

Tacit renewal

7.2 It is subsequently 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 term expires, a notice in writing to the effect that it intends to terminate the Agreement or make amendments thereto.

Amendments

7.3 In the latter case, the notice must contain the amendments which the party wishes to make.

Renewal

The sending of such notice does not preclude the tacit renewal of this Agreement for a period of 1 year. If the parties do not agree on the amendments to be made to the Agreement, the Agreement must be terminated, without further notice, at the expiry of that period.

CHAPTER 8
AMENDMENT TO AND CANCELLATION OF
AGREEMENT

Non-compliance

8.1 If the Minister fails to comply with any of its obligations, the Commission may request that the Minister remedy that failure within a period fixed by the Commission. Should the failure not be remedied within the period fixed, the Commission may cancel this Agreement by giving notice in writing.

Date

8.2 This Agreement is then cancelled on the date of the notice in writing.

Financial adjustments

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

Sum due

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

Mutual agreement

8.4 The parties may, by mutual agreement, amend or cancel this Agreement at any time.

Damages

8.5 In the event of cancellation, neither party must 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 _____ on this _____ at _____ on this _____

() day of _____ 2010 () day of _____ 2010

 SYLVIE BARCELO,
Deputy Minister
Ministère de la Culture,
des Communications et
de la Condition féminine

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

SCHEDULE I TO THE AGREEMENT

LIST OF PROGRAMS SUBJECT TO
THE AGREEMENT

— Training periods in the workplace

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Gouvernement du Québec

O.C. 1198-2010, 15 December 2010

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**

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

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 Ministère de la Santé et des Services sociaux have entered into an agreement so that persons admitted to programs of the Ministère de la Santé et des Services sociaux 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 on any program of the Ministère de la Santé et des Services sociaux 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 on any program of the Ministère de la Santé et des Services sociaux, at its sitting of 18 November 2010;

WHEREAS that 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;

WHEREAS it is expedient to approve the Regulation respecting the implementation of the agreement on any program of the Ministère de la Santé et des Services sociaux;

It is ordered, therefore, on the recommendation of the Minister of Labour:

THAT the Regulation respecting the implementation of the agreement on any program of the Ministère de la Santé et des Services sociaux, attached to this Order in Council, be approved.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

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*Employer*

- 4.01 The Minister is deemed to be the employer of any worker covered by this Agreement.

Restrictions

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</i>		
<i>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</i>		
<i>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.

Payment of

assessment 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.

Assessment 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.

Annual

statement 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.

Register 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.

Description

of programs 4.08 The Minister sends the Commission, upon the coming into force of this Agreement, a description of any program appearing in Schedule 1.

New program

or amendment 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.

CHAPTER 5.00 COMMISSION'S OBLIGATIONS*Worker*

status 5.01 The Commission considers a worker covered by this Agreement as a worker within the meaning of the Act.

Indemnity 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 paycheck.

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^e 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

<i>Effective date</i>	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.
<i>Term</i>		It remains in force until 31 December 2011.
<i>Tacit renewal</i>	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.
<i>Amendment</i>	7.03	In the latter case, the notice must include the amendments that the party intends to make.
<i>Renewal</i>		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

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

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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