Draft Regulations

Notice

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

**Automotive services – Montréal
— Amendments**

Notice is hereby given, under section 5 of the Act respecting collective agreement decrees (R.S.Q., c. D-2), that the Minister of Labour has received, from the contracting parties, a petition for him to amend the Decree respecting the automotive services industry in the Montréal region (R.R.Q., 1981, c. D-2, r.46) and that, under 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 Montréal region, the text of which appears below, may be made by the Government on the expiry of a 45-day period following this publication.

The purpose of the draft Decree is to harmonize certain provisions of the Decree with the new major provisions of the Act respecting labour standards (R.S.Q, c. N-1.1) and with those amended by the Act to amend the Act respecting labour standards and other legislative provisions (2002, c. 80). The draft Decree also aims to increase the hourly wage rates for each trade of the Comité paritaire de l'industrie de l'automobile de la région de Montréal.

To do so, the draft Decree proposes to amend or introduce provisions, notably with regard to the definition of spouse, the definition of week, the weekly rest period, work attendance, refusal to work, indemnity for holidays, annual leave, special leaves and absences, deductions from wages, gratuities and tips and compulsory uniforms. The signatories to the petition also propose separate wage increases for each trade division for the first year, as well as an increase of about 5% for the second year and 4% for the third year. Finally, further to the municipal amalgamations, the territorial scope has been defined.

During the consultation period, the impact of the amendments sought will be clarified. According to the 2005 annual report of the Comité paritaire de l'industrie de l'automobile de la région de Montréal, the Decree governs 2,524 employers, 542 artisans and 13,517 employees.

Further information may be obtained by contacting Ms. Annie Harvey, Direction des données sur le travail et des décrets, ministère du Travail, 200, chemin Sainte-Foy, 5e étage, Québec (Québec) G1R 5S1, telephone: 418 646-2446, fax: 418 644-6969, e-mail: annie.harvey@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, 6e étage, Québec (Québec) G1R 5S1.

JULIE GOSSELIN,
Deputy Minister of Labour

Decree to amend the Decree respecting the automotive services industry in the Montréal region*

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

1. Section 1.01 of the Decree respecting the automotive services industry in the Montréal region is amended by replacing paragraphs 6 and 21 by the following:

"(6) "spouse": either of two persons who:

(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;

(c) are of opposite sex or the same sex and have been living together in a *de facto* union for one year or more;";

"(21) "week": a period of seven consecutive days from midnight at the beginning of a particular day to midnight at the end of the seventh day, according to the weekly pay period set by the employer and entered in the employer's registration system;".

* The Decree respecting the automotive services industry in the Montréal region (R.R.Q., 1981, c. D-2, r.46) was last amended by the Regulation made by Order in Council No. 889-2001 dated 4 July 2001 (2001, *G.O.* 2, 4008). For previous amendments, please refer to the *Tableau des modifications et Index sommaire*, Éditeur officiel du Québec, 2006, updated to 1 April 2006.

2. Section 2.02 is replaced by the following:

"**2.02.** Territorial scope: This Decree applies to employees and employers exercising their trade or having their establishment on the territory of the following municipalities: Baie-d'Urfé, Beaconsfield, Boucherville, Brossard, Candiac, Châteauguay, Côte-Saint-Luc, Delson, Dollard-des-Ormeaux, Dorval, Hampstead, L'Île Dorval, L'Île Perrot, Kirkland, La Prairie, Laval, Longueuil, Montréal, Montréal-Est, Montréal-Ouest, Mont-Royal, Notre-Dame-de-l'Île-Perrot, Pincourt, Pointe-Claire, Saint-Constant, Saint-Lambert, Sainte-Anne-de-Bellevue, Sainte-Catherine, Senneville, Terrasse-Vaudreuil, Varennes, Vaudreuil-Dorion and Westmount.".

3. Section 3.01 is amended:

(1) by inserting the words "in the same week" after the word "days" in paragraph 3;

(2) by inserting the words "in the same week" after the word "days" in paragraph 4.

4. Section 3.04 is replaced by the following:

"**3.04.** An employee is deemed to be at work in the following cases:

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

(2) subject to section 3.03, during the break periods granted by the Act, the Decree and the employer;

(3) when travel is required by the employer;

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

5. Section 3.05 is amended by replacing the number "24" by the number "32".

6. The following is added after section 3.05:

"**3.06.** An employee may refuse to work

(1) more than four hours after regular daily working hours or more than 14 working hours per 24 hour period, whichever period is the shortest or;

(2) for an employee whose daily working hours are flexible or non-continuous, more than 12 working hours per 24 hour period;

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

7. Section 5.02 is revoked.

8. The paragraph following the title of section 6.00 is struck out.

9. Section 6.01 is replaced by the following:

"**6.01.** The following days are statutory general holidays, regardless of the day of the week with which they coincide:

(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 2 July where the 1st falls on a Sunday;

(5) the first Monday in September;

(6) the second Monday in October;

(7) 25 and 26 December.".

10. Section 6.02 is replaced by the following:

"**6.02.** To be entitled to a statutory general holiday provided for in section 6.01, an employee must have worked on the last working day preceding the holiday and the first working day following that holiday, unless the employee is authorized to be absent in accordance with the Decree, with the Act or by his employer, or unless he is absent for a valid reason and receives no indemnity from the Commission de la santé et de la sécurité du travail.

An employee who was laid off for less than 20 days preceding or following 1 and 2 January as well as 25 and 26 December, or for less than 48 hours preceding or following the other holidays provided for in section 6.01, is entitled to a statutory general holiday provided for in 6.01 if he worked on the last working day preceding the holiday and the first working day following it.".

11. Section 6.03 is replaced by the following:

"**6.03.** The employer must pay to an employee who is entitled to a holiday provided for in section 6.01:

(1) an indemnity equal to 1/20 of the wages earned during the four complete weeks of pay preceding the week of the holiday, excluding overtime, where the holiday coincides with a non-working day for the employee;

(2) an indemnity equal to the remuneration he would have received if he had been at work, where the holiday coincides with a working day for the employee; however, for an employee credited with less than 20 days of uninterrupted service in the undertaking, the indemnity will be calculated in accordance with the terms and conditions of subparagraph 1.

However, for an employee provided for in the second paragraph of section 6.02, the indemnity is equal to 1/20 of the wages earned during the four complete pay weeks preceding his layoff.".

12. Section 6.07 is revoked.

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

"An employee is also entitled, if he applies therefore, to an additional annual leave without pay equal to the number of days required to increase his annual leave to three weeks.

Such additional leave need not follow immediately a leave provided for in the first paragraph and, notwithstanding sections 7.07 and 7.10, it may not be divided, or be replaced by a compensatory indemnity.".

14. Section 7.06 is amended by replacing the second paragraph by the following:

"Notwithstanding the first paragraph, the employer may, at the request of the employee, allow the annual leave to be taken, in whole or in part, during the reference year.

In addition, if at the end of the 12 months following 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, the employer may, at the request of the employee, defer the annual leave to the following year. If the annual leave is not so deferred, the employer must pay the indemnity for the annual leave to which the employee is entitled.

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.".

15. Section 7.11 is amended by inserting the words "or paternity" after the word "maternity" in the first paragraph.

16. The following is added after section 7.12:

"**7.13.** No employer may reduce the annual leave of an employee or change the way in which the indemnity pertaining to it is computed, in comparison with what is 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.".

17. The title of Division 8.00 is replaced by the following:

"Absences and Special Leaves".

18. Section 8.04 is amended:

(1) by replacing the words "his wedding day" by the words "the day of his wedding or civil union" in the first paragraph;

(2) by replacing the words "the wedding day" by the words "the day of the wedding or civil union" in the second paragraph.

19. Section 8.05 is amended:

(1) by replacing the words "or the adoption of a child" by ", the adoption of a child or where there is a termination of pregnancy in or after the twentieth week of pregnancy" in the first paragraph;

(2) by adding "or a termination of pregnancy, as the case may be" at the end of the second paragraph.

20. The following are added after section 8.05:

"**8.06.** An employee may be absent from work, without pay, for 10 days per 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 the employer of his absence as soon as possible and take the reasonable steps within his power to limit the leave and the duration of the leave.

8.07. 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 26 weeks over a period of 12 months, owing to sickness or accident.

However, this section does not apply in the case of an employment injury within the meaning of the Act respecting industrial accidents and occupational diseases (A-3.001).

8.08. In the case provided for in section 8.07, an employee must advise the employer as soon as possible of an absence from work and give the reasons therefore.

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 for 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 provided for 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, in the circumstances, the consequences of the sickness or accident or the repetitive nature of the absences constitute good and sufficient cause.

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 division 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, his mother, his brother, his 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.".

21. Section 9.01 is replaced as follows:

"**9.01.** The minimum hourly wage rates are as follows:

Trades	**As of** (*enter here date of coming into force of this Decree*)	**As of** (*enter here date corresponding to 1st anniversary of coming into force of this Decree*)	**As of** (*enter here date corresponding to 2nd anniversary of coming into force of this Decree*)
Apprentice:			
1st year	$10.16	$10.67	$11.09
2nd year	$11.00	$11.55	$12.01
3rd year	$12.00	$12.60	$13.10
Journeyman:			
first class	$17.83	$18.72	$19.47
second class	$15.47	$16.24	$16.89
third class	$14.32	$15.04	$15.64
Parts clerk:			
level A	$13.56	$14.24	$14.81
level B	$12.78	$13.42	$13.96
level C	$11.43	$12.00	$12.48
level D	$11.00	$11.55	$12.01
Messenger:			
level A	$9.00	$9.45	$9.83
level B	$8.50	$8.93	$9.28
Dismantler:			
1st grade	$9.52	$10.00	$10.40
2nd grade	$10.16	$10.67	$11.09
3rd grade	$11.02	$11.57	$12.03
Washer	$8.59	$9.02	$9.38
Brake mechanic	$11.02	$11.57	$12.03
Semiskilled worker:			
1st grade	$9.52	$10.00	$10.40
2nd grade	$10.16	$10.67	$11.09
3rd grade	$11.02	$11.57	$12.03
Pump attendant	$8.00	$8.40	$8.74
Service attendant:			
1st grade	$9.08	$9.53	$9.92
2nd grade	$10.23	$10.74	$11.17
3rd grade	$11.66	$12.24	$12.73
Alignment and suspension specialist, trim man and automatic transmission mechanic:			
first class	$17.83	$18.72	$19.47
second class	$15.47	$16.24	$16.89
third class	$14.32	$15.04	$15.64.”.

22. Sections 9.07 and 9.08 are replaced by the following:

"**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, an order or decree or a mandatory supplemental pension plan.

The employer may 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 the sums so withheld to their intended receiver.

9.08. Any gratuity or tip paid directly or indirectly by a patron to an employee who provided the service belongs to the employee of right and must not be mingled with the wages that are otherwise due to the employee. The employer must pay at least the prescribed minimum wage to the employee without taking into account any gratuities or tips the employee receives.

Any gratuity or tip collected by the employer shall be remitted in full to the employee who rendered the service. The words gratuity and tip include service charges added to the patron's bill but do not include any administrative costs added to the bill.

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

No employer may require an employee to pay credit card costs.".

23. Section 9.11 is replaced by the following:

"**9.11.** The provisions of the Decree must not be less than those provided for in the Act respecting labour standards. The minimum hourly wage rates provided for in the Decree must not be less than the rate the employee would receive if he were remunerated in accordance with the Regulation respecting labour standards (c. N-1.1, r.3).

9.12. 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.

9.13. No employer may 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 work less hours each week.".

24. Section 10.06 is replaced by the following:

"**10.06.** For each trade in which an employer employs journeymen, the employer is entitled to accept one apprentice per journeyman. Apprentices work the same hours and in the same building as journeymen.".

25. Section 12.01 is amended by inserting the word "absolutely" before the word "null".

26. Section 12.02 is amended by replacing the words "fortuitous event" by the words "superior force" in paragraph 4.

27. Section 13.00 is replaced by the following:

"**13.00. Special Clothing**

13.01. An employer requiring the wearing of a uniform or special clothing identified or not with the employer's establishment must supply it free of charge to an employee and cannot deduct any amount from the employee's wage or require an amount of money from the employee for the purchase, use or maintenance of that uniform or special clothing.".

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

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