

Entertainment Industry

A guide for agents, managers and venue consultants



The NSW Industrial Relations (NSW IR) licences entertainment industry representatives who obtain or organise work for performers; such as actors, singers, dancers, acrobats, models and musicians.

This document is a guide to the major provisions of the *Entertainment Industry Act 1989* and the Entertainment Industry Regulations 2004.

Entertainment Industry Licences

It is illegal for a person to carry on, or advertise that they carry on, the business of an entertainment industry agent, manager or venue consultant unless the person holds the licence which authorises the activity.

A person may require more than one type of licence according to the range of activities they conduct.

There are three different licence categories:

Entertainment Industry Agent (agent) – a person who, for financial benefit, carries out any one or more of the following activities on behalf of a performer:

- seeking or finding work opportunities
- negotiating the terms of an agreement for a performance and the conditions of that performance
- finalising arrangements concerning the payment of a performer
- negotiating arrangements relating to the attendance of the performer at an event
- administering the contract of a performer with an entertainment industry employer.

Manager – a person (personal representative or personal manager) who represents a performer for financial benefit. They carry out, or arrange to be carried out, any or all of the activities of an agent on behalf of the performer together with other additional specified activities or duties which are contained in a written agreement.

Venue consultant (consultant) – a person who acts on behalf of an entertainment industry employer for a fee or other remuneration paid by that employer, and arranges a performance by a performer at a particular venue.

Important note: It is an offence for a person to carry on (or advertise that the person carries on) the business of an entertainment industry agent, a manager or a venue consultant unless the person holds the particular type of licence which authorises the activity. A person may require more than one type of licence according to the range of activities they conduct.

A person who arranges for a performance solely as an employee of an agent, manager, venue consultant or entertainment industry employer, does not require a licence.

Obtaining a licence

Applications must be in the approved form and lodged, together with the prescribed fee for each type of licence required.

Applications can be obtained from NSW Industrial Relations or downloaded from the website.

Licences will only be granted to people who:

- Are of or above the age of eighteen years;
- Are able to conduct business in the entertainment industry in a proper and business-like manner; and
- Have knowledge of, or experience in, the entertainment industry or a related area.

Successful applicants are provided with a provisional licence which remains in force for a period of twelve months unless it is cancelled or suspended.

Following this initial period, the applicant can apply to continue the licence.

A full licence continues in force from the date on which it is issued until it is cancelled or surrendered, unless it is suspended.

Licence holders who wish to renew should apply for the continuation of the licence before the anniversary of its date of issue.

Applications for continuation must be in the approved form and accompanied by the appropriate fee.

The licence holder must exhibit a copy of the licence at their principal place of business in a prominent position so that it is visible to all people entering the premises.

Fees

In respect to the engagement of a performer, an agent may not demand or receive any fee or other payment if it, and all other payments received (including any other agent) exceeds the prescribed percentage of the amount payable to the performer.

The maximum fees for different types of engagements are as follows:

- Film, television or electronic media – 10 per cent.
- Live theatre, live musical or variety performance (not involving film, television or electronic media) – 10 per cent for any period up to 5 weeks and then 5 per cent for any period thereafter.
- In all other cases – 10 per cent.

The following amounts are to be excluded when calculating the percentage of fees or other remuneration:

- travelling and meal allowances
- holiday pay
- long service leave and superannuation payments
- overtime or penalty payment paid on an irregular basis
- any award or minimum payments in respect of rehearsals.

A consultant may not demand or receive any fee or remuneration in respect of the engagement of a performer from any person other than an entertainment industry employer.

If an agent also acts as a venue consultant, the agent is entitled to demand or receive a fee only as a venue consultant for the performance.

If the fee/remuneration of a manager is not fixed by written agreement, they can't receive or demand any payment which exceeds the prescribed percentage payable.

If a manager also acts as venue consultant, the manager is entitled to receive, in addition to their remuneration as manager, a consultant's fee, but only if agreed to in writing.

An entertainment industry employer may not include in a consultant's fee or other remuneration any payment made by the employer or money owing to a performer.

Trust accounts

Money paid to agent or manager on behalf of a performer which is not paid to the performer immediately must:

- be paid to the credit of a general trust account in a NSW bank and be held in accordance with the regulations; and
- be disbursed as directed by the performer within a period not exceeding 14 days after the performer has become entitled to receive the money.

An agent or manager must keep detailed accounting records of all monies received on behalf of a performer.

If an agent or manager is required to establish a trust account, a bond in the form of cash or a bank guarantee is to be lodged with the NSW IR. If the agent or manager is a provisional licence holder the amount is \$2,000, or an amount determined by the regulation.

An agent or manager who does not receive money on behalf of performers is not required to establish a trust account or lodge a bond.

Need more information or help?

You can contact the NSW Industrial Relations for assistance.

Call us on 131 628 or visit the NSW IR website: www.industrialrelations.nsw.gov.au