



EVER SICK! CONSULTING – POLICIES & PROCEDURES

Ever Sick! Consulting Policies and Processes for Worker Classification as Independent Contractors

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Ever Sick! Consulting is committed to ensuring full compliance with federal and provincial legislation regarding worker classification in the talent management and arts sectors. This policy outlines the criteria and processes for classifying talent (artists, performers, creators), talent representatives (agents), and the company itself as independent contractors in contractual relationships. This approach supports Indigenous and queer artistic communities while upholding ethical, legal, and union standards.

The policies draw from Canada Revenue Agency (CRA) guidelines, Ontario's Employment Standards Act, 2000 (ESA), and common law tests (e.g., from cases like *Sagaz Industries Canada Inc. v. 671122 Ontario Ltd.* and *Wiebe Door Services Ltd. v. M.N.R.*). These emphasize evaluating the total relationship - control, tools, financial risk, integration - to distinguish independent contractors (self-employed) from employees.

In the entertainment industry, talent and representatives are typically independent contractors due to project-based work, creative autonomy, and multiple engagements. Misclassification risks include tax liabilities, benefits claims, and penalties. This policy affirms independent contractor status where facts support it and do not create employment relationships.

Special Note for ACTRA Members/Union Members For talent who are ACTRA members (or members of other unions such as UBCP/ACTRA in BC), Ever Sick! Consulting will coordinate engagements strictly in accordance with the relevant ACTRA collective agreement (e.g., Independent Production Agreement (IPA), National Commercial Agreement (NCA), or others). This includes:

- Ensuring all engagements comply with minimum rates, residuals, use fees, working conditions, and contract requirements outlined in the applicable agreement.



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- Using standard ACTRA performer contracts (e.g., Appendix 12 forms) where required.
- Handling work permits, vouchers, and remittance calculations as mandated.
- Prioritizing preference of engagement for ACTRA members and adhering to rules against non-union work for members.
- Coordinating with ACTRA branch representatives (e.g., ACTRA Toronto) for clarifications, approvals, or disputes.

This ensures union protections (e.g., minimum fees, health/safety standards, residuals) are upheld while maintaining the independent contractor framework common in the industry for performers, agents, and management services.

Ever Sick! Consulting will review and update this policy annually or in response to legislative/union changes, consulting legal and union advisors.

1. Policies

The following policies are included in Ever Sick! Consulting's general guidelines for talent representation and consulting services.

Worker Classification Policy Statement: Ever Sick! Consulting operates in talent management, where relationships are typically contractual and project based. Classification is based on the actual working relationship, not contract labels. Independent contractors are self-employed, with autonomy, financial risks, and business-like operations.

As an organization supporting Indigenous and queer creatives, Ever Sick! Consulting respects artistic freedom and entrepreneurial spirit. Classification aligns with CRA/ESA tests to ensure fairness and avoid misclassification.

For our work:

- **Talent (Artists, Performers, Creators):** Classified as independent contractors when they control artistic methods, provide own tools/skills, engage in multiple projects, and bear profit/loss risks.
- **Talent Representatives (Agents):** Classified as independent contractors with autonomy in client management, own resources, and commission-based profits.
- **Ever Sick! Consulting (the Company):** Acts as an independent contractor when providing services to productions/organizations, without subordination.



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Factors like control, tools, and risk differentiate independent contractors from employees.

Our approach is relational and compliant. All parties must understand and declare independent contractor status, providing details on work nature, control, and finances.

Ever Sick! Consulting reserves the right to request additional information, such as:

- Contracts or invoices
- Business registration proof (e.g., GST/HST number)
- CRA rulings or legal opinions

We recognize potential misclassification in the industry but do not use services for reclassification. Parties should consult CRA, Ontario Ministry of Labour, or ACTRA for clarity.

Classification Complaints: Concerns about misclassification are addressed promptly. Reviews use legal criteria. We commit to resolution and recommend direct CRA/Ontario/ACTRA communication. Complaints may lead to contract reviews or terminations.

Ever Sick! Consulting may validate classification by:

- Email follow-up for details
- Specific questions on control/tools/risks
- Requesting CRA rulings/legal opinions

NOTE: Additional steps may apply per case.

Misrepresentation: False classification information may result in:

- Contract termination
- Denial of future engagements
- Fee repayment
- Civil remedies or authority reports

Measures apply to all parties.



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2. Classification Criteria and Processes

Criteria and language appear in agreements and guidelines.

Classification Criteria: Engagements involve independent contractors with meaningful autonomy in talent management.

Talent as Independent Contractors

- Artistic services providers (performers, creators).
- Meet CRA/ESA tests: Work method control, own tools (wardrobe/training), subcontracting ability, financial risk (expenses), career investment, profit/loss opportunity.

Talent Representatives as Independent Contractors

- Portfolio managers.
- Minimum autonomy: Client selection control, own tools (networks/software), non-payment risk, commission profits.

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- Services to productions/organizations under company control, own tools, no subordination, fee-based profit.

Ineligible for Employee Status Unsure parties should consult CRA/ESA/ACTRA before engaging. Ever Sick! Consulting may withdraw if facts indicate employee status.

Application Requirements: Classification questions:

1. Describe services and affiliation.
2. Engaging as:
 - Independent talent/artist
 - Independent representative/agent
 - Client/production seeking services
3. Confirm: Control over methods? Own tools? Bear risks?



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4. Declaration of Independent Contractor Status Describe how criteria are met (control, risks). How does this inform arts work?

For ACTRA/union members: Confirm compliance with relevant collective agreement, including minimums and contracts.

3. Review and Compliance Processes

Reviewing Engagements Initial review by managers/coordinators. Evaluations against criteria for compliance. Questions prompt clarification. Flags lead to discussions.

Assessment Process: Internal Assessment: Minimum two representatives review per criteria. No conflicts. Confidential discussions.

Assessment evaluates factors, compares to legal/union tests, scores autonomy/risk.

Processes for Determining Classification and Priorities: Parties provide satisfying information. If inadequate:

- Seek clarification
- Inform of issues
- Withdraw engagement
- Deem ineligible

Low priority if misclassification risk. Prior engagements reviewed ongoing.

4. Disclaimer

Ever Sick! Consulting cannot guarantee classifications but applies due diligence.

We commit to regular updates based on applicable legislation & laws set out by the applicable governing body and/or in accordance with First Nations, Inuit, and Métis protocols.

Feedback: contact@eversickarts.ca.

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