

Draft Regulations

Draft Regulation

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

Agreement regarding the programs of the Office Québec/Wallonie-Bruxelles pour la jeunesse — Implementation

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1) and 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 regarding the programs of the Office Québec/Wallonie-Bruxelles pour la jeunesse, appearing below, may be adopted by the Commission de la santé et de la sécurité du travail and submitted to the Government for approval on the expiry of 45 days following this publication.

The purpose of the draft Regulation is to grant the protection of the Act respecting industrial accidents and occupational diseases (R.S.Q., c. A-3.001) to persons who are undergoing training periods as part of the programs of the Office Québec/Wallonie-Bruxelles pour la jeunesse, referred to in the Schedule to the Agreement.

To that end, it proposes that the Office Québec/Wallonie-Bruxelles pour la jeunesse be considered as the employer of the trainees for the purpose 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.

Study of the matter has shown no impact on small and medium-sized businesses. Assessments to the Commission de la santé et de la sécurité du travail will be paid by the agency.

Further information may be obtained by contacting Mireille Cholette, Commission de la santé et de la sécurité du travail, 1199, rue De Bleury, Montréal (Québec) H3B 3J1; telephone: 514 906-3020, extension 2071; fax 514 906-3021.

Interested persons having comments to make on the matter are asked to send them in writing, before the expiry of the 45-day period, to Guylaine Rioux, Vice-Chair,

Partner Relations and Consultancy, Commission de la santé et de la sécurité du travail, 1199, rue De Bleury, 14^e étage, Montréal (Québec) H3B 3J1.

RICHARD VERREAULT,
*Interim Chair 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 regarding the programs of the Office Québec/Wallonie-Bruxelles pour la jeunesse

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 programs of the Office Québec/Wallonie-Bruxelles pour la jeunesse to the extent and on the conditions provided for in the Agreement between the agency and the Commission de la santé et de la sécurité du travail appearing 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

AGREEMENT BETWEEN THE OFFICE QUÉBEC/WALLONIE-BRUXELLES POUR LA JEUNESSE AND THE COMMISSION DE LA SANTÉ ET DE LA SÉCURITÉ DU TRAVAIL

WHEREAS the Agence Québec/Wallonie-Bruxelles pour la jeunesse was established under the Agreement signed on 31 May 1984 between the Gouvernement du Québec and the Executive of the Communauté française de Belgique concerning the Agence Québec/Wallonie-Bruxelles pour la jeunesse made pursuant to the cooperation agreement of 3 November 1982;

WHEREAS section 8 of the Act to recognize bodies promoting international exchanges for young people (R.S.Q., c. O-10) provides that the Agence Québec/

Wallonie-Bruxelles pour la jeunesse is a legal person and that the agreement governing the Agence and any subsequent amendment made to it shall be published in the *Gazette officielle du Québec*;

WHEREAS sections 9 and 10 of that Act provides that the Agence Québec/Wallonie-Bruxelles pour la jeunesse shall have the rights and privileges of a mandatary of the State and the provisions of Title V of Book I of the Civil Code shall apply to the Agence;

WHEREAS, on 29 March 2007, the Gouvernement du Québec and the Government of the Communauté française de Belgique entered into a new agreement relating to the Agence Québec/Wallonie-Bruxelles pour la jeunesse, and under section 1 of the Agreement, the Agence Québec/Wallonie-Bruxelles pour la jeunesse becomes the Office Québec/Wallonie-Bruxelles pour la jeunesse;

WHEREAS the Commission de la santé et de la sécurité du travail established under section 137 of the Act respecting occupational health and safety (R.S.Q., c. S-2.1) is, under section 138 of that Act, a legal person;

WHEREAS, under section 170 of that Act, the Commission may make agreements with a Government department or agency, another government or a department or agency of such a government for the application of the Acts and regulations administered by it, according to law;

WHEREAS the mission of the agency is to offer various individual or group training programs, designed as professional springboards to enable young people aged 18 to 35 to take part in an international initiative directly related to their field of studies, their sector of professional activity and their social involvement;

WHEREAS the agency has requested that the Act respecting industrial accidents and occupational diseases (R.S.Q., c. A-3.001) apply to trainees covered by this Agreement and that it intends to assume the obligations prescribed for employers;

WHEREAS section 16 of that Act provides that a person doing work under a project of any government, whether or not the person is a worker, 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 and the government, agency or legal person concerned;

WHEREAS that provision also provides that the second paragraph of section 170 of the Act respecting occupational health and safety applies to such an agreement; accordingly, the Commission shall make regulations in order to give effect to an agreement extending the benefits of the Acts or regulations administered by it;

THEREFORE, THE PARTIES HEREBY AGREE

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), hereinafter called “the Act”.

CHAPTER 2.00 PURPOSES OF THE AGREEMENT

Purposes

2.01 The purposes of this Agreement are to provide for the application of the Act to trainees of the agency and to determine the respective obligations of the Office Québec/Wallonie-Bruxelles pour la jeunesse and the Commission de la santé et de la sécurité du travail on the conditions and to the extent set forth herein.

CHAPTER 3.00 DEFINITIONS

For the purposes of this Agreement,

“Commission”

(a) Commission means the Commission de la santé et de la sécurité du travail;

“employment”

(b) employment means, as the case may be, the remunerated employment the trainee has at the time the employment injury appears, that for which the trainee is registered with the Commission or, if the trainee has no remunerated employment or is not registered with the Commission at the time the injury appears, the trainee’s usual employment or, if the trainee does not carry on such employment, the employment that could have been the trainee’s usual employment considering the trainee’s training, work experience and physical and intellectual capacity before the injury appeared;

“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;

“agency”

(d) agency means the Office Québec/Wallonie-Bruxelles pour la jeunesse;

“trainee”

(e) trainee means a person who is doing work under the programs administered by the agency, in particular the programs provided for in the Schedule, except a person covered by section 10 or paragraph 4 of section 11 of the Act.

CHAPTER 4.00 **OBLIGATIONS OF THE AGENCY**

Employer

4.01 The agency is deemed to be the employer of any trainee covered by this Agreement.

Restrictions

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

General obligations

4.02 As the employer, the agency is bound, with the necessary modifications, by all the obligations provided for in the Act, including in particular the obligation to keep a register of industrial accidents having occurred in the establishments within the meaning of the Act respecting occupational health and safety where the trainees are present and the obligation to notify the Commission, using the form prescribed by the Commission, that a trainee is unable to continue the program by reason of the employment injury.

Register of accidents

Despite the foregoing, the agency is required to make the register available solely to the Commission.

Information

At the request of the Commission, the agency shall send a description of the program and of the tasks or activities performed by the trainee at the time the employment injury appeared.

Exceptions

4.03 Despite section 4.02, section 32 of the Act pertaining to the dismissal, suspension or transfer of a worker, the practice of discrimination or the taking of reprisals against the worker, sections 179 and 180 concerning temporary assignment and Chapter VII of the Act respecting the right to return to work, do not apply to the agency.

First aid

The agency shall see to it that first aid is given to a trainee who suffers an employment injury, in accordance with sections 190 and 191 of the Act, and pay the related costs.

Payment of assessment

4.04 The agency undertakes to pay the assessment computed by the Commission in accordance with the Act and its regulations and the fixed administrative costs associated with each financial record.

Assessment

4.05 For assessment purposes, the agency is deemed to pay wages that correspond, as the case may be, to the annual gross employment income of each trainee at the time the trainee registered in a program provided for in the Schedule, to the employment insurance benefits received by the trainee or to the minimum wage, if the trainee has no other employment income.

Minimum

The assessment is based on the wages that the agency is deemed to pay and on the length of the training period. However, the wages that the agency is deemed to pay may not in any case be less than \$2,000 per trainee.

Annual statement

4.06 The agency shall send to the Commission, before 15 March of each year, a statement setting out, in particular,

(1) the amount of gross wages earned by the trainees during the preceding calendar year computed on the basis of the length of the training period; and

(2) an estimate of the gross wages computed on the basis of the length of the training period of the trainees registered or likely to be registered for a training period during the current calendar year.

Register

4.07 The agency shall keep a detailed register of the names and addresses of the trainees and, if the trainees are employed during their training period, the names and addresses of their respective employers.

Availability

The agency shall put the register at the disposal of the Commission if the latter so requires.

Description of programs

4.08 The agency shall send to the Commission, upon the coming into force of this Agreement, a description of the programs provided for in the Schedule.

New program or amendment

Every new program or every subsequent amendment to a program provided for in the Schedule shall be sent so as to determine whether to include it or retain it under this Agreement.

CHAPTER 5.00 OBLIGATIONS OF THE COMMISSION

Worker status

5.01 The Commission shall consider a trainee covered by this Agreement to be a worker within the meaning of the Act, except in respect of travel between Québec and the country where the training period will be carried out.

Indemnity

5.02 A trainee who suffers an employment injury is entitled to an income replacement indemnity from the first day following the beginning of the trainee's inability to carry on employment by reason of the employment injury.

Payment

Despite section 60 of the Act, the Commission shall pay to such a trainee the income replacement indemnity to which the trainee is entitled.

Computation of the indemnity

5.03 For the purpose of computing the income replacement indemnity, the trainee's gross annual employment income is, as the case may be, that which the trainee derives from the remunerated employment the trainee has at the time the employment injury appears, that which corresponds to the employment insurance benefits received, that for which the trainee is registered with the Commission or, if the trainee is unemployed or a self-employed worker not registered with the Commission, that 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 work week referred to in section 52 of the Act respecting labour standards (R.S.Q., c. N-1.1), as they read on the date on which they are to be applied when the injury appears.

Recurrence, relapse or aggravation

In the event of a recurrence, a relapse or an aggravation, when the trainee has a remunerated employment, the gross annual income is, for the purpose of computing the income replacement indemnity, established in accordance with section 70 of the Act. However, if the trainee is unemployed at the time of the recurrence, relapse or aggravation, the gross annual income is that which the trainee derived from employment out of or in the course of which the employment injury appeared; that gross income is revalorized on 1 January of each year from the date the trainee ceased to hold the employment.

Financial records

5.04 At the request of the agency, the Commission shall open a special financial record for each program provided for in the Schedule.

Unit of activity

Such record shall be classified in the unit corresponding to the activities described in the "Programme d'aide à la création d'emploi" unit or, should amendments be made after this Agreement is signed, in a unit corresponding to those activities.

CHAPTER 6.00 MISCELLANEOUS

Monitoring of progress of agreement

6.01 Within 15 days of the coming into force of this Agreement, both the Commission and the agency shall designate a person responsible for monitoring the progress of this Agreement.

Addresses for notices

6.02 Every notice prescribed by this Agreement shall be sent to the Commission and agency to the following persons and 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 général de l'Office
Office Québec/Wallonie-Bruxelles pour la jeunesse
11, boulevard René-Lévesque Est, bureau 100
Montréal (Québec) H2X 3Z6.

CHAPTER 7.00
COMING INTO FORCE, TERM, AMENDMENT
AND CANCELLATION

Taking effect

7.01 This Agreement takes effect on the date of coming into force of the Regulation adopted by the Commission under sections 170 and 223 of the Act respecting occupational health and safety to give it effect.

Term

This Agreement remains in force until 31 December 2008.

Tacit renewal

7.02 It shall subsequently be renewed tacitly from one calendar year to the next, unless one of the parties sends to the other party, by registered or certified mail, at least 90 days before the end of the term, a notice in writing indicating that the party intends to terminate or make amendments to the Agreement.

Amendments

7.03 In the latter case, the notice shall contain the amendments which the party wishes to make.

Renewal

The sending of such a notice shall not preclude the tacit renewal of this Agreement for a period of one year. If the parties do not agree on the amendments to be made to the Agreement, the Agreement ends, without further notice, at the end of the period of tacit renewal.

Mutual agreement — amendments

7.04 The parties may amend this Agreement by mutual agreement at any time.

Non-compliance

7.05 If the agency fails to comply with any of its obligations, the Commission may request that the agency remedy that failure within a period set by the Commission. Should the failure not be remedied within the period set, the Commission may cancel this Agreement unilaterally upon written notice.

Date

7.06 The Agreement is then cancelled on the date the notice in writing was sent.

Mutual agreement — cancellation

7.07 The parties may cancel this Agreement by mutual agreement at any time.

Financial adjustments

7.08 In the event of cancellation, the Commission shall make financial adjustments on the basis of the amounts payable under this Agreement.

Amount due

Any amount due after the financial adjustments have been made is payable on the due date appearing on the notice of assessment.

Damages

7.09 In the event of cancellation, neither party shall be required to pay damages, interest or any other form of indemnity or charges to the other party.

IN WITNESS WHEREOF, THE PARTIES HAVE SIGNED

At _____, this _____
() day of _____ 2007.

At _____, this _____
() day of _____ 2007.

ALFRED PILON,
Secretary General
Office Québec/
Wallonie-Bruxelles
pour la jeunesse

RICHARD VERREAULT,
Interim Chair of the
Board of Directors
and Chief Executive
Officer
Commission de la santé
et de la sécurité du travail

SCHEDULE

— List of programs

— Training programs in the workplace outside Québec:

– cursus;

– curriculum.

8326

Draft Regulation

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

Occupational health and safety — Amendments

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1) and section 224 of the Act respecting occupational health and safety (R.S.Q., c. S-2.1), that the Regulation to amend the Regulation respecting occupational health and safety, appearing below, may be made by the Commission de la santé et de la sécurité du travail and submitted to the Government for approval on the expiry of 45 days following this publication.

The purpose of the draft Regulation is to provide for the theoretical and practical training of overhead travelling crane operators and to clarify one of the features of a vertical lifeline. The draft Regulation also corrects an error in the minimum weight of a chain saw.

Study of the matter has shown little impact on enterprises, including small and medium-sized businesses.

Further information may be obtained by contacting Pierre Bouchard, Commission de la santé et de la sécurité du travail, 524, rue Bourdages, Québec (Québec) G1K 7E2; telephone: 418 266-4699; fax: 418 266-4698.

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 Guylaine Rioux, Vice-Chair, Partner Relations and Consultancy, Commission de la santé et de la sécurité du travail, 1199, rue De Bleury, 14^e étage, Montréal (Québec) H3B 3J1.

RICHARD VERREAULT,
*Interim Chair of the Board of Directors
and Chief Executive Officer of the
Commission de la santé et
de la sécurité du travail*

Regulation to amend the Regulation respecting occupational health and safety*

An Act respecting occupational health and safety (R.S.Q., c. S-2.1, s. 223, 1st par., subpars. 7, 19, 42 and 2nd par.)

1. The Regulation respecting occupational health and safety is amended in section 1 by inserting the following after the definition of “impact noise”:

““instructor”: a person in charge of the practical training and communication of theoretical knowledge required for the acquisition of occupational skills;”.

2. Section 242 is amended by replacing “6,8” in paragraph 3 by “4,3”.

3. The following is inserted after section 254:

“254.1. Training of the overhead travelling crane operator: An overhead travelling crane must be operated exclusively by an operator who has received theoretical and practical training given by an instructor.

The theoretical training must cover, among other things,

(1) a description of the different types of overhead travelling cranes and hoisting accessories used in the establishment;

(2) the workplace and how it affects the operation of the overhead travelling crane;

(3) the operations involved in operating the overhead travelling crane and hoisting accessories, such as using slings and control devices, signalling using the universal system, handling and moving loads, and any other manoeuvre necessary to the operation of the overhead travelling crane;

(4) the means of communication used in the operation of the overhead travelling crane;

(5) the inspection to verify the working order and proper functioning of the overhead travelling crane and hoisting accessories prior to operation by the operator; and

* The Regulation respecting occupational health and safety, approved by Order in Council 885-2001 dated 4 July 2001 (2001, G.O. 2, 3888), has been amended once, by the regulation approved by Order in Council 1120-2006 dated 6 December 2006 (2006, G.O. 2, 4047).