

# EXPLANATORY STATEMENT

*Australian Film, Television and Radio School Act 1973*

## **Australian Film, Television and Radio School (Purchase and Disposal of Assets) Regulations 2017**

Issued by the Authority of the Minister for the Arts

### Authority

The Governor-General has made the *Australian Film, Television and Radio School (Purchase and Disposal of Assets) Regulations 2017* (**the new Regulations**) under paragraphs 40(1)(a), (b) and (c), and section 51 of the *Australian Film, Television and Radio School Act 1973* (**the Act**).

Paragraphs 40(1)(a) and (b) of the Act provide that Ministerial approval is required for acquisitions or disposals of property by the Australian Film, Television and Radio School (**AFTRS**) exceeding \$250,000 or, if a higher amount is prescribed, that higher amount. Paragraph 40(1)(c) provides that Ministerial approval is required for the School to enter into a contract for construction of a building for the School with a value exceeding \$50,000 or a higher prescribed amount.

Section 51 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 *Australian Film, Television and Radio School Regulations 1986* (the **sunsetting Regulations**).

### Purpose and operation

The Act establishes AFTRS as a body corporate. Section 6 of the Act relevantly empowers AFTRS to enter into contracts; to erect buildings; to occupy, use and control any land or building owned or held under lease by the Commonwealth and made available for the purposes of AFTRS; to acquire, hold and dispose of real or personal property; and to accept gifts, devises and bequests made to AFTRS and to act as trustee of moneys or other property vested in AFTRS upon trust.

The sunsetting Regulations prescribe the value for the phrase ‘higher amount’ in relation to the purchase and disposal of assets. Following a review of the sunsetting Regulations, and consultation with AFTRS, 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

AFTRS 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 sunseting 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 *Australian Film, Television and Radio School (Purchase and Disposal of Assets) Regulations 2017***

**Part 1 – Preliminary**

Division 1 - Preliminary

**Section 1      Name**

Section 1 provides that the name of the instrument is the *Australian Film, Television and Radio School (Purchase and Disposal of Assets) 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 Legislative Instruments.

**Section 3      Authority**

Section 3 provides that the authority for making the Regulations is the *Australian Film, Television and Radio School Act 1973* (the Act). The applicable provisions that give authority are paragraphs 40(1)(a), (b) and (c), and section 51 of the Act.

**Section 4      Schedule 3**

Section 4 provides that each instrument that is specified in Schedule 3 is amended or repealed as set out in the respective item.

**Section 5      Higher amounts-purchase and disposal of assets**

Section 5 provides that \$1,000,000 is prescribed as the ‘higher amount’ for the purposes of paragraphs 40(1)(a), (b) and (c) of the Act.

**Schedule 1      Repeals**

Schedule 1 repeals the sunseting *Australian Film, Television and Radio School Regulations 1986*.

## **Statement of Compatibility with Human Rights**

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

### **Australian Film, Television and Radio School (Purchase and Disposal of Assets) 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 Australian Film, Television and Radio School (Purchase and Disposal of Assets) Regulations 2017 (the new Regulations) is a legislative instrument for the purposes of the *Legislation Act 2003*.

The new Regulations are prepared under paragraphs 40(1)(a), (b) and (c), and section 51 of the *Australian Film, Television and Radio School Act 1973* (the Act), and repeal and remake the *Australian Film, Television and Radio School Regulations 1986* (the sunseting Regulations), due to sunset on 1 April 2018.

The sunseting Regulations set the value for the phrase the ‘higher amount’ in relation to the purchase and disposal of assets. Consultation with AFTRS has determined that the sunseting Regulations are still required and will therefore be remade.

The new Regulations contain minor non-substantive amendments that reflect current drafting practices.

#### **Human rights implications**

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

AFTRS is established as a body corporate under section 4 of the Act. The new Regulations will only impact AFTRS 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.