

ABBOZZ TA' LIĠI msejjaħ

ATT biex jipprovdi għall-promozzjoni, żvilupp u sostenn ta' l-industrija awdjovisiva, inkluża l-industrija tal-film servicing, f' Malta, u għat-twaqqif tal-Kummissjoni ċinematografika ta' Malta u tal-Kummissarju ċinematografiku, u biex jistabbilixxi l-funzjonijiet u setgħat rispettivi tagħhom u sabiex jipprovdi dwar affarijiet anċillari ma' dan jew li għandhom x'jaqsmu miegħu.

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f' dan il-Parlament, u bl-awtorità ta' l-istess, hareg b'liġi dan li ġej -

TAQSIMA I PRELIMINARI

1. (1) It-titolu fil-qosor ta' dan l-Att hu Att ta' l-2005 dwar il-Kummissjoni ċinematografika ta' Malta. Titolu fil-qosor u dhul fis-seħh.

(2) Id-disposizzjonijiet ta' dan l-Att jidhlu fis-seħħ f'dik id-data li l-Ministru responsabbli għall-industrija tal-films jista' b'avviż fil-Gazzetta jistabbilixxi, u dati differenti jistgħu jiġu hekk stabbiliti għal disposizzjonijiet u għanijiet differenti ta' dan l-Att.

2. F'dan l-Att, kemm-il darba ir-rabta tal-kliem ma tkunx tehtieg xort'ohra –

“film” jinkludi film fotografiku jew *recording* fuq tape manjetiku jew fuq kull tip ta' materjal jew mezz iehor, digitali jew xort'ohra, minn fejn serje ta' immaġini, bil-hoss jew minghajru, jistgħu jkunu prodotti u li hu intiż għal distribuzzjoni u esibizzjoni internazzjonali;

“industrija awdjovisiva” tfisser persuni naturali u ġuridiċi li jwettqu attivitajiet relatati ma' l-iżvilupp, il-produzzjoni, id-distribuzzjoni u l-promozzjoni ta' xogħol awdjovisiv;

“industrija tal-*film servicing*” tfisser kull persuna naturali u ġuridika li għandha bħala għan prinċipali kummerċjali l-provvediment ta' faċilitajiet u/jew apparat lill-industrija awdjovisiva jew kull għan iehor bħal dak skond ma' jista' jiġi stabbilit mill-Ministru;

“ko-produttur” tfisser kumpanija bl-għan ta' produzzjoni ċinematografika jew produttur marbut b'kuntratt ta' ko-produzzjoni;

“Il-Kummissarju” tfisser il-Kummissarju ċinematografiku mahtur taht l-artiklu 5(1) ta' dan l-Att u tinkludi kull uffiċjal jew impjegat tal-Kummissjoni awtorizzat minnu għal dak l-iskop;

“Il-Kummissjoni” tfisser il-Kummissjoni ċinematografika ta' Malta mwaqqfa bl-artiklu 3 ta' dan l-Att;

“kuntratt ta' ko-produzzjoni” tfisser ftehim ta' ko-produzzjoni bejn ko-produttur stabbilit f'Malta u wiehed jew iktar ko-produttori stabbiliti barra minn Malta skond kull trattat bilaterali, multilaterali jew internazzjonali, konvenzjoni jew ftehim li Malta tkun parti fihom, imma ma jinkludix ftehim ta' ko-produzzjoni bejn żewġ ko-produttori jew iktar stabbiliti f'Malta;

“Malta” għandha l-istess tifsira bħalma hu mogħti lilha bl-artiklu 124 tal-Kostituzzjoni;

“Ministru” tfisser il-Ministru responsabbli għall-industrija tal-films jew kull Ministru iehor li jiġi msemmi mill-Prim Ministru b'avviż fil-Gazzetta;

“preskritt” tfisser preskritt b'regolamenti magħmulin mill-Ministru taht id-disposizzjonijiet ta' dan l-Att;

“produzzjoni awdjovisiva” tfisser l-iżvilupp u l-produzzjoni ta’ xogħol awdjovisiv;

“sena finanzjarja” tfisser kull perjodu ta’ tnaħ-il xhar li jintemm fil-31 ta’ Diċembru ta’ kull sena jew kull data oħra li tista’ tiġi stabbilita mill-Ministru. Iżda l-ewwel sena finanzjarja tal-Kummissjoni tibda mad-dhul fis-seħh ta’ dan l-Att u tintemm fil-31 ta’ Diċembru tas-sena li tiġi minnufih wara;

“xogħol awdjovisiv” tfisser xogħol li jikkonsisti f’serje ta’ immaġini relatati li jagħtu l-idea ta’ moviment, li jkunu jew ma jkunux akkumpanjati bil-hoss, li jistgħu jkunu murija u, meta jkunu akkumpanjati bil-hoss, li jistgħu jkunu mismugħa;

“uffiċjal pubbliku”, għar-rigward ta’ Taqsima III ta’ dan l-Att, għandha l-istess tifsira bħalma hu mogħti lilha bl-artikolu 124 tal-Kostituzzjoni.

TAQSIMA II

TWAQQIF, FUNZJONIJIET U TMEXXIJA TAX-XOGĦOL TAL-KUMMISSJONI ĊINEMATOGRAFIKA TA’ MALTA

3. (1) Ikun hemm Kummissjoni ċinematografika ta’ Malta, maħtura mill-Ministru, biex isservi bħala korp li jagħti pariri lill-Ministru fuq politika awdjovisiva għal promozzjoni, żvilupp u sostenn ta’ l-industrija awdjovisiva u ta’ l-industrija tal-*film servicing*, biex tiddetermina l-livelli ta’ benefiċċji fiskali u ta’ kull tip ieħor skond id-disposizzjonijiet tat-Taqsima V ta’ dan l-Att, u biex tassisti lill-Kummissarju fl-eżerċizzju tal-funzjonijiet tiegħu.

Twaqqif u għamla tal-Kummissjoni ċinematografika ta’ Malta.

(2) Il-Kummissjoni tkun magħmula minn mhux iżjed minn hames membri, maħtura mill-Ministru, u wiehed mill-membri jinhatar bħala President. Il-membri jiġu maħtura minn fost nies li għandhom konnoxxenza f’oqsma relatati ma’ produzzjonijiet awdjovisivi jew ċinematografiċi, servizzi, setturi ta’ marketing jew finanzjament, proċeduri tas-servizz pubbliku jew oqsma oħra relatati ma’ l-industrija awdjovisiva jew tal-*film servicing*. Wiehed mill-membri tal-Kummissjoni għandu jiġi maħtur wara li jkun ġie nominat mill-Ministru responsabli għall-kultura.

(3) Il-Ministru għandu jahtar il-Kummissarju ċinematografiku bħala wiehed mill-membri tal-Kummissjoni, iżda l-Kummissarju ma jstax jinhatar bħala President tal-Kummissjoni.

(4) Il-membri tal-Kummissjoni jiġu mahtura għal żmien tliet snin, imma l-membri li jiġu hekk mahtura jkunu eliġibbli biex jinhatru mill-ġdid meta jiskadi ż-żmien tagħhom fil-kariga. Kull membru jista', qabel ma jiskadi ż-żmien tal-kariga, jirriżenja b'ittra indirizzata lill-Ministru.

(5) Persuna ma tkunx eliġibbli li tinhatar bhala membru tal-Kummissjoni jekk -

(a) tkun Ministru, Segretarju Parlamentari jew Membru tal-Kamra tad-Deputati, jew

(b) tkun Imhalled jew Magistrat, jew

(ċ) ikollha interess finanzjarju jew xi interess ieħor f'xi intrapriża jew attività li x'aktarx tkun toqot il-qadi ta' dmiriġietha bhala membru tal-Kummissjoni:

Iżda l-Ministru jista' jwarrab l-iskwalifika ta' persuna taht il-paragrafu (ċ) jekk dik il-persuna tiddikjara li jkollha dak l-interess u dik id-dikjarazzjoni u t-twarrib ta' l-iskwalifika jiġu pubblikati fil-Gazzetta.

(6) Bla hsara għad-disposizzjonijiet ta' dan l-artikolu, il-kariga ta' membru tal-Kummissjoni issir vakanti -

(a) meta jiskadi ż-żmien ta' kariga, jew

(b) jekk ikun hemm ċirkostanzi li, li kieku ma kienx membru tal-Kummissjoni, kienu jwasslu għall-iskwalifika tiegħu milli jiġi mahtur bhala tali, jew

(7) Membru tal-Kummissjoni jista' jitnehha mill-kariga mill-Ministru jekk, fil-fehma tal-Ministru, dak il-membru ma jkunx idoneju li jibqa' fil-kariga jew ma jkunx baqa' kapaci li jaqdi dmiriġietu kif imiss bhala membru.

(8) Jekk membru jirriżenja jew jekk il-kariga ta' membru tal-Kummissjoni tkun xort'ohra vakanti jew jekk membru ma jkunx jista' għal xi raġuni jaqdi l-funzjonijiet tal-kariga tiegħu, il-Ministru jista' jahtar persuna li tkun kwalifikata li tiġi mahtura bhala membru temporanju tal-Kummissjoni. Persuna li tiġi hekk mahtura għandha, bla hsara għad-disposizzjonijiet tas-subartikoli (6) u (7), ittemm milli tibqa' membru meta tiġi mahtura persuna biex timla l-vakanza jew, skond ma jista' jkun il-każ, meta l-membru li ma kienx kapaci jaqdi l-funzjonijiet tal-kariga tiegħu jkompli jwettaq dawk id-dmiriġiet.

(9) Membru tal-Kummissjoni li jkollu xi interess dirett jew indirett f'xi kuntratt jew deċiżjoni magħmulin jew proposti li jiġu magħmulin mill-Kummissarju jew f'kull deċiżjoni tal-Kummissjoni skond l-artiklu 4(j) ta' dan l-Att, li ma jkunx interess li jiskwalifika lil dak il-membru milli jibqa' membru, għandu jiżvela x-xorta ta' l-interess tiegħu fl-ewwel laqgħa tal-Kummissjoni wara li jkun sar jaf bil-fatti rilevanti. Dak il-kxif għandu mbagħhad ikun registrat fil-minuti tal-Kummissjoni, u l-membru li jkollu interess kif hawn qabel imsemmi għandu jirtira minn kull seduta li fiha jiġi diskuss dak il-kuntratt. Tali kxif għandu jitwassal lill-Ministru minghajr dewmien. Meta l-interess tal-membru jkun tali li jiskwalifikah milli jibqa' membru, huwa għandu jirrapporta l-fatt minnufih lill-Ministru u jagħti r-riżenja tiegħu.

(10) Il-membri tal-Kummissjoni jirċievu tali rimunerazzjoni skond ma jiġi deċiż mill-Ministru.

4. Il-Kummissjoni ma tkunx korp eżekuttiv u ma jkollhiex funzjonijiet eżekuttivi hlief il-funzjoni prevista fis-subartikolu (j) ta' dan l-artiklu. Il-funzjonijiet tal-Kummissjoni jkunu li:

Funzjonijiet tal-Kummissjoni.

(a) tagħti pariri lill-Ministru fuq politika relatata mal-promozzjoni, żvilupp u sostenn ta' l-industrija awdjovisiva u ta' l-industrija tal-*film servicing* u jinkludi, imma mhux limitat għal, l-introduzzjoni ta' inċentivi fiskali, tat-taxxa u oħrajn;

(b) tagħti pariri lill-Ministru fuq kif l-aħjar tistruttura u tintegra riżorsi lokali, kemm fuq livell tal-Gvern kemm fuq livell tal-Kunsilli Lokali, biex tiffaċilita l-promozzjoni ta' Malta bhala destinazzjoni għal produzzjonijiet awdjovisivi filwaqt li tiżgura li l-kompetittività u l-burokrazija minima huma elementi essenzjali li jridu jiġu milhuqa;

(ċ) tagħti pariri lill-Ministru fuq l-iffirmar ta' trattati bilaterali, multilaterali jew internazzjonali, kull konvenzjoni jew ftehim li jistgħu jinkoraġġixxu parteċipazzjoni lokali fi produzzjonijiet awdjovisivi u jwasslu għal iktar kollaborazzjoni internazzjonali fl-industrija awdjovisiva;

(d) tagħti pariri lill-Ministru fl-iżviluppar ta' strateġija komprensiva f'taħriġ ta' snajja' li tkun flessibbli u miftuħa għal bidliet industrijali u teknoloġiċi in kollaborazzjoni ma' l-industrija awdjovisiva u ma' partijijiet interessati oħra;

(e) tippromwovi l-importanza edukattiva tal-film u r-rwol tiegħu fit-tishih taċ-ċittadinanza, kreattività u innovazzjoni, kif ukoll biex tinkoraġġixxi u tippromwovi, għall-benefiċċju ta' l-industrija

awdjovisiva Maltija, l-istudju u l-apprezzament ta' films u tal-produzzjoni ta' films u tkun ta' sostenn ghal inizzjattivi li jippromwovu l-litterizmu fil-media u tiżviluppa relazzjonijiet bejn litterizmu u film;

(f) tkun ta' sostenn għall-iżvilupp ta' opportunitajiet għal aċċess għall-istorja taċ-ċinema u patrimonju kulturali u l-użu ta' l-istorja tal-film fil-ftehim ta' l-identità, ir-rappreżentazzjoni, il-kultura u l-kreattività;

(g) tinkoraġġixxi l-eċċellenza u l-innovazzjoni partikolarment permezz ta' l-użu ta' teknoloġiji diġitali godda;

(h) tippromwovi lil Malta bħala destinazzjoni għal ġbid ta' xogħol awdjovisiv u għat-twaqqif ta' intrapriżi awdjovizivi u ta' *film servicing*;

(i) tirrikmanda lill-Kummissarju l-adozzjoni ta' miżuri bil-ħsieb li jiżguraw li politika u inizzjattivi pruvati jiġu tradotti f'pjannijiet ta' azzjoni konkreti;

(j) tiddetermina l-livell ta' benefiċċji fiskali u ta' tip ieħor skond l-artikli tat-Taqsima V ta' dan l-Att;

(k) tassisti lill-Kummissarju fl-eżerċizzju tal-funzjonijiet tiegħu;

(l) twettaq kull funzjoni li minn żmien għal żmien tkun assenjata lilha mill-Ministru.

(m) il-Ministru jista', minn żmien għal żmien, jikteb u jippubblica direttivi dwar il-politika u l-pjanijiet tal-Gvern biex jiġu segwiti u adottati mill-Kummissjoni, u l-Kummissjoni għandha, kemm jista' jkun malajr, tadotta u ssegwi dawk id-direttivi.

Kummissarju
ċinematografiku ta'
Malta.

5. (1) Ikun hemm Kummissarju ċinematografiku li jinhatar mill-Ministru.

(2) Il-Kummissarju għandu jibqa' fil-kariga għal perjodu ta' tliet snin, u għandu jkun eliġibbli biex jerga' jinhatar mill-ġdid meta jiskadi dak iż-żmien tal-kariga.

(3) Persuna ma tkunx eliġibbli għall-kariga ta' Kummissarju jekk dik il-persuna:

(a) tkun Ministru, Segretarju Parlamentari, jew Membru tal-Kamra tad-Deputati, jew

(b) tkun qed isservi bhala Mhallet jew Maġistrat; jew

(ċ) ikollha interess finanzjarju jew xi interess ieħor f'xi intrapriża jew attività li x'aktarx taffettwa l-qadi ta' dmirietha bhala Kummissarju:

Iżda l-Ministru jista' jwarrab l-iskwalifika ta' persuna taht il-paragrafu (ċ) jekk dik il-persuna tiddikjara li jkollha dak l-interess u dik id-dikjarazzjoni u t-twarrab ta' l-iskwalifika jiġu pubblikati fil-Gazzetta.

(4) Bla hsara għad-disposizzjonijiet ta' dan l-artikolu, il-kariga ta' Kummissarju issir vakanti -

(a) meta jiskadi ż-żmien tiegħu fil-kariga, jew

(b) jekk ikun hemm ċirkostanzi illi, li kieku huwa ma kienx Kummissarju, kienu jwasslu għall-iskwalifika tiegħu milli jiġi mahtur bhala tali.

(5) Jekk il-Kummissarju jirriżenja jew jekk il-kariga tiegħu tkun xort'ohra vakanti jew jekk ma jkunx jista' għal xi raguni jaqdi l-funzjonijiet tal-kariga tiegħu, il-Ministru jista' jahtar persuna li tkun kwalifikata li tiġi mahtura bhala Kummissarju temporanju, jekk tali persuna tkun kwalifikata li tkun Kummissarju. Persuna li tiġi hekk mahtura għandha ttemm milli tibqa' Kummissarju meta tiġi mahtura persuna biex timla l-vakanza jew, skond ma jista' jkun il-każ, meta l-Kummissarju li ma kienx kapaċi jaqdi l-funzjonijiet tal-kariga tiegħu jkompli jwettaq dawk id-dmirijiet jew, f'każ ta' xi għan temporanju, il-Kummissarju temporanju jkun wettaq il-funzjonijiet assenjati lilu.

(6) Il-Kummissarju jista' jitnehha mill-kariga mill-Ministru jekk, fil-fehma tal-Ministru, dik il-persuna ma tkunx idoneja li tibqa' fil-kariga jew ma tkunx kapaċi li taqdi dmirijeta kif imiss bhala Kummissarju.

(7) Il-Kummissarju jirċievi tali rimunerazzjoni skond ma jiġi deċiż mill-Ministru.

6. (1) Tkun il-funzjoni tal-Kummissarju li jadotta u jimplimenta mizuri għall-iżvilupp, sostenn u promozzjoni ta' l-industrija awdjovisiva f'Malta, u b'mod ġenerali, biex jimplimenta l-politika awdjovisiva ta' Malta.

Funzjonijiet tal-Kummissarju.

(2) Minghajr preġudizzju għall-ġeneralità tas-subartikolu (1) u għal funzjonijiet oħra attribwibbli lill-Kummissarju b'dan l-Att, il-Kummissarju għandu partikolarment ikollu dawn il-funzjonijiet li ġejjin:

(a) li jassisti u jinkoraġġixxi b'kull mezz li jahseb adatt, il-produzzjoni ta' films f'Malta u t-twaqqif ta' industriji għal produzzjoni ta' films f'Malta;

(b) li jippromwovi l-postijiet, il-faċilitajiet, is-snaġġa', it-talent u l-esperjenza li hemm Malta bl-iskop li jhajar investiment fil-forma ta' produzzjonijiet awdjovisivi internazzjonali li jingibdu f'Malta;

(ċ) li janalizza, jiżen u jiċcertifika l-eligibiltà ta' proġetti u, jew benefiċċji għat-taxxa jew incentivi oħra provduti mill-Gvern ta' Malta skond il-kriterji stabbiliti minn jew taht dan l-Att jew kull Att iehor u li jagħmel rakkomandazzjonijiet lill-Kummissjoni għad-determinazzjoni tal-livell ta' benefiċċji fiskali u ta' tip iehor skond it-Taqsima V ta' dan l-Att;

(d) li jagħmel rakkomandazzjonijiet lill-Kummissjoni għal self, passiv jew għotjiet bil-quddiem ta' flus lil kull persuna naturali jew ġuridika in konnessjoni ma' xogħol awdjovisiv skond il-kriterji stabbiliti minn jew taht dan l-Att jew kull Att iehor;

(e) li jinkoraġġixxi u jippromwovi l-koeżjoni fl-industrija awdjovisiva lokali, partikolarment:

(i) li jinkoraġġixxi u jippromwovi l-iskambju ta' informazzjoni fost persuni involuti fl-industrija awdjovisiva;

(ii) li jinkoraġġixxi u jippromwovi l-użu effiċjenti ta' riżorsi ġewwa l-industrija tal-*film servicing* Maltija; u

(iii) li jikkoopera ma' entitajiet u organizzazzjonijiet oħra interessati jew milqutin biex jinkoraġġixxi u jippromwovi impjeg fl-industrija awdjovisiva Maltija u l-produttività ta' dik l-industrija;

(f) li japprova ko-produzzjonijiet bejn ko-produttur stabbilit f'Malta u xi wiehed jew iktar ko-produtturi stabbiliti barra minn Malta skond kull trattat bilaterali, multilaterali jew internazzjonali, konvenzjoni jew ftehim fejn Malta tkun parti, u biex johrog kull ċertifikat rilevanti li jattribwixxi "nazzjonalità" lil produzzjonijiet bħal dawk;

(g) li jipparteċipa u jippromwovi parteċipazzjoni fi proġetti kollaborattivi internazzjonali u li jidhol fi ftehim ma' entitajiet barranin u internazzjonali simili;

(h) li jirrappreżenta lil Malta u lill-industrija awdjovisiva tagħha f'entitajiet internazzjonali tal-films;

(i) li jaġixxi bhala punt ta' riferiment għal skemi u laqgħat ta' sostenn immedija mil-Unjoni Ewropea jew ta' kull korp jew organizzazzjoni internazzjonali ohra u, jew biex iżomm kuntatt ma' istituzzjonijiet jew organizzazzjonijiet internazzjonali li jamministraw dawk l-iskemi;

(j) li jikkoordina l-isforz għal għlieda kontra l-abbuż tad-drittijiet ta' l-awtur fl-industrija tal-film, inkluż imma mhux limitat għal piraterija tal-films fuq l-Internet jew *networks* elettronici ohrajn, safejn ikun possibili;

(k) li jiddiskuti, jinnegozja u jidhol fi ftehim ta' natura permanenti jew temporanja jew kodiċi ta' kondotta ma' kull entità pubblika, awtorità pubblika, dipartiment tal-gvern, korporazzjoni pubblika, kunsill lokali, jew entità privata jew persuna fuq kwistjonijiet li jikkoncernaw l-industrija awdjovisiva;

(l) li jagħti pariri lill-Ministru fuq kull kwistjoni konnessa mal-funzjonijiet tal-Kummissjoni taht u għal finijiet ta' dan l-Att;

(m) li jeżerċita kull funzjoni ohra li minn żmien għal żmien tiġi lilu assenjata mill-Ministru.

(3) Il-Kummissarju jista', jekk iqis li jkun hekk xieraq:-

(a) jagħmel monitoraġġ, u kontinwament iqis u jevalwa kull livell, xogħol u attività konnessi ma' kull kwistjoni relatata ma' l-industrija awdjovisiva u l-industrija tal-*film servicing*;

(b) iwettaq studji, riċerka jew kull investigazzjoni konnessa ma' kull ma jirrigwarda l-industrija awdjovisiva;

(ċ) jipprovdi informazzjoni u johrog direttivi, lill-pubbliku u lil entitajiet rilevanti, konnessi mal-film, l-industrija awdjovisiva, l-industrija tal-*film servicing* u l-politika awdjovisiva in ġenerali;

(d) jixtri, ibiegħ jew jiddisponi minn jew jikri art, impjanti, makkinarju jew apparat, u proprjetà ohra, u jippermetti l-użu ta' proprjetà minn persuni ohra;

(e) jimmaniġġa l-art, u jiżviluppa l-art, u biex jagħmel xogħlijiet fuq l-art, u jzomm xogħlijiet jew jassisti fil-manteniment tagħhom;

(f) jipprovdi servizzi ta' pariri jew ta' tip ieħor jew faċilitajiet relatati ma' kull funzjoni tagħha, jew jassisti fil-provediment tagħhom; u

(g) xort'ohra jaqdi dawk id-dmirijiet l-oħra għall-eżerċizzju siewi tal-funzjonijiet tiegħu taht dan l-Att.

Tmexxija ta' l-affarijiet tal-Kummissjoni u tal-Kummissarju.

7. Il-Ministru jista' jibdel jew jirrevoka regolamenti għat-tmexxija ta' l-affarijiet tal-Kummissjoni u l-Kummissarju. Bla hsara għad-disposizzjonijiet ta' dawn ir-regolamenti u ta' dan l-Att, il-Kummissjoni u l-Kummissarju jistgħu jirregolaw il-proċeduri tagħhom stess.

Tmexxija ta' l-affarijiet tal-Kummissjoni u tal-Kummissarju.

8. (1) Il-Kummissarju jkollu personalità legali distinta u jkun kapaċi, bla hsara għad-disposizzjonijiet ta' dan l-Att, li jagħmel kuntratti ta' akkwist, pussess u tneħħija ta' kull xorta ta' proprjetà għall-finijiet tal-funzjonijiet tiegħu, li jharrek u jiġi mharrek, u li jagħmel dak kollu li jidhol f'dawk l-operazzjonijiet kollha huma x'inhuma li jkunu incidentali jew li jwasslu għall-eżerċizzju jew il-qadi tal-funzjonijiet tiegħu taht dan l-Att, inkluż li jsellef jew li jissellef flus.

(2) Kull dokument li jkollu l-iskop li jkun strument magħmul jew mahrug mill-Kummissarju u li jkun iffirmat minnu, jista' jingiebi bi prova u għandu, sakemm ma jiġix ippruvat il-kuntrarju, jitqies bhala strument magħmul jew mahrug mill-Kummissarju.

TAQSIMA III

UFFIĊJALI U IMPJEGATI TAL-KUMMISSARJU

Hatriet tal-persunal.

9. Bla hsara għad-disposizzjonijiet tal-Kostituzzjoni u ta' kull liġi oħra applikabbli għal dan, u mingħajr preġudizzju għad-disposizzjonijiet l-oħra ta' dan l-Att, il-Kummissarju għandu jahtar l-uffiċjali u l-impjegati oħra li jkunu neċessarji minn żmien għal żmien meħtieġa għall-isvolġiment siewi u effiċjenti tal-funzjonijiet tal-Kummissarju. Il-pattijiet u l-kondizzjonijiet ta' impieg għandhom jiġu stabbiliti mill-Kummissarju bi ftehim mal-Ministru.

Inkarigu ta' uffiċjali pubbliċi għal xogħol mal-Kummissjoni.

10. (1) Il-Prim Ministru jista', fuq talba tal-Kummissarju, minn żmien għal żmien jordna li uffiċjal pubbliku jitqabba jagħmel xogħol

mal-Kummissjoni f'dik il-kapaċità u b'seħħ minn dik id-data li jistghu jkunu speċifikati fl-ordni.

(2) Il-perjodu li matulu ordni kif hawn qabel imsemmija tkun tapplika għal xi uffiċjal li jkun speċifikat fiha, għandu, kemm-il darba l-uffiċjal ma jirtirax mis-servizz pubbliku, jew xort'ohra jtemm milli jibqa' fil-kariga f'data li tiġi qabel, jew inkella għax tiġi speċifikata data differenti fl-ordni, jtemm mal-ġrajja ta' xi avveniment minn dawn li ġejjin, jiġifieri jekk:

(a) dak l-uffiċjal li jaċċetta offerta ta' trasferiment għas-servizz tal-Kummissjoni u impieg permanenti mal-Kummissarju konformi ma' l-artikolu 12 ta' dan l-Att; jew

(b) il-Prim Ministru jirrevoka ordni magħmula minnu taht dan l-artikolu għar-rigward ta' dak l-uffiċjal.

(3) Meta ordni kif hawn qabel imsemmija tiġi revokata mil-Prim Ministru għar-rigward ta' xi uffiċjal, il-Prim Ministru jista', b'ordni ulterjuri, jqabbd lil dak l-uffiċjal jagħmel xogħol mal-Kummissarju f'dik il-kapaċità u b'seħħ minn dik id-data li jistghu jkunu speċifikati fl-ordni ulterjuri u d-disposizzjonijiet tas-subartikolu (2) għandhom, malli jiġri dan, ikunu japplikaw għall-perjodu għal kemm iddum dik l-ordni ulterjuri għar-rigward ta' dak l-uffiċjal.

11. (1) Meta uffiċjal pubbliku jitqabbd jagħmel xogħol mal-Kummissjoni taht xi disposizzjoni ta' l-artikolu 10, dak l-uffiċjal għandu, matul il-perjodu li fih dik l-ordni jkollha effett għar-rigward tiegħu jew tagħha, jkun taht l-awtorità amministrattiva u l-kontroll tal-Kummissarju imma huwa għandu għal kull għan u fini ieħor jibqa' u jkun ikkunsidrat u ttrattat bħala uffiċjal pubbliku.

Status ta' uffiċjali
pubbliċi inkarigati
jagħmlu xogħol
mal-Kummissjoni.

(2) Mingħajr preġudizzju għall-ġeneralità ta' hawn aktar qabel, uffiċjal li jitqabbd jagħmel xogħol kif hawn qabel imsemmi -

(a) ma għandux matul il-perjodu li matulu huwa jkun hekk imqabbd -

(i) ikun prekluz milli japplika għal trasferiment f'xi dipartiment tal-Gvern skond il-pattijiet u l-kondizzjonijiet ta' servizz marbuta mal-hatra taht il-Gvern li kellu fid-data li fiha huwa hekk jitqabbd jagħmel ix-xogħol; jew

(ii) ikun hekk impjegat li r-rimunerazzjoni u l-kondizzjonijiet ta' servizz tiegħu jkunu inqas favorevoli minn dawk li jkunu marbutin mal-hatra taht il-Gvern u li jkun qed

igawdi fid-data hawn qabel imsemmija jew li kieku kienu jkunu marbuta ma' dik il-hatra, matul dak il-perjodu, li kieku dak l-uffiċjal ma kienx ġie mqabbd jagħmel xogħol mal-Kummissarju; u

(b) ikollu jedd li s-servizz tiegħu mal-Kummissjoni jiġi kkunsidrat bħala servizz mal-Gvern għall-finijiet ta' pensjoni, gratwità, jew benefiċċju taħt l-Ordinanza dwar il-Pensjonijiet u l-Att dwar il-Pensjoni tar-Romol u l-Orfni, u ta' kull dritt jew privileġġ iehor li kien ikollu jedd għalih, u jkun responsabbli għal dak kollu li jista' jkun responsabbli għalih, li kieku ma jkunx ġie mqabbd jagħmel xogħol mal-Kummissarju.

(3) Meta ssir applikazzjoni kif hemm provdut fis-subartikolu (2)(a)(i) din għandha tinghatalha l-istess konsiderazzjoni bħallikieku l-applikant ma kienx ġie mqabbd jagħmel servizz mal-Kummissarju.

(4) Il-Kummissarju għandu jhallas lill-Gvern dawk il-kontribuzzjonijiet li jistgħu minn żmien għal żmien jiġu stabbiliti mill-Ministru responsabbli għall-finanzi dwar in-nefqa ta' kull pensjoni u gratwità li jista' jaqla' uffiċjal li jiġi mqabbd jagħmel xogħol mal-Kummissarju kif hawn qabel imsemmi matul il-perjodu li fih ikun qed jagħmel dak ix-xogħol.

Offerta ta' impjeg permanenti mal-Kummissarju lil uffiċjali pubbliċi inkarigati jagħmlu xogħol mal-Kummissarju.

12. (1) Il-Kummissarju jista', bl-approvazzjoni tal-Prim Ministru, joffri lil uffiċjal li jkun imqabbd jagħmel xogħol mal-Kummissarju taħt id-disposizzjonijiet ta' l-artikolu 10, impjeg permanenti mal-Kummissarju b'dik ir-rimunerazzjoni u b'dawk il-pattijiet u l-kondizzjonijiet li ma jkunux inqas favorevoli minn dawk li dak l-uffiċjal ikun qed igawdi fid-data ta' dik l-offerta.

(2) Il-pattijiet u l-kondizzjonijiet kompriżi f'xi offerta magħmula kif hawn qabel imsemmi ma għandhomx jitqiesu li jkunu inqas favorevoli unikament għaliex dawn ma jkunux f'kull rigward identici ma' jew aħjar minn dawk li l-uffiċjal involut ikun qed igawdi fid-data ta' dik l-offerta, jekk dawk il-pattijiet u l-kondizzjonijiet, meħudin ilkoll flimkien, ikunu fil-fehma tal-Prim Ministru joffru benefiċċji sostanzjalment ekwivalenti jew aħjar.

(3) Kull uffiċjal pubbliku li jaċċetta impjeg permanenti mal-Kummissarju li jiġi offert lilu taħt id-disposizzjonijiet tas-subartikolu (1) għandu, għall-finijiet kollha li ma jkunux dawk ta' l-Ordinanza dwar il-Pensjonijiet u l-Att dwar il-Pensjonijiet lil Nisa Romol u Tfal Iltiema, u bla hsara għad-disposizzjonijiet tas-subartikolu (6), itemm milli jibqa' fis-servizz mal-Gvern u jidhol fis-servizz mal-Kummissarju fid-data minn meta jaċċetta, u għall-finijiet ta' dik l-Ordinanza u ta' dak l-Att,

daqskemm dawn ikunu applikabbli ghalih, servizz mal-Kummissarju ghandu jitqies bhala servizz mal-Gvern fil-parametri tat-tifsiriet relattivi rispettivament.

(4) Kull ufficjal bhal dak hawn qabel imsemmi li, minnufih qabel ma jacçetta impieg permanenti mal-Kummissarju kellu jedd ghal beneficiçju taht l-Att dwar il-Pensjoniet lil Nisa Romol u Tfal Iltiema, ikompli jkollu dak il-jedd ghal beneficiçju taht dak l-Att ghal kull fini bhallikieku s-servizz tieghu mal-Kummissarju kien servizz mal-Gvern.

(5) Il-Kummissarju ghandu jhallas lill-Gvern dawk il-kontribuzzjonijiet li jistghu minn żmien ghal żmien jiġu stabbiliti mill-Ministru responsabbli ghall-finanzi dwar in-nefqa ta' pensjonijiet u gratwitajiet li jaqla' ufficjal li jkun acçetta impieg permanenti mal-Kunsill kif hawn qabel imsemmi matul il-perjodu li jibda ghaddej mid-data minn meta dak l-ufficjal ikun acçetta.

(6) (a) Ghall-ghanijiet ta' l-Ordinanza dwar il-Pensjonijiet, l-emolumenti pensjonabbli ta' dak l-ufficjal pubbliku meta jirtira ghandhom jitqiesu li jkunu l-emolumenti pensjonabbli li jithallsu lil xi ufficjal fis-servizz tal-Gvern fi grad u f'livell inkrementali li jikkorrispondi ghall-kariga li jkollu l-ufficjal meta jirtira minn mal-Kummissarju.

(b) Il-klassifikazzjoni msemmija fil-paragrafu (a) ghandha ssir minn bord li jkun magħmul minn President li jiġi mahtur mill-Ministru responsabbli ghall-finanzi u minn zewg membri ohra, wiehed li jiġi mahtur mill-Ministru responsabbli centralment ghall-politika dwar il-persunal fis-servizz pubbliku u l-iehor li jiġi mahtur mill-Kummissarju. Il-klassifikazzjoni ghandha tkun bla hsara ghall-approvazzjoni finali tal-Ministru responsabbli ghall-finanzi.

(c) Dik il-klassifikazzjoni ghandha ssir fi żmien tliet xhur mill-aġġustament tas-salarji ta' l-impjegati li jkunu fis-servizz tal-Gvern u, jew, ta' impjegati tal-Kummissarju.

(d) Ebda kariga ma' tkun klassifikata fi grad oghla minn dak ta' Grad 3 fis-servizz tal-Gvern jew dak il-grad iehor oghla li l-Ministru responsabbli ghall-finanzi jista' minn żmien ghal żmien b'avviż fil-Gazzetta jistabbilixxi.

(e) Minghajr preġudizzju ghall-artikolu 113 tal-Kostituzzjoni, hadd ma jista', wara li ssir klassifikazzjoni kif hawn qabel imsemmija, ikollu jedd ghal drittijiet taht l-imsemmija Ordinanza dwar il-Pensjonijiet, li jkunu inqas favorevoli minn dawk li kien ikollu jedd ghalihom qabel dik il-klassifikazzjoni.

TAQSIMA IV

DISPOSIZZJONIJIET FINANZJARJI

Il-Kummissarju
johrog in-nefqa
mid-dhul.

13. (1) Minghajr preġudizzju għad-disposizzjonijiet li ġejjin ta' dan l-artikolu, il-Kummissarju għandu hekk imexxi l-affarijiet tiegħu li n-nefqa mehtiega għall-qadi kif imiss ta' dmirijietu għandha, skond kemm ikun prattiku, ssir mid-dhul li jagħmel.

(2) Għal dan l-ghan il-Kummissarju għandu jiġbor kull dritt, rata u pagament iehor stabbiliti b'dan l-Att jew taht kull liġi oħra.

(3) Il-Kummissarju għandu jithallas mill-Gvern mill-Fond Konsolidat tali somom li l-Parlament jista' minn żmien għal żmien jawtorizza li jkunu wżati biex ikopri kull nefqa li ma jsirx tajjeb għaliha mid-dhul.

(4) Kull eċċess ta' dhul fuq in-nefqa għandu, bla hsara għal dawk l-ordnijiet li l-Ministru, wara konsultazzjoni mal-Ministru responsabbli għall-finanzi, jista' minn żmien għal żmien jagħti, jiġi applikat mill-Kummissarju għall-formazzjoni ta' fondi ta' riserva li jintużaw għall-finijiet tal-Kummissarju. Minghajr preġudizzju għall-generalità tal-poteri mogħtija lill-Ministru b'dan is-subartikolu, kull ordni mogħtija mill-Ministru kif hawn qabel imsemmi tista' tordna t-trasferiment lill-Gvern, jew l-applikazzjoni b'tali mod kif jista' jkun speċifikat fl-ordni, ta' parti mid-drittijiet, rati u pagamenti oħra li jingabru skond is-subartikolu (2) jew ta' dak l-eċċess kif hawn qabel imsemmi.

(5) Il-flus tal-Kummissarju li ma jkunux minnufih mehtiega biex minnhom tinhareġ in-nefqa jistgħu jiġu investiti b'dak il-mod li jista' minn żmien għal żmien ikun approvat mill-Ministru.

Għotjiet bil-
quddiem mill-
Gvern.

14. Il-Ministru responsabbli għall-finanzi jista', wara konsultazzjoni mal-Ministru, jagħmel għotjiet bil-quddiem lill-Kummissarju ta' dawk l-ammonti li jista' jaqbel li jkunu mehtiega mill-Kummissarju sabiex iwettaq id-dmirijiet tiegħu taht dan l-Att, u jista' jagħmel dawk l-għotjiet bil-quddiem b'dawk il-pattijiet u l-kondizzjonijiet li huwa jista', wara konsultazzjoni kif hawn qabel imsemmi, iqis li jkunu adatti. Kull tali għoti bil-quddiem jista' jsir mill-Ministru responsabbli għall-finanzi mill-Fond Konsolidat, u minghajr ebda approprjazzjoni ulterjuri minbarra dan l-Att, b'ordni ffirmata minnu li tkun tawtorizza lill-*Accountant General* jagħti dawk il-flus bil-quddiem.

15. (1) Il-Kummissarju ghandu wkoll jirċievi minghand il-Gvern mill-Fond Konsolidat dawk l-ammonti li jistgħu jkunu meħtieġa għall-allokazzjoni ta' flus skond l-artikoli 27 u 29.

Allokazzjoni ta' flejjes lill-entitajiet li joperaw fis-settur awdjovisiv.

(2) Mingħajr preġudizzju għal kull disposizzjoni oħra ta' dan l-Att, il-Ministru jista' jagħti lill-Kummissarju direttivi dwar l-applikazzjoni ta' dawk l-ammonti msemmija fis-subartikolu (1).

16. (1) Għall-fini li jwettaq xi wiehed mid-dmirijiet tiegħu taht dan l-Att, il-Kummissarju jista', bl-approvazzjoni bil-miktub tal-Ministru li tinghata wara konsultazzjoni mal-Ministru responsabbli għall-finanzi, jissellef jew jiġġenera flus b'tali mod, minn dik il-persuna, korp jew awtorità, u taht dawk il-pattijiet u l-kondizzjonijiet li l-Ministru jista', wara konsultazzjoni kif hawn qabel imsemmi, japprova bil-miktub.

Il-Kummissarju jista' jissellef jew jiffinanzja kapital.

(2) Il-Kummissarju jista' wkoll, minn żmien għal żmien, jissellef, b'*overdraft* jew xort'oħra, dawk l-ammonti li jista' jkun jeħtieġ biex jagħmel dmirijietu taht dan l-Att:

Izda għal kull ammont ta' iżjed minn hamsin elf lira, tkun meħtieġa l-approvazzjoni tal-Ministru bil-miktub.

17. (1) Il-Ministru responsabbli għall-finanzi jista', għal kull htieġa tal-Kummissarju ta' xorta kapitali, jikkuntratta jew jiġġenera kull self, jew jinkorri passiv, għal dawk il-perjodi u b'dawk il-pattijiet u l-kondizzjonijiet li huwa jista' jqis adatti; u kull ammont dovut dwar jew f'dak li għandu x'jaqsam ma' xi self jew passiv bhal dak għandu jkun nefqa fuq il-Fond Konsolidat.

Self minghand il-Gvern.

(2) Għandu kemm jista' jkun malajr jinghata avviz lill-Kamra tad-Deputati dwar kull self, passiv jew ghotjiet bil-quddiem bhal dawk magħmulin jew imgarrba taht id-disposizzjonijiet li jinsabu hawn aktar qabel f'dan l-artikolu.

(3) Sakemm jiġi ġġenerat dak is-self kif hemm imsemmi fis-subartikolu (1), jew għall-fini li l-Kummissarju jiġi pprovdut b'kapital attiv, il-Ministru responsabbli għall-finanzi jista', b'ordni li ġġib il-firma tiegħu, u mingħajr ebda approprijazzjoni ulterjuri hlief dan l-Att, jawtorizza lill-*Accountant General* jagħmel ghotjiet bil-quddiem lill-Kummissarju mit-*Treasury Clearance Fund* taht dawk il-pattijiet li jistgħu jkunu speċifikati mill-Ministru meta jkun qieghed jagħmilhom.

(4) Ir-rikavat ta' self iġġenerat għall-finijiet li jsiru ghotjiet bil-quddiem lill-Kummissarju, u l-flejjes l-oħra kollha li għandhom jinghataw lill-Kummissarju taht dan l-artikolu, għandhom jithallsu ġo

fond imwaqqaf proprju ghal dak l-ghan u li jkun maghruf bhala “Fond ta’ Self tal-Kummissjoni ċinematografika ta’ Malta”.

(5) Dawk l-ammonti li jiġu riċevuti mill-*Accountant General* minghand il-Kummissarju dwar flus li jinghataw bil-quddiem lill-Kummissarju taht is-subartikolu (3) ghandhom jithallsu, ghal dawk li jkunu ammonti riċevuti bhala hlas lura fit-*Treasury Clearance Fund*, u ghal dawk li jkunu ammonti riċevuti bhala imghax fil-Fond Konsolidat.

Estimi tal-Kummissarju.

18. (1) Il-Kummissarju ghandu, sa tmiem Settembru ta’ kull sena, jew kull xahar iehor li jista’ l-Ministru jistabbilixxi, jipprezenta lill-Ministru, pjan kummerċjali ghat-tliet snin finanzjarji li jmiss flimkien ma’ l-estimi ta’ l-infiq u d-dhul kapitali u rikorrenti ghas-sena li jmiss:

Izda l-estimi ghall-ewwel sena finanzjarja tal-Kummissarju ghandhom jiġu ppreparati u adottati f’dak iż-żmien li l-Ministru jista’ jispeċifika b’avviz bil-miktub lill-Kummissarju.

(2) Fit-thejjija ta’ dawk l-estimi l-Kummissarju ghandu jikkunsidra kull fond u flejjes ohra li jistgħu jkunu dovuti jithallsu lill-Fond Konsolidat matul is-sena finanzjarja relevanti, kemm bis-sahha ta’ dan l-Att jew ta’ xi Att ta’ approprjazzjoni, jew ta’ xi liġi ohra. Il-Kummissarju ghandu jhejji dawk l-estimi b’tali mod li jiżgura li d-dhul kollu kemm hu tal-Kummissjoni jkun mill-anqas biżżejjed biex minnu jithallsu l-ammonti kollha ta’ flus li jinharġu kif imiss mill-kont tad-dhul tagħha inkluzi, imma minghajr preġudizzju ghall-ġeneralità ta’ dik il-frazi, id-deprezzament.

(3) L-estimi jinkludu l-estimi għall-Kummissjoni.

(4) L-estimi ghandhom isiru b’dak il-mod u ghandu jkun fihom dik l-informazzjoni u dawk il-paraguni ma’ snin preċedenti skond ma’ l-Ministru u jew ma’ l-Ministru responsabbli għall-finanzi jista’ jordna.

(5) Ghandha minnufih tintbagħat kopja ta’ l-estimi mill-Kunsill, malli dawn jiġu adottati, lill-Ministru u lill-Ministru responsabbli għall-finanzi.

(6) Il-Ministru ghandu ma’ l-ewwel opportunità li jkollu, u mhux aktar tard minn sitt gimghat wara li jkun irċieva kopja ta’ l-estimi minghand il-Kummissarju, japprovhom b’xi emendi jew minghajr ebda emenda, wara konsultazzjoni mal-Ministru responsabbli għall-finanzi.

19. (1) Ma ghandha ssir jew tiġġarrab ebda nefqa mill-Kummissarju kemm-il darba din ma tkunx ġiet approvata mill-Ministru kif provdut fl-artikolu 18.

In-nefqa tkun skond l-estimi approvati.

(2) hliet għal flus iġġenerati mill-Kummissarju innifsu jew li jiġu riċevuti minn sorsi mhux Statali, il-Kummissarju għandu jibqa' fil-parametri tan-nefqa kapitali u rikorrenti lilu allokatu mill-Ministru kif awtorizzati mill-Ministru responsabbli għall-finanzi.

(3) Minkejja d-disposizzjonijiet tas-subartikoli (1) u (2) -

(a) sakemm jiskadu sitt xhur mill-bidu ta' xi sena finanzjarja, jew sakemm ikun hemm l-approvazzjoni ta' l-estimi għal dik is-sena mill-Ministru, skond liema data tiġi l-ewwel, il-Kummissarju jista' jagħmel jew iġarrab nefqa għall-qadi ta' dmirijietu taht dan l-Att li b'kollox ma tkunx iżjed minn nofs l-ammont approvat mill-Ministru għas-sena finanzjarja ta' qabel;

(b) in-nefqa approvata dwar xi kap jew sotto-kap ta' l-estimi tista', bl-approvazzjoni tal-Ministru mogħtija wara konsultazzjoni mal-Ministru responsabbli għall-finanzi, ssir jew tiġġarrab dwar xi kap jew sotto-kap iehor ta' l-estimi;

(c) dwar l-ewwel sena finanzjarja, il-Kummissarju jista' jagħmel jew iġarrab in-nefqa li b'kollox ma tkunx iżjed minn daww l-ammonti li l-Ministru responsabbli għall-finanzi jista', wara konsultazzjoni mal-Ministru, jippermetti;

(d) jekk dwar xi sena finanzjarja jirrizulta li l-ammont approvat mill-Ministru ma jkunx biżżejjed jew tkun qamet il-htiega għal nefqa għal xi fini mhux provdut dwarha fl-estimi, il-Kummissarju jista' jadotta estimi supplimentari għall-approvazzjoni tal-Ministru, u f'kull każ bħal dak id-disposizzjonijiet ta' dan l-Att li japplikaw għall-estimi għandhom, kemm jista' jkun malajr, ikunu japplikaw għall-estimi supplimentari.

20. L-estimi u l-estimi supplimentari kollha tal-Kummissarju approvati mill-Ministru għandhom, kemm jista' jkun malajr, jitqegħdu fuq il-Mejda tal-Kamra.

Pubblikazzjoni ta' estimi approvati.

21. (1) Il-Kummissarju għandu jiżgura li jinżammu kif imiss kontijiet u *records* ohra li jirrigwardaw it-thaddim tiegħu u l-operazzjonijiet li jagħmel, u għandu jiżgura li tiġi ppreparata dikjarazzjoni relattiva ta' kontijiet ta' kull tliet xhur u dikjarazzjoni ohra dwar kull sena finanzjarja.

Kontijiet u verifika.

(2) Il-kontijiet tal-Kummissjoni ghandhom ikunu verifikati minn awditur jew awdituri li jiġu mahtura mill-Kummissarju u approvati mill-Ministru:

Izda l-Ministru responsabbli għall-finanzi jista', wara konsultazzjoni mal-Ministru, jehtieg li l-kotba u l-kontijiet tal-Kummissarju jiġu verifikati jew eżaminati mill-Awditur Ġenerali li jkollu għal dak l-ghan is-setgħa li jagħmel dik il-verifika fizika u kull accertament iehor li jista' jqis li jkunu mehtieġa.

(3) Wara it-tmiem ta' kull sena finanzjarja l-Kummissarju ghandu jara li kopja tad-dikjarazzjoni tal-kontijiet verifikata kif imiss tintbagħat lill-Ministru u lill-Ministru responsabbli għall-finanzi flimkien ma' kopja ta' kull rapport magħmul mill-awdituri fuq dik id-dikjarazzjoni jew fuq il-kontijiet tal-Kummissjoni.

(4) Il-Ministru ghandu, ma' l-ewwel opportunità li jkollu, jara li kopja ta' kull dikjarazzjoni u rapport titqiegħed fuq il-Mejda tal-Kamra tad-Deputati.

Kuntratti ta' provvista jew ta' xogħol.

22. (1) Il-Kummissarju ma ghandux, hliet bl-approvazzjoni tal-Ministru mogħtija għal raġunijiet speċjali u wara konsultazzjoni mal-Ministru responsabbli għall-finanzi, jagħti jew jagħmel xi kuntratt għall-provvista ta' oġġetti jew ta' materjal jew għall-esekuzzjoni ta' xogħlijiet, jew għall-ghoti ta' servizzi, lil jew għall-benefiċċju tal-Kummissarju, li jkun stmat mill-Kummissarju li jeċċedi valur ta' elfejn u hames mitt lira, jew kull ammont iehor li l-Ministru responsabbli għall-finanzi jista' b'regolamenti jippreskrivi, hliet wara li jkun ġie ppubblikat avviz ta' l-intenzjoni tal-Kummissarju li jagħmel il-kuntratt u jkunu nharġu offerti kompetittivi.

(2) Il-Kummissarju ghandu jsegwi l-proċeduri ta' akkwist kif regolati bir-Regolamenti dwar Akkwisti li jsiru mis-Servizz Pubbliku, jew kull emenda relattiva.

Rapport Annwali.

23. Il-Kummissarju ghandu, mhux aktar tard minn sitt ġimghat wara tmiem kull sena finanzjarja, jibgħat lill-Ministru kopja tad-dikjarazzjoni verifikata tal-kontijiet tiegħu, kopja tar-rapport magħmul mill-awditur jew l-awdituri dwar dik id-dikjarazzjoni jew fuq il-kontijiet tal-Kummissarju, flimkien ma' rapport li ġeneralment ikun jittratta dwar l-attivitajiet tal-Kummissarju matul dik is-sena finanzjarja u li jkun fih dik l-informazzjoni konnessa mal-proċedimenti u l-politika tal-Kummissarju. Il-Ministru ghandu jara li kopja ta' kull tali rapport titqiegħed fuq il-Mejda tal-Kamra u li tiġi pprezentata lill-Ministru responsabbli għall-finanzi u lill-Awditur Ġenerali kemm jista' jkun malajr.

24. (1) Il-Kummissarju jkun eżenti milli jhallas it-taxxa fuq l-*income*, fir-rigward tad-dhul tiegħu, taht l-Att dwar it-Taxxa fuq l-*Income*. Eżenzjoni mit-Taxxa fuq l-*Income*.

(2) Il-Kummissarju jitqies bhala awtorità pubblika għal finijiet ta' l-Att dwar it-Taxxa fuq il-Valur Miżjud.

TAQSIMA V

SKEMI GHALL-INĊENTIVI U GHALL-ALLOKAZZJONI TA' FLUS

25. F'din it-taqsimha, kemm-il darba r-rabta tal-kliem ma tkunx teħtieġ xort'ohra Tifsir.

“kumpannija kwalifikanti” tfisser persuna ġuridika li twettaq, jew għandha l-intenzjoni li twettaq go Malta, kummerċ li jikkonsisti fil-produzzjoni ta' film jew kull tip iehor ta' persuna naturali jew ġuridika kif stabbiliti mill-Ministru;

“produzzjoni kwalifikanti” tfisser produzzjoni awdjovisiva li tissodisfa l-kriterji u l-kondizzjonijiet mnizzla fl-Iskeda ta' l-Att jew kif stabbiliti mill-Ministru.

26. (1) Il-Ministru, wara konsultazzjoni mal-Ministru responsabbli għall-finanzi, għandu jippreskrivi permezz ta' regolament il-kriterji u l-proċeduri għal ċertifikazzjoni tal-kumpanniji kwalifikanti u l-produzzjonijiet kwalifikanti, skond il-każ. Ċertifikazzjoni ta' kumpanniji u, jew produzzjonijiet kwalifikanti u determinazzjoni tal-livell ta' benefiċċji.

(2) Il-Kummissjoni tkun responsabbli tistabbilixxi l-ammont ta' għajnuna li tiġi mogħtija lill-produzzjonijiet jew kumpanniji kwalifikanti, hekk li dik id-determinazzjoni tiġi magħmula wara li l-Kummissjoni tkun irċeviet rakkomandazzjoni bil-miktub mingħand il-Kummissarju. Izda l-Kummissjoni tista' taddotta linji direttivi għad-determinazzjoni tal-livelli u, jew l-ammonti tal-benefiċċji fiskali u ta' tip iehor.

(3) Il-Kummissarju huwa responsabbli biex jagħmel rakkomandazzjonijiet lill-Kummissjoni rigwardanti l-ammont ta' għajnuna li tiġi mogħtija lill-produzzjonijiet jew kumpanniji kwalifikanti u, wara d-determinazzjoni tal-Kummissjoni, għaċ-ċertifikazzjoni ta' persuni bhala kumpanniji kwalifikanti u ta' produzzjonijiet bhala produzzjonijiet kwalifikanti għal finijiet ta' benefiċċji fiskali u ta' tip iehor skond dan l-Att jew Att iehor.

Assistenza mill-Kummissarju.

27. (1) Abbaži ta' approvazzjoni bil-quddiem tal-Kummissjoni skond il-proġett, il-Kummissarju jista' jinvesti fi, jew jaghti self jew ghotja biex itaffi kompletament jew parzjalment l-ispiza ta' produzzjoni kwalifikanti maghmula kompletament jew parzjalment f'Malta;

(2) Investiment, self jew ghotja maghmula taht dan l-artikolu huma soġġetti għall-pattijiet u l-kondizzjonijiet li l-Kummissarju jikkunsidra adatti u espedjenti, u jinkludu pattijiet u kondizzjonijiet relatati mal-hlas lura lill-Kummissarju ta' kull flejjes imhallsa minnu u l-pagament ta' l-imghax fuq somom bhal dawk.

Garanziji mill-Kummissarju.

28. (1) Abbaži ta' approvazzjoni bil-quddiem tal-Kummissjoni skond il-proġett, il-Kummissarju jista' jigarantixxi il-hlas ta' l-ammont prinċipali tal-flejjes mislufa rigward produzzjoni kwalifikanti maghmula kompletament jew parzjalment ġewwa Malta jew minn kumpanija kwalifikanti jew il-hlas ta' mghax fuq tali somom, jew il-hlas ta' l-ammont prinċipali u l-pagament ta' tali mghax, u jista' jipprovdi garanziji finanzjari ohra fir-rigward ta' produzzjoni kwalifikanti.

(2) Garanzija moghtija taht dan l-artikolu għandu jkollha dik il-forma u manjiera u dawk il-pattijiet u kondizzjonijiet kif ikun speċifikat fi skema preskritta mill-Ministru li tirregola l-ghoti ta' tali garanziji, bi ftehim mal-Ministru responsabbli għall-finanzi.

(3) Flejjes li l-Kummissarju jkollu bżonn biex ihallas somom taht garanzija jridu jiġu mhallsin mid-dhul tiegħu jew mis-somom imhallsa mill-Gvern skond l-artikolu 13 ta' dan l-Att.

Ghotjiet mill-Kummissarju għat-tahriġ u attivitajiet ohra.

29. (1) Abbaži ta' approvazzjoni bil-quddiem tal-Kummissjoni, il-Kummissarju jista', bla hsara għall-pattijiet u l-kondizzjonijiet li jikkunsidra bhala adatti u espedjenti, jagħmel ghotjiet biex itaffu kompletament jew parzjalment l-ispiza tat-tahriġ għall-persuni f'kull aspekk ta' produzzjoni ta' film.

(2) Abbaži ta' approvazzjoni bil-quddiem tal-Kummissjoni, il-Kummissarju jista' jipprovdi flejjes, bla hsara għall-pattijiet u kondizzjonijiet li jikkunsidra adatti u espedjenti, għall-attivitajiet, eventi u inizjattivi skond il-funzjonijiet kif speċifikati fl-artikolu 6 ta' dan l-Att.

Kontravvenzjoni ta' xi patt jew kundizzjoni ta' investimenti, self, ghoti jew garanziji.

30. Meta xi patt jew kundizzjonijiet li tahtom isir investiment, self jew garanzija mill-Kummissarju taht din it-Taqsima jiġu miksura mill-persuna li fir-rigward tagħha jiġi magħmul jew moghti tali investiment, ghotja, self jew garanzija, kull ammont dovut lill-Kummissarju fir-rigward ta' l-investment, ghotja, self jew garanzija, flimkien ma' kull mghax li jrid jithallas fuqha, skond il-każ, jitqies bhala

dejn li jrid jithallas lill-Kummissarju u jista' jiġi rekuperat mill-Kummissarju bhala dejn kuntrattwali f'kull qorti li jkollha l-gurisdizzjoni.

Iżda dan l-artikolu jkun japplika jekk il-Kummissarju jitlob il-hlas komplet jew parzjali ta' l-ammont, u l-ammont dovut lill-Kummissarju jitqies bhala dejn pagabbli u li jista' jiġi rkuprat mill-Kummissarju sal-limitu ta' rikjesta bhal dik.

31. L-ammont komplessiv ta' kull investment, ghotja jew self provduta mill-Kummissarju taht l-artikoli 27 u 29 ta' dan l-Att, flimkien ma l-ammont kumplessiv ta' l-ammont prinċipali u kull mgħax li l-Kummissarju jkollu f'kull hin ihallas abbażi ta' garanzija mogħtija taht l-artikolu 28 ta' dan l-Att, flimkien ma' l-ammont prinċipali u kull mgħax, jekk ikun hemm, li l-Kummissarju jkun hallas abbażi ta' garanziji u li ma ġiex imhallas lura lilu, ma ghandux jeċċedi s-somma li tiġi stabbilita mill-Ministru bi ftehim mal-Ministru responsabbli għall-finanzi.

Ammont massimu ta' investmenti, self, ghotjiet eċċ. mill-Kummissarju.

TAQSIMA VI

MIXXELLANJI

32. Il-Kummissarju, il-membri tal-Kummissjoni u l-uffiċjali u l-impjegati kollha tal-Kummissarju għandhom jitqiesu li huma uffiċjali pubbliċi fil-parametri tat-tifsira fil-Kodiċi Kriminali.

Persuni li jitqiesu bhala uffiċjali pubbliċi.

33. (1) Il-Ministru jista' jagħmel regolamenti dwar kull ma hemm preskritt taht dan l-Att, u partikolarment, imma mingħajr preġudizzju għall-ġeneralità ta' dan li ġej:-

Setgħa li jsiru regolamenti.

(a) jipprovdi għal kull kwistjoni rikjesta jew awtorizzata minn dan l-Att li għandha tiġi preskritta;

(b) proċeduri amministrattivi u organizzattivi li għandhom jiġu segwiti mill-Kummissjoni u mill-Kummissarju;

(c) skemi għall-fini ta' finanzjament jew sussidjar ta' programmi, inizjattivi u avvenimenti li jirrigwardaw l-industrija awdjovisiva jew l-industrija tal-*film servicing*;

(d) kull haġa li għandha x'taqsam ma' l-uffiċjali u l-impjegati tal-Kummissarju;

(e) kull haġa li għandha x'taqsam ma' l-infiq u d-dħul tal-Kunsill, l-estimi u l-kontijiet tiegħu, u l-verifika tagħhom.

(2) Il-Ministru jista' wkoll permezz ta' regolament jemenda l-Iskeda li tinsab ma' dan l-Att.

SKEDA

Artiklu 25

Produzzjoni awdjovisiva titqies bhala “produzzjoni kwalifikanti” kif imsemmi fl-artikolu 25 jekk tissodisfa l-kondizzjonijiet li ġejjin:

1. ix-xoghol awdjovisiv huwa prodott kompletament jew parzjalment f’Malta fuq bażi kummerċjali bi skop li jintgħamel profitt; u

2. ix-xoghol awdjovisiv huwa prodott kompletament jew parzjalment għall-esibizzjoni tal-pubbliku ġewwa swali taċ-ċinema jew permezz ta’ xandir televiżiv; u

3. ix-xoghol awdjovisiv huwa:

a. *feature film*;

b. drama televisiv;

c. animazzjoni (ġenerat bil-*computer* jew b’xi mod ieħor, imma jeskludi logħob tal-*computer*); jew

d. dokumentarju kreattiv, fejn il-proġett huwa bbażat fuq tema oriġinali li fih element ta’ permanenza fis-sens li ma jkun hemm ebda telf ta’ interess meta l-avveniment li miegħu t-tema tkun marbuta tghaddi u d-dokumentazzjoni tkun tikkontjeni ġbid oriġinali sinifikattiv u mhuwiex limitat għar-rapport ta’ informazzjoni:

Iżda x-xoghol awdjovisiv ma jitqiesx bhala “produzzjoni kwalifikanti” jekk ix-xoghol awdjovisiv konċernat jikkompreni jew ikun sustanzjalment ibbażat fuq:

(i) wirjiet pubbliċi jew speċjali magħmulin bi skop li jiġu ffilmjati jew xi skop ieħor;

(ii) attivitajiet sportivi;

(iii) logħob jew kompetizzjonijiet;

(iv) aħbarijiet attwali jew *talk shows*;

(v) programmi ta’ dimostrazzjoni ta’ hidmiet, passatempjiet jew proġetti;

(vi) programmi ta’ reċensjoni, programmi fi stil ta’ rivista jew programmi dwar *lifestyle*;

- (vii) programmi bla *script* jew tax-xorta *reality*;
- (viii) programmi ta' riklami jew riklami;
- (ix) kontenut pornografiku jew espliciti sesswalment.

Għanijiet u Raġunijiet

L-Abbozz jipprovdi għat-twaqqif ta' Kummissjoni ċinematografika u ta' Kummissarju ċinematografiku biex iservu t'organi għall-promozzjoni, żvilupp u sostenn ta' l-industrija awdjovisiva u biex jiddeċiedu dwar u jamministraw incentivi li jistgħu jingħataw biex jgħinu jintlaħaq dan l-għan.

**A BILL
entitled**

AN ACT to make provision for the promotion, development and support of the audiovisual industry, including the film servicing industry, in Malta, and for the establishment of the Malta Film Commission and of the Film Commissioner, to determine their respective functions and powers and to provide for matters ancillary or incidental thereto.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled and by the authority of the same, as follows –

PART I
PRELIMINARY

1. (1) The short title of this Act is the Malta Film Commission Act, 2005.

Short title and coming into force.

(2) This Act shall come into force on such date as the Minister responsible for the film industry may by notice in the Gazette establish, and different dates may be so established for different purposes and different provisions thereof.

2. In this Act, unless the context otherwise requires –

Interpretation.

“audiovisual industry” means natural and legal persons carrying on activities in relation to the development, production, distribution and promotion of audiovisual works;

“audiovisual production” means the development and production of an audiovisual work;

“audiovisual work” means a work that consists of a series of related images which impart the impression of motion, with or without accompanying sounds, susceptible of being made visible and, where accompanied by sounds, susceptible of being made audible;

the “Commissioner” means the Film Commissioner appointed under article 5(1) of this Act and includes any officer or employee of the Commissioner authorised by him in that behalf;

the “Commission” means the Malta Film Commission established by article 3 of this Act;

“co-producer” means a cinematographic production company or producer bound by a co-production contract;

“co-production contract” means a co-production agreement between a co-producer established in Malta and one or more co-producers established abroad in accordance with any bilateral, multilateral or international treaty, convention or agreement to which Malta is a party, but shall not include a co-production agreement between two or more co-producers established in Malta;

“film” includes a photographic film or a recording on magnetic tape or on any other material or medium, digital or otherwise, from which a series of images, with or without associated sounds, may be produced and which is intended for international distribution and exhibition ;

“film servicing industry” means all natural and legal persons whose principal purpose of business is to provide facilities and, or equipment to the audiovisual industry or such other purpose as may be prescribed by the Minister;

“financial year” means any period of twelve months ending on the 31st December of each year or such other date as may be determined by the Minister:

Provided that the first financial year of the Commissioner shall commence on the coming into force of this article and shall end on the 31st day of December of the next following year;

“Malta” has the same meaning as is assigned to it by article 124 of the Constitution;

“Minister” means the Minister responsible for the film industry or any other Minister designated by the Prime Minister by notice in the Gazette;

“prescribed” means prescribed by regulations made by the Minister under the provisions of this Act;

“public officer”, in relation to Part III of this Act, has the same meaning as is assigned to it by article 124 of the Constitution.

PART II ESTABLISHMENT, FUNCTIONS AND CONDUCT OF AFFAIRS OF THE MALTA FILM COMMISSION

3. (1) There shall be a Malta Film Commission, appointed by the Minister, to act as an advisory body to the Minister on an audiovisual policy for the promotion, development and support of the audiovisual and film servicing industry, to determine the level of fiscal and other benefits in accordance with the provisions of Part V of this Act, and to assist the Commissioner in the exercise of his functions.

Establishment and composition of the Malta Film Commission.

(2) The Commission shall be composed of not more than five members, appointed by the Minister, one of whom shall be appointed as Chairman. The members shall be appointed from amongst persons who are knowledgeable in matters relating to audiovisual or film productions, the services, marketing or financial sectors, public service procedures or in other areas related to the audiovisual or film servicing industries. One of the members of the Commission shall be appointed upon nomination by the Minister responsible for culture.

(3) The Minister shall appoint the Film Commissioner as one of the members of the Commission, but the Film Commissioner may not be appointed as Chairman of the Commission.

(4) The members of the Commission shall be appointed for a term of three years, but shall be eligible for re-appointment on the expiration of their term of office. Any member may, before the expiration of his term of office, resign by letter addressed to the Minister.

(5) A person shall not be qualified to hold office as a member of the Commission if he –

(a) is a Minister, Parliamentary Secretary or a Member of the House of Representatives, or

(b) is a Judge or Magistrate, or

(c) has a financial or other interest in any enterprise or activity which is likely to affect the discharge of his functions as a member of the Commission:

Provided that the Minister may waive the disqualification of a person under paragraph (c) if such person declares the interest and such declaration and waiver are published in the Gazette.

(6) Subject to the provisions of this article, the office of a member of the Commission shall become vacant –

(a) at the expiration of his term of office, or

(b) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

(7) A member of the Commission may be removed from office by the Minister if, in the opinion of the Minister, such member is unfit to continue in office or has become incapable of properly performing his or her duties as a member.

(8) If a member resigns or if the office of a member of the Commission is otherwise vacant or if a member is for any reason unable to perform the functions of his office, the Minister may appoint a person who is qualified to be appointed to be a temporary member of the Commission. Any person so appointed shall, subject to the provisions of sub-articles (6) and (7) cease to be such a member when a person has been appointed to fill the vacancy or, as the case may be, when the member who was unable to perform the functions of his office resumes those functions.

(9) Any member of the Commission who has any direct or indirect interest in any contract or decision made or proposed to be made by the Commissioner or in any decision of the Commission in terms of article 4(j) of this Act, not being an interest which disqualifies such member from remaining a member, shall disclose the nature of his interest at the first meeting of the Commission after the relevant facts have come to his knowledge. Such disclosure shall be recorded in the minutes of the Commission, and the member having an interest as aforesaid shall withdraw from any meetings at which such contract or decision is discussed. Any such disclosure shall be communicated to the Minister without delay. Where the interest of the member is such as

to disqualify him from remaining a member, he shall report the fact immediately to the Minister and tender his resignation.

(10) The members of the Commission shall receive such remuneration as the Minister may decide.

4. The Commission shall not be an executive body and it shall not have any executive functions except for the function provided for in sub-paragraph (j) of this article. The functions of the Commission shall be to:

Functions of the Commission.

(a) advise the Minister on policy matters relating to the promotion, development and support of the audiovisual and film servicing industry including, but not limited to, the introduction of fiscal, tax and other incentives;

(b) advise the Minister on how best to structure and integrate local resources, at both Government and Local Council levels, in order to facilitate the promotion of Malta as a location, ensuring that competitiveness and minimal bureaucracy are essential elements to be achieved;

(c) advise the Minister on the signing of any bilateral, multilateral or international treaty, convention or agreement that may encourage local participation in audiovisual productions and lead to further international collaboration in the audiovisual industry;

(d) advise the Minister in the development of a comprehensive skills training strategy which is flexible and responsive to industrial and technological change in collaboration with the audiovisual industry and other partners;

(e) advocate the educational importance of film and the role it plays in fostering citizenship, creativity and innovation, as well as to encourage and promote, for the benefit of the Maltese audiovisual industry, the study and appreciation of films and filmmaking and to support initiatives to promote media literacy and developing the links between literacy and film;

(f) support the development of opportunities for access to cinema history and heritage and the use of film history in understanding identity, representation, culture and creativity;

(g) encourage excellence and innovation particularly through the use of new digital technologies;

(h) generally promote Malta as a destination for the shooting of audiovisual works and for the setting up of audiovisual and film servicing enterprises;

(i) recommend to the Commissioner the adoption of measures aimed at ensuring that approved policies and initiatives are translated into concrete action plans;

(j) to determine the level of fiscal and other benefits in accordance with the provisions of Part V of this Act,;

(k) generally assist the Commissioner in the exercise of his functions;

(l) to carry out any function as may from time to time be assigned to it by the Minister.

(2) The Minister may, from time to time, as he may deem appropriate give in writing and publish such directives as regards the policies and plans of the Government to be adopted and followed by the Commission, and the Commission shall, as soon as practicable, adopt and follow such directives.

Malta Film
Commissioner.

5. (1) There shall be a Film Commissioner who shall be appointed by the Minister.

(2) The Commissioner shall hold office for a term of three years, but shall be eligible for re-appointment on the expiration of his term of office.

(3) A person shall not be qualified to hold office as Commissioner if he –

(a) is a Minister, Parliamentary Secretary or a Member of the House of Representatives, or

(b) is a Judge or Magistrate, or

(c) has a financial or other interest in any enterprise or activity which is likely to affect the discharge of his functions as Commissioner:

Provided that the Minister may waive the disqualification of a person under paragraph (c) if such person declares the interest and such declaration and waiver are published in the Gazette.

(4) Subject to the provisions of this article, the office of the Commissioner shall become vacant –

(a) at the expiration of his term of office, or

(b) if any circumstances arise that, if he were not a Commissioner, would cause him to be disqualified for appointment as such.

(5) If the Commissioner resigns or if his office is otherwise vacant or if the Commissioner is for any reason unable to perform the functions of his office the Minister shall appoint a person who is qualified to be appointed as a temporary Commissioner, if such person is qualified to be a Commissioner. Any person so appointed shall cease to be such a Commissioner when a Commissioner is appointed to fill the vacancy or, as the case may be, when the Commissioner who was unable to perform the functions of his office resumes those functions or, in the case of a temporary purpose, the temporary Commissioner has performed the function assigned to him.

(6) The Commissioner may be removed from office by the Minister if, in the opinion of the Minister, such member is unfit to continue in office or has become incapable of properly performing his or her duties as a Commissioner.

(7) The Commissioner shall receive such remuneration as the Minister may decide.

6. (1) It shall be the function of the Commissioner to adopt and implement measures for the development, support and promotion of the audiovisual industry in Malta, and, in general, to implement Malta's audiovisual policy.

Functions of the Commissioner.

(2) Without prejudice to the generality of the provisions of sub-article (1) of this article and to any other functions attributed to the Commissioner by this Act, the Commissioner shall in particular have the function –

(a) to assist and encourage by any means he considers appropriate, the production of films in Malta and the set up of industries for the production of films in Malta;

(b) to market the locations, facilities, skills, talent and expertise available in Malta in order to attract inward investment

in the form of international audiovisual productions shooting in Malta;

(c) to analyse, assess and certify the eligibility of projects and, or beneficiaries for tax or other incentives provided by the Government of Malta according to the criteria established by or under this Act or any other enactment and to make recommendations to the Commission for the determination of the level of fiscal and other benefits in accordance with the provisions of Part V of this Act;

(d) to make recommendations to the Commission for advances, loans, grants or awards of money to any natural or legal person in connection with audiovisual works according to criteria established by or under this Act or any other enactment;

(e) to encourage and promote cohesion within the local audiovisual industry, in particular:

(i) to encourage and promote the exchange of information amongst persons engaged in the film industry,

(ii) to encourage and promote the efficient use of available resources within the Maltese film-servicing industry, and

(iii) to co-operate with other interested or affected bodies and organisations in order to encourage and promote employment in the Maltese audiovisual industry and the productivity of that industry;

(f) to approve co-productions between a co-producer established in Malta and one or more co-producers established abroad in accordance with any bilateral, multilateral or international treaty, convention or agreement to which Malta is a party and to issue any relevant certificate which grants “nationality” to such co-productions;

(g) to participate and promote participation in international collaborative projects and to enter into agreements with similar foreign and international bodies;

(h) to represent Malta and its audiovisual industry on international film bodies and events;

(i) to act as a contact point for relevant support programmes of the European Union or of any other international body or organisation and, or to liaise with the local or international institutions or organisations administering such programmes;

(j) to coordinate the effort to combat copyright abuse in the film industry, including but not limited to film piracy on the Internet or other electronic networks, as far as practicable;

(k) to deal, negotiate and enter into agreements of permanent or temporary nature or codes of conduct with any public body, public authority, government department, public corporation, local council, or private entity or person on any matters pertaining to the audiovisual industry;

(l) to advise the Minister on any matter connected with the Commission's functions under and for the purposes of this Act;

(m) to carry out such other functions as may from time to time be assigned to him by the Minister.

(3) The Commissioner may, if he so deems appropriate –

(a) monitor, keep under review and evaluate operations, activities and matters in relation to the audiovisual or film servicing industry;

(b) carry out studies, research and investigations relating to any matter regarding the audiovisual industry;

(c) provide information and issue guidelines, to the public and relevant entities, regarding film, the audiovisual industry, the film servicing industry and audiovisual policy in general;

(d) acquire, sell or otherwise dispose of or lease land, plant, machinery and equipment, and other property, and to otherwise make available property for use by other persons;

(e) manage land, and to develop land, and to carry out works on land, and to maintain works or assist in their maintenance;

(f) provide advisory or other services or facilities in relation to any of its functions, or to assist in their provision; and

(g) generally, do all such things as may be incidental or conducive for the proper discharge of his functions under this Act.

Conduct of the affairs of the Commission and the Commissioner.

7. The Minister may make, vary or revoke regulations for the proper conduct of the business of the Commission and the Commissioner. Subject to the provisions of such regulations and of this Act, the Commission and the Commissioner may regulate their own procedures.

Legal personality and representation of the Commissioner.

8. (1) The Commissioner shall have a distinct legal personality and shall be capable, subject to the provisions of this Act or any regulations made there under, of entering into contracts, of acquiring, holding and disposing of any property for the purposes of its functions, of suing and being sued, and of doing all such things and entering into all such transactions as are incidental or conducive to the exercise or performance of its functions under this Act, including the lending or borrowing of money.

(2) Any document purporting to be an instrument made or issued by the Commissioner and signed by him shall be received in evidence and shall, until the contrary is proved, be deemed to be an instrument made by the Commissioner.

PART III OFFICERS AND EMPLOYEES OF THE COMMISSIONER

Detailing of public officers for duty with the Commission.

9. Subject to the provisions of the Constitution and of any other enactment applicable thereto, and without prejudice to the other provisions of this Act or any regulations made thereunder, the Commissioner shall appoint such officers and other employees as may from time to time be necessary for the due and efficient discharge of the functions of the Commissioner. The terms and conditions of employment shall be established by the Commissioner following the approval of the Minister.

10. (1) The Prime Minister may, at the request of the Commissioner, from time to time direct that any public officer shall be detailed for duty with the Commissioner in such capacity and with effect from such date as may be specified in the direction.

(2) The period during which a direction as referred to in sub-article (1) of this article shall apply to any officer specified therein, shall, unless the officer retires from the public service, or otherwise ceases to hold office at an earlier date, or a different date is specified in the direction, end on the happening of any of the following events, that is to say:

(a) the acceptance by such officer of an offer of transfer to the service of, and permanent employment with the Commissioner made pursuant to article 12 of this Act; or

(b) the revocation by the Prime Minister of any direction made by him under this article in relation to such officer.

(3) Where a direction as referred to in sub-article (1) of this article is revoked by the Prime Minister in relation to any officer, the Prime Minister may, by further direction, detail such officer for duty with the Commissioner in such capacity and with effect from such date as may be specified in the further direction and the provisions of sub-article (2) of this article shall thereupon apply to the period of duration of such further direction in relation to such officer.

11. (1) Where a public officer is detailed for duty with the Commissioner under any of the provisions of article 10 of this Act, such officer shall, during the time in which such direction has effect in relation to him or her, be under the administrative authority and control of the Commissioner but shall for other intents and purposes remain and be considered and treated as a public officer.

Status of public officers detailed for duty with the Commissioner.

(2) Without prejudice to the generality of the provisions of sub-article (1) of this article, an officer detailed for duty as aforesaid –

(a) shall not during the time in respect of which he or she is so detailed –

(i) be precluded from applying for a transfer to a department of the Government in accordance with the terms and conditions of service attached to the appointment under the Government held by him or her at the date on which he or she is so detailed for duty; or

(ii) be so employed that his or her remuneration and conditions of service are less favourable than those which are attached to the appointment under the Government held by him or her at the date aforesaid or which would have become attached to such appointment, during the said period, had such officer not been detailed for service with the Commissioner; and

(b) shall be entitled to have his or her duty with the Commissioner considered as service with the Government for the purposes of any pension, gratuity, or benefit under the Pensions Ordinance and the Widows' and Orphans' Pensions Act and of any

other right or privilege to which he or she would be entitled, and liable to any liability to which he or she would be liable, but for the fact of his or her being detailed for duty with the Commissioner.

(3) Where an application is made as provided in sub-article (2)(a)(i) of this article the same consideration shall be given thereto as if the applicant had not been detailed for service with the Commissioner.

(4) The Commissioner shall pay to the Government such contributions as may from time to time be determined by the Minister responsible for finance in respect of the cost of pensions and gratuities earned by an officer detailed for duty with the Commissioner as aforesaid during the period in which he is so detailed.

Offer of permanent employment with the Commissioner to public officers detailed for duty with the Commissioner.

12. (1) The Commissioner may, with the approval of the Prime Minister, offer to any officer detailed for duty with the Commissioner under the provisions of article 10 of this Act permanent employment with the Commissioner at a remuneration and on terms and conditions not less favourable than those enjoyed by such officer at the date of such offer.

(2) The terms and conditions comprised in any offer made as aforesaid shall not be deemed to be less favourable merely because they are not in all respects identical with or superior to those enjoyed by the officer concerned at the date of such offer, if such terms and conditions, taken as a whole, in the opinion of the Prime Minister offer substantially equivalent or greater benefits.

(3) Every public officer who accepts permanent employment with the Commissioner offered to him under the provisions of sub-article (1) of this article shall, for all purposes other than those of the Pensions Ordinance and the Widows' and Orphans' Pensions Act, and saving the provisions of sub-article (6) of this article, cease to be in service with Government and shall enter into service with the Commissioner on the date of his acceptance, and for the purposes of the said Ordinance and of the said Act, insofar as applicable to him, service with the Commissioner shall be deemed to be service with the Government within the meanings thereof respectively.

(4) Any officer as referred to in sub-article (3) of this article who, immediately before accepting permanent employment with the Commissioner was entitled to benefit under the Widows' and Orphans' Pensions Act, shall continue to be entitled to benefit under the said Act as if his or her service with the Commissioner were service with the Government.

(5) The Commissioner shall pay to the Government such contributions as may from time to time be determined by the Minister responsible for finance in respect of the cost of pensions and gratuities earned by an officer who has accepted permanent employment with the Commissioner as aforesaid during the period commencing on the date of such officer's acceptance.

(6) (a) For the purposes of the Pensions Ordinance the pensionable emoluments of such public officer on retirement shall be deemed to be the pensionable emoluments payable to an officer in Government service in a grade and at an incremental level corresponding to the post and incremental level at which the officer retires from the Commissioner.

(b) The classification referred to in paragraph (a) above shall be carried out by a board composed of a chairperson appointed by the Minister responsible for finance and two other members, one appointed by the Minister responsible centrally for personnel policies in the public service and one appointed by the Commissioner. The classification shall be subject to the final approval of the Minister responsible for finance.

(c) The classification shall take place within three months of any adjustment of salaries of employees in Government service and/or of employees of the Commissioner.

(d) No post shall be classified in a grade higher than that of a Grade 3 in the service of the Government or such other grade that the Minister responsible for finance may from time to time by notice in the Gazette determine.

(e) Without prejudice to article 113 of the Constitution, no person may, following a classification as aforesaid, be entitled to rights under the said Pensions Ordinance less favourable than those to which he or she would have been entitled prior to such classification.

PART IV FINANCIAL PROVISIONS

13. (1) Without prejudice to the following provisions of this article, the Commissioner shall so conduct his affairs that the expenditure required for the proper performance of his functions shall, as far as practicable, be met out of the Commissioner's revenue.

Commissioner to meet part of expenditure out of revenue.

(2) For purpose mentioned in sub-article (1) of this article, the Commissioner shall levy all fees, rates and other payments as prescribed by or under this Act or any other law.

(3) The Commissioner shall also be paid by Government out of the Consolidated Fund such sums as Parliament may from time to time authorise to be appropriated to meet any of its expenditure that cannot be covered by its revenue.

(4) Any excess of revenue over expenditure shall, subject to such directives as the Minister, after consultation with the Minister responsible for finance, may from time to time give, be applied by the Commissioner to the formation of reserve funds to be used for the purposes of the Commissioner. Without prejudice to the generality of the powers given to the Minister by this sub-article, any direction given by the Minister as aforesaid may order the transfer to the Government, or the application in such manner as may be specified in the direction, of any part of the fees, rates and other payments levied in accordance with sub-article (2) of this article or any such excess as aforesaid.

(5) Any funds of the Commissioner not immediately required to meet expenditure may be invested in such manner as may from time to time be approved by the Minister.

Advances from Government.

14. The Minister responsible for finance may, after consultation with the Minister, make advances to the Commissioner of such sums as he may agree to be required by the Commissioner for carrying out any of his functions under this Act, and may make such advances on such terms and conditions as he may, after consultation as aforesaid, deem appropriate. Any such advance may be made by the Minister responsible for finance out of the Consolidated Fund, and without further appropriation other than this Act, by warrant under his hand authorising the Accountant General to make such advance.

Allocation of funds to entities operating in the audiovisual sector.

15. (1) The Commissioner may also receive from Government out of the Consolidated Fund such sums as may be required for the allocation of funds in terms of articles 27 and 29 of this Act.

(2) Without prejudice to any other provision of this Act, the Minister may give to the Commissioner directives as to the application of those sums as referred to in sub-article (1) of this article.

Power to borrow or raise capital.

16. (1) For the purpose of carrying out any of its functions under this Act, the Commissioner may, with the approval in writing of the Minister given after consultation with the Minister responsible for finance, borrow or raise money in such manner, from such person, body or authority, and under such terms and conditions as the Minister, after consultation as aforesaid, may in writing approve.

(2) The Commissioner may also, from time to time, borrow, by way of overdraft or otherwise, such sums as he may require for carrying out his functions under this Act:

Provided that for any amount in excess of fifty thousand liri, there shall be required the approval of the Minister in writing.

17. (1) The Minister responsible for finance may, for any requirements of the Commissioner of a capital nature, contract or raise loans, or incur liabilities, for such periods and on such terms and conditions as he may deem appropriate; and any sums due in respect of or in connection with any such loan or liability shall be a charge on the Consolidated Fund. Borrowing from Government.

(2) Notice of any loans, liabilities or advances made or incurred under the sub-article (1) of this article shall be given to the House of Representatives as soon as practicable.

(3) Pending the raising of any such loan as is mentioned in sub-article (1) of this article, or for the purpose of providing the Commissioner with working capital, the Minister responsible for finance may, by warrant under his hand, and without further appropriation other than this Act, authorise the Accountant General to make advances to the Commissioner out of the Treasury Clearance Fund under such terms as may be specified by the Minister upon the making thereof.

(4) The proceeds of any loan raised for the purposes of making advances to the Commissioner, and any other moneys to be advanced to the Commissioner under this article, shall be paid into a fund specially established for the purpose and which shall be known as the "Malta Film Commission Loan Fund".

(5) Sums received by the Accountant General from the Commissioner in respect of advances made to the Commissioner under sub-article (3) of this article shall be paid, as respects of amounts received by way of repayment into the Treasury Clearance Fund, and as respects of amounts received by way of interest into the Consolidated Fund.

18. (1) The Commissioner shall, by the end of September of each year or such other month as the Minister may prescribe, submit to the Minister, a business plan for the following three financial years together with an estimated capital and recurrent expenditure and income for the following year: Estimates of the Commissioner.

Provided that the estimates for the first financial year of the Commissioner shall be prepared and adopted within such time as the Minister may by notice in writing to the Commissioner specify.

(2) In the preparation of the estimates referred to in sub-article (1) of this article the Commissioner shall take account of any funds and other moneys that may be due to be paid to it out of the Consolidated Fund during the relevant financial year, whether by virtue of this Act or an appropriation Act or any other law. The Commissioner shall prepare the said estimates so as to ensure that the total revenues of the Commissioner are at least sufficient to meet all sums properly chargeable to its revenue account including, but without prejudice to the generality of that expression, depreciation.

(3) The estimates shall include the estimates for the Commission.

(4) The estimates shall be made out in such form and shall contain such information and such comparisons with previous years as the Minister and or the Minister responsible for finance may direct.

(5) A copy of the estimates shall, upon their adoption by the Commissioner, be sent forthwith by the Commissioner to the Minister and to the Minister responsible for finance.

(6) The Minister shall at the earliest opportunity and not later than six weeks after he has received a copy of the estimates from the Commissioner approve the same with or without amendment, after consultation with the Minister responsible for finance.

Expenditure to be according to approved estimates.

19. (1) No expenditure shall be made or incurred by the Commissioner unless it has been approved by the Minister as provided in article 18 of this Act.

(2) Except for funds generated by the Commissioner or received from non-State sources, the Commissioner shall remain within the parameters of capital and recurrent expenditure allocated to him by the Minister as authorised by the Minister responsible for finance.

(3) Notwithstanding the provisions of sub-articles (1) and (2) of this article –

(a) until the expiration of six months from the beginning of a financial year, or until the approval of the estimates for that year by the Minister, whichever is the earlier date, the Commissioner may make or incur expenditure for carrying on his functions under this Act not exceeding in the aggregate one-half of the amount approved by the Minister for the preceding financial year;

(b) expenditure approved in respect of a head or sub-head of the estimates may, with the approval of the Minister given after consultation with the Minister responsible for finance, be made or incurred in respect of another head or sub-head of the estimates;

(c) in respect of the first financial year, the Commissioner may make or incur expenditure not exceeding in the aggregate such amounts as the Minister responsible for finance may, after consultation with the Minister, allow;

(d) if in respect of any financial year it is found that the amount approved by the Minister is not sufficient or a need has arisen for expenditure for a purpose not provided for in the estimates, the Commissioner may adopt supplementary estimates for approval by the Minister, and in any such case the provisions of this Act applicable to the estimates shall apply to the supplementary estimates *mutatis mutandis*.

20. All estimates and supplementary estimates of the Commissioner approved by the Minister shall, as soon as practicable, be laid on the Table of the House Representatives. Publication of approved estimates.

21. (1) The Commissioner shall cause to be kept proper accounts and other records concerning its operations and transactions, and shall cause to be prepared a statement of accounts on a quarterly basis and another in respect of each financial year. Accounts and audit.

(2) The accounts of the Commissioner shall be audited by an auditor or auditors to be appointed by the Commissioner and approved by the Minister:

Provided that the Minister responsible for finance may, after consultation with the Minister, require the books and accounts of the Commissioner to be audited or examined by the Auditor General who shall for such purpose have power to carry out such physical checking and any other certifications as he may deem necessary.

(3) After the end of each financial year, the Commissioner shall cause a copy of the statement of account duly audited to be transmitted to the Minister and to the Minister responsible for finance together with a copy of any report made by the auditors on that statement or on the accounts of the Commissioner.

(4) The Minister shall, as soon as practicable, cause a copy of every such statement and report to be laid on the Table of the House of Representatives.

Contracts of supply,
works or services.

22. (1) The Commissioner shall not, except with the approval of the Minister granted for special reasons and after consultation with the Minister responsible for finance, award or enter into any contract for the supply of goods or materials or for the execution of works, or for the rendering of services, to or for the benefit of the Commissioner, which is estimated by the Commissioner to exceed two thousand and five hundred liri in value, or such other amount as the Minister responsible for finance may by regulations prescribe, except after notice of the intention of the Commissioner to enter into the contract has been published and competitive tenders have been issued.

(2) The Commissioner shall follow procurement procedures as regulated by the Public Contracts Regulations, or any amendment thereto.

Annual reports.

23. The Commissioner shall, not later than six weeks after the end of each financial year, send to the Minister a copy of its audited statements of accounts, a copy of the report made by the auditor or auditors about the statements or on the accounts of the Commissioner, together with a report dealing generally with the activities of the Commissioner during that financial year and containing such information relating to the proceedings and policy of the Commissioner. The Minister shall cause a copy of every such report to be laid on the Table of the House of Representatives and to be presented to the Minister responsible for finance and to the Auditor General as soon as practicable.

Exemption from
Income Tax.

24. (1) The Commissioner shall be exempt from any liability to pay tax, in respect of his income, under the Income Tax Act.

(2) The Commissioner shall be deemed to be a public authority for the purposes of the Value Added Tax Act.

PART V INCENTIVE SCHEMES AND FINANCIAL SUPPORT

Definitions.

25. In this Part V of the Act, unless the context otherwise requires –

“qualifying production” means an audiovisual production satisfying the criteria and conditions as laid down in the Schedule to this Act or as prescribed by the Minister;

“qualifying company” means a legal person which carries on, or intends to carry on in Malta, a trade or business which consists in the production of film, or such other natural or legal persons as may be prescribed by the Minister.

26. (1) The Minister, after consultation with the Minister responsible for finance, shall by regulation prescribe the criteria and procedure of certification of qualifying companies and qualifying productions, as the case may be.

Certification of qualifying companies and, or productions and determination of the level of benefits.

(2) The Commission shall be responsible to determine the amount of aid to be given to any qualifying production or qualifying company, such determination to be made after the Commission has received the recommendation in writing of the Commissioner. Provided that the Commission may adopt guidelines for the determination of the level and, or the amount of fiscal or other benefits.

(3) The Commissioner shall be responsible for making recommendations to the Commission regarding the amount of aid to be given to any qualifying production or qualifying company and, following the determination of the Commission, for the certification of persons as qualifying companies and of productions as qualifying productions for the purposes of fiscal and other benefits as may be provided for by or under this Act or by or under any other enactment.

27. (1) Subject to prior approval of the Commission on a project basis, the Commissioner may invest in, or make a loan or a grant to defray in whole or in part the cost of a qualifying production wholly or partly made in Malta.

Assistance by the Commissioner.

(2) The making of an investment, loan or grant under this article shall be subject to such terms and conditions as the Commissioner may think appropriate and expedient, including terms and conditions relating to the repayment to the Commissioner of any moneys paid by it and payment of interest on any such money.

28. (1) Subject to prior approval of the Commission on a project basis, the Commissioner may guarantee the due repayment of the principal of any moneys borrowed in respect of a qualifying production wholly or partly made in Malta or by a qualifying company or the repayment of interest on such moneys, or both the repayment of the principal and the payment of such interest, and may provide other financial guarantees in respect of a qualifying production.

Guarantees by the Commissioner.

(2) A guarantee under this article shall be in such form and manner and on such terms and conditions as may be specified in a scheme governing the giving of such guarantees prescribed by the Minister, in concurrence with the Minister responsible for finance.

(3) Moneys required by the Commissioner to meet sums which may become payable by the Commissioner under a guarantee shall be paid out of the Commissioner's revenue or the sums paid by Government in accordance with article 13 of this Act.

Grants by the Commissioner for training and other activities.

29. (1) Subject to prior approval of the Commission, the Commissioner may, subject to such terms and conditions as he thinks appropriate and expedient, make grants to be used to defray in whole or in part the cost of providing training for persons in all aspects of the production of film.

(2) Subject to prior approval of the Commission, the Commissioner may provide moneys, subject to such terms as he thinks appropriate and expedient, for activities, events and initiatives in accordance with his functions as specified in article 6 of this Act.

Contravention of term or condition of investment, loan, grant or guarantee.

30. Where a term or condition subject to which an investment, grant, loan or guarantee is made or given by the Commissioner under this Part of the Act is contravened by the person to whom or on whose behalf the investment, grant, loan or guarantee is made or given, any amount owed to the Commissioner in respect of the investment, grant loan or guarantee, together with the interest payable on it, as the case may be, shall be deemed to be a debt payable forthwith to the Commissioner and may be recovered by the Commissioner as a contractual debt in any court having jurisdiction.

Provided that this article shall apply if the Commissioner requests repayment of the whole or part of the amount and that the amount owed to the Commissioner shall be deemed to be a debt payable forthwith and recoverable by the Commissioner to the extent of such request.

Maximum amounts of investments, loans, grants etc. by the Commissioner.

31. (1) The aggregate amount of any investment, grant or loan provided by the Commissioner under articles 27 and 29 of this Act, together with the aggregate amount of principal and interest which the Commissioner may at any time be liable to repay on the basis of any guarantee under article 28 of this Act, together with the amount of principal and interest, if any, which the Commissioner has previously paid on the basis of any guarantees and which has not been repaid to the Commissioner, shall not exceed such sum as may be prescribed by the Minister, in consultation with the Minister responsible for finance.

PART VI MISCELLANEOUS

Persons deemed public officers.

32. The Commissioner, the members of the Commission and all officers and employees of the Commissioner shall be deemed to be public officers within the meaning of the Criminal Code.

Power to make regulations.

33. (1) The Minister may make regulations generally to give effect to the provisions of this Act and, in particular, but without prejudice to the generality of the foregoing:

(a) to provide for any matter which is required or authorised by the Act to be prescribed;

(b) to establish the administrative and organisational procedures to be followed by the Commission and the Commissioner ;

(c) to establish schemes for the purpose of funding or subsidising programmes, initiatives and events concerning the audiovisual or film-servicing industry;

(d) to deal with any matter related to officers and employees of the Commissioner;

(e) to deal with any matter related to the expenditure and income of the Commissioner, the Commissioner's estimates and accounts, and their verification.

(2) The Minister may also by regulation amend the Schedule to this Act.

SCHEDULE

(Article 25)

An audiovisual production shall be deemed to be a "qualifying production" as mentioned in article 25 of this Act if it satisfies the following conditions:

1. the audiovisual work concerned is produced wholly or partially in Malta on a commercial basis with a view to profit, and
2. the audiovisual work concerned is produced wholly or principally for exhibition to the public in cinemas or through television broadcasting; and
3. the audiovisual work concerned is:
 - a. a feature film;
 - b. a television drama;
 - c. an animation (whether computer generated or otherwise, but excluding computer games); or

d. a creative documentary, where the project is based on an original theme which contains a certain “timeless” element so that there is no loss of interest when the event with which it may be linked has passed and contains significant original filming and does not merely report information:

Provided that an audiovisual work shall not be deemed to be a “qualifying production” if the audiovisual work concerned comprises or is substantially based on:

- i) any public or special performances staged for filming or otherwise;
- ii) any sporting event;
- iii) games or competitions;
- iv) current affairs or talk shows;
- v) demonstration programmes for tasks, hobbies or projects;
- vi) review, magazine-style, or lifestyle programmes;
- vii) unscripted or “reality”- type programmes;

Objects and Reasons

The purpose of the Bill is to establish a Film Commission and a Film Commissioner to act as organ for the promotion, development and support of the audiovisual industry and to decide on matters pertaining to and administer incentives that may be provided to assist in the pursuit of this objective.