

Regulations and other acts

Gouvernement du Québec

O.C. 1253-2005, 21 December 2005

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

Agreement on the professional dance training program — Implementation

CONCERNING the Regulation respecting the implementation of the agreement on the professional dance training program

WHEREAS pursuant to section 16 of the Act respecting industrial accidents and occupational diseases (R.S.Q., c. A-3.001), a person doing work under a project of any government, whether or not the person is a worker within the meaning of the Act, may be considered 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 de la santé et de la sécurité du travail and the government, agency or legal person concerned;

WHEREAS the Commission de la santé et de la sécurité du travail and the Minister of Culture and Communications entered into such an agreement whereby persons are considered to be workers where, in order to maintain their professional skills, they engage in training activities as part of a professional dance training program contemplated in the agreement, and such training is not provided for in an employment contract;

WHEREAS pursuant to section 170 and subsection 39 of the first paragraph of section 223 of the Act respecting occupational health and safety (R.S.Q., c. S-2.1), the Commission can, by regulation, take the measures necessary for the implementation of such an agreement;

WHEREAS, pursuant to sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1) and to section 224 of the Act respecting occupational health and safety, a draft Regulation was published in Part 2 of the *Gazette*

officielle du Québec on September 28, 2005, with notice that on the expiry of 45 days from its publication, it would be adopted by the Commission and submitted to the Government for approval;

WHEREAS no comments have been received by the Commission;

WHEREAS at its meeting of November 15, 2005, the Commission adopted, without amendment, the Regulation respecting the implementation of the agreement on the professional dance training program;

WHEREAS it is expedient to approve the Regulation;

IT IS ORDERED, therefore, on the recommendation of the Minister of Labour:

THAT the Regulation respecting the implementation of the agreement on the professional dance training program, appended to this Order in Council, be approved.

ANDRÉ DICAIRE,
Clerk of the Conseil exécutif

Regulation respecting the implementation of the agreement on the professional dance training program

An Act respecting occupational health and safety
(R.S.Q., c. S-2.1, s. 170 and 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 the professional dance training program to the extent and on the conditions provided in the agreement entered into by the Minister of Culture and Communications and the Commission de la santé et de la sécurité du travail appearing in 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 1

AGREEMENT BETWEEN

THE MINISTER OF CULTURE AND
COMMUNICATIONS

AND

THE COMMISSION DE LA SANTÉ ET
DE LA SÉCURITÉ DU TRAVAIL

WHEREAS, under section 1 of the Act respecting the Ministère de la Culture et des Communications (R.S.Q., c. M-17.1), the Minister of Culture and Communications shall have charge of the direction of the Ministère de la Culture et des Communications;

WHEREAS, under section 10 of that Act, the Minister shall perform duties in the field of heritage, the arts, literature and cultural industries and the Minister's duty in those fields is to support primarily activities of creation, animation, production, promotion, diffusion, training, research and conservation and to contribute to their development;

WHEREAS, under section 11 of that Act, the Minister shall develop a cultural policy having for object, in particular, to foster the development of artistic creation and, in the development of the cultural policy, shall ensure the cooperation of the government departments and bodies or agencies concerned;

WHEREAS the Minister has published an action plan entitled *Pour mieux vivre de l'art* to improve the socio-economic conditions of artists, providing particularly for the protection of dancers during training activities not covered in an employment contract;

WHEREAS, under section 138 of the Act respecting occupational health and safety (R.S.Q., c. S-2.1), the Commission de la santé et de la sécurité du travail is a legal person;

WHEREAS the Minister requests that the Act respecting industrial accidents and occupational diseases (R.S.Q., c. A-3.001) be applicable to workers covered by the Agreement and the Minister 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 a government, whether or not the person is a worker, may be considered to be a worker employed by that government, by a body or by a

legal person, on the conditions and to the extent provided by an agreement between the Commission and the government, body or legal person concerned;

WHEREAS section 16 of that Act provides that the second paragraph of section 170 of the Act respecting occupational health and safety applies to such an agreement; the Commission must accordingly make a regulation to give effect to an agreement extending benefits arising out of Acts and regulations administered by the Commission;

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 (R.S.Q., c. A-3.001), (the Act).

CHAPTER 2.00 PURPOSES

Purposes 2.01 The purposes of this Agreement is to provide to what extent and on what conditions the Act is to apply to the workers and to determine the respective obligations of the Minister of Culture and Communications and the Commission de la santé et de la sécurité du travail.

CHAPTER 3.00 DEFINITIONS

For the purposes of this Agreement,

“employment” (a) “employment” means the employment of a worker as an interpreter in an artistic dance production;

“employment injury” (b) “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;

“worker” (c) “worker” means a person who, under the program appearing in the Schedule, performs training activities not included in an employment contract for the purpose of maintaining professional competencies. These activities must be structured and supervised by a qualified professional and they do not include activities performed at home, in gymnasia or fitness centres.

CHAPTER	4.00	MINISTER'S OBLIGATIONS	Annual statement	4.06	Each year before 15 March, the Minister shall send the Commission a statement indicating
Employer	4.01	The Minister is deemed to be the employer of any worker covered by this Agreement.			(1) the amount of gross wages deemed paid to the workers during the preceding calendar year; and
Restrictions		Despite the foregoing, the employer-employee relationship shall be recognized as such only for the purposes of compensation, 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.			(2) an estimate of gross wages that will be deemed paid to the workers during the current calendar year.
			Register	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.
Exclusions		The workers covered by this Agreement are neither employees, public servants or officers of the Gouvernement du Québec, including the Ministère de la Culture et des Communications.	Description of programs	4.08	The Minister shall send the Commission, on the coming into force of this Agreement, a description of the program appearing in the Schedule.
General obligations	4.02	As the employer, the Minister is bound by all the obligations imposed by the Act, with the necessary modifications, including the obligation to keep a register of occupational accidents.	New programs or amendment		Any subsequent amendment to the program appearing in the Schedule shall also be sent so as to determine whether it should remain under this Agreement.
Register of accidents		However, the Minister is required to put the register at the disposal of the Commission only.	CHAPTER	5.00	COMMISSION'S OBLIGATIONS
Information		Upon request by the Commission, the Minister shall send a description of the activities performed by the worker when the employment injury occurred.	Worker status	5.01	The Commission shall consider a worker covered by this Agreement as a worker within the meaning of the Act.
Exceptions	4.03	Despite section 4.02, section 32 of the Act concerning the dismissal, suspension or transfer of a worker, discriminatory measures or reprisals, sections 179 and 180 concerning temporary assignment and Chapter VII concerning the right to return to work do not apply to the Minister.	Indemnity	5.02	A worker suffering 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 the employment by reason of the injury.
First aid		The Minister shall see that first aid is given to a worker suffering an employment injury, in accordance with sections 190 and 191 of the Act, and pay the related costs.	Payment		Despite section 60 of the Act, the Commission shall pay that worker the income replacement indemnity to which the worker is entitled.
Payment of assessment	4.04	The Minister undertakes to pay the assessment determined by the Commission as well as the fixed administration expenses related to each financial envelope.	Computation of indemnity	5.03	For the purposes of computing the income replacement indemnity, the worker's annual gross income is the income determined on the basis of the minimum wage provided for in section 3 of the Regulation respecting labour standards (R.R.Q., 1981, c. N-1.1, r.3) and the regular workweek provided for in section 52 of the Act respecting labour standards (R.S.Q., c. N-1.1), as they read on the day they must be applied when the employment injury occurs.
Assessment	4.05	For assessment purposes, the Minister is deemed to pay to each worker annual gross wages, rounded to the next highest multiple of one hundred dollars, established on the basis of the minimum wage in effect on 31 December of the year in which the training activities are performed.	Financial envelope	5.04	Upon request by the Minister, the Commission shall allocate a specific financial envelope to the program covered by this Agreement.

Program referred to		The program shall be classified in the unit of operation "Operating a television station; producing or distributing motion pictures or other audio and video material; operating a motion picture or a drive-in theatre; operating an orchestra, a discomobile, a singing group, a theatre company or a theatrical agency; leasing or renting halls; installing equipment for social dances" or subsequent amendments made to that unit of operation following the signing of this Agreement, in a unit corresponding to those program activities.	Terms		It shall remain in force until 31 December 2006.
			Tacit renewal	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.
			Amendments	7.03	In the latter case, the notice shall include the amendments that the party intends to make.
Applicable rate	5.05	The Commission shall determine for the program appearing in the Schedule either the specific assessment rate of the unit in which the program is classified, or a personalized assessment rate, provided in the latter case that the Minister satisfies the conditions set out in the Act and its regulations for each assessment year.	Renewal		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.
CHAPTER	6.00	MISCELLANEOUS	CHAPTER	8.00	AMENDMENT AND TERMINATION OF THE AGREEMENT
Follow-up	6.01	Both the Commission and the Minister shall each designate, within 15 days of the coming into force of this Agreement, a person responsible for the follow-up.	Default	8.01	If the Minister fails to respect any of the Minister's obligations, the Commission may ask the Minister to remedy the default within the time set by the Commission. If the situation is not remedied within the prescribed time, the Commission may terminate this Agreement unilaterally, upon written notice.
Addresses of notices	6.02	Any notice required by this Agreement shall be sent to the Commission or Minister at the following addresses: (a) Le Secrétaire de la Commission Commission de la santé et de la sécurité du travail 1199, rue De Bleury, 14 ^e étage Montréal (Québec) H3C 4E1; (b) Le Secrétaire du Ministère Ministère de la Culture et des Communications 225, Grande Allée Est, Bloc C, 1 ^{er} étage Québec (Québec) G1R 5G5.	Date	8.02	The Agreement shall then be terminated on the date on which the written notice is sent.
			Financial adjustments	8.03	In the event of termination, the Commission shall make the financial adjustments taking into account the amounts payable under this Agreement.
			Amount due		Any amount due following those financial adjustments shall be payable on the due date specified on the notice of assessment.
CHAPTER	7.00	COMING INTO FORCE, TERM AND TERMINATION	Common agreement	8.04	The parties may amend or terminate this Agreement at any time if they both agree thereto.
Effective date	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 and subparagraph 39 of the first paragraph of section 223 of the Act respecting occupational health and safety.	Damages	8.05	In the event of termination, neither party may be required to pay damages, interest or any other form of indemnity or fees to the other party.

IN WITNESS WHEREOF, the parties have signed

at Québec on this 12th day of
December, 2005

at Québec on this 9th day of
December, 2005

GÉRALD GRANDMONT,
Assistant Deputy Minister
for: CHRISTIANE BARBE,
Deputy Minister
Ministère de la Culture et
des Communications

GÉRARD BIBEAU,
Chair of the Board of Directors
and Chief Executive Officer
Commission de la santé et de la
sécurité du travail

SCHEDULE TO THE AGREEMENT

Program governed by the Agreement

— Professional dance training program.

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Gouvernement du Québec

O.C. 1254-2005, 21 December 2005

Worker's Compensation Act
(R.S.Q., c. A-3)

Table of indemnities payable for 2006

CONCERNING the Regulation respecting the table of indemnities payable for 2006 under the Worker's Compensation Act

WHEREAS, pursuant to paragraph *d* of section 124 of the Worker's Compensation Act (R.S.Q., c. A-3), the Commission de la santé et de la sécurité du travail may make regulations respecting the matters referred to therein;

WHEREAS, pursuant to sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1) and section 125 of the Worker's Compensation Act, a draft regulation appended to the Decree was published in Part 2 of the *Gazette officielle du Québec* of September 21, 2005, with notice that at the expiry of 45 days from the date of publication, it would be adopted by the Commission, with or without amendments, and submitted to the Government for approval;

WHEREAS the Commission adopted the Regulation respecting the table of indemnities payable for 2006 under the Worker's Compensation Act, with amendments, at its November 15, 2005 session;

WHEREAS the aforementioned amendments are notably related to the coming into force of an amendment to section 2 of the Worker's Compensation Act pursuant to section 74 of the Act amending the Act respecting parental insurance and other legislative provisions (2005, c. 13) which provides that the contribution payable by a worker to the parental insurance plan is to be taken into account in calculating his weighted net income;

WHEREAS the aforementioned amendments should normally be published in the *Gazette officielle du Québec*, as required by section 8 of the Regulations Act;

WHEREAS, pursuant to sections 12 and 18 of the Regulations Act, a proposed regulation may be approved without having been published as provided for in section 8 of that Act and may come into force within a shorter period than that provided for in section 17 of the same Act where the authority approving it is of the opinion that the urgency of the situation requires it and that the reason justifying the absence of prior publication and such coming into force are published with the regulation as required by sections 13 and 18 of that Act;

WHEREAS in the opinion of the Government, there is just such an urgency due to the following circumstances:

— Government Decree number 984-2005 providing for the coming into force on January 1, 2006 of section 74 of the Act amending the Act respecting parental insurance and other legislative provisions was adopted by the Government on October 19, 2005;

— The aforementioned section amends the Worker's Compensation Act so that the contribution payable by a worker to the parental insurance plan is to be taken into account in calculating his weighted net income;

— The Commission was unable to adopt the aforementioned Regulation taking into account the aforementioned amendment before November 15, 2005;

— It is imperative that the aforementioned Regulation come into force in early 2006 so that the Commission can fix the indemnities payable under the Worker's Compensation Act, which would be impossible if the formalities of consultation and coming into force provided for in the Regulations Act were to be complied with;

WHEREAS, it is appropriate to approve the Regulation;

IT IS ORDERED, therefore, on the recommendation of the Minister of Labour: