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# Submission Regarding the Impact of the Status of the Artist Act on the Working Conditions of Artists

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**Canadian Actors' Equity Association**  
**44 Victoria Street, 12th floor Toronto, ON M5C 3C4**  
**tel: 416-867-9165**  
**communications@caea.com**  
**Contact: Lynn McQueen, Projects Director**  
**www.caea.com**

## Introduction

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Canadian Actors' Equity Association (Equity) is pleased to make a submission to the Standing Committee on Canadian Heritage (CHPC), pursuant to Standing Order 108(2), and its study of the Status of the Artist Act and its impact on improving basic working conditions for artists in Canada.

## Who we Are

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Equity is a national professional artists' association representing more than 4,900 (5,800 pre-pandemic) artists working in live performance (theatre, opera and dance) in English Canada. Our membership includes performers, directors, choreographers, fight directors, intimacy directors and stage managers.

## Impact of COVID on the Industry & Current Status

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The impact of COVID on the live performance industries cannot be underestimated. Our sector was the first to shut down and we will be the last to open back at pre-pandemic levels. The live performance industry is unique and it is important to understand that reopening theatres and producing shows is a process that requires many steps. The process of producing a show usually begins over a year before opening night.

Most jurisdictions across Canada are currently in the process of lifting public health restrictions and live performance workers are finally gearing up to get back to work. However, even if reopening plans proceed as hoped, arts workers will be going back to business with a severely reduced workforce. According to the Statistics Canada Labour Force Survey (employment among performing arts, spectator sports and related industries (NAICS 711)), the live performance workforce across Canada was 143,600 in January 2019. Following Omicron, that workforce was down to 98,700 jobs in January 2022, a 31% decrease.

All of the live performance unions and guilds are deeply concerned about worker retention in the live performance sector, post-pandemic. Equity's ability to prevent membership from *leaving the biz* in the face of severe loss of income, cyclically relentless lost work opportunities, and constrained creative outlets, was put to the test over the last two long years. Equity member total earnings for the period August/September/October 2019 were \$19,610,188. Earnings for the same period in 2021 were only \$8,040,650, a decrease of 59%. In addition, early research concludes that "the impact of COVID-19 was not experienced evenly across the sector. Younger workers, women and workers from ethnically diverse backgrounds were among the hardest hit in terms of losing work and income."<sup>1</sup> We are facing the worst possible outcome - losing our newest, most technically savvy members, with many likely from BIPOC communities.

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<sup>1</sup> Culture in crisis – Impacts of Covid-19 on the UK cultural sector and where we go from here (2021). Based on Centre for Cultural Value in collaboration with The Audience Agency and the Creative Industries Policy and Evidence Centre and was supported by the Arts and Humanities Research Council. Retrieved from <https://www.culturehive.co.uk/CVIresources/culture-in-crisis-impacts-of-covid-19/>

Our employers are also struggling. According to Statistics Canada, the direct economic impact of culture industries was estimated at \$58.9 billion in Canada in 2017, or \$1,611 per capita and 2.8% of the country's GDP. In 2017, there were 715,400 jobs directly related to culture industries, or 3.8% of all jobs in the country. The 2017 GDP of culture industries (\$59 billion) was larger than the value added of agriculture, forestry, fishing, and hunting (\$39 billion), accommodation and food services (\$46 billion), and utilities (\$46 billion).<sup>2</sup>

## Recommendations

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Given the many serious industry challenges post-COVID, assistance to artists in any form will serve to make the industry more sustainable for artists, and assist them to cope with extremely changeable conditions. Our recommendations, which may not always have a direct impact on Equity members, nonetheless support the arts and culture sector to become stronger and more resilient.

## Improving Taxation and Regulatory Regimes

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As Status of the Artist legislation is dedicated to finding ways to improve the general welfare of artists in the country, we see advantages in the area of tax reform. Artists in Canada are among the most impoverished social groups. Those who are self-employed or non-salaried independent contractors face unique challenges and do not share in many of the same supports as other working Canadians.

We support the introduction of **income averaging** to allow self-employed artists to cope with the significant fluctuations in annual income that routinely occur from year to year. Artists may spend many months or even years in preparation for a production with little or no remuneration during that time. The ability to off-set a higher income in one year against those years with little revenue would provide a greater level of stability for the creative sector.

Income averaging was in place until 1982 and currently businesses are allowed to both "carry forward" and "carry back" tax losses in a similar way. As an increasing number of businesses do not wish to hire full time workers and are choosing instead to switch to contract workers, the reinstatement of income averaging for certain sectors would likely benefit an increasing number of Canadians.

Other jurisdictions, like the UK and Australia, already offer their artists the ability to income average over a period of time, in recognition of the lack of stability inherent in the work. It would improve the ability of Canadian artists to financially plan, which in turn would keep more skilled workers in the field. The Province of Quebec also allows artists to average over a number of years a portion of their income beyond a certain threshold.

We would also support additional tax legislation:

- fully exempting income tax on grant income earned by artists through awards from the Canada Council, the provincial arts councils and other Canadian grant agencies; and

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<sup>2</sup> **Hill Strategies (2019)**. Estimates of the Direct Economic Impact of Culture in Canada in 2017. Based on Statistics Canada Provincial and Territorial Culture Indicators, 2017. Retrieved from: <https://hillstrategies.com/2019/06/19/estimates-of-the-direct-economic-impact-of-culture-in-canadain-2017/>

- a tax exemption, per year, on **income derived from copyright**, neighbouring rights and/or other income derived from the sale of any creative work. This already exists in Quebec on amounts up to \$10,000. Most artists rely on not only payment for their work at the time of creation, but also some form of royalty or residual or other similar revenue derived from the sale or use of their work. These sums allow artists to maintain an ongoing economic benefit from their work although many of them may no longer have control over its sale or use.

## **Bargaining Rights**

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It is somewhat ironic that while labour and traditional collective bargaining rights are at the core of the Status of the Artist Act, the Act has been unable to live up to its intended positive impact, given that so few first agreement negotiations have been successfully concluded under it. The Act, while well meaning, applies to very few situations and provides limited provisions to reach a first agreement with an unwilling party. Some negotiations can consume considerable time and more staff resources than are available in smaller unions and associations. Equity would support adding a provision in the Act ensuring binding arbitration for a first contract. This currently exists in Quebec's Status of the Artist Act, as well as in provincial and federal labour codes.

Another way to better ensure constructive bargaining would be to extend the recognition clause of a scale agreement negotiated under the Act to apply to any subcontractor or presenter hired by an employer to produce a production or event. This would ensure that the subcontractor or presenter, who contracts directly with an individual Artist for their services, remains subject to the existing scale agreement that would apply.

## **A Last Comment on the Precarity of a Career in Arts and Culture**

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There is not a single solution that will immediately get audiences back into theatres, ensure that our highly skilled workers are financially able to choose the arts as a career, or provide enough stability to employers to mount productions risk-free.

COVID has highlighted the precariousness of a career in the arts and culture sector in stark relief. It would be a shame for the industry to miss this opportunity to make plans that would protect our industry over the long term. The single most significant program the federal government could institute to provide stability for precarious workers would be the implementation of a guaranteed universal basic income. Ireland has implemented a basic income pilot project for artists, as has the City of San Francisco, as well as New York State.

We suggest that while the Canadian Status of the Artist Act may not specifically address the idea of a universal basic income, at its core, the Act confers the right of artists to have access to advisory forums in which they may express their views on their status and on any other questions concerning them. Equity members want to contribute to the universal basic income discussion.