



New South Wales

Film and Television Industry (Advisory Committee) Regulation 2019

under the

Film and Television Industry Act 1988

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Film and Television Industry Act 1988*.

DONALD HARWIN, MLC

Special Minister of State, Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts

Explanatory note

The object of this Regulation is to remake, without any significant changes, the provisions of the *Film and Television Industry (Advisory Committee) Regulation 2014*, which is to be repealed on 1 September 2019 by section 10(2) of the *Subordinate Legislation Act 1989*.

This Regulation—

- (a) provides for the composition of the Film and Television Industry Advisory Committee established under section 5(1) of the *Film and Television Industry Act 1988* (the **Advisory Committee**), and
- (b) specifies the terms of office and remuneration arrangements for members of the Advisory Committee, and
- (c) provides for the procedure of the Advisory Committee, and
- (d) prescribes certain functions of the Advisory Committee.

This Regulation is made under the *Film and Television Industry Act 1988*, including sections 5 and 12 (the general regulation-making power).

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*, namely matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

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Film and Television Industry Act 1988

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Film and Television Industry (Advisory Committee) Regulation 2019*.

2 Commencement

This Regulation commences on 1 September 2019 and is required to be published on the NSW legislation website.

Note. This Regulation replaces the *Film and Television Industry (Advisory Committee) Regulation 2014*, which is to be repealed on 1 September 2019 by section 10(2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation—

member means a member of the Advisory Committee.

the Act means the *Film and Television Industry Act 1988*.

Note. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

(2) Notes included in this Regulation do not form part of this Regulation.

4 Saving

Any act, matter or thing that, immediately before the repeal of the *Film and Television Industry (Advisory Committee) Regulation 2014*, had effect under that Regulation continues to have effect under this Regulation.

Part 2 Membership of Advisory Committee

5 Composition of Advisory Committee

- (1) The Advisory Committee is to consist of no more than 7 members.
- (2) Of the members, one is to be appointed Chairperson of the Advisory Committee by that member's instrument of appointment.
- (3) The Chairperson is to be a member appointed from outside the film and television industry.
- (4) All members, other than the Chairperson, are to have relevant experience in the film and television industry.

6 Terms of office of members

- (1) A member holds office for the period (not exceeding 3 years) specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.
- (2) If a person has held office as a member for terms of office totalling more than 6 years (whether or not held consecutively), the person is not eligible to be appointed to a further term of office as a member.
- (3) For the purposes of subclause (2) only, if—
 - (a) a person is appointed under clause 10 to fill the office of a member that has become vacant otherwise than by the expiration of the member's term of office, and
 - (b) the person is appointed for the balance of his or her predecessor's term of office,the appointment does not constitute (and is taken to have never constituted) an appointment for a term of office.

7 Remuneration

A member is entitled to be paid the remuneration (including travelling and subsistence allowances) that the Minister may from time to time determine in consultation with the Public Service Commissioner.

8 Deputies

- (1) The Minister may, from time to time, appoint a person to be the deputy of a member, and may revoke that appointment.
- (2) The deputy of a member who is Chairperson of the Advisory Committee is to be appointed from outside the film and television industry.
- (3) In the absence of a member, the member's deputy—
 - (a) may, if available, act in the place of the member, and
 - (b) while so acting, has all the functions of the member and is taken to be a member.
- (4) The deputy of a member who is Chairperson of the Advisory Committee has the member's functions as Chairperson.
- (5) While acting in the place of a member, a person is entitled to be paid the remuneration (including travelling and subsistence allowances) that the Minister may from time to time determine in respect of the person.

9 Vacancy in office of member

- (1) The office of a member becomes vacant if the member—
 - (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Minister, or
 - (d) is removed from office by the Minister under this clause, or
 - (e) is absent from 4 consecutive meetings of the Advisory Committee of which reasonable notice has been given to the member, except on leave granted by the Advisory Committee or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Advisory Committee for having been absent from those meetings, or
 - (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (g) becomes a mentally incapacitated person, or
 - (h) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- (2) The Minister may remove a member from office at any time.

10 Filling of vacancy in office of member

- (1) If the office of a member becomes vacant, a person may, subject to this Regulation and the Act, be appointed to fill the vacancy.
- (2) Despite subclause (1), if the office of a member becomes vacant, the Secretary may appoint a person to fill the vacancy on a temporary basis for a period no greater than 6 months.

11 Functions of Advisory Committee

The following functions are prescribed for the purposes of section 5(3)(b) of the Act—

- (a) to consider recommendations relating to film and television production funding and to advise the Secretary in relation to those recommendations,
- (b) to advise the Secretary in relation to the annual allocation of program funding between all film and television industry funding programs administered by the Secretary,
- (c) to advise the Secretary in relation to individual film and television industry funding programs administered by the Secretary and, where appropriate, to recommend changes to existing funding programs and guidelines,
- (d) to advise the Minister on the strategic direction of the film and television industry in the State.

12 Disclosure of pecuniary interests

- (1) If—
 - (a) a member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Advisory Committee, and

- (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,
the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Advisory Committee.
- (2) A disclosure by a member at a meeting of the Advisory Committee that the member—
- (a) is a member, or is in the employment, of a specified company or other body, or
 - (b) is a partner, or is in the employment, of a specified person, or
 - (c) has some other specified interest relating to a specified company or other body or to a specified person,
- is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person that may arise after the date of the disclosure and that is required to be disclosed under subclause (1).
- (3) Particulars of any disclosure made under this clause must be recorded by the Advisory Committee in a document kept for the purpose and that document must be open at all reasonable hours to inspection by any person on payment of the fee determined by the Advisory Committee.
- (4) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the Advisory Committee otherwise determines—
- (a) be present during any deliberation of the Advisory Committee with respect to the matter, or
 - (b) take part in any decision of the Advisory Committee with respect to the matter.
- (5) For the purposes of the making of a determination by the Advisory Committee under subclause (4), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not—
- (a) be present during any deliberation of the Advisory Committee for the purpose of making the determination, or
 - (b) take part in the making by the Advisory Committee of the determination.
- (6) A contravention of this clause does not invalidate any decision of the Advisory Committee.

13 Effect of certain other Acts

- (1) The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to a member.
- (2) If by or under any Act provision is made—
- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or
 - (b) prohibiting the person from engaging in employment outside the duties of that office,
- the provision does not operate to disqualify the person from holding that office and also the office of member or from accepting and retaining any remuneration payable to the person under this Regulation as a member.
- (3) The office of a member is not, for the purposes of any Act, an office or place of profit under the Crown.

Part 3 Procedure of Advisory Committee

14 General procedure

The procedure for the calling of meetings of the Advisory Committee and for the conduct of business at those meetings is, subject to this Regulation, to be as determined by the Advisory Committee.

15 Quorum

The quorum for a meeting of the Advisory Committee is 3 members, one of whom must be the Chairperson.

16 Presiding member

- (1) The Chairperson of the Advisory Committee is to preside at a meeting of the Advisory Committee.
- (2) The Chairperson has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

17 Voting

A decision supported by a majority of the votes cast at a meeting of the Advisory Committee at which a quorum is present is the decision of the Advisory Committee.

18 Transaction of business outside meetings or by telephone etc

- (1) The Advisory Committee may, if it thinks fit, transact any of its business by the circulation of papers among all the members for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the Advisory Committee.
- (2) The Advisory Committee may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone or other electronic means, but only if a member who speaks on a matter before the meeting can be heard by the other members.
- (3) For the purposes of—
 - (a) the approval of a resolution under subclause (1), or
 - (b) a meeting held in accordance with subclause (2),the Chairperson and each other member have the same voting rights as they have at an ordinary meeting of the Advisory Committee.
- (4) A resolution approved under subclause (1) is to be recorded in the minutes of the meetings of the Advisory Committee.
- (5) Papers may be circulated among the members for the purposes of subclause (1) by electronic means.