Draft Regulations

Draft Regulation

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

Automotive Services
— Lanaudière-Laurentides
— Amendments

Notice is hereby given in accordance with section 5 of the Act respecting collective agreement decrees (R.S.Q., c. D-2), that the Minister of Labour has received an application from the contracting parties to amend the Decree respecting the automotive services industry in the Lanaudière-Laurentides regions (R.R.Q., 1981, c. D-2, r.44) and that, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), the Decree to amend the Decree respecting the automotive services industry in the Lanaudière-Laurentides regions, the text of which appears below, may be made by the Government on the expiry of the 45 days following this publication.

The main purpose of this draft Regulation is to render compatible with the Act respecting Labour Standards, the provisions of this Decree, which became null and void on the coming into force of the new provisions of the Act on 1 May 2003. This draft Regulation also proposes to add to the Decree certain provisions of the Act in order to transfer the application to the Comité paritaire de l'industrie de l'automobile des régions Lanaudière-Laurentides.

To that end, the draft Regulation proposes to amend or to introduce provisions concerning, notably, the definition of spouse, work attendance, weekly rest periods, meal periods, recall to work, refusal to work overtime, holiday indemnities, annual leaves, family leaves, payment of wages, wage deductions, gratuities or tips, and travelling expenses.

The consultation period shall serve to clarify the impact of the amendments proposed. According to the 2003 annual report of the Comité paritaire de l'industrie de l'automobile des régions Lanaudière-Laurentides, this Decree covers 1 007 employers, 522 artisans and 5 091 employees.

Further information may be obtained from Ms. Annie Harvey, Direction des politiques, de la construction et des décrets, Ministère du Travail, 200, chemin Sainte-Foy, 6e étage, Québec (Québec) G1R 5S1; telephone: (418) 646-2446; fax: (418) 528-0559; e-mail: annie.harvey@travail.gouv.qc.ca

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

JEAN-PAUL BEAULIEU,
Deputy Minister of Labour

Decree to amend the Decree respecting the automotive services industry in the Lanaudière-Laurentides regions*

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

1. Section 1.01 of the Decree respecting the automotive services industry in the Lanaudière-Laurentides regions is amended by replacing subparagraphs *a* and *b* of paragraph 6 with the following:

"*(a)* are married or in a civil union and cohabiting;

(b) being of opposite sex or the same sex, are living together in a *de facto* union and are the father and mother of the same child;".

2. Sections 3.03 to 3.05 are replaced by the following:

"**3.03.** An employee is deemed to be at work in the following situations:

1. while available to the employer at the place of employment and required to wait for work to be assigned;

2. subject to paragraph 2 of section 3.04, during the time allocated for breaks granted under the Act, the Decree or by the employer;

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* The last amendments to the Decree respecting the automotive services industry in the Lanaudière-Laurentides regions (R.R.Q., 1981, c. D-2, r.44) were made by the regulation made under Order in Council No. 102-2003 dated 29 January 2003 (2003, *G.O.* 2, 906). For previous amendments, refer to the *Tableau des modifications et Index sommaire,* Éditeur officiel du Québec, 2004, updated to 1 September 2004.

3. when travel is required by the employer;

4. during any trial period or training required by the employer.

3.04. An employee is entitled:

1. to a weekly minimum rest period of 32 consecutive hours;

2. to one hour of rest without pay for meals and the employer may not oblige the employee to work more than five consecutive hours between each meal; however, this meal period must be paid when the employee is not authorized to leave his work station;

3. except in the case of an event beyond his control, to an indemnity equal to three hours of work at his prevailing hourly rate and, if such is the case, increased due to the application of section 4.01, if the employee reports for work at the express demand of his employer or in the regular course of his employment and who works fewer than three consecutive hours.

3.05. An employee is entitled to refuse to work:

1. more than 4 hours after his regular daily working hours or more than 14 working hours per 24-hour period, whichever period is the shortest;

2. more than 12 hours per 24-hour period if his daily working hours are flexible or non-continuous;

3. more than 50 working hours per week.".

3. The title of Division 4.00 is replaced by the following:

"**4.00**. **Overtime hours and night-shift premium**".

4. Section 5.00 is repealed.

5. Sections 6.01 to 6.07 are replaced by the following:

"**6.01.** The following days are statutory general holidays:

1. 1 and 2 January;

2. Good Friday or Easter Monday, at the option of the employer;

3. the Monday preceding 25 May;

4. 1 July or, if this date falls on a Sunday, 2 July;

5. the first Monday of September;

6. the second Monday of October;

7. 25 and 26 December.

6.02. To be entitled to a holiday provided in section 6.01, the employee must not have been absent from work on the first working day of his work schedule preceding or following the holiday, except if:

1. the absence of the employee is authorized by an act or by the employer or is for a valid reason and the employee does not receive any indemnity for the holiday from the Commission de la santé et de la sécurité du travail;

2. the employee has been laid off for at least 30 days preceding or following the holiday.

6.03. For each statutory general holiday, the employer must pay the employee an indemnity equal to 1/20 of the wages earned during the four complete weeks of pay preceding the week of the holiday, or preceding the layoff of the employee, excluding overtime hours.

6.04. If an employee must work on one of the general holidays provided for in section 6.01, the employee is remunerated for the hours worked at his prevailing rate, in addition to the indemnity provided in section 6.03.

6.05. If a general holiday provided for in section 6.01 coincides with a non-working day, the general holiday may be taken within the 15 days preceding or following the general holiday, on the condition that an agreement has been reached between the employer and the employee on the day when the general holiday is to be taken.

6.06. If an employee is on annual leave on one of the general holidays provided for in section 6.01, the employer must pay the employee 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.

6.07. St. John the Baptist's Day is a statutory general holiday under the National holiday Act (R.S.Q., c. F-1.1).".

6. Section 7.03 is amended by replacing the third paragraph with the following:

"Where the employee so requests, he is also entitled to an additional annual leave without pay for a period equal to the number of days needed to bring his annual leave to three weeks.

This annual leave without pay may not be continuous to that provided in the first paragraph and may not be divided or replaced by a compensating indemnity.".

7. Section 7.05 is amended by replacing the second paragraph by the following:

"However, under a written agreement between the employer and the employee, the annual leave may be taken, entirely or partly, during the reference year.

If, at the end of the 12 months that follow the end of a reference year, the employee is absent owing to sickness or accident, or is absent or on leave for family or parental matters, in accordance with the Act respecting Labour Standards, the annual leave may be deferred, upon written agreement between the employer and the employee, to the following year. If there is no agreement for deferring the annual leave, the employer must then pay the employee the annual leave indemnity to which he is entitled.

A period of employment insurance, sickness, or disability, interrupted by a leave taken in accordance with this section, continues, if such is the case, after the leave, as if it had not been interrupted.".

8. The Decree is amended by adding the following after section 7.11:

"**7.12.** An employer may not reduce the duration of the employee's annual leave mentioned in section 9.10.1 or modify the calculation of the indemnity for the leave, with respect to that granted to the other employees who do the same tasks in the same establishment, for the sole reason that he generally works less hours per week.".

9. Section 8.04 is amended:

1. by inserting, in the first paragraph, after the words "wedding day", the words "or his civil union";

2. by inserting, in the second paragraph, after the words "wedding day", the words "or day of the civil union".

10. Section 8.05 is amended:

1. by substituting, in the first paragraph, the words " the adoption of a child or the termination of pregnancy in or after the twentieth week of pregnancy", for the words "or the adoption of a child";

2. by adding, in the second paragraph, after the words "or mother", the words "or, if such is the case, the termination of pregnancy".

11. The Decree is amended by adding the following after section 8.05:

"**8.06.** An employee may be absent from work, without pay, for ten days a year to fulfil obligations relating to the care, health or education of the employee's child or the child of the employee's spouse, or because of the state of health of the employee's spouse, father, mother, brother, sister or one of the employee's grandparents.

The leave may be divided into days. A day may also be divided if the employer consents thereto.

The employee must advise his employer of his absence as soon as possible and take the reasonable steps within his power to limit the leave and its duration.

8.07. An employee who has three consecutive months of service may be absent from work without pay for a period of not more than 26 weeks over a 12-month period for sickness or accident.

However, this section does not apply if the occupational injury is within the meaning of the Act respecting industrial diseases and occupational accidents (R.S.Q., c. A-3.001).

8.08. In the case mentioned in section 8.07, the employee must advise his employer of his absence as soon as possible and the reasons for the absence.

8.09. An employee's participation in the group insurance and pension plans recognized in the employee's place of employment shall not be affected by the absence from work provided in section 8.07, subject to regular payment of the contributions payable under those plans, the usual part of which is paid by the employer.

8.10. At the end of the absence mentioned in section 8.07, the employer shall reinstate the employee in the employee's former position with the same benefits, including the wages to which the employee would have been entitled had the employee remained at work. If the position held by the employee no longer exists when the employee returns to work, the employer shall recognize all the rights and privileges to which the employee would have been entitled if the employee had been at work at the time the position ceased to exist.

Nothing in the first paragraph shall prevent an employer from dismissing, suspending or transferring an employee if the consequences of the sickness or accident or the repetitive nature of the absences constitute good or sufficient cause depending on the circumstances.

8.11. If the employer makes dismissals or layoffs that would have included the employee had the employee remained at work, the employee retains the same rights with respect to a return to work as the employees who were dismissed or laid off.

8.12. This section shall not grant to an employee any benefit to which the employee would not have been entitled if the employee had remained at work.

8.13. An employee who is credited with three months of uninterrupted service may be absent from work, without pay, for a period of not more than 12 weeks over a period of 12 months where he must stay with his child, spouse, the child of his spouse, his father, mother, brother, sister or one of his grandparents because of a serious illness or a serious accident.

An employee must advise the employer as soon as possible of an absence from work and, at the employer's request, furnish a document justifying the absence.

However, if a minor child of the employee has a serious and potentially mortal illness, attested by a medical certificate, the employee is entitled to an extension of the absence, which shall end at the latest 104 weeks after the beginning thereof. Section 8.09, the first paragraph of section 8.10 and sections 8.11 and 8.12 apply, with the necessary modifications to the employee's absence.".

12. Section 9.02 is amended by substituting, in the third paragraph, the words "written agreement with the majority of", for the words "agreement with his".

13. Section 9.07 is replaced by the following:

"**9.07.** An employer may make deductions from wages only if he is required to do so pursuant to an act, a regulation, a court order, a collective agreement, a decree or a mandatory supplemental pension plan.

The employer may also make deductions from wages if the employee consents thereto in writing, for a specific purpose mentioned in the writing.

The employee may at any time revoke that authorization, except where it pertains to membership in a group insurance plan or a supplemental pension plan.

The employer shall remit, within the 30 days, the sums so withheld to their intended receiver.".

14. Section 9.08 is amended:

1. by substituting, in the second sentence, the words "entirely to the employee who rendered the service," for the words "to the employee";

2. by adding, at the end, the following paragraphs:

"The employer may not impose an arrangement to share gratuities or tips. Nor may the employer intervene, in any manner whatsoever, in the establishment of an arrangement to share gratuities or tips. Such an arrangement must result solely from the free and voluntary consent of the employees entitled to gratuities or tips.

An employer may not require an employee to pay credit card costs.".

15. The Decree is amended by adding, after section 9.10, the following:

"**9.10.1.** An employer may not remunerate an employee at a lower rate of wage than that granted to other employees performing the same tasks in the same establishment for the sole reason that the employee usually works less hours each week.

The first paragraph does not apply to an employee remunerated at a rate of pay which is more than twice the rate of the minimum wage.".

16. Section 10.01 is amended by inserting, in the third paragraph, after the word "null", the words "absolute nullity".

17. Section 10.02 is amended by substituting, in subparagraph 4, the words "of an event beyond his control", for the words "of a fortuitous event."

18. Section 10.03 is amended by adding, at the end, the following paragraphs:

"The indemnity of the employee paid wholly or partly on commission is based on his average weekly wage during the complete pay periods included in the three months preceding the employee's termination of employment or layoff.

The compensating indemnity provided for in section 84.0.13 of the Act respecting Labour Standards, in case of a collective dismissal, may not be cumulated by a same employee. However, an employee shall receive the greater of the indemnities to which he is entitled.".

19. Section 12.01 is replaced by the following:

"**12.01.** Where an employer requires the employee to wear a uniform or special clothing, identified or not with the employer's establishment, such uniform or clothing must be supplied at no cost to the employee.

The employer cannot require an amount of money from an employee for the purchase, use or upkeep of the uniform or special clothing.

12.02. An employer is required to reimburse an employee for reasonable expenses incurred where, at the request of the employer, the employee must travel or undergo training.".

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

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Draft Regulation

Cooperatives Act
(R.S.Q., c. C-67.2; 2003, c. 18)

Regulation

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Regulation under the Cooperatives Act, the text of which appears below, may be made by the Government on the expiry of 45 days following this publication.

The draft Regulation is consequential to the enactment of the Act to amend the Cooperatives Act (2003, c. 18), assented to on 18 December 2003. It harmonizes the regulatory requirements for non-financial cooperatives with the provisions of that Act, significantly reduces the administrative burden associated with the required forms and notices and simplifies the administrative requirements regarding the legal publicity of cooperatives.

Further information may be obtained by contacting Guylaine Morin, Direction des coopératives, Ministère du Développement économique et régional et de la Recherche, 710, place D'Youville, 7e étage, Québec, G1R 4Y4; telephone: (418) 691-5978.

Any interested person having comments to make on the matter is asked to send them in writing, before the expiry of the 45-day period, to Lise Jacob, Director, Direction des coopératives, Ministère du Développement économique et régional et de la Recherche, 710, place D'Youville, 7e étage, Québec, G1R 4Y4.

MICHEL AUDET,
Minister of Economic and Regional Development and Research

Regulation under the Cooperatives Act

Cooperatives Act
(R.S.Q., c. C-67.2, ss. 128.1, 131, 135, 139, 141, 211.5, 244, pars. 1, 3, 6, 7, 8 and 11, and 280; 2003, c. 18, ss. 70, 106, 142 and 162)

CHAPTER I
NAME

1. In addition to one of the appropriate terms or expressions referred to in sections 16, 221.6.1, 221.7 and 226.2 of the Act, the name of a cooperative must contain a word or expression indicating its cooperative object and a distinctive feature.

2. The distinctive feature of a cooperative's name may not consist solely of numbers or initials.

3. The name of a cooperative, a federation or a confederation may not contain

(1) the name of a living person, without the person's written consent; or

(2) the name of a deceased person, without the written consent of the person's legal heirs or legal representative.

CHAPTER II
FORM AND CONTENT OF FINANCIAL STATEMENTS

4. The annual financial statements of a cooperative whose revenues were less than $250,000 in the fiscal year preceding the appointment of the auditor must be prepared so as to disclose the applicable information prescribed by Schedule I.

5. Except for the cooperatives to which section 4 applies, the annual financial statements of a cooperative, a federation or a confederation must be prepared in accordance with current standards of the Canadian Institute of Chartered Accountants, as set out in the CICA Handbook, subject to the provisions of this Chapter.

6. The financial statements must be adapted to the special features of a cooperative undertaking as follows:

(1) any rebates allotted in the form of loans must be the last item under the heading "Liabilities"; that heading must be followed by the heading "Equity", subdivided into a "Participating Preferred Shares" section, a "Members' Equity" section and an "Equity of the Cooperative, Federation or Confederation" section, as the case may be;