

Labour standards in Québec and domestics residing with their employer

COMMISSION DES NORMES DU TRAVAIL



LABOUR STANDARDS

For a better
understanding

Québec 

DURING EMPLOYMENT

ARE YOU A DOMESTIC RESIDING WITH YOUR EMPLOYER?

ARE YOU HIRING A LIVE-IN DOMESTIC?

Here is what you need to know about labour standards in Québec.

The Act respecting labour standards sets minimum conditions of employment for all Québec workers. It deals, among other things, with wages, the duration of work, the annual leave, statutory holidays, absences and the notice of termination of employment. The Commission des normes du travail is the government agency in charge of the application of this Act. Its services are free of charge.

The information is current for May 2015. You can check the validity of this information by contacting the Service des renseignements or by consulting the web site of the Commission des normes du travail.

A FEW DEFINITIONS

Here are a few definitions of terms used in this document.

Compensatory indemnity

The sum that an employer must pay in replacement of or as compensation for among other things a leave that was not taken for any reason whatsoever even though the employee was entitled to such leave.

Day off

Day of rest.

Domestic

A domestic is an employee in the employ of a person and whose main function is the performance of domestic duties in the dwelling of that person, including an employee whose main function is to take care of or provide care to a child or to a sick, handicapped or aged person and to perform domestic duties in the dwelling that are not directly related to the immediate needs of the person in question. However, the term “family aid” is used in the Contract of employment of a live-in family aid prepared by the ministère de l’Immigration et des Communautés culturelles.

Employee

A person who works for an employer and who is entitled to wages.

Statutory holiday

Religious or civic holiday set by a law, a collective agreement, a decree or established by custom and which is usually a day off.

Uninterrupted service

Time elapsed since the person was hired by an employer.

Working day

Day usually devoted to work by the employee or day when he must work.



AGREE ON THE CONDITIONS...

The Commission des normes du travail encourages the employer and the employee to clearly establish the conditions of employment at the time of hiring. These conditions of employment must not be less than those stipulated in the Act respecting labour standards.

In addition to knowing where and for whom the employee will work, he should know:

- the wage rate per week;
- the work schedule;
- the duration of the contract;
- the main tasks to be performed.

WAGES

The minimum wage to which the employee is entitled is set by the Government of Québec. The Commission des normes du travail oversees the application of this provision. In addition, the Commission receives complaints regarding the minimum wage.

Moreover, if the employee receives from his employer benefits having a pecuniary value, such as the use of an automobile or lodging, this must not result in his wage being less than the minimum wage.

Minimum wage rate

A domestic who resides with his employer is entitled to the general minimum wage rate which has been \$10.55 per hour since May 1, 2015. This rate is subject to change. To check its validity, consult the web site or get in touch with the Service des renseignements at the Commission des normes du travail.

When must the wages be paid?

The wages must be paid in cash in a sealed envelope or by cheque. The cheque must be cashable in the two working days following its receipt. The employee must receive it personally on a working day. If pay day falls on a holiday, the pay must be paid the preceding working day.

When an employee is hired, the employer has one month to remit his first pay. Thereafter, the wages must be paid at regular intervals of not more than 16 days.

Every sum exceeding the regular wages, for example hours of overtime worked during the week that precedes the payment of the wages, can be paid at the time of the following regular pay.

Pay sheet

At each pay, the employer must remit to the employee a pay sheet allowing him to verify the computation of his wages. This pay sheet must contain the following information, where applicable:

- the name of the employer;
- the name of the employee;
- the identification of the occupation;
- the date of payment and the work period corresponding to the payment;
- the number of hours paid at the prevailing rate;
- the number of hours of overtime paid or replaced by a leave with the applicable premium;
- the nature and amount of the bonuses, indemnities and allowances;
- the wage rate;
- the total amount of wages (before deductions);
- the nature and the amount of the deductions effected;
- the amount of the net wages paid to the employee.

The employer must also keep a register in which the aforementioned information is recorded, where applicable.

Meals and lodging

An employer cannot require a sum of money for the lodging and meals of a domestic who lives or takes his meals at the residence of this employer.

Special clothing

When the employer requires that special clothing be worn, he must provide it free of charge to an employee paid at the minimum wage. Where an amount is required from the employee, it must not cause him to receive less than the minimum wage.

DURATION OF WORK

Standard workweek and overtime

The standard workweek of a domestic who resides with his employer is 40 hours. Beyond that period, the hours worked are overtime hours. They must be paid with a 50% premium (time and a half).

At the request of the employee, the employer can replace the payment of overtime by a leave. This leave must be of a duration equivalent to the hours of overtime worked, increased by 50%. It must be taken in the 12 months following the hours of overtime worked and at a date agreed upon between the employer and the employee.

Keep track of the work hours. It's important!

The employee and employer will find it useful to keep track of the hours of work done each day. This allows them to know how many hours must be paid at the overtime rate. A register of the hours worked also allows the employee to claim, where necessary, any sums of money owing that were not paid by the employer. An example of a register is proposed.

Example of a register of the hours worked

Week of _____ to _____

Day	Time From to	Time From to	Time From to	Number of hours worked in the day
Sunday				
Monday				
Tuesday				
Wednesday				
Thursday				
Friday				
Saturday				

Number of hours worked in the week: _____

Gross wages received: \$ _____

Presence at work

The employee must be paid when he is available on the work premises and is required to wait for work to be assigned, during breaks granted by the employer as well as at the time of a trip or a trial or training period that is required by the employer.

Periods for meals and rest

After a work period of five consecutive hours, the employee is entitled to a 30-minute rest period (without pay) for meals. This period must be paid if the employee is not authorized to leave his work.

Each week the employee is entitled to a rest period of at least 32 consecutive hours.

A coffee break is not obligatory. When it is granted by the employer, it must be paid and is included in the computation of the hours worked.

The right to refuse to work

An employee may refuse to work

- a given day after:
 - more than 4 hours after his regular working hours or
 - more than 14 hours per 24-hour period, whichever period is the shortest;
 - more than 12 hours per 24-hour period for an employee whose daily working hours are variable or non-continuous.
- a given week after
 - more than 50 hours, unless there is an authorization to stagger working hours.

However, in certain cases of superior force, an employee cannot exercise his right to refuse to work.

PAID STATUTORY HOLIDAYS

Statutory holidays stipulated in the Act respecting labour standards

The following days are paid, statutory holidays:

- January 1st (New Year's Day);
- Good Friday or Easter Monday, at the employer's option;
- the Monday that precedes May 25th (National Patriots' Day);
- July 1st. If this date falls on a Sunday: July 2nd (Canada Day);
- 1st Monday of September (Labour Day);
- 2nd Monday of October (Thanksgiving);
- December 25th (Christmas).

In order for an employee to be entitled to a paid statutory holiday, he must not have been absent from work, without his employer's authorization or without valid reason, on the working day preceding or the working day following that holiday. The working day preceding or following the statutory holiday is the working day for the employee.

An employee who works on a statutory holiday must obtain, in addition to his regular wages, an indemnity or a compensatory holiday equivalent to one day. The compensatory holiday must be taken in the three weeks preceding or following this statutory holiday.

Indemnities for statutory holidays

The indemnity that an employer must pay an employee for a paid statutory holiday is equal to 1/20 of the wages earned during the four complete weeks of pay preceding the week of the holiday, excluding overtime.

Example of the calculation of the indemnity for the holiday on the Monday that precedes May 25th, namely National Patriot's Day

(The indemnity of the other statutory holidays and the June 24th national Holiday is calculated in the same way.)

Tanya resides with her employer and receives \$10.55 per hour. They pay period of the employer is established from Thursday to Wednesday. What is the amount of the statutory holiday indemnity that Tanya must receive?

April							May						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
		1	2	3	4	5					1 9 hr	2 9 hr	3
6	7	8	9	10	11	12	4	5 9 hr	6 4 hr	7 9 hr	8 9 hr	9 9 hr	10
13	14	15	16	17 9 hr	18 9 hr	19	11	12 4 hr	13 9 hr	14 9 hr	15 9 hr	16 9 hr	17
20	21 6 hr	22 9 hr	23 9 hr	24 9 hr	25 9 hr	26	18	19 Holiday	20	21	22	23	24
27	28 4 hr	29 9 hr	30 9 hr				25	26	27	28	29	30	31

1. Determine the four complete weeks of pay preceding the week of the Holiday

Week 1: from Thursday, April 17 to Wednesday, April 23

Week 2: from Thursday, April 24 to Wednesday, April 30

Week 3: from Thursday, May 1 to Wednesday, May 7

Week 4: from Thursday, May 8 to Wednesday, May 14

2. Calculated the number of hours worked during this period

	T	F	S	S	M	T	W	Total
Week 1	9 hr	9 hr			6 hr	9 hr	9 hr	40 hr*
Week 2	9 hr	9 hr			4 hr	9 hr	9 hr	40 hr
Week 3	9 hr	9 hr			9 hr	4 hr	9 hr	40 hr
Week 4	9 hr	9 hr			4 hr	9 hr	9 hr	40 hr
								160 hr

* Excluding overtime

3. Calculated the wages earned during this period

Number of hours worked during this period	160 hr
X hourly wage	X \$10.55
=	\$1,688.00
X 1/20 of the wages earned during this period	X 1/20
= Statutory holiday indemnity	\$84.40

The statutory holiday indemnity of Tanya will be \$84.40.

Holiday stipulated in the National Holiday Act

In Québec, June 24th, the National Holiday, is also a paid statutory holiday. When June 24th is a Sunday, this holiday is postponed until Monday, June 25th only for those employees who do not ordinarily work on Sunday.

The National Holiday indemnity is calculated in the same way as is that of the other statutory holidays.

However, if the employee must work on June 24th, he is entitled to a paid compensatory holiday on the day before or the day after the National Holiday. If the employee is on annual leave, the June 24th holiday must be taken on a date agreed upon between him and the employer.

ANNUAL LEAVE

The entitlement to a paid annual leave is acquired during a period of 12 consecutive months. This period, known as the reference year, usually extends from May 1st to April 30th. The leave and the payment must usually be granted in the following year.

The duration of the annual leave and the amount of the indemnity vary according to the employee's uninterrupted service. Prior to the start of his leave, the employee must receive in a single payment his annual leave indemnity. It represents 4% or 6% (according to the length of uninterrupted service) of his gross annual wages.

Uninterrupted service	Duration of the leave	Indemnity
Less than one year	1 day per month of uninterrupted service	4%
1 year to less than 5 years	2 consecutive weeks	4%
5 years and over	3 consecutive weeks	6%

An employee may ask his employer to allow him to take his annual leave, in whole or in part, during the reference year.

An employee may ask to postpone his vacation to the following year if, at the end of 12 months that follow the reference year, he is absent or on leave:

- by reason of illness, an organ or tissue donation for transplant, an accident or a criminal offence;
- for family or parental reasons.

The employer has the right to refuse the request. He must then pay the employee the vacation indemnity to which he is entitled.

The employee has the right to know the date of his annual leave at least four weeks ahead of time. The employer has the privilege of setting the date of the annual leave.

AT THE END OF EMPLOYMENT

ABSENCES

Absences and leaves for family or parental matters

The Act respecting labour standards grants the employee a certain number of paid and unpaid leaves, as the case may be, for events related to his family in particular:

- the day of his marriage;
- at the death or for the funeral of certain members of his family;
- to benefit from a maternity leave or a paternity leave, a parental leave;
- at the birth of his child;
- to meet certain family or parental obligations.

The employee must advise the employer of his absence.

Absences and leaves owing to sickness, an organ or tissue donation for transplant, an accident or a criminal offence

An employee may be absent, without pay, owing to sickness, an organ or tissue donation for transplant, or accident for a period of not more than 26 weeks during a 12-month period. An employee may also be absent, without pay, for not more than 104 weeks following tragic events, for example, if he is seriously injured when a criminal offence is committed, making him unable to hold his usual position. The employee must however be credited with three months of uninterrupted service. The usual position of the employee and the wages and benefits associated therewith are protected for the duration of these absences. However, the effect of this provision is not to prevent an employer from dismissing or suspending an employee if the consequences of the sickness, the accident or the criminal offence, or the repetitive nature of the absences constitute a good and sufficient cause.

NOTICE OF TERMINATION OF EMPLOYMENT GIVEN BY THE EMPLOYER

The employer must give the employee a notice before terminating his contract of employment or laying him off for six months or more. However, the employee must be credited with three months of uninterrupted service. In the case of a contract of fixed duration, the employer is not required to give this notice.

The duration of the notice varies according to the length of uninterrupted service.

Uninterrupted service	Duration of the notice
3 months to less than 1 year	1 week
1 year to less than 5 years	2 weeks
5 years to less than 10 years	4 weeks
10 years and over	8 weeks

An employer who does not give the notice of termination of employment must pay the employee a compensatory indemnity. This indemnity must be equivalent to the employee's regular wages for a period equal to that of the notice to which he was entitled, without taking into account hours of overtime.

IN CASE OF DISAGREEMENT

The Act respecting labour standards allows the employee to defend his rights and the Commission des normes du travail to exercise, on behalf of this employee, civil recourses following a pecuniary complaint, namely a complaint concerning amounts that are allegedly owing to the employee. The Act also allows the Commission to represent the employee before the Commission des relations du travail for the following recourses:

- recourse related to a prohibited practice;
- recourse related to a dismissal not made for good and sufficient cause;
- recourse in case of psychological harassment.



PECUNIARY COMPLAINTS

An employee who believes that his employer is not respecting the employee's rights pertaining to minimum labour standards or the other benefits stipulated in the Act (wages, annual leave indemnity, statutory holidays, etc.) has **one year** to file, free of charge, a complaint with the Commission des normes du travail.

COMPLAINT FOR A PROHIBITED PRACTICES

An employee may file a complaint with the Commission des normes du travail free of charge if he believes that he was dismissed, suspended, transferred, the victim of discriminatory measures, reprisals or any other sanction for nine reasons, in particular:

- because he exercised a right ensuing from the Act respecting labour standards or one of its regulations;
- because an inquiry has been made by the Commission des normes du travail in an establishment of this employer;
- because he provided the Commission with information concerning the application of labour standards;
- because the employee is pregnant;
- because his employer wants to avoid the application of the Act respecting labour standards or its regulations;
- because he refused to work beyond his usual work hours to meet family or parental obligations, even though he took all reasonable means at his disposal to assume these obligations otherwise.

The time period to file a complaint is **45 days** from the date of dismissal or of the measure taken against the employee. Moreover, the employee can be represented free of charge in court by one of the lawyers of the Commission des normes du travail.

COMPLAINT FOR A DISMISSAL NOT MADE FOR GOOD AND SUFFICIENT CAUSE

An employee credited with two years of uninterrupted service and who believes that he was dismissed without good and sufficient cause can file a complaint free of charge with the Commission des normes du travail. The time period for filing a complaint is **45 days** from the date of his dismissal. Moreover, the employee can be represented free of charge in court by one of the lawyers of the Commission des normes du travail.

COMPLAINT FOR PSYCHOLOGICAL HARASSMENT

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

Psychological harassment is vexatious behaviour which may take the form of conduct, verbal comments, actions or gestures characterized by the following four criteria:

- they are repetitive¹;
- they are hostile or unwanted;
- they affect the person's dignity or psychological integrity, and
- they result in a harmful work environment.

Sexual harassment at work is also included in this definition.

A non-unionized employee subject to the Act respecting labour standards can exercise a recourse if he believes that he is the victim of psychological harassment. The deadline for lodging a complaint is **90 days** from the last incidence of psychological harassment.

¹ A single serious incidence of such behaviour may also constitute psychological harassment if it undermines the person's psychological or physical integrity and if it has a lasting harmful effect.

Service des renseignements

514-873-7061

Montréal area

1-800-265-1414

Elsewhere in Québec, toll-free

Immigrant live-in domestics

There are provisions related to the conditions of immigration and settlement of immigrant live-in domestics. Find out more from the immigration services of the Ministère de l'Immigration et des Communautés culturelles of your region.

You can also visit the Internet site of Immigration-Québec:

www.immigration-quebec.gouv.qc.ca

cnt.gouv.qc.ca

Original text in French.

This information is provided for information purposes only. For more details, please refer to the Act respecting labour standards and its regulations or contact the Service des renseignements at the Commission des normes du travail.

In this document, the masculine form designates both women and men. The sole purpose of using the masculine gender is to make the text easier to read.

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