

# National Film and Sound Archive of Australia Act 2008

No. 14, 2008

## Compilation No. 7

<b>Compilation date:</b>	1 May 2021
<b>Includes amendments up to:</b>	Act No. 20, 2021
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## About this compilation

### This compilation

This is a compilation of the *National Film and Sound Archive of Australia Act 2008* that shows the text of the law as amended and in force on 1 May 2021 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

### Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register ([www.legislation.gov.au](http://www.legislation.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

### Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### **Editorial changes**

For more information about any editorial changes made in this compilation, see the endnotes.

### **Modifications**

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

### **Self-repealing provisions**

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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# An Act to establish the National Film and Sound Archive of Australia, and for related purposes

## Part 1—Preliminary

### 1 Short title

This Act may be cited as the *National Film and Sound Archive of Australia Act 2008*.

### 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Day
1. Sections 1 and 2 and anything	The day on which Assent.	20 Mar
2. Sections 3 to 43	At the same time as <i>Screen Australia A</i>	1 July 2

Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

### 3 Definitions

In this Act:

**Board** means the Board of the National Film and Sound Archive of Australia.

**CEO** means the Chief Executive Officer of the National Film and Sound Archive of Australia.

**Chair** means the Chair of the Board.

**Deputy Chair** means the Deputy Chair of the Board.

**member** means a member of the Board and includes the Chair and Deputy Chair.

**program** means any of the following:

- (a) a screen production;
- (b) an aggregate of sounds embodied in any material;
- (c) an aggregate of images or sounds, or of images and sounds, that is, or is intended to be, distributed without first having been embodied in any material.

**screen production** means an aggregate of images, or of images and sounds, embodied in any material that can be viewed on a screen (including, for example, a film).

#### **4 Extended geographic application of this Act**

- (1) This Act extends to every external Territory.
- (2) This Act applies both within and outside Australia.

## **Part 2—National Film and Sound Archive of Australia**

### **5 Establishment**

- (1) The National Film and Sound Archive of Australia is established by this section.
- (2) The National Film and Sound Archive of Australia:
  - (a) is a body corporate; and
  - (b) must have a seal; and
  - (c) may acquire, hold and dispose of real and personal property; and
  - (d) may sue and be sued.

Note: The *Public Governance, Performance and Accountability Act 2013* applies to the National Film and Sound Archive of Australia. That Act deals with matters relating to corporate Commonwealth entities, including reporting and the use and management of public resources.

- (3) The seal of the National Film and Sound Archive of Australia is to be kept in such custody as the Board directs, and is not to be used except as authorised by the Board.
- (4) All courts, judges and persons acting judicially must:
  - (a) take judicial notice of the imprint of the seal of the National Film and Sound Archive of Australia appearing on a document; and
  - (b) presume that the document was duly sealed.

## **6 Functions**

### *Functions*

- (1) The functions of the National Film and Sound Archive of Australia are to:
  - (a) develop, preserve, maintain, promote and provide access to a national collection of programs and related material; and
  - (b) support and promote the collection by others of programs and related material in Australia; and
  - (c) support, promote or engage in:
    - (i) the preservation and maintenance of programs and related material that are not in the national collection; and
    - (ii) the provision of access to programs and related material that are not in the national collection; and
  - (d) support and promote greater understanding and awareness in Australia of programs; and
  - (e) undertake any other function conferred on it by any other law of the Commonwealth.

### *Ways in which support may be provided*

- (2) The ways in which the National Film and Sound Archive of Australia may provide support as mentioned in subsection (1) include (but are not limited to) doing any of the following:
  - (a) providing financial assistance (whether by way of loan, grant, investment or otherwise and whether on commercial terms or otherwise);
  - (b) commissioning or sponsoring programs or other activities;
  - (c) providing services, facilities, programs or equipment;but does not include providing guarantees.

### *Considerations governing the performance of functions*

- (3) In performing its functions, the National Film and Sound Archive of Australia is, as far as practical, to:
- (a) place an emphasis on the historical and cultural significance of programs and related material; and
  - (b) use every endeavour to make the most advantageous use of the national collection in the national interest; and
  - (c) apply the highest curatorial standards; and
  - (d) promote the efficient, effective and ethical use of public resources.

*National Film and Sound Archive of Australia may charge fees*

- (4) The National Film and Sound Archive of Australia may charge fees for things done in performing its functions.

*National Film and Sound Archive of Australia may cooperate with others*

- (5) The National Film and Sound Archive of Australia may perform its functions alone or together with other persons.

*Severability*

- (6) Without limiting its effect apart from this subsection, this Act also has the effect it would have if the powers and functions of the National Film and Sound Archive of Australia were confined to powers and functions that were to be exercised and performed:
- (a) in so far as it is appropriate for those powers and functions to be exercised and performed by the National Film and Sound Archive of Australia on behalf of the Government of the Commonwealth as the national Government of Australia; and
  - (b) for purposes for which it is appropriate for the Parliament, as the national Parliament of Australia, to authorise the National Film and Sound Archive of Australia to exercise powers and perform functions; and
  - (c) in relation to expenditure of money that is available for the purposes of the National Film and Sound Archive of Australia in accordance with an appropriation made by the Parliament; and
  - (d) in relation to trade and commerce with other countries, among the States, between Territories or between a Territory and a State; and
  - (e) in relation to postal, telegraphic, telephonic, and other like services; and
  - (f) in relation to the collection of statistics; and

- (g) in relation to external affairs; and
- (h) in relation to a Territory; and
- (i) in relation to the executive power of the Commonwealth; and
- (j) in relation to matters incidental to the execution of any of the legislative powers of the Parliament or the executive power of the Commonwealth.

## **7 Powers**

- (1) The National Film and Sound Archive of Australia has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.
- (2) The National Film and Sound Archive of Australia's powers include, but are not limited to, the following powers:
  - (a) to accept gifts, devises, bequests and assignments (whether on trust or otherwise);
  - (b) to act as trustee of money, programs or other property vested in the National Film and Sound Archive of Australia on trust;
  - (c) to act on behalf of the Commonwealth or an authority of the Commonwealth in the administration of a trust relating to programs or to matters connected with programs;
  - (d) to do anything incidental to any of its functions.
- (3) Despite anything contained in this Act, any money, programs or other property held by the National Film and Sound Archive of Australia on trust must be dealt with in accordance with the obligations of the National Film and Sound Archive of Australia as trustee of the trust.

# **Part 3—The Board of the National Film and Sound Archive of Australia**

## **Division 1—The Board**

### **8 Establishment**

The Board of the National Film and Sound Archive of Australia is established by this section.

### **9 Role**

- (1) The Board is responsible for ensuring the proper and efficient performance of the National Film and Sound Archive of Australia's functions.
- (2) The Board has power to do all things necessary or convenient to be done for or in connection with the performance of its duties.
- (3) All acts and things done in the name of, or on behalf of, the National Film and Sound Archive of Australia by the Board, or with the authority of the Board, are taken to have been done by the National Film and Sound Archive of Australia.
- (4) If a function or power of the National Film and Sound Archive of Australia is dependent on the opinion, belief or state of mind of the National Film and Sound Archive of Australia in relation to a matter, the function or power may be exercised upon the opinion, belief or state of mind of a person or body acting as mentioned in subsection (3) in relation to that matter.

## **10 Membership**

The Board consists of the following members:

- (a) the Chair of the Board;
- (b) the Deputy Chair of the Board;
- (c) no less than 3 and no more than 7 other members.

## **11 Appointment of members**

- (1) The members are to be appointed by the Minister by written instrument.
- (2) A member holds office on a part-time basis.
- (3) A member holds office for the period specified in the instrument of appointment. The period must not exceed 3 years.
- (4) A person must not be appointed for a period if the sum of:
  - (a) that period; and
  - (b) any periods of previous appointment of the person as a member;exceeds 9 years.
- (5) The performance of the functions or the exercise of the powers of the Board is not affected by reason only of the number of members falling below 5 for a period of not more than 6 months.

## 12 Acting in positions

- (1) The Deputy Chair is to act as the Chair:
  - (a) during a vacancy in the office of Chair (whether or not an appointment has previously been made to the office); or
  - (b) during any period, or during all periods, when the Chair:
    - (i) is absent from duty or from Australia; or
    - (ii) is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to persons acting as the Chair, see section 33A of the *Acts Interpretation Act 1901*.

- (4) The Minister may appoint a member to act as the Deputy Chair:
  - (a) during a vacancy in the office of Deputy Chair (whether or not an appointment has previously been made to the office); or
  - (b) during any period, or during all periods, when the Deputy Chair:
    - (i) is acting as the Chair; or
    - (ii) is absent from duty or from Australia; or
    - (iii) is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

- (5) The Minister may appoint a person to act as a member (other than as Chair or Deputy Chair):
  - (a) during a vacancy in the office of a member (whether or not an appointment has previously been made to the office); or
  - (b) during any period, or during all periods, when a member:
    - (i) is acting as the Deputy Chair; or
    - (ii) is absent from duty or from Australia; or
    - (iii) is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

## 13 Remuneration of members

- (1) A member is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the member is to be paid the remuneration that is prescribed.

- (2) A member is to be paid the allowances that are prescribed.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

#### **14 Leave of members**

- (1) The Minister may grant the Chair leave of absence on the terms and conditions that the Minister determines.
- (2) The Chair may grant leave of absence to any other member on the terms and conditions that the Chair determines.
- (3) The Chair must notify the Minister if the Chair grants to a member leave of absence for a period that exceeds 6 months.

#### **15 Resignation of members**

- (1) A member may resign his or her appointment by giving the Minister a written resignation.
- (2) The resignation takes effect on the day it is received by the Minister or, if a later day is specified in the resignation, on that later day.

#### **16 Termination of appointment**

- (1) The Minister may terminate the appointment of a member for misbehaviour or physical or mental incapacity.
- (2) The Minister must terminate the appointment of a member if:
  - (a) the member:
    - (i) becomes bankrupt; or
    - (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
    - (iii) compounds with his or her creditors; or
    - (iv) makes an assignment of his or her remuneration for the benefit of his or her creditors; or
  - (c) the member is absent, except on leave of absence, from 3 consecutive meetings of the Board.

Note: The appointment of a member may also be terminated under section 30 of the *Public Governance, Performance and Accountability Act 2013* (which deals with terminating the appointment of an accountable authority, or a member of an accountable authority, for contravening general duties of officials).

## **17 Other terms and conditions of members**

A member holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Minister.

## **Division 2—Board Procedures**

### **18 Meetings**

- (1) The Chair must convene such meetings of the Board as are, in his or her opinion, necessary for the efficient conduct of its affairs.
- (2) The quorum for a meeting is a majority of the current members.
- (3) However, if:
  - (a) a member is required by rules made for the purposes of section 29 of the *Public Governance, Performance and Accountability Act 2013* not to be present during the deliberations, or to take part in any decision, of the Board with respect to a particular matter; and
  - (b) when the member leaves the meeting concerned there is no longer a quorum present;those remaining members constitute a quorum for the purposes of any deliberation or decision at that meeting with respect to that matter.
- (4) A question arising at a meeting of the Board is to be decided by a majority of the votes of the members present and voting.
- (5) The Chair must preside at all meetings at which he or she is present.
- (6) If the Chair is not present at a meeting the Deputy Chair, if present, must preside at the meeting.
- (7) If neither the Chair nor the Deputy Chair is present at a meeting the members present must elect one of their number to preside at the meeting.
- (8) At a meeting, the presiding member has a deliberative vote and, in the event of an equality of votes, has a casting vote.
- (9) The Board must keep a record of any decisions made at a meeting.

- (10) Subject to this Act and the *Public Governance, Performance and Accountability Act 2013*, the Board may regulate the conduct of its meetings as it thinks fit.

## **19 Decisions without meetings**

- (1) The Board is taken to have made a decision at a meeting if:
- (a) without a meeting, a majority of the members entitled to vote on the proposed decision indicate agreement with the decision; and
  - (b) that agreement is indicated in accordance with the method determined by the Board under subsection (2); and
  - (c) all the members were informed of the proposed decision, or reasonable efforts were made to inform all the members of the proposed decision.
- (2) Subsection (1) applies if the Board:
- (a) has determined that it may make decisions of that kind without a meeting; and
  - (b) has determined the method by which members are to indicate agreement with proposed decisions.
- (3) For the purposes of paragraph (1)(a), a member is not entitled to vote on a proposed decision if the member would not have been entitled to vote on that proposal if the matter had been considered at a meeting of the Board.
- (4) The Board must keep a record of decisions made in accordance with this section.

## **Part 4—Chief Executive Officer, staff and consultants**

### **Division 1—Chief Executive Officer**

#### **20 Establishment**

There is to be a Chief Executive Officer of the National Film and Sound Archive of Australia.

#### **21 Role**

- (1) The CEO is responsible for the day-to-day administration of the National Film and Sound Archive of Australia.

- (2) The CEO has power to do all things necessary or convenient to be done for or in connection with the performance of his or her duties.
- (3) Except in relation to the CEO's powers under the *Public Service Act 1999*, the CEO is to act in accordance with any policies determined, and any directions given, by the Board.
- (4) All acts and things done in the name of, or on behalf of, the National Film and Sound Archive of Australia by the CEO, or with the authority of the CEO, are taken to have been done by the National Film and Sound Archive of Australia.
- (5) If a function or power of the National Film and Sound Archive of Australia is dependent on the opinion, belief or state of mind of the National Film and Sound Archive of Australia in relation to a matter, the function or power may be exercised upon the opinion, belief or state of mind of a person or body acting as mentioned in subsection (4) in relation to that matter.
- (6) If a policy or direction under subsection (3) is in writing, the policy or direction is not a legislative instrument.

## **22 Appointment**

- (1) The CEO is to be appointed by the Board after consultation with the Minister.
- (2) The CEO holds office on a full-time basis.
- (3) The CEO holds office for the period specified in the instrument of appointment. The period must not exceed 5 years.
- (4) The CEO must not be a member of the Board.

## **23 Acting appointments**

The Board may, after consultation with the Minister, appoint a person to act as the CEO:

- (a) during a vacancy in the office of the CEO (whether or not an appointment has previously been made to the office); or
- (b) during any period, or during all periods, when the CEO:
  - (i) is absent from duty or from Australia; or
  - (ii) is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

## **24 Other employment**

- (1) The CEO must not engage in paid employment outside the duties of the CEO's office without the Chair's approval.
- (2) The Chair must notify the Minister of any approval given under subsection (1).

## **25 Remuneration**

- (1) The CEO is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the CEO is to be paid the remuneration that is prescribed.
- (2) The CEO is to be paid the allowances that are prescribed.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

## **26 Leave**

- (1) The CEO has the recreation leave entitlements that are determined by the Remuneration Tribunal.
- (2) The Chair may grant the CEO leave of absence, other than recreation leave, on the terms and conditions as to remuneration or otherwise that the Chair determines.
- (3) The Chair must notify the Minister if the Chair grants to the CEO leave for a period that exceeds one month.

## **27 Disclosure of interests**

- (1) A disclosure by the CEO under section 29 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the duty to disclose interests) must be made to the Minister and the Board.
- (2) Subsection (1) applies in addition to any rules made for the purposes of that section.
- (3) For the purposes of this Act and the *Public Governance, Performance and Accountability Act 2013*, the CEO is taken not to have complied with section 29 of that Act if the CEO does not comply with subsection (1) of this section.

## **28 Resignation**

- (1) The CEO may resign his or her appointment by giving the Chair a written resignation.
- (2) The resignation takes effect on the day it is received by the Chair or, if a later day is specified in the resignation, on that later day.
- (3) If the CEO resigns under this section, the Chair must notify the Minister of the resignation.

## **29 Termination**

- (1) The Board may terminate the appointment of the CEO:
  - (a) for misbehaviour or physical or mental incapacity; or
  - (b) if the Board is satisfied that the performance of the CEO has been unsatisfactory for a significant period.
- (2) The Board must terminate the appointment of the CEO if:
  - (a) the CEO:
    - (i) becomes bankrupt; or
    - (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
    - (iii) compounds with his or her creditors; or
    - (iv) makes an assignment of his or her remuneration for the benefit of his or her creditors; or
  - (b) the CEO is absent, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months; or
  - (c) the CEO fails, without reasonable excuse, to comply with section 29 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the duty to disclose interests) or rules made for the purposes of that section; or
  - (d) the CEO engages, except with the Chair's approval, in paid employment outside the duties of his or her office.
- (3) If the Board terminates the appointment of the CEO, the Board must notify the Minister of the termination.

## **30 Other terms and conditions**

The CEO holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Board.

## **Division 2—Staff and consultants**

### **31 Staff**

- (1) The staff of the National Film and Sound Archive of Australia must be persons engaged under the *Public Service Act 1999*.
- (2) For the purposes of the *Public Service Act 1999*:
  - (a) the CEO and the staff of the National Film and Sound Archive of Australia together constitute a Statutory Agency; and
  - (b) the CEO is the Head of that Statutory Agency.

### **32 Consultants**

The National Film and Sound Archive of Australia may engage consultants to assist in the performance of its functions.

## **Part 6—Finance**

### **37 Money payable to the National Film and Sound Archive of Australia**

- (1) There is payable to the National Film and Sound Archive of Australia such money as is appropriated by the Parliament for the purposes of the National Film and Sound Archive of Australia.
- (2) The Finance Minister may give directions about the amounts in which, and the times at which, money payable under subsection (1) is to be paid to the National Film and Sound Archive of Australia.
- (3) If a direction under subsection (2) is given in writing, the direction is not a legislative instrument.
- (4) In this section:

*Finance Minister* means the Minister administering the *Public Governance, Performance and Accountability Act 2013*.

### **38 Application of money by the National Film and Sound Archive of Australia**

- (1) The money of the National Film and Sound Archive of Australia is to be applied only:

- (a) in payment or discharge of the costs, expenses and other obligations incurred or undertaken by the National Film and Sound Archive of Australia in the performance of its functions and the exercise of its powers; and
    - (b) in payment of any remuneration or allowances payable under this Act.
  - (2) Subsection (1) does not prevent investment, under subsection (3) of this section or section 59 of the *Public Governance, Performance and Accountability Act 2013*, of money that is not immediately required for the purposes of the National Film and Sound Archive of Australia.
  - (3) In addition to investments authorised by section 59 of the *Public Governance, Performance and Accountability Act 2013*, the National Film and Sound Archive of Australia may invest the following in any other form of investment:
    - (a) money accepted as a gift or bequest to the National Film and Sound Archive of Australia;
    - (b) money that the National Film and Sound Archive of Australia receives from the disposal of property given, devised, bequeathed or assigned to the National Film and Sound Archive of Australia by a person other than the Commonwealth;
    - (c) income received from an investment made under this subsection or from the disposal of such an investment.
- Note: See subsection 7(3) for obligations of the National Film and Sound Archive of Australia as trustee of a trust.
- (4) An investment under subsection (3), or the disposal of such an investment, must be in accordance with a policy in force under section 38A.

### **38A Investment policy**

- (1) The Board may formulate a written policy in relation to the following matters:
  - (a) the investment strategy of the National Film and Sound Archive of Australia;
  - (b) benchmarks and standards for assessing the performance of the National Film and Sound Archive of Australia's investments;
  - (c) risk management for the National Film and Sound Archive of Australia's investments.

Note: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

*Publication of policy*

- (2) If the Board formulates a policy under subsection (1), the Board must cause a copy of the policy to be published on the National Film and Sound Archive of Australia's website.

*Review of policy*

- (3) If the Board formulates a policy under subsection (1), the Board must conduct periodic reviews of the policy.

*Compliance with policy*

- (4) If the Board formulates a policy under subsection (1), the National Film and Sound Archive of Australia must comply with the policy.
- (5) A failure to comply with the policy does not affect the validity of any transaction.

*Policy not a legislative instrument*

- (6) A policy formulated under subsection (1) is not a legislative instrument.

### **39 Restrictions on financial transactions**

- (1) The National Film and Sound Archive of Australia must not, without the written approval of the Minister:
  - (a) acquire any item for the national collection referred to in paragraph 6(1)(a) for a consideration exceeding in amount or value the amount prescribed by the regulations for the purposes of this paragraph; or
  - (b) dispose of any item in the national collection referred to in paragraph 6(1)(a) if the amount or value of the consideration for the disposal, or the value of the item, exceeds the amount prescribed by the regulations for the purposes of this paragraph; or
  - (c) acquire any property, right or privilege, other than an item for the national collection referred to in paragraph 6(1)(a), for a consideration exceeding in amount or value the amount prescribed by the regulations for the purposes of this paragraph; or
  - (d) dispose of any property, right or privilege, other than an item in the national collection referred to in paragraph 6(1)(a), if

the amount or value of the consideration for the disposal, or the value of the property, right or privilege, exceeds the amount prescribed by the regulations for the purposes of this paragraph; or

- (e) enter into a contract for the construction of a building for the National Film and Sound Archive of Australia, being a contract under which the National Film and Sound Archive of Australia is to pay an amount exceeding the amount prescribed by the regulations for the purposes of this paragraph; or
  - (f) enter into a lease of land for a period exceeding 10 years.
- (2) An approval under subsection (1) is not a legislative instrument.
  - (3) Subsection (1) does not apply to a contract if the contract provides for the supply of a service to the National Film and Sound Archive of Australia for the day-to-day operations of the National Film and Sound Archive of Australia.
  - (4) Subsection (1) does not apply to the following:
    - (a) an investment acquired under subsection 38(3);
    - (b) the disposal of such an investment.

#### **40 Taxation**

- (1) The National Film and Sound Archive of Australia is not subject to taxation under any law of the Commonwealth or of a State or Territory.

Note: Despite this subsection, the National Film and Sound Archive of Australia may be subject to taxation under certain laws (see, for example, section 177-5 of the *A New Tax System (Goods and Services Tax) Act 1999* and section 66 of the *Fringe Benefits Tax Assessment Act 1986*).

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

## **Part 7—Other matters**

#### **41 Annual reports**

The annual report prepared by the Board and given to the Minister under section 46 of the *Public Governance, Performance and Accountability Act 2013* must include particulars of all disposals of items in the national collection referred to in paragraph 6(1)(a),

during the period to which the report relates, that the National Film and Sound Archive of Australia considers were significant items in the national collection.

## **42 Ministerial direction**

- (1) The Minister may, by legislative instrument, give written directions to the Board:
  - (a) in relation to the performance of the functions of, and the exercise of powers of, the National Film and Sound Archive of Australia; or
  - (b) requiring the provision of a report or advice on a matter that relates to any of the National Film and Sound Archive of Australia's functions or powers.

Note 1: Section 42 (disallowance) of the *Legislation Act 2003* does not apply to the direction—see regulations made for the purposes of paragraph 44(2)(b) of that Act.

Note 2: Part 4 of Chapter 3 (sunsetting) of the *Legislation Act 2003* does not apply to the direction—see regulations made for the purposes of paragraph 54(2)(b) of that Act.

- (2) The Minister must not give a direction in relation to a decision by the Board to provide support to a particular person or for a particular program.
- (3) The Board must ensure that any direction given by the Minister under subsection (1) is complied with.
- (4) This section does not limit the operation of section 19 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the duty to keep the responsible Minister and Finance Minister informed).

## **42A Delegation by the Minister**

- (1) The Minister may, in writing, delegate all or any of the Minister's functions or powers under this Act to:
  - (a) the Secretary of the Department; or
  - (b) an SES employee, or acting SES employee, in the Department.

Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

- (2) However, subsection (1) does not apply to the Minister's functions or powers under section 11, 12, 16 or 42.

- (3) In performing a delegated function or exercising a delegated power, the delegate must comply with any written directions of the Minister.

### **43 Regulations**

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

## **Endnotes**

### **Endnote 1—About the endnotes**

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

### **Abbreviation key—Endnote 2**

The abbreviation key sets out abbreviations that may be used in the endnotes.

### **Legislation history and amendment history—Endnotes 3 and 4**

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

### **Editorial changes**

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

### **Misdescribed amendments**

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

### **Endnote 2—Abbreviation key**

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s)
C[x] = Compilation No. x	/sub-subparagraph(s)
Ch = Chapter(s)	pres = present
def = definition(s)	prev = previous
Dict = Dictionary	(prev...) = previously
disallowed = disallowed by Parliament	Pt = Part(s)
Div = Division(s)	r = regulation(s)/rule(s)
ed = editorial change	reloc = relocated
exp = expires/expired or ceases/ceased to have effect	renum = renumbered
F = Federal Register of Legislation	rep = repealed
gaz = gazette	rs = repealed and substituted
LA = <i>Legislation Act 2003</i>	s = section(s)/subsection(s)
	Sch = Schedule(s)

LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
effect	SR = Statutory Rules
(md not incorp) = misdescribed amendment cannot be given effect	Sub-Ch = Sub-Chapter(s)
cannot be given effect	SubPt = Subpart(s)
mod = modified/modification	<u>underlining</u> = whole or part not
No. = Number(s)	commenced or to be commenced

### Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
National Film and Sound Archive Act 2008	14, 2008	20 Mar 2008	s 3–43: 1 July 2008 (s 2(1) item 2) Remainder: 20 Mar 2008 (s 2(1) item 1)	
Screen Australia (Transfer of Assets) Act 2011	20, 2011	12 Apr 2011	Sch 1 (item 3): 1 July 2011 (s 2(1) item 2) Sch 1 (items 4–7): 1 July 2011 (s 2(1) items 2, 3) Sch 2: 13 Apr 2011 (s 2(1) item 6)	Sch 2
Acts Interpretation Amendment Act 2011	46, 2011	27 June 2011	Sch 2 (items 785–791) and Sch 3 (items 10, 11): 27 Dec 2011 (s 2(1) items 2, 5, 12)	Sch 3 (items 10, 11)
Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014	62, 2014	30 June 2014	Sch 10 (items 54–68) and Sch 14: 1 July 2014 (s 2(1) items 6, 14)	Sch 14
<b>as amended by</b>				
Public Governance and Resources Legislation Amendment Act (No. 1) 2015	36, 2015	13 Apr 2015	Sch 2 (items 7–9) and Sch 14 Apr 2015 (s 2)	Sch 7

as amended by				
Acts and Instruments (Framework Reform (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 486): 5 Mar 2016 (s 2(1) item 2)	—
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 495): 5 Mar 2016 (s 2(1) item 2)	—
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 399): 5 Mar 2016 (s 2(1) item 2)	—
National Collecting Institutions Legislation Amendment Act 2021	20, 2021	2 Mar 2021	Sch 1 (items 4–6, 19) and Sch 2 (items 13–16): 1 Mar 2021 (s 2(1) item 1)	Sch 1 (item 19) and Sch 2 (item 16)

## Endnote 4—Amendment history

Provision affected	How affected
Title	am No 20, 2011
<b>Part 1</b>	
s 1	am No 20, 2011
s 3	am No 20, 2011
<b>Part 2</b>	
Part 2 heading	rs No 20, 2011
s 5	am No 20, 2011; No 62, 2014
s 6	am No 20, 2011
s 7	am No 20, 2011
<b>Part 3</b>	
Part 3 heading	rs No 20, 2011
<b>Division 1</b>	
s 8	am No 20, 2011
s 9	am No 20, 2011

s 12	am No 46, 2011
s 16	am No 62, 2014
<b>Division 2</b>	
s 18	am No 62, 2014
<b>Part 4</b>	
<b>Division 1</b>	
s 20	am No 20, 2011
s 21	am No 20, 2011
s 23	am No 46, 2011
s 27	rs No 62, 2014
s 29	am No 62, 2014
<b>Division 2</b>	
s 31	am No 20, 2011
s 32	am No 20, 2011
Part 5	rep No 20, 2021
s 33	am No 20, 2011
	rs No 62, 2014
	rep No 20, 2021
s 34	am No 20, 2011
	rep No 62, 2014
s 35	am No 62, 2014
	rep No 20, 2021
s 36	am No 62, 2014
	rep No 20, 2021
<b>Part 6</b>	
s 37	am No 20, 2011; No 62, 2014
s 38	am No 20, 2011; No 62, 2014; No 20, 2021

s 38A	ad No 20, 2021
s 39	am No 20, 2011; No 62, 2014
	rs No 20, 2021
s 40	am No 20, 2011
<b>Part 7</b>	
s 41	am No 20, 2011; No 62, 2014
s 42	am No 20, 2011; No 62, 2014; No 126, 2015
s 42A	ad No 20, 2021