

Gouvernement du Québec

O.C. 1199-2010, 15 December 2010

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**

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

WHEREAS, under 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 Société de l'assurance automobile du Québec have entered into an agreement so that victims of car accidents for whom the Société adopts rehabilitation measures including a training period may be considered to be workers;

WHEREAS the new agreement was entered into to take into account the provisions respecting the new method of payment for the employer assessment provided for in the Act to amend the Act respecting occupational health and safety and the Workers' Compensation Act (2006, c. 53) and the Act to modify the occupational health and safety regime, particularly in order to increase certain death benefits and fines and simplify the payment of the employer assessment (2009, c. 19), whose coming into force is set on 1 January 2011 under Order in Council 1065-2010 dated 1 December 2010;

WHEREAS, under section 170 and subparagraph 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 may, by regulation, take the measures necessary for the application of such an agreement;

WHEREAS, under section 224 of the Act respecting occupational health and safety, every draft regulation made by the Commission under section 223 of that Act is to be submitted to the Government for approval;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft of 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 was published in Part 2 of the *Gazette officielle du Québec* of 29 September 2010 with a notice that it could be made with or without amendment by the Commission and submitted to the Government for approval on the expiry of 45 days following that publication;

WHEREAS the Commission de la santé et de la sécurité du travail made, with amendments, 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, at its sitting of 18 November 2010;

WHEREAS that 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;

WHEREAS it is expedient to approve 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;

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

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, attached to this Order in Council, be approved.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

**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.

SCHEDULE 1

AGREEMENT REGARDING WORK DONE
WITHIN THE CONTEXT OF REHABILITATION
MEASURES ADOPTED BY THE SOCIÉTÉ DE
L'ASSURANCE AUTOMOBILE DU QUÉBEC

BETWEEN

THE SOCIÉTÉ DE L'ASSURANCE AUTOMOBILE
DU QUÉBEC

AND

THE COMMISSION DE LA SANTÉ ET
DE LA SÉCURITÉ DU TRAVAIL

PURSUANT TO SECTION 16 OF THE ACT
RESPECTING INDUSTRIAL ACCIDENTS AND
OCCUPATIONAL DISEASES

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

WHEREAS the Commission may, under section 170 of the same Act, 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 Société is, under section 4 of the Act respecting the Société de l'assurance automobile du Québec (R.S.Q., c. S-11.011), a legal person within the meaning of the Civil Code of Québec;

WHEREAS the Société may, under section 17 of the Act respecting the Société de l'assurance automobile du Québec, enter into any agreement for the application of the Automobile Insurance Act (R.S.Q., c. A-25);

WHEREAS the Société petitions that the Act respecting industrial accidents and occupational diseases (R.S.Q., c. A-3.001) be applicable to certain trainees and intends to take on the employer's obligations including those relating to assessments owing;

WHEREAS section 16 of the said Act stipulates that 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 and the government, agency or legal person concerned;

WHEREAS the said section 16 provides that the second paragraph of section 170 of the Act respecting occupational health and safety applies to such an agreement, that is to say that the Commission must proceed by regulation to give effect to an agreement extending benefits arising out of the Acts and regulations that it administers;

THEREFORE THE PARTIES AGREE TO THE FOLLOWING:

CHAPTER 1 ENABLING PROVISIONS

Enabling provisions

1.1 This Agreement is entered into under section 16 of the Act respecting industrial accidents and occupational diseases.

CHAPTER 2 PURPOSE

Purpose

2.1 The purpose of this Agreement is to provide, on the conditions and to the extent provided for herein, for the application of the Act respecting industrial accidents and occupational diseases to trainees of the Société and to determine the obligations of the Société and the Commission.

CHAPTER 3 DEFINITIONS

For the purposes of this Agreement,

“Commission”

(a) Commission means 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);

“employment”

(b) employment means the employment that the trainee held when he suffered an employment injury;

“establishment”

(c) establishment means an establishment within the meaning of the Act respecting occupational health and safety;

“educational institution”

(d) educational institution means a body providing training programs under the Education Act (R.S.Q., c. I-13.3), the General and Vocational Colleges Act (R.S.Q., c. C-29) or the Act respecting private education (R.S.Q., c. E-9.1), or a university establishment;

“employment injury”

(e) 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;

“Act”

(f) Act means the Act respecting industrial accidents and occupational diseases (R.S.Q., c. A-3.001);

“Société”

(g) Société means the Société de l'assurance automobile du Québec, established under section 1 of the Act respecting the Société de l'assurance automobile du Québec (R.S.Q., c. S-11.011);

“trainee”

(h) trainee means a person who carries out non-remunerated work within the context of rehabilitation measures adopted by the Société and

(a) receives or would be entitled to receive from the Société, when he suffers an employment injury, a full income replacement indemnity;

(b) is not a person serving a non-remunerated training session under the responsibility of an educational institution.

**CHAPTER 4
OBLIGATIONS OF THE SOCIÉTÉ****Employer**

4.1 The Société is deemed to be the employer of any trainee covered by this Agreement.

Restrictions

Despite the foregoing, the employee-employer relationship is recognized as such only for assessment and indemnification purposes under the Act and is not considered to be an admission of a factual situation lending itself to interpretation in other fields of activity.

General obligations

4.2 As the employer, the Société is bound, with the necessary modifications, by all the obligations provided for in the Act, including the obligation to keep a register of work accidents that happen in establishments where the trainees are present as well as the obligation to notify the Commission, on the form prescribed by the Commission, that, due to an employment injury, a trainee is unable to carry on the work he was doing within the context of the rehabilitation measures adopted.

Register of accidents

Despite the foregoing, in the case of the register of accidents referred to in the preceding paragraph, the Société is bound to place the register only at the disposal of the Commission.

Information

Upon request by the Commission, the Société provides a description of the tasks or activities carried out by the trainee at the time he suffers an employment injury.

Exceptions

4.3 Despite section 4.2, section 32 of the Act pertaining to certain prohibited actions, sections 179 and 180 regarding the temporary assignment of work and Chapter VII concerning the right to return to work are not applicable to the Société.

First aid

Although the Société is not itself bound to give first aid to a trainee who has suffered an employment injury, in accordance with sections 190 and 191 of the Act, the Société must see to it that any necessary first aid is given and assume the costs thereof.

Payment of the assessment

4.4 The Société 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 the special envelope.

For the purposes of this Agreement, the Société is, in addition, bound to make periodic payments in accordance with section 315.1 of the Act.

Minimum

4.5 For assessment purposes, the Société is deemed to pay wages equal to the full income replacement indemnity to which the trainee is entitled for the duration of his or her training session.

Annual statement

4.6 The Société must send to the Commission, before 15 March each year, a statement indicating, in particular, the amount of the gross annual income paid to trainees during the preceding calendar year, calculated on the basis of the duration of their training session.

Register

4.7 The Société must keep a detailed register of the names and addresses of trainees, as well as the name and address of the employer offering each training session.

Availability

The Société must make the register available to the Commission if the latter so requires.

**CHAPTER 5
OBLIGATIONS OF THE COMMISSION****Status of worker**

5.1 The Commission considers a trainee of the Société to be a worker within the meaning of the Act.

Indemnity

5.2 A trainee who has suffered an employment injury is entitled to receive an income replacement indemnity from the Commission from the cessation of the right to receive a full income replacement indemnity from the Société.

Determination of indemnity

5.3 For the purpose of determining an income replacement indemnity, the trainee's gross annual employment income is the full income replacement indemnity paid by the Société.

Special envelope

5.4 The Commission allocates a special envelope to the unit corresponding to the "Operation of an Adapted Enterprise; Operation of a Rehabilitation Workshop" or, as the case may be, following amendments subsequent to the signing of this Agreement, to the corresponding unit.

**CHAPTER 6
MISCELLANEOUS****Follow-up of the Agreement**

6.1 Both the Société and the Commission must, within 15 days of the coming into force of this Agreement, appoint a person in charge of follow-up.

Addresses of notices

6.2 Any notice provided for in this Agreement must be sent to the following addresses:

- (a) Secretary of the Société
Société de l'assurance automobile du Québec
333, boulevard Jean-Lesage
Québec (Québec) G1K 8J6
- (b) Secretary of the Commission
Commission de la santé et de la sécurité du travail
1199, rue De Bleury, 14^e étage
Montréal (Québec) H3C 4E1

**CHAPTER 7
COMING INTO FORCE AND TERM
OF THE AGREEMENT****Coming into force**

7.1 This Agreement takes effect on the date of the 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

This Agreement remains in force until 31 December 2011.

Automatic renewal

7.2 After that date, the Agreement is renewed automatically from one calendar year to the next, except where 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 to the effect that the party concerned would like to cancel or amend the Agreement.

Amendments

7.3 In the latter case, the notice must contain the amendments that the party concerned would like to see made.

Renewal

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

CHAPTER 8**CANCELLATION OF THE AGREEMENT****Failure**

8.1 The Commission may, if the Société fails to fulfill any of its obligations, ask it to correct the situation within the time set by the Commission. In the absence of such correction within the time allotted, the Commission may unilaterally cancel this Agreement by giving written notice.

Date

The Agreement is then cancelled from the date on which the written notice is sent.

Financial adjustments

8.2 In the event of cancellation, the Commission makes the financial adjustments taking into account the amounts payable under this Agreement.

Amount owing

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

Mutual consent

8.3 The parties may, at any time, cancel this Agreement by mutual consent.

Damages

8.4 In the event of cancellation, neither party may be obliged to pay damages, interest or any other form of compensation or costs to the other party.

IN WITNESS WHEREOF, the parties have signed

At _____ on _____ At _____ on _____
() day of _____ 2010. () day of _____ 2010.

NATHALIE TREMBLAY, FCA
*President and chief
executive officer
Société de l'assurance
automobile du Québec*

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

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