Employees' Rights To Statutory Holidays And Annual Vacation In Quebec



In Quebec, employees' rights to statutory holidays and annual vacation are governed by the *Act Respecting Labour Standards* ("**ALS**"), which foresees the minimum working conditions for Quebec employees.

Statutory holidays

Quebec employees, working full or part time, benefit from the following statutory holidays (s. 60 ALS):

1. January 1st (New Year's Day);
2. Good Friday or Easter Monday at the employer's choice;
3. The Monday preceding May 25th (National Patriots' Day);
4. July 1st, or July 2nd where the 1st falls on a Sunday;
5. The 1st Monday in September (Labour Day);
6. The 2nd Monday in October (Thanksgiving); and,
7. December 25th (Christmas Day).

Generally, for each of the abovementioned holidays, an employer is required to pay his employees an indemnity equal to 1/20 of the wages they earned during the four (4) weeks of pay preceding the week of the holiday – excluding overtime (s. 62 ALS). The indemnity will be equal to 1/60 of the wages earned during twelve (12) complete weeks of pay preceding the week of the holiday for employees remunerated in whole or in part on a commission basis. However, if an employee is required by his employer to work on a statutory holiday, due to the nature of the activities of the business, then in addition to receiving his typical wages for the work completed, the employee will be entitled to the abovementioned indemnity or to a compensatory holiday of one (1) day (s. 63 ALS). The employer has discretion as to whether the employee will receive an indemnity or compensatory leave of one day. If he opts for a compensatory holiday, the employee must take his leave in the three (3) weeks prior to or following the holiday.

Furthermore, as a pre-condition to the right of an employee to benefit from a statutory holiday, he must not be absent from work on the working day preceding or on the working day following the holiday. An exception is made where an employee is absent for a valid cause or where his absence has been authorized by his employer (s. 65 ALS).

In addition to the statutory holidays set out in the ALS, the *National Holiday Act* foresees that June 24th, St. John the Baptist Day ("Jour de la Saint-Jean-Baptiste"),is a statutory public holiday with pay for all employees of Quebec. The indemnity received by employees is equivalent to the indemnity received on all other statutory holidays. If June 24th falls on a Sunday, then employees who do not usually work on Sundays may take June 25th off from work. Contrary to the other statutory holidays, there is no requirement that an employee be present at work on the working day preceding or following the National Holiday. In order to benefit from this leave, an employee must simply be employed on June 24th.

Unionized employees must note that if pursuant to their collective agreement they already benefit from at least seven (7) non-working days with pay, in addition to the National Holiday, then their employer is not required to give them a day off for the statutory holidays listed above (s. 59.1 ALS).

Annual vacation

Employees acquire vacation progressively during a period of twelve (12) consecutive months, known as the "reference year". Although an employer may alter the reference year, the period typically runs from May 1st to April 30th (s. 66 ALS). The length of vacation, as well as the corresponding indemnity which is paid to an employee, varies in function of the employee's uninterrupted service within the establishment.

Generally, an employee with less than one (1) year of uninterrupted service at the end of the reference year is entitled to one day of leave per month worked, for a total leave not exceeding two (2) weeks. The indemnity he will receive is equal to 4% of the gross wages he earned during the reference year (s. 67 ALS & s. 74 ALS). An employee who has worked between one (1) and five (5) years is entitled to two (2) weeks of vacation, with a 4% indemnity (s. 68 ALS & s. 74 ALS). Lastly, an employee credited with five (5) or more years of uninterrupted service benefits from three (3) weeks of vacation, with an indemnity equal to 6% of the gross wages he earned during the reference year (s. 69 ALS & s. 74 ALS). Employees are entitled to receive payment of their vacation indemnity in a lump sum, before leaving on vacation unless otherwise provided by a collective agreement or decree (s. 75 ALS).

Despite the fact that employees often provide their employer with preferred dates of vacation, it is ultimately the employer who has the right to fix the date of vacation for his employees. With that said, an employer must inform his employees of their date of annual leave at least four (4) weeks in advance (s. 72 ALS).

While the aforementioned represents an overview of the minimum requirements for statutory holidays and annual vacation, employees in Quebec must be mindful of the existence of certain exceptions for unionized employees and employees working in industries whereby the Government may have adopted a more specific regulation applicable to them.

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