

## Draft Regulation

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

### Agreement on any program of the Ministère de la Santé et des Services sociaux — Implementation

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 respecting the implementation of the agreement on any program of the Ministère de la Santé et des Services sociaux, appearing below, may be made by the Commission de la santé et de la sécurité du travail, with or without amendment, on the expiry of 45 days following this publication, and submitted to the Government for approval.

A new agreement must be entered into between the Commission and the Ministère de la Santé et des Services sociaux to adapt the current agreement to the new terms and conditions of payment of the assessment, which will apply to all employers as of 1 January 2011. In order for the agreement to become effective, a regulation under section 170 of the Act respecting occupational health and safety (R.S.Q., c. S-2.1) must be made.

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to André Beauchemin, Vice-President, Finance, Commission de la santé et de la sécurité du travail, 524, rue Bourdages, Québec (Québec) G1K 7E2.

LUC MEUNIER,  
*Chair of the board of directors  
and Chief Executive Officer  
of the Commission de la santé  
et de la sécurité du travail*

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### Regulation respecting the implementation of the agreement on any program of the Ministère de la Santé et des Services sociaux

An Act respecting occupational health and safety (R.S.Q., c. S-2.1, s. 223, 1st par., subpar. 39)

**1.** The Act respecting occupational health and safety (R.S.Q., c. A-3.001) applies to persons who participate in any program of the Ministère de la Santé et des Services sociaux to the extent and on the conditions provided by the agreement entered into by the Minister of Health and Social Services with the Commission de la santé et de la sécurité du travail attached as Schedule I.

**2.** This Regulation replaces the Regulation respecting the implementation of the agreement on any program of the Ministère de la Santé et des Services sociaux, made by Order in Council 966-2002 dated 21 August 2002.

**3.** This Regulation comes into force on 1 January 2011.

## SCHEDULE I

### AGREEMENT BETWEEN

THE MINISTER OF HEALTH AND  
SOCIAL SERVICES

AND

THE COMMISSION DE LA SANTÉ ET  
DE LA SÉCURITÉ DU TRAVAIL

WHEREAS, under section 1 of the Act respecting the Ministère de la Santé et des Services sociaux (R.S.Q., c. M-19.2), the Minister of Health and Social Services has charge of the direction and administration of the Ministère de la Santé et des Services sociaux and of the application of the Acts and regulations respecting health and social services;

WHEREAS, under paragraph *h* of section 3 of the same Act, the Minister must in particular promote the development and implementation of programs and services according to the needs of individuals, and families and other groups;

WHEREAS, under section 10 of the same Act, the Minister may enter into agreements with any government, one of its departments, with an international organization or with an agency of that government or organization for the purposes of the application of the Act or another Act within the competence of the Minister;

WHEREAS, under section 138 of the Act respecting occupational health and safety (R.S.Q., c. S-2.1), the Commission is a legal person within the meaning of the Civil Code of Québec and has the general powers of such a legal person and the special powers conferred upon it by that Act;

WHEREAS, under section 170 of the same 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 Minister requires that the Act respecting industrial accidents and occupational diseases (R.S.Q., c. A-3.001) be applicable to workers covered by this Agreement and he or she 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 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, under section 16 of that Act, the second paragraph of section 170 of the Act respecting occupational health and safety applies to the agreement, to wit, that the Commission may, by regulation, put into effect an agreement extending benefits arising out of Acts or regulations administered by it;

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 occupational health and safety (R.S.Q., c. A-3.001).

**CHAPTER 2.00 PURPOSES***Purposes*

- 2.01 The purposes of this Agreement is to provide to what extent and on what conditions the Act respecting occupational health and safety is to apply to the workers governed and to determine the respective obligations of the Minister and the Commission.

**CHAPTER 3.00 DEFINITIONS**

- 3.01 For the purposes of this Agreement,

*"service employment paycheque"*

- (a) "services employment paycheque" means the method of paying for services provided by a worker, which will be managed by Services de paie Desjardins or any other organization called upon to perform that function;

*"Commission"*

- (b) "Commission" means the Commission de la santé et de la sécurité du travail;

*"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 within the meaning of the Act;

*"Act"*

- (d) "Act" means the Act respecting occupational health and safety (R.S.Q., c. A-3.001);

*"Minister"*

- (e) "Minister" means the Minister of Health and Social Services;

*"worker"*

- (f) "worker" means a person who provides services to a user, particularly under the program indicated in Schedule 1, and whose remuneration is paid by means of the service employment paycheque;

*"user"*

- (g) "user" means a user referred to in the Act respecting health services and social services (R.S.Q., c. S-4.2) who uses the services of a worker within the meaning of this Agreement.

**CHAPTER 4.00 MINISTER'S OBLIGATIONS**

<i>Employer</i>	4.01	The Minister is deemed to be the employer of any worker covered by this Agreement.
<i>Restrictions</i>		Despite the foregoing, the employer-employee relationship is recognized as such only for the purposes of indemnification, assessment and imputation of the cost of benefits under the Act and must not be deemed to be an admission of a factual situation leading itself to interpretation in other fields of activity.
<i>Exclusions</i>		The workers covered by this Agreement are neither employees, public servants or officers of the Gouvernement du Québec, including the Ministère de la Santé et des Services sociaux, nor of any category of institutions specified in the Act respecting health services and social services or of a regional agency instituted under that Act.
<i>General obligations</i>	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 industrial accidents occurring in users' domiciles.
<i>Register of accidents</i>		However, in the case of the register of industrial accidents referred to in the first paragraph, the Minister is required to put the register at the disposal of the Commission only.
<i>Information</i>		Upon request by the Commission, the Minister sends a description of the tasks and activities performed by the worker when the employment injury occurred.
<i>Exceptions</i>	4.03	Despite section 4.02, section 32 of the Act concerning the dismissal, suspension or transfer of a worker, discriminatory measures or reprisals, as well as Chapter VII concerning the right to return to work, are not applicable to the Minister.
<i>First aid</i>		The Minister must see that first aid is given to a worker suffering from an employment injury, in accordance with sections 190 and 191 of the Act, and pay the related costs.

<i>Payment of assessment</i>	4.04	The Minister undertakes to pay the assessment calculated by the Commission in accordance with the Act and the regulations thereunder, as well as the fixed administration expenses related to each special envelope.  For the purposes of this Agreement, the Minister is also required to make periodic payments, in accordance with section 315.1 of the Act.
<i>Assessment</i>	4.05	For assessment purposes, the Minister is deemed to pay a salary corresponding to the annual gross employment income paid to the worker by means of the service employment paycheque.
<i>Annual statement</i>	4.06	Each year before 15 March, the Minister is to send the Commission a statement indicating the amount of annual gross salaries paid to the workers covered by this Agreement during the preceding calendar year.
<i>Register</i>	4.07	The Minister keeps a detailed register of the workers' names and addresses and, upon request by the Commission, provides it with the information it needs for the purposes of this Agreement.
<i>Description of programs</i>	4.08	The Minister sends the Commission, upon the coming into force of this Agreement, a description of any program appearing in Schedule 1.
<i>New program or amendment</i>		Any new program or any subsequent amendment to a program appearing in Schedule 1 is also to be sent so as to determine whether it should come or remain under this Agreement.
<b>CHAPTER</b>	<b>5.00</b>	<b>COMMISSION'S OBLIGATIONS</b>
<i>Worker status</i>	5.01	The Commission considers a worker covered by this Agreement as a worker within the meaning of the Act.
<i>Indemnity</i>	5.02	A worker suffering from 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 his or her employment by reason of the injury.

- Payment* Despite the first paragraph of section 124 of the Act, the Minister pays that worker, as of the fifteenth full day following the day the worker became unable to carry on his or her employment and for all the time of that inability, the income replacement indemnity determined by the Commission, in accordance with the Act.
- Advance* However, should the worker's claim be refused by the Commission, the amount paid by the Minister is an advance with respect to the remuneration paid by means of the service employment paycheque.
- Reimbursement* 5.03 The Commission reimburses the Minister the income replacement indemnity paid by it as of the fifteenth full day following the day the worker became unable to carry on his or her employment and for all the time of that inability, in accordance with the second paragraph of section 5.02, to the extent that the Commission recognizes the worker's entitlement to the payment of that indemnity.
- Financial envelope* 5.04 Upon request by the Minister, the Commission allocates a specific financial envelope to each program covered by this Agreement
- Program referred to* In the case of the program referred to in Schedule 1, it is classified in the unit of operation "Immovable maintenance services" (77020) or, following amendments made to that unit of operation following the signing of this Agreement, in a unit corresponding to those activities.
- Other programs* The Commission may allocate to any new program covered by this Agreement an envelope classified according to the rate of a unit corresponding to the activities included in that new program.
- Applicable rate* 5.05 The Commission fixes for the program provided for in the second paragraph of section 5.04 either the specific assessment rate of the unit, or a personalized assessment rate, provided in the latter case that the Minister meets the conditions of the Act and its regulations for each assessment year.
- Other programs* The foregoing also applies to any new program covered by this Agreement.
- Retrospective adjustment* The Commission also carries out the retrospective adjustment of the annual assessment applicable to the Minister, provided that the Commission meets the conditions of the Act and its regulations for the assessment year.

**CHAPTER 6.00 MISCELLANEOUS**

- Follow-up* 6.01 Both the Commission and the Minister designate, within 15 days of the coming into force of this Agreement, a person responsible for the follow-up of this Agreement.
- Addresses of notices* 6.02 Any notice required by this Agreement is to 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<sup>e</sup> étage  
Montréal (Québec) H3C 4E1;
  - b) Le Secrétaire du ministère  
Ministère de la Santé et des Services sociaux  
1075, chemin Sainte-Foy  
Québec (Québec) G1S 2M1.

**CHAPTER 7.00 COMING INTO FORCE, TERM AND TERMINATION**

- 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 of the Act respecting occupational health and safety.
- Term* It remains in force until 31 December 2011.
- Tacit renewal* 7.02 This Agreement will be renewed tacitly from one calendar year to the next, 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.
- Amendment* 7.03 In the latter case, the notice must include the amendments that the party intends to make.
- 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 comes to an end, without further notice, at the end of that renewal period.

**CHAPTER 8.00 CANCELLATION OF THE AGREEMENT**

- Default* 8.01 If the Minister fails to respect any of his or her obligations, the Commission may ask the Minister to rectify the default within the time set by it. If the situation is not rectified within the prescribed time, the Commission may cancel this Agreement unilaterally, upon written notice.
- Date* 8.02 The Agreement is then cancelled on the date on which the written notice is sent.
- Financial adjustments* 8.03 In the event of cancellation, the Commission makes the financial adjustments taking into account the amounts payable under this Agreement.
- Amount due* Any amount due following those financial adjustments is payable on the due date specified on the notice of assessment.
- Common agreement* 8.04 The parties may cancel this Agreement at any time if they both agree thereto.
- Damages* 8.05 In the event of cancellation, neither party may be obliged to pay damages or any other form of indemnity or fees to the other party.

**IN WITNESS WHEREOF, the parties have signed**

at \_\_\_\_\_ on this \_\_\_\_\_

at \_\_\_\_\_ on this \_\_\_\_\_

( ) day of \_\_\_\_\_ 2010

( ) day of \_\_\_\_\_ 2010

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**JACQUES COTTON**  
Deputy Minister  
Ministère de la Santé et  
des Services sociaux

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**LUC MEUNIER**  
Chair of the board of directors and  
Chief Executive Officer  
Commission de la santé et de  
la sécurité du travail



## SCHEDULE 1 TO THE AGREEMENT

### Program covered by the agreement

- Direct allowance program for home services.

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#### Draft Regulation

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

#### Agreement regarding work done within the context of rehabilitation measures adopted by the Société de l'assurance automobile du Québec

##### — Implementation

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 respecting the implementation of the agreement regarding work done within the context of rehabilitation measures adopted by the Société de l'assurance automobile du Québec, appearing below, may be adopted by the Commission de la santé et de la sécurité du travail, with or without amendment, on the expiry of 45 days following this publication and submitted to the Government for approval.

A new agreement between the Commission and the Société de l'assurance automobile du Québec is required in order to adapt the current agreement to the new procedure for paying assessments that will apply to all employers beginning on 1 January 2011. The agreement, to have effect, requires the adoption of a regulation under section 170 of the Act respecting occupational health and safety (R.S.Q., c. S-2.1).

Any person having comments to make on the matter is requested to submit written comments within the 45-day period to André Beauchemin, Vice-President, Finance, Commission de la santé et de la sécurité du travail, 524, rue Bourdages, Québec (Québec) G1K 7E2.

LUC MEUNIER,

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

#### Regulation respecting the implementation of the agreement regarding work done within the context of rehabilitation measures adopted by the Société de l'assurance automobile du Québec

An Act respecting occupational health and safety  
(R.S.Q., c. S-2.1, 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 doing non-remunerated work within the context of rehabilitation measures adopted by the Société de l'assurance automobile du Québec on the conditions and to the extent provided for in an agreement between the Société and the Commission de la santé et de la sécurité du travail, appearing in Schedule 1.

**2.** This Regulation replaces the Regulation respecting the implementation of the agreement regarding work done within the context of rehabilitation measures adopted by the Société de l'assurance automobile du Québec made by Order in Council 408-96 dated 27 March 1996.

**3.** This Regulation comes into force on 1 January 2011.