

NORFOLK



ISLAND

# MUSEUM TRUST ACT 1987

Act No. 9 of 1987

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## MUSEUM TRUST ACT 1987

Act No. 9 of 1987

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An Act to establish a Trust for the acquisition, preservation and display of Norfolk Island's heritage of movable cultural objects, and for related purposes

[Assented to 12 June 1987]

**WHEREAS** in 1974 a draft was prepared of a proposed Act to establish a body to be known as the Norfolk Island Public Museum Trust;

**AND WHEREAS** pending the making of the proposed Act His Honour the Administrator informally established a body known as the Interim Museum Trust to give effect, so far as practicable, to the provisions of the proposed Act;

**AND WHEREAS** the proposed Act was not made and it is now expedient to make provision by enactment for the acquisition, preservation and display of Norfolk Island's heritage of movable cultural objects;

**BE IT THEREFORE ENACTED** by the Legislative Assembly of Norfolk Island as follows —

### Short title

1. This Act may be cited as the *Museum Trust Act 1987*.

### Commencement

2. This Act shall come into operation on a date fixed by the Administrator by notice published in the Gazette.

### Interpretation

3. (1) In this Act, unless the contrary intention appears —

“Chairman” means the Chairman of the Trust appointed under subsection 5(4);

“financial year” means the period commencing on 1 July in a year and ending at the expiration of the following 30 June;

“Trust” means the Norfolk Island Museum Trust established by section 4;

“trustee” means a person appointed under subsection 5(1) to be a member of the Trust, and includes the Chairman.

- (2) A reference in this Act to a heritage object is a reference to a movable object that is of cultural significance to Norfolk Island for ethnological, archaeological, historical, literary, artistic, scientific or technological reasons.

**Establishment of Museum Trust**

**4.** (1) There is established by this Act a body corporate with perpetual succession by the name of the Norfolk Island Museum Trust.

(2) Subject to this Act, the Trust is capable of —

- (a) suing and being sued;
- (b) making contracts;
- (c) acquiring, holding and disposing of real, leasehold and personal property; and
- (d) doing and suffering all other matters and things a body corporate may do or suffer.

(3) The Trust shall have a common seal.

(4) A Court, Judge or person acting judicially shall take judicial notice of the common seal and shall presume that it was duly affixed.

(5) The Trust is an instrumentality of the Crown in right of Norfolk Island.

**Composition of Trust and appointment of trustees**

**5.** (1) The Trust shall consist of 7 persons appointed by the executive member by instrument in writing in accordance with a resolution of the Legislative Assembly.

(2) Subject to this Act, a trustee —

- (a) holds office for such period, not exceeding 2 years, as is specified in the instrument of appointment; and
- (b) is eligible for re-appointment.

(3) Where no period is specified in an instrument of appointment, the trustee to whom the instrument relates holds office for 2 years.

(4) The executive member shall, by instrument in writing, appoint one of the trustees to be the Chairman of the Trust.

**Function of Trust**

**6.** The function of the Trust is to acquire possession of heritage objects for the purposes, in relation to objects so acquired, of —

- (a) ensuring the safe custody of the objects;
- (b) preventing physical damage to, or decay of, the objects;
- (c) preparing a catalogue of the objects;
- (d) obtaining and recording information about the objects; and
- (e) preparing the objects for display in a museum approved by the executive member.

**Powers of Trust**

**7.** (1) Subject to this Act, the Trust has power to do all things necessary or convenient to be done for or in connection with, or incidental to, the performance of its function.

(2) Without limiting the generality of subsection (1), the Trust may, for the purpose of performing its function —

- (a) acquire possession of heritage objects —

- (i) by purchase or lease;
  - (ii) by gift, exchange or testamentary disposition;
  - (iii) on loan; or
  - (iv) as a trustee under a trust instrument; and
- (b) provide for the security, storage and restoration of heritage objects in the possession of the Trust.
- (3) The Trust does not have power to alienate, dispose of, destroy or temporarily or permanently part with possession of a heritage object acquired by it otherwise than —
  - (a) in accordance with a contract, agreement or trust instrument by which the object was placed in the possession of the Trust on terms requiring the return of the object under the contract, agreement or instrument;
  - (b) for the purpose of having the object displayed in a museum approved by the executive member; or
  - (c) in accordance with the written permission of the executive member.

#### **Financial powers of Trust**

8. (1) The Trust may raise money, otherwise than by borrowing, by —
- (a) receiving money by donation, gift or testamentary disposition or as a trustee under a trust instrument;
  - (b) conducting a fund-raising scheme, lottery or game of chance;
  - (c) receiving public moneys of the Territory pursuant to an enactment;
  - (d) receiving money as a result of the alienation, hire or lease of a heritage object, or in respect of the use of a heritage object; and
  - (e) receiving income from the investments of the Trust.
- (2) Money received by the Trust shall be paid into an account opened by the Trust at a bank in Norfolk Island and the account shall be operated on in a manner determined by the Trust.
- (3) The Trust may invest money received by it —
- (a) in securities of, or guaranteed by, the Government of the Commonwealth or of a State or Territory;
  - (b) on fixed deposit in a bank; or
  - (c) in such other securities as the executive member determines.
- (4) Where money is received by the Trust as a trustee under a trust instrument, the powers of investment conferred by subsection (3) are in addition to any powers of investment conferred by the instrument.
- (5) The Trust does not have power to borrow money.
- (6) Nothing in the Lotteries and Fund-Raising Act 1987 requires the Trust to pay a fee to the Administration.
- (7) The Trust may spend money received by it for the purpose of performing its function or exercising its powers.

**Trust to keep records and accounts**

**9. (1)** The Trust shall keep records of heritage objects acquired by it, or in its possession, and of the whereabouts of each such object.

**(2)** The Trust shall keep full and particular accounts of all money received and spent by it, and of any other financial transaction entered into by it.

**(3)** The Trust shall prepare and furnish to the executive member as soon as practicable after the end of each financial year a report setting out in respect of that financial year —

- (a)** an account of the activities of the Trust; and
- (b)** the financial statements of the Trust in a form approved by the executive member.

**(4)** The executive member, or a person authorised for the purpose by the executive member by instrument in writing, may at any time inspect the records and accounts referred to in subsections (1) and (2).

**(5)** The executive member shall lay a copy of a report referred to in subsection (3) before the Legislative Assembly as soon as practicable after the receipt of the report by the executive member.

**Meetings of Trust**

**10. (1)** Subject to subsection (2), meetings of the Trust shall be held at times and places determined by the Trust.

**(2)** The executive member may, by instrument in writing, direct the Chairman to convene a meeting of the Trust at a time and place specified by the executive member and the Chairman shall comply with the direction.

**(3)** Subject to subsection (4), the Chairman shall preside at a meeting of the Trust.

**(4)** If the Chairman is absent from a meeting, the trustees shall choose one of their number to preside at the meeting.

**(5)** At a meeting of the Trust —

- (a)** 4 trustees constitute a quorum;
- (b)** questions arising shall be determined by a majority of the votes of the trustees present and voting and, in the event of an equality of votes, a question shall be taken to have been decided in the negative; and
- (c)** subject to this Act, the Trust shall determine the procedure to be followed at or in connection with the meeting.

**(6)** As soon as practicable after a meeting of the Trust, the Chairman shall inform the executive member of the time and place determined by the Trust for the holding of the next meeting.

**(7)** The executive member, or a person authorised for the purpose by the executive member by instrument in writing, is entitled to be present at a meeting of the Trust and to speak at the meeting, but shall not otherwise participate in the meeting.

**(8)** The Trust shall record and keep minutes of its meetings and shall provide the executive member, as soon as practicable after a meeting, with a copy of the minutes of the meeting.

**Resignation of trustees**

**11. (1)** A trustee may resign the office of trustee by written notice signed by the trustee and delivered to the executive member.

**(2)** As soon as practicable after the resignation of a trustee, a person shall be appointed under subsection 5(1) to be a trustee.

**Termination of appointment of trustees**

**12. (1)** The executive member may terminate the appointment of a trustee for inability, inefficiency, misbehaviour or physical or mental incapacity.

**(2)** Where a trustee —

**(a)** is absent, except on leave granted by the Trust, from 3 consecutive meetings of the Trust; or

**(b)** becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with the trustee's creditors or makes an assignment of the trustee's remuneration for their benefit,

the executive member shall terminate the appointment of the trustee.

**(3)** As soon as practicable after the termination of the appointment of a trustee, a person shall be appointed under subsection 5(1) to be a trustee.

**(4)** A person whose appointment as a trustee is terminated under this section is not eligible to be re-appointed as a trustee.

**Directions by executive member**

**13. (1)** The executive member may, by instrument in writing delivered to the Chairman, give the Trust directions as to the conduct of the affairs of the Trust and the Trust shall give effect to the directions.

**(2)** The executive member shall lay a copy of directions given under subsection (1) before the Legislative Assembly at its first meeting after the giving of the directions.

**Audit**

**14. (1)** The accounts kept by the Trust shall be audited once in respect of each financial year by a person appointed for the purpose by the executive member by instrument in writing.

**(2)** The person referred to in subsection (1) shall make a report on the audit referred to in that subsection to the executive member.

**(3)** The executive member shall lay a copy of a report made in accordance with subsection (2) before the Legislative Assembly as soon as practicable after the receipt of the report by the executive member.

**Liability of trustee**

**15.** A trustee is not liable for an action taken or omission made in good faith by the trustee in the performance or purported performance of a power or function under this Act.

**Vacancy in office of trustee**

**16.** The exercise of a power or the performance of a function by the Trust is not invalidated by reason only that there is a vacancy in the office of a trustee.

**Application of Public Moneys Act**

**17.** The *Public Moneys Act 1979* has no application to the Trust, and the moneys of the Trust do not constitute public moneys within the meaning of that Act.

**Application of Trustee Act**

**18. (1)** Subject to subsection (2), where the Trust is a trustee of property under a trust instrument —

- (a) the *Trustee Act 1931*; and
- (b) any other law in force in Norfolk Island relating to trustees,

applies to the Trust in relation to the property except to the extent that the Act or law is inconsistent with this Act.

**(2)** The executive member shall not give permission under paragraph 7(3)(c) for the alienation, disposal, destruction or parting with possession of property held by the Trust as a trustee under a trust instrument where the alienation, disposal, destruction or parting with possession is not authorised by —

- (a) the instrument;
- (b) the *Trustee Act 1931*; or
- (c) any other law in force in Norfolk Island relating to trustees.

**(3)** Except as provided by this section, the *Trustee Act 1931*, or any other law in force in Norfolk Island relating to trustees, has no application to the Trust.

**Regulations**

**19.** The Administrator may make Regulations, not inconsistent with this Act, prescribing matters —

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

**Transitional**

**20. (1)** In this section —

“existing collection” means heritage objects acquired —

- (a) in the name of; or
- (b) by a person on behalf of,

the Interim Museum Trust by purchase, lease, gift, exchange, testamentary disposition, loan or as a trustee under a trust instrument;

“Interim Museum Trust” means a body known by that name, being an unincorporated body established by the Administrator on or about 1 March 1975 for the purpose of safe-keeping and exhibiting in a museum in Norfolk Island open to the public objects of historical, scientific or artistic significance or value;

“new Trust” means the Norfolk Island Museum Trust established by section 4.

**(2)** Subject to subsection (3), the existing collection becomes the property of the new Trust on the date of appointment of the members of the new Trust in accordance with subsection 5(1).

(3) A legally enforceable obligation to which the Interim Museum Trust, or a person acting on behalf of the Interim Museum Trust, is a party may be enforced by or against the new Trust as if the new Trust were the body that became the party to the obligation.

(4) On the date referred to in subsection (2) —

- (a) assets, other than the existing collection, and liabilities of the Interim Museum Trust become assets and liabilities of the new Trust; and
- (b) the Interim Museum Trust ceases to exist.

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