



NATIONAL ASSEMBLY OF QUÉBEC

SECOND SESSION

FORTY-SECOND LEGISLATURE

Bill 14
(2022, chapter 2)

**An Act to ensure the protection of
trainees in the workplace**

**Introduced 2 December 2021
Passed in principle 8 February 2022
Passed 24 February 2022
Assented to 24 February 2022**

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EXPLANATORY NOTES

The purpose of this Act is to ensure better protection for trainees in the workplace, be it with respect to obtaining a permit to practice issued by a professional order or within the scope of a program of studies or training at the secondary, vocational, college or university level offered by an educational institution and leading to a diploma, certificate or attestation of studies.

To that end, trainees are granted, among other things,

(1) the right to be absent on certain statutory holidays;

(2) the right to be absent owing to sickness or for family or parental reasons;

(3) the right to a training environment exempt from psychological harassment, including such behaviour in the form of verbal comments, actions or gestures of a sexual nature;

(4) protection from reprisals taken against them by an employer, educational institution or professional order or any agent thereof because of the exercise of a right; and

(5) recourse before the Commission des normes, de l'équité, de la santé et de la sécurité du travail and before the Administrative Labour Tribunal if one of their rights provided for by this Act has not been respected.

The Act allows a non-profit organization dedicated to the defence of students' rights, a students' association or a students' association alliance to file a complaint with the Commission des normes, de l'équité, de la santé et de la sécurité du travail on behalf of a trainee.

The Act imposes on employers, educational institutions and professional orders the obligation to take reasonable measures at their disposal to ensure that the success of the trainee's studies or training or the trainee's obtention of a permit required for the practice of a profession is not compromised because of the exercise of a right provided for by this Act. It also requires them to take reasonable means at their disposal to accommodate a trainee who must be absent from their training for a long period for certain reasons provided for in the Act respecting labour standards.

Lastly, the Act provides for offences and penal sanctions and contains consequential and final provisions.

LEGISLATION AMENDED BY THIS ACT:

- Act respecting labour standards (chapter N-1.1);
- Act to establish the Administrative Labour Tribunal (chapter T-15.1).

Bill 14

AN ACT TO ENSURE THE PROTECTION OF TRAINEES IN THE WORKPLACE

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

DEFINITIONS AND SCOPE

I. In this Act, unless the context indicates a different meaning,

“agreement” means an individual contract of employment, a collective agreement within the meaning of paragraph *d* of section 1 of the Labour Code (chapter C-27) or any other agreement relating to conditions of employment or to training conditions, including a regulation giving effect to such an agreement;

“Commission” means the Commission des normes, de l’équité, de la santé et de la sécurité du travail;

“employer” means any person, partnership or other entity that, within the scope of their activities, receives a trainee for the purposes of training;

“spouse” means either of two persons who

(a) are married or in a civil union and cohabiting;

(b) are of opposite or the same sex, are living together in a *de facto* union and are the mother and father of the same child; and

(c) are of opposite sex or the same sex and have been living together in a *de facto* union for one year or more;

“trainee” means any person, whether or not a salaried employee, who does training with an employer; and

“training” means any job shadowing activity or activity for the acquisition or implementation of skills that is required to obtain a permit to practice issued by a professional order or that is part of a program of studies or training program at the secondary, vocational, college or university level offered by an educational institution and leading to a diploma, certificate or attestation of studies.

Persons to whom the definition of “spouse” in the first paragraph applies are considered to be cohabiting despite the temporary absence of one of them. The same rule applies if one of the persons is required to live permanently in another place for health reasons or because of imprisonment, unless the trainee is cohabiting with another spouse within the meaning of that definition.

2. This Act applies to trainees regardless of where they do their workplace training. It also applies

(1) to trainees who do training both in Québec and outside Québec with an employer whose residence, domicile, enterprise, head office or office is in Québec; and

(2) to trainees domiciled or resident in Québec who do training outside Québec with an employer referred to in paragraph 1.

3. This Act is binding on the State.

CHAPTER II

GENERAL PROVISIONS

4. During training, the employer and, as the case may be, the educational institution or the professional order must take reasonable measures at their disposal to ensure that the success of the trainee’s studies or training or the trainee’s obtention of a permit required for the practice of a profession is not compromised because of the exercise of a right arising from this Act.

The employer and, as the case may be, the educational institution or the professional order are also required to take reasonable measures at their disposal to accommodate a trainee who must be absent from their training for a reason, referred to in section 79.1 of the Act respecting labour standards (chapter N-1.1), relating to sickness, an organ or tissue donation, an accident, domestic violence, sexual violence or a criminal offence or for family or parental reasons referred to in sections 79.8 to 79.12, 79.15, 81.2, 81.4 to 81.5.2, 81.10 and 81.11 of that Act, for the durations and periods set out in those sections.

5. Employers, educational institutions and professional orders must inform every trainee of their rights under this Act.

6. The standards relating to training conditions contained in this Act are of public order. Any provision of an agreement or decree that departs from a standard relating to training conditions is absolutely null.

Despite the preceding paragraph, a provision of an agreement, decree or other Act may grant a trainee a more advantageous training condition than a standard prescribed by this Act.

For the purposes of this section, “decree” means a decree passed under the Act respecting collective agreement decrees (chapter D-2).

7. The Commission supervises the implementation and application of the standards relating to training conditions provided for by this Act. In that respect, the Commission exercises, in particular, the following functions:

(1) notify the population of and give them information on the standards relating to training conditions provided for by this Act;

(2) notify the trainees, employers, educational institutions and professional orders of and give them information on their rights and obligations under this Act;

(3) supervise the application of standards relating to training conditions provided for by this Act and, where necessary, transmit its recommendations to the Minister;

(4) receive complaints from trainees subject to this Act; and

(5) attempt to bring trainees, employers, educational institutions and professional orders to an agreement as to their disagreements in relation to the carrying out of this Act.

8. The Commission may designate, from among the members of its personnel, the persons to be entrusted with the carrying out of this Act.

CHAPTER III

ABSENCES AND LEAVE

DIVISION I

STATUTORY GENERAL HOLIDAYS

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

(1) 1 January;

(2) Good Friday or Easter Monday, at the option of the employer;

(3) the Monday preceding 25 May;

(4) 1 July, or 2 July where the 1st falls on a Sunday;

(5) the first Monday in September;

(6) the second Monday in October; and

(7) 25 December.

If the trainee must participate in their training on one of the days listed in the first paragraph, they are entitled to a compensatory holiday of one day, which must be taken during the training period done with the same employer.

10. The trainee may be absent from their training on 24 June, the National Holiday.

However, if that date falls on a Sunday and that day is normally not a training day for the trainee, they may be absent on 25 June and the following paragraphs must be read as though that day were substituted for 24 June.

In an employer's establishment or service where, because of the nature of the activities, work is not interrupted on 24 June and the trainee is required to participate in their training, they are entitled to a compensatory holiday of one day, which must be taken on the working day preceding or following 24 June.

If 24 June falls on a day which is normally not a training day, the trainee is entitled to a compensatory holiday of one day, which must be taken during the training period done with the same employer.

DIVISION II

ABSENCES OWING TO SICKNESS OR FOR FAMILY OR PARENTAL REASONS

11. A trainee may be absent from their training for 10 days per year owing to sickness, to fulfill obligations relating to the care, health or education of the trainee's child or the child of the trainee's spouse, or because of the state of health of a relative or a person for whom the trainee acts as a caregiver, as attested by a professional working in the health and social services sector and governed by the Professional Code (chapter C-26).

This leave may be divided into days and, if the employer consents to it, each day may also be divided.

The trainee must notify the employer of such an absence as soon as possible and take reasonable measures at their disposal to limit the duration of the absence.

The employer may, if it is warranted, in particular by the duration of the absence, request that the trainee provide a document attesting to the reasons for the absence.

For the purposes of this section, "relative" has the meaning assigned by section 79.6.1 of the Act respecting labour standards (chapter N-1.1).

12. A trainee may be absent from their training for five days on the occasion of the death or the funeral of their spouse or child or of the child of their spouse, or of their father, mother, brother or sister.

13. A trainee may be absent from their training for one day on the occasion of the death or the funeral of a son-in-law, daughter-in-law, grandparent or grandchild, or of the father, mother, brother or sister of the trainee's spouse.

14. A trainee may be absent from their training for one day on the day of their wedding or civil union.

A trainee may also be absent from their training on the day of the wedding or civil union of the child, father, mother, brother or sister of the trainee or of a child of the trainee's spouse.

15. A trainee may be absent from their training for five days at the birth of their child, the adoption of a child or where there is a termination of pregnancy in or after the twentieth week of pregnancy.

This leave may be divided into days at the request of the trainee. It may not be taken more than 15 days after the child arrives at the residence of the child's father or mother or, where applicable, more than 15 days after the termination of pregnancy.

16. The trainee must notify the employer of their absence as soon as possible, except in the case referred to in section 14, where the trainee must notify the employer not less than one week in advance.

17. A trainee may be absent from her training for a medical examination related to her pregnancy or for an examination related to her pregnancy carried out by a health professional authorized for that purpose.

The trainee must notify the employer as soon as possible of the time at which she will be absent.

CHAPTER IV

PSYCHOLOGICAL HARASSMENT

18. For the purposes of this Act, "psychological harassment" means any vexatious behaviour, in the form of repeated and hostile or unwanted conduct, verbal comments, actions or gestures, that affects a trainee's dignity or psychological or physical integrity and results in a harmful work environment for the trainee. For greater certainty, psychological harassment includes such behaviour in the form of such verbal comments, actions or gestures of a sexual nature.

A single serious incidence of such behaviour that has a lasting harmful effect on a trainee may also constitute psychological harassment.

19. Every trainee has a right to a training environment free from psychological harassment.

The employer and, as the case may be, the educational institution or professional order must take reasonable measures at their disposal to prevent psychological harassment and, whenever they become aware of such behaviour, to protect the trainee and to put a stop to the behaviour.

The employer must, in particular, make available to every trainee they receive the psychological harassment prevention and complaint processing policy adopted in accordance with section 81.19 of the Act respecting labour standards, which applies to the trainee, with the necessary modifications.

CHAPTER V

RECOURSES

DIVISION I

RECOURSE AGAINST PROHIBITED PRACTICES

20. No employer or, as the case may be, educational institution or professional order or any of their agents may end training or dismiss, suspend or transfer a trainee, practise discrimination or take reprisals against a trainee, or impose any other sanction upon a trainee

(1) on the ground that the trainee has exercised one of their rights arising from this Act;

(2) on the ground that an inquiry is being conducted by the Commission under this Act;

(3) on the ground that the trainee has given information to the Commission or one of its representatives on the application of this Act or has given evidence in a proceeding related to it;

(4) for the purpose of evading the application of this Act; or

(5) on any other ground provided for in subparagraphs 4, 6, 7 and 10 to 19 of the first paragraph of section 122 of the Act respecting labour standards, with the necessary modifications.

The second paragraph of section 122 of the Act respecting labour standards applies, with the necessary modifications.

21. A trainee who believes they have been the victim of a practice prohibited by section 20 and who wishes to assert their rights may do so, in writing, before the Commission within 45 days of the occurrence of the practice complained of.

Such a complaint may also be filed, on behalf of a trainee who consents to it in writing, by a non-profit organization dedicated to the defence of students' rights, a students' association or a students' association alliance.

If the complaint is filed within that time with the Administrative Labour Tribunal, failure to file the complaint with the Commission cannot be invoked against the complainant.

22. The Commission may, with the agreement of the trainee, the employer and, as the case may be, the educational institution or professional order, appoint a person to attempt to settle the complaint to the satisfaction of the parties.

Only a person who has not already acted in the matter in question in another capacity may be appointed for this purpose by the Commission.

Any verbal or written information gathered by the person appointed under the first paragraph must remain confidential. That person may not be compelled to disclose anything that has been revealed to them or that has come to their knowledge in the performance of their duties, or to produce before a court or before any body or person fulfilling a judicial or quasi judicial function any document made or obtained in the performance of their duties, except in penal matters, where the court considers that such proof is necessary to ensure a full and complete defence. Despite section 9 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1), no person has a right of access to any such document.

23. If no settlement is reached following receipt of the complaint by the Commission, the latter refers the complaint without delay to the Administrative Labour Tribunal.

24. The Commission may, in any proceeding relating to this division, represent a trainee who is not a member of a group of employees covered by a certification granted under the Labour Code.

25. If it is shown to the satisfaction of the Administrative Labour Tribunal that the trainee exercised a right arising from this Act, there is a simple presumption in their favour that the sanction was imposed on them or the action was taken against them because they exercised such a right, and the burden of proof is upon, as the case may be, the employer, educational institution or professional order that there was good and sufficient reason to resort to the sanction or action against the trainee.

DIVISION II

RECOURSE AGAINST PSYCHOLOGICAL HARASSMENT

26. A trainee who believes they have been the victim of psychological harassment may file a complaint in writing with the Commission, unless the trainee is an employee covered by a collective agreement, insofar as a recourse against psychological harassment is available to the employee under the agreement.

Such a complaint may also be filed, on behalf of one or more trainees who consent to it in writing, by a non-profit organization dedicated to the defence of students' rights, a students' association or a students' association alliance.

Any complaint must be filed within two years of the last incidence of the offending behaviour.

27. On receipt of a complaint, the Commission must make an inquiry with due dispatch. It may also make an inquiry of its own initiative.

Sections 103, 106 to 110, 123.6 and 123.9 to 123.11 of the Act respecting labour standards and the third paragraph of section 22 of this Act apply to such an inquiry, with the necessary modifications.

28. At the end of the inquiry, if no settlement is reached between the parties concerned, and the Commission agrees to pursue the complaint, it refers the complaint without delay to the Administrative Labour Tribunal.

29. The Commission may represent a trainee in a proceeding under this division before the Administrative Labour Tribunal.

DIVISION III

POWERS OF THE ADMINISTRATIVE LABOUR TRIBUNAL

30. The provisions of the Act respecting labour standards, the Labour Code and the Act to establish the Administrative Labour Tribunal (chapter T-15.1) that are applicable to the exercise, by an employee, of a recourse against prohibited practices or a recourse against psychological harassment apply, with the necessary modifications, to a recourse provided for in this Act.

In addition to the powers conferred by those Acts, the Administrative Labour Tribunal may, if it concludes that the trainee has been the victim of a prohibited practice or of psychological harassment, render any decision it believes fair and reasonable, taking into account all the circumstances of the matter, such as ordering any person

(1) to reinstate the trainee in their training, with all their rights and privileges, within the time set by the Tribunal;

(2) to modify the disciplinary, school, college, university or vocational training record of the trainee;

(3) to implement accommodation measures to protect the trainee and limit the impact on their training or to allow them to successfully complete it; or

(4) to comply with any other measure, including a provisional order, intended to safeguard the trainee's rights.

CHAPTER VI

FINANCING

31. The expenses incurred for the purposes of this Act are paid out of the contributions collected under Chapter III.1 of the Act respecting labour standards.

CHAPTER VII

PENAL PROVISIONS

32. Every person who

(1) hinders in any way the Commission or any person authorized by it in the discharge of their duties, deceives them by concealment or false declaration or refuses to give them any information or document they are entitled to obtain under this Act;

(2) is party to an agreement imposing on a trainee a training condition inferior to any of the standards provided for in this Act; or

(3) contravenes any other provision of this Act

commits an offence and is liable to a fine of \$600 to \$1,200 and, for any subsequent offence, to a fine of \$1,200 to \$6,000.

33. Every person who attempts to commit an offence referred to in section 32, or aids or incites another person to commit such an offence, commits an offence and is liable to the penalties provided for such an offence.

34. If a legal person or a representative, mandatary or employee of a legal person, partnership or association without legal personality commits an offence under this Act, the directors or officers of the legal person, partnership or association without legal personality are presumed to have committed the offence unless it is established that they exercised due diligence, taking all necessary precautions to prevent the offence.

For the purposes of this section, in the case of a partnership, all partners, except special partners, are presumed to be directors of the partnership unless there is evidence to the contrary appointing one or more of them, or a third person, to manage the affairs of the partnership.

35. Penal proceedings for an offence under a provision of this Act are prescribed by one year from the date on which the prosecutor became aware of the commission of the offence. However, no proceedings may be instituted where more than five years have elapsed from the commission of the offence.

36. Penal proceedings for an offence under this Act may be instituted by the Commission.

37. No evidence is permitted in view of establishing that any action or proceeding under this Act was brought following a complaint of an informer or in view of discovering the identity of an informer.

CHAPTER VIII

AMENDING PROVISIONS

ACT RESPECTING LABOUR STANDARDS

38. Section 81.3 of the Act respecting labour standards (chapter N-1.1) is amended by replacing “a midwife” in the first paragraph by “a health professional authorized for that purpose”.

39. Section 81.6 of the Act is amended by replacing “a midwife” in the first paragraph by “a health professional authorized to provide pregnancy care”.

ACT TO ESTABLISH THE ADMINISTRATIVE LABOUR TRIBUNAL

40. Schedule I to the Act to establish the Administrative Labour Tribunal (chapter T-15.1) is amended by adding the following paragraph at the end:

“(33) sections 23 and 28 of the Act to ensure the protection of trainees in the workplace (2022, chapter 2).”

CHAPTER IX

FINAL PROVISIONS

41. The Minister must, not later than 24 August 2027, submit to the Government a report on the administration of this Act.

The report is tabled in the National Assembly within 30 days or, if the Assembly is not sitting, within 30 days of resumption.

42. The Minister of Labour is responsible for the administration of this Act.

43. This Act comes into force on 24 August 2022.