

## Important information about managerial agreements under the Entertainment Industry Act 2013 for performer representatives and your obligations.

The new Entertainment Industry Act 2013 brings about some significant changes which performer representatives need to understand and comply with. The main elements are summarised below.

### All agreements

All agreements with performers (performer representative agreements, whether in writing or not, and managerial agreements, which must be in writing) entered into after 1 March 2014 must comply with the Act. Performer representatives, when entering into an agreement with a performer (whether in writing or not) must also provide an information statement to that performer. The information statement is available on the NSW Industrial Relations website at: [http://www.industrialrelations.nsw.gov.au/biz\\_re/s/oirwww/pdfs/Fact sheet for performers.pdf](http://www.industrialrelations.nsw.gov.au/biz_re/s/oirwww/pdfs/Fact%20sheet%20for%20performers.pdf)

There are additional requirements for child performers – see the NSW Industrial Relations website.

Agreements that were entered into before 1 March 2014 cease to operate on 1 March 2015 and must be replaced by an Entertainment Industry Managerial Agreement if the performer representative charges fees higher than the capped amount set out in the Regulations. Further information is also available on the NSW Industrial Relations website.

### Entertainment Industry agreements

There are two types of agreements – an Entertainment Industry Agreement and an Entertainment Industry Managerial Agreement.

An Entertainment Industry Agreement provides 'standard' services to performers and the fees that can be charged under such an agreement are 'capped'. It can be a verbal agreement or it can be in writing.

An Entertainment Industry Managerial Agreement provides one or more of the 'standard' services, plus additional services, for which additional fees can be charged. It must be in writing.

### Agreements for 'standard' services

Under an Entertainment Industry Agreement the role of a 'performer representative' includes providing one or more of the following services:

- Seeking or finding work opportunities for the performer,
- Negotiating terms of an agreement for, and the conditions of, a performance,
- Finalising arrangements relating to the payment of the performer,
- Negotiating arrangements relating to the attendance of a performer at a performance,
- Administering the agreement between a performer and an entertainment industry hirer, and
- Making arrangements for publicity attendances and related publicity responsibilities of a performer.

A performer representative can charge fees for providing these services. However, the Act caps the amount of fees that can be charged for providing these services:

- For film, television or media the maximum that can be charged is 10% of the total amount payable\* to the performer, and
- For live theatre, live musical or live variety performance, the maximum that can be charged is 10% for any period up to 5 weeks, and then 5% for any period after 5 weeks.

\*Note: When calculating the total amount payable to a performer in respect of a performance, the following payments are excluded: Travelling and meal allowances, holiday pay, any long service leave and superannuation payments, any overtime or penalty payments made on an irregular basis (unless these were negotiated by the representative on behalf of the performer) and any award or minimum payments in respect of rehearsals.

A performer representative cannot charge a joining fee, a fee to audition, a retention fee or a fee to enter into a contract.

## Managerial agreements

A performer representative may charge additional fees for additional services in excess of the capped amount if the performer enters into an entertainment industry managerial agreement with the performer representative and the additional services are actually provided to the performer. There are specific requirements to be met in relation to managerial agreements:

- An entertainment industry managerial agreement must be in writing,
- The agreement must specify the additional services that are being provided relate to the management of the reputation, career or career development of the performer,
- The agreement must specify the fees payable for those additional services,
- The agreement must make it clear that both parties acknowledge the additional fees are being charged for the additional services being provided, and
- The agreement must provide a cooling off period of 3 days so that a performer may seek advice and if they wish, terminate the agreement without penalty.

If the parties agree to waive the cooling off period of 3 days, the following notation must be included in the written agreement:

### Notice of Waiver

*I, (name of performer), of (address) give notice that I waive the cooling-off period provided for in this entertainment industry managerial agreement, entered into with (name of performer representative) on (date).*

*This notice is given at the time of entering into the agreement.*

*(Signed)*

*(Date)*

## Terminating managerial agreements

If a performer decides to terminate a managerial agreement during the cooling off period, the following notation should be used:

### Notice of Termination

*I, (name of performer), of (address) give notice that I am terminating the entertainment industry managerial agreement, entered into with (name of performer representative) on (date).*

*This notice is given before the end of the cooling-off period and takes effect at the time given.*

*I acknowledge (name of performer representative) may be entitled to receive such fees, remuneration or payments as are permitted under section 12 of the Entertainment Industry Act 2013, for services provided to me under the managerial agreement before the giving of this notice.*

*(Signed)*

*(Date)*

## Further information

[www.industrialrelations.nsw.gov.au](http://www.industrialrelations.nsw.gov.au)

Fact sheets:

- Information for Performers
- A Guide for Performer Representatives
- Entertainment Industry Managerial Agreements
- Entertainment Industry Managerial Agreement Checklist
- Parents Fact Sheet explaining the Code of Practice

Webinar:

- Entertainment Industry Act 2013

## NSW IR contact details

Should you have any questions about your rights and the obligations of performer representatives in the entertainment industry please contact NSW Industrial Relations on 131 628.