

NEW SOUTH WALES FILM COUNCIL ACT.

New South Wales



ANNO VICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 42, 1974.

An Act to constitute the New South Wales Film Council and to define its powers, authorities, duties and functions; and for purposes connected therewith. [Assented to, 23rd April, 1974.]

BE

New South Wales Film Council.

BE it enacted by the Queen's Most Excellent Majesty, by No. 42, 1974 and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "New South Wales Film Short title. Council Act, 1974".

2. This Act shall commence upon such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

3. In this Act, except to the extent that the context or subject-matter otherwise indicates or requires—

"Council" means the New South Wales Film Council constituted by section 4;

"film" includes any medium for recording and reproducing visual images;

"member" means a member of the Council;

"non-theatrical film" means a film intended to be exhibited for educational or cultural purposes without any charge being made for viewing the exhibition thereof.

4. (1) There is hereby constituted a corporation with the Constitution
of New South
Wales Film
Council. corporate name "New South Wales Film Council".

(2)

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(2) The Council shall consist of twelve persons appointed by the Governor to hold office for a period of four years except in the case of—

- (a) half the number of persons first appointed pursuant to subsection (3) (a), (b), (c), (d), (e) and (f); and
- (b) half the number of persons first appointed pursuant to subsection (3) (g),

who shall be appointed to hold office for a period of two years.

(3) Subject to subsection (4), of the persons appointed as members—

- (a) one shall be an officer of the Ministry of Cultural Activities nominated by the Minister;
- (b) one shall be nominated by the Minister for Education;
- (c) one shall be nominated by the Minister for Tourism;
- (d) one shall be nominated by the Chief Secretary;
- (e) one shall be nominated by the Minister for Health;
- (f) one shall be nominated by the Minister for Agriculture;
- (g) six shall be nominated by the Minister as persons associated with the production, use or distribution of film.

(4) Where a nomination for the purposes of subsection (3) (paragraph (g) excepted) is not submitted within the time or in the manner specified by the Minister by order in writing notified to the person entitled to make the nomination, the nomination may be made by the Minister.

(5)

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(5) Where there is a vacancy in the office of a member **No. 42, 1974** caused otherwise than by the expiration of his term of office, the Governor may appoint to the vacant office, for the residue of the term of office of his predecessor, a person nominated in the manner required by this Act in respect of that predecessor.

(6) A member whose term of office expires may, if he is otherwise eligible, be re-appointed as a member.

(7) A person of or above the age of seventy years is not eligible for appointment as a member.

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

5. The provisions of the Public Service Act, 1902, Certain enactments not to apply in respect of the appointment of a member and a member is not, in his capacity as a member, subject to apply in respect of the provisions of that Act during his term of office. **member.**

6. (1) A member shall be deemed to have vacated his Vacancies—
office if he—
how caused.

(a) dies;

(b) resigns his office by writing under his hand addressed to the Governor;

(c)

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- (c) becomes a bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes any assignment of his salary, or of his estate, for their benefit;
- (d) becomes a temporary patient or a continued treatment patient, a protected person, or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- (e) is absent from three consecutive ordinary meetings of the Council of which notice has been given to him personally or in the ordinary course of post and is not before the expiration of six weeks after the latest of those meetings excused by the Council for his absence from the meetings;
- (f) is the member appointed pursuant to section 4 (3) (a) and ceases to hold the office by virtue of which he was so appointed;
- (g) is removed from office by the Governor;
- (h) is notified in writing by the Minister that his office has been vacated because—
 - (i) he is employed by, or (whether in an honorary capacity or otherwise) is a member of, the governing body of a body corporate or unincorporate (not being a public or local authority constituted by an Act) that is a party to a contract or arrangement with the Council for the production, use or distribution of films; or

(ii)

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(ii) whether directly or indirectly, he has a No. 42, 1974 pecuniary interest in, or is entitled to take a benefit from, a contract or arrangement with the Council for the production, use or distribution of films; or

(i) attains the age of seventy years.

(2) The Governor may, for any cause which appears to him to be sufficient, remove a member from office.

7. A member shall, in his capacity as a member, be paid Allowances such travelling and subsistence allowances as the Governor for members determines.

8. (1) At the first meeting of the Council, the members shall elect from among their number a President and a Deputy President to hold office until the next succeeding election of a President and Deputy President pursuant to subsection (2). Election of President and Deputy President of Council.

(2) After the election of a President and Deputy President pursuant to subsection (1), the members of the Council shall—

- (a) at the first meeting of the Council in the year commencing on the first day of January next following that election; and
- (b) at the first meeting of the Council in each succeeding year,

elect a President and a Deputy President to hold office until the election of their successors.

(3)

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(3) Whenever a vacancy occurs in the office of President or Deputy President otherwise than by the operation of subsection (2), the members shall elect one of their number to fill the vacancy until the election of his successor pursuant to subsection (1).

(4) A retiring President or Deputy President is, while he remains a member of the Council, eligible for re-election as President or Deputy President.

(5) At a meeting of the Council—

- (a) the President; or
- (b) in the absence of the President—the Deputy President; or
- (c) in the absence of both the President and Deputy President—a chairman elected by the members present at the meeting from among their number,

shall preside.

Procedure,
quorum, etc.

9. (1) The procedure for the calling of meetings of the Council and the conduct of business at those meetings shall, subject to any regulations in force under this Act, be as determined by the Council.

(2) Any duly convened meeting of the Council at which a quorum is present is competent to transact any business of the Council and the decision of the majority of the members present at a meeting of the Council at which a quorum is present is a decision of the Council.

(3) Seven members constitute a quorum for the purposes of any meeting of the Council.

(4)

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(4) Where there is an equality of votes at a meeting No. 42, 1974 of the Council, the member presiding at the meeting has a casting vote in addition to a deliberative vote.

10. (1) No act or proceeding of the Council or of any person acting pursuant to any direction of the Council is invalidated or prejudiced by reason only of the fact that at the time when the act or proceeding was done, taken or commenced there was a vacancy in the office of any member.

(2) All acts and proceedings of the Council or of any person acting pursuant to any direction of the Council are, notwithstanding the subsequent discovery of any defect in the appointment of any member, or that any member was disqualified from acting as, or incapable of being, a member as valid as if the member had been duly appointed and was qualified to act as, or capable of being, a member and as if the Council had been properly and fully constituted.

11. The Governor may, under and subject to the provisions of the Public Service Act, 1902, appoint and employ such officers and employees as may be necessary for the purposes of this Act.

12. The objects of the Council are—

(a) to maintain a library of non-theatrical films;
 (b) to facilitate the distribution of non-theatrical films;
 (c) to facilitate and co-ordinate the production of films by public authorities;
 (d) to improve the methods by which non-theatrical films are put to use;

Objects of Council.

(e)

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- (e) to act on behalf of users of non-theatrical films in New South Wales in matters dealt with by Commonwealth authorities and institutions;
- (f) to acquire films of historical interest, particularly those connected with the history of New South Wales.

Powers,
etc., of
Council.

13. (1) The Council shall have, and may exercise and perform, such powers, authorities, duties and functions as are reasonably necessary for the attainment of its objects.

(2) The Council shall, in relation to any matter referred to it by the Public Service Board, advise that Board on the acquisition, production and distribution of films.

(3) The Council may perform any function connected with the production and distribution of non-theatrical films in New South Wales that is approved by the Minister.

(4) The Council may, in such manner as it thinks fit, dispose of any film owned by it if it certifies that the film is of no further use to the Council.

(5) In the exercise or performance of any power, authority, duty or function conferred or imposed on it, the Council is subject to the direction and control of the Minister.

Establish-
ment of
committees.

14. The Council may establish such committees of members as it thinks fit for the purpose of assisting it to exercise and perform the powers, authorities, duties and functions conferred or imposed upon it by or under this Act.

Delegation
by Council.

15. (1) The Council may, by instrument in writing, delegate to a member of the Council or to a person appointed or employed pursuant to section 11 the exercise or performance of such of the powers (other than this power of delegation) authorities, duties or functions conferred or imposed

on

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on the Council by or under this Act as are specified in the No. 42, 1974 instrument of delegation and may, by a like instrument, revoke wholly or in part any such delegation.

(2) A delegation under this section may be made subject to such conditions or such limitations as to the exercise or performance of any of the powers, authorities, duties or functions delegated, or as to time or circumstances, as are specified in the instrument of delegation.

(3) A power, authority, duty or function the exercise or performance of which has been delegated under this section may, while the delegation remains unrevoked, be exercised or performed from time to time in accordance with the terms of the delegation.

(4) Notwithstanding any delegation under this section, the Council may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

(5) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section has the same force and effect as if the act or thing had been done or suffered by the Council and shall be deemed to have been done or suffered by the Council.

16. (1) The Council may acquire by gift, bequest or Council devise any property for the purposes of this Act and may agree ^{may accept} gifts, etc. to the condition of any such gift, bequest or devise.

(2) The rule of law against remoteness of vesting does not apply to a condition of a gift, bequest or devise to which the Council has agreed.

(3)

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(3) The Stamp Duties Act, 1920, does not apply to or in respect of any gift, bequest or devise made to the Council.

**New South
Wales Film
Council
Manage-
ment
Account.**

17. (1) The Council shall establish and maintain in a bank in New South Wales an account styled "New South Wales Film Council Management Account" (in this section referred to as "the Account").

(2) There shall be paid to the credit of the Account—

- (a) any moneys appropriated by Parliament for the purposes of the Council;
- (b) any moneys lent to the Council by the Treasurer;
- (c) any other moneys received from any source by the Council,

unless the payment to the credit of the Account would be a breach of a condition or trust affecting the moneys.

(3) The cost of administering this Act, and the allowances payable under section 7, shall be paid from the Account.

**Investment
of Council
funds.**

18. (1) Except to the extent that it would be in breach of a condition or trust the Council may invest any of its funds not immediately required for the purposes of the Council in any manner authorised by law for the investment of trust funds.

(2)

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(2) Notwithstanding subsection (1), the Council ^{No. 42, 1974} may retain in the form in which it is received by the Council any investment that it acquires otherwise than for valuable consideration.

19. (1) For the temporary accommodation of the Council it may obtain advances by overdraft of current account in any bank or banks to such extent as may be approved by the Governor. ^{Temporary accommodation.}

(2) The Treasurer may lend moneys to the Council upon such terms as to repayment and interest as may be agreed upon.

20. The Council may borrow money—

*Council
may borrow
money.*

- (a) to enable it to exercise and perform its powers, authorities, duties and functions;
- (b) for the renewal of loans; or
- (c) to discharge, wholly or in part, any indebtedness of the Council,

within such limits, to such extent, and upon such conditions as to security or otherwise, as the Governor on the recommendation of the Treasurer may approve.

21. The Council shall cause to be kept proper books of account relating to the funds and transactions of the Council and shall, not later than the thirtieth day of September in each year and as soon as practicable after the next preceding thirtieth day of June, prepare and transmit to the Minister for presentation to Parliament— ^{Accounts and report.}

- (a) a report of its work and activities during the year that ended on that thirtieth day of June; and

(b)

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(b) statements of accounts made up to that thirtieth day of June in a form approved by the Auditor-General, exhibiting a true and correct view of the financial position and transactions of the Council.

Audit of accounts.

22. (1) The accounts of the Council shall be audited by the Auditor-General who shall have in respect thereof all the powers conferred by law from time to time in relation to the audit of public accounts.

(2) The Audit Act, 1902, applies to members of the Council and officers and employees appointed and employed for the purposes of this Act in the same way as it applies to accounting officers of public departments.

(3) The Auditor-General shall report to the Minister and the Council—

(a) whether or not in his opinion—

- (i) due diligence and care have been shown in the collection and banking of money payable to the Council;
- (ii) expenditure incurred has been duly authorised, vouched and supervised;
- (iii) any money or other property owned, or controlled and managed, by the Council has been misappropriated or improperly or irregularly dealt with;

(b) as to any other matters that, in his opinion, call for special notice; and

(c) as to any other prescribed matters.

(4) Towards defraying the costs and expenses of the audit of its accounts the Council shall pay to the Consolidated Revenue Fund such amounts, at such times, as the Treasurer may direct.

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23. The Council may, by order, fix the charges to be made No. 42, 1974 for the hire or use of films, equipment or premises owned by, or under the control and management of, the Council.

Charges
may be
fixed by
Council.

24. Upon the commencement of this Act, all films that, immediately before that commencement, were under the control and management of the New South Wales Film Council as then constituted vest in and become the property of the corporation constituted by this Act.

25. (1) The Governor may make regulations prescribing Regulations. all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed in relation to any matter within the powers and functions of the Council and generally for carrying out or giving effect to the objects of the Council and to this Act.

(2) The regulations may impose a penalty not exceeding \$50 for any breach thereof and any such penalty may be recovered before a stipendiary magistrate or any two justices in petty sessions.

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