

Explanatory Statement

National Film and Sound Archive of Australia Act 2008

National Film and Sound Archive of Australia Regulations 2018

Issued by the Authority of the Minister for the Arts

The *National Film and Sound Archive of Australia Act 2008* (the Act) establishes the National Film and Sound Archive of Australia (NFSA). The NFSA is the Australian Government's primary agency for collecting, documenting, preserving and providing access to Australia's audiovisual heritage.

Section 43 of the Act enables the Governor-General to make regulations prescribing matters required or permitted by that Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to that Act.

Section 39 of the Act provides that regulations will prescribe an amount over which the NFSA must not, without the approval of the Minister, acquire any property, right or privilege; dispose of any property, right or privilege; or enter into a contract for the construction of a building. Such a prescription allows for appropriate controls to be set on overall commitments to particular categories of funding.

The purpose of the Regulations is to:

1. set \$2 million as the prescribed limit above which the NFSA will require the approval of the Minister to undertake financial transactions; and
2. repeal the previous *National Film and Sound Archive Regulations 2008* which were due to sunset on 1 October 2018.

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

This instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.

The Regulations will commence on the day after registration.

Regulation Impact Statement

The Office of Best Practice Regulation has confirmed that the preparation of a Regulation Impact Statement is not necessary, as the amendments have a nil or low impact on business or the economy or individuals [OBPR Reference number: 22173].

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.

Consultation

The National Film and Sound Archive of Australia were consulted on the preparation of these regulations.

Notes on Sections

Section 1 provides that the name of the instrument is the *National Film and Sound Archive of Australia Regulations 2018*.

Section 2 provides that the instrument will commence on the day after it is registered.

Section 3 provides that the authority for making this instrument is the *National Film and Sound Archive of Australia Act 2008*.

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

Section 5 provides that for the purposes of this instrument the word Act means the *National Film and Sound Archive of Australia Act 2008*.

Section 6 provides that the prescribed amount for the purposes of paragraphs 39(1)(a) to (c) of the Act is \$2,000,000.

The previous regulations set a limit of \$1 million in relation to spending under section 39 of the Act. The prescribed amount has increased to \$2 million in the new Regulations. The higher limit is appropriate as the value of certain financial arrangements has increased over time.

Schedule 1 provides that the *National Film and Sound Archive Regulations 2008* are repealed in their entirety.

Statement of Compatibility with Human Rights

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

National Film and Sound Archive of Australia Regulations 2018

The *National Film and Sound Archive of Australia Regulations 2018* (the Instrument) is 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 Legislative Instrument

The *National Film and Sound Archive of Australia Act 2008* (the Act) establishes the National Film and Sound Archive of Australia (NFSA). The NFSA is the Australian Government's primary agency for collecting, documenting, preserving and providing access to Australia's audio visual heritage.

Section 39 of the Act provides that regulations will prescribe an amount over which the NFSA must not, without the approval of the Minister, acquire any property, right or privilege; dispose of any property, right or privilege; or enter into a contract for the construction of a building. Such a prescription allows for appropriate controls to be set on overall commitments to particular categories of funding.

The purpose of the Regulations is to:

1. set \$2 million as the prescribed limit above which the NFSA will require the approval of the Minister to undertake financial transactions; and
2. repeal the previous *National Film and Sound Archive Regulations 2008*.

The instrument makes provision for the same matters as the *National Film and Sound Archive Regulations 2008*, which were due to sunset on 1 October 2018.

Human rights implications

This Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Instrument is compatible with human rights as it does not raise any human rights issues.