

## Regulations and other Acts

Gouvernement du Québec

### **O.C. 1195-2010**, 15 December 2010

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

#### **Agreement regarding the programs of the Office franco-québécois pour la jeunesse — Implementation**

Regulation respecting the implementation of the Agreement regarding the programs of the Office franco-québécois pour la jeunesse

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 Office franco-québécois pour la jeunesse have entered into an agreement so that persons admitted to programs established and administered by the Office 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 the Commission de la santé et de la sécurité du travail made the Regulation respecting the implementation of the Agreement regarding the programs of the Office franco-québécois pour la jeunesse, at its sitting of 18 November 2010;

WHEREAS that Regulation replaces the Regulation respecting the implementation of the Agreement regarding the programs of the Office franco-québécois pour la jeunesse, made by Order in Council 295-97 dated 5 March 1997;

WHEREAS, under section 12 of the Regulations Act (R.S.Q., c. R-18.1), a proposed regulation may be approved without having been published as required by section 8 of that Act if the authority approving it is of the opinion that the urgency of the situation requires it;

WHEREAS, under section 13 of that Act, the reason justifying the absence of prior publication must be published with the regulation;

WHEREAS the Government is of the opinion that the urgency due to the following circumstances justifies the absence of prior publication in the case of the Regulation respecting the implementation of the Agreement regarding the programs of the Office franco-québécois pour la jeunesse:

— in order to ensure consistency with the new method of payment for the employer assessment, it is necessary that the Regulation be effective as of 1 January 2011;

— 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) will come into force on 1 January 2011 under Order in Council 1065-2010 dated 1 December 2010;

— the Regulation respecting financing, which provides the rules applicable to the new method of payment for the employer assessment, was made by the Commission on 18 November 2010 and will come into force on the same date as section 7 of chapter 53 of the Statutes of 2006, namely 1 January 2011, under Order in Council 1065-2010 dated 1 December 2010;

WHEREAS the Regulation respecting the implementation of the Agreement regarding the programs of the Office franco-québécois pour la jeunesse does not change the protection granted to the persons concerned as workers;

WHEREAS it is expedient to approve the Regulation respecting the implementation of the Agreement regarding the programs of the Office franco-québécois pour la jeunesse;

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

THAT the Regulation respecting the implementation of the Agreement regarding the programs of the Office franco-québécois pour la jeunesse, attached to this Order in Council, be approved.

GÉRARD BIBEAU,  
*Clerk of the Conseil exécutif*

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### **Regulation respecting the implementation of the Agreement regarding the programs of the Office franco-québécois pour la jeunesse**

An Act respecting occupational health and safety (R.S.Q., c. S-2.1, ss. 170 and 223, 1st par., subpar. 39)

- 1.** The Act respecting industrial accidents and occupational diseases (R.S.Q., c. A-3.001) applies to persons participating in the programs of the Office franco-québécois pour la jeunesse on the conditions and to the extent provided for in the agreement between the Office and the Commission de la santé et de la sécurité du travail appearing in Schedule I.
- 2.** This Regulation replaces the Regulation respecting the implementation of the Agreement regarding the programs of the Office franco-québécois pour la jeunesse, made by Order in Council 295-97 dated 5 March 1997.
- 3.** This Regulation comes into force on 1 January 2011.

### **SCHEDULE I**

#### **AGREEMENT BETWEEN**

#### **THE OFFICE FRANCO-QUÉBÉCOIS POUR LA JEUNESSE**

#### **AND**

#### **THE COMMISSION DE LA SANTÉ ET DE LA SÉCURITÉ DU TRAVAIL**

WHEREAS the Office, created by the Protocol concerning exchanges between Québec and France in matters of physical education, sports and popular education made pursuant to the Franco-Québec agreement of the 27th February 1965 on a program of exchange and co-operation in the field of education, must, under section 2 of the Act to recognize bodies promoting international exchanges for young people (R.S.Q., c. O-10), have the powers of a legal person within the meaning of the Civil Code of Québec;

WHEREAS, under article 3 of the said Protocol, the Office must have juridical personality and must enjoy in Québec and in France autonomy in its management and administration;

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 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, under article 2 of that Protocol, the object of the Office is to develop relations between the youth of Québec and that of France, and for such purpose, to bring about, encourage and promote meetings and exchanges between groups of young people and also between authorities in the field of youthful activities, recreation and sports;

WHEREAS the Office has requested that the Act respecting industrial accidents and occupational diseases (R.S.Q., c. A-3.001) apply to certain trainees and it intends to assume the obligations prescribed for employers, including those concerning assessments due;

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 deemed 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 (R.S.Q., c. S-2.1) applies to such agreement, the effect of that section 16 being that the Commission must proceed by way of a regulation in order to give effect to an agreement extending benefits arising out of Acts or regulations administered by it;

THEREFORE, THE PARTIES HEREBY AGREE TO THE FOLLOWING:

## **CHAPTER 1 ENABLING PROVISION**

### **Enabling provision**

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

## **CHAPTER 2 PURPOSES OF AGREEMENT**

### **Purposes of agreement**

2.1 The purposes of this Agreement are to provide for the application of the Act respecting industrial accidents and occupational diseases to certain trainees of the Office and to determine the respective obligations of the Office and of Commission, on the conditions and to the extent set forth herein.

## **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, as the case may be, the remunerated employment the trainee has at the time the employment injury appears or for which the trainee is registered with the Commission. If the trainee has no remunerated employment or is not registered with the Commission at the time the injury appears, the trainee is entitled to an income replacement indemnity if the trainee becomes unable, by reason of the injury, to carry on his or her usual employment or, if the trainee does not carry on such employment usually, the employment that could have been the trainee’s usual employment, considering the trainee’s training and work experience and physical and intellectual capacity before the employment injury appeared;

### **“establishment”**

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

### **“educational institution”**

(d) educational institution means an agency that provides training programs under the Education Act (R.S.Q., c. I-13.3), under the General and Vocational Colleges Act (R.S.Q., c. C-29) or under the Act respecting private education (R.S.Q., c. E-9.1), or an educational institution at the university level. Such activities may include a non-remunerated training at an 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);

### **“Office”**

(g) Office means the Office Franco-Québécois pour la Jeunesse, Section du Québec, created under article 1 of the Protocol concerning exchanges between Québec and France in matters of physical education, sports and popular education made pursuant to the Franco-Québec Agreement of the 27th February 1965 on a program of exchange and co-operation in the field of education;

**“trainee”**

(h) trainee means a person who is doing work under a program administered by the Office, in particular the programs listed in Schedule I, who is not

(a) a person doing work as part of a measure provided for in section 9 of the Individual and family assistance Act (R.S.Q., c. A-13.1.1);

(b) a person covered by section 10 of the Act who is undertaking a non-remunerated training period for which an educational institution is responsible.

**CHAPTER 4  
OBLIGATIONS OF THE OFFICE**

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

**Restrictions**

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

**General obligations**

4.2 As an employer, the Office 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 occurring in the establishments where the trainees are located and the obligations to inform the Commission, using the form prescribed by the Commission, that a trainee is unable to continue the program by reason of the injury.

**Register of accidents**

However, the Office is required to make the register of industrial accidents referred to in the preceding paragraph available only to the Commission.

**Information**

At the request of the Commission, the Office forwards a description of the tasks or activities performed by the trainee at the time the employment injury appeared.

**Exceptions**

4.3 Despite section 4.2, 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 respecting the right to return to work do not apply to the Office.

**First aid**

Although the Office itself is not required to give first aid to a trainee who suffers an employment injury in accordance with sections 190 and 191 of the Act, it must ensure that first aid is given where necessary and must assume the costs thereof.

**Payment of assessment**

4.4 The Office agrees to pay the assessment calculated by the Commission in accordance with the Act and the regulations made thereunder and the fixed administrative costs associated with each financial record.

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

**Assessment**

4.5 For assessment purposes, the Office is deemed to pay wages that correspond, as the case may be, to the gross annual employment income of each trainee at the time the trainee is registered in a program, to the unemployment 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 Office is deemed to pay and on the length of the training period. However, the wages that the Office is deemed to pay may not in any case be less than \$2,000 per trainee.

**Annual statement**

4.6 The Office sends to the Commission, before 15 March of each year, a statement setting out, in particular, the amount of gross annual employment income paid to the trainees during the preceding calendar year, calculated in relation to the duration of the training period.

**Register**

4.7 The Office keeps a detailed register of the names and addresses of the trainees and, if trainees are employed during their training, the names and addresses of their respective employers.

**Availability**

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

**Description of programs**

4.8 The Office forwards to the Commission, on the coming into force of this Agreement, a description of every program appearing in Schedule I.

**New program or amendment**

Every new program or every subsequent amendment to a program appearing in Schedule I must be forwarded so that it may be evaluated and a decision may be made whether to include or to retain it under this Agreement.

**CHAPTER 5  
OBLIGATIONS OF THE COMMISSION****Worker status**

5.1 The Commission considers 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 undertaken.

**Indemnity**

5.2 A trainee who suffers an employment injury is entitled to an income replacement indemnity from the first day following the beginning of his or her inability to carry on employment by reason of the injury.

**Payment**

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

**Calculation of indemnity**

5.3 For the purposes of calculating 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 unemployment insurance benefits received, that for which the trainee is registered with the Commission or, if the trainee is unemployed or is an independent 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.

**Exception**

However, entitlement to an income replacement indemnity and the calculation thereof for a trainee who is considered to be a worker under this Agreement and who is a full-time student must be determined according to sections 79 and 80 of the Act.

**Recurrence, relapse, aggravation**

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

**Financial records**

5.4 At the request of the Office, the Commission opens a special financial record for each program covered by this Agreement.

**Unit of economic activity**

Such record must be classified in the unit corresponding to the economic 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  
MISCELLANEOUS****Monitoring of progress**

6.1 Within 15 days following the coming into force of this Agreement, both the Commission and the Office designate a person who will be responsible for monitoring the progress of this Agreement.

**Addresses for notices**

6.2 Every notice provided for in this Agreement must be sent to 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 général de l'Office,  
Office franco-québécois pour la jeunesse,  
934, rue Sainte-Catherine Est  
Montréal (Québec) H2L 2E9

## CHAPTER 7 COMING INTO FORCE, TERM AND CANCELLATION

### Effective date

7.1 This Agreement takes effect on the date of coming into force of the Regulation made for that purpose by the Commission under section 170 and subparagraph 39 of the first paragraph of section 223 of the Act respecting occupational health and safety.

### Term

The Agreement remains in force until 31 December 2011.

### 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 CANCELLATION OF AGREEMENT

### Non-compliance

8.1 If the Office fails to comply with any of its obligations, the Commission may request that the Office 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

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

### Financial adjustments

8.2 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

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

### Damages

8.4 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

\_\_\_\_\_  
ALFRED PILON,  
*Secretary General*  
*Office franco-québécois*  
*pour la jeunesse*

\_\_\_\_\_  
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

(D. 295-97, G.O. 970319, p. 1465)

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