



New South Wales

Sydney Opera House Trust By-law 2010

under the

Sydney Opera House Trust Act 1961

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

VIRGINIA JUDGE, MP
Minister for the Arts

Explanatory note

The object of this By-law is to remake, with some amendments, the provisions of the *Sydney Opera House Trust By-law 2005*, which is repealed on 1 September 2010 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This By-law expands the prohibition on smoking to any area designated as a non-smoking area, permits an authorised officer to remove an unlawfully moored vessel and removes the power of an authorised officer to ban a person from the Opera House premises unless the Sydney Opera House Trust specifically delegates that function to the authorised officer.

This By-law also makes provision with respect to the following:

- (a) the regulation of vehicles and cycles on the Opera House premises and the admission of persons to, and the behaviour of persons on, those premises,
- (b) the powers of authorised officers,
- (c) the banning of persons from the Opera House premises,
- (d) the exercise of functions of the Sydney Opera House Trust by authorised officers,
- (e) creating an offence (maximum penalty \$1,100) of hindering or obstructing a person in the exercise of a function under the proposed By-law,
- (f) setting out the circumstances where a person's actions do not constitute an offence under the proposed By-law,
- (g) the allowances to which trustees are entitled,
- (h) savings and formal matters.

This By-law is made under the *Sydney Opera House Trust Act 1961*, including sections 13 and 28 (the general by-law making power).

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Sydney Opera House Trust By-law 2010

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Part 1 Preliminary

1 Name of By-law

This By-law is the *Sydney Opera House Trust By-law 2010*.

2 Commencement

This By-law commences on 1 September 2010 and is required to be published on the NSW legislation website.

Note. This By-law replaces the *Sydney Opera House Trust By-law 2005* which is repealed on 1 September 2010 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this By-law:

auditorium means any part of the Opera House premises that is used as a chamber music hall, cinema, concert hall, drama theatre or opera theatre, and includes any other part of the Opera House premises (whether indoors or outdoors) while that part is being used for the conduct of a performance or event.

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).

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Part 1 Preliminary

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.

Opera House premises means the whole of the land comprised in Lot 4, Deposited Plan 787933, and Lot 5, Deposited Plan 775888, and includes any building, work or fixture on that land.

parking includes standing and waiting.

public area means any part of the Opera House premises that comprises open space or that is used for the purposes of a foyer, walkway or other facility of a public nature.

restricted area means any part of the Opera House premises that is not a public area or an auditorium, and includes any area from which the public is excluded under clause 6.

the Act means the *Sydney Opera House Trust Act 1961*.

vehicle means a vehicle that is built to be propelled by a motor that forms part of the vehicle.

- (2) Notes included in this By-law do not form part of this By-law.

Part 2 Regulation of vehicles, cycles and persons on Opera House premises

4 Vehicles and cycles

- (1) The Trust may refuse to admit a vehicle or cycle on to the Opera House premises.
- (2) A person must not cause a vehicle or cycle to enter the Opera House premises if admission is refused by the Trust.
Maximum penalty: 10 penalty units.
- (3) The Trust may, by means of notices or barriers, regulate the driving and parking of vehicles and the use of cycles on the Opera House premises.
- (4) A person must not cause a vehicle to be driven or parked, or a cycle to be used, in contravention of any such notice or in disregard of any such barrier.
Maximum penalty: 10 penalty units.
- (5) The Trust:
 - (a) may from time to time fix a scale of charges for the parking of vehicles on the Opera House premises, and
 - (b) may demand and receive any such charges from any person parking a vehicle on the Opera House premises.

5 Request to undergo search as condition of entry

- (1) For the purpose of promoting safety and security on the Opera House premises, a person's entry to any part of those premises (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),
 - (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,

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Part 2 Regulation of vehicles, cycles and persons on Opera House premises

- (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 on the Opera House premises (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 premises or part of the Opera House premises, and can be made at any time that a person is on those premises.

6 Exclusion of public from certain areas

The Trust may, by means of notices or barriers, exclude the public from any part of the Opera House premises.

7 Admission to auditoriums and restricted areas

- (1) A person must not enter an auditorium that is open for a ticketed performance or event unless the person is the holder of a ticket, or is the subject of a permit, authorising the person to enter the auditorium concerned.
Maximum penalty: 10 penalty units.
- (2) A person must not enter a restricted area unless the person is the subject of a permit authorising the person to enter the restricted area concerned.
Maximum penalty: 10 penalty units.
- (3) The Trust may grant a permit authorising a person or group of persons to enter an auditorium or restricted area.
- (4) A permit is to be in writing and is to specify the auditorium or restricted area to which it relates, when it is to have effect and for what purposes it is granted.
- (5) In this clause:
ticketed performance or event means a performance or event for which a ticket must be held for entry to the auditorium in which the performance or event is being conducted.

8 Prohibited activities in auditorium

- (1) A person must not take food or drink into, or consume food or drink within, an auditorium that is enclosed.
Maximum penalty: 10 penalty units.

- (2) During a performance in an auditorium, a person:
- (a) must not take photographs or films, or operate an audio or video recorder, in the auditorium, and
 - (b) must not cause inconvenience to any other person in the auditorium.

Maximum penalty: 10 penalty units.

- (3) In this clause:
- enclosed* means having a ceiling or roof and, except for doors and passageways, being completely or substantially enclosed, whether permanently or temporarily.

9 Prohibited activities on Opera House premises

- (1) A person must not do any of the following on the Opera House premises:
- (a) sell, hire, expose for sale or hire or solicit for sale or hire any service, article or thing,
 - (b) distribute any article or thing for commercial or promotional purposes,
 - (c) conduct, or cause or assist in the conduct of, an amusement, entertainment, instruction or performance, whether or not for money or other consideration,
 - (d) take photographs or films, or operate a video recorder, for commercial purposes,
 - (e) display or distribute any advertisement, sign, bill, poster or other printed matter,
 - (f) undertake any charitable collection,
 - (g) operate any radio or other electronic device, or play any musical instrument, at a volume likely to cause inconvenience to any other person,
 - (h) ride on or use any cycle, skateboard, roller skates or similar apparatus in a manner likely to cause inconvenience to any other person,
 - (i) operate or use a loudspeaker or public address system,
 - (j) allow any animal, reptile or bird that is under the person's care or control to be on the premises,
 - (k) deface, damage, obscure or interfere with any sign or notice displayed on the premises.

Maximum penalty: 10 penalty units.

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Part 2 Regulation of vehicles, cycles and persons on Opera House premises

(2) Subclause (1) (j) does not prohibit a person who has a disability (within the meaning of the *Disability Discrimination Act 1992* of the Commonwealth) from bringing on to the Opera House premises an assistance animal (that is, an animal referred to in section 9 of that Act).

(3) A person must not smoke in any area of the Opera House premises that is designated, by the use of signs, as a non-smoking area.

Maximum penalty: 5 penalty units.

Note. The *Smoke-free Environment Act 2000* makes it an offence to smoke in an enclosed public place regardless of whether there are signs designating the area to be non-smoking.

10 Interference with equipment

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

Maximum penalty: 50 penalty units.

11 Mooring, fishing and swimming

(1) A person must not do any of the following:

- (a) moor a vessel to any part of the Opera House premises,
- (b) fish from any part of the Opera House premises,
- (c) swim to and enter on any part of the Opera House premises or swim from any part of those premises.

Maximum penalty: 10 penalty units.

(2) It is not an offence if a person swims to or from any part of the Opera House premises, or moors a vessel to any part of those premises, in an emergency.

Part 3 Powers of authorised officers

12 Directions to leave

- (1) An authorised officer may require a person who is in any auditorium or restricted area, or who is seeking entry to any auditorium or restricted area, to produce a ticket or permit authorising the person to enter the auditorium or area.
- (2) An authorised officer may direct a person to leave an auditorium or restricted area if the person is not authorised by a ticket or permit to be in the auditorium or area.
- (3) An authorised officer may direct a person to leave the Opera House premises or any part of those 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 on the Opera House premises, or
 - (b) the person is failing or has failed to comply with a request referred to in clause 5, compliance with which is a condition of the person's entry to the Opera House premises or part of those premises, or
 - (c) the person is causing 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 a provision of this By-law or commit any other offence on the Opera House premises.
- (4) A person must not fail to comply with a direction under this clause.
Maximum penalty: 50 penalty units.
- (5) An authorised officer may remove from the Opera House premises any person who fails to comply with a direction under this clause.
- (6) Reasonable force may be used to effect the person's removal.

13 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) without reasonable excuse, fail to comply with a requirement under this clause, or

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Part 3 Powers of authorised officers

- (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.

14 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.

15 Powers in relation to vehicles and vessels

- (1) An authorised officer may direct a person to remove from the Opera House premises any unlawfully parked vehicle or unlawfully moored vessel that is under the person's control.
- (2) A person must not fail to comply with a direction under this clause.
Maximum penalty: 10 penalty units.
- (3) An authorised officer may cause an unlawfully parked vehicle or unlawfully moored vessel to be removed from the Opera House premises if:
 - (a) the person in control of the vehicle or vessel has failed to comply with a direction to remove the vehicle or vessel, or
 - (b) the vehicle or vessel is unattended and the authorised officer, after making reasonable inquiries, has been unable to identify a person as being in control of the vehicle or vessel.
- (4) For the purpose of promoting safety and security on the Opera House premises, an authorised officer may cause any vehicle or vessel to be removed from those premises at any time.

Part 4 General

16 Banning from Opera House premises

- (1) The Trust may ban a person from the Opera House premises if it believes on reasonable grounds that:
 - (a) the person has contravened any provision of this By-law or has committed any other offence on the Opera House premises, or
 - (b) the person has failed to comply with a request referred to in clause 5, compliance with which is a condition of the person's entry to the Opera House premises or part of those premises, or
 - (c) the person has caused inconvenience or has behaved in an offensive manner or in a manner likely to endanger the person or another person.
- (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) The Trust 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.
- (6) The Trust may delegate the exercise of any function of the Trust under this clause (other than this power of delegation) to the Chief Executive Officer, any other member of staff of the Trust or to any police officer.

17 Exercise of Trust's functions

A function that is conferred on the Trust by this By-law (other than a function conferred by clause 16) may be exercised by an authorised officer.

18 Hindrance or obstruction

A person must not hinder or obstruct any person in the exercise of a function under this By-law.

Maximum penalty: 10 penalty units.

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Part 4 General

19 Certain acts not to be offences

- (1) A person does not commit an offence under this By-law if the act giving rise to the offence was done:
 - (a) as part of a performance put on, or approved, by the Trust, or
 - (b) by a member of staff of the Trust in the course of his or her employment, or
 - (c) under the direction or with the consent of the Trust.
- (2) The consent of the Trust referred to in this clause may be given generally or in a particular case.

20 Allowances for trustees

The allowances to which a trustee is entitled under section 13 of the Act are the allowances for the time being fixed by the Governor.

21 Savings

Any act, matter or thing that, immediately before the repeal of the *Sydney Opera House Trust By-law 2005*, had effect under that By-law continues to have effect under this By-law.