

chapter S-32.1

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

1987, c. 72; 2022, c. 20, s. 1.

**TABLE OF CONTENTS**

**CHAPTER I**  
SCOPE AND DEFINITIONS..... 1

**CHAPTER II**  
PROFESSIONAL STATUS OF ARTISTS..... 6

**CHAPTER III**  
RECOGNITION OF ARTISTS’ ASSOCIATIONS

**DIVISION I**  
RIGHT TO RECOGNITION..... 9

**DIVISION II**  
RECOGNITION PROCEDURE..... 12

**DIVISION III**  
WITHDRAWAL OF RECOGNITION..... 20

**DIVISION IV**  
EFFECTS OF RECOGNITION..... 24

**DIVISION V**  
GROUP AGREEMENT..... 27

**CHAPTER III.1**  
RECOGNITION OF AN ASSOCIATION OF PRODUCERS..... 42.1

**CHAPTER III.2**  
PSYCHOLOGICAL HARASSMENT..... 43

**CHAPTER III.3**  
SPECIAL RULES APPLICABLE TO THE LIABILITY OF DIRECTORS OF BUSINESS CORPORATIONS AND TO CERTAIN CONTRACTS

**DIVISION I**  
LIABILITY OF DIRECTORS OF BUSINESS CORPORATIONS..... 45.1

**DIVISION II**  
INDIVIDUAL CONTRACTS IN THE FIELDS OF THE VISUAL ARTS, ARTS AND CRAFTS AND LITERATURE..... 46

**CHAPTER IV**  
FUNCTIONS AND POWERS OF THE LABOUR TRIBUNAL..... 56

**CHAPTER IV.1**  
INQUIRY AND OTHER ADMINISTRATIVE MEASURES..... 68.1

**CHAPTER IV.2**  
REGULATIONS..... **68.5**

**CHAPTER V**  
OFFENCES AND PENALTIES..... **69**

**CHAPTER VI**  
TRANSITIONAL AND FINAL PROVISIONS..... **72**

**SCHEDULE I**

**REPEAL SCHEDULES**

## CHAPTER I

### SCOPE AND DEFINITIONS

**1.** This Act applies to artists and to producers who retain their professional services in the following fields of artistic endeavour: the stage, including the theatre, the opera, music, dance, circus and variety entertainment, multimedia, digital experience, the making of films, the recording of discs and other modes of sound recording, dubbing, and the recording of commercial advertisements.

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.

1987, c. 72, s. 1; 2004, c. 16, s. 6; 2022, c. 20, s. 2.

**1.1.** For the purposes of this Act, an artist is a natural person who practises an art on his own account and offers his services or works, for remuneration or other monetary consideration, as a creator or performer in a field of artistic endeavour referred to in section 1.

2009, c. 32, s. 1; 2022, c. 20, s. 3.

**1.2.** In the context of an audiovisual production mentioned in Schedule I, a natural person who, whether covered by section 1.1 or not, exercises on his own account one of the following occupations, or an occupation judged analogous by the Tribunal, and offers his services for remuneration is considered to be an artist:

(1) an occupation relating to the design, planning, setting up, making or applying of costumes, hairstyles, prostheses, make-up, puppets, scenery, sets, lighting, images, sound, photography, visual or sound effects, special effects, or any occupation relating to recording;

(2) an occupation relating to sound or picture editing and continuity;

(3) the occupations of script supervisor or location scout manager, and occupations relating to the management or logistics of an efficient and safe shoot, whether indoors or outdoors, including the transport and handling of equipment and accessories;

(4) the occupations of trainee, team leader and assistant in relation to persons exercising occupations referred to in this section or section 1.1.

The following are not covered by this section: accounting, auditing, management and representation, legal and advertising services, or similar administrative services that have only a peripheral contributing value or interest in the creation of a work.

2009, c. 32, s. 1; 2015, c. 15, s. 237.

**2.** In this Act, unless the context indicates a different meaning,

“**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;

“**film**” means a work produced with the use of technical means resulting in a cinematographic effect, regardless of the medium, and includes a video;

“**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;

“**producer**” means a person or partnership who or which retains the services of artists in view of producing or presenting to the public an artistic work in a field of endeavour contemplated in the first paragraph of section 1;

“**Tribunal**” means the Administrative Labour Tribunal;

“**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;

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.

1987, c. 72, s. 2; 1999, c. 40, s. 310; 2009, c. 32, s. 2; 2015, c. 15, s. 225; 2022, c. 20, s. 4.

**3.** The fact that an artist provides personal services or offers his works through a partnership or legal person is no obstacle to the application of this Act.

1987, c. 72, s. 3; 1997, c. 26, s. 1; 2022, c. 20, s. 5.

**4.** This Act is binding on the Government, on its departments and agencies, and on mandataries of the State.

1987, c. 72, s. 4; 1997, c. 26, s. 2; 2022, c. 20, s. 6.

**5.** This Act does not apply to a person whose services are retained for an occupation contemplated by a certification granted under the Labour Code (chapter C-27) or a decree passed under the Act respecting collective agreement decrees (chapter D-2).

1987, c. 72, s. 5.

## CHAPTER II

### PROFESSIONAL STATUS OF ARTISTS

**6.** For the purposes of this Act, an artist who regularly binds himself to one or several producers by way of engagement contracts pertaining to specified performances is deemed to practise an art or exercise an occupation referred to in section 1.2 on his own account.

1987, c. 72, s. 6; 2009, c. 32, s. 3.

**7.** Every artist is free to join any artists’ association he chooses and to participate in its establishment, activities and administration.

1987, c. 72, s. 7.

**8.** Subject to the provisions of this Act, every artist is free to negotiate and approve the contractual conditions binding him to a producer. An artist and a producer bound by the same group agreement cannot,

however, stipulate a condition that is less advantageous for the artist than the condition stipulated in the group agreement.

1987, c. 72, s. 8; 2022, c. 20, s. 7.

## **CHAPTER III**

### **RECOGNITION OF ARTISTS' ASSOCIATIONS**

#### **DIVISION I**

##### **RIGHT TO RECOGNITION**

###### **9. Every artists' association which**

(1) is a professional syndicate or an association having an object similar to that of a professional syndicate within the meaning of the Professional Syndicates Act (chapter S-40),

(2) is the most representative of artists in any negotiating sector defined by the Administrative Labour Tribunal,

is entitled to recognition.

The most representative association is the association which, in the opinion of the Tribunal, comprises the greatest number of artists in the negotiating sector concerned.

1987, c. 72, s. 9; 1997, c. 26, s. 3; 2009, c. 32, s. 4; 2015, c. 15, s. 237; 2022, c. 20, s. 8.

###### **10. No association may be recognized unless it adopts by-laws**

(1) prescribing membership requirements based on the professional attributes of artists;

(2) establishing classes of members and determining the rights of each class, in particular the right to take part in meetings and the right to vote;

(3) conferring on the members included under a draft group agreement the right to vote by secret ballot on its contents where the draft agreement contains an amendment to the rates of remuneration or to other monetary consideration provided in an existing agreement binding between the association and an association of producers or another producer in the same sector;

(4) prescribing that all decisions as to membership requirements shall be submitted to the qualified members for approval;

(5) making the calling of a general meeting or the polling of the members mandatory where 10% of the members request it.

1987, c. 72, s. 10; 1997, c. 26, s. 4; 2022, c. 20, s. 9.

**11. The by-laws of an artists' association shall contain no provision whereby an artist would be unjustly prevented from joining or maintaining his membership in the association or from qualifying for membership in the association.**

1987, c. 72, s. 11.

**11.1. No artist or person acting on behalf of an artist or a recognized artists' association shall seek to dominate, hinder or finance the formation or the activities of any association of producers, or to prevent any person from participating therein.**

No producer or person acting on behalf of a producer or an association of producers shall seek to dominate, hinder or finance the formation or the activities of a recognized artists' association, or to prevent any person from participating therein.

1997, c. 26, s. 5.

**11.2.** No person shall use intimidation or threats to induce anyone to become, refrain from becoming or cease to be a member of an artists' association or an association of producers.

1997, c. 26, s. 5.

## **DIVISION II**

### **RECOGNITION PROCEDURE**

**12.** An artists' association shall apply for recognition by way of a written application addressed to the Tribunal.

The application must be authorized by a resolution of the association and signed by representatives specially mandated for that purpose.

1987, c. 72, s. 12; 2015, c. 15, s. 237.

**13.** An association may apply for recognition for one or several negotiating sectors.

1987, c. 72, s. 13.

**14.** Recognition may be applied for

- (1) at any time in respect of a sector for which no association is recognized;
- (2) within the three months preceding every fifth anniversary of the date of taking effect of a recognition.

However, where an artists' association has filed an application for recognition in respect of a sector with the Tribunal, no other artists' association may file an application for that sector or for part of that sector except within the 20 days following the publication of a notice under section 16.

1987, c. 72, s. 14; 1988, c. 69, s. 51; 1997, c. 26, s. 6; 2015, c. 15, s. 237.

**15.** The application for recognition must be accompanied with a certified copy of the by-laws of the association and the membership list.

1987, c. 72, s. 15.

**16.** Where the Tribunal is called upon to rule on an application for recognition, it may take any measure it considers necessary to ascertain the representativeness of the association. The Tribunal may, for instance, hold a referendum.

The Tribunal shall publish, in at least two daily newspapers having general circulation in Québec, a notice of the filing of an application for recognition. The Tribunal shall similarly publish a notice indicating that it intends to ascertain the representativeness of the association and indicating what measures it has decided to take for that purpose. The Tribunal must state, in the notice, the closing date for filing an application for recognition for the sector or part of the sector concerned, and for addressing the Tribunal under section 17.

Where an application for recognition relates to a negotiating sector defined for only part of the territory of Québec, a notice provided for in the second paragraph may be given once in a daily newspaper having general

circulation in Québec and once in a daily newspaper having circulation in the part of the territory included under the recognition.

1987, c. 72, s. 16; 1988, c. 69, s. 52; 1997, c. 26, s. 7; 2015, c. 15, s. 237; 2022, c. 20, s. 10.

**17.** Where an application for recognition is being considered, the artists, the artists' associations and any producer or association of producers may address the Tribunal on the question of defining the negotiating sector.

Notwithstanding the foregoing, only the artists and the artists' associations in the sector so defined are interested parties with respect to the representativeness of the applicant association.

An address to the Tribunal must be presented within 20 days following the publication of a notice under section 16.

1987, c. 72, s. 17; 1997, c. 26, s. 8; 2015, c. 15, s. 237; 2022, c. 20, s. 11.

**18.** If the Tribunal is satisfied that the association is the most representative of the artists in the sector concerned and that its by-laws fulfil the requirements of this Act, it shall grant recognition to the association.

1987, c. 72, s. 18; 2015, c. 15, s. 237; 2022, c. 20, s. 12.

**18.1.** If an application for recognition for a sector has been filed with the Tribunal and another association files an application for that sector or part of that sector, the parties may jointly request that the Tribunal designate a person to facilitate an agreement between them.

Sections 68.3 and 68.4 apply with the necessary modifications.

1997, c. 26, s. 9; 2009, c. 32, s. 5; 2015, c. 15, s. 237.

**19.** Recognition granted to an association takes effect on the date of the Tribunal's decision.

1987, c. 72, s. 19; 2009, c. 32, s. 6; 2015, c. 15, s. 237.

## DIVISION III

### WITHDRAWAL OF RECOGNITION

**20.** On the application of a number of artists in the sector in which a recognition has been granted, equal to at least 25% of the association's membership in the sector concerned or on the application of an association of producers covered by the recognition, the Tribunal shall ascertain the representativeness of the association.

An application for verification may be made only in the periods contemplated in paragraph 2 of section 14.

The Tribunal shall withdraw recognition from an association if it considers that its membership is no longer representative of artists in the sector.

1987, c. 72, s. 20; 2015, c. 15, s. 237; 2022, c. 20, s. 13.

**21.** Recognition of an artists' association withdraws recognition of any other artists' association in the sector contemplated by the new recognition.

1987, c. 72, s. 21.

**22.** On the application of any interested party, the Tribunal may withdraw recognition at any time if it is proved that the by-laws of the association no longer fulfil the requirements of this Act or are not enforced.

1987, c. 72, s. 22; 2015, c. 15, s. 237.

**23.** A withdrawal of recognition takes effect on the date of the Tribunal's decision.

1987, c. 72, s. 23; 2009, c. 32, s. 7; 2015, c. 15, s. 237.

## **DIVISION IV**

### **EFFECTS OF RECOGNITION**

**24.** Recognition confers, in the sector defined therein, the following rights and powers on an artists' association:

- (1) to defend and promote the economic, social, moral and professional interests of the artists;
- (2) to represent the artists in every instance where it is in the general interest that it should do so, and to cooperate for that purpose with any organization pursuing similar ends;
- (3) to conduct research and surveys on the development of new markets and on any matter which may affect the economic and social situation of the artists;
- (4) to fix the amount that a member or non-member of the association may be required to pay;
- (5) to collect any amounts due to the artists whom it represents, and remit the amounts to them;
- (6) where there is no group agreement, to establish model contracts for the performance of services or the presentation of works and make agreements with the producers as to the use of such contracts;
- (7) to negotiate a group agreement, which must include a model contract for the performance of services by the artists or the presentation of works.

1987, c. 72, s. 24; 1997, c. 26, s. 10; 2022, c. 20, s. 14.

**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, in the case of an association recognized in a sector of the visual arts, arts and crafts and literature;
- (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.

2022, c. 20, s. 15.

**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 in the context of the negotiation of a group agreement or in connection with its application, 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.

2022, c. 20, s. 15.

**25.** At the request of the Tribunal, a recognized association shall transmit its membership list to the Tribunal in the form prescribed thereby.



The association shall also transmit a copy of any amendment to its by-laws to the Tribunal.

1987, c. 72, s. 25; 2015, c. 15, s. 237.

**26.** Every association of producers and every producer who is not a member of an association of producers shall, for the purposes of negotiating a group agreement, recognize the artists' association recognized by the Tribunal as the sole representative of the artists in the negotiating sector concerned.

1987, c. 72, s. 26; 2015, c. 15, s. 237.

**26.1.** As soon as the notice of negotiation provided for in section 28 is sent, a recognized artists' association and an association of producers or a producer who is not a member of an association of producers may agree, in writing, that a producer shall withhold the amount referred to in paragraph 4 of section 24 from the remuneration or monetary consideration paid by the producer to an artist.

Where an agreement in writing is entered into between the parties or a decision is made by an arbitrator under the third paragraph, the producer is required to remit to the recognized artists' association, at the established intervals, the amounts withheld together with a statement indicating the amount withheld for each artist.

One year after the notice provided for in section 28 has been given, one of the parties may, if no agreement on withholding or group agreement has been entered into, apply to the Minister for the designation of an arbitrator who shall fix the amount to be withheld and determine the terms and conditions applicable to the withholding of that amount. The provisions of Title II of Book VII of the Code of Civil Procedure (chapter C-25.01), adapted as required, apply to the arbitration.

The expenses and remuneration of the arbitrator shall be borne by the parties.

1997, c. 26, s. 12; 2009, c. 32, s. 8; I.N. 2016-01-01 (NCCP); 2022, c. 20, s. 16.

**26.2.** The alienation of a producer's enterprise, or a change in its legal structure by way of amalgamation or otherwise, does not terminate the contract of an artist.

The contract is binding on the successor of the producer. The successor is, in particular, bound to pay such remuneration as may become payable to an artist initially under contract with the producer, if the productions to which the contract relates are transferred to the new producer.

1997, c. 26, s. 12.

## DIVISION V

### GROUP AGREEMENT

**27.** In a negotiating sector, the recognized artists' association and an unrecognized association of producers or a producer who is not a member of an association of producers may negotiate and conclude a group agreement providing minimum conditions applicable to the entering into of contracts with artists. Where an association of producers is recognized for a field of activities, the recognized artists' association shall not negotiate or conclude a group agreement except with that association.

In negotiating a group agreement, the parties shall 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 take into consideration the objective of facilitating the inclusion of junior artists and the economic conditions that are specific to emerging producers and the various types of production.

1987, c. 72, s. 27; 1997, c. 26, s. 13; 2022, c. 20, s. 17.

**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.

2022, c. 20, s. 18.

**28.** The recognized artists association or the association of producers, or the producer who is not a member of an association of producers, as the case may be, may initiate the negotiation of a group agreement by giving the other party written notice of at least ten days, requesting a meeting in view of the conclusion of a group agreement.

Where the parties are already bound by a group agreement, the recognized artists association or the association of producers, or the producer who is not a member of an association of producers, may give such a notice in the 120 days preceding the expiry of the agreement.

1987, c. 72, s. 28; 1997, c. 26, s. 14.

**29.** The party who gives a notice provided for in section 28 must send a copy thereof on the same day to the Minister by registered mail. The Minister shall inform the parties of the date on which it received a copy of the notice.

1987, c. 72, s. 29; 2009, c. 32, s. 8; I.N. 2016-01-01 (NCCP).

**30.** The parties must begin to negotiate at the time fixed in the notice provided for in section 28 and conduct the negotiations in good faith.

1987, c. 72, s. 30.

**31.** At any stage of the negotiations, either party may request the Minister to appoint a mediator.

The expenses and the remuneration of the mediator shall be borne by the Minister.

1987, c. 72, s. 31; 1997, c. 26, s. 15; 2009, c. 32, s. 8.

**32.** The mediator appointed by the Minister shall convene the interested parties and attempt to bring them to a settlement.

The parties must attend every meeting to which they are convened by the mediator.

The mediator may make recommendations to the parties as to the conditions applicable to the entering into of contracts with artists. The mediator shall submit his report to the Minister and to the parties.

1987, c. 72, s. 32; 1997, c. 26, s. 16; 2009, c. 32, s. 8; 2022, c. 20, s. 19.

**33.** During the negotiation of a first group agreement, either party may apply to the Minister for the designation of an arbitrator if the intervention of the mediator has not been successful.

During the negotiation of any subsequent group agreement, the application for the designation of an arbitrator must be made jointly by the parties to the preceding agreement.

The arbitration award has the same effect as a group agreement.

The expenses and remuneration of the arbitrator shall be borne by the Minister.

1987, c. 72, s. 33; 1997, c. 26, s. 17; 2009, c. 32, s. 8.

**33.1.** Sections 76 and 78, the first paragraph of section 79, sections 80 to 91.1 and sections 93 and 93.7 of the Labour Code (chapter C-27), adapted as required, apply to the arbitration provided for in section 33.

1997, c. 26, s. 17; 2004, c. 16, s. 7.

**34.** Unless an agreement has been reached or the parties have submitted their dispute to arbitration, the recognized artists association may, after the expiry of 30 days after the date the Minister received the notice provided for in section 28, initiate concerted action against the other party so as to induce the party to conclude a group agreement.

After the expiry of the same time, the association of producers and, as the case may be, the producer who is not a member of an association of producers may initiate concerted action against the recognized artists association so as to induce it to conclude a group agreement.

1987, c. 72, s. 34; 1997, c. 26, s. 18; 2009, c. 32, s. 8.

**35.** A certified copy of the group agreement and of the schedules to the agreement must be filed with the Minister of Labour and sent to the Minister within 60 days of signing. The same rule applies to any amendment subsequently made to the group agreement.

Once filed, a group agreement has effect retroactively from the date of coming into force specified in the agreement, if any, or from the date of signing.

The party filing the group agreement shall notify the other party of the filing.

1987, c. 72, s. 35; 1997, c. 26, s. 19; 2009, c. 32, s. 9; 2022, c. 20, s. 20.

**35.1.** The group agreement shall include a grievance arbitration procedure.

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.

1997, c. 26, s. 19; 2004, c. 16, s. 8; 2009, c. 32, s. 10; 2022, c. 20, s. 21.

**35.2.** *(Repealed).*

1997, c. 26, s. 19; 2009, c. 32, s. 8; 2022, c. 20, s. 22.

**36.** The term of a first group agreement shall not exceed three years. If the first group agreement results from an arbitration award, the term shall not exceed two years.

1987, c. 72, s. 36; 1997, c. 26, s. 19.

**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.

2022, c. 20, s. 23.

**37.** A newly recognized association replaces the association formerly recognized in the same sector or, as the case may be, the same field of activities in respect of all the rights and obligations resulting from a group agreement concluded by the latter association and still in force.

The withdrawal of recognition unaccompanied with recognition of a new association terminates any group agreement concluded by the association whose recognition is withdrawn. However, the minimum conditions of employment contained in the group agreement shall continue to apply until the date of expiry of the group agreement or until a new group agreement is entered into with another association that is granted recognition in the same sector or in the same field of activities.

1987, c. 72, s. 37; 1997, c. 26, s. 20.

**37.1.** A recognized artists' association must, before engaging in concerted action, give five days' prior notice to the producer concerned and, where applicable, to the association of which the producer is a member.

The association of producers and the producer who is not a member of an association must, likewise, give five days' prior notice to the recognized association of which the artists concerned are members.

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.

1997, c. 26, s. 21; 2022, c. 20, s. 24.

**38.** During the term of a group agreement or arbitration award,

(1) no recognized association nor any artists it represents may boycott or advise or enjoin artists to boycott a producer or association of producers bound by the agreement or award, or use any similar pressure tactics against them;

(2) no producer may use any pressure tactics that result in depriving of work artists bound by that agreement or award.

1987, c. 72, s. 38.

**39.** No recognized association nor any artist represented thereby may use pressure tactics against any person that are designed to prevent a producer to whom the association is bound by a group agreement from producing an artistic work or presenting it to the public, or designed to induce a third person to use pressure tactics against a producer or an association of producers to conclude a group agreement.

1987, c. 72, s. 39; 1997, c. 26, s. 22.

**40.** The group agreement binds the producer and every artist belonging to the negotiating sector who is engaged by the producer. In the case of an agreement concluded with an unrecognized association of producers, the agreement binds every producer who is a member of the association at the time of the signing of the agreement or who subsequently becomes a member thereof, even if he ceases to belong to the association or the association is dissolved.

In the case of an agreement concluded with a recognized association of producers, the group agreement binds every producer who is a member of the recognized association as well as any other producer working in the field of activities of the recognized association, even if the association is dissolved.

1987, c. 72, s. 40; 1997, c. 26, s. 23.

**41.** The recognized association may exercise the recourses of the artists it represents under the group agreement without having to establish an assignment of the claim of the member concerned.

1987, c. 72, s. 41.

**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.

1987, c. 72, s. 42; 2022, c. 20, s. 25.

## CHAPTER III.1

### RECOGNITION OF AN ASSOCIATION OF PRODUCERS

1997, c. 26, s. 24.

**42.1.** Every association of producers which

(1) is an association having as its object the study, defence and promotion of the interests of its members;

(2) is, in the opinion of the Tribunal, the most representative as regards the economic activity of producers and the number of members working in a field of activities defined by the Tribunal,

is entitled to recognition.

1997, c. 26, s. 24; 2015, c. 15, s. 237.

**42.2.** Every producer is free to join an association of producers and to take part in the establishment, activities and administration of such an association.

1997, c. 26, s. 24.

**42.3.** An association of producers may apply for recognition for one or more fields of activity.

1997, c. 26, s. 24.

**42.4.** No association of producers may be recognized unless it adopts by-laws

(1) prescribing membership requirements based on the exercise, by the producers, of an activity corresponding to the field of activities for which the association has applied for recognition;

(2) establishing classes of members and determining the rights of each class, in particular the right to take part in meetings and to vote;

(3) conferring on the members to whom a draft group agreement applies the right to vote by secret ballot on the content of the agreement if it contains a clause that entails a change in the rates of remuneration established by an existing agreement binding the association and an artists' association;

(4) prescribing that all decisions as to membership requirements shall be submitted to the qualified members for approval;

(5) making the calling of a general meeting or the polling of the members mandatory where 10% of the members request it.

1997, c. 26, s. 24.

**42.5.** Sections 11, 12 and 14 to 23, paragraphs 1 to 4 and 7 of section 24 and section 25, adapted as required, apply to an association of producers.

However, the percentage required for an application under section 20 is calculated on the basis of the number of producers working in the field of activities for which the association has been recognized and the economic activities of all the producers in that field of activities during the year preceding the application.

1997, c. 26, s. 24.

## CHAPTER III.2

### PSYCHOLOGICAL HARASSMENT

2022, c. 20, s. 26.

**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.

1987, c. 72, s. 43; 1997, c. 26, s. 26; 2009, c. 32, s. 12; 2022, c. 20, s. 26.

**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.

1987, c. 72, s. 44; 2004, c. 16, s. 9; 2009, c. 32, s. 12; 2022, c. 20, s. 26.

**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.

1987, c. 72, s. 45; 2009, c. 32, s. 12; 2022, c. 20, s. 26.

### CHAPTER III.3

#### SPECIAL RULES APPLICABLE TO THE LIABILITY OF DIRECTORS OF BUSINESS CORPORATIONS AND TO CERTAIN CONTRACTS

2022, c. 20, s. 26.

#### DIVISION I

##### LIABILITY OF DIRECTORS OF BUSINESS CORPORATIONS

2022, c. 20, s. 26.

**45.1.** Directors of a corporation referred to in section 1 of the Business Corporations Act (chapter S-31.1) which acts as a producer or presenter are solidarily liable, to the artists bound by contract with the corporation, for six months' remuneration or other monetary consideration owed to them under such a contract during their respective administration.

However, a director is not liable unless the corporation is sued for the debt within one year after it becomes due and the notice of execution is returned unsatisfied in whole or in part or unless, during that period, a liquidation order is made against the corporation or it becomes bankrupt within the meaning of that expression in the Bankruptcy and Insolvency Act (R.S.C. 1985, c. B-3) and a claim for the debt is filed with the liquidator or the syndic.

However, a director cannot be held liable under this section if the director acted with a reasonable degree of prudence and diligence in the circumstances.

2022, c. 20, s. 26.

#### DIVISION II

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

2022, c. 20, s. 26.

**46.** This division applies to every contract between an artist and a presenter which has a work of the artist as its object.

It also applies to every contract, where the object of such contract is the publication of a book, between a presenter and a person who is not contemplated by Chapters I and II.

1987, c. 72, s. 46; 2000, c. 8, s. 220; 2009, c. 32, s. 12; 2022, c. 20, ss. 26 and 41.

**47.** The contract must be evidenced in a writing, clearly setting forth

- (1) the nature of the contract;
- (2) the work or works which form the object of the contract;
- (3) any transfer of right and any grant of licence consented to by the artist, the purposes, the term or mode of determination thereof, and the territorial application of such transfer of right and grant of licence, and every transfer of title or right of use affecting the work;
- (4) the transferability or nontransferability to third persons of any licence granted to a presenter;

(5) the consideration in money due to the artist and the intervals and other terms and conditions of payment;

(6) the frequency with which the presenter shall report to the artist on the transactions made in respect of every work that is subject to the contract and for which monetary consideration remains owing after the contract is signed.

1987, c. 72, s. 47; 2009, c. 32, s. 12; 2022, c. 20, ss. 26 and 41.

**47.1.** *(Repealed).*

1988, c. 69, s. 53; 2009, c. 32, s. 12.

**47.2.** *(Repealed).*

2004, c. 16, s. 10; 2009, c. 32, s. 12.

**48.** The contract is made when it is signed by the parties.

The artist is not bound to perform his obligations until such time as he is in possession of the contract.

1987, c. 72, s. 48; 2000, c. 56, s. 219; 2009, c. 32, s. 12; 2022, c. 20, ss. 26 and 41.

**49.** Every agreement between a presenter and an artist pertaining to one of the artist's works shall be stipulated in a contract which shall be made and take effect in accordance with section 48 and shall contain stipulations concerning the matters which must be set forth under section 47.

1987, c. 72, s. 49; 2009, c. 32, s. 12; 2022, c. 20, ss. 26 and 41.

**50.** Every agreement between a presenter and an artist which reserves, for the presenter, an exclusive right over any future work of the artist or which recognizes the presenter's right to determine the circulation of such work shall, in addition to meeting the requirements set out in section 47,

(1) contemplate a work identified at least as to its nature;

(2) be terminable upon the application of the artist once a given period agreed upon by the parties has expired or after a determinate number of works agreed upon by the parties has been completed;

(3) specify that the exclusive right ceases to apply in respect of a reserved work where, after the expiration of a period for reflection, the presenter, though given formal notice to do so, does not circulate the work;

(4) stipulate the duration of the period for reflection agreed upon by the parties for the application of paragraph 3.

1987, c. 72, s. 50; 2009, c. 32, s. 12; 2022, c. 20, ss. 26 and 41.

**51.** No presenter may, without the consent of the artist, give as security the rights he obtains by contract from the artist or grant a security on a work subject to a contract and of which the artist remains the owner.

1987, c. 72, s. 51; 2009, c. 32, s. 12; 2022, c. 20, ss. 26 and 41.

**52.** The contract shall be terminated if the presenter commits an act of bankruptcy or has a receiver order issued against him pursuant to the Bankruptcy and Insolvency Act (R.S.C. 1985, c. B-3), if his property is taken possession of according to law or, in the case of a legal person, if such legal person is liquidated.

1987, c. 72, s. 52; 2009, c. 32, s. 12; 2022, c. 20, ss. 26 and 41.



**53.** For every contract binding him to the artist, the presenter shall keep, in his books, a separate account in which he shall record, upon receipt, in respect of every work or works subject to the contract,

(1) every payment from a third person with particulars permitting to identify such third person;

(2) the number and nature of all transactions made which correspond to the payments recorded and, where applicable, the number of copies printed and the number of copies sold.

Where monetary consideration remains owing to the artist after the contract is signed, the presenter shall, at intervals agreed upon by the parties of not more than one year, report to the artist, in writing, on the transactions and on the payments he has collected in respect of his work.

1987, c. 72, s. 53; 2009, c. 32, s. 12; 2022, c. 20, ss. 26 and 41.

**54.** The artist may, at his own expense and after he has notified the presenter in writing, cause to be examined by an expert of his own choosing any accounting entry in the presenter's books which concerns him.

1987, c. 72, s. 54; 2009, c. 32, s. 12; 2022, c. 20, ss. 26 and 41.

**55.** The presenter shall keep up to date, at his principal establishment, a record in respect of the works by artists from the fields of arts and crafts and visual arts which are in his possession, but of which he is not the owner.

The record shall set out

(1) the name of the person who holds title to each work;

(2) a note permitting to identify the work;

(3) the nature of the contract pursuant to which the work is in the possession of the presenter.

The entries shall be kept in the record of the presenter for as long as he assumes responsibility for the works pursuant to a contract. An artist bound by contract to the presenter may consult the record at any time during the office hours of the administrative services.

1987, c. 72, s. 55; 2009, c. 32, s. 12; 2022, c. 20, ss. 26 and 41.

**55.1.** Every work subject to a contract and which is on premises leased by the presenter is presumed to be there temporarily in all cases where he is not the owner of the work.

2022, c. 20, ss. 26 and 41.

**55.2.** Subject to section 51, no person may waive application of any provision of this division.

2022, c. 20, ss. 26 and 41.

## CHAPTER IV

### FUNCTIONS AND POWERS OF THE LABOUR TRIBUNAL

1997, c. 26, s. 25; 2009, c. 32, s. 11; 2015, c. 15, s. 237; 2022, c. 20, s. 26.

**56.** For the purposes of this Act, the Tribunal's functions are

(1) to decide any application for recognition submitted by an artists' association or an association of producers;

(2) to decide whether the membership requirements provided for by the by-laws of recognized associations comply with this Act and whether those requirements are enforced; and

(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.

1987, c. 72, s. 56; 1988, c. 69, s. 54; 1997, c. 26, s. 28; 2009, c. 32, s. 14; 2015, c. 15, s. 237; 2022, c. 20, s. 27.

**57.** The Tribunal, upon application, may define negotiating sectors and, where applicable, fields of activity in respect of which recognition may be granted.

1987, c. 72, s. 57; 1997, c. 26, s. 29; 2015, c. 15, s. 237.

**58.** The Tribunal, of its own initiative, upon receiving an application for recognition, and at any time on the motion of an interested person, may decide whether a person is comprised in a negotiating sector or, where applicable, a field of activity or decide any other matter relating to recognition, including the status of artist or producer within the meaning of this Act.

1987, c. 72, s. 58; 1997, c. 26, s. 30; 2009, c. 32, s. 15; 2015, c. 15, s. 237.

**59.** For the purposes of sections 57 and 58, the Tribunal shall take into particular account the common interest of the artists or, as the case may be, the producers concerned and the history of their relations in respect of the negotiation of group agreements.

The Tribunal may also take into account the interest that producers may have to group together according to the shared characteristics of their activities.

1987, c. 72, s. 59; 1997, c. 26, s. 31; 2015, c. 15, s. 237.

**59.1.** The Tribunal may resolve any difficulty arising from the application of the provisions of this Act and those of the Labour Code (chapter C-27). To that end the Tribunal may, among other things, specify the respective scope of a certification and a recognition granted under those provisions, refuse to issue a certification or recognition or, within the scope of its power under subparagraph 1 of the second paragraph of section 9 of the Act to establish the Administrative Labour Tribunal (chapter T-15.1), summarily reject any application made for the principal purpose of circumventing this Act or obtaining another certification or recognition in addition to a previously granted certification or recognition.

2009, c. 32, s. 16; 2015, c. 15, ss. 226 and 237.

**60.** The Tribunal may require any information from artists' associations, associations of producers and producers and examine any document, as may be necessary for the performance of its duties.

1987, c. 72, s. 60; 1997, c. 26, s. 32; 2015, c. 15, s. 237.

**61.** *(Repealed).*

1987, c. 72, s. 61; 2009, c. 32, s. 17.

**62.** The Tribunal may decide an application in part only.

Subsequent to an application for recognition or for withdrawal of recognition or an application for verification of the representativeness of a recognized association, the Tribunal may order that negotiations and the time in which to initiate concerted action and prevent the renewal of a group agreement be suspended. In such a case, the minimum conditions provided in the group agreement remain in effect and section 38 applies until the Tribunal has ruled on the applications before it.

1987, c. 72, s. 62; 1988, c. 69, s. 55; 2009, c. 32, s. 18; 2015, c. 15, s. 237.

**63.** Before rendering a decision on an application for recognition or for withdrawal of recognition, the Tribunal shall give the association concerned an opportunity to make representations.

In the case of a motion relating to the matter of which negotiating sector or field of activities a person belongs to, the Tribunal shall give every producer and every interested association intervening in the case an opportunity to make representations.

1987, c. 72, s. 63; 1997, c. 26, s. 33; 2009, c. 32, s. 19; 2015, c. 15, s. 237.

**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.

2004, c. 16, s. 11; 2009, c. 32, s. 20; 2022, c. 20, s. 28.

**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.

2022, c. 20, s. 28.

**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.

2022, c. 20, s. 28.

**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.

2022, c. 20, s. 28.

**64.** The provisions of the Labour Code (chapter C-27) and the Act to establish the Administrative Labour Tribunal (chapter T-15.1) that pertain to the Administrative Labour Tribunal, its members and its labour relations officers apply, with the necessary modifications, to any application that lies within the Tribunal's jurisdiction under this Act. Likewise, the relevant provisions of the rules of evidence and procedure made under that Code, that Act and their regulations apply to any applications the Tribunal may receive.

1987, c. 72, s. 64; 2009, c. 32, s. 21; 2015, c. 15, s. 227.

**65.** A copy of every decision made by the Tribunal under this Act must be sent to the Minister.

1987, c. 72, s. 65; 2009, c. 32, s. 21; 2015, c. 15, s. 237.

**66.** *(Replaced).*

1987, c. 72, s. 66; 2009, c. 32, s. 21.

**67.** *(Replaced).*

1987, c. 72, s. 67; 2009, c. 32, s. 21.

**68.** *(Replaced).*

1987, c. 72, s. 68; 2009, c. 32, s. 21.

## CHAPTER IV.1

### INQUIRY AND OTHER ADMINISTRATIVE MEASURES

2009, c. 32, s. 22.

**68.1.** The Minister may designate any person to inquire into any matter relating to the carrying out of this Act.

Such a person has, for the purposes of the inquiry, the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (chapter C-37), except the power to impose imprisonment.

2009, c. 32, s. 22.

**68.2.** The Minister shall draw up, annually, a list of mediators and arbitrators for the purposes of this Act, after consultation with recognized artists' associations and associations of producers.

With the consent of the parties concerned, the Minister may also designate as mediator a conciliation officer or mediator from the Ministère du Travail identified by the Minister of Labour.

2009, c. 32, s. 22.

**68.3.** Except with the consent of the parties, nothing that is said or written in the course of a mediation session may be admitted as evidence before a court of justice or before a person or administrative body exercising adjudicative functions.

2009, c. 32, s. 22.

**68.4.** Mediators cannot be compelled to divulge, before a court of justice or before a person or administrative body exercising adjudicative functions, information revealed to them or brought to their knowledge in the course of their mediation functions, or to produce documents made or obtained in the course of their mediation functions.

Despite section 9 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1), no person has a right of access to the documents of a mediation file.

2009, c. 32, s. 22.

## CHAPTER IV.2

### REGULATIONS

2022, c. 20, s. 29.

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

2022, c. 20, s. 29.

**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.

2022, c. 20, s. 29.

## CHAPTER V

### OFFENCES AND PENALTIES

**69.** Every person who contravenes any of sections 26, 30 and 42 is guilty of an offence and is liable to a fine of \$250 to \$2,500.

1987, c. 72, s. 69; 1990, c. 4, s. 839; 2022, c. 20, s. 30.

**70.** Every person who contravenes section 11.1 or 11.2, the second paragraph of section 26.1, sections 38 or 39 is guilty of an offence and is liable to a fine

- (1) of \$125 to \$625, in the case of an artist or a person acting on an artist's behalf;

(2) of \$1,000 to \$10,000, in the case of an officer or employee of an artists' association or an association of producers, or of a director, a person acting on behalf of an artists' association, a producer or an association of producers, or any advisor thereof;

(3) of \$5,000 to \$50,000, in the case of a producer, artists' association or association of producers or in the case of any union, federation, confederation or central labour body to which an artists' association or association of producers is affiliated or belongs.

1987, c. 72, s. 70; 1990, c. 4, s. 839; 1997, c. 26, s. 34; 2022, c. 20, s. 31.

**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.

1987, c. 72, s. 71; 1990, c. 4, s. 840; 1992, c. 61, s. 594; 2022, c. 20, s. 32.

**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.

2022, c. 20, s. 32.

## CHAPTER VI

### TRANSITIONAL AND FINAL PROVISIONS

**72.** An artists' association bound to an association of producers by a group agreement on the conditions of engagement of artists in force on 12 November 1987 may file the agreement with the Commission before 1 June 1988.

Such an association may, before 1 June 1988, file with the Commission a copy of its by-laws and, subsequently, a copy of any amendment to its by-laws.

1987, c. 72, s. 72.

**73.** An artists' association which complies with section 72 is deemed to have been recognized under this Act on 1 April 1988 for the negotiating sector corresponding to the field to which the filed group agreement applies.

For the purposes of section 14, the date mentioned in the first paragraph constitutes the date of taking effect of recognition.

1987, c. 72, s. 73; 1999, c. 40, s. 310.

**74.** Every group agreement binding an artists' association recognized by the effect of section 73 and an association of producers is deemed to have been concluded under this Act.

Sections 38 to 41 apply to the associations of producers, producers, artists' associations and artists included under the agreement, from the date of its filing with the Commission.

1987, c. 72, s. 74.

**75.** The Commission, upon the application of one of the parties bound by a group agreement contemplated in section 74, may decide any dispute as to the definition of the negotiating sector corresponding to the field

to which the group agreement applies, unless the agreement provides that the dispute may be submitted to arbitration.

1987, c. 72, s. 75.

**76.** The Minister of Culture and Communications is responsible for the administration of this Act.

1987, c. 72, s. 76; 1992, c. 65, s. 43; 1994, c. 14, s. 34.

**77.** *(Omitted).*

1987, c. 72, s. 77.

**SCHEDULE I**

(section 1.2)

Audiovisual productions in the fields of film and recording of commercial advertisements

“*film and television productions*” means film and television productions, including pilots, that are to be first marketed for distribution to the public via movie theatres, television, home viewing, Internet viewing or some other means. A film or television production includes an audiovisual production that qualifies as a film within the meaning of this Act and is not an “advertising film” or a “video-clip”;

“*advertising film*” means audiovisual commercial advertisements, whatever the medium, that are to be first marketed via television or movie theatres;

“*video-clip*” means

(1) any video-clip, whatever the medium and regardless of how it is to be marketed to the public; and

(2) any total or partial recording of a musical, comedy or variety show, whatever the medium, except a recording that is to be first marketed via movie theatres or television.

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2009, c. 32, s. 23.



REPEAL SCHEDULES

In accordance with section 9 of the Act respecting the consolidation of the statutes and regulations (chapter R-3), chapter 72 of the statutes of 1987, in force on 1 March 1988, is repealed, except section 77, effective from the coming into force of chapter S-32.1 of the Revised Statutes.

In accordance with section 9 of the Act respecting the consolidation of the statutes and regulations (chapter R-3), sections 1 to 75 of chapter 72 of the statutes of 1987, in force on 1 March 1989, are repealed effective from the coming into force of the updating to 1 March 1989 of chapter S-32.1 of the Revised Statutes.

