

Queensland



LIBRARIES AND ARCHIVES ACT 1988

**Reprinted as in force on 27 January 1998
(includes amendments up to Act No. 79 of 1997)**

Reprint No. 2

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the Office of the Queensland Parliamentary Counsel
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Information about this reprint

This Act is reprinted as at 27 January 1998. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

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—

- omit provisions that are no longer required (s 37)
- number and renumber provisions and references (s 43).

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 the reprint, including table of renumbered provisions**
- **editorial changes made in earlier reprints.**

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LIBRARIES AND ARCHIVES ACT 1988

[as amended by all amendments that commenced on or before 27 January 1998]

An Act to provide for the State library of Queensland and the Queensland State archives and to promote libraries and archives and preserve public records

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Libraries and Archives Act 1988*.

Interpretation

2.(1) 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 level in an entity.

“**board**” means the Library Board of Queensland.

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

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

“**library material**” means a document or other material in the possession or control of the board.

“**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.

“Parliamentary library” means the library maintained for the use of Members of the Legislative Assembly at Parliament House, Brisbane.

“premises”, of the board, means any land or buildings vested in or placed under the control of the board that are open to the public, and includes the State Library and any branch of the State Library.

“public authority” means an office, department, sub-department, board, commission, institution or instrumentality of the State and includes—

- (a) a court established by or under any Act;
- (b) a commission within the meaning of that term in the *Commissions of Inquiry Act 1950*;
- (c) a local government;
- (d) a statutory body within the meaning of that term in the *Statutory Bodies Financial Arrangements Act 1982*.

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

“State librarian” means the State librarian appointed under section 13.

“State Library” means the public library formerly known as the Public Library of Queensland.

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

(2) In this Act—

“public records” means the documentary, photographic, electronic, mechanical or other records of a public authority, and includes—

- (a) records brought into existence by a public authority as records for future reference;
- (b) a matter or thing kept by a public authority as a records of its activities or consequent upon a function, power or duty to keep records;
- (c) public records of one public authority held by another public authority.

(3) For the purposes of this Act, a public record in existence at the

commencement of this Act, or that comes into existence after the commencement of this Act shall, while it exists, remain a public record until, other than by means of a disposal carried out in contravention of section 61, it—

- (a) ceases to be the property of any public authority; and
- (b) ceases to be in the possession of any public authority.

(4) A public record disposed of in contravention of section 61, while the record exists, shall remain a public record for the purposes of this Act notwithstanding the disposal.

(5) For the purposes of this Act, a person is in possession of a thing if the person has it under control in any place whatever, whether for the person's use or benefit or of another person and although another person has the actual possession of the thing.

(6) A reference in this Act to a conviction for an offence includes a reference to a determination of guilt by a court for an offence whether or not the offender is dealt with for committing the offence by means of a sentence or order that is a conviction for any other purpose.

Act binds all persons

3. This Act binds all persons, including the State.

PART 2—THE LIBRARY BOARD

Division 1—Constitution and membership

Board

4. The entity called the Library Board of Queensland continues in existence.

Legal status of board**5.** 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.

Board's relationship with State**6.** The board represents the State.**Composition of board**

7.(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*.

Role of members**8.** 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.

Eligibility for appointment

9. A person is not eligible for appointment as a member if the person is not able to manage a corporation because of the Corporations Law, section 229.¹

Chairperson and deputy chairperson of board

10.(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.

Duration of appointment

11.(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.

¹ Corporations Law, section 229 (Certain persons not to manage corporations)

Conditions of appointment

12.(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 or 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—State librarian and staff**State librarian and other officers**

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

(2) The State librarian 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*.

Duties of State librarian

14. The State librarian is, under the members, to manage the board.

State librarian to attend board meetings

15.(1) This section applies if the State librarian is not a member.

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

Things done by State librarian

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

Delegation by State librarian

17.(1) The State librarian may delegate the librarian's powers (including a power delegated to the librarian by the board) to an appropriately qualified employee of the board, or an appropriately qualified officer mentioned in section 13(3).

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

Employees

18.(1) The board may 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 employed under this Act, and not under the *Public Service Act 1996*.

Superannuation schemes

19. 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**Functions of board**

20.(1) The functions of the board are—

- (a) to promote the advancement and effective operation and coordination of public libraries of all descriptions throughout the State;

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- (b) to encourage and facilitate the use of public libraries of all descriptions throughout the State;
- (c) to promote mutual cooperation among persons and bodies in Queensland responsible for libraries and archives of all descriptions and between such persons and bodies in Queensland and outside Queensland in order to enhance library and archival collections generally and to encourage their proper use;
- (d) to control, maintain and manage the State library, to enhance, arrange and preserve the library, archival and other resources held by it and to exercise administrative control over access to the resources;
- (e) to control, manage and maintain all lands, premises and other property vested in or placed under the control of the board;
- (f) to supervise in their duties all persons appointed or employed under this Act;
- (g) to collect, arrange, preserve and provide access to a comprehensive collection of library, archival and other resources relating to Queensland or produced by Queensland authors;
- (h) to promote the making and preservation of the public records of Queensland, to exercise control over their retention and disposal, to provide facilities for their storage and use and provide administration in respect of stored public records;
- (i) to provide advice, advisory services and other assistance concerning matters connected with libraries to local governments or other public authorities;
- (j) to perform the functions given to the board under another Act;
- (k) 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 (j);
- (l) to perform functions of the type to which paragraph (k) applies and which are given to the board in writing by the Minister.

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

Division 4—Legal capacity and powers**Objects of division**

21. 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.

General powers

22.(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.

Directions by Minister

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

Restrictions on powers of board

24.(1) Section 22 has effect in relation to the board subject to any restrictions expressly imposed under this or another Act.

(2) Section 22 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; and
- (b) any relevant directions given to the board under section 23 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 State librarian; or
- (c) an officer mentioned in section 13(3); or

(d) an employee of the board.

“**restriction**” includes prohibition.

Persons having dealings with board etc.

25.(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

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- (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 State librarian; or
- (c) an officer mentioned in section 13(3); or
- (d) an employee of the board.

Branches

26.(1) The board may establish branches of the State Library.

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

Grants or subsidies to local government

27. The board may not make a grant or give a subsidy to a local government without the approval of the Minister.

Disposal of abandoned property

28.(1) This section applies if any property—

- (a) is found on any building or other place consisting of the State Library or a branch of the State Library; 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.

Board must give notice of public auction of property

29.(1) Before the board sells any property under section 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.

Effect of sale or other disposal of property

30.(1) This section applies to the sale or other disposal of property under section 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**Conduct of business**

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

Quorum

32.(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 may perform the functions and exercise the powers of the board.

Presiding at meetings

33.(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.

Meetings

34.(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.

Resolutions without meeting

35.(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.

Minutes

36. The board must keep minutes of its proceedings.

Conduct of affairs

37.(1) The board shall perform a function or exercise a power by the majority vote of its members present at a 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.

Disclosure of interests by members

38.(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.

Voting by interested member

39.(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.

Delegation by board

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

- (a) a member; or
- (b) a committee of members; or
- (c) the State librarian; or
- (d) an appropriately qualified officer mentioned in section 13(3) or an appropriately qualified employee of the board.

PART 3—PLANNING

Division 1—Preliminary

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

41.(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.

Part additional to standard

42.(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

Draft strategic and operational plans

43.(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 format 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.

Special procedures for draft strategic and operational plans

44.(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 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.

Strategic and operational plans on agreement

45.(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 may not agree to the plans for subsection (1) until Parliament appropriates amounts for the department for the relevant financial year.

Strategic and operational plans pending agreement

46.(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.

Modifications of strategic and operational plans

47.(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.

State's agreed triennial funding

48. 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.

Elements of operational plans

49. 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.

Information systems and physical assets strategic plans

50. 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

Board to keep Minister informed

51.(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.

Monitoring and assessment of board

52.(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**Annual report**

53. 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—LOCAL GOVERNMENTS

Library facilities a function of local government

54. A local government may establish, maintain and conduct a library facility as a function of local government and the provisions of the *Local Government Act 1994*, the *City of Brisbane Act 1924* and any other Act or law shall apply and have effect accordingly.

Library committees

55.(1) It shall be competent to—

- (a) a local government or a joint local government that establishes, maintains and conducts a library facility; and
- (b) a local government that has entered into an agreement with another local government for the joint use or benefit of a library facility;

to appoint a library committee consisting of persons who are members of the local government, or the joint local government as the case may be, and such other persons as it thinks fit.

(2) A library committee so appointed shall maintain and conduct the library facility subject to the local government or joint local government that appoints it and shall discharge such functions, exercise such powers and perform such duties on behalf of the local government or joint local government as the local government or joint local government (which is hereby authorised so to do) by resolution directs they should.

(3) The power of a local government to make local laws under the *Local Government Act 1994*, and the power of Brisbane City Council under the *City of Brisbane Act 1924* to make local laws includes the power to make all such local laws in respect of a library committee appointed under this Act, as may be necessary or desirable including for or with respect to—

- (a) the powers, function and duties of the library committee; and
- (b) the terms and conditions of appointment of members of the library committee and the conduct of its business; and
- (c) the control, management and conduct of the library facility.

PART 7—PUBLIC RECORDS

Queensland State archives

56.(1) There shall continue to be an office in Queensland to be known as the Queensland State Archives the functions of which are to promote the making and preservation of the public records of Queensland, to exercise control over their retention and disposal, to provide facilities for their storage and use and to provide administration in respect of anything stored by it.

- (2) The State archives is part of the State library.

State archivist

57.(1) The Governor in Council may from time to time appoint for the purposes of this Act a person to be State archivist.

(2) However, the person appointed under, and holding office subject to, the *Public Service Management and Employment Act 1988* as State archivist immediately before the commencement of this Act, shall upon that commencement, be deemed to be appointed State archivist for the purposes of this Act.

- (3) The State archivist—

- (a) is to employed under the *Public Service Act 1996*; and

- (b) subject to directions from the Minister, the board and the State librarian, shall manage the State archives and supervise the discharge of its functions.

Making, preservation and custody of public records

58.(1) A public authority shall—

- (a) cause complete and accurate records of the activities of the public authority to be made and preserved;
- (b) take all reasonable steps to implement recommendations of the State archivist applicable to the public authority concerning the making and preservation of public records.

(2) The duty imposed by subsection (1)—

- (a) in the case of a public authority that is a corporate person, is imposed on the public authority and the chief officer thereof;
- (b) in the case of a public authority that is not a corporate person, is imposed on the chief officer of the public authority.

(3) A person who fails to perform a duty imposed upon the person by this section commits an offence against this Act.

Maximum penalty—20 penalty units.

(4) The chief officer of a public authority shall have the custody of the public records of the public authority.

Inspection of public records

59.(1) For the purpose of ensuring that public records are being preserved, the State archivist or any person acting on the State archivist's behalf may—

- (a) enter and examine the premises of any public authority;
- (b) give directions to officers or employees of the public authority for the purpose of gaining practical access to public records held thereon;
- (c) inspect any public records found by the State archivist thereon or to which the State archivist is given access consequent upon

directions given under paragraph (b).

(2) A person who, without reasonable excuse, obstructs the State archivist or person acting on the State archivist's behalf in the exercise of the power conferred by subsection (1)(a) or (c) or who, without reasonable excuse, fails to comply with directions given to the person under subsection (1)(b) commits an offence against this Act.

Maximum penalty—100 penalty units.

Public records may be deposited with the State archives

60. A person in possession of public records may deposit them with the State archives with the consent of the State archivist and—

- (a) in the case of records of the courts or the commission to which reference is made in the schedule, column 1—with the consent of the person named in the schedule, column 2, opposite the reference;
- (b) in the case of records of any court other than those referred to in the schedule, column 1, and in the case of a commission as defined by the *Commission of Inquiry Act 1950*, section 3—with the consent of the chief executive of the department that deals with matters arising under that Act.

Public records protected

61.(1) A person shall not dispose of public records other than by depositing them with the State archives—

- (a) unless—
 - (i) the State archivist has authorised the disposal; or
 - (ii) notice in writing of the person's intention to do so has been given by the person or on his or her behalf to the State archivist and—
 - (A) a period of at least 2 months has elapsed since the giving of the notice; and
 - (B) the State archivist has not exercised the power under subsection (2) to take possession of the public records

or direct that they be deposited with the State archives;
and

- (b) unless, in the case of public records to which subsections (7) and (8) apply, the period prescribed therein has expired.

(2) A person who disposes of public records in contravention of this section commits an offence against this Act.

Maximum penalty—100 penalty units.

(3) On receipt of a notice referred to in subsection (1)(a), the State archivist or a person acting on the State archivist's behalf may—

- (a) enter and examine any place wherein the public records are held and—
 - (i) give directions for the purpose of gaining practical access to the public records to any person the State archivist finds there;
 - (ii) inspect the public records;
 - (iii) take possession of the public records or such of them as in the State archivist's opinion should be preserved in the State archives;
- (b) by notice in writing given to the person in possession of the public records, direct the person to deposit them with the State archives in accordance with directions stated in the notice;
- (c) if the State archivist thinks fit, authorise the disposal of the public records.

(4) A person who, without reasonable excuse, obstructs the State archivist or person acting on the State archivist's behalf in the exercise of the powers conferred upon the State archivist by subsection (3) or who, without reasonable excuse, fails to comply with directions given to the person under subsection (3)(a) or (b), shall commit an offence against this Act.

Maximum penalty—20 penalty units.

(5) Subject to this Act, it shall be competent to the State archivist or a person acting on the State archivist's behalf to authorise the disposal of public records subject to such conditions as the State archivist thinks fit.

(6) A person who disposes of public records in contravention of a condition imposed in respect of the disposal by the State archivist or a person acting on the State archivist's behalf shall be deemed to have disposed of them in contravention of this section.

(7) Public records of a court or the commission specified in the schedule, column 1, shall not be disposed of within a period of 15 years since the date of last dealing unless the person referred to in column 2 opposite the reference to the court or commission (who is hereby authorised to make such an order) makes an order enlarging or reducing that period to a period specified by the person, whereupon the period prescribed by this subsection within which the public records shall not be disposed of shall be deemed to be the period so specified.

(8) Public records of a court other than a court specified in the schedule, column 1, or a commission of inquiry as defined in the *Commissions of Inquiry Act 1950*, section 3, shall not be disposed of within a period of 5 years since the date of last dealing unless the chief executive of the department that deals with matters arising under that Act (who is hereby authorised to make such an order) makes an order enlarging or reducing that period to a period specified by the chief executive, whereupon the period prescribed by this subsection as the period within which the public records shall not be disposed of shall be deemed to be the period so specified.

(9) Where a person is convicted of the offence of failing to comply with directions given under subsection (3)(b) because the person failed to deliver public records to the State archives, the court before which the proceedings for the offence are heard in addition to any penalty it may impose or order it may make shall order the defendant to deposit the public records with the State archives, if the person has not already done so, in accordance with such directions as it thinks fit and states in the order.

(10) A person who fails to comply with directions given to the person by order of a court under subsection (9)—

- (a) commits an offence against this Act and shall be liable to a penalty not exceeding 20 penalty units; and
- (b) commits a continuing offence against this Act for each day after the date upon which the person is convicted of that offence during which the failure to comply with the directions continues and

shall be liable to a penalty not exceeding 1 penalty unit for each day during which the failure continues.

(11) For the purposes of this section, a person disposes of public records if the person sells or otherwise transfers, or destroys, abandons or otherwise does away with, public records.

(12) A person shall not be taken to dispose of public records for the purposes of this section if—

- (a) the disposal is undertaken in the course of the transfer of a function, power or duty from one public authority to another; and
- (b) the disposal consists of the transferral of the public records from the public authority from which the function, power or duty is transferred to the public authority to which the function, power or duty is transferred; and
- (c) the public records are necessary for the discharge of the function, the exercise of the power or the performance of the duty transferred.

Recovery of public records improperly held

62.(1) If the State archivist has reason to believe that public records are in the possession of a person otherwise than in the person's official capacity as an officer or agent of a public authority, the State archivist, or a person acting on the State archivist's behalf, by notice in writing, may direct the person to deposit the public records with the State archives in accordance with such directions as the State archivist thinks fit and states in the notice.

(2) A person who, without reasonable excuse, fails to comply with directions given to the person under subsection (1) commits an offence against this Act.

Maximum penalty—100 penalty units.

(3) In proceedings in respect of an offence defined in subsection (2)—

- (a) a statement in the complaint that the records therein mentioned are in the possession of the defendant otherwise than in the defendant's official capacity as an officer or agent of a public authority shall be evidence, and in the absence of evidence to the contrary, conclusive evidence of that fact; and

- (b) the court before which the proceedings are heard, whether or not the defendant is convicted of the offence, if satisfied that the defendant is in possession of public records otherwise than in the defendant's official capacity as an officer or agent of a public authority, shall order the defendant to deposit the records with the State archives in accordance with such directions as the court thinks fit and states in the order.

(4) A person who fails to comply with directions given to the person by order of a court under subsection (3)(b)—

- (a) commits an offence against this Act and shall be liable to a penalty not exceeding 100 penalty units; and
- (b) commits a continuing offence against the Act for each day after the date upon which the person is convicted of that offence during which the failure to comply with the directions continues and shall be liable to a penalty not exceeding 1 penalty unit for each day during which the failure continues.

Public records over 30 years old

63.(1) Unless—

- (a) the public authority to which the public records belong, by notice in writing given to the State archivist, exempts them from deposit with the State archives; or
- (b) the State archivist exempts the public records from deposit with the State archives;

a person in possession of public records—

- (c) as soon as practicable after the expiration of a period of 30 years from the time they were brought into existence; or
- (d) if at the commencement of this Act, that period has expired, as soon as practicable after the commencement of this Act;

shall deposit them with the State archives, and in accordance with any directions given by the State archivist applicable to that deposit.

(2) A person who fails to comply with the provisions of this section commits an offence against this Act.

Maximum penalty—20 penalty units.

(3) Where a person is convicted of the offence of failing to comply with the provisions of this section because the person failed to deposit public records with the State archives, the court before which the proceedings for the offence are heard, in addition to any penalty it may impose or other order it may make, shall order the defendant to deposit the public records with the State archives, if the person has not already done so, in accordance with such directions as the court thinks fit and states in the order.

(4) A person who fails to comply with directions given to the person by order of a court under subsection (3)—

- (a) commits an offence against this Act and shall be liable to a penalty not exceeding 20 penalty units; and
- (b) commits a continuing offence against this Act for each day after the date upon which the person is convicted of that offence during which the failure to comply with the directions continues and shall be liable to a penalty not exceeding 1 penalty unit for each day during which the failure continues.

Chief officers

64. The Governor in Council by regulations may prescribe that references in this Act to the chief officer of a public authority, or any reference prescribed by the Governor in Council, in respect of a prescribed public authority or part thereof or class of public authority or in respect of prescribed activities or records of a public authority, is to mean or include the holder from time to time of a prescribed office and where the Governor in Council exercises this power, this Act shall operate and have effect accordingly.

Return of public records to public authority

65.(1) Subject to this section, where a public authority notifies the State archivist that public records appertaining to the public authority deposited by the public authority with the State archives or that have been recovered under section 62 are required for use by the public authority, the State archivist, if the public records are in the possession of the State archives, shall deliver them to the public authority.

(2) The State archivist shall determine the manner of notification and delivery.

(3) The State archivist shall not return public records to a public authority under subsection (1) if a period of 30 years has expired since they were brought into existence unless the State archivist is satisfied that it is necessary for the proper conduct of the business of the public authority that the public records be delivered to the public authority.

Special protection for public records over 30 years old

66.(1) A person shall not add to or alter public records that have been in existence for 30 years except as required by law or in accordance with directions given by the State archivist.

(2) A person who contravenes this section commits an offence against this Act.

Maximum penalty—20 penalty units.

Secrecy

67.(1) Subject to subsection (2), where under any Act or under any proclamation, order in council, regulation, rule, or local law made under any Act, it is an offence for an officer of a public authority other than the State archives to give access to a public record, or to make a disclosure of information contained in a public record, in the possession of the public authority, because of the confidential nature of the information contained therein—

- (a) if the public record is deposited with the State archives—it shall be an offence against this Act for any person who is a member of the staff of the State archives or who is concerned in the administration of this Act to give that access or to make that disclosure except to the extent necessary to the performance of the person's official duties or in compliance with a duty imposed by law or in accordance with an authorisation under the regulations;
- (b) if the public record is inspected pursuant to section 59—it shall be an offence against this Act for any person who inspected the record, or for any person concerned in the administration of this

Act, to make that disclosure except to the extent essential to the carrying out of the person's official duties or in compliance with a duty imposed by law or in accordance with an authorisation under the regulations.

Maximum penalty—10 penalty units.

(2) It shall be a defence to a charge under this section for the defendant to prove that the defendant did not have knowledge or that the defendant was not aware that the giving of the access or the making of the disclosure was an offence in the circumstances that applied.

PART 8—PRESERVATION OF PUBLICATIONS

Delivery of published material to State and Parliamentary libraries

68. A person who publishes in Queensland to the general public material to which this part applies must, at the person's own expense, give a copy of the material to the board, and to the librarian of the Parliamentary library, within 1 month after publication.

Maximum penalty—20 penalty units.

Receipt to be given

69.(1) The State librarian must give a receipt for material given to the board under section 68, and the librarian of the Parliamentary library must give a receipt for material given to the librarian under the section.

(2) For a periodical publication, it is enough if a receipt is given for copies of the publication once a year.

Which material to be delivered

70.(1) This part applies to—

- (a) a book, or a part or division of a book;
- (b) a newspaper, magazine, journal or pamphlet;

- (c) a map, plan, chart or table;
- (d) printed music;
- (e) a film, tape, disk or other like instrument or thing supplied to the general public and designed to reproduce visual images, sound or information;

but does not include an edition of any material that does not differ from a former edition that has been delivered as required by section 68.

(2) A reference in section 68 to a copy of the material to which this part applies, where the material is published in various forms of differing quality, is a reference to a copy of the finest quality.

(3) A copy of material shall not be taken to be finer than another by reason only that the firstmentioned copy is numbered and signed by the author.

Continuing duty to comply

71.(1) Where a court convicts a person of an offence against section 68, in addition to any penalty it may impose or other order it may make, it shall order the person to deliver the material in question as required by that section, if the person has not already done so, in accordance with such directions as it thinks fit and states in the order.

(2) The person must comply with the order, unless the person has a reasonable excuse for not complying with it.

Maximum penalty for subsection (2)—20 penalty units.

Exemptions

72.(1) The State librarian may exempt a person from section 68 in relation to the board for all or stated material.

(2) The librarian of the Parliamentary library may exempt a person from section 68 in relation to the Parliamentary library for all or stated material.

Effect on property rights

73. Upon delivery of material to which the part applies in compliance

with this part, the material shall become the property of the Crown and, in the case of material delivered to the State librarian, the property of the board.

PART 9—MISCELLANEOUS

Delegation by Minister

74.(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 20(1)(1);²
- (b) the power to direct the board under sections 23, 44(3) and 47(2);³
- (c) the power to agree in writing to, and agree in writing to modifications of, the board's strategic and operational plans;
- (d) the power to ask a person to investigate and report under section 52(1).⁴

Protection from liability of members

75.(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 76.

² Section 20 (Functions of board)

³ Sections 23 (Directions by Minister), 44 (Special procedures for draft strategic and operational plans) and 47 (Modifications of strategic and operational plans)

⁴ Section 52 (Monitoring and assessment of board)

Illegal borrowing

76.(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.

(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.

Application of certain Acts

77.(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*.

Application of rule against perpetuities

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

Exemption from stamp duty

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

State Library etc. taken to be public place

80.(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 State Library or a branch of the State Library 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.

Inspection of material or receptacle brought onto board's premises

81.(1) The purpose of this section is to stop the unauthorised removal of library material from the board's premises.

(2) This section applies if—

- (a)** a person brings onto the board's premises any material in the nature of library material or a receptacle that may contain library material; and
- (b)** an officer or employee of the board asks the person to allow the officer or employee to inspect the material or receptacle.

(3) The person must allow the officer or employee to inspect the material or receptacle unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—5 penalty units.

(4) An officer or employee may exercise a power under subsection (2)(b) only if the officer or employee—

- (a) first produces his or her approved identity card for inspection by the person; or
- (b) has his or her approved identity card displayed so that it is clearly visible to the person.

(5) In this section—

“approved identity card”, for an officer or employee of the board, means an identity card approved by the board that—

- (a) contains a recent photograph of the officer or employee; and
- (b) identifies the person as an officer or employee of the board.

“inspect” includes open.

Board’s seal

82.(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 State librarian; or
- (c) a member or the State librarian, and 1 or more other persons authorised by the board.

Authentication of documents

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

- (a) the chairperson; or
- (b) the State librarian; or

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

Reward for information

84.(1) The board may offer and pay a reward to any person who gives information to the board relating to any offence that the board believes or suspects has been committed in respect of the property of the board or in respect of property in its possession.

(2) If a person is found guilty of an offence referred to in subsection (1), the court before which the proceedings are heard, in addition to any penalty it may impose or other order it may make, may order the person to pay to the board the amount of any reward the board has paid or has contracted to pay for information in relation to the offence in question.

(3) The amount so ordered to be paid, if unpaid, shall be recoverable by the board by action as for a debt in any court of competent jurisdiction.

(4) Subsection (2) applies whether or not a conviction is recorded.

Proceedings for offences

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

Evidence

86.(1) For the purposes of any proceedings for an offence against this Act—

- (a) the authority of the complainant to make a complaint shall be presumed unless the contrary is proved;
- (b) a statement in a complaint stating when it was that the commission of the offence came to the knowledge of the complainant shall be evidence thereof and in the absence of evidence to the contrary, conclusive evidence thereof.

(2) In any proceedings for an offence in respect of property committed at a time when the board was in possession of, or entitled to possession of, the property, it shall be sufficient to allege ownership thereof in the board if it is material to prove ownership of the property.

(3) A public record that is admissible in evidence in any proceedings upon its production from proper custody shall, upon its deposit with the State archives, whether before or after the commencement of this Act, be admissible in evidence upon its production from the possession of the State archives, and a copy of or extract from the public record shall also be admissible.

(4) Information contained in a public record that is admissible in evidence in any proceedings upon its certification by an officer of a public authority shall, upon the deposit of the public record with the State archives, whether before or after the commencement of this Act, be admissible in evidence upon its certification by or on behalf of the State archivist.

(5) The State archivist or a person acting on the State archivist's behalf may give a certificate in respect of—

- (a) a public record in the possession of the State archives;
- (b) information contained in a public record in the possession of the State archives;

that gives details of the origin, history or nature of the public record or information from which details it may be determined that the public record or information is admissible evidence pursuant to subsection (3) or (4) and such a certificate, in any proceedings, shall be evidence, and in the absence of evidence to the contrary, conclusive evidence, of the matters contained therein.

(6) The certificate provided for in subsection (5) may be given in relation to an original public record or a copy of or extract from a public record and a certificate given by the State archivist or a person on the State archivist's behalf that something is a copy of or an extract from a public record in the possession of the State archives shall be, in any proceedings, evidence and in the absence of evidence to the contrary, conclusive evidence, thereof.

(7) An instrument in writing purporting to be a certificate given under subsection (5) shall, in all proceedings, unless the contrary is proved, be deemed to be such a certificate and to have been duly given.

Regulation-making power

87. The Governor in Council may make regulations under this Act.

PART 10—SAVING AND TRANSITIONAL**Certain members continue in office**

88.(1) A person who, immediately before the commencement of this section, was a member under section 9(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 member under section 9(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 member under section 9(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 member appointed under section 9(c) of the pre-amended Act continues in office in terms of the member’s appointment.

(5) On the commencement of this section, a person who was a member under section 9(b) of the pre-amended Act does not continue in office as a member.

(6) The member 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 member’s appointment.

State librarian continues in office

89. The person who, immediately before the commencement of this section, was the Director and State librarian under this Act continues in office as the State librarian in terms of the person's appointment as Director and State librarian.

Expiry of part

90. This part expires 5 years after the commencement of this section.

SCHEDULE

sections 60, 61

The Supreme Court

The Chief Justice

A District Court

The Chief Judge of District Courts

The Land Court or the Land Appeal
Court

The President of the Land Court

The Industrial Court or the
Industrial Conciliation and
Arbitration CommissionThe President of the Industrial
CourtThe Planning and Environment
CourtA judge of the District Court who
for the time being constitutes the
Planning and Environment Court

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 27 January 1998. Future amendments of the Libraries and Archives Act 1988 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

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	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
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

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. 81 of 1994	10 November 1995
1A	to Act No. 54 of 1996	11 December 1996
1B	to Act No. 17 of 1997	5 November 1997

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

6 List of legislation

Libraries and Archives Act 1988 No. 29

date of assent 11 April 1988

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

remaining provisions commenced 21 April 1988 (proc pubd gaz 21 April 1988 p 2213)

as amended by—

Statute Law (Miscellaneous Provisions) Act 1990 No. 88 s 3 sch

date of assent 6 December 1990

commenced on date of assent (see s 2)

Statute Law (Miscellaneous Provisions) Act 1991 No. 97 ss 1–3 sch 1

date of assent 17 December 1991

commenced on date of assent (see s 2)

Statute Law (Miscellaneous Provisions) Act (No. 2) 1993 No. 76 ss 1–3 sch 1

date of assent 14 December 1993

commenced on date of assent (see s 2)

Land Act 1994 No. 81 ss 1–2, 527 sch 5

date of assent 1 December 1994

s 1 commenced on date of assent

remaining provisions commenced 1 July 1995 (1995 SL No. 185)

Public Service Act 1997 No. 36 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 1–2, sch 1

date of assent 5 December 1997

ss 1–2 commenced on date of assent

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

7 List of annotations

Interpretation

- s 2
- prev s 2 om R1 (see RA s 37)
 - pres s 2 amd 1990 No. 88 s 3 sch
 - def “**appointed member**” om 1997 No. 79 s 4(1)
 - def “**appropriately qualified**” ins 1997 No. 79 s 4(2)
 - def “**board**” sub 1997 No. 79 s 4
 - def “**chairperson**” ins 1997 No. 79 s 4(2)
 - def “**departmental head**” om 1991 No. 97 s 3 sch 1
 - def “**deputy chairperson**” ins 1997 No. 79 s 4(2)
 - def “**director**” ins 1996 No. 37 s 147 sch 2
om 1997 No. 79 s 4(1)
 - def “**financial year**” om 1991 No. 97 s 3 sch 1
 - def “**joint local authority board**” om R1 (see RA s 39)
 - def “**library facility**” om 1997 No. 79 s 4(1)
 - def “**library material**” ins 1997 No. 79 s 4(2)
 - def “**local authority**” om R1 (see RA s 39)
 - def “**member**” ins 1997 No. 79 s 4(2)
 - def “**Minister**” om 1991 No. 97 s 3 sch 1
 - def “**operational plan**” ins 1997 No. 79 s 4(2)
 - def “**Parliamentary library**” ins 1997 No. 79 s 4(2)
 - def “**premises**” ins 1997 No. 79 s 4(2)

def “**standard**” ins 1997 No. 79 s 4(2)
 def “**State librarian**” ins 1997 No. 79 s 4(2)
 def “**State Library**” ins 1997 No. 79 s 4(2)
 def “**strategic plan**” ins 1997 No. 79 s 4(2)

Act binds all persons

s 3 prev s 3 om 1991 No. 97 s 3 sch 1
 pres s 3 sub 1997 No. 79 s 5

PART 2—THE STATE LIBRARY

pt hdg prev pt 2 hdg om 1997 No. 79 s 6

Board

s 4 prev s 4 om 1991 No. 97 s 3 sch 1
 pres s 4 sub 1997 No. 79 s 7

Legal status of board

s 5 amd 1991 No. 97 s 3 sch 1
 sub 1997 No. 79 s 7

Board’s relationship with State

s 6 sub 1997 No. 79 s 7

Composition of board

s 7 prev s 7 om 1997 No. 79 s 6
 pres s 7 sub 1997 No. 79 s 7

Role of members

s 8 sub 1997 No. 79 s 7

Eligibility for appointment

s 9 sub 1997 No. 79 s 7

Chairperson and deputy chairperson of board

s 10 sub 1997 No. 79 s 7

Duration of appointment

s 11 amd R1 (see RA s 38)
 sub 1997 No. 79 s 7

Conditions of appointment

s 12 sub 1997 No. 79 s 7

Division 2—State librarian and staff

div hdg ins 1997 No. 79 s 3 sch 1

State librarian and other officers

prov hdg amd 1997 No. 79 s 3 sch 1
s 13 sub 1996 No. 37 s 147 sch 2
 amd 1997 No. 79 ss 8, 3 sch 1

Duties of State librarian

s 14 ins 1997 No. 79 s 9

State librarian to attend board meetings

s 15 ins 1997 No. 79 s 9

Things done by State librarian

s 16 ins 1997 No. 79 s 9

Delegation by State librarian

s 17 prev s 17 om 1996 No. 37 s 147 sch 2
pres s 17 ins 1997 No. 79 s 9

Employees

s 18 prev s 18 om 1997 No. 79 s 7
pres s 18 ins 1996 No. 37 s 147 sch 2
amd 1997 No. 79 s 10

Superannuation schemes

s 19 ins 1997 No. 79 s 11

Division 3—Functions

div hdg sub 1997 No. 79 s 3 sch 1

Functions of board

s 20 prev s 20 amd 1996 No. 37 s 147 sch 2
om 1997 No. 79 s 3 sch 1
pres s 20 amd 1997 No. 79 s 12

Division 4—Legal capacity and powers

div hdg ins 1997 No. 79 s 13

Objects of division

s 21 sub 1997 No. 79 s 13

General powers

s 22 sub 1997 No. 79 s 13

Directions by Minister

s 23 sub 1997 No. 79 s 13

Restrictions on powers of board

s 24 sub 1997 No. 79 s 13

Persons having dealings with board etc.

s 25 amd 1994 No. 81 s 527 sch 5
sub 1997 No. 79 s 13

Branches

s 26 sub 1997 No. 79 s 13

Grants or subsidies to local government

s 27 sub 1997 No. 79 s 13

Disposal of abandoned property

s 28 ins 1997 No. 79 s 13

Board must give notice of public auction of property

s 29 ins 1997 No. 79 s 13

Effect of sale or other disposal of property

s 30 ins 1997 No. 79 s 13

Conduct of business

s 31 amd 1997 No. 79 s 14

Quorum

s 32 amd 1997 No. 79 s 3 sch 1

Presiding at meetings

s 33 sub 1997 No. 79 s 15

Meetings

s 34 sub 1997 No. 79 s 15

Resolutions without meeting

s 35 ins 1997 No. 79 s 15

Minutes

s 36 ins 1997 No. 79 s 15

Conduct of affairs

s 37 prev s 37 om 1997 No. 79 s 16
pres s 37 amd 1997 No. 79 s 3 sch 1

Disclosure of interests by members

s 38 sub 1997 No. 79 s 16

Voting by interested member

s 39 sub 1997 No. 79 s 16

Delegation by board

s 40 sub 1997 No. 79 s 16

Division 4—Financial provisions

div hdg prev div 4 hdg om 1997 No. 79 s 17

PART 3—PLANNING

pt hdg ins 1997 No. 79 s 18

Division 1—Preliminary

div hdg ins 1997 No. 79 s 18

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

s 41 prev s 41 amd 1997 No. 17 s 74 sch
om 1997 No. 79 s 17
pres s 41 ins 1997 No. 79 s 18

Part additional to standard

s 42 om 1997 No. 79 s 17
ins 1997 No. 79 s 18

Division 2—Strategic and operational plans for board

div hdg ins 1997 No. 79 s 18

Draft strategic and operational plans

s 43 om 1997 No. 79 s 17
ins 1997 No. 79 s 18

Special procedures for draft strategic and operational plans

s 44 om 1997 No. 79 s 17
ins 1997 No. 79 s 18

Strategic and operational plans on agreement

s 45 om 1997 No. 79 s 17
ins 1997 No. 79 s 18

Strategic and operational plans pending agreement

s 46 sub 1996 No. 54 s 9 sch
om 1997 No. 79 s 17
ins 1997 No. 79 s 18

Modifications of strategic and operational plans

s 47 om 1997 No. 79 s 17
ins 1997 No. 79 s 18

State's agreed triennial funding

s 48 om 1997 No. 79 s 17
ins 1997 No. 79 s 18

Elements of operational plans

s 49 om 1997 No. 79 s 17
ins 1997 No. 79 s 18

Information systems and physical assets strategic plans

s 50 om 1997 No. 79 s 17
ins 1997 No. 79 s 18

PART 4—ACCOUNTABILITY MATTERS

pt hdg ins 1997 No. 79 s 18

Board to keep Minister informed

s 51 ins 1997 No. 79 s 18

Monitoring and assessment of board

s 52 ins 1997 No. 79 s 18

PART 5—REPORTING

pt hdg ins 1997 No. 79 s 18

Annual report

s 53 ins 1997 No. 79 s 18

State archivist

s 57 amd 1996 No. 37 s 147 sch 2; 1997 No. 79 s 3 sch 1

Public records may be deposited with the State archives

s 60 amd 1991 No. 97 s 3 sch 1

Public records protected

s 61 amd 1991 No. 97 s 3 sch 1

Delivery of published material to State and Parliamentary libraries

s 68 sub 1997 No. 79 s 19

Receipt to be given

s 69 sub 1997 No. 79 s 19

Continuing duty to comply

s 71 amd 1997 No. 79 s 3 sch 1

Exemptions

s 72 prev s 72 om 1997 No. 79 s 3 sch 1
pres s 72 sub 1997 No. 79 s 20

Effect on property rights

s 73 amd 1997 No. 79 s 3 sch 1

Delegation by Minister

s 74 sub 1997 No. 79 s 21

Protection from liability of members

s 75 ins 1997 No. 79 s 21

Illegal borrowing

s 76 prev s 76 ins 1997 No. 79 s 25
om R2 (see RA s 37)
pres s 76 ins 1997 No. 79 s 21

Application of certain Acts

s 77 ins 1997 No. 79 s 21

Application of rule against perpetuities

s 78 ins 1997 No. 79 s 21

Exemption from stamp duty

s 79 ins 1997 No. 79 s 21

State Library etc. taken to be public place

s 80 ins 1997 No. 79 s 21

Inspection of material or receptacle brought onto board's premises

s 81 ins 1997 No. 79 s 21

Board's seal

s 82 ins 1997 No. 79 s 21

Authentication of documents

s 83 ins 1997 No. 79 s 21

Reward for information

s 84 amd 1997 No. 79 ss 22, 3 sch

Proceedings for offences

s 85 sub 1997 No. 79 s 23

Evidence

s 86 amd 1997 No. 79 s 3 sch 1

Regulation-making power

s 87 amd R1 (see RA s 39)
sub 1997 No. 79 s 24

PART 10—SAVING AND TRANSITIONAL

pt hdg ins 1997 No. 79 s 25
exp 19 December 2002 (see s 90)

Certain members continue in office

s 88 ins 1997 No. 79 s 25
exp 19 December 2002 (see s 90)

State librarian continues in office

s 89 ins 1997 No. 79 s 25
exp 19 December 2002 (see s 90)

Expiry of part

s 90 ins 1997 No. 79 s 25
exp 19 December 2002 (see s 90)

SCHEDULE

amd 1993 No. 76 s 3 sch 1

8 Table of renumbered provisions

TABLE OF RENUMBERED PROVISIONS

under the Reprints Act 1992 s 43 as required by Libraries and Archives Act 1988 s 76

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5	2
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19(3)	13(2)
19(4)	13(3)
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19AB	15
19AC	16

19AD	17
19A	18
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28B	29
28C	30
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47	50
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47A	51
47B	52
pt 3C hdg	pt 5 hdg
47C	53
pt 4 hdg	pt 6 hdg
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51(2)	57(3)
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53	59
54	60
55	61
55(1A)	61(2)
55(2)	61(3)
55(2A)	61(4)
55(3)	61(5)
55(3A)	61(6)
55(4)	61(7)
55(5)	61(8)
55(6)	61(9)
55(7)	61(10)
55(8)	61(11)
55(9)	61(12)
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59	65
59(1A)	65(2)
59(2)	65(3)
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68H	82
68I	83
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71(4)	86(5)
71(4A)	86(6)
71(4B)	86(7)
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75	89
77	90