

Serial 61
Museum and Art Gallery of the Northern Territory Bill 2013
Mr Conlan

A Bill for an Act to provide for the management of the Museum and Art Gallery
of the Northern Territory, and for related purposes

NORTHERN TERRITORY OF AUSTRALIA

MUSEUM AND ART GALLERY OF THE NORTHERN TERRITORY
ACT 2013

Act No. [] of 2013

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2013

An Act to provide for the management of the Museum and Art Gallery of the Northern Territory, and for related purposes

[Assented to [] 2013]
[Second reading [] 2013]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Museum and Art Gallery of the Northern Territory Act 2013*.

2 Commencement

This Act commences on 1 July 2014.

3 Definitions

In this Act:

appointed person means a member or the chairperson.

Board means the Board of the Museum and Art Gallery of the Northern Territory established by section 5.

chairperson means the chairperson of the Board mentioned in section 17.

collection includes art works, specimens, exhibits, equipment, data and publications owned by the Territory and held for the purpose of the MAGNT.

Executive Contract of Employment has the same meaning as in section 3 of the *Public Sector Employment and Management Act*.

MAGNT, see section 7.

member means a member of the Board mentioned in section 16.

personal interest, see section 28(4).

staff of the Board means public sector employees provided to the Board under section 37 and any other persons employed or engaged by the Board under section 38.

4 Application of Criminal Code

Part IIAA of the Criminal Code applies to an offence against this Act.

Note for section 4

Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.

Part 2 Board of the Museum and Art Gallery of the Northern Territory

Division 1 General matters

5 Board established

- (1) The Board of the Museum and Art Gallery of the Northern Territory is established.
- (2) The Board:
 - (a) is a body corporate with perpetual succession; and
 - (b) has a common seal; and
 - (c) is capable, in its corporate name, of acquiring, holding and disposing of real (including leasehold) and personal property and of suing and being sued.

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

6 Director

- (1) The Minister may, in writing, appoint a person to be the Director of the Museum and Art Gallery of the Northern Territory.
- (2) Notice of the appointment must be published in the *Gazette* as soon as practicable after it is made.
- (3) Before appointing a Director, the Minister must:
- (a) request the Board to recommend a person for appointment; and
 - (b) take into account any recommendation made within the time specified in the request.
- (4) The Director administers the day-to-day operations of the Board, subject to the directions of the Board.
- (5) The Director is to be employed under an Executive Contract of Employment as defined in section 3 of the *Public Sector Employment and Management Act* as if the Director were a Chief Executive Officer.
- (6) The Minister may terminate an appointment of a Director on receipt of a recommendation of the Board to terminate the appointment.

7 Museum and Art Gallery of the Northern Territory

- (1) The **MAGNT** consists of:
- (a) the grounds and facilities prescribed by the Regulations; and
 - (b) the collection; and
 - (c) any other thing prescribed by the Regulations.
- (2) The Territory owns the MAGNT.

Division 2 Functions and powers of the Board

8 Functions

The Board has the following functions:

- (a) to control, manage, operate, develop and promote the MAGNT;
- (b) to develop, conserve, maintain, exhibit and promote the collection;
- (c) to promote community involvement and participation in relation to the MAGNT;
- (d) to engage in fundraising activities for the MAGNT;
- (e) to provide leadership in the provision of museum and art gallery services in the Territory;
- (f) to advise the Minister on all matters relating to museums and art galleries in the Territory;
- (g) to provide support for regional museums in the Territory;
- (h) to perform any other functions conferred on it by this or any other Act.

9 Powers

- (1) The Board has the powers necessary to perform its functions.
- (2) In particular, the Board has power to do one or more of the following:
 - (a) acquire, hold and dispose of real (including leasehold) and personal property;
 - (b) improve any real or personal property owned by, or under the control of, the Board;
 - (c) enter into contracts.
- (3) The Board may, with the Treasurer's approval, borrow, lend, raise or invest money under section 31.
- (4) The Board may, on behalf of the Territory:
 - (a) acquire items for the collection; and

- (b) with the approval of the Minister, sell, exchange or otherwise dispose of items in the collection.

10 Ministerial control

The Board is subject to the direction of the Minister in the performance of its functions and exercise of its powers.

11 Delegation

The Board may delegate any of its powers or functions under this or any other Act to one or more of the following:

- (a) the Director;
- (b) one or more appointed persons;
- (c) a committee established under section 13;
- (d) a public sector employee.

12 By-laws

- (1) The Board may make by-laws under this Act.
- (2) A by-law may provide for an offence against a by-law to be an offence of strict or absolute liability but not with a penalty exceeding 10 penalty units.

13 Committees

- (1) The Board may establish a committee.
- (2) Subject to subsection (3), the constitution and functions of the committee established under subsection (1) may be determined by the Board.
- (3) The committee established under subsection (1) must:
 - (a) consist of 2 or more persons, at least 1 of whom is an appointed person; and
 - (b) have functions in connection with the functions of the Board.
- (4) The *Assembly Members and Statutory Officers (Remuneration and Other Entitlements) Act* applies to members of the committee who are not appointed persons as if the committee were a statutory body within the meaning of that Act.

14 Board may establish corporate entities

- (1) The Board may, with the approval of the Treasurer, form, establish or participate in the formation or establishment of a company, incorporated association or other corporate entity.
- (2) The objectives of the company, incorporated association or other corporate entity must be in connection with the functions of the Board.

Division 3 Constitution of Board

15 Constitution

The Board consists of:

- (a) a chairperson appointed under section 17; and
- (b) at least 6 members, but not more than 10 members, appointed under section 16.

16 Membership

- (1) The Minister may, in writing, appoint a person to be a member of the Board.
- (2) Notice of the appointment must be published in the *Gazette* as soon as practicable after it is made.
- (3) The Minister may appoint a person to be a member of the Board only if the Minister is satisfied that the person holds suitable qualifications, or has suitable knowledge or experience, relating to the functions of the Board.
- (4) Not more than 2 members appointed under this section may be public sector employees.

17 Chairperson

- (1) The Minister may, in writing, appoint a person to be the chairperson of the Board.
- (2) Notice of the appointment must be published in the *Gazette* as soon as practicable after it is made.
- (3) Before appointing a chairperson, the Minister must:
 - (a) request the Board to recommend a person for appointment; and

(b) take into account any recommendation made within the time specified in the request.

(4) The Minister may appoint a person to be the chairperson only if the Minister is satisfied that the person holds suitable qualifications, or has suitable knowledge or experience, relating to the functions of the Board.

18 Duration of appointment

(1) An appointed person holds office for 3 years or any shorter period specified in the appointment.

(2) An appointed person is eligible for reappointment.

(3) However, a person cannot be appointed for more than 2 consecutive terms except in exceptional circumstances.

(4) For this section, terms of appointment are consecutive if less than 6 months elapses between the end of one term and the start of the next term.

19 Leave of absence

The Board may grant an appointed person leave of absence on conditions determined by the Board.

20 Vacation of office

(1) A person ceases to be an appointed person if:

(a) the person resigns by giving written notice to the Minister; or

(b) the person's term of office comes to an end and the person is not reappointed; or

(c) the person's appointment is terminated under section 21(1) or (2).

(2) The exercise of a power or performance of a function by the Board is not affected only by a vacancy on the Board.

21 Termination of appointment

(1) The Minister may terminate the appointment of an appointed person for inability, inefficiency, misbehaviour, misconduct or physical or mental incapacity.

- (2) The Minister must terminate the appointment of an appointed person:
- (a) if the appointed person is absent from 3 consecutive meetings of the Board without being granted leave under section 19; or
 - (b) if the appointed person is found guilty of an offence of such a nature that it would be inappropriate for the person to continue to be an appointed person; or
 - (c) if the appointed person:
 - (i) becomes bankrupt; or
 - (ii) applies to take the benefit of a law for the relief of bankrupt or insolvent debtors; or
 - (iii) compounds with creditors or makes an assignment of the appointed person's remuneration for their benefit.
- (3) A termination of appointment must be in writing.

Division 4 Procedures of the Board

22 Board to determine own procedures

Subject to this Act, the Board may determine its own procedures.

23 Meetings

The chairperson may convene a meeting of the Board at any time but must convene at least 3 meetings each financial year.

24 Quorum

Subject to section 29(1)(c), the quorum for a meeting of the Board is 4 appointed persons.

25 Presiding at meeting

A meeting of the Board is to be presided over by:

- (a) the chairperson; or
- (b) in the absence of the chairperson, another appointed person elected by the appointed persons present at the meeting.

26 Voting at meeting

- (1) A decision at a meeting of the Board must be determined by the majority vote of appointed persons present and voting.

- (2) If there is an equality of votes, the person presiding at the meeting has a casting vote in addition to his or her deliberative vote.

27 Records of meetings

The Board must keep accurate records of its meetings.

28 Disclosure of personal interest

- (1) This section applies if an appointed person has a personal interest in a matter being considered or about to be considered by the Board.
- (2) The appointed person must disclose the following at a meeting of the Board as soon as practicable after the relevant facts come to the appointed person's knowledge:
- (a) the nature and extent of the personal interest;
 - (b) how the interest relates to the matter mentioned in subsection (1).
- (3) The disclosure must be recorded in the minutes of the meeting.
- (4) For this section, an appointed person has a ***personal interest*** in a matter if the appointed person:
- (a) has a direct or indirect financial interest in the matter otherwise than as a member of, and in common with the other members of, an incorporated company consisting of not less than 25 persons and of which the appointed person is not a director; or
 - (b) has a personal, professional, commercial or other relationship with a person and the nature of the relationship is likely to, or may reasonably be regarded as likely to, inhibit or prevent the appointed person from exercising independent judgment about the matter.

29 Effect of personal interest

- (1) If an appointed person has a personal interest in a matter that is required to be disclosed under section 28:
- (a) the appointed person must not take part in any deliberation or decision of the Board about the matter; and
 - (b) the appointed person must be disregarded for the purpose of constituting the quorum of the Board for the deliberation or decision; and

- (c) the quorum for the deliberation or decision is a majority of persons entitled to participate in the deliberation or decision.
- (2) However, a failure by the appointed person to disclose the interest in the matter does not, on its own, invalidate any decision of the Board about the matter.

Division 5 Financial matters and staff

30 Gifts, grants, bequests or devises

- (1) The Board may accept a gift, grant, bequest or devise.
- (2) If a gift, grant, bequest or devise is given to the Board on conditions, the Board must carry out those conditions.
- (3) The Board must not accept a gift, grant, bequest or devise if it is given on conditions that are not compatible with the functions of the Board.

31 Treasurer's approval required for certain contracts

- (1) The Board must not enter into a contract for any of the following without the Treasurer's approval:
 - (a) borrowing of money by the Board;
 - (b) lending of money by the Board;
 - (c) raising of money, otherwise than by borrowing, by the Board in a manner that is not specified for subsection (2);
 - (d) investing the Board's money, otherwise than by lending, in a class of investment that is not specified for subsection (2).
- (2) The Treasurer may in writing specify:
 - (a) a manner of raising money for which the Treasurer's approval is not required; and
 - (b) a class of investment for which the Treasurer's approval is not required.

32 Audit Act to apply

The *Audit Act* applies to and in relation to:

- (a) the Board – as if a reference in that Act to an Agency were a reference to the Board; and

- (b) the Director – as if a reference in that Act to an Accountable Officer were a reference to the Director.

33 Financial responsibilities of Director

- (1) The Director is responsible for the financial administration of the Board.
- (2) The Director must ensure that:
 - (a) proper records of all transactions affecting the Board are kept; and
 - (b) staff of the Board observe the requirements imposed by or under this Act in relation to financial matters; and
 - (c) procedures that ensure proper internal control of financial matters of the Board are in place.
- (3) The Director must ensure that the Board has an adequate internal audit capacity.

34 Provision of financial information to Treasurer

- (1) The Treasurer may request the Board give the Treasurer any information the Treasurer reasonably requires to accurately assess the Board's financial affairs.
- (2) The Board must comply with the request.

35 Annual financial statements

- (1) The Director must prepare a financial statement relating to each financial year.
- (2) The financial statement must be prepared:
 - (a) within 3 months after the end of the financial year to which it relates; or
 - (b) within another period, after the end of the financial year, determined by the Treasurer.
- (3) The financial statement:
 - (a) must be prepared in the form the Treasurer directs; and
 - (b) except to the extent that the Treasurer directs otherwise – must be a general purpose financial report prepared in accordance with the Australian Accounting Standards determined by the Australian Accounting Standards Board.

- (4) The Director must provide a copy of the financial statement to the Auditor-General.
- (5) The Auditor-General must audit the statement provided under subsection (4).
- (6) The Auditor-General must, within 2 months after receiving the statement provided under subsection (4) or another period determined by the Treasurer:
 - (a) report on the statement to the Minister; and
 - (b) provide a copy of the report to the Director.

36 Annual reports

- (1) The Director must provide a report to the Minister on the operations of the Board during each financial year.
- (2) The report must contain information about:
 - (a) the organisation of the Board, including the number of staff of the Board at each salary level or salary range and any variation in those numbers since the last report; and
 - (b) the Board's operations, initiatives and achievements (including those relating to planning, efficiency, effectiveness and performance and, where appropriate, delivery of services to the community); and
 - (c) the financial planning and performance of the Board; and
 - (d) occupational health and safety programs in the Board; and
 - (e) the details of visitor attendance to the MAGNT; and
 - (f) the details of items acquired by the Board for the collection; and
 - (g) the Board's support of regional museums.
- (3) The report must include:
 - (a) the financial statement prepared under section 35 for the financial year; and
 - (b) the report on that statement provided to the Director under section 35(6)(b).

- (4) The report must be provided to the Minister:
 - (a) within 6 months after the end of the financial year to which it relates; or
 - (b) within a longer period determined by the Minister.
- (5) The Minister must table a copy of the report in the Legislative Assembly within 6 sitting days after the Minister receives the report.

37 Public sector employees and facilities for Board

- (1) The Chief Executive Officer of the Agency administering the *Strehlow Research Centre Act* may provide the Board with public sector employees and facilities to enable it to properly exercise its powers and perform its functions.
- (2) A public sector employee provided to the Board under subsection (1) is subject to the direction of the Director in the day-to-day performance of his or her duties for the Board.
- (3) The Director manages the day-to-day staffing matters in relation to staff provided to the Board under subsection (1).

38 Other staff employed or engaged by Board

In addition to public sector employees provided under section 37, the Board may:

- (a) employ other persons on terms and conditions it thinks fit; and
- (b) engage consultants or make arrangements to be provided with advice relating to its functions as it thinks fit.

Part 3 Miscellaneous matters

39 Protection from liability

- (1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as any of the following:
 - (a) the Director;
 - (b) an appointed person.
- (2) In addition, the person is not civilly or criminally liable for an act done or omitted to be done by the Board in the exercise of a power or performance of a function under this Act.

(3) Subsections (1) and (2) do not affect any liability the Territory or the Board would, apart from those subsections, have for the act or omission.

(4) In this section:

exercise, of a power, includes the purported exercise of the power.

performance, of a function, includes the purported performance of a function.

40 Confidentiality of information

(1) A person commits an offence if:

(a) the person:

(i) obtains information in the course of performing functions connected with the administration of this Act; or

(ii) obtained information in the course of performing functions connected with the administration of the repealed Act; and

(b) the person engages in conduct that results in the disclosure of the information.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

(2) Subsection (1) does not apply if:

(a) the person discloses the information:

(i) for the administration of this Act; or

(ii) with the consent of the person to whom the information relates; or

(iii) for legal proceedings arising out of the operation of this Act; or

(b) the information is otherwise available to the public.

41 Regulations

The Administrator may make regulations under this Act.

Part 4 Repeal

42 Repeal

The *Museums and Art Galleries Act 1999* (No. 18 of 1999) is repealed.

Part 5 Consequential amendments

43 Other laws amended

The Schedule amends the laws mentioned in it.

44 Expiry

This Part expires on the day after it commences.

Schedule Other laws amended

section 43

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
<i>Biological Resources Act</i>		
sections 10(1), note and 21(2), example	<i>Northern Territory Museum of Arts and Science</i>	<i>Museum and Art Gallery of the Northern Territory</i>
sections 24(3) and 30(2)(c)	Museum of Arts and Sciences	Museum and Art Gallery of the Northern Territory
<i>Classification of Publications, Films and Computer Games Regulations</i>		
regulation 8	Museums and Art Galleries Board of the Northern Territory	Board of the Museum and Art Gallery of the Northern Territory
<i>Meteorites Act</i>		
section 2, definition <i>Board</i>	whole definition	<i>Board</i> , see section 3 of the <i>Museum and Art Gallery of the Northern Territory Act</i> .
<i>Strehlow Research Centre Act</i>		
section 14(1)(d)	<i>Museums and Art Galleries Act</i>	<i>Museum and Art Gallery of the Northern Territory Act</i>
<i>Superannuation Regulations</i>		
Schedule, item 9	whole item	9 Board of the Museum and Art Gallery of the Northern Territory <i>Museum and Art Gallery of the Northern Territory Act</i>