

AUSTRALIAN FILM COMMISSION ACT 1975

No. 6 of 1975

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AUSTRALIAN FILM COMMISSION ACT 1975

No. 6 of 1975

An Act to establish an Australian Film Commission.

BE IT ENACTED by the Queen, the Senate and the House of Representatives of Australia, as follows:—

PART I—PRELIMINARY

- Short title. 1. This Act may be cited as the *Australian Film Commission Act 1975*.¹
- Commence- 2. (1) Subject to sub-section (2), this Act shall come into operation
ment. on the day on which it receives the Royal Assent.¹
- (2) Part VI shall come into operation on a date to be fixed by Proclamation.
- Interpret- 3. (1) In this Act, unless the contrary intention appears—
ation. “Australian film” means a film—
- (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 Australia or an authority of Australia and the Government of another country or an authority of the Government of another country;
- “Australian short film” means—
- (a) a short film made or commissioned by the Commission that is of a kind referred to in paragraph 5 (1) (b) (i), (ii) or (iii); or
 - (b) any other short film—
 - (i) that is an Australian film; and
 - (ii) not less than 80 per centum of the footage of which has been photographed 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 advertising 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;

“Chairman” means the Chairman of the Commission;

“Commission” means the Australian Film Commission established by this Act;

“Deputy Chairman” means the Deputy Chairman of the Commission;

“film” means a photographic film or a recording on magnetic tape or on any other material from which a series of images, with or without associated sounds, may be produced, including such a photographic film or recording for use in a television program;

“general activities”, in relation to the Commission, means any activities of the Commission other than its special film-making activities;

“member” means a member of the Commission, and includes the Chairman;

“producer”, in relation to a film, means the person by whom the arrangements necessary for the making of the film are undertaken;

“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;

“special film-making activities”, in relation to the Commission, means the making, or the commissioning of the making, of films referred to in sub-paragraph 5 (1) (b) (i), (ii) or (iii).

(2) In considering whether a film has or will have a significant Australian content, the Commission shall have regard to—

- (a) the subject-matter of the film;
- (b) the place or places where the film 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 film (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 film; and
- (iii) the persons who have, or will have, the copyright in the film;
- (d) the source from which moneys used, or to be used, in the making of the film were, or will be, derived; and
- (e) any other matters that it thinks relevant.

PART II—ESTABLISHMENT, FUNCTIONS AND POWERS OF THE COMMISSION

Establishment of Australian Film Commission.

4. (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.

(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.

Functions of Commission.

5. (1) The functions of the Commission are—

- (a) to encourage, whether by the provision of financial assistance or otherwise, the making, promotion, distribution and exhibition of Australian films;
- (b) subject to the approval of the Minister, to make, promote, distribute and exhibit any films and, in particular—
 - (i) films that serve the purposes of a Department of State or an authority of Australia;
 - (ii) films that deal with matters of national interest to Australia; and
 - (iii) films that are designed to illustrate or interpret aspects of Australia or of the life and activities of the Australian people;
- (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 Australian films that are of an educational nature and of national interest or importance; and

- (d) to encourage, whether by the provision of financial assistance or otherwise, the proper keeping of films in archives in Australia.
- (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 television 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. (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—

Powers of
Commission.

- (a) to guarantee the repayment of, and payment of interest on, loans (including bank overdrafts) made to producers of Australian films;
 - (b) to provide financial assistance to producers of Australian films under arrangements that entitle the Commission to receive a share of the proceeds derived from the sale, hire or exhibition of the films or the inclusion of the films in television programs;
 - (c) to acquire rights in respect of films;
 - (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, films or other property vested in the Commission upon trust, or to act on behalf of Australia or an authority of Australia in the administration of a trust relating to films or film matters.
- (2) The power of the Commission to give guarantees is subject to such limits as the Treasurer determines as to the total amount of 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, films 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 Commission shall set out in its annual report prepared and furnished to the Minister under section 44 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 Treasurer has determined under sub-section (2); and
 - (c) the total amount the subject of the guarantees referred to in paragraph (a).

Commission may form company for certain purposes, &c.

7. 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 making, promoting, distributing or exhibiting films and acquire, hold and dispose of shares or stock in the capital of a company carrying on such a business.

Directions to Commission by Minister.

8. (1) The Minister may, by writing under his hand, give directions to the Commission with respect to the exercise of its powers or the performance of its functions but, except as provided by sub-section (2), shall not give such a direction with respect to a particular project.

(2) The Minister may give a direction to the Commission with respect to a film, or proposed film, of a kind referred to in sub-paragraph 5 (1) (b) (i), (ii) or (iii).

(3) Where the Minister gives a direction under this section, he shall, within 15 sitting days after giving that direction, lay before each House of the Parliament a copy of the direction together with his reasons for giving the direction.

Standards for films.

9. The Minister and the Commission shall exercise their powers and perform their functions under this Act, so far as they extend to the making of films, with a view to the achievement of high technical and artistic standards in those films.

Requirement with respect to the exhibition of Australian short films.

10. (1) For the purpose of carrying out its functions of encouraging the making, promotion, distribution and exhibition of Australian 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 Australia 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 sub-section (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

(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 sub-section (1) may be so expressed as to include both a requirement of the kind referred to in sub-paragraph (2) (b) (i) and a requirement of the kind referred to in sub-paragraph (2) (b) (ii).

(4) A person shall comply with a requirement served on him under sub-section (1).

Penalty: \$200.

(5) It is a defence if a person charged with an offence under sub-section (4) proves that he had a reasonable excuse relating to the availability of Australian short films for not complying with the requirement to which the offence relates.

(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.

Observance of obligations under OECD Code.

11. The Minister shall give such directions to the Commission under section 8 as he 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.

Commission to keep itself informed as to film industry.

12. 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 exhibiting films in Australia.

Commission may engage consultants.

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

Delegation by Commission.

14. (1) The Commission may, by writing under its seal, delegate to a member of the Commission with the approval of the Minister, either generally or otherwise as provided by the instrument of delegation, any of its powers or functions under this Act, other than this power of delegation.

(2) A power or function so delegated may be exercised or performed by the delegate in accordance with the instrument of delegation.

(3) A delegation under this section is revocable at will and does not prevent the exercise of a power or the performance of a function by the Commission.

PART III—CONSTITUTION AND MEETINGS OF THE COMMISSION

Constitution of Commission.

15. (1) The Commission shall consist of a Chairman and at least 5 other members.

(2) The members of the Commission shall be appointed by the Governor-General.

(3) The Chairman shall be appointed as a full-time member.

(4) Members of the Commission other than the Chairman shall be appointed either as full-time members or as part-time members but at least 2 such members shall be appointed as full-time members.

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

(2) A person who has attained the age of 65 years shall not be appointed or re-appointed as the Chairman or other full-time member, and a person shall not be appointed or re-appointed as the Chairman or other full-time member for a period that extends beyond the date on which he will attain the age of 65 years.

17. (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 shall be paid such remuneration as is prescribed. Remuneration and allowances.

(2) A member shall be paid such allowances as are prescribed.

(3) Sub-sections (1) and (2) have effect subject to the *Remuneration Tribunals Act 1973-1974*.

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

18. The Minister may grant leave of absence to the Chairman or other full-time member upon such terms and conditions as to remuneration or otherwise as the Minister determines. Leave of absence.

19. (1) The Governor-General may appoint a person who is, or is to be, a full-time member to be the Deputy Chairman of the Commission. Deputy Chairman.

(2) A person appointed under this section holds office as Deputy Chairman until the expiration of his period of appointment as a member or until he sooner ceases to be a member.

(3) Where a member appointed as Deputy Chairman is, upon ceasing to be Deputy Chairman by virtue of the expiration of the period of his appointment as a member, re-appointed as a member, he is eligible for re-appointment as Deputy Chairman.

(4) The Deputy Chairman may resign his office of Deputy Chairman by writing signed by him and delivered to the Governor-General.

20. (1) Subject to sub-section (2), where there is a vacancy in the office of Chairman, the Minister may appoint a person to act in the place of the Chairman until the filling of the vacancy. Acting members.

(2) A person appointed under sub-section (1) to act in the place of the Chairman shall not continue so to act after the expiration of a period of 12 months after the occurrence of the vacancy.

(3) Where the Chairman is absent from duty or from Australia—

(a) the Deputy Chairman shall act in the place of the Chairman; or

(b) if there is no Deputy Chairman or the Deputy Chairman is not available to act in the place of the Chairman, the Minister may appoint a full-time member to act in the place of the Chairman during the absence of the Chairman, but any such appointment ceases to have effect if a person is appointed in the place of the Deputy Chairman or the Deputy Chairman becomes available to act in the place of the Chairman.

(4) Where—

(a) a full-time member other than the Chairman—

(i) is acting in the place of the Chairman; or

(ii) is absent from duty or from Australia; or

(b) a part-time member is unable, whether on account of illness or otherwise, to perform the duties of his 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 sub-section (4) to act in the place of a member who is the Deputy Chairman is not entitled to act as the Deputy Chairman.

(6) A person acting, or appointed to act, in accordance with this section, in the place of the Chairman has all the functions, powers and duties of the Chairman and, for the purpose of constituting a quorum at a meeting of the Commission, shall be treated as the Chairman.

(7) Subject to sub-section (5), a person appointed to act, in accordance with this section, in the place of a member other than the Chairman 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.

Persons
having
certain
interests not
to be eligible
for
appointment,
&c.

21. A person having a direct or indirect pecuniary interest in a business or other undertaking involving the making, promotion, distribution or exhibition of films, 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 the Chairman or another full-time member.

22. (1) If the Chairman or another full-time member has a direct or indirect pecuniary interest in a business or other undertaking involving the making, promotion, distribution or exhibition of films, he shall, as soon as possible after his appointment or after he acquires that interest, whichever last occurs, give written notice to the Minister of that interest. Disclosure of interests.

(2) A member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Commission, otherwise than as a member, and in common with the other members, of an incorporated company consisting of not less than 25 persons, shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Commission.

(3) A disclosure under sub-section (2) shall be recorded in the minutes of the meeting of the Commission, and the member shall not be present during any deliberation of the Commission with respect to that matter.

(4) If an interest referred to in sub-section (2) is patent, that sub-section does not apply, but sub-section (3) applies as if there has been a disclosure in accordance with sub-section (2).

(5) In this section, unless the contrary intention appears, "member" includes a person appointed to act in the place of the Chairman or another member.

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

(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 creditors or makes an assignment of his remuneration for their benefit; or

(ii) fails to comply with an obligation imposed on him by section 22; or

(b) the Chairman or other 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 office; or

(iii) is absent from duty, except on leave of absence granted by the Minister, 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 Chairman, absent from 2 consecutive meetings of the Commission the Governor-General may terminate the appointment of that member.

Resignation. **24.** A member may resign his office by writing signed by him and delivered to the Governor-General.

Act of Commission not to be questioned. **25.** 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.

Application of Superannuation Act. **26.** (1) For the purposes of sub-sections 4 (3A) and (4) of the *Superannuation Act* 1922-1974, a full-time member shall be deemed to be required, by the terms of his appointment, to give the whole of his time to the duties of his office.

(2) For the purposes of the *Superannuation Act* 1922-1974, the termination of the appointment of a full-time member by reason of physical or mental incapacity shall be deemed to be retirement on the ground of invalidity.

(3) Nothing in this Act authorizes the provision of superannuation benefits for a person appointed under this Act otherwise than under the *Superannuation Act* 1922-1974.

Rights of public servant appointed as full-time member. **27.** If a person appointed as a full-time member was, immediately before his appointment, an officer of the Australian Public Service or a person to whom the *Officers' Rights Declaration Act* 1928-1973 applied—

- (a) he retains his existing and accruing rights;
- (b) for the purpose of determining those rights, his service as Chairman or other full-time member shall be taken into account as if it were service in the Australian Public Service; and
- (c) the *Officers' Rights Declaration Act* 1928-1973 applies as if this Act and this section had been specified in the Schedule to that Act.

Meetings. **28.** (1) Subject to this section, the Chairman shall convene such meetings of the Commission as are, in his opinion, necessary for the efficient conduct of its affairs.

(2) The quorum for a meeting shall be 5 members, including 2 full-time 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 Chairman shall preside at all meetings at which he is present.

(5) In the event of the absence of the Chairman from a meeting, the Deputy Chairman shall preside at that meeting.

(6) In the event of the absence of the Chairman and the Deputy Chairman 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 Chairman or other member presiding has a deliberate 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.

PART IV—STAFF

29. (1) The staff necessary to assist the Commission shall be persons appointed or employed under the *Public Service Act 1922-1974*. Staff of
Commission.

(2) The Chairman has all the powers of, or exercisable by, a Permanent Head under the *Public Service Act 1922-1974* so far as those powers relate to the branch of the Australian Public Service comprising the staff referred to in sub-section (1) as if that branch were a separate Department of the Australian Public Service.

(3) For the purposes of sub-sections 25 (5) and (6) of the *Public Service Act 1922-1974*, the Chairman shall be deemed to be a Permanent Head.

30. Where a person employed as a member of the staff of the Commission in circumstances to which paragraph 4 (5) (a) of the *Superannuation Act 1922-1974* applies was at all times during a continuous period immediately preceding the time at which he became so employed, employed by the Australian Film Development Corporation upon terms that required him to give the whole of his time to the duties of his employment, the period of his employment in circumstances to which that paragraph applies shall be deemed to include that continuous period. Prior
employment
by
Australian
Film
Development
Corporation.

PART V—FINANCE

31. (1) There are payable to the Commission such moneys as are appropriated by the Parliament for the purposes of the Commission. Moneys
payable to
Commission.

(2) The Treasurer may give directions as to the amounts in which, and the times at which, moneys referred to in sub-section (1) are to be paid to the Commission.

Bank
accounts.

32. (1) The Commission shall open and maintain with the Reserve Bank or with a bank or banks approved by the Treasurer for the purposes of this sub-section an account or accounts for the purposes of the special film-making activities of the Commission.

(2) The Commission shall open and maintain with a bank or banks approved by the Treasurer for the purposes of this sub-section an account or accounts for the purposes of the general activities of the Commission.

(3) The Commission shall pay into an account or accounts maintained by it under sub-section (1) all moneys paid to the Commission in respect of its special film-making activities and shall not withdraw from such an account any moneys other than amounts required to be expended in respect of those activities.

(4) The Commission shall pay into an account or accounts maintained by it under sub-section (2) all moneys paid to the Commission in respect of its general activities (including the moneys referred to in paragraph 39 (2) (a)) and shall not withdraw from such an account any moneys other than amounts required to be expended in respect of those activities or in making payments under paragraph 39 (2) (b).

Application
of moneys by
Commission.

33. (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) Any moneys of the Commission standing to the credit of an account for the purposes of the general activities of the Commission, being moneys that are not immediately required for the purposes of the Commission, may be invested—

(a) on fixed deposit with a bank approved by the Treasurer for the purposes of this sub-section;

(b) in securities of Australia; or

(c) in any other manner approved by the Treasurer.

Estimates.

34. (1) The Commission shall prepare estimates, in such form as the Minister directs, of its receipts and expenditure for each financial year and, if so directed by the Minister, for any other period, and shall submit those estimates to the Minister not later than such date as the Minister directs.

(2) The estimates shall show separately receipts and expenditure in respect of the special film-making activities of the Commission.

(3) For the purposes of sub-section (2) any expenditure necessary to pay and discharge the debts, liabilities and obligations referred to in paragraph 39 (2) (b) shall be deemed to be expenditure other than in respect of the special film-making activities of the Commission.

(4) Moneys shall not be expended by the Commission in respect of its special film-making activities otherwise than in accordance with estimates of expenditure approved by the Minister.

35. The Commission shall not, without the approval of the Minister—

Purchase and disposal of assets.

- (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.

36. (1) There shall be paid to the Consolidated Revenue Fund, at such times as the Treasurer determines, in respect of persons who are members of the Commission or members of the staff of the Commission, other than members of the staff of the Commission whose duties are connected solely with the special film-making activities of the Commission, such amounts as the Treasurer, having regard to the advice of the Australian Government Actuary, determines in respect of the future liability of Australia to make payments under any Acts relating to superannuation in respect of those persons.

Payments by Commission in respect of super-annuation.

(2) Where a part of the duties of a member, or a member of the staff, of the Commission is connected with the special film-making activities of the Commission, the Australian Government Actuary, in furnishing advice to the Treasurer in respect of a determination of an amount under sub-section (1), shall have regard to that fact.

37. (1) The Commission shall cause to be kept proper accounts and records of the transactions and affairs of the Commission and shall do all things necessary to ensure that all payments out of its moneys are correctly made and properly authorized and that adequate control is maintained over the assets of, or in the custody of, the Commission and over the incurring of liabilities by the Commission.

Proper accounts to be kept.

(2) The accounts and records kept by the Commission in pursuance of sub-section (1) in relation to the general activities of the Commission

shall be kept in accordance with the accounting principles generally applied in commercial practice.

Audit.

38. (1) The Auditor-General shall inspect and audit the accounts and records of financial transactions of the Commission and records relating to assets of, or in the custody of, the Commission and shall forthwith draw the attention of the Minister to any irregularity disclosed by the inspection and audit that is, in the opinion of the Auditor-General, of sufficient importance to justify his doing so.

(2) The Auditor-General may, in his discretion, dispense with all or any part of the detailed inspection and audit of any accounts or records referred to in sub-section (1).

(3) The Auditor-General shall, at least once in each year, report to the Minister the results of the inspection and audit carried out under sub-section (1).

(4) The Auditor-General or an officer authorized by him is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of the Commission relating directly or indirectly to the receipt or payment of moneys by the Commission or to the acquisition, receipt, custody or disposal of assets by the Commission.

(5) The Auditor-General or an officer authorized by him may make copies of, or take extracts from, any such accounts, records, documents or papers.

(6) The Auditor-General or an officer authorized by him may require any person to furnish him with such information in the possession of the person or to which the person has access as the Auditor-General or authorized officer considers necessary for the purposes of the functions of the Auditor-General under this Act, and the person shall comply with the requirement.

(7) A person who contravenes sub-section (6) is guilty of an offence punishable, upon conviction, by a fine not exceeding \$200.

PART VI—TRANSITIONAL PROVISIONS WITH RESPECT TO ASSETS

39. (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 sub-section, vested in the Commission; and

Repeal of
Australian
Film
Develop-
ment
Corpor-
ation Acts,
&c.

(b) the Commission becomes, by force of this sub-section, 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 sub-section (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 sub-section (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 Treasurer approves, and sub-sections 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 sub-sections 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 sub-section (7), the members of the Australian Film Development Corporation as continued in existence by virtue of sub-section (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 sub-section (4), who is appointed to be a member of the Australian Film Commission, the performance of his

duties as a member of the Corporation shall be deemed to be the performance of his duties as a member of the Commission.

Transfer of
certain assets
from
Australia to
Commission.

40. (1) The Minister may transfer or cause to be transferred to the Commission such of the assets owned by Australia and held or used in connexion with, or arising from, the activities of the Department of the Media in making, promoting, distributing or exhibiting films of a type referred to in sub-paragraphs 5 (1) (b) (i), (ii) or (iii) as the Minister thinks fit.

(2) In this section, “assets” includes—

- (a) plant, machinery, equipment, office furniture, fittings, motor vehicles and stock in trade;
- (b) debts due to Australia 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 Australia is entitled and which it may assign; and
- (e) all appropriate records maintained by Australia,

but does not include an estate or interest in land.

PART VII—MISCELLANEOUS

Liability to
taxation.

41. (1) Subject to sub-section (2), the Commission is not subject to taxation under any law of Australia or of a State or Territory.

(2) The regulations may provide that sub-section (1) does not apply in relation to taxation under a specified law.

False
information.

42. A person shall not knowingly supply to the Commission or an authorized person in purported compliance with a requirement of the Commission or the authorized person any information that is false or misleading in a material particular.

Penalty: \$200.

Members of
Commission,
&c., to
observe
secrecy.

43. 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 duties, or in the exercise of his 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 duties, or in the exercise of his powers or functions, under this Act.

Penalty: \$1,000.

44. (1) The Commission shall, as soon as practicable after 30 June in each year, prepare and furnish to the Minister a report of the operations of the Commission during the year ended on that date together with financial statements in respect of that year in such form as the Treasurer approves. Annual report and financial statements.

(2) Before furnishing the financial statements to the Minister, the Commission shall submit them to the Auditor-General, who shall report to the Minister—

- (a) whether the statements are based on proper accounts and records;
- (b) whether the statements, in so far as they relate to the special film-making activities of the Commission, are in agreement with the accounts and records;
- (c) whether the statements, in so far as they relate to the general activities of the Commission, are in agreement with the accounts and records and show fairly the financial transactions and the state of affairs of the Commission;
- (d) whether the receipt, expenditure and investment of moneys, and the acquisition and disposal of assets, by the Commission during the year have been in accordance with this Act; and
- (e) as to such other matters arising out of the statements as the Auditor-General considers should be reported to the Minister.

(3) The Minister shall lay the report and financial statements of the Commission, together with the report of the Auditor-General, before each House of the Parliament within 15 sitting days of that House after their receipt by the Minister.

(4) The first report and financial statements of the Commission under this section shall be furnished as soon as practicable after 30 June 1975 and shall relate to the operations of the Commission during the period that commenced on the date of commencement of this Act and ended on that date.

45. The Commission shall furnish to the Minister such reports as the Minister requires and may furnish such other reports as the Commission thinks fit. Reports.

46. 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. Regulations.

NOTE

1. Act No. 6, 1975; assented to 7 March 1975.