

# Collective Consultation On Redundancy – What Obligations Do Employers Have?



In the province of Québec, the concept of “redundancy” shall be understood as terminations of employment or layoffs (individual or collective), all as stated in and within the meaning of section 82 and following of the Act Respecting Labour Standards (the **ALS**).<sup>1</sup> That being said, employers have no formal and legal obligations with regards to collective consultations on redundancy.

Indeed, and in non-unionized workplaces, employers are under no obligation with regards to employment termination or layoff preliminary procedure or consultation other than to give the individual or collective notice pursuant to the ALS (the distinction between the individual and collective notice is set out hereafter). In unionized establishments, we shall refer to the relevant provisions of the collective agreement and make sure the obligations stated thereto are met and are minimally equivalent to the ALS provisions (i.e. layoff or technological change provisions).

However, whenever 10 or more employees of the same establishment are terminated within a period of 2 months – or are laid off for a period of at least 6 months – a notice of collective dismissal shall be given to the Minister of Employment and Social Solidarity (the **Minister**).<sup>2</sup> The employer must also transmit a copy of said notice to the Commission des normes du travail and to the certified association representing the affected employees. Finally, the notice must be posted in a conspicuous and readily accessible place in the concerned establishment.

These obligations are in addition to the individual written notice employers must give to employees before terminating them.<sup>3</sup> It is worth noting that where an employer chooses to pay an indemnity in lieu of notice, the indemnities for both individual and collective dismissal notice can not be cumulated. The affected employee will be entitled to receive the greater of the two indemnities.

Finally, although there are no obligations to hold collective consultations on “redundancy” in Québec, it should be noted that where 50 or more employees are affected by a collective dismissal and upon request of the Minister, the employer and the certified association<sup>4</sup> must participate in the establishment of a reclassification assistance committee. They shall collaborate in carrying out the committee’s mission, which consists in facilitating the affected employees’ maintenance or re-entry on the labour market. The employer shall also, upon request, provide with financial contributions to the operating costs of the reclassification assistance committee and to the reclassification activities.

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