

chapter C-24.2, r. 21

Regulation respecting a Memorandum of Understanding between the Department of National Defence (Canada) and Le ministère des Transports du Québec concerning Drivers' Licences and Certain Criminal Traffic Offences

Highway Safety Code
(chapter C-24.2, s. 631).

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SCHEDULE

1. The application of the Highway Safety Code (chapter C-24.2) to a holder of a driver's licence issued by the Société de l'assurance automobile du Québec or by the Commander, Canadian Forces Europe, is subject to the provisions contained in the Memorandum of Understanding between the Department of National Defence (Canada) and Le ministère des Transports du Québec concerning Drivers' Licences and Certain Criminal Traffic Offences, the text of which is attached hereto.

O.C. 1398-88, s. 1.

2. *(Omitted).*

O.C. 1398-88, s. 2.

SCHEDULE

(s. 1)

MEMORANDUM OF UNDERSTANDING BETWEEN THE DEPARTMENT OF NATIONAL DEFENCE (CANADA)

(as represented by the Commander, Canadian Forces Europe)

AND

LE MINISTÈRE DES TRANSPORTS DU (QUÉBEC)

WHEREAS the Department of National Defence and “Le ministère des Transports” wish to:

- promote compliance with traffic laws and improve highway safety;
- facilitate the issuance of driving licences for private motor vehicles to persons who establish eligibility in the jurisdiction of one party and who are already holders of valid drivers’ licences issued by the other party;
- further highway safety by the reciprocal recognition and enforcement of driver’s licence suspensions as a consequence of certain convictions under the Criminal Code (R.S.C., c. C-34), or the National Defence Act (R.S.C., c. N-4), by a competent tribunal of either party, as described in the Appendix to this Memorandum of Understanding;

WHEREAS jurisdiction with respect to the issuance of driving licences for private motor vehicles lies with the Department of National Defence represented by the Commander, Canadian Forces Europe, for Canadians present in the Federal Republic of Germany pursuant to the North Atlantic Treaty Organization Status of Forces Agreement (signed in London, 19 June 1951) and supplemental agreements thereto.

WHEREAS “Le ministre des Transports du Québec” may, according to law, enter into an agreement with any government, department or body respecting any matter referred to in the Highway Safety Code (chapter C-24.2) and under the provisions of the Code the Régie de l’assurance automobile du Québec has jurisdiction to issue drivers’ licences to all residents of Québec, and is responsible for the implementation of such an agreement.

THEREFORE, THIS MEMORANDUM OF UNDERSTANDING WITNESSES that in consideration of the terms, conditions, and covenants hereinafter set forth, it is mutually agreed between the parties hereto as follows:

ARTICLE I

DEFINITIONS

For the purpose of this Memorandum of Understanding:

1.1 “Québec driver’s licence” means a Class 42 licence issued by the Régie de l’assurance automobile du Québec authorizing its holder to drive a passenger vehicle or a combination its holder to drive a passenger vehicle or a combination of road vehicles, other than a public commercial vehicle, but including a farm tractor, whose gross vehicle weight is under 11,000 kg. The definition also includes a Class 54, 55 or 56 licence to drive a motorcycle, meaning a passenger vehicle having two or three wheels that has at least one characteristic different from the characteristics of a moped.

1.2 “Valid driver’s licence” means a driver’s licence that has not expired and is not revoked or suspended in accordance with the laws, regulations or orders of the issuing jurisdiction.

1.3 “CFE driver’s licence” means a licence to operate a private motor vehicle issued by or under the authority of the Commander, Canadian Forces Europe and includes a temporary or provisional driver’s licence, but does not include a licence to operate only a moped and/or a mofa.

ARTICLE II

DRIVER’S LICENCE EXCHANG.

2.1 The holder of a valid CFE driver’s licence may, when moving to Québec, exchange such licence, without examination, for a Québec driver’s licence valid for the class or classes of vehicles comparable to those for which his Canadian Forces Europe driver’s licence was valid, upon payment of the fees prescribed by a regulation and of the amount fixed by section 151 of the Automobile Insurance Act (chapter A-25).

2.2 A resident of Québec who holds a valid Québec driver’s licence may, when posted or transferred by the Department to the Federal Republic of Germany, exchange such licence for a Canadian Forces Europe driver’s licence valid for the class or classes of vehicles comparable to those for which his Québec licence was valid, upon payment of the appropriate fee and upon successful completion of such examinations and tests in European driving as are set by the Commander, Canadian Forces Europe.

2.3 The exchanged licence shall be returned to the jurisdiction of origin.

2.4 The jurisdiction of origin will verify the validity of the returned licence and will transmit to the current jurisdiction the following information, if available:

- the holder’s Social Insurance Number;
- the holder’s name, address and date of birth;
- the driver’s licence number;
- any restrictions to which the holder is subject, including medical;
- the period of validity of the licence;
- the number of years of driving experience of the holder;
- the holder’s height and sex;
- any suspensions or revocations on record, for offenses contemplated in Article 3.1 of this Memorandum, including:
 - the period of any expired suspensions or revocations, and
 - the reason for such expired suspensions or revocations,
 - the date of disclosure,
 - copy or record of conviction.

2.5 Information obtained by the new jurisdiction of residence pursuant to paragraph 2.4 becomes part of the driver’s record.

2.6 A driver’s licence issued pursuant to paragraph 2.1 or 2.2 may be subsequently suspended, revoked, cancelled or restricted, or an additional examination may be required based upon information received pursuant to paragraph 2.4.

ARTICLE III

SUSPENSION OR REVOCATION

3.1 The Commander Canadian Forces Europe shall, within 30 days after the departure for Québec of any person under his jurisdiction or command whose Canadian Forces Europe driver's licence has been suspended or revoked following a conviction for one or more of the following offences described in this section, report in writing to the Régie de l'assurance automobile du Québec the name of such person. The relevant offences are:

— offences relating to the operation of a motor vehicle while under the influence of alcohol or drugs, under sections 237 and 238 of the Criminal Code of Canada (hereinafter referred to as the "Criminal Code");

— offences relating to criminal negligence or manslaughter resulting from the operation of a motor vehicle, under sections 203, 204 and 219 of the Criminal Code;

— offences relating to dangerous driving, under section 233 of the Criminal Code;

— offences relating to the failure to stop at the scene of a fatal or personal injury accident or leaving without reporting, under section 236(1)a) of the Criminal Code;

— offences relating to the operation of a motor vehicle or having care or control of a motor vehicle while under the influence of alcohol or drugs resulting in personal injuries or death, under section 239 of the Criminal Code.

3.2 Information reported under paragraph 3.1 shall be transmitted with the complete driver's record and the record of conviction.

3.3 Québec shall include the Canadian Forces Europe driver's record in its driving records and shall suspend the right to obtain a driver's licence for the period remaining between the date of the return to Québec and the date of completion of the suspension or revocation indicated on the driver's record. The Commander Canadian Forces Europe shall likewise suspend the right to obtain a Canadian Forces Europe driver's licence for any person whose Québec driving record received in CFE under paragraph 2.4 of this Memorandum indicates a suspension or revocation until such suspension or revocation has expired.

3.4 The Commander Canadian Forces Europe shall, within 30 days after the event, inform the Régie de l'assurance automobile du Québec of the name and all available personal particulars of any person who, being temporarily present in CFE and being the holder of a valid Québec driver's licence, is convicted in CFE by a military tribunal of any of the offenses described in paragraph 3.1 of this Memorandum.

3.5 The Régie de l'assurance automobile du Québec shall, within 30 days after the event, inform the Commander CFE of the name and all available personal particulars of any persons who, being temporarily present in Québec and being the holder of a valid CFE driver's licence, is convicted in Québec by a Court of competent jurisdiction of any of the offences described in paragraph 3.1 of this Memorandum.

3.6 The information submitted under paragraph 3.4 and 3.5 shall include the date and particulars of the offence upon which a conviction is registered.

ARTICLE IV

ADMINISTRATION OF THE MEMORANDUM

4.1 The Vice-president, Highway and Safety Code, of the Régie de l'assurance automobile du Québec and the Commander Canadian Forces Europe shall be the administrators of this Memorandum of Understanding and jointly shall be empowered to develop the forms and procedures necessary to administer the Memorandum.

4.2 The administrator in each party jurisdiction shall furnish to the other any information or documents necessary to facilitate administration of this Memorandum of Understanding. Such information shall include

modification of any changes in federal or provincial laws, regulations or orders which materially affect the terms of this Memorandum of Understanding.

4.3 Any exchange of information made pursuant to this present Memorandum of Understanding shall be transmitted to the following addresses:

For Régie de l'assurance automobile du Québec:

Le Vice-président au Code de la sécurité routière, 880, chemin Ste-Foy, local 6.80, Québec (Québec), G1S 2K8. À l'attention de: Directeur du Dossier Conducteur

For Canadian Forces Europe:

Commander Canadian Forces Europe Headquarters, CFPO 5000, Belleville, Ontario, K0K 3R0 Attention: S03 Vehicle Registration and Licensing

4.4 The parties shall conform to any statutory provisions applicable to the access to documents held by public organizations and to the protection of personal information.

ARTICLE V

VALIDITY OF OTHER LAWS

This Memorandum of Understanding does not invalidate any provision of a law, regulation or order relating to driver licencing in effect in either jurisdiction nor does it affect other reciprocal agreements entered into by either jurisdiction.

ARTICLE VI

DISPUTE RESOLUTION

The parties agree that any disputes arising from this Memorandum of Understanding shall be settled between the parties and shall not be referred to any third party.

ARTICLE VII

EFFECTIVE DATE AND WITHDRAWAL

The provisions of this Memorandum of Understanding shall be effective on the date of last signature, but shall not be implemented before October 1, 1988. Either jurisdiction may withdraw from this Memorandum of Understanding by written notice to the other jurisdiction but no such withdrawal shall take effect until 90 days after receipt of such notice.

Signed at _____ Signed at _____

this _____ day of _____ 1988. this _____ day of _____ 1988.

In duplicate in the English and French languages, each text being equally authentic.

J.L. SHARPE

Major General

Commander

Canadian Forces Europe

MARC-YVAN CÔTÉ

Ministre des transports du Québec

GIL RÈMILLARD

Ministre délégué aux Affaires intergouvernementales canadiennes

MEMORANDUM OF UNDERSTANDING BETWEEN THE DEPARTMENT OF NATIONAL DEFENCE
(CANADA)

AND

LE MINISTÈRE DES TRANSPORTS (QUÉBEC)

APPENDIX

HIGHWAY SAFETY CODE — MEMORANDUM OF UNDERSTANDING

Convictions for offenses mentioned under article 3.1 of the Memorandum of Understanding entail the following administrative consequences in the respective jurisdiction.

Offence	Québec ⁽¹⁾	Canadian Forces Europe ⁽²⁾
First ⁽³⁾	Cancellation of the license or suspension of the right to obtain one for one year	Suspension of the license or suspension of the right to obtain one for one year
Second ⁽³⁾	Cancellation of the license or suspension of the right to obtain one for 2 years	Suspension of the license or suspension of the right to obtain one for 2 years
Third or subsequent ⁽³⁾	Cancellation of the license or suspension of the right to obtain one for 3 years	Suspension of the license or suspension of the right to obtain one for 5 years ⁽²⁾

(1) NOTWITHSTANDING THE FOREGOING, THE PERIOD OF CANCELLATION OR SUSPENSION IN QUÉBEC SHALL NOT BE LESS THAN THAT IMPOSED BY AN ORDER OF PROHIBITION TO OPERATE A MOTOR VEHICLE MADE UNDER SUBSECTION 1 OR 2 OF SECTION 242 OF THE CRIMINAL CODE (S.R.C. 1970, CHAPTER C-34).

(2) CANADIAN FORCE EUROPE ORDER 25-10.

(3) IN QUÉBEC: ADD “WITHIN A FIVE YEAR PERIOD”.

O.C. 1398-88, Sch.

UPDATES

O.C. 1398-88, 1988 G.O. 2, 3429

S.Q. 1990, c. 19, s. 11