



New South Wales

Entertainment Industry Regulation 2020

under the

Entertainment Industry Act 2013

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Entertainment Industry Act 2013*.

KEVIN ANDERSON, MP
Minister for Better Regulation and Innovation

Explanatory note

The object of this Regulation is to repeal and remake, with minor changes, the provisions of the *Entertainment Industry Regulation 2014*, which would otherwise be repealed on 1 September 2020 by section 10(2) of the *Subordinate Legislation Act 1989*.

This Regulation makes provision with respect to the following matters—

- (a) prescribing the percentages of the total amounts payable to a performer for the performances in respect of which the performer representative provided services under an entertainment industry agreement. This is the maximum amount a performer representative may demand or receive from a performer as fees or other remuneration unless the performer and the performer representative have entered into an entertainment industry managerial agreement,
- (b) prescribing the information that a performer representative is required to provide to a performer, and the parents of a performer who is a child, before entering into an agreement with the performer,
- (c) prescribing certain offences under the *Entertainment Industry Act 2013* as penalty notice offences.

This Regulation is made under the *Entertainment Industry Act 2013*, including sections 9, 13, 35 and 45 (the general regulation-making power).

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*, namely matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

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1 Name of Regulation

This Regulation is the *Entertainment Industry Regulation 2020*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Note. This Regulation repeals and replaces the *Entertainment Industry Regulation 2014*, which would otherwise be repealed on 1 September 2020 by section 10(2) of the *Subordinate Legislation Act 1989*.

3 Definition

(1) In this Regulation—

the Act means the *Entertainment Industry Act 2013*.

Note. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

(2) Notes included in this Regulation do not form part of this Regulation.

4 Fees of performer representatives

(1) For the purposes of section 9(1)(a) of the Act, the following percentages of the total amount payable to a performer in respect of a performance are prescribed—

- (a) in the case of a performance involving live theatre or a live musical or variety performance (being an engagement that does not involve film, television or electronic media)—10% for a period up to 5 weeks and then 5% for a period after 5 weeks,
- (b) in all other cases (including an engagement involving film, television or electronic media)—10%.

(2) For the purposes of subclause (1), the following amounts (being amounts payable to performers) are to be excluded when calculating the total amount payable to a performer in respect of a performance—

- (a) travelling and meal allowances,
- (b) holiday pay,
- (c) long service leave and superannuation payments,
- (d) overtime or penalty payments that are paid on an irregular basis, other than payments resulting from negotiations undertaken by the performer representative on the performer's behalf with the relevant entertainment industry hirer or venue representative,
- (e) award or minimum payments in respect of rehearsals.

5 Information for performers

- (1) For the purposes of section 13(1) of the Act, information relating to the following is prescribed—
- (a) the services that a performer representative may provide to a performer,
 - (b) the effect of an entertainment industry managerial agreement,
 - (c) fees that a performer representative may charge a performer,
 - (d) the cooling-off period for entertainment industry managerial agreements,
 - (e) receipt on behalf of, and payments to, the performer of money,
 - (f) the code of conduct,
 - (g) the obligations of performer representatives, employers and other persons to a child who is a performer during the child's employment in the entertainment industry,
 - (h) contact details for NSW Fair Trading.

Note. The fact sheet entitled "Information for Performers" published on the NSW Fair Trading website (www.fairtrading.nsw.gov.au) provides a summary of the information to be provided to performers.

- (2) For the purposes of section 13(3) of the Act, a performer representative is required, before entering into an agreement with a performer who is a child, to provide the parents of the child with the information specified in subclause (1).

Note. The *Children's Guardian Act 2019* and the *Children and Young Persons (Care and Protection) (Child Employment) Regulation 2015* impose obligations in relation to the employment of children.

6 Repeal and savings

- (1) The *Entertainment Industry Regulation 2014* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Entertainment Industry Regulation 2014*, had effect under that Regulation continues to have effect under this Regulation.

Schedule 1 Penalty notice offences

1 Application of Schedule

For the purposes of section 35 of the Act—

- (a) each offence created by a provision specified in this Schedule is an offence for which a penalty notice may be issued, and
- (b) the amount payable for the penalty notice is the amount specified opposite the provision.

Column 1	Column 2	Column 3
Provision	Penalty—corporations	Penalty—individuals
Offences under the Act		
Section 8(2)	\$660	\$220
Section 14(3)	\$660	\$220
Section 17(5)	\$660	\$220
Section 19(4)	\$660	\$220
Section 29(b)	\$660	\$220