Improved Protection of Trainees in the Workplace: Key Points

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On February 24, Bill 14, *An Act to ensure the Protection of Trainees in the workplace* (hereinafter the "**Act**"), received assent. The purpose of this Act is to provide better protection for people completing a training in a workplace. For this reason, it contains several provisions similar to those found in the *Act respecting labour standards*[1] (hereinafter the "**ALS**").

First of all, the Act covers training that is required to obtain a permit to practice issued by a professional order or as part of a program of studies or training program offered by an educational institution that leads to a diploma, certificate or attestation of studies.[2]

The protection of trainees applies whether the training is paid or not and regardless of where the training is carried out in the workplace, as long as the employer's residence, domicile, business, head office or office is located in Quebec. It also applies to trainees domiciled or resident in Quebec who do training outside Quebec with an employer.[3]

OBLIGATIONS FOR THE EMPLOYER

The employer, the educational institution and the professional order must inform all trainees of the rights provided for in the Act, allow trainees to be absent for the various reasons provided for in the Act, and ensure that the successful completion of the studies or training, or the obtainment of the permit to practice, is not compromised by the exercise of a right provided for in the Act.[4]

The legislator expressly provides that the standards relating to training conditions contained in this Act are of public order and that any provision of an agreement or decree that departs from them is absolutely null.[5] However, as is the case with the ALS, it is possible to grant trainees more advantageous conditions for completing the training than those prescribed by this Act.

PROTECTIONS FOR TRAINEES

In line with the provisions already found in the ALS, the Act expands the protection of trainees with

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respect to statutory holidays, absences and psychological harassment.

1. **Statutory holidays:**

   A trainee may be absent from their training on the following days:[6]

   January 1;
   Good Friday or Easter Monday (employer's choice);
   The Monday preceding May 25;
   June 24;
   July 1 (or, if this date falls on a Sunday, July 2);
   The first Monday in September;
   The second Monday in October ;
   December 25.

   However, if the trainee is required to participate in their training on any of these days, they are entitled to a compensatory holiday of one day, to be taken during the training period done with the same employer. There are special provisions for the statutory holiday on June 24.[7]

2. **Absences due to sickness or family/parental reasons:**

   A trainee may be absent from their training on the following days:

   Ten (10) days per year due to sickness, to fulfill obligations related to the care, health or education of the trainee's child or spouse's child, or due to the health condition of a relative or person for whom the trainee is acting as a caregiver;[8]
   One (1) or five (5) days on the occasion of the death or funeral of a close relative, with the length of the absence determined by the relationship;[9]
   One (1) day on the day of their wedding or civil union, or that of one of the family members listed;[10]
   Five (5) days on the occasion of the birth or adoption of a child, or when a termination of pregnancy occurs after the twentieth (20^{th}) week of pregnancy;[11] and
   For a medical examination related to the trainee's pregnancy.[12]

3. **Psychological harassment:**

   The Act provides that every trainee has the right to a training environment free of psychological harassment.

   The employer and, as the case may be, the educational institution or professional order, must take reasonable measures to prevent psychological harassment and, when such conduct is brought to their attention, to protect the trainee and put a stop to it.

   The psychological harassment prevention and complaint processing policy must be made available to trainees and applied to them with the necessary adaptations.[13]

RECOURSE

The Commission des normes, de la santé et de la sécurité du travail (hereinafter, the "**CNESST**") supervises the implementation and application of the training conditions provided for in the Act.[14]

Prohibited practices:

No employer, educational institution or professional order, or their agents, may end training or dismiss, suspend or transfer, practise discrimination or take reprisals against, or otherwise impose any sanction on a trainee as a result of the trainee exercising a right under the Act, or for certain grounds under section 122 of the ALS.[15]

A trainee who believes that they have been the victim of a prohibited practice may file a complaint with the CNESST within forty-five (45) days of the occurrence. A non-profit organization dedicated to the defence of students' rights, a students' association or a students'

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association alliance can also file a complaint with the CNESST on behalf of a trainee who consents to it.[16]

If it is established to the satisfaction of the Administrative Labour Tribunal (ALT) that the trainee exercised a right arising from the Act, there is a simple presumption in the trainee's favour that the sanction or measure was imposed because of the exercise of that right. In this case, the employer, educational institution or professional order has to prove that the sanction or action was taken for good and sufficient reason.[17]

Psychological harassment:

A trainee or, as the case may be, a non-profit organization dedicated to the defence of students' rights, a students' association or a students' association alliance, can file a complaint with the CNESST if the trainee believes they have been a victim of psychological harassment. This complaint must be filed within two (2) years of the last occurrence of the conduct.

However, the trainee may not file a complaint with the CNESST if they are an employee covered by a collective agreement, insofar as a recourse against psychological harassment is available to the employee under the agreement.[18]

If the ALT concludes that a trainee has been the victim of a prohibited practice or psychological harassment, it may, among other things, order that the trainee be reinstated in their training with all their rights and privileges, that accommodation measures be implemented, or order to comply with any other measure intended to safeguard the trainee's rights, such as a provisional order.[19]

PENAL SANCTIONS

Any person that contravenes the Act, including by offering training conditions inferior to those specified in the Act, is liable to a fine of $600 to $1,200 and, in the case of a subsequent offence, $1,200 to $6,000.[20]

The members of our Labour and Employment Law group are available to advise you and answer your questions.

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1. CQLR, c. N-1.1.
2. Section 1.
3. Section 1.
4. Section 4.
5. Section 6.
6. Sections 9 and 10.
7. Section 10. Depending on the situation, trainees have the right to be absent on June 25 or the right to a compensatory holiday of one day, to be taken either on the business day before or after June 24, or during the training period done with the same employer.
8. Section 11.
9. Sections 12 and 13.
10. Section 14.
11. Section 15.
12. Section 17.
13. Section 19.
14. Section 7.
15. Section 20.
16. Section 21.
17. Section 25.
18. Section 26.
19. Section 30.
20. Section 32.

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