

FILM INDUSTRY ACT 1988 No. 18

NEW SOUTH WALES



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FILM INDUSTRY ACT 1988 No. 18

NEW SOUTH WALES



Act No. 18, 1988

An Act to reconstitute the New South Wales Film Corporation; to provide for the eventual winding-up of the reconstituted corporation and the assumption of its functions by the Crown; and for other purposes. [Assented to 28 June 1988]

Film Industry 1988

The Legislature of New South Wales enacts:

PART 1—PRELIMINARY**Short title**

1. This Act may be cited as the Film Industry Act 1988.

Commencement

2. This Act commences on a day to be appointed by proclamation.

Definitions

3. (1) In this Act—

“documentary film” means a film produced, or to be produced, for educational or informative purposes;

“film” means a recording on photographic film or other material from which a series of images, whether or not with associated sounds, may be produced;

“making”, in relation to a film, includes the preparation of film sets, the writing of film scripts and the doing of all other things necessary to enable the making of the film to commence;

“Office” means the New South Wales Film and Television Office constituted by section 4;

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

“short film” means a film that—

- (a) is not a documentary film; and
- (b) has a running time of not more than 60 minutes.

- (2) In this Act—

- (a) a reference to a function includes a reference to a power, authority and duty; and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

PART 2—THE NEW SOUTH WALES FILM AND TELEVISION OFFICE**Constitution of the New South Wales Film and Television Office**

4. (1) There is constituted by this Act a corporation with the corporate name New South Wales Film and Television Office.

- (2) The Office—

- (a) has the functions conferred or imposed on it by or under this or any other Act; and

(b) is, for the purposes of any Act, a statutory body representing the Crown.

(3) Any act, matter or thing done in the name of, or on behalf of, the Office by the Minister, or with the authority of the Minister, shall be taken to have been done by the Office.

(4) A document requiring authentication by the Office may be sufficiently authenticated without the seal of the Office if it is signed by the Minister or with the authority of the Minister.

Staff of the Office

5. (1) Such staff as may be necessary to enable the Office to exercise its functions shall be employed under the Public Service Act 1979.

(2) The Office may, on such terms and conditions as may be approved by the Public Service Board, arrange for the use of the services of any staff or facilities of a government department, administrative office or public authority.

(3) The Office may—

- (a) otherwise than under a contract of service; and
- (b) on such terms and conditions as it thinks fit,

appoint and employ a person, body or organisation for the purpose of providing services, information or advice required by the Office in exercising its functions.

(4) For the purposes of this Act, a person who is employed under subsection (1) or (2) is an officer of the Office.

Functions of the Office

6. The functions of the Office are—

- (a) to have the sole responsibility for the making, promotion, distribution and exhibition of short films, and of documentary films, for departments of the Government and statutory bodies representing the Crown; and
- (b) to contribute, financially and otherwise, to the work of film festivals and markets; and
- (c) to provide financial and other assistance for persons (including directors, producers, actors, writers and technicians) whose work in the film and television industry merits encouragement; and
- (d) to provide assistance to the film and television industry in any operations in the State and to disseminate information on its activities; and
- (e) to provide financial and other assistance for script and project development for film and television; and

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- (f) to carry out such obligations and responsibilities determined by the Minister as may be necessary for the maintenance and administration of—
- (i) the film catalogue vested in the Office at the commencement of this Act; and
 - (ii) films that are in post production at that commencement and in which the Office has a substantial financial interest.

PART 3—FINANCIAL PROVISIONS**New South Wales Film and Television Office Account**

7. There shall be established in the Special Deposits Account in the Treasury a New South Wales Film and Television Office Account into which shall be deposited all money received by the Office and from which shall be paid—

- (a) to the Treasurer for payment to the Consolidated Fund—such amounts as the Treasurer from time to time certifies to be chargeable against the Office in respect of officers of the Office; and
- (b) all other amounts required to meet expenditure incurred in the administration of this Act.

Financial year

8. (1) The financial year of the Office is the year commencing on 1 July.
- (2) A different financial year may be determined by the Treasurer under section 4 (1A) of the Public Finance and Audit Act 1983.

PART 4—MISCELLANEOUS**Delegation**

9. The Office may delegate to a person any of its functions, other than this power of delegation.

Service of documents

10. (1) A document may be served on the Office by leaving it at, or by sending it by post to, the Office.

(2) Nothing in this section affects the operation of any provisions of a law, or of the rules of a court, authorising a document to be served on the Office in any other manner.

Recovery of charges etc. by the Office

11. Any charge, fee or money due to the Office may be recovered by the Office as a debt in a court of competent jurisdiction.

Regulations

12. The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Savings, transitional and other provisions

13. Schedule 1 has effect.

Repeal

14. The New South Wales Film Corporation Act 1977 is repealed.

Dissolution of the Office

15. On and from a day to be appointed by proclamation, Schedule 2 has effect.

SCHEDULE 1—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

(Sec. 13)

Definitions

1. In this Schedule—

“appointed day” means the day appointed under section 2;

“repealed Act” means the New South Wales Film Corporation Act 1977.

Dissolution of Film Corporation

2. The New South Wales Film Corporation is dissolved.

Office holders under repealed Act

3. (1) A person who, immediately before the appointed day, held office under the repealed Act as—

(a) a director; or

(b) the chief executive officer; or

(c) holder of a special office under section 7 of that Act,

ceases to hold office as such on that day.

(2) A person who, under subclause (1), ceases to hold an office is not entitled to be paid any remuneration or compensation because of ceasing to hold the office.

Continuity of the Office

4. The Office is a continuation of, and the same legal entity as, the New South Wales Film Corporation constituted by section 4 of the repealed Act.

Superseded references

5. On and from the appointed day, a reference in any other Act, or in any instrument made under an Act, or in any other instrument of any kind, to the New South Wales Film Corporation shall be read as a reference to the New South Wales Film and Television Office.

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 SCHEDULE 1—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—
continued
Finance

6. On the appointed day, the Office shall transfer to the credit of the New South Wales Film and Television Office Account established under section 7 the money at credit immediately before that day in the New South Wales Film Corporation Management Account then maintained under section 19 of the repealed Act.

Regulations

7. (1) The regulations may contain other provisions of a savings or transitional nature consequent on the enactment of this Act, including Schedule 2.

(2) Any such provision may, if the regulations so provide, take effect from the date of assent to this Act or a later day.

(3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of the person existing before the date of its publication; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

SCHEDULE 2—DISSOLUTION OF THE OFFICE

(Sec. 15)

Definitions

1. In this Schedule—

“Office” means the corporation constituted by section 4 as the New South Wales Film and Television Office;

“proclaimed day” means the day proclaimed under section 15.

Dissolution of Office

2. The Office is dissolved.

Special Deposits Account

3. Money held immediately before the proclaimed day in the New South Wales Film and Television Office Account established under section 7 shall be paid by the Treasurer to the Consolidated Fund.

Transfer of assets and liabilities

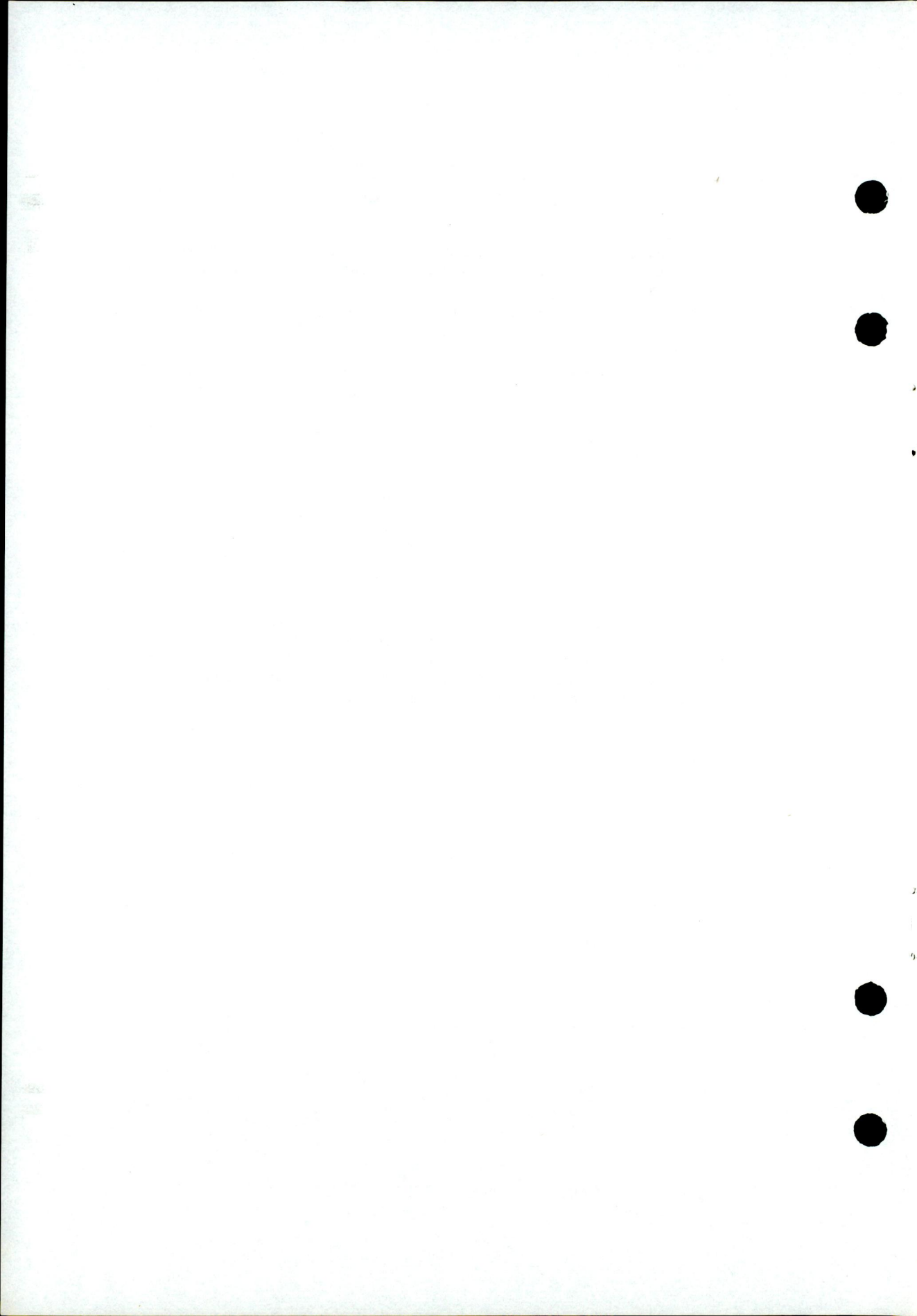
4. (1) On and after the proclaimed day—

- (a) any property that, immediately before the proclaimed day, was vested in the Office vests in the Crown; and
- (b) any money that, immediately before the proclaimed day, was payable to the Office becomes payable to the Crown instead of the Office; and

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SCHEDULE 2—DISSOLUTION OF THE OFFICE—*continued*

- (c) any liquidated or unliquidated claim that, immediately before the proclaimed day, was enforceable by the Office becomes enforceable by the Crown instead of the Office; and
 - (d) any liquidated or unliquidated claim that, immediately before the proclaimed day, was enforceable against the Office becomes enforceable against the Crown instead of the Office; and
 - (e) any suit, action or proceeding pending immediately before the proclaimed day at the suit of the Office becomes a suit, action or proceeding pending at the suit of the Crown instead of the Office; and
 - (f) any suit, action or proceeding pending immediately before the proclaimed day against the Office becomes a suit, action or proceeding pending against the Crown instead of the Office; and
 - (g) any contract, agreement or undertaking entered into with the Office and in force immediately before the proclaimed day becomes a contract, agreement or undertaking entered into with the Crown instead of the Office; and
 - (h) any security or charge given to or by the Office and in force immediately before the proclaimed day becomes a security or charge given to or by the Crown instead of the Office.
- (2) If a suit, action or proceeding instituted against the Office becomes by the operation of subclause (1) a suit, action or proceeding against the Crown, sections 6 and 7 of the Claims against the Government and Crown Suits Act 1912 apply to the suit, action or proceeding as if it had been instituted against a nominal defendant who had been appointed under that Act and had subsequently died.



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FILM INDUSTRY BILL 1988

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The objects of this Bill are—

- (a) to reconstitute the New South Wales Film Corporation as a corporation without members and to change its name to New South Wales Film and Television Office; and
- (b) to specify the functions of the Office and enable them to be exercised by the Minister on behalf of the Office; and
- (c) to repeal the New South Wales Film Corporation Act 1977; and
- (d) to provide for the reconstituted corporation to be dissolved on a day to be proclaimed and for its assets and liabilities to become assets and liabilities of the Crown.

PART 1—PRELIMINARY

Clause 1 (Short title) specifies the short title of the proposed Act.

Clause 2 (Commencement) provides for the proposed Act to commence on a proclaimed day.

Clause 3 (Definitions) defines certain expressions for the purposes of the proposed Act.

PART 2—THE NEW SOUTH WALES FILM AND TELEVISION OFFICE

Clause 4 (Constitution of the New South Wales Film and Television Office) reconstitutes the New South Wales Film Corporation as a corporation without members and having the corporate name of New South Wales Film and Television Office. The functions of the Office will be exercised by the Minister in the name of the Office or on its behalf.

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Clause 5 (Staff of the Office) authorises the employment of public servants to enable the Office to exercise its functions. It also enables the Office to enter into contracts for the provision to it of services.

Clause 6 (Functions of the Office) specifies the functions of the Office which include—

- (a) the sole responsibility for all matters relating to short films, and documentary films, for the Government; and
- (b) assisting the work of film festivals and markets, and of persons engaged in the film and television industry; and
- (c) continued involvement with the existing film catalogue and certain films in which the New South Wales Film Corporation presently has a substantial financial interest.

PART 3—FINANCIAL PROVISIONS

Clause 7 (New South Wales Film and Television Office Account) requires the establishment of the New South Wales Film and Television Office Account in the Special Deposits Account in the Treasury. The Account is to be used for receipts and disbursements by the Office.

Clause 8 (Financial year) provides for the financial year of the Office to commence on 1 July unless the Treasurer determines some other date.

PART 4—MISCELLANEOUS

Clause 9 (Delegation) enables the Office to delegate any of its functions.

Clause 10 (Service of documents) provides for the method of serving a document on the Office.

Clause 11 (Recovery of charges etc. by the Office) enables the Office to sue for money owing to it.

Clause 12 (Regulations) authorises the Governor to make regulations for the purposes of the proposed Act.

Clause 13 (Savings, transitional and other provisions) gives effect to Schedule 1 which contains transitional and other provisions.

Clause 14 (Repeal) repeals the New South Wales Film Corporation Act 1977.

Clause 15 (Dissolution of the Office) gives effect to Schedule 2 which contains the provisions relating to the eventual dissolution of the Office and the assumption by the Crown of its functions.

Schedule 1 (Savings, transitional and other provisions)—

- (a) by clause 1 defines certain expressions used in the Schedule; and
- (b) by clause 2 formally dissolves the New South Wales Film Corporation; and
- (c) by clause 3 provides for the vacation of office by the persons who at present are directors of the New South Wales Film Corporation, its chief executive officer and the holders of certain other offices; and
- (d) by clause 4 continues the corporation constituted under the proposed Act as the same legal entity as the New South Wales Film Corporation constituted under the Act being repealed by clause 14; and

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- (e) by clause 5 requires references in other Acts and instruments to the New South Wales Film Corporation to be read as references to the New South Wales Film and Television Office; and
- (f) by clause 6 requires the money at present held in a bank account by the Film Corporation to be transferred to the Special Deposits Account in the Treasury; and
- (g) by clause 7 enables regulations to be made for other savings or transitional purposes.

Schedule 2 (Dissolution of the Office)—

- (a) by clause 1 defines certain expressions used in the Schedule; and
 - (b) by clause 2 dissolves the Office; and
 - (c) by clause 3 requires the money held by the Office in the Special Deposits Account immediately before the Schedule takes effect to be paid to the Consolidated Fund; and
 - (d) by clause 4 vests in the Crown on the day the Schedule takes effect all other assets, and all rights, of the Office and imposes on the Crown on that day all the liabilities of the Office.
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FILM INDUSTRY BILL 1988

NEW SOUTH WALES



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PART 4—MISCELLANEOUS

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SCHEDULE 1—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

SCHEDULE 2—DISSOLUTION OF THE OFFICE



FILM INDUSTRY BILL 1988

NEW SOUTH WALES



No. , 1988

A BILL FOR

An Act to reconstitute the New South Wales Film Corporation; to provide for the eventual winding-up of the reconstituted corporation and the assumption of its functions by the Crown; and for other purposes.

The Legislature of New South Wales enacts:**PART 1—PRELIMINARY****Short title**

1. This Act may be cited as the Film Industry Act 1988.

5 Commencement

2. This Act commences on a day to be appointed by proclamation.

Definitions

3. (1) In this Act—

10 “documentary film” means a film produced, or to be produced, for educational or informative purposes;

“film” means a recording on photographic film or other material from which a series of images, whether or not with associated sounds, may be produced;

15 “making”, in relation to a film, includes the preparation of film sets, the writing of film scripts and the doing of all other things necessary to enable the making of the film to commence;

“Office” means the New South Wales Film and Television Office constituted by section 4;

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

“short film” means a film that—

- (a) is not a documentary film; and
- (b) has a running time of not more than 60 minutes.

- (2) In this Act—

25 (a) a reference to a function includes a reference to a power, authority and duty; and

(b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

PART 2—THE NEW SOUTH WALES FILM AND TELEVISION OFFICE

30

Constitution of the New South Wales Film and Television Office

4. (1) There is constituted by this Act a corporation with the corporate name New South Wales Film and Television Office.

- (2) The Office—

35 (a) has the functions conferred or imposed on it by or under this or any other Act; and

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(b) is, for the purposes of any Act, a statutory body representing the Crown.

(3) Any act, matter or thing done in the name of, or on behalf of, the Office by the Minister, or with the authority of the Minister, shall be taken to have been done by the Office.

(4) A document requiring authentication by the Office may be sufficiently authenticated without the seal of the Office if it is signed by the Minister or with the authority of the Minister.

Staff of the Office

10 5. (1) Such staff as may be necessary to enable the Office to exercise its functions shall be employed under the Public Service Act 1979.

(2) The Office may, on such terms and conditions as may be approved by the Public Service Board, arrange for the use of the services of any staff or facilities of a government department, administrative office or public authority.

(3) The Office may—

- (a) otherwise than under a contract of service; and
- (b) on such terms and conditions as it thinks fit,

20 appoint and employ a person, body or organisation for the purpose of providing services, information or advice required by the Office in exercising its functions.

(4) For the purposes of this Act, a person who is employed under subsection (1) or (2) is an officer of the Office.

Functions of the Office

25 6. The functions of the Office are—

- (a) to have the sole responsibility for the making, promotion, distribution and exhibition of short films, and of documentary films, for departments of the Government and statutory bodies representing the Crown; and
- 30 (b) to contribute, financially and otherwise, to the work of film festivals and markets; and
- (c) to provide financial and other assistance for persons (including directors, producers, actors, writers and technicians) whose work in the film and television industry merits encouragement; and
- 35 (d) to provide assistance to the film and television industry in any operations in the State and to disseminate information on its activities; and
- (e) to provide financial and other assistance for script and project development for film and television; and

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(f) to carry out such obligations and responsibilities determined by the Minister as may be necessary for the maintenance and administration of—

- 5 (i) the film catalogue vested in the Office at the commencement of this Act; and
- (ii) films that are in post production at that commencement and in which the Office has a substantial financial interest.

PART 3—FINANCIAL PROVISIONS**New South Wales Film and Television Office Account**

10 7. There shall be established in the Special Deposits Account in the Treasury a New South Wales Film and Television Office Account into which shall be deposited all money received by the Office and from which shall be paid—

- 15 (a) to the Treasurer for payment to the Consolidated Fund—such amounts as the Treasurer from time to time certifies to be chargeable against the Office in respect of officers of the Office; and
- (b) all other amounts required to meet expenditure incurred in the administration of this Act.

Financial year

- 20 8. (1) The financial year of the Office is the year commencing on 1 July.
- (2) A different financial year may be determined by the Treasurer under section 4 (1A) of the Public Finance and Audit Act 1983.

PART 4—MISCELLANEOUS**Delegation**

25 9. The Office may delegate to a person any of its functions, other than this power of delegation.

Service of documents

10. (1) A document may be served on the Office by leaving it at, or by sending it by post to, the Office.
- 30 (2) Nothing in this section affects the operation of any provisions of a law, or of the rules of a court, authorising a document to be served on the Office in any other manner.

Recovery of charges etc. by the Office

35 11. Any charge, fee or money due to the Office may be recovered by the Office as a debt in a court of competent jurisdiction.

Regulations

12. The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Savings, transitional and other provisions

13. Schedule 1 has effect.

Repeal

14. The New South Wales Film Corporation Act 1977 is repealed.

10 Dissolution of the Office

15. On and from a day to be appointed by proclamation, Schedule 2 has effect.

SCHEDULE 1—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

(Sec. 13)

15 Definitions

1. In this Schedule—

“appointed day” means the day appointed under section 2;

“repealed Act” means the New South Wales Film Corporation Act 1977.

Dissolution of Film Corporation

20 2. The New South Wales Film Corporation is dissolved.

Office holders under repealed Act

3. (1) A person who, immediately before the appointed day, held office under the repealed Act as—

- 25 (a) a director; or
 (b) the chief executive officer; or
 (c) holder of a special office under section 7 of that Act,

ceases to hold office as such on that day.

(2) A person who, under subclause (1), ceases to hold an office is not entitled to be paid any remuneration or compensation because of ceasing to hold the office.

30 Continuity of the Office

4. The Office is a continuation of, and the same legal entity as, the New South Wales Film Corporation constituted by section 4 of the repealed Act.

Superseded references

35 5. On and from the appointed day, a reference in any other Act, or in any instrument made under an Act, or in any other instrument of any kind, to the New South Wales Film Corporation shall be read as a reference to the New South Wales Film and Television Office.

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 SCHEDULE 1—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—
continued
Finance

6. On the appointed day, the Office shall transfer to the credit of the New South Wales Film and Television Office Account established under section 7 the money at credit immediately before that day in the New South Wales Film Corporation Management Account then maintained under section 19 of the repealed Act.

Regulations

7. (1) The regulations may contain other provisions of a savings or transitional nature consequent on the enactment of this Act, including Schedule 2.

(2) Any such provision may, if the regulations so provide, take effect from the date of assent to this Act or a later day.

(3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

(a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of the person existing before the date of its publication; or

(b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

SCHEDULE 2—DISSOLUTION OF THE OFFICE

(Sec. 15)

Definitions

1. In this Schedule—

“Office” means the corporation constituted by section 4 as the New South Wales Film and Television Office;

“proclaimed day” means the day proclaimed under section 15.

Dissolution of Office

2. The Office is dissolved.

Special Deposits Account

3. Money held immediately before the proclaimed day in the New South Wales Film and Television Office Account established under section 7 shall be paid by the Treasurer to the Consolidated Fund.

Transfer of assets and liabilities

4. (1) On and after the proclaimed day—

(a) any property that, immediately before the proclaimed day, was vested in the Office vests in the Crown; and

(b) any money that, immediately before the proclaimed day, was payable to the Office becomes payable to the Crown instead of the Office; and

*Film Industry 1988*SCHEDULE 2—DISSOLUTION OF THE OFFICE—*continued*

- (c) any liquidated or unliquidated claim that, immediately before the proclaimed day, was enforceable by the Office becomes enforceable by the Crown instead of the Office; and
- 5 (d) any liquidated or unliquidated claim that, immediately before the proclaimed day, was enforceable against the Office becomes enforceable against the Crown instead of the Office; and
- (e) any suit, action or proceeding pending immediately before the proclaimed day at the suit of the Office becomes a suit, action or proceeding pending at the suit of the Crown instead of the Office; and
- 10 (f) any suit, action or proceeding pending immediately before the proclaimed day against the Office becomes a suit, action or proceeding pending against the Crown instead of the Office; and
- (g) any contract, agreement or undertaking entered into with the Office and in force immediately before the proclaimed day becomes a contract, agreement or
- 15 undertaking entered into with the Crown instead of the Office; and
- (h) any security or charge given to or by the Office and in force immediately before the proclaimed day becomes a security or charge given to or by the Crown instead of the Office.
- 20 (2) If a suit, action or proceeding instituted against the Office becomes by the operation of subclause (1) a suit, action or proceeding against the Crown, sections 6 and 7 of the Claims against the Government and Crown Suits Act 1912 apply to the suit, action or proceeding as if it had been instituted against a nominal defendant who had been appointed under that Act and had subsequently died.

