

The Arts Professions Act

being

Chapter A-28.002 of *The Statutes of Saskatchewan, 2009*
(effective June 1, 2010).

NOTE:

This consolidation is not official and is subject to House amendments and Law Clerk and Parliamentary Counsel changes to Separate Chapters that may be incorporated up until the publication of the annual bound volume. Amendments have been incorporated for convenience of reference and the official Statutes and Regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the official Statutes and Regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER A-28.002

An Act respecting the Arts Professions and the Status of the Artist

Short title

1 This Act may be cited as *The Arts Professions Act*.

Interpretation

2 In this Act:

“**artist**” means any individual who creates, performs, gives creative expression to or works in any artistic field, including all or any of the following:

- (a) literary arts;
- (b) visual arts and crafts;
- (c) electronic, recording and media arts, including film and video;
- (d) performing arts, including theatre, opera, music, dance, mime, circus and variety entertainment;
- (e) any other artistic field prescribed in the regulations; (« *artiste* »)

“**artists’ association**” means any organization or a branch or local of any organization, that has among its objectives the management or promotion of the professional, social and economic interests of artists who are members of the organization, and includes a federation of artists’ associations; (« *association d’artistes* »)

“**engager**” means a person who contracts with, or retains the services of, a professional artist or professional artists; (« *embaucheur* »)

“**minister**” means the member of the Executive Council to whom for the time being the administration of this Act is assigned; (« *ministre* »)

“**professional artist**” means an artist who:

- (a) is an independent contractor;
- (b) receives, or has received, compensation from his or her artistic activity including, but not limited to, sales, fees, commissions, salaries, royalties, residuals, grants and awards, any of which may reasonably be included as income of a self-employed person or a business; and
- (c) meets at least three of the following criteria:
 - (i) the individual has received public or peer recognition:
 - (A) in the form of honours, awards, professional prizes, scholarships, honourable mentions, appointments to an adjudication committee or invitations to participate in a group exhibition or performance; or
 - (B) by publicly disseminated critical appraisal;

- (ii) the individual's artistic activity has been presented to the public by means of exhibitions, publications, performances, readings, screenings or any other means;
- (iii) the individual promotes or markets his or her work:
 - (A) by means including attending auditions, seeking sponsorship, agents, engagements or exhibitions and similar activities appropriate to the nature of his or her work; or
 - (B) by being represented by a dealer, publisher, agent or similar representative appropriate to the nature of his or her artistic activity;
- (iv) the individual has received training or acquired traditional knowledge:
 - (A) in an educational institution or from a practitioner or teacher recognized within his or her profession; or
 - (B) within the established practice of his or her cultural traditions;
- (v) the individual has membership in an organization representing his or her artistic activity whose membership, or categories of membership, is or are limited under standards established by the organization, or that is an artists' association, or that is a recognized Aboriginal Society;
- (vi) the individual holds copyright in his or her own work and has received royalty or residual payments based on that copyright;
- (vii) the individual has a business licence issued by the municipality in which he or she is carrying on business related to his or her artistic activity. (*« artiste professionnel »*)

2009, c.A-28.002, s.2.

Crown bound

3 The Crown is bound by this Act.

2009, c.A-28.002, s.3.

Recognition of artists

4 The following are affirmed and recognized:

- (a) the important contribution of artists to the cultural, social, economic and educational enrichment of Saskatchewan;
- (b) the value of artistic creativity in advancing Saskatchewan's cultural, social, economic and educational life;
- (c) the valuable contribution of artists to Saskatchewan's cultural heritage and development;
- (d) the importance to professional artists of being fairly compensated for the creation and use of their artistic works.

2009, c.A-28.002, s.4.

Minister's responsibility respecting artists

5 The minister is responsible for all matters not by law assigned to any other minister, ministry, branch or agency of the Government of Saskatchewan relating to artists, including developing and implementing the Government of Saskatchewan's policy respecting artists.

2009, c.A-28.002, s.5.

Policy respecting artists

6 The policy mentioned in section 5 is to be developed after taking into consideration the following principles:

- (a) the right of artists to free speech and freedom of artistic and cultural expression;
- (b) the right of professional artists to form associations to promote their professional, social and economic interests;
- (c) the right of professional artists to form advisory bodies in which they may express their views and advance their cause with respect to their status in society and with respect to any other questions related to their creative environment and conditions of work;
- (d) the potential of professional artists in all artistic fields to earn a living from the making of their art;
- (e) the right of artists to be fairly treated by government and society;
- (f) the right of professional artists to enjoy the same economic and social benefits that are available to other workers in Saskatchewan;
- (g) the ability of artists to obtain education, professional development and training;
- (h) the desirability of making artistic works available to the public.

2009, c.A-28.002, s.6.

Government undertaking

7 The Government of Saskatchewan undertakes, as far as it considers it reasonable and appropriate, to do the following:

- (a) to promote artistic work, including innovation and creativity, as a public good and service to the community;
- (b) to respect the working conditions of professional artists;
- (c) to respect, honour and in good faith abide by scale agreements of relevant artists' associations representing the interests of professional artists engaged by the government;
- (d) to respect, honour and in good faith abide by protocols respecting working conditions that have been established by relevant artists' associations representing the interests of professional artists engaged by the government.

2009, c.A-28.002, s.7.

Advisory committee

- 8(1) The minister may establish one or more advisory committees to investigate and report to the minister with respect to any matter concerning professional artists that the minister considers appropriate.
- (2) The minister shall obtain the approval of the Lieutenant Governor in Council before appointing an advisory committee.
- (3) An advisory committee shall report to the minister within the time that the minister may direct.

2009, c.A-28.002, s.8.

Individual contracts - goods or services from professional artists

9(1) Subject to the regulations, no engager shall, without having entered into a written contract with a professional artist, contract with or retain the services of that professional artist for any of the following purposes on a not-for-profit or for-profit basis:

- (a) to produce an artistic work or production;
 - (b) to present an artistic work or production to the public;
 - (c) to engage in an enterprise that circulates or disseminates artistic works to the public, including lending, leasing, exchanging, depositing, exhibiting, publishing, publicly presenting or using in any other similar fashion.
- (2) Every written contract entered into pursuant to subsection (1) must contain the following elements:
- (a) the legal names of the engager and the professional artist;
 - (b) the effective date of the contract;
 - (c) the work, production or enterprise that forms the object of the contract;
 - (d) the financial consideration due to the professional artist and the terms and conditions of payment, including the date of the delivery of the work or production or the conduct of the enterprise and the date of the delivery of payment;
 - (e) the frequency with which the engager shall report to the professional artist on the transactions made with respect to the work, production or enterprise that is subject to the contract and for which financial consideration remains owing after the contract is entered into;
 - (f) the notice and, if applicable, the compensation required if either the engager or the professional artist terminates the contract before its completion;
 - (g) dispute resolution mechanisms;
 - (h) any transfer of right and any grant of licence consented to by the professional artist, including:
 - (i) the purposes of the transfer of right or grant of licence;
 - (ii) the term of the transfer of right or grant of licence; and
 - (iii) the jurisdiction in which the transfer of right or grant of licence applies;

- (i) whether any licence granted to an engager pursuant to the contract is transferable to a third party;
 - (j) any limitations on the use of the work or production or the conduct of the enterprise;
 - (k) if applicable, any waiver of moral rights within the meaning of section 14.1 of the *Copyright Act* (Canada);
 - (l) in the case of a contract between an engager and an Aboriginal professional artist, the protocols respecting the use of Aboriginal symbols or artifacts or matters of importance to Aboriginal people;
 - (m) any additional elements prescribed in the regulations.
- (3) If a written contract entered into pursuant to subsection (1) reserves an exclusive right of the engager over any future use of the work or production of the professional artist or recognizes the right of the engager to the work or production for a purpose mentioned in subsection (1), the contract must include the following elements in addition to the elements listed in subsection (2):
- (a) a description of the work or production;
 - (b) a description of the process that the professional artist must follow to terminate the contract after the expiration of a specified period;
 - (c) a date on which any exclusive right of the engager over any future use of the work or production of the professional artist or any right of the engager to the work or production for a purpose mentioned in subsection (1) expires;
 - (d) any additional elements prescribed in the regulations.

2009, c.A-28.002, s.9.

Regulations

10 The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) prescribing additional artistic fields for the purposes of the definition of "artist" in section 2;
- (c) exempting engagers, professional artists or transactions or classes of engagers, professional artists or transactions from the requirement to have a written contract pursuant to subsection 9(1);
- (d) prescribing additional elements to be included in written contracts pursuant to subsection 9(2) or (3);
- (e) prescribing any matter or thing that is required or authorized by this Act to be prescribed in the regulations;
- (f) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

2009, c.A-28.002, s.10.

S.S. 2002, c.S-58.1 repealed

11 *The Status of the Artist Act* is repealed.

2009, c.A-28.002, s.11.

Coming into force

12 This Act comes into force on June 1, 2010.

2009, c.A-28.002, s.12.