

EXPLANATORY STATEMENT

Screen Australia Act 2008

Screen Australia Regulations 2017

Issued by the Authority of the Minister for the Arts

Authority

The Governor-General has made the *Screen Australia Regulations 2017* (**the new Regulations**) under paragraphs 41(1)(a), (b) and (c), and section 45 of the *Screen Australia Act 2008* (**the Act**).

Paragraphs 41(1)(a), (b) and (c) of the Act set restrictions on Screen Australia entering into certain financial transactions relating to property, providing that Screen Australia must not, without approval of the Minister, enter into transactions exceeding the value prescribed in regulations. Proposed financial transactions that exceed the amount prescribed by the new Regulations must be approved by the Minister for the Arts. Section 45 of the Act provides that the Governor-General may make regulations prescribing all matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Subsection 33(3) of the *Acts Interpretation Act 1901* relevantly provides that where an Act confers a power to make an instrument of a legislative character (including regulations), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions to repeal, rescind, revoke, amend, or vary any such instrument. The new Regulations repeal the *Screen Australia Regulations 2008* (the **sunsetting Regulations**).

Purpose and operation

The Act establishes Screen Australia as a body corporate. Section 5 of the Act relevantly provides that Screen Australia may acquire, hold and dispose of real and personal property. Section 41 of the Act provides that Screen Australia requires ministerial approval to acquire or dispose of any property, right or privilege, or enter into a contract for the construction of a building exceeding the amount prescribed by regulation.

The sunsetting Regulations prescribe a monetary limit of \$1,000,000 on financial transactions relating to property that do not require ministerial approval. Following a review of the sunsetting Regulations, and consultation with Screen Australia, it was determined that the Regulations continue to be required.

The new Regulations reflect the sunsetting Regulations.

The new Regulations are a legislative instrument for the purposes of section 8 of the *Legislation Act 2003*.

The notes on the provisions of the new Regulations are set out in Attachment A.

Consultation

Screen Australia was consulted throughout the process of preparing the new Regulations.

Regulatory Impact

The Office of Best Practice Regulation (OBPR) has advised that, the remaking of the sunsetting Regulations will not have a regulatory impact, as the regulations apply to a government entity.

Therefore, no further action is required under the Government's regulatory impact analysis requirements. The OBPR reference number is 22480.

Statement of Compatibility with Human Rights

A statement of compatibility with human rights for the purposes of Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* is set out in Attachment B.

Notes on the *Screen Australia Regulations 2017*

Section 1 Name

Section 1 provides that the name of the instrument is the *Screen Australia Regulations 2017* (the Regulations).

Section 2 Commencement

Section 2 provides that the Regulations commence on the day after they are registered on the Federal Register of Legislation.

Section 3 Authority

Section 3 provides that the authority for making the Regulations is the *Screen Australia Act 2008* (the Act). The applicable provisions that give authority are paragraphs 41 (1)(a), (b) and (c), and section 45 of the Act.

Section 4 Schedules

Section 4 provides that each instrument that is specified in a Schedule to the Regulations is amended or repealed as set out in the applicable item in the Schedule.

Section 5 Definitions

Section 5 provides that, for the purposes of the Regulations, ‘Act’ means the *Screen Australia Act 2008*.

Section 6 Restrictions on financial transactions

Section 6 provides that, for the purposes of paragraphs 41(1)(a), (b) and (c) of the Act, the prescribed amount is \$1,000,000.

Schedule 1 Repeals

Schedule 1 repeals the sunseting *Screen Australia Regulations 2008*.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Screen Australia Regulations 2017

These Regulations are compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Regulations

The Screen Australia Regulations 2017 (the new Regulations) is a legislative instrument for the purposes of the *Legislation Act 2003*.

The new Regulations are prepared under paragraphs 41(1)(a), (b) and (c), and section 45 of the *Screen Australia Act 2008* (the Act), and repeal and remake the Screen Australia Regulations 2008 (the sunseting Regulations), due to sunset on 1 October 2018.

The sunseting Regulations set restrictions on financial transactions relating to property. Consultation with Screen Australia has determined that the sunseting Regulations are still required and will therefore be remade.

The new Regulations contain no amendments.

Human rights implications

The new Regulations do not engage any of the applicable rights or freedoms.

Screen Australia is established as a body corporate under section 4 of the Act. The new Regulations will only impact Screen Australia and will not inhibit the rights of any natural persons.

Conclusion

The Regulations are compatible with human rights as they do not raise any human rights issues.