

RECEIVING COMPENSATION

If you are pregnant or breast-feeding worker who satisfies all the necessary conditions and you requested re-assignment but were not re-assigned, you can receive an income replacement indemnity as set out in the Act respecting industrial accidents and occupational diseases:

- the employer pays your salary for the first five workdays at the usual rate;
- for the following 14 calendar days you receive 90% of your net salary;
- after this, you receive from the CNESST 90% of your net income.

If you are pregnant you are eligible for indemnities:

- until the date of your delivery;

OR

- until you are re-assigned.

If you are breast-feeding you are eligible for indemnities:

- until your child is weaned;

OR

- until you are re-assigned.

WHAT IS THE PROTECTIVE RE-ASSIGNMENT FOR THE PREGNANT OR BREAST-FEEDING WORKER?

It's a request to be re-assigned to other duties, ones that do not present the risks or dangers that the attending physician listed on your medical certificate.

If your employer does not re-assign you, you can stop working and receive compensation from the *Commission des normes, de l'équité, de la santé et de la sécurité du travail (CNESST)*.

If you make use of this right, you maintain all of the benefits of the position you held before you stopped working or were re-assigned to other duties.

Once the period of re-assignment has been completed, or you are ready to start work again, the employer must return you to your regular position.



**Prevent
and cure**



Centrale des syndicats
du Québec

CSQ

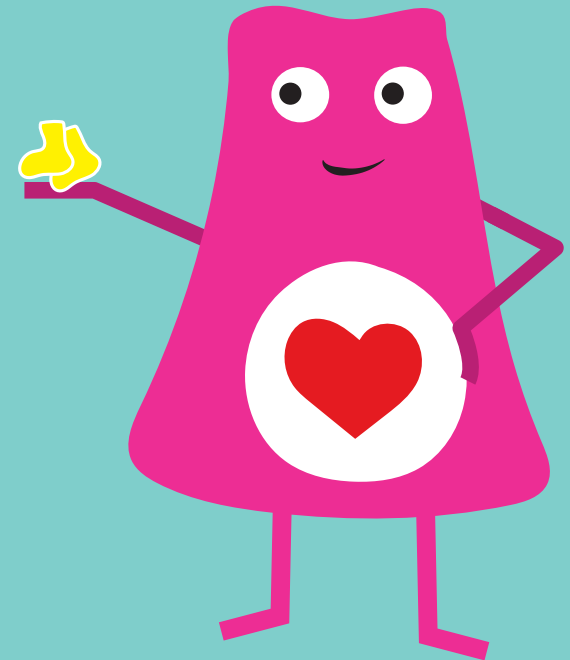
Centrale des syndicats du Québec (CSQ)
Occupational Health and Safety

9405 Sherbrooke Street East, Montreal, Québec H1L 6P3
Telephone: 514 356-8888 • Fax: 514 356-9999
E-Mail: sst@lacsq.org

**For advice and solutions, consult your union or
lacsq.org/sst**

This brochure is offered to you only as an indication. Please consult the official laws for legal information.

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THE PROTECTIVE RE-ASSIGNMENT
OF A **PREGNANT OR
BREAST-FEEDING
WORKER**



CSQ

If you are pregnant or breast-feeding and feel that your working conditions may be dangerous for you or for your unborn or breast-fed child, you can turn to the provisions of the Act respecting occupational health and safety on protective re-assignment for the pregnant or breast-feeding worker.

USING THE PROVISIONS

If you are a pregnant or breast-feeding worker you must fulfil certain conditions in order to have the right to protective re-assignment:

- you must be a worker in the sense of the law;
- you must be pregnant and work in conditions that present a risk of infectious disease or physical danger to yourself or to your unborn child;
- you must be breast-feeding and work in conditions that present a danger to your breast-fed child;
- you must provide a medical certificate signed by your attending physician in consultation with the physician from the public health branch of your employer's region, that attests the risks or dangers that your work presents;
- you must be able to perform other duties - that is, be able to continue working in another capacity.

You should inform your union of your situation in order to receive the relevant information and assistance you need.

WHO DECIDES ABOUT PROTECTIVE RE-ASSIGNMENT?

The CNESST decides on the right to preventive re-assignment and the right to receive an income replacement indemnity (IRI), once it has received the medical certificate required by law. The decision delivered in writing states the grounds that it is based on and may be appealed.

Presenting the employer with a medical certificate that attests to the presence of dangers or risks constitutes a request for re-assignment to other duties.

After the request for re-assignment: possible scenarios

- 1 The employer re-assigns you to other duties that do not present the same dangers or risks and that you are reasonably capable of performing. You take up the new duties.
- 2 The employer does not re-assign you, so you leave work and are eligible to receive the income replacement indemnity available in this situation.
- 3 The employer re-assigns you to other duties that present the same dangers. You may stop working and apply to receive compensation from the CNESST.

The CNESST investigates the situation and delivers a written decision based on the opinion of the attending physician and on its own evaluation of the duties to which you were re-assigned.
- 4 The employer re-assigns you to duties that present other dangers. You must renew the process: meet with your doctor, explain the new dangers and obtain another medical certificate.
- 5 The employer re-assigns you to duties that you are not reasonably capable of performing, because you lack the required physical ability, aptitudes or training.

You can stop working and ask for an investigation by the health and safety committee or the safety representative or, if there is none, by the CNESST.

In scenarios 2 to 5 above, the CNESST's written decision may be appealed.

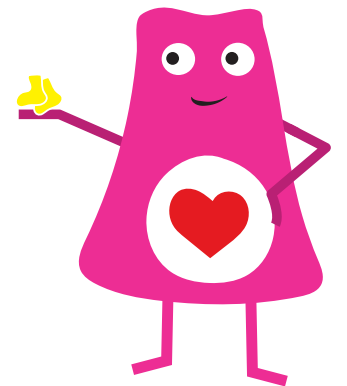
HOW AND WHEN TO APPEAL

In the fifth scenario, the deadlines are short:

- the CNESST has to produce its written decision within 20 days of your request for an investigation, if you feel that you are not reasonably able to perform the duties your employer assigned;
- this decision comes into effect immediately; you can however request a review within 10 days of being notified of the decision;
- the decision resulting from a request for review may be appealed before the Tribunal administratif du travail (TAT) within 10 days of being notified of the decision.

In the other scenarios the procedure is the same, and the deadlines are longer:

- a review of a CNESST decision may be requested within 30 days of being notified of it;
- the decision resulting from a request for review may be appealed before the TAT within 45 days of being notified of it.



Note: A CNESST decision may be reconsidered upon request. We suggest that in such cases a request for review be submitted at the same time: this is a way of ensuring that all of your rights are protected.