



New South Wales

Sydney Opera House Trust Amendment By-law 2004

under the

Sydney Opera House Trust Act 1961

Her Excellency the Governor, with the advice of the Executive Council, has approved the following By-law made by the Sydney Opera House Trust under the *Sydney Opera House Trust Act 1961*.

BOB CARR, M.P.,
Minister for the Arts

Explanatory note

The object of this By-law is to amend the *Sydney Opera House Trust By-law 1998* to better protect the Opera House by:

- (a) providing that it is a condition of a person's entry to the Opera House that the person must comply with certain requests relating to searching of persons and vehicles, and
- (b) creating an offence of damaging or interfering with Opera House equipment, fixtures and fittings, and
- (c) expanding the power of an authorised officer to direct a person to leave the Opera House, increasing from 10 to 50 penalty units the penalty for failure to comply with a direction, authorising the use of reasonable force to remove a person who fails to comply with a direction and providing for the banning of such a person, and
- (d) enabling an authorised officer to require a person to state his or her name and address in certain circumstances and to permit the officer to take a photograph of a person in similar circumstances, and
- (e) enabling authorised officers to cause certain vehicles to be removed, and
- (f) including police officers as persons who can exercise functions of the Trust and authorised officers under the By-law.

The By-law also omits a redundant offence of littering and changes references to the General Manager of the Opera House to Chief Executive Officer of the Opera House.

This By-law is made under the *Sydney Opera House Trust Act 1961*, including section 28 (the general by-law making power).

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Clause 1 Sydney Opera House Trust Amendment By-law 2004

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1 Name of By-law

This By-law is the *Sydney Opera House Trust Amendment By-law 2004*.

2 Commencement

This By-law commences on 17 December 2004.

3 Amendment of Sydney Opera House Trust By-law 1998

The *Sydney Opera House Trust By-law 1998* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 3)

[1] Clause 3 Definitions

Insert in alphabetical order:

authorised officer means each of the following persons:

- (a) a police officer,
- (b) the Chief Executive Officer,
- (c) any person who is the holder for the time being of a position on the staff of the Trust that is designated by the Chief Executive Officer or the Trust as an authorised officer position (either generally or in relation to a particular provision or provisions of this By-law),
- (d) any person (including a member of staff of the Trust) authorised for the time being by the Chief Executive Officer or the Trust to exercise the functions of an authorised officer (either generally or in relation to a particular provision or provisions of this By-law).

[2] Clause 3, definition of “General Manager”

Omit the definition. Insert instead:

Chief Executive Officer means the member of staff of the Trust for the time being holding or acting in the position of Chief Executive Officer of the Opera House.

[3] Clause 4A

Insert in Part 2 before clause 5:

4A Request to undergo search as condition of entry

- (1) For the purpose of promoting safety and security at the Opera House, a person’s entry to any part of the Opera House (whether or not on payment of an admission fee) is subject to the condition that the person must comply with any of the following requests made of the person:
 - (a) a request by an authorised officer that the person undergo a search conducted by electronic means (such as by passing an electronic detection device over or in close proximity to the person or by the person passing through a detection device),

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Schedule 1 Amendments

- (b) a request by an authorised officer that the person allow a search of articles in the person's possession and identify articles in the person's possession,
 - (c) a request by an authorised officer that the person remove his or her overcoat, coat or jacket or similar article of clothing and any gloves, shoes and hat (or other headwear), and allow an examination of those items,
 - (d) if the person enters in a vehicle—a request by an authorised officer that the person open the vehicle, or part of it, for inspection and allow the vehicle or part to be searched,
 - (e) a request by an authorised officer or by a member of staff of the Trust that the person leave any article in the person's possession in the temporary custody of the Trust while the person is at the Opera House (such as by checking the article into a cloakroom provided by the Trust for the purpose).
- (2) A request referred to in subclause (1) is not limited to being made at the time of entry or at a point of entry to the Opera House or part of the Opera House, and can be made at any time that a person is at the Opera House.

[4] Clause 13

Omit the clause. Insert instead:

13 Interference with equipment

A person must not damage, tamper with, or otherwise interfere with the operation of, any equipment, fixture or fitting at the Opera House.

Maximum penalty: 50 penalty units.

[5] Clause 16 Directions to leave

Omit "The Trust" from clause 16 (1), (2) and (5) wherever occurring.

Insert instead "An authorised officer".

[6] Clause 16 (3)

Omit the subclause. Insert instead:

- (3) An authorised officer may direct a person to leave the Opera House or any Opera House premises if the authorised officer believes on reasonable grounds that:

- (a) the person is contravening or has contravened any provision of this By-law or is committing or has committed any other offence at the Opera House, or
- (b) the person is failing or has failed to comply with a request referred to in clause 4A, compliance with which is a condition of the person's entry to the Opera House or part of the Opera House, or
- (c) the person is causing annoyance or inconvenience or behaving in an offensive manner or in a manner likely to endanger the person or another person, or
- (d) the person is about to contravene any provision of this By-law or commit any other offence at the Opera House.

[7] Clause 16 (4)

Omit "10 penalty units". Insert instead "50 penalty units".

[8] Clause 16 (6)

Insert after clause 16 (5):

- (6) Reasonable force may be used to effect the person's removal.

[9] Clauses 16A–16C

Insert after clause 16:

16A Banning from Opera House premises

- (1) An authorised officer who has directed a person to leave the Opera House or any Opera House premises under clause 16 may ban the person from the Opera House premises.
- (2) A ban under this clause takes effect when written notice of the ban is served on the person and remains in force for the period specified in the notice, or if no such period is specified, for a period of 3 months.
- (3) The maximum period that may be specified in a notice under subclause (2) is 3 months unless there is a ban already in force in relation to the person, in which case the maximum period that may be specified is 12 months.
- (4) An authorised officer may remove a ban in relation to a person at any time by written notice served on the person.
- (5) A person must not enter the Opera House premises while a ban is in force in relation to the person.
Maximum Penalty: 50 penalty units.

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16B Requirement to state name and address

- (1) An authorised officer who suspects on reasonable grounds that a person is contravening or has contravened any provision of this By-law or is committing or has committed any other offence on the Opera House premises may require the person to state his or her full name and residential address.
- (2) A person must not:
 - (a) fail without reasonable excuse to comply with a requirement under this section, or
 - (b) in purported compliance with such a requirement, furnish information that the person knows to be false or misleading in a material particular.Maximum penalty: 50 penalty units.
- (3) A person is not guilty of an offence against this clause unless it is established that the authorised officer warned the person that the failure to comply with the requirement is an offence.

16C Taking photographs of certain persons

An authorised officer who suspects on reasonable grounds that a person is contravening or has contravened any provision of this By-law or is committing or has committed any other offence on the Opera House premises may take a photograph or make another form of image of the person.

[10] Clause 18 Driving and parking

Omit “The Trust” from clause 18 (4). Insert instead “An authorised officer”.

[11] Clause 18 (5A) and (5B)

Insert after clause 18 (5):

- (5A) An authorised officer may cause an unlawfully parked vehicle to be removed from the Opera House premises if:
 - (a) the person in control of the vehicle has failed to comply with a direction to remove the vehicle, or
 - (b) the vehicle is unattended and the authorised officer, after making reasonable inquiries, has been unable to identify a person as being in control of the vehicle.
- (5B) For the purpose of promoting safety and security at the Opera House, an authorised officer may cause any vehicle to be removed from the Opera House premises at any time.

[12] Clause 19

Omit the clause. Insert instead:

19 Exercise of Trust's functions

A function that is conferred on the Trust by this By-law may be exercised by an authorised officer.