

PART 7

labour standards in Québec



Alexandre Pernetta
Originally from France

Chef-co-owner
La cuisine de Lili Margot
www.lilimargot.com

“When you owe money to the government, including source deductions, never pay them late – not even one day late. The penalties are really high!”

labour standards in Québec

Human resources management

The *Commission des normes du travail* (labour standards board) has designed a human resources guide for employers. This document will provide you with information about all aspects of personnel management, from hiring to firing.

The guide includes four sections:

- ✓ General administrative tools for the employer (salary records, pay slips, etc.)
- ✓ What you need to know to hire an employee (salary, schedule, holidays, absences, etc.)
- ✓ Work obligations (holidays, vacation, parental leave, illness, psychological harassment, etc.)
- ✓ Job termination procedures (resignation, end of contract, dismissal, etc.).

Public holidays

As an entrepreneur and an employer, you need to know that...

The *Act respecting Labour Standards* includes provisions concerning public holidays that protect most salaried workers in Québec, whether they work full time or part time.

Most salaried workers in Québec have the right to a day off with compensation for each of the following statutory general holidays:

- ✓ January 1 (New Year's Day)
- ✓ Good Friday or Easter Monday (employer's choice)
- ✓ The Monday before May 25 (Patriot's Day, also known as Victoria Day)
- ✓ June 24 (Québec national holiday, also known as St. John the Baptist Day)
- ✓ July 1 (Canada Day)
- ✓ First Monday in September (Labour Day)
- ✓ Second Monday in October (Thanksgiving)
- ✓ December 25 (Christmas Day)

Salaried workers in the clothing industry also have the right to the following holidays:

- ✓ January 2
- ✓ Good Friday and Easter Monday

People who work in clothing boutiques are not considered to be part of this industry.

Employers should know that salaried workers who have to work on any of these statutory holidays have the right to a compensatory indemnity or day off. For more information, visit the *Commission des normes du travail* website at www.cnt.gouv.qc.ca or ask for information by phone, at 514-873-7061.

Act respecting Labour Standards

Since 1980, the working conditions for non-unionized workers in Québec in businesses under provincial jurisdiction have been governed by the *Act respecting Labour Standards*. This law establishes the minimum working conditions that are the right of salaried workers. Further stipulations are set out in related regulations such as the *Regulation respecting Labour Standards*.

Labour standards such as those described in the law and government regulations are public. Everyone – employers and salaried workers – must comply with them, and any agreement to the contrary is deemed null and void (section 93). The *Commission des normes du travail* (Québec Labour Standards Board or CNT) is the government organization mandated to apply the *Act respecting Labour Standards* and its related regulations. The Board receives complaints from salaried workers who feel they have been wronged by their employer. To this end, it has a number of powers related to investigation, mediation, prosecution and representation.

The Act respecting Labour Standards governs the following:

- ✓ Application of the law
- ✓ Salary
- ✓ Length of work day
- ✓ Holidays
- ✓ Leave for family or parental reasons
- ✓ Child labour
- ✓ Labour in certain sectors of the clothing industry
- ✓ Termination of employer-employee relationship



The guide can be found at www.cnt.gouv.qc.ca

labour standards in Québec

- ✓ Complaints to *the Commission des normes du travail*
- ✓ Psychological harassment at work

For more information about holidays, leaves of absence, salary, payroll, work, job termination, events not covered by a standard and more, please go to the CNT website at www.cnt.gouv.qc.ca

The Act respecting Labour Standards and the self-employed worker

The labour standards act protects most salaried workers in Québec, but some people are completely excluded, including self-employed workers. You can find out more at www.cnt.gouv.qc.ca in the "Not Covered" section under "Worker not covered by the Act respecting Labour Standards."

Recourse

For entrepreneurs with employees

Before terminating an employee for bad behaviour or inadequate performance, you have to go through a progressive system of corrective sanctions.

These are the steps you have to follow before you fire an employee:

1. Warn the employee verbally
2. Warn the employee in writing (letter given in person or by registered mail to the employee's home)
3. Subject the employee to a short suspension
4. Subject the employee to a long suspension

If, after all these warnings and measures, the employee's performance is still inadequate, you must meet with the employee and discuss the following points:

- ✓ Inform the employee of your expectations as an employer and review the company's policies
- ✓ Point out the employee's shortcomings
- ✓ Provide adequate support for the employee to correct the situation and achieve the objectives

- ✓ Give the employee enough time to adjust
- ✓ Inform the employee clearly of the risk of being fired if things do not improve

You can only fire a salaried worker if all these measures do not produce the desired result.

Disagreement between you and your employee

In the event of a disagreement, talk to your employee, because by taking action quickly, you can reduce the risk of complaints against you to the *Commission des normes du travail* (CNT).

Minimum wage

Since May 1, 2009, the general minimum wage has been set at \$9.00 an hour, or \$8.00 for employees who earn tips. The government changes the minimum wage periodically.

Withholding taxes and contributions

As the owner or future owner of a business, you have to make source deductions (withhold certain taxes and contributions from your employees' salaries) and pay contributions and compensation tax(es) to the Québec (provincial) and Canadian (federal) governments.

* You will find a list of all withholding taxes and contributions in Appendix 14.

To access all the forms and calculation guides for withholding taxes and employer contributions, please go to the Services Québec-Entreprises website to find and print the documents you need.

Your obligation to pay contributions as an entrepreneur (business owner)

All businesses in Québec and elsewhere in Canada have to pay withholding taxes and contributions to the governments. If you do not pay, you will be charged costly fines and your reputation will be affected.



For more information:
Commission des normes du travail
www.cnt.gouv.qc.ca
514-873-7061



To find out more about...
* The steps for processing a complaint against your business
* The details about admissible and inadmissible complaints
* The powers of the CNT if the complaint is accepted
Go to
www.cnt.gouv.qc.ca



labour standards in Québec

Hire an employee

Recruiting employees

As an entrepreneur and a business owner, you may have to hire employees. On the Emploi-Québec website you can use the Online Placement service to recruit personnel. This service allows you to write your own job offer and review the applications received.

For more information:

Emploi-Québec Online Placement

Phone: 1-866-640-3058

Website: www.emploi Quebec.net

* See a sample job ad in Appendix 15.

- As soon as you hire a new employee, it is important to clarify certain points.

Salary

- ✓ Specify the salary and the method of remuneration: by the hour, weekly, performance-based, commission or other basis.
- ✓ Explain how the salary will be paid: in cash, by cheque or by automatic deposit into the employee's bank account.
- ✓ Tell the employee the pay period: weekly, every two weeks, monthly.
- ✓ If the employee will receive tips, explain the tip distribution or tip sharing arrangements in business (if any).

Gross and net salary

- ✓ The gross salary is calculated as follows: hourly rate times the number of hours worked in the week (example: \$15.00 / hour × 35 hours = \$525.00).
- ✓ The net salary is the gross salary less the deductions the employee has to pay on every paycheque.
- ✓ The mandatory deductions that a business manager has to take off of the employees' paycheques are indicated on the payslip. In Québec, the deductions are federal and provincial income taxes, Québec pension plan (QPP), employment insurance and parental insurance contributions, and union dues, if the employee is unionized. There may also be other deductions (such as contributions to a social club, a pension plan, RRSP, etc.).
- ✓ The *Commission des normes du travail* website (www.cnt.gouv.qc.ca) offers an array of interesting information on how to

calculate net salary. A section called Calculation tools allows you to test certain calculations based on your own salary, for free.

Hours of work

- ✓ Determine the schedule, the length of meal breaks, coffee breaks and other types of breaks, if applicable.
- ✓ Explain the length of the normal work week (for example, 35 hours a week).

Holidays and leaves of absence

- ✓ Inform the employee of the reference year in effect in the business.
- ✓ Specify whether the business closes during vacations, at Christmas, etc.
- ✓ Give the employee a list of the holidays he or she has a right to.

Probation period

- ✓ In Québec, most employees are hired permanently if they successfully complete the probation period (trial period).
- ✓ A newly hired employee is subjected to a trial period of varying length, usually from three to six months.
- ✓ This period allows the employer to determine whether the employee meets the hiring criteria and performs up to the business's standards.
- ✓ When the trial period is over, the employer and employee meet to evaluate whether the employee will stay on.
- ✓ If the employee has not fulfilled the minimum requirements of the position, he or she may lose the job or be subject to an extended trial period.

Offer letter

- ✓ When you hire a new employee, it is a good idea to write an offer letter to make the employee's arrival in your business official and to identify in writing all the conditions related to the position in question.
- ✓ The offer letter must be written by the employer and signed by the new employee and his or her immediate supervisor (or the employer).

* See a sample offer letter in Appendix 16

labour standards in Québec

Human rights

The Charter of Human Rights and Freedoms is a law. The Charter confirms and protects the rights and freedoms of everyone living in Québec. Its major objective is to smooth relations among people, and between people and institutions, in order to uphold human dignity.

For more information about the Charter of Human Rights and Freedoms, its provisions, who must comply with it, and the limits to the exercise of fundamental rights, please go to the *Commission des droits de la personne et des droits de la jeunesse* website at www.cdpcj.qc.ca or refer to Appendix 17.

Self-employed workers' rights to employment insurance benefits and parental leave benefits

Can self-employed workers get parental leave benefits?

As of January 1, 2006, all self-employed workers who earn \$2000 or more must contribute to the Québec Parental Insurance Program. They can therefore receive parental leave benefits if they are eligible, as well as maternity or paternity benefits.

For more details, go to the Québec Parental Insurance Program website at www.rqap.gouv.qc.ca

Can self-employed workers get employment insurance benefits?

According to the Canada Revenue Agency (CRA) *Income Tax Act*, these are the kinds of businesses that are not usually insured under the employment insurance program:

- ✓ A business carried on by an independent worker, a self-employed worker who has a service contract with a business or an individual where the worker determines the hours.

- ✓ A business directed by a sole proprietor who carries out all activities, assumes all powers and obligations and is personally responsible for the debts of the business.

To find out more about all the rules surrounding the *Income Tax Act*, go to www.servicecanada.gc.ca

Additional information: self-employed workers and the *Commission de la santé et sécurité au travail* (CSST or workplace health and safety board)

Are self-employed workers covered by CSST?

No, not unless they decide to contribute to the plan personally. There are individual criteria to fulfil in order to be considered a self-employed worker under the *Act respecting industrial accidents and occupations diseases*

- For more information on your personal situation, go to the CSST website at www.csst.qc.ca or call 1-866-302-2778. •

