

Queensland



QUEENSLAND PERFORMING ARTS TRUST ACT 1977

**Reprinted as in force on 1 May 1998
(includes amendments up to Act No. 79 of 1997)**

Reprint No. 3

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Information about this reprint

This Act is reprinted as at 1 May 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—

- use standard punctuation consistent with current drafting practice (s 27)
- 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.**

Queensland



**QUEENSLAND PERFORMING ARTS
TRUST ACT 1977**

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QUEENSLAND PERFORMING ARTS TRUST ACT 1977

[as amended by all amendments that commenced on or before 1 May 1998]

An Act to provide for the establishment and incorporation of a body to be known as the Queensland Performing Arts Trust, to make provision with respect to the administration of that body and for purposes incidental thereto

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Queensland Performing Arts Trust Act 1977*.

Definitions

2. 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 trust, includes having the qualifications, experience or standing appropriate to exercise the power or comply with the request.

Example of standing—

A person’s seniority in an entity.

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

“**complex**” means the Queensland Performing Arts Complex at Brisbane.

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

“director” means the director of the trust.

“equipment” includes chattels, costumes, curtains, drapes, furnishings, furniture, light and sound equipment, plant, stage properties and scenery suitable or convenient for the production of stage presentations or presentation of the performing arts.

“member” means a member of the trust.

“operational plan”, of the trust, means the trust’s operational plan developed under part 4 of this Act and part 2 of the standard.

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

“strategic plan”, of the trust, means the trust’s strategic plan developed under part 4 of this Act and part 2 of the standard.

“the performing arts” means any of the auditory, dramatic, musical, operatic or visual arts and includes the art of dancing.

“trust” means the Queensland Performing Arts Trust.

PART 2—THE TRUST

Division 1—Constitution and membership of trust

Establishment of trust

3. The entity called the Queensland Performing Arts Trust continues in existence.

Legal status of trust

4. The trust—

- (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.

Trust's relationship with State

5. The trust represents the State.

Composition of trust

6.(1) The trust 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 trust'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

7. The role of the members includes the following—

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

Eligibility for appointment

8. 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 trust

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

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

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

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

(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

10.(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.

Conditions of appointment

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

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

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

*Division 2—Functions***Functions of trust**

12.(1) The functions of the trust are—

- (a) to produce, present and manage the performing arts in the building occupied by the trust at the Queensland Cultural Centre or any other building;
- (b) to establish and conduct schools, lectures, courses, seminars and other forms of education in the performing arts;
- (c) to teach, train and instruct persons and promote education and research in the performing arts;
- (d) to provide or assist in providing premises and equipment for the purpose of the presentation of the performing arts;
- (e) to promote and encourage the development and presentation of the performing arts;
- (f) to promote and encourage public interest and participation in the performing arts;
- (g) to promote and encourage either directly or indirectly the knowledge, understanding, appreciation and enjoyment of the performing arts;
- (h) to encourage, for persons resident in Queensland—
 - (i) participation as performers for the performing arts; and
 - (ii) involvement in other aspects of the performing arts;
- (i) to perform the functions given to the trust under another Act;
- (j) 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 (i);
- (k) to perform functions of the type to which paragraph (j) applies and which are given to the trust in writing by the Minister.

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

Division 3—Legal capacity and powers**Objects of division**

13. The objects of this division include—

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

General powers

14.(1) For performing its functions, the trust 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 trust has the powers given to it under this or another Act.

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

(4) In this section—

“power” includes legal capacity.

Directions by Minister

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

Restrictions on powers of trust

16.(1) Section 14 has effect in relation to the trust subject to any restrictions expressly imposed under this or another Act.

(2) Section 14 also has effect in relation to the trust subject to any restrictions expressly imposed by—

- (a) any relevant strategic or operational plan of the trust; or
- (b) any relevant directions given to the trust under section 15 by the Minister.

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

(8) In this section—

“officer”, of the trust, means—

- (a) a member; or
- (b) the director; or

(c) an employee of the trust.

“**restriction**” includes prohibition.

Persons having dealings with trust etc.

17.(1) A person having dealings with the trust is entitled to make the assumptions mentioned in subsection (3) and, in a proceeding in relation to the dealings, any assertion by the trust 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 trust (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 trust 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 trust to be an officer or agent of the trust 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 trust who has authority to issue a document on behalf of the trust has authority to warrant that the document is genuine and that an officer or agent of the trust who has authority to issue a certified copy of a document on behalf of the trust has authority to warrant that the copy is a true copy; and
- (d) that a document has been properly sealed by the trust if—
 - (i) it bears what appears to be an imprint of the trust’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 trust; and
- (e) that the officers and agents of the trust have properly performed

their duties to the trust.

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

(6) In this section—

“officer”, of the trust, means—

- (a) a member; or
- (b) the director; or
- (c) an employee of the trust.

Disposal of property accepted by the trust

18.(1) This section applies if—

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

(2) Subject to any arrangement about the property between the trust and the person, the trust may—

- (a) sell the property by public auction; or
- (b) exchange the property for other property; or
- (c) if the trust considers on reasonable grounds that, because of the property's value, it is not viable to sell or exchange it—dispose of the property in another way.

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

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

(5) A notice under subsection (4) may form part of a notice under section 20.

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

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

Disposal of certain abandoned property

19.(1) This section applies if any property, other than property to which section 18 applies—

- (a) is found in the complex; 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 trust may sell the property by public auction.

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

(4) Despite subsection (2), if the trust 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 trust may cause it to be destroyed.

Trust must give notice of public auction

20.(1) Before the trust sells any property under section 18 or 19 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

21.(1) This section applies to the sale or other disposal of any property under section 18 or 19.

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

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

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

Division 4—Meetings, proceedings and business of trust

Conduct of business

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

Quorum

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

(2) A duly convened meeting of the trust at which a quorum is present shall be competent to transact any business of the trust and may perform the functions and exercise the powers of the trust.

Presiding at meetings

24.(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

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

(2) The trust 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 meetings

26.(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 trust 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 trust, 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.

Conduct of affairs

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

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

(3) The person presiding at a meeting shall have a deliberative vote and, in the event of an equality of votes, a casting vote.

Minutes

28. The trust shall keep a record of its proceedings at meetings.

Disclosure of interests by members

29.(1) If a member has a direct or indirect interest in a matter being considered, or about to be considered, by the trust, the member must disclose the nature of the interest to a meeting of the trust 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 trust's minutes.

Voting by interested member

30.(1) A member who has a material personal interest in a matter that is being considered by the trust 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 trust; or

- (d) otherwise take part in any decision of the trust 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 trust 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 trust 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 trust

31. The trust may, by resolution, delegate its powers to—

- (a) a member; or
- (b) a committee of members; or
- (c) the director; or
- (d) an appropriately qualified employee of the trust.

Division 5—Director and staff

Director

32.(1) The director of the trust is to be appointed by the Governor in Council on the trust's recommendation.

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

Duties of director

33. The director is, under the members, to manage the trust.

Director to attend trust meetings

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

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

Things done by director

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

Delegation by director

36.(1) The director may delegate the director's powers (including a power delegated to the director by the trust) to an appropriately qualified employee of the trust.

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

Employees

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

(2) Subject to any relevant award or industrial agreement, the trust may decide the employees' terms of employment.

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

Superannuation schemes

38. The trust 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.

PART 3—FINANCIAL PROVISIONS

Application of Financial Administration and Audit Act 1977

39. The trust is a statutory body under the *Financial Administration and Audit Act 1977*.

Trust is statutory body under Statutory Bodies Financial Arrangements Act 1982

40.(1) Under the *Statutory Bodies Financial Arrangements Act 1982*, the trust is a statutory body.

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

Power to establish investment common funds

41.(1) The trust may establish investment common funds for the collective investment of moneys of the trust, trust moneys or other moneys held by or in the custody of the trust.

(2) The trust may, from time to time without liability for breach of trust, bring into or withdraw from an investment common fund established by it the whole or any part of moneys of the trust, trust moneys or other moneys held by or in the custody of the trust.

(3) Subject to subsections (4) and (5), the trust shall distribute periodically the income of each investment common fund amongst those funds participating in the common fund, having regard to the extent of the participation of those funds in the common fund during the relevant accounting period.

(4) In a case where the trust has brought into an investment common

fund sums of money that, having been received by it to be expended for a stated purpose, will not for any cause be expended for that purpose forthwith, the trust may pay into another fund of the trust (other than an investment common fund) the whole or any part of that portion of the income of such investment common fund that is attributable to the participation of those sums of money in that common fund and that is not required for the stated purpose.

(5) The trust may if it considers it proper so to do, from time to time, add a portion of the income of an investment common fund to the capital thereof or use another portion of that income to establish or augment a fund or funds as a provision against capital depreciation or reduction of income.

(6) This section does not confer a power to invest on the trust.

PART 4—PLANNING

Division 1—Preliminary

How pt 4 applies if offices of Minister and Treasurer are held by the 1 person

42.(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

43.(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 trust

Draft strategic and operational plans

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

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

(3) The draft plans must—

- (a) be in the form approved by the Minister; and
- (b) provide for the things that a strategic plan and an operational plan for the trust 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 trust has prepared for the State's funding of the trust.

(4) The trust 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

45.(1) The Minister may return the draft strategic and operational plans to the trust 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 trust must comply with the request as a matter of urgency but subsection (1) does not require the trust 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 trust—

- (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 trust must immediately comply with the direction and include a copy of the direction in the plans, or the plan concerned.

(5) The Minister may act under subsection (1) or (3) for a thing having resource implications for the trust 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

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

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

Strategic and operational plans pending agreement

47.(1) This section applies if the Minister and the trust 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 trust to the Minister before the start of the financial year, with any modifications made by the trust, whether before or after that time, at the direction of the Minister, are taken to be the trust's strategic and operational plans.

(3) Subsection (2) applies until draft strategic and operational plans become the trust's strategic and operational plans under section 46.

Modifications of strategic and operational plans

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

(2) The Minister may, by written notice, direct the trust 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 trust 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

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

Elements of operational plans

50. The trust's operational plan must include the following—

- (a) targets for, and ways of measuring, outputs the trust intends to supply;
- (b) identification of the outputs that are not in the trust'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 trust;
- (d) identification of any outputs intended to be funded from the trust's commercial and fundraising activities;
- (e) an outline of the nature and scope of activities, including commercial and fundraising activities, the trust proposes to undertake;

- (f) an outline of the major investments and borrowings the trust intends to make;
- (g) an outline of the trust's risk management policies and procedures;
- (h) an outline of the main undertakings proposed by the trust.

Information systems and physical assets strategic plans

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

PART 5—ACCOUNTABILITY MATTERS

Trust to keep Minister informed

52.(1) The trust must—

- (a) keep the Minister reasonably informed of the trust'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 trust'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 trust is required to keep the Minister informed, or limit the reports or information that the trust is required, or may be required, to give to the Minister, by another Act.

Monitoring and assessment of trust

53.(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 trust.

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

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

- (a) to give to the person any information about the trust 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 trust 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 trust 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 trust about the report.

PART 6—REPORTING**Annual report**

54. The trust'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 trust by the Minister that relate to the relevant financial year; and
- (d) particulars of the impact on the financial position of the trust of any modifications of the operational plan, and any directions given to the trust by the Minister, that relate to the relevant financial year.

PART 7—MISCELLANEOUS PROVISIONS

Delegation by Minister

55.(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 trust a function for section 12(1)(j);²
- (b) the power to direct the trust under sections 15, 45(3) and 48(2);³
- (c) the power to agree in writing to, and agree in writing to modifications of, the trust's strategic and operational plans;
- (d) the power to ask a person to investigate and report under section 53(1).⁴

Protection from liability of members

56.(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

² Section 12 (Functions of trust)

³ Sections 15 (Directions by Minister), 45 (Special procedures for draft strategic and operational plans) and 48 (Modifications of strategic and operational plans)

⁴ Section 53 (Monitoring and assessment of trust)

liability attaches instead to the trust.

(3) This section is subject to section 57.

Illegal borrowing

57.(1) Subsection (2) applies if the trust 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 trust'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 trust.

(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 trust 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 rule against perpetuities

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

Exemption from duties

59. Notwithstanding the provisions of any other Act or law, any instrument, agreement or contract executed or decree or order made whereby any property is transferred to the trust shall be exempt from stamp duty.

Complex taken to be public place

60.(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) The complex is taken to be a public place.

(3) Subsection (2) must not be construed to prevent or limit the imposition by the trust of conditions of entry for the complex.

Trust's seal

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

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

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

Authentication of documents

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

- (a) the chairperson; or

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

Reward for information

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

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

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

(4) Subsection (2)—

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

Proceedings for offences

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

Description of property in complaint

65. In any proceeding taken in respect of an offence committed in respect of property, or property in the possession, of the trust and in which proceeding it is material to prove ownership of the item in question it shall be sufficient to allege ownership of the item as being in the trust.

Regulation-making power

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

PART 8—SAVING AND TRANSITIONAL

Members continue in office

67.(1) A person who, immediately before the commencement of this section, was a member under 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 6(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 6(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 person who was a member under section 6(b) of the pre-amended Act continues in office until 5 years after the commencement of this section, or the person stops holding the office of director, whichever happens first.

(5) A member appointed under section 6(c) of the pre-amended Act continues in office in terms of the member’s appointment.

(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.

Director and employees continue in office

68. The enactment of the *Arts Legislation Amendment Act 1997* does not affect the continued employment of the director or an employee of the trust under this Act.

Expiry of pt 8

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

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 1 May 1998. Future amendments of the Queensland Performing Arts Trust Act 1977 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	=	previous
amd	=	amended	(prev)	=	previously
ch	=	chapter	proc	=	proclamation
def	=	definition	prov	=	provision
div	=	division	pt	=	part
exp	=	expires/expired	pubd	=	published
gaz	=	gazette	R[X]	=	Reprint No.[X]
hdg	=	heading	RA	=	Reprints Act 1992
ins	=	inserted	reloc	=	relocated
lap	=	lapsed	renum	=	renumbered
notfd	=	notified	rep	=	repealed
om	=	omitted	s	=	section
o in c	=	order in council	sch	=	schedule
orig	=	original	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

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

Reprint No.	Amendments included	Reprint date
1	to Act No. 36 of 1992	22 November 1994
2	to Act No. 58 of 1995	14 December 1995
2A	to Act No. 17 of 1997	24 November 1997

5 Tables in earlier reprints

Name of table	Reprint No.
Changed names and titles	1
Obsolete and redundant provisions	1
Renumbered provisions	1

6 List of legislation

Queensland Performing Arts Trust Act 1977 No. 8

date of assent 5 April 1977

commenced 25 March 1978 (proc pubd gaz 25 March 1978 p 1261)

as amended by—

Queensland Art Gallery Act and Other Acts Amendment Act 1979 No. 29 pt 4

date of assent 8 June 1979

commenced on date of assent

Queensland Theatre Company Act and Another Act Amendment Act 1985 No. 89 pt 3

date of assent 9 December 1985

commenced on date of assent

Queensland Performing Arts Trust Act Amendment 1988 No. 2

date of assent 17 March 1988

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

remaining provisions commenced 24 March 1988 (proc pubd gaz 24 March 1988 p 1675A)

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

date of assent 6 December 1990

commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 1992 No. 36 ss 1–2 sch 1

date of assent 2 July 1992

commenced on date of assent

Statutory Authorities Superannuation Legislation Amendment Act 1995 No. 36 ss 1–2, 9 sch 2

date of assent 16 June 1995

commenced on date of assent

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

date of assent 28 November 1995

commenced on date of assent

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 pt 9

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, 5, sch 4

date of assent 5 December 1997

ss 1–2 commenced on date of assent
 s 63 commenced 1 May 1998 (1998 SL No. 92)
 remaining provisions commenced 19 December 1997 (1997 SL No. 447)

7 List of annotations

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

Short title

prov hdg amd 1995 No. 58 s 4 sch 1
s 1 amd 1995 No. 58 s 4 sch 1

Definitions

prov hdg sub 1995 No. 58 s 4 sch 1
s 2 prev s 2 om 1992 No. 36 s 2 sch 1
 pres s 2
 def “**appointed member**” ins 1988 No. 2 s 4
 def “**by-laws**” om 1992 No. 36 s 2 sch 1
 def “**complex**” ins 1992 No. 36 s 2 sch 1
 def “**Departmental head**” ins 1979 No. 29 s 20(a)
 om R1 (see RA s 39)
 def “**financial year**” om 1992 No. 36 s 2 sch 1
 def “**Minister**” amd 1979 No. 29 s 20(b)
 om 1992 No. 36 s 2 sch 1
 sub 1997 No. 79 s 52

Establishment of trust

s 3 prev s 3 om 1995 No. 58 s 4 sch 1
 pres s 3 ins 1997 No. 79 s 53

Legal status of trust

s 4 sub 1997 No. 79 s 53

Trust’s relationship with State

s 5 amd 1979 No. 29 s 21
 sub 1988 No. 2 s 5
 amd 1995 No. 58 s 4 sch 1
 sub 1997 No. 79 s 53

Composition of trust

s 6 sub 1988 No. 2 s 5; 1997 No. 79 s 53

Role of members

s 7 prev s 7 sub 1988 No. 2 s 5
 om R1 (see RA s 37)
 pres s 7 ins 1997 No. 79 s 53

Eligibility for appointment

s 8 amd 1988 No. 2 s 6; 1990 No. 88 s 3 sch
 sub 1997 No. 79 s 53

Chairperson and deputy chairperson of trust

s 9 amd 1988 No. 2 s 7
 sub 1997 No. 79 s 53

Duration of appointment

s 10 amd 1988 No. 2 s 8
 sub 1997 No. 79 s 53

Conditions of appointment

s 11 amd 1979 No. 29 s 22
 sub 1988 No. 2 s 9; 1997 No. 79 s 53

PART 2—THE TRUST**Division 2—Functions**

div hdg sub 1997 No. 79 s 51 sch 4

Functions of trust

prov hdg amd 1997 No. 79 s 51 sch 4
s 12 amd 1997 No. 79 ss 54, 51 sch 4

Division 3—Legal capacity and powers

div hdg ins 1997 No. 79 s 55

Objects of division

s 13 prev s 13 amd 1990 No. 88 s 3 sch
 om 1997 No. 79 s 53
 pres s 13 sub 1997 No. 79 s 55

General powers

s 14 prev s 14 sub 1995 No. 58 s 4 sch 1
 om 1997 No. 79 s 53
 pres s 14 sub 1988 No. 2 s 10; 1997 No. 79 s 55

Directions by Minister

prov hdg amd 1988 No. 2 s 11(a)
s 15 orig s 15 amd 1995 No. 58 s 4 sch 1
 om 1997 No. 79 s 53
 prev s 15 (s 19) amd 1988 No. 2 s 11(b)
 pres s 15 sub 1997 No. 79 s 55

Restrictions on powers of trust

s 16 ins 1997 No. 79 s 55

Persons having dealings with trust etc.

s 17 ins 1997 No. 79 s 55

Disposal of property accepted by the trust

s 18 ins 1997 No. 79 s 55

Disposal of certain abandoned property

s 19 ins 1997 No. 79 s 55

Trust must give notice of public auction

s 20 ins 1997 No. 79 s 55

Effect of sale or other disposal of property

s 21 ins 1997 No. 79 s 55

Quorum

s 23 amd 1997 No. 79 s 51 sch 4

Presiding at meetings

s 24 sub 1997 No. 79 s 56

Meetings

s 25 ins 1997 No. 79 s 56

Resolutions without meetings

s 26 ins 1997 No. 79 s 56

Employeess 26A ins 1995 No. 58 s 4 sch 1
om 1997 No. 79 s 57**Conduct of affairs**

s 27 amd 1997 No. 79 s 51 sch 4

Trust subject to direction by Ministers 28A ins 1988 No. 2 s 12
om 1997 No. 79 s 57**Disclosure of interests by members**

s 29 sub 1997 No. 79 s 57

Voting by interested members 30 prev s 30 amd 1988 No. 2 s 13; 1997 No. 17 s 43
om 1997 No. 79 s 51 sch 4
pres s 30 sub 1995 No. 58 s 4 sch 1; 1997 No. 79 s 57**Delegation by trust**s 31 prev s 31 om 1997 No. 79 s 51 sch 4
pres s 31 sub 1995 No. 58 s 4 sch 1; 1997 No. 79 s 57**Division 5—Director and staff**

div hdg ins 1997 No. 79 s 57

Directors 32 prev s 32 om 1997 No. 79 s 51 sch 4
pres s 32 sub 1997 No. 79 s 57**Duties of director**s 33 prev s 33 om 1997 No. 79 s 51 sch 4
pres s 33 sub 1997 No. 79 s 57**Director to attend trust meetings**

s 34 ins 1997 No. 79 s 57

Things done by director

s 35 ins 1997 No. 79 s 57

Delegation by director

s 36 prev s 36 amd 1988 No. 2 s 15

om 1997 No. 79 s 51 sch 4
pres s 36 ins 1997 No. 79 s 57

Employees

s 37 prev s 37 om 1997 No. 79 s 51 sch 4
pres s 37 ins 1997 No. 79 s 57

Superannuation schemes

s 38 prev s 38 amd 1995 No. 58 s 4 sch 1
om 1996 No. 54 s 9 sch
pres s 38 ins 1997 No. 79 s 57

Superannuation schemes

s 38A sub 1995 No. 36 s 9 sch 2
om 1997 No. 79 s 51 sch 4

PART 3—FINANCIAL PROVISIONS**Division 1—Funds, accounts and budget**

div hdg om 1997 No. 79 s 51 sch 4

Application of Financial Administration and Audit Act 1977

s 39 prev s 39 amd 1995 No. 58 s 4 sch 1
om 1996 No. 54 s 9 sch
pres s 39 sub 1988 No. 2 s 14; 1995 No. 58 s 4 sch 1

Trust is statutory body under Statutory Bodies Financial Arrangements Act 1982

s 40 orig s 40 om 1997 No. 79 s 51 sch 4
prev s 40 (s 35) om 1988 No. 2 s 14
pres s 40 ins 1996 No. 54 s 9 sch

Division 2—Other powers

div hdg amd 1996 No. 54 s 9 sch
om 1997 No. 79 s 51 sch 4

Power to establish investment common funds

s 41 prev s 41 om 1996 No. 54 s 9 sch
pres s 41 amd 1997 No. 79 s 58

PART 4—PLANNING

pt hdg ins 1997 No. 79 s 59

Division 1—Preliminary

div hdg ins 1997 No. 79 s 59

How pt 4 applies if offices of Minister and Treasurer are held by the 1 person

s 42 prev s 42 amd 1995 No. 58 s 4 sch 1
om 1996 No. 54 s 9 sch
pres s 42 ins 1997 No. 79 s 59

Part additional to standard

s 43 prev s 43 om 1996 No. 54 s 9 sch
pres s 43 ins 1997 No. 79 s 59

Division 2—Strategic and operational plans for trust**div hdg** ins 1997 No. 79 s 59**Draft strategic and operational plans****s 44** prev s 44 amd 1995 No. 58 s 4 sch 1
om 1996 No. 54 s 9 sch
pres s 44 ins 1997 No. 79 s 59**Special procedures for draft strategic and operational plans****s 45** prev s 45 om 1996 No. 54 s 9 sch
pres s 45 ins 1997 No. 79 s 59**Strategic and operational plans on agreement****s 46** prev s 46 om 1996 No. 54 s 9 sch
pres 46 ins 1997 No. 79 s 59**Strategic and operational plans pending agreement****s 47** prev s 47 om 1996 No. 54 s 9 sch
pres s 47 ins 1997 No. 79 s 59**Modifications of strategic and operational plans****s 48** prev s 48 amd 1996 No. 54 s 9 sch
om 1997 No. 79 s 51 sch 4
pres s 48 ins 1997 No. 79 s 59**State's agreed triennial funding****s 49** prev s 49 om 1996 No. 54 s 9 sch
pres s 49 ins 1997 No. 79 s 59**Elements of operational plans****prov hdg** prev s 50 prov hdg sub 1995 No. 58 s 4 sch 1
s 50 prev s 50 amd 1995 No. 58 s 4 sch 1
om 1996 No. 54 s 9 sch
pres s 50 ins 1997 No. 79 s 59**Informational systems and physical assets strategic plans****s 51** prev s 51 om 1997 No. 79 s 51 sch 4
pres s 51 ins 1997 No. 79 s 59**PART 5—ACCOUNTABILITY MATTERS****pt hdg** ins 1997 No. 79 s 59**Trust to keep Minister informed****s 52** ins 1997 No. 79 s 59**Monitoring and assessment of trust****s 53** ins 1997 No. 79 s 59**PART 6—REPORTING****pt hdg** ins 1997 No. 79 s 59**Annual report****s 54** ins 1997 No. 79 s 59**PART 7—MISCELLANEOUS PROVISIONS****pt hdg** amd 1997 No. 79 s 51 sch 4

Delegation by Minister

s 55 sub 1997 No. 79 s 60

Protection from liability of members

s 56 amd 1995 No. 58 s 4 sch 1
sub 1997 No. 79 s 60

Illegal borrowing

s 57 ins 1997 No. 79 s 60

Application of rule against perpetuities

s 58 ins 1997 No. 79 s 60

Complex taken to be public place

s 60 sub 1997 No. 79 s 61

Trust's seal

s 61 prev s 61 amd 1995 No. 58 s 4 sch 1
om 1997 No. 79 s 51 sch 4
pres 61 sub 1997 No. 79 s 61

Authentication of documents

s 62 prev s 62 om 1997 No. 79 s 51 sch 4
pres s 62 sub 1997 No. 79 s 61

Reward for information

s 63 prev s 63 amd 1992 No. 36 s 2 sch 1
om 1995 No. 58 s 4 sch 1
pres s 63 sub 1997 No. 79 s 61

Proceedings for offences

s 64 ins 1997 No. 79 s 61

Description of property in complaint

s 65 amd 1997 No. 79 s 62

Regulation-making power

prov hdg prev s 66 prov hdg sub 1995 No. 58 s 4 sch 1
s 66 prev s 66 amd 1992 No. 36 s 2 sch 1; 1995 No. 58 s 4 sch 1
om 1997 No. 79 s 63
pres s 66 ins 1995 No. 58 s 4 sch 1
amd 1997 No. 79 s 51 sch 4

PART 8—SAVING AND TRANSITIONAL

pt hdg ins 1997 No. 79 s 64
exp 19 December 2002 (see s 69)

Members continue in office

s 67 ins 1997 No. 79 s 64
exp 19 December 2002 (see s 69)

Director and employees continue in office

s 68 prev s 68 ins 1997 No. 79 s 64
 om R1 (see RA s 37)
 pres s 68 ins 1997 No. 79 s 64
 exp 19 December 2002 (see s 69)

Expiry of pt 8

s 69 ins 1997 No. 79 s 64
 exp 19 December 2002 (see s 69)

8 Table of renumbered provisions

TABLE OF RENUMBERED PROVISIONS

under the Reprints Act 1992 s 43 as required by Queensland Performing Arts Trust
 Act 1977 s 68

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