

Serial 140
Museums and Art Galleries Act 1999
Mr Adamson

**A BILL
for
AN ACT**

relating to the management of museums and art galleries
and for related purposes

NORTHERN TERRITORY OF AUSTRALIA
MUSEUMS AND ART GALLERIES ACT 1999

No. of 1999

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SCHEDULE



NORTHERN TERRITORY OF AUSTRALIA

No. of 1999

AN ACT

relating to the management of museums and art galleries
and for related purposes

[Assented to 1999]

[Second reading 1999]

The Legislative Assembly of the Northern Territory enacts as follows:

1. Short title

This Act may be cited as the *Museums and Art Galleries Act 1999*.

2. Commencement

This Act comes into operation on the date fixed by the Administrator by notice in the *Gazette*.

3. Object

The object of this Act is to provide an appropriate framework for the proper, efficient and economic administration of museums and art galleries owned, controlled or managed by the Territory, being a framework that is consistent with the principles and practices of public sector administration and financial management.

4. Definitions

In this Act, unless the contrary intention appears –

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"Board" means the Museums and Art Galleries Board of the Northern Territory established by section 9;

"Chairperson" means the Chairperson of the Board;

"Chief Executive Officer" means the Chief Executive Officer of the Agency responsible for administering this Act;

"Deputy Chairperson" means the Deputy Chairperson of the Board;

"member" means a member of the Board and includes the Chairperson, the Deputy Chairperson and the deputy for a member while the deputy is acting on behalf of the member;

"public employee" means a Chief Executive Officer or employee within the meaning of the *Public Sector Employment and Management Act*.

PART 2 – ROLE OF MINISTER

5. Functions

The Minister has the following functions:

- (a) to establish and acquire museums and art galleries in the Territory;
- (b) to manage and maintain the museums and art galleries so established or acquired or otherwise placed under the Minister's control;
- (c) to establish, develop and maintain cultural and scientific collections;
- (d) to promote the appreciation of culture and learning by –
 - (i) displaying cultural and scientific collections;
 - (ii) organising lectures, demonstrations and other educational activities;
 - (iii) publishing educational material, whether in printed form or by audio, audio-visual or electronic means; and
 - (iv) any other means that the Minister considers appropriate;
- (e) to conduct, and to assist other persons to conduct, research in relation to the matters referred to in paragraphs (c) and (d).

6. Powers

(1) The Minister has power to do all things necessary or convenient to be done in connection with the performance of his or her functions, including the following:

- (a) subject to subsection (2), to acquire, hold and dispose of objects and articles of ethnological, anthropological, technological, scientific, artistic or historical interest or value;
- (b) to acquire, hold, maintain and dispose of property (whether real or personal) for use in connection with maintaining or displaying the objects and articles referred to in paragraph (a);
- (c) to charge for admission to a museum or art gallery or part of a museum or art gallery;
- (d) to produce and sell reproductions, replicas and photographs of exhibits;
- (e) to publish and sell publications about exhibits;
- (f) to grant rights to the production and publication, whether in printed form or by audio, audio-visual or electronic means, of material relating to property under the Minister's control;
- (g) to engage persons for the purposes of conducting lectures, demonstrations or other educational activities;
- (h) to provide financial and other assistance to persons conducting scientific research;
- (j) subject to subsections (3) and (4), to lend objects or articles of a kind referred to in paragraph (a) for exhibition to the public or display in an official residence in the Territory or elsewhere;
- (k) subject to subsection (3), to borrow objects or articles of a kind described in paragraph (a) for exhibition in a museum or art gallery controlled by the Minister.

(2) The Minister may only dispose of an object or article included in a collection held by the Board if –

- (a) either –
 - (i) the object or article has been included in such a collection for at least 10 years; or

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- (ii) the Minister has waived the requirement referred to in subparagraph (i);
 - (b) each member was given at least one month's notice of the proposed disposal; and
 - (c) at least 6 members have approved, in writing, the proposed disposal.
- (3) Subject to subsection (4), the Minister may lend or borrow objects or articles on the terms and conditions that the Minister determines.
- (4) The Minister may only lend an object or article for a period not exceeding 2 years but may renew an agreement for such a loan.

7. Minister acts on behalf of Territory

Whenever the Minister performs a function under section 5 or exercises a power under section 6, he or she does so on behalf of the Territory.

8. Delegation

- (1) The Minister may, by instrument, delegate to a specified person or to a person from time to time holding, acting in or performing the duties of a specified office, designation or position any of his or her functions or powers under this Act, other than –
- (a) this power of delegation; and
 - (b) the power of waiver referred to in section 6(2)(a)(ii) or 11(3)(a)(ii).
- (2) A function performed or a power exercised in pursuance of a delegation under subsection (1) is to be taken to have been performed or exercised by the Minister.
- (3) A delegation under subsection (1) does not prevent the Minister performing a function or exercising a power.

PART 3 – MUSEUMS AND ART GALLERIES BOARD

Division 1 – Establishment, Functions and Powers

9. Establishment

- (1) A board by the name of the Museums and Art Galleries Board of the Northern Territory is established.
- (2) The Board –

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- (a) is a body corporate with perpetual succession;
- (b) is to have a common seal; and
- (c) may sue and be sued in its corporate name.

(3) All courts, judges and persons acting judicially must take judicial notice of the seal of the Board affixed to a document and must presume that it was duly affixed.

10. Functions

The Board has the following functions:

- (a) to hold the cultural and scientific collections referred to in section 5(c) on behalf of the Territory;
- (b) to provide advice to the Minister in relation to the performance or exercise by the Minister of his or her functions or powers;
- (c) to promote community involvement in museums and art galleries in the Territory;
- (d) any other functions conferred on the Board by the Minister.

11. Powers

(1) The Board has power to do all things necessary or convenient to be done in connection with the performance of its functions, including the following:

- (a) subject to subsection (2), to acquire an object or article for inclusion in a collection held by the Board;
- (b) subject to subsection (3), to dispose of an object or article included in a collection held by the Board;
- (c) to enter, but only with the prior approval of the Minister, agreements and memorandums of understanding relating to the establishment of bodies whose purposes or objectives include the promotion or support of museums or art galleries in the Territory;
- (d) to accept gifts, devise bequests, endowments, sponsorship or other funding.

(2) Before making a financial commitment to acquire an object or article, the Board must obtain an assurance from the Chief Executive Officer that funds have been or will be allocated to meet that commitment.

- (3) The Board may only dispose of an object or article if –
 - (a) either –
 - (i) the object or article has been included in a collection held by the Board for at least 10 years; or
 - (ii) the Minister has waived the requirement referred to in subparagraph (i);
 - (b) each member was given at least one month's notice of the proposed disposal;
 - (c) at least 6 members have approved, in writing, the proposed disposal; and
 - (d) the Minister has approved the proposed disposal.

12. Directions and requests from Minister

(1) Subject to this section, in the performance of its functions and the exercise of its powers, the Board is subject to the directions of the Minister.

(2) The Board must comply with a request from the Minister for advice about a matter referred to in section 10(b) but is not subject to the direction of the Minister in respect of the content of any advice provided to the Minister under section 10(b).

(3) A member is not subject to the direction of the Minister in respect of the member's approval of the proposed disposal of an object or article under section 6(2)(c) or 11(3)(c).

13. Delegation

(1) The Board may, by instrument, delegate to an individual member any of its functions or powers under this Act, other than this power of delegation.

(2) A function performed or a power exercised in pursuance of a delegation under subsection (1) is to be taken to have been performed or exercised by the Board.

(3) A delegation under subsection (1) does not prevent the Board performing a function or exercising a power.

14. Annual report

(1) The Chairperson must provide the Minister with a report on the performance of the Board's functions and the exercise of the Board's powers

during each financial year not later than 3 months after the end of the financial year.

(2) Nothing in subsection (1) affects the obligations of the Chief Executive Officer under the *Public Sector Employment and Management Act* and the *Financial Management Act* to report on the operations of the Board as part of his or her Agency.

Division 2 – Constitution

15. Membership

(1) The Board is to consist of a Chairperson and 6 other members.

(2) A person may only be appointed as the Chairperson if the person is not a public employee.

(3) At any one time, no more than 2 of the other 6 members are to be public employees.

(4) Subject to subsection (3), the Chief Executive Officer may be appointed as a member.

16. Appointment

(1) The Chairperson and other members of the Board –

(a) are to be appointed in writing by the Minister;

(b) hold office for the period (not exceeding 3 years) specified in the instrument of appointment; and

(c) subject to subsection (2), are eligible for reappointment.

(2) A person is not eligible for reappointment if, as a result, the person would be a member for more than 6 consecutive years.

(3) In appointing a member, the Minister must –

(a) have regard to the periods for which existing members are appointed; and

(b) use his or her best endeavours to ensure that not more than 3 new members are appointed in any 18 month period.

(4) A member holds office on the terms and conditions in respect of matters not provided for by this Act that the Minister determines.

17. Resignation

The Chairperson or another member may resign his or her office in writing given to the Minister.

18. Termination of appointment

(1) The Minister may terminate the appointment of a member at any time.

(2) The Minister must terminate the appointment of a member if the member is found guilty, in the Territory or elsewhere, of an offence punishable by imprisonment for 12 months or longer.

19. Leave of absence

(1) The Minister may grant leave of absence to the Chairperson on the terms and conditions the Minister determines in writing.

(2) The Chairperson may grant leave of absence to another member on the terms and conditions the Chairperson determines in writing.

20. Disclosure of interest

(1) A member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Board must, as soon as the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board.

(2) The disclosure is to be recorded in the minutes of the meeting and the member must not, unless the Board determines otherwise –

(a) be present during any deliberation of the Board with respect to the matter; or

(b) take part in any decision of the Board with respect to the matter.

(3) The member must not –

(a) be present during any deliberation of the Board for the purpose of considering whether to make a determination under subsection (2) in relation to the member; or

(b) take part in the making by the Board of such a determination.

21. Deputy Chairperson

(1) The Minister may, in writing, appoint a member to be the Deputy Chairperson of the Board.

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(2) Subject to subsection (3), the Deputy Chairperson holds office for the period (not exceeding the period of his or her appointment as a member) specified in the instrument of appointment.

(3) A person ceases to hold office as Deputy Chairperson if he or she ceases to hold office as a member.

22. Deputy members

(1) The Minister may, in writing, appoint a person to be the deputy for a member when the member is prevented from attending a meeting of the Board because of illness, absence from the Territory or the operation of section 20 or for any other reason considered sufficient by the Chairperson.

(2) The deputy for a member holds office for the period (not exceeding the period for which the member is appointed) specified in the instrument of appointment.

(3) The deputy for a member ceases to hold office if the member ceases to hold office.

23. Protection of members

No civil or criminal proceedings lie against a member in respect of anything done or omitted to be done in good faith by the member in the performance or exercise, or purported performance or exercise, of a function or power under this Act.

Division 3 – Meetings

24. Convening meetings

(1) The Board must hold at least 2 meetings each year.

(2) The Chairperson –

(a) may convene a meeting of the Board at any time; and

(b) must convene a meeting of the Board if requested in writing to do so by the Minister or 4 other members.

(3) The Chairperson must give at least 7 days written notice of the date, time, place and agenda of a proposed meeting to –

(a) each member; and

(b) if the Chief Executive Officer is not a member – the Chief Executive Officer.

(4) The members may unanimously agree to hold a meeting despite that notice of the meeting was not given in accordance with subsection (3).

(5) If a member does not receive notice of a meeting in accordance with subsection (3), the meeting is to be taken not to have been properly convened unless –

- (a) there is a quorum of members present at the meeting; and
- (b) the members present resolve unanimously that the meeting is to be taken to have been properly convened.

(6) In considering whether to convene a meeting, other than a meeting required to be convened because of subsection (1) or (2)(b), the Chairperson must have regard to the financial and administrative support provided to the Board under section 32.

25. Quorum

At a meeting of the Board, 5 members constitute a quorum.

26. Presiding member

(1) The Chairperson must preside at all meetings of the Board at which he or she is present.

(2) If the Chairperson is absent from a meeting, the Deputy Chairperson must preside.

(3) If the Chairperson and the Deputy Chairperson are absent from a meeting, the members present must elect one of their number to preside.

27. Record of meetings

The Board must keep a written record of proceedings at its meetings.

28. Voting

(1) A question arising at a meeting of the Board is to be decided by a majority of members present and voting.

(2) The member presiding at the meeting has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

29. Chief Executive Officer may attend

If the Chief Executive Officer is not a member –

- (a) the Chief Executive Officer; or

- (b) a person authorised by the Chief Executive Officer to attend on his or her behalf,

may attend a meeting of the Board for the purpose of providing the Board with information and advice.

30. Confidential meetings

(1) The members present at a meeting of the Board may resolve that a matter discussed at the meeting should be treated as confidential.

(2) A person who was present at a meeting of the Board at which a resolution under subsection (1) was passed must not, without reasonable excuse, communicate to another person any information about the matter in respect of which the resolution was passed unless –

- (a) the other person was also present at the meeting;
- (b) the other person is a member; or
- (c) the person communicating the information was authorised to attend the meeting on behalf of the Chief Executive Officer and the other person is the Chief Executive Officer.

Penalty:

- (a) imprisonment for 3 years;
- (b) if the offender communicated the information for gain – imprisonment for 5 years.

PART 4 – MISCELLANEOUS

31. Additional boards

(1) For the purposes of this Act, boards additional to the Board may be established by regulation.

(2) An additional board has the functions and powers prescribed by regulation.

(3) An additional board must report to the Minister as prescribed by regulation.

(4) Section 12 and Divisions 2 and 3 of Part 3 apply in relation to an additional board as if references to the Board were references to the additional board.

32. Financial and administrative support for boards

The Chief Executive Officer must use his or her best endeavours to ensure that the Board and any additional boards established under section 31 are provided with the financial and administrative support that, in the opinion of the Chief Executive Officer, is sufficient to enable those boards to adequately perform their functions.

33. Regulations

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.

PART 5 – REPEAL AND TRANSITIONAL ARRANGEMENTS

34. Repeal

The Acts specified in the Schedule are repealed.

35. Transitional arrangements

- (1) In this section –

"new Board" means the Museums and Art Galleries Board of the Northern Territory established by section 9;

"old Board" means the Museums and Art Galleries Board established by section 5 of the *Museums and Art Galleries Act* as in force immediately before the commencement of this Act.

(2) Despite sections 15, 16 and 21 but otherwise subject to this Act, a person who immediately before the commencement of this Act held an appointment as Chairman, Deputy Chairman or member of the old Board (in this subsection called "the original appointment") is to be taken to hold an appointment as Chairperson, Deputy Chairperson or member (as the case may be) of the new Board for a period equal to the remainder of the term of the original appointment.

(3) To avoid doubt, for the purposes of section 16(2), an appointment as Chairman, Deputy Chairman or member of the old Board is irrelevant.

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(4) The cultural and scientific collections vested in the old Board immediately before the commencement of this Act vest in the new Board on the same terms and conditions and subject to the same rights and liabilities.

(5) All other property vested in the old Board immediately before the commencement of this Act vests in the Territory on the same terms and conditions and subject to the same rights and liabilities.

(6) Subject to subsection (4), all rights, privileges, obligations and liabilities of the old Board existing immediately before the commencement of this Act are the rights, privileges, obligations and liabilities of the Territory.

(7) Subject to subsection (4), all contracts and agreements entered into by the old Board and in force immediately before the commencement of this Act are to be taken to have been entered into by the Territory.

(8) All legal proceedings by or against the old Board and pending immediately before the commencement of this Act are to be taken to be by or against the Territory.

SCHEDULE

Section 34

<i>Museums and Art Galleries Ordinance 1965</i>	No. 44, 1965
<i>Museums and Art Galleries Ordinance 1968</i>	No. 18, 1968
<i>Museums and Art Galleries Ordinance 1970</i>	No. 62, 1970
<i>Museums and Art Galleries Ordinance 1978</i>	No. 51, 1978
<i>Museums and Art Galleries Amendment Act 1983</i>	No. 15, 1983
<i>Museums and Art Galleries Amendment Act 1994</i>	No. 28, 1994
