

## Draft Regulations

### Draft Regulation

An Act respecting occupational health and safety (R.S.Q., c. S-2.1)

#### Agreement on any program of the Ministère de la Santé et des Services sociaux — Implementation

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1) and with section 224 of the Act respecting occupational health and safety (R.S.Q., c. S-2.1), that the Regulation respecting the implementation of the agreement on any program of the Ministère de la Santé et des Services sociaux, the text of which appears below, may be adopted by the Commission de la santé et de la sécurité du travail and submitted to the Government for approval upon the expiry of 60 days following this publication.

The purpose of the draft Regulation is to extend the protection of the Act respecting occupational health and safety (R.S.Q., c. A-3.001) to persons registered in any program of the Ministère de la Santé et des Services sociaux, listed in Schedule 1.

To that end, it proposes that the Minister of Health and Social Services be considered as the employer of those persons for the purposes of indemnifying them, of paying the assessment established by the Commission de la santé et de la sécurité du travail and of charging the costs of benefits paid by the Commission by reason of an employment injury.

To date, study of the matter has revealed no serious impact on people benefiting from the services provided by the persons registered in any program of the Ministère de la Santé et des Services sociaux, listed in Schedule 1. Assessments to the Commission de la santé et de la sécurité du travail will be paid by the Minister, who shall see that first aid is given to a worker suffering from an employment injury.

Further information may be obtained by contacting Pierre Gingras, Commission de la santé et de la sécurité du travail, 1199, rue de Bleury, 2<sup>e</sup> étage, Montréal (Québec) H3B 3J1; tel. (514) 906-3020, extension 2078, fax: (514) 906-3021.

Any interested person having comments to make on the matter is asked to send them in writing, before the expiry of the 60-day period, to Juliette Bailly, vice-president for relations with clients and partners, Commission de la santé et de la sécurité du travail, 1199, rue de Bleury, 14<sup>e</sup> étage, Montréal (Québec) H3B 3J1.

TREFFLÉ LACOMBE,  
*Chairman of the board of directors  
and Chief Executive Officer of  
the Commission de la santé et de la sécurité du travail*

### Regulation respecting the implementation of the agreement on any program of the Ministère de la Santé et des Services sociaux

(R.S.Q., c. S-2.1, s. 223, 1st par., subpar. 39)

1. The Act respecting industrial accidents and occupational diseases (R.S.Q., c. A-3.001) applies to persons who participate in any program of the Ministère de la Santé et des Services sociaux to the extent and on the conditions provided by the agreement entered into by the Minister with the Commission de la santé et de la sécurité du travail attached as Schedule I.

2. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

#### SCHEDULE I

WHEREAS under section 1 of the Act respecting the Ministère de la Santé et des Services sociaux (R.S.Q., c. M-19.2), the Minister of Health and Social Services shall have charge of the direction and administration of the Ministère de la Santé et des Services sociaux and of the application of the Acts and regulations respecting health and social services;

WHEREAS under paragraph *h* of section 3 of the same Act, the Minister shall in particular promote the development and implementation of programs and services according to the needs of individuals, and families and other groups;

WHEREAS under section 10 of the same Act, the Minister may enter into agreements with any government, one of its departments, with an international organization or with an agency of that government or organization for the purposes of the application of the Act or another Act within the competence of the Minister;

WHEREAS under section 138 of the Act respecting occupational health and safety (R.S.Q., c. S-2.1), the Commission is a legal person within the meaning of the Civil Code of Québec and has the general powers of such a legal person and the special powers conferred upon it by that Act;

WHEREAS the Minister requires that the Act respecting industrial accidents and occupational diseases (R.S.Q., c. A-3.001) be applicable to workers covered by this Agreement and she intends to assume the obligations prescribed for employers;

WHEREAS under section 16 of the Act respecting industrial accidents and occupational diseases, a person doing work under a project of any government, whether or not the person is a worker, may be deemed to be a worker employed by that Government, by an agency or by a legal person, on the conditions and to the extent provided by an agreement between the Commission and the government, agency or legal person concerned;

WHEREAS under section 16, the second paragraph of section 170 of the Act respecting occupational health and safety applies to the agreement, to wit, that the Commission may, by regulation, put into effect an agreement extending benefits arising out of Acts or regulations administered by it;

THEREFORE, THE PARTIES AGREE AS FOLLOWS :

CHAPTER 1.00 ENABLING PROVISION

*Enabling provision* 1.01 This Agreement is entered into under section 16 of the Act respecting industrial accidents and occupational diseases.

CHAPTER 2.00 PURPOSES

*Purposes* 2.01 The purposes of this Agreement is to provide to what extent and on what conditions the Act respecting industrial accidents and occupational diseases is to apply to the workers governed and to determine the respective obligations of the Minister and the Commission.

CHAPTER 3.00 DEFINITIONS

For the purposes of this Agreement,

*“service employment paycheque”*

(a) “service employment paycheque” means the method of paying for services provided by a worker, which will be managed by Services de paie Desjardins or any other organization called upon to perform that function;

*“Commission”*

(b) “Commission” means the Commission de la santé et de la sécurité du travail established by section 137 of the Act respecting occupational health and safety (R.S.Q., c. S-2.1);

*“employment injury”*

(c) “employment injury” means an injury or a disease arising out of or in the course of an industrial accident, or an occupational disease, including a recurrence, relapse or aggravation within the meaning of the Act;

*“Act”*

(d) “Act” means the Act respecting industrial accidents and occupational diseases (R.S.Q., c. A-3.001);

*“Minister”*

(e) “Minister” means the Minister of Health and Social Services;

*“worker”*

(f) “worker” means a person who provides services to a user, particularly under the program indicated in Schedule 1, and whose remuneration is paid by means of the service employment paycheque;

*“user”*

(g) “user” means a user referred to in the Act respecting health services and social services (R.S.Q., c. S-4.2) who uses the services of a worker within the meaning of this Agreement.

CHAPTER 4.00 MINISTER’S OBLIGATIONS

*Employer* 4.01 The Minister is deemed to be the employer of any worker covered by this Agreement.

*Restrictions*

Notwithstanding the foregoing, the employer-employee relationship shall be recognized as such only for the purposes of indemnification, assessment and imputation of the cost of benefits under the Act and shall not be deemed to be an admission of a factual situation lending itself to interpretation in other fields of activity.

<i>Exclusions</i>		The workers covered by this Agreement are neither employees, public servants or officers of the Gouvernement du Québec, including the Ministère de la Santé et des Services sociaux, nor of any category of institutions specified in the Act respecting health services and social services or of regional boards established under that Act.			(2) an estimate of annual gross salaries that will be paid to the workers covered by this Agreement during the current calendar year.
<i>General obligations</i>	4.02	As the employer, the Minister is bound by all the obligations imposed by the Act, with any adaptations required, including the obligation to keep a register of industrial accidents occurring in users' domiciles.	<i>Register</i>	4.07	The Minister shall keep a detailed register of the workers' names and addresses and, upon request by the Commission, shall provide it with the information it needs for the purposes of this Agreement.
<i>Register of accidents</i>		Notwithstanding the preceding paragraph, in the case of the register referred to therein, the Minister is required to put the register at the disposal of the Commission only.	<i>Description of programs</i>	4.08	The Minister shall send the Commission, upon the coming into force of this Agreement, a description of any program appearing in Schedule 1.
<i>Information</i>		Upon request by the Commission, the Minister shall send a description of the tasks and activities performed by the worker when the employment injury occurred.	<i>New programs or amendment</i>		Any new program or any subsequent amendment to a program appearing in Schedule 1 shall also be sent so as to determine whether it should come or remain under this Agreement.
<i>Exceptions</i>	4.03	Notwithstanding section 4.02, section 32 of the Act concerning the dismissal, suspension or transfer of a worker, discriminatory measures or reprisals, as well as Chapter VII concerning the right to return to work, are not applicable to the Minister.	CHAPTER	5.00	COMMISSION'S OBLIGATIONS
<i>First aid</i>		The Minister shall see that first aid is given to a worker suffering from an employment injury, in accordance with sections 190 and 191 of the Act, and pay the related costs.	<i>Worker status</i>	5.01	The Commission shall consider a worker covered by this Agreement as a worker within the meaning of the Act.
<i>Payment of assessment</i>	4.04	The Minister undertakes to pay the assessment calculated by the Commission in accordance with the Act and the regulations thereunder, as well as the fixed administration expenses related to each special envelope.	<i>Indemnity</i>	5.02	A worker suffering from an employment injury is entitled to an income replacement indemnity as of the first day following the day the worker became unable to carry on his employment by reason of the injury.
<i>Assessment</i>	4.05	For assessment purposes, the Minister is deemed to pay a salary corresponding to the annual gross employment income paid to the worker by means of the service employment paycheque.	<i>Payment</i>		Notwithstanding the first paragraph of section 124 of the Act, the Minister shall pay that worker, as of the fifteenth full day following the day the worker became unable to carry on his employment and for all the time of that inability, the income replacement indemnity determined by the Commission, in accordance with the Act.
<i>Annual statement</i>	4.06	Each year before 15 March, the Minister shall send the Commission a statement indicating	<i>Advance</i>		Notwithstanding the preceding, should the worker's claim be refused by the Commission, the amount paid by the Minister is an advance with respect to the remuneration paid by means of the service employment paycheque.
		(1) the amount of annual gross salaries earned by the workers covered by this Agreement during the preceding calendar year; and	<i>Reimbursement</i>	5.03	The Commission shall reimburse the Minister the income replacement indemnity paid by it as of the fifteenth full day following the day the worker became unable to carry on his employment and for all the time of that inability, in accordance with the second paragraph of section 5.02, to the extent that the Commission recognizes the worker's entitlement to the payment of that indemnity.

<i>Financial envelope</i>	5.04	Upon request by the Minister, the Commission shall allocate a specific financial envelope to each program covered by this Agreement.			(b) Le Secrétaire du Ministère Ministère de la Santé et des Services sociaux 1075, chemin Sainte-Foy Québec (Québec) G1S 2M1.
<i>Program referred to</i>		In the case of the program referred to in Schedule 1, it shall be classified in the unit of operation "House-keeping Services for Edifices or Commercial, Industrial or Residential Buildings" or, following amendments made to that unit of operation after the signing of this Agreement, in a unit corresponding to those activities.	CHAPTER	7.00	COMING INTO FORCE, TERM AND TERMINATION
			<i>Effective date</i>	7.01	This Agreement takes effect on the date of coming into force of the Regulation made for that purpose by the Commission under section 170 of the Act respecting occupational health and safety.
<i>Other programs</i>		The Commission may allocate to any new program covered by this Agreement an envelope classified according to the rate of a unit corresponding to the activities included in that new program.	<i>Terms</i>		It shall remain in force until 31 December 2001.
			<i>Tacit renewal</i>	7.02	This Agreement will be renewed tacitly from one calendar year to another, unless one of the parties sends the other a notice by registered or certified mail indicating that it intends to terminate the Agreement or to make amendments thereto, at least 90 days before the Agreement expires.
<i>Applicable rate</i>	5.05	The Commission shall fix for the program provided for in the second paragraph of section 5.04 either the specific assessment rate of the unit, or a personalized assessment rate, provided in the latter case that the Minister meets the conditions of the Act and its regulations for each assessment year.	<i>Amendments</i>	7.03	In the latter case, the notice shall include the amendments that the party intends to make.
<i>Other programs</i>		The foregoing also applies to any new program covered by this Agreement.	<i>Renewal</i>		Sending such a notice does not prevent the tacit renewal of this Agreement for one year. If the parties disagree on the amendments to be made, the Agreement shall come to an end, without further notice, at the end of that renewal period.
<i>Retrospective adjustment</i>		The Commission shall also carry out the retrospective adjustment of the annual assessment applicable to the Minister, provided that the Minister meets the conditions of the Act and its regulations for the assessment year.	CHAPTER	8.00	TERMINATION OF THE AGREEMENT
			<i>Default</i>	8.01	If the Minister fails to respect any of her obligations, the Commission may ask the Minister to rectify the default within the time set by it. If the situation is not rectified within the prescribed time, the Commission may terminate this Agreement unilaterally, upon written notice.
CHAPTER	6.00	MISCELLANEOUS			
<i>Follow-up</i>	6.01	Both the Commission and the Minister shall designate, within 15 days of the coming into force of this Agreement, a person responsible for the follow-up of this Agreement.	<i>Date</i>	8.02	The Agreement is then terminated as of the date the written notice is sent.
<i>Addresses and notices</i>	6.02	Any notice required by this Agreement shall be sent to the Commission or Minister at the following addresses:	<i>Financial adjustments</i>	8.03	If the Agreement is terminated, the Commission shall make financial adjustments taking into account the amounts exigible under this Agreement.
		(a) Le Secrétaire de la Commission Commission de la santé et de la sécurité du travail 1199, rue de Bleury, 14 <sup>e</sup> étage Montréal (Québec) H3C 4E1;	<i>Amount due</i>		Any amount due following those financial adjustments shall become payable on the expiry date specified on the assessment notice.

- Mutual agreement* 8.04 The parties may terminate this Agreement at any time if they both agree thereto.
- Damages* 8.05 If the Agreement is terminated, a party may not be required to pay the other party damages, interest or any other form of compensation or charges.

IN WITNESS WHEREOF, THE PARTIES HAVE SIGNED

at \_\_\_\_\_ on this \_\_\_\_\_ at \_\_\_\_\_ on this \_\_\_\_\_  
day of \_\_\_\_\_, 2000 day of \_\_\_\_\_, 2000

\_\_\_\_\_  
PIERRE ROY,  
*Deputy Minister*  
*Ministère de la Santé et*  
*des Services sociaux*

\_\_\_\_\_  
TREFFLÉ LACOMBE,  
*Chairman of the board of directors*  
*and Chief Executive Officer*  
*Commission de la santé et*  
*de la sécurité du travail*

## **SCHEDULE 1 TO THE AGREEMENT**

### **PROGRAM GOVERNED BY THE AGREEMENT**

Direct allowance program for home services.

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