



SOUTH AUSTRALIAN FILM CORPORATION (ADMINISTRATION) AMENDMENT ACT 1993

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ANNO TRICESIMO SECUNDO

ELIZABETHAE II REGINAE

A.D. 1993

No. 79 of 1993

An Act to amend the South Australian Film Corporation Act 1972.

[Assented to 27 October 1993]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *South Australian Film Corporation (Administration) Amendment Act 1993*.

(2) The *South Australian Film Corporation Act 1972* is referred to in this Act as “the principal Act”.

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Amendment of s. 4—Interpretation

3. Section 4 of the principal Act is amended—

(a) by striking out the definition of “the Chairman” and substituting the following definition:

“the Chief Executive Officer” means the person for the time being holding or acting in the office of Chief Executive Officer under this Act;;

(b) by striking out the definition of “the Managing Director”.

Amendment of s. 5—Establishment of the Corporation

4. Section 5 of the principal Act is amended by striking out subsection (4) and substituting the following subsections:

(4) The Corporation is to consist of not less than eight and not more than ten members appointed by the Governor.

(5) One member of the Corporation will be appointed by the Governor to chair the Corporation.

(5a) The Chief Executive Officer is eligible for appointment to the Corporation.

Substitution of s. 6

5. Section 6 of the principal Act is repealed and the following sections are substituted:

Procedure at meetings of Corporation

6. (1) Five members of the Corporation constitute a quorum of the Corporation.

(2) The member of the Corporation appointed to chair the Corporation will preside at meetings of the Corporation or, in the absence of that member, the deputy of that member, or, in the absence of both, a member chosen to preside by those members present at the meeting.

(3) A decision carried by a majority of the votes cast by members at a meeting is a decision of the Corporation.

(4) Each member present at a meeting of the Corporation has one vote on any question arising for decision and, if the votes are equal, the member presiding at the meeting may exercise a second or casting vote.

(5) A telephone or video conference between members will, for the purposes of this section, be taken to be a meeting of the Corporation at which the participating members are present.

(6) A proposed resolution of the Corporation becomes a valid decision of the Corporation despite the fact that it is not voted on at a meeting of the Corporation if—

(a) notice of the proposed resolution is given to all members in accordance with procedures determined by the Corporation;

and

(b) a majority of the members express their concurrence in the proposed resolution by letter, telegram, telex, facsimile transmission or other written communication setting out the terms of the resolution.

(7) The Corporation must have accurate minutes kept of its proceedings.

(8) Subject to this Act, the Corporation may determine its own procedures.

Disclosure of interest

6A. (1) A member of the Corporation who has a direct or indirect pecuniary or personal interest in a matter under consideration by the Corporation—

(a) must disclose the nature of the interest to the Corporation;

and

- (b) must not take part in any deliberations or decision of the Corporation in relation to that matter.

Penalty: Division 5 fine or division 5 imprisonment.

(2) A member of the Corporation will not be taken to have a direct or indirect interest in a matter for the purposes of this section by reason only of the fact that the member has an interest in the matter that is shared in common with the public or the film industry generally or a substantial section of the public or the film industry.

(3) It is a defence to a charge of an offence against subsection (1) to prove that the defendant was not, at the time of the alleged offence, aware of his or her interest in the matter.

(4) A disclosure under this section must be recorded in the minutes of the Corporation and reported to the Minister.

(5) If a member discloses an interest in a proposed contract under this section and takes no part in any deliberations or decision of the Corporation on the contract—

- (a) the contract is not liable to be avoided;

and

- (b) the member is not liable to account for profits derived from the contract.

Members' duties of honesty, care and diligence

6B. (1) A member of the Corporation must at all times act honestly in the performance of official functions.

Penalty: Division 4 fine or division 4 imprisonment or both.

(2) A member of the Corporation must at all times exercise a reasonable degree of care and diligence in the performance of official functions.

(3) If a member of the Corporation is culpably negligent in the performance of official functions, the member is guilty of an offence.

Penalty: Division 4 fine.

(4) A member of the Corporation is not culpably negligent for the purposes of subsection (3) unless the court is satisfied the member's conduct fell sufficiently short of the standard required of the member to warrant the imposition of a criminal sanction.

(5) A member or former member of the Corporation must not make improper use of information acquired through his or her official position to gain directly or indirectly a personal advantage for himself, herself or another, or to cause detriment to the Corporation or the State.

Penalty: Division 4 fine or division 4 imprisonment or both.

(6) A member of the Corporation must not make improper use of his or her official position to gain directly or indirectly a personal advantage for himself, herself or another or to cause detriment to the Corporation or the State.

Penalty: Division 4 fine or division 4 imprisonment or both.

(7) This section—

(a) operates both inside and outside the State;

and

(b) is in addition to, and does not derogate from, other laws.

Amendment of s. 9—Power to appoint Chief Executive Officer and other employees

6. Section 9 of the principal Act is amended—

(a) by striking out subsection (1) and substituting the following subsections:

(1) The Chief Executive Officer and other employees of the Corporation are to be appointed by the Corporation.

(1a) The Chief Executive Officer is, subject to the control of the Corporation, responsible for the management of the operations of the Corporation.;

(b) by striking out from subsection (2) “officers and servants employed by” and substituting “employees of”;

(c) by striking out from subsection (3) “officers or”.

Amendment of s. 12—Power of Corporation to delegate powers

7. Section 12 of the principal Act is amended—

(a) by striking out from subsection (1) “the chairman of the Corporation or to any of its officers” and substituting “a member or employee of the Corporation”;

(b) by inserting after subsection (3) the following subsection:

(4) A delegate must not act in any matter pursuant to the delegation in which the delegate has a direct or indirect pecuniary or personal interest.

Penalty: Division 5 fine or division 5 imprisonment.

Repeal of Part III

8. Part III of the principal Act is repealed.

Amendment of s. 26—Superannuation

9. Section 26 of the principal Act is amended by striking out “Managing Director and the officers and servants” and substituting “Chief Executive Officer and other employees”.

Amendment of s. 30—Annual report

10. Section 30 of the principal Act is amended by striking out from subsection (1) “signed by the chairman”.

Amendment of s. 33—Regulations

11. Section 33 of the principal Act is amended by striking out from subsection (2)(c) “Managing Director or any officer” and substituting “Chief Executive Officer or any other employee”.

Transitional provision

12. The members of the Corporation in office immediately before the commencement of this Act continue in office under the principal Act as amended by this Act.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

ROMA MITCHELL Governor