

Australian Museum Trust Act 1975 No 95

[1975-95]



New South Wales

Status Information

Currency of version

Current version for 15 July 2015 to date (accessed 22 November 2024 at 11:12)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Does not include amendments by**
State Revenue and Other Legislation Amendment (Budget Measures) Act 2006 No 50 (not commenced)

Authorisation

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File last modified 15 July 2015

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Australian Museum Trust Act 1975 No 95



New South Wales

An Act to constitute the Australian Museum Trust and define its powers, authorities, duties and functions; to dissolve the board of trustees incorporated under the [Australian Museum Act 1902](#); and for these purposes to repeal that Act and certain other enactments.

Part 1 Preliminary

1 Name of Act

This Act may be cited as the [Australian Museum Trust Act 1975](#).

2 Commencement

- (1) This section and section 1 shall commence on the date of assent to this Act.
- (2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

3 (Repealed)

4 Definitions

- (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires:

Director means the person employed in the Public Service as the Director of the Australian Museum.

regulation means a regulation under this Act.

Trust means the Australian Museum Trust constituted by section 5.

trustee means a trustee referred to in section 6.

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

Part 2 The Australian Museum Trust

5 Constitution of Trust

- (1) There is hereby constituted a corporation with the corporate name “Australian Museum Trust”.
- (2) The Trust is a continuation of, and the same legal entity as, the body corporate entitled “The Trustees of the Australian Museum” incorporated under the *Australian Museum Act 1902*.
- (3) The Trust shall have and may exercise and perform the powers, authorities, duties and functions conferred or imposed on it by or under this or any other Act.

6 Appointment and procedure

- (1) The Trust is to consist of 11 trustees appointed by the Governor on the nomination of the Minister.
- (2) Schedule 1 has effect.

7 Objects of Trust

- (1) The objects of the Trust are to propagate knowledge about the natural environment of Australia and to increase that knowledge.
- (2) When acting in pursuance of its objects, the Trust shall give particular emphasis to propagating and increasing knowledge in the natural sciences of biology, anthropology and geology.

8 Powers of Trust

- (1) The Trust may:
 - (a) procure and preserve, specimens and scientific data relating to the natural sciences,
 - (b) promote and provide exhibits, lectures, films, publications and other educational instruction relating to the natural sciences,
 - (c) provide scientific information to the public and to any museum or scientific body,
 - (d) undertake scientific research in the natural sciences in pursuance of its objects,
 - (e) carry out surveys and other research for statutory bodies that are subject to the control and direction of a Minister of the Crown and for other persons,
 - (f) permit a person or body to use any part of the Australian Museum for activities of an educational or cultural nature, and

(g) charge and receive fees for:

- (i) any survey or other research that may be carried out under paragraph (e), and
- (ii) any permission given under paragraph (f), and
- (iii) any matter for which the Trust determines fees are payable under subsection (9A),

which fees shall be the property of the Trust.

- (1A) The Trust may engage in commercial activities (including revenue generating activities) in furtherance of the objects of the Trust or for or in connection with or incidental to the exercise or performance of any power, authority, duty or function of the Trust.
- (1B) The powers, authorities, duties and functions of the Trust may be exercised and performed within or outside the State.
- (2) Subject to this Act and the regulations, the Trust shall have the control and management of all property vested in the Trust.
- (3) The Trust may agree to any condition that is not inconsistent with its objects being imposed on its acquisition of any property.
- (4) Where, by gift inter vivos, devise or bequest, the Trust acquires property, it may retain the property in the form in which it is acquired, subject to any condition agreed to by the Trust in relation to the property under subsection (3).
- (5) The rule of law against remoteness of vesting does not apply to a condition to which the Trust has agreed under subsection (3).
- (6) The *Duties Act 1997* does not apply to or in respect of any gift inter vivos, devise or bequest made or to be made to the Australian Museum or the Trust.
- (7) The Trust may establish such committees as it thinks fit for the purpose of assisting it to exercise and perform its powers, authorities, duties and functions.
- (8) A person may be appointed to a committee whether or not the person is a trustee.
- (9) The Trust may provide, control and manage branches or departments of the Australian Museum.
- (9A) The Trust may from time to time determine the following:
- (a) the fees payable for admission to the Australian Museum or any part of the Museum,
 - (b) the fees payable for the photographing of exhibits for commercial purposes.

- (9B) Fees may differ according to such factors as the Trust may determine.
- (9C) The Trust may exempt any person or class of persons from paying any fee.
- (10) The Trust shall have, and may exercise and perform, such powers, authorities, duties and functions, in addition to those specified in this section, as are reasonably necessary for the attainment of its objects, but may only borrow money in accordance with Part 4.
- (11) However, the Trust cannot employ any staff.

9 Dealings with property

- (1) In this section, **condition** means a condition to which the Trust has agreed under section 8 (3).
- (2) Subject to subsection (3), the Trust shall not sell, mortgage, demise or otherwise dispose of any property acquired by gift inter vivos, devise or bequest or any real property otherwise acquired, except:
 - (a) where the property was acquired without any condition—with the approval of the Governor (which may be given in respect of any case or class of cases), or
 - (b) where the property was acquired subject to a condition—in accordance with the condition or section 10.
- (3) Subject to section 8 (4), and except to the extent that it would be in breach of a condition, the Trust shall invest any of its funds not immediately required for the purposes of the Trust in any manner authorised by law for the investment of trust funds.

10 Disposal of certain property

- (1) Subject to subsection (2), where the Trust resolves that any property that has been acquired by the Trust subject to a condition to which the Trust has agreed under section 8 (3) is not required for the purposes of the Trust, the Trust may:
 - (a) sell the property and retain the proceeds of the sale as property of the Trust,
 - (b) exchange the property for other property,
 - (c) give the property to an educational institution (including a museum), or
 - (d) if the Trust is of the opinion that the property is of no commercial value—dispose of the property without valuable consideration,notwithstanding the condition subject to which the property was acquired.
- (2) The Trust shall not sell, exchange, give or dispose of any property under subsection

(1) except with the consent of the Governor and in accordance with any condition the Governor may impose upon the grant of his or her consent.

(3) The Governor may consent to the sale, exchange, gift or disposal of property for the purposes of this section and may impose any condition he or she thinks fit upon the grant of his or her consent.

Part 3 Administration

11 Staff

Persons may be employed in the Public Service under the [Government Sector Employment Act 2013](#) to enable the Trust to exercise its functions.

Note—

Section 59 of the [Government Sector Employment Act 2013](#) provides that the persons so employed (or whose services the Trust makes use of) may be referred to as officers or employees, or members of staff, of the Trust.

12 Director

(1) The Director is responsible for the administration and management of the Australian Museum and any services provided in conjunction therewith.

(2) The Director shall be the secretary to the Trust.

(3) The Director is, in the exercise or performance of his or her powers, authorities, duties and functions under this Act, subject to the control and direction of the Trust.

13 Delegation by Trust

(1) The Trust may, by instrument in writing, delegate to a trustee or to an authorised person the exercise or performance of such of its powers (other than this power of delegation), authorities, duties or functions as are specified in the instrument of delegation and may, by a like instrument, revoke wholly or partly any such delegation.

(2) A delegation under this section may be made subject to such conditions or such limitations as to the exercise or performance of any of the powers, authorities, duties or functions delegated, or as to time or circumstances, as are specified in the instrument of delegation.

(3) A power, authority, duty or function the exercise or performance of which has been delegated under this section may, while the delegation remains unrevoked, be exercised or performed from time to time in accordance with the terms of the delegation.

(4) Notwithstanding any delegation under this section, the Trust may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

(5) Any act or thing done or suffered by a delegate under this section has the same force

and effect as if the act or thing had been done or suffered by the Trust and shall be deemed to have been done or suffered by the Trust.

- (6) In this section, **authorised person** means the Director or a member of staff of the Trust.

Part 4 Finance

14 Endowment

- (1) For the purpose of providing a statutory fund for the purchase of specimens and other requirements of the Trust, whether within or outside the State, but exclusive of the payment of working expenses of the Australian Museum, there shall be paid by the Treasurer to the Trust an annual endowment of such amount as Parliament approves.
- (2) The annual endowment referred to in subsection (1) shall be paid by 4 equal quarterly instalments on the first day of July, October, January and April.
- (3) Any money payable by the Treasurer under this section shall be paid out of money provided by Parliament.

15-17 (Repealed)

Part 5 Miscellaneous

18 Personal liability

A matter or thing done or omitted to be done by the Trust, a trustee, the Director or a person acting under the direction of the Trust or the Director does not, if the matter or thing was done or omitted to be done in good faith for the purposes of executing this Act, subject a trustee, the Director or a person so acting personally to any action, liability, claim or demand.

19 Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to:
- (a) the meetings of the Trust,
 - (b) committees of the Trust,
 - (c) the use of the Australian Museum or other property of or services provided by the Trust, and
 - (d) the fixing and payment of fees for:

(i), (ii) (Repealed)

(iii) the use or purchase of any written material that is the property of the Trust.

(2) A regulation may:

(a) apply differently according to such factors as may be specified in the regulation,

(b) authorise any matter or thing to be from time to time determined, applied or regulated by any person specified therein, and

(c) impose a penalty not exceeding 2 penalty units for any breach of a regulation.

(3) Proceedings for an offence against the regulations are to be dealt with summarily before the Local Court.

20 Repeals and transitional provisions

(1) The Acts specified in Schedule 2 are repealed.

(2) Schedule 3 has effect.

Schedule 1 Composition and procedure of the Trust

(Section 6 (2))

1 Composition

The trustees must include:

(a) at least 1 person who has knowledge of, or experience in, science, and

(b) at least 1 person who has knowledge of, or experience in, education, and

(c) at least 1 person who has knowledge of, or experience in, Australian Indigenous culture.

2 Appointment of deputy

(1) In the case of the illness or absence of any trustee the Minister may appoint a person as a deputy to act in the place of the trustee during his or her illness or absence.

(2) A deputy appointed under this clause shall, while he or she is acting as a deputy, have all the powers and authorities of a trustee.

(3) A deputy appointed under this clause may, if the Minister thinks fit, be paid such travelling and subsistence allowances as the Minister may from time to time determine in respect of the deputy.

(4) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising a person to act in the place of a trustee, or as to the necessity

or propriety of any appointment of a deputy, and all acts and things done or omitted by a deputy when so acting shall be as valid and shall have the same consequences as if they had been done or omitted by the trustee for whom the deputy is acting.

3 Term of office and casual vacancies

- (1) A trustee is to hold office for such period, not exceeding 3 years, as is specified in the trustee's instrument of appointment but is, subject to subclause (2), eligible for re-appointment.
- (2) A trustee is not to hold office for 4 consecutive terms.
- (3) On the occurrence of a vacancy in the office of a trustee otherwise than by the expiration of the trustee's term of office, the Governor may, on the nomination of the Minister, appoint a person to fill the vacant office for the residue of the term of office of his or her predecessor.
- (3A) For the purposes of subclause (2) only, an appointment under subclause (3) does not constitute (and is taken never to have constituted) an appointment for a term of office.
- (4) (Repealed)

4 Application of [Government Sector Employment Act 2013](#)

The provisions of the [Government Sector Employment Act 2013](#) relating to the employment of Public Service employees do not apply to a trustee.

5 Allowances for trustees

A trustee shall, in his or her capacity as a trustee, be paid such travelling and subsistence allowances as the Minister from time to time determines in respect of that trustee.

6 Removal from office

The Governor may, for any cause which to the Governor seems sufficient, remove a trustee from office.

7 Vacation of office

A trustee shall be deemed to have vacated his or her office if the trustee:

- (a) dies,
- (b) resigns his or her office by writing under his or her hand addressed to the Minister,
- (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her allowances, or estate, for their benefit,

- (d) becomes a mentally incapacitated person,
- (e) is absent from 3 consecutive ordinary meetings of the Trust of which notice has been given to the trustee personally or in the ordinary course of post and is not before the expiration of 6 weeks after the latest of those meetings excused by the Trust for his or her absence from the meetings,
- (f) is one of the trustees appointed pursuant to clause 1 (1) (a) and ceases to hold the qualification by virtue of which the trustee was so appointed,
- (g) is removed from office by the Governor, or
- (h) (Repealed)

8 President and Deputy President

- (1) The President of the Trust shall be such trustee as the Minister nominates as President of the Trust.
- (2) The trustees may nominate one of their number as Deputy President of the Trust.
- (3) The President and Deputy President hold office until successors are nominated under this clause or until they cease to be trustees, whichever first occurs.
- (4) At a meeting of the Trust:
 - (a) the President,
 - (b) in the absence of the President, the Deputy President (if any), or
 - (c) in the absence of the President and Deputy President, another trustee elected to chair the meeting by the trustees present,shall preside.

8A Disclosure of pecuniary interests

- (1) If:
 - (a) a trustee has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Trust, and
 - (b) the interest appears to raise a conflict with the proper performance of the trustee's duties in relation to the consideration of the matter,the trustee must, as soon as possible after the relevant facts have come to the trustee's knowledge, disclose the nature of the interest at a meeting of the Trust.
- (2) A disclosure by a trustee at a meeting of the Trust that the trustee:

- (a) is a member, or is in the employment, of a specified company or other body, or
- (b) is a partner, or is in the employment, of a specified person, or
- (c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).

- (3) Particulars of any disclosure made under this clause must be recorded by the Trust in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee determined by the Trust.
- (4) After a trustee has disclosed the nature of an interest in any matter, the trustee must not, unless the Trust otherwise determines:
 - (a) be present during any deliberation of the Trust with respect to the matter, or
 - (b) take part in any decision of the Trust with respect to the matter.
- (5) For the purposes of the making of a determination by the Trust under subclause (4), a trustee who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:
 - (a) be present during any deliberation of the Trust for the purpose of making the determination, or
 - (b) take part in the making by the Trust of the determination.
- (6) A contravention of this clause does not invalidate any decision of the Trust.
- (7) This clause applies to a member of a committee of the Trust and the committee in the same way as it applies to a trustee of the Trust and the Trust.

9 Procedure, quorum etc

- (1) The procedure for the calling of meetings of the Trust and the conduct of business at those meetings shall, subject to this Schedule and any regulation, be as determined by the Trust.
- (2)-(4) (Repealed)
- (5) Six trustees shall form a quorum and any duly convened meeting of the Trust (other than the first meeting) at which a quorum is present shall be competent to transact any business of the Trust and shall have and may exercise and discharge all the powers, authorities, duties and functions of the Trust.

- (6) The chairperson of a meeting of the Trust shall, in the event of an equality of votes, have in addition to a deliberative vote, a second or casting vote.
- (7) A decision supported by a majority of the votes cast at a meeting of the Trust at which a quorum is present shall be the decision of the Trust.

10 The secretary

The secretary to the Trust:

- (a) shall cause minutes of each meeting of the Trust to be recorded and preserved,
- (b) is entitled to be present at each meeting of the Trust and to be heard by the Trust on any matter considered by the Trust,
- (c) is an ex officio member of each committee of the Trust, and
- (d) shall communicate to the Minister the name of any person elected to be a trustee by the trustees appointed by the Governor as soon after the date of the election as may be practicable.

11 Common seal

The common seal of the Trust shall be kept by the secretary to the Trust and shall only be affixed to an instrument or document:

- (a) by resolution of the Trust,
- (b) in the presence of:
 - (i) 2 trustees, and
 - (ii) an officer appointed by the Trust for that purpose, and
- (c) with an attestation by the signatures of the persons present, as required by this clause, of the fact and date of the affixing of the seal.

12 Transaction of business outside meetings or by telephone

- (1) The Trust may, if it thinks fit, transact any of its business by the circulation of papers among all the trustees for the time being, and a resolution in writing approved in writing by a majority of those trustees is taken to be a decision of the Trust.
- (2) The Trust may, if it thinks fit, transact any of its business at a meeting at which trustees (or some trustees) participate by telephone, closed-circuit television or other means, but only if any trustee who speaks on a matter before the meeting can be heard by the other trustees.
- (3) For the purposes of:

(a) the approval of a resolution under subclause (1), or

(b) a meeting held in accordance with subclause (2),

the President and each trustee have the same voting rights as they have at an ordinary meeting of the Trust.

(4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Trust.

(5) Papers may be circulated among the trustees for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

Schedule 2 Repeals

(Section 20 (1))

| Year and number of Act | Short title of Act |
|-------------------------------|--|
| 1902 No 61 | Australian Museum Act 1902 . |
| 1931 No 39 | Australian Museum (Amendment) Act 1931 . |
| 1936 No 5 | Australian Museum (Amendment) Act 1936 . |

Schedule 3 Savings and other provisions

(Section 20 (2))

1 References

A reference, in any other Act, or in any regulation, ordinance, by-law or any other instrument or document whatever, of the same or a different kind or nature:

(a) to the board of trustees directed to be constituted and incorporated under section 4 of the [Australian Museum Act 1902](#), or

(b) to The Trustees of the Australian Museum,

shall be read as a reference to the Trust.

2 Vacation of offices

On the commencement of this Schedule, a person who, immediately before that commencement, held office as a trustee under the [Australian Museum Act 1902](#) shall cease to hold his office.

3 Officers and employees

Officers and employees holding office or employed for the purposes of the [Australian Museum Act 1902](#) immediately before the commencement of this Schedule shall, on that

commencement, be deemed to have been appointed or employed for the purposes of this Act, and the repeal of that Act shall not affect any rights, privileges or entitlements accrued or accruing to those officers and employees under the *Public Service Act 1902*, the *Superannuation Act 1916* or any other Act, award or industrial agreement.

4 Agreement to certain conditions

Where any property:

- (a) was acquired by The Trustees of the Australian Museum before the commencement of this Schedule by gift inter vivos, devise or bequest, subject to a condition agreed to by The Trustees of the Australian Museum, and
- (b) was held by The Trustees of the Australian Museum immediately before that commencement,

the Trust shall, on that commencement, be deemed to have agreed, under section 8 (3), to the condition upon which the property was acquired.

5 Accounts and report

(1) In this clause, **commencement date** means the date of commencement of this Schedule.

(2) The persons who held office as trustees under the *Australian Museum Act 1902* immediately before the commencement date shall:

(a) prepare:

- (i) statements of all accounts of The Trustees of the Australian Museum made up to the commencement date in a form approved by the Auditor-General exhibiting a true and correct view of the financial position and transactions of The Trustees of the Australian Museum in respect of the period from the first day of July immediately preceding the commencement date, and
- (ii) a report of the work and activities of The Trustees of the Australian Museum from the first day of July immediately preceding the commencement date, up to the commencement date, and

(b) transmit the statements and report to the Trust as soon after the commencement date as may be practicable.

6 Provision consequent on enactment of *Statute Law (Miscellaneous Provisions) Act 2008*

The amendment to section 6 made by the *Statute Law (Miscellaneous Provisions) Act 2008* does not affect the appointment or term of office of a person who held office as a trustee immediately before the amendment took effect.

7 Provision consequent on enactment of [Statute Law \(Miscellaneous Provisions\) Act 2009](#)

The amendment to clause 3 (1) of Schedule 1 made by the [Statute Law \(Miscellaneous Provisions\) Act 2009](#) does not affect the term of office that a person holds as a trustee immediately before the amendment took effect.