



This factsheet has been prepared for general information purposes. It is not a legal document. Please refer to the *Employment Standards Act* and Regulation for purposes of interpretation and application of the law.

August 2017

Talent Agencies

In British Columbia, talent agencies must be licensed under the *Employment Standards Act* (“the 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 a fee from those wages in accordance with the Employment Standards Regulation.

Definitions

“Talent Agency” means a person or company that, for a fee, offers or promises or attempts to procure, or does procure, 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

To obtain a licence, the agency must complete an application form, which is available at any Employment Standards Branch office or online at [Talent Agency Licensing](#)

The completed talent agency application form should be signed by the Director(s), Officer(s), and Owner(s) of the talent agency.

A new application for a talent agency licence must include:

- a completed application form;
- a copy of the talent agency’s standard contract;
- a \$100 annual licensing fee; and
- a bond, currently in the amount of \$725.

A talent agency must renew its licence annually **before the expiry date** by completing the application form and providing the \$100 annual licensing fee.

All licence applications are processed at the Employment Standards Branch office at:

200 – 880 Douglas Street
Victoria, BC V8W 2B7

Mailing address:

P.O. Box 9570 Stn Prov Govt
Victoria, BC V8W 9K1

Bonding

A bond may be in the form of cash, an irrevocable letter of credit, or other security that accords with the *Bonding Act*. Most agencies provide a cheque for the bond amount. The cheque is cashed and the funds held without earning interest. If a talent agency ceases to operate, the bond is returned after the end of the six month period for filing complaints as long as there are no outstanding complaints.

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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; or
- 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 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.

Fees

Talent agencies may charge fees to clients. The amount charged cannot be more than 15% of wages received by the client. The talent agency must ensure that their client receives no less than minimum wage plus vacation pay after the fee is deducted.

Wages include any money paid or payable by an employer for work, but do not include allowances or expenses.

Wages for performers will typically include payments for use fees, meal penalties, wardrobe calls, travel time, audition fees, improv fees, stunt fees, residuals and earnings from commercials airing in TV programs.

Payments that are not considered wages include per diems, travel or mileage expenses, GST, retirement payments, insurance benefits, wardrobe fees, compensation for specialized

items, late payment penalties, delay/recall fees and callback fees.

A talent agency cannot charge a client more than \$25 per year for taking and providing photographs. This fee must be deducted from wages. The 15% fee and the photography fee are the only fees that may be charged by the talent agency.

Booking fees

In some sectors of the industry, a producer may pay a talent agency 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*.

Employers must ensure these payments are processed separately and are not reflected in any way on the performer's pay statements.

Calculating minimum pay requirements

A talent agency must ensure that, after its fee is deducted, its client still receives **at least minimum wage plus vacation pay**.

Minimum wage rates are:

- September 15, 2016 – \$10.85 per hour plus 4% VP of \$.43 – \$11.28 per hour
- September 15, 2017 – \$11.35 per hour plus 4% VP of \$.45 – \$11.80 per hour

Example

A production that pays the client \$15 per hour with the talent agency charging a 15% fee complies with the Act.

Hourly rate	\$15.00
+ 4% vacation pay	<u>.60</u>
Total	\$15.60
- 15 % agency fee	<u>(\$2.34)</u>
= Amount received by client:	\$13.26 per hour

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Where there is overtime worked in a day the client must receive an amount which at least equals minimum wage, applicable overtime and vacation pay for all hours worked.

Keeping records

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

- 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; and
- 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 bankrupt or subject to a proceeding under an insolvency act.

Penalties

The Director of Employment Standards may cancel, suspend or refuse to issue a licence to any talent agency. If a talent agency contravenes any of the provisions of the *Employment Standards Act* or Regulation, it may lose its licence and be subject to escalating penalties.