

## Draft Regulations

### Draft Regulation

An Act respecting occupational health and safety (chapter S-2.1)

#### Agreement relating to the protection of professional circus artists in training —Implementation

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation respecting the implementation of the Agreement relating to the protection of professional circus artists in training, the text of which appears below, may be made by the Commission des normes, de l'équité, de la santé et de la sécurité du travail, with or without amendment, on the expiry of 45 days from this publication and submitted to the Government for approval.

An agreement must be made between the Conseil des arts et des lettres du Québec and the Commission in order for the council to be deemed the employer of professional circus artists in training, for the sole purposes of indemnification, payment of the assessment determined by the Commission and imputation of the cost of benefits paid by the Commission by reason of an employment injury. The assessments will be paid by the Conseil des arts et des lettres du Québec.

This agreement requires that a regulation be made pursuant to section 170 of the Act respecting occupational health and safety (chapter S-2.1) to give effect thereto.

Analysis of the file reveals no impact on businesses.

Additional information may be obtained by contacting M<sup>e</sup> Sophie Genest, Commission des normes, de l'équité, de la santé et de la sécurité du travail, 1199, rue De Bleury, 14<sup>e</sup> étage, Montréal (Québec) H3H 3J1, telephone 514-906-2906 or 438-886-9928, fax 514-906-3781.

Any interested person wishing to comment on the draft Regulation is requested to submit written comments before the expiry of the 45-day period to Mr. Bruno Labrecque, Vice President, Finance, Commission des normes, de l'équité, de la santé et de la sécurité du travail, 524, rue Bourdages, Québec (Québec) G1K 7E2.

MANUELLE OUDAR,  
*Chair of the Board of Directors and Chief Executive Officer of the Commission des normes, de l'équité, de la santé et de la sécurité du travail*

### Regulation respecting the implementation of the Agreement relating to the protection of professional circus artists in training

An Act respecting occupational health and safety (chapter S-2.1, s. 170 and s. 223, 1st par., subpar. 39)

**1.** The Act respecting industrial accidents and occupational diseases (chapter A-3.001) applies to professional circus artists in training to the extent and according to the conditions determined in the agreement between by the Conseil des arts et des lettres du Québec and the Commission des normes, de l'équité, de la santé et de la sécurité du travail appearing in Schedule I.

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

#### SCHEDULE 1

##### AGREEMENT

##### BETWEEN

THE COMMISSION DES NORMES, DE L'ÉQUITÉ,  
DE LA SANTÉ ET DE LA SÉCURITÉ DU TRAVAIL

a legal person legally established pursuant to the Act respecting occupational health and safety having its head office at 524, rue Bourdages, Québec, G1K 7E2, represented by its chair of the board of directors and chief executive officer, Ms. Manuelle Oudar

hereinafter called the "Commission"

##### AND

THE CONSEIL DES ARTS ET DES LETTRES  
DU QUÉBEC

a legal person legally established pursuant to the Act respecting the Conseil des arts et des lettres du Québec, having its head office at 79, boul. René-Lévesque Est, Québec, G1R 5N5 acting for and in the name of the Gouvernement du Québec, represented by its chief executive officer, Ms. Anne-Marie Jean,

hereinafter called the “CALQ”

WHEREAS the Commission, established pursuant to section 137 of the Act respecting occupational health and safety (chapter S-2.1) is, pursuant to section 138 of that Act, a legal person within the meaning of the Civil Code of Québec and is vested with the general powers of such legal person and the specific powers that the Act confers on it;

WHEREAS pursuant to section 170 of that same Act, the Commission may enter into agreements in accordance with the Act with a department or agency of the Government, another government or one of its departments or agencies with a view to the application of the laws and regulations that it administers;

WHEREAS the CALQ, established pursuant to section 1 of the Act respecting the Conseil des arts et des lettres du Québec (chapter C-57.02) is, pursuant to sections 2 and 3 of that Act, a legal person and a mandatary of the State;

WHEREAS the CALQ is vested with the general powers of such legal person and the specific powers that that Act confers on it;

WHEREAS the CALQ, pursuant to section 14 of that Act, is competent to act in the fields of visual arts, arts and crafts, literature, performing arts, multidisciplinary arts, media arts and in matters of architectural research;

WHEREAS pursuant to section 15 of that same Act, the object of the CALQ is to support creation, experimentation and production in all regions of Québec and to foster the diffusion thereof in Québec and, in compliance with Québec’s policies in matters of Canadian intergovernmental affairs and international affairs, elsewhere in Canada and abroad;

WHEREAS the CALQ has asked for the Act respecting industrial accidents and occupational diseases (chapter A-3.001) to be applicable to professional circus artists covered by the agreement and it intends to assume the obligations prescribed for an employer, including the obligations relating to assessments due;

WHEREAS section 16 of that Act stipulates that 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 that section 16 also provides that the second paragraph of section 170 of the Act respecting occupational health and safety applies to such an agreement, namely, that the Commission must proceed by way of a regulation to give effect to such an agreement extending the benefits of the laws and regulations it administers;

THEREFORE, THE PARTIES AGREE AS FOLLOWS:

## 1. OBJECT

The object of the Agreement is to provide for the application of the Act respecting industrial accidents and occupational diseases (chapter A-3.001), according to the conditions prescribed therein, to professional circus artists covered by Schedule I to the Agreement and to determine the obligations of the CALQ and the Commission.

## 2. DEFINITIONS

For the purposes of the Agreement:

“**Act**” means the Act respecting industrial accidents and occupational diseases;

“**CALQ**” means the Conseil des arts et des lettres du Québec;

“**Commission**” means the Commission des normes, de l’équité, de la santé et de la sécurité du travail, established pursuant to section 137 of the Act respecting occupational health and safety (chapter S-2.1);

“**employment**” means training structured and supervised by a qualified professional in authorized premises, as specified in Schedule I to the Agreement. Any training provided for under an employment contract is excluded from the application of the Agreement;

“**employment injury**” means an injury or a disease as defined by the Act;

“**professional circus artist**” means a person who carries on employment not provided for under an employment contract and meets the conditions prescribed in Schedule I to the Agreement.

## 3. OBLIGATIONS OF THE CALQ

### 3.1 Employer

The CALQ is deemed to be the employer of any professional circus artist covered by the Agreement.

Despite the foregoing, that employer-employee relationship is recognized only for the purposes of indemnification, assessment and imputation of the cost of benefits payable under the Act and shall not be considered an admission of a factual situation that could lend itself to interpretation in other fields of activity.

The professional circus artists covered by the Agreement are not employees, public servants or officers of the Gouvernement du Québec, including the CALQ.

### **3.2 General obligations**

As an employer, the CALQ is bound, with the necessary modifications, by all the obligations prescribed by the Act, including in particular the obligation to keep a register of industrial accidents that occur in establishments where professional circus artists are present. The CALQ is obligated in particular to notify the Commission, within 15 days of the event by means of the agreed form, where a professional circus artist sustains an injury in the course of training covered by Schedule I to the Agreement.

Despite the foregoing, in respect of the register of industrial accidents referred to in the preceding paragraph, the CALQ is required to make that register available only to the Commission.

### **3.3 Exceptions**

Despite section 3.2, section 32 of the Act relating in particular to the dismissal, suspension or transfer of a worker, the practising of discrimination or the taking of reprisals against a worker, Division II of Chapter IV concerning the temporary assignment of work and Chapter VII concerning the right to return to work do not apply to the CALQ.

### **3.4 Information**

At the request of the Commission, the CALQ shall forward a description of the activities being performed by the professional circus artist at the time the event occurred.

### **3.5 First aid**

Although the CALQ itself is not required to give first aid to a professional circus artist who has sustained an employment injury in accordance with sections 190 and 191 of the Act, it must nonetheless ensure that first aid is provided to the artist, where necessary, and assume the costs thereof.

### **3.6 Payment of assessment**

The CALQ agrees to pay the assessment calculated by the Commission in accordance with the Act and its regulations, as well as the administrative costs associated with each insurance file.

For the purposes of the Agreement, the CALQ is also required to make periodic payments, in accordance with section 315.1 of the Act.

### **3.7 Assessment**

Solely for assessment purposes, the CALQ is deemed to pay to each professional circus artist covered by the Agreement, without regard to the number of hours of structured and supervised training actually conducted, gross annual wages, rounded to the next highest multiple of one hundred dollars, established on the basis of a 40-hour week of training at the minimum wage in effect on 31 December of the year in which the training activities are conducted.

### **3.8 Annual statement**

The CALQ shall forward to the Commission, before 15 March of each year, the annual statement indicating in particular the amount of gross wages deemed paid to professional circus artists during the preceding calendar year.

### **3.9 Register**

The CALQ shall keep a detailed register indicating the names and addresses of professional circus artists and shall provide to the Commission, at its request, the information it needs for the purposes of the Agreement.

### **3.10 Authorized premises**

On the coming into force of the Agreement, the CALQ shall provide to the Commission a list of the authorized premises where the training covered by Schedule I is conducted, in accordance with the conditions set forth therein.

Any modification to that list must be forwarded to the Commission at least five working days before it takes effect.

## **4. OBLIGATIONS OF THE COMMISSION**

### **4.1 Worker status**

The Commission considers a professional circus artist covered by the Agreement to be a worker within the meaning of the Act.

## 4.2 Indemnity

A professional circus artist who sustains 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 due to the injury.

Despite section 60 of the Act, the Commission shall pay the professional circus artist the income replacement indemnity to which he or she is entitled from the first day of inability to carry on employment.

## 4.3 Calculation of indemnity

For the purposes of calculating the income replacement indemnity, the professional circus artist's gross annual employment income is that determined on the basis of the minimum wage prescribed by section 3 of the Regulation respecting labour standards (chapter N-1.1, r. 3) and the regular workweek referred to in section 52 of the Act respecting labour standards (chapter N-1.1), as they read on the date they are to be applied when the injury appears.

## 4.4 Financial record

At the request of the CALQ, the Commission shall open a separate financial envelope for training covered by the Agreement.

Such training is classified in the unit of operation "Television network or station; production of films, publicity films, video clips or television programs; production of music, singing, theatre or dance shows or shows of a similar nature; cinema hall; drive-in; performance hall; organization of periodic events of a cultural, sports or commercial nature; museum; historic site" or, if amendments are made to that unit of operation following the signing of the Agreement, in a unit corresponding to those activities.

## 4.5 Applicable rate

The Commission shall apply, for the training covered by Schedule 1, either the specific assessment rate of the unit in which the training is classified, or a special personalized assessment rate, provided in the latter case that the training satisfies the conditions determined in the Act and its regulations for each assessment year.

For the purposes of determining the conditions for the application of a special personalized assessment rate and fixing that rate, the Commission shall use the experience associated with the financial envelope created further to the coming into force of the Regulation respecting the imple-

mentation of the Agreement on the professional dance training program (chapter S-2.1, r. 30.1), as if there had been a transaction, as defined in section 170 of the Regulation respecting financing (chapter A-3.001, r. 7), on the date of the coming into force of the Agreement.

## 5. MISCELLANEOUS

### 5.1 Monitoring of the Agreement

Within 15 days following the coming into force of the Agreement, the Commission and the CALQ shall each designate a person responsible for monitoring the Agreement.

### 5.2 Addresses for notices

Any notice provided for under the Agreement shall be transmitted to the following addresses:

— Commission des normes, de l'équité, de la santé et de la sécurité du travail  
Secrétariat général  
1199, rue de Bleury, 14<sup>e</sup> étage  
Montréal (Québec) H3B 3J1

— Conseil des arts et des lettres du Québec  
Secrétariat général  
79, boul. René-Lévesque Est, 3<sup>e</sup> étage  
Québec (Québec) G1R 5N5.

## 6. COMING INTO FORCE, TERM AND AMENDMENT OF THE AGREEMENT

### 6.1 Effective date and term of the Agreement

The Agreement shall take effect on the date of the coming into force of the regulation made by the Commission pursuant to sections 170 and 223 of the Act respecting occupational health and safety and shall remain in force until 31 December 2021.

### 6.2 Tacit renewal

It shall subsequently be 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 of the Agreement expires, a notice in writing to the effect that it intends to terminate or amend the Agreement.

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

### 6.3 Renewal

Where a party intends to make amendments to the Agreement, the sending of the notice provided for in section 6.2 does not preclude the tacit renewal of the Agreement for a period of one year. If the parties do not agree on the amendments to be made, the Agreement shall terminate, without further notice, at the expiry of that renewal period.

## 7. TERMINATION OF THE AGREEMENT

### 7.1 Non-compliance

If the CALQ fails to comply with an obligation prescribed by the Agreement, the Commission may request that it correct its non-compliance within a period fixed by the Commission. If non-compliance is not corrected within that period, the Commission may unilaterally terminate the Agreement upon written notice.

The Agreement is then terminated as of the date of that notice.

### 7.2 Mutual agreement

The parties may, by mutual agreement, terminate the Agreement at any time.

### 7.3 Financial adjustments

In the event of termination, the Commission shall make financial adjustments taking into account the amounts payable under the Agreement.

Any sum due following those financial adjustments is payable on the due date appearing on the notice of assessment.

### 7.4 Damages

In the event of termination, neither party may 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 \_\_\_\_\_ 2021 ( ) day of \_\_\_\_\_ 2021

ANNE-MARIE JEAN  
Chief Executive Officer  
Conseil des arts et des lettres  
du Québec

MANUELLE OUDAR  
Chair of the Board of  
Directors and Chief  
Executive Officer  
Commission des normes, de  
l'équité, de la santé et de la  
sécurité du travail

## SCHEDULE I

### Professional circus artist covered by the Agreement

For the purposes of the Agreement, the following are considered professional circus artists:

—a member in good standing of En Piste, a national circus arts alliance, and more specifically, an individual member in the artist and creator subcategory, as defined in the En Piste membership policy, or

—a person who meets the definitions and the eligibility requirements to be an individual member of En Piste in the artist and creator subcategory.

### Training activities covered by the Agreement

To be subject to the Agreement, the training offered to professional circus artists must be structured and supervised by a qualified professional in authorized premises. It may take one of the following forms:

—ongoing training sessions, open classes, disciplinary training sessions, individualized training sessions offered by En Piste or by a recognized institution (superior schools, professional associations, national alliances or regional culture councils);

—the Individualized Training Support program offered by En Piste;

—training supervised by a qualified professional recognized by En Piste (such as a trainer, rigger, lunger, instructor or recognized expert in his or her field).

Such training must be conducted in premises that have been authorized by an agreement with En Piste and that are certified in particular as having safe facilities that meet health and safety standards.

Training activities that are provided for under an employment contract or conducted elsewhere than in authorized premises are excluded from the application of the Agreement. A professional circus artist's domicile and fitness centres are examples of premises that are not considered to be authorized premises.

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