

Queensland



# NATIONAL TRUST OF QUEENSLAND ACT 1963

**Reprinted as in force on 26 October 1994  
(includes amendments up to Act No. 80 of 1990)**

**Reprint No. 1**

This reprint is prepared by  
the Office of the Queensland Parliamentary Counsel  
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# Information about this reprint

This Act is reprinted as at 26 October 1994. The reprint—

- shows the law as amended by all amendments that commenced on or before that day
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind.

The reprint includes a reference to the law by which each amendment was made—see List of legislation and List of annotations in Endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- update citations and references (Pt 4, Div 2)
- update references (Pt 4, Div 3)
- express gender specific provisions in a way consistent with current legislative drafting practice (s 24)
- use gender neutral office names (s 25)
- use different spelling consistent with current legislative drafting practice (s 26(2))
- use standard punctuation consistent with current legislative drafting practice (s 27)
- use conjunctives and disjunctives consistent with current legislative drafting practice (s 28)
- use expressions consistent with current legislative drafting practice (s 29)
- use aspects of format and printing style consistent with current legislative drafting practice (s 35)
- omit provisions that are no longer required (ss 37 and 39)
- omit unnecessary referential words (s 41)
- omit the enacting words (s 42A)
- number and renumber certain provisions and references (s 43)

Also see Endnotes for—

- **details about when provisions commenced**
- **any provisions that have not commenced and are not incorporated in the reprint**
- **further information about editorial changes made in the reprint, including—**
  - **Table of changed names and titles**
  - **Table of obsolete and redundant provisions**
  - **Table of renumbered provisions.**

# Queensland



## NATIONAL TRUST OF QUEENSLAND ACT 1963

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# NATIONAL TRUST OF QUEENSLAND ACT 1963

[as amended by all amendments that commenced on or before 26 October 19942]

**An Act to provide for the constitution of a body to be known as the ‘National Trust of Queensland’, to define the powers and duties of the said body, and to provide for the preservation and maintenance of chattels, lands and buildings of beauty or of national, historic, artistic, architectural, or scientific interest, and for purposes incidental thereto**

## **Short title**

**1.** This Act may be cited as the *National Trust of Queensland Act 1963*<sup>3-7</sup>.

## **Interpretation**

**2.** Without limiting the operation of the *Acts Interpretation Act 1954*, in this Act—

“**Council**” means the Council of the National Trust constituted under this Act.

“**councillor**” means a member of the Council.

“**executive committee**” means the executive committee of the Council constituted under this Act.

“**National Trust**” means the National Trust of Queensland constituted and incorporated by this Act.

### **Constitution of the National Trust**

**3.(1)** There shall be constituted a body to be called ‘The National Trust of Queensland’.

**(2)** The National Trust shall be a body corporate with perpetual succession and a common seal and may sue and be sued in all courts and shall, for the purposes and subject to the provisions of this Act, be capable of purchasing, holding, granting, demising, disposing of or otherwise dealing with real and personal property, and of doing and suffering all such other acts and things that a body corporate may by law do or suffer.

### **Membership of the National Trust**

**4.** The National Trust shall consist of—

- (a) the persons and bodies corporate who are for the time being, members of the National Trust in accordance with the rules; and
- (b) the persons for the time being holding office as councillors of the National Trust.

### **Objects of the National Trust**

**5.** The National Trust is constituted for the purposes of promoting—

- (a) the preservation and maintenance for the benefit of the public generally of lands, buildings, furniture, pictures and other chattels of beauty or of national, historic, scientific, artistic, or architectural interest;
- (aa) where the state of any building referred to in paragraph (a) is such that it does not express the original design or intention for that building—the restoration or completion of that building to the extent of or to a lesser extent than the original design or intention so as to be consistent and in harmony with the original design or intention having regard to its architectural style;
- (b) the protection and augmentation of the amenities of such lands, buildings and chattels and their surroundings;
- (c) the access to and enjoyment of such lands, buildings and chattels by the public.

## **The Council**

**6.(1)** There shall be a Council of the National Trust which shall, subject to this Act, have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed upon the Council or the National Trust by or under this or any other Act.

**(2)** Subject to the provisions of this Act, the Council shall administer, manage and conduct the affairs of the National Trust and the business and management thereof, and may do and perform all acts and things that are necessary or convenient for giving effect to the objects of the National Trust set out in section 5.

**(3)** The exercise and discharge by the Council of its powers, authorities, duties and functions—

- (a) within the City of Brisbane (as defined by the *City of Brisbane Act 1924*)—shall be subject to the provisions of the *City of Brisbane Act 1924*, the *City of Brisbane (Town Plan) Act 1959* and any town planning scheme which may be approved for the City of Brisbane;
- (b) elsewhere within Queensland—shall be subject to the provisions of the *Local Government Act 1936*.

## **Constitution of subsequent Councils**

**8.(1)** The Council, other than the first Council, shall be constituted in accordance with this section and shall consist of not more than 25 councillors.

**(2)** Ten councillors (the “**elected councillors**”) shall be elected, in accordance with the rules, from amongst the members of the National Trust.

**(2A)** The elected councillors shall hold office for a period of 2 years, save that, at the end of 1 year following upon the constitution of the Council pursuant to this section, 5 elected councillors shall retire and 5 other councillors shall be elected in their place.

**(2B)** Thereafter, 5 elected councillors shall retire each year.

**(2C)** The elected councillors to retire at the end of each year shall be determined by the executive committee and the retirement shall be

determined so that the elected councillors retire in rotation.

**(2D)** Retiring elected councillors shall, unless otherwise disqualified, be eligible for re-election.

**(3)** The remaining members of the Council (the “**appointed councillors**”) shall be appointed to the Council in accordance with the by-laws.

**(3A)** One appointed councillor may be so appointed by each of the following bodies, associations or persons, that is to say—

- (a) the Royal Historical Society of Queensland;
- (b) the University of Queensland;
- (c) the Queensland Chapter of the Royal Australian Institute of Architects;
- (d) the Library Board of Queensland;
- (e) the Director of the Queensland Museum;
- (f) the Director-General, Department of the Premier, Economic and Trade Development;
- (g) the Local Government Association of Queensland;
- (h) the Queensland Country Women’s Association;
- (i) the Trustees of the Queensland Art Gallery;
- (j) the Returned & Services League of Australia (Queensland Branch).

**(3B)** The Minister may from time to time declare that an appointed councillor may be appointed by some body, association or person other than those hereinbefore mentioned, either in addition to or in substitution for any 1 or more of the bodies, associations or persons so mentioned or by way of increase in the number of councillors appointed by any of the bodies, associations or persons so mentioned.

**(3C)** An appointed councillor shall hold office for such term not exceeding 3 years as the body, association or person appointing the councillor may determine.

**(3D)** Retiring appointed councillors shall, unless otherwise disqualified be eligible for reappointment.

(4) Where a body, association or person fails to appoint a member in accordance with the by-laws, the Minister may appoint to the Council a person who in the opinion of the Minister will represent the interests of that body, association or person.

(5) Where a casual vacancy occurs in the office of an elected councillor, the remaining members of the Council shall appoint a person, being a member of the National Trust, to the vacant office.

(6) Where a casual vacancy occurs in the office of an appointed councillor, the body, association or person represented by the councillor whose office has become vacant may appoint a person to the vacant office.

(7) Any person appointed to the Council pursuant to subsection (5) or (6) shall hold office for the residue of the person's predecessor's term of office.

### **Disqualifications**

9. A person who—

- (a) is under the age of 18 years;
- (b) becomes bankrupt or compounds with the person's creditors, or otherwise takes advantage of the laws in force for the time being relating to bankruptcy;
- (c) has been convicted in Queensland of an indictable offence, or has been convicted elsewhere than in Queensland of an offence which if committed in Queensland would be an indictable offence;
- (d) is a patient (within the meaning of the *Mental Health Act 1974*);
- (e) holds any office or place of profit under the National Trust, shall not be capable of being or continuing to be a councillor.

### **Vacancies in Council**

10. A councillor shall be deemed to have vacated office if the councillor—

- (a) dies or becomes a patient (within the meaning of the *Mental Health Act 1974*);
- (b) resigns office by signed notice addressed to the President of the

National Trust;

- (c) is absent, without the leave of the Council, from 3 consecutive ordinary meetings of the Council of which notice has been given to the councillor personally or in the ordinary course of post;
- (d) being an elected councillor, ceases to be a member of the National Trust;
- (e) becomes disqualified or ceases to be qualified under the provisions of this Act.

### **Executive committee and subcommittees**

**11.(1)** There shall be an executive committee of the Council which shall, in addition to any powers conferred upon it by this Act, have and may exercise and discharge such of the powers, authorities, duties and functions of the National Trust (save those powers, authorities, duties and functions referred to in sections 16, 18, 22, 26E and 28) as are for the time being conferred and imposed upon, or delegated to it by the Council.

**(1A)** The executive committee shall consist of the President, Vice-Presidents, Secretary and Treasurer of the National Trust, together with the councillors elected to be members of the executive committee under section 13.

**(1B)** The Council may add to the executive committee for such length of time and with such powers of voting or otherwise as the Council thinks fit any member of the National Trust or other person whose assistance the Council considers conducive to the furtherance of the objects of the National Trust.

**(2)** The Council or the executive committee may appoint any committee in the case of the Council, or any subcommittee in the case of the executive committee for any special purpose and may add to any such committee or subcommittee as the case may be for such length of time and with such powers of voting or otherwise as the Council or the executive committee, as the case requires, may think fit, any member of the National Trust or other person whose assistance the Council or the executive committee, as the case requires, considers conducive to the furtherance of the objects of the National Trust.

### **Country branches**

**12.(1)** The Council may, from time to time, approve of the establishment of country branches of the National Trust which shall, subject to the Council, have and may exercise and discharge such of the powers, authorities, duties and functions of the National Trust as are for the time being conferred and imposed upon, or delegated to such branches by the Council.

**(2)** A country branch shall be constituted in accordance with the rules.

### **President, Vice-Presidents, Secretary and Treasurer**

**13.(1)** At the first duly convened meeting of the Council held after the annual general meeting of the National Trust, the councillors shall, in accordance with the rules, elect—

- (a)** from amongst the elected councillors a President, such number (not exceeding 4) of Vice-Presidents as may be specified in the rules, a Secretary and a Treasurer of the National Trust;
- (b)** from amongst any of the councillors, such number of councillors (“**elected members of the executive committee**”) to be members of the executive committee as may be specified by the rules.

**(1A)** The persons elected under subsection (1) shall, subject to continuing to be respectively members of the Council, hold office until the election of their respective successors at the corresponding meeting of the Council in the next ensuing year.

**(2)** The Council may appoint such officers and servants of the National Trust as the Council may from time to time deem necessary or desirable and (subject to any law, award or determination relating thereto) may fix their salaries and wages and conditions of employment and may determine their respective duties and the tenure of their respective offices.

**(2A)** The Council may elect a patron and any number of vice-patrons but the persons so elected shall not by reason of such election be members of the Council.

**(2B)** The Council may appoint from amongst its members such honorary officers of the National Trust as it may, from time to time, think

fit, and may determine any such appointment at any time.

(3) Where a casual vacancy occurs in the office of the President, a Vice-President, the Secretary or the Treasurer, the councillors shall, in accordance with the rules, elect from amongst the remaining elected councillors a successor to fill the vacant office and such successor shall hold office for the residue of the councillor's predecessor's term of office.

(3A) In subsection (3)—

**“elected councillor”** includes a person appointed under section 8(5) to the vacant office of an elected councillor.

(3B) Where a casual vacancy occurs in the office of any elected member of the executive committee the councillors shall, in accordance with the rules, elect from amongst any of the remaining councillors a successor to fill the vacant office and such successor shall hold office for the residue of the councillor's predecessor's term of office.

(4) At every meeting of the Council and the executive committee at which the President is present the President or in the President's absence such other councillor as the rules may prescribe shall preside.

(4A) The President or other councillor presiding at any meeting of the Council or executive committee shall have a deliberative vote and, in the event of an equality of votes, a second or casting vote.

(5) A decision of the majority of the councillors present at any meeting of the Council at which there is a quorum shall be a decision of the Council.

(6) A decision of the majority of the members of the executive committee present at any meeting of the executive committee at which there is a quorum, as determined by the rules from time to time, shall be a decision of the executive committee.

### **Validity of acts and proceedings**

14.(1) No act or proceeding of the Council or the executive committee or of any person acting pursuant to the direction of the Council or executive committee shall be invalidated or prejudiced by reason only of the fact of there being a vacancy or vacancies in the Council or the executive committee at the time when such act or proceeding was done, taken, or commenced or when such direction was given.

(2) All acts and proceedings of the Council or the executive committee, or of any person acting pursuant to any direction of the Council or the executive committee, shall, notwithstanding the subsequent discovery of any defect in the appointment or election of any councillor or member of the executive committee, or that any such councillor or member was disqualified from acting as or incapable of being a councillor or member of the executive committee, be as valid as if such councillor or member had been duly appointed or elected and was qualified to act as or capable of being, and had acted as, a councillor or member of the executive committee, as the case may be, and as if the Council or executive committee, as the case may be, had been properly and fully constituted.

### **Common seal**

**15.(1)** The Council shall have the custody of the common seal of the National Trust and the form of such seal and all other matters relating thereto shall, subject as hereinafter provided in this section be from time to time determined at a duly constituted meeting of the Council.

(2) The common seal of the National Trust shall not be used except upon the order of the Council or, where authority to use the common seal has been delegated by the Council to the executive committee upon the order of the executive committee.

(3) Any instrument or document which if made between private persons would be by law required to be in writing under seal may be made on behalf of the National Trust in writing under the common seal of the National Trust.

(3A) Every instrument or document to which the common seal is affixed shall be signed by 2 councillors and either the Secretary of the National Trust or such other person as the Council may appoint.

(3B) Any other instrument or document made by or proceeding from the National Trust shall be deemed to be duly executed if signed by 2 councillors and either the Secretary of the National Trust or such other person as the Council may appoint.

(4) All courts, Judges, justices, and persons acting judicially shall take judicial notice of the common seal of the National Trust affixed to any instrument or other document and shall presume that it was duly affixed.

(5) It shall not be necessary in any legal proceeding to prove that the persons signing any instrument or other document referred to in subsection (3A) or (3B) were authorised to sign and such authority shall be presumed until the contrary is proved.

### **By-laws**

**16.(1)** The Council, with the approval of the Governor in Council, may make by-laws not inconsistent with this Act providing for all or any purposes, whether general or to meet particular cases, that may be convenient for the administration of this Act.

**(1A)** The power of the Council under subsection (1) to make any by-law shall include power to make that by-law so that it may be of general or specially limited application according to time, place, purposes, class or circumstances, and so that any by-law may or may not differ from any other by-law of specially limited application with respect to the same subject matter, places, or things.

**(1B)** Without limiting the generality of the foregoing provisions, by-laws may be made for all or any of the following purposes, that is to say—

- (a) the care, control and management of lands, buildings, furniture, pictures and other chattels referred to in section 5 and acquired by or under the control of the National Trust;
- (b) the regulation of the use and enjoyment of such lands, buildings, furniture, pictures and other chattels;
- (c) the securing of decency and order upon such lands and buildings;
- (d) the removal of trespassers and other persons causing annoyance or inconvenience upon or in such lands and buildings;
- (e) the regulation or prevention of the taking of intoxicating liquor onto or into, and the consuming thereof upon or in such lands and buildings;
- (f) the regulation and control of the taking of animals onto or into such lands and buildings, or the permitting or suffering of animals to be on or in such lands and buildings;
- (g) the regulation, control or prohibition of traffic and of parking, camping or residing on or in such lands and buildings, the

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making of charges for such parking, camping or residing, and the collection and receiving of such charges by the Council or other persons;

- (h) the preservation or protection of, or prevention of damage to such lands, buildings, furniture, pictures and other chattels, and all trees, shrubs, ferns, creepers, vines, palms, plants, flowers, herbage, and other vegetative cover on such lands or in such buildings, and the preservation or protection of any animals, birds, fish and other fauna of any nature whatsoever and whether natural or introduced on such lands;
- (ha) the offering and payment of rewards to persons supplying information in relation to any unauthorised damage to such lands or buildings or in relation to any unauthorised damage or injury to any of the matters or things referred to in paragraph (h), or in relation to the unauthorised removal from such lands or buildings of any of the matters or things referred to in paragraph (h), or in relation to the commission of any offence in respect of such lands, buildings, matters or things;
- (i) the making of charges or entrance fees on persons or associations or groups of persons using or entering upon such lands and buildings, or any specified part or parts thereof, and the collection and receiving of such charges and fees by the Council or other persons;
- (j) prescribing the manner of appointing persons to the Council under section 8(3) and the time after the annual general meeting of the National Trust within which such persons shall be appointed to the Council;
- (k) generally any other matter or thing which it is necessary or convenient to prescribe for the purposes of the administration of this Act.

(2) The power of the Council under subsections (1) to (1B) to make by-laws for or with respect to any lands shall extend to authorising the Council to make by-laws applying to any lands acquired by or under the control of the National Trust and used in conjunction with any land or building referred to in section 5 and acquired by or under the control of the National Trust.

(3) The by-laws may impose a penalty not exceeding \$100 for any breach thereof and in addition to such penalty may impose a daily penalty not exceeding \$20 per day for any continuing breach thereof.

(3A) Any such penalty may be recovered in a summary way under the *Justices Act 1886*, upon the complaint of any person authorised in that behalf either generally or in a particular case by the President of the National Trust.

(3B) For the purposes of this Act the signature of the President of the National Trust shall be judicially noticed.

(4) A person responsible for any unauthorised damage, injury or removal or for any offence in relation to which an amount of any reward for information is paid under this Act shall be liable, and in any case where there is more than 1 such person, they shall be jointly and severally liable, to pay to the National Trust the amount so paid.

(5) The National Trust may recover any amount outstanding that a person is liable to pay to it under subsection (4) by action as for a debt in any court of competent jurisdiction.

### **Tabling of by-laws and judicial notice**

17.(1) Section 28A of the *Acts Interpretation Act 1954* (which requires regulations to be published in the Gazette and laid before the Legislative Assembly as prescribed therein) applies in relation to by-laws made by the Council under this Act as if the by-laws were regulations.

(2) All Courts shall take judicial notice of every by-law made by the Council under this Act and of the date from which every such by-law took effect.

### **Rules**

18. The National Trust may in general meeting make rules not inconsistent with this Act or the by-laws for or with respect to—

- (a) regulating the affairs, business and management of the National Trust; and
- (b) the method and time of convening, holding and adjourning meetings of the National Trust, the Council and the executive

- committee; and
- (ba) the voting at such meetings (including postal and proxy voting); and
  - (bb) the conduct and record of the business of the National Trust, the Council and the executive committee; and
  - (bc) the quorum at meetings of the National Trust, the Council and the executive committee; and
  - (c) the election of the President of the National Trust, such number (not exceeding 4) of Vice-Presidents of the National Trust as may be specified in the rules, a Secretary and a Treasurer of the National Trust and the elected councillors; and
  - (d) the resignation of elected councillors and appointed councillors and of elected members of the executive committee; and
  - (e) casual vacancies in the office of any elected member of the executive committee or in the office of President, Vice-President, Secretary or Treasurer of the National Trust; and
  - (f) regulating the admission, resignation and expulsion of members of the National Trust; and
  - (g) all matters which are required or permitted by this Act to be prescribed by the rules.

### **Superannuation scheme or arrangement**

**18A.(1)** The National Trust is authorised and is deemed always to have been authorised to establish or participate in a scheme or arrangement that secures superannuation or provident benefits for any employee or employees of the National Trust or the dependants thereof.

**(2)** On and after the passing of the *National Trust of Queensland Act Amendment Act 1989*, it shall not be competent to the National Trust—

- (a) to establish or to commence to participate in a scheme or arrangement such as is referred to in subsection (1);
- (b) to amend a scheme or arrangement such as is referred to in subsection (1);
- (c) to continue to participate in a scheme or arrangement such as is

referred to in subsection (1) that is amended subsequent to the passing of the *National Trust of Queensland Act Amendment Act 1989* and subsequent to the National Trust's commencing to participate therein;

unless the approval of the Governor in Council has first been obtained to the establishment, participation, amendment or, as the case may be, continued participation.

(3) A reference to a scheme or arrangement in subsection (2)(b) or (2)(c) includes a reference to any scheme or arrangement which the National Trust had established before or in which the National Trust was participating immediately before the passing of the *National Trust of Queensland Act Amendment Act 1989*.

### **Prohibition on payment of dividends etc. from income or property of the National Trust**

19. No dividend, bonus or other profit shall at any time be paid out of the income or property of the National Trust to any member of the National Trust.

### **Investment of funds of the National Trust**

20.(1) The National Trust may, subject to the provisions of any trust affecting its funds or to any directions or restrictions attached thereto or imposed by the donor thereof, from time to time invest any of its funds in any securities from time to time authorised by law for the investment of trust funds.

(2) The National Trust may retain and hold any investments which may be transferred to the National Trust otherwise than by way of purchase notwithstanding that such investments may not be of the nature authorised by subsection (1).

### **Power of National Trust to cooperate with other bodies**

20A. The National Trust may—

- (a) cooperate with any corporation, body or society (whether in Queensland or not), having objects wholly or substantially similar

to the objects of the National Trust, for the purpose of promoting the objects of such corporation, body or society or the objects of the National Trust; and

- (b) if it thinks fit become a member of or an affiliate of any such corporation, body or society.

### **Power of National Trust to accept gifts**

**21.** The National Trust may accept any gift (whether by will or inter vivos) of any property, of whatsoever kind and wheresoever situate, and whether in possession, reversion, or remainder.

### **Power of National Trust to borrow moneys**

**22.(1)** For the purpose of carrying out any work or undertaking which it is authorised by this Act to carry out, the National Trust may from time to time borrow moneys and give security for repayment thereof by a mortgage, charge, or any form of security over any property of the National Trust, subject always to the provisions of any trust affecting such property or to any directions or restrictions attached thereto or imposed by the owner thereof.

**(2)** All moneys received by the National Trust on capital account shall, subject to the condition attached to any gift, be applicable in or towards the repayment of moneys borrowed, or otherwise in furthering the objects of the National Trust.

### **Sale or disposal of certain property**

**23.(1)** Where the Governor in Council is satisfied by the National Trust that any property for the time being vested in it is unfit or not required for the objects of the National Trust and approves of the National Trust so doing, the National Trust may, notwithstanding the terms of any trust affecting the property or any arrangement or condition made or agreed to by it at the time of the acquisition of the property by the National Trust—

- (a) sell the property or exchange it for any other property; or
- (b) dispose of the property without consideration or in the case of personal property destroy the property if the National Trust

adjudges it to be of no saleable value.

(1A) The proceeds of any sale made by the National Trust in the exercise of the power conferred on it by subsection (1)(a) shall, after deduction therefrom of the costs of and incidental to the sale, be held for the objects of the National Trust.

(2) Any property sold or disposed of by way of exchange or otherwise by the National Trust purporting to exercise any of the powers conferred on it by subsection (1) shall vest in the person acquiring the property by virtue of the sale or disposition freed and discharged from any trust, arrangement, or condition relating to any sale or disposition of the property or to the use of the property, to which the property was subject in the hands of the National Trust.

(3) No person acquiring any property from the National Trust purporting to exercise any of the powers conferred on it by subsection (1) shall be concerned to inquire whether a case has arisen to authorise the sale or other disposition of the property or whether the power was otherwise properly and regularly exercised or to see to the application of any purchase money paid to the National Trust.

### **Power of National Trust to act as trustee**

24. The National Trust may act as trustee of any lands, buildings, furniture, pictures and other chattels referred to in section 5, if appointed so to act by any person (including the Crown) entitled to appoint trustees thereof.

### **Power of National Trust to lend moneys and articles**

25. The National Trust may, for the purpose of promoting the objects of any corporation, body, or society either within or outside Queensland, having objects wholly or substantially similar to the objects of the National Trust, lend any moneys or articles of the National Trust to such corporation, body or society.

### **Exemption from stamp duty and death duty**

26. Notwithstanding the provisions of any other Act or law—

- (a) any instrument or agreement executed after the commencement of this Act whereby any property is, or is agreed to be conveyed, transferred, or leased to, or mortgaged by the National Trust shall be exempt from stamp duty;
- (b) no gift duty, probate duty, or succession duty shall be payable in respect of any property given, devised or bequeathed to the National Trust.

## **Funds**

**26A.(1)** On and from 1 July 1981 the National Trust shall establish and maintain the following funds—

- (a) a general fund;
- (b) a specific purposes fund;
- (c) a trust fund;
- (d) such other fund or funds as may be prescribed from time to time, which funds shall be separate and distinct from any funds required by any other Act to be maintained by the National Trust.

**(2)** A separate banking account shall be kept for each fund specified in subsection (1).

## **General fund**

**26B.(1)** Subject to the *Currumbin Bird Sanctuary Act 1976*, there shall be paid into the general fund by the National Trust—

- (a) all moneys received by way of membership subscriptions;
- (b) all moneys received by way of dues, charges, fees and rents in respect of any National Trust property;
- (c) all moneys received by way of grant, other than a grant specified in section 26C;
- (d) all penalties recovered by the National Trust for offences against its by-laws and any costs awarded to the National Trust in respect of those offences;
- (e) all moneys received from the specific purposes fund in repayment

of advances for preliminary expenses;

(f) all other moneys received not appertaining to any other fund.

(2) The general fund shall be applied to—

- (a) expenditure necessarily incurred in the exercise and performance of the objects of the National Trust under this Act or any other Act unless this Act or that other Act contains express provision charging such expenditure to another fund;
- (b) advances to the specific purposes fund for the payment of preliminary expenses necessarily incurred in connection with the execution of any function chargeable to that fund under this Act;
- (c) subject to provision being made therefor in the annual budget, transfers to the specific purposes fund towards the expenditures of that fund.

### **Specific purposes fund**

**26C.(1)** Subject to the *Currumbin Bird Sanctuary Act 1976*, the specific purposes fund shall consist of—

- (a) advances and transfers from the general fund in connection with the execution of any function chargeable to the specific purposes fund;
- (b) all moneys received by way of loan, grant, subsidy or gift, conditional upon its use for specific purposes within the objects of the National Trust.

(2) The specific purposes fund shall be applied to—

- (a) the repayment to the general fund of advances for the payment of preliminary expenses;
- (b) expenditure necessarily incurred in connection with a specific purpose for which a loan, grant, subsidy or gift has been received or granted.

### **Trust fund**

**26D.(1)** Subject to the *Currumbin Bird Sanctuary Act 1976*, the trust

fund shall consist of all moneys paid to the National Trust by way of deposit or in trust for any person under this Act or any other Act and any other moneys that are prescribed by this Act or any other Act to be paid into the trust fund.

(2) Moneys standing to the credit of the trust fund shall be applied only to the purpose or purposes for which those moneys were deposited or received by the National Trust.

### **Budget**

**26E.(1)** On or before the 30 September in each year the Council of the National Trust shall cause to be framed and shall adopt a budget for the current year in the form and manner prescribed.

(2) Separate budgets shall be framed and adopted in respect of each fund established and kept by the National Trust pursuant to section 26A.

(3) In framing the budget for each fund the National Trust shall estimate for the current year—

- (a) the amounts to be received from the sources specified in this Act appropriate to that fund;
- (b) the amounts to be disbursed upon the objects of the National Trust and the matters and things specified in this Act appropriate to that fund.

(4) The estimates of receipts and disbursements shall be set out as nearly as may be separately in accordance with the several sources of receipts and disbursements and, where receipts and disbursements are for corresponding functions, they shall be set out opposite each other in the budget.

(5) Subject to the regulations, the budget shall set out the following particulars in respect of each item of receipts and disbursements—

- (a) particulars of each item;
- (b) estimates adopted for the previous year;
- (c) actual receipts and disbursements for the previous year;
- (d) estimates of receipts and disbursements for the current year.

(6) The budget shall be framed so as to balance as nearly as may be.

**Observance of budget**

**26F.(1)** The National Trust shall observe the budget.

**(1A)** If at the end of any year there is a surplus or deficit, such surplus or deficit shall be carried forward and taken into account in framing the budget for the next ensuing year.

**(2)** If the National Trust makes a disbursement in any year from any of its funds that has not been provided for in the budget relating to that fund for that year, then except where the disbursement is made in emergent or extraordinary circumstances warranting the incurring of such expenditure and with the prior approval by resolution of the Council, the members of the Council or the executive committee who knowingly authorised that expenditure shall be jointly and severally liable to repay to the National Trust the amount of the disbursement and such amount may be recovered by action in a court of competent jurisdiction as a debt due and owing by all and each of such members to the National Trust.

**Treatment of ordinary expenditure, surplus and deficit**

**26G.(1)** At the close of each year all authorisations of expenditure and votes of money therefor shall lapse.

**(1A)** Any vote so lapsing may be revoked in the ensuing year.

**(2)** Any ordinary disbursement of the National Trust in the months of July, August and September in any year is authorised and shall be included in the budget for that year.

**Books and accounts**

**26H.(1)** Subject to the provisions of the *Currumbin Bird Sanctuary Act 1976*, the National Trust shall cause such books to be provided and kept and true and regular accounts to be entered therein in respect of each fund as shall be prescribed.

**(2)** The Treasurer of the National Trust shall, after the close of each month, submit to the executive committee and to members of the Council statements of the accounts in relation to the budget for the period of the year ending at the termination of the previous month.

**(2A)** Such statement shall show the estimated receipts and disbursements

in and from each fund and the actual receipts and disbursements in and from each fund for such period, with explanations that give a true indication of the progressive state of the votes provided in the budget, and at the 6-monthly and 9-monthly periods a statement of the anticipated position at the end of the year.

(3) The books and accounts of the National Trust shall be open to inspection by members of the Council.

### **Financial statements**

**26I.(1)** The Treasurer of the National Trust shall, on or before 30 September in each year, prepare and lay before the Council for adoption by it the following statements as at the close of the preceding financial year—

- (a) an annual statement of receipts and disbursements in respect of each fund;
- (b) an annual statement of income and expenditure;
- (c) a balance sheet.

(2) The statements specified in subsection (1)(a) shall set out similar particulars as are required to be set out in the budget and the budget information and the actual financial results of the year shall be shown side by side so that the true relationship between the budget and the financial results shall be disclosed.

(3) In relation to every statement referred to in subsection (1)(a), the President and the Treasurer shall certify whether the statements of account prepared on behalf of the National Trust—

- (a) are prepared in the form required by this Act; and
- (b) are in agreement with the accounts; and
- (c) are, in their opinion, correct.

(4) In relation to the statements of account referred to in subsections (1)(b) and (c), the President and the Treasurer shall certify whether the statements of account prepared on behalf of the National Trust—

- (a) are, where applicable, prepared in the form required by this Act; and

- (b) are in agreement with the accounts; and
- (c) in their opinion fairly set out the financial transactions for the period to which they relate and show a true and fair view of the state of affairs at the close of that period.

### **Audit of accounts**

**27.(1)** The accounts of the National Trust shall be audited by the Auditor-General or by an authorised auditor directed by the Auditor-General, each of whom shall have, with respect to such audit and accounts all the powers and authorities conferred on him or her by the *Financial Administration and Audit Act 1977* as if the National Trust was a department of the government of the State.

**(1A)** The fee payable by the National Trust in respect of the audit shall be fixed by the Auditor-General.

**(2)** The Auditor-General shall certify whether the statements and balance sheet referred to in section 26I(1), prepared on behalf of the National Trust—

- (a) are, where applicable, prepared in the form required by this Act; and
- (b) are in agreement with the accounts; and
- (c) in the Auditor-General's opinion fairly set out the financial transactions for the period to which they relate and show a true and fair view of the state of affairs at the close of that period on a basis consistent with that applied in respect of the last preceding financial year.

**(3)** The Auditor-General shall, at least once in each year, report to the Minister through the Treasurer the results of each audit carried out pursuant to this section and shall, if the Auditor-General thinks fit, include with the report recommendations to the Minister or to the President with respect to the financial statements and the manner of operating and maintaining the accounts in question.

**(3A)** A copy of such report and recommendations (if any) shall be furnished to the President and Secretary.

**(3B)** The Minister or, as the case may be, President, shall give due

consideration to the report and the recommendations (if any) of the Auditor-General made pursuant to subsection (3).

(4) The Auditor-General shall include in the Auditor-General's annual report to Parliament such matters with respect to the financial transactions of the National Trust as the Auditor-General thinks fit.

(4A) However, if in the opinion of the Auditor-General the circumstances so warrant, the Auditor-General may make an additional or special report to Parliament at any time.

(5) The report of the Auditor-General shall be submitted to the members of the Council at the first ordinary meeting held after the report becomes available to the President.

### **Annual report**

**28.(1)** Once in each year the National Trust shall furnish to the Minister a report on its operations during the last preceding year.

(1A) The report shall include such statements of account, balance sheet and other financial and relevant information as may be prescribed, together with the certificate of the Auditor-General prescribed by section 27(2).

(2) The Minister shall lay the report of the National Trust before the Legislative Assembly—

- (a) within 14 sitting days of the Minister's receipt of the report, if the Assembly is then sitting; or
- (b) if the Assembly is not then sitting—within 14 sitting days after the commencement of its sittings next following the Minister's receipt of the report.

### **Saving of other Acts**

**29.** Unless otherwise expressly provided, nothing in this Act shall in any way derogate from or otherwise affect any of the provisions of—

- (a) the *Local Government Act 1936*; and
- (b) the *Newstead House Trust Act 1939*; and
- (c) the *Forestry Act 1959*.

**Regulations**

**30.** The Governor in Council may, on the recommendation of the Minister following consultation with the Auditor-General, make regulations not inconsistent with this Act for—

- (a) the framing and adoption by the National Trust of an annual budget, and the form thereof;
- (b) the funds and accounts to be established by the National Trust, and the form and manner in which they shall be maintained;
- (c) the form of the annual financial statements and balance sheet of the National Trust;
- (d) the preparation, adoption and amendment from time to time of an accounting manual by the National Trust, and the form and content thereof;
- (e) the duties of the auditor in connection with the audit and examination of the accounts of the National Trust;
- (f) all matters whether general or to meet particular cases that may be convenient for the administration of the provisions of this Act regarding any matter referred to in paragraphs (a) to (e) or that may be necessary or expedient to achieve the objects and purposes of those provisions.

**ENDNOTES****1 Index to Endnotes**

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**2 Date to which amendments incorporated**

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 26 October 1994. Future amendments of the National Trust of Queensland Act 1963 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

**3 List of legislation****National Trust of Queensland Act 1963 No. 20**

date of assent 9 December 1963

commenced on date of assent

as amended by—

**National Trust of Queensland Act Amendment Act 1964 No. 46**

date of assent 30 November 1964

commenced on date of assent

**Age of Majority Act 1974 No. 57 s 8 Sch**

date of assent 27 September 1974

commenced 1 March 1975 (proc pubd Gaz 16 November 1974 p 1083)

**National Trust of Queensland Act Amendment Act 1976 No. 63**

date of assent 3 November 1976

commenced on date of assent

**National Trust of Queensland Act Amendment Act 1981 No. 54**

date of assent 12 June 1981

ss 1–2 commenced on date of assent

remaining provisions commenced 24 October 1981 (proc pubd Gaz 24 October 1981 p 852)

**National Trust of Queensland Act Amendment Act 1989 No. 13**

date of assent 30 March 1989

commenced on date of assent

**Public Service (Administrative Arrangements) Act (No. 2) 1990 No. 80 s 3 Sch 2**

date of assent 14 November 1990

commenced on date of assent

## 4 List of annotations

**Key to abbreviations in list of annotations**

amd	=	amended
Ch	=	Chapter
cl	=	clause
def	=	definition
Div	=	Division
hdg	=	heading
ins	=	inserted
om	=	omitted
prec	=	preceding
pres	=	present
prev	=	previous
(prev)	=	previously
prov	=	provision
Pt	=	Part
RA	=	Reprints Act 1992
R1	=	Reprint No. 1
renum	=	renumbered
Sdiv	=	Subdivision
sub	=	substituted

Provisions not included in reprint, or amended by amendments not included in reprint, are underlined

**Interpretation**

- s 2      def **“By-law”** om R1 (see RA s 39)  
           def **“Minister”** sub 1990 No. 80 s 3 Sch 2  
           om R1 (see RA s 39)  
           def **“Rules”** om R1 (see RA s 39)

**Objects of the National Trust**

- s 5      amd 1981 No. 54 s 3

**Constitution of the first Council**

- s 7      om R1 (see RA s 37)

**Constitution of subsequent Councils**

- s 8      amd 1990 No. 80 s 3 Sch 2

**Disqualifications**

s 9            amd 1974 No. 57 s 8 Sch

**Executive committee and subcommittees**

s 11           amd 1981 No. 54 s 4

**President, Vice-Presidents, Secretary and Treasurer**

s 13           amd 1989 No. 13 s 2

**By-laws**

s 16           amd 1989 No. 13 s 3

**Tabling of by-laws and judicial notice**

s 17           sub 1989 No. 13 s 4

**Superannuation scheme or arrangement**

s 18A        ins 1989 No. 13 s 5

**Power of National Trust to cooperate with other bodies**

s 20A        ins 1964 No. 46 s 2

**Funds**

s 26A        ins 1981 No. 54 s 5

**General fund**

s 26B        ins 1981 No. 54 s 5

**Specific purposes fund**

s 26C        ins 1981 No. 54 s 5

**Trust fund**

s 26D        ins 1981 No. 54 s 5

**Budget**

s 26E        ins 1981 No. 54 s 5

**Observance of budget**

s 26F        ins 1981 No. 54 s 5

**Treatment of ordinary expenditure, surplus and deficit**

s 26G        ins 1981 No. 54 s 5

**Books and accounts**

s 26H        ins 1981 No. 54 s 5

**Financial statements**

s 26I        ins 1981 No. 54 s 5

**Audit of accounts**

s 27           amd 1976 No. 63 s 2

              sub 1981 No. 54 s 6

**Annual report**

s 28           sub 1981 No. 54 s 7

**Regulations**

s 30           ins 1981 No. 54 s 8

**5 Table of changed names and titles**TABLE OF CHANGED NAMES AND TITLES  
under the Reprints Act 1992 ss 23 and 23A

Old	New	Reference provision
authorised officer (within meaning of Financial Administration and Audit Act 1977)	authorised auditor	Financial Administration and Audit Act 1977 s 111
mentally ill person (or a similar term)	patient (within the meaning of the Mental Health Act 1974)	see Mental Health Act 1974 om s 4(f)(i)
The Returned Sailors Soldiers and Airmen's Imperial League of Australia	the Returned & Services League of Australia (Queensland Branch)	see Returned Services League of Australia (Queensland Branch) Act 1956 s 2 def "State Branch"

**6 Table of obsolete and redundant provisions**TABLE OF OBSOLETE AND REDUNDANT PROVISIONS  
under the Reprints Act 1992 s 39

Omitted provision	Provision making omitted provision obsolete/redundant
definitions to be read in context	Acts Interpretation Act 1954 s 32A
def "Minister"	Acts Interpretation Act 1954 ss 36, 33(1)–(4) and 24B(8)(b) (see also Reprints Act 1992 s 39, example 2)
reference to instrument is a reference to instrument under Act	Acts Interpretation Act 1954 s 35E

**7 Table of renumbered provisions**TABLE OF RENUMBERED PROVISIONS  
under the Reprints Act 1992 s 43

Previous	Renumbered as
8(2), 2nd sentence	8(2A)
8(2), 3rd sentence	8(2B)
8(2), 4th sentence	8(2C)
8(2), 5th sentence	8(2D)
8(3), 2nd sentence	8(3A)
8(3), 2nd sentence, 1st unnum para	8(3A)(a)
8(3), 2nd sentence, 2nd unnum para	8(3A)(b)
8(3), 2nd sentence, 3rd unnum para	8(3A)(c)
8(3), 2nd sentence, 4th unnum para	8(3A)(d)
8(3), 2nd sentence, 5th unnum para	8(3A)(e)
8(3), 2nd sentence, 6th unnum para	8(3A)(f)
8(3), 2nd sentence, 7th unnum para	8(3A)(g)
8(3), 2nd sentence, 8th unnum para	8(3A)(h)
8(3), 2nd sentence, 9th unnum para	8(3A)(i)
8(3), 2nd sentence, 10th unnum para	8(3A)(j)
8(3), 3rd sentence	8(3B)
8(3), 4th sentence	8(3C)
8(3), 5th sentence	8(3D)
8(5), 2nd sentence	8(6)
8(5), 3rd sentence	8(7)
11(1), 2nd sentence	11(1A)
11(1), 3rd sentence	11(1B)
12, 1st sentence	12(1)
12, 2nd sentence	12(2)
13(1), 2nd sentence	13(1A)
13(2), 2nd sentence	13(2A)
13(2), 3rd sentence	13(2B)
13(3)(a)	13(3)
13(3)(a), 2nd sentence	13(3A)
13(3)(b)	13(3B)
13(4), 2nd sentence	13(4A)
13(5)(a)	13(5)
13(5)(b)	13(6)
15(3), 2nd sentence	15(3A)
15(3), 3rd sentence	15(3B)
15(4), 2nd sentence	15(5)
16(1), 2nd sentence	16(1A)

16(1), 3rd sentence	16(1B)
16(3), 2nd sentence	16(3A)
16(3), 3rd sentence	16(3B)
16(4), 2nd sentence	16(5)
17, 1st sentence	17(1)
17, 2nd sentence	17(2)
18(b), 1st unnum part	18(ba)
18(b), 2nd unnum part	18(bb)
18(b), 3rd unnum part	18(bc)
22, 1st sentence	22(1)
22, 2nd sentence	22(2)
23(1), 2nd sentence	23(1A)
26F(1), 2nd sentence	26F(1A)
26G(1), 2nd sentence	26G(1A)
26H(2), 2nd sentence	26H(2A)
26I(3)(a)	26I(3)
26I(3)(a)(i)	26I(3)(a)
26I(3)(a)(ii)	26I(3)(b)
26I(3)(a)(iii)	26I(3)(c)
26I(3)(b)	26I(4)
26I(3)(b)(i)	26I(4)(a)
26I(3)(b)(ii)	26I(4)(b)
26I(3)(b)(iii)	26I(4)(c)
27(1), 2nd sentence	27(1A)
27(3), 2nd sentence	27(3A)
27(3), 3rd sentence	27(3B)
27(4), 2nd sentence	27(4A)
28(1), 2nd sentence	28(1A)