

DISCUSSION DOCUMENT

BILL

To provide for the establishment of the Free State Film Commission; to determine the objects, powers, duties and functions of the Free State Film Commission; to determine the manner in which the Free State Film Commission is to be managed, governed, staffed and financed; and to provide for matters connected therewith.

BE IT ENACTED by the Provincial Legislature of the Province of Free State, as follows:-

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CHAPTER 1

DEFINITIONS

Definitions

- 1. In this Act, unless the context otherwise indicates –

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"Board" means the Board of the Commission appointed in terms of section 5;

"Chief Executive Officer" means the Chief Executive Officer of the Commission, appointed in terms of section 16;

"Commission" means the Free State Film Commission established in terms of section 2;

"Current Film Commission" means the association incorporated prior to enactment of this Act and known as the Free State Film Commission;

"Constitution" means the Constitution of the Republic of South Africa, 1996;

"Department" means the Department in the Provincial Government of Free State responsible for Sport, Arts, Culture and Recreation;

"Executive Council" means the Executive Council of the Province of Free State contemplated in section 132 of the Constitution;

"film" means any sequence of visual images recorded in such a manner that by using such recording such images will be capable of being seen as a moving picture, and includes any picture intended for exhibition through any medium or device;

"film production" means the act or instance of producing a film;

"film producer" means a natural or juristic person engaged in film production;

"film products" mean the outcome of film production;

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"Head of Department" means the person appointed as Head of the Department in terms of the Public Service Act, 1994;

"Industrial Development Corporation" means the public corporation established under section 2 of the Industrial Development Corporation Act, 1940 (Act No. 22 of 1940);

"member" means a member of the Board of the Commission appointed in terms of section 5;

"Member of the Executive Council responsible for finance" means the member of the Executive Council of the Province of Free State responsible for finance;

"organised local government" means the Free State Local Government Association being that organization in the Province of Free State recognised in terms of section 2 of the Organised Local Government Act, 1997 (Act No. 52 of 1997), as representing the majority of municipalities in the Province;

"Portfolio Committee" means the Portfolio Committee of the Provincial Legislature responsible for education, sport, arts, culture and recreation

"prescribed" means prescribed by regulation under section 33 and **"prescribe"** has a corresponding meaning;

"Province" means the Province of Free State contemplated in section 103 of the Constitution and **"provincial"** has a corresponding meaning;

"Provincial Gazette" means the official Provincial *Provincial Gazette* of Free State;

"Provincial Government" means the government of the Province of Free State;

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"Provincial Legislature" means the Legislature of the Province of Free State as contemplated in section 105 of the Constitution, and having the legislative authority for the Province as contemplated in section 104(1) of the Constitution;

"regulations" means regulations made in terms of section 33;

"responsible Member" means the Member of the Executive Council of the Province of Free State responsible for sport, arts, culture and recreation or that member of the Executive Council of the Province of Free State to whom the Premier has assigned the administration of this Act;

"the film industry" means the film, television, video and related multimedia industry;

"this Act" includes the regulations;

"Trade and Investment Free State" means –

- (a) the association incorporated under section 21 of the Companies Act, 1973 (Act No. 61 of 1973), bearing Company Registration Number 98/11946/08; or
- (b) the successor in law of, and the successor in title to, such association.

CHAPTER 2

FREE STATE FILM COMMISSION

Establishment of the Free State Film Commission

- 2. (1) There is hereby established a Commission for the promotion of the film industry in the Province, to be known as the Free State Film Commission.
- (2) The Commission is a juristic person which acts through the Board.

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- (3) The Commission is a provincial public entity subject to the Public Finance Management Act, 1999 (Act No. 1 of 1999).
- (4) The Board is the accounting authority of the Commission as contemplated in section 49(2)(a) of the Public Finance Management Act.

Objects of the Commission

3. The objects of the Commission are –

- (a) to promote and market the Province as a global destination for film production;
- (b) to develop, promote and market, locally, nationally and internationally, the film industry in the Province;
- (c) to facilitate investment in the film industry in the Province;
- (d) to provide and encourage the provision of opportunities for persons, especially from disadvantaged communities, to enter and participate in the film industry in the Province;
- (e) to address historical imbalances in the infrastructure and in the distribution of skills and resources in the film industry in the Province; and
- (f) to contribute to an enabling environment for job creation in the film industry in the Province.

Powers, duties and functions of the Commission

4. (1) The Commission must –

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- (a) administer funds appropriated by the Provincial Legislature;
- (b) initiate and administer the funding from sources other than appropriations from the Provincial Legislature;
- (c) attract international film productions to the Province;
- (d) facilitate the establishment, development and growth of infrastructure and facilities for the film industry in the Province;
- (e) attract foreign and local investment and funding for the establishment, development and growth of infrastructure and facilities for the manufacturing of film products in the Province;
- (f) co-ordinate and facilitate human resource and human intellectual development in the film industry in the Province;
- (g) provide advice, support and access to provincial funding for film producers in the Province;
- (h) promote film productions reflecting the cultural diversity of the Province;
- (i) conduct research and development into all areas of film production in the Province;
- (j) promote the Province as a location for film productions, locally, nationally and internationally;
- (k) attract film producers and facilitate their initiatives to carry out film productions in the Province;
- (l) encourage film producers to employ provincial personnel and facilities for film productions;

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- (m) establish relationships with local and international persons, organisations and film commissions, to encourage and facilitate the transfer of knowledge and skills to the film industry in the Province;
 - (n) compile a database of, and provide information with regard to –
 - (i) provincial film producers, audio-visual technicians, actors, performers and musicians; and
 - (ii) accommodation, catering, transportation and other related facilities in the Province;
 - (o) advise film-makers on any aspect of film production including, but not limited to, municipal by-laws, traffic ordinances, environmental legislation and employment legislation and practices; and
 - (p) advise the Provincial Government on policy and legislation including regulations required or appropriate for the promotion of the film industry in the Province.
- (2) In order to promote uniformity and co-operation by all organs of state in the provincial and local spheres of government on matters related to the film industry, the Commission must –
- (a) at least once a year, convene meetings between organs of state in the provincial and local spheres that have an interest in any matter related to the film industry;
 - (b) act as a link between organs of state in both the provincial and local spheres and stakeholders in the film industry in the Province; and
 - (c) liaise and interact with any organisation, structure or body that has an interest in any matter related to the film industry.

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- (3) The Commission may –
- (a) enter into agreements with any person with expert knowledge in a particular field, so as to assist or advise the Commission in connection with any matter relating to its objects, powers, duties and functions; and
 - (b) generally, do everything that is necessary to achieve its objectives.
- (4) In order to contribute to the development of human capacity in the film industry in the Province, the Commission may provide bursaries and scholarships to students studying or intending to study in the field of film production.

CHAPTER 3

BOARD OF THE COMMISSION

Composition of the Board

5. (1) The Board consists of –
- (a) not more than 7 members appointed by the responsible Member in consultation with the Executive Council; and
 - (b) the Chief Executive Officer, ex officio, as contemplated in section 16(5).

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- (2) Members of the Board must be fit and proper persons to serve the best interests of the Province, collectively possessing –
 - (a) appropriate knowledge, experience and skills in the film industry, and
 - (b) the following skills and expertise –
 - (i) legal skills, experience and qualifications;
 - (ii) financial skills, experience and qualifications;
 - (iii) print or electronic media skills;
 - (iv) community development skills and experience; and
 - (v) entertainment industry experience.
- (3) In appointing members to the Board, the responsible Member must ensure that historic imbalances are addressed.
- (4) The responsible Member must designate –
 - (a) one of the members of the Board as the Chairperson of the Board; and
 - (b) one of the members of the Board as the Deputy Chairperson of the Board.
- (5) The responsible Member must, by notice in the *Provincial Gazette* invite any interested parties within the Province to nominate candidates for appointment to the Board.
- (6) The invitation for nominations must specify –

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- (a) the nomination procedure;
 - (b) the requirements for nominations; and
 - (c) the closing date for the nominations.
- (7) The responsible Member must consider all nominations submitted in response to the notice, and may appoint a selection panel consisting of senior departmental officials to review all the nominations and make recommendations to the responsible Member on the nominees.
- (8) The responsible Member must cause the names of the persons appointed to the Board to be published in the *Provincial Gazette* and in at least two newspapers circulating in the Province, immediately after such persons have been notified, in writing, of their appointment to the Board.
- (9) The responsible Member must, within two months after the appointment of members of the Board in terms of subsection (1), inform the Executive Council and the Portfolio Committee of the names of the appointed members including the term of their appointment.
- (10) This section applies, with the necessary changes, to the filling of a vacancy on the Board.

Disqualification from being appointed to Board

6. A person is disqualified from being appointed to the Board or from remaining on the Board, by reason that he or she –

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- (a) is or becomes an unrehabilitated insolvent;
- (b) is or has been declared by a competent court to be of unsound mind;
- (c) is directly or indirectly interested in any contract with the Commission and fails to declare his or her interest and the nature thereof in the manner required by this Act;
- (d) is a person under curatorship;
- (e) has at any time been removed from an office of trust on account of misconduct involving theft or fraud;
- (f) has been convicted and sentenced to a term of imprisonment without the option of a fine, except that the responsible Member may, upon receipt of an affidavit disclosing full details of an offence by a person nominated for appointment, condone a conviction in a manner that is consistent with section 106(1)(e) of the Constitution: Provided that a disqualification in terms of this subsection ends five years after the sentence has been completed; or
- (g) fails to disclose an interest in accordance with section 7 or attended or participated in the proceedings of the Board while having an interest contemplated in the said section.

Declaration of financial or other interests of a member of the Board

7. (1) A person who has been nominated to serve on the Board in terms of section 5(6) must, within 10 days of being nominated, submit a written declaration to the responsible Member of all direct or indirect interests in any company and of any other business interests.

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- (2) Any failure by the nominee to disclose financial and other interests in terms of subsection (1) disqualifies such nominee in terms of section 6 from being appointed to the Board.
- (3) Every member of the Board must, upon assuming office and at the beginning of every financial year of the Commission, submit a written declaration of his or her direct or indirect interest in any company or other business interest.
- (4) Where a member of the Board acquires an interest in any company, or any other business interest, at any time during his or her tenure as a member of the Board, he or she must, within 10 days of the date of the acquisition of such an interest, submit a written declaration to the responsible Member of such an interest.
- (5) Any failure on the part of the member to disclose his or her interest as contemplated in subsections (3) and (4), constitutes justifiable reason for the termination of appointment of such member in terms of section 9(2).
- (6) The responsible Member must keep an updated register of the interests of members of the Board disclosed in terms of this section.

Term of office and reappointment of a member of the Board

8. The persons appointed to the Board holds office for a period of 3 years, which may be extended for a further 2 years: Provided that no person may be re-appointed after having served on the Board for a continuous period of 10 years.

Vacancies, removal and resignation from office of a member of the Board

9. (1) A member of the Board must vacate office if he or she becomes subject to a disqualification contemplated in section 6.
- (2) The responsible Member may, after having afforded a member the opportunity to state his or her case, at any time terminate the term of office of such member if, in his or her opinion, there are good reasons for doing so.
- (3) A member must vacate office if he or she is absent, without a leave of absence having first been granted by the chairperson, from two consecutive meetings of the Board for which reasonable notice was given to that member.

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- (4) A member may resign from office by giving not less than 30 days written notice to the responsible Member: Provided that the responsible Member waives the notice period.
- (5) Whenever a vacancy occurs on the Board, the responsible Member must, subject to section 5, appoint a person to fill such vacancy for the unexpired portion of the period of office of the member in whose place such person is appointed.
- (6) In the event that the responsible Member exercises his or her powers in terms of subsection (2), he or she may, notwithstanding the procedure for the appointment of the members of the Board set out in section 5, subject to sections 5(2) and 5(3), appoint persons to serve as members of the Board on an interim basis: Provided that –
 - (a) the persons appointed in terms of this subsection may not remain on the Board for a period of more than 90 days from the date of their appointment; and
 - (b) the responsible Member must, subject to section 5, appoint the permanent members of the Board within 90 days of the appointment contemplated in this subsection.

Temporary suspension of a member of the Board

10. The responsible Member may suspend a member of the Board whilst the responsible Member is investigating allegations which, if found to be correct, may result in the member's appointment being terminated in terms of section 9(2).

Meetings and procedures at meetings of the Board

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11. (1) The first meeting of the Board must be held on a date and at a time and venue determined by the responsible Member, whereafter all future meetings must be as determined by the Chairperson.
- (2) The quorum for a meeting of the Board is a majority of the members of the Board.
- (3) The proceedings at a meeting of the Board must, subject to the provisions of this section, be determined by the chairperson including the right to decide that any matter under discussion may be withdrawn before it is put to the vote.
- (4) The Chairperson must preside at all meetings of the Board. If the Chairperson is absent, the deputy chairperson must preside.
- (5) A decision of the Board must be taken by a majority of the votes of the members present at a meeting and, in the event of an equality of votes on any matter; the Chairperson has a casting vote in addition to his or her deliberative vote.
- (6) The Board must keep minutes of its meetings.
- (7) No decision of the Board is invalid merely by reason of a vacancy in the Board: Provided that the decision is taken by the required majority of the members of the Board then present and entitled to sit as members of the Board.
- (8) The chairperson, or a majority of the members of the Board, may call an extraordinary meeting of the Board in which event the provisions of this section apply with the necessary changes.
- (9) The Board may, in its discretion, allow members of the public to attend any meeting of the Board.

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Recusal of a member from meetings and proceedings of the Board

12. (1) A member of the Board must recuse himself or herself from a matter being investigated, considered or voted upon by the Board if one or more of the following occur –
- (a) if he or she has a direct or indirect interest in the matter; or
 - (b) if there is a possibility that a direct or indirect interest in the matter might arise.
- (2) If at any stage during the course of any proceedings before the Board it appears that a member who is present at that meeting has or may have an interest contemplated in subsection (1), such member must forthwith disclose the nature of his or her interest and leave the meeting.
- (3) Any disclosure made in terms of subsection (1) must be recorded in the minutes of the meeting in question.
- (4) If it subsequently emerges that the Board took a decision on a matter in respect of which a member has failed to disclose an interest contemplated in subsection (1), such decision by the Board is invalid.
- (5) For the purposes of this section "**indirect interest**" includes, but is not limited to, an interest held by any member's –
- (a) business partner, associate or employer, other than the State;
 - (b) spouse, partner in a customary marriage, or person with whom such member cohabits or lives as though they are married; or
 - (c) child, parent or sibling.

Remuneration of members of the Board

13. (1) (a) Subject to subsection 2(a), a member of the Board may be paid from the funds of the Commission such remuneration and allowances as may be determined by the responsible Member in consultation with the Member of the Executive Council responsible for finance subject to guidelines by National Treasury; and
- (b) a member of the Board who receives remuneration, allowances or other benefits by virtue of his or her post or employment in –
- (i) the national government;
 - (ii) a provincial government;
 - (iii) a municipality; or
 - (iv) a corporation, body or institution in which the national or a provincial government has a controlling interest, and
- who continues to receive such remuneration, allowances or other benefits while serving as a member of the Board, may not receive any remuneration except payment in terms of subsection (2).
- (2) A member of the Board may, in respect of his or her functions as a member, receive reimbursement from the funds of the Commission for reasonable actual subsistence and travelling expenses necessitated by the actual attendance of a meeting of the Board.

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Establishment of Committees to assist the Board

14. (1) The Board may establish committees consisting of one or more of its members to –
- (a) assist the Board in the performance of any of the powers, duties or functions of the Commission contemplated in section 4; or
 - (b) enquire or conduct research into any matter falling within the mandate of the Board in terms of this Act.
- (2) When establishing a committee contemplated in subsection (1), the Board must –
- (a) determine the terms of reference of such committee including, but not limited to, whether or not such committee ceases to exist once it has completed the task or tasks allocated to it by the Board;
 - (b) appoint a Chairperson of such committee who must be a member of the Board; and
 - (c) determine whether or not such committee may co-opt persons who are not members of the Board and, if so, on what terms and conditions.
- (3) The Board may, at any time, terminate the existence of a committee or any mandate given to a committee, irrespective of whether or not such committee has completed the task or tasks allocated to it by the Board.

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- (4) (a) The Chief Executive Officer may attend and take part in, but may not vote at, a meeting of a committee; and
- (b) a member of staff of the Board may, on invitation by the relevant committee, attend a meeting of that committee.

Advice to the Board

15. (1) The Board may request any person to advise it regarding a matter.
- (2) The Board may pay reasonable compensation to any person contemplated in subsection (1).

CHAPTER 4

CHIEF EXECUTIVE OFFICER AND STAFF OF THE COMMISSION

Chief Executive Officer of the Commission

16. (1) The responsible Member must, after consultation with the Board, appoint a suitably qualified, skilled and experienced person as Chief Executive Officer of the Commission.
- (2) (a) The Chief Executive Officer is appointed for a period not exceeding five years; and
- (b) the Chief Executive Officer may be re-appointed for one additional term of office not exceeding five years.
- (3) (a) The appointment of the Chief Executive Officer is subject to the conclusion of a written performance agreement entered into between that person and the Board; and
- (b) the Board and the Chief Executive Officer may, in writing and by agreement, amend the performance agreement.

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- (4) For purposes of the declaration of financial or other interests, the provisions of section 7 apply with the necessary changes to the Chief Executive Officer except that the Chief Executive Officer must declare his or her interests to the Board and the responsible Member.

- (5) The Chief Executive Officer is an ex officio member of the Board but does not have the right to vote at its meetings.

Functions of the Chief Executive Officer

17. (1) The Chief Executive Officer is responsible for –
 - (a) the administrative and financial management of the Board in accordance with the Public Finance Management Act, 1999 (Act No. 1 of 1999), and the direction of the Board;

 - (b) the appointment of members of staff of the Commission contemplated in section 19(1), in consultation with the Board;

 - (c) the determination in consultation with the Board of a code of conduct, applicable to the Chief Executive Officer, all staff of the Commission and justiciable for purposes of disciplinary proceedings, to ensure –
 - (i) compliance with applicable law, including this Act;

 - (ii) the effective, efficient and economical use of the Commission's funds and resources;

 - (iii) the promotion and maintenance of a high standard of professional ethics;

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- (iv) the prevention of conflicts of interest;
 - (v) the protection of confidential information held by the Commission; and
 - (vi) professional, honest, impartial, fair, ethical and equitable service;
- (d) the maintenance of discipline over the staff appointed in terms of paragraph (b) and must, for those purposes, be accountable to the Board;
- (e) the keeping and maintenance of the register of interests declared by members of staff of the Commission; and
- (f) ensuring compliance by the Board with the provisions of the Public Finance Management Act, 1999 (Act No. 1 of 1999), and any other applicable legislation.
- (2) If the Chief Executive Officer is for any reason unable to perform any of his or her functions, the Board must request the responsible Member to, in writing, appoint another person as Acting Chief Executive Officer until the Chief Executive Officer is able to resume those functions.

Resignation and removal from office of the Chief Executive Officer

- 18.** (1) The Chief Executive Officer vacates office –
- (a) in the case of resignation, when the resignation takes effect; and
 - (b) upon having been removed from office in terms of subsection (2).

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- (2) The responsible Member may, after consultation with the Board, terminate the Chief Executive Officer's employment in accordance with applicable employment and labour law.

Staff of the Commission

19. (1) The Chief Executive Officer must, in consultation with the Board and subject to subsection (2), employ members of staff of the Commission as may be reasonably necessary –
 - (a) to assist him or her in fulfilling his or her functions in terms of this Act; and
 - (b) to assist the Board with the work incidental to the performance by the Board of its functions.
- (2) The Board must, subject to section 23(4), determine a human resources policy for staff members of the Commission, including the Chief Executive Officer.
- (3) For purposes of the declaration of financial or other interests, and subject to section 17(1)(e), the provisions of section 7(3), (4) and (5) apply with the necessary changes to staff members of the Commission.
- (4) The Chief Executive Officer must keep an updated register of the interests of staff members of the Commission disclosed in terms of this subsection (3).
- (5) The board of directors shall appoint the company secretary, subject to the following:
 - (a) The company secretary shall hold office on such terms and conditions (including the payment of remuneration and allowances) as determined by the board of directors.
 - (b) The company secretary shall be responsible for all administrative work in connection with the performance of the duties or the exercise of the powers of the board of directors.
 - (c) The company secretary has the responsibilities of a company secretary as prescribed by the Companies Act, 2008 (Act No. 71 of 2008).

Secondment or transfer of staff to the Commission

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20. The Commission may utilise the services of persons seconded or transferred from the public service in accordance with the provisions of the Public Service Act, 1994 (Proclamation No. 103 of 1994).

CHAPTER 5

DETERMINATION OF PROVINCIAL CODE OF CONDUCT FOR FILM PRODUCERS

Provincial Code of Conduct for Film Producers

21. (1) The responsible Member after consultation with the Board, must determine a Provincial Code of Conduct for Film Producers.
- (2) The Provincial Code of Conduct for Film Producers takes effect upon the publication of the notice in the *Provincial Gazette*.

Policy directives

22. The responsible Member may –
- (a) set strategic guidelines for the pursuit of the Commission's objectives;
- (b) issue policy directives to the Board; and
- (c) withdraw or amend any strategic guideline or policy directive issued in terms of paragraph (a).

CHAPTER 6

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FUNDING AND FINANCIAL MANAGEMENT OF THE COMMISSION**Funds of the Commission**

23. (1) The funds of the Commission consist of –
- (a) money appropriated by the Provincial Legislature; and
 - (b) interest on investments of the Commission.
- (2) The Commission must utilise its funds –
- (a) for the payment of remuneration, allowances and subsistence and travelling expenses of –
 - (i) the members of the Board;
 - (ii) the Chief Executive Officer; and
 - (iii) the members of staff of the Commission; and
 - (b) to cover costs in connection with –
 - (i) the day to day operation and administration of the Commission; and
 - (ii) the performance of the duties and functions of the Commission and the exercise of its powers in terms of this Act.

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- (3) The Chief Executive Officer must, with the concurrence of the Board and subject to the Public Finance Management Act –
 - (a) open an account in the name of the Commission with an institution registered as a bank in terms of the Banks Act, 1990 (Act No. 94 of 1990); and
 - (b) deposit therein all money received in terms of subsection (1).

- (4) The Board, in consultation with the responsible Member, must determine –
 - (a) the remuneration and conditions of service; and
 - (b) the pension and retirement benefits,

of the Chief Executive Officer and the other members of staff of the Commission.

- (5) The Commission may invest monies deposited into its account which are not required for immediate use: Provided that the Board takes reasonable steps to ensure that the investment is not of a speculative nature.

- (6) The Commission may not borrow money or issue guarantees, indemnities or securities or enter into any other transactions that bind it, unless such borrowing, guarantee, indemnity, security or other transaction is authorised in terms of this Act and not in conflict with the Public Finance Management Act, 1999 (Act No. 1 of 1999).

Financial management

24. (1) The Chief Executive Officer must cause full and proper books of account and all the necessary records in relation thereto to be kept.

- (2) The Chief Executive Officer must ensure that the Commission's annual budgets, corporate plans, annual reports and audited financial statements are prepared and submitted in accordance with the Public Finance Management Act, 1999 (Act No. 1 of 1999).

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- (3) The Chief Executive Officer must, within three months before the end of each financial year, submit to the Board for approval –
 - (a) a business plan for the Commission, containing measurable objectives and the other information contemplated in section 25(3)(b) and (c); and
 - (b) a statement of the estimated income and expenditure of the Commission, in respect of the following three financial years.

- (4) In any financial year the Chief Executive Officer may submit to the Board for approval adjusted or supplementary statements of the estimated income and expenditure of the Commission for that financial year.

- (5) The Commission may not enter into any financial commitment beyond its approved budget and accumulated reserves.

- (6) The Chief Executive Officer may with the approval of the Board –
 - (a) invest any unexpended portion of its funds with the Corporation for Public Deposits or any other institution categorised or listed from time to time by the National Treasury as a Category "A1" financial institution; or
 - (b) dispose of that portion in any other manner.

- (7) The Chief Executive Officer may, with the approval of the Board, establish reserve funds and deposit therein such amounts as the Board approves.

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Audit and annual report

25. The Auditor-General must audit the financial statements of the Commission.

Financial year of the Commission

26. The financial year of the Commission commences on 1 April of a particular year and ends on 31 March of the following year.

Immovable property

27. The Commission may, in terms of a policy and procedures determined by the Board and with the approval of the responsible Member, acquire, hold or dispose of immovable property in the course of its business.

Legal proceedings against the Commission

28. Any legal proceedings against the Commission must be instituted in accordance with the Institution of Legal Proceedings against certain Organs of State Act, 2002 (Act No. 40 of 2002).

CHAPTER 7

GENERAL PROVISIONS

Security of confidential information held by the Commission

29. (1) Subject to the Constitution and the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), no person may disclose any information submitted to the Commission in connection with any legal brief or instruction, unless –
- (a) he or she is ordered to do so by a court of law; or

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- (b) the person who gave such brief or instruction consents thereto in writing.
- (2) No person may disclose any information kept in the register contemplated in sections 7, 16(4) and 19(4) unless such disclosure is –
- (a) in terms of any law that compels or authorises such disclosure;
 - (b) materially necessary for the proper functioning of the Commission; or
 - (c) made for purposes of monitoring, evaluating, investigating or considering any activity relating to the Commission, or any member of staff of the Commission.
- (3) Any person who contravenes subsection (1) or (2) is guilty of an offence.

Dissolution of the Commission

30. The Commission may only be dissolved in terms of an Act of the Provincial Legislature.

Use of name of the Commission

31. (1) No person may, without the prior written authorisation of the Commission, in any way represent or make use of the name, acronym, logos, designs or material used or owned by the Commission.
- (2) No person may falsely or without authority claim to be acting on behalf of the Commission, including the collection of fees, remuneration or donations.
- (3) Any person who contravenes subsection (1) or (2) is guilty of an offence.

Delegations

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- 32.** (1) The responsible Member may delegate to the Board –
- (a) any power conferred on the responsible Member by this Act, except the power to make regulations referred to in section 33; or
 - (b) any duty imposed on the responsible Member by this Act, except any duty regarding the appointment, and termination of office, of the members of the Board contemplated in sections 5(1)(a), 6 and 9(2).
- (2) The Board may, by a special resolution, delegate to the Chief Executive Officer or staff member of the Commission, any power or duty conferred or imposed on the Board by this Act.
- (3) The Chief Executive Officer may delegate to any member of staff of the Commission any power or duty conferred or imposed on the Chief Executive Officer by this Act, except any power or duty as accounting officer of the Commission.
- (4) Any power or duty delegated in terms of subsection (1), (2) or (3) must be exercised or performed subject to such conditions as the person or body that made the delegation considers necessary.
- (5) A delegation referred to in subsection (1), (2) or (3) –
- (a) must be in writing;
 - (b) does not prohibit the person or body that made the delegation from exercising that power or performing that duty; and
 - (c) may at any time be withdrawn or amended in writing by that person or body.

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Regulations

33. The responsible Member may, in consultation with the Board and by notice in the *Provincial Gazette*, make regulations regarding –
- (a) any matter that may be prescribed in terms of this Act; or
 - (b) any administrative or procedural matter necessary to give effect to the provisions of this Act.

Penalties

34. Any person convicted of an offence in terms of this Act is liable to a fine or to imprisonment for a period not exceeding 5 years or to both such fine and imprisonment.

Limitation of liability

35. Neither the State nor any organ of state or person exercising any power or performing any duty in terms of this Act is liable for any loss or damage resulting from an act or omission in good faith in the exercise of such power or the performance of such duty, unless gross negligence is proved.

Transitional arrangements

36. (1) Subject to the provisions of subsections (2) and (3), the laws referred to in the Schedule are hereby repealed.
- (2) At the commencement of this Act –
- (a) all assets, liabilities, rights and obligations of the Current Film Commission shall vest in the Commission;

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- (b) any person who immediately before such commencement was an employee of the Current Film Commission shall become an employee of the Commission: Provided that the appointment of such an employee to a post within the Commission and the determination of the location where such an employee will be stationed shall be done by the responsible Member: Provided further that the responsible Member may by notice in the *Provincial Gazette* regulate matters relating to the further transfer of an employee of the Commission;

- (c) any person who immediately before such commencement was a Board member of the Current Film Commission shall retire: Provided that the responsible Member may appoint such person as a Board member of the Commission.

Short title

37. This Act is called the Free State Film Commission Act, 2011.