

Union of Artist Status of Artist Bill Report and analysis

This report has been prepared by the Union of Artist (UoA) and shared with the community of Mauritian Artist and the parent ministry after the press conference held at the “Sant social Marie Reine de la Paix” on this 18th May 2023.

Since its creation in as much as it is an object of the status of the Union of Artist, we have always ways been promoting and lobbying the Ministry of Art and Cultural heritage so that the Mauritian artists finally obtain a legal status.

It has always been our engagement and every time we had an opportunity to address the Minister, the issue of a status for the Mauritian artists has been raised as central to the problems in the profession. This is the reason why we do not understand that the actual Status of Artist bill does not cover that question and has no definition defining an “Artist”. Worst, it reduces the Artist to a post attributed to us by the tourism sector: an entertainer and this is very far from acceptable. The present bill with its actual content and objective guarantees no protection to the Mauritian Artists. We have engaged into serious and concerted activism with the Ministry and the Minister himself to explain the situation of artists who are being reduced to animators or entertainers. The resulting bill is extremely disappointing, yet we hope that the present document will help to avoid a disaster.

The definition that we expected: Who is an artist?

We were expecting to finally have a Mauritian definition of an artist and rather we obtained that of Entertainers a term used by the tourism industry, it has been the strategy used so that our work could be undervalued.

An entertainer, whose work has artistic value and may be protected by copyright, is an artist. The Ministry is by so doing belittling our profession and engagement towards our public. The greatest flaw in the text regarding Artist bill is the absence of a proper definition of the Artist and this cannot be subject to any consensus.

We suggest that the following definition be added – An Artist –

“A person who creates or performs in any field of activity, including but not limited to, writing, Cinema, Theater, Dance, Music, Sound, Visual and Virtual Animation which generates emotions and public infatuation, whether the creation is original or an interpretation which entertains the public and whether or not the work can be protected by copyright.” Please refer to UNESCO 1980 Recommendation concerning the Status of the Artist: survey for consolidated report which says:

““Artist” is taken to mean any person who creates or gives creative expression to, or re-creates works of art, who considers his artistic creation to be an essential part of his life, who contributes in this way to the development of art and culture and who is or asks to be recognized as an artist, whether or not he is bound by any relations of employment or association.”

UNESCO 1980 Recommendation further says about the status:

“The world `status' signifies, on the one, hand, the regard accorded to artists, defined as above, in a society, on the basis of the importance attributed to the part they are called upon to play therein and, on the other hand, recognition of the liberties and rights, including moral, economic and social rights, with particular reference to income and social security, which artists should enjoy.”

The Status of Artist bill

The inclusion in the definition of the **atypical worker** of a subsection that would include the Professional in the arts is correcting an abuse of which the artists have been a victim since the Covid pandemic and the lock down. When the Government decided without any consultation that our local community of artists would receive financial support under the Self-Employed Assistance Scheme (SEAS). This has been denounced by our Union as it had a ripple effect on our members who had employment contracts. Employees who had contracts of employment as entertainers had de facto resigned when they were accepting the SEAS. The artists were excluded from the payroll of their employer as they were benefitting from the SEAS. They were EXCLUDED from the category of workers to be qualified self-employed.

Now it appears that the Minister has decided to restore a status of worker for the artists and the definition of an atypical worker has been modified to obtain that result.

Yet no reference has been made to section 21 of the Workers Rights' Act 2019 which defines what are **compressed hours**. An element which would have bonded the contract of employment for artists with a principle that would imply that the employers of artists should include in the remuneration the hours of preparation needed to be able to perform at a professional level. The proposed definition of “Occasional professional artist”, “Occasional professional in the Arts”, “occasional technical professional”, “professional artist”, “Professional in the Arts”, “specialized professional in the Arts” and finally “Entertainer” creates more confusion and brings even more division among workers of the cultural and artistic industry. The status of Artist cannot be limited to the fact of obtaining or not a “professional card”. It should include measures that guarantee a better remuneration to the artists. The inclusion in that bill of the notion of **compressed hours** for the contract of artists is a must.

It appears that the Status of Artist Bill has and maintains a principle: The exclusion

As mentioned before the Mauritian artists were all categorized as self-employed in the context of the Covid-19 crisis and now all of a sudden without any further consultation, they will no more be self-

employed and they won't be professional in the arts unless their application is approved by obtaining a professional card. Our Union cannot accept a **Status of Artist bill that will exclude** all artists except those who will accept those who will apply to the council. So as to be clearer on that point, the Union considers it abusive and contrary to the objects of the council which are :

- a) Categorise persons engaged as professional artists, etc
- b) Promote the status of professionals in the Arts
- c) Promote the social and economic status of professionals in the Arts

Considering only these three objectives, the Status of Artist bill will be excluding the totality of our local and international artists, as if, the ministry with that bill is creating from scratch a totally new cultural and artistic industry. **The Status of Artists bill is acting as a reset button for the government to force all artists to accept their conditions or lose everything.**

- The Council and Status of Artist bill is long overdue and it is not acceptable that it starts by excluding everybody to then decide who will benefit from the new status that is being created.

The Status of Artist bill is creating approximately 32 posts between the members of the board, the secretary to the board and the Sectoral Expert Committees. All these persons will be paid from public funds, before that even a single rupee is spent on artists. Once again it appears that the Ministry is using the opportunity of this Status of Artist bill to place its people and we all know how things turn out when they take such directions.

We can guess that many will line up to obtain an appointment on one or the other of the Sectoral Expert Committee to benefit from the incumbent responsibility and remuneration. But we warn those, that history and the future generations will be their judge and that is the reason why the Union of Artists recommends that none of its members participate in any of those instances created by the Status of Artists bill.

All the Sectoral Experts will be paid such fee or allowance as the Minister may determine.

The proposed remuneration at **Section 9(4)** will create a dirty race among those who will be candidate for the council and its sectoral committees. Many are today sitting on the fence hoping that their name will be called to get easy money on the head of all artists in Mauritius.

How are the sectoral experts recruited by the minister going to treat the artists who today are resisting this text which cannot be voted in its actual form and content? How will the interview of the applicant be after recommendation of the Minister? It is crucial to note that the law provides the following:

Section 27: “ (1) The minister may make such regulations as he thinks fit for the purpose of this Act. (2) Any regulations made under section (1) may provide – (a) levying of fees and taking of charges ; (b) the manner by which a professional card may be renewed; (c) that any person ... contravenes ... shall ... on conviction, be liable to a fine not exceeding 50,000”

Section 22: “Powers of the Minister” - (1) The Minister may give such directions of a general nature to the board, not inconsistent with this Act, as he considers necessary in the public interest, and the Board shall comply with such directions. (2) The Minister may require the board to furnish such information in such manner and at such time as he thinks necessary with respect to the activities of the council and the board shall supply such information.

It appears clearly that the Council and the Sectoral Expert Committees will be the executants of the minister.

The Council will also have a Register, we don't know, apart from evident personal data collection purpose, what the purpose of that Register will be (Section 15). But we can understand that this register will be a source of fund for the Council as any person wishing to consult the Register will pay a fee as may be prescribed. The artists will also be contributing to the financial needs of the council as their application will be accompanied by the payment of a fee (**Section 14 (2) – ... non-refundable processing fee**).

Some other aspects of this bill must also be regarded with care **Section 19**, which will allow an artist to sell or transfer his authors' rights to the Council without the intervention of the **attorney general to review the transaction**. Article 910 which is being quoted in the Status of Artist bill make reference to the fact that someone cannot without the approval of the attorney general transfer is rights or property to someone else. The Status of Artist bill is removing the obligation of control and allowing the Council to accept donations from artists. Under which conditions would an artist's wish to donate his heritage to the Council? We will leave this as an open question for all artists to meditate about.

Finally, we cannot understand the **double standard** applied between **section 23** Protecting from any liability civil or criminal, the council and its dependants for any act done or omitted to be done. On the other hand we have **Section 26** a sentence of 12 month imprisonment and a fine not exceeding 100,000 for any artist who would obstruct any staff of the council in the discharge of his functions.

We recommend that the Ministry of Art and Cultural heritage reviews the bill to include a status for artist, with solid measures to **protect, promote**, enhance the **social and economic status of artists** and all Mauritian artists can at last trust that the state of Mauritius value their work not only for the money that it generates but also for the national identity it contributes to built.

We consider that the following must be considered:

- **Les heures de travail doivent inclure le temps de préparations, les trajets, les répétitions, le repos hebdomadaire et les congés payés. (Section 21 WRA 2019 Compressed hours)**
- **Déterminer un budget afin d'attirer nos artistes Internationaux sur la scène locale avec des évènements nationaux et publics durant lesquels nos jeunes talents sont mis de l'avant. (ex : Fête de la musique, fête de l'indépendance ou**

encore la journée du patrimoine) Les fonds alloués pour ce genre d'activités doivent être non transférable à d'autres activités.

- Le Ministère des Arts et de la Culture doit financer une Bourse d'étude réservée aux artistes. Différentes bourses et catégories doivent être envisagées pour que le secteur artistique et culturel regroupe diverses disciplines.
- Le ministère des finances doit récompenser et encourager la collaboration entre le secteur public et privé pour l'organisation des activités artistiques. (plastique, danse, arts visuels, musical, ...etc.)
- Les entreprises du secteur privé qui soutiennent les artistes doivent bénéficier d'encouragements fiscaux.
- Le ministère des arts, de la culture et du patrimoine doit avoir les moyens nécessaires pour la création de Maison des Arts et de la Culture afin de valoriser la culture sous tous ses aspects. Il est également nécessaire que ces maisons de l'art et de la culture soient présentes sur tout le territoire. (District par District)
- Les artistes mauriciens doivent avoir accès au DUTY FREE. Les accessoires et instruments de musique coûtent très cher et sont trop souvent un frein à l'épanouissement de l'artiste. Les artistes devraient bénéficier des facilités « DUTY FREE ».
- Les artistes doivent bénéficier d'une assiette fiscale adaptée en raison de la nature de leurs activités. Pour ces mêmes raisons, un plan de pension spécial doit être mis en place pour eux.
- Plus de temps d'antenne doit être accordé aux artistes locaux. (objectif 50% Local)

The above points have already been communicated to the Ministry of Art and Cultural heritage and the Ministry of Finance after the recent pre-budgetary consultations.