

Labour and Employment
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Recent Amendments Concerning the National Holiday: Enactment of Bill 10 and its Impacts on Certain Employers

On June 7, 2007, the National Assembly passed Bill 10, which amends the *National Holiday Act* and the *Act Respecting Hours and Days of Admission to Commercial Establishments*.

Under the amended provisions of the *National Holiday Act*, June 24, the day of the National Holiday, will henceforth always be a public holiday, even when it falls on a Sunday, as is the case this year. Under the prior legislation, if the National Holiday fell on a Sunday, the public holiday was postponed to Monday June 25 for everyone, which allowed business establishments to stay open on the Sunday.

However, under section 5 of the *National Holiday Act*, an establishment may not interrupt its activities if that would go against the very nature of those activities or lead to a result that would really harm the smooth running of the business. On its Internet site, the Commission des normes du travail provides a few examples of businesses that cannot interrupt their activities:

“For example, businesses in the hotel or catering sectors cannot, due to the nature of their activities, interrupt their services on June 24. It is the same for a foundry where re-starting the machinery following a stoppage requires a lot of time. As regards convenience stores, because they are businesses that, by their very nature, offer “convenience” services, their operations are not to be interrupted.

Retail sales businesses and pool businesses may interrupt their activities”.

The Act also amends the *Act Respecting Hours and Days of Admission to Commercial Establishments* with respect to the days on which the public may not be admitted to retail sales establishments. Henceforth, there will be no postponement of the closing of establishments to Monday when June 24 and July 1 fall on a Sunday.

Lastly, the Act sets out provisions to ensure concordance between these amendments and collective agreements provisions pertaining to the National Holiday and Canada Day.

Impact of the amendments

The foregoing legislative amendments mainly affect the retail sales trade. Indeed, the government estimates that approximately 115,000 employees in this sector normally work on Sundays and will enjoy a holiday next June 24. Thus, most commercial establishments will henceforth be closed in Quebec when June 24 falls on a Sunday but will be open for business the next day.

However, certain establishments that meet the criteria provided for in the *Act Respecting Hours and Days of Admission to Commercial Establishments* may stay open on Sunday June 24, subject to compliance with the maximum of four employees rule.

How does it work?

If the employee normally works on Sunday	<ul style="list-style-type: none"> • He is entitled to a paid holiday on Sunday June 24
If the employee does not normally work on Sunday	<ul style="list-style-type: none"> • He is entitled to a paid holiday on Monday June 25
If the employee is required to work in an establishment where, due to the nature of the activities, work is not interrupted on June 24	<ul style="list-style-type: none"> • He is entitled to a paid holiday on the working day preceding or following June 24 <p><u>or</u></p> <ul style="list-style-type: none"> • He is entitled to the compensation provided for under the Act
If the employee is on vacation on June 24	<ul style="list-style-type: none"> • He is entitled to a compensatory holiday on a date agreed to with his employer <p><u>or</u></p> <ul style="list-style-type: none"> • He is entitled to the compensation provided for under the Act

It is important to note that according to the Commission des normes du travail the only employees who may work on Monday June 25 are employees who normally work on Sunday.

Lastly, it should be noted that the foregoing amendments are of public order and came into force on June 8, 2007. Under Section 9 of the *National Holiday Act*, any person who fails to comply with any provision of the Act is guilty of an offence and is liable to a fine of \$325 to \$700.

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