

Notice

An Act respecting industrial accidents and occupational diseases
(R.S.Q., c. A-3.001)

Retrospective adjustment of the assessment — Amendments

Notice is hereby given that the Commission de la santé et de la sécurité du travail, at its meeting of 16 September 2004, adopted the Regulation amending the Regulation amending the Regulation respecting retroactive adjustment of the assessment.

In accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), the draft regulation was published on page 2024 in the *Gazette officielle du Québec* of 30 June 2004 with a notice that it would be adopted by the Commission, with or without amendments, upon the expiry of 45 days following the publication of that notice.

GÉRARD BIBEAU,
*Chairman of the board and
chief executive officer
of the Commission de la santé
et de la sécurité du travail*

Regulation amending the Regulation respecting retrospective adjustment of the assessment*

An Act respecting industrial accidents and occupational diseases
(R.S.Q., c. A-3.001, s. 454, par. 1, subpars. 9, 11 and 13)

1. Section 7 of the Regulation respecting retrospective adjustment of the assessment is hereby amended by adding the following paragraph after the first paragraph:

“An application for a given assessment year made under subsection (1) of section 5 by an employer beginning its activities after the date prescribed by the first paragraph must reach the Commission before the date

the employer begins its activities, and the request for that assessment year is irrevocable from that date forward.”.

2. Section 16 of the Regulation is hereby amended by inserting the following after the first paragraph:

“An employer beginning its activities after the date prescribed in the first paragraph of section 7 who applies for retrospective adjustment of its assessment pursuant to subsection (1) of section 5, must send the notice referred to in the first paragraph before the date the employer begins its activities.”.

3. Section 18 of the Regulation is hereby replaced by the following:

“**18.** The notice given by an employer pursuant to the first paragraph of section 16 is irrevocable in respect of an assessment year from December 15 of the year preceding the assessment year.

The notice given by an employer pursuant to the second paragraph of the aforementioned section is irrevocable in respect of an assessment year, from the date the employer commences its activities.”.

4. The Regulation is hereby amended by replacing the title of Division I of Chapter VI by the following:

“PARENT COMPANY AND ITS SUBSIDIARIES”

5. Section 32 of the Regulation is hereby replaced by the following:

“**32.** In this Division,

“control” means (1) to hold shares, other than as a creditor, representing more than 50% of the votes needed to elect the majority of the directors of a joint stock company;

(2) to hold more than 50% of the votes needed to make decisions pertaining to a general partnership or a limited partnership;

“subsidiary” means a company controlled by a parent company directly or through its subsidiaries;

“group” means the group formed by a parent company and its subsidiaries;

“company” means a joint stock company, a general partnership or a limited partnership;

“parent company” means a cooperative under the Cooperatives Act (R.S.Q., c. C-67.2) or a company that is not a subsidiary and that directly or through its subsidiaries, controls each of the companies forming a group.”.

* The Regulation respecting retrospective adjustment of the assessment adopted by the Commission de la santé et de la sécurité du travail by Resolution A-85-98 of September 17, 1998 (1998, *G.O.* 2, 5470) was last amended by the Regulation amending the Regulation respecting the retrospective adjustment of the assessment adopted by the Commission by Resolution A-48-02 of September 19, 2002 (2002, *G.O.* 2, 5347). For previous amendments, refer to the “Tableau des modifications et Index sommaire”, Éditeur officiel du Québec, 2004, updated to March 1, 2004.

6. Sections 35 and 36 of the Regulation are hereby amended by deleting the words “preceding year” in the first paragraph.

7. Section 44 of the Regulation is hereby amended by adding the following paragraphs after the first paragraph:

“Should the aforementioned employers fail to file the certificate referred to in the first paragraph within the prescribed period, the Commission shall appoint an auditor for the purpose of filing the aforementioned certificate.

The expenses incurred by the Commission for the aforementioned purpose shall be apportioned *pro rata* among the employers of the group according to the insurable wages earned for the assessment year by the workers of each employer and shall be added to the factors taken into account in determining the adjusted assessment of each employer in accordance with section 20.”.

8. The second paragraph of section 34, section 38, the first paragraph of section 40, the fifth and sixth paragraphs of section 43 and section 44 of the Regulation are hereby amended by replacing the words “legal person” by the word “company”.

9. The Regulation is hereby amended by replacing the title of Divisions II of Chapter VI by the following:

“SECOND-LEVEL PARENT COMPANIES
AND THEIR SUBSIDIARIES”.

10. Section 47 of the Regulation is replaced by the following:

“47. In this Division,

“control” means to hold, other than as a creditor, shares representing more than 50% of the votes needed to elect the majority of the directors of a company;

“subsidiary” means a company controlled directly or through its subsidiaries by the second-level parent company;

“group” means a group as defined in section 32;

“company” means a joint stock company;

“parent company” means a parent company as defined in section 32;

“second-level parent company” means a company that is controlled directly by a parent company and that controls, either directly or through its subsidiaries, each of the companies forming a subgroup;

“subgroup” means the group formed by a second-level parent company and its subsidiaries;

“residual subgroup” means the group formed by the parent company and the companies that it controls directly or indirectly and that are not part of a subgroup.”.

11. The Regulation is hereby amended as follows:

(1) in the first paragraph of section 51, in the first paragraph of section 52, in section 53, in section 54, in the first, third and fourth paragraphs of section 55, in subsections (2), (3) and (4) of section 56, in the fourth, fifth and sixth paragraphs of section 57, in section 59, in the first and third paragraphs of section 60, in the first paragraph of section 61, in the first and second paragraphs of section 62, in the first paragraph of section 63, in section 64, in the first and second paragraphs of section 65, in the first and second paragraphs of section 69, in section 70 and in Schedules 4 and 5, by replacing the words “legal person” by the word “company”;

(2) in subsection (3) of section 56 and in section 70, by replacing the words “legal persons” by the word “companies”.

12. The Regulation is hereby amended by replacing Schedule 3 by the following:

SCHEDULE 3

(s. 35)

SECURITY**APPEARING:**

_____ (*Name and address of the parent company if it is an employer*), herein represented by _____, duly authorized to represent the company pursuant to the document attached hereto if such company is a limited partnership or a general partnership or, if it is a joint stock company or a cooperative, duly authorized pursuant to a resolution of its board of directors, which resolution is attached hereto;

_____ (*Name and address of the employer*), herein represented by _____ who is duly authorized to represent the employer pursuant to the document attached hereto if such employer is a limited partnership or a general partnership, or if it is a joint stock company, duly authorized pursuant to a resolution of its board of directors, which resolution is attached hereto;

(*Indicate the name and address of every employer in the group as well as the name of the duly authorized person*)

DECLARING AS FOLLOWS:

The above companies represented herein are hereby bind themselves solidarily towards the Commission de la santé and de la sécurité du travail to pay the assessment, up to 50% of the amount corresponding to the aggregate products obtained by multiplying the estimated insurable wages for the assessment year for each employer in the group by the risk-related portion of the rate applicable to the employer for the year related thereto pursuant to section 305 of the Act and any interest owing to the Commission, for the _____ assessment year, if any party hereto fails to pay the assessment or a penalty or interest pertaining to that assessment year within the period prescribed by the Act.”

An employer who ceases to form part of a group remains bound by the security for the assessment relating to the part of the year during which it formed part of the group.

Where an employer is unable to stand surety for another member of the group because its constituting statute prohibits it from so doing, it must indicate below the name of the member of the group thus affected:

(*Name of the employer*) is unable to stand surety for (*Name of the member of the group*).

(*Name of the employer*) is unable to stand surety for (*Name of the member of the group*).

The parties also hereby renounce to the benefits of discussion and of division.

IN WITNESS WHEREOF, the parties, by their duly authorized representatives, have signed this document:

(*Name of the employer*)

Per:

(Duly authorized person)

(Date)

(*Name and signature of the other employers, if applicable*)

13. For the 2005 assessment year, where at least one employer that forms part of a group is a general partnership or a limited partnership, the application from the group provided for in section 33 must be filed by November 30, 2004, and is irrevocable as of January 1, 2005.

14. This Regulation comes into force on the date of publication thereof in the *Gazette officielle du Québec*, and shall apply as if the 2005 assessment year.

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