

FAQ on Contracting

Q: Why has Government decided to legislate, in *The Arts Professions Act*, that professional artists and engagers must have written contracts?

A: Written contracts are an effective business practice as they help solidify the business relationship by providing a clear understanding of the transaction. They also provide an extra measure of protection to both parties compared to a verbal or literal handshake.

By protecting both parties, written contracts enhance business relations by making business more straightforward and profitable.

Q: What is an “engager”?

A: Engagers are a person or corporation who produce, present, circulate or distribute art to the public and in doing so hire, contract, engage or enlist the services of a professional artist.

Q: What is a “professional artist”?

A: Professional artists are self-employed artists who earn income from art, *and* are recognized as a professional through a number of criteria. To see the criteria checkout our website: <http://www.tpcs.gov.sk.ca/definition-professional-artist>

Q: How restrictive is this statute? Will it dictate the terms of contracts?

A: The legislation requires only basic elements to be included in each contract. A checklist can be found here: <http://www.tpcs.gov.sk.ca/contract-checklist>

Q: How will the Act protect me as an artist or/and engager?

A: Written contracts help protect artists and engagers by spelling out what is to be done, agreed upon fees, deadlines, termination clauses, transfer of rights, etc. Contracts help prevent unilateral changes by either party and at the others expense

One example is a father of a bride who hires a band to play at his only daughter’s wedding. This might be the only time in his life where he hires an artist. Nonetheless, it is in his best interest to document when the band will arrive, how long it will play, and what he will pay for the show. It is in the best interest of the band to document, for example, whether a recording of the performance may be made, and for what purpose. Written contracts protect both parties.

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Q: Will the Act make me change the way I work and do business?

A: No. Most artists and engagers already have agreements. The legislation just ensures those agreements are written down.

Written contracts ensure documentation of the agreed-upon terms between a professional artist and an engager. This ensures a clear understanding of the transaction with the aim of preventing contract disputes down the road.

Q: Will the requirements of the Act cost me time and money?

A: No, in fact by having concise written contracts it will save time and money in the long run by avoiding misunderstandings and costs associated with disagreements. The goal is to have contracts used that are simple, straightforward and easy to complete. If you are new to contracting there are many tools and workshops available that can help, which can be found here: <http://www.tpcs.gov.sk.ca/arts-professions-act>

Q: Can I keep using the contract I use now?

A: Yes. We just ask you check our contract check list to make sure your contract covers all the important areas. The check list can be found at: <http://www.tpcs.gov.sk.ca/arts-professions-act>

Q: Will these contracts be filed with the government or made public in any way?

A: No. All contracts will be between the artist and the engager. The parties should keep the contracts as part of their regular business records.

The government is not interested in the details of people's contracts. The legislation is designed to promote use of contracts and better business practices.

Q: Am I less likely to get a job if I use a contract?

A: No. Written contracts are a professional way of doing business that help reduce costly disputes. Since they benefit and protect both parties, contracts should not be a barrier to a successful business transaction.

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Q: What are the penalties for not using a contract?

A: There are no legal consequences at this time, the legislation is new and we want to work with it over time and get some experience. We have every belief that people will see the benefits of using written contracts and follow the legislation. We can evaluate it down the road and take further steps if warranted.

Q: What is a dispute resolution mechanism?

A: A dispute resolution mechanism provides a process for the parties to resolve disagreements as to the meaning of an agreement without going to court. Resolution by agreement, mediation or arbitration will generally occur more quickly (and the process is more accessible to the parties) than resolution in the court system.

Common dispute resolutions allow a party to refer a matter to a non-binding mediation process or to a binding arbitration process. Sometimes both are used with mediation required initially and then referral to an arbitrator if the mediation is not successful.

Details that are good to include in a contract about a dispute resolution mechanism include, the notice needed to start the mediation process, how the mediator/arbitrator is to be chosen and who is responsible for costs.

Mediators and arbitrators are often lawyers but this is not always the case. Sometimes a mediator or arbitrator might be a person with expertise in the particular field who is not a lawyer.

Q: What are the penalties if someone does not follow the terms in the contract?

A: For claims not exceeding \$20,000, Small Claims Court is a less expensive way to resolve a dispute. For more information on Small Claims visit our website: <http://www.tpcs.gov.sk.ca/arts-professions-act>

Claims in excess of \$20,000 are litigated in the Court of Queen's Bench.

Q: I am new to contracting. Where can I get help? Where can I go for more information on the Act?

A: If you are new to contracting and are looking for tools to help you start using written contracts to comply with the law, or want to find out more information on the Act, visit: <http://www.tpcs.gov.sk.ca/arts-professions-act>