



# INDUSTRIAL WORKERS OF THE WORLD

VANCOUVER GENERAL MEMBERSHIP BRANCH

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## Talent Agencies

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*This Employment Standards Factsheet is also available in a [printable pdf format](#)*

In British Columbia, talent agencies must be licensed under the *Employment Standards Act*.

A licensed talent agency may receive wages from employers on behalf of clients who have performed work in the film and television industry and may deduct commission from those wages.

### Definitions

'Talent Agency' means a person or company that, for a fee, engages in the occupation of offering to procure, promising to procure or procuring employment for actors, performers, extras or technical creative film personnel.

'Technical Creative Film Person' includes: film directors, directors of photography, production designers, art directors, persons involved in writing or rewriting scripts, hair stylists, make-up artists, costume designers, and animal co-ordinators involved in the production of a film, video, television show or television commercial.

### Licensing

A talent agency must apply for a new licence each year. Each licence is issued with an expiry date. To obtain a licence, the agency must complete an application form available at any Employment Standards Branch office or at [www.gov.bc.ca/talent](http://www.gov.bc.ca/talent) on the Internet.

Licence applications can be sent to any Employment Standards Branch office. Applications must include a completed application form, a licence application fee of \$100.00, and a copy of the talent agency's standard contract.

### Bonding

As part of the licensing requirement, a talent agency must post a bond with the Director of Employment Standards. The amount of the bond is based upon the average earnings of a performer, according to the British Columbia Film Commission's yearly statistics. The current bond amount is \$725.

A bond may be in the form of cash, an irrevocable letter of credit, or other security that accords with the *Bonding Act*.

### Responsibilities of Talent Agencies

Talent Agencies must display their licence number on any contract or written agreement made with a client.

Talent Agencies that receive wages from an employer on behalf of a client must ensure that the client receives the wages within the following time limits:

- Five business days of receipt of payment, if payment is made from within British Columbia.
- Twelve business days of receipt of payment, if payment is made from outside British Columbia.

If the talent agency is unable to locate the client in order to pay the wages, it must forward the wages to the Director of Employment Standards within 60 days after wages are received. The Director of Employment Standards will hold the monies in trust for the client and provide a receipt to the talent agency.

### **Talent Agency commission/fee limits**

Talent agencies cannot charge more than 15 percent commission on wages received by their client. The talent agency must ensure that their client receives no less than minimum wage plus vacation pay after the commission is deducted (see below).

The most a talent agency can charge a client for taking and providing photographs is \$25 per year. Other than commission and the maximum \$25 photography fee, no other fees may be charged by the talent agency.

### **Booking fees**

In some sectors of the industry, a producer may pay a talent agent directly for providing talent. This is sometimes called a 'booking fee.' Booking fees are not part of a performer's income and are not subject to the requirements of the *Employment Standards Act*.

Confusion about what is a booking fee and the performer's resulting commissionable income can result if the booking fee is shown on the performer's pay statement as part of the performer's income. Employers and their payroll departments or services must ensure these payments are processed separately.

### **Calculating minimum pay requirements**

An agent must ensure that their client receives, after the commission is deducted, at least minimum wage plus vacation pay. Minimum wage is currently \$8.00 per hour. Vacation pay is also payable on wages earned.

Example: The talent agency charges 15 percent commission. On this job the client only earns minimum wage. Therefore, the production must pay the client at least \$9.57 per hour.

Minimum pay = \$8 per hour  
 + 15 percent commission = \$9.20 per hour  
 + 4 percent annual vacation pay = \$9.57 per hour.

Where there is overtime worked in a day the minimum wage calculation is as follows:  
 Minimum Wage = \$8 per hour

X Overtime Rate (either time-and-a-half or double)  
 + 15 percent commission  
 X 4 percent Annual Vacation Pay

### **Keeping records**

A talent agency must keep the following records for each actor, performer, extra or technical creative film person employed as a consequence of the efforts of the talent agency for two years:

- The amount of money received by the talent agency for the employment.
- The amount the talent agency is claiming as its fee.
- The amount paid to the actor, performer, extra or technical creative film person.
- The name and address for each employer for whom the talent agency provides a service.
- The name and address of each client employed as an actor, performer, extra or technical creative film person as a consequence of the efforts of the talent agency, or who is provided with information about employers seeking actors, performers, extras or technical creative film persons.

The records must be kept in English at the talent agency's principal place of business in British Columbia.

No kickbacks

Talent agencies may not make a payment, directly or indirectly, to a person for obtaining or assisting in obtaining employment for someone else, other than by paying for any form of advertisement placed by the talent agency.

### **Recovery of wages**

The Employment Standards Branch will treat talent agencies that have received wages from an employer on behalf of a client in the same manner as an employer.

If wages received by the talent agency are not paid to a client in accordance with the Act and Regulation, the Branch can take legal action to collect the outstanding wages (including interest on unpaid wages) from the talent agency.

Directors and officers of talent agencies are personally liable for unpaid wages. Should collection against the talent agency fail, a Determination can be issued against each director or officer of the talent agency to collect the outstanding wages.

The Employment Standards Branch cannot recover wages from a director of a talent agency that is in bankruptcy or insolvency.

### **Penalties**

The Director of Employment Standards reserves the right to cancel, suspend or refuse to issue a licence to any talent agency. If a talent agency is in violation of any of the provisions of the Employment Standards Act or Regulation, it may lose its licence and face escalating penalties.