

Protecting Child Performers Act, 2015

S.O. 2015, CHAPTER 2

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CONTENTS

PART I **GENERAL**

- [1.](#) Interpretation
- [2.](#) Purpose and application
- [3.](#) No contracting out

PART II **RULES OF GENERAL APPLICATION**

- [4.](#) Disclosure
- [5.](#) Written agreement required
- [6.](#) Travel
- [7.](#) Tutoring
- [8.](#) Income protection

PART III **RECORDED ENTERTAINMENT INDUSTRY**

- [9.](#) Application of this Part
- [10.](#) Prohibition, child performers under 15 days old

HOURS OF WORK

- [11.](#) Hours of work
- [12.](#) Time before recording device and breaks
- [13.](#) No split shifts and rules re meal breaks

SUPERVISION IN THE WORKPLACE

- [14.](#) Parental accompaniment
- [15.](#) Child performers' co-ordinator

PART IV **LIVE ENTERTAINMENT INDUSTRY**

- [16.](#) Application of this Part
- [17.](#) Prohibition, child performers under two and a half years old

HOURS OF WORK

- [18.](#) Hours of work
- [19.](#) Breaks

PARENTS AND OTHER ADULTS IN THE WORKPLACE

- [20.](#) Supervision of child performer over two and a half years of age
- [21.](#) Child attendants
- [22.](#) Requirement for clean criminal record

PART V **HEALTH AND SAFETY**

- [23.](#) Training
- [24.](#) Right to refuse work
- [25.](#) Healthy food

PART VI **ENFORCEMENT AND REGULATIONS**

- [26.](#) Enforcement
- [27.](#) Regulations

PART I GENERAL

Interpretation

Definitions

1 (1) In this Act,

“child performer” means a child under 18 years of age who performs work or supplies services for monetary compensation in the entertainment industry as a performer, including as a background performer; (“enfant artiste”)

“employer” means a person who employs or contracts for the services of a child performer; (“employeur”)

“entertainment industry” includes the live entertainment industry and the recorded entertainment industry; (“industrie du spectacle”)

“guardian” means a person who has lawful custody of a child, other than the parent of the child; (“tuteur légal”)

“live entertainment industry” means the performing arts industry that provides live entertainment in theatre, dance, music, opera or circus; (“industrie du spectacle vivant”)

“parent” includes a person who has demonstrated a settled intention to treat a child as a child of his or her family; (“parent”)

“prescribed” means prescribed by a regulation made under this Act; (“prescrit”)

“recorded entertainment industry” means the industry of producing visual or audio-visual recorded entertainment that is intended to be replayed in cinemas, on the Internet, on the radio, as part of a television broadcast, or on a VCR or DVD player or a similar device, and includes the industry of producing commercials; (“industrie du spectacle enregistré”)

“recording device” means any device that records sound or images; (“appareil d’enregistrement”)

“week” means,

- (a) a recurring period of seven consecutive days beginning on Monday and ending on Sunday, or
- (b) another recurring period of seven consecutive days selected by the employer for the purpose of scheduling work. (“semaine”) 2015, c. 2, s. 1 (1); 2021, c. 4, Sched. 11, s. 29 (2-4).

Restriction

(2) For greater certainty,

- (a) a reference in this Act to a person as an employee or an employer does not cause the person to be an employee or an employer for the purpose of any other Act or law;
- (b) a reference in this Act to an agreement as a collective agreement does not cause the agreement to be a collective agreement for the purpose of any other Act or law; and
- (c) a reference in this Act to an entity as a trade union does not cause the entity to be a trade union for the purpose of any other Act or law. 2015, c. 2, s. 1 (2).

Section Amendments with date in force (d/m/y)

2021, c. 4, Sched. 11, s. 29 (2-4) - 19/04/2021

Purpose and application

Best interests of child performer

2 (1) The paramount purpose of this Act is to promote the best interests, protection and well being of child performers.

Application

(2) This Act applies to,

- (a) child performers;
- (b) parents and guardians of child performers; and
- (c) employers.

No contracting out

3 (1) Subject to subsection (2), no employer or agent of an employer and no child performer or trade union or professional association representing a child performer shall contract out of or waive any right provided in this Act and any such contracting out or waiver is void.

Greater right or protection

(2) If a provision in an employment contract, collective agreement or another Act applies directly to the same subject matter as a provision in this Act and the provision in the employment contract, collective agreement or other Act provides a greater right or protection to a child performer, the provision in the employment contract, collective agreement or other Act applies and the provision in this Act does not apply.

PART II RULES OF GENERAL APPLICATION

Disclosure

4 (1) Before employing or contracting for the services of a child performer, an employer shall hold a meeting at which the employer shall disclose to the child's parent or guardian,

- (a) a general description of the role the child performer will play;
- (b) the location and hours of rehearsals and performances;
- (c) any health or safety hazards to which the child performer may be exposed during rehearsals or performances, and the precautions that will be taken to prevent injury to the child performer;
- (d) any special skills the child performer is expected to perform that require a level of physical proficiency or other skill superior to that of an average child; and
- (e) any special effects to which the child performer may be exposed. 2015, c. 2, s. 4 (1); 2021, c. 4, Sched. 11, s. 29 (5).

Presence at meeting

(2) A child performer is entitled to be present at and to participate in a meeting held under subsection (1). 2015, c. 2, s. 4 (2).

Ongoing disclosure

(3) The employer shall disclose any proposed changes to the matters listed in subsection (1), and the employer shall not implement any of the proposed changes without the written agreement of the child performer's parent or guardian. 2015, c. 2, s. 4 (3); 2021, c. 4, Sched. 11, s. 29 (1).

Script

(4) Before production begins, the employer shall provide the child performer with the portions of the script that relate to the child performer's role. 2015, c. 2, s. 4 (4).

Section Amendments with date in force (d/m/y)

2021, c. 4, Sched. 11, s. 29 (1, 5) - 19/04/2021

Written agreement required

5 An employer shall not employ or contract for the services of a child performer except under a written agreement.

Travel

6 (1) The parent, guardian or authorized chaperone of a child performer who is under 16 years of age shall accompany the child performer while travelling to or from the workplace. 2015, c. 2, s. 6 (1); 2021, c. 4, Sched. 11, s. 29 (1).

Authorized chaperone

(2) For the purposes of subsection (1), an authorized chaperone is a person who has reached 18 years of age and who is authorized in writing by a child performer's parent or guardian to travel to or from the workplace with the child performer. 2015, c. 2, s. 6 (2); 2021, c. 4, Sched. 11, s. 29 (1).

Overnight travel

(3) If an employer requires a child performer to be away from home overnight, a parent or guardian of the child performer shall accompany the child at all times. 2015, c. 2, s. 6 (3); 2021, c. 4, Sched. 11, s. 29 (1).

Overnight travel expenses

(4) If subsection (3) applies and the employer does not arrange for or provide, at the employer's expense, travel, accommodation or food, the employer shall be responsible for paying the parent or guardian's expenses related to the costs of travel, accommodation or food, as the case may be, up to the prescribed maximums. 2017, c. 2, Sched. 13, s. 1; 2021, c. 4, Sched. 11, s. 29 (1).

Section Amendments with date in force (d/m/y)

2017, c. 2, Sched. 13, s. 1 - 22/03/2017

2021, c. 4, Sched. 11, s. 29 (1) - 19/04/2021

Tutoring

7 An employer shall, in accordance with any prescribed requirements, provide time in the work schedule for a child performer who is of compulsory school age to receive tutoring in accordance with the regulations.

Income protection

8 (1) Subject to subsection (2), if a child performer earns more than \$2,000 on a production or project, the employer shall remit 25 per cent of those earnings to a person prescribed in the regulations and the money shall be held in trust for the child performer in accordance with the rules specified in the regulations until the child reaches the age of 18. 2015, c. 2, s. 8 (1).

Exception

(2) Subsection (1) does not apply if,

- (a) the child performer is a member of a trade union or professional association and the trade union or professional association negotiates on behalf of the child performer; and
- (b) the collective agreement that governs the terms of the child performer's employment or contract requires that,
 - (i) at least 25 per cent of the child performer's lifetime earnings over \$5,000 must be held in trust by the trade union or professional association until the child performer reaches the age of 18 in accordance with the agreement,
 - (ii) money held in trust must be dealt with in accordance with the *Trustee Act*, and
 - (iii) the trade union or professional association must provide the child performer and his or her parent or guardian with an annual statement respecting the money held in trust for the child performer. 2015, c. 2, s. 8 (2); 2021, c. 4, Sched. 11, s. 29 (1).

Section Amendments with date in force (d/m/y)

2021, c. 4, Sched. 11, s. 29 (1) - 19/04/2021

PART III RECORDED ENTERTAINMENT INDUSTRY

Application of this Part

9 This Part applies to child performers, parents and guardians of child performers, and employers in the recorded entertainment industry.

Prohibition, child performers under 15 days old

10 No employer shall employ or contract for the services of a child under 15 days of age as a child performer in the recorded entertainment industry.

HOURS OF WORK

Hours of work

11 (1) No employer shall require or permit a child performer to work more than eight hours in a day. 2017, c. 2, Sched. 13, s. 2 (1).

Overtime

(2) Despite subsection (1), if the conditions described in subsection (3) are satisfied, an employer may require or permit a child performer to work overtime hours of not more than,

- (a) two hours in a day, in the case of a child performer who is 12 years of age or over but under 16 years of age; or
- (b) four hours in a day, in the case of a child performer who is 16 or 17 years of age.

Same, conditions

(3) The conditions mentioned in subsection (2) are the following:

- 1. The child performer is a member of a trade union or professional association and the trade union or association negotiates on behalf of the child performer.
- 2. The collective agreement that governs the terms of the child performer's employment or contract contains rules about hourly overtime rates.
- 3. The employer pays the child performer the applicable hourly overtime rate for each hour of overtime worked.

Notice of work beginning after 7 p.m.

(4) No employer shall require a child performer to report for work later than 7 p.m. unless the employer has provided 48 hours notice.

Hours free from work

- (5) An employer shall give a child performer a period of at least,
- (a) 12 consecutive hours free from work in each day; and
 - (b) 48 consecutive hours free from work in each week.

Meals and tutoring

- (6) For the purpose of calculating the number of hours of work under this section, meal breaks shall be excluded and breaks and tutoring periods shall be included. 2017, c. 2, Sched. 13, s. 2 (2).

Section Amendments with date in force (d/m/y)

2017, c. 2, Sched. 13, s. 2 (1, 2) - 22/03/2017

Time before recording device and breaks

12 An employer shall ensure that a child performer,

- (a) is not before a recording device for longer than 15 consecutive minutes before receiving a break from work that is no less than 20 consecutive minutes, if the child performer is under three years of age;
- (b) is not before a recording device for longer than 30 consecutive minutes before receiving a break from work that is no less than 15 consecutive minutes, if the child performer is three years of age or over but under six years of age;
- (c) is not before a recording device for longer than 45 consecutive minutes before receiving a break from work that is no less than 10 consecutive minutes, if the child performer is six years of age or over but under 12 years of age;
- (d) is not before a recording device for longer than 60 consecutive minutes before receiving a break from work that is no less than 10 consecutive minutes, if the child performer is 12 years of age or over but under 16 years of age; and
- (e) is not before a recording device for longer than 60 consecutive minutes before receiving a break from work that is no less than five consecutive minutes, if the child performer is 16 or 17 years of age. 2017, c. 2, Sched. 13, s. 3.

Section Amendments with date in force (d/m/y)

2017, c. 2, Sched. 13, s. 3 - 22/03/2017

No split shifts and rules re meal breaks

13 An employer,

- (a) shall not require or permit a child performer to work a split shift;
- (b) shall ensure that no child performer works more than five consecutive hours of work without a meal break;
- (c) shall ensure that a child performer's meal break lasts at least 30 minutes; and
- (d) shall ensure that a child performer's meal breaks, if unpaid, are not longer than one hour each. 2017, c. 2, Sched. 13, s. 4.

Section Amendments with date in force (d/m/y)

2017, c. 2, Sched. 13, s. 4 - 22/03/2017

SUPERVISION IN THE WORKPLACE**Parental accompaniment**

- 14** (1) An employer shall ensure that a parent, guardian, or authorized chaperone of a child performer who is under 16 years of age shall be present at the workplace and shall be accessible to the child performer at all times. 2015, c. 2, s. 14 (1); 2021, c. 4, Sched. 11, s. 29 (1).

Same, more than one child

- (2) If two or more child performers under the age of three at the same workplace have the same parent or guardian, the child performers' employer shall ensure there is one parent, guardian or authorized chaperone to accompany each child. 2015, c. 2, s. 14 (2); 2017, c. 2, Sched. 13, s. 5; 2021, c. 4, Sched. 11, s. 29 (1, 6).

Authorized chaperone

- (3) For the purposes of this section, an authorized chaperone is a person who,
- (a) has reached 18 years of age;
 - (b) is designated in writing by a child performer's parent or guardian to be the child performer's chaperone;
 - (c) does not employ or contract for the services of the child performer; and

(d) is not the child performer's tutor. 2015, c. 2, s. 14 (3); 2021, c. 4, Sched. 11, s. 29 (1).

Section Amendments with date in force (d/m/y)

2017, c. 2, Sched. 13, s. 5 - 22/03/2017

2021, c. 4, Sched. 11, s. 29 (1, 6) - 19/04/2021

Child performers' co-ordinator

15 (1) An employer shall designate one person at each workplace as the child performers' co-ordinator, and the co-ordinator shall be responsible for co-ordinating matters related to the welfare, safety and comfort of child performers.

Ratio

(2) If six or more child performers work at a particular workplace, the child performers' co-ordinator shall not also act as the child performers' tutor.

**PART IV
LIVE ENTERTAINMENT INDUSTRY**

Application of this Part

16 This Part applies to child performers, parents and guardians of child performers, and employers in the live entertainment industry.

Prohibition, child performers under two and a half years old

17 No employer in the live entertainment industry shall employ or contract for the services of a child performer under two and a half years of age.

HOURS OF WORK

Hours of work

Interpretation

18 (1) In this section and section 19,

"performance phase" means the period during which at least one performance is given following the rehearsal phase; ("période de représentation")

"rehearsal phase" means the period during which rehearsals and other related activities are scheduled in preparation for one or more performances. ("période de répétition") 2015, c. 2, s. 18 (1).

Hours of work during rehearsal phase

(2) No employer shall require or permit a child performer to work more hours during a rehearsal phase than the maximums set out in subsections (3) and (4). 2015, c. 2, s. 18 (2).

Same, child performer under six

(3) The maximum number of hours of work during a rehearsal phase for a child performer who is two and a half years of age or over but under six years of age shall be determined in accordance with the following rules:

1. The maximum number of hours of work in a day is four.
2. The maximum number of hours of work in a week is 16. 2015, c. 2, s. 18 (3).

Same, child performer six years or older

(4) The maximum number of hours of work during a rehearsal phase for a child performer who is six years of age or over shall be determined in accordance with the following rules:

1. The maximum number of hours of work in a day is eight.
2. The maximum number of hours of work in a week is 42.
3. For no more than two days during the last 10 calendar days of a rehearsal phase, the maximum number of hours of work in a day may be split into two shifts of up to four hours each if both shifts occur within a 12-hour period. 2015, c. 2, s. 18 (4).

Hours free from work during rehearsal phase

(5) An employer shall give a child performer a period of at least,

- (a) 12 consecutive hours free from work in each day during the rehearsal phase; and
- (b) 36 consecutive hours free from work in each week during the rehearsal phase. 2015, c. 2, s. 18 (5).

Hours of work during performance phase

(6) No employer shall require or permit a child performer to work more hours during a performance phase than the following:

1. For up to two days in each week, the maximum number of hours of work in a day is eight.
2. On any other day in the week, the maximum number of hours of work in a day is four.
3. The maximum number of hours of work in a week is 32. 2015, c. 2, s. 18 (6).

Release from work after performance

(7) An employer shall release a child performer to his or her parent or guardian as soon as reasonably possible after his or her part of the performance is completed. 2015, c. 2, s. 18 (7); 2021, c. 4, Sched. 11, s. 29 (7).

Hours free from work during performance phase

(8) An employer shall give a child performer a period of at least,

- (a) 12 consecutive hours free from work in each day during the performance phase; and
- (b) 36 consecutive hours free from work in each week during the performance phase. 2015, c. 2, s. 18 (8).

Meals and tutoring

(9) For the purpose of calculating the number of hours of work under this section, breaks and tutoring periods shall be included. 2015, c. 2, s. 18 (9).

Section Amendments with date in force (d/m/y)

2021, c. 4, Sched. 11, s. 29 (7) - 19/04/2021

Breaks

19 (1) No employer shall require or permit a child performer to work for longer than two consecutive hours without a break of at least 10 minutes.

Meal breaks during rehearsal phase

(2) During the rehearsal phase, the employer shall give the child performer an eating period of at least 90 minutes and shall schedule eating periods so that the child performer does not work more than four consecutive hours without an eating period.

PARENTS AND OTHER ADULTS IN THE WORKPLACE

Supervision of child performer over two and a half years of age

20 (1) The parent or guardian of a child performer who is two and a half years of age or older may designate a chaperone to be available to the child performer while the child performer is at the workplace. 2015, c. 2, s. 20 (1); 2021, c. 4, Sched. 11, s. 29 (1).

Who may be chaperone

(2) The following persons may be a chaperone:

1. The child performer's parent or guardian, if the parent or guardian is not working in the same production or project in respect of which the child performer is working.
2. A person who,
 - i. has reached 18 years of age,
 - ii. is not working in the same production or project in respect of which the child performer is working, and
 - iii. is not the child performer's tutor. 2015, c. 2, s. 20 (2); 2021, c. 4, Sched. 11, s. 29 (1).

Section Amendments with date in force (d/m/y)

2021, c. 4, Sched. 11, s. 29 (1) - 19/04/2021

Child attendants

21 (1) An employer shall designate a child attendant in accordance with this section to be responsible for monitoring the child performers at the workplace while the child performers are not rehearsing or performing.

Who may be child attendant

(2) A person may be designated as a child attendant if the person,

- (a) has reached 18 years of age;

- (b) is not otherwise working in the same production or project in respect of which the child performers are working;
- (c) does not tutor any of the child performers in the production or project; and
- (d) possesses a clean criminal record, as defined in the regulations.

Ratios

- (3) The employer shall ensure that,
- (a) where the youngest child performer at the workplace is under six years of age, there is at least one child attendant for every six child performers present;
 - (b) where the youngest child performer at the workplace is six years of age or over but under 10 years of age, there is at least one child attendant for every 10 child performers present; and
 - (c) where the youngest child performer at the workplace is 10 years of age or over, there is at least one child attendant for every 15 child performers present.

Requirement for clean criminal record

22 An employer shall ensure that prescribed individuals who may be required to be alone with child performers during the course of the individual's work have a clean criminal record, as defined in the regulations.

PART V HEALTH AND SAFETY

Training

23 (1) In addition to the duties of employers in respect of protecting the health and safety of workers under the *Occupational Health and Safety Act*, an employer shall provide training for a child performer and for the parent, guardian or chaperone of the child performer on the following matters with respect to each location at which the child performer works:

1. Emergency procedures, including health and safety precautions specific to the location.
2. Restricted areas.
3. Safe waiting areas.
4. The location of washrooms, make-up areas and other areas relevant to the child performer's work.
5. The procedure for identifying and reporting unsafe working conditions. 2015, c. 2, s. 23 (1); 2021, c. 4, Sched. 11, s. 29 (1).

Same

(2) The employer shall provide training for the child performer in a manner that is appropriate to the child performer's developmental stage. 2015, c. 2, s. 23 (2).

Section Amendments with date in force (d/m/y)

2021, c. 4, Sched. 11, s. 29 (1) - 19/04/2021

Right to refuse work

24 For the purposes of subsections 43 (3) to (10) of the *Occupational Health and Safety Act*, if the worker is a child performer under 14 years of age, "worker" includes the child performer's parent, guardian or chaperone. 2015, c. 2, s. 24; 2021, c. 4, Sched. 11, s. 29 (1).

Section Amendments with date in force (d/m/y)

2021, c. 4, Sched. 11, s. 29 (1) - 19/04/2021

Healthy food

25 (1) An employer who provides food to child performers shall provide the child performers with healthy snacks and meals at the workplace as close to the child performer's regular snack and meal times as possible.

Same

(2) The employer shall ensure that the food provided under subsection (1) meets the child performer's needs in respect of food allergies and special dietary requirements.

PART VI ENFORCEMENT AND REGULATIONS

Enforcement

Application of *Employment Standards Act, 2000*

26 (1) The provisions of the *Employment Standards Act, 2000* listed in subsection (2) apply with necessary modifications to the application, administration and enforcement of the following provisions of this Act as if they formed part of the *Employment Standards Act, 2000*:

1. Part II, other than section 4 and subsections 6 (1), (2) and (3).
2. Part III, other than sections 10, 14 and 15.
3. Part IV, other than sections 17, 20, 21 and 22.

Same

(2) The following provisions of the *Employment Standards Act, 2000* apply to the application, administration and enforcement of the provisions of this Act listed in subsection (1):

1. Sections 4, 6, 7 and 8.
2. Part XXI, other than subsections 88 (5), (6), (7) and (8).
3. Section 96.
4. Section 99, other than subsection 99 (6).
5. Section 100, other than subsections 100 (2) and (3) and paragraphs 1 and 2 of subsection 100 (4).
6. Sections 101, 102 and 102.1.
7. Section 108, other than subsections 108 (3) and (4).
8. Sections 110, 115.1, 116 and 118.
9. Section 119, other than subsections 119 (10), (11) and (12).
10. Sections 123 and 124.
11. Subsection 131 (2).
12. Section 132.
13. Section 137, other than subsections 137 (4) and (5).
14. Sections 137.1, 138, 138.1 and 139.
15. Section 140, other than subsection 140 (4).

Interpretation

(3) For the purposes of the application of the *Employment Standards Act, 2000*,

- (a) a reference to an employee in the *Employment Standards Act, 2000* shall be read as a reference to a child performer;
- (b) a reference to a trade union in the *Employment Standards Act, 2000* shall be read as including a professional association; and
- (c) a reference to a collective agreement in the *Employment Standards Act, 2000* shall be read as including an agreement negotiated by a trade union or professional association that governs the terms of a child performer's work.

Application of *Occupational Health and Safety Act*

(4) Parts VIII and IX of the *Occupational Health and Safety Act* apply with necessary modifications to the application, administration and enforcement of the following provisions of this Act as if they formed part of the *Occupational Health and Safety Act*:

1. Section 4.
2. Subsections 6 (1), (2) and (3).
3. Sections 10, 14 and 15.
4. Sections 17, 20, 21 and 22.
5. Part V.

Regulations

(5) The Lieutenant Governor in Council may make regulations specifying such additional modifications as the Lieutenant Governor in Council considers necessary or advisable for the purposes of subsections (1) to (4).

Regulations

27 The Lieutenant Governor in Council may make regulations,

- (a) prescribing a parent or guardian's maximum daily expenses, travel costs and accommodation costs payable under subsection 6 (4);
- (b) governing tutoring for child performers during a production or project;
- (c) prescribing persons who are authorized to hold money in trust for child performers under subsection 8 (1);
- (d) prescribing rules in connection with the establishment of trusts for the purposes of section 8;
- (e) governing the time and manner in which money shall be remitted for the purposes of section 8;
- (f) governing the administration of money held in trust for child performers under section 8;
- (g) defining "clean criminal record" for the purposes of clause 21 (2) (d) and section 22;
- (h) prescribing individuals who are required to have a clean criminal record for the purposes of section 22;
- (i) defining any word or expression that is used in this Act but not defined in this Act;
- (j) providing for transitional matters which, in the opinion of the Lieutenant Governor in Council, are necessary or desirable to facilitate the implementation of this Act;
- (k) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 2015, c. 2, s. 27; 2021, c. 4, Sched. 11, s. 29 (1).

Section Amendments with date in force (d/m/y)

2021, c. 4, Sched. 11, s. 29 (1) - 19/04/2021

PART VII (OMITTED)

28 OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS ACT).

29 OMITTED (ENACTS SHORT TITLE OF THIS ACT).

Français

Back to top