



Arts Legislation Amendment (Maritime Museum and Film, Television and Radio School) Bill 2005

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Arts Legislation Amendment (Maritime Museum and Film, Television and Radio School) Bill 2005

Date Introduced: 23 June 2005

House: Senate

Portfolio: Arts and Sport

Commencement: on receiving Royal Assent

Purpose

The Arts Legislation Amendment (Maritime Museum and Film, Television and Radio School) 2005 (the ‘Bill’) is to amend:

- the *Australian Film and Television and Radio School Act 1973* (‘AFTRS Act’) to provide for determinations to be made by the Australian Film and Television and Radio School (‘School’) as to which degrees, diplomas or certificates will be awarded by the School, and
- the *Australian National Maritime Museum Act 1990* (‘ANMM Act’) to broaden the power for the Australian National Maritime Museum (‘Museum’) to fix entry charges to its exhibitions.

Background

The Explanatory Memorandum for the Bill, focuses on how the amendments will bring flexibility to the School and the Museum, by streamlining procedures currently subject to the regulatory powers of the Governor-General.

AFTRS Act

One of the functions of the School, under section 5(1)(g) of the AFTRS Act, is to award degrees, diplomas and certificates as provided for by regulation. Therefore, each time a new course is offered or an old course is discontinued, a regulatory process has to be followed.

The amendments proposed in the Bill would remove the need for the regulations to provide for degrees, diplomas and certificates awarded by the School. Instead, the School would be able to make a determination as to the degrees, diplomas and certificates it would award.

This determination would be by way of a legislative instrument.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

The Explanatory Memorandum claims that by removing the current regulatory requirement, the School will have a greater autonomy and flexibility.¹ Senator Patterson, in her second reading speech on the Bill, stated that the proposed amendments mean that the School will be able to respond quickly to the needs of the film and broadcasting community.²

The importance of the School being alert to changes in the entertainment industry and being able to respond accordingly with changes to its curriculum has been discussed in an article in the Australian Financial Review on 16 April 2005.³ That article discusses a shift in focus for the School towards including business skills components in courses. The change in focus comes in response to a downturn in the production and revenue in the Australian film and television industry in the past couple of years.

ANMM Act

Currently, section 54(1)(d) of the ANMM Act provides for the Governor-General to make regulations with regards to fixing charges for entry into museum premises.

The Museum also has a limited power, under section 7(1)(r) of the ANMM Act, to:

fix charges for entry onto any land, or into any building, owned by, or under the control of the Museum, being charges that:

- (i) are in addition to the charges fixed by the regulations; *and*
- (ii) relate to special exhibitions or other special events. (emphasis added)

The proposed amendments would mean that the Governor General, in addition to making regulations to fix entry charges for the Museum, could also make regulations providing for the Museum to fix entry charges.

Under regulations providing for the Museum to fix entry charges, the Museum would have increased scope, beyond the powers in section 7(1)(r), to fix entry charges to its premises and exhibitions.

The proposed amendments also clarify that where the Museum's exhibitions take place on water (as is likely with a Maritime Museum), then the Museum does have the power under section 7(1)(r) to fix charges for entry to vessels or structures.

Main Provisions

Item 2 of Schedule 1 inserts a new section 6A into the AFTRS Act empowering the School to make a determination specifying degrees, diplomas and certificates to be awarded in relation to the education and training provided by the School.

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Item 3 of Schedule 1 is a saving provision, preserving any regulation in force under section 5(1)(g) of the AFTRS Act at the time of commencement until the time the first determination is made by the School.

Items 4 and 5 of Schedule 1 insert the references to “water” and “structure or vessel” to the powers in section 7(1)(r) of the ANMM Act, making it clear that the Museum’s power to fix entry charges is not limited to exhibitions held on land.

Item 6 of Schedule 1 amends the regulatory powers of the Governor-General under the ANMM Act to make regulations providing for the Museum to fix charges.

Concluding Comments

The proposed amendments to the AFTRS Act are stated to provide the School with greater flexibility, autonomy and efficiency in deciding the direction of the School’s curriculum by replacing the current regulatory process for the awarding of certificates, degrees.

However, the proposed process requires the School to determine certificates, diplomas and degrees by way of legislative instruments. Under the *Legislative Instruments Act 2003* (Cth), legislative instruments are:

- registered on the Federal Registrar of Legislative Instruments in order to be enforceable,
- tabled in Parliament, and
- subject to scrutiny and disallowance by Parliament.

Therefore, it is questionable that the proposed processes of having the School make a determination in the form of a legislative instrument will in fact be more efficient than the current regulatory process. The proposed process:

- will shift the administrative burden in terms of drafting the determination from the Office of Legislative Drafting and Publishing to the School, and
- may result in greater uncertainty during the period between registration and the Parliament considering the legislative instrument.

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Endnotes

- 1 Arts Legislation Amendment (Maritime Museum and Film, Television and Radio School) Bill 2005, Explanatory Memorandum, p. 1.
- 2 Senator Kay Patterson, Minister for Family and Community Services and Minister Assisting the Prime Minister for Women's Issues, 'Second Reading Speech: Arts Legislation Amendment (Maritime Museum and Film, Television and Radio School) Bill 2005', Senate, Debates, 23 June 2005, p. 7.
- 3 S. Williams, "Film Schools Shift Focus to Fostering Business", Australian Financial Review, 16 April 2005, p. 37.

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