



New South Wales

## Entertainment Industry Regulation 2013

under the

Entertainment Industry Act 2013

***[The following enacting formula will be included if this Regulation is made:]***

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

### Explanatory note

The objects of this Regulation are as follows:

- (a) to prescribe the capped amount for a performer representative (being the maximum amount that a performer representative may demand or receive from a performer as fees or other remuneration, unless the performer and performer representative have entered into an entertainment industry managerial agreement),
- (b) to prescribe the documents and information that a performer representative is required to provide to prospective performers and make transitional arrangements for existing performers,
- (c) to prescribe certain offences under the Act as penalty notice offences.

This Regulation is made under the *Entertainment Industry Act 2013*, including sections 9, 11, 35 and 45 (the general regulation-making power).

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# Public consultation draft

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Entertainment Industry Regulation 2013 [NSW]

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## Entertainment Industry Regulation 2013

under the

Entertainment Industry Act 2013

### 1 Name of Regulation

This Regulation is the *Entertainment Industry Regulation 2013*.

### 2 Commencement

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

### 3 Definitions

- (1) In this Regulation:  
*the Act* means the *Entertainment Industry Act 2013*.
- (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 per cent for any period up to 5 weeks and then 5 per cent for any period after 5 weeks,
  - (b) in all other cases (including an engagement involving film, television or electronic media)—10 per cent.
- (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) any long service leave and superannuation payments,
  - (d) any 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) any award or minimum payments in respect of rehearsals.

### 5 Information for performers

- (1) For the purposes of section 13 (1) of the Act, the document entitled "Information for Performers" published on the NSW Industrial Relations website [*date of publication to be inserted before the Regulation is made*] is prescribed.

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Entertainment Industry Regulation 2013 [NSW]

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**Note.** The NSW Industrial Relations website can be found at [www.industrialrelations.nsw.gov.au](http://www.industrialrelations.nsw.gov.au).

- (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 a copy of the document entitled “Parents Fact Sheet explaining the Code of Practice”, published on the website of the Office of the Children’s Guardian [*date of publication to be inserted before the Regulation is made*].

**Note.** The website of the Office of the Children’s Guardian can be found at [www.kidsguardian.nsw.gov.au](http://www.kidsguardian.nsw.gov.au).

## 6 Existing entertainment industry contracts

For the purposes of clause 5 (4) of Schedule 2 to the Act, a performer representative is required to provide each performer with whom the representative had an existing entertainment industry contract immediately before the repeal of the *Entertainment Industry Act 1989* with the following documents within 30 days after that repeal:

- (a) the document entitled “Information for Performers”, published on the NSW Industrial Relations website [*date of publication to be inserted before the Regulation is made*], and

**Note.** The NSW Industrial Relations website can be found at [www.industrialrelations.nsw.gov.au](http://www.industrialrelations.nsw.gov.au).

- (b) if the performer is a child, the document entitled “Parents Fact Sheet explaining the Code of Practice”, published on the website of the Office of the Children’s Guardian [*date of publication to be inserted before the Regulation is made*].

**Note.** The website of the Office of the Children’s Guardian can be found at [www.kidsguardian.nsw.gov.au](http://www.kidsguardian.nsw.gov.au).

## 7 Penalty notice offences and penalties

- (1) For the purposes of section 35 of the Act:
- (a) each offence created by a provision specified in Column 1 of Schedule 1 is an offence for which a penalty notice may be served, and
- (b) the penalty prescribed for each such offence is the amount specified opposite the provision in Column 2 of the Schedule.
- (2) If the reference to a provision in Column 1 of Schedule 1 is qualified by words that restrict its operation to specified kinds of offences, an offence created by the provision is a prescribed offence only if it is an offence of a kind so specified or committed in the circumstances so specified.

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Entertainment Industry Regulation 2013 [NSW]  
Schedule 1 Penalty notice offences

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## Schedule 1 Penalty notice offences

(Clause 6)

<b>Column 1</b>	<b>Column 2</b>
<b>Provision</b>	<b>Penalty</b>
<b>Offences under the Act</b>	
Section 8 (2)	\$660 (in the case of a corporation) \$220 (in any other case)
Section 14 (3)	\$660 (in the case of a corporation) \$220 (in any other case)
Section 17 (5)	\$660 (in the case of a corporation) \$220 (in any other case)
Section 19 (4)	\$660 (in the case of a corporation) \$220 (in any other case)
Section 29 (b)	\$660 (in the case of a corporation) \$220 (in any other case)

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