

2008

The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

*Presented and read a first time*

**National Film and Sound Archive Bill  
2008**

**No.     , 2008**

*(Environment, Heritage and the Arts)*

**A Bill for an Act to establish the National Film and  
Sound Archive, and for related purposes**



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1     **A Bill for an Act to establish the National Film and**  
2     **Sound Archive, and for related purposes**

3     The Parliament of Australia enacts:

4     **Part 1—Preliminary**  
5

6     **1 Short title**

7                     This Act may be cited as the *National Film and Sound Archive Act*  
8                     2008.

Section 2

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1 **2 Commencement**

2 (1) Each provision of this Act specified in column 1 of the table  
3 commences, or is taken to have commenced, in accordance with  
4 column 2 of the table. Any other statement in column 2 has effect  
5 according to its terms.

6

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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	
2. Sections 3 to 43	At the same time as subsection 5(1) of the <i>Screen Australia Act 2008</i> commences.	

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7 Note: This table relates only to the provisions of this Act as originally  
8 passed by both Houses of the Parliament and assented to. It will not be  
9 expanded to deal with provisions inserted in this Act after assent.

10 (2) Column 3 of the table contains additional information that is not  
11 part of this Act. Information in this column may be added to or  
12 edited in any published version of this Act.

13 **3 Definitions**

14 In this Act:

15 **Board** means the Board of the National Film and Sound Archive.

16 **CEO** means the Chief Executive Officer of the National Film and  
17 Sound Archive.

18 **Chair** means the Chair of the Board.

19 **Deputy Chair** means the Deputy Chair of the Board.

20 **member** means a member of the Board and includes the Chair and  
21 Deputy Chair.

1                    ***program*** means any of the following:

- 2                    (a) a screen production;
- 3                    (b) an aggregate of sounds embodied in any material;
- 4                    (c) an aggregate of images or sounds, or of images and sounds,
- 5                                that is, or is intended to be, distributed without first having
- 6                                been embodied in any material.

7                    ***screen production*** means an aggregate of images, or of images and

8                    sounds, embodied in any material that can be viewed on a screen

9                    (including, for example, a film).

10                   **4 Extended geographic application of this Act**

- 11                    (1) This Act extends to every external Territory.
- 12                    (2) This Act applies both within and outside Australia.

Section 5

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1

2

## Part 2—National Film and Sound Archive

3

4

### 5 Establishment

5

- (1) The National Film and Sound Archive is established by this section.

6

7

- (2) The National Film and Sound Archive:

8

(a) is a body corporate; and

9

(b) must have a seal; and

10

(c) may acquire, hold and dispose of real and personal property; and

11

and

12

(d) may sue and be sued.

13

Note: The *Commonwealth Authorities and Companies Act 1997* applies to the National Film and Sound Archive. That Act deals with matters relating to Commonwealth authorities, including reporting and accountability, banking and investment, and conduct of officers.

14

15

16

17

- (3) The seal of the National Film and Sound Archive is to be kept in such custody as the Board directs, and is not to be used except as authorised by the Board.

18

19

20

- (4) All courts, judges and persons acting judicially must:

21

(a) take judicial notice of the imprint of the seal of the National Film and Sound Archive appearing on a document; and

22

(b) presume that the document was duly sealed.

23

24

### 6 Functions

25

#### *Functions*

26

- (1) The functions of the National Film and Sound Archive are to:

27

(a) develop, preserve, maintain, promote and provide access to a national collection of programs and related material; and

28

(b) support and promote the collection by others of programs and related material in Australia; and

29

30

(c) support, promote or engage in:

31



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**Section 6**

- 1 (i) the preservation and maintenance of programs and  
2 related material that are not in the national collection;  
3 and  
4 (ii) the provision of access to programs and related material  
5 that are not in the national collection; and  
6 (d) support and promote greater understanding and awareness in  
7 Australia of programs; and  
8 (e) undertake any other function conferred on it by any other law  
9 of the Commonwealth.

10 *Ways in which support may be provided*

- 11 (2) The ways in which the National Film and Sound Archive may  
12 provide support as mentioned in subsection (1) include (but are not  
13 limited to) doing any of the following:  
14 (a) providing financial assistance (whether by way of loan, grant,  
15 investment or otherwise and whether on commercial terms or  
16 otherwise);  
17 (b) commissioning or sponsoring programs or other activities;  
18 (c) providing services, facilities, programs or equipment;  
19 but does not include providing guarantees.

20 *Considerations governing the performance of functions*

- 21 (3) In performing its functions, the National Film and Sound Archive  
22 is, as far as practical, to:  
23 (a) place an emphasis on the historical and cultural significance  
24 of programs and related material; and  
25 (b) use every endeavour to make the most advantageous use of  
26 the national collection in the national interest; and  
27 (c) apply the highest curatorial standards; and  
28 (d) promote the efficient, effective and ethical use of public  
29 resources.

30 *National Film and Sound Archive may charge fees*

- 31 (4) The National Film and Sound Archive may charge fees for things  
32 done in performing its functions.

Section 6

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1                                    *National Film and Sound Archive may cooperate with others*

2                    (5) The National Film and Sound Archive may perform its functions  
3                    alone or together with other persons.

4                                    *Severability*

5                    (6) Without limiting its effect apart from this subsection, this Act also  
6                    has the effect it would have if the powers and functions of the  
7                    National Film and Sound Archive were confined to powers and  
8                    functions that were to be exercised and performed:

9                                    (a) in so far as it is appropriate for those powers and functions to  
10                                    be exercised and performed by the National Film and Sound  
11                                    Archive on behalf of the Government of the Commonwealth  
12                                    as the national Government of Australia; and

13                                    (b) for purposes for which it is appropriate for the Parliament, as  
14                                    the national Parliament of Australia, to authorise the National  
15                                    Film and Sound Archive to exercise powers and perform  
16                                    functions; and

17                                    (c) in relation to expenditure of money that is available for the  
18                                    purposes of the National Film and Sound Archive in  
19                                    accordance with an appropriation made by the Parliament;  
20                                    and

21                                    (d) in relation to trade and commerce with other countries,  
22                                    among the States, between Territories or between a Territory  
23                                    and a State; and

24                                    (e) in relation to postal, telegraphic, telephonic, and other like  
25                                    services; and

26                                    (f) in relation to the collection of statistics; and

27                                    (g) in relation to external affairs; and

28                                    (h) in relation to a Territory; and

29                                    (i) in relation to the executive power of the Commonwealth; and

30                                    (j) in relation to matters incidental to the execution of any of the  
31                                    legislative powers of the Parliament or the executive power  
32                                    of the Commonwealth.

1 **7 Powers**

- 2 (1) The National Film and Sound Archive has power to do all things  
3 necessary or convenient to be done for or in connection with the  
4 performance of its functions.
- 5 (2) The National Film and Sound Archive's powers include, but are  
6 not limited to, the following powers:
- 7 (a) to accept gifts, devises, bequests and assignments (whether  
8 on trust or otherwise);
- 9 (b) to act as trustee of money, programs or other property vested  
10 in the National Film and Sound Archive on trust;
- 11 (c) to act on behalf of the Commonwealth or an authority of the  
12 Commonwealth in the administration of a trust relating to  
13 programs or to matters connected with programs;
- 14 (d) to do anything incidental to any of its functions.
- 15 (3) Despite anything contained in this Act, any money, programs or  
16 other property held by the National Film and Sound Archive on  
17 trust must be dealt with in accordance with the obligations of the  
18 National Film and Sound Archive as trustee of the trust.

Section 8

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1

2 **Part 3—The Board of the National Film and Sound**  
3 **Archive**

4 **Division 1—The Board**

5 **8 Establishment**

6 The Board of the National Film and Sound Archive is established  
7 by this section.

8 **9 Role**

- 9 (1) The Board is responsible for ensuring the proper and efficient  
10 performance of the National Film and Sound Archive's functions.
- 11 (2) The Board has power to do all things necessary or convenient to be  
12 done for or in connection with the performance of its duties.
- 13 (3) All acts and things done in the name of, or on behalf of, the  
14 National Film and Sound Archive by the Board, or with the  
15 authority of the Board, are taken to have been done by the National  
16 Film and Sound Archive.
- 17 (4) If a function or power of the National Film and Sound Archive is  
18 dependent on the opinion, belief or state of mind of the National  
19 Film and Sound Archive in relation to a matter, the function or  
20 power may be exercised upon the opinion, belief or state of mind  
21 of a person or body acting as mentioned in subsection (3) in  
22 relation to that matter.

23 **10 Membership**

- 24 The Board consists of the following members:
- 25 (a) the Chair of the Board;
- 26 (b) the Deputy Chair of the Board;
- 27 (c) no less than 3 and no more than 7 other members.

1 **11 Appointment of members**

- 2 (1) The members are to be appointed by the Minister by written  
3 instrument.
- 4 (2) A member holds office on a part-time basis.
- 5 (3) A member holds office for the period specified in the instrument of  
6 appointment. The period must not exceed 3 years.
- 7 (4) A person must not be appointed for a period if the sum of:  
8 (a) that period; and  
9 (b) any periods of previous appointment of the person as a  
10 member;  
11 exceeds 9 years.
- 12 (5) The performance of the functions or the exercise of the powers of  
13 the Board is not affected by reason only of the number of members  
14 falling below 5 for a period of not more than 6 months.

15 **12 Acting in positions**

- 16 (1) The Deputy Chair is to act as the Chair:  
17 (a) during a vacancy in the office of Chair (whether or not an  
18 appointment has previously been made to the office); or  
19 (b) during any period, or during all periods, when the Chair:  
20 (i) is absent from duty or from Australia; or  
21 (ii) is, for any reason, unable to perform the duties of the  
22 office.
- 23 (2) While the Deputy Chair is acting as the Chair:  
24 (a) the Deputy Chair has, and may exercise, all the Chair's  
25 powers, and must perform all the Chair's functions and  
26 duties; and  
27 (b) this Act, and all other Acts, apply to the Deputy Chair as if he  
28 or she were the Chair.
- 29 (3) Anything done by or in relation to the Deputy Chair when  
30 purporting to act under subsection (1) is not invalid merely because  
31 the occasion to act had not arisen or had ceased.

**Section 13**

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- 1 (4) The Minister may appoint a member to act as the Deputy Chair:  
2 (a) during a vacancy in the office of Deputy Chair (whether or  
3 not an appointment has previously been made to the office);  
4 or  
5 (b) during any period, or during all periods, when the Deputy  
6 Chair:  
7 (i) is acting as the Chair; or  
8 (ii) is absent from duty or from Australia; or  
9 (iii) is, for any reason, unable to perform the duties of the  
10 office.
- 11 (5) The Minister may appoint a person to act as a member (other than  
12 as Chair or Deputy Chair):  
13 (a) during a vacancy in the office of a member (whether or not  
14 an appointment has previously been made to the office); or  
15 (b) during any period, or during all periods, when a member:  
16 (i) is acting as the Deputy Chair; or  
17 (ii) is absent from duty or from Australia; or  
18 (iii) is, for any reason, unable to perform the duties of the  
19 office.
- 20 (6) Anything done by or in relation to a person purporting to act under  
21 an appointment under subsection (4) or (5) is not invalid merely  
22 because:  
23 (a) the occasion for the appointment had not arisen; or  
24 (b) there was a defect or irregularity in connection with the  
25 appointment; or  
26 (c) the appointment had ceased to have effect; or  
27 (d) the occasion to act had not arisen or had ceased.
- 28 Note: For more information about acting appointments, see section 33A of  
29 the *Acts Interpretation Act 1901*.

30 **13 Remuneration of members**

- 31 (1) A member is to be paid the remuneration that is determined by the  
32 Remuneration Tribunal. If no determination of that remuneration  
33 by the Tribunal is in operation, the member is to be paid the  
34 remuneration that is prescribed.

1 (2) A member is to be paid the allowances that are prescribed.

2 (3) This section has effect subject to the *Remuneration Tribunal Act*  
3 *1973*.

#### 4 **14 Leave of members**

5 (1) The Minister may grant the Chair leave of absence on the terms  
6 and conditions that the Minister determines.

7 (2) The Chair may grant leave of absence to any other member on the  
8 terms and conditions that the Chair determines.

9 (3) The Chair must notify the Minister if the Chair grants to a member  
10 leave of absence for a period that exceeds 6 months.

#### 11 **15 Resignation of members**

12 (1) A member may resign his or her appointment by giving the  
13 Minister a written resignation.

14 (2) The resignation takes effect on the day it is received by the  
15 Minister or, if a later day is specified in the resignation, on that  
16 later day.

#### 17 **16 Termination of appointment**

18 (1) The Minister may terminate the appointment of a member for  
19 misbehaviour or physical or mental incapacity.

20 (2) The Minister must terminate the appointment of a member if:

21 (a) the member:

22 (i) becomes bankrupt; or

23 (ii) applies to take the benefit of any law for the relief of  
24 bankrupt or insolvent debtors; or

25 (iii) compounds with his or her creditors; or

26 (iv) makes an assignment of his or her remuneration for the  
27 benefit of his or her creditors; or

28 (b) the member fails, without reasonable excuse, to comply with  
29 an obligation imposed on him or her by section 27F or 27J of  
30 the *Commonwealth Authorities and Companies Act 1997*; or

**Part 3** The Board of the National Film and Sound Archive

**Division 1** The Board

**Section 17**

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1 (c) the member is absent, except on leave of absence, from 3  
2 consecutive meetings of the Board.

3 **17 Other terms and conditions of members**

4 A member holds office on the terms and conditions (if any) in  
5 relation to matters not covered by this Act that are determined by  
6 the Minister.



1

2 **Division 2—Board Procedures**

3 **18 Meetings**

4

(1) The Chair must convene such meetings of the Board as are, in his  
5 or her opinion, necessary for the efficient conduct of its affairs.

6

(2) The quorum for a meeting is a majority of the current members.

7

(3) However, if:

8

(a) a member is required by section 27J of the *Commonwealth  
9 Authorities and Companies Act 1997* not to be present during  
10 the deliberations, or to take part in any decision, of the Board  
11 with respect to a particular matter; and

12

(b) when the member leaves the meeting concerned there is no  
13 longer a quorum present;

14

those remaining members constitute a quorum for the purposes of  
15 any deliberation or decision at that meeting with respect to that  
16 matter.

17

(4) A question arising at a meeting of the Board is to be decided by a  
18 majority of the votes of the members present and voting.

19

(5) The Chair must preside at all meetings at which he or she is  
20 present.

21

(6) If the Chair is not present at a meeting the Deputy Chair, if present,  
22 must preside at the meeting.

23

(7) If neither the Chair nor the Deputy Chair is present at a meeting the  
24 members present must elect one of their number to preside at the  
25 meeting.

26

(8) At a meeting, the presiding member has a deliberative vote and, in  
27 the event of an equality of votes, has a casting vote.

28

(9) The Board must keep a record of any decisions made at a meeting.

**Section 19**

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- 1                   (10) Subject to this Act and the *Commonwealth Authorities and*  
2                                 *Companies Act 1997*, the Board may regulate the conduct of its  
3                                 meetings as it thinks fit.

4                   **19 Decisions without meetings**

- 5                   (1) The Board is taken to have made a decision at a meeting if:  
6                                 (a) without a meeting, a majority of the members entitled to vote  
7   on the proposed decision indicate agreement with the  
8   decision; and  
9                                 (b) that agreement is indicated in accordance with the method  
10   determined by the Board under subsection (2); and  
11                                 (c) all the members were informed of the proposed decision, or  
12   reasonable efforts were made to inform all the members of  
13   the proposed decision.
- 14                   (2) Subsection (1) applies if the Board:  
15                                 (a) has determined that it may make decisions of that kind  
16   without a meeting; and  
17                                 (b) has determined the method by which members are to indicate  
18   agreement with proposed decisions.
- 19                   (3) For the purposes of paragraph (1)(a), a member is not entitled to  
20                                 vote on a proposed decision if the member would not have been  
21                                 entitled to vote on that proposal if the matter had been considered  
22                                 at a meeting of the Board.
- 23                   (4) The Board must keep a record of decisions made in accordance  
24                                 with this section.

1

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## **Part 4—Chief Executive Officer, staff and consultants**

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### **Division 1—Chief Executive Officer**

5

#### **20 Establishment**

6

There is to be a Chief Executive Officer of the National Film and Sound Archive.

7

8

#### **21 Role**

9

(1) The CEO is responsible for the day-to-day administration of the National Film and Sound Archive.

10

11

(2) The CEO has power to do all things necessary or convenient to be done for or in connection with the performance of his or her duties.

12

13

(3) Except in relation to the CEO's powers under the *Public Service Act 1999*, the CEO is to act in accordance with any policies determined, and any directions given, by the Board.

14

15

16

(4) All acts and things done in the name of, or on behalf of, the National Film and Sound Archive by the CEO, or with the authority of the CEO, are taken to have been done by the National Film and Sound Archive.

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(5) If a function or power of the National Film and Sound Archive is dependent on the opinion, belief or state of mind of the National Film and Sound Archive in relation to a matter, the function or power may be exercised upon the opinion, belief or state of mind of a person or body acting as mentioned in subsection (4) in relation to that matter.

21

22

23

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25

26

(6) If a policy or direction under subsection (3) is in writing, the policy or direction is not a legislative instrument.

27

Section 22

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1       **22 Appointment**

- 2                   (1) The CEO is to be appointed by the Board after consultation with  
3                   the Minister.
- 4                   (2) The CEO holds office on a full-time basis.
- 5                   (3) The CEO holds office for the period specified in the instrument of  
6                   appointment. The period must not exceed 5 years.
- 7                   (4) The CEO must not be a member of the Board.

8       **23 Acting appointments**

- 9                   (1) The Board may, after consultation with the Minister, appoint a  
10                  person to act as the CEO:
- 11                  (a) during a vacancy in the office of the CEO (whether or not an  
12                  appointment has previously been made to the office); or
- 13                  (b) during any period, or during all periods, when the CEO:  
14                  (i) is absent from duty or from Australia; or  
15                  (ii) is, for any reason, unable to perform the duties of the  
16                  office.
- 17                  (2) Anything done by or in relation to a person purporting to act under  
18                  an appointment under subsection (1) is not invalid merely because:
- 19                  (a) the occasion for the appointment had not arisen; or  
20                  (b) there was a defect or irregularity in connection with the  
21                  appointment; or  
22                  (c) the appointment had ceased to have effect; or  
23                  (d) the occasion to act had not arisen or had ceased.

24       **24 Other employment**

- 25                  (1) The CEO must not engage in paid employment outside the duties  
26                  of the CEO's office without the Chair's approval.
- 27                  (2) The Chair must notify the Minister of any approval given under  
28                  subsection (1).

**25 Remuneration**

- 1
- 2 (1) The CEO is to be paid the remuneration that is determined by the  
3 Remuneration Tribunal. If no determination of that remuneration  
4 by the Tribunal is in operation, the CEO is to be paid the  
5 remuneration that is prescribed.
- 6 (2) The CEO is to be paid the allowances that are prescribed.
- 7 (3) This section has effect subject to the *Remuneration Tribunal Act*  
8 *1973*.

**26 Leave**

- 9
- 10 (1) The CEO has the recreation leave entitlements that are determined  
11 by the Remuneration Tribunal.
- 12 (2) The Chair may grant the CEO leave of absence, other than  
13 recreation leave, on the terms and conditions as to remuneration or  
14 otherwise that the Chair determines.
- 15 (3) The Chair must notify the Minister if the Chair grants to the CEO  
16 leave for a period that exceeds one month.

**27 Disclosure of interests**

17

18 The CEO must give written notice to the Minister and the Board of  
19 all material personal interests that the CEO has or acquires that  
20 conflict or could conflict with the proper performance of the  
21 CEO's duties.

**28 Resignation**

- 22
- 23 (1) The CEO may resign his or her appointment by giving the Chair a  
24 written resignation.
- 25 (2) The resignation takes effect on the day it is received by the Chair  
26 or, if a later day is specified in the resignation, on that later day.
- 27 (3) If the CEO resigns under this section, the Chair must notify the  
28 Minister of the resignation.

Section 29

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1       **29 Termination**

- 2               (1) The Board may terminate the appointment of the CEO:
- 3                     (a) for misbehaviour or physical or mental incapacity; or
- 4                     (b) if the Board is satisfied that the performance of the CEO has
- 5                        been unsatisfactory for a significant period.
- 6               (2) The Board must terminate the appointment of the CEO if:
- 7                     (a) the CEO:
- 8                        (i) becomes bankrupt; or
- 9                        (ii) applies to take the benefit of any law for the relief of
- 10                       bankrupt or insolvent debtors; or
- 11                       (iii) compounds with his or her creditors; or
- 12                       (iv) makes an assignment of his or her remuneration for the
- 13                       benefit of his or her creditors; or
- 14                     (b) the CEO is absent, except on leave of absence, for 14
- 15                       consecutive days or for 28 days in any 12 months; or
- 16                     (c) the CEO fails, without reasonable excuse, to comply with
- 17                       section 27; or
- 18                     (d) the CEO engages, except with the Chair's approval, in paid
- 19                       employment outside the duties of his or her office.
- 20               (3) If the Board terminates the appointment of the CEO, the Board
- 21                     must notify the Minister of the termination.

22       **30 Other terms and conditions**

23               The CEO holds office on the terms and conditions (if any) in

24               relation to matters not covered by this Act that are determined by

25               the Board.

1

2 **Division 2—Staff and consultants**

3 **31 Staff**

4 (1) The staff of the National Film and Sound Archive must be persons  
5 engaged under the *Public Service Act 1999*.

6 (2) For the purposes of the *Public Service Act 1999*:

7 (a) the CEO and the staff of the National Film and Sound  
8 Archive together constitute a Statutory Agency; and

9 (b) the CEO is the Head of that Statutory Agency.

10 **32 Consultants**

11 The National Film and Sound Archive may engage consultants to  
12 assist in the performance of its functions.

1

2

## Part 5—Planning

3

4

### 33 Corporate plan

5

(1) The Board must prepare a corporate plan for the National Film and Sound Archive at least once a year.

6

7

(2) The plan must cover a period of at least 3 years.

8

(3) The Minister may give the Board written instructions with which the Board must comply in preparing the plan and any variations to the plan.

9

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11

(4) An instruction given under subsection (3) is not a legislative instrument.

12

13

### 34 Contents of corporate plan

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(1) The plan must include details of the following matters:

15

(a) a statement of the objectives that the National Film and Sound Archive will pursue;

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17

(b) the strategies and policies that the National Film and Sound Archive will adopt to achieve those objectives;

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19

(c) performance indicators for the assessment of the National Film and Sound Archive's performance of its functions;

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(d) the financial targets and projections for the National Film and Sound Archive;

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(e) an analysis of factors likely to affect achievement of targets or create significant financial risk for the National Film and Sound Archive or for the Commonwealth;

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(f) a review of performance since the start of the year previous to the year in which the plan is prepared, measured against the most recent plan for any part of that period;

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(g) such other matters (if any) as the Minister directs.

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(2) The plan may include any other matters.



- 1 (3) If a direction under paragraph (1)(g) is in writing, the direction is  
2 not a legislative instrument.

### 3 **35 Approval of corporate plan by Minister**

- 4 (1) The plan must be given to the Minister for his or her approval  
5 before the start of the period to which the plan relates.
- 6 (2) The Minister may, by written notice given to the Board:  
7 (a) approve the plan; or  
8 (b) request the Board to revise it for the reasons set out in the  
9 request.
- 10 (3) The Board must:  
11 (a) comply with the Minister's request to revise the plan; and  
12 (b) give the revised plan to the Minister for his or her approval.
- 13 (4) The plan comes into force on the later of:  
14 (a) the day on which it is approved by the Minister; or  
15 (b) the first day of the period to which it relates.
- 16 (5) A notice given under subsection (2) is not a legislative instrument.

### 17 **36 Variation of corporate plan**

- 18 (1) The Board may, at any time, vary a corporate plan, whether or not  
19 it has come into force.
- 20 (2) The Minister may, at any time, request the Board to vary a  
21 corporate plan, whether or not it has come into force. The Board  
22 must comply with the request.
- 23 (3) A variation must be given to the Minister for his or her approval.
- 24 (4) A variation comes into force on the day on which it is approved by  
25 the Minister.
- 26 (5) If a variation of a corporate plan is approved by the Minister after  
27 the plan has come into force, the plan continues in force on and  
28 after the day on which the variation is approved as so varied.

**Part 5** Planning

**Section 36**

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- 1                   (6) If a request under subsection (2), or an approval under  
2                   subsection (4), is in writing, the request or approval is not a  
3                   legislative instrument.

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**Part 6—Finance**

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**37 Money payable to the National Film and Sound Archive**

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(1) There is payable to the National Film and Sound Archive such money as is appropriated by the Parliament for the purposes of the National Film and Sound Archive.

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7

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(2) The Finance Minister may give directions about the amounts in which, and the times at which, money payable under subsection (1) is to be paid to the National Film and Sound Archive.

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11

(3) If a direction under subsection (2) is given in writing, the direction is not a legislative instrument.

12

13

(4) In this section:

14

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

15

16

**38 Application of money by the National Film and Sound Archive**

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(1) The money of the National Film and Sound Archive is to be applied only:

18

19

(a) in payment or discharge of the costs, expenses and other obligations incurred or undertaken by the National Film and Sound Archive in the performance of its functions and the exercise of its powers; and

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23

(b) in payment of any remuneration or allowances payable under this Act.

24

25

(2) Subsection (1) does not prevent investment of surplus money of the National Film and Sound Archive under section 18 of the *Commonwealth Authorities and Companies Act 1997*.

26

27

28

**39 Restrictions on financial transactions**

29

(1) The National Film and Sound Archive must not, without the approval of the Minister:

30

Section 40

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- 1 (a) acquire any property, right or privilege for a consideration  
2 exceeding in amount or value the amount prescribed by the  
3 regulations for the purposes of this paragraph; or  
4 (b) dispose of any property, right or privilege if the amount or  
5 value of the consideration for the disposal, or the value of the  
6 property, right or privilege, exceeds the amount prescribed by  
7 the regulations for the purposes of this paragraph; or  
8 (c) enter into a contract for the construction of a building for the  
9 National Film and Sound Archive, being a contract under  
10 which the National Film and Sound Archive is to pay an  
11 amount exceeding the amount prescribed by the regulations  
12 for the purposes of this paragraph; or  
13 (d) enter into a lease of land for a period exceeding 10 years.
- 14 (2) Paragraphs (1)(a) and (b) do not apply to the investment of money  
15 by the National Film and Sound Archive under section 18 of the  
16 *Commonwealth Authorities and Companies Act 1997*.
- 17 (3) If an approval under subsection (1) is in writing, the approval is not  
18 a legislative instrument.

19 **40 Taxation**

- 20 (1) The National Film and Sound Archive is not subject to taxation  
21 under any law of the Commonwealth or of a State or Territory.
- 22 Note: Despite this subsection, the National Film and Sound Archive may be  
23 subject to taxation under certain laws (see, for example, section 177-5  
24 of the *A New Tax System (Goods and Services Tax) Act 1999* and  
25 section 66 of the *Fringe Benefits Tax Assessment Act 1986*).
- 26 (2) The regulations may provide that subsection (1) does not apply in  
27 relation to taxation under a specified law.

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2 **Part 7—Other matters**

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4 **41 Annual reports**

5 The annual report on the National Film and Sound Archive under  
6 section 9 of the *Commonwealth Authorities and Companies Act*  
7 *1997* must include particulars of all disposals of items in the  
8 national collection referred to in paragraph 6(1)(a), during the  
9 period to which the report relates, that the National Film and Sound  
10 Archive considers were significant items in the national collection.

11 **42 Ministerial direction**

12 (1) The Minister may, by legislative instrument, give written directions  
13 to the Board:

14 (a) in relation to the performance of the functions of, and the  
15 exercise of powers of, the National Film and Sound Archive;

16 or

17 (b) requiring the provision of a report or advice on a matter that  
18 relates to any of the National Film and Sound Archive's  
19 functions or powers.

20 Note 1: Section 42 (disallowance) of the *Legislative Instruments Act 2003*  
21 does not apply to the direction—see section 44 of that Act.

22 Note 2: Part 6 (sunsetting) of the *Legislative Instruments Act 2003* does not  
23 apply to the direction—see section 54 of that Act.

24 (2) The Minister must not give a direction in relation to a decision by  
25 the Board to provide support to a particular person or for a  
26 particular program.

27 (3) The Board must ensure that any direction given by the Minister  
28 under subsection (1) is complied with.

29 (4) This section does not limit the operation of section 16 of the  
30 *Commonwealth Authorities and Companies Act 1997*.

Section 43

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1 **43 Regulations**

2 The Governor-General may make regulations prescribing matters:

3 (a) required or permitted by this Act to be prescribed; or

4 (b) necessary or convenient to be prescribed for carrying out or  
5 giving effect to this Act.

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