

Status of the Artist Act^{*}

1992, c. 33

TABLE OF CONTENTS

		<i>Section</i>
Short Title	Short Title	1
Part I :	General Principles	
Proclamation and Policy Concerning the Status of the Artist	Proclamation	2
	Policy Statement	3
Canadian Council on the Status of the Artist	Establishment	4
Part II :	Professional Relations	
Interpretation	Definitions	5
Application	Binding on Her Majesty	6
Purpose	Purpose.....	7
Freedom of Association	Freedom	8
Exclusions and Presumptions	Artist Contracting Through an Organization.....	9
Canadian Artists and Producers Professional Relations Tribunal		
Establishment	Establishment	10
	Powers of the Chairperson	11
	Remuneration and Expenses	12
	Head Office	13
	Determination of the Tribunal.....	14
	Employees.....	15
Powers	Regulations	16
	Powers of Tribunal.....	17
Criteria for Application	Criteria for Application by the Tribunal.....	18
Proceedings	Informal Proceedings	19
	Review of Determination or Order.....	20
Review and Enforcement of Determinations and Orders	Determination or Order not to be Reviewed by Court ..	21
	Filing in Federal Court.....	22
Certification of Artists' Associations		
Prerequisites for Certification	By-Laws Required	23
Associations of Producers	Formation.....	24
Certification Procedure	Application.....	25
Determination of Sector and Representativeness of an Association	Determination of Sector	26
	Representativity of an Association.....	27
Certification	Certification	28
Revocation of Certification	Application for Revocation	29
Successor Rights and Obligations	Mergers, etc., of Associations	30

Bargaining and Scale Agreements	
Notice to Bargain	
Notice to Bargain to Enter into a Scale Agreement.....	31
Duty to Bargain and not to Change Terms and Conditions.....	32
Duration and Effect of Scale Agreements	
Effect of Scale Agreements.....	33
Tribunal May Change Termination Date	34
Duty of Fair Representation.....	35
Content and Interpretation of Scale Agreements	
Provision for Settlement without Pressure Tactics.....	36
Determinations not to be Reviewed by Court	37
Copy to be Filed with Minister	38
Powers of Arbitrator and Arbitration Board.....	39
Procedure	40
Questions may be Referred to Tribunal.....	41
Filing of Determination in Federal Court.....	42
Provision for Settlement Continues in Force.....	43
Compulsory Check-Off	
Association Dues to be Deducted.....	44
Settlement of Labour Disputes	
Mediation.....	45
Prohibitions and Remedies	
Pressure Tactics	
When Pressure Tactics are Permitted.....	46
Declarations Respecting Pressure Tactics	
Declaration that Pressure Tactics of an Association are Unlawful	47
Declaration that Pressure Tactics of a Producer are Unlawful	48
Terms and Duration of Order.....	49
Unfair Practices	
Prohibitions Relating to Producers.....	50
Prohibitions Relating to artists' Associations.....	51
Intimidation or Coercion Prohibited.....	52
Complaints to the Tribunal.....	53
Tribunal May Make Orders.....	54
Co-Production Agreements	
Co-Production Agreement	55
Regulations	
Regulations	56
Offences and Punishment	
Offence and Penalty	57
Prosecutions	58
Consent of Tribunal Before Prosecution	59
Evidence	
Documents as Evidence	60
Annual Report	
Annual Report.....	61
Miscellaneous	
Defect in Form or Irregularity.....	62
Remuneration and Expenses	63
Witness Fees and Expenses.....	64
Member of Tribunal, Employee, etc., not Required to Give Evidence.....	65
Review of Act	66
Transitional	
Previous Agreements	67
Consequential Amendments	
/fr/S-19.6/263306.html—Article-68. to 70.	68 – 70
Coming into Force	
Coming into Force	71

An Act respecting the status of the artist and professional relations between artists and producers in Canada

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE

Short Title

1. This Act may be cited as the Status of the Artist Act.

PART I
GENERAL PRINCIPLES

Proclamation and Policy Concerning the Status of the Artist

Proclamation

2. The Government of Canada hereby recognizes

(a) the importance of the contribution of artists to the cultural, social, economic and political enrichment of Canada;

(b) the importance to Canadian society of conferring on artists a status that reflects their primary role in developing and enhancing Canada's artistic and cultural life, and in sustaining Canada's quality of life;

(c) the role of the artist, in particular to express the diverse nature of the Canadian way of life and the individual and collective aspirations of Canadians;

(d) that artistic creativity is the engine for the growth and prosperity of dynamic cultural industries in Canada; and

(e) the importance to artists that they be compensated for the use of their works, including the public lending of them.

Policy Statement

3. Canada's policy on the professional status of the artist, as implemented by the Minister of Canadian Heritage, is based on the following rights:

(a) the right of artists and producers to freedom of association and expression;

(b) the right of associations representing artists to be recognized in law and to promote the professional and socio-economic interests of their members; and

(c) the right of artists to have access to advisory forums in which they may express their views on their status and on any other questions concerning them.

Canadian Council on the Status of the Artist

Establishment

4.—(1) The Minister of Canadian Heritage shall establish a Canadian Council on the Status of the Artist, composed of seven to twelve part-time members, including a Chairperson, one or two Vice-chairpersons and not more than nine other members, to be appointed by the Governor in Council on the recommendation of the Minister and to hold office during pleasure of the Governor in Council.

Mandate

(2) The mandate of the Council is

(a) to provide information and advice to the Minister of Canadian Heritage in order to ensure the highest quality of decision-making in respect of artists in Canada;

(b) to defend and promote the professional status of artists in Canada;

(c) to maintain close contacts with associations representing artists across Canada in various disciplines of the arts in order better to assess artists' needs and propose useful responses;

(d) to propose measures, based on research and studies, to improve the professional working conditions of artists; and

(e) to carry out such studies as the Minister of Canadian Heritage may direct.

Report

(3) The Council shall submit to the Minister of Canadian Heritage, by May 31 of each year, a report of its activities during the previous fiscal year, including any studies that the Minister directed it to carry out.

Remuneration

(4) Each Council member shall be paid reasonable travel and other expenses incurred while performing the member's duties, and shall receive such fees for attendance at Council meetings as the Governor in Council may fix.

1992, c. 33, s. 4;
1995, c. 11, s. 38;
1999, c. 31, s. 193(E).

PART II PROFESSIONAL RELATIONS

INTERPRETATION

Definitions

5. In this Part,

“artist”

“artiste”

“artist” means an independent contractor described in paragraph 6(2)(b);

“artists' association”

“association d’artistes”

“artists’ association” means any organization, or a branch or local thereof, that has among its objectives the management or promotion of the professional and socio-economic interests of artists who are members of the organization, and includes a federation of artists’ associations;

“Minister”

“ministre”

“Minister” means the Minister of Labour;

“party”

“partie”

“party” means

(a) in respect of the entering into, renewal or revision of a scale agreement or in respect of a difference in relation to the interpretation, application, administration or alleged breach thereof, the producer or the artists’ association, and

(b) in respect of a complaint made to the Tribunal, the complainant or the person or organization that is the object of the complaint;

“pressure tactic”

“moyen de pression”

“pressure tactic” includes

(a) a cessation of work or a refusal to work or to continue to work by artists or artists’ associations in combination, in concert or in accordance with a common understanding, and a slowdown of work or other concerted activity by artists or artists’ associations respecting the provision of their services, done to compel a producer to agree to terms or conditions of engagement, or

(b) the closing of a place of work, a suspension of production or a refusal to continue the engagement of one or more artists by a producer, done to compel artists, or to assist another producer to compel artists, to agree to terms or conditions of engagement;

“producer”

“producteur”

“producer” means a government institution or broadcasting undertaking described in paragraph 6(2)(a), and includes an association of producers;

“scale agreement”

“accord-cadre”

“scale agreement” means an agreement in writing between a producer and an artists’ association respecting minimum terms and conditions for the provision of artists’ services and other related matters;

“Tribunal”

“Tribunal”

“Tribunal” means the Canadian Artists and Producers Professional Relations Tribunal established by subsection 10(1).

APPLICATION

Binding on Her Majesty

6.—(1) This Part is binding on Her Majesty in right of Canada.

Application

(2) This Part applies

(a) to the following organizations that engage one or more artists to provide an artistic production, namely,

(i) government institutions listed in Schedule I to the Access to Information Act or the schedule to the Privacy Act, or prescribed by regulation, and

(ii) broadcasting undertakings, including a distribution or programming undertaking, under the jurisdiction of the Canadian Radio-television and Telecommunications Commission; and

(b) to independent contractors determined to be professionals according to the criteria set out in paragraph 18(b), and who

(i) are authors of artistic, dramatic, literary or musical works within the meaning of the Copyright Act, or directors responsible for the overall direction of audiovisual works,

(ii) perform, sing, recite, direct or act, in any manner, in a musical, literary or dramatic work, or in a circus, variety, mime or puppet show, or

(iii) contribute to the creation of any production in the performing arts, music, dance and variety entertainment, film, radio and television, video, sound-recording, dubbing or the recording of commercials, arts and crafts, or visual arts, and fall within a professional category prescribed by regulation.

PURPOSE

Purpose

7. The purpose of this Part is to establish a framework to govern professional relations between artists and producers that guarantees their freedom of association, recognizes the importance of their respective contributions to the cultural life of Canada and ensures the protection of their rights.

FREEDOM OF ASSOCIATION

Freedom

8. An artist is free to join an artists' association and to participate in its formation, activities and administration.

EXCLUSIONS AND PRESUMPTIONS

Artist Contracting Through an Organization

9.—(1) An artist is not excluded from the application of this Part simply by contracting through an organization.

(2) For the purposes of subsection 4(1) of the Competition Act,

(a) artists' associations certified under this Part that were formed for the purpose of providing appropriate protection for the professional interests of the artists they represent are deemed to be combinations of employees, in relation to those activities of the association that are directed to achieving that purpose; and

(b) contracts, agreements or arrangements between or among two or more producers, whether made directly between or among them or through a corporation or an association of producers, pertaining to bargaining in respect of remuneration and the terms and conditions of engagement of artists, are deemed to be contracts, agreements or arrangements.

Employees Excluded

(3) This Part does not apply, in respect of work undertaken in the course of employment, to

(a) employees, within the meaning of the Public Service Labour Relations Act, including those determined to be employees by the Public Service Labour Relations Board, and members of a bargaining unit that is certified by that Board; or

(b) employees, within the meaning of Part I of the Canada Labour Code, including those determined to be employees by the Canada Industrial Relations Board, and members of a bargaining unit that is certified by that Board.

1992, c. 33, s. 9;
1998, c. 26, s. 83;
2003, c. 22, s. 220(E).

Canadian Artists and Producers Professional Relations Tribunal

ESTABLISHMENT

Establishment

10.—(1) The Canadian Artists and Producers Professional Relations Tribunal is hereby established, composed of a Chairperson, a Vice-chairperson and not less than two or more than four other full-time or part-time members.

Appointment

(2) The Governor in Council, on the recommendation of the Minister in consultation with the Minister of Canadian Heritage, shall appoint the members of the Tribunal to hold office during good behaviour, subject to removal by the Governor in Council for cause.

Term of Office

(3) The members of the Tribunal shall be appointed for a term not exceeding

(a) seven years, in the case of the Chairperson;

(b) five years, in the case of the Vice-chairperson and any full-time member; and

(c) three years, in the case of any other member.

Re-Appointment

(4) Each member is eligible for re-appointment to the Tribunal in the same or another capacity.

Appointment Excludes other Duties

(5) The full-time members of the Tribunal shall devote the whole of their time to the performance of their duties under this Part.

Conflict of Interest

(6) No member of the Tribunal shall accept or hold any office or employment that is inconsistent with the member's duties or take part in any matter before the Tribunal in which the member has an interest.

1992, c. 33, s. 10;
1995, c. 11, s. 39.

Powers of the Chairperson

11.—(1) The Chairperson is the chief executive officer of the Tribunal and is responsible for management of the staff and supervision of the work of the Tribunal, including the allocation of work among its members and the assignment of members to preside at hearings.

By-Laws

(2) The Tribunal may pass by-laws governing the conduct of its affairs.

Delegation

(3) The Chairperson may delegate any of the Chairperson's powers, other than the power to delegate, to any member of the Tribunal.

Acting Chairperson

(4) The Vice-chairperson shall act as Chairperson if that office is vacant, or in the event of the Chairperson's absence or incapacity.

Idem

(5) In the event of the absence or incapacity of both the Chairperson and the Vice-chairperson, or if both of those offices are vacant, the Tribunal shall designate a member to act as Chairperson.

Remuneration and Expenses

12.—(1) Each member of the Tribunal shall be paid such remuneration as the Governor in Council may fix, and be reimbursed for reasonable travel and other expenses incurred while performing the member's duties outside the member's ordinary place of residence.

Members Deemed Public Servants

(2) The full-time members of the Tribunal are deemed to be employed in the public service for the purposes of the Public Service Superannuation Act and in the federal public administration for the purposes of the Government Employees Compensation Act and regulations made under section 9 of the Aeronautics Act.

1992, c. 33, s. 12;
2003, c. 22, s. 221(E).

Head Office

13.—(1) The location of the head office of the Tribunal shall be fixed by the Governor in Council, on the recommendation of the Minister after consultation with the Minister of

Canadian Heritage, and the Tribunal may establish any other offices that it considers necessary.

Meetings and Quorum

(2) Subject to subsections 14(2) and (4), three members constitute a quorum for meetings or proceedings of the Tribunal, which may be held at such times and locations in Canada as the Tribunal considers desirable.

1992, c. 33, s. 13;

1995, c. 11, s. 40.

Determination of the Tribunal

14.—(1) In all proceedings of the Tribunal the decision or order of a majority of the members present is the determination of the Tribunal, and in the event of a tie the presiding member has a deciding vote.

Uncontested Matter

(2) A single member may decide an uncontested application or question before the Tribunal and, for that purpose, the member's decision is a determination of the Tribunal, and the member is subject to the obligations and limitations imposed, and has the powers, rights and privileges conferred, on the Tribunal by this Part, other than the power to make regulations.

Participation of Former Member in Determination

(3) At the request of the Chairperson, a member of the Tribunal who has ceased to hold office may take part in the hearing and determination of any matter of which the member was previously seized and, for that purpose, is deemed to be a member.

Where member's Participation not Possible

(4) Where a member of the Tribunal has died or is unable to take part in a matter previously heard by that member, the other members who are seized of the matter may continue the proceeding and make the determination.

Employees

15. The employees that are necessary for the conduct of the Tribunal's business shall be appointed in accordance with the Public Service Employment Act, and are deemed to be employed in the public service for the purposes of the Public Service Superannuation Act.

1992, c. 33, s. 15;

2003, c. 22, s. 225(E).

POWERS

Regulations

16. The Tribunal may make regulations of general application that it considers conducive to the performance of its duties, and in particular regulations providing for

(a) the practice and procedure before the Tribunal, including the assessment and awarding of costs;

(b) the certification of artists' associations;

(c) the conduct of representation votes;

(d) the period for submission by an artists' association of a new application for certification, where the Tribunal previously refused to certify the association in respect of the same or substantially the same sector;

(e) the period for submission of an application for revocation of the certification of an artists' association, where the Tribunal previously refused an application for revocation in respect of the same sector;

(f) the forms to be used in any proceeding that may come before the Tribunal;

(g) the periods in which and the circumstances under which the Tribunal may exercise its powers under section 20;

(h) the period and form in which evidence and information may be presented to the Tribunal in connection with any proceeding before it;

(i) the period for sending notices and other documents, the persons and associations to which they shall be sent, and the circumstances in which they are deemed to have been sent or received;

(j) the criteria for deciding whether an artist is represented by an artists' association;

(k) the circumstances in which the Tribunal may receive evidence in order to establish whether any artists wish to be represented by a particular artists' association, and the circumstances in which that evidence may not be made public; and

(l) the delegation to any person of powers and duties of the Tribunal, other than the power to delegate or to make regulations, and the obligations of that person with respect thereto.

Powers of Tribunal

17. The Tribunal may, in relation to any proceeding before it,

(a) on application or of its own motion, summon and enforce the attendance of any person whose testimony is necessary, in the opinion of the Tribunal, and compel the person to give oral or written evidence on oath and to produce any documents or things that the Tribunal considers necessary for the full investigation and consideration of any matter within its jurisdiction;

(b) administer oaths and solemn affirmations;

(c) accept any evidence and information that it sees fit, on oath, by affidavit or otherwise, whether or not the evidence is admissible in a court of law;

(d) examine any evidence that is submitted to the Tribunal respecting the membership of any artist in an artists' association that is seeking certification;

(e) examine documents pertaining to the constitution, articles of association or by-laws of an artists' association;

(f) make any examination of records and any inquiries that it considers necessary;

(g) require a producer or an artists' association to post in appropriate places and keep posted a notice concerning any matter relating to the proceeding that the Tribunal considers necessary to bring to the attention of artists;

(h) order, at any time before the conclusion of the proceeding, that

(i) a representation vote or an additional representation vote be taken among artists affected by the proceeding, whether or not a representation vote is provided for elsewhere in this Part, in any case where the Tribunal considers that the vote would assist it to decide any question that has arisen or is likely to arise in the proceeding, and

(ii) the ballots cast in that representation vote be sealed in ballot boxes and counted only as directed by the Tribunal;

(i) authorize any person to do anything that the Tribunal may do under paragraphs (a) to (h), and to report to the Tribunal thereon;

(j) adjourn or postpone the proceeding;

(k) abridge or extend the time for instituting the proceeding or for doing any act, filing any document or presenting any evidence;

(l) amend or permit the amendment of any document filed;

(m) add any person to the proceeding at any stage thereof;

(n) set requirements for public notice in respect of any application made under this Part;

(o) award costs; and

(p) decide any question that arises in the proceeding, including whether

(i) a person is a producer or an artist,

(ii) an artist is a member of, or is represented by, an artists' association,

(iii) an organization constitutes an association of producers, an artists' association, or a federation of artists' associations,

(iv) a group of artists constitutes a sector suitable for bargaining,

(v) a scale agreement has been entered into or is in force, and the dates that it comes into force and expires, and

(vi) any person or organization is a party to or is bound by a scale agreement.

CRITERIA FOR APPLICATION

Criteria for Application by the Tribunal

18. The Tribunal shall take into account

(a) in deciding any question under this Part, the applicable principles of labour law; and

(b) in determining whether an independent contractor is a professional for the purposes of paragraph 6(2)(b), whether the independent contractor

(i) is paid for the display or presentation of that independent contractor's work before an audience, and is recognized to be an artist by other artists,

(ii) is in the process of becoming an artist according to the practice of the artistic community, or

(iii) is a member of an artists' association.

PROCEEDINGS

Informal Proceedings

19.—(1) In any proceeding before it, the Tribunal

(a) shall proceed as informally and expeditiously as the circumstances and considerations of fairness permit;

(b) is not bound by legal or technical rules of evidence; and

(c) may receive and decide on any evidence adduced that the Tribunal believes to be credible.

Consultation

(2) In order to ensure that the purpose of this Part is achieved, the members of the Tribunal may consult with other members or the staff of the Tribunal in respect of any matter before it.

Right to Appear

(3) Any interested person may intervene in a proceeding before the Tribunal with its permission, and anyone appearing before the Tribunal may be represented by counsel or an agent.

Notice of Facts

(4) The Tribunal may take notice of facts that may be judicially noticed and, subject to subsection (5), of any other generally recognized facts and any information that is within its specialized knowledge.

Notification of Intention

(5) The Tribunal shall notify the parties and any intervenor in the proceeding before it of its intention to take notice of any facts or information, other than facts that may be judicially noticed, and afford them an opportunity to make representations with respect thereto.

Report on Evidence

(6) The Chairperson may direct any member to receive evidence relating to a matter before the Tribunal, to make a report thereon to the Tribunal, and to provide a copy of the report to all parties and any intervenor in the proceeding.

Conclusions

(7) After granting all parties and intervenors an opportunity to make representations on any report made pursuant to subsection (6), the Tribunal may make a determination on the basis of the report or hold any further hearings that it considers necessary in the circumstances.

Review of Determination or Order

20.—(1) The Tribunal may uphold, rescind or amend any determination or order made by it, and may re-hear any application before making a decision.

Interim Decision

(2) Where it is necessary to decide one or more issues in order to dispose finally of an application or complaint the Tribunal may, if satisfied that it can do so without prejudice to

the rights of any party or intervenor in the proceeding, decide or make an order respecting one or more of those issues, and reserve its jurisdiction to decide the remaining issues.

REVIEW AND ENFORCEMENT OF DETERMINATIONS AND ORDERS

Determination or Order not to be Reviewed by Court

21.—(1) Subject to this Part, every determination or order of the Tribunal is final and shall not be questioned or reviewed in any court, except in accordance with the Federal Courts Act on the grounds referred to in paragraph 18.1(4)(a), (b) or (e) of that Act.

No review by *Certiorari*, etc.

(2) Except as permitted by subsection (1), no determination, order or proceeding made or carried on, or purporting to be made or carried on, by the Tribunal shall be questioned, reviewed, prohibited or restrained on any ground, including the ground that the Tribunal did not have jurisdiction or exceeded or lost its jurisdiction, or be made the subject of any proceeding in or any process of any court on any such ground, whether by way of injunction, *certiorari*, prohibition, quo warranto or otherwise.

1992, c. 33, s. 21;
2002, c. 8, s. 182.

Filing in Federal Court

22.—(1) On application in writing by any party or of its own motion, the Tribunal shall file a copy of a determination or order, exclusive of the reasons therefor, in the Federal Court unless, in the opinion of the Tribunal, there is no indication of failure or likelihood of failure to comply with it, or there is no useful purpose to be served by filing it.

Registration

(2) Where the Tribunal specifies in writing that it is filing a copy of a determination or order pursuant to subsection (1), the Federal Court shall accept it for filing and shall register it without further application or other proceeding.

Effect of Registration

(3) After registration under subsection (2), a determination or order has the force and effect of a judgment of the Federal Court, and any person or organization may take proceedings on it as if it were a judgment obtained in that Court.

Certification of Artists' Associations

PREREQUISITES FOR CERTIFICATION

By-Laws Required

23.—(1) No artists' association may be certified unless it adopts by-laws that

(a) establish membership requirements for artists;

(b) give its regular members the right to take part and vote in the meetings of the association and to participate in a ratification vote on any scale agreement that affects them;
and

(c) provide its members with the right of access to a copy of a financial statement of the affairs of the association to the end of the previous fiscal year, certified to be a true copy by the authorized officer of the association.

Prohibited by-Laws

(2) No by-laws of the association may have the effect of discriminating unfairly against an artist so as to prevent the artist from becoming or continuing as a member of the association.

ASSOCIATIONS OF PRODUCERS

Formation

24.—(1) Producers may form an association for the purpose of bargaining and entering into scale agreements under this Act.

Filing Membership List

(2) In addition to any other information that the Tribunal may require, an association of producers shall file its membership list with the Tribunal, keep the list up to date and send a copy of it to every certified artists' association to which it has issued, or from which it has received, a notice to bargain under section 31.

Effect of Filing Membership List

(3) After filing its membership list, an association of producers has the exclusive right to bargain on behalf of its members for the purpose of entering into or amending a scale agreement.

CERTIFICATION PROCEDURE

Application

25.—(1) An artists' association may, if duly authorized by its members, apply to the Tribunal in writing for certification in respect of one or more sectors

(a) at any time, in respect of a sector for which no artists' association is certified and no other application for certification is pending before the Tribunal;

(b) in the three months immediately preceding the date that the certification or a renewed certification is to expire, where at least one scale agreement is in force in respect of the sector; or

(c) after one year, or such shorter period as the Tribunal may fix on application, after the date of the certification or a renewed certification, where no scale agreement is in force in respect of the sector.

Accompanying Documents

(2) An application for certification must include the membership list of the artists' association, a certified copy of its by-laws, and any other information required by the Tribunal.

Tribunal to Give Public Notice of Application

(3) The Tribunal shall give public notice of any application for certification in respect of any sector without delay, indicating any period in which another application may be made

by any other artists' association, notwithstanding subsection (1), for certification in respect of that sector or any part of it.

When Application May not be Made

(4) No application for certification in respect of a sector may be made, except with the consent of the Tribunal, after expiration of the period indicated by the Tribunal in any public notice given pursuant to subsection (3).

DETERMINATION OF SECTOR AND REPRESENTATIVENESS OF AN ASSOCIATION

Determination of Sector

26.—(1) After the application period referred to in subsection 25(3) has expired, the Tribunal shall determine the sector or sectors that are suitable for bargaining, taking into account

- (a) the common interests of the artists in respect of whom the application was made;
- (b) the history of professional relations among those artists, their associations and producers concerning bargaining, scale agreements and any other agreements respecting the terms of engagement of artists; and
- (c) any geographic and linguistic criteria that the Tribunal considers relevant.

Right to Intervene

(2) Notwithstanding subsection 19(3), only the artists in respect of whom the application was made, artists' associations and producers may intervene as of right on the issue of determining the sector that is suitable for bargaining.

Notice of Determination

(3) The Tribunal shall give the artists' association concerned and any intervenors notice of its determination under subsection (1) without delay, and that determination is deemed to be interlocutory, notwithstanding section 21.

Representativity of an Association

27.—(1) After determining the sector pursuant to subsection 26(1), the Tribunal shall determine the representativity of the artists' association, as of the date of filing of the application for certification or as of any other date that the Tribunal considers appropriate.

Right to Intervene

(2) Notwithstanding subsection 19(3), only artists in respect of whom the application was made and artists' associations may intervene as of right on the issue of determining the representativity of an artists' association.

CERTIFICATION

Certification

28.—(1) Where the Tribunal is satisfied that an artists' association that has applied for certification in respect of a sector is the most representative of artists in that sector, the Tribunal shall certify the association.

Period of Certification

(2) Certification is valid for a period of three years after the date that the Tribunal issues the certificate and, subject to subsection (3), is automatically renewed for additional three year periods.

Extension of Period of Certification

(3) Where, in the three months immediately before the date that the certification or renewed certification of an artists' association is to expire, an application for certification in respect of the same or substantially the same sector, or an application for revocation of certification, is filed, the period of validity of the association's certification is extended until the date that the application is accepted or rejected and, where it is rejected, renewal of the association's certification takes effect from that date.

Register

(4) The Tribunal shall keep a register of all certificates that it issues and of their dates of issue.

Effects of Certification

- (5) After certification of an artists' association in respect of a sector,
- (a) the association has exclusive authority to bargain on behalf of artists in the sector;
 - (b) the certification of any association that previously represented artists in the sector is revoked in so far as it relates to them; and
 - (c) the association is substituted as a party to any scale agreement that affects artists in the sector, to the extent that it relates to them, in place of the association named in the scale agreement or its successor.

REVOCAION OF CERTIFICATION

Application for Revocation

29.—(1) An artist in a sector may apply to the Tribunal for an order revoking an association's certification in respect of that sector

- (a) on the ground that the association's by-laws contravene the requirements of subsection 23(2), at any time; and
- (b) on the ground that that association is no longer the most representative of artists in the sector, or has failed to make reasonable efforts to conclude a scale agreement,
 - (i) in the three months immediately preceding the date that the association's certification or a renewed certification is to expire, where at least one scale agreement is in force in respect of the sector, or
 - (ii) after one year, or such shorter period as the Tribunal may fix on application, after the date of the certification or a renewed certification of the association, where no scale agreement is in force.

Stay of Proceedings

(2) The Tribunal may stay any proceedings for revocation of the certification of an artists' association under paragraph (1)(a) where the association adopts by-laws that meet the requirements of subsection 23(2) within any period that the Tribunal may specify.

Date of Revocation

(3) Revocation of certification is effective from the date of the Tribunal's determination to revoke it or, where an association fails to adopt by-laws within a period specified by the Tribunal pursuant to subsection (2), on the expiration of that period.

Effect of Revocation

(4) Any scale agreement for a sector in respect of which the certification of an artists' association has been revoked ceases to have effect from the date of revocation or from any later date that the Tribunal may specify.

SUCCESSOR RIGHTS AND OBLIGATIONS

Mergers, etc., of Associations

30.—(1) An artists' association that succeeds a certified artists' association as a result of a merger, amalgamation or transfer of jurisdiction among associations acquires the rights, privileges and duties of that certified association under this Part, whether under a scale agreement or otherwise.

Tribunal to Determine Questions

(2) On application by an artists' association affected by a merger, amalgamation or transfer of jurisdiction, the Tribunal shall determine the rights, privileges and duties that the association has acquired under this Part or under a scale agreement as a result of the transaction.

Bargaining and Scale Agreements

NOTICE TO BARGAIN

Notice to Bargain to Enter into a Scale Agreement

31.—(1) Where an artists' association is certified in respect of a sector, the association or a producer may issue a notice requiring the other party to begin bargaining for the purpose of entering into a scale agreement.

Notice to bargain to renew or revise a scale agreement or enter into a new scale agreement

(2) Where a scale agreement is in force, either party may, in the three months immediately preceding the date that the agreement expires or within any longer period stipulated in the agreement, issue a notice to the other party to begin bargaining in order to renew or revise it or to enter into a new scale agreement.

Notice to bargain

(3) An association substituted as a party to a scale agreement pursuant to paragraph 28(5)(c) may, within six months after the date of its certification, issue a notice requiring the producer that is a party to the agreement to begin bargaining for the purpose of renewing or revising it or entering into a new scale agreement.

Revision during term

(4) Where a scale agreement provides for revision during its term, a party entitled to do so by the agreement may give notice to the other party to begin bargaining in order to revise any provision of the agreement.

Notice to Minister

(5) Any party that issues a notice to the other party to begin bargaining shall send a copy of the notice to the Minister without delay.

Duty to Bargain and not to Change Terms and Conditions

32. Where a notice to begin bargaining has been issued under section 31,

(a) the artists' association and the producer shall without delay, but in any case within twenty days after the notice was issued, unless they otherwise agree,

(i) meet, or send authorized representatives to meet, and begin to bargain in good faith, and

(ii) make every reasonable effort to enter into a scale agreement; and

(b) the producer shall not alter, without the consent of the artists' association, any term or condition of engagement, including the rates of remuneration, or any right or privilege of an artist or the association, that is contained in the scale agreement, until such time as pressure tactics are permitted under section 46.

DURATION AND EFFECT OF SCALE AGREEMENTS

Effect of Scale Agreements

33.—(1) For the term set out therein, a scale agreement binds the parties to it and every artist in the sector engaged by the producer, and neither party may terminate the agreement without the approval of the Tribunal, except where a notice to bargain is issued under subsection 31(3).

Scale Agreement to be Filed

(2) The parties to a scale agreement shall file a copy of the agreement with the Minister without delay.

Association of Producers

(3) A scale agreement entered into by an association of producers binds, even in the event that the association is dissolved, each producer that

(a) is a member of the association at the time the agreement is signed and did not give the parties notice of withdrawal before the agreement was signed;

(b) not being a party to any other scale agreement in respect of the same sector, subsequently becomes a member of that association; or

(c) withdraws from membership in the association.

Saving more Favourable Benefits

(4) A scale agreement applies notwithstanding any inconsistency with a contract between an artist and a producer, but it shall not be applied so as to deprive an artist of a right or benefit under the contract that is more favourable to the artist than is provided for under the agreement.

Application

(5) The Tribunal shall assess what is more favourable to the artist pursuant to subsection (4) in relation to each right or benefit, and shall compare the elements of each right or benefit under the scale agreement with the elements of each under the contract.

Tribunal May Change Termination Date

34. On the joint application of the parties, the Tribunal may change the termination date of a scale agreement in order to establish a common termination date for two or more scale agreements that bind the producer or the artists' association.

Duty of Fair Representation

35. An artists' association that is certified in respect of a sector, or a representative thereof, shall not act in a manner that is arbitrary, discriminatory or in bad faith in the representation of any of the artists in the sector in relation to their rights under the scale agreement that is applicable to them.

CONTENT AND INTERPRETATION OF SCALE AGREEMENTS

Provision for Settlement without Pressure Tactics

36.—(1) Every scale agreement must contain a provision for final settlement without pressure tactics, by arbitration or otherwise, of all differences between the parties or among artists bound by the agreement, concerning its interpretation, application, administration or alleged contravention.

Where Arbitrator to be Appointed

(2) Notwithstanding anything in the scale agreement, a difference between the parties to an agreement that does not contain the provision for final settlement required by subsection (1) shall be submitted for final settlement

(a) to an arbitrator selected by the parties; or

(b) where the parties are unable to agree on an arbitrator and either party makes a written request to the Minister to appoint one, to the arbitrator appointed by the Minister after any inquiry that the Minister considers necessary.

Submission of difference to arbitration

(3) Notwithstanding anything in the scale agreement, a difference between the parties to an agreement that contains a provision for final settlement by an arbitration board shall, if either party fails to name its nominee to the board, be submitted for final settlement to an arbitrator in accordance with subsection (2).

Request to Minister to Appoint Arbitrator or Arbitration Board Chairperson

(4) Where a scale agreement contains a provision for final settlement without pressure tactics of differences described in subsection (1) by an arbitrator or arbitration board and the parties cannot agree on the selection of the arbitrator or arbitration board chairperson, either party or its nominee may, notwithstanding anything in the agreement, make a written request to the Minister to appoint the arbitrator or arbitration board chairperson, as the case may be.

Appointment by Minister

(5) On receipt of a request made under subsection (4), the Minister shall appoint an arbitrator or arbitration board chairperson, after any inquiry that the Minister considers necessary.

Presumption

(6) An arbitrator or arbitration board chairperson appointed pursuant to subsection (2), (3) or (5) is deemed to be appointed in accordance with the scale agreement.

Determinations not to be Reviewed by Court

37.—(1) Every determination of an arbitrator or arbitration board is final and shall not be questioned or reviewed in any court.

No review by *Certiorari*, etc.

(2) No order shall be made or proceeding taken in any court, by way of injunction, *certiorari*, prohibition, quo warranto or otherwise, to question, review, prohibit or restrain an arbitrator or arbitration board in any proceedings under this Part.

Status of Arbitrator or Arbitration Board

(3) For the purposes of the Federal Courts Act, an arbitrator or an arbitration board appointed pursuant to a scale agreement or this Part is not a federal board, commission or other tribunal within the meaning of that Act.

1992, c. 33, s. 37;

2002, c. 8, s. 182.

Copy to be Filed with Minister

38. A copy of every determination of an arbitrator or arbitration board shall be sent to the parties, filed with the Minister and, in the circumstances prescribed by regulation, made available to the public.

Powers of Arbitrator and Arbitration Board

39.—(1) An arbitrator or arbitration board has, in relation to any proceeding before the arbitrator or the board, the powers conferred on the Tribunal under paragraphs 17(a) to (c) and the power to determine whether any matter referred to the arbitrator or the board is arbitrable.

Idem

(2) Where an artist's services have been terminated or an artist has been disciplined by a producer for cause pursuant to the scale agreement and there is no specific penalty in either the agreement or the contract between the artist and the producer, the arbitrator or arbitration board has the power to substitute for the termination of services or the discipline any other penalty that seems to the arbitrator or the board to be just and reasonable in the circumstances.

Procedure

40.—(1) The arbitrator or arbitration board shall decide the procedure for hearings, and the parties shall be given the opportunity to present evidence and make submissions and may be represented by counsel or an agent.

Determination of Arbitration Board

(2) Where a difference described in subsection 36(1) is submitted to an arbitration board, the majority of the board shall determine the issue, but if the majority cannot agree, the chairperson's decision is the determination of the board.

Arbitration Costs, Fees and Expenses

(3) Where the parties submit a difference described in subsection 36(1) to an arbitrator or an arbitration board, unless otherwise provided in the scale agreement or agreed by the parties, each party shall pay

(a) its own costs and the fees and expenses of any member of an arbitration board that it nominates; and

(b) an equal portion of the fees and expenses of the arbitrator or arbitration board chairperson, whether selected by the parties or their nominees or appointed by the Minister under this Part.

Questions may be Referred to Tribunal

41.—(1) An arbitrator or arbitration board shall refer to the Tribunal for hearing and determination any question that arises in a matter before it as to the existence of a scale agreement, the identification of the parties to it, or the application of the agreement to a particular sector or artist.

Arbitration Proceeding not Suspended

(2) Referral of a question to the Tribunal pursuant to subsection (1) does not suspend the proceeding before the arbitrator or arbitration board, unless the Tribunal so orders or the arbitrator or arbitration board decides that the nature of the question warrants suspension of the proceeding.

Filing of Determination in Federal Court

42.—(1) Any person or association affected by a determination of an arbitrator or arbitration board may file a copy of the determination, exclusive of the reasons therefor, in the Federal Court.

Registration

(2) The Federal Court shall register the copy of any determination of an arbitrator or arbitration board filed pursuant to subsection (1), and after registration the determination has the same force and effect, and all proceedings may be taken thereon, as if it were a judgment obtained in that Court.

Provision for Settlement Continues in Force

43.—(1) Notwithstanding anything in a scale agreement, the provision for final settlement required by subsection 36(1) remains in force after termination of the agreement and until such time as pressure tactics are permitted under section 46.

Power of Arbitrator where Agreement Terminates

(2) Where a difference described in subsection 36(1) arises during the period beginning on the date of termination of the agreement and ending on the date that a period described in section 46 begins, an arbitrator or arbitration board may hear and determine the difference, and sections 36 to 42 apply.

COMPULSORY CHECK-OFF

Association Dues to be Deducted

44. At the request of an artists' association, a scale agreement shall include a provision requiring the producer to deduct and remit to the association without delay from the remuneration of each artist subject to the scale agreement, whether or not the artist is a member of the association, the amount of the dues regularly paid by a member of the association in accordance with its by-laws.

SETTLEMENT OF LABOUR DISPUTES

Mediation

45. The Minister may, on request or of the Minister's own motion, name a mediator to confer with parties who are unable to reach agreement and to assist them to enter into a scale agreement.

Prohibitions and Remedies

PRESSURE TACTICS

When Pressure Tactics are Permitted

46. No artist, artists' association or producer shall participate in, authorize or apply pressure tactics except during the period

(a) beginning thirty days after a scale agreement binding the producer and the artists' association expires and ending on the day that a new agreement is entered into in respect of that sector; or

(b) beginning six months after the date of certification of an artists' association and ending on the day that a scale agreement is entered into, where there is no scale agreement binding the producer and the artists' association in respect of that sector.

DECLARATIONS RESPECTING PRESSURE TACTICS

Declaration that Pressure Tactics of an Association are Unlawful

47.—(1) Where a producer alleges that an artists' association has authorized or applied pressure tactics, or that artists have participated, are participating or are likely to participate in pressure tactics, as a result of which an artist was, is or would be in contravention of this Part, the producer may apply to the Tribunal for a declaration that the pressure tactics are unlawful.

Declaration and Prohibition of Pressure Tactics

(2) Where an application is made under subsection (1), the Tribunal may, after affording the artists and the artists' association an opportunity to be heard, declare the pressure tactics to be unlawful and, if the producer so requests, make an order

(a) requiring the association to cease or revoke its authorization of the pressure tactics;

(b) enjoining artists from participating in those pressure tactics and requiring them, where applicable, to resume the work for which they were engaged; or

(c) requiring an artists' association or any officer or representative of an association of which any artist subject to an order made under paragraph (b) is a member, to give notice of the order to all artists in the sector who are members of the association.

Declaration that Pressure Tactics of a Producer are Unlawful

48. Where an artists' association applies to the Tribunal alleging that a producer has authorized or applied pressure tactics in contravention of this Part or is about to do so, the Tribunal may, after affording the producer an opportunity to be heard, declare the pressure tactics to be unlawful and, if the association so requests, make an order

(a) requiring the producer or any person acting on behalf of the producer to renounce or to discontinue those pressure tactics and to permit the artists to resume their work, where applicable; or

(b) requiring the producer to communicate the contents of an order made under paragraph (a) without delay to all artists in the sector engaged by the producer at the time the order is made.

Terms and Duration of Order

49.—(1) An order made under section 47 or 48 shall be in terms that the Tribunal considers necessary and sufficient to meet the circumstances of the case and, subject to subsection (2), shall have effect for the period indicated in the order.

Application for a Supplementary Order

(2) Where anyone affected by an order made under section 47 or 48 applies to the Tribunal and gives notice of the application to the parties named in the order, the Tribunal may, by supplementary order, continue or modify the order for such period as may be indicated in the supplementary order, or may revoke the order.

UNFAIR PRACTICES

Prohibitions Relating to Producers

50. No producer or person acting on behalf of a producer shall

(a) refuse to engage an artist or to honour an artist's contract, or discriminate against an artist with respect to engagement, remuneration or any other term or condition of engagement, or intimidate, threaten or discipline an artist, because the artist

(i) is or proposes to become, or seeks to induce any other person to become, a member, officer or representative of an artists' association, or participates in the promotion, formation or administration of an artists' association,

(ii) has testified or participated in a proceeding under this Part, or may do so,

(iii) has made or is about to make a disclosure that may be required in a proceeding under this Part,

(iv) has made an application or filed a complaint under this Part,

(v) has exercised any right under this Part or participated in pressure tactics that are not prohibited by it, or

(vi) has been expelled or suspended from membership in an artists' association for a reason other than a failure to pay the periodic dues, assessments and initiation fees uniformly required to be paid by all members of the association as a condition of acquiring or retaining membership;

(b) impose any condition in a contract of engagement that prevents or has the effect of preventing an artist from exercising rights under this Part;

(c) terminate an artist's contract, or impose a financial or other penalty or take disciplinary action against an artist, because the artist refuses to perform any of the duties of another artist who is participating in or is subject to pressure tactics that are not prohibited by this Part;

(d) seek by intimidation, threat of termination of a contract, imposition of a financial or other penalty, or by any other means, to compel a person to refrain from becoming or to cease to be a member, officer or representative of an artists' association, or to refrain from

(i) testifying or participating in a proceeding under this Part,

(ii) making a disclosure that may be required in a proceeding under this Part, or

(iii) making an application or filing a complaint under this Part;

(e) terminate the contract of, or impose any financial or other penalty on, an artist engaged by the producer, or take any disciplinary action because of the artist's refusal to perform an act that is prohibited by this Part; or

(f) bargain for the purpose of entering into a scale agreement, or enter into a scale agreement, with an artists' association in respect of a sector, if the producer knows or, in the opinion of the Tribunal ought to know, that another artists' association is certified in respect of that sector.

Prohibitions Relating to artists' Associations

51. No certified artists' association or person acting on behalf of such an association shall

(a) bargain for the purpose of entering into a scale agreement, or enter into a scale agreement with a producer in respect of a sector, if the association or person knows or, in the opinion of the Tribunal ought to know, that another artists' association is certified in respect of that sector;

(b) bargain for the purposes of entering into a scale agreement, or enter into a scale agreement in respect of a sector, with a producer that the association knows or, in the opinion of the Tribunal ought to know, is represented by an association of producers that has filed its membership list pursuant to subsection 24(2);

(c) require a producer to terminate the contract of an artist engaged by the producer because the artist has been expelled or suspended from membership in the association for a reason other than a failure to pay the periodic dues, assessments and initiation fees uniformly required to be paid by all members of the association as a condition of acquiring or retaining membership;

(d) take disciplinary action against or impose any form of penalty on an artist by applying the standards of discipline of the association to that artist in a discriminatory manner;

(e) expel or suspend an artist from membership in the association, or take disciplinary action or impose any penalty against the artist, for refusal to perform an act that is contrary to this Part;

(f) discriminate unfairly against an artist with respect to becoming or continuing as a member of the association or being expelled from it, if the parties have included in a scale agreement a provision that requires membership in a specified artists' association as a condition of engagement, or that grants a preference in engagement to such members; or

(g) intimidate, coerce or impose a financial or other penalty on an artist, because the artist

(i) has testified or participated in a proceeding under this Part, or may do so,

(ii) has made or is about to make a disclosure that may be required in a proceeding under this Part, or

(iii) has made an application or filed a complaint under this Part.

Intimidation or Coercion Prohibited

52. No person shall seek by intimidation or coercion to compel any person or association to become or refrain from becoming or to cease to be a member of an artists' association or an association of producers.

Complaints to the Tribunal

53.—(1) Any person or organization may make a complaint in writing to the Tribunal that

(a) a producer, a person acting on behalf of a producer, an artists' association, a person acting on behalf of an artists' association, or an artist has contravened or failed to comply with section 32, 35, 50 or 51; or

(b) a person has failed to comply with section 52.

Time for Making Complaint

(2) A complaint under subsection (1) shall be made to the Tribunal within six months after the date that the complainant knew, or in the opinion of the Tribunal ought to have known, of the action or circumstances giving rise to the complaint.

Inadmissible Complaints

(3) The Tribunal shall hear a complaint made under subsection (1), unless the Tribunal is of the opinion that the complaint

(a) is moot, or is frivolous, vexatious or in bad faith; or

(b) is not within the Tribunal's jurisdiction, or could be referred by the complainant to an arbitrator or arbitration board, pursuant to a scale agreement.

Duty and Power of the Tribunal

(4) Where the Tribunal is of the opinion that the complaint must be heard, the Tribunal may appoint a member who was never seized of the matter, or a member of the staff of the Tribunal, to assist the parties to settle it and, where the matter is not settled within a period that the Tribunal considers reasonable in the circumstances, or if the Tribunal decides not to appoint a person to assist the parties to settle it, the Tribunal shall hear and determine the complaint.

(5) A written complaint that a producer or any person acting on behalf of a producer failed to comply with section 50 is itself evidence that the failure actually occurred and, if any party to the complaint proceeding alleges that the failure did not occur, the burden of proof thereof is on that party.

Tribunal May Make Orders

54.—(1) Where the Tribunal determines that a party to a complaint failed to comply with section 32, 35, 50, 51 or 52, the Tribunal may order the party to comply with or to cease contravening that section and may

(a) in respect of a failure to comply with paragraph 32(b), order a producer to pay the artist compensation not exceeding the amount of remuneration that would, but for that failure, have been paid to the artist pursuant to the scale agreement or the artist's contract, in the opinion of the Tribunal;

(b) in respect of a failure to comply with section 35, require an artists' association to pursue the rights and remedies of any artist affected by that failure, or to assist the artist to pursue any rights and remedies that, in the opinion of the Tribunal, it was the duty of the association to pursue;

(c) in respect of a failure to comply with paragraph 50(a), (c) or (e), order a producer

(i) to engage or to continue to engage, if possible, an artist who has been dealt with in a manner prohibited by that paragraph,

(ii) to pay to any artist affected by that failure compensation not exceeding the amount of remuneration that would, but for that failure, have been paid to that artist pursuant to the scale agreement or the contract, in the opinion of the Tribunal, and

(iii) to rescind any disciplinary action taken against any artist affected by that failure, and pay the artist compensation not exceeding the amount, in the opinion of the Tribunal, of any financial or other penalty provided for in the scale agreement or the contract and imposed on the artist by the producer;

(d) in respect of a failure to comply with paragraph 50(d), order a producer to rescind any action taken against any artist affected by the failure, and pay the artist compensation not exceeding the amount, in the opinion of the Tribunal, of any financial or other penalty provided for in the scale agreement or the contract and imposed on the artist by the producer;

(e) in respect of a failure to comply with paragraph 51(d), order an artists' association to reinstate or admit the artist as a member; and

(f) in respect of a failure to comply with paragraph 51(d), (e), (f) or (g), order an artists' association to rescind any disciplinary action taken against any artist affected by the failure, and pay the artist compensation not exceeding the amount, in the opinion of the Tribunal, of the artist's actual loss or of any financial or other penalty.

Idem

(2) In order to ensure that the purpose of this Part is achieved, the Tribunal may, in addition to or in lieu of any other order authorized under subsection (1), order a producer or an artists' association to do or refrain from doing anything that it is equitable to require of them, so as to counteract or remedy the contravention of or non-compliance with a provision referred to in that subsection.

CO-PRODUCTION AGREEMENTS

Co-Production Agreement

55.—(1) Where a producer enters into a co-production agreement, the producer shall ensure that the agreement designates the person who will actually engage the artists for the co-production.

Application of Part to Co-Production

(2) This Part does not apply in respect of a co-production unless the person designated pursuant to subsection (1) is a producer within the meaning of this Part.

REGULATIONS

Regulations

56. On the recommendation of the Minister after consultation with the Minister of Canadian Heritage, the Governor in Council may make regulations prescribing anything that may be prescribed under any provision of this Part, and any other regulations that the Governor in Council considers necessary to carry out the provisions of this Part, other than regulations that may be made by the Tribunal under section 16.

1992, c. 33, s. 56;
1995, c. 11, s. 41.

OFFENCES AND PUNISHMENT

Offence and Penalty

57.—(1) Subject to subsections (2) and (3), every person who contravenes or fails to comply with any provision of this Part other than sections 32, 50 and 51 is guilty of an offence and liable to a fine not exceeding five thousand dollars.

Idem

(2) Every artist, artists' association or producer that contravenes section 46 is guilty of an offence and liable to a fine

(a) not exceeding two thousand dollars, in the case of an artist;

(b) not exceeding fifty thousand dollars, in the case of an officer, employee, director, agent or advisor of a certified artists' association or director, agent or advisor of a producer;
or

(c) not exceeding one hundred thousand dollars, in the case of a producer or a certified artists' association.

Further Offences

(3) Every person who

(a) being required to attend to give evidence pursuant to paragraph 17(a), fails to attend accordingly,

(b) being compelled to produce, pursuant to paragraph 17(a), any document or thing in the person's possession or under the person's control, fails to produce the document or thing,

(c) refuses to be sworn or to affirm, as the case may be, after being required to be sworn or affirmed pursuant to paragraph 17(a), or

(d) refuses to answer any proper question put to the person pursuant to paragraph 17(a) by the Tribunal or a member of the Tribunal or by an arbitrator or an arbitration board is guilty of an offence and liable to a fine not exceeding four hundred dollars.

Prosecutions

58.—(1) A prosecution for an offence under this Part may be brought against and in the name of an association of producers or an artists' association.

Idem

(2) For the purpose of a prosecution under subsection (1),

(a) an artists' association or an association of producers is deemed to be a person; and

(b) any act or thing done or omitted to be done by an officer or agent of an artists' association or an association of producers within the scope of the officer or agent's authority is deemed to be an act or thing done or omitted to be done by the association.

Imprisonment precluded

(3) Where a person is convicted of an offence under this Part, no imprisonment may be imposed as punishment for default of payment of any fine imposed as punishment.

Consent of Tribunal Before Prosecution

59. No prosecution may be instituted in respect of an offence under this Part without the consent in writing of the Tribunal.

EVIDENCE

Documents as Evidence

60.—(1) Any document purporting to contain or to be a copy of a determination of the Tribunal and to be signed by a member thereof is admissible in evidence in any court without proof of the signature or official character of the member or any further proof.

Certificate of Minister is Evidence

(2) A certificate, purporting to be signed by the Minister or an official of the Federal Mediation and Conciliation Service, stating that any document referred to in this Part was or was not received or given by the Minister pursuant to this Part and, if received or given, stating the date that it was received or given, is admissible in evidence in any court without proof of the signature or official character of the Minister or official, or any further proof.

1992, c. 33, s. 60;
1996, c. 11, s. 88(E);
1998, c. 26, s. 84.

ANNUAL REPORT

Annual Report

61. The Tribunal shall, on or before January 31 next following the end of each fiscal year, submit to the Minister a report on the activities of the Tribunal during the immediately preceding fiscal year, and the Minister shall cause the report to be laid before Parliament within fifteen days after the receipt thereof or, if Parliament is not then sitting, on any of the first fifteen days thereafter that either House of Parliament is sitting.

MISCELLANEOUS

Defect in Form or Irregularity

62. No proceeding under this Part is invalid by reason only of a defect in form or a technical irregularity.

Remuneration and Expenses

63. Every person not employed in the federal public administration who, at the request of the Minister, performs functions under this Part in any capacity, other than as an arbitrator or arbitration board chairperson, shall be paid the remuneration and expenses prescribed by regulation.

1992, c. 33, s. 63;
2003, c. 22, s. 224(E).

Witness Fees and Expenses

64. A person who is summoned by the Tribunal and attends as a witness in any proceeding taken under this Part is entitled to be paid the allowance for expenses and the witness fees that are in force with respect to witnesses in civil suits in the superior court of the province in which the proceeding is taken.

Member of Tribunal, Employee, etc., not Required to Give Evidence

65. No member or employee of the Tribunal or any person appointed by the Tribunal or the Minister under this Part is required to give evidence in any civil action, suit or other proceeding, respecting information obtained in the discharge of duties under this Part.

Review of Act

66.—(1) In the seventh year after the coming into force of this section, the Minister of Canadian Heritage, in consultation with the Minister, shall undertake a review of the provisions and operations of this Act and shall immediately submit to each House of Parliament a report thereon including a statement of any changes the Minister of Canadian Heritage would recommend.

Permanent Referral

(2) The report submitted to the House of Commons pursuant to subsection (1) stands permanently referred to the committee of that House that normally considers cultural matters.

1992, c. 33, s. 66;
1995, c. 11, s. 42.

TRANSITIONAL

Previous Agreements

67.—(1) On notice in writing to the Tribunal by the parties to any agreement concerning the terms of engagement of artists that is in effect on the coming into force of this section, the terms and conditions of the agreement that are not inconsistent with this Part shall continue to bind the parties to the agreement for any period that the Tribunal may determine on application, or until the agreement expires or a scale agreement is entered into, as if the agreement were a scale agreement under this Part, and each party to the agreement shall be treated as if the party were an artists' association or a producer.

Request for Certification

(2) An artists' association may apply for certification at any time before the termination of an agreement referred to in subsection (1), and may issue a notice at any time after certification, notwithstanding subsection 31(2), requiring the other party to begin bargaining in order to renew or revise the agreement or to enter into a scale agreement.

Presumption

(3) The application for certification and subsequent negotiation of a scale agreement by an artists' association certified in the circumstances described in subsection (2) are deemed not to be unfair practices contrary to sections 50 and 51.

Effect of Scale Agreement on Previous Agreements

(4) A scale agreement entered into under this Part revokes all agreements entered into before the coming into force of this section in so far as the scale agreement applies to the artists and producers in the sector in respect of which the association is certified.

CONSEQUENTIAL AMENDMENTS

/fr/S-19.6/263306.html—Article-68. to 70.

68. to 70. [Amendments]

COMING INTO FORCE

Coming into Force

71¹. This Act or any provision thereof shall come into force on a day or days to be fixed by order of the Governor in Council.

* Disclaimer: This document is not the official version (more).
Source: <http://laws.justice.gc.ca/en/S-19.6/260599.html>
Act current to March 3, 2006

¹ [Note: Section 1 and Part I in force May 14, 1993, see SI/93-75; sections 10 to 13, 15 and 16 in force June 11, 1993, see SI/93-92; sections 5 to 9, 14 and 17 to 70 in force May 9, 1995, see SI/95-61.]