



Australian Film Commission Act 1975

Act No. 6 of 1975 as amended

[Note: This Act was repealed by Act No. 13 of 2008 on 1 July 2008]

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The text of any of those amendments not in force
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be
affected by application provisions that are set out in the Notes section

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An Act to establish an Australian Film Commission

Part I—Preliminary

1 Short title *[see Note 1]*

This Act may be cited as the *Australian Film Commission Act 1975*.

2 Commencement *[see Note 1]*

- (1) Subject to subsection (2), this Act shall come into operation on the day on which it receives the Royal Assent.
- (2) Part VI shall come into operation on a date to be fixed by Proclamation.

3 Interpretation

- (1) In this Act, unless the contrary intention appears:

Australian program means a program:

- (a) that has been made wholly or substantially in Australia and that, in the opinion of the Commission, has a significant Australian content;
- (b) that is to be made wholly or substantially in Australia and that, in the opinion of the Commission, will have a significant Australian content; or
- (c) that has been, or is to be, made in pursuance of an agreement or arrangement entered into between the Government of the Commonwealth or an authority of the Commonwealth and the Government of another country or an authority of the Government of another country.

Australian short film means:

- (b) any short film:
 - (i) that is an Australian program; and

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- (ii) not less than 80 per centum of the content of which in terms of duration has been made specifically for that film;

but does not include a film referred to in paragraph (b) that:

- (c) is primarily produced for the purpose of promoting a product or service;
- (d) promotes a product or service of a person who has borne the whole or a part of the cost of producing the film; or
- (e) is a news-reel or news-magazine or a trailer or other advertizing film.

authorized person means a member of the Commission or of the staff of the Commission authorized by the Commission for the purposes of the provision in which the expression occurs.

broadcast means to transmit by way of television or radio.

CEO or **Chief Executive Officer** means the CEO of the Commission appointed by the Minister under section 28B.

Chair means the Chair of the Commission.

Commission means the Australian Film Commission established by this Act.

Deputy Chair means a Deputy Chair of the Commission.

film means an aggregate of images, or of images and sounds, embodied in any material.

First Deputy Chair means the person who, under section 19, is the First Deputy Chair of the Commission.

member means a member of the Commission, and includes the Chair.

national collection means:

- (a) the programs that are owned by, or are in the possession of, the Commission from time to time; and
- (b) all material associated with programs that is owned by, or is in the possession of, the Commission from time to time.

program means:

- (a) a recording; or
- (b) an aggregate of images or sounds, or of images and sounds, that is, or is intended to be, broadcast without first having been recorded.

recording means:

- (a) a film; or
- (b) an aggregate of sounds embodied in any material.

Second Deputy Chair means the person who, under section 19, is the Second Deputy Chair of the Commission.

short film means a film that:

- (a) is less than 60 minutes in duration; and
- (b) is designed for, or produced with a view to, theatrical exhibition.

- (1A) A reference in this Act to the distribution of programs includes a reference to the presentation of programs.
- (1B) A reference in this Act to the making of programs includes a reference to the compilation or preparation of programs.
- (1C) Where a word has a particular meaning in this Act, other parts of speech and grammatical forms of that word have corresponding meanings.
- (2) In considering whether a program has or will have a significant Australian content, the Commission shall have regard to:
 - (a) the subject-matter of the program;
 - (b) the place or places where the program was, or is to be, made;
 - (c) the nationalities and places of residence of:
 - (i) the persons who took part, or are to take part, in the making of the program (including authors, composers, actors, scriptwriters, editors, producers, directors and technicians);
 - (ii) the persons who own, or will own, the shares or stock in the capital of any company concerned in the making of the program; and
 - (iii) the persons who have, or will have, the copyright in the program;

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- (d) the source from which moneys used, or to be used, in the making of the program were, or will be, derived; and
- (e) any other matters that it thinks relevant.

3A Application of the *Criminal Code*

Chapter 2 of the *Criminal Code* applies to all offences against this Act.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Part II—Establishment, functions and powers of the Commission

4 Establishment of Australian Film Commission

- (1) There is established by this Act a Commission by the name of the Australian Film Commission.
 - (2) The Commission:
 - (a) is a body corporate, with perpetual succession;
 - (b) shall have a common seal;
 - (c) may acquire, hold and dispose of real and personal property; and
 - (d) may sue and be sued in its corporate name.
- Note: The *Commonwealth Authorities and Companies Act 1997* applies to the Commission. That Act deals with matters relating to Commonwealth authorities, including reporting and accountability, banking and investment, and conduct of officers.
- (3) All courts, judges and persons acting judicially shall take notice of the common seal of the Commission affixed to a document and shall presume that it was duly affixed.

5 Functions of Commission

- (1) The functions of the Commission are:
 - (a) to encourage, whether by the provision of financial assistance or otherwise, the making, promotion, distribution and broadcasting of Australian programs; and
 - (b) to promote and distribute any programs; and
 - (c) subject to the approval of the Minister, to provide financial assistance to a State or an authority of a State for the purchase by it of:
 - (i) Australian programs that are of an educational nature and of national interest or importance; and
 - (ii) rights in respect of any such programs; and

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- (d) to encourage, whether by the provision of financial assistance or otherwise, the proper keeping of recordings in archives in Australia; and
 - (e) to develop, maintain and preserve a national collection; and
 - (f) to exhibit, or to make available for exhibition by others, items in the national collection; and
 - (g) to make items in the national collection available to such persons and institutions, and in such manner and subject to such conditions, as the Commission determines.
- (1A) In the performance of its functions, the Commission shall give special attention to the encouragement of:
- (a) the making of experimental programs and programs of a high degree of creativeness; and
 - (b) the making and appreciation of Australian programs and other programs as an art form.
- (1B) The Commission must use every endeavour to make the most advantageous use of the national collection in the national interest.
- (2) The functions of the Commission specified in paragraphs (1)(a) and (b) may be performed either within or outside Australia.
- (3) The Commission may carry out a matter within the functions specified in paragraph (1)(b) by commissioning a person to undertake that matter.
- (4) The Commission may perform its functions to the extent only that they are not in excess of the functions that may be conferred on the Commission by virtue of any of the legislative powers of the Parliament, and, in particular, may perform its functions:
- (a) by way of expenditure of moneys that are available for the purposes of the Commission in accordance with an appropriation made by the Parliament;
 - (b) by way of, or in relation to, trade and commerce with other countries, among the States, between Territories or between a Territory and a State;
 - (c) for purposes related to broadcasting services;
 - (d) so far as they relate to the collection of statistics;
 - (e) for purposes related to external affairs; and
 - (f) for purposes in relation to a Territory.

6 Powers of Commission

- (1) The Commission has power to do all things necessary or convenient to be done for or in connexion with the performance of its functions and, without limiting the generality of the foregoing, has power:
- (a) to guarantee the repayment of, and payment of interest on, loans (including bank overdrafts);
 - (b) to provide financial assistance to persons concerned with the making, promotion, distribution or broadcasting of Australian programs under arrangements that entitle the Commission to receive a share of the proceeds derived from the sale, hire, distribution or broadcasting of the programs;
 - (c) to acquire rights in respect of programs;
 - (d) to accept gifts, devises, bequests and assignments made to the Commission (whether on trust or otherwise); and
 - (e) to act as trustee of moneys, recordings or other property vested in the Commission upon trust, or to act on behalf of the Commonwealth or an authority of the Commonwealth in the administration of a trust relating to programs or to matters connected with programs.
- (1A) Without limiting subsection (1), the Commission also has the following powers in relation to the national collection:
- (a) to purchase programs or material associated with programs, to take programs or material associated with programs on hire and to accept programs or material associated with programs on deposit or loan or as a gift; and
 - (b) to make programs or material associated with programs available by hire, loan, sale or otherwise.
- (1B) Without limiting subsection (1), the Commission may make available services in relation to programs or material associated with programs. The Commission may charge fees for the services, but such fees must be approved in writing by the Minister.
- Note: Under subsection 33(3A) of the *Acts Interpretation Act 1901*, services may be specified by reference to a particular class or classes of service.
- (2) The power of the Commission to give guarantees is subject to such limits as the Finance Minister determines as to the total amount of

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moneys (other than interest) the payment of which may at any time be the subject of such guarantees.

- (3) Notwithstanding anything contained in this Act, any money, recordings or other property held by the Commission upon trust shall be dealt with in accordance with the powers and duties of the Commission as trustee.
- (4) The annual report on the Commission under section 9 of the *Commonwealth Authorities and Companies Act 1997* must also include a statement of:
 - (a) the guarantees given by the Commission under paragraph (1)(a) during the year to which the report relates;
 - (b) the limits that the Finance Minister has determined under subsection (2); and
 - (c) the total amount the subject of the guarantees referred to in paragraph (a).
- (5) The annual report on the Commission under section 9 of the *Commonwealth Authorities and Companies Act 1997*, in respect of a financial year, must include particulars of all disposals of items in the national collection during that financial year that the Commission considers were significant items in the national collection.
- (6) The annual report of the Commission under section 9 of the *Commonwealth Authorities and Companies Act 1997*, in respect of a financial year, must include a report of the operations relating to the national collection.
- (7) The Finance Minister may, by written instrument, delegate any of the Finance Minister's powers or functions under this section to an official (within the meaning of the *Financial Management and Accountability Act 1997*). In exercising powers or functions under a delegation, the official must comply with any directions of the Finance Minister.
- (8) In this section:

Finance Minister means the Minister who administers the *Financial Management and Accountability Act 1997*.

7 Commission may form company for certain purposes etc.

The Commission may, with the approval of the Minister but not otherwise, form, or participate with another person in the formation of, a company for the purpose of carrying on the business of promoting or distributing programs and acquire, hold and dispose of shares or stock in the capital of a company carrying on such a business.

8 Directions to Commission by Minister

- (1) The Minister may, by writing under his or her hand, give directions to the Commission with respect to the exercise of its powers or the performance of its functions but shall not give such a direction with respect to a particular project.
- (3) Where the Minister gives a direction under this section, he or she shall, within 15 sitting days after giving that direction, lay before each House of the Parliament a copy of the direction together with his or her reasons for giving the direction.

10 Requirement with respect to the exhibition of Australian short films

- (1) For the purpose of carrying out its functions of encouraging the making, promotion and distribution of Australian programs, being films, the Commission or an authorized person may serve, either personally or by post, on:
 - (a) a foreign corporation or trading corporation formed within the limits of the Commonwealth that carries on the business of exhibiting films in a theatre or theatres in Australia; or
 - (b) any other person who carries on the business of exhibiting films in a theatre or theatres in Australia;a requirement in writing in accordance with this section.
- (2) A requirement referred to in subsection (1) shall:
 - (a) specify:
 - (i) the period to which it relates, being a period commencing not earlier than the date on which the requirement is served; and
 - (ii) the theatre or theatres to which it relates; and

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- (b) require that:
- (i) a specified proportion of the number of short films exhibited by the person on which or on whom the requirement is served in the specified theatre or theatres during the specified period be films certified by the Commission to be Australian short films; or
 - (ii) a specified proportion of the time devoted to the exhibition of short films by that person in the specified theatre or theatres during the specified period be devoted to the exhibition of films certified by the Commission to be Australian short films.
- (3) A requirement referred to in subsection (1) may be so expressed as to include both a requirement of the kind referred to in subparagraph (2)(b)(i) and a requirement of the kind referred to in subparagraph (2)(b)(ii).
- (4) A person shall comply with a requirement served on him or her under subsection (1).
- Penalty: \$200.
- (5) Subsection (4) does not apply if the person has a reasonable excuse relating to the availability of Australian short films.
- Note: A defendant bears an evidential burden in relation to the matter in subsection (5) (see subsection 13.3(3) of the *Criminal Code*).
- (5A) Subsection (4) is an offence of strict liability.
- Note: For *strict liability*, see section 6.1 of the *Criminal Code*.
- (6) A requirement shall not be made under this section unless there is in force a regulation declaring that such requirements may be made on or after a specified date and such a requirement shall not be made before the specified date.
- (7) The regulations may make provision, not inconsistent with this section, with respect to any matter in relation to the exercise of the power to make requirements under this section (which may include provision with respect to the proportions that are to be, or may be, specified in such a requirement), and that power shall not be exercised otherwise than in accordance with any regulations so made and in force.

- (8) An application may be made to the Administrative Appeals Tribunal for review of a requirement made under this section.

11 Observance of obligations under OECD Code

The Minister shall give such directions to the Commission under section 8 as he or she thinks necessary for the purpose of ensuring the observance, in the exercise of powers under section 10, of the obligations of Australia under the Code of Liberalisation of Current Invisible Operations of the Organization for Economic Co-Operation and Development, and the Commission shall comply with those directions.

12 Commission to keep itself informed as to film industry

For the purposes of performing its functions, the Commission shall keep itself informed, whether by the collection of statistics, the conduct of market research or otherwise, of all aspects of making, promoting, distributing and broadcasting programs in Australia.

13 Commission may engage consultants

The Commission may engage persons having suitable qualifications and experience as consultants to the Commission.

14 Delegation by Commission

- (1) Subject to any direction of the Minister, the Commission may, either generally or as otherwise provided by the instrument of delegation, by writing under its common seal, delegate to a member of the Commission, to the CEO or to a member of the staff of the Commission any of its powers under this Act, other than this power of delegation.
- (2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Commission.
- (3) A delegation under this section does not prevent the exercise of a power by the Commission.

Part III—Constitution and meetings of the Commission

15 Constitution of Commission

- (1) The Commission shall consist of a Chair and at least 5 other members.
- (2) The members of the Commission shall be appointed by the Governor-General.
- (3) The members of the Commission shall be appointed either as full-time members or as part-time members.
- (4) The members of the Commission may include not more than one member of the staff of the Commission.
- (5) The exercise or performance of a power or function by the Commission is not affected by reason only of there being a vacancy in the office of a member.

16 Terms and conditions of appointment

- (1) Subject to this Act, a member holds office for such period, not exceeding 5 years, as is specified in the instrument of his or her appointment and on such terms and conditions as the Governor-General determines, but is eligible for re-appointment.

17 Remuneration and allowances

- (1) A member shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by the Tribunal is in operation, he or she shall be paid such remuneration as is prescribed.
- (2) A member shall be paid such allowances as are prescribed.
- (3) Subsections (1) and (2) have effect subject to the *Remuneration Tribunal Act 1973-1974*.

- (4) The remuneration and allowances of a member shall be paid out of the moneys of the Commission.

18 Leave of absence

- (1) A full-time member has such recreation leave entitlements as are determined by the Remuneration Tribunal.
- (2) The Minister may grant a full-time member leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.

19 Deputy Chair

- (1) The Governor-General may appoint a person who is, or is to be, a member to be a Deputy Chair of the Commission.
- (1A) The Governor-General may appoint a maximum of 2 Deputy Chairs.
- (1B) Subsections (1C), (1D) and (1E) set out the rules as to seniority of Deputy Chairs.
- (1C) If there is only one Deputy Chair at a particular time, that person is the First Deputy Chair of the Commission.
- (1D) Subject to any determination made by the Minister under subsection (1E), if there are 2 Deputy Chairs at a particular time:
 - (a) the Deputy Chair appointed earliest in time is the First Deputy Chair of the Commission; and
 - (b) the other Deputy Chair is the Second Deputy Chair of the Commission.
- (1E) If there are 2 Deputy Chairs at a particular time, the Minister may determine which of the 2 Deputy Chairs is to be the First Deputy Chair of the Commission. The Deputy Chair who is the subject of the determination is the First Deputy Chair of the Commission and the other Deputy Chair is the Second Deputy Chair of the Commission.
- (2) A person appointed under this section holds office as a Deputy Chair until the expiration of his or her period of appointment as a member or until he or she sooner ceases to be a member.

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- (3) If:
- (a) a person ceases to be a Deputy Chair because the period of his or her appointment as a member has expired; and
 - (b) the person is re-appointed as a member;
- then he or she is eligible for re-appointment as a Deputy Chair.
- (4) A Deputy Chair may resign his or her office of Deputy Chair by writing signed by him or her and delivered to the Governor-General.

20 Acting members

- (1) Subject to subsection (2), where there is a vacancy in the office of Chair, the Minister may appoint a person to act in the place of the Chair until the filling of the vacancy.
- (2) A person appointed under subsection (1) to act in the place of the Chair shall not continue so to act after the expiration of a period of 12 months after the occurrence of the vacancy.
- (3) Where the Chair is absent from duty or from Australia or is, for any other reason, unable to perform the duties of his or her office:
- (a) the First Deputy Chair must act in the place of the Chair; or
 - (b) if the First Deputy Chair is not available to act in the place of the Chair, the Second Deputy Chair (if any) must act during the absence or inability of the First Deputy Chair; or
 - (c) if:
 - (i) there is no Deputy Chair; or
 - (ii) a Deputy Chair is not available to act in the place of the Chair;the Minister may appoint a member to act in the place of the Chair during the absence or inability of the Chair. Any such appointment ceases to have effect if a person is appointed in the place of a Deputy Chair or a Deputy Chair becomes available to act in the place of the Chair.
- (4) Where a member other than the Chair is acting in the place of the Chair, is absent from duty or from Australia, or is, for any other reason, unable to perform the duties of his or her office, the Minister may appoint a person to act in the place of that member during the period during which that member is so acting, absent or unable to perform the duties of his office.

- (5) A person appointed under subsection (4) to act in the place of a member who is the Deputy Chair is not entitled to act as the Deputy Chair.
- (6) A person acting, or appointed to act, in accordance with this section, in the place of the Chair has all the functions, powers and duties of the Chair and, for the purpose of constituting a quorum at a meeting of the Commission, shall be treated as the Chair.
- (7) Subject to subsection (5), a person appointed to act, in accordance with this section, in the place of a member other than the Chair has all the functions, powers and duties of that member and shall, for the purpose of constituting a quorum at a meeting of the Commission, be treated as that member.
- (8) The Minister may:
 - (a) subject to this Act and having regard to the terms and conditions of appointment applicable to members, determine terms and conditions of appointment (including remuneration and allowances) of a person appointed under this section; and
 - (b) at any time terminate such an appointment.

21 Persons having certain interests not to be eligible for appointment etc.

A person having a direct or indirect pecuniary interest in a business or other undertaking involving the making, promotion, distribution or broadcasting of programs, otherwise than as a member, and in common with the other members, of an incorporated company consisting of not less than 25 persons, is not eligible:

- (a) to be appointed under section 15 as, or to remain, a full-time member; or
- (b) to be appointed under section 20 to act, or to continue to act, in the place of a full-time member.

23 Termination of appointment

- (1) The Governor-General may terminate the appointment of a member by reason of misbehaviour or physical or mental incapacity.

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- (2) If:
- (a) a member:
 - (i) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
 - (ii) fails to comply with an obligation imposed on him or her by section 27F or 27J of the *Commonwealth Authorities and Companies Act 1997*; or
 - (b) a full-time member:
 - (i) is not, by virtue of section 21, eligible to remain as a full-time member;
 - (ii) engages, without the consent of the Minister, in any paid employment outside the duties of his or her office; or
 - (iii) is absent from duty, except on leave of absence, for 14 consecutive days or for 28 days in any period of 12 months;
- the Governor-General shall terminate the appointment of that member.
- (3) If a part-time member is, without the prior consent of the Chair, absent from 2 consecutive meetings of the Commission the Governor-General may terminate the appointment of that member.

24 Resignation

A member may resign his or her office by writing signed by him or her and delivered to the Governor-General.

25 Act of Commission not to be questioned

The validity of an act done by the Commission shall not be questioned in any proceeding on a ground arising from the fact that:

- (a) a person purporting to be appointed under section 15 or 20 was, by virtue of section 21, not eligible to have been so appointed; or

- (b) the occasion for the appointment of a person purporting to have been appointed under section 20 had not arisen or that the appointment under that section had ceased to have effect.

28 Meetings

- (1) Subject to this section, the Chair shall convene such meetings of the Commission as are, in his or her opinion, necessary for the efficient conduct of its affairs.
- (2) The quorum for a meeting shall be 5 members.
- (3) A question arising at a meeting of the Commission shall be decided by a majority of the votes of members present and voting.
- (4) The Chair shall preside at all meetings at which he or she is present.
- (5) In the event of the absence of the Chair from a meeting, the most senior Deputy Chair present (see section 19 for the rules as to seniority of Deputy Chairs) shall preside at that meeting.
- (6) In the event of the absence of the Chair, the First Deputy Chair of the Commission and the Second Deputy Chair of the Commission from a meeting, the members present shall elect one of their number to preside at that meeting and the person so elected shall preside accordingly.
- (7) At a meeting, the Chair or other member presiding has a deliberative vote and, in the event of votes being equal, has a casting vote.
- (8) The Commission may regulate and conduct the proceedings at its meetings as it thinks fit and shall keep minutes of those proceedings.
- (9) If the Commission so determines, a member of the Commission may participate in, and form part of a quorum at, a meeting of the Commission by means of any of the following methods of communication:
 - (a) telephone;
 - (b) closed circuit television;
 - (c) another method of communication determined by the Commission.

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- (10) A determination of the Commission under subsection (9) may be made in respect of a particular meeting, or in respect of all meetings of the Commission.
- (11) A member of the Commission who participates in a meeting as provided by subsection (9) shall be taken for the purposes of this Part to be present at the meeting.
- (12) If the Commission so determines, a resolution shall be taken to have been passed at a meeting of the Commission if, without meeting, a majority of the number of members who would, if present at a meeting of the Commission and entitled to vote on the resolution at that meeting, have constituted a quorum of the Commission indicate agreement with the resolution in accordance with the method determined by the Commission.

Part IV—Staff

Division 1—CEO

28A CEO to manage Commission

The CEO is responsible for managing the affairs of the Commission. Except in relation to the CEO's powers under the *Public Service Act 1999*, the CEO is to act in accordance with any written direction given by the Commission to him or her.

28B Appointment of CEO

- (1) The CEO is to be appointed by the Minister by written instrument.
- (2) The CEO holds office for the period specified in the instrument of appointment. The period must not exceed 5 years.
- (3) The CEO is to be appointed on a full-time basis.
- (4) The CEO is eligible for reappointment.

28C Remuneration and allowances of CEO

- (1) The CEO is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the CEO is to be paid the remuneration that is prescribed by the regulations.
- (2) The CEO is to be paid the allowances that are prescribed by the regulations.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

28D Leave of absence

- (1) The CEO has the recreation leave entitlements that are determined by the Remuneration Tribunal.

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- (2) The Minister may grant the CEO leave of absence, other than recreation leave, on the terms and conditions, as to remuneration or otherwise, that the Minister determines in writing.
- (3) The Chair may grant the CEO leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Chair determines, if the period of leave of absence is less than 5 working days.

28E Resignation

The CEO may resign his or her appointment by giving the Minister a written resignation.

28F Disclosure of interests

The CEO must give written notice to the Minister, and to the Commission, of all interests, pecuniary or otherwise, that the CEO has or acquires and that could conflict with the proper performance of the CEO's duties.

28G Outside employment

The CEO must not engage in paid employment outside the duties of his or her office without the Minister's approval.

28H Termination of appointment

Misbehaviour or incapacity

- (1) The Minister may terminate the appointment of the CEO for misbehaviour or physical or mental incapacity.

Bankruptcy etc.

- (2) The Minister must terminate the appointment of the CEO if:
 - (a) the CEO:
 - (i) becomes bankrupt; or
 - (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
 - (iii) compounds with his or her creditors; or

- (iv) makes an assignment of his or her remuneration for the benefit of his or her creditors; or
- (b) the CEO is absent, except on leave of absence granted under section 28D, for 14 consecutive days, or for 28 days in any 12 months; or
- (c) the CEO fails, without reasonable excuse, to comply with section 28F; or
- (d) the CEO engages, except with the Minister's approval, in paid employment outside the duties of his or her office.

Invalidity

- (3) In spite of anything contained in this section, if the CEO:
 - (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
 - (b) has not reached his or her maximum retiring age (within the meaning of that Act);then he or she is not capable of being retired from office on the ground of invalidity (within the meaning of Part IVA of that Act) unless the Board (within the meaning of that Act) has given a certificate under section 54C of that Act.
- (4) In spite of anything contained in this section, if the CEO:
 - (a) is a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; and
 - (b) is under 60 years of age;then he or she is not capable of being retired from office on the ground of invalidity (within the meaning of that Act) unless the Board (within the meaning of that Act) has given a certificate under section 13 of that Act.
- (5) In spite of anything contained in this section, if the CEO:
 - (a) is an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*; and
 - (b) is under 60 years of age;then he or she is not capable of being retired from office on the ground of invalidity (within the meaning of that Act) unless the Board (within the meaning of that Act) has given an approval and certificate under section 43 of that Act.

28J Other terms and conditions

The CEO holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Minister in writing.

28K Acting CEO

- (1) The Minister may appoint a person to act as the CEO:
 - (a) during a vacancy in the office of CEO (whether or not an appointment has previously been made to the office); or
 - (b) during any period, or during all periods, when the CEO is absent from duty or from Australia or is, for any reason, unable to perform the duties of the office.
- (2) Anything done by a person purporting to act under an appointment under subsection (1) is not invalid merely because:
 - (a) the occasion for the appointment had not arisen; or
 - (b) there was a defect or irregularity in connection with the appointment; or
 - (c) the appointment had ceased to have effect; or
 - (d) the occasion to act had not arisen or had ceased.

Note: For more information about acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

Division 2—Staff of Commission

29 Staff of Commission

- (1) The Commission may appoint such officers and engage such employees as it thinks necessary for the performance of its functions.
- (2) The terms and conditions of service or employment of persons so appointed or engaged (in respect of matters not provided for by this Act) shall be such as are determined by the Commission.
- (3) The Commission's staff may also include persons engaged under the *Public Service Act 1999*.
- (4) For the purposes of the *Public Service Act 1999*:
 - (a) the CEO and the APS employees assisting the CEO together constitute a Statutory Agency; and
 - (b) the CEO is the Head of the Statutory Agency.

Part V—Finance

31 Moneys payable to Commission

- (1) There are payable to the Commission such moneys as are appropriated by the Parliament for the purposes of the Commission.
- (2) The Minister for Finance may give directions as to the amounts in which, and the times at which, moneys referred to in subsection (1) are to be paid to the Commission.

33 Application of moneys by Commission

- (1) The moneys of the Commission shall be applied only:
 - (a) in payment or discharge of the expenses, charges and obligations incurred or undertaken by the Commission in the performance of its functions, or the exercise of its powers, under this Act; and
 - (b) in the payment of any remuneration and allowances payable under this Act.
- (2) Subsection (1) does not prevent investment of surplus money of the Commission under section 18 of the *Commonwealth Authorities and Companies Act 1997*.

35 Restrictions on financial transactions

- (1) The Commission shall not, without the approval of the Minister:
 - (a) acquire any property, right or privilege for a consideration exceeding in amount or value \$250,000 or, if a higher amount is prescribed, that higher amount;
 - (b) dispose of any property, right or privilege where the amount or value of the consideration for the disposal, or the value of the property, right or privilege, exceeds \$250,000 or, if a higher amount is prescribed, that higher amount;
 - (c) enter into a contract for the construction of a building for the Commission, being a contract under which the Commission

is to pay an amount exceeding \$250,000 or, if a higher amount is prescribed, that higher amount; or

(d) enter into a lease of land for a period exceeding 10 years.

(2) Paragraphs (1)(a) and (b) do not apply to:

(a) transactions relating to the making, promotion, distribution or broadcasting of programs; or

(b) the investment of money by the Commission under section 18 of the *Commonwealth Authorities and Companies Act 1997*.

Part VI—Transitional provisions

Division 1—Australian Film Development Corporation

39 Repeal of Australian Film Development Corporation Acts etc.

- (1) The *Australian Film Development Corporation Act 1970* and the *Australian Film Development Corporation Act (No. 2) 1970* are repealed.
- (2) Upon the date of commencement of this Part:
 - (a) all rights, property and assets (including the moneys standing to the credit of the Australian Film Development Fund) that, immediately before that date, were vested in the Australian Film Development Corporation are, by force of this subsection, vested in the Commission; and
 - (b) the Commission becomes, by force of this subsection, liable to pay and discharge all the debts, liabilities and obligations of the Australian Film Development Corporation that existed immediately before that date.
- (3) Any agreement or instrument subsisting immediately before the date of commencement of this Part to which the Australian Film Development Corporation was a party has effect on and after that date as if:
 - (a) the Commission were substituted for the Corporation as a party to the agreement or instrument; and
 - (b) any reference in the agreement or instrument to the Corporation were (except in relation to matters that occurred before that date) a reference to the Commission.
- (4) Notwithstanding the repeal effected by subsection (1), the Australian Film Development Corporation as constituted immediately before the commencement of this Part shall, for the purpose of preparing and furnishing to the Minister the report and financial statements referred to in subsection (5), continue in existence until it has furnished that report and those financial statements.

- (5) The Australian Film Development Corporation shall, as soon as practicable after the commencement of this Part, prepare and furnish to the Minister a report of its operations during the period that commenced on 1 July 1974 and ended immediately before the commencement of this Part together with financial statements in respect of that period in such form as the Minister for Finance approves, and subsections 28(2) and (3) of the *Australian Film Development Corporation Acts 1970* have the like effect in respect of the report and the financial statements as those subsections would have if:
- (a) they had not been repealed;
 - (b) the report and financial statements were furnished under section 28 of that Act; and
 - (c) the period to which the report and financial statements relate were a year that ended on 30 June.
- (6) Subject to subsection (7), the members of the Australian Film Development Corporation as continued in existence by virtue of subsection (4) are entitled, while they remain such members, to the remuneration and allowances to which they were entitled under the *Australian Film Development Corporation Act 1970-1973* immediately before the commencement of this Part.
- (7) For the purposes of the payment of remuneration and allowances to a member of the Australian Film Development Corporation, as continued in existence by virtue of subsection (4), who is appointed to be a member of the Australian Film Commission, the performance of his or her duties as a member of the Corporation shall be deemed to be the performance of his or her duties as a member of the Commission.

Division 2—Film Australia

40 Interpretation

In this Division:

assets includes:

- (a) plant, machinery, equipment, office furniture, fittings, motor vehicles and stock in trade;
 - (b) debts due to the Commission and the benefit of any securities for those debts;
 - (c) any benefit that is capable of assignment under a contract;
 - (d) any other property, right or interest to which the Commission is entitled and which it may assign; and
 - (e) all relevant records maintained by the Commission;
- but does not include an estate or interest in land.

commencing day means the day on which this Division commences.

Film Australia means the company named “Film Australia Pty. Limited” that is incorporated under the law in force in the Australian Capital Territory relating to companies.

special functions, in relation to the Commission, means the making, or the commissioning of the making, or the promotion or distribution, by the Commission of programs referred to in subparagraph 5(1)(b)(i), (ii) or (iii) as in force immediately before the commencing day.

40A Transfer of certain assets, liabilities etc. from Commission to Film Australia

- (1) The Commission shall transfer, or cause to be transferred, to Film Australia such assets as the Minister specifies in writing, being assets that were, immediately before the commencing day, owned by the Commission and held or used in connection with its special functions.
- (2) Film Australia becomes, on the commencing day, by force of this subsection, liable to pay and discharge all debts, liabilities and

obligations incurred by the Commission before the commencing day in connection with its special functions.

40B Transfer of certain staff from Commission to Film Australia

- (1) Where the Minister certifies in writing that a special function of the Commission is to be performed by Film Australia, the Minister may, by notice published in the *Gazette*, declare that specified persons, being members of the staff of the Commission who performed, or took part in the performance of, that function, are, on the specified day, in the employment of Film Australia.
- (2) A person specified in a declaration:
 - (a) ceases to be a member of the staff of the Commission on the day specified in the declaration; and
 - (b) is employed by Film Australia from and including that day.
- (3) Film Australia may, despite anything in any other law (other than the Australian Fair Pay and Conditions Standard or an award or transitional award within the meaning given by the *Workplace Relations Act 1996*), determine special terms and conditions of employment (other than terms and conditions with respect to superannuation) that are to apply to persons transferred under this section to Film Australia.

40C Agreements etc. to which Commission is a party

Any agreement or instrument (other than an industrial award) in force immediately before the commencing day:

- (a) that arose out of the special functions of the Commission; and
 - (b) to which the Commission was a party;
- has effect on and after that day, as if:
- (c) Film Australia were substituted for the Commission as a party to the agreement or instrument; and
 - (d) any reference in the agreement or instrument to the Commission were a reference to Film Australia.

Part VII—Miscellaneous

41 Liability to taxation

- (1) Subject to subsection (2), the Commission is not subject to taxation under any law of the Commonwealth or of a State or Territory.
- (2) The regulations may provide that subsection (1) does not apply in relation to taxation under a specified law.

43 Members of Commission etc. to observe secrecy

A person who is, or has been, a member of the Commission or a member of the staff of the Commission shall not, directly or indirectly, except in the performance of his or her duties, or in the exercise of his or her powers or functions, under this Act, make a record of, or divulge or communicate to any person, any information with respect to the affairs of another person acquired by the first-mentioned person in the performance of his or her duties, or in the exercise of his or her powers or functions, under this Act.

Penalty: \$1,000.

46 Regulations

The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Table of Acts**Notes to the *Australian Film Commission Act 1975*****Note 1**

The *Australian Film Commission Act 1975* as shown in this compilation comprises Act No. 6, 1975 amended as indicated in the Tables below.

The *Australian Film Commission Act 1975* was amended by the *Workplace Relations Amendment (Work Choices) (Consequential Amendments) Regulations 2006 (No. 1)* (SLI 2006 No. 50). The amendment is incorporated in this compilation.

All relevant information pertaining to application, saving or transitional provisions prior to 24 November 2000 is not included in this compilation. For subsequent information *see* Table A.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Australian Film Commission Act 1975</i>	6, 1975	7 Mar 1975	Part VI (ss. 39, 40): 8 July 1975 (<i>see Gazette</i> 1975, No. S139) Remainder: Royal Assent	
<i>Australian Film Commission Amendment Act 1976</i>	107, 1976	26 Oct 1976	26 Oct 1976	—
<i>Administrative Changes (Consequential Provisions) Act 1978</i>	36, 1978	12 June 1978	12 June 1978	S. 8
<i>Australian Film Commission Amendment Act 1980</i>	71, 1980	28 May 1980	Ss. 1, 2, 4–13, 15, 17 and 19: 14 June 1980 (<i>see Gazette</i> 1980, No. S124) Remainder: 1 July 1980 (<i>see Gazette</i> 1980, No. S124)	S. 19
<i>Statute Law Revision Act 1981</i>	61, 1981	12 June 1981	Ss. 16 and 17: Royal Assent (a)	S. 17(2)
<i>Statute Law (Miscellaneous Provisions) Act (No. 1) 1985</i>	65, 1985	5 June 1985	S. 3: 3 July 1985 (b)	—
<i>Australian Film Commission Amendment Act 1988</i>	74, 1988	24 June 1988	1 July 1988 (<i>see Gazette</i> 1988, No. S188)	—

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Arts, Territories and Environment Legislation Amendment Act 1989</i>	60, 1989	19 June 1989	Ss. 11 and 13: 7 Dec 1988 Part 5 (ss. 14, 15): 11 May 1989 (see s. 2(3) and <i>Gazette</i> 1989, No. S164) Remainder: Royal Assent	—
<i>Arts, Sport, Environment, Tourism and Territories Legislation Amendment Act (No. 2) 1991</i>	179, 1991	25 Nov 1991	25 Nov 1991	S. 3(2)
<i>Prime Minister and Cabinet Legislation Amendment Act 1991</i>	199, 1991	18 Dec 1991	18 Dec 1991	—
<i>Statute Law Revision Act 1996</i>	43, 1996	25 Oct 1996	Schedule 4 (item 21) and Schedule 5 (items 26–28): Royal Assent (c)	—
<i>Audit (Transitional and Miscellaneous) Amendment Act 1997</i>	152, 1997	24 Oct 1997	Schedule 2 (items 226–237): 1 Jan 1998 (see <i>Gazette</i> 1997, No. GN49) (d)	—
<i>Public Employment (Consequential and Transitional) Amendment Act 1999</i>	146, 1999	11 Nov 1999	Schedule 1 (item 172): 5 Dec 1999 (see <i>Gazette</i> 1999, No. S584) (e)	—
<i>Corporate Law Economic Reform Program Act 1999</i>	156, 1999	24 Nov 1999	Schedule 10 (item 23): 13 Mar 2000 (see <i>Gazette</i> 2000, No. S114) (f)	—
<i>Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000</i>	137, 2000	24 Nov 2000	Ss. 1–3, Schedule 1 (items 1, 4, 6, 7, 9–11, 32): Royal Assent Remainder: 24 May 2001	Sch. 2 (items 418, 419) [see Table A]
<i>Communications and the Arts Legislation Amendment (Application of Criminal Code) Act 2001</i>	5, 2001	20 Mar 2001	S. 4 and Schedule 1 (items 11, 12): (g)	S. 4 [see Table A]
<i>Australian Film Commission Amendment Act 2003</i>	59, 2003	30 June 2003	Schedule 1: 1 July 2003 Remainder: Royal Assent	Sch. 1 (items 25–32) [see Table A]
as amended by				
<i>Statute Law Revision Act 2005</i>	100, 2005	6 July 2005	Schedule 2 (item 8): (h)	—

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Financial Framework Legislation Amendment Act 2005</i>	8, 2005	22 Feb 2005	Schedule 2 (items 40–42, 174): Royal Assent	Sch. 2 (item 174) [see Table A]
<i>Superannuation Legislation Amendment (Trustee Board and Other Measures) (Consequential Amendments) Act 2008</i>	26, 2008	23 June 2008	Schedule 1 (items 29–31): Royal Assent	—

Act Notes

- (a) The *Australian Film Commission Act 1975* was amended by sections 16 and 17 only of the *Statute Law Revision Act 1981*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.
- (b) The *Australian Film Commission Act 1975* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 1) 1985*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act shall come into operation on the twenty-eighth day after the day on which it receives the Royal Assent.
- (c) The *Australian Film Commission Act 1975* was amended by Schedule 4 (item 21) and Schedule 5 (items 26–28) only of the *Statute Law Revision Act 1996*, subsection 2(2) of which provides as follows:
- (1) Subject to subsections (2) and (3), this Act commences on the day on which it receives the Royal Assent.
- (d) The *Australian Film Commission Act 1975* was amended by Schedule 2 (items 226–237) only of the *Audit (Transitional and Miscellaneous) Amendment Act 1997*, subsection 2(2) of which provides as follows:
- (2) Schedules 1, 2 and 4 commence on the same day as the *Financial Management and Accountability Act 1997*.
- (e) The *Australian Film Commission Act 1975* was amended by Schedule 1 (item 172) only of the *Public Employment (Consequential and Transitional) Amendment Act 1999*, subsections 2(1) and (2) of which provide as follows:
- (1) In this Act, **commencing time** means the time when the *Public Service Act 1999* commences.
 - (2) Subject to this section, this Act commences at the commencing time.
- (f) The *Australian Film Commission Act 1975* was amended by Schedule 10 (item 23) only of the *Corporate Law Economic Reform Program Act 1999*, subsection 2(2) of which provides as follows:
- (2) The following provisions commence on a day or days to be fixed by Proclamation:
 - (a) section 3;
 - (b) the items in Schedules 1 to 7 (other than item 18 of Schedule 7);
 - (c) the items in Schedules 10, 11 and 12.
- (g) The *Australian Film Commission Act 1975* was amended by Schedule 1 (items 11 and 12) only of the *Communications and the Arts Legislation Amendment (Application of Criminal Code) Act 2001*, subsection 2(1)(a) of which provides as follows:
- (1) Subject to this section, this Act commences at the latest of the following times:
 - (a) immediately after the commencement of item 15 of Schedule 1 to the *Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000*;
- (h) Subsection 2(1) (item 29) of the *Statute Law Revision Act 2005* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Act Notes

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
29. Schedule 2, item 8	Immediately after the time specified in the <i>Australian Film Commission Amendment Act 2003</i> for the commencement of item 12 of Schedule 1 to that Act.	1 July 2003

Table of Amendments**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part I	
S. 3.....	am. No. 107, 1976; No. 71, 1980; No. 74, 1988; No. 152, 1997; No. 59, 2003
S. 3A	ad. No. 5, 2001
Part II	
Note to s. 4(2)	ad. No. 152, 1997
S. 5.....	am. No. 107, 1976; No. 71, 1980; No. 74, 1988; No. 59, 2003
S. 6.....	am. No. 107, 1976; No. 152, 1997; No. 59, 2003; No. 8, 2005
S. 7.....	am. No. 107, 1976; No. 74, 1988
S. 8.....	am. No. 107, 1976; No. 71, 1980; No. 43, 1996
S. 9.....	am. No. 107, 1976 rep. No. 74, 1988
S. 10.....	am. No. 107, 1976; No. 61, 1981; No. 43, 1996; No. 5, 2001
S. 11.....	am. No. 43, 1996
S. 12.....	am. No. 107, 1976
S. 14.....	rs. No. 107, 1976 am. No. 59, 2003 (as am. by No. 100, 2005)
Part III	
S. 15.....	am. No. 71, 1980; No. 152, 1997
S. 16.....	am. No. 71, 1980; No. 179, 1991; No. 43, 1996
S. 17.....	am. No. 43, 1996
S. 18.....	am. No. 71, 1980 rs. No. 179, 1991 am. No. 146, 1999
Heading to s. 19.....	am. No. 59, 2003
Ss. 19, 20	am. No. 71, 1980; No. 43, 1996; No. 152, 1997; No. 59, 2003
S. 21.....	am. No. 107, 1976; No. 71, 1980
S. 22.....	am. No. 107, 1976; No. 71, 1980; No. 43, 1996 rep. No. 152, 1997
S. 23.....	am. No. 71, 1980; No. 179, 1991; No. 43, 1996; No. 52, 1997; No. 156, 1999
S. 24.....	am. No. 43, 1996
S. 26.....	am. No. 107, 1976 rep. No. 59, 2003
S. 27.....	am. No. 71, 1980 rep. No. 65, 1985
S. 28.....	am. No. 71, 1980; No. 60, 1989; No. 43, 1996; No. 52, 1997; No. 59, 2003
Part IV	
Division 1	
Div. 1 of Part IV	ad. No. 59, 2003

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Ss. 28A–28G	ad. No. 59, 2003
S. 28H	ad. No. 59, 2003 am. No. 26, 2008
Ss. 28J, 28K	ad. No. 59, 2003
Division 2	
Heading to Div. 2 of Part IV	ad. No. 59, 2003
S. 29	rs. No. 71, 1980 am. No. 199, 1991; No. 59, 2003
S. 30	rep. No. 107, 1976
Part V	
S. 31	am. No. 36, 1978
S. 32	am. No. 107, 1976; No. 74, 1988 rep. No. 152, 1997
S. 33	am. No. 74, 1988; No. 152, 1997
S. 34	am. No. 107, 1976; No. 74, 1988 rep. No. 152, 1997
S. 35	am. No. 71, 1980; No. 60, 1989; No. 152, 1997
S. 36	am. No. 107, 1976; No. 36, 1978 rep. No. 71, 1980
S. 37	am. No. 74, 1988 rep. No. 152, 1997
S. 38	am. No. 43, 1996 rep. No. 152, 1997
Part VI	
Heading to Part VI	am. No. 74, 1988
Division 1	
Heading to Div. 1 of Part VI	ad. No. 74, 1988
S. 39	am. No. 36, 1978; No. 43, 1996
Division 2	
Div. 2 of Part VI	ad. No. 74, 1988
S. 40	rep. No. 107, 1976 ad. No. 74, 1988
S. 40A	ad. No. 74, 1988
S. 40B	ad. No. 74, 1988 am. SLI 2006 No. 50
S. 40C	ad. No. 74, 1988
S. 40D	ad. No. 74, 1988 rep. No. 152, 1997
Part VII	
S. 41	am. No. 107, 1976
S. 42	rep. No. 137, 2000
S. 43	am. No. 43, 1996
S. 44	am. No. 107, 1976; No. 36, 1978; No. 74, 1988 rep. No. 152, 1997
S. 45	rep. No. 152, 1997

Table A

Application, saving or transitional provisions

Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000 (No. 137, 2000)

Schedule 2

418 Transitional—pre-commencement offences

- (1) Despite the amendment or repeal of a provision by this Schedule, that provision continues to apply, after the commencement of this item, in relation to:
- (a) an offence committed before the commencement of this item; or
 - (b) proceedings for an offence alleged to have been committed before the commencement of this item; or
 - (c) any matter connected with, or arising out of, such proceedings;
- as if the amendment or repeal had not been made.
- (2) Subitem (1) does not limit the operation of section 8 of the *Acts Interpretation Act 1901*.

419 Transitional—pre-commencement notices

If:

- (a) a provision in force immediately before the commencement of this item required that a notice set out the effect of one or more other provisions; and
 - (b) any or all of those other provisions are repealed by this Schedule; and
 - (c) the first-mentioned provision is amended by this Schedule;
- the amendment of the first-mentioned provision by this Schedule does not affect the validity of such a notice that was given before the commencement of this item.
-

Table A

Communications and the Arts Legislation Amendment (Application of Criminal Code) Act 2001 (No. 5, 2001)

4 Application of amendments

- (1) Each amendment made by this Act applies to acts and omissions that take place after the amendment commences.
- (2) For the purposes of this section, if an act or omission is alleged to have taken place between 2 dates, one before and one on or after the day on which a particular amendment commences, the act or omission is alleged to have taken place before the amendment commences.

Australian Film Commission Amendment Act 2003 (No. 59, 2003)

Schedule 1

25 Definitions

In this Part:

commencement day means the day on which this Schedule commences.

Commonwealth program means an administrative program conducted by or on behalf of the Commonwealth.

ScreenSound Australia means the Commonwealth program administered by the Commonwealth Department of Communications, Information Technology and the Arts immediately before the commencement day that was generally known as “ScreenSound Australia” or “ScreenSound Australia—The National Screen and Sound Archive”.

26 Appointment of CEO

The person who, immediately before the commencement day:

- (a) was a member of the staff of the Commission; and
- (b) was holding the position that was then known as the “Chief Executive Officer of the Commission”;

Table A

is taken to be appointed under subsection 28B(1) of the *Australian Film Commission Act 1975* as amended by this Act, as the CEO of the Commission. Subject to the *Australian Film Commission Act 1975* as amended by this Act, the appointment has effect on and from the commencement day until 31 December 2005.

27 Transfer of assets from Commonwealth to the Commission

- (1) The Minister may, in writing, make any or all of the following declarations in relation to an asset of the Commonwealth that relates to ScreenSound Australia:
- (a) a declaration that the asset vests in the Commission at a specified time without any conveyance, transfer or assignment;
 - (b) a declaration that a specified instrument relating to the asset continues to have effect after a specified time as if a reference in the instrument to the Commonwealth were a reference to the Commission;
 - (c) a declaration that the Commission becomes the Commonwealth's successor in law in relation to the asset immediately after a specified time.

Note: An asset or instrument may be specified by name, by inclusion in a specified class or in any other way.

- (2) The declaration has effect accordingly.
- (3) A copy of a declaration under this item is to be published in the *Gazette* within 14 days after the making of the declaration.
- (4) In this item:
asset includes a right that the Commonwealth has in relation to intellectual property (e.g. a licence).

28 Transfer of liabilities from Commonwealth to the Commission

- (1) The Minister may, in writing, make any or all of the following declarations in relation to a liability of the Commonwealth that relates to ScreenSound Australia:

Table A

- (a) a declaration that the liability vests in the Commission at a specified time without any conveyance, transfer or assignment;
- (b) a declaration that a specified instrument relating to the liability continues to have effect after a specified time as if a reference in the instrument to the Commonwealth were a reference to the Commission;
- (c) a declaration that the Commission becomes the Commonwealth's successor in law in relation to the liability immediately after a specified time.

Note: A liability or instrument may be specified by name, by inclusion in a specified class or in any other way.

- (2) The declaration has effect accordingly.
- (3) A copy of a declaration under this item is to be published in the *Gazette* within 14 days after the making of the declaration.

29 Transfer of contractual rights and obligations from Commonwealth to the Commission

- (1) The Minister may, in writing, declare that the Commonwealth's rights and obligations under a specified ScreenSound contract:
 - (a) cease to be rights and obligations of the Commonwealth at a specified time; and
 - (b) become rights and obligations of the Commission at that time.
- (2) The Minister may, in writing, declare that a specified ScreenSound contract continues to have effect after a specified time as if a reference in the contract to the Commonwealth were a reference to the Commission.
- (3) The Minister may, in writing, declare that a specified instrument relating to a specified ScreenSound contract continues to have effect, after the Commonwealth's rights and obligations under the contract become rights and obligations of the Commission, as if a reference in the instrument to the Commonwealth were a reference to the Commission.
- (4) The Minister may, in writing, declare that the Commission becomes the Commonwealth's successor in law, in relation to the Commonwealth's rights and obligations under a specified ScreenSound contract,

Table A

immediately after the Commonwealth's rights and obligations under the contract become rights and obligations of the Commission.

- (5) A declaration under this item has effect accordingly.
- (6) A copy of a declaration under this item is to be published in the *Gazette* within 14 days after the making of the declaration.
- (7) In this item:
 - ScreenSound contract* means a contract (other than a contract of employment):
 - (a) to which the Commonwealth is a party; and
 - (b) that relates to ScreenSound Australia.

Note: Section 72 of the *Public Service Act 1999* allows the Public Service Commissioner to move APS employees from the Department of Communications, Information Technology and the Arts to the Commission. The employees remain APS employees.

30 Arrangement or transfer under items 27, 28 and 29 valid

For the avoidance of doubt, if a thing that is the subject of a transfer or arrangement under item 27, 28 or 29 could also have been the subject of a transfer or arrangement under another item, the transfer or arrangement is valid even though the thing is not also the subject of a transfer or arrangement under that other item.

31 Exemption from stamp duty etc.

- (1) No stamp duty or other tax is payable under a law of a State or Territory in respect of an exempt matter, or anything connected with an exempt matter.
- (2) The Minister may certify in writing:
 - (a) that a specified matter is an exempt matter; or
 - (b) that a specified thing was done in connection with a specified exempt matter.
- (3) In all courts, and for all purposes, a certificate under subitem (2) is evidence of the matter stated in the certificate.
- (4) In this item:
 - exempt matter* means a transfer or an arrangement under item 27, 28 or 29.

Table A

32 Transfer of records

- (1) The Secretary of the Department may transfer to the Commission records that relate to ScreenSound Australia.
- (2) This item does not authorise a Commonwealth record to be transferred, or otherwise dealt with, except in accordance with the *Archives Act 1983*.
- (3) In this item:
Commonwealth record and *record* have the same meanings as in the *Archives Act 1983*.

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Schedule 2

174 Saving provision—provisions that formerly referred to the Treasurer

- (1) Any thing that:
 - (a) was done by the Treasurer, or by a delegate of the Treasurer, before the commencing time under an affected provision; and
 - (b) was in effect immediately before the commencing time;continues to have effect after the commencing time as if it had been done by the Finance Minister under the affected provision.
- (2) In this item:
affected provision means a provision that is amended by an item in this Schedule so as to replace references to the Treasurer with references to the Finance Minister.
commencing time means the day this Act receives the Royal Assent.
Finance Minister means the Minister who administers the *Financial Management and Accountability Act 1997*.