



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Bill 64
(1997, chapter 26)

**An Act to amend the Act respecting the
professional status and conditions of
engagement of performing, recording and
film artists and other legislative provisions**

**Introduced 13 November 1996
Passage in principle 26 November 1996
Passage 11 June 1997
Assented to 12 June 1997**

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EXPLANATORY NOTES

This bill amends the Act respecting the professional status and conditions of engagement of performing, recording and film artists to provide for the recognition of producers' associations. Recognition will be granted by the Commission currently known as the "Commission de reconnaissance des associations d'artistes", henceforth to be known as the "Commission de reconnaissance des associations d'artistes et des associations de producteurs".

An application for the recognition of a producers' association must specify the field of activities to which it applies. Recognition will be granted to an association whose object is the study, defence and promotion of its members' interests, and that is the most representative in terms of the economic activities of producers and the number of members working in the field of activities defined by the Commission.

A recognized artists' association will be empowered to negotiate and conclude a group agreement with a recognized producers' association. The agreement will bind every producer belonging to the recognized association, as well as every other producer working in its field of activities. Producers and associations of producers that do not have recognition will nevertheless be able to negotiate and conclude collective agreements of lesser scope than those concluded by recognized associations of producers.

The bill also introduces various amendments designed to facilitate mediation and the arbitration of disputes and grievances. It prescribes a time limit for filing a competing application for recognition, extends the term of recognition of an association from three to five years, limits the term of an initial group agreement to three years, (two years if it results from an arbitration award), but sets no limit on subsequent agreements, requires the filing of a group agreement with the Commission before it can take effect, and allows producers to deduct artists' dues at source. The parties have one year, once a notice to initiate the negotiation of a group agreement has been sent, to reach agreement on matters concerning the deduction at source before resorting to arbitration.

The bill includes a provision designed to protect the production contracts signed by artists, following the sale of a producer's business.

Lastly, the bill contains a transitional measure concerning arbitration in connection with the deduction of artists' dues at source, in cases where a notice to initiate negotiation has already been sent when the new provisions come into force. The bill also contains amendments designed to harmonize terminology with that used in the Civil Code of Québec.

LEGISLATION AMENDED BY THIS BILL :

- Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10);
- Act respecting the professional status of artists in the visual arts, arts and crafts and literature, and their contracts with promoters (R.S.Q., chapter S-32.01);
- Act respecting the professional status and conditions of engagement of performing, recording and film artists (R.S.Q., chapter S-32.1).

Bill 64

AN ACT TO AMEND THE ACT RESPECTING THE PROFESSIONAL STATUS AND CONDITIONS OF ENGAGEMENT OF PERFORMING, RECORDING AND FILM ARTISTS AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. Section 3 of the Act respecting the professional status and conditions of engagement of performing, recording and film artists (R.S.Q., chapter S-32.1) is amended by replacing the words “business firm” in the first line by the words “partnership or legal person”.

2. Section 4 of the said Act is amended by replacing the word “Crown” by the words “Government and on government departments and bodies”.

3. Section 9 of the said Act is amended by replacing the words “Commission de reconnaissance” in the second line of paragraph 2 by the words “Commission de reconnaissance des associations d’artistes et des associations de producteurs”.

4. Section 10 of the said Act is amended by replacing paragraph 2 by the following paragraph :

“(2) establishing classes of members and determining the rights of each class, in particular the right to take part in meetings and the right to vote;”.

5. The said Act is amended by inserting, after section 11, the following sections :

“11.1. No artist or person acting on behalf of an artist or a recognized artists’ association shall seek to dominate, hinder or finance the formation or the activities of any association of producers, or to prevent any person from participating therein.

No producer or person acting on behalf of a producer or an association of producers shall seek to dominate, hinder or finance the formation or the activities of a recognized artists’ association, or to prevent any person from participating therein.

“11.2. No person shall use intimidation or threats to induce anyone to become, refrain from becoming or cease to be a member of an artists’ association or an association of producers.”

6. Section 14 of the said Act is amended

(1) by replacing the word “third” in the first line of paragraph 2 by the word “fifth”;

(2) by adding, at the end, the following paragraph :

“However, where an artists’ association has filed an application for recognition in respect of a sector with the Commission, no other artists’ association may file an application for that sector or for part of that sector except within the 20 days following the publication of a notice under section 16.”

7. Section 16 of the said Act is amended by adding, at the end of the second paragraph, the following sentence : “The Commission must state, in the notice, the closing date for filing an application for recognition for the sector or part of the sector concerned, and for addressing the Commission under section 17.”

8. Section 17 of the said Act is amended

(1) by inserting the words “or association of producers” after the word “producer” in the second line of the first paragraph;

(2) by adding, after the second paragraph, the following paragraph :

“An address to the Commission must be presented within 20 days following the publication of a notice under section 16.”

9. The said Act is amended by inserting, after section 18, the following section :

“18.1. Where an application for recognition for a sector has been filed with the Commission, and where another association has filed an application for that sector or part of that sector, the parties may, jointly, request that the Commission appoint a mediator.

The remuneration and expenses of the mediator shall be borne by the parties.”

10. Section 24 of the said Act is amended

(1) by replacing paragraph 4 by the following paragraph :

“(4) to fix the amount that a member or non-member of the association may be required to pay;” ;

(2) by inserting the words “where there is no group agreement,” before the words “to establish” in the first line of paragraph 6;

(3) by replacing the word “may” in the first line of paragraph 7 by the word “must”.

11. Section 26 of the said Act is amended, in the French text, by inserting the words “d’artistes” after the word “reconnue” in the third line.

12. The said Act is amended by inserting, after section 26, the following sections :

“26.1. As soon as the notice of negotiation provided for in section 28 is sent, a recognized artists’ association and an association of producers or a producer who is not a member of an association of producers may agree, in writing, that a producer shall withhold the amount referred to in paragraph 4 of section 24 from the remuneration paid by the producer to an artist.

Where an agreement in writing is entered into between the parties or a decision is made by an arbitrator under the third paragraph, the producer is required to remit to the recognized artists’ association, at the established intervals, the amounts withheld together with a statement indicating the amount withheld for each artist.

One year after the notice provided for in section 28 has been given, one of the parties may, if no agreement on withholding or group agreement has been entered into, apply to the Commission for the designation of an arbitrator who shall fix the amount to be withheld and determine the terms and conditions applicable to the withholding of that amount. The provisions of Book VII of the Code of Civil Procedure (chapter C-25), adapted as required, apply to the arbitration.

The expenses and remuneration of the arbitrator shall be borne by the parties.

“26.2. The alienation of a producer’s enterprise, or a change in its legal structure by way of amalgamation or otherwise, does not terminate the contract of an artist.

The contract is binding on the successor of the producer. The successor is, in particular, bound to pay such remuneration as may become payable to an artist initially under contract with the producer, if the productions to which the contract relates are transferred to the new producer.”

13. Section 27 of the said Act is amended

(1) by replacing the words “association and the association of producers or a producer who is not a member of an association of producers” in the first and second lines of the first paragraph by the words “artists’ association and an unrecognized association of producers or a producer who is not a member of an association of producers”;

(2) by adding, at the end of the first paragraph, the following sentence: “Where an association of producers is recognized for a field of activities, the recognized artists’ association shall not negotiate or conclude a group agreement except with that association.”;

(3) by adding, at the end of the second paragraph, the words “and the economic conditions prevailing in small production enterprises”;

(4) by striking out the third paragraph.

14. Section 28 of the said Act is amended

(1) by inserting the word “artists’” after the word “recognized” in the first line of the first paragraph;

(2) by inserting the word “artists’” after the word “recognized” in the first line of the second paragraph.

15. Section 31 of the said Act is amended by adding, at the end, the following paragraph:

“The expenses and the remuneration of the mediator shall be borne by the Commission.”

16. Section 32 of the said Act is amended by adding, at the end of the third paragraph, the following sentence: “The mediator shall submit his report to the Commission and to the parties.”

17. Section 33 of the said Act is replaced by the following sections:

“**33.** During the negotiation of a first group agreement, either party may apply to the Commission for the designation of an arbitrator if the intervention of the mediator has not been successful.

During the negotiation of any subsequent group agreement, the application for the designation of an arbitrator must be made jointly by the parties to the preceding agreement.

The arbitration award has the same effect as a group agreement.

The expenses and remuneration of the arbitrator shall be borne by the Commission.

“**33.1.** Sections 76 and 78, the first paragraph of section 79, sections 80 to 91 and sections 93 and 93.7 of the Labour Code (chapter C-27), adapted as required, apply to the arbitration provided for in section 33.”

18. Section 34 of the said Act is amended

(1) by inserting the word “artists’” after the word “recognized” in the second line of the first paragraph;

(2) by inserting the word “artists’” after the word “recognized” in the third line of the second paragraph.

19. Sections 35 and 36 of the said Act are replaced by the following sections :

“35. A certified copy of the group agreement and of the schedules to the agreement must be filed with the Commission within 60 days of signing. The same rule applies to any amendment subsequently made to the group agreement.

Once filed, a group agreement has effect retroactively from the date of coming into force specified in the agreement, if any, or from the date of signing.

The party filing the group agreement shall notify the other party of the filing.

“35.1. The group agreement shall include a grievance arbitration procedure.

“35.2. If, when a grievance is to be submitted to arbitration, the parties cannot agree on the appointment of an arbitrator or the group agreement does not provide for the appointment of an arbitrator, one party may apply to the Commission for the appointment of an arbitrator.

“36. The term of a first group agreement shall not exceed three years. If the first group agreement results from an arbitration award, the term shall not exceed two years.”

20. Section 37 of the said Act is amended

(1) by inserting the words “or, as the case may be, the same field of activities” after the word “sector” in the second line of the first paragraph;

(2) by adding, at the end of the second paragraph, the following sentence :
“However, the minimum conditions of employment contained in the group agreement shall continue to apply until the date of expiry of the group agreement or until a new group agreement is entered into with another association that is granted recognition in the same sector or in the same field of activities.”

21. The said Act is amended by inserting, after section 37, the following section :

“37.1. A recognized artists’ association must, before engaging in concerted action, give five days’ prior notice to the producer concerned and, where applicable, to the association of which the producer is a member.

The association of producers and the producer who is not a member of an association must, likewise, give five days’ prior notice to the recognized association of which the artists concerned are members.”

22. Section 39 of the said Act is amended by inserting the words “or an association of producers” after the word “producer” in the fifth line.

23. Section 40 of the said Act is amended

(1) by inserting the word “unrecognized” before the word “association” in the third line ;

(2) by adding, after the first paragraph, the following paragraph :

“In the case of an agreement concluded with a recognized association of producers, the group agreement binds every producer who is a member of the recognized association as well as any other producer working in the field of activities of the recognized association, even if the association is dissolved.”

24. The said Act is amended by inserting, after section 42, the following chapter:

“CHAPTER III.1

“RECOGNITION OF AN ASSOCIATION OF PRODUCERS

“42.1. Every association of producers which

(1) is an association having as its object the study, defence and promotion of the interests of its members ;

(2) is, in the opinion of the Commission, the most representative as regards the economic activity of producers and the number of members working in a field of activities defined by the Commission,

is entitled to recognition.

“42.2. Every producer is free to join an association of producers and to take part in the establishment, activities and administration of such an association.

“42.3. An association of producers may apply for recognition for one or more fields of activity.

“42.4. No association of producers may be recognized unless it adopts by-laws

(1) prescribing membership requirements based on the exercise, by the producers, of an activity corresponding to the field of activities for which the association has applied for recognition;

(2) establishing classes of members and determining the rights of each class, in particular the right to take part in meetings and to vote;

(3) conferring on the members to whom a draft group agreement applies the right to vote by secret ballot on the content of the agreement if it contains a clause that entails a change in the rates of remuneration established by an existing agreement binding the association and an artists' association;

(4) prescribing that all decisions as to membership requirements shall be submitted to the qualified members for approval;

(5) making the calling of a general meeting or the polling of the members mandatory where 10% of the members request it.

“42.5. Sections 11, 12 and 14 to 23, paragraphs 1 to 4 and 7 of section 24 and section 25, adapted as required, apply to an association of producers.

However, the percentage required for an application under section 20 is calculated on the basis of the number of producers working in the field of activities for which the association has been recognized and the economic activities of all the producers in that field of activities during the year preceding the application.”

25. The said Act is amended by adding the words “ET DES ASSOCIATIONS DE PRODUCTEURS” after the words “D’ARTISTES” in the heading of Chapter IV.

26. Section 43 of the said Act is amended by adding the words “et des associations de producteurs” after the words “d’artistes” in the second line.

27. Section 49 of the said Act is amended by replacing the word “incapacité” in the first line of the French text by the word “empêchement”.

28. Section 56 of the said Act is amended

(1) by adding, at the end of subparagraph 1 of the first paragraph, the words “or an association of producers”;

(2) by replacing subparagraph 3 of the first paragraph by the following subparagraph:

“(3) to designate a mediator for the purposes of sections 18.1 and 31;”;

(3) by replacing subparagraph 4 of the first paragraph by the following subparagraph:

“(4) to designate an arbitrator for the purposes of sections 26.1 and 33;”;

(4) by adding, after subparagraph 5 of the first paragraph, the following subparagraph:

“(6) to draw up, annually, a list of mediators and arbitrators, after consultation with recognized artists’ associations and associations of producers.”

29. Section 57 of the said Act is amended by inserting the words “and, where applicable, fields of activity” after the word “sectors” in the first line.

30. Section 58 of the said Act is amended by inserting the words “or, where applicable, a field of activity” after the word “sector” in the third line.

31. Section 59 of the said Act is amended

(1) by inserting the words “or, as the case may be, the producers” after the word “artists” in the second line;

(2) by replacing the words “relations between artists and producers” in the third line by the words “their relations”;

(3) by adding, at the end, the following paragraph:

“The Commission may also take into account the interest that producers may have to group together according to the shared characteristics of their activities.”

32. Section 60 of the said Act is amended by inserting the words “, associations of producers” after the word “association” in the second line.

33. Section 63 of the said Act is amended by inserting the words “or field of activities” after the word “sector” in the first line of the second paragraph.

34. Section 70 of the said Act is amended

(1) by inserting the figures “11.1 or 11.2, the second paragraph of section 26.1, sections” after the word “section” in the first line;

(2) by adding, at the end of paragraph 1, the words “or a person acting on an artist’s behalf”;

(3) by inserting the words “or an association of producers,” after the word “association” in the second line of paragraph 2;

(4) by replacing the words “, agent or advisor of an artists’ association or producer” in the second and third lines of paragraph 2 by the words “, a person acting on behalf of an artists’ association, a producer or an association of producers, or any advisor thereof”;

(5) by inserting the words “or association of producers” after the word “association” in the third line of paragraph 3.

35. Schedule I to the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10), amended by orders in council 556-96 and 557-96 dated 15 May 1996, 821-96 dated 3 July 1996, and 1051-96 dated 28 August 1996, as well as by section 49 of chapter 21 of the statutes of 1994 and section 20 of chapter 46 of the statutes of 1995, is again amended by replacing the words “Commission de reconnaissance des associations d’artistes” in paragraph 1 by the words “Commission de reconnaissance des associations d’artistes et des associations de producteurs”.

36. Section 10 of the Act respecting the professional status of artists in the visual arts, arts and crafts and literature, and their contracts with promoters (R.S.Q., chapter S-32.01) is amended by inserting the words “et des associations de producteurs” after the word “artistes” in the second line.

37. Section 40 of the said Act is amended by replacing the words “place of business” in the first line of the first paragraph by the word “establishment”.

38. Section 48 of the said Act is amended by inserting the words “et des associations de producteurs” after the word “artistes” in the first line.

39. Unless otherwise indicated by the context, a reference to the Commission de reconnaissance des associations d’artistes in any other Act or in a regulation, by-law, order in council, order, proclamation, ordinance, contract, agreement, undertaking or other document is a reference to the Commission de reconnaissance des associations d’artistes et des associations de producteurs.

40. Where the notice provided for in section 28 of the Act is sent before 12 June 1997, the application for the designation of an arbitrator pursuant to section 26.1 may be made one year after that date.

41. The provisions of this Act come into force on 12 June 1997.