

| 31. NOTICE TO BARGAIN | 31. AVIS DE NÉGOCIATION |
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| <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> | <p>(1) L'association d'artistes, une fois accréditée pour un secteur, ou le producteur en cause peut transmettre à l'autre partie un avis de négociation en vue de la conclusion d'un accord-cadre.</p> <p>(2) Lorsqu'il y a un accord-cadre, toute partie peut, dans les trois mois précédant la date de son expiration, ou au cours de la période plus longue qu'il prévoit, transmettre à l'autre partie un avis de négociation en vue du renouvellement ou de la révision de celui-ci ou de la conclusion d'un nouvel accord-cadre.</p> <p>(3) En cas de substitution d'associations, l'association substituée peut, dans les six mois suivant la date de l'accréditation, exiger que le producteur lié par l'accord-cadre entame des négociations en vue du renouvellement ou de la révision de celui-ci ou de la conclusion d'un nouvel accord-cadre.</p> <p>(4) Si l'accord-cadre permet la révision d'une de ses dispositions avant l'échéance, toute partie habilitée à y procéder peut transmettre à l'autre partie un avis de négociation à cet effet.</p> <p>(5) Une copie de l'avis de négociation est expédié sans délai au ministre par la partie qui l'a donné.</p> |

CORRESPONDING SECTIONS:

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| <p>SAA: 31(1) 31(2) 31(3) 31(4) 31(5)</p> | <p>CLC: 48 49(1) 36(2) 49(2) -</p> | <p>PSLRA: 105(1) 105(2)(b) - - -</p> |
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JURISPRUDENCE:

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| <i>Contents of a scale agreement</i> | <p>1995 CAPPRT 001 (UNEQ), para. 20</p> <p>The objective of the bargaining undertaken by an artists' association subsequent to certification is to put in place one or more scale agreements prescribing the minimum terms and conditions under which the artists covered by the agreement will provide their services to producers in the federal jurisdiction. The content of the scale agreement is a matter for negotiation between the certified artists' association and the producers; the scale agreement could touch on matters of copyright but need not necessarily do so.</p> |
| <i>Contents of a scale agreement</i> | <p>1996 CAPPRT 005 (UNEQ), para. 36 and 37</p> <p>What is included in this right to bargain? Subsection 31(1) of the <i>Act</i> states that the purpose of bargaining is to enter into a scale agreement. A scale agreement is defined as "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".</p> <p>In these early stages of collective bargaining on behalf of artists who are independent contractors, the Tribunal is not inclined to begin defining or limiting the subjects that can be included in the category of "matters related to the provision of artists' services". In our view, it would be unacceptable to divide the provision of services from the use of the work. A producer who commissions a work must be able to use or disseminate the work for which he or she has paid.</p> |