

Recommendations in response to the  
***Changing Workplaces Review  
Special Advisors' Interim Report***



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## **INTRODUCTION**

Canadian Actors' Equity Association (Equity) is a professional artists' association representing almost 6,000 performers (including actors, singers and dancers), directors, choreographers, fight directors and stage managers, working in live performance, in English, across Canada. In the province of Ontario, our membership is just over 3,000 active members.

Equity was encouraged by the serious consideration that was given to the arts sector in the *Changing Workplaces Review* **SPECIAL ADVISORS' INTERIM REPORT**. We feel that the greatest benefit for the live performance worker can be gained by updating the *Ontario Labour Relations Act* and/or parallel legislation. As an example, the report seeks to offer options for addressing ever-increasing workplace precarity in Ontario with specific reference given to Status of the Artist Legislation (SOA), a labour relations model that has worked well in other Canadian jurisdictions. We want to ensure that key concepts frame the development of Ontario legislation, oversight mechanisms better compel negotiations, and there is increased flexibility in respecting the mixed bargaining units that artists fall under. Equity sees the Quebec version of SOA as a "roadmap" that the Ministry should adopt and modify for the Ontario context.

Our submission has been informed by discussions with the Alliance of Canadian Cinema, Television and Radio Artists (ACTRA Toronto), the Canadian Federation of Musicians (CFM), the Directors' Guild of Canada (DGC-Ontario), the International Alliance of Theatrical Stage Employees (IATSE), and the National Association of Broadcast Employees and Technicians (NABET Local 700-M UNIFOR), that collectively represent over 50,000 cultural workers in the Province of Ontario. We understand the different approaches put forward by our colleagues, but together, we are all deeply committed to working with the Ontario Government to address the precarious needs of cultural industry workers, understanding that our industry, which includes both employees and independent contractors, is varied and requires a multi-faceted strategy.

## **STATUS OF THE ARTIST LEGISLATION**

Through a serious consideration of the SOA option we recommend the expansion of pre-existing legislation to serve as a more appropriate framework for most professional artists' associations.

There are many benefits to developing an arts-based industrial relations mechanism that includes:

- Meeting the needs of a highly precarious labour force by facilitating the development of industry standards, fair working conditions and fair remuneration for artists.
- Establishing the legal recognition of professional artists' associations to represent the artists' interests in determining their basic working conditions.
- Recognizing professional artists' associations as the exclusive bargaining representatives of artists in a defined sector.

- Enforcing an obligation for engagers' and professional artists' associations to negotiate in good faith to reach agreements governing conditions of engagement.
- Legally enshrining that professional artists' associations must represent all individuals fairly, mandate minimum standards for agreements and establish procedures when the parties are unable to reach an agreement.

Existing provincial labour law has been developed for relations between employees and employers in traditional workplace settings. These provisions do not address the mixed bargaining units with which professional artists identify. Specifically, Equity has concerns about recognizing its members as dependent contractors or, in some instances, employees - as is the case with many of the Stage Managers that it represents. While some of our members, may have long-term contracts (i.e. The Stratford Festival, National Ballet of Canada) most are bouncing between month-long contracts at a multitude of disparate engagers. The effect on our engager partners in having to potentially abide by their statutory responsibilities under a new LRA regime is of concern and possibly counterproductive to providing work to our members. Smaller companies will likely be unable to meet these additional obligations. We believe the SOA option is a way to address the needs of our industry.

## **KEY CONCEPTS**

Equity strongly supports the introduction of SOA legislation in Ontario as discussed in section 4.6.1 of the *Interim Report*. SOA legislation would allow those individuals (typically professional artists) working in the cultural industry that would not meet an expanded definition of "employee" to also have access to collective representation and bargaining.

The following concepts need to guide the Ministry's work:

### **1. Do No Harm**

Any new legislation must not negatively impact the current and established bargaining structures in the cultural industry.

### **2. Respect for Mixed Bargaining Units**

It is imperative to recognize that professional artists may identify as independent or dependent contractors or employees as dictated by their specific engagements.

### **3. Recognition / Certification**

Sectoral recognition of professional artists' associations as the exclusive bargaining representatives of artists in a defined sector and a defined certification process is the cornerstone of any successful SOA legislation.

#### **4. Mandatory Bargaining**

SOA legislation in Ontario must establish collective mandatory bargaining between a producer and an artists' association.

#### **5. Dispute Resolution**

Legislation needs to provide an arena in which to efficiently resolve disputes thereby creating a stabilizing effect on the cultural sector.

### **THE QUEBEC EXAMPLE**

The Quebec *Status of the Artist Act (QSAA)* provides a convenient legal “roadmap” for the Ministry of Labour which can be adjusted for the Ontario context through consultations with industry partners like us. It is also fortuitous that the *Status of Ontario's Artists Act, 2007, S.O. 2007, c. 7, Sched. 39* already exists in the Province residing with the Ministry of Tourism, Culture and Sport. An obvious recommendation would be that the Ministry of Labour work in concert with the Ministry of Tourism, Culture and Sport to craft, what is at its core, labour legislation.

It is critical that the legislation mandates minimum stipulations for negotiated collective agreements (dispute resolution, the availability of insurance and retirement benefits and set minimum working terms and conditions) and establish procedures for situations where the parties are unable to reach an agreement under the authority of the Ontario Labour Relations Board (OLRB). As an example, under *the Quebec Status of the Artist Act (QSAA)*, the negotiation process is stipulated but the powers of the arbitrator are not formally laid out unlike in the *Quebec Labour Code (QLC)*. This has resulted in prolonged negotiations as arbitrators cannot issue provisional orders.

### **CONCLUSION**

The impact of labour legislation definitively recognizing artists' contributions to the quality of life in Ontario will be profound. Artists should have the same fundamental benefits and freedoms held by the majority of other workers, including the protection of health and safety standards, equitable remuneration for their work and the right to bargain collectively.

Developing robust SOA legislation, recommended as an option in the *Interim Report* and supported by a cross-section of industry associations and unions, is the most flexible and responsive form of labour legislation for our sector.

We can achieve this by strengthening the Quebec example, respecting pre-existing industry relationships, and recognizing the multifaceted working arrangements of our workers.

The ability to bargain collectively to attain better standards for the working life of a professional artist will be the single most important socio-economic improvement for the precarious arts worker in the province of Ontario.