

**Cinematographic Works (Right to Remuneration) Regulations**  
(SOR/99-194)

**REGULATORY IMPACT ANALYSIS STATEMENT<sup>1</sup>**  
*(This statement is not part of the Regulations.)*

***Description***

A recent amendment to the *Copyright Act* provides for new rights for performers. Among these is a right to remuneration in respect of cinematographic works embodying their performances. More specifically, subsection 17(2) provides that where there is an agreement between the performer and the producer of the cinematographic work, governing the embodiment of the performance in the work and which includes a right to remuneration for the reproduction or other uses of the work, the performer may collect the residuals or remuneration from the other party (producer), a subsequent assignee or any other person who subsequently owns a copyright in the work, and who exploits the work either through its reproduction, its performance in public or its broadcast to the public. Subsection 17(3) limits the application of this right by providing that it may only be exercised when the performer's performance is embodied in a prescribed cinematographic work.

These Regulations prescribe the types of cinematographic works in which this right to remuneration is available. Further, these Regulations provide that the right to remuneration is available only if the contract governing the embodiment of the performer's performance has been concluded on or after the date on which these Regulations come into force.

These Regulations shall come into force on the date of their registration.

***Alternatives***

No alternatives were considered.

***Benefits and Costs***

These Regulations will clearly define the circumstances under which performers may exercise their right to remuneration against original contracting parties, assignees and subsequent owners of copyright in cinematographic works embodying their performances. In so doing, these Regulations will benefit performers.

The cost of these Regulations to the affected industries is not anticipated to be significant.

There will be no additional costs to the Government due to the implementation of these Regulations.

***Consultation***

As a result of a consultative initiative undertaken by the departments of Industry Canada and Canadian Heritage, the following associations were provided with informal drafts of these Regulations: ACTRA Performers Guild, Association des producteurs de films et de télévision du Québec (APFTQ), American Federation of Musicians of the United States and Canada (AFM), Canadian Association of Film Distributors and Exporters (CAFDE), Canadian Film and Television Production Association (CFTPA), Canadian Motion Pictures Distributors Association (CMPDA), and Union des Artistes (UDA).

Draft Regulations have been pre-published in the *Canada Gazette*, Part I on May 2, 1998. Comments were received. After careful consideration, the departments involved decided to proceed to final publication without amendments.

***Compliance and Enforcement***

Compliance and enforcement mechanisms are not required.

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<sup>i</sup> Published in the *Canada Gazette* Part II on May 12, 1999.