



Session 42

Employment law 3

Working conditions

Wages

Wages are set contractually, statutorily or through collective agreement. Unless shorter periods or other due dates are agreed upon or are customary and unless provided by a standard contract of employment or a collective agreement, the agreed-upon salary is paid to the employee:

- Canada: within 30 days (LC, s. 247);
- Switzerland: the end of each month unless otherwise agreed (CO, art 323);

Notes:

- Canada: statutes set minimal wages (LC, s. 178);
- Switzerland: there is no minimum wage legislation thus wages are contractually set or via collective agreements – concerns the 30% of the Swiss work force.

Working hours

On average, full-time employees work:

- Canada: 8 hours a day and 40 hours a week (LC, s. 169) with a maximum of 48 hours a week - http://www.labour.gc.ca/eng/standards_equity/st/hours.shtml ;
- Switzerland: 8.30 hours a day and 45 hours a week up to 50 and this may vary according to the requirements of the industry (LTr art 9);
- In other EU countries, the weekly hours can be less, as in France where it is 35 hours – see [Working Time Directive](#) and [stats](#).

Overtime

Overtime work is paid when the employer requires from the employee or is permitted to work in excess of the standard hours of work with some exceptions as per the needs of particular industries. Payment:

- Canada: increased by 1.5 except liberal employment (LC, s. 174 – see http://www.labour.gc.ca/eng/standards_equity/st/hours.shtml);
- Switzerland: conditioned on the employer not being able to give overtime as time off; a min of 25% is paid unless (LTr art 13) set otherwise by national convention (i.e. collective agreement).

Overtime (cont.)

There is often confusion between overtime (CO, art 321) accounted on a weekly basis, and additional work, that is, circumstances requiring additional work while on average the standard hours are respected (LC, s. 169; LTr, art 16).

Prevention from work

We can distinguish two cases:

- Employer prevention: when the employer has prevented the employee from performing the work assigned to; employer remains liable for the payment of wages.
- Employee prevention: when the employee has been prevented from work because of illness or accident; employee is entitled to full payment of the wages (Switzerland: only for a limited period however is such an expense covered by the employer's insurance scheme; thereafter medical expenses are covered by the employee's health insurance.)

Weekly time off

- Canada: considering a normal duration of work of 40 hours a week employees have 2 days off; with a maximum of 48, 1 day off
- Switzerland: employers grant employees one day off a week, usually Sunday – there is interdiction to work on Sunday in Switzerland (LTr art 18), or owing to the circumstances, another full work day. The parties take equitably into account the interests of the employer and employee to set the hours and days off. Exceptionally the days off can be grouped; the employee may be granted two half-days instead of a full day, if special circumstances so require and the employee consents (CO, art 329).

Annual time off

All employees are entitled to annual time off:

- Canada: least two weeks with vacation pay and, after six consecutive years of employment by one employer, at least three weeks with vacation pay in respect of every year of employment by that employer.
- Switzerland: at least 4 weeks – 5 weeks for minors

Annual time off

The employer pays the wages in relation to vacation and this is calculated on a percent basis:

- Canada: the min 2 weeks of annual vacation correspond to 4% of annual salary;
- Switzerland: the min 4 weeks of annual vacation correspond to 8.3% of annual salary.

Although in both Canada and Switzerland the right to paid vacation starts from the first year of employment this may not be the case in other nation-states.

In principle the employee can perform a work for a third party so long as this work does not compete with the interests of the employer.

Statutory time off (jours fériés)

All employees have a right to take off statutory holidays with pay:

- Canada: New Year – 2 days, Good Friday, Victoria Day, Canada Day, Labor Day, Thanksgiving, Christmas
- Switzerland: New Year's Day, Good Friday, Easter Monday, Ascension, 1st August, Federal Fast , Christmas – 2 days; there are expected variations from one canton to the other.

Social insurance

Social insurance aims at preventing economic hardship, thus some schemes are compulsory often supplemented by private insurance schemes. Coverage usually includes:

- Canada: Old Age Security (OAS) and Canada Pension Plan (CPP) that covers retirement pension, disability and survivors benefits

Social insurance (cont.)

- Switzerland: old-age and survivors plan (AVS) constitutes the first pillar of social security to cover basic necessities following retirement – contributions are at 4.20 % payroll deduction for the employee and the employer matches the amount; occupational pension plan (LPP) constitutes the second pillar of social security – contributions are made by the employee at 6.50% payroll reduction, amount matched by the employer from the age of 24 and for a salary bigger than 2'060.- a month; family allowances are paid by the employer and financed exclusively by them – contributions are at 1.90 % payroll made by the employer.

Social insurance (cont.)

Job-related accidents and illness:

- Canada: Worker's Compensation covers loss of income and medical expenses due to a job-related injury in addition to permanent physical impairment – contributions are made by employers; Employment Insurance that covers sickness and pregnancy; CPP disability benefits

Social insurance (cont.)

- Switzerland: the accident insurance (LAA) covers professional and non-professional risks of physical damage – contributions are of 1.244 % employee payroll deduction, and 0.196 % employer charge (for less than 12 hours work a week only professional risk is covered by the employer); compensation for illness (IDJ) covers economic loss due to illness – contributions by the employee are at 1.90 % payroll deduction, amount matched by the employer; disability insurance (AI) provides rehabilitation measures and compensatory payments when individuals suffer from a permanent or long-lasting reduction of their ability to earn an income – contributions by the employee are at 0.70 % payroll deduction, amount matched by the employer.