

NATIONAL ASSEMBLY

SECOND SESSION

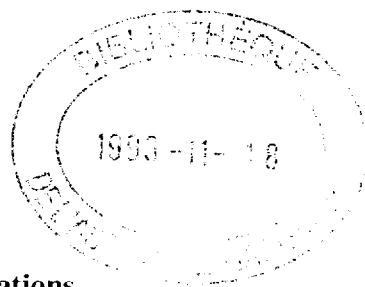
THIRTY-FIFTH LEGISLATURE

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**

Introduction

**Introduced by
Madam Louise Beaudoin
Minister of Culture and Communications**



**Québec Official Publisher
1996**

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 of the economic activities of the producers working in that field of activities, as 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 and every artist in the negotiating sector who is hired by such a producer.

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

Lastly, the bill introduces transitional provisions to ensure the continued application of group agreements existing at the time the Act comes into force, and harmonizes vocabulary with 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

(1) 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 to vote;”;

(2) by striking out the words “or another producer in the same sector” in the fourth and fifth lines of paragraph 3.

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 recognized association of producers, or to prevent any person from participating therein.

No producer or person acting on behalf of a producer or a recognized 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 recognized 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 by replacing paragraph 4 by the following paragraph:

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

11. Section 26 of the said Act is amended

(1) by replacing the words “Every association of producers and every producer who is not a member of an” in the first and second lines by the words “Every recognized”;

(2) by inserting the words “d’artistes” after the word “reconnue” in the third line of the French text.

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

“26.1. A producer must, at the request of a recognized artists’ association, withhold the amount of the dues fixed by the association from any amount paid by the producer to an artist who is a member of the association.

The producer must, in addition, withhold the amount specified by the association from any remuneration paid by the producer to any other artist hired by the producer in a sector for which the association is recognized.

Such amounts may be withheld as soon as a negotiation notice is given under section 28.

The producer shall remit the amounts withheld to the recognized artists’ association on a monthly basis, with a statement setting out the name of each artist and the amount withheld in his respect.

“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 royalties 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”;

(2) by inserting the words “, with a recognized association of producers,” after the word “conclude” in the third line of the first paragraph;

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

(4) by striking out the third paragraph.

14. Section 28 of the said Act is amended

(1) by replacing the words “association or the association of producers, or the producer who is not a member of an association of producers, as the case may be,” in the first, second and third lines of the first paragraph by the words “artists’ association or the recognized association of producers”;

(2) by replacing the words “the recognized association or the association of producers, or the producer who is not a member of an association of producers,” in the first, second and third lines of the second paragraph by the words “one party”.

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

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

16. Section 33 of the said Act is amended

(1) by replacing the first paragraph by the following paragraphs:

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

During the negotiation of any subsequent group agreement, the application for arbitration must be made jointly by the parties.”;

(2) by replacing the words “In that case, the” in the second paragraph by the word “An”.

17. 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. It shall also provide rules determining the remuneration and expenses to which arbitrators are entitled, and the proportion of the remuneration and expenses to be borne by each party.

“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 or of an arbitration award, as the case may be, shall not exceed three years.”

18. Section 37 of the said Act is amended by inserting the words “or, where applicable, the same field of activity” after the word “sector” in the second line of the first paragraph.

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

“37.1. The members of a recognized artists’ association must, before engaging in concerted action, give three days’ prior notice to the producers concerned and to the recognized association of which those producers are members.

The members of a recognized producers' association must, likewise, give three days' prior notice to the recognized association of which the artists concerned are members."

20. Section 38 of the said Act is amended by inserting the words "a recognized" after the words "a producer or" in the second line of paragraph 1.

21. Section 39 of the said Act is amended

(1) by replacing the words "to whom the association" in the second and third lines by the words "belonging to a recognized association of producers with which the artists' association";

(2) by replacing the word "producer" in the last line by the words "recognized association of producers".

22. Section 40 of the said Act is replaced by the following section:

"40. The group agreement binds every producer belonging to the recognized association, together with every other producer working in the field of activities of the recognized association and the artists working in the negotiating sector who are hired by such a producer."

23. 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 the association which is the most representative of the economic activity of the producers working in a field of activity 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) prescribing that all decisions as to membership requirements shall be submitted to the qualified members for approval;

(4) 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, 6 and 7 of section 24 and sections 25 and 26, adapted as required, apply to an association of producers.”

24. 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.

25. 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.

26. 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 ”.

27. 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 striking out the word “jointly” in the first line of subparagraph 4 of the first paragraph;

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

“(6) to draw up, annually, a list of arbitrators to arbitrate grievances and a list of mediators.”

28. 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.

29. 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.

30. Section 59 of the said Act is amended

(1) by inserting the words “and 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 creation and production-related activities.”

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

32. Section 63 of the said Act is amended

(1) by inserting the words “or which field of activity a producer belongs to” after the word “to” in the second line of the second paragraph;

(2) by replacing the words “producer and every interested association” in the second and third lines of the second paragraph by the words “recognized association that intervenes”;

(3) by replacing the word “ leur ” in the fourth line of the second paragraph of the French text by the word “son”.

33. Section 70 of the said Act is amended

(1) by inserting the figures “11.1, 11.2,” 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.

34. Schedule I to the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10), amended by orders in council 1321-94, 1322-94, 1323-94 and 1324-94 dated 7 September 1994, 1800-94 dated 21 December 1994, 538-95 dated 26 April 1995, 928-95 dated 5 July 1995, 1194-95 dated 6 September 1995, 1506-95 dated 22 November 1995, 81-96 dated 24 January 1996, 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, section 20 of chapter 27 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”.

35. 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.

36. 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”.

37. 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.

TRANSITIONAL PROVISIONS

38. 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.

39. An association of producers that, on *(insert here the date of coming into force of section 23 of this Act)*, is bound to a recognized artists’ association by a group agreement entered into under the Act respecting the professional status and conditions of engagement of performing, recording and film artists, is deemed to have been recognized under the said Act on that date for the field of activities corresponding to the area covered by the group agreement, if it files a copy of its by-laws with the Commission not later than 12 months after *(insert here the date of coming into force of section 23 of this Act)* and, subsequently, any amendments to its by-laws.

For the purposes of section 14, the date on which the association is deemed to have been recognized is considered to be the date on which recognition takes effect.

40. A group agreement entered into before *(insert here the date of coming into force of section 23 of this Act)* that binds a producer or a recognized association of producers through the effect of section 39, is deemed to have been entered into under the Act respecting the professional status and conditions of engagement of performing, recording and film artists as amended by this Act.

A group agreement entered into by a producer who is not a member of an association remains in force until its date of expiry unless, before that date, the producer becomes a member of an association that is, or is deemed to be, a recognized association.

41. The provisions of this Act come into force on *(insert here the date of assent to this Act)*.