



BULLETIN

Canadian Conference of the Arts ~ Conférence canadienne des arts

CULTURAL SECTOR MUST ASSIST GOVERNMENT IN MAKING FEDERAL LABOUR STANDARDS RELEVANT FOR CANADA'S 21st CENTURY WORKFORCE

Ottawa, April 26, 2005 - Last December the Honourable Joe Fontana, Minister of Labour and Housing, announced the appointment of Harry W. Arthurs as Commissioner leading the review of Federal Labour Standards, Part III of the *Canada Labour Code*. The mandate of this Commission is "to provide forward-looking advice so that federal labour standards legislation and programs remain relevant and meet the needs of workplaces in today's rapidly changing environment."

Part III of the *Canada Labour Code* establishes minimum standards of employment for employees and employers under federal jurisdiction including provisions on hours of work, minimum wages, holidays, termination notice, severance pay, unjust dismissal, and various types of leave. Even though other pieces of federal labour legislation were reviewed over the last ten years, Part III has not undergone a comprehensive review since its adoption in 1965. Over the years it has been amended occasionally, but its overall framework does not reflect the reality of the 21st century Canadian workforce.

To "encourage Canadians to think about the challenges created by the changes in the workplace environment, and about legislative and non-legislative options to improve current federal labour standards legislation and policies," the Commission has released a consultation paper. This paper, which is available at www.fls-ntf.gc.ca/en/consrpt-doccons.asp, outlines the topics that will be covered by the review:

- Setting the bar for Federal Labour Standards
- Looking at existing Federal Labour Standards: What works? What does not work?
- New forms of employment relationships and non-standard work
- Balancing work and personal/family responsibilities
- Workplace productivity
- Diversity and changing demographics in the workforce
- Modernizing and clarifying the code's enforcement and administrative provisions

Currently, the Commission is seeking comments on the questions and issues raised in this paper and on any other matter that it is within its mandate. The guidelines and instructions for submissions can be found at: www.fls-ntf.gc.ca/en/submission.asp. Even though there is no deadline for submissions, Canadians are being encouraged to send their concerns as early as possible since they may form the basis for some of the upcoming public consultations.

The call for submissions identifies that Part III of the Labour Standards Act is intended to address "social policy objectives." These objectives are very important for the Canadian Conference of the Arts (CCA) and its members, especially in the area of "Status of the Artist" which is an already defined social policy objective the federal government is committed to. According to Minister Fontana, this Commission will "strive to find the right balance in providing protection to working Canadians while supporting flexibility and productivity in the workplace," and he expects to have the final report of the review and recommendations by January 2006.

As members of the Canadian Conference of the Arts (CCA) will know, the cultural labour force in Canada has a number of key characteristics, which makes it distinct from the Canadian workforce as a whole (for more concrete data, consult table at the end of this bulletin):

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CCA Bulletin — continued

- It is large and growing more quickly, even though self-employment is on the rise right across the country in all sectors of the economy (it accounts for half of all the new jobs created in Canada since 1989).
- It has a high percentage of self-employed individuals who experience awkward working relationships and conditions of work. These include: variable length of contracts and commissions, variable terms and conditions of contracts, short notice of engagements and commissions, sequential stop/start patterns of engagement, concurrent projects and contracts, the need to be available at all hours for work offers, seasonal work, unpredictable locations of work, vulnerability to cultural trends and market “preferences”.
- Workers are highly educated but poorly compensated, with fluctuating earnings.

In March 2001, CCA made a presentation to the Human Resources Standing Committee regarding a proposed reform for the Employment Insurance (EI) program. CCA’s contention at that time was that the program didn’t need reform – it needed a total overhaul. It remains CCA’s belief that Employment Insurance is based on a post-industrial revolution model and is ill-suited to the workforce or workplace of the 21st Century. Two recommendations, echoing CCA’s arguments, were included in the final report of the Standing Committee on Human Resources Development:

“Recommendation 8: In view of the growing incidence of self-employment in the Canadian labour market, the Committee recommends that the government consider developing a framework for extending EI coverage, both in terms of regular and special benefits, to self-employed workers.”

“Recommendation 9: The Committee recommends that the government consider extending better EI coverage to workers employed in both paid and self-employment. In the event that the government does not extend coverage to self-employed workers, a premium refund should be provided to those who work in insurable employment but are unable to establish a claim because they are also self-employed.”

To CCA’s knowledge, no further concrete government action was taken in this area of great importance to the cultural labour force. However, just this past February 2005, the Standing Committee on Human Resources, Skills Development, Social Development and Status of Persons with Disabilities’ Sub-Committee on Employment Insurance Funds, chaired by MP Roger Cuzner, released a report with the following recommendation:

“Recommendation 22: In view of the growing incidence of self-employment in the Canadian labour market, the Committee recommends that the government consider developing a framework for extending EI coverage, both in terms of regular and special benefits, to self-employed workers.”

(The full text of the report can be found online at:

www.parl.gc.ca/infocomdoc/documents/38/1/parlbus/commbus/house/reports/humarp03/07-toc-e.htm#TOCLink19)

Self-employment in the cultural sector is high, in some disciplines as great as 67%. Contrary to popular belief, self-employment does not confer “automatic perks” on those individuals who choose this form of work. Statistics Canada reports that most artists earn less than kitchen and food service helpers, hairstylists and barbers, general farm workers, and ironing, pressing and finishing occupations. In addition, self-employed individuals have no access to the social benefits available to those employed in the workforce, particularly Employment Insurance.

As stated during our presentation to the federal Finance Committee this past November during its pre-budget consultations, “CCA urges an in-depth review by the government of Canada into the specific issues and needs of ALL those involved in self-employment in this country, in the cultural sector and beyond. Such a review is now long overdue. CCA recommends that the *Department of Finance take a leading role in a full and comprehensive study into self-employment in today’s Canadian labour market. The scope should encompass public and private sector models from a variety of situations and countries, with particular emphasis on access to social benefits and developing a framework for extending employment insurance in one form or*



another to self-employed workers.”

For several years now, CCA has been at the forefront of efforts to demonstrate to officials in the Canada Revenue Agency (CRA) the special characteristics of work in the cultural sector, especially as they relate to self-employment – witness the latest iteration of this struggle, with CCA’s ongoing “Fair Taxation for Artists” campaign (see CCA Bulletins 55/04 and 02/05 or www.ccarts.ca/en/fairtax.htm). The issue of better protecting self-employed workers is of major concern to the cultural sector as a whole and should be a concern to MPs and the Canadian government as well.

With focused advocacy efforts in this area, CCA and its members can build on the momentum of the February 2005 Sub-Committee report and the call to participate in the review of the Federal Labour Standards Commission in order to push to resolve this issue.

THE CULTURAL SECTOR WORKFORCE*...

- is 740,000 strong (total direct employment);
- has 20% more people than those working in computer-related occupations;
- grew much more quickly between 1991 and 2000 than the workforce as a whole: 31% compared to 20%;
- is highly educated with recent growth coming largely from those with high education levels;
- earns low incomes, with average earnings (\$29,951) 6% below average earnings in the total labour force in Canada (\$31,757);
- comprises a large number of self-employed workers – 21% versus 8% for the overall labour force; in some artistic occupations, the rate of self-employment is even higher (50% - 67%).

*Source: Canadian Cultural Sector Labour Force study, commissioned by Cultural Human Resources Council from Hill Strategies Research Inc. (2004); and Statistics Canada

Awards Deadline

Note: **April 30th** is the deadline to nominate individuals for CCA’s Diplôme d’honneur and Keith Kelly Award for Cultural Leadership – both to be presented at the National Policy Conference in November. Nomination forms and details on these awards, including past recipients, are available on CCA’s website at www.ccarts.ca. Send in your nominations asap!