

Evaluation of the Provisions and Operations of the Status of the Artist Act

Conclusions and recommendations

The *Status of the Artist Act* is unique legislation whose value and ongoing relevance was affirmed by those whose opinions we canvassed in this evaluation. It is valued both for its important statements of principle in Part I and for the legal framework it establishes in Part II to govern collective bargaining between associations of self-employed artists and federal producers. However, the Act's ability to improve the socio-economic circumstances of self-employed artists is limited by its restriction to federal producers, by the fact that it addresses only labour relations, and by the fact that it does not apply to producers sub-contracted by producers within federal jurisdiction.

Just as importantly, it needs to be recognized that the legislation, and collective bargaining in particular, is not equally relevant or easily applicable to all categories of artistic and cultural workers. The legislation applies best to artists who work in companies (such as ballet corps and symphonies), but it is less applicable to those who, by the very nature of their chosen pursuit, work alone (such as novelists and visual artists). Furthermore, many artists do not view themselves as cultural "workers," but rather as entrepreneurs who seek to create an asset that they can copyright or brand. For these reasons, initiatives other than the *Status of the Artist Act* may benefit a larger number and greater variety of artists. In order to achieve significant change in artists' socio-economic circumstances, the Department of Canadian Heritage may wish to explore other policy and program approaches, including increased grants and commissions for original work. Other suggested measures, such as income averaging, clarification of eligible business cost deductions, and access to employment insurance and other social benefits, would require consultations with and interventions by other departments and agencies.

Nonetheless, several amendments to the *Status of the Artist Act* would improve its operation and clarify its application. On the operational side, the Canadian Council on the Status of the Artist essentially ceased to function soon after the Act was implemented, and its advisory role is already being fulfilled by other organizations. The Department of Canadian Heritage may therefore wish to consider whether organizations with similar purpose could fulfill the role of the Council while respecting the intent of Part I of the legislation. As for CAPPRT, ways of streamlining its administrative and service delivery structure may be worth exploring, given its light workload. Finally, several relatively straightforward procedural amendments would help to clarify the legislation and improve its operations, including successful negotiation of scale agreements.

Recommendations

1. The *Status of the Artist Act* serves a useful purpose in recognizing the importance of artists in Canadian society and in providing a legal framework for collective bargaining between associations of self-employed artists and federal producers. The Department of Canadian Heritage may also wish to explore other policies and programs to improve the socio-economic circumstances of self-employed artists.
2. Given that the federal government funds arts organizations that provide advocacy and advice on behalf of Canadian artists, consideration should be given to whether these organizations could fulfill the role of the Canadian Council on the Status of the Artist while respecting the intent of Part I of the Status of the Artist Act.
3. The Department of Human Resources Development Canada, in consultation with the Department of Canadian Heritage, should consider ways of streamlining the administration and service delivery structure of the Canadian Artists and Producers Professional Relations Tribunal while remaining sensitive to the concerns of artists and artists' associations. Consideration should be given to a variety of options, ranging from the status quo to amalgamation of CAPPRT with another federal labour board or tribunal.
4. Part II of the *Status of the Artist Act* should be amended to include a provision for ensuring first contract negotiation and arbitration. Such a change would make the legislation consistent with the Canada Labour Code and provincial status of the artist legislation in Québec.
5. Section 46 in Part II of the *Status of the Artist Act* should be amended to link the right to apply pressure tactics in first agreement situations to the date of notice to bargain, rather than to the date of certification. Such a change would align the legislation with standard labour relations practices.
6. Possible mechanisms to increase the efficiency of the collective bargaining process should be explored. To this end, consideration should be given to establishing one bargaining authority for all federal government departments.
7. The Department of Human Resources Development Canada, in consultation with the Department of Canadian Heritage, should consider how the Professional Category Regulations defining the categories of cultural workers eligible for coverage under the Status of the Artist Act should be reviewed.
8. The Department of Canadian Heritage may wish to undertake more research to explore and clarify the relationship between the *Status of the Artist Act* and the Copyright Act.