



September 18, 2023

The Honourable Dr. Hedy Fry, P.C., M.P.  
Vancouver Centre  
House of Commons  
Ottawa, Ontario  
K1A 0A6

Dear Dr. Fry:

Pursuant to Standing Order 109 of the House of Commons and on behalf of the Government of Canada, we are pleased to provide you with the Government Response to the Fifth Report of the Standing Committee on Canadian Heritage entitled *Strengthening the Status of the Artist in Canada*.

The Government acknowledges with gratitude the care and attention that Committee members gave to the diverse and complex issues brought forward by the study's witnesses.

During the course of the study, witnesses to the Committee gave expression to the critical role artists play in Canadian society. Artists provide their communities with joy, interaction, and inspiration, but they also give thoughtful critique to our political, economic, and social systems — pushing us to engage and make steps toward social progress.

Yet, despite the value of their work for society, artists and cultural workers face challenging economic conditions, which have been exacerbated by the pandemic and the uneven recovery of the arts and culture sector.

Canada's *Status of the Artist Act* arose out of the recognition of the fact that the path taken by artists is difficult. Despite the value of their work in our lives and in our society, many artists struggle to secure the income and working conditions they deserve.

The Act was adopted in 1992 and came into force in 1995. However, its origins go back to 1980, when the United Nations Educational, Scientific and Cultural Organization (UNESCO) presented the *Recommendation concerning the Status of the Artist*, which recognized the atypical ways artists earn their living and proposed measures that UNESCO member states could take to improve the socio-economic situation of artists.

The *Status of the Artist Act* is a shared responsibility of the Minister of Canadian Heritage (Part I – General Principles) and the Minister of Labour (Part II – Professional Relations).

The general provisions in Part I of the Act, supported through the mandate and activities of the Department of Canadian Heritage, include the recognition of the important role artists play in our lives, our society and in our economy. Furthermore, the principles contained in Part I establish a link between this recognition and the importance for artists to be able to bargain with federally regulated producers for fair compensation and working conditions as provided for by Part II; this vital function is supported by the mandate of Employment and Social Development Canada and the decision-making role of the Canada Industrial Relations Board. This recognition of the profound contribution that artists make to the lives of Canadians and our collective responsibility to recognize and compensate these contributions fairly are at the heart of the *Status of the Artist Act*.

The shared responsibility of the *Status of the Artist Act* reflects how the Act serves a dual role. Firstly, it articulates the Government's recognition of the important role and contributions of artists. Secondly, it acknowledges that professional artists are workers who have a basic right to bargain their compensation and basic working conditions with federally regulated producers.

The limited jurisdiction of Part II of the federal *Status of the Artist Act* respects the division of powers in the Canadian Constitution. Most workers and workplaces in the cultural sector are subject to labour legislation at the provincial and territorial level. It is for this reason that in matters of professional relations between independent artists and producers—which is the main purpose of Part II of the Act—the scope of the Act is limited to federal government institutions and to broadcasters under the jurisdiction of the Canadian Radio-television and Telecommunications Commission.

The Government has a profound respect for artists and cultural workers and a longstanding recognition of their contribution to our quality of life and to our economy. Over a five-year period beginning in 2016-17, the Government doubled the budget of the Canada Council for the Arts – the primary federal funder of artistic creation, production, and dissemination – which has enabled the Council to increase funding levels and support more activity, including from new applicants. The Government also recognizes the economic precarity faced by Canada’s 1,255,830 cultural workers—including 202,900 artists—and how recent and current global conditions have only intensified these difficulties. Witness testimony as part of this study highlighted challenges also identified through *The National Culture Summit: The Future of Arts, Culture and Heritage in Canada*, held in May 2022. This national conversation on resilience, sustainability and transformation of the arts, culture, and heritage sectors in Canada brought together stakeholders from across the country to discuss how to rebuild and transform the sector. The Government remains committed to engagement and dialogue with the cultural sector.

Over the past three years, the Government has provided historic levels of supplemental support, first to sustain the arts and culture sector through the closures and most severe impacts of the pandemic, and subsequently to position the sector for long-term competitiveness and growth as recovery continues.

The *2020 Fall Economic Statement* included a \$40 million time-limited commitment (2021–22) for the Support for Workers in Live Arts and Music Sectors Fund, which incentivized the short-term contracting of artists, technicians, and other supporting workers by live events. A further \$60 million over one year (2022–23) for the Canada Performing Arts Workers Resilience Fund was announced in the *Economic and Fiscal Update 2021*, which supported sector-delivered initiatives that provided financial and other supports to independent and self-employed workers in the live performance sector, including the delivery of direct financial support through projects undertaken by the Unison Fund, AFC (Actors’ Fund of Canada), Fondation des artistes, and the Canada Dance Assembly.

Through Budgets 2021 and 2022, unprecedented time-limited investments were delivered by the Department of Canadian Heritage and its portfolio organizations to support cultural organizations who engage artists and cultural workers, including a \$500 million fund to support recovery and re-opening, while also extending the term of copyright protection for an additional 20 years.

The Government continues to support Canada's artists, cultural workers, and their institutions and organizations through the Department's regular programs. Budget 2023 contains several targeted investments in the arts and culture sector. The investments include \$28 million over two years to support the National Arts Centre, Canada's home for the performing arts. They also include \$14 million over two years, starting in 2024–25, through the Building Communities Through Arts and Heritage program.

Through its legislative policies, the Government passed new legislation which modernizes the *Broadcasting Act* and makes consequential amendments to related acts, including the *Status of the Artist Act*. Bill C-11, the *Online Streaming Act*, received royal assent on April 27, 2023. The Government supported a Senate amendment introduced during the parliamentary process which clarified the application of the *Status of the Artist Act* to broadcasting undertakings under the *Canada Labour Code*, and in so doing continues to provide protections for artists rights. Broadcasting plays a key role in supporting Canada's creative industries and evolving cultural identity, and it is anticipated that the updated regulatory environment will continue to benefit Canadian artists and cultural workers.

We would like to further outline Government actions in three thematic areas that align with the Committee's recommendations, namely: 1) changes to labour conditions and amendments to the *Status of the Artist Act*; 2) tax measures; and 3) other programs and measures.

**Theme 1: Improving labour conditions and amendments to the *Status of the Artist Act* (Recommendations 1, 2, 4, 10, 12, 14, 15, 16)**

The Government acknowledges the Committee's recommendations for robust protections and supports for artists, and thanks the Committee for its thoughtful consideration of their diverse circumstances.

The Act is vital legislation that makes it possible for independent artists to work under conditions that are fair. This Act is only one of two in Canada that explicitly provides recognition and collective bargaining rights to independent artists, the other being a provincial act. Part II of the Act has enabled artists' associations to negotiate on a wide range of benefits and protections in their scale agreements with federally regulated producers, including minimum payments, copyright, screen credits, contributions to insurance benefits and retirement plans, grievance procedures, harassment and equal opportunity policies, overtime, meal and rest periods, and schedule changes.

It is important to note that not all artists are independent; many artists have employment relationships with federally regulated employers. However, because of the nature of their work, some may be misclassified as independent and fall under Part II of the *Status of the Artist Act*, rather than under the *Canada Labour Code*, which provides collective bargaining rights (Part I), occupational health and safety protections (Part II) and labour standards protections (Part III) to employees in federally regulated sectors. To help more workers in federally regulated sectors, including artists and gig workers, gain access to the labour protections they deserve, Budget 2023 committed to “amend the *Canada Labour Code* to improve job protections for federally regulated gig workers by strengthening prohibitions against employee misclassification.” This commitment is also reflected in the December 2021 mandate letter of the Minister of Labour.

For its part, Part II of the *Status of Artist Act* only sets a framework for independent artists to form and join associations in order to bargain scale agreements with federally regulated producers. The Act would be an inappropriate vehicle for tax measures or minimum labour standards; other measures aimed at improving the socio-economic condition of artists that are unrelated to collective bargaining rights are likewise best addressed through other instruments or levers. For instance, amendments to the *Status of the Artist Act* could not directly simplify or reduce the tax burden on artists and creators, which is instead determined according to the *Income Tax Act*. However, the Government agrees that in the event of any amendments to the *Status of the Artist Act*, the Government would carefully consider any potential tax implications for artists.

We appreciate the Committee's fact-finding and analysis; many of the recommendations contained within the report align with the Government's commitment to safeguarding the rights of artists to the values and principles enshrined in the Act. The evidence the Committee has compiled and included in its report will be used to inform the development of any future amendments to the *Status of the Artist Act*.

It is relevant to note that no federally regulated producers were called as witnesses to provide their views during the Committee's study, and that the Government does not advance substantive changes to federal labour legislation without tripartite (i.e., government, labour, employer) consultations. In the interest of fostering a policy that considers all perspectives, further research and consultation on the specific labour issues identified in the recommendations under this theme would be needed before next steps can be considered. This would include a more comprehensive understanding of the scope and impact of these issues, identification of possible interactions with provincial and territorial legislation, and a greater understanding of potential impacts on the labour market.

The Department of Canadian Heritage is working in partnership with Innovation, Science and Economic Development Canada toward their shared commitment to amend the *Copyright Act* to further protect artists, creators, and copyright holders. While a review of the *Status of the Artist Act* is not being considered at this time; we acknowledge the recommendation for future consideration. Given the specific purpose of the Act, a review would not substantially contribute to addressing the majority of concerns related to the basic working conditions of artists as articulated in this study.

## **Theme 2: Tax measures (Recommendations 6, 7, 8, 9)**

The Government thanks the Committee for their recommendations regarding tax measures for artists. The Government is continually reviewing tax proposals to ensure the tax system is as fair and current as possible.

The tax system includes several measures specifically targeted to help artists. Employed artists are entitled to deduct certain expenses related to their artistic endeavours, and self-employed artists are allowed an immediate deduction for the cost of producing their work, even if the work is unsold and remains part of their created inventory.

The arts and culture sector also benefits from certain tax measures provided to businesses. For instance, the Canadian Film or Video Production Tax Credit provides a 25 percent refundable tax credit in respect of salaries and wages. This includes labour expenditures on positions such as scriptwriters, actors, directors, film crews, etc. Alternatively, film and video producers can claim the Film or Video Production Services Tax Credit, which is a 16 percent refundable tax credit in respect of salaries and wages paid to Canadian residents in respect of productions that do not have sufficient Canadian content to qualify for the Canadian Film or Video Production Tax Credit. In addition, in certain circumstances businesses may deduct the cost of acquiring or renting Canadian art.

All Canadians may benefit from general tax relief that the Government has introduced. For example, more money is given back to Canadians by increasing the amount of money they can earn before paying federal income tax, known as the Basic Personal Amount, to \$15,000 as of 2023. This measure builds on the middle-class tax cut implemented in 2016 to reduce the second personal income tax rate to 20.5 percent from 22 percent.

### **Theme 3: Other Programs and Measures (Recommendations 3, 5, 9, 11, 13, 17, 18, 19, 20)**

Beyond its recommendations concerned with the labour conditions and tax situation of artists, the Committee also provided input on principles and programs that could impact the arts and cultural sector more broadly. These suggestions reflect witnesses' nuanced testimony on the factors influencing the status and wellbeing of artists and arts workers, echoing the diversity and complexity of the sector itself. Insights into the priorities of artists beyond the scope of the *Status of the Artist Act* are appreciated, and the Government thanks the Committee for the innovation, range, and ambition represented by these recommendations, which present the Government with excellent material for further consideration.

*The Artist's Resale Right*

The Minister of Canadian Heritage and the Minister of Innovation, Science and Industry share a commitment to implement an Artist's Resale Right (ARR). Their respective departments currently are considering domestic issues and international lessons carefully as they determine how best to proceed. While an ARR potentially affects all artists and arts market professionals, specific consideration must be given to Indigenous artists and those from equity-seeking groups through the policy development process. Further engagement with stakeholders to help better understand the art market is planned.

*Acceleration of Employment Insurance modernization*

The former Minister of Employment, Workforce Development and Disability Inclusion (EWDDI)'s mandate letter directed her to plan to modernize the Employment Insurance (EI) system for the 21<sup>st</sup> century, including consideration of the realities of artists and cultural workers. Modernizing EI, which serves millions of Canadians annually, is a serious undertaking that requires careful consideration and time. To inform the development of a plan on EI modernization, the former Minister of EWDDI held comprehensive consultations with workers, employers, experts, stakeholders, and Canadians, including thematic sessions on EI and self-employed workers with stakeholder groups representing artists and cultural workers.

The Government is committed to building a modernized EI program that better aligns with the realities of the current and future labour market and workforce, including the unique realities of artists and cultural workers. Work is underway on a plan to modernize the program informed by the feedback received from stakeholders and guided by key principles to make the program simpler, more responsive and keeping it financially sustainable.



*Review of best practices from other jurisdictions related to universal basic income programs*

The Government is aware of the arts and culture sector's interest in a universal basic income program and recognizes that such a program is considered as a potential counter to the economic precarity experienced by artists and cultural workers. As part of its activities, Employment and Social Development Canada (ESDC) monitors basic income research and reports, as well as the outcomes of pilots in Canada and internationally. ESDC also conducts ongoing policy analysis of basic income in a Canadian context and has identified many considerations including benefit level and cost, program design and interaction with existing benefits, implementation and interaction with provincial/territorial programming, and impact on the labour market. Going forward, the Government will continue to monitor research and analysis on universal basic income domestically and internationally.

*Ensuring funding and policies benefit our artists and cultural workers*

Through several recommendations, the Committee's report asks the Government to ensure that its resources are applied toward Canadian artists and cultural workers, so that they get the maximum benefit of our investments through funding programs and purchasing policies.

This perspective is echoed in the policies and priorities of Canadian Heritage portfolio organizations, and organizations that deliver funding and other supports to the cultural sector. For example, the Canada Media Fund only funds Canadian audiovisual content. The program requires recipients to make maximum feasible use of Canadian talent in undertaking their projects. In practice, that means funding recipients must be Canadian-controlled companies with head offices in Canada. Television projects require that key creatives be Canadian, the underlying rights must be owned and developed by Canadians, and the television components must be shot primarily in Canada. The programs of the Canada Council for the Arts support Canadian artists and their art through every stage of the creation process – from professional development to research, creation, promotion, exhibition, and presentation, including circulation and touring, across a wide spectrum of artistic disciplines and including support for digital art.

Only Canadian citizens or permanent residents are eligible to apply for Council funding, which means that the vast majority of the Council's funding goes directly into the hands of Canadian artists. With few exceptions, only Canadian organizations are eligible to apply for Council funding to support, promote, and present the work of Canadian artists. In instances where international organizations are eligible to access Council funding, it is to promote Canadian art and artists and to create new networks or opportunities for Canadian art and artists.

Through its purchasing and procurement policies, the Government seeks to ensure that the work of Canadian artists is featured in the buildings it occupies across the country. This is facilitated in part through the Canada Council's Art Bank, a collection of over 17,000 works that is showcased through rentals to government buildings. Currently, artwork is a client-funded activity under the Public Services and Procurement Canada's fit-up standards for construction of office space.

#### *Advancing the arts and cultural sector*

The Committee's recommendations also ask the Government to recognize the evolving nature of the sector and to work cooperatively across departments and jurisdictions to advance the principles and objectives of the *Status of the Artist Act*. As evidenced by ongoing engagement with the cultural sector, regular interactions with provincial and territorial counterparts, as well as significant ongoing and targeted investments in support of the cultural sector, the Government accepts and strongly agrees with these principles.

The report makes clear that the Government's levers to improve the socio-economic conditions of artists are distributed across multiple federal organizations. As part of its duty to advance the principles enshrined in Part I of the *Status of the Artist Act*, the Department of Canadian Heritage commits to continuing its work to convene and contribute to conversations with other federal institutions, including the Departments of Finance, ESDC, and the Canada Revenue Agency, about the measures at the Government's disposal to improve the material conditions of artists consistent with their contribution to Canadian society.

Most workers and workplaces in the cultural sector are subject to labour legislation at the provincial and territorial level. As such, it is critical that protections for artists and cultural workers at the provincial and territorial level are robust, and we applaud those governments that have enacted Status of the Artist legislation. The regular meetings of the federal, provincial, and territorial ministers of culture and heritage are a key opportunity for the Government of Canada to champion protections and supports for artists and cultural workers throughout the country.

The Federal-Provincial-Territorial Table on Culture and Heritage is a mechanism of cooperation between governments to share information and collaborate on matters related to culture and heritage. It offers collective meeting opportunities to discuss issues at the ministerial, head of the department/ministry, and officials' levels, and as such, can be considered one option in the larger toolkit to advocate a federal position, seek input from other levels of government, collaborate and share information. Should any modifications to the *Status of the Artist Act* be proposed, it would be necessary to consult our provincial and territorial counterparts to ensure their jurisdictions are respected.

## **Conclusion**

The Government recognizes the economic challenges faced by the arts and cultural sector and that recovery is uneven and not yet robust. During the pandemic, significant investments were made in support of the operational continuity of arts and culture sector organizations who engage artists and cultural workers, in programs that directly supported and incentivized employment of artists and cultural workers, and in the overall recovery and reopening efforts in the sector.

The Government continues to stand by the arts and culture sector through ongoing commitments delivered through the Department of Canadian Heritage and the organizations within its portfolio, as well as through engagement by other federal departments to hear and understand the concerns of this important sector and its labour force.

The Government of Canada remains steadfastly committed to advancing the principles of the *Status of the Artist Act*, which recognizes the essential contribution of artists to Canadian social, cultural, and economic life and protects the rights of artists and cultural workers. We will continue to work closely with our Cabinet colleagues to champion the importance of the arts sector as an important contributor to the vitality of Canadian communities and our economy.

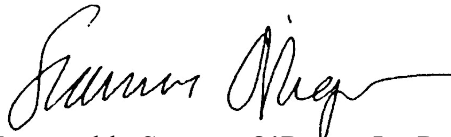
On behalf of the Government, we would like to thank the Committee for its work on behalf of Canada's artists and cultural workers.

Please accept my best wishes.

Sincerely,

A handwritten signature in black ink, appearing to read 'Pascale St-Onge', with a long horizontal flourish extending to the right.

The Honourable Pascale St-Onge, P.C., M.P.

A handwritten signature in black ink, appearing to read 'Seamus O'Regan Jr.', with a long horizontal flourish extending to the right.

The Honourable Seamus O'Regan Jr., P.C., M.P.

c.c.: The Honourable Chrystia Freeland, P.C., M.P.  
The Honourable Randy Boissonnault, P.C., M.P.  
The Honourable François-Philippe Champagne, P.C., M.P.  
The Honourable Jean-Yves Duclos, P.C., M.P.  
The Honourable Marie-Claude Bibeau, P.C., M.P.