

(Reprint No. 1)

**SOUTH AUSTRALIA**

**SOUTH AUSTRALIAN FILM CORPORATION ACT, 1972**

*This Act is reprinted pursuant to the Acts Republication Act, 1967, and incorporates all amendments in force as at 15 January 1992.*

*It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.*

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# SOUTH AUSTRALIAN FILM CORPORATION ACT, 1972

being

South Australian Film Corporation Act, 1972, No. 48 of 1972 [Assented to 20 April 1972]<sup>1</sup>

as amended by

South Australian Film Corporation Act Amendment Act, 1975, No. 92 of 1975 [Assented to 20 November 1975]<sup>2</sup>

South Australian Film Corporation Act Amendment Act, 1978, No. 77 of 1978 [Assented to 16 November 1978]<sup>3</sup>

South Australian Film Corporation Act Amendment Act, 1979, No. 11 of 1979 [Assented to 8 March 1979]

South Australian Film Corporation Act Amendment Act, 1981, No. 106 of 1981 [Assented to 23 December 1981]

*Note: Asterisks indicate repeal or deletion of text. For further explanation see Appendix.*

**An Act to make provision for the establishment of a corporation to be known as the South Australian Film Corporation, to define its powers and functions; and for other purposes.**

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

## PART I

### PRELIMINARY

#### Short title

1. This Act may be cited as the *South Australian Film Corporation Act, 1972*.

#### Commencement

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

#### Arrangement

3. This Act is arranged as follows:—

PART I—PRELIMINARY

PART II—THE SOUTH AUSTRALIAN FILM CORPORATION

PART III—THE MANAGING DIRECTOR

PART V—FINANCIAL PROVISIONS

PART VI—MISCELLANEOUS.

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<sup>1</sup>Came into operation 26 October 1972: *Gaz.* 26 October 1972, p. 2021.

<sup>2</sup>Came into operation 15 April 1976: *Gaz.* 15 April 1976, p. 1979.

<sup>3</sup>Came into operation 18 February 1982: *Gaz.* 18 February 1982, p. 417.

**Interpretation**

4. In this Act, unless the contrary intention appears—

“council” means a municipal or a district council and includes a body corporate which is, by virtue of any Act, deemed to be, or vested with the powers of, a municipal council or district council:

“film” means a photographic film or a recording on magnetic tape or on any other material from which a series of images, with or without associated sounds, may be produced and includes such a photographic film or recording for use in a television programme:

“producer”, in relation to a film, means the person by whom the arrangements necessary for the making of the film are undertaken; and “to produce” and “production” have corresponding meanings:

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“the Chairman” means the person for the time being holding or acting in the office of Chairman of the Corporation under this Act:

“the Corporation” means the South Australian Film Corporation established under this Act:

“the Managing Director” means the person for the time being holding or acting in the office of Managing Director under this Act.

## PART II

## THE SOUTH AUSTRALIAN FILM CORPORATION

**Establishment of the Corporation**

5. (1) There shall be a corporation which shall be known as the South Australian Film Corporation which shall be established on the day on which the first members thereof take office as such.

(2) Subject to this Act, the Corporation—

(a) shall be a body corporate with perpetual succession and a common seal;

(b) shall be capable of suing and being sued, and of taking or acquiring, taking or letting on lease, holding, selling and otherwise disposing of land and property of all kinds;

(c) shall hold all its property for and on behalf of the Crown;

and

(d) shall have the powers, duties, functions and authorities conferred, imposed or prescribed by or under this Act or any other Act.

(3) Where an apparently genuine document purports to bear the common seal of the Corporation, it shall be presumed, in the absence of evidence to the contrary, that the common seal of the Corporation was duly affixed to that document.

(4) Until the commencement of the *South Australian Film Corporation Act Amendment Act, 1975*, the Corporation shall consist of the members in office immediately before that commencement and upon that commencement those members shall vacate their respective offices and on and from that commencement the Corporation shall continue and be constituted of six members appointed by the Governor one of whom shall be appointed by the Governor as Chairman of the Corporation.

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(6) A member of the Corporation shall be appointed for such term of office as the Governor fixes at the time of making the appointment and may be removed from office by the Governor by notice in writing.

(7) When a member of the Corporation is unable to perform his duties as such, the Governor may at any time, upon the recommendation of the Minister, appoint a deputy to act for that member during his incapacity and a person so appointed shall, while so acting, be deemed to be a member of the Corporation in lieu of the member for whom he is so acting.

(8) A person is eligible for re-appointment as a member of the Corporation on the expiration of his term of office as a member.

(9) The Governor may, as occasion requires, and on the recommendation of the Minister, make such appointments as may be necessary to fill any vacancies occurring in the membership of the Corporation.

(10) The office of member of the Corporation may be held in conjunction with any other appointment or office under the Government.

(11) The *Public Service Act, 1967*, as amended, shall not apply to or in relation to the appointment of a member of the Corporation, and he shall not, as a member, be subject to that Act, but this provision shall not affect the rights, privileges, duties and obligations under that Act of any person who is otherwise subject to that Act.

(12) A member of the Corporation shall be entitled to be paid out of the funds of the Corporation such remuneration, allowances and expenses as may be determined by the Governor.

#### **Chairman of the Corporation**

6. (1) The Chairman of the Corporation or, in his absence, his deputy shall preside at every meeting of the members of the Corporation at which he is present.

(2) If both the Chairman and his deputy are not present for any reason at a meeting of the members of the Corporation, the members present may elect one of their number to be chairman for that meeting and the person so elected shall accordingly act as and have the powers of chairman for that meeting.

(3) At any meeting of the members of the Corporation four members shall constitute a quorum.

(4) In respect of any matter before a meeting of the members of the Corporation—

(a) the decision of the majority of the votes cast by the members present at the meeting shall be the decision of the Corporation;

and

(b) the person presiding at the meeting or chairman for the meeting shall have a deliberative vote and, in the case of an equality of votes, a second or casting vote also.

#### **Validity of proceedings of the Corporation**

7. (1) An Act or proceeding of the Corporation shall not be regarded as invalid for the reason only that there was at the time thereof a vacancy in the office of any member.

(2) Every act or proceeding of the Corporation shall, notwithstanding any defect in the appointment of a person as a member of the Corporation, be as valid and effective as if that person had been validly appointed a member of the Corporation.

#### **Corporation to be subject to general control of Minister**

8. In the exercise and performance of its powers, duties, functions and authorities the Corporation shall, except where it is required to make a recommendation to the Minister, be subject to the general control and direction of the Minister.

#### **Power to appoint officers, etc.**

9. (1) The Corporation may, subject to such terms and conditions as it thinks fit, employ its own officers and servants for the purposes of this Act.

(2) All officers and servants employed by the Corporation shall be entitled to be paid out of the funds of the Corporation such remuneration, allowances and other emoluments as the Corporation from time to time determines, and shall not in relation to their respective appointments, offices or positions on the staff of the Corporation be subject to the *Public Service Act, 1967*, as amended.

(3) The Corporation may, with the approval of the Minister and the consent of the Minister controlling any department of the public service of the State, and on such terms and conditions as may be mutually agreed upon by the Minister and the Minister administering that department, employ or make use of the services of any of the officers or employees of that department.

### Functions of the Corporation

10. The functions of the Corporation are, generally—

- (a) to undertake the production of films;
  - (ab) to promote and participate in any scheme for the financing of film production;
  - (b) to provide library and other services and facilities relating to films and their screening;
  - (c) to provide information services about films and their availability;
  - (d) to offer and arrange courses of instruction for persons who are interested in film projection;
  - (e) to store, distribute, sell and exhibit or otherwise deal with films;
  - (ee) to do all things necessary to promote public interest in film as a medium of communication and as an art form;
- and
- (f) to carry out research into the distribution of films and the effectiveness of films to meet the purposes for which they are made with a view to improving such distribution and effectiveness.

### Powers of the Corporation

11. The Corporation has power to do all things necessary for the administration of this Act and, without limiting the generality of the foregoing—

- (a) shall have the sole and exclusive right to produce, or arrange for the production of, film for or on behalf of the Government of the State or for or on behalf of any instrumentality or agency of the State or the Government of the State;
  - (aa) shall have vested in it, by force of this section, all rights in any film made for or on behalf of the Government of the State;
  - (b) may undertake film production on its own behalf or for any other person or organization;
  - (c) may enter into and carry out arrangements and agreements for the making, distribution and exhibition of films;
  - (ca) may, for the purpose of participating in any scheme for the financing of film production, advance moneys to any person, or persons, upon such security and such conditions as the Corporation thinks fit;
  - (d) may acquire and lend films and any periodicals, books and equipment for use in connection with film making, producing, projecting and screening;
  - (e) may establish regional film libraries throughout South Australia;
- and
- (f) may do all such other things as it is authorized or empowered to do by or under this Act or any other Act.

### Power of Corporation to delegate powers

12. (1) The Corporation may, by writing under its common seal, but subject to the approval of the Minister, delegate any of its powers, other than this power of delegation, to the chairman of the Corporation or to any of its officers.

(2) A power so delegated may be exercised by the delegate in accordance with the instrument of delegation and, when so exercised, shall, for the purposes of this Act, be deemed to have been exercised by the Corporation.

(3) A delegation of power under this section is revocable at will and does not prevent the exercise of the power by the Corporation.

**The Corporation may borrow for purposes of this Act**

13. (1) For the purposes of this Act the Corporation may, upon such terms and conditions as are approved by the Treasurer, borrow money—

(a) from the Treasurer;

or

(b) with the consent of the Treasurer, from any other person.

(2) The repayment of all moneys borrowed under paragraph (b) of subsection (1) of this section together with any interest payable thereon is hereby guaranteed by the Treasurer.

(3) The Treasurer is hereby authorized, without further appropriation than this section, to pay out of the General Revenue of the State any amount required to satisfy a liability under a guarantee by virtue of subsection (2) of this section.

## --PART III

## THE MANAGING DIRECTOR

**The Managing Director**

14. (1) For the purposes of this Act there shall be a Managing Director who shall be appointed by the Governor on the recommendation of the Minister.

(2) The Managing Director shall hold office as such for such term as is fixed by the Governor at the time of making the appointment.

(3) The Governor may, by notice in writing suspend or remove the Managing Director from office.

(4) The Managing Director shall be entitled to be paid out of the funds of the Corporation, such remuneration, allowances and expenses as may be determined by the Governor.

**Casual vacancy in office of Managing Director**

15. The Governor may, on the recommendation of the Minister, fill any casual vacancy which occurs in the office of Managing Director, and any appointment to such vacancy may be for such term as is fixed by the Governor at the time of making the appointment.

**Deputy Managing Director**

16. (1) In case of the illness, suspension, or absence from the State of the Managing Director, the Governor may, on the recommendation of the Minister, appoint some other person to act as the deputy of the Managing Director during that illness, suspension or absence.

(2) A person so appointed shall, during the time for which he acts as such deputy, have all the powers and perform all the duties of the Managing Director.

**Managing Director to be principal executive officer of the Corporation**

17. (1) The Managing Director shall be the principal executive officer of the Corporation and, subject to the control and directions of the Minister, be responsible for the administration of this Act.

(2) Neither the Managing Director nor a deputy of the Managing Director as such shall be subject to the *Public Service Act, 1967*, as amended.

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## PART V

## FINANCIAL PROVISIONS

**Moneys required for purposes of this Act**

22. Except to the extent that the funds of the Corporation might otherwise be sufficient for the purposes of this Act, the moneys required for those purposes shall be paid out of moneys provided by Parliament for those purposes.

**The funds of the Corporation**

23. (1) The Treasurer may, from time to time, make available to the Corporation from moneys appropriated by Parliament for the purposes of the administration of this Act and the carrying out by the Corporation of its functions, duties and authorities under this Act, such moneys on such terms and conditions as he thinks fit.

(2) The funds of the Corporation shall be kept and maintained at the Treasury and shall consist of—

(a) all moneys made available by the Treasurer to the Corporation, out of appropriations authorized by Parliament, for the purposes of the administration of this Act and the carrying out by the Corporation of its functions, duties and authorities;

(b) all moneys derived by the Corporation from the sale, leasing and other disposal by the Corporation of any property which it has power to sell, lease or otherwise dispose of;

(c) all moneys borrowed by the Corporation under this Act;

(d) all other moneys received by the Corporation;

and

(e) all moneys, other than moneys referred to in paragraphs (a) to (d) (inclusive) of this subsection that are required to be paid to the Corporation by this Act or any other Act.

(3) The funds of the Corporation may, with the approval of the Minister, be used by the Corporation for all or any of the following purposes:—

(a) the acquisition and development of any property for the purposes of this Act;

(b) the payment of moneys which the Corporation becomes liable to pay;

(c) the establishment of any special fund or funds for any purposes connected with the functions, duties and authorities of the Corporation;

(d) the transfer to any reserve for the repayment of any moneys borrowed by the Corporation for the purposes of this Act;

(e) the payment of principal, interest and expenses in respect of moneys borrowed by the Corporation for the purposes of this Act;

(f) the maintenance and improvement of any property owned or held by or vested in the Corporation;

and

(g) any purposes authorized by or under this Act as a purpose for which the funds of the Corporation may be used.

(4) Any funds of the Corporation that are not immediately required for the purposes referred to in subsection (3) of this section may be deposited by the Corporation with the Treasurer, or may be invested in such other manner as the Treasurer may approve.

#### **Budget**

24. (1) As soon as practicable after the commencement of this Act, the Corporation shall present to the Minister a budget showing estimates of its revenue and expenditure over the balance of the financial year within which that budget is presented and thereafter the Corporation shall, before the commencement of each succeeding financial year, present to the Minister a budget showing estimates of its revenue and expenditure for that financial year.

(2) The Minister may approve of a budget presented to him pursuant to subsection (1) of this section or may direct or allow the Corporation to amend a budget before he approves of that budget.

(3) The Corporation shall not, without the consent of the Minister, make any expenditure that is not provided for by a budget that has been approved by the Minister under this section.

## PART VI

## MISCELLANEOUS

**Service with the State or Commonwealth Government or approved employer to count as service with the Corporation, if continuous**

25. Where the service of a person in the employment of the Corporation is continuous with his service in the employment of the Government of the Commonwealth or of this State or any other State of the Commonwealth or in the employment of any other employer approved by the Minister, the Corporation shall, when calculating the recreation leave, sick leave and long service leave to be granted to that person in respect of his service in the employment of the Corporation—

(a) grant in addition to that leave any accrued leave to which that person is entitled in respect of his service in that previous employment;

or

(b) if that person has no such entitlement to any accrued leave, take into account his period of service in that previous employment as if it were service in the employment of the Corporation.

**Superannuation**

26. The Managing Director and the officers and servants of the Corporation shall, for the purposes of the *Superannuation Act, 1969*, as amended, be deemed to be employees within the meaning of that Act and, subject to that Act, may become contributors within the meaning of that Act, if accepted as such by the South Australian Superannuation Fund Board.

**Films and equipment of Government departments may be vested in Corporation**

27. (1) The Governor may, by proclamation, subject to such terms and conditions, if any, as he may state therein, vest in the Corporation the ownership or custody of any films and any periodicals, books and equipment for use in connection with film making, producing, projecting and screening which are owned by or vested in the Government or any instrumentality or agency of the Government.

(2) Subject to this Act and to the terms and conditions of the vesting, the Corporation may utilize for the purposes of this Act the films, periodicals, books and equipment so vested in it.

(3) Upon application to the Corporation by or on behalf of a department, instrumentality or agency of the Government to borrow any film, periodical, book or equipment of which the applicant has been divested pursuant to this section, the Corporation shall, so far as is practicable and unless otherwise directed by the Minister, give the applicant immediate access to the required film, periodical, book or equipment and permit the applicant to borrow it for the period of time for which it is required.

**Preferences in the lending of films, etc.**

28. Unless otherwise directed by the Minister, the Corporation shall, when determining conflicting applications to borrow any film, periodical, book or equipment of or in the custody of the Corporation—

(a) give priority to any applicant that is a department, instrumentality or agency of the Government which has been divested of the film, periodical, book or equipment pursuant to this Act;

and

- (b) have regard to the purposes for which the applicants require the film, periodical, book or equipment.

#### **Temporary closure of roads, etc.**

29. The Commissioner of Police shall—

- (a) if he thinks fit, upon the application of the Corporation and the approval of the appropriate council;

or

- (b) upon the direction of the Minister made upon application made to him by any person including the Corporation, and after consultation with the appropriate council,

temporarily close any road or part of any road or cause such directions to be given as are necessary to control the movement of pedestrians and vehicular traffic on any road or part of any road during the making of any film being produced by or on behalf of the Corporation or that other person, as the case may be.

#### **Annual report**

30. (1) On or before the thirty-first day of October in each year the Corporation shall furnish the Minister with a report signed by the chairman on its administration and the work that had been undertaken by the Corporation during the year or part of the year ended on the thirtieth day of June preceding the report.

(2) The Minister shall cause each report to be laid before both Houses of Parliament within three weeks after receiving the same, if Parliament is then sitting, or, if Parliament is not then sitting, within two weeks after the commencement of the next sitting of Parliament.

#### **Accounts and Audit**

31. (1) The Corporation shall keep proper books of account showing accurately and in detail all its financial transactions and shall in each year prepare a profit and loss account for the period of twelve months or part thereof ending on the thirtieth day of June in that year and a balance sheet showing its assets and liabilities as at that thirtieth day of June.

(2) The Auditor-General shall audit the accounts of the Corporation annually and for the purpose of such audit may exercise any of the powers which he could exercise for the purpose of auditing the accounts of a Government department.

(3) The Corporation shall pay to the Treasurer, as a fee for every such audit, such sum as the Treasurer thinks reasonable.

#### **Summary proceedings**

32. Proceedings for offences against this Act or any provision of this Act shall be disposed of summarily.

#### **Regulations**

33. (1) The Governor may make such regulations as are necessary or expedient for the purpose of giving effect to the provisions and objects of this Act.

(2) Without limiting the generality of the provisions of subsection (1) of this section, the regulations may—

- (a) prescribe all matters required to be prescribed or authorized by or under this Act and such other matters as are necessary or convenient for carrying out the provisions and objects of this Act;
- (b) provide for fees and charges to be payable under this Act and, if necessary, prescribe the fees and charges so payable;
- (c) prescribe additional powers and duties of the Corporation, the Managing Director or any officer of the Corporation;

and

- (d) provide for and prescribe penalties not exceeding in each case, one hundred dollars, for an offence against this Act or any provision of this Act.

## APPENDIX

## Legislative History

Section 3:	amended by 77, 1978, s. 3; 106, 1981, s. 2
Section 4:	definition of "film" substituted by 92, 1975, s. 3(a) definition of "the advisory board" repealed by 77, 1978, s. 4 definition of "the Chairman" inserted by 92, 1975, s. 3(b) definition of "the Director" repealed and definition of "the Managing Director" inserted in its place by 106, 1981, s. 3
Section 5(4):	substituted by 92, 1975, s. 4(a)
Section 5(5):	repealed by 92, 1975, s. 4(a)
Section 5(6):	amended by 92, 1975, s. 4(b)
Section 5(7):	amended by 92, 1975, s. 4(c)
Section 5(12):	amended by 92, 1975, s. 4(d)
Section 6(1):	amended by 92, 1975, s. 5(a)
Section 6(2):	amended by 92, 1975, s. 5(b)
Section 6(3):	amended by 92, 1975, s. 5(c)
Section 6(4):	amended by 92, 1975, s. 5(d)
Section 10:	amended by 92, 1975, s. 6; 11, 1979, s. 2
Section 11:	amended by 92, 1975, s. 7; 11, 1979, s. 3
Heading preceding section 14:	amended by 106, 1981, s. 4
Section 14(1), (2) and (4):	amended by 106, 1981, s. 5
Section 15:	amended by 106, 1981, s. 6
Section 16:	amended by 106, 1981, s. 7
Section 17:	amended by 106, 1981, s. 8
	Part IV comprising ss. 18 - 21 and heading amended by 92, 1975, ss. 8, 9; repealed by 77, 1978, s. 5
Section 23(4):	inserted by 11, 1979, s. 4
Section 26:	amended by 106, 1981, s. 9
Section 33(2):	amended by 77, 1978, s. 6; 106, 1981, s. 10