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# NATIONAL ASSEMBLY OF QUÉBEC

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SECOND SESSION

FORTY-SECOND LEGISLATURE

Bill 35

**An Act to harmonize and modernize  
the rules relating to the professional  
status of artists**

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**Introduction**

**Introduced by  
Madam Nathalie Roy  
Minister of Culture and Communications**

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## EXPLANATORY NOTES

*The purpose of this bill is to bring together in the same Act the provisions governing the professional status of artists who work in the fields of the visual arts, film, the recording arts, literature, arts and crafts and the performing arts. It is also designed to harmonize the rules applicable in all of those artistic fields as regards the recognition of artists' associations and the negotiation of group agreements.*

*To that end, the Act respecting the professional status and conditions of engagement of performing, recording and film artists is amended to make the artists in the visual arts, arts and crafts and literature and the presenters who enter into contracts with them or who retain their professional services subject to that Act. In addition, the title of that Act is replaced and the Act respecting the professional status of artists in the visual arts, arts and crafts and literature, and their contracts with promoters is repealed.*

*The bill also establishes the duty of fair representation incumbent on any recognized artists' association. It provides for the maintenance of the conditions of employment after the expiry of a group agreement and specifies that the prior notice required before engaging in concerted action must mention the date on which certain pressure tactics are to begin.*

*The bill introduces provisions relating to psychological harassment, including behaviour that manifests itself in the form of verbal comments, actions or gestures of a sexual nature. Producers and presenters are also prohibited from endeavouring to compel an artist to refrain from or to cease exercising a right arising from the Act through intimidation, discrimination or reprisals, among other things.*

*The bill also provides that a proceeding may be brought before the Administrative Labour Tribunal for non-compliance with certain provisions of the Act, in particular those concerning the duty of fair representation, the prohibition to hinder the activities of an association, the collection of dues, negotiation in good faith and the use of pressure tactics during the term of a group agreement. It provides for the maintenance of certain standards relating to individual contracts between artists in the visual arts, arts and crafts and literature and presenters.*

*In addition, the Government may, by regulation, determine minimum conditions applicable to professional contracts entered into with artists.*

*Lastly, the bill updates the amounts of the fines and includes certain transitional and final provisions.*

**LEGISLATION AMENDED BY THIS BILL:**

- Municipal Powers Act (chapter C-47.1);
- Taxation Act (chapter I-3);
- Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20);
- Act respecting the professional status and conditions of engagement of performing, recording and film artists (chapter S-32.1);
- Act to establish the Administrative Labour Tribunal (chapter T-15.1).

**LEGISLATION REPEALED BY THIS BILL:**

- Act respecting the professional status of artists in the visual arts, arts and crafts and literature, and their contracts with promoters (chapter S-32.01).



## **Bill 35**

### **AN ACT TO HARMONIZE AND MODERNIZE THE RULES RELATING TO THE PROFESSIONAL STATUS OF ARTISTS**

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING THE PROFESSIONAL STATUS AND CONDITIONS  
OF ENGAGEMENT OF PERFORMING, RECORDING AND FILM  
ARTISTS

**1.** The title of the Act respecting the professional status and conditions of engagement of performing, recording and film artists (chapter S-32.1) is replaced by the following title:

“ACT RESPECTING THE PROFESSIONAL STATUS OF ARTISTS IN  
THE VISUAL ARTS, FILM, THE RECORDING ARTS, LITERATURE,  
ARTS AND CRAFTS AND THE PERFORMING ARTS”.

**2.** Section 1 of the Act is amended

(1) by replacing “and variety entertainment, multimedia” in the first paragraph by “, circus and variety entertainment, multimedia, digital experience”;

(2) by adding the following paragraph at the end:

“This Act also applies to artists who work in the fields of the visual arts, arts and crafts and literature and to the presenters who enter into contracts with them for the purpose of presenting previously created works or who retain their professional services.”

**3.** Section 1.1 of the Act is amended

(1) by inserting “or professional artist” after “artist”;

(2) by replacing “offers his services, for remuneration” by “professionally offers his services or works for remuneration or other monetary consideration”.

**4.** Section 2 of the Act is amended

(1) in the first paragraph,

(a) by inserting the following definitions in alphabetical order:

“**arts and crafts**” means the production of original works which are unique or in multiple copies, intended for a utilitarian, decorative or expressive purpose and conveyed by the practice of a craft related to the working of wood, leather, textiles, metals, silicates or any other material;

“**literature**” means the creation and the translation of original literary works such as novels, stories, short stories, dramatic works, poetry, essays or any other written works of the same nature;

“**presentation**” means the sale, lending, lease, exchange, deposit, exhibition, publishing, public presentation, publication or any other use of the works of artists in the fields of the visual arts, arts and crafts and literature;

“**presenter**” means any person, body or partnership that, as a primary or secondary activity, operates a presentation enterprise, for profit or not, in the fields of the visual arts, arts and crafts and literature and enters into contracts with artists;

“**visual arts**” means the production of original works of research or expression, which are unique or in limited copies and are conveyed by painting, sculpture, engraving, drawing, illustration, photography, textile arts, installation work, performance, art video, digital arts or any other form of expression of the same nature;”

(b) by replacing “in section” in the definition of “producer” by “in the first paragraph of section”;

(2) by adding the following paragraph at the end:

“For the purposes of Chapters II, III, III.1, III.2, IV, IV.1, IV.2 and V, “producer” refers to a “presenter” within the meaning of this section when the provision is applied in the fields of the visual arts, arts and crafts and literature.”

**5.** Section 3 of the Act is amended by replacing “furnishes personal services” by “provides personal services or offers his works”.

**6.** Section 4 of the Act is amended by replacing “and on government departments and bodies” by “, on its departments and agencies, and on mandataries of the State”.

**7.** Section 8 of the Act is amended

(1) by inserting “Subject to the provisions of this Act,” at the beginning;

(2) by replacing “agree the conditions of his engagement by” by “approve the contractual conditions binding him to”.

**8.** Section 9 of the Act is amended by replacing “the majority of artists” in subparagraph 2 by “the greatest number of artists”.

**9.** Section 10 of the Act is amended by inserting “or to other monetary consideration” after “remuneration” in paragraph 3.

**10.** Section 16 of the Act is amended by replacing “whether the membership of the association accounts for the majority of artists in the sector concerned” in the first paragraph by “the representativeness of the association”.

**11.** Section 17 of the Act is amended by replacing “whether the members of the applicant association are in the majority” in the second paragraph by “the representativeness of the applicant association”.

**12.** Section 18 of the Act is amended by replacing “comprises the majority of” by “is the most representative of the”.

**13.** Section 20 of the Act is amended

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

“On the application of a number of professional artists in the sector in which a recognition has been granted, equal to at least 25% of the membership of the association or on the application of an association of producers covered by the recognition, the Tribunal shall ascertain the representativeness of the association.”;

(2) by replacing “no longer comprises the majority” in the third paragraph by “is no longer representative”.

**14.** Section 24 of the Act is amended

(1) by inserting “or the presentation of works” after “services” in paragraph 6;

(2) by inserting “or the presentation of works” at the end paragraph 7.

**15.** The Act is amended by inserting the following sections after section 24:

**“24.1.** For the exercise of its functions, a recognized association may, in particular,

(1) represent its members for the negotiation and performance of their contracts;

(2) provide technical support services to its members; and

(3) organize development activities.

A recognized association that is not a professional syndicate within the meaning of the Professional Syndicates Act (chapter S-40) may also establish and administer special retirement funds. Sections 14 and 16 to 18 of the Professional Syndicates Act apply in such a case, with the necessary modifications.

**“24.2.** A recognized artists’ association must not act in bad faith or in an arbitrary or discriminatory manner or show serious negligence in respect of the artists it represents, regardless of whether they are members of the association.

An artist who believes that his artists’ association has contravened the first paragraph may file a complaint with the Tribunal.”

**16.** Section 26.1 of the Act is amended by inserting “or monetary consideration” after “remuneration” in the first paragraph.

**17.** Section 27 of the Act is amended

(1) by replacing “with respect to the engagement of” in the first paragraph by “applicable to the entering into of professional contracts with”;

(2) in the second paragraph,

(a) by inserting “ensure that a remuneration or other monetary consideration is provided for any type of performance of services or presentation in the sector concerned. The parties shall also” after “shall”;

(b) by replacing “economic conditions prevailing in small production enterprises” by “economic conditions that are specific to emerging producers and the various types of production”.

**18.** The Act is amended by inserting the following section after section 27:

**“27.1.** In the fields of the visual arts, arts and crafts and literature, the minimum conditions provided for in the group agreement must include the requirements already prescribed in Chapter III.3 of this Act.”

**19.** Section 35 of the Act is amended by inserting “and sent to the Minister” after “the Minister of Labour” in the first paragraph.

**20.** Section 35.1 of the Act is amended by replacing the second and third paragraphs by the following paragraph:

“Sections 100 to 101.9 of the Labour Code (chapter C-27) and the provisions to which those sections refer are deemed to be an integral part of every group agreement and to be all or part of the grievance arbitration procedure provided for in the first paragraph, with the necessary modifications, including the following:



(1) for the purposes of the second paragraph of section 100 of the Labour Code, if no agreement has been reached between the parties on the choice of arbitrator, the arbitrator is appointed by the Minister of Culture and Communications from the list drawn up under section 68.2 of this Act;

(2) section 36.1 of this Act is the section to which section 100.10 of the Labour Code refers with respect to the maintenance of the conditions of employment; and

(3) for the purposes of section 101.6 of the Labour Code, the arbitrator must also send, at the same time, a copy of the award to the Minister of Culture and Communications.”

**21.** Section 35.2 of the Act is repealed.

**22.** The Act is amended by inserting the following section after section 36:

**“36.1.** The group agreement continues to apply after its expiry until pressure tactics referred to in section 38 are used, or until a new group agreement is entered into or an arbitration award is rendered in its stead.

However, the parties may stipulate in a group agreement that the conditions of employment contained in the agreement continue to apply until a new agreement is signed.”

**23.** Section 37.1 of the Act is amended by adding the following paragraph at the end:

“The notice concerning pressure tactics referred to in section 38 must mention the date on which those pressure tactics are to begin. A new notice of at least three days is required if the pressure tactics have not begun on the stated date.”

**24.** Section 42 of the Act is replaced by the following section:

**“42.** No producer nor any person acting for a producer may refuse to engage an artist because that artist exercises a right arising from this Act, or endeavour by intimidation, discrimination or reprisals, threat of dismissal or other threat, or by the imposition of a sanction or by any other means, to compel an artist to refrain from or to cease exercising a right arising from this Act.

If it is shown to the satisfaction of the Tribunal that the artist exercised a right arising from this Act, there is a simple presumption in his favour that the action was taken against him because he exercised such right, and the burden of proof is upon the producer to prove that he resorted to the action against the artist for another good and sufficient reason.”

**25.** Chapter IV of the Act is amended by replacing the entire portion before section 56 by the following:

## **“CHAPTER III.2**

### **“PSYCHOLOGICAL HARASSMENT**

**“43.** Every artist has a right, in his relations with a producer and with the persons the producer puts the artist in contact with for the purposes of the carrying out of his contract, to a work environment free from psychological harassment.

The producer must take reasonable action to prevent psychological harassment and, whenever he becomes aware of such behaviour, to put a stop to it. The producer must, in particular, adopt and make available to the persons who participate in the production or presentation of a work a psychological harassment prevention and complaint processing policy that includes, in particular, a section on behaviour that manifests itself in the form of verbal comments, actions or gestures of a sexual nature.

**“44.** In this Act, “psychological harassment” has the meaning assigned by section 81.18 of the Act respecting labour standards (chapter N-1.1), with the necessary modifications.

**“45.** The provisions of sections 43, 44, 63.3 and 63.4 are deemed to be an integral part of every group agreement, with the necessary modifications. An artist covered by such an agreement must exercise the recourses provided for in the agreement.

An artist who is not covered by a group agreement and who believes he has been the victim of psychological harassment may file a complaint with the Tribunal.

## **“CHAPTER III.3**

### **“INDIVIDUAL CONTRACTS IN THE FIELDS OF THE VISUAL ARTS, ARTS AND CRAFTS AND LITERATURE**

*“(Insert here, as provided for in section 40 of this bill, sections 30 to 36 and 38 to 42 of the Act respecting the professional status of artists in the visual arts, arts and crafts and literature, and their contracts with promoters (chapter S-32.01), so that they become sections 46 to 55.2 of the Act respecting the professional status of artists in the visual arts, film, the recording arts, literature, arts and crafts and the performing arts (chapter S-32.1).)”*

## **“CHAPTER IV**

### **“FUNCTIONS AND POWERS OF THE LABOUR TRIBUNAL”.**

**26.** Section 56 of the Act is amended by adding the following paragraph at the end:

“(3) to decide any other application relating to the application of sections 11.1 and 11.2, the second paragraph of section 24.2, section 26, the second paragraph of section 26.1, sections 30, 32 and 34, the second paragraph of section 37, sections 37.1, 38 to 40 and 42 and the second paragraph of section 45.”

**27.** The Act is amended by inserting the following sections after section 63:

**“63.1** An application relating to the application of sections 11.1, 11.2 and 26, the second paragraph of section 26.1, sections 30, 32 and 34, the second paragraph of section 37 and sections 37.1, 38 to 40 and 42 must be filed with the Tribunal within 30 days of the alleged contravention coming to light.

In addition to the other powers conferred on it by the Act to establish the Administrative Labour Tribunal (chapter T-15.1), the Tribunal may render any decision it believes fair and reasonable, taking into account all the circumstances of the matter. It may, in particular, exercise the powers provided for in section 15 and in subparagraphs 1 to 5 of the first paragraph of section 111.33 of the Labour Code (chapter C-27), with the necessary modifications.

**“63.2.** A complaint referred to in the second paragraph of section 24.2 must be filed with the Tribunal within six months of the facts complained about coming to light.

If the Tribunal considers that the artists’ association has contravened the provisions of the first paragraph of that section, it may render any decision it believes fair and reasonable, taking into account all the circumstances of the matter. The Tribunal may, in particular, authorize the artist to submit his claim to an arbitrator appointed by the Minister for decision in the manner provided for in the group agreement, as in the case of a grievance. The second paragraph of section 35.1 applies. The artists’ association shall pay the artists’ costs.

The producer may not invoke the association’s non-observance of the procedure and time limits provided for in the group agreement for the settlement of grievances where a claim is referred to an arbitrator under the first paragraph.

**“63.3.** A complaint referred to in the second paragraph of section 45 must be filed with the Tribunal within two years of the last incidence of psychological harassment.

If the Tribunal considers that the artist has been a victim of psychological harassment and that the producer has failed to fulfil his obligations under section 43, it may render any decision it believes fair and reasonable, taking into account all the circumstances of the matter, including the discriminatory nature of the behaviour, such as

- (1) ordering the producer to reinstate the artist;
- (2) ordering the producer to pay the artist an indemnity up to a maximum equivalent to the remuneration or monetary consideration lost;
- (3) ordering the producer to take reasonable action to put a stop to the harassment;
- (4) ordering the producer to pay punitive and moral damages to the artist;
- (5) ordering the producer to pay the artist an indemnity for loss of income;
- (6) ordering the producer to pay for the psychological support needed by the artist for a reasonable period of time determined by the Tribunal; and
- (7) ordering the modification of the disciplinary record of the artist who is a victim of psychological harassment.

**“63.4.** Subparagraphs 2, 4 and 6 of the second paragraph of section 63.3 do not apply to a period during which the artist is suffering from an employment injury within the meaning of the Act respecting industrial accidents and occupational diseases (chapter A-3.001) that results from psychological harassment.

Where the Tribunal considers it probable that, pursuant to section 63.3, the psychological harassment entailed an employment injury for the artist, it must reserve its decision with regard to subparagraphs 2, 4 and 6 of the second paragraph of that section.”

**28.** The Act is amended by inserting the following chapter after section 68.4:

## **“CHAPTER IV.2**

### **“REGULATIONS**

**“68.5.** The Government may, by regulation, define the terms and expressions used in this Act or specify the definitions provided for therein.

**“68.6.** The Government may, by regulation, after consulting the recognized artists’ association and the recognized association of producers or, if there is no such association of producers, with the association of producers or the producers most representative of a sector, determine minimum conditions applicable to professional contracts entered into with artists, including the remuneration and employee benefits.

The conditions prescribed by such a regulation may vary with the artistic activities and types of production.”

**29.** Section 69 of the Act is amended by replacing “\$100 to \$1,000” by “\$250 to \$2,500”.

**30.** Section 70 of the Act is amended

- (1) by replacing “\$50 to \$200” in paragraph 1 by “\$125 to \$625”;
- (2) by replacing “\$500 to \$5,000” in paragraph 2 by “\$1,000 to \$10,000”;
- (3) by replacing “\$2,500 to \$25,000” in paragraph 3 by “\$5,000 to \$50,000”.

**31.** The Act is amended by inserting the following sections after section 70:

**“71.** Every person who, in order to avoid payment of any amount owed to an artist, fails to record an entry prescribed in the first paragraph of section 53 or makes a false or inaccurate entry in the separate account is guilty of an offence and is liable to a fine of \$1,000 to \$10,000 and, for a subsequent offence, to a fine of \$2,000 to \$20,000.

**“71.1.** Every presenter who contravenes any provision of section 55 or whose record contains what he knows to be false or inaccurate information is guilty of an offence and is liable to a fine of \$1,000 to \$10,000 and, for a subsequent offence, to a fine of \$2,000 to \$20,000.”

## MUNICIPAL POWERS ACT

**32.** Section 92 of the Municipal Powers Act (chapter C-47.1) is amended by replacing “Act respecting the professional status of artists in the visual arts, arts and crafts and literature, and their contracts with promoters (chapter S-32.01) and to artists within the meaning of the Act respecting the professional status and conditions of engagement of performing, recording and film artists” in the first paragraph by “Act respecting the professional status of artists in the visual arts, film, the recording arts, literature, arts and crafts and the performing arts”.

## TAXATION ACT

**33.** Section 133.5 of the Taxation Act (chapter I-3) is amended by replacing “Act respecting the professional status and conditions of engagement of performing, recording and film artists” in the second paragraph by “Act respecting the professional status of artists in the visual arts, film, the recording arts, literature, arts and crafts and the performing arts”.

**34.** Section 346.0.1 of the Act is amended by replacing “Act respecting the professional status of artists in the visual arts, arts and crafts and literature, and their contracts with promoters (chapter S-32.01), or an artist, within the meaning of the Act respecting the professional status and conditions of engagement of performing, recording and film artists” in the third paragraph by “Act respecting the professional status of artists in the visual arts, film, the recording arts, literature, arts and crafts and the performing arts”.

**35.** Section 421.4.1 of the Act is amended by replacing both occurrences of “Act respecting the professional status and conditions of engagement of performing, recording and film artists” by “Act respecting the professional status of artists in the visual arts, film, the recording arts, literature, arts and crafts and the performing arts”.

**36.** Section 726.26 of the Act is amended by replacing “Act respecting the professional status of artists in the visual arts, arts and crafts and literature, and their contracts with promoters (chapter S-32.01), or an artist within the meaning of the Act respecting the professional status and conditions of engagement of performing, recording and film artists” in the first paragraph by “Act respecting the professional status of artists in the visual arts, film, the recording arts, literature, arts and crafts and the performing arts”.

**37.** Section 1029.8.36.0.0.7 of the Act is amended by replacing all occurrences of “Act respecting the professional status and conditions of engagement of performing, recording and film artists” in the definition of “labour expenditure” by “Act respecting the professional status of artists in the visual arts, film, the recording arts, literature, arts and crafts and the performing arts”.

**38.** Section 1029.8.36.0.0.10 of the Act is amended by replacing all occurrences of “Act respecting the professional status and conditions of engagement of performing, recording and film artists” in the definition of “labour expenditure” by “Act respecting the professional status of artists in the visual arts, film, the recording arts, literature, arts and crafts and the performing arts”.

#### ACT RESPECTING LABOUR RELATIONS, VOCATIONAL TRAINING AND WORKFORCE MANAGEMENT IN THE CONSTRUCTION INDUSTRY

**39.** Section 19 of the Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20) is amended by replacing “Act respecting the professional status of artists in the visual arts, arts and crafts and literature, and their contracts with promoters (chapter S-32.01) ; or” in subparagraph i of subparagraph 13 of the first paragraph by “Act respecting the professional status of artists in the visual arts, film, the recording arts, literature, arts and crafts and the performing arts (chapter S-32.1); or”.

## ACT RESPECTING THE PROFESSIONAL STATUS OF ARTISTS IN THE VISUAL ARTS, ARTS AND CRAFTS AND LITERATURE, AND THEIR CONTRACTS WITH PROMOTERS

**40.** Sections 30 to 36 and 38 to 42 of the Act respecting the professional status of artists in the visual arts, arts and crafts and literature, and their contracts with promoters (chapter S-32.01) become, respectively, sections 46 to 55.2 of the Act respecting the professional status of artists in the visual arts, film, the recording arts, literature, arts and crafts and the performing arts (chapter S-32.1), subject to the necessary changes in numbering and with the following modifications:

(1) strike out “drawn up in duplicate,” in the introductory clause of section 31;

(2) strike out “of a copy” in the second paragraph of section 32;

(3) replace “in accordance with section 31” in section 33 by “in accordance with section 32”;

(4) replace “sections 35 and 37” in section 42 by “section 35”.

**41.** The Act is repealed.

## ACT TO ESTABLISH THE ADMINISTRATIVE LABOUR TRIBUNAL

**42.** Schedule I to the Act to establish the Administrative Labour Tribunal (chapter T-15.1) is amended by striking out paragraph 25.

## TRANSITIONAL AND FINAL PROVISIONS

**43.** The Union des écrivaines et des écrivains québécois, the Regroupement des artistes en arts visuels du Québec, the Conseil des métiers d’art du Québec and the Association québécoise des auteurs dramatiques are deemed to be recognized artists’ associations under the Act respecting the professional status of artists in the visual arts, film, the recording arts, literature, arts and crafts and the performing arts (chapter S-32.1) in the negotiating sector corresponding to the field covered by their recognition under the Act respecting the professional status of artists in the visual arts, arts and crafts and literature, and their contracts with promoters (chapter S-32.01) on *(insert the date that precedes the date of coming into force of this Act)*.

For the purposes of subparagraph 2 of the first paragraph of section 14 and the second paragraph of section 20 of the Act respecting the professional status of artists in the visual arts, film, the recording arts, literature, arts and crafts and the performing arts, the eventual fifth anniversary from the date of taking effect of the recognition of the artists’ associations referred to in the first paragraph in the negotiating sectors also referred to in that paragraph is deemed to be on *(insert the date that is three years after the coming into force of this Act)*.

**44.** The first paragraph of section 33 of the Act respecting the professional status of artists in the visual arts, film, the recording arts, literature, arts and crafts and the performing arts applies, for the purposes of the first renewal following the coming into force of this section of the group agreements concluded by the Association québécoise des auteurs dramatiques under the Act respecting the professional status and conditions of engagement of performing, recording and film artists, to the matters covered by the Act respecting the professional status of artists in the visual arts, arts and crafts and literature, and their contracts with promoters that may be introduced into the agreements to be renewed. Only those matters may be submitted to arbitration at the request of a single party, unless the parties subsequently consent to give jurisdiction to the arbitrator on other matters.

**45.** Unless the context indicates a different meaning, in any order, grievance, judicial proceeding, judgment, ordinance, contract, agreement, accord or other document, a reference to the Act respecting the professional status and conditions of engagement of performing, recording and film artists, to the Act respecting the professional status of artists in the visual arts, arts and crafts and literature, and their contracts with promoters or to a provision of those Acts is a reference to the Act respecting the professional status of artists in the visual arts, film, the recording arts, literature, arts and crafts and the performing arts or, as applicable, to the corresponding provision of the latter Act.

**46.** This Act comes into force on (*insert the date of assent to this Act*).