

Game Workers Unite, Syndicat Associatif des Travailleu.ses.rs  
Autonomes du Québec, and Pixelles present:

# Know Your Rights!

A legal guide for employees, contractors and freelancers  
in the Québec game industry





# Employee or Freelancer

**You are likely an employee if your employer:**

- Determines the conditions of your hiring and firing
- Sets your schedule and place of work
- Defines tasks and work methods
- Manages your activities





# Employee or Freelancer

**You are likely an employee if your employer:**

- Controls the execution of your work
- May take disciplinary action against you





# Employee or Freelancer

## Questions to ask:

- Subordinate to an employer?
- Financial liability?
- Ownership of the tools?
- You can make profits and losses?





# Employee or Freelancer

## Questions to ask:

- Is your work integral to the services of your work provider?
- Is your role to achieve a specific result?
- The agreement between you and your work provider?
- Do you control the work?





# CRUNCH

Overtime and your rights

Overtime pay is due if you work more than your regular weekly hours.

Salaried employees **are** entitled to overtime pay

You are entitled to an additional **50%** of your hourly pay



# CRUNCH

Overtime and your rights

At the request of the employee, this can be replaced with the equivalent paid leave plus **50%**

Freelancers should include a **rush rate** in their contract





# CRUNCH

## Overtime and your rights

You have the right to refuse work if:

1. It is more than **2 hours** over a regular working day.  
No more than **14 hours** in a 24 hour period
2. You have worked more than **12 hours** in a **24 hour** period on a variable or non continuous schedule
3. You have worked more than **50 hours** in a week
4. You were not given at least **5 days** notice





# Harassment

- Vexatious behavior
- Repetitive in nature
- Affect the persons dignity
- Hostile or unwanted verbal comments, gestures or behaviors
- Create a harmful work environment





# Harassment

Race

Color

Gender expression

Sex

Pregnancy

Gender identity

Civil status

Political convictions

Age

Disabilities

Social condition

Ethnic origin

Language

Sexual orientation

Religion





# Bill 176

## *New additions to Quebec's labor code regarding harassment*

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*"They must, in particular, **adopt and make available to their employees** a psychological harassment prevention and complaint processing policy that includes, in particular, a section on behaviour that manifests itself in the form of **verbal comments, actions or gestures of a sexual nature.**" Bill 176 Section 81.19*





# Where should I file a complaint?

***Non-unionized  
employee***

Commission  
des Normes

CNESST

***Unionized  
employee***

With your union

***Freelancers***

Quebec  
Human Rights  
Comission

CDPDJ

(Civil case)





# Standards and Benefits

Employers cannot give you worse working conditions or benefits than someone else doing the same tasks at the same company based **solely on hiring date.**





# Standards and Benefits

Wages

Hours of work

Paid annual leave

Rest periods

Absences for family reasons

Holidays and paid non-work days

Notice of termination

Miscellaneous (e.g. uniform)





# Termination

## What you need to know:

- You must be given written notice of termination.
- Unless you were hired for a specific task which has been completed.
- If you are not given sufficient notice, the employer must pay wages that would have been earned during the notice period.





# Termination

## What you need to know:

- If a lay off is for more than six months it must be given in writing.
- If a fixed term contract has ended, the company cannot stop you working for a competitor.
- If you continue working 5 days after a fixed term contract has ended, the contract is tacitly renewed.





# Termination

How much notice  
should you be given?

Length of Uninterrupted Service	Notice Period
Below 3 Months	None
3 Months - 1 Year	1 Week
1 - 5 Years	2 Weeks
5 - 10 Years	4 Weeks
10 Years +	8 Weeks





# Termination

Can contractors and freelancers quit early?

- **Yes** and without your clients consent.
- Must have a serious reason:
  - Interference from client
  - Client refuses to cooperate
  - Client was abusive, disagreeable or impolite
  - Client tries to change the terms of your contract





# Termination

Can contractors and freelancers quit early?

- Serious reasons **do not** include:
  - If you did not charge a high enough price, unless it was due to misinformation by the client.
  - The client is too demanding about performance.
  - The client has not paid certain small costs.





# Termination

## Can contractors and freelancers quit early?

- Can not be at a time that causes the client damage.
- For example, the day before a huge deadline.
- A last resort, client may begin a civil case.
- The burden of proof is on the contractor.





# Leave and Absences

Reason for absence	Leave - <i>Typical</i>
Sickness or family obligations	2 days paid
Illness or injury	26 weeks unpaid
Funerals for close relatives	2 days paid
Your wedding or civil union	1 day paid
Birth, adoption or pregnancy	Up to 52 weeks unpaid





# Leave and Absences

Your employer is not allowed to **fire you, take away benefits** or **reduce wages** if you are absent for any of these reasons for the allotted time.





# Statutory Holidays and Vacations

Employment length	Vacation
1 Year	1 Day per month of service
1 - 3 Years	2 Weeks
3 Years or more	3 Weeks





# Statutory Holidays and Vacations

New Years Day - Jan. 1st

Good Friday / Easter Monday

National Patriots Day

St. Jean Baptiste Day - June 24th

Canada Day - July 1st

Labour Day

Thanksgiving

Christmas Day - Dec. 25th





# Statutory Holidays and Vacations

- If you are entitled to 2 weeks leave, then you have the right to take an additional 1 week unpaid
- If a statutory holiday falls on a non-work day another day will be substituted
- Statutory holidays are not applicable to contractors





# Reprisals

No employer or manager can **dismiss, suspend or transfer** an employee, practice discrimination, or punish them for:

- Exercising any of the rights covered under the Labor Act
- For filing a complaint with the CNESST or providing information
- Because you are pregnant or paying child support





# Reprisals

No employer or manager can **dismiss, suspend or transfer** an employee, practice discrimination, or punish them for:

- Because you refused to do overtime in order to look after your child or close relative
- Because you have reached the age of retirement





# Reprisals

If your rights are violated, you have up to **45 days** to make a complaint to the Commission des normes du travail (CNESST).





# Intellectual Property

Who owns copyrights?

## Employees:

In absence of an agreement to the contrary, **your employer** owns copyright on the work you create

## Contractors & Freelancers:

In absence of an agreement to the contrary, **you** own copyright on the work you create





# Non-Competition

3 restrictive covenants in contracts:

## ***Non-hire***

Hiring or  
working with  
employees /  
contractors of  
client

## ***Non-Solicit***

Soliciting  
clients /  
suppliers

## ***Non-competition***

Working for  
another  
business that  
competes with  
the client





# Unionization

## Your rights for collective action

1. Every employee has the right to join, form or participate in a union of their choice
2. No employer or association can try to stop you
3. Employers cannot punish you for joining a union
4. If they claim they are firing you for another reason, it's up to the employer to prove this





# Unionization

## Restrictions

1. You are not allowed to ask people to join your union during work hours
2. You cannot hold union meetings at the workplace, unless you have the employers permission





# Unionization

What are the benefits of collective action?

1. Stronger negotiating power to win improvements vs. individual action
2. Very few rights and protections for freelance workers in Labor Law





# Unionization

What are the benefits of collective action?

**3.** Can transform and improve the whole industry for every worker

**4.** Re-balance the employer / employee relationship





# Unionization

What are the benefits of collective action?

**5.** Democratize company politics and policies

**6.** Stop employee misclassification and loss of benefits





# Who Are We?





# Upcoming Events

## GWU Montreal

**08.10** BBQ @ Park LaFontaine

## SATTAQ

**07.31** Coworking session

**08.14** Coworking session

**TBA** US immigration for freelancers workshop

Events are open and free to everyone.

For more information visit [gwumtl.com](http://gwumtl.com), [sattaq.xyz](http://sattaq.xyz), or [pixelles.ca](http://pixelles.ca)

