positions with the parties if clarification is necessary. The arbitrator then faxes his or her decision to the parties within four days. The arbitrator will select the position of the party that has brought before him or her -the most compelling reasons" for their position.

The arbitrator will not -split the difference" or find a compromise position. The arbitrator will select one of the two positions. It is essential that proposed schedules be clearly supported by operationally sound and rational arguments. Your labour relations officer (LRO) will be responsible for making these submissions, on the basis of the proposed schedules and rationale provided by you and your steward.

A few problems to watch for:

- Work schedules have been negotiated on a department or section basis. In some cases they are negotiated on a program-wide basis. The definition of -work unit" is an important one. Your HSA steward and labour relations officer will work with you to determine what constitutes a work unit at your facility.
- The employer may not cut side deals with small groups of employees within the work unit, or attempt to persuade employees, one by one, to accept a modified schedule. The Appendix 7 process does not allow this.
- If a vacant position is posted which is part of an existing shift schedule with an EDO/ATO schedule, do not agree that it may be posted as a 7.2-hour day. Again, this undercuts the Appendix 7 process.

If your employer advises you that they are seeking a schedule modification, contact your HSA steward or HSA labour relations officer. It is important the guidelines laid out in Appendix 7 are adhered to and that you and your colleagues have full input into the process.

Become familiar with the process by reviewing it with the steward and LRO and make sure that the employer is doing what is required. As the employer will often deal with staff at the local level where a steward or LRO may not be immediately accessible, it is important that you fully understand the Appendix 7 process to ensure it is being followed ... and you can report violations of the process to the union.

Even though the process is filled with -musts" which the employer must follow, employees should bear in mind that they ought to enter into the process with the employer and participate in good faith, with the support and advice of the union. Should you feel that the employer has not followed the process properly, bring this to the attention of the union in order that submissions may draw the arbitrators attention to such

irregularities. 

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