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Canadian Artists And Producers Professional Relations Tribunal Procedural Regulations

SOR (Statutory Orders and Regulations)/2003-343

STATUS OF THE ARTIST ACT

Registration 2003-10-20

Canadian Artists And Producers Professional Relations Tribunal Procedural Regulations

The Canadian Artists and Producers Professional Relations Tribunal, pursuant to section 16 of the *Status of the Artist Act*^a, hereby makes the annexed *Canadian Artists and Producers Professional Relations Tribunal Procedural Regulations*.

October 16, 2003

^aS.C. 1992, c. 33

PART 1

Interpretation

1 The following definitions apply in these Regulations.

Act means the *Status of the Artist Act*. (*Loi*)

applicant means an artist, an artists' association or a producer who has filed an application. (*requérant*)

participant means a party or an intervener in a proceeding. (*participant*)

Returning Officer means an individual appointed by the Tribunal under section 31 to conduct a representation vote. (*directeur du scrutin*)

PART 2

General Provisions

Application

2 (1) Subject to subsection (2), these Regulations apply in respect of all proceedings before the Tribunal that are pending on the day on which these Regulations come into force.

(2) Any proceeding commenced or document filed with the Tribunal before the coming into force of these Regulations is not invalid merely because the commencement or filing does not conform to the requirements of these Regulations.

Calculation of Time

3 Unless otherwise stated by the Tribunal, time limits and deadlines must be calculated using calendar days.

Holidays

4 Whenever a time limit or deadline calculated under these Regulations falls on a Saturday, Sunday or statutory holiday, the time limit or deadline is extended to the next working day.

Orders

5 (1) Any member of the Tribunal may sign an order of the Tribunal.

(2) Unless otherwise stated in the order, an order takes effect on the day on which it is issued.

Matters not Provided for

6 If a procedural matter that is not provided for by these Regulations arises, the Tribunal may take any action that is consistent with these Regulations and the Act and that it considers necessary to resolve the matter.

Dispensing with Compliance

7 The Tribunal may, of its own motion or on application, excuse a participant from complying with any provision of these Regulations in order to ensure that a proceeding is dealt with informally and expeditiously.

Requirements for Applications, Complaints and Questions

8 (1) Subject to section 24, an application, complaint or question must be in writing, be filed with the Tribunal and include the following information:

- (a)** the applicant's or complainant's name, address, telephone number and fax number, if any;
- (b)** the name, address, telephone number and fax number of the applicant's or complainant's authorized representative, if any;
- (c)** the grounds on which the applicant or complainant relies and full particulars of the facts relevant to the application, the complaint or, if applicable, the question;
- (d)** the determination or order sought;
- (e)** the signature of the applicant or complainant, or of their authorized representative; and
- (f)** the date of the application, complaint or question.

(2) All documents relevant to an application, complaint or question must be attached to the originating document or filed in any other manner authorized by the Tribunal.

Requirements for Responses

9 (1) A response to an application, complaint or question must be in writing, be filed within the period referred to in paragraph 17(1)(a) and include the following information:

- (a)** the participant's name, address, telephone number and fax number, if any;
- (b)** the name, address, telephone number and fax number of the participant's authorized representative, if any;
- (c)** the Tribunal file number of the proceeding to which the response relates;
- (d)** a full response to any allegations or issues raised in the proceeding and full particulars of any additional relevant facts on which the participant intends to rely;
- (e)** the participant's position with respect to the determination or order sought by the applicant or complainant;
- (f)** the signature of the participant or the participant's authorized representative; and
- (g)** the date of the response.

(2) All documents relevant to a response must be attached to the response or filed in any other manner authorized by the Tribunal.

Requirements for Replies

10 (1) A reply to a response must be in writing, be filed within the period referred to in paragraph 17(1)(b) and include the following information:

- (a)** the Tribunal file number of the proceeding to which the reply relates;
- (b)** a full reply to any allegations or issues raised in the response and full particulars of any additional relevant facts on which the applicant intends to rely;
- (c)** the signature of the applicant or complainant, or of their authorized representative; and
- (d)** the date of the reply.

(2) All documents relevant to a reply must be attached to the reply or filed in any other manner authorized by the Tribunal.

Requirements for Applications for Leave to Intervene

11 (1) An application for leave to intervene under subsection 19(3) of the Act must be in writing, be filed within the period referred to in paragraph 17(1)(a) and include the following information:

- (a)** the name, address, telephone number and fax number, if any, of the applicant for leave to intervene;
- (b)** the name, address, telephone number and fax number of the authorized representative, if any, of the applicant for leave to intervene;
- (c)** the Tribunal file number of the application, complaint or question that is the subject of the application for leave to intervene;
- (d)** the grounds for intervention and the interest of the applicant for leave to intervene in the matter;
- (e)** the contribution that the applicant for leave to intervene expects to make to the application, complaint or question if granted leave;
- (f)** the signature of the applicant for leave to intervene or of their authorized representative; and
- (g)** the date of the application for leave to intervene.

(2) All documents relevant to an application for leave to intervene must be attached to the application or filed in any other manner authorized by the Tribunal.

(3) At the request of the Tribunal, the applicant or complainant in respect of the original proceeding must file a response to the application for leave to intervene, in accordance with section 9.

(4) At the request of the Tribunal, the applicant for leave to intervene must file a reply to the response, in accordance with section 10.

(5) If, in the opinion of the Tribunal, the intervention would further the objectives of the Act, the Tribunal may grant leave to intervene, subject to any conditions that it considers appropriate.

(6) If the leave to intervene includes the right to respond to the application, complaint or question, the response must be prepared in accordance with section 9.

Electronic Documents and Signatures

12 For the purposes of these Regulations, when authorized in writing by the Tribunal,

- (a)** a document that is in electronic format is considered to be in writing; and
- (b)** signatures may be electronic.

Notice of Constitutional Question

13 (1) If a participant intends to raise a question about the constitutional validity, applicability or operability of a statute or regulation, the participant must, as soon as the circumstances giving rise to the question become known and, in any event, at least 10 days before the question is to be argued,

- (a)** serve a notice of a constitutional question on the other participants, the Attorney General of Canada and the attorney general of each province; and
- (b)** file a copy of the notice with the Tribunal.

(2) The notice must be in the form required by the *Federal Court Rules, 1998*.

Filing and Service of Documents

14 (1) An application or other document that is required by these Regulations to be filed with the Tribunal or served on any person must be filed or served

- (a)** by handing it to the recipient in person;
- (b)** by mailing it by registered mail to the address for service, as described in subsection (2);
- (c)** by transmitting it through electronic means, including a fax, that provides a proof of receipt of the document; or

(d) by doing so in any other manner that the Tribunal authorizes.

(2) In paragraph (1)(b), **address for service** means

(a) in the case of the Tribunal, the address of its offices; and

(b) in the case of any other person, the address of the person that appears in any notice issued by the Tribunal in the proceeding in respect of which service is being made or, if no address appears in the notice, the latest known address of the person.

(3) A document that is transmitted by electronic means in accordance with paragraph (1)(c) must include the following information:

(a) the name, address, telephone number, fax number and, if applicable, the electronic mail address of the person transmitting the document;

(b) the name, address, telephone number, fax number and, if applicable, the electronic mail address of the person to whom the document is being transmitted;

(c) the date and time of transmission;

(d) the total number of pages being transmitted; and

(e) the name and telephone number of a person to contact in the event of problems in its transmission.

Filing of Documents for an Oral Hearing

15 (1) If, before an oral hearing, a participant intends to draw the Tribunal's attention to a document, the participant must file the document with the Tribunal and serve a copy on all other participants, not less than 14 days before the hearing.

(2) If a participant files a document in the course of an oral hearing, the participant must file the document and six copies with the Tribunal and must provide a copy to each of the other participants, if any, and to any witness or interpreter.

Date of Filing

16 The date of filing of an application or other document with the Tribunal is

(a) in the case of a document sent by registered mail, the day on which it is mailed; and

(b) in any other case, the day on which the document is received by the Tribunal.

Time for Responding, Intervening or Replying

17 (1) Unless the Tribunal directs otherwise,

(a) a response or an application for leave to intervene in a proceeding other than an application for certification must be filed within 15 days after notice, sent by the Tribunal, is received in respect of an application, complaint or question; and

(b) a reply must be filed within 10 days after notice, sent by the Tribunal, is received in respect of the response.

(2) An application for an extension of the period within which to respond, apply for leave to intervene or reply must be in writing and set out the grounds on which it is based.

Incomplete Applications or Documents

18 If an application or other document is incomplete, the Tribunal must notify the participant who filed the application or other document of its deficiencies. The application or other document will not be considered or acted on unless it is completed within the period specified by the Tribunal.

Production of Documents

19 (1) Subject to section 20, a participant may, at any time before a hearing, request that another participant produce for inspection any document relevant to the proceeding.

(2) If a participant fails to produce the requested document within 10 days after receiving the request, the requesting participant may apply to the Tribunal for an order requiring its production.

(3) If a participant fails to comply with a request made under subsection (1) or an order issued under subsection (2), the Tribunal may order the participant to pay the costs of any adjournment of the proceedings that results from the failure.

Confidentiality of Documents

20 (1) Subject to subsections (2) to (4), documents filed in a proceeding must be placed on the Tribunal's case record and be available to the public.

(2) Of its own initiative or on motion, the Tribunal may declare that a document that has been filed be treated as confidential and may limit access to the document to those persons whom the Tribunal designates, subject to any conditions that it considers appropriate.

(3) For the purposes of subsection (2), a “document” includes

(a) financial, commercial, scientific or technical material that is consistently treated as confidential by the participant filing it with the Tribunal; and

(b) information whose disclosure could reasonably be expected to result in a significant financial loss or gain to, or prejudice to the competitive position of, the participant filing it with the Tribunal.

(4) Despite any other provision of these Regulations, the Tribunal must not disclose evidence that could, in the Tribunal's opinion, reveal membership in an artists' association, opposition to the certification of an artists' association or the wish of any artist to be represented, or not to be represented, by an artists' association, unless the Tribunal considers that the disclosure would further the objectives of the Act.

Evidence of Artists' Wishes

21 The Tribunal may receive evidence, in order to establish whether any artists wish to be represented by a particular artists' association, in any circumstances in which the Tribunal considers that to receive it would further the objectives of the Act.

Consolidation and Severance

22 (1) The Tribunal may direct that any proceedings before it be consolidated or severed.

(2) If the Tribunal directs that proceedings be consolidated, the Tribunal must issue directions on whether the proceedings will be combined or heard together, and may issue any further directions that it considers appropriate in respect of the conduct of the consolidated proceeding.

(3) If two or more proceedings have been consolidated and the Tribunal considers that their continued consolidation would not be conducive to furthering the objectives of the Act, the Tribunal may, after giving the participants the opportunity to be heard, order that the proceedings be severed.

Notice of Oral Hearing

23 (1) Unless the Tribunal directs otherwise, the Registrar of the Tribunal must give to the participants at least 21 days notice of an oral hearing.

(2) If a participant is notified of a hearing and fails to appear, the Tribunal may proceed and dispose of the matter in the participant's absence.

Summonses

24 (1) In the case of an oral hearing, a participant may apply in writing to the Tribunal, before the start of the hearing or at the hearing, but in any case as soon as the circumstances giving rise to the application become known to the participant, for the Tribunal to issue a summons.

(2) The application for summons must set out

(a) the Tribunal file number of the proceeding to which the summons relates;

(b) the name and address of the person to be summoned;

(c) the day on which the person is required to appear;

(d) the reasons for the summons; and

(e) the details of any documents or items that the person being summoned must bring with them to the oral hearing, and how the documents or items are relevant to the proceeding.

- (3) The participant who applies for a summons must serve the summons directly on the person to be summoned at least seven days before the person is required to appear, unless the Tribunal directs otherwise.
- (4) The participant who applies for a summons is responsible for paying the witness's expenses and fees, in accordance with section 64 of the Act.
- (5) A person who is summoned to an oral hearing must attend at the time and day specified as well as each day of the hearing, unless the Tribunal directs otherwise.
- (6) If an oral hearing is adjourned and the date of its reconvening is not indicated at the time of the adjournment, the person who applied for the summons must notify the person who is under summons of the date of the reconvening
- (a) at least five days before the person summoned is to attend; or
 - (b) if the Tribunal has given less than five days notice of the reconvening, within a notice period that is fair and reasonable in the circumstances.

PART 3

Certification Proceedings

Application for Certification

25 An application for certification must be made in accordance with section 8 and must, in addition to the requirements of that section, include the following information:

- (a) a general description of the sector for which certification is sought;
- (b) an estimate of the number of professional freelance artists working in the proposed sector;
- (c) an estimate of the number of members of the applicant who work in the proposed sector;
- (d) a current copy of the applicant's membership list certified by the applicant's authorized representative indicating
 - (i) the members' full names and current addresses, and
 - (ii) if the applicant also represents individuals who do not work within the proposed sector, a list of those members who work within the proposed sector;
- (e) a copy of any scale agreement in force affecting the proposed sector;
- (f) a copy of the applicant's constitution and by-laws certified by its authorized representative; and
- (g) evidence that the membership authorizes the applicant to apply for certification.

Public Notice

- 26 (1)** The Tribunal must publish a notice of the application for certification in the *Canada Gazette*, Part I, or through any other means that the Tribunal considers appropriate.
- (2)** The notice must indicate the name of the applicant, a description of the proposed sector, and the period for filing competing applications and expressions of interest from artists, artists' associations, producers and other interested persons in respect of the proposed sector.
- (3)** The period referred to in subsection (2) is at least 30 days from the date of publication of the notice.

Notice of Intervention as of Right

- 27 (1)** An artist, artists' association or producer that intervenes under subsection 26(2) or 27(2) of the Act must file a notice of intervention with the Tribunal.
- (2)** A notice of intervention must be filed within the period specified in the notice published under subsection 26(1), be in writing and include
- (a) the name, address, telephone number and fax number, if any, of the intervener;
 - (b) the name, address, telephone number and fax number of the intervener's authorized representative, if any;
 - (c) the Tribunal's file number indicated in the notice referred to in subsection 26(1);

(d) the signature of the intervener or their authorized representative; and

(e) the date of filing of the notice of intervention.

(3) At the request of the Tribunal, the intervener must file the grounds for the intervention and their interest in the matter.

Applicant's Response

28 At the request of the Tribunal, the applicant for certification must, in accordance with section 9, file a response to the grounds for intervention filed by the intervener.

Reply of Intervener

29 At the request of the Tribunal, the intervener must, in accordance with section 10, file a reply to the applicant's response.

Subsequent Application for Certification

30 (1) If the Tribunal rejects an application to certify an artists' association, the same artists' association may not submit a new application for certification in respect of the same sector, or what the Tribunal considers to be substantially the same sector, until six months after the day on which the previous application was rejected.

(2) Despite subsection (1), the Tribunal may, of its own motion or on application of the artists' association, abridge the period referred to in that subsection.

PART 4

Representation Votes

31 (1) If the Tribunal orders that a representation vote be taken, the Tribunal must appoint a Returning Officer.

(2) The Returning Officer may give directions to ensure the proper conduct of the vote and must report the results of the vote to the Tribunal.

(3) The Returning Officer may appoint one or more employees of the Tribunal, as required, to assist in the conduct of the vote.

PART 5

Revocation of Certification

Application for Revocation of Certification

32 An application for the revocation of an artists' association's certification must be made in accordance with section 8 and must, in addition to the requirements of that section, include the following information:

(a) the name of the artists' association that holds the certification that the applicant seeks to revoke; and

(b) a description of the sector within which the applicant works and for which the artists' association has been certified.

Notice of Application for Revocation of Certification

33 (1) The Tribunal must provide the affected artists' association with a copy of the application for revocation of certification.

(2) If the application for revocation of certification is based on subsection 23(2) of the Act, the Tribunal may request that the artists' association adopt by-laws that do not contravene that subsection.

(3) If an application for revocation of certification is not made within the period referred to in paragraph 29(1)(b) of the Act, the Tribunal may dismiss the application.

Response to an Application for Revocation of Certification

34 The affected artists' association may file a response to an application for revocation of its certification in accordance with section 9.

Applicant's Reply

35 The applicant may file a reply to a response referred to in section 34 in accordance with section 10.

Subsequent Application for Revocation of Certification

36 (1) If the Tribunal rejects an application for the revocation of an artists' association's certification, a new application for revocation in respect of the same sector may not be submitted until six months after the day on which the previous application was rejected.

(2) Despite subsection (1), the Tribunal may, of its own motion or on application of an artist or artists' association, abridge the period referred to in that subsection.

PART 6

Joint Application to Change Termination Date of Scale Agreement

37 A joint application to change the termination date of a scale agreement must be made in accordance with section 8 and must, in addition to the requirements of that section, include a copy of all scale agreements between the parties, whether in force or expired, and any other document that the Tribunal may require.

PART 7

Complaints

Filing a Complaint

38 A complaint made under section 53 of the Act must be made in accordance with section 8 and must, in addition to the requirements of that section, include the following information:

- (a)** the name, address, telephone number and fax number, if any, of the person or organization that is the object of the complaint;
- (b)** the provision of the Act on which the complaint is based;
- (c)** the day on which the complainant first knew of the actions or circumstances giving rise to the complaint;
- (d)** full particulars of any measures taken by the complainant to resolve the situation that gave rise to the complaint; and
- (e)** a description of the remedy sought by the complainant.

Response to a Complaint

39 A person or organization that is the object of a complaint made under section 38 may file a response to the complaint in accordance with section 9.

Complainant's Reply

40 A complainant may file a reply to a response referred to in section 39 in accordance with section 10.

PART 8

Declarations

Application for Declaration

41 An application for a declaration under section 47 or 48 of the Act must be made in accordance with section 8 and must, in addition to the requirements of that section, include the following information:

- (a)** the name, address, telephone number and fax number, if any, of any artist, artists' association or producer who, in the opinion of the applicant, could have an interest in the application;
- (b)** a reference to the provision of the Act under which the application is being made; and
- (c)** the question that the applicant wishes to have the Tribunal determine or the nature of the declaration that the applicant is seeking.

Response to an Application for Declaration

42 An artist, artists' association or producer who has an interest in an application for a declaration may file a response in accordance with section 9.

Applicant's Reply

43 An applicant may file a reply to a response referred to in section 42 in accordance with section 10.

PART 9

Referral of Question by Arbitrator or Arbitration Board

44 (1) If an arbitrator or arbitration board refers a question to the Tribunal, the Tribunal must give notice to the parties to the arbitration.

(2) The parties to the arbitration must file written representations within any period specified by the Tribunal and must include the following information:

- (a)** the party's name, address, telephone number and fax number, if any;
- (b)** the name, address, telephone number and fax number of the party's authorized representative, if any;
- (c)** the grounds on which the party relies and full particulars of the facts relevant to the question;
- (d)** the determination or order sought;
- (e)** the signature of the party or the party's authorized representative; and
- (f)** the date of filing of the representations.

(3) All documents relevant to a party's representations must be attached to the representations or filed in any other manner authorized by the Tribunal.

(4) Each party must serve a copy of its representations and documents on the other party.

(5) Each of the parties must be given the opportunity to respond to the opposing party's representations within the period specified by the Tribunal.

PART 10

Applications for Review

Review of a Tribunal Determination or Order

45 (1) Subject to subsection (3), any person affected by a determination or order of the Tribunal may, within 30 days after the date of the determination or order, make an application for a review of the determination or order.

(2) The application must be based on the grounds that

- (a)** the Tribunal's determination or order contains an error of law or a serious error of fact; or
- (b)** the applicant has new information or evidence that was not available at the time the determination or order was originally made that could alter the basis on which the determination or order was made.

(3) A certified artists' association or a producer affected by a determination or order of the Tribunal that establishes a sector may apply for a review of the determination or order at any time for the purposes of enlarging, modifying or clarifying the scope of the sector determined.

(4) An application to review a certification order may be made by a certified artists' association at any time in order to update the artists' association's certification order for purposes including changes in

- (a)** the name of the certified artists' association; and
- (b)** the terminology used to describe the sector.

(5) An application for a review of a determination or an order made by the Tribunal must be made in accordance with section 8 and must, in addition to the requirements of that section, include the following information:

- (a)** the name, address, telephone number and fax number of any artists' association or producer affected by the determination or order; and
- (b)** the file number and date of the determination or order that the applicant wishes to have reviewed.

Notice of Application for Review

46 (1) The Tribunal must publish a notice of an application for review in the *Canada Gazette*, Part I, or through any other means that the Tribunal considers appropriate if the review might result in an enlargement of the sector.

(2) If an application for review of a determination or an order is not made within the period referred to in subsection 45(1), the Tribunal may dismiss the application.

Response to an Application for Review

47 An artist, artists' association or producer who has an interest in the application may file a response in accordance with section 9.

Applicant's Reply

48 An applicant may file a reply to a response referred to in section 47 in accordance with section 10.

PART 11

Filing Determinations or Orders in Federal Court

Application to File in the Federal Court

49 (1) An application made under section 22 of the Act must be made in accordance with section 8 and must, in addition to the requirements of that section, include the following information:

- (a)** the Tribunal file number in respect of which the determination or order was issued;
- (b)** a copy of the determination or order that the applicant wishes to have filed in the Federal Court; and
- (c)** the reasons that the applicant believes the determination or order should be filed in the Federal Court, including why the applicant believes that
 - (i)** there is a failure or likelihood of failure by any other person named in the determination or order to comply with it, and
 - (ii)** filing the determination or order would serve a useful purpose.

(2) If an application states that a person named in the determination or order has failed or is likely to fail to comply with it, the applicant must serve a copy of the application on the person.

Response to Application to File in the Federal Court

50 A person named in the determination or order may file a response to an application filed under section 22 of the Act in accordance with section 9, and must serve a copy on the applicant.

Applicant's Reply

51 An applicant may file a reply to a response referred to in section 50 in accordance with section 10, and must serve a copy on the person named in the determination or order.

PART 12

Consent to Prosecute

Application for Consent to Prosecute

52 (1) An application for consent to prosecute under section 59 of the Act must be made in accordance with section 8 and must, in addition to the requirements of that section, include the following information:

- (a)** the name, address, telephone number and fax number, if any, of the person in respect of whom the applicant seeks consent to prosecute;
- (b)** a reference to the provision of the Act or to the determination or order of the Tribunal on which the application is based;
- (c)** a full description of the events and circumstances leading to the application for leave to prosecute and the actions taken by the person in respect of whom the applicant seeks consent to prosecute; and

(d) the day on which the applicant first knew of the events, circumstances or actions that led to the application for consent to prosecute.

(2) The applicant must serve a copy of the application for consent to prosecute on the person in respect of whom consent to prosecute is sought.

Response to Application for Consent to Prosecute

53 A person in respect of whom an applicant seeks consent to prosecute may, in accordance with section 9, file a response to an application filed under section 52, and must serve a copy on the applicant.

Applicant's Reply

54 An applicant may, in accordance with section 10, file a reply to a response referred to in section 53, and must serve a copy on the person in respect of whom consent to prosecute is sought.

PART 13

Coming into Force

55 These Regulations come into force on the day on which they are registered.

Date modified:

2025-05-07