



DOMESTIC WORKER

Protection in the event of a work accident or occupational disease and labour standards



DOMESTIC WORKER

A domestic worker is a person employed by an individual. In exchange for a wage, they perform tasks such as:

- housework or maintenance work;
- taking care of or providing care to a person or an animal;
- any other household employee's task in the individual's home;
- acting as the individual's driver or bodyguard.

PROTECTION OF DOMESTIC WORKERS

Automatic coverage under the *Act respecting industrial accidents and occupational diseases (AIAOD)*

A domestic worker is covered by the *Act respecting industrial accidents and occupational diseases* as soon as they work for the same individual for at least:

- 420 hours over a period of one year (12 months)
- or
- 30 hours a week for 7 consecutive weeks

An individual who employs a domestic worker covered by the Act must register as an employer with the CNESST.

Other protection available to domestic workers who are not entitled to automatic coverage

Optional protection

An individual who employs a domestic worker who is excluded from automatic coverage may take out optional protection for the worker in order to provide coverage in the event of an employment injury. The individual bears all the costs.

Personal protection

A domestic worker who is not entitled to automatic coverage may still be protected by the CNESST by applying for personal protection at their own expense.



Why purchase protection?

Protection in the event of a work accident or occupational disease entitles the worker to benefits and services such as health services, adapted equipment or rehabilitation.



For a Safe Maternity Experience Program

Pregnant or breastfeeding domestic workers can apply for the For a Safe Maternity Experience Program if their job involves physical hazards to their health or that of their child. A selfemployed worker who performs activities of the same nature as those performed by a domestic worker is not entitled to the For a Safe Maternity Experience Program.



LABOUR STANDARDS

Labour standards are the minimum conditions that employers in Quebec must offer to all their employees: minimum wage, vacation, statutory holidays, leave, etc. The main standards to be aware of are as follows.



SALARY OR WAGES

Minimum wage

Every worker must be paid at least the minimum wage for hours worked. To find out the rates in effect, visit the CNESST's website at cnesst.gouv.qc.ca.



The monetary value of certain benefits, such as the use of a car or accommodation, is not included in the calculation of the minimum wage.



Deductions from wages

An employer may make mandatory deductions from wages, such as provincial and federal taxes, employment insurance, the Québec Pension Plan and the Québec Parental Insurance Plan.

Any other deductions from wages must be agreed to in writing by the worker and the purpose of the deductions must be indicated in the document. The person may revoke this authorization at any time.

Meals and accommodation

An employer may not charge an amount for meals and accommodation to domestic workers who live or take their meals in the employer's residence.

Special clothing

An employer who requires their workers to wear special clothing must provide it free of charge to workers who are paid the minimum wage. Should a fee be charged, it must not have the effect that the worker receives less than the minimum wage.



PAY

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

Pay slip

At each pay, the employer must give the worker a pay slip that allows them to check the calculation of their wages and the deductions that have been made.

WORK

Hours of work and presence at work

All time worked must be paid. For this purpose, a person is deemed to be at work and must be paid:

- when they are available to their employer at the place of employment and are required to 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.

Breaks

An employer is under no obligation to offer breaks but when they are granted, they must be paid and be included in the calculation of the hours worked.

Meals

After a period of 5 consecutive hours of work, a worker is entitled to a break of 30 minutes for their meal.

This period is not paid unless the person has to stay on duty.

Weekly rest period

A domestic worker is entitled to a weekly rest period of at least 32 consecutive hours.



OVERTIME

Overtime is defined as hours worked in excess of what the *Act respecting labour standards* designates as the standard work week, which is 40 hours for domestic workers. Overtime is paid at time and a half (+50%).

The employer may, at the worker's request, replace the payment of overtime with paid leave.

The duration of this leave must be equivalent to the overtime worked. One hour of overtime is equivalent to one and a half hours of leave. This leave must be taken no later than 12 months after the overtime worked and on a date agreed between the employer and the worker.

Personal caregivers

Personal caregivers have the sole function of taking care of or providing care to a child or to a sick, disabled or elderly person in the person's home

In the course of their work, personal caregivers may perform domestic duties that are directly related to the immediate needs of the child or person they are caring for (e.g., meal preparation or laundry).

Overtime is not paid at time and a half for work performed by a personal caregiver. All hours worked are paid at the base wage rate.

If the work is done for other people who live in the home, then the worker is considered a domestic worker. The standard for payment of overtime at time and a half will therefore apply.

STATUTORY HOLIDAYS AND NONWORKING DAYS WITH PAY

The following days are statutory holidays and nonworking days with pay:

- January 1 (New Year's Day);
- Good Friday or Easter Monday, at the employer's option;
- The Monday preceding May 25 (National Patriots' Day);
- June 24 (Quebec National Holiday);
- July 1 or, if this date falls on a Sunday, July 2 (Canada Day);
- The first Monday in September (Labour Day);
- The second Monday in October (Thanksgiving);
- December 25 (Christmas Day).



A person who was scheduled to work on the day preceding or following the holiday but was absent without authorization or valid cause is not entitled to paid leave.

The only requirement to be eligible for the Quebec National Holiday is to be employed on the date of the statutory holiday.



A person who has worked on a statutory holiday must receive their wages for the day and a monetary indemnity or compensatory leave with pay,¹ at the employer's option. Compensatory leave must be taken in the three weeks before or after the statutory holiday.



National Holiday compensatory leave must be taken on the day that is normally worked before or after June 24.



The amount of the indemnity for statutory holidays and nonworking days with pay is equal to 1/20 of the wages earned during the four complete weeks of pay preceding the week of the holiday (excluding overtime).



ANNUAL VACATION

Every year, workers are entitled to paid vacation. Vacation accumulates over a period of 12 months, called the "reference year". It is taken the following year.

The reference year runs from May 1 to April 30 when the employer does not specify that they are using another period.

The length of vacation and the amount of the indemnity, or vacation pay, vary depending on the length of the employment relationship, which is referred to as "uninterrupted service".



Uninterrupted service	Length of leave	Indemnity
Less than one year	One day per month of uninterrupted service, not exceeding 2 weeks	4%
1 year to less than 3 years	2 consecutive weeks	4%
3 years or more	3 consecutive weeks	6%

The time when vacation is taken must be authorized by the employer. However, the worker is entitled to know the date of their vacation at least four weeks in advance.

The vacation indemnity, or vacation pay, must be paid in full before the leave begins.²

1. Specific provisions apply when the statutory holiday occurs during the annual vacation, when it is a day that is not usually worked or when the national holiday falls on a Sunday. Visit the CNESST's website to find out more.
2. In the case of seasonal or intermittent activities, the employer may add the vacation indemnity to each pay.



ABSENCES

Absences protected by law

A worker has the right to be absent from work ten days a year to fulfil family, parental or caregiver obligations.

Longterm absences are also provided for maternity, paternity and parental leave or when a person has to take care of a relative following an accident or a serious illness.

A worker may also be absent from work owing to sickness, organ or tissue donation, an accident, domestic or sexual abuse or if they are a victim of a criminal offence.

During these periods of absence, the worker's employment relationship is protected. Most of these protected periods of absence are unpaid. Visit the CNESST's website at cnesst.gouv.qc.ca to find out more about the length of these absences and the conditions attached to them.

After three months of uninterrupted service, a worker's first two days of absence are paid if they have to be absent to fulfil certain family or caregiver obligations or because of an illness or accident. The Act provides for a total of two days of absence with pay per calendar year (January 1 to December 31).

Pay for these two days is calculated in the same way as the statutory holiday indemnity.



PERSONNEL PLACEMENT AGENCIES

An employer who uses the services of a personnel placement agency to meet a labour need must ensure that the agency holds a valid licence issued by the CNESST.

The client company and the personnel placement agency are both responsible for amounts due to workers under their employment contract, such as the payment of wages, vacation, etc.

Furthermore, a personnel placement agency may not offer a lower wage rate (hourly wage) than that granted to workers of the client company who perform the same work in the same establishment solely because of their agency employee status.



TEMPORARY FOREIGN WORKERS

Temporary foreign workers are covered by the *Act respecting labour standards* in the same way as all workers in Quebec.



An employer who hires temporary foreign workers must make sure they produce the *Declaration of employment of temporary foreign workers*, which can be completed online on the CNESST's site.



If they use the services of a temporary foreign worker recruitment agency, the employer must ensure that the agency holds a valid licence issued by the CNESST.

Furthermore, neither the temporary foreign worker recruitment agency nor the employer may require the worker to:

- entrust them with the custody of documents or personal property, for example their passport, work permit or telephone;
- pay recruitment fees, except those authorized by a Canadian government program.



PSYCHOLOGICAL OR SEXUAL HARASSMENT

Every worker has the right to a healthy workplace that is free from psychological or sexual harassment. Employers have an obligation to take measures to prevent harassment and to intervene if it is brought to their attention. They must adopt a psychological or sexual harassment prevention and complaints policy and make it available to staff.



NOTICE OF TERMINATION OF EMPLOYMENT

An employer who terminates a worker's employment or who lays them off temporarily for six months or more must give written notice in advance, as prescribed by law, to anyone who has completed three months of uninterrupted service.

The employer is not required to give such notice in the case of a fixed-term contract that has expired or serious misconduct justifying immediate dismissal.

The length of the notice period varies depending on the length of uninterrupted service.

Uninterrupted service	Notice period
3 months to less than one year	One week
1 year to less than 5 years	2 weeks
5 years to less than 10 years	4 weeks
10 years or more	8 weeks

An employer who fails to give sufficient notice of termination of employment must pay a compensatory indemnity. This indemnity must be equivalent to the regular wages for a period equal to the notice period the person was entitled to, excluding overtime.





RECOURSES WITH THE CNESST

The *Act respecting labour standards* provides recourses for workers who believe that their rights have not been respected. The recourse is exercised with the CNESST online or by calling 1 844 838-0808.

However, it is suggested, when the situation allows, that an attempt be made to resolve the disagreement with the employer before filing a complaint.

The CNESST may exercise a recourse on behalf of a temporary foreign worker even if there is no complaint if it has reason to believe that labour standards have not been respected in their case.

File a complaint

A worker who believes that their employer is not respecting their rights with respect to labour standards may file a complaint with the CNESST, subject to different deadlines:

- If the person believes that their employer has not paid them all the amounts due, they have one year to file a complaint from the date on which the employer should have paid them;
- If they consider that they were unfairly dismissed after working for the same employer for at least 2 years, they have 45 days after the dismissal to file a complaint;
- If they believe that their employer has imposed a sanction prohibited by law, such as dismissal, suspension, displacement, discriminatory measures or reprisals, and that this sanction is prohibited by law, they have 45 days from the date of the sanction to file a complaint;
- If they believe they have suffered psychological or sexual harassment, they have 2 years after the last incident to file a complaint.

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The content of this publication is informative and is intended to be an aid to understanding. Laws and regulations have legal force and priority at all times.

Original version in French

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