

Gouvernement du Québec

**O.C. 395-2011**, 6 April 2011

An Act respecting labour standards  
(R.S.Q., c. N-1.1)

**Clothing industry**

— **Labour standards specific to certain sectors**  
— **Amendment**

Regulation to amend the Regulation respecting labour standards specific to certain sectors of the clothing industry

WHEREAS, under section 92.1 of the Act respecting labour standards (R.S.Q., c. N-1.1), the Government may fix, by regulation, after consulting with the most representative employees' and employers' associations in the clothing industry, in respect of all employers and employees in certain sectors of the clothing industry, labour standards respecting, among other things, the minimum wage;

WHEREAS the Government made the Regulation respecting labour standards specific to certain sectors of the clothing industry (R.R.Q., c. N-1.1, r. 4);

WHEREAS it is expedient to amend the Regulation;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), the draft Regulation to amend the Regulation respecting labour standards specific to certain sectors of the clothing industry was published in Part 2 of the *Gazette officielle du Québec* of 29 December 2010 with a notice that it could be made by the Government on the expiry of 45 days following that publication;

WHEREAS the 45-day period has expired;

WHEREAS the consultations required by the Act were held;

WHEREAS it is expedient to make the Regulation without amendment;

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

THAT the Regulation to amend the Regulation respecting labour standards specific to certain sectors of the clothing industry, attached to this Order in Council, be made.

GÉRARD BIBEAU,  
*Clerk of the Conseil exécutif*

**Regulation to amend the Regulation respecting labour standards specific to certain sectors of the clothing industry**

An Act respecting labour standards  
(R.S.Q., c. N-1.1, s. 92.1, 1st par., subpar. 1)

**1.** The Regulation respecting labour standards specific to certain sectors of the clothing industry (R.R.Q., N-1.1, r. 4) is amended in section 3 by replacing “\$9.50” by “\$9.65”.

**2.** This Regulation comes into force on 1 May 2011.

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Gouvernement du Québec

**O.C. 396-2011**, 6 April 2011

An Act respecting industrial accidents and occupational diseases  
(R.S.Q., c. A-3.001)

**Agreement regarding programs financed by the Department of Human Resources and Skills Development**  
— **Implementation**

Regulation respecting the implementation of the Agreement regarding programs financed by the Department of Human Resources and Skills Development

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 Department of Human Resources and Skills Development entered into such an agreement to consider as workers the persons participating in programs financed by the Department of Human Resources and Skills Development;

WHEREAS the new agreement was entered into to take into account the provisions relating to the new method of payment of the employer assessment provided for in the Act to amend the Act respecting industrial accidents and occupational diseases 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), which came into force 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 necessary measures for the implementation 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 the Act must 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 programs financed by the Department of Human Resources and Skills Development was published in Part 2 of the *Gazette officielle du Québec* of 22 December 2010 with a notice that it could be made by the Commission, with or without amendment, 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, without amendment, the Regulation respecting the implementation of the Agreement regarding programs financed by the Department of Human Resources and Skills Development at its meeting of 15 February 2011;

WHEREAS the Regulation replaces the Regulation respecting the implementation of the Agreement regarding the programs of the Canada Employment and Immigration Commission, made by Order in Council 294-97 dated 5 March 1997;

WHEREAS it is expedient to approve the Regulation respecting the implementation of the Agreement regarding programs financed by the Department of Human Resources and Skills Development, as it appears attached to this Order in Council;

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

THAT the Regulation respecting the implementation of the Agreement regarding programs financed by the Department of Human Resources and Skills Development, attached to this Order in Council, be approved.

GÉRARD BIBEAU,  
*Clerk of the Conseil exécutif*

## **Regulation respecting the implementation of the Agreement regarding programs financed by the Department of Human Resources and Skills Development**

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 participating in the programs financed by the Department of Human Resources and Skills Development to the extent and on the conditions provided for in the agreement entered into by the Minister of Human Resources and Skills Development and the Commission de la santé et de la sécurité du travail, appearing in the Schedule.

**2.** This Regulation replaces the Regulation respecting the implementation of the Agreement regarding the programs of the Canada Employment and Immigration Commission, made by Order in Council 294-97 dated 5 March 1997.

**3.** This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

### **SCHEDULE**

AGREEMENT CONCERNING WORK PERFORMED BY THE PARTICIPANTS AND MEMBERS OF THE ADMINISTRATIVE PERSONNEL IN PROGRAMS FINANCED BY THE DEPARTMENT OF HUMAN RESOURCES AND SKILLS DEVELOPMENT CANADA (SERVICE CANADA)

BETWEEN

THE DEPARTMENT OF HUMAN RESOURCES AND SKILLS DEVELOPMENT CANADA (SERVICE CANADA)

AND

THE COMMISSION DE LA SANTÉ ET DE LA  
SÉCURITÉ DU TRAVAIL

UNDER SECTION 16 OF THE ACT RESPECTING  
INDUSTRIAL ACCIDENTS AND OCCUPATIONAL  
DISEASES

December 2010

WHEREAS the Department of Human Resources and Skills Development is established under section 3(1) of the Department of Human Resources and Skills Development Act (S.C. 2005, c. 34);

WHEREAS the Minister holding office has the management and direction of the Department;

WHEREAS under section 10 of the said Act, for the purpose of facilitating the formulation, coordination and implementation of any program or policy relating to the powers, duties and functions conferred by the Act, the Minister may enter into agreements with a province or a provincial public body, financial institutions and other persons or bodies that the Minister considers appropriate;

WHEREAS questions relating to the employment and management of the participants and members of the administrative personnel in programs financed by the Department of Human Resources and Skills Development are managed by the Service Canada division of the Department of Human Resources and Skills Development, hereinafter referred to as HRSDC (SC);

WHEREAS the Commission de la santé et de la sécurité du travail, hereinafter referred to as 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 such a legal person and the special powers conferred on it by that Act;

WHEREAS the Commission may, under section 170 of that 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 HRSDC (SC) has requested that the Act respecting industrial accidents and occupational diseases (R.S.Q., c. A-3.001) apply to the participants and members of the administrative personnel and it intends to assume, for administrative purposes only, the obligations prescribed for employers as regards the statement

of the contributions paid by HRSDC (SC) for the participants and members of the administrative personnel, the payment of the assessments due to the Commission and the imputation of the cost of benefits payable by reason of an employment injury;

WHEREAS, under section 16 of that Act, 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 section 16 provides that the second paragraph of section 170 of the Act respecting occupational health and safety (R.S.Q., c. S-2.1) applies to such an agreement, meaning that the Commission must make a regulation to make effective an agreement extending benefits arising out of Acts or regulations administered by it;

THEREFORE, THE PARTIES HEREBY 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, section 10 of the Department of Human Resources and Skills Development Act (S.C. 2005, c. 34) and section 170 of the Act respecting occupational health and safety (R.S.Q., c. S-2.1).

**CHAPTER 2**  
PURPOSES

Purposes

2.1 The purposes of this Agreement are to provide, on the conditions and to the extent of the Agreement, for the application of the Act respecting industrial accidents and occupational diseases to the participants and members of the administrative personnel in the programs financed by the Department of Human Resources and Skills Development, and to determine the respective obligations of the parties to this Agreement.

Other purpose

This Agreement also provides for the non-application of the provisions concerning the re-assignment or protective re-assignment of a pregnant or breast-feeding worker in the Act respecting occupational health and safety.

### CHAPTER 3 DEFINITIONS

“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);

“contribution”

(b) **contribution** means the contribution paid for a participant or a member of the administrative personnel in the form of, as the case may be,

i. any amount paid by HRSDC (SC) as wages or an allowance;

ii. any unemployment insurance benefits paid for a participant, to which may be added any amount paid as an allowance, where applicable.

This definition excludes additional allowances paid for day-care expenses, transportation costs or any other amount that may not be considered as employment income.

“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;

“Act”

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

“participant”

(e) **participant** means any person registered in a program listed in Schedule I;

“member of the administrative personnel”

(f) **member of the administrative personnel** means any person registered, in particular, in a program listed in Schedule I;

“promoter”

(g) **promoter** means a municipal administration, a Native band council, a health institution, a public educational institution, a business or any other organization that has entered into an agreement with HRSDC (SC) for the purpose of implementing and carrying out a program administered by HRSDC (SC) and covered by this Agreement.

“HRSDC (SC)”

(h) **HRSDC (SC)** means the Service Canada division of the Department of Human Resources and Skills Development, or any other organization that replaces it pursuant to an Act of Parliament;

### CHAPTER 4 OBLIGATIONS OF HRSDC (SC)

Employer

4.1 HRSDC (SC) is deemed to be the employer of any participant or any member of the administrative personnel covered by this Agreement, for the sole and exclusive purposes of the statement of the contributions paid by it for the participants or members of the administrative personnel who are registered in the programs subject to this Agreement, the payment of the assessment calculated by the Commission and the imputation of the cost of the benefits paid by the Commission by reason of an employment injury.

Exclusions

It is understood that the participants and members of the administrative personnel covered by this Agreement are neither employees, officers or servants of Her Majesty in right of Canada or of HRSDC (SC) for the purposes of any Act and, in particular, the Crown Liability and Proceedings Act (R.S.C., 1985, c. C-50), nor employees of the State for the purposes of the Government Employees Compensation Act (R.S.C., 1985, c. G-5).

Transportation costs

4.2 HRSDC (SC) assumes the transportation costs referred to in section 190 of the Act where those costs are impossible to recover from the promoter.

Promoter’s obligations

4.3 HRSDC (SC) must inform promoters that they are bound by all the other employers’ obligations provided for in the Act, except for the obligations set out in section 32 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, which do not apply to them.

Other exception

Likewise, Subdivision 4 of Division I of Chapter III of the Act respecting occupational health and safety does not apply to promoters.

#### Confirmation of participation

4.4 If the Commission so requests, HRSDC (SC) must confirm the name of a participant, member of the administrative personnel or promoter subject to this Agreement.

#### Payment of assessments

4.5 HRSDC (SC) must pay the assessment calculated by the Commission on the basis of the general rate of the unit corresponding to the economic activities 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.

#### Fixed administrative costs

The foregoing also applies to the fixed administrative costs associated with the opening of each financial record.

#### Periodic payments

For the purposes of this Agreement, HRSDC (SC) is required to make periodic payments in accordance with section 315.1 of the Act.

HRSDC (SC) will make monthly payments for all the programs, except the Aboriginal programs for which the contributions will be added to the payments calculated quarterly.

#### Minimum

4.6 For assessment purposes, HRSDC (SC) is deemed to pay wages that correspond to the contributions paid by it for the participants or members of the administrative personnel who are registered in a program subject to this Agreement.

#### Contributions paid

4.7 HRSDC (SC) must send to the Commission, not later than 30 June each year, the final amount of the contributions paid for the participants or members of the administrative personnel registered in a program during the period between 1 April of the preceding year and 31 March of the current year and must pay, where applicable and taking periodic payments into account, any balance on the assessment calculated by the Commission.

#### Overpayment

The Commission will apply any assessment amount overpaid by HRSDC (SC) to the assessment due for a subsequent year.

#### Description of programs

4.8 HRSDC (SC) must forward to the Commission, on the coming into force of this Agreement, a description of every program listed in Schedule I.

#### New program or amendment

Every new program and every subsequent amendment to a program listed 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 participant or member of the administrative personnel who is registered in any of the programs subject to this Agreement to be a worker within the meaning of the Act.

#### Indemnity

5.2 A participant or a member of the administrative personnel who suffers an employment injury is entitled to an income replacement indemnity from the first day following the beginning of the participant’s or member’s inability to carry on the remunerated employment held at the time the employment injury appears.

If the participant or member of the administrative personnel has no remunerated employment at the time the employment injury appears, the participant or member is entitled, from the first day following the beginning of the inability, to the income replacement indemnity if the participant or member becomes unable, by reason of that injury, to carry on the participant’s or member’s usual employment or, if the participant or member does not carry on such employment usually, the employment that could have been the participant’s or member’s usual employment, considering the participant’s or member’s training, work experience and physical and intellectual capacity before the injury appeared.

#### Payment

5.3 Despite section 60 of the Act, the Commission pays to the participant or to the member of the administrative personnel the income replacement indemnity to which the participant or member is entitled.

### Calculation of the indemnity

5.4 For the purpose of calculating the income replacement indemnity, the gross annual employment income of the participant or member of the administrative personnel is the amount of the contribution paid by HRSDC (SC).

### Recurrence, relapse or aggravation

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

### Exception

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

### Financial records

5.5 The Commission must open a financial record in respect of each program and charge the fixed administrative costs to HRSDC (SC).

### Penalties

5.6 The Commission will not impose any penalty on HRSDC (SC) for a delay in filing the statement of the final amount of the contributions paid for the participants or members of the administrative personnel.

## **CHAPTER 6 MISCELLANEOUS**

### Monitoring of progress of the agreement

6.1 Within 15 days following the coming into force of this Agreement, both HRSDC (SC) and the Commission will 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) Executive Director, Labour Market and Social Development Programs  
Service Canada  
200, boulevard René-Lévesque Ouest  
Complexe Guy-Favreau  
2<sup>e</sup> étage, tour Ouest  
Montréal (Québec) H2Z 1X4

(b) 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

## **CHAPTER 7**

### **TAKING OF EFFECT, TERM AND AMENDMENT**

#### Taking of effect

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 of the Act respecting occupational health and safety.

#### Term

7.2 The Agreement remains in effect until 31 March 2012.

#### Tacit renewal

7.3 It will subsequently be renewed tacitly for successive 12-month periods, 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

7.4 In the latter case, the notice must contain the amendments that the party wishes to make.

#### Renewal

7.5 The sending of the notice provided for in section 7.4 does not preclude the tacit renewal of this Agreement for a period of one (1) year. If the parties do not agree on the amendments to be made to the Agreement, the Agreement will be terminated, without further notice, at the expiry of that period.

## CHAPTER 8 CANCELLATION OF THE AGREEMENT

### Non-compliance

8.1 If HRSDC (SC) fails to comply with any of its obligations, the Commission may send a notice in writing to request that HRSDC (SC) remedy that failure within a period fixed by the Commission. If the failure is not remedied within the period fixed, the Commission may cancel this Agreement unilaterally by giving notice in writing.

### Date

8.2 The Agreement is then cancelled on the date on which the notice of cancellation provided for in section 8.1 is sent.

### Financial adjustments

8.3 In the event of a cancellation, the Commission will make financial adjustments on the basis of the amounts payable under this Agreement.

### Sum due

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

### Mutual agreement

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

### Damages

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

## CHAPTER 9 TRANSITIONAL PROVISION

Despite section 4.5 above, HRSDC (SC) is not required to make periodic payments for the period from 1 January to 31 March 2011.

IN WITNESS WHEREOF, THE PARTIES HAVE SIGNED

At \_\_\_\_\_, on the \_\_\_\_\_ At \_\_\_\_\_, on the \_\_\_\_\_  
( ) day of \_\_\_\_\_2010. ( ) day of \_\_\_\_\_2010.

DENIS BOULANNE,  
*Executive Head Service  
Management  
Department of Human  
Resources and Skills  
Development Canada  
(Service Canada)*

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

## SCHEDULE I

### LIST OF PROGRAMS SUBJECT TO THE AGREEMENT

#### Youth Employment Strategy:

(a) “Canada Summer Jobs”:  
participants from not-for-profit organizations only;

(b) “Skills Link”:  
administrative personnel and participants  
except participants for work experience in the following  
two components:  
– Employability Skills through Work Experience;  
– Work Experience;

(c) “Career Focus”:  
administrative personnel only;

#### Aboriginal strategy:

(a) “Assembly of First Nations of Québec and Labrador”:  
– administrative personnel and participants in the following two components:  
– On-the-job skills development;  
– Improving employability in the workplace;

(b) “Algonquin Nation Human Resources and Sustainable Development Secretariat”:  
– Vocational integration - participants only;  
– Job creation – administrative personnel and participants.