

## Persons having custody or taking care of others and labour standards



LABOUR STANDARDS

For a better  
understanding

## Persons having custody or taking care of others and labour standards

Persons having custody or taking care of others are subject to the Act respecting labour standards. They must receive at least the minimum wage. They are entitled to statutory holidays and annual leaves and are protected by the other provisions of the Act respecting labour standards, except the one establishing a 40-hour regular workweek. As a result, the wage rate does not increase after 40 hours of work.

Persons having custody or taking care of others are employees whose exclusive duty is to have custody or care for a child, a sick, handicapped or elderly person in the home of that person.

Within the context of their work, persons having custody or taking care of others may perform household chores directly related to the immediate needs of the child or the person cared for (e.g. preparation of meals or washing and ironing clothes). However, if this work is done for other persons living in the home of the person being cared for, the person having custody or taking care of others is then considered a domestic within the meaning of the Act respecting labour standards.

There are exceptions by virtue of which persons having custody or taking care of others are excluded from the application of the Act respecting labour standards. These exceptions involve the following cases:

### **The duties are performed occasionally**

When a person is required to take care of a child, a sick, handicapped or elderly person on an irregular basis or based on the occasional needs of the employer (e.g. couple that hires a babysitter to have a night out), this person is not subject to the Act respecting labour standards or to the minimum wage rate.



### **The duties are performed within the context of assistance to family**

Care or custody within the context of assistance to family is based on natural support relations that exist within a family. It is not limited solely to parents or children and may involve, for example, an uncle or an aunt, a cousin, or even the family of a brother-in-law or sister-in-law. When persons have custody or take care of someone within such a family assistance context, they are excluded from the application of the Act and the minimum wage rate.

### **The duties are performed within the context of community help**

When the person who has custody or takes care of others performs such duties within the context of community help, which is intended as a reflection of mutual support that may exist at the level of a community or smaller groups (e.g. community groups or sharing between friends and relatives), this person is not subject to the Act or to the application of the minimum wage rate.

The wages paid to persons having custody or taking care of others is not subject remuneration with respect to the contribution paid by employers within the meaning of the Act respecting labour standards. Employers do not have to pay the contribution stipulated in the Act on this remuneration.



## Service des renseignements

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*Original text in French.  
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