



LABOUR STANDARDS IN QUÉBEC

This document was produced by the Vice-présidence aux normes du travail in cooperation with the Direction générale des communications.

Original version in French
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Legal deposit – Bibliothèque et Archives nationales du Québec, 2021
Legal deposit – Library and Archives Canada, 2021

ISBN 978-2-550-89221-2 (PDF)

May 2021
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Labour standards

The *Act respecting labour standards* sets out the minimum standards for conditions of employment in Québec. It covers wages, holidays and leaves, notices of termination and remedies available to an employee with the CNESST.

The *Act respecting labour standards* is a law of public order. Departures from its requirements are prohibited, subject to legal exceptions.

This brochure summarizes the principal labour standards. For more information, and examples, visit the CNESST website at cnesst.gouv.qc.ca.

Employees not covered by the *Act respecting labour standards*

The *Act respecting labour standards* sets out standards for conditions of employment for most Québec employees, whether they work full time or part time. Some employees, however, are partially or totally excluded from its application.

Employees partially excluded

1. Caregivers
 - a. Who work in the home of the person they care for
 - b. Who work only occasionally
 - c. Who provide assistance to their family or community
 - d. Whose work does not profit their employer

Any household chores the caregiver performs must be related solely to the needs of the person cared for.

2. Students who work during the school year in a company selected by their school for a job training program approved by the Ministère de l'Éducation et de l'Enseignement supérieur
3. Athletes whose team membership is conditional on their participation in an academic program

The provisions of the *Act respecting labour standards* regarding psychological harassment and the right to continue working after normal retirement age do nonetheless apply to these three categories of employees.

4. Senior managerial personnel
5. Employees governed by the *Act respecting labour relations, vocational training and workforce management in the construction industry*

The provisions of the *Act respecting labour standards* regarding psychological harassment, the right to continue working after normal retirement age and certain leaves for parental or family reasons or due to a crime do nonetheless apply to these two categories of employees.



Employees totally excluded

1. Employees of companies subject to the *Canada Labour Code*, such as banks, radio stations and interprovincial and international transportation companies
2. Beneficiaries of health and social services working in a CLSC (local community services centre), a social services centre, a hospital or a reception centre as part of their physical, mental or social rehabilitation

Unequal conditions of employment

An employer may not, solely on the basis of hiring date, provide an employee conditions of employment that are less advantageous than those of other employees who perform the same work in the same establishment.

Conditions of employment governed by the *Act respecting labour standards*:

- Wages
- Hours of work
- Statutory holidays
- Vacations
- Rest periods
- Family and parental leaves
- Leaves for sickness, for organ or tissue donation for transplant or because of an accident or a crime
- Notice of termination of employment
- Uniforms, equipment and tools provided and costs of training and travel
- Retirement plans and other employee benefits, if the differences did not exist on June 11, 2018

An employer may not, solely because of an employee's employment status (part-time employee, agency worker, etc.), pay a lower wage rate or reduce annual vacation time or vacation pay compared with other employees who perform the same tasks in the same establishment.

Work performed by children

An employer may not

- Ask a child to do work that is beyond the child's capabilities or might be detrimental to the child's education, health or physical or moral development
- Have a child under 14 years of age work without the written consent of a parent or guardian
- Have a child who is required to attend school work during school hours
- Have a child work at night, that is, between 11 P.M. and 6 A.M. the following day, except if the child is no longer required to attend school or the work consists in delivering newspapers or creating or performing in certain types of artistic works

An employer who has work performed by a child must take into account where the child lives and schedule the work so the child will be home between 11 P.M. and 6 A.M. the following day. This is not, however, mandatory if the child is no longer required to attend school.

The employer is also exempt from this provision if

- The child's work involves creating or performing in certain types of artistic works
- The child works for a social or community organization, such as a vacation camp or a recreational organization, the working conditions require that the child be housed in the employer's establishment and the child is not required to attend school the following day

On the job: wages, pay and work

Wages

The minimum wage is set by the Government of Québec. The CNESST, however, supervises its application. The provisions concerning wages apply to most Québec employees, whether they work full time or part time.

Exclusions

The minimum wage standard does not apply to certain employees:

- Students who work for a social or community non-profit organization, such as a recreational organization or a vacation camp
- Trainees in a vocational training program recognized by law
- Employees paid entirely by commission who engage in commercial activities outside the establishment and whose working hours cannot be controlled

Minimum wage

Minimum wage rates are set by the Government of Québec every year. To find out the rates in effect, visit the CNESST website at cnesst.gouv.qc.ca.

Employees who receive an employee benefit with a monetary value from their employer (use of a car or residence, for example) may not, nonetheless, be paid a wage below the minimum wage.

Deductions

An employer may not make wage deductions unless required by law, regulation, court order, collective agreement, decree or a mandatory supplemental pension plan. Any other wage deductions must be agreed to in writing by the employee, with the specific purpose of the deduction mentioned in the document. The employee may revoke this authorization at any time, except in the case of mandatory pension plans or group insurance plans.

Voluntary retirement savings plan

The *Voluntary Retirement Savings Plans Act* stipulates that under certain circumstances an employer must subscribe to a voluntary retirement savings plan (VRSP) and automatically enrol all eligible employees in the plan. These employees may then choose to remain enrolled in the plan or opt out of it.

To find out more about the terms and conditions of this type of plan, call Retraite Québec toll free at 1 877 660-8282 or in the Québec City region at 418 643-8282. You can also visit the Retraite Québec website at retraitequebec.gouv.qc.ca.

Lastly, the CNESST ensures that employers comply with their obligation to subscribe to a VRSP and offer it to their employees. The CNESST also receives complaints from employees who believe that they have been dismissed or suffered reprisals or sanctions because they exercised their rights under the *Voluntary Retirement Savings Plans Act* or that the employer is attempting to circumvent the requirements of the law.

Special clothing

Employees may not receive less than the minimum wage rate because the cost of purchasing, using or maintaining special work clothes has been deducted from their wages. Employers who require their employees to wear special clothing must supply this clothing at no cost to employees paid the minimum wage.

Employers must provide all employees at no cost with any special clothing that clearly identifies the wearer with the employer: a jacket with a logo, for example. Employers may not require employees to purchase clothing or accessories that the employer sells. For tipped employees, reported tips are added to the employee's wages in calculating minimum wage under this standard.

Use of raw materials, equipment or merchandise

An employer who requires an employee to use raw materials, equipment or merchandise to execute a contract must provide these at no cost if the employee is paid the minimum wage. Furthermore, the employer may not require that an employee pay for the purchase, use or upkeep of raw materials, equipment or merchandise if this causes the employee to receive less than the minimum wage rate.



Room and board

An employee's working conditions may require that the employer provide the employee with room and board or see to it that the employee is provided with accommodation. The maximum amount the employer may charge the employee for room and board is set by the Government of Québec. To find out what these amounts are, visit the CNESST site.

Every employee must have a bed, a chest of drawers and access to a toilet and a shower or bath.

Employees accommodated in housing units must also have access to a washer and dryer and to a kitchen equipped with a refrigerator, a stove and a microwave oven.

Employees may not be charged for anything else related to their room and board—for access to a kitchen, a living room or any other room, for example.

Pay

Payment of wages

An employer has 1 month to remit an employee's first pay. After this, wages must be paid at regular intervals of no more than 16 days, or 1 month in case of managerial personnel. If pay day falls on a statutory holiday, the wages must be paid on the preceding working day.

Any amounts in excess of regular wages, such as bonuses or overtime pay earned in the week preceding a pay day, may be paid on the following pay day.

Pay slip

At each pay, employers must give employees a pay slip that allows the employees to check the calculation of their wages and deductions. The pay slip must include all relevant information:

- Employer's name
- Employee's name
- Job title
- Work period the payment is for
- Date of payment
- Number of hours paid at the regular rate

- Number of hours of overtime paid or replaced by leave, with applicable rate
- Nature and amount of any bonuses, indemnities,¹ holiday pay, allowances or commissions paid
- Wage rate
- Gross wages
- Nature and amount of deductions
- Net wages
- Tips reported by the employee or attributed to the employee by the employer

Work schedule

Hours of work and presence

An employee is deemed to be at work and must be paid

- When the employee is available to the employer at the workplace and must wait for work to be assigned
- During breaks granted by the employer
- When travel is required by the employer
- During any trial or training period required by the employer

The employer must reimburse an employee for reasonable expenses incurred when, at the employer's request, the employee must travel or undergo training.

Coffee breaks

An employer is under no obligation to offer a coffee break but, when one is granted, it must be paid and be included when calculating hours worked.

Meals

After a period of 5 consecutive hours of work, an employee is entitled to a 30-minute break, without pay, for a meal. This meal break must be paid if the employee cannot leave his or her work station.

Weekly rest period

An employee is entitled to a rest period of at least 32 consecutive hours every week. In the case of a farm worker, the rest period may be postponed to the following week if the worker agrees.

¹ An indemnity is a sum of money paid to the employee to compensate for harm suffered or inconvenience.

Reporting pay (minimum 3 hours)

Employees who report for work at the express request of their employer or in the normal course of their employment and who, in the end, do not work or work less than 3 consecutive hours are entitled to reporting pay equal to 3 hours' wages at their usual hourly rate. Employees are entitled to tips received during this period. If overtime provisions entitle the employee to a higher amount, the employee does not receive the 3 hours of reporting pay but instead the number of overtime hours increased by 50%.

This provision does not, however, apply in cases of certain unforeseeable circumstances, such as a fire, or when the employee is hired for periods of less than 3 hours: ushers, school bus drivers and school crossing guards, for example.

Right to refuse to work

An employee may refuse to work

1. On any given day
 - More than 2 hours beyond the employee's regular working hours or more than 14 hours per 24-hour period, whichever period is shorter
 - More than 12 hours per 24-hour period, if the employee's daily working hours are flexible or non-continuous
2. In any given week
 - More than 50 hours, unless the working hours are staggered
3. If the employee is not informed of his or her work schedule at least 5 days in advance, unless the employee is a farm worker or the nature of the duties performed requires that the employee remain available

Under certain unforeseeable circumstances, however, employees may not exercise their right to refuse to work.

² Employees who work in the following industries:

- Men's and boys' shirt industry
- Women's clothing industry
- Men's clothing industry
- Leather glove industry

Overtime

Normal work week

A normal work week is usually 40 hours. The length of the work week determines at what point an employee begins to work overtime.

For certain employees, however, the length of the normal work week is not 40 hours:

Clothing industry employees ²	39 hours
Security guards who work for a security firm	44 hours
Loggers and sawmill employees	47 hours
People who work in remote areas or in the James Bay territory	55 hours
Security guards who do not work for a security firm	60 hours

A normal work week is not a time limit beyond which an employee may refuse to work.

Calculation of overtime

Hours worked in addition to the normal work week must be paid at the regular hourly wage increased by 50% (time and a half), not counting hourly premiums (night shift allowance, for example).

The employer may, at the employee's request, replace the payment of overtime with leave equivalent to the overtime worked plus 50% (7 hours = 10½ hours).

Vacations and statutory holidays are considered like days worked when calculating overtime.

Exceptions

The standard for overtime rates does not apply to the following:

- Students working at a vacation camp or for a social or community non-profit organization, such as a recreational organization
- Managerial personnel
- Employees who work outside the establishment and whose working hours cannot be controlled
- Employees assigned to canning, packaging and freezing fruits and vegetables during the harvesting period

- Employees working for fishing, fish processing or fish canning operations
- Farm workers
- Employees whose sole duty is to care for a child or a sick, handicapped or elderly person in the child's or the person's home, including performing household tasks directly related to the immediate needs of the individual cared for, unless the work serves to procure profit for the employer

Staggered working hours

If authorized by the CNESST, the employer may stagger working hours over several weeks for purposes of overtime calculation. This authorization is not necessary when staggered working hours are provided for in a collective agreement or a decree.

In addition, under certain circumstances, an employer and an employee may agree to stagger the employee's working hours other than on a weekly basis without authorization from the CNESST.

Tipped employees

Tipped employees generally receive tips and work in one of the following:

- A restaurant (except fast food outlets)
- A company that sells, delivers or serves meals for consumption off the premises
- A place where alcoholic beverages are sold for consumption on the premises
- An establishment that provides accommodations for tourists in return for payment, including campgrounds

Tips

Tips are sums given voluntarily by customers to an employee or service charges added to a customer's bill. Administrative charges added to a bill are not tips. Tips belong entirely to the employee who provided the service, whether or not they were paid directly. Tips must not be confused with wages.

An employer who collects tips must give them directly to the employee who provided the service. Tips include service charges added to the customer's bill but not administrative charges added to the bill.

An employer must always pay the employee at least the minimum wage in addition to the tips earned.

Tip-sharing arrangements

Tipped employees are entitled to participate in a tip-sharing arrangement. Whether the arrangement is spelled out in writing or verbal, the employees entitled to tips must give their free and voluntary consent to it. The employer may not impose a tip-sharing arrangement on employees or take part in setting it up.

Employees who participate in a tip-sharing arrangement may ask the employer to manage its application and distribute the tips among the participants.

Employees hired in an establishment where there is already a tip-sharing arrangement are required to participate in it.

The CNESST cannot claim sums for employees who opt out of a tip-sharing arrangement, nor can it take legal action against employees who do not fulfil their obligations to co-workers under a tip-sharing arrangement.

Credit card fees

An employer may not require a tipped employee to pay credit card fees.

Reporting tips

When calculating vacation pay, public holiday pay, termination pay and pay for the National Holiday or a bereavement or marriage leave, the employer must take into account the employee's wages plus the tips the employee reported or the employer attributed to the employee.

The *Act respecting labour standards* requires an employer to accept the amount of tips reported by an employee and protects employees against reprisals an employer might take against them should they exercise their rights.

On the job: holidays and leaves

Statutory holidays

Most employees in Québec are entitled to take the following statutory holidays off work and receive public holiday pay:

- January 1 (New Year's Day)
- Good Friday or Easter Monday (employer's choice)
- The Monday preceding May 25 (National Patriots' Day)
- July 1 or, if this is a Sunday, July 2 (Canada Day)
- The first Monday in September (Labour Day)
- The second Monday in October (Thanksgiving)
- December 25 (Christmas Day)

Employees required to work on any of these statutory holidays are entitled, in addition to their wages for the day worked, to public holiday pay or a substitute holiday for which they must be paid public holiday pay (employer's choice). The substitute holiday must be taken in the 3 weeks before or after the statutory holiday.

Employees on vacation at the time of one of these statutory holidays and employees who normally do not work the day on which the holiday falls are entitled to public holiday pay or a substitute holiday on a date agreed upon between the employee and the employer.

Clothing industry employees are entitled to the following holidays in addition to those mentioned above:

- January 2
- Good Friday and Easter Monday

Exceptions

The standard for statutory holidays does not apply to the following:

- Employees absent from work without permission or valid cause on the working day before or after the holiday. Such employees do not receive either public holiday pay for this holiday or a substitute holiday, provided this was a working day on which the employee normally worked
- Employees covered by a collective agreement or decree that entitles them to at least 7 statutory holidays in addition to the National Holiday
- Non-unionized employees who receive a number of statutory holidays, in addition to the National Holiday, equal to the number provided for under the collective agreement or decree of the unionized employees of the company for which they work

Public holiday pay and substitute holiday

Public holiday pay for statutory holidays and the National Holiday is calculated as follows:

1/20 of the wages earned during the
4 complete weeks of pay preceding the week
of the holiday, excluding overtime

It is important to understand that it is the 4 complete weeks of pay prior to the week of the holiday that are used to calculate the holiday pay.

For tipped employees, reported or attributed tips are considered in calculating the holiday pay.

For employees paid in whole or in part by commission, the public holiday pay is calculated using the following formula:

1/60 of the wages earned during the
12 complete weeks of pay preceding the
week of the holiday, excluding overtime



AN ONLINE CALCULATION TOOL

monCalcul is a tool offered by the CNESST to help you figure out how much you are entitled to. You can access monCalcul on the CNESST website at cnesst.gouv.qc.ca.



National Holiday

Québec's national holiday, June 24, is also a statutory holiday. When June 24 falls on a Sunday, then Monday, June 25, becomes the statutory holiday for employees who do not usually work on Sunday.

The only requirement to be eligible for this paid leave is to be employed on the day of the holiday.

Holiday pay for the National Holiday is calculated the same way as holiday pay for other statutory holidays.

However, if an employee must work on June 24, the employer has two options:

- Pay the employee public holiday pay for the National Holiday as well as his or her wages for the day
- Give the employee a substitute holiday the day before or after the National Holiday

If June 24 falls during an employee's vacation, the paid holiday is taken at a date agreed upon by the employee and the employer.

If June 24 falls on a day when an employee does not usually work, the employer has the option of paying the employee public holiday pay or granting him or her a substitute holiday on the working day before or after June 24, depending on the employee's usual work schedule.

Vacations

Vacations are earned over a period of 12 consecutive months. This period runs from May 1 to April 30, (unless other dates are set by the employer, a decree or an agreement) and is known as the "vacation entitlement year."³

Vacation time depends on the employee's period of uninterrupted service.⁴ Vacation pay depends on the wages the employee earned during the vacation entitlement year effective in the company.

Uninterrupted service at end of vacation entitlement year ⁵	Vacation time	Vacation pay
<1 year	1 day per full month of uninterrupted service, but not exceeding 2 weeks	4%
1 year to <3 years	2 consecutive weeks	4%
≥3 years	3 consecutive weeks	6%

Exceptions

Some employees covered by the *Act respecting labour standards* are excluded from the vacation provisions:

- Students employed in a vacation camp or a social or community non-profit organization, such as a recreational organization
- Holders of a broker's licence issued under the *Real Estate Brokerage Act* (chapter C-73.1) who are remunerated entirely by commission

³ The "vacation entitlement year" is the period of 12 consecutive months over which an employee gradually earns vacation.

⁴ "Uninterrupted service" means the continuous period during which the employee is bound to the employer by a contract of employment, even if performance of the work is interrupted, provided the contract is not cancelled. Uninterrupted service also includes periods during which fixed-term contracts succeed one another without an interruption that would, under the circumstances, give reason to conclude the contract was not renewed.

⁵ Provisions differ for workers in certain sectors of the clothing industry:

- Workers with 1 to <3 years of experience: 3 weeks, including 2 consecutive weeks, and 6% vacation pay
- Workers with ≥3 years of experience: 4 weeks, including 3 consecutive weeks, and 8% vacation pay

Family or caregiver leave

Short-term leaves

The employment relationship is protected if an employee must be absent from work for family-related events. Employees must notify their employer that they will be absent.



Marriage or civil union	Of the employee	1 day with pay
Marriage or civil union	Of the employee's child, father, mother, brother, sister or of the child of the employee's spouse	1 day without pay
Birth	Of the employee's child	5 days, 2 of them with pay The employee must take the leave in the 15 days following the child's arrival in the employee's home. The days need not be consecutive, at the employee's request
Adoption	Of a child	5 days, 2 of them with pay The employee must take the leave in the 15 days following the child's arrival in the employee's home. The days need not be consecutive, at the employee's request
Termination of pregnancy	As of the 20th week of pregnancy	5 days, 2 of them with pay The employee must take the leave in the 15 days following the termination of pregnancy. The days need not be consecutive, at the employee's request
Obligations	Relating to the care, health or education of the employee's child or of the child of the employee's spouse Relating to the state of health of a family member or a person for whom the employee acts as caregiver as attested by a health and social services professional governed by the <i>Professional Code</i>	10 days a year The days need not be consecutive. In addition, the days need not be full days, with the employer's permission
Death or funeral	Of the employee's spouse, child, father, mother, brother or sister or of the child of the employee's spouse	2 days with pay and 3 days without pay
Death or funeral	Of the employee's son-in-law, daughter-in-law, grandparents* or grandchild or of the father, mother, brother or sister of the employee's spouse*	1 day without pay

Long-term leaves

The employment relationship is protected if an employee must be absent from work to care for a family member.

Presence required	With a family member or a person for whom the employee acts as caregiver as attested by a health and social services professional governed by the <i>Professional Code</i>	Up to 16 weeks without pay over a period of 12 months 36 weeks over a period of 12 months if the family member or person is a minor child, or 104 weeks if the minor child is critically ill Up to 27 weeks if the person requiring the employee's presence is critically ill The employee must have at least 3 months of service with the employer
Disappearance	Of the employee's minor child	Up to 104 weeks, without pay If the child is found before the end of the leave, the return to work must take place no more than 11 days later
Presence required	With the employee's minor child seriously injured as a result of a crime, rendering the child unable to pursue his or her regular activities With the employee's minor child seriously injured while attempting to lawfully arrest an offender or assisting a peace officer making an arrest With the employee's minor child seriously injured while lawfully preventing or attempting to prevent an offence or assisting a peace officer	Up to 104 weeks, without pay
Death	Of the employee's minor child	Up to 104 weeks, without pay
Death resulting from suicide	Of the employee's spouse, father, mother or child of full age	Up to 104 weeks, without pay
Death resulting from a crime	Of the employee's spouse or child of full age	Up to 104 weeks, without pay
Death	Of the employee's spouse or child of full age while attempting to arrest an offender or assisting a peace officer making an arrest	Up to 104 weeks, without pay
Death	Of the employee's spouse or child of full age while lawfully preventing or attempting to prevent an offence or assisting a peace officer	Up to 104 weeks, without pay

If the absence is related to a crime, the employer must be able to verify that the serious bodily injury or death is the result of the crime or that the missing person is in danger.

An employee is not entitled to these leaves if it is shown that the employee or the deceased person (spouse or child of full age) was a party to the crime or contributed, through gross fault, to the injuries sustained. If the employee's minor child died while participating in a crime, the employee is entitled to the leaves.

If the employee continues to contribute to group insurance and pension plans during the leave, the employer must do likewise.

Period of leave and return to work

The leave may not begin before the day of the event and must end no more than 104 weeks after it. Employees must notify their employer as soon as possible of their absence and the reasons for it. If a new event affecting the same child occurs during a leave period and it entitles the employee to a new leave, the longer period applies, and the start date is the date of the first event.

The employer may ask the employee to provide documentation attesting to the reasons for the leave, particularly the reasons for lengthy or repeated absences. During the leave, the employee may return to work intermittently or on a part-time basis if the employer agrees.

When employees return to work, they must be reinstated in the position they occupied before the leave, with the wages and benefits they would have been entitled to had they remained at work.

If their position has been abolished, employees retain the rights and privileges they would have been entitled to had they remained at work. These provisions must not, however, give employees any benefits they would not have been entitled to had they remained at work.

This right does not prevent the employer from dismissing, suspending or transferring an employee if the consequences of the sickness, accident or crime or the repetitive nature of the absences constitute good and sufficient cause to do so.

Lastly, in case of dismissals⁶ or layoffs that would have included the employee had he or she remained at work, the employee retains the same return-to-work rights as the other employees dismissed or laid off.

Leave for sickness, accident, organ or tissue donation, domestic or sexual violence or due to a crime

Employees may be absent from work without pay if

<ul style="list-style-type: none">• They are sick, making an organ or tissue donation or are a victim of an accident or of domestic or sexual violence	Up to 26 weeks over a period of 12 months
<ul style="list-style-type: none">• They are seriously injured as a result of a crime, rendering them unable to do their usual job• They are injured while attempting to lawfully arrest an offender or assisting a peace officer making an arrest• They are injured while lawfully preventing or attempting to prevent an offence or assisting a peace officer	Up to 104 weeks ⁷ The leave begins no earlier than the date of the crime or, if the employee was absent owing to sickness, organ or tissue donation for transplant or an accident, no earlier than the end of the 26-week period. It ends no later than 104 weeks after the crime was committed

Employees must notify their employer as soon as possible of their absence and the reasons for it. The employer may ask the employee to provide certification explaining the reason for the length of a leave or why repetitive leaves are necessary.

If an employee continues to contribute to group insurance plans and pension plans during his or her leave, the employer must do likewise.

In the event of an occupational disease or work accident, employees are covered by the occupational health and safety plan administered by the CNESST. Their employment and income are protected. For more information, visit our website.

⁶ A dismissal is the permanent termination of an employee's employment owing to an economic or technological change in the company. A layoff is the temporary interruption of an employee's employment owing to a change in the company's labour needs.

⁷ Employees are not entitled to these leaves if it is shown that they were a party to the crime. In addition, these leaves do not apply in case of an employment injury in the meaning of the *Act respecting industrial accidents and occupational diseases*.

Return to work

If the employer agrees, an employee may return to work intermittently or on a part-time basis during the period of a leave due to serious bodily injury as a result of a crime.

When employees return to work, they must be reinstated in the position they occupied before the leave, with the wages and benefits they would have been entitled to had they remained at work. If their position has been abolished, employees retain the rights and privileges they would have been entitled to had they remained at work.

These provisions must not, however, give employees any benefits they would not have been entitled to had they remained at work.

This right does not prevent the employer from dismissing, suspending or transferring an employee if the consequences of the sickness, accident or crime or the repetitive nature of the absences constitute good and sufficient cause to do so.

Lastly, in case of dismissals or layoffs that would have included the employee had he or she remained at work, the employee retains the same return-to-work rights as the other employees dismissed or laid off.



Two days of paid leave

An employee is entitled to 2 days of paid leave per year

- For family responsibilities related to the care, health or education of the employee's child or the child of the employee's spouse (short-term leave)
- As caregiver for a family member or other person in poor health (short-term leave)
- In case of sickness
- For organ or tissue donation
- Owing to an accident, domestic or sexual violence or a crime

Conditions

- The employee becomes entitled to this paid leave on completion of 3 months of uninterrupted service.
- The law provides for a total of 2 days of paid leave per calendar year (January 1 to December 31).
- These days may not be deferred from one year to the next or cashed out.

Pay for these days of leave is calculated in the same way as public holiday pay:

- 1/20 of the wages earned during the 4 complete weeks of pay preceding the week of the leave, excluding overtime
- 1/60 of the wages earned during the 12 complete weeks of pay preceding the week of the leave in the case of an employee paid in whole or in part on a commission basis

Maternity leave

In Québec, pregnant employees are entitled to up to 18 consecutive weeks of unpaid maternity leave. Parental leave may be taken in addition to maternity leave.

Maternity leave may be spread out before or after the expected date of delivery as the employee wishes or needs. The employer may grant a longer maternity leave at the employee's request.

Maternity leave begins no earlier than the 16th week before the expected date of delivery and ends no later than 20 weeks after the birth. If the leave begins on the date of birth, the week of the delivery is not included in the calculation.

From the 6th week before the expected date of delivery, the employer may, in writing, require a medical certificate attesting that the employee is fit to work. If the employee does not provide the certificate within 8 days, the employer may, also by written notice, require that the employee take her maternity leave.

At the worker's request, the leave may be suspended if her or her child's health condition so requires.

The leave may also be extended if the child's or the mother's health so requires.

In this case, the employee must provide a notice from her physician before the initial leave ends. In some very specific cases, the leave may, at the employee's request, be taken as non-consecutive weeks, if the child is hospitalized or the employee is absent because she herself or a family member is sick.

If the birth takes place after the expected delivery date, the employee is entitled to at least 2 weeks of maternity leave after the delivery.

If the employee continues to contribute to group insurance and pension plans during her leave, the employer must do likewise.

Absences during pregnancy

An employee may be absent from work without pay as often as necessary for examinations related to her pregnancy. She must notify her employer of these absences as soon as possible.

Special maternity leave

An employee is entitled to special maternity leave without pay if there is a risk of termination of the pregnancy or the pregnancy threatens the health of the mother or the unborn child. The employee must provide a medical certificate attesting to the risk or threat and indicating the length of the leave and the expected date of delivery. In this case, regular maternity leave begins 4 weeks before the expected date of delivery.

Termination of pregnancy

In case of termination of pregnancy before the start of the 20th week prior to the expected date of delivery, the maximum leave is 3 weeks, unless a medical certificate attests that the employee needs an extended leave.

If the termination of pregnancy occurs in the 20th week or later, the employee is entitled to maternity leave without pay for up to 20 consecutive weeks starting from the week of the termination. The employee must inform her employer of the event as soon as possible and give written notice of the expected date of her return to work. The notice must be accompanied by a medical certificate.

Employee's written notice to the employer

The employee must give her employer 3 weeks' written notice indicating the date she will go on maternity leave and the date she will return to work. The notice period may be shorter if her health requires her to leave earlier, in which case she must provide a medical certificate attesting to why she has to leave work.

The written notice must always be accompanied by a medical certificate attesting to the pregnancy and the expected date of delivery. A written report signed by a midwife may replace the medical certificate.

In the event of a termination of pregnancy or premature birth, the employee must, as soon as possible, give her employer written notice of the event and the expected date of her return to work, accompanied by a medical certificate attesting to the event.

Return to work

At the end of the maternity leave, the employer must reinstate the employee in her former position with the wages and benefits she would have been entitled to had she remained at work.

If her position has been abolished, the employee retains the same rights and privileges she would have been entitled to had she remained at work.

These provisions must not, however, give the employee any benefit she would not have been entitled to had she remained at work.

The employee may return to work before the date indicated in the notice she gave her employer before leaving. She must send the employer, 3 weeks in advance, a new notice indicating the date of her return. If the employee wishes to return to work less than 2 weeks after the birth, the employer may require her to provide a medical certificate attesting that she is fit to work.

If the employee does not return to work on the date specified in the notice, the employer may presume that she has resigned from her position.

Vacation

An absence for maternity leave during the vacation entitlement year does not affect the employee's vacation time. The employee is entitled to vacation pay equivalent, depending on her length of uninterrupted service, to 2 or 3 times the weekly average of wages earned during the entitlement year. However, employees do not earn vacation pay during parental leaves.

Preventive withdrawal

Provisions concerning preventive withdrawal are set out in the *Act respecting occupational health and safety*. For more information, call the CNESST at 1 844 838-0808.

Québec Parental Insurance Plan

Under the Québec Parental Insurance Plan, benefits are paid to provide income support for employees absent from work after the birth or adoption of a child. To find out more, contact an officer at the Centre de service à la clientèle of the Ministère du Travail, de l'Emploi et de la Solidarité sociale at 1 888 610-7727. An application for benefits can also be submitted online at rqap.gouv.qc.ca.

Paternity leave

An employee is entitled to 5 consecutive weeks of leave without pay on the birth of his child. Parental leave may be taken in addition to paternity leave.

Paternity leave begins no earlier than the week of the child's birth and ends no later than 78 weeks after the birth. The employee must give his employer at least 3 weeks' written notice indicating the expected start date of the leave and the date he will return to work. This notice period may, however, be shorter if the child is born before the expected date.

At the worker's request, the paternity leave may be suspended, divided or extended if his or his child's health condition so requires. In some situations, at the worker's request and with the employer's agreement, the leave may be split into weeks.

Return to work

At the end of the paternity leave, the employer must reinstate the employee in his former position with the wages and benefits he would have been entitled to had he remained at work.

If his position has been abolished, the employee retains the same rights and privileges he would have been entitled to had he remained at work. These provisions must not, however, give the employee any benefit he would not have been entitled to had he remained at work.

If the employee does not return to work on the date stated in the notice, the employer may presume the employee has resigned from his job.

Vacation

An absence for paternity leave during the vacation entitlement year does not affect the employee's vacation time. The employee is entitled to vacation pay equivalent, depending on his length of uninterrupted service, to 2 or 3 times the weekly average of wages earned during the entitlement period. However, employees do not earn vacation pay during parental leaves.

Québec Parental Insurance Plan

Under the Québec Parental Insurance Plan, benefits are paid to provide income support to an employee who has become a new father. To find out more, contact an officer at the Centre de service à la clientèle of the Ministère du Travail, de l'Emploi et de la Solidarité sociale at 1 888 610-7727. An application for benefits can also be submitted online at rqap.gouv.qc.ca.



Parental leave

Every parent of a newborn or a newly adopted child is entitled to parental leave without pay for up to 65 weeks. Anyone who adopts a spouse's child is also entitled to this leave.

Parental leave may begin no earlier than the week the child is born or, in the case of an adoption, the week the child is entrusted to the employee or the employee leaves work to take custody of the child outside Québec.

Parental leave is in addition to the 18-week maternity leave or 5-week paternity leave a parent is entitled to. Parental leave may be paid according to the terms and conditions of the Québec Parental Insurance Plan and be shared between the father and the mother.

Parental leave thus ends no later than 78 weeks after the birth of the child or, in the case of adoption, no later than 78 weeks after the child is entrusted to the employee. At the parent's request, the parental leave may be suspended, divided or extended if the parent's or child's health condition so requires. In some situations, at the parent's request and with the employer's agreement, the leave may be split into weeks.

If the employee continues to contribute to group insurance and pension plans during the leave, the employer must do likewise.

Notice to the employer

The employer must be given at least 3 weeks' notice indicating when the leave will begin and end. The notice period may be shorter if the employee must stay with the newborn or newly adopted child or with the mother because of their state of health.

Return to work

The employee may resume work intermittently or on a part-time basis during the parental leave if the employer agrees.

When employees return to work at the end of a parental leave, they must be reinstated in the position they occupied before the leave, with the wages and benefits they would have been entitled to had they remained at work.

If their position has been abolished, employees retain the rights and privileges they would have been entitled to had they remained at work.

These provisions must not, however, give employees any benefits they would not have been entitled to had they remained at work.

Employees may return to work before the date stated in the notice they gave the employer before leaving. They must send the employer, 3 weeks in advance, a new notice specifying the date of their return.

If the employee does not return to work on the date specified in the notice, the employer may presume that the employee has resigned from the job.

Vacation

Unlike maternity leave and paternity leave, parental leave has an effect on the calculation of vacations.

When employment ends

Vacation pay owing

At the end of the contract of employment, the employer must pay the employee for any vacation time not taken in addition to 4% or 6% (depending on the length of uninterrupted service) of total gross wages earned during the current vacation entitlement year.

Notice of termination

Before terminating a contract of employment or laying off an employee for a period of more than 6 months, the employer must give the employee written notice of termination of employment. The employer is not required to give such notice at the end of a fixed-term contract or if the employee has completed the specific task for which the employee was hired.

The notice period varies depending on the length of an employee's uninterrupted service.

Length of uninterrupted service	Notice period
3 months to <1 year	1 week
1 year to <5 years	2 weeks
5 years to <10 years	4 weeks
≥10 years	8 weeks

Exceptions

The provisions concerning notice of termination and notice of layoff for 6 months or more do not apply to the following:

- Employees with less than 3 months of uninterrupted service
- Employees guilty of serious misconduct
- Employees dismissed or laid off as a result of an unforeseen event (force majeure), such as a fire
- Employees whose fixed-term contract has ended
- Employees who have completed the specific task for which they were hired

Termination pay

An employee who does not receive the prescribed notice of termination or is given insufficient notice must be given termination pay in lieu of notice. The termination pay must equal the wages the employee would normally have earned between the date on which the notice should have been sent and the end of the employment. Overtime is not included in calculating termination pay.



Special provisions

Termination pay for an employee paid in whole or in part by commission corresponds to the weekly average of the employee's earnings during the complete pay periods of the 3 months before the termination of employment or the layoff for more than 6 months.

A notice of termination of employment is null and void if given to an employee while laid off, except in case of seasonal employment that normally does not last more than 6 months in any year.

Employees laid off for over 6 months who have recall rights for more than 6 months under a collective agreement may, if they have not received a layoff notice, ask for their termination pay

- When their recall rights expire, if they have not been recalled to work
- 1 year after being laid off

Reasonable notice of termination under the *Civil Code*

Employees who believe they are entitled to reasonable notice of termination or termination pay in lieu under the *Civil Code* may request it from their employer. This recourse may be exercised personally by employees or, at their own expense, with the assistance of a lawyer of their choice.

Employees are also required to give reasonable notice to their employer before leaving their job.

Group termination

A group termination of employment is the termination of employment of 10 or more employees in the same establishment within a 2-month period or the layoff of 10 or more employees in the same establishment for more than 6 months.

A number of provisions govern group terminations. For more information, call the CNESST at 1 844 838-0808 or visit our website.

Company bankruptcy

When a company declares bankruptcy, the CNESST has the authority, under certain conditions, to institute legal proceedings against the directors. Employees who believe they have been wronged may file a complaint to collect wages, vacation pay, public holiday pay, amounts owed for family or parental leave or any other amounts that may be owed to them by a company that has declared bankruptcy.

For more information, call the CNESST at 1 844 838-0808 or visit our website.

Remedies with the CNESST

The Act respecting labour standards provides remedies for employees who believe their rights have not been respected.

Remedies are pursued by applying to the CNESST, either on line or by calling 1 844 838-0808.

It is however suggested, the situation permitting, that an attempt be made to settle the disagreement with the employer before filing a complaint.

Unjustified change in employment status

An employer may not change a worker's employment status from employee to independent contractor or self-employed individual if no changes are made in the company's operating practices that make it necessary to do so.

If such changes are not warranted by real changes in the company or if an employee disagrees with the employer about the impact of the changes in the company on the employee's employment status, the employee may file a written complaint with the CNESST.

For more information, call the CNESST at 1 844 838-0808 or visit our website.

Monetary complaint

Employees may file a complaint with the CNESST if they believe their employer has violated their rights with respect to payment of wages, overtime, vacation pay, public holiday pay or termination pay.

The CNESST may institute legal proceedings against the employer on an employee's behalf to try to recover amounts owing for work the employee executed.

The employee has **1 year** from the date of the violation to file a complaint, that is, 1 year from the date on which the employer should have paid the employee.

Complaint of dismissal without good and sufficient cause

The remedy in case of dismissal without good and sufficient cause is a job protection measure similar to the grievance procedures generally included in collective agreements. In some situations, the employee can be reinstated in his or her job.

Employees who have worked for the same company for at least 2 years and who believe they were dismissed without good and sufficient cause may file a complaint with the CNESST. The deadline for filing the complaint is **45 days** after the dismissal. The standard does not, however, apply to employees with access to an equivalent remedy under other legislation or a collective agreement.



MEDIATION FOR CONFLICT RESOLUTION

When the CNESST receives complaints of prohibited practices, dismissal without good and sufficient cause or psychological or sexual harassment, mediation services are offered to help the employer and the employee find satisfactory solutions to their disagreement. To find out more, visit the CNESST website at [cnesst.gouv.qc.ca](https://www.cnesst.gouv.qc.ca).



Complaint of prohibited practice

The *Act respecting labour standards* prohibits certain practices. For example, an employee may not be sanctioned for exercising a legal right or because she is pregnant or past the retirement age mentioned in a retirement plan. Any sanctions to circumvent the law or because an employee has provided information to the CNESST are also prohibited.

Sanctions include dismissal, suspension, transfer and discriminatory measures or reprisals. To find out more about the different prohibited practices, consult the CNESST website.

The deadline for filing a complaint with the CNESST is 45 days from the date of the sanction. When an employee is forced to retire or is sanctioned for refusing to retire, the deadline is 90 days.

Complaint of psychological or sexual harassment

Every employee is entitled to a workplace free from psychological or sexual harassment.

Employers must take reasonable measures to prevent psychological harassment and, whenever they become aware of such behaviour, to put a stop to it.

Employers must, in particular, adopt and make available to their employees (distribute and ensure access) a psychological harassment prevention and complaints policy, including a section on behaviour consisting of comments, actions or gestures of a sexual nature.

Psychological or sexual harassment is vexatious conduct in the form of repeated behaviour, comments, actions or gestures that

- Are aggressive or unwelcome
- Undermine the employee's dignity or psychological or physical well-being
- Detrimentially affect the work environment

Psychological harassment includes sexual and discriminatory harassment.

A single serious incident of such behaviour may constitute psychological or sexual harassment if it has the same consequences and a lasting harmful effect on the employee.

Who to contact

Regardless of your position in the company hierarchy, you can assert your right to a work environment free of psychological or sexual harassment. However, where to take your complaint depends on whether you work in the public or the private sector and whether or not you are unionized.

Non-unionized employees subject to the *Act respecting labour standards*, including senior managers

CNESST
1 844 838-0808
Online services, online complaints
cnesst.gouv.qc.ca

Unionized employees

Your union

Public service employees not governed by a collective agreement, including organization members and directors

Commission de la fonction publique
418 643-1425
Elsewhere in Québec, toll free: 1 800 432-0432

Non-unionized employees governed by the *Act respecting labour standards* must file their complaint with the CNESST no later than **2 years** after the last incident of psychological or sexual harassment.



To contact us
cnesst.gouv.qc.ca
1 844 838-0808