An Act respecting the regulation of work by children Now in Force: Employers of Young Workers Must Act Quickly

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On June 1, 2023, Bill 19 entitled *An Act respecting the regulation of work by children* (the "**Act**") which establishes, in particular, a minimum working age of 14 and a maximum number of hours of work for children subject to compulsory school attendance, was assented to. Most of the Act's provisions came into force on June 1, 2023.

This Act was presented in the wake of a massive and noticeable entry of young workers into the job market in a context where the shortage of unskilled workers was exacerbated by the COVID-19 pandemic. Work performed by these children has received significant media coverage in recent months, in particular because of the concerns raised regarding their health and safety and the risk of school dropouts and disengagement.

Below is a brief overview of the existing rules governing work by children and the amendments introduced by the Act.

A. RULES GOVERNING WORK BY CHILDREN BEFORE THE ACT CAME INTO FORCE

Before the Act was passed, there was no minimum working age or maximum number of hours of work per week for children in Quebec.

However, the *Act respecting labour standards* (the "ALS")[1] already provided certain rules applicable to work performed by children. The following rules remain unchanged by the Act:

> Prohibition of work performed by a child that is **disproportionate** to the child's capacity, or that is likely to be detrimental to the child's education, health or physical or moral development.[2]

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Prohibition of work performed **during school hours** by a child subject to compulsory school attendance.[3] In Quebec, the obligation to attend school extends to the last day of school in the school year in which the child reaches 16 years of age or in which the child graduates if they are under 16 years of age.[4] The employer must also ensure that the child can attend school during school hours.[5]

Prohibition of work by a child **between 11 p.m. and 6 a.m.** if the child is subject to compulsory school attendance, except in the case of newspaper deliveries or other cases provided for in the Regulation, in particular for certain categories of artists.[6]

Obligation to ensure that the child can be **at the child's residence between 11 p.m. and 6 a.m.**, except in the case of a child no longer subject to compulsory school attendance and in the cases provided for in the Regulation.[7]

In addition, certain regulations adopted under the *Act respecting occupational health and safety* stipulate a minimum age for performing certain tasks (e.g., diving, excavation, demolition, etc.).

B. AMENDMENTS INTRODUCED BY THE ACT

1) Amendments to the *Act respecting labour standards* and the *Regulation respecting labour standards*

Minimum age to perform work: The ALS was amended to set the minimum working age at **14**,[8] except as provided in the Regulation. The exceptions are as follows:

a) Creator or performer in a field of artistic endeavour referred to in the first paragraph of section 1 of the *Act respecting the professional status of artists in the visual arts, film, the recording arts, literature, arts and crafts and the performing arts*;

b) Deliverer of newspapers or other publications;

c) Babysitter;

d) Child who provides homework assistance or tutoring;

e) Child working in a family enterprise with fewer than 10 employees if the child is a child of the employer or, where the latter is a legal person or partnership, a child of a director of that legal person or of a partner of that partnership, or if the child is a child of the spouse of one of those persons;

f) Child working in a non-profit organization having social or community purposes, such as a vacation camp or recreational organization;

g) Child working in a non-profit sports organization to assist another person or provide support, such as an assistant instructor, assistant coach or scorekeeper;

h) Child working in an agricultural enterprise with fewer than 10 employees, where the child performs light manual labour to harvest fruits or vegetables, take care of animals or prepare or maintain soil. In this particular case, the child must be 12 years of age or over.

Note that for the application of each of the above exceptions, the employer must obtain the **consent of the holder of parental authority** using the form established by the CNESST[9] no later than July 1, 2023. In addition, with respect to the exceptions in paragraphs (e) to (h) above, such children must work under the supervision of a person 18 years of age or over at all times.

Maximum number of hours of work: 17 hours per week,[10] including a maximum of 10 hours Monday through Friday for children subject to compulsory school attendance, except during periods of more than seven consecutive days without educational services offered to the child. This new labour standard will come into force on September 1, 2023.

Notice of termination of employment: No later than July 1, 2023, an employer who employs a child under

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14 years of age performing work that is now prohibited must send the child a notice of termination of employment. The length of the notice varies depending on the child's years of service:

- Three months to less than one year of uninterrupted service: one week's notice
- One to two years of uninterrupted service: two weeks' notice
- Two years or more of uninterrupted service: three weeks' notice

The employer may have the child perform work during the period of notice or pay the child a compensatory indemnity equal to the child's regular wage, excluding overtime, for a period equal to the period or remaining period of notice.

The indemnity to be paid to a child who is remunerated in whole or in part by commission is established based on the average of the child's weekly wage, calculated from the complete periods of pay in the three months preceding the termination of employment.

The child may also require the employer to issue a work certificate setting forth the nature and the duration of the child's employment.[11]

Should the employer fail to pay the sums to which the child is entitled, the provisions relating to civil recourses set out in the ALS[12] will apply.

Penalties: An employer who fails to abide by the provisions governing the work of children commits an offence and is liable to a fine under the ALS. Fines are doubled in the event of a repeat offence.
Effective date: The Act's amendments to the ALS and the Regulation came into force on June 1, 2023, with the exception of the maximum number of hours of work for children subject to compulsory school attendance (section 3), which will come into force on September 1, 2023.

2) Amendments to the *Act respecting occupational health and safety*

The Act also amends provisions of the *Act respecting occupational health and safety* that are already being amended by the *Act to modernize the occupational health and safety regime* ("**Bill 27**"), not all of which are currently in force. The amendments introduced by the Act have or will come into force on the same dates as the provisions of Bill 27. The amendments introduced by the Act regarding occupational health and safety include the following:

Prevention program: The program must include the identification and analysis of risks that may affect the health and safety of workers in the establishment, but more specifically those affecting workers who are 16 years of age or under. The same applies to establishments subject to the obligation to develop an action plan.
Health and Safety Committee: The committee's functions include participating in the identification and analysis of risks that may affect the health and safety of workers in the establishment, including those that may particularly affect workers who are 16 years of age or under.
Health and safety representative and health and safety liaison officer: They identify situations that may be hazardous to workers, including those specific to workers who are 16 years of age and under, and make recommendations to the Health and Safety Committee, the employer and the union, if any, regarding tasks that should not be performed by workers 16 years of age or under.

In conclusion, the Act introduces major changes regarding the supervision of work of children, in particular by setting the minimum working age, with certain exceptions, at 14 years of age and by limiting the working week of children subject to the obligation to attend school. Most of these provisions, which came into force on June 1, 2023, require swift action on the part of the employers concerned, and are likely to have a significant impact on work schedules and the available workforce in a number of businesses as the summer approaches.

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[1] CQLR, c. N-1.1 (the "**ALS**").

[2] Section 84.2 of the ALS.

[3] Section 84.4 of the ALS.

[4] Section 14 of the *Education Act*, CQLR, c. I-13.3.

[5] Section 84.5 of the ALS.

[6] Section 84.6 of the ALS and section 35.1 of the *Regulation respecting labour standards*, CQLR, c. N-1.1, r. 3 (the "**Regulation**").

[7] Section 84.7 of the ALS and section 35.2 of the Regulation.

[8] Section 84.3 of the ALS.

[9] The CNESST form entitled "Consentement pour le travail d'un enfant de moins de 14 ans" [in French only] can be found here: https://www.cnesst.gouv.qc.ca/fr/organisation/documentation/formulaires-publications/consentement-travail-enfant-moins-14-ans

[10] Section 84.4 of the ALS.

[11] Section 84 of the ALS.

[12] Sections 98 and following of the ALS.

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