

Draft Regulations

Draft Regulation

An Act respecting collective agreement decrees
(R.S.Q., c. D-2)

Automotive services

— Rimouski

— Amendments

Notice is hereby given that the Minister of State for Labour and Employment and Minister of Labour has received petitions for amendments to the Decree respecting garage employees in the Rimouski region (R.R.Q., 1981, c. D-2, r. 49) from the current contracting parties as well as from associations governed by the Decree and that, under section 5 of the Act respecting collective agreement decrees (R.S.Q., c. D-2) and under sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), the Decree to amend the Decree respecting garage employees in the Rimouski region, the text of which appears below, may be made by the Government upon the expiry of 45 days following this publication.

The purpose of the Draft Decree is to update most of the conditions of employment which have remained unchanged since August 17, 1989.

To do so, it proposes, in particular, new definitions of trades, to add new associations as contracting parties, to abolish certain classifications governed by the Decree currently in force and to specify the exclusions which will apply henceforth, to allow the regular workweek to be staggered to include Saturday and Sunday for certain trades, to eliminate the setting of working hours within a given day, to change the conditions of application and of premiums for overtime, to change the conditions of entitlement to statutory general holidays and to no longer consider December 24 and 31 as statutory general holidays, to harmonize provisions governing recall to work, annual leave with pay, leave for family events and the notice of termination of employment with provisions of the Act respecting labour standards, to increase wages to varying degrees depending on the employee's classification and, finally, to change the duration of the Decree as well as the conditions for opposing the Decree.

This Draft will be the subject of an economic impact study as part of the amendments brought by the Act to amend the Act respecting collective agreement decrees (1996, c. 71).

During the consultation period, the impact of the amendments sought will be clarified. According to the 1998 annual report of the Comité paritaire de l'industrie de l'automobile de la région de Rimouski, the Decree governs 71 employers, 18 artisans and 357 employees.

Further information may be obtained by contacting Mr. Denis Laberge, Direction des décrets, ministère du Travail, 200, chemin Sainte-Foy, 6^e étage, Québec (Québec) G1R 5S1 (telephone: 418-528-9701, fax: 418-528-0559, e-mail: denis.laberge@travail.gouv.qc.ca).

Any interested person with comments to make is asked to send them in writing, before the expiry of the 45-day period, to the Deputy Minister of Labour, 200, chemin Sainte-Foy, 6^e étage, Québec (Québec) G1R 5S1.

RÉAL MIREAULT,
Deputy Minister of Labour

Decree to amend the Decree respecting garage employees in the Rimouski region*

An Act respecting collective agreement decrees
(R.S.Q., c. D-2, ss. 2, 6.1, 6.2 and 10)

1. The title of the Decree respecting garage employees in the Rimouski region is replaced by the following:

“Decree respecting the automotive services industry in the Rimouski region”.

2. The Decree is amended by deleting the part of the Decree preceding Division 1.00.

3. Section 1.01 of the Decree is replaced by the following:

“**1.01.** For the purposes of this Decree, the following expressions mean:

* The last amendment to the Decree respecting garage employees in the Rimouski region (R.R.Q. 1981, c. D-2, r. 49) was made by the regulation approved by Order in Council n° 1569-98 dated 16 December 1998 (1998, *G.O.* 2, 4815). For previous amendments, please refer to the *Tableau des modifications et Index sommaire*, Éditeur officiel du Québec, 1998, updated to 1 September 1998.

(1) “artisan”: person working on his own account, alone or in partnership and who performs work subject to this Decree for others;

(2) “parts clerk”: employee whose duties consist mainly in distributing or selling vehicle parts, accessories or tires to garages, service stations, parts shops, new or used car dealers and to any establishment whose activities are subject to this Decree;

(3) “messenger”: employee working in an establishment where the work subject to this Decree is performed, whose duties consist mainly in delivering vehicle parts, accessories or tires;

(4) “consort”: a man and a woman who:

(a) are married and cohabiting;

(b) are living together as husband and wife and are the father and mother of the same child;

(c) have been living together as husband and wife for one year or more;

(5) “class”: period during which an employee acquires 2,000 hours’ experience in one of the classifications provided for in this Decree. Annual leave with pay, leave for family events and statutory general holidays are taken into account in the computation of hours of experience;

(6) “combination of road vehicles”: a combination of vehicles composed of a motorized heavy road vehicle hauling a trailer, a semi-trailer or a detachable axle;

(7) “tradesperson”: employee whose duties are related mainly to maintenance, tests, verification, repairs, changes and other work to keep a vehicle in good working order;

(8) “washer”: employee whose duties are related mainly to one of the following tasks: washing, cleaning, wiping or waxing vehicles or their parts, by hand or with machines;

(9) “semiskilled worker”: employee whose duties consist mainly in performing one of the following tasks:

(a) restoring, overhauling, repairing or retooling vehicle parts or accessories without assembling them on the vehicle, and examining parts or accessories sold with guarantee and installed on a vehicle where they are returned because of a defect;

(b) installing upholstery, hubcaps, windshields or windows;

(10) “pump attendant”: employee whose duties are related mainly to the sale of gasoline or lubricants and to the supervision of pumps;

(11) “service attendant”: employee whose duties are related mainly to one of the following tasks not requiring the handling of other parts or components of a vehicle system: lubricating, changing oil, applying anti-rust, balancing wheels, installing, repairing, installing or dismantling radiators, shock absorbers, tires, windshield wipers, headlights, filters, mufflers and radios, and installing or boosting vehicle’s batteries;

(12) “uninterrupted service”: the uninterrupted period during which the employee is bound to the employer by a contract of employment, even if the performance of work has been interrupted without cancellation of the contract, and the period during which fixed-term contracts succeed one another without an interruption that would, in the circumstances, give cause to conclude that the contract was not renewed;

(13) “motor vehicle”: a road vehicle as defined in section 4 of the Highway Safety Code (R.S.Q., c. C-24.2), excluding mopeds and motorcycles as defined in section 4 of the Code, an all-terrain vehicle as defined in section 1 of the Regulation respecting all-terrain vehicles made by Order in Council 58-88 dated January 13, 1988, a snowmobile as defined in section 1 of the Regulation respecting snowmobiles (R.R.Q. 1981, c. C-24, r. 21) and any other vehicle intended to be used off public roads owing to its nature, purpose or the operation of a law;

(14) “heavy road vehicle”: a road vehicle whose net mass is 4,500 kg or more.”

4. The Decree is amended by inserting, after section 1.01, the following:

“1.02. Names of Contracting Parties

(1) Group representing the employers’ party:

Les Marchands d’automobiles de Rimouski enr.;
Association des services à l’auto de Rimouski inc.;
L’Association des industries de l’automobile du Canada;
Association des spécialistes du pneu du Québec inc.;
L’Association des marchands Canadian Tire du Québec inc.;

(2) Group representing the employee’s party:

Le Syndicat national des employés de garages de la région de Rimouski inc.”

5. The heading of Division 2.00 of the Decree is replaced by the following:

“2.00. Jurisdiction”.

6. Section 2.01 of the Decree is replaced by the following:

“Professional and Industrial Jurisdiction:

(1) This Decree applies to the following work carried out on a motor vehicle:

(a) repairing, altering or inspecting a vehicle, its parts or accessories;

(b) restoring, overhauling, repairing, retooling or any other work of the same type performed on vehicle parts, accessories or tires, as well as their installation on those vehicles;

(c) selling gasoline, lubricants or any other similar products used for motor vehicles where, in the establishment where such work is performed, work specified in paragraph *a*, *b* or *e* is also performed;

(d) washing, waxing or cleaning motor vehicles where, in the establishment where such work is performed, work specified in paragraph *a*, *b* or *e* is also performed;

(e) distributing or selling vehicle parts, accessories or tires to garages, service stations, parts shops, new or used car dealers or to any establishment whose activities are subject to this Decree;

(f) delivering vehicle parts, accessories or tires where, in the establishment where such work is performed, other work subject to this Decree is also performed;

(2) Exclusion: This Decree does not apply to:

(a) work specified in subsection 1 where done exclusively for the employer's own service or own needs or where done exclusively on farm machinery;

(b) vulcanizing and retreading work;

(c) the sale of parts to parts shops or to wholesalers made in a warehouse or in a distribution centre;

(d) the sale of parts made only in a warehouse where the establishment of the employer utilizes it, at a same time, as a parts warehouse and a parts shop.”.

7. Sections 3.01 to 12.01 of the Decree are replaced by the following:

“3.01. The regular workweek is 40 hours scheduled:

(1) from Monday to Friday, for the tradesperson;

(2) over no more than five consecutive days for the parts clerk, the messenger, the washer, the semiskilled worker, the pump attendant and the service attendant;

(3) over no more than six consecutive days for all the employees of an employer where the work specified in paragraph *a* or *b* of subsection 1 of section 2.01 is performed on or pertains to heavy road vehicles or to combinations of road vehicles.

3.02. The regular workday is over no more than 10 hours scheduled over a maximum period of 11 consecutive hours.

3.03. An employee may require a rest period of up to one hour, without pay, for meals, and the employer cannot require that the employee work more than five hours between each meal. That period is remunerated if the employee is not authorized to leave his work station.

An employee is deemed to be at work during the coffee break.

An employee is entitled to a weekly minimum rest period of 24 consecutive hours.

4.00. Overtime

4.01. Any hours worked in addition to the regular workday or workweek entail a premium of 50 % of the hourly wage currently paid to the employee, except for premiums computed on an hourly basis.

Notwithstanding the first paragraph, the employer may, at the request of the employee, replace the payment of overtime by paid leave equivalent to the overtime worked plus 50 %.

The leave must be taken during the 12 months following the overtime at a date agreed upon between the employer and the employee; otherwise the overtime must be paid. However, where the contract of employment is terminated before the employee is able to benefit from the leave, the overtime must be paid at the same time as the last payment of wages.

4.02. For the purposes of computing overtime, annual leave and statutory general holidays with pay are counted as days of work.

5.00. Recall to Work

5.01. An employee who reports to work at his place of employment at the express demand of his employer or in the regular course of his employment and who works fewer than three consecutive hours, except in the case of a fortuitous event, is entitled to an indemnity equal to three hours' wages at the prevailing hourly rate increased, as the case may be, in accordance with section 4.01 of this Decree.

5.02. An employee who is at his place of employment and is required to wait for work to be assigned to him is deemed to be working.

6.00. Statutory General Holidays

6.01. The following days are statutory general holidays and non-working days with pay, regardless of the day of the week with which they coincide: January 1 and 2, Good Friday or Easter Monday, the Monday preceding May 25, July 1 or, where July 1 falls on a Sunday, July 2, the first Monday in September, the second Monday in October, December 25 and 26.

6.02. To be entitled to the statutory general holiday provided for in section 6.01, the employee must be credited with 60 days of uninterrupted service in the undertaking and not be absent from work on the first working day in his work schedule preceding and following that holiday.

However, an employee is deemed not to be absent from work on the first working day in his work schedule preceding and following a statutory general holiday if:

1° the absence of the employee is authorized by a law, the employer or this Decree, or is for a valid cause, and if the employee receives for the statutory general holiday no indemnity from the Commission de la santé et de la sécurité du travail or from any private compensation plan for accidents, sickness or disability;

2° the employee was laid off for less than 48 hours preceding and following the holiday, except for January 1 and 2 and for December 25 and 26, where the period is 30 days preceding the holiday.

6.03. The employer must pay to an employee who is entitled to a statutory general holiday provided for in section 6.01 an indemnity equal to the average of his daily wages for the days worked during the complete period of pay preceding that holiday, excluding overtime.

6.04. An employee who must work on one of the statutory general holidays provided for in section 6.01 is paid for the hours worked at his current wage, as well as receiving the indemnity for that holiday.

6.05. If an employee is on annual leave on one of the holidays provided for in section 6.01, the employer must pay him the indemnity provided for in section 6.03 or grant him a compensatory holiday of one day on a date agreed upon between the employer and the employee.

6.06. St. John the Baptist's Day is a statutory general holiday under the National Holiday Act (R.S.Q., c. F-1-1).

7.00. Annual Leave with Pay

7.01. The reference year is a period of 12 consecutive months during which an employee progressively acquires entitlement to an annual leave. That period extends from May 1 of the preceding year to April 30 of the current year.

7.02. An employee who, at the end of a reference year, is credited with less than one year of uninterrupted service with the same employer during that period, is entitled to an uninterrupted leave for a duration determined at the rate of one working day for each month of uninterrupted service, for a total leave not exceeding two weeks.

The indemnity for that leave is 4 % of the employee's gross wages during the reference year.

7.03. An employee who, at the end of a reference year, is credited with one year of uninterrupted service with the same employer during that period, is entitled to an annual leave of a minimum duration of two consecutive weeks.

The indemnity for that leave is 4 % of the employee's gross wages during the reference year.

The employee is also entitled to one week of additional annual leave without pay.

7.04. An employee who, at the end of a reference year, is credited with five years of uninterrupted service with the same employer during that period, is entitled to an annual leave of a minimum duration of three weeks, two of which are consecutive.

The indemnity for that leave is 6 % of the employee's gross wages during the reference year.

7.05. An employee who, at the end of a reference year, is credited with 15 years of uninterrupted service with the same employer during that period, is entitled to an annual leave of a minimum duration of four weeks, two of which are consecutive.

The indemnity for that leave is 8% of the employee's gross wages during the reference year.

7.06. The annual leave must be taken within 12 months following the end of the reference year.

Any period of salary insurance, sickness insurance or disability insurance interrupted by a leave taken in accordance with the first paragraph is continued, where applicable, after the leave, as if it had never been interrupted.

7.07. The annual leave may be divided into two periods where so requested by the employee. However, the employer may refuse the request if he closes his establishment for a period equal to or greater than that of the employee's annual leave.

The annual leave may also be divided into more than two periods where so requested by the employee, provided the employer consents thereto.

A leave not exceeding one week cannot be divided.

7.08. An employee is entitled to know the date of his annual leave at least four weeks in advance.

An employee must notify the employer of when he prefers to take the annual leave at least four weeks in advance.

7.09. An employee must receive the indemnity for the annual leave in a single payment before the leave begins.

However, where the annual leave is divided in accordance with section 7.07, the indemnity will correspond to the fraction of the annual leave.

7.10. Employers are prohibited from replacing a leave provided for in sections 7.02 to 7.05 by a compensatory indemnity. At the request of the employee, the third week of leave and, where applicable, the fourth week, may, however, be replaced by a compensatory indemnity if the establishment closes for two weeks on the occasion of the annual leave.

7.11. Should an employee provided for in sections 7.03 to 7.05 be absent owing to sickness or accident or on maternity leave during the reference year and

should that absence result in the reduction of that employee's annual leave indemnity, the employee is then entitled to an indemnity equal, as the case may be, to twice, three or four times the weekly average of the wage earned during the period of work. An employee provided for in section 7.02 whose annual leave is less than two weeks is entitled to that amount in proportion to the days of leave credited to his account.

Notwithstanding the first paragraph, the annual leave indemnity must not exceed the indemnity to which the employee would have been entitled if he had not been absent or on leave owing to a reason provided for in the first paragraph.

7.12. Where an employee leaves his job, he receives the indemnity related to the leave acquired before the preceding May 1, if the leave was not taken, as well as the indemnity due to him for the period which has elapsed since that date.

8.00. Special Leave

8.01. An employee may be absent from work for three days without reduction of wages by reason of the death or the funeral of his consort, his child or the child of his consort, or of his father, mother, brother or sister. He may also be absent from work, without pay, for two more days on such occasion.

8.02. An employee may be absent from work for two weeks without reduction of wages by reason of the death or the funeral of a son-in-law, daughter-in-law, one of his grandparents or grandchildren, or of the father, mother, brother or sister of his consort.

8.03. In the circumstances referred to in sections 8.01 and 8.02, the employee must advise his employer of his absence as soon as possible.

8.04. An employee may be absent from work for one day without reduction of wages, on his wedding day.

An employee may also be absent from work, without pay, on the wedding day of one of his children, of his father, mother, brother or sister or of a child of his consort.

The employee must advise his employer of his absence not less than one week in advance.

8.05. An employee may be absent from work for five days at the birth of his child or the adoption of a child. The first two days of absence are remunerated if the employee is credited with 60 days of uninterrupted service.

This leave may be divided into days at the request of the employee. It may not be taken more than 15 days after the child arrives at the residence of his or her father or mother.

The employee must advise his employer of his absence as soon as possible.

However, an employee who adopts the child of his consort may be absent from work for only two days, without pay.

9.00. Wages

9.01. The minimum hourly wages rates are as follows:

Classes of Employment

As of
*(Insert here the date
of the coming into force of this
Decree)*

1 tradesperson:

6th class	\$15.80;
5th class	\$13.80;
4th class	\$11.91;
3rd class	\$10.10;
2nd class	\$ 9.33;
1st class	\$ 8.75;
less than 6 months	\$ 8.46;

(2) parts clerk:

4th class	\$11.75;
3rd class	\$11.25;
2nd class	\$10.75;
1st class	\$ 9.75;
less than 6 months	\$ 9.15;

(3) messenger: \$ 6.90;

(4) service attendant:

4th class	\$10.00;
3rd class	\$ 9.30;
2nd class	\$ 8.55;
1st class	\$ 7.80;

(5) semiskilled worker:

3rd class	\$10.00;
2nd class	\$ 9.25;
1st class	\$ 8.50;

(6) pump attendant: \$ 7.00;

(7) washer: \$ 7.00.

9.02. Wages must be paid in cash in a sealed envelope or by cheque by Thursday at the latest. The payment may be made by bank transfer if so provided in a written agreement.

An employee is deemed not to have received payment of the wages due to him if the cheque delivered to him is not cashable within two working days following its receipt.

After agreement with his employees, an employer may pay them every two weeks.

The wages of an employee must be paid directly to him, at his place of employment and on a working day, except where the payment is made by bank transfer or is sent by mail. The wages of an employee may also, at his written request, be remitted to a third person.

If the usual day of payment of wages falls on a general statutory holiday, the wages are paid to the employee on the working day preceding that day.

9.03. The employer must remit to the employee, together with his wages, a pay sheet containing sufficient information to enable the employee to verify the computation of his wages. That pay sheet must include, in particular, the following information, where applicable:

- (1) the name of the employer;
- (2) the surname and given name of the employee;
- (3) the identification of the employee's occupation;
- (4) the date of the payment and the work period corresponding to the payment;
- (5) the number of hours paid at the prevailing rate;
- (6) the number of hours of overtime paid or replaced by a leave with the applicable premium;
- (7) the nature and amount of the bonuses, premiums, commissions, indemnities or allowances that are being paid;
- (8) the prevailing hourly wage rate;
- (9) the amount of wages before deductions;
- (10) the nature and amount of the deductions effected;
- (11) the amount of the net wages paid to the employee.

9.04. The hourly wage rates provided for in section 9.01 are minimum hourly rates. Any commission, bonus, premium and any other form of remuneration must be paid to the employee in addition to the minimum hourly wage rate. No compensation or benefit having pecuniary value may be taken into account in computing the minimum hourly wage.

9.05. No signing formality other than that establishing that the sum remitted to the employee corresponds to the amount of net wages indicated on the pay sheet may be required upon payment of the wages.

9.06. Acceptance of a pay sheet by an employee does not entail his renunciation of the payment of all or part of the wages that are due to him.

9.07. No employer may make deductions from wages unless he is required to do so pursuant to an Act, a regulation, a court order, a collective agreement or a decree or unless he is authorized to do so in writing by the employee.

The employee may at any time revoke that authorization. The employer must remit the sums so withheld to their intended receiver.

9.08. Any gratuity paid directly or indirectly by a patron to an employee belongs to him of right and does not form part of the wages that are otherwise due to him. Any gratuity collected by the employer must be remitted to the employee. The word "gratuity" includes the service charge added to the patron's bill.

9.09. Any employee who performs tasks in several classes of employment receives the highest wage rate for those classes of employment.

An employee assigned to new employment on a regular basis receives the hourly rate corresponding to his new employment.

9.10. If an employer terminates an employee's contract of employment and takes him back in the same employment within six months before the end of the contract, he must pay to the employee at least the wage rate he paid to him before the end of the contract of employment.

9.11. Notwithstanding any other provision of this Decree, the employee's weekly wage cannot be less than that he would receive if he were remunerated in accordance with the Regulation respecting labour standards (R.R.Q. 1981, c. N-1.1, r. 3).

10.00. Notice of Termination of Employment or Layoff, and Work Certificate

10.01. The employer must give written notice to an employee before terminating his contract of employment or laying him off for six months or more.

The notice shall be of one week if the employee is credited with less than one year of uninterrupted service, two weeks if he is credited with one year to five years of uninterrupted service, four weeks if he is credited with five years to ten years of uninterrupted service and eight weeks if he is credited with ten years or more of uninterrupted service.

A notice of termination of employment given to an employee during the period when he is laid off is null, except in the case of employment that usually lasts for not more than six months each year due to the influence of the seasons.

10.02. Section 10.01 does not apply to an employee:

- (1) who has less than three months of uninterrupted service;
- (2) whose contract for a fixed term or for a specific undertaking expires;
- (3) who has committed a serious fault;
- (4) for whom the end of the contract of employment or the layoff is a result of a fortuitous event.

10.03. An employer who does not give the notice prescribed in section 10.01, or who gives a notice of an insufficient period, must pay the employee a compensatory indemnity equal to his regular wage excluding overtime for a period equal to the period or remaining period of notice to which he was entitled.

The indemnity must be paid at the time the employment is terminated or at the time the employee is laid off for a period expected to last more than six months, or at the end of a period of six months after a layoff of indeterminate length, or a layoff expected to last less than six months but which exceeds that period.

10.04. At the expiry of the contract of employment, an employee may require his employer to issue to him a work certificate in which the following information, and only the following information, is set forth: the nature and the duration of the employment, the dates on which his employment began and terminated, and the name and address of the employer. The certificate must not carry any mention of the quality of the work or the conduct of the employee.

11.00. Miscellaneous

11.01. Where an employer requires that a uniform be worn, he cannot deduct any amount from the salary for the purchase, use or care of the uniform.

12.00. Duration of Decree

12.01. This Decree remains into force until (*indicate here the date following the second anniversary of the coming into force of this Decree*). It is then renewed automatically from year to year, unless the group comprising the employer's party or the employee's party opposes it by sending written notice to the Minister of Labour and to all the contracting parties comprising the other group, during the month of (*indicate here the 6th month preceding the date of expiry of this Decree*) or during the (*same month*) of any subsequent year.”.

8. This Decree comes into force on the day of its publication in the *Gazette officielle du Québec*.