

DECEMBER 2023 MONTH IN REVIEW

Québec

LAWS & ANNOUNCEMENTS

JHSCs

Jan 1: Newly effective OHS rules require that a member of a construction site JHSC receive a theoretical training certificate from CNESST or an organization recognized by the agency. Committee members or safety representatives that already have JHSC certification training are exempt from the new requirements. OHS coordinators must get a training certificate of at least 240 hours.

Action Point: [Avoid 5 common JHSC flaws](#) at your workplace

Training

Jan 1: Effective today, CNESST will provide reimbursement for the travel, registration and accommodation costs for persons on construction site required to receive mandatory participation training, including the OHS coordinator, health and safety representative members of the site JHSC.

Action Point: Find out more about [JHSC training requirements](#) across Canada

Fall Protection

Nov 23: CNESST published the results of its investigation into the death of a carpenter who fell 6 stories after stepping into an opening on the floor at a construction site in Laval. The agency says OHS management at the site was “deficient” and that sections of the formwork providing protection against falls were removed while work was still being done leaving workers exposed to falls through openings.

Action Point: Implement a [game plan](#) to prevent falls through openings at your

workplace

Transportation Safety

Dec 8: Newly tabled [Bill 48](#) would add new school zone safety protections to the *Highway Safety Code*, including a 30 km per hour speed limit in school zones, expanded use of photo radar and higher fines for certain school zone violations.

Workplace Harassment

Nov 23: The government tabled [Bill 42](#) adding new workplace harassment and violence protections to the *Labour Code* and *OHS Act*. Highlights: i. Mandatory sexual violence training for psychological harassment claims arbitrators; ii. Extended deadline for sexual violence claims; iii. Ban on reprisals for reporting psychological harassment; and iv. Higher fines and punitive damages for psychological harassment.

Action Point: Find out [how to make your workplace psychologically safe](#)

Workplace Violence

Nov 24: Québec officially agreed to implement the National Action Plan to End Gender-Based Violence. To support the effort, the government will receive at least \$97.3 million in federal funding over 4 years, in addition to \$462.4 million the province is spending of its own money to implement its Integrated Violence Strategy.

Action Point: Use the extensive resources on the OHSI [Workplace Violence Compliance Center](#) to protect your workers from violence and harassment

New Laws

Dec 11: Employers may now use the Ministry of Immigration, Francisation and Integration's new electronic transmission of applications (TED) service to validate job offers from the Regular Skilled Worker Program (PRTQ) and applications from the Temporary Foreign Worker Program (PTET). Implementation of the TED will enable employers to benefit from the denormalized labour market impact assessment (LMIA) in recruiting abroad.

New Laws

Dec 6: Québec announced that the Ministry of Immigration, Francisation and Integration will carry out a single indexation of agricultural salaries for purposes of the temporary foreign worker program, starting next year. Previously, the Ministry could index agricultural wages twice a year—on Jan. 1 and May 1—if minimum wages increased. From now on, indexation will be done just once, on May 1.

CASES

Drugs & Alcohol: OK to Fire Safety-Sensitive Worker for Smoking Pot While On Duty

Citizens reported to the city that they observed members of a snow removal crew smoking cannabis while on duty. After investigating, the city suspended and then fired all 3 crew members. A month later, it notified the union. The union filed a grievance on behalf of one of the workers, the flagger, claiming the witnesses saw him smoking only a cigarette and that termination was too harsh even if the worker had actually used cannabis given that this was a first offence. The Québec arbitrator was unimpressed and tossed the grievance, finding the citizens' testimony that the crew was smoking a joint credible, especially since they had no personal involvement in the case and went out of their way to tell their story. And while progressive discipline is all well and good, smoking pot while on duty carrying out safety-sensitive flagging duties knowing he was violating city safety and anti-drug policies was grounds for immediate termination [*Syndicat des cols bleus de Ville de Laval inc., CUPE, local section 4545 c Ville de Laval*, 2023 CanLII 110987 (QC SAT), November 23, 2023].

Action Point: Use the [OHSI Substance Abuse Compliance Game Plan](#) to curb drugs and alcohol at your workplace

Discipline: OK to Fire Worker for Carrying Out Unauthorized Work for Personal Interests

Hydro-Québec first indefinitely suspended and then fired a chief fitter for engaging in unauthorized work to move a transformer, a significant project, to enable a private customer to benefit from services it didn't pay for. The arbitrator dismissed the grievances, finding that the fitter's explanations were a disingenuous attempt to downplay what was a serious conflict of interest and that HQ was justified in concluding that the breach in trust permanently and irreparably damaged the employment relationship [*Hydro-Québec c Union of Hydro-Québec Trades Employees, local section 1500 (SCFQ-FTQ)*, 2023 CanLII 115024 (QC SAT), December 4, 2023].