

Draft Regulations

Draft regulation

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

Agreement on protection for domestic workers under the service employment paycheque framework —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 an agreement on protection for domestic workers under the service employment paycheque framework, appearing below, may be made by the Commission des normes, de l'équité, de la santé et de la sécurité du travail and submitted to the Government for approval, in accordance with section 224 of the Act respecting occupational health and safety (chapter S-2.1), on the expiry of 45 days following this publication.

A new agreement between the Commission and the Minister of Health must be entered into to reflect the recent changes made to the definition of worker in the Act respecting industrial accidents and occupational diseases (chapter A-3.001), which now covers domestic workers in some situations.

The agreement requires the making of a regulation under section 170 to the Act respecting occupational health and safety (chapter S-2.1) in order to take effect.

The impact of the Regulation will involve no direct costs for enterprises in Québec. The proposed rules and changes introduce no extra administrative formalities.

Further information may be obtained by contacting M^{re}. Sophie Genest, Commission des normes, de l'équité, de la santé et de la sécurité du travail, 1199, rue De Bleury, 14^e étage, Montréal (Québec) H3H 3J1; telephone 514-906-2906 or 438-886-9928.

Any person wishing to comment is requested to submit written comments within the 45-day period to Bruno Labrecque, Vice President Finance, Commission des normes, de l'équité, de la santé et de la sécurité du travail, 1600, av. D'Estimauville, 7^e étage secteur 3, Québec (Québec) G1J 0H7.

JULIE CERANTOLA
Secretary General
Commission des normes, de l'équité, de la santé
et de la sécurité du travail

Regulation respecting the implementation of an agreement on protection for domestic workers under the service employment paycheque framework

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

1. The Act respecting industrial accidents and occupational diseases (chapter A-3.001) applies to domestic workers paid under the service employment paycheque framework to the extent and on the conditions set in the agreement between the Minister of Health and the Commission des normes, de l'équité, 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 (O.C. 1198-2010, 2010-12-15).

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

SCHEDULE I

AGREEMENT BETWEEN

THE MINISTER OF HEALTH

AND

THE COMMISSION DES NORMES, DE L'ÉQUITÉ,
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 (CQLR, chapter M-19.2), the Minister 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 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 138 of the Act respecting occupational health and safety (CQLR, chapter 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 the Act;

WHEREAS, under the first paragraph of section 170 of the 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 first paragraph of section 16 of the Act respecting industrial accidents and occupational diseases (CQLR, chapter A-3.001) provides 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 the second paragraph of that section provides that the second and third paragraphs of section 170 of the Act respecting occupational health and safety apply to the agreement;

WHEREAS the second and third paragraphs of section 170 of the Act respecting occupational health and safety provide that the Commission must, by regulation, make effective an agreement that extends benefits arising out of Act or regulations administered by it, and that the regulation and the agreement shall be tabled immediately in the National Assembly if it is in session or, if it is not sitting, within fifteen days of the opening of the next session or, as the case may be, resumption;

WHEREAS section 247 of the Act specifies that the Commission shall collect from the employers the sums required to defray all the costs arising from the application of the Act and the regulations and that it shall exercise for that purpose all the powers and duties vested in it by the Act respecting industrial accidents and occupational diseases;

WHEREAS the Minister asks that the Act respecting industrial accidents and occupational diseases be made applicable to the domestic workers covered by this Agreement and intends to assume the obligations of an employer under the Act;

WHEREAS the Parties agree that this Agreement replaces the agreement entitled “Agreement between the Minister of Health and Social Services and the Commission de la santé et de la sécurité du travail”, entered into pursuant to section 16 of the Act respecting industrial accidents

and occupational diseases, which came into force on 1 January 2011 pursuant to order in council 1198-2010 dated 15 December 2010;

THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. INTERPRETATION

The preamble forms an integral part of this Agreement.

2. PURPOSE

The purpose of this Agreement is to provide to what extent and on what conditions the Act respecting industrial accidents and occupational diseases applies to domestic workers paid under the service employment paycheque framework and to determine the respective obligations of the Commission and of the Minister.

3. DEFINITIONS

For the purposes of this Agreement,

(a) “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; (*lésion professionnelle*)

(b) “Act” means the Act respecting industrial accidents and occupational diseases; (*Loi*)

(c) “service employment paycheque framework” means a framework to manage the direct allowance developed, in particular to support users in their role as the employer; (*modalité chèque emploi-service*)

(d) “domestic worker” means a person who, in return for pay, provides services to an individual and is paid under the service employment paycheque framework; (*travailleur domestique*)

(e) “user” means a user referred to in the Act respecting health services and social services (CQLR, chapter S-4.2) who uses the services of a domestic worker within the meaning of this Agreement. (*usager*)

4. OBLIGATIONS OF THE MINISTER

4.1. Employer

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

However, the employer-employee relationship is recognized as such only for the purposes of indemnification, assessment and imputation of the cost of benefits payable

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.

The domestic workers covered by this Agreement are neither employees, public servants or officers of the Government of Québec, including the Ministère de la Santé et des Services sociaux, nor employees, public servants or officers of a health and social services institution within the meaning of the Act respecting health services and social services or an institution within the meaning of the Act respecting health services and social services for Cree Native persons (CQLR, chapter S-5).

4.2. General obligations

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.

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.

The Minister also has an obligation to notify the Commission within 15 days when a domestic worker has suffered an employment injury.

4.3. Payment of indemnities

Section 60 of the Act applies to the Minister concerning the payment of an income replacement indemnity.

4.4. Exceptions

Despite section 4.2, section 32 of the Act concerning the dismissal, suspension or transfer of a worker, discrimination and reprisals, as well sections 179 and 180 concerning temporary assignments, as well as Chapter VII concerning the right to return to work, are not applicable to the Minister.

4.5. Obligation to inform

The Minister undertakes to inform users of their obligations with respect to domestic workers outside the scope of this Agreement.

4.6. Information

Upon request by the Commission, the Minister sends a description of the tasks and activities performed by the domestic worker when an employment injury occurred.

4.7. First aid

The Minister must see that first aid is given to a domestic worker suffering from an employment injury and pay the related costs, in accordance with sections 190 and 191 of the Act.

4.8. Payment of assessment

The Minister undertakes to pay the assessment calculated by the Commission in accordance with the Act and the regulations thereunder, as well as the management costs for each insurance file.

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

4.9. Assessment

For assessment purposes only, the Minister is deemed to pay a salary corresponding to the annual gross employment income paid to the domestic worker under the service employment paycheque framework.

4.10. Annual statement

Each year before 15 March, the Minister sends the Commission an annual statement indicating the amount of gross salaries paid to domestic workers during the preceding calendar year.

4.11. Register

The Minister keeps a detailed register of the names and addresses of domestic workers and, upon request by the Commission, provides it with the information it needs for the purposes of this Agreement.

5. OBLIGATIONS OF THE COMMISSION

5.1. Worker status

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

5.2. Indemnity

A domestic worker suffering from an employment injury is entitled to an income replacement indemnity beginning on the first day following the day the worker became unable to carry on his or her employment by reason of the injury.

5.3. Payment of indemnity

The Commission pays the domestic worker the income replacement indemnity to which the worker is entitled beginning on the fifteenth day following the day on which the worker became unable to carry on his or her employment and for the duration of that inability.

5.4. Reimbursement

Following the acceptance or refusal of a domestic worker's claim, the Commission reimburses the Minister for the first 14 days of income replacement indemnity paid to the domestic worker.

5.5. Calculation of indemnity

The Commission applies the rules set out in the Act with respect to the salary used as the basis to pay the income replacement indemnity.

5.6. Employer record

The Commission, at the Minister's request, sets up a separate employer record for the service employment paycheque framework.

The service employment paycheque framework is classified in unit 77040, "Domestic help services for individuals", or in a unit that matches the activities concerned if changes are made to unit 77040 after the signing of this Agreement.

5.7. Applicable rate

For the service employment paycheque framework, the Commission applies either the general assessment rate for the unit in which the service employment paycheque framework is classified or a personalized general assessment rate provided that, in the latter case, the service employment paycheque framework meets the conditions of the Act and its regulations for each assessment year.

The Commission also makes a retrospective adjustment to the annual assessment rate applicable to the Minister, provided that it meets the conditions of the Act and its regulations for the assessment year.

6. IMMUNITY

Division II of Chapter XIII of the Act applies to a user or to the Minister, as the case may be.

7. FOLLOW-UP AND NOTICES

7.1. Follow-up

Both the Commission and the Minister must designate a person responsible for the follow-up of the Agreement within 15 days of its coming into force.

7.2. Addresses and notices

Any notice required by this Agreement must, to be valid and binding on the parties, be sent in writing by a means allowing receipt at a precise time to be proved, and delivered 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^e étage
Montréal (Québec) H3B 3J1

— Ministère de la Santé et des Services sociaux
Secrétariat général
1075, chemin Sainte-Foy, 14^e étage
Québec (Québec) G1S 2M1

8. EFFECT, TERM AND AMENDMENT

8.1. Effect and term

This Agreement takes effect on the date of 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 remains in effect until terminated.

8.2. Amendment

The Minister must notify the Commission, in writing, of any change to the service employment paycheque framework to allow the Commission to assess whether it is necessary to amend this Agreement accordingly.

9. TERMINATION OF THE AGREEMENT

9.1. Default

If the Minister fails to comply with an obligation under this Agreement, the Commission may ask the Minister to rectify the default within the time it sets. If the default is not rectified within the time set, the Commission may terminate this Agreement unilaterally after giving written notice.

This Agreement is then terminated as of the date of the notice.

9.2. Procedure

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

A party that wishes to cancel this Agreement may also request its cancellation by sending the other party a written notice to that effect. The notice must set out the grounds for the cancellation and set the date on which cancellation is to take effect.

9.3. Financial adjustments

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

Any amount owed following the financial adjustments is payable on the due date entered on the notice of assessment.

9.4. Damages

In the event of cancellation, neither party may be obligated to pay damages, interest 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 _____ 2023 ____ day of _____ 2023

DOMINIQUE SAVOIE

MANUELLE OUDAR

Deputy Minister

*President
and chief executive officer*

*Ministère de la Santé
et des Services sociaux*

*Commission des normes,
de l'équité, de la santé
et de la sécurité du travail*

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Notice

An Act respecting industrial accidents and occupational diseases (chapter A-3.001)

Applicable percentages for the purposes of levying the assessment on employers personally liable for the payment of benefits for 2024

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation respecting the applicable percentages for the purposes of levying the assessment on employers personally liable for the payment of benefits for 2024, appearing below, may be made by the Commission des normes, de l'équité, de la santé et de la sécurité du travail on the expiry of 45 days following this publication.

This draft regulation seeks to determine the percentages that the Commission must use in order to levy on employers personally liable for the payment of benefits the expenses that it incurs for the application of Chapter X of the Act respecting industrial accidents and occupational diseases.

The examination of this file reveals no significant impact on the enterprises directly concerned by this regulation given that the Commission adopts such percentages on an annual basis.

Any interested person having comments to make on this matter is asked to send them in writing, before the expiry of this period, to Mr. Bruno Labrecque, Vice-Chairman, Finance, Commission des normes, de l'équité, de la santé et de la sécurité du travail, 1600, avenue D'Estimauville, Québec (Québec) G1J 0H7.

JULIE CERANTOLA

*General Secretary of the Commission des normes,
de l'équité, de la santé et de la sécurité du travail*

Regulation respecting the applicable percentages for the purposes of levying the assessment on employers personally liable for the payment of benefits for 2024

Act respecting industrial accidents and occupational diseases (chapter A-3.001, s. 454, par. 1, subpar. 16)

1. The purpose of this regulation is to determine the applicable percentages for the purposes of levying the assessment on employers personally liable for the payment of benefits to defray the costs for the administration of