

# **ARTS LEGISLATION AMENDMENT BILL 2003**

## **EXPLANATORY NOTES**

### **GENERAL OUTLINE**

#### **Short Title of Bill**

Arts Legislation Amendment Bill 2003

#### **Policy objectives of the Bill**

A key purpose of the *Arts Legislation Amendment Bill 2003* is to insert a statement of purpose (the object of the Act) and guiding principles into each of the following Acts:

- *Queensland Art Gallery Act 1987;*
- *Libraries Act 1988;*
- *Queensland Museum Act 1970;*
- *Queensland Performing Arts Trust Act 1977;* and
- *Royal Queensland Theatre Company Act 1970.*

The statement in each Act will align the boards of these authorities strategically, in a direction consistent with *Creative Queensland*, the Queensland Government Cultural Policy 2002, and assist them in helping to realise the Government's vision for a creative Queensland.

The Bill also seeks to give direction to the operations of these authorities and their boards by making certain administrative changes as outlined in the next section.

#### **Reason for the objectives**

The Government launched *Creative Queensland* late last year. This whole-of-government policy sets the future direction for delivering a vision for a culturally dynamic State. Cultural development is a key contributor to

the social and economic wellbeing of all Queenslanders, and Queensland's five cultural statutory authorities play a key role in the cultural development of this State.

The Bill will not change the fundamental nature of these Acts. However, the inclusion of a statement of purpose (object of the Act) and guiding principles in each Act will more clearly describe the overarching and ongoing strategic purpose of each of the boards of these authorities, consistent with the *Creative Queensland* policy. That purpose is to contribute to the Government's vision for a creative Queensland by clearly articulating strategic matters of importance to the government. These include being responsive to the needs of regional communities and outer metropolitan areas, supporting children and young people, affirming respect for Aboriginal and Torres Strait Islander cultures, developing diverse audiences, and developing opportunities for international collaboration and for cultural exports.

The Bill also seeks to reduce the maximum term of board member appointments from five to three years. While the Governor in Council has the power to terminate an appointment at any time within the term of the appointment, a maximum term of three years would facilitate, and be seen to enable, the appointment of new members more frequently. This would ensure boards remain dynamic and relevant in a changing business and operational context. Should the government so desire, it will continue to have the power to reappoint board members for consecutive terms.

The Bill further amends each entity's Act to specify a deadline for submitting draft strategic and operational plans of not later than two months before the start of each financial year.

Currently, each board is required to submit to the responsible Minister and Treasurer draft strategic and operational plans not later than four months prior to the start of each financial year. This deadline requires each board to undertake its planning processes well ahead of the period to which the plans apply.

While the revised deadline is intended to aid the authorities' planning, without further amendment to the legislation the opportunity for the responsible Minister and Arts Queensland to make a strategic contribution to these plans would be limited. Accordingly, the Bill also requires each cultural statutory authority to canvass the responsible Minister's views as input to developing the draft plans, rather than this input occurring only after the draft plans have been submitted.

In addition, the Bill seeks to confirm 1 January to 31 December as the Queensland Theatre Company's financial year.

The nature of the theatre company's season of performing arts presentations lends itself, in a fiscal and artistic sense, to planning and reporting its financial performance on a calendar-year basis. All of its public programs, user charges and associated operations are premised on operating from 1 January to 31 December. Similar interstate companies operate on a calendar-year basis.

In 1989, the *Royal Queensland Theatre Company Act 1970* was amended to specify that the thirty-first day of December was the last day of the theatre company's financial year. The theatre company has reported its financial results on a calendar year since 1989 and continues to do so. However, the relevant clause was automatically repealed in 1995 as provisions dealing with keeping of accounts, audits and annual reports were removed on the basis that they were dealt with under the *Financial Administration and Audit Act 1977*. Without a clause specifying an alternative financial year, the theatre company's financial year technically reverts to 1 July–30 June, in accordance with the *Financial Administration and Audit Act 1977*.

The Bill also formally changes the name of the theatre company by removing the appellation "Royal". The company has used the name "Queensland Theatre Company" as a trading name for 10 years.

The Bill also seeks to update the terminology in the *Queensland Performing Arts Trust Act 1977* by replacing "Complex" with "Centre" where it appears throughout the Act. While the Queensland Performing Arts Centre has, for some years, been generally referred to as the "Centre", the Act uses the term "Complex".

Finally, the Bill amends the functions of the board under the *Queensland Museum Act 1970*. These amendments expand the description of the museum to become "a museum of science, environment and human achievement" aligning it with the museum's vision and strategic direction. The Bill also ensures that the museum has a legislative basis for undertaking original research, and deletes any reference to the aerodrome at Coomera due to the imminent sale of the property.

### **How the policy objectives will be achieved**

The inclusion of a statement of purpose (the object of the Act) provides each statutory authority with an overarching and ongoing strategic

direction. The guiding principles provide each board with a direction consistent with *Creative Queensland* and ensure there is clarity about the functions and unique aspects of each entity's operations.

### **Administrative costs**

The Bill will not generate any increase in costs.

### **Consistency with Fundamental Legislative Principles**

The *Arts Legislation Amendment Bill 2003* is not considered to infringe any fundamental legislative principles.

### **Consultation**

There has been ongoing consultation with the boards and management of the five cultural statutory authorities between November 2002 and May 2003. A discussion paper, including potential amendments for consideration was provided to the cultural statutory authorities. Following further consultation with the authorities, drafting instructions on proposed amendments to legislation were provided. Most recently, these authorities have been consulted on the draft Bill.

The Department of the Premier and Cabinet, and Queensland Treasury have been consulted on the scope and findings of the review of the legislation, and on the proposed amendments. The Department of Employment and Training has been consulted on employment and skills development impacts of the proposed amendments and the Office of Rural Communities in the Department of Primary Industries on any associated rural and regional impacts.

## NOTES ON PROVISIONS

### PART 1—PRELIMINARY

#### **Clause 1 Short Title**

*Clause 1* provides that the Act may be cited as the *Arts Legislation Amendment Act 2003*.

#### **Clause 2—Commencement**

*Clause 2* provides that the Act will commence on a day to be fixed by proclamation.

### PART 2—AMENDMENT OF LIBRARIES ACT 1988

#### **Clause 3 Act amended in part 2**

*Clause 3* provides that part 2 amends the *Libraries Act 1988*.

#### **Clause 4 Insertion of new sections 1A and 1B**

*Clause 4* inserts new sections:

1A—outlines the object of the Act to provide a strategic and generally common focus for the Board of the State Library of Queensland under the Act; and

1B—provides a number of guiding principles which represent the unique aspects of the State Library of Queensland and which should inform its board's operations.

#### **Clause 5 Amendment of section 11 (Duration of appointment)**

*Clause 5* reduces the maximum term of appointment for board members from 5 years to 3 years. This would facilitate and be seen to enable the appointment of new members more frequently to ensure the board remains dynamic. Further to this amendment, refer to *clause 8* of the Amendment

Bill. The proposed shorter term of appointment will apply from the time when appointments are next made to the board. Existing terms of appointment should not be affected by this amendment.

### **Clause 6 Amendment of section 20 (Functions of board)**

*Clause 6* inserts new subsection 20(3) that requires the board to have regard to the object and guiding principles of the Act, in performing its functions. The object and guiding principles are outlined in new sections 1A and 1B.

### **Clause 7 Amendment of section 43 (Draft strategic and operational plans)**

*Clause 7:*

- amends the time for the board to submit draft strategic and operational plans to the Minister for the Minister's agreement from not later than 4 months before the start of each financial year to not later than 2 months before the start of each financial year. This revised deadline will aid the board in its planning because it allows it to prepare and finalise plans close to the start of the financial year;
- inserts new subsection 43(2) that requires the board to consult with the Minister in preparing the draft plans. This will afford the Minister an opportunity to make a strategic contribution in the development of these plans rather than this input occurring after the draft plans have been submitted; and
- renumbers subsections 43(2) to (4) to 43 (3) to (5) following the insertion of the new subsection 43(2).

### **Clause 8 Insertion of new part 10**

After section 87, *clause 8* inserts Part 10 Transitional Provisions.

New section 88 provides a definition of commencement for new section 89.

Section 89 (1) indicates that the section applies to a person who was a member of the board immediately before the commencement. Section 89(2) allows the proposed shorter term of appointment to apply from the time when appointments are next made to the board and means that existing appointments will not be affected by this amendment.

## **PART 3—AMENDMENT OF QUEENSLAND ART GALLERY ACT 1987**

### **Clause 9 Act amended in part 3**

*Clause 9* provides that part 3 amends the *Queensland Art Gallery Act 1987*.

### **Clause 10 Insertion of new sections 1A and 1B**

*Clause 10* inserts new sections:

1A—outlines the object of the Act to provide a strategic and generally common focus for the Board of the Queensland Art Gallery under the Act; and

1B—provides a number of guiding principles which represent the unique aspects of the Queensland Art Gallery and which should inform its board's operations.

### **Clause 11 Amendment of section 10 (Duration of appointment)**

*Clause 11* reduces the maximum term of appointment for board members from 5 years to 3 years. This would facilitate and be seen to enable the appointment of new members more frequently to ensure the board remains dynamic. Further to this amendment refer to *clause 14* of the Amendment Bill. The proposed shorter term of appointment will apply from the time when appointments are next made to the board. Existing terms of appointment should not be affected by this amendment.

### **Clause 12 Amendment of section 19 (Functions of board)**

*Clause 12* inserts the words 'including by' at section 19 (1) (b) instead of the word 'by' to clarify that the list of activities to be undertaken by the board at 19(1) (b) (i), (ii), (iii) and (iv) are not intended to be exhaustive.

*Clause 12* also inserts new subsection 19(3) that requires the board to have regard to the object and guiding principles of the Act, in performing its functions. The object and guiding principles are outlined in new sections 1A and 1B.

**Clause 13 Amendment of section 43 (Draft strategic and operational plans)***Clause 13:*

- amends the time for the board to submit draft strategic and operational plans to the Minister for the Minister's agreement from not later than 4 months before the start of each financial year to not later than 2 months before the start of each financial year. This revised deadline will aid the board in its planning because it allows it to prepare and finalise plans close to the start of the financial year;
- inserts a new subsection 43(2) that requires the board to consult with the Minister in preparing the draft plans. This will afford the Minister an opportunity to make a strategic contribution in the development of these plans rather than this input occurring after the draft plans have been submitted; and
- renumbers subsections 43(2) to (4) to 43 (3) to (5) following the insertion of the new subsection 43(2).

**Clause 14 Insertion of new part 7**

After section 68, *clause 14* inserts Part 7 Transitional Provisions.

New section 69 provides a definition of commencement for new section 70.

Section 70(1) indicates that the section applies to a person who was a member of the board immediately before the commencement. Section 70(2) allows the proposed shorter term of appointment to apply from the time when appointments are next made to the board and means that existing appointments will not be affected by this amendment.

**PART 4—AMENDMENT OF QUEENSLAND MUSEUM  
ACT 1970**

*Clause 15* provides that part 4 amends the *Queensland Museum Act 1970*



**Clause 16 Insertion of new sections 1A and 1B**

*Clause 16* inserts new sections:

1A—outlines the object of the Act to provide a strategic and generally common focus for the board of the Queensland Museum under the Act; and

1B—provides a number of guiding principles which represent the unique aspects of the Queensland Museum and which should inform its board's operations.

**Clause 17 Amendment of section 10 (Duration of appointment)**

*Clause 17* reduces the maximum term of appointment for board members from 5 years to 3 years. This would facilitate and be seen to enable the appointment of new members more frequently to ensure the board remains dynamic. Further to this amendment refer to *clause 21* of the Amendment Bill. The proposed shorter term of appointment will apply from the time when appointments are next made to the board. Existing terms of appointment should not be affected by this amendment.

**Clause 18 Amendment of section 12 (Functions of board)**

*Clause 18*:

- replaces the words 'as a museum of general science' with the words 'as a museum for science, the environment and human achievement' to more closely reflect the vision and strategic direction of the Queensland museum; (at section 12 (1)(b))
- replaces the words 'the promotion of' in the context of scientific and historical research with 'carrying out or promoting' to ensure that the Queensland Museum has the legislative authority to undertake original research; (at section 12(1) (b)(ii))
- removes section 12(1)(d) which related to the management, operation and control of the aerodrome at Coomera. This function is no longer applicable with the imminent sale of this property;
- renumbers functions and amends references following the removal of section 12(1)(d);
- replaces subsection 12 (2) with a new subsection that reflects the amendment to subsection 12(1)(b)(ii)

- inserts new subsection 12(4) that requires the board to have regard to the object and guiding principles of the Act, in performing its functions.

### **Clause 19 Amendment of section 45 (Draft strategic and operational plans)**

#### *Clause 19:*

- amends the time for the board to submit draft strategic and operational plans to the Minister for the Minister's agreement from not later than 4 months before the start of each financial year to not later than 2 months before the start of each financial year. This revised deadline will aid the board in its planning because it allows it to prepare and finalise plans close to the start of the financial year;
- inserts new subsection 45(2) that requires the board to consult with the Minister in preparing the draft plans. This will afford the Minister an opportunity to make a strategic contribution in the development of these plans rather than this input occurring after the draft plans have been submitted; and
- renumbers subsections 45(2) to (4) following the insertion of the new subsection 45(2).

### **Clause 20 Amendment of section 56 (Delegation by Minister)**

*Clause 20* amends the numbering to reflect the previous amendment of section 12.

### **Clause 21 Insertion of new part 7**

After section 69, *clause 21* inserts Part 7 Transitional Provisions.

New section 70 provides a definition of commencement for new section 71.

Section 71(1) indicates that the section applies to a person who was a member of the board immediately before the commencement. Section 71(2) allows the proposed shorter term of appointment to apply from the time when appointments are next made to the board and means that existing appointments will not be affected by this amendment.

**PART 5—AMENDMENT OF *QUEENSLAND  
PERFORMING ARTS TRUST ACT 1977***

**Clause 22 Act amended in part 5**

*Clause 22* provides that part 5 amends the *Queensland Performing Arts Trust Act 1977*

**Clause 23 Insertion of new sections 1A and 1B**

*Clause 23* inserts new sections:

1A—outlines the object of the Act to provide a strategic and generally common focus for the board of the Queensland Performing Arts Trust under the Act; and

1B—provides a number of guiding principles which represent the unique aspects of the Queensland Performing Arts Trust and which should inform its board’s operations.

**Clause 24 Amendment of section 2 (Definitions)**

*Clause 24* replaces the definition of “complex” with a definition of “centre” to reflect the change in references from Queensland Performing Arts Complex to Queensland Performing Arts Centre.

**Clause 25 Amendment of section 10 (Duration of appointment)**

*Clause 25* reduces the maximum term of appointment for trust members from 5 years to 3 years. This would facilitate and be seen to enable the appointment of new members more frequently to ensure the trust remains dynamic. Further to this amendment, refer to *clause 30* of the Amendment Bill. The proposed shorter term of appointment will apply from the time when appointments are next made to the trust. Existing terms of appointment should not be affected by this amendment.

**Clause 26 Amendment of section 12 (Functions of trust)**

*Clause 26* inserts new subsection 12(3) that requires the trust to have regard to the object and guiding principles of the Act in performing its

functions. The object and guiding principles are outlined in new sections 1A and 1B.

**Clause 27 Amendment of section 19 (Disposal of abandoned property)**

*Clause 27* replaces the word ‘complex’ with ‘centre’.

**Clause 28 Amendment of section 44 (Draft strategic and operational plans)**

*Clause 28:*

- amends the time for the trust to submit draft strategic and operational plans to the Minister for the Minister’s agreement from not later than 4 months before the start of each financial year to not later than 2 months before the start of each financial year. This revised deadline will aid the trust in its planning because it allows it to prepare and finalise plans close to the start of the financial year;
- inserts a new subsection 44(2) that requires the trust to consult with the Minister in preparing the draft plans. This will afford the Minister an opportunity to make a strategic contribution in the development of these plans rather than this input occurring after the draft plans have been submitted;
- renumbers subsections 44(2) to (4) to 44 (3) to (5) following the insertion of the new subsection 44(2).

**Clause 29 Amendment of section 60 (Complex taken to be public place)**

*Clause 29* replaces the word ‘complex’ with ‘centre’.

**Clause 30 Insertion of new part 8**

After section 66, *clause 30* inserts Part 8 Transitional Provisions.

New section 67 provides a definition of commencement for new section 68.

Section 68 (1) indicates that the section applies to a person who was a member of the trust immediately before the commencement. Section 68(2) allows the proposed shorter term of appointment to apply from the time when appointments are next made to the trust and means that existing appointments will not be affected by this amendment.

**PART 6—AMENDMENT OF *ROYAL QUEENSLAND  
THEATRE COMPANY ACT 1970***

**Clause 31 Act amended in part 6**

*Clause 31* provides that part 6 amends the *Royal Queensland Theatre Company Act 1970*

**Clause 32 Amendment of title**

*Clause 32* removes the word ‘Royal’ from the title of the Act. For over 10 years the Company has not used the full title to trade, electing to refer to itself as the Queensland Theatre Company.

**Clause 33 Amendment of section 1 (Short title)**

Consistent with Clause 32, this clause removes the word “Royal” from the short title of the Act.

**Clause 34 Insertion of new sections 1A and 1B**

*Clause 34* inserts new sections:

1A—outlines the object of the Act to provide a strategic and generally common focus for the board of the Royal Queensland Theatre Company under the Act; and

1B—provides a number of guiding principles which represent the unique aspects of the Royal Queensland Theatre Company and which should inform its board’s operations.

**Clause 35 Amendment of section 2 (Definitions)**

*Clause 35* inserts a definition of financial year referring to new section 40A. The financial year will be from 1 January to 31 December. This will provide clarity as to the theatre company’s reporting period and deadline for submission of its annual report. *Clause 35* also removes the word “Royal” in the definition of “theatre company”.

**Clause 36 Replacement of section 3 (Theatre company)**

*Clause 36* replaces section 3 with a new section that provides for the continued operation of the company even though the name has changed.

**Clause 37 Amendment of section 10 (Duration of appointment)**

*Clause 37* reduces the maximum term of appointment for board members from 5 years to 3 years. This would facilitate and be seen to enable the appointment of new members more frequently to ensure the board remains dynamic. Further to this amendment, refer to *clause 42* of the Amendment Bill. The proposed shorter term of appointment will apply from the time when appointments are next made to the board. Existing terms of appointment should not be affected by this amendment.

**Clause 38 Amendment of section 12 (Functions of the theatre company)**

*Clause 38* inserts new subsection 12(3) that requires the board to have regard to the object and guiding principles of the Act, in performing its functions. The object and guiding principles are outlined in new sections 1A and 1B.

**Clause 39 Insertion of new section 40A**

*Clause 39* inserts a new section which provides that the financial year of the theatre company is from 1 January to 31 December. This provides clarity as to the theatre company's reporting period and deadline for submission of its annual report.

**Clause 40 Amendment of section 44 (Draft strategic and operational plans)**

*Clause 40:*

- amends the time for the board to submit draft strategic and operational plans to the Minister for the Minister's agreement from not later than 4 months before the start of each financial year to not later than 2 months before the start of each financial year. This revised deadline will aid the board in its planning because it allows it to prepare and finalise plans close to the start of the financial year;

- inserts a new subsection 44(2) that requires the board to consult with the Minister in preparing the draft plans. This will afford the Minister an opportunity to make a strategic contribution in the development of these plans rather than this input occurring after the draft plans have been submitted;
- renumbers subsections 44(2) to (4) to 44 (3) to (5) following the insertion of the new subsection 44(2).

**Clause 41 Amendment of section 54 (Annual report)**

*Clause 41* inserts the word ‘financial’ after the word ‘relevant’ to reflect clarification about the company’s reporting period and deadline for submission of its annual report.

**Clause 42 Insertion of new part 8**

After section 67, *clause 42* inserts Part 8 Transitional Provisions.

New section 68 provides definitions for new part 8.

New Section 69 (1) indicates that the section applies to a person who was a member of the board immediately before the commencement. Section 69(2) allows the proposed shorter term of appointment to apply from the time when appointments are next made to the board and means that existing appointments will not be affected by this amendment.

New Section 70 provides that a reference to the company under its former name “Royal Queensland Theatre Company” will be taken to be a reference to the company under its new name “Queensland Theatre Company”.