



Queensland

# **Queensland Performing Arts Trust Act 1977**

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Queensland

# Queensland Performing Arts Trust Act 1977

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# Queensland Performing Arts Trust Act 1977

**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

### 1 Short title

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

### 1A Object of Act

The object of this Act is to contribute to the cultural, social and intellectual development of all Queenslanders.

### 1B Guiding principles for achieving the object

The principles intended to guide the achievement of the object of the Act are the following—

- (a) leadership and excellence should be provided in the performing arts;
- (b) leadership and excellence should be demonstrated in the management, on a commercial basis, of venues used for the performing arts, for the benefit of performing artists;
- (c) there should be responsiveness to the needs of communities in regional and outer metropolitan areas;
- (d) respect for Aboriginal and Torres Strait Islander cultures should be affirmed;

- (e) children and young people should be supported in their appreciation of, and involvement in, the performing arts;
- (f) diverse audiences should be developed;
- (g) capabilities for life-long learning about the performing arts should be developed;
- (h) opportunities should be developed for international collaboration and for cultural exports, especially to the Asia-Pacific region;
- (i) content relevant to Queensland should be promoted and presented.

## **2 Definitions**

The dictionary in schedule 1 defines particular words used in this Act.

# **Part 2 The trust**

## **Division 1 Constitution and membership of trust**

### **3 Establishment of trust**

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

### **4 Legal status of trust**

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.

## **5 Trust's relationship with State**

The trust represents the State.

## **6 Composition of trust**

- (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 Sector Act 2022*.

## **7 Role of members**

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.

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

- (1) The Governor in Council must appoint a member as chairperson of the trust.
- (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.
- (7) The deputy chairperson must act as chairperson—
  - (a) during a vacancy in the office of chairperson; and
  - (b) during all periods when the chairperson is absent from duty or is otherwise unable to perform the functions of the office.

## **10 Duration of appointment**

- (1) A member is appointed for the term (not more than 3 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 member is disqualified from continuing as a member under section 11A; 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.
- (4) The Minister may extend a person's term of appointment as a member, including any term of appointment as chairperson, until the earlier of the following—
  - (a) the end of the day that is 3 months after the day the term would have expired under the person's instrument of appointment;
  - (b) the start of the term of appointment of the person's successor.

- (5) Subsection (4) does not limit the Governor in Council's power under subsection (3) or the *Acts Interpretation Act 1954*, section 25(1)(b)(i) or (c).

## **11 Conditions of appointment**

- (1) A member holds office on the conditions not provided for by this Act that are decided by the Governor in Council.
- (2) Except as decided by the Governor in Council, a member is not entitled to receive any payment, interest in property or other valuable consideration or benefit—
- (a) by way of remuneration as a member; or
  - (b) in connection with resignation from office, or other termination of office, as a member, chairperson or deputy chairperson.

## **11A Disqualification from membership**

- (1) A person is disqualified from becoming or continuing as a member if the person—
- (a) has a conviction, other than a spent conviction, for an indictable offence; or
- Note—*
- For the requirement to give notice of a change in a person's criminal history, see section 38D.
- (b) is an insolvent under administration; or
  - (c) is disqualified from managing corporations because of the Corporations Act, part 2D.6.
- (2) Also, a person is disqualified from becoming or continuing as a member if the Minister asks for the person's consent to make a request under section 38C in relation to the person and the person does not consent.
- (3) If an event mentioned in subsection (1)(b) or (c) happens during the term of a person's appointment as a member, the person must immediately give the Minister notice of the

person's insolvency or disqualification, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

## **11B Leave of absence for members**

- (1) The trust may approve a leave of absence for a member for a period of not more than 3 months.
- (2) The trust must give the Minister notice of the leave of absence.

## **Division 2 Functions**

### **12 Functions of trust**

- (1) The functions of the trust are the following—
  - (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 engage in partnerships or philanthropic activities to support the performance of the other functions of the trust;
  - (j) to carry out activities that support the cultural purposes of the cultural centre precinct, including, for example, providing services in or on the cultural centre precinct to the department or a State arts entity;
  - (k) to perform the functions given to the trust under another Act;
  - (l) 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 (k);
  - (m) to perform functions of the type to which paragraph (l) applies and which are given to the trust in writing by the Minister.
- (2) Before giving a function for subsection (1)(m), the Minister must consult with the trust about the function.
  - (3) In performing its functions the trust must have regard to the object of, and guiding principles for, this Act.
  - (4) In this section—

***cultural centre precinct*** means the precinct of arts and cultural venues in South Brisbane located on the following land—

    - (a) lot 100 on SP259360;
    - (b) lot 500 on SP259412;
    - (c) lot 600 on SP259442;
    - (d) lot 700 on SP273957.

***State arts entity*** means any of the following entities—

- (a) the Board of the Queensland Museum continued under the *Queensland Museum Act 1970*;
- (b) the Library Board of Queensland continued under the *Libraries Act 1988*;
- (c) the Queensland Art Gallery Board of Trustees continued under the *Queensland Art Gallery Act 1987*;
- (d) the Queensland Theatre Company continued under the *Queensland Theatre Company Act 1970*.

## **Division 3                      Legal capacity and powers**

### **13            Objects of division**

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.

### **14            General powers**

- (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.

## **15 Directions by Minister**

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

## **16 Restrictions on powers of trust**

- (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.

## **17 Persons having dealings with trust etc.**

- (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.

## **18 Disposal of property accepted by trust**

- (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 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 trust sells the property, the proceeds of sale must be applied in the following order—
  - (a) in payment of the reasonable expenses incurred in storing and selling the property;

- (b) if there is an amount owing to an entity under a security interest registered for the property under the *Personal Property Securities Act 2009* (Cwlth)—in payment of the amount owing under the security interest;
- (c) the balance—
  - (i) must be held by the trust for the person for at least 1 year after the sale; and
  - (ii) if the person does not claim the proceeds of sale within 1 year after the sale—may be used by the trust in performing its functions.

## **20 Trust must give notice of public auction of property accepted by trust**

- (1) Before the trust sells any property under section 18, 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.

## **21 Effect of sale or other disposal of property accepted by trust**

- (1) This section applies to the sale or other disposal of any property under section 18.
- (2) The sale or other disposal is valid against all persons.
- (3) A secured party can not enforce any security interest in the property or the proceeds of sale against—
  - (a) the trust; or

- security interest* has the meaning given by the *Personal Property Securities Act 2009* (Cwlth), section 12.

- (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.

## **25 Meetings**

- (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.

## **26 Resolutions without meetings**

- (1) If at least a majority of members sign a document containing a statement that they are in favour of a resolution set out in the document, a resolution in those terms is taken to have been passed at a meeting of the 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.

## **27 Conduct of affairs**

- (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.

## 28 Minutes

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

## 29 Disclosure of interests by members

- (1) If a member has a direct or indirect interest in a matter being considered, or about to be considered, by the 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.

## 30 Voting by interested member

- (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.

### **31 Delegation by trust**

- (1) The trust may, by resolution, delegate its functions to—
- (a) a member; or
  - (b) a committee of members; or
  - (c) the director; or
  - (d) a committee established under section 38A; or
  - (e) an appropriately qualified employee of the trust.
- (2) In this section—  
*function* includes power.

## **Division 5 Director and staff**

### **32 Director**

- (1) There is to be a director of the trust.
- (2) The director is appointed by the Governor in Council on the recommendation of the Minister.
- (3) The Minister must not recommend a person for appointment as the director unless the recommendation has been approved by the trust.

### **32A Duration of appointment**

- (1) The director holds office for the term, of not more than 5 years, stated in the director's instrument of appointment.
- (2) A person may be reappointed as the director.
- (3) The Minister may extend a person's term of appointment as the director until the earlier of the following—
  - (a) the end of the day that is 3 months after the day the term would have expired under the person's instrument of appointment;
  - (b) the start of the term of appointment of the person's successor.
- (4) Subsection (3) does not limit the Governor in Council's power under the *Acts Interpretation Act 1954*, section 25(1)(b)(i) or (c).

### **32AA Conditions of appointment**

The director holds office on the conditions, not provided for by this Act, decided by the Governor in Council.

### **32B Director is employee of trust**

Despite section 32—

- (a) the director is an employee of the trust and not of the State; and
- (b) subject to the conditions of the director's appointment, the trust may enter into a contract of employment with the director.

## **33 Duties of director**

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

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**34 Director to attend trust meetings**

- (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.

**35 Things done by director**

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

**36 Delegation by director**

- (1) The director may delegate the director's functions (including a function 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.
- (3) In this section—  
*function* includes power.

**36A Leave of absence for director**

The chairperson may approve a leave of absence for the director for a period of not more than 3 months.

**36B Acting director**

- (1) This section applies if—
  - (a) the office of the director is vacant; or
  - (b) the director is absent from duty or is otherwise unable to perform the functions of the office.
- (2) The trust may appoint a person to act in the office for a period of not more than 3 months.
- (3) Subsection (2) does not limit the Governor in Council's power under the *Acts Interpretation Act 1954*, section 25(1)(b)(iv) or (v).

### **37 Employees**

- (1) The trust may employ the persons it considers necessary to perform its functions.
- (2) Subject to any relevant award the trust may decide the employees' terms of employment.
- (3) The employees are to be employed under this Act and not the *Public Sector Act 2022*.

### **38 Superannuation schemes**

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.

## **Division 6 Committees**

### **38A Committees**

- (1) The trust may establish committees of the trust.
- (2) A committee may perform the functions or exercise the powers delegated to it by the trust under section 31.
- (3) In performing the functions or exercising the powers mentioned in subsection (2), a committee is subject to the directions of the trust.
- (4) A person may be appointed to a committee whether or not the person is a member of the trust.
- (5) In appointing a person to a committee, the trust must have regard to the person's ability to take part in the performance of the functions and the exercise of the powers delegated to the committee.

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## Division 7                      Criminal history

### 38B      Definition for division

In this division—

***criminal history***, of a person, means the person's criminal history within the meaning of the *Criminal Law (Rehabilitation of Offenders) Act 1986*, other than a spent conviction.

### 38C      Criminal history reports

- (1) This section applies if the Minister is deciding whether a person is disqualified from becoming or continuing as a member.
- (2) The Minister may ask the police commissioner for—
  - (a) a written report about the criminal history of the person; and
  - (b) a brief description of the circumstances of a conviction mentioned in the criminal history.
- (3) However, the Minister may make the request only if the person has given the Minister written consent for the request.
- (4) The police commissioner must comply with the request.
- (5) However, the duty to comply under subsection (4) applies only to information in the possession of the police commissioner or to which the police commissioner has access.

### 38D      Requirement to disclose changes in criminal history

- (1) This section applies if a person who is a member is charged with or convicted of an indictable offence during the term of the person's appointment.
- (2) The person must, immediately after the person is charged or convicted, give the Minister notice under subsection (3) of the

charge or conviction, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (3) The notice must state—
- (a) the existence of the charge or conviction; and
  - (b) for a charge—
    - (i) details adequate to identify the alleged offence; and
    - (ii) when the offence was alleged to have been committed; and
  - (c) for a conviction—
    - (i) details adequate to identify the offence; and
    - (ii) when the offence was committed; and
    - (iii) the sentence imposed on the person.

### **38E Confidentiality of criminal history information**

- (1) This section applies to a person who—
- (a) is, or has been—
    - (i) the Minister or a member of the Minister's staff; or
    - (ii) a public service employee performing functions under, or relating to the administration of, this division; and
  - (b) in that capacity, has acquired or has access to criminal history information.
- (2) The person must not disclose the criminal history information to anyone else, or use the information, other than under this section.

Maximum penalty—100 penalty units.

- (3) The person may disclose or use the criminal history information—

- 
- (a) to the extent the disclosure or use—
    - (i) is necessary to perform the person's functions under, or relating to the administration of, this Act; or
    - (ii) is otherwise required or permitted under this Act or another law; or
  - (b) with the consent of the person to whom the information relates.
- (4) A person who possesses a report given under section 38C or a notice given under section 38D must ensure the report or notice is destroyed as soon as practicable after it is no longer needed for the purpose for which it was given.
- (5) Subsection (4) applies despite the *Public Records Act 2023*.
- (6) In this section—
- criminal history information*** means information contained in—
- (a) a report given under section 38C; or
  - (b) a notice given under section 38D.
- disclose*** includes give access to.

## Part 3 Financial provisions

### 39 Application of Financial Accountability Act 2009

The trust is a statutory body under the *Financial Accountability Act 2009*.

### 40 Trust is statutory body under Statutory Bodies Financial Arrangements Act 1982

- (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*.

#### **41 Power to establish investment common funds**

- (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.

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## **Part 4                      Planning**

### **Division 1                Preliminary**

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

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

#### **43        Part additional to standard**

- (1) This part is additional to and does not derogate from the standard.
- (2) However, if there is an inconsistency between this part and the standard, this part prevails to the extent of the inconsistency.
- (3) Also, if something is required to be done under this part and the same thing, or something to the same effect, is required to be done under the standard, compliance with this part is sufficient compliance with the standard.

### **Division 2                Strategic and operational plans for trust**

#### **44        Draft strategic and operational plans**

- (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 2 months before the start of each financial year.
- (2) In preparing the draft plans the trust must consult with the Minister.

- (3) The trust must give copies of the draft plans to the Treasurer at the same time as it gives the plans to the Minister.
- (4) 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.
- (5) 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.

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

- (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 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.

#### **46 Strategic and operational plans on agreement**

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.

#### **47 Strategic and operational plans pending agreement**

- (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.

#### **48 Modifications of strategic and operational plans**

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

## Part 5 Accountability matters

### 51 Minister may give statement of expectations

- (1) The Minister may give the trust a written statement (a *statement of expectations*) about the Minister's expectations in relation to the performance by the trust of its functions.
- (2) A statement of expectations may—
  - (a) apply for a particular period stated in the statement; and
  - (b) provide for any of the following matters—
    - (i) the trust's strategic or operational activities;
    - (ii) the nature and scope of the trust's activities proposed to be carried out for a particular period;
    - (iii) information required to be given to the Minister by the trust;
    - (iv) the way the trust must report to the Minister about its activities;
    - (v) the sharing of information with a government entity.
- (3) The trust must have regard to a statement of expectations in performing its functions.

### 52 Trust to keep Minister informed

- (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.

## **53 Monitoring and assessment of trust**

- (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

### 54 Annual report

The trust's annual report under the *Financial Accountability Act 2009* 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; and
- (e) details of each statement of expectations given by the Minister during the relevant financial year and any actions taken by the trust.

## Part 6A Resale of tickets

### 54A Definitions for part

In this part—

***authorised ticket agent***, for a QPAC presentation, means an entity authorised by the organiser of the presentation to sell tickets to the presentation to the public.

***non-profit organisation*** means an organisation that is not carried on for the profit or gain of its individual members.

*Examples of entities that may be non-profit organisations—*

a charity, church, club or environmental protection society

***organiser***, of a QPAC presentation, means the entity that—

- (a) is responsible for organising the presentation; and
- (b) will receive revenue from the sale of tickets to the presentation.

***original ticket price***, of a ticket to a QPAC presentation, means—

- (a) if the ticket was originally obtained from the organiser of the presentation—the price at which the organiser sells, to the public, tickets of the same type to the presentation; or
- (b) if the ticket was originally obtained from an authorised ticket agent for the presentation—the price at which the agent sells, to the public, tickets of the same type to the presentation, including any fee, however described, charged by the agent for the sale and included in the purchase price.

***public sale forum*** means a newspaper, auction house, website or other venue or medium that, in the ordinary course of business or commerce, is generally made available to members of the public to sell to, or purchase from, other members of the public, all, or broad categories of, property and services.

***QPAC presentation*** means a presentation of the performing arts staged at the centre.

***resell***, a ticket to a QPAC presentation, means to sell the ticket—

- (a) at any time after it has been obtained from the organiser of the presentation or an authorised ticket agent for the presentation; and
- (b) before the presentation takes place.

***sell*** includes offer for sale.

***ticket***, to a QPAC presentation, means a docket, token or another item that entitles the person holding the docket, token or item to attend the presentation on the day and at the time indicated on the docket, token or item.

## **54B Restriction on resale of tickets**

- (1) A person must not, within or outside Queensland, resell a ticket to a QPAC presentation at a price greater than 10% above the original ticket price of the ticket.

Maximum penalty—

- (a) for an individual—135 penalty units; or
  - (b) for a corporation—680 penalty units.
- (2) Subsection (1) does not apply to the resale of a ticket to a QPAC presentation by a non-profit organisation, or a person acting for the organisation, for fundraising.
- (3) This section does not authorise the resale of a ticket to a QPAC presentation.
- (4) A person does not contravene subsection (1) merely because the person provides, or assists another person to provide, a public sale forum that is used in contravention of subsection (1).

# **Part 7 Miscellaneous provisions**

## **55 Delegation by Minister**

- (1) The Minister may delegate the Minister's functions under this Act to an appropriately qualified public service officer employed in 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)(l);
  - (b) the power to direct the trust under sections 15, 45(3) and 48(2);
  - (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 give the trust a statement of expectations;
  - (e) the power to ask a person to investigate and report under section 53(1).
- (3) In this section—  
*function* includes power.

## 56 Confidentiality

- (1) This section applies to a person who—
- (a) is, or has been—
    - (i) the Minister or a member of the Minister's staff; or
    - (ii) a public service employee performing functions under, or relating to the administration of, this Act; and
  - (b) in that capacity, has acquired or has access to confidential information about another person.
- (2) The person must not disclose the confidential information to anyone else, or use the information, other than under this section.

Maximum penalty—100 penalty units.

- (3) The person may disclose or use the confidential information—
- (a) to the extent the disclosure or use—
    - (i) is necessary to perform the person's functions under, or relating to the administration of, this Act; or
    - (ii) is otherwise required or permitted under this Act or another law; or
  - (b) with the consent of the person to whom the information relates; or
  - (c) in compliance with a lawful process requiring production of documents to, or giving evidence before, a court or tribunal.

(4) In this section—

***confidential information***—

(a) means the following information—

- (i) personal information;
- (ii) information given in a notice under section 11A(3);
- (iii) information that would be likely to damage the commercial activities of a person to whom the information relates; but

(b) does not include criminal history information under section 38E or information that is lawfully available to the public.

***disclose*** includes give access to.

***information*** includes a document.

***personal information*** see the *Information Privacy Act 2009*, section 12.

## **57 Illegal borrowing**

- (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.

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- (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.
- (8) The *Public Sector Act 2022*, sections 269 and 270 do not prevent civil liability imposed on a member under this section from attaching to the member.

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

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

## **60 Centre taken to be public place**

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

## **61 Trust's seal**

- (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.

## **62 Authentication of documents**

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.

## **63 Reward for information**

- (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.

## **64 Proceedings for offences**

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

## **65 Description of property in complaint**

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.

## **66 Regulation-making power**

The Governor in Council may make regulations under this Act.

# **Part 8 Transitional provisions**

## **Division 1 Transitional provisions for Arts Legislation Amendment Act 2003**

### **67 Definition for div 1**

In this division—

*commencement* means commencement of this section.

### **68 Duration of certain appointments**

- (1) This section applies to a person who was a member of the trust immediately before the commencement.
- (2) Despite section 10(1), the person's appointment as a member continues until the day the appointment would have ended under this Act as in force immediately before the commencement, unless earlier ended under section 10(3).

## Division 2                      Transitional provisions for Vocational Education, Training and Employment and Other Legislation Amendment Act 2007

### 69            Definitions for div 2

In this division—

***commencement*** means the commencement of the provision in which the term is used.

***current appointment***, of the present director, means the director's appointment by the Governor in Council under the pre-amended Act, section 32(1), on 14 February 2002.

***current conditions*** see section 70(1).

***pre-amended Act*** means this Act as in force before the commencement.

***present director*** means the person holding office as the director at the commencement.

### 70            Conditions on which present director holds office

- (1) Subject to this division, the present director continues to hold the office on the conditions (the ***current conditions***) applying under the pre-amended Act, section 32(2), immediately before the commencement.
- (2) The present director's current appointment ends and the director ceases holding the office at the end of 3 March 2008.
- (3) Subsection (2) does not prevent the present director ceasing to hold the office at an earlier time under the current conditions or those conditions as amended.
- (4) If the present director ceases to hold the office under subsection (3), the director's current appointment also ends.

## **71 Current conditions may be amended**

- (1) The trust may, with the Governor in Council's approval, amend the current conditions.
- (2) However, subject to section 70(3), the conditions can not be amended in a way that would interfere with the operation of section 70(2).

## **72 No compensation payable**

Compensation may not be claimed by, and is not payable to, the present director, whether under the current conditions, those conditions as amended or otherwise, because of the operation of section 70(2).

# **Division 3 Transitional provision for Education and Other Legislation Amendment Act 2026**

## **73 Application of new s 11A and new pt 2, div 7**

- (1) New section 11A and new part 2, division 7 apply in relation to a member holding office after the commencement, whether the member was appointed before or after the commencement.
- (2) In this section—  
*new*, in relation to a provision of this Act, means the provision as in force from the commencement.

## Schedule 1      Dictionary

### section 2

***authorised ticket agent***, for a QPAC presentation, for part 6A, see section 54A.

***centre*** means the Queensland Performing Arts Centre on the corner of Melbourne and Grey Streets and Russell and Grey Streets, South Brisbane.

***chairperson*** means the chairperson of the trust holding office under section 9.

***conviction*** means a finding of guilt or the acceptance of a plea of guilty by a court, whether or not a conviction is recorded.

***criminal history***, of a person, for part 2, division 7, see section 38B.

***deputy chairperson*** means the deputy chairperson of the trust holding office under section 9.

***director*** means the director of the trust holding office under section 32.

***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.

***non-profit organisation***, for part 6A, see section 54A.

***notice*** means written notice.

***operational plan***, of the trust, means the trust's operational plan developed under part 4 of this Act and the standard.

***organiser***, of a QPAC presentation, for part 6A, see section 54A.

***original ticket price***, of a ticket to a QPAC presentation, for part 6A, see section 54A.

***public sale forum***, for part 6A, see section 54A.

***QPAC presentation***, for part 6A, see section 54A.

***resell***, a ticket to a QPAC presentation, for part 6A, see section 54A.

***sell***, for part 6A, see section 54A.

***standard*** means a financial and performance management standard under the *Financial Accountability Act 2009*.

***statement of expectations*** see section 51(1).

***strategic plan***, of the trust, means the trust's strategic plan developed under part 4 of this Act and the standard.

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

***ticket***, to a QPAC presentation, for part 6A, see section 54A.

***trust*** means the Queensland Performing Arts Trust continued in existence under section 3.