

An Act that recognizes the professional status of creators

ct also gives creators, in the visual arts and crafts, and literature fields, a legal framework defining their professional status. A professional artist is a person:

who meets each of the following four conditions:

1. declares himself to be a professional artist;

2. produces works on his own behalf; 3. his works are exhibited, produced, published, marketed, or promoted in any manner whatsoever;

4. has been recognized by his peers as a professional artist by way of an honorable mention, an award, a prize, a scholarship, an appointment to an adjudication committee, an invitation to participate in a salon or by any other similar means;

Or

5. he is a member of a recognized association of professional artists.



Recognition of professional associations⁽¹⁾

It will be the responsibility of the Commission de la reconnaissance des associations d'artistes, an organization created in December 1987 by the Act respecting the professional status and conditions of engagement of performing, recording and film artists, to recognize a professional organization capable of representing the artists in each of the fields to which this Act applies. Under certain conditions, the recognition may be granted to a group of associations of professional artists.

In each of the fields contemplated, the recognized association or group shall play an essential role in the promotion of conditions favorable to artistic practice, the defence of the interests of professional artists and the setting up of services on their behalf.

Moreover, the recognized association of artists will be able to negotiate and ratify with a promoter or a group of promoters an agreement setting out the minimum conditions for the circulation of the works of artists that this association represents.

1. Note: The provisions of the Act dealing with the recognition of professional associations will come into force at a later date.



Solid foundations for the future

With Bill 90, An Act respecting the professional status and conditions of engagement of performing, recording and film artists (1987, ch. 72), passed in December 1987, the creation of the Commission de reconnaissance des associations d'artistes and Bill 78, An Act respecting the professional status of artists in the visual arts, arts and crafts and literature, and their contracts with promoters (1988, ch. 69), artists now have a solid legal framework that will promote the development of their artistic career and improve their social and economic situation.

Persons wishing more information may contact:

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Creators an Act for you!




An Act respecting the professional status of artists in the visual arts, arts and crafts and literature, and their contracts with promoters

Québec 

This document presents a brief summary of the main provisions of the Act respecting the professional status of artists in the visual arts, arts and crafts and literature, and their contracts with promoters and has no legal value. The complete text of the Act is on sale at Publications du Québec offices.

The masculine gender when used in this pamphlet designates both men and women.



An Act that is made-to-measure

Passed by the National Assembly of Québec on December 22, 1988, Bill 78 deals specifically with the professional status of artists in the visual arts, arts and crafts and literature fields, as well as with their contracts with promoters. It is scheduled to come into force on April 1, 1989; however, certain provisions, in particular those concerning the recognition of professional associations, will only take effect at a later date.



For whom is the Act intended?

The Act is intended for artists *who create works on their own behalf* in the visual arts, arts and crafts, and literature fields, as well as for promoters of their works.

Within these various fields, the Act aims specifically at the following artistic activities:

1- Visual arts

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 or any other form of expression of the same nature; (section 2)

2- Arts and crafts

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; (section 2)

3- Literature

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. (section 2)



An Act that governs the relations between artists and promoters

One of the major immediate effects of the Act is to give *creators* in the visual arts, arts and crafts, and literature fields, whether or not the creators are recognized as professionals, the means to better protect their rights concerning the circulation of their works. *In regard to contracts*, the provisions of the Act deal with the relations between artists of these sectors and promoters.

Under the terms of the Act, a promoter is:

any person, body or corporation who or which, as its main or secondary activity, operates for profit or not a circulation enterprise and enters into contracts with artists; (section 3)

Circulation is:

the sale, lending, lease, exchange, deposit, exhibition, publishing, public presentation, publication or any other use of the works of artists; (section 3)

Individual contracts

Beginning April 1, 1989, every agreement between a promoter and an artist concerning one of his works (or a book, whatever the nature) must be set out in a contract stipulating:

the nature of the contract;

the work or works which form the object of the contract;

any transfer of right and any grant of licence consented to by the artist, the purposes and the term of the transfer or licence and their territorial application;

the transferability or nontransferability to third persons of a licence granted to the promoter;

the financial consideration due to the artist and the terms and conditions of payment;

the frequency with which the promoter shall report to the artist on the transactions made in respect of the work that is subject to the contract.

Agreements on a future work: limits to exclusive rights

Every agreement dealing with a *future work* of an artist is subject to the general

rules of a contract and, in addition, certain particular rules. Thus, agreements on a future work must:

contemplate a work identified as to its nature;

be revocable upon the application of the artist once a given period upon by the parties has expired or a determinate number of works defined by the contract;

specify that the exclusive right to apply where, after the expiration of a period for reflection agreed upon by the parties and determined by the contract, the promoter, though given formal notice to do so, does not claim the reserved work.

Obligations of the promoter

The Act stipulates that the promoter must maintain a distinct account for each contract reached with an artist, in which shall be entered all transactions and payments relating to the contract. At any time, the artist may, after having notified the promoter in writing, have the accounts examined by an expert of his choice.

Moreover, the promoter must keep a register of the arts and crafts, and visual arts works which he has in his possession or which he does not own. An artist bound by contract to the promoter must consult this register during the promoter's business hours at the promoter's administration offices.

Promoters who contravene any of these provisions are liable to a maximum fine of \$5,000 for a first violation of a contract and of \$10,000 in the case of a repeat violation.