

Queensland



# QUEENSLAND ART GALLERY ACT 1987

**Reprinted as in force on 31 July 2001  
(includes amendments up to Act No. 45 of 2001)**

**Reprint No. 3A**

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# Information about this reprint

This Act is reprinted as at 31 July 2001. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

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 have also been made to use aspects of format and printing style consistent with current drafting practice (s 35).

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

# Queensland



## QUEENSLAND ART GALLERY ACT 1987

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# QUEENSLAND ART GALLERY ACT 1987

[as amended by all amendments that commenced on or before 31 July 2001]

## An Act to make provision with respect to the administration of the Queensland Art Gallery and for other purposes

### PART 1—PRELIMINARY

#### 1 Short title

This Act may be cited as the *Queensland Art Gallery Act 1987*.

#### 2 Definitions

In this Act—

**“appropriately qualified”**, for a person to whom a power under this Act may be delegated or who is asked by the Minister to investigate and report on a matter relating to the board, includes having the qualifications, experience or standing appropriate to exercise the power or comply with the request.

*Example of standing—*

A person’s seniority in an entity.

**“art gallery”** means the Queensland Art Gallery.

**“board”** means the Queensland Art Gallery Board of Trustees.

**“chairperson”** means the chairperson of the board.

**“deputy chairperson”** means the deputy chairperson of the board.

**“director”** means the director appointed under section 12.

**“member”** means a member of the board.

**“operational plan”**, of the board, means the board’s operational plan developed under part 3 of this Act and part 2 of the standard.

“**standard**” means the *Financial Management Standard 1997*.

“**strategic plan**”, of the board, means the board’s strategic plan developed under part 3 of this Act and part 2 of the standard.

## **PART 2—THE QUEENSLAND ART GALLERY BOARD OF TRUSTEES**

### *Division 1—Constitution and membership*

#### **3 Board of trustees**

The entity called the Queensland Art Gallery Board of Trustees continues in existence.

#### **4 Legal status of board**

The board—

- (a) is a body corporate; and
- (b) has perpetual succession; and
- (c) has a common seal; and
- (d) may sue and be sued in its corporate name.

#### **5 Board’s relationship with State**

The board represents the State.

#### **6 Composition of board**

(1) The board is to consist of the number of members appointed by the Governor in Council.

(2) In appointing a member, regard must be had to the person’s ability to contribute to the board’s performance and the implementation of its strategic and operational plans.

(3) A member must be appointed under this Act and not the *Public Service Act 1996*.

## **7 Role of members**

The role of the members includes the following—

- (a) being responsible for the board's management;
- (b) ensuring, as far as possible, the board achieves, and acts in accordance with, its strategic and operational plans;
- (c) accounting to the Minister for the board's performance;
- (d) ensuring the board otherwise performs its functions in a proper, effective and efficient way.

## **8 Eligibility for appointment**

A person is not eligible for appointment as a member if the person is not able to manage a corporation because of the Corporations Act, Part 2D.6.

## **9 Chairperson and deputy chairperson of board**

(1) The Governor in Council must appoint a member as chairperson of the board.

(2) The appointment may be made by the instrument appointing the person concerned as a member of the board.

(3) The members must elect one of them as deputy chairperson of the board.

(4) The members must act under subsection (3) whenever there is a vacancy in the office of deputy chairperson, including a vacancy occurring because the office has not been filled.

(5) The chairperson or deputy chairperson may resign as chairperson or deputy chairperson by signed notice given to the Minister.

(6) The chairperson or deputy chairperson may act under subsection (5) and remain a member.

## **10 Duration of appointment**

(1) A member is appointed for the term (not more than 5 years) stated in the member's instrument of appointment.

(2) The office of a member becomes vacant if—

- (a) the member resigns by signed notice given to the Minister; or
- (b) the person is not eligible to be appointed as a member; or
- (c) the member's appointment is ended under subsection (3).

(3) The Governor in Council may, at any time, end the appointment of all or any members for any reason or none.

## **11 Conditions of appointment**

(1) A member holds office on the conditions not provided for by this Act that are decided by the Governor in Council.

(2) Except as decided by the Governor in Council, a member is not entitled to receive any payment, interest in property or other valuable consideration or benefit—

- (a) by way of remuneration as a member; or
- (b) in connection with resignation from office, or other termination of office, as a member, chairperson or deputy chairperson.

### *Division 2—Director and staff*

## **12 Director and other officers**

(1) There is to be a director who is to be appointed by the Governor in Council on the board's recommendation.

(2) The director holds office on the conditions not provided for by this Act that are decided by the board.

(3) Other officers are to be employed under the *Public Service Act 1996*.

## **13 Employees**

(1) The board may also employ the persons it considers necessary to perform its functions.

(2) The board may decide its employees' terms of employment.

(3) However, subsection (2) has effect subject to any relevant award or industrial agreement.

(4) The employees are to be employed under this Act, and not under the *Public Service Act 1996*.

#### **14 Duties of director**

The director is, under the members, to manage the board.

#### **15 Director to attend board meetings**

(1) This section applies if the director is not a member.

(2) The director must attend all meetings of the board unless excused or precluded by the board.

#### **16 Things done by director**

Anything done in the name of, or for, the board by the director is taken to have been done by the board.

#### **17 Delegation by director**

(1) The director may delegate the director's powers (including a power delegated to the director by the board) to an appropriately qualified employee of the board, or an appropriately qualified officer mentioned in section 12(3).

(2) Subsection (1) has effect subject to any directions by the board.

#### **18 Superannuation schemes**

The board may—

- (a) establish and maintain, or amend, superannuation schemes; or
- (b) join in establishing and maintaining, or amending, superannuation schemes; or
- (c) take part in superannuation schemes.

***Division 3—Functions*****19 Functions**

(1) The functions of the board are—

- (a) to control, manage and maintain the art gallery and each branch thereof and all property in the possession of the board; and
- (b) to minister to the needs of the community in any or all branches of the visual arts by—
  - (i) displaying works of art; and
  - (ii) promoting artistic taste and achievement through the illustration of the history and development of the visual arts; and
  - (iii) promoting and providing lectures, films, broadcasts, telecasts, publications and other educational or cultural instruction or material; and
  - (iv) promoting research; and
- (c) to control and manage all land and premises vested in or placed under the control of the board; and
- (d) to restore and repair works of art in the possession of the board; and
- (e) to frame and package, and manufacture display materials for, works of art in the possession of the board; and
- (f) to encourage artistic achievement by artists resident in Queensland; and
- (g) to perform the functions given to the board under another Act; and
- (h) to perform functions that are incidental, complementary or helpful to, or likely to enhance the effective and efficient performance of, the functions mentioned in paragraphs (a) to (g); and
- (i) to perform functions of the type to which paragraph (h) applies and which are given to the board in writing by the Minister.

(2) Before giving a function for subsection (1)(i), the Minister must consult with the board about the function.

### *Division 4—Legal capacity and powers*

#### **20 Objects of division**

The objects of this division include—

- (a) abolishing any application of the doctrine of ultra vires to the board; and
- (b) ensuring the board gives effect to any restrictions on its functions or powers, but without affecting the validity of its dealings with outsiders.

#### **21 General powers**

(1) For performing its functions, the board has all the powers of an individual and may for example—

- (a) enter into arrangements, agreements, contracts and deeds; and
- (b) acquire, hold, deal with and dispose of property; and
- (c) engage consultants; and
- (d) appoint agents and attorneys; and
- (e) charge, and fix terms, for goods, services, facilities and information supplied by it; and
- (f) do anything else necessary or desirable to be done in performing its functions.

(2) Without limiting subsection (1), the board has the powers given to it under this or another Act.

(3) The board may exercise its powers inside and outside Queensland, including outside Australia.

(4) In this section—

“**power**” includes legal capacity.

#### **22 Directions by Minister**

The board is subject to written directions of the Minister in exercising its powers.

### **23 Restrictions on powers of board**

(1) Section 21 has effect in relation to the board subject to any restrictions expressly imposed under this or another Act.

(2) Section 21 also has effect in relation to the board subject to any restrictions expressly imposed by—

- (a) any relevant strategic or operational plan of the board; or
- (b) any relevant directions given to the board under section 22 by the Minister.

(3) The board contravenes this section if it—

- (a) exercises a power contrary to a restriction mentioned in subsection (1) or (2); or
- (b) does an act otherwise than in pursuance of its functions.

(4) The exercise of the power mentioned in subsection (3)(a), or the act mentioned in subsection (3)(b), is not invalid merely because of the contravention.

(5) An officer of the board who is involved in the contravention contravenes this subsection.

(6) An act of the officer is not invalid merely because, by doing the act, the officer contravenes subsection (5).

(7) The board or officer of the board is not guilty of an offence merely because of the relevant contravention.

(8) In this section—

“**officer**”, of the board, means—

- (a) a member; or
- (b) the director; or
- (c) an officer mentioned in section 12(3); or
- (d) an employee of the board.

“**restriction**” includes prohibition.

### **24 Persons having dealings with board etc.**

(1) A person having dealings with the board is entitled to make the assumptions mentioned in subsection (3) and, in a proceeding in relation to

the dealings, any assertion by the board that the matters that the person is entitled to assume were not correct must be disregarded.

(2) A person having dealings with a person who has acquired, or purports to have acquired, title to property from the board (whether directly or indirectly) is entitled to make the assumptions mentioned in subsection (3) and, in a proceeding in relation to the dealings, any assertion by the board or the second person that the matters that the first person is entitled to assume were not correct must be disregarded.

(3) The assumptions that a person is, because of subsection (1) or (2), entitled to make are—

- (a) that, at all relevant times, this Act has been complied with; and
- (b) that a person who is held out by the board to be an officer or agent of the board has been properly appointed and has authority to exercise the powers and perform the functions customarily exercised or performed by an officer or agent of the kind concerned; and
- (c) that an officer or agent of the board who has authority to issue a document on behalf of the board has authority to warrant that the document is genuine and that an officer or agent of the board who has authority to issue a certified copy of a document on behalf of the board has authority to warrant that the copy is a true copy; and
- (d) that a document has been properly sealed by the board if—
  - (i) it bears what appears to be an imprint of the board's seal; and
  - (ii) the sealing of the document appears to be authenticated by a person who, because of paragraph (b), may be assumed to be an officer or agent of the board; and
- (e) that the officers and agents of the board have properly performed their duties to the board.

(4) However, a person is not entitled to assume a matter mentioned in subsection (3) if—

- (a) the person has actual knowledge that the assumption would be incorrect; or
- (b) because of the person's connection or relationship with the board, the person ought to know that the assumption would be incorrect.

(5) If, because of subsection (4), a person is not entitled to make a particular assumption—

- (a) if the assumption is in relation to dealings with the board—subsection (1) does not apply to any assertion by the board in relation to the assumption; or
- (b) if the assumption is in relation to an acquisition or purported acquisition from the board of title to property—subsection (2) does not apply to any assertion by the board or another person in relation to the assumption.

(6) In this section—

“**officer**”, of the board, means—

- (a) a member; or
- (b) the director; or
- (c) an officer mentioned in section 12(3); or
- (d) an employee of the board.

## **25 Branches**

(1) The board may establish branches of the art gallery.

(2) However, the board may not contract with someone else to establish a branch without the approval of the Governor in Council.

## **26 Disposal of works of art accepted by the board**

(1) This section applies if—

- (a) a work of art is accepted by the board for exhibition or for another purpose; and
- (b) the work is not collected by the person who gave it within 2 years after acceptance or, if the board has agreed to hold the work for a certain period, 2 years after the period ends.

(2) Subject to any arrangement about the work between the board and the person, the board may—

- (a) sell the work by public auction; or
- (b) exchange the work for another work of art; or

- (c) if the board considers on reasonable grounds that, because of the work's value, it is not viable to sell or exchange it—dispose of the work in another way.

(3) However, if the board intends to sell, exchange or otherwise dispose of the work, it must give the person at least a month's written notice of its intention.

(4) If the person's address is not known to the board, the notice may be given to the person by publishing it in a daily newspaper circulating generally in the State.

(5) A notice under subsection (4) may form part of a notice under section 29.

(6) If the work is sold, after deducting the costs of and incidental to the sale, the proceeds must be held by the board for the person for at least 1 year after the sale.

(7) If the proceeds are not claimed by the person within 1 year after the sale, the proceeds may be used by the board for its functions.

## **27 Use of proceeds from sale of other works of art**

The proceeds of the sale by the board of any work of art other than under section 26 must, after deduction of the costs of and incidental to the sale, be used by the board for its functions.

## **28 Disposal of certain abandoned property**

(1) This section applies if any property, other than a work of art to which section 26 applies—

- (a) is found on any building or other place consisting of the art gallery or a branch of the art gallery; and
- (b) there are reasonable grounds for suspecting the property has been abandoned by the person who last used it; and
- (c) the property is unclaimed after 4 months.

(2) The board may sell the property by public auction.

(3) Despite subsection (2), if the board considers on reasonable grounds that, because of the property's value, it is not viable to sell it, the board may dispose of the property in another way.

(4) Despite subsection (2), if the board considers on reasonable grounds that the property is in a dangerous condition or unfit for use for the purpose for which it was intended to be used, the board may cause it to be destroyed.

## **29 Board must give notice of public auction**

(1) Before the board sells any property under section 26 or 28 it must first publish a notice in a daily newspaper circulating generally in the State.

(2) The notice must—

- (a) identify the property; and
- (b) state the property is to be sold by auction; and
- (c) state how the person entitled to the property may recover it before the auction; and
- (d) state the time and place of the auction.

## **30 Effect of sale or other disposal of certain works of art or other property**

(1) This section applies to the sale or other disposal of any property under section 26 or 28.

(2) The sale or other disposal is valid against all persons.

(3) Compensation is not recoverable against the board for the sale or other disposal.

(4) Stamp duty is not payable for the sale or other disposal.

### *Division 5—Proceedings and business*

## **31 Conduct of business**

Subject to this Act, the board shall conduct its business and proceedings at meetings in such manner as it determines from time to time.

### **32 Presiding at meetings**

(1) The chairperson is to preside at all meetings at which the chairperson is present.

(2) If the chairperson is not present at a meeting, the deputy chairperson is to preside.

(3) If both the chairperson and deputy chairperson are not present at a meeting, the member chosen by the members present at the meeting is to preside.

### **33 Quorum**

(1) A quorum of the board shall consist of a majority of the total number of members for the time being holding office.

(2) A duly convened meeting of the board at which a quorum is present shall be competent to transact any business of the board and shall have and may exercise and perform all the powers and functions by this Act conferred or imposed upon the board.

### **34 Meetings**

(1) The board may hold its meetings where and when it decides.

(2) The board may hold meetings, or allow members to take part in meetings, by telephone, video link or another form of communication that allows reasonably contemporaneous and continuous communication between the members taking part in the meeting.

(3) A member who takes part in a meeting under subsection (2) is taken to be present at the meeting.

### **35 Resolutions without meetings**

(1) If at least a majority of members sign a document containing a statement that they are in favour of a resolution set out in the document, a resolution in those terms is taken to have been passed at a meeting of the board held on the day on which the document is signed or, if the members do not sign it on the same day, the day on which the last of the members constituting the majority signs the document.

(2) If a resolution is, under subsection (1), taken to have been passed at a meeting of the board, each member must be immediately advised of the matter and given a copy of the terms of the resolution.

(3) For subsection (1), 2 or more separate documents containing a statement in identical terms, each of which is signed by 1 or more members, are taken to constitute a single document.

### **36 Minutes**

The board must keep minutes of its proceedings.

### **37 Conduct of affairs**

(1) The board shall exercise or perform a power or function by a majority vote of the members present at the meeting and voting on the business in question.

(2) A member who, being present at a meeting and entitled to vote, abstains from voting shall be taken to have voted for the negative.

(3) The person who is duly presiding at a meeting of the board, if the person is entitled to vote, shall have a deliberative vote and, in the event of an equality of votes, a casting vote.

### **38 Disclosure of interests by members**

(1) If a member has a direct or indirect interest in a matter being considered, or about to be considered, by the board, the member must disclose the nature of the interest to a meeting of the board as soon as practicable after the relevant facts come to the member's knowledge.

Maximum penalty—100 penalty units.

(2) The disclosure must be recorded in the board's minutes.

### **39 Voting by interested member**

(1) A member who has a material personal interest in a matter that is being considered by the board must not—

- (a) vote on the matter; or
- (b) vote on a proposed resolution under subsection (2) (a “**related resolution**”) in relation to the matter (whether in relation to the member or another member); or
- (c) be present while the matter, or a related resolution, is being considered by the board; or
- (d) otherwise take part in any decision of the board in relation to the matter or a related resolution.

Maximum penalty—100 penalty units.

(2) Subsection (1) does not apply to the matter if the board has at any time passed a resolution that—

- (a) specifies the member, the interest and the matter; and
- (b) states that the members voting for the resolution are satisfied that the interest should not disqualify the member from considering or voting on the matter.

(3) If, because of this section, a member is not present at a meeting of the board for considering or deciding a matter, but there would be a quorum if the member were present, the remaining members present are a quorum for considering or deciding the matter at the meeting.

### **40 Delegation by board**

The board may, by resolution, delegate its powers to—

- (a) a member; or
- (b) a committee of members; or
- (c) the director; or
- (d) an appropriately qualified officer mentioned in section 12(3) or appropriately qualified employee of the board.

## **PART 3—PLANNING**

### *Division 1—Preliminary*

#### **41 How pt 3 applies if offices of Minister and Treasurer are held by the 1 person**

(1) This section applies if, under a provision of this part, a thing is required to be done by or in relation to the Minister and the Treasurer and the Minister is the Treasurer.

(2) The provision is satisfied if the thing is done by or in relation to the Minister.

#### **42 Part additional to standard**

(1) This part is additional to and does not derogate from the standard.

(2) However, if there is an inconsistency between this part and the standard, this part prevails to the extent of the inconsistency.

(3) Also, if something is required to be done under this part and the same thing, or something to the same effect, is required to be done under the standard, compliance with this part is sufficient compliance with the standard.

### *Division 2—Strategic and operational plans for board*

#### **43 Draft strategic and operational plans**

(1) The board must prepare and submit to the Minister for the Minister's agreement, draft strategic and operational plans for the board not later than 4 months before the start of each financial year.

(2) The board must give copies of the draft plans to the Treasurer at the same time as it gives the plans to the Minister.

(3) The draft plans must—

- (a) be in the form approved by the Minister; and
- (b) provide for the things that a strategic plan and an operational plan for the board must provide for under the standard or this part; and

- (c) be accompanied by—
  - (i) a statement of resource implications, and major policy changes, resulting from the proposed plan; and
  - (ii) any budget documents the board has prepared for the State's funding of the board.

(4) The board and the Minister must try to reach agreement on the draft plans as soon as possible and in any event not later than 1 month before the start of the financial year.

#### **44 Special procedures for draft strategic and operational plans**

(1) The Minister may return the draft strategic and operational plans to the board and ask it—

- (a) to consider, or further consider, anything and deal with the thing in the draft plans; and
- (b) to revise the draft plans in the light of its consideration or further consideration.

(2) The board must comply with the request as a matter of urgency but subsection (1) does not require the board to amend the draft plans.

(3) If the draft plans have not been agreed to by the Minister by 1 month before the start of the financial year, the Minister may, by written notice, direct the board—

- (a) to take specified steps in relation to the draft plans or either of them; or
- (b) to make specified modifications of the draft plans or either of them.

(4) The board must immediately comply with the direction and include a copy of the direction in the plans, or the plan concerned.

(5) The Minister may act under subsection (1) or (3) for a thing having resource implications for the board that are likely to require additional funding by the State only if the Minister has consulted with the Treasurer about the implications.

**45 Strategic and operational plans on agreement**

(1) When the draft strategic and operational plans have been agreed to in writing by the Minister, they become the board's strategic and operational plans for the relevant financial year.

(2) However, the Minister must not agree to the plans for subsection (1) until Parliament appropriates amounts for the department for the relevant financial year.

**46 Strategic and operational plans pending agreement**

(1) This section applies if the Minister and the board have not agreed to draft strategic and operational plans before the start of the relevant financial year.

(2) The draft plans submitted, or last submitted, by the board to the Minister before the start of the financial year, with any modifications made by the board, whether before or after that time, at the direction of the Minister, are taken to be the board's strategic and operational plans.

(3) Subsection (2) applies until draft strategic and operational plans become the board's strategic and operational plans under section 45.

**47 Modifications of strategic and operational plans**

(1) The board may modify its strategic or operational plan only with the written agreement of the Minister.

(2) The Minister may, by written notice, direct the board to modify its strategic or operational plan.

(3) The Minister may act under subsection (1) or (2) for a modification having resource implications for the board that are likely to require additional funding by the State only if the Minister has consulted with the Treasurer about the modification.

**48 State's agreed triennial funding**

The board's strategic plan must include the State's agreed funding proposals for the board for the period covered by the plan or, if the period is more than 3 years, the first 3 years.

**49 Elements of operational plans**

The board's operational plan must include the following—

- (a) targets for, and ways of measuring, outputs the board intends to supply;
- (b) identification of the outputs that are not in the board's commercial interests to supply;
- (c) identification of the outputs intended to be funded by amounts appropriated by Parliament for the department, or by other grants to the board;
- (d) identification of any outputs intended to be funded from the board's commercial and fundraising activities;
- (e) an outline of the nature and scope of activities, including commercial and fundraising activities, the board proposes to undertake;
- (f) an outline of the major investments and borrowings the board intends to make;
- (g) an outline of the board's risk management policies and procedures;
- (h) an outline of the main undertakings proposed by the board.

**50 Information systems and physical assets strategic plans**

The board's information systems and physical assets strategic plans under the standard must be included in the board's strategic plan.

**PART 4—ACCOUNTABILITY MATTERS****51 Board to keep Minister informed**

(1) The board must—

- (a) keep the Minister reasonably informed of the board's operations including its financial and operational performance and the achievement of its goals; and

- (b) give to the Minister reports and information that the Minister requires to enable the Minister to make informed assessments of matters mentioned in paragraph (a); and
- (c) if matters arise that in the board's opinion may prevent, or significantly affect, achievement of its goals under its strategic plan or significantly affect its performance in delivering the outputs under its operational plan—immediately inform the Minister of the matters and its opinion about them.

(2) Subsection (1) does not limit the matters of which the board is required to keep the Minister informed, or limit the reports or information that the board is required, or may be required, to give to the Minister, by another Act.

## **52 Monitoring and assessment of board**

(1) The Minister may ask an appropriately qualified officer of the department or another appropriately qualified person to investigate, and report to the Minister on, any matter relating to the board.

(2) The person may give written directions to the board for the investigation.

(3) Without limiting subsection (2), the person may direct the board—

- (a) to give to the person any information about the board that the person considers necessary or desirable in connection with the investigation; and
- (b) to permit other persons authorised by the person to have access to specified records and other documents about the board that the person considers necessary or desirable in connection with the investigation; and
- (c) to take steps the person considers necessary or desirable for the investigation.

(4) The board must ensure that any direction given to it under this section is complied with.

(5) Before reporting on the investigation to the Minister, the person must consult with the board about the report.

## PART 5—REPORTING

### 53 Annual report

The board's annual report under the *Financial Administration and Audit Act 1977* must include—

- (a) a summary of the operational plan for the relevant financial year; and
- (b) a summary of any modifications of the operational plan during the relevant financial year; and
- (c) particulars of any directions given to the board by the Minister that relate to the relevant financial year; and
- (d) particulars of the impact on the financial position of the board of any modifications of the operational plan, and any directions given to the board by the Minister, that relate to the relevant financial year.

## PART 6—MISCELLANEOUS

### 54 Delegation by Minister

(1) The Minister may delegate the Minister's powers under this Act to an appropriately qualified officer of the department.

(2) However, the Minister may not delegate any of the following powers—

- (a) the power to give the board a function for section 19(1)(h);<sup>1</sup>
- (b) the power to direct the board under sections 22, 44(3) and 47(2);<sup>2</sup>
- (c) the power to agree in writing to, and agree in writing to modifications of, the board's strategic and operational plans;

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1 Section 19 (Functions)

2 Sections 22 (Directions by Minister), 44 (Special procedures for draft strategic and operational plans) and 47 (Modifications of strategic and operational plans)

- (d) the power to ask a person to investigate and report under section 52(1).<sup>3</sup>

## **55 Protection from liability of members**

(1) A member is not civilly liable for an act done, or omission made, honestly and without negligence under this Act.

(2) If subsection (1) prevents a civil liability attaching to a member, the liability attaches instead to the board.

(3) This section is subject to section 56.

## **56 Illegal borrowing**

(1) Subsection (2) applies if the board borrows an amount that it is not authorised to borrow under an Act.

(2) The members who consented to the borrowing are jointly and severally liable to repay the amount, and any interest on it, to the person from whom it was borrowed and the person may recover the amount and interest by action as for a debt in a court of competent jurisdiction.

(3) Subsection (4) applies if an amount is appropriated from the board's moneys to repay an amount mentioned in subsection (1) or interest on the amount.

(4) The members who consented to the appropriation are jointly and severally liable to refund the amount, together with interest on the amount at a rate decided by the Treasurer, and the Treasurer may recover the amount and interest by action as for a debt in a court of competent jurisdiction.

(5) If the Treasurer brings an action under subsection (4)—

- (a) the Treasurer is entitled to costs as between solicitor and client; and
- (b) any amount recovered must be paid to the board.

(6) Subsection (2) does not apply to a member if, at the time the member consented to the borrowing, the member believed on grounds that were reasonable in all the circumstances that the board was authorised under an Act to borrow the amount.

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3 Section 52 (Monitoring and assessment of board)

(7) Subsection (4) does not apply to a member if—

- (a) subsection (2) does not apply to the member because of subsection (6); or
- (b) the member did not consent to the borrowing.

## **57 Application of certain Acts**

(1) The board is a statutory body under the *Financial Administration and Audit Act 1977* and the *Statutory Bodies Financial Arrangements Act 1982*.

(2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B, sets out the way in which the board's powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

## **58 Application of rule against perpetuities**

For the application of the rule against perpetuities to gifts to the board, the board's purposes are taken to be charitable.

## **59 Exemption from stamp duty**

Stamp duty is not payable for the transfer of any property to the board.

## **60 Art gallery etc. taken to be public place**

(1) This section applies for any Act conferring or imposing on a police officer powers or functions in respect of a public place or providing for offences committed in a public place.

(2) A building or another place consisting of the art gallery or a branch of the art gallery is taken to be a public place.

(3) Subsection (2) must not be construed to prevent or limit the imposition by the board of conditions of entry for the building or other place.

## **61 Board's seal**

(1) The board's seal is to be kept in the custody directed by the board and may be used only as authorised by the board.

(2) The attaching of the seal to a document must be witnessed by—

- (a) 2 or more members; or
- (b) at least 1 member and the director; or
- (c) a member or the director, and 1 or more other persons authorised by the board.

## **62 Authentication of documents**

A document made by the board (other than a document required by law to be sealed) is sufficiently authenticated if it is signed by—

- (a) the chairperson; or
- (b) the director; or
- (c) a person authorised to sign the document by—
  - (i) resolution of the board; or
  - (ii) direction of the director.

## **63 Reward for information**

(1) The board may offer and pay a reward to a person who gives the board information about an offence it believes or suspects is committed in relation to its property or property in its possession.

(2) If a court finds a person guilty of the offence and the board has paid, or agreed to pay, the reward for information about the offence, the court may order the person to pay to the board the amount of the reward.

(3) The amount is a debt owing by the person to the board.

(4) Subsection (2)—

- (a) applies whether or not a conviction is recorded; and
- (b) does not limit the court's jurisdiction to impose a penalty or make another order for the offence.

## **64 Proceedings for offences**

A proceeding for an offence under this Act may be instituted summarily under the *Justices Act 1886*.

### **65 Description of property in proceeding**

In any proceeding taken for an offence committed in relation to property, or property in the possession, of the board and in which it is material to prove ownership of the property, it is enough to allege the board owns the property.

### **66 Regulation-making power**

The Governor in Council may make regulations under this Act.

### **67 References to trustees of Queensland Art Gallery**

In an Act or document, a reference to the trustees of the Queensland Art Gallery may, if the context permits, be taken to be a reference to the board.

### **68 References to Queensland Art Gallery Act 1959**

In an Act or document, a reference to the *Queensland Art Gallery Act 1959* may, if the context permits, be taken to be a reference to this Act.

## **PART 7—SAVING AND TRANSITIONAL**

### **69 Certain members continue in office**

(1) A person who, immediately before the commencement of this section, was a trustee under section 8(a) or (c) of this Act as in force at that time (the “**pre-amended Act**”) continues in office, subject to this Act, as a member.

(2) If the person who was a trustee under section 8(a) of the pre-amended Act was the chief executive, the person continues in office until 5 years after the commencement of this section, or the person stops holding the office of chief executive, whichever happens first.

(3) If the person who was a trustee under section 8(a) of the pre-amended Act was the chief executive’s nominee—

- (a) the chief executive may withdraw the person’s nomination at any time; and

- (b) the person continues in office until 5 years after the commencement of this section, or the person's nomination is withdrawn, whichever happens first.

(4) A trustee appointed under section 8(c) of the pre-amended Act continues in office in terms of the trustee's appointment.

(5) On the commencement of this section, a person who was a trustee under section 8(b) of the pre-amended Act does not continue in office as a member.

(6) The trustee who immediately before the commencement of this section was the chairperson or deputy chairperson under the pre-amended Act continues in that office in terms of the trustee's appointment.

## **70 Director continues in office**

The person who, immediately before the commencement of this section, was the director under this Act continues in office in terms of the person's appointment as director.

## **71 Expiry of pt 7**

This part expires 5 years after this section commences.

## ENDNOTES

### **1 Index to endnotes**

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2 Date to which amendments incorporated . . . . .	31
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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 31 July 2001. Future amendments of the Queensland Art Gallery Act 1987 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	prev	= previous
amd	= amended	(prev)	= previously
amdt	= amendment	proc	= proclamation
ch	= chapter	prov	= provision
def	= definition	pt	= part
div	= division	pubd	= published
exp	= expires/expired	R[X]	= Reprint No.[X]
gaz	= gazette	RA	= Reprints Act 1992
hdg	= heading	reloc	= relocated
ins	= inserted	renum	= renumbered
lap	= lapsed	rep	= repealed
notfd	= notified	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 1992
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered

### 4 Table of earlier reprints

#### TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 52 of 1988	1 November 1994
2	to Act No. 58 of 1995	14 December 1995
2A	to Act No. 54 of 1996	28 November 1996
2B	to Act No. 17 of 1997	13 October 1997
3	to Act No. 79 of 1997	1 May 1998

### 5 Tables in earlier reprints

#### TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed citations and remade laws	1
Changed names and titles	1
Obsolete and redundant provisions	1
Renumbered provisions	1, 3

## **6 List of legislation**

### **Queensland Art Gallery Act 1987 No. 40**

date of assent 30 April 1987

ss 1–2 commenced on date of assent (see s 2(1))

remaining provisions commenced 16 May 1987 (proc pubd gaz 9 May 1987 p 398)

as amended by—

### **Public Service Management and Employment Act 1988 No. 52 s 44 sch 3**

date of assent 12 May 1988

commenced 18 July 1988 (proc pubd gaz 16 July 1988 p 2876)

### **Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1**

date of assent 28 November 1995

commenced on date of assent

### **Public Service Act 1996 No. 37 ss 1–2, 147 sch 2**

date of assent 22 October 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 1996 (1996 SL No. 361)

### **Statutory Bodies Financial Arrangements Amendment Act 1996 No. 54 ss 1–2, 9 sch**

date of assent 20 November 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 1 June 1997 (1997 SL No. 128)

### **Miscellaneous Acts (Non-bank Financial Institutions) Amendment Act 1997 No. 17 ss 1–2, 74 sch**

date of assent 15 May 1997

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1997 (1997 SL No. 163)

### **Arts Legislation Amendment Act 1997 No. 79 pts 1, 3 sch 2**

date of assent 5 December 1997

ss 1–2 commenced on date of assent

s 39 commenced 1 May 1998 (1998 SL No. 92)

remaining provisions commenced 19 December 1997 (1997 SL No. 447)

### **Corporations (Ancillary Provisions) Act 2001 No. 45 ss 1–2, 29 sch 3**

date of assent 28 June 2001

ss 1–2 commenced on date of assent

sch 3 commenced 15 July 2001 (see s 2(2) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)

remaining provision commenced immediately before 15 July 2001 (see s 2(1) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)

## 7 List of annotations

This reprint has been renumbered—see table of renumbered provisions in endnote 8.

**Title** amd R1 (see RA ss 7(1)(k) and 40)

### **Definitions**

**s 2** prev s 2 om R2 (see RA s 37)  
pres s 2 ins 1997 No. 79 s 27

### **Board of trustees**

**s 3** prev s 3 om R1 (see RA s 36)  
pres s 3 amd 1995 No. 58 s 4 sch 1  
sub 1997 No. 79 s 28

### **Legal status of board**

**s 4** prev s 4 om R1 (see RA s 40)  
pres s 4 amd 1995 No. 58 s 4 sch 1  
sub 1997 No. 79 s 28

### **Board's relationship with State**

**prov hdg** prev s 5 prov hdg sub 1995 No. 58 s 4 sch 1  
**s 5** prev s 5 om 1997 No. 79 s 27  
def “**departmental head**” amd 1988 No. 52 s 44 sch 3  
om R1 (see RA s 39)  
def “**financial year**” om R1 (see RA s 39)  
def “**Minister**” om R1 (see RA s 39)  
pres 5 amd 1995 No. 58 s 4 sch 1  
sub 1997 No. 79 s 28

### **Composition of board**

**s 6** sub 1995 No. 58 s 4 sch 1; 1997 No. 79 s 28

### **Role of members**

**s 7** prev s 7 om 1995 No. 58 s 4 sch 1  
pres s 7 ins 1997 No. 79 s 28

### **Eligibility for appointment**

**s 8** sub 1997 No. 79 s 28  
amd 2001 No. 45 s 29 sch 3

### **Chairperson and deputy chairperson of board**

**s 9** sub 1997 No. 79 s 28

### **Duration of appointment**

**s 10** sub 1997 No. 79 s 28

### **Conditions of appointment**

**s 11** amd 1995 No. 58 s 4 sch 1  
sub 1997 No. 79 s 28

### **Division 2—Director and staff**

**div hdg** ins 1997 No. 79 s 26 sch 2

**Director and other officers**

- s 12**      amd 1988 No. 52 s 44 sch 3; R1 (see RA s 38)  
               sub 1995 No. 58 s 4 sch 1  
               amd 1996 Act No. 37 s 147 sch 2; 1997 No. 79 s 29

**Employees**

- s 13**      ins 1995 No. 58 s 4 sch 1  
               amd 1996 Act No. 37 s 147 sch 2

**Duties of director**

- s 14**      sub 1997 No. 79 s 30

**Director to attend board meetings**

- s 15**      prev s 15 amd 1995 No. 58 s 4 sch 1  
               om 1997 No. 79 s 28  
               pres s 15 ins 1997 No. 79 s 30

**Things done by director**

- s 16**      prev s 16 om 1996 Act No. 37 s 147 sch 2  
               pres s 16 ins 1997 No. 79 s 30

**Delegation by director**

- s 17**      prev s 17 amd 1995 No. 58 s 4 sch 1  
               om 1997 No. 79 s 28  
               pres s 17 ins 1997 No. 79 s 30

**Superannuation schemes**

- s 18**      ins 1997 No. 79 s 30

**Division 3—Functions**

- div hdg**    sub 1997 No. 79 s 26 sch 2

**Functions**

- s 19**      amd 1997 No. 79 s 31

**Division 4—Legal capacity and powers**

- div hdg**    ins 1997 No. 79 s 32

**Objects of division**

- s 20**      amd 1995 No. 58 s 4 sch 1  
               sub 1997 No. 79 s 32

**General powers**

- s 21**      ins 1997 No. 79 s 32

**Directions by Minister**

- s 22**      ins 1997 No. 79 s 32

**Restrictions on powers of board**

- s 23**      ins 1997 No. 79 s 32

**Persons have dealings with board etc.**

- s 24**      ins 1997 No. 79 s 32

**Branches**

- s 25**      sub 1997 No. 79 s 32

**Disposal of works of art accepted by the board**

s 26 sub 1997 No. 79 s 32

**Use of proceeds from sale of other works of art**

s 27 sub 1997 No. 79 s 32

**Disposal of certain abandoned property**s 28 amd 1995 No. 58 s 4 sch 1  
sub 1997 No. 79 s 32**Board must give notice of public auction**

s 29 sub 1997 No. 79 s 32

**Effect of sale or other disposal of certain works of art or other property**

s 30 ins 1997 No. 79 s 32

**Conduct of business**

s 31 amd 1997 No. 79 s 33

**Presiding at meetings**

s 32 ins 1997 No. 79 s 34

**Quorum**

s 33 amd 1995 No. 58 s 4 sch 1; 1997 No. 79 s 26 sch 2

**Meetings**

s 34 sub 1997 No. 79 s 35

**Resolutions without meetings**s 35 prev s 35 om 1995 No. 58 s 4 sch 1  
pres s 35 ins 1997 No. 79 s 35**Minutes**

s 36 sub 1997 No. 79 s 35

**Conduct of affairs**

s 37 amd 1995 No. 58 s 4 sch 1; 1997 No. 79 s 26 sch 2

**Disclosure of interests by members**

s 38 sub 1997 No. 79 s 36

**Voting by interested member**

s 39 sub 1997 No. 79 s 36

**Delegation by board**

s 40 sub 1995 No. 58 s 4 sch 1; 1997 No. 79 s 36

**PART 3—PLANNING**

pt hdg sub 1997 No. 79 s 37

**Division 1—Preliminary**

div hdg ins 1997 No. 79 s 37

**How pt 3 applies if offices of Minister and Treasurer are held by the 1 person**s 41 amd 1997 No. 17 s 74 sch  
sub 1997 No. 79 s 37

**Part additional to standard**

**s 42**            amd 1995 No. 58 s 4 sch 1  
                   sub 1997 No. 79 s 37

**Division 2—Strategic and operational plans for board**

**div hdg**        ins 1997 No. 79 s 37

**Draft strategic and operational plans**

**s 43**            sub 1997 No. 79 s 37

**Special procedures for draft strategic and operational plans**

**s 44**            sub 1997 No. 79 s 37

**Strategic and operational plans on agreement**

**s 45**            sub 1995 No. 58 s 4 sch 1  
                   amd 1996 No. 54 s 9 sch  
                   sub 1997 No. 79 s 37

**Strategic and operational plans pending agreement**

**s 46**            prev s 46 om 1995 No. 58 s 4 sch 1  
                   pres s 46 ins 1997 No. 79 s 37

**Modifications of strategic and operational plans**

**s 47**            amd 1995 No. 58 s 4 sch 1  
                   sub 1997 No. 79 s 37

**State's agreed triennial funding**

**s 48**            sub 1997 No. 79 s 37

**Elements of operational plans**

**s 49**            sub 1997 No. 79 s 37

**Information systems and physical assets strategic plans**

**prov hdg**      orig s 50 prov hdg sub 1995 No. 58 s 4 sch 1  
**s 50**            orig s 50 amd 1995 No. 58 s 4 sch 1  
                   om 1997 No. 79 s 39  
                   prev s 50 om 1995 No. 58 s 4 sch 1  
                   pres s 50 ins 1997 No. 79 s 37

**PART 4—ACCOUNTABILITY MATTERS**

**pt hdg**        ins 1997 No. 79 s 37

**Board to keep Minister informed**

**s 51**            ins 1997 No. 79 s 37

**Monitoring and assessment of board**

**s 52**            ins 1997 No. 79 s 37

**PART 5—REPORTING**

**pt hdg**        ins 1997 No. 79 s 37

**Annual report**

**s 53**            ins 1997 No. 79 s 37

**Delegation by Minister**

**s 54**            sub 1997 No. 79 s 38

**Protection from liability of members**

s 55 sub 1997 No. 79 s 38

**Illegal borrowing**s 56 prev s 56 ins 1997 No. 79 s 40  
om R3 (see RA s 37)  
pres s 56 sub 1997 No. 79 s 38**Application of certain Acts**

s 57 sub 1997 No. 79 s 38

**Application of rule against perpetuities**

s 58 ins 1997 No. 79 s 38

**Exemption from stamp duty**

s 59 ins 1997 No. 79 s 38

**Art gallery etc. taken to be public place**

s 60 ins 1997 No. 79 s 38

**Board's seal**

s 61 ins 1997 No. 79 s 38

**Authentication of documents**

s 62 ins 1997 No. 79 s 38

**Reward for information**

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**Proceedings for offences**

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s 65 ins 1997 No. 79 s 38

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s 66 ins 1995 No. 58 s 4 sch 1

**References to trustees of Queensland Art Gallery**

s 67 ins 1995 No. 58 s 4 sch 1

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s 68 ins 1995 No. 58 s 4 sch 1

**PART 7—SAVING AND TRANSITIONAL**pt hdg ins 1997 No. 79 s 40  
exp 19 December 2002 (see s 71)**Certain members continue in office**s 69 ins 1997 No. 79 s 40  
exp 19 December 2002 (see s 71)**Director continues in office**s 70 ins 1997 No. 79 s 40  
exp 19 December 2002 (see s 71)

**Expiry of pt 7**

**s 71** ins 1997 No. 79 s 40  
exp 19 December 2002 (see s 71)

**SCHEDULE**

om R1 (see RA s 40)

**8 Table of renumbered provisions**

## TABLE OF RENUMBERED PROVISIONS [Reprint No. 3]

under the Reprints Act 1992 s 43 as required by the Queensland Art Gallery Act 1987 s 56

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18A.....	13
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19A.....	15
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19C.....	17
19D.....	18
div 2 hdg.....	div 3 hdg
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26.....	29
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div 3 hdg.....	div 5 hdg
27.....	31

*Queensland Art Gallery Act 1987*

Previous	Renumbered as
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28	.33
29	.34
29A	.35
30	.36
31	.37
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33	.39
34	.40
36	.41
37	.42
38	.43
39	.44
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41	.46
42	.47
43	.48
44	.49
45	.50
pt 3A hdg	.pt 4 hdg
45A	.51
45B	.52
pt 3B hdg	.pt 5 hdg
45C	.53
pt 4 hdg	.pt 6 hdg
46	.54
47	.55
48	.56
49	.57
49A	.58
49B	.59
49C	.60
49D	.61
49E	.62
49F	.63
49G	.64
49H	.65
51	.66
52	.67
53	.68
pt 5 hdg	.pt 7 hdg
54	.69
55	.70
57	.71

