

Arts and Culture Trust Bill 2021

Contents

Part 1 — Preliminary		
1.	Short title	2
2.	Commencement	2
3.	Terms used	2
4.	Minister may declare places to be venues	5
5.	Minister may declare arts organisations to be resident companies	5
6.	Act binds Crown	5
Part 2 — Arts and Culture Trust		
7.	Trust established	6
8.	Trust may use trading names	6
9.	Trust's status	6
10.	Trust's functions	6
11.	Trust's powers	8
12.	General restrictions on Trust's powers	11
13.	Requirement for approval to participate in business arrangements	12
14.	Requirement for approval to provide ticketing services for activities not at Trust venues	12
15.	Delegation	13
Part 3 — Administration of the Trust		
Division 1 — The Board		
Subdivision 1 — How the Board is constituted		
16.	Board is governing body	14
17.	Board membership	14
18.	Chairperson and deputy chairperson	15
19.	Term of office	15

20.	Casual vacancies, resignation and removal from office	15
21.	Extension of term of office	16
22.	Leave of absence	16
23.	Alternate Board members	17
24.	Remuneration and allowances	17
	Subdivision 2 — Board meetings	
25.	Holding meetings	17
26.	Quorum	17
27.	Presiding Board members	18
28.	Procedure at meetings	18
29.	Voting	18
30.	Holding meetings remotely	18
31.	Resolution without meeting	18
32.	CEO and Department CEO may attend meetings	19
33.	Minutes	19
	Subdivision 3 — Committees	
34.	Committees	20
35.	Remuneration and allowances	20
	Subdivision 4 — Disclosure of interests	
36.	Disclosure of material personal interests	21
37.	Voting by interested member	21
38.	Section 37 may be declared inapplicable	22
39.	Quorum if s. 37 applies	22
	Subdivision 5 — Execution of documents	
40.	Execution of documents by Trust	22
	Division 2 — Staff of the Trust	
	Subdivision 1 — The CEO	
41.	CEO	23
42.	Effect of Trust being SES organisation	24
43.	Effect of Trust becoming non-SES organisation	24
44.	Appointment of CEO	24
	Subdivision 2 — Provisions applying to the CEO if section 42(b) or 43 applies	
45.	Application	24
46.	Term of office	24
47.	Remuneration and allowances	25
48.	Casual vacancies, resignation and removal from office	25

49.	Entitlements of public service officer as CEO	26
50.	Other conditions of service	26
51.	Acting CEO	26
	Subdivision 3 — Other staff of the Trust	
52.	Other staff of Trust	27
53.	Use of government staff and facilities	27
54.	Agreements to recover cost of employing or engaging staff	28
	Part 4 — Accountability and financial provisions	
	Division 1 — Accountability	
55.	Minister may give directions	29
56.	Minister to be kept informed	29
57.	Minister to have access to information	29
58.	Protection for disclosure or compliance with directions	30
	Division 2 — Financial provisions	
59.	Application of <i>Financial Management Act 2006</i> and <i>Auditor General Act 2006</i>	31
60.	Arts and Culture Trust Account	31
61.	Trust's funds	31
62.	Borrowing	31
63.	Guarantees by Treasurer	32
64.	Effect of guarantee	32
65.	Notice of financial difficulty	32
	Part 5 — Miscellaneous	
66.	Protection from liability for wrongdoing	34
67.	Confidentiality	34
68.	Authorised use or disclosure of information	35
69.	Laying documents before House of Parliament not sitting	35
70.	General regulations	36
71.	Traffic regulations	37
72.	Review of Act	39

Part 6 — Repeals and consequential amendments

Division 1 — Repeals

73. Written laws repealed 41

Division 2 — Consequential amendments

74. *Constitution Acts Amendment Act 1899* amended 41
75. *Financial Management Act 2006* amended 41
76. *Public Sector Management Act 1994* amended 42
77. *State Superannuation (Transitional and Consequential Provisions) Act 2000* amended 42
78. *Statutory Corporations (Liability of Directors) Act 1996* amended 42

Part 7 — Transitional and savings provisions

Division 1 — Preliminary

79. Terms used 43
80. *Interpretation Act 1984* not affected 43

Division 2 — Perth Theatre Trust abolished

81. Perth Theatre Trust abolished 44

Division 3 — Transfer of the Perth Theatre Trust's assets, rights and liabilities

82. Assets, rights and liabilities 44
83. Perth Theatre Trust Account 44
84. Investments 45
85. Reserves 45
86. Registration of documents 47
87. Exemption from State tax 47

Division 4 — Chief executive officer and other staff of the Perth Theatre Trust

88. Chief executive officer of Perth Theatre Trust 48
89. Other staff 49

Division 5 — Continuing effect of things done

90. Completion of things commenced 50
91. Continuing effect of things done 50
92. Contracts, agreements, arrangements and other instruments 50

93.	Business arrangements	51
94.	Declarations of theatres under s. 3(2) of repealed Act	52
	Division 6 — Other transitional provisions	
95.	Transitional regulations	52
96.	Savings	53
	Defined terms	

Western Australia

LEGISLATIVE ASSEMBLY

Arts and Culture Trust Bill 2021

A Bill for

An Act —

- **to establish the Arts and Culture Trust; and**
- **to repeal the *Perth Theatre Trust Act 1979* and the *Perth Theatre Trust (Common Seal) Regulations 1980*; and**
- **to make consequential amendments to various Acts; and**
- **for related purposes.**

The Parliament of Western Australia enacts as follows:

1 **Part 1 — Preliminary**

2 **1. Short title**

3 This is the *Arts and Culture Trust Act 2021*.

4 **2. Commencement**

5 This Act comes into operation as follows —

6 (a) Part 1 (other than sections 4 and 5) — on the day on
7 which this Act receives the Royal Assent;

8 (b) the rest of the Act — on a day fixed by proclamation.

9 **3. Terms used**

10 In this Act —

11 ***activity*** includes an event, performance, exhibition,
12 demonstration, lecture, screening and production activity;

13 ***Arts and Culture Trust Account*** means the Arts and Culture
14 Trust Account established under section 60(1);

15 ***arts organisation*** means any incorporated body or
16 unincorporated group (however structured) that is principally
17 engaged in —

18 (a) conducting cultural or artistic activities; or

19 (b) providing cultural or artistic services;

20 ***Board*** means the Trust’s board provided for in section 16(1);

21 ***Board member*** has the meaning given in section 17(1);

22 ***CEO*** has the meaning given in section 41(1);

23 ***chairperson*** means the person designated under section 18(1) as
24 the chairperson of the Board;

25 ***committee*** means a committee appointed under section 34(1);

26 ***Department CEO*** means the chief executive officer of the
27 department of the Public Service principally assisting in the
28 administration of this Act;

- 1 **deputy chairperson** means the person designated under
2 section 18(1) as the deputy chairperson of the Board;
- 3 **LA Act** means the *Land Administration Act 1997*;
- 4 **misconduct**, in relation to a person who holds office as a Board
5 member or the CEO, includes conduct that —
- 6 (a) brings the Trust into disrepute; or
- 7 (b) otherwise renders the person unfit to hold the office
8 even though the conduct does not relate to a duty of the
9 office;
- 10 **place** means any land, building or structure (whether permanent
11 or temporary) or any part of any land, building or structure;
- 12 **production activity** means an activity (whether conducted in
13 private or not) that involves or is related to the production,
14 composition or development of any of the following (whether
15 for display, presentation or distribution to the public or not) —
- 16 (a) audio material, visual material or audio-visual material;
- 17 (b) a work of art;
- 18 (c) a literary, dramatic or musical work;
- 19 (d) a dance or any other kind of performance;
- 20 **remuneration** has the meaning given in the *Salaries and*
21 *Allowances Act 1975* section 4(1);
- 22 **resident company** means an arts organisation declared under
23 section 5 to be a resident company for the purposes of this Act;
- 24 **staff member** means —
- 25 (a) the CEO; or
- 26 (b) a person appointed, employed or engaged as mentioned
27 in section 52;
- 28 **ticketing services**, for an activity, means management services
29 relating to the issue and sale of admission tickets for the
30 activity;
- 31 **Trust** means the Arts and Culture Trust established under
32 section 7(1);

s. 3

- 1 **Trust property** means —
- 2 (a) any Trust venue; or
- 3 (b) any other real or personal property —
- 4 (i) owned by, or leased to, the Trust; or
- 5 (ii) vested in, or placed under the care, control and
- 6 management of, the Trust under a written law;
- 7 **Trust venue** means —
- 8 (a) a place referred to in paragraph (a) of the definition of
- 9 **venue**; or
- 10 (b) any venue —
- 11 (i) owned by, or leased to, the Trust; or
- 12 (ii) vested in, or placed under the care, control and
- 13 management of, the Trust under a written law;
- 14 **Trust venue programming** means the selection, procurement
- 15 and scheduling of activities at Trust venues;
- 16 **unable to act**, in relation to a Board member, means unable to
- 17 act as a Board member for any reason, including the
- 18 following —
- 19 (a) illness;
- 20 (b) absence;
- 21 (c) the operation of section 37;
- 22 **venue** means —
- 23 (a) a place declared under section 4(1) to be a venue used,
- 24 or intended to be used, wholly or partly for cultural or
- 25 artistic purposes; or
- 26 (b) any other place used, or intended to be used, wholly or
- 27 partly for cultural or artistic purposes.

1 **4. Minister may declare places to be venues**

2 (1) The Minister may, by notice published in the *Gazette*, declare a
3 place to be a venue used, or intended to be used, wholly or
4 partly for cultural or artistic purposes.

5 (2) A declaration under this section may be expressed to have effect
6 for a period specified in the declaration.

7 **5. Minister may declare arts organisations to be resident**
8 **companies**

9 (1) The Minister may, by notice published in the *Gazette*, declare
10 an arts organisation to be a resident company for the purposes of
11 this Act if the arts organisation —

12 (a) conducts activities primarily at 1 or more Trust venues;
13 and

14 (b) receives funding from a department of the Public
15 Service, or other agency or instrumentality of the State.

16 (2) For the purposes of subsection (1), it does not matter whether or
17 not the arts organisation —

18 (a) conducts activities other than at Trust venues; or

19 (b) is based in offices at a Trust venue.

20 **6. Act binds Crown**

21 This Act binds the Crown in right of Western Australia and, so
22 far as the legislative power of the Parliament permits, the Crown
23 in all its other capacities.

1 **Part 2 — Arts and Culture Trust**

2 **7. Trust established**

- 3 (1) The Arts and Culture Trust is established.
- 4 (2) The Trust is a body corporate with perpetual succession.
- 5 (3) Proceedings may be taken by or against the Trust in its
- 6 corporate name.

7 **8. Trust may use trading names**

- 8 (1) The Trust may use, and operate under, 1 or more trading names
- 9 approved by the Minister.
- 10 (2) A trading name can be —
- 11 (a) an abbreviation or adaptation of the Trust’s corporate
- 12 name; or
- 13 (b) a name other than the Trust’s corporate name.
- 14 (3) Notice of approval of a name under subsection (1) must be
- 15 published in the *Gazette*.

16 **9. Trust’s status**

17 The Trust is an agent of the Crown and has the status,

18 immunities and privileges of the Crown.

19 **10. Trust’s functions**

- 20 (1) In this section —
- 21 *promote*, in relation to an activity, includes attract, organise,
- 22 commission, fund, invest in, support, market, advertise and act
- 23 as project manager.
- 24 (2) The Trust has the following functions —
- 25 (a) to establish, care for, control, manage, operate, maintain,
- 26 develop and improve Trust venues and other Trust
- 27 property;

- 1 (b) to use, or authorise the use of, Trust venues and other
2 Trust property for —
- 3 (i) production activities; or
- 4 (ii) any other activities of an artistic, cultural,
5 recreational or educational nature; or
- 6 (iii) the purpose of public entertainment or recreation;
7 or
- 8 (iv) any other purpose approved by the Minister; or
- 9 (v) any purpose ancillary to activities or purposes
10 referred to in subparagraphs (i) to (iv);
- 11 (c) to coordinate Trust venue programming and the use of
12 Trust venues, and other Trust property, for activities or
13 purposes referred to in paragraph (b);
- 14 (d) to provide, maintain, improve and promote facilities,
15 amenities and services at Trust venues for —
- 16 (i) the instruction, entertainment and convenience of
17 the public; or
- 18 (ii) the effective operation of Trust venues;
- 19 (e) to encourage, foster, promote and facilitate the use and
20 enjoyment of Trust venues and other Trust property;
- 21 (f) without limiting paragraph (e), to promote, or take part
22 in promoting, activities conducted at Trust venues;
- 23 (g) to promote public awareness of, and foster public
24 interest in, matters relating or incidental to culture and
25 the arts;
- 26 (h) without limiting paragraph (g), to promote and provide
27 educational and training activities in relation to culture
28 and the arts;
- 29 (i) to perform other functions consistent with the use and
30 enjoyment of Trust venues as the Trust considers
31 appropriate;

s. 11

- 1 (j) to perform other functions conferred on the Trust under
2 this Act or another written law;
- 3 (k) to perform other functions necessary or incidental to the
4 functions mentioned in paragraphs (a) to (j).
- 5 (3) In performing its functions, the Trust must —
- 6 (a) recognise the role of resident companies and the
7 contributions they make to culture and the arts in
8 Western Australia; and
- 9 (b) seek to support resident companies in conducting their
10 activities at Trust venues and, in particular, on matters
11 relating to —
- 12 (i) the leasing and hiring out of Trust venues and
13 other Trust property; and
- 14 (ii) Trust venue programming;
- 15 and
- 16 (c) have regard to, and seek to implement, any objectives
17 for Trust venues prescribed for the purposes of this
18 paragraph, being matters that are of importance to the
19 establishment, care, control, management, operation,
20 maintenance, development or improvement of Trust
21 venues.

22 **11. Trust's powers**

- 23 (1) In this section —
- 24 **acquire** includes taking on lease or licence or in any other
25 manner in which an interest in property may be acquired;
- 26 **business arrangement** means a company, a partnership, a trust,
27 a joint venture, an arrangement or agreement for sharing profits
28 or an arrangement or agreement for sponsorship;
- 29 **dispose of** includes disposing of by way of lease or licence or in
30 any other manner in which an interest in property may be
31 disposed of;

- 1 ***participate*** in a business arrangement includes form, promote,
2 establish, enter into, manage, dissolve, wind up and do anything
3 incidental to the business arrangement;
- 4 ***work*** includes the following —
- 5 (a) the development or redevelopment of an area of land;
- 6 (b) the construction, reconstruction or demolition of any
7 building;
- 8 (c) the provision of audience accommodation, either seating
9 or standing or both.
- 10 (2) The Trust has all the powers it needs to perform its functions.
- 11 (3) The Trust may, for the purposes of performing any of its
12 functions, do all or any of the following —
- 13 (a) acquire, hold, dispose of or otherwise deal in real or
14 personal property;
- 15 (b) carry out, or arrange to be carried out, work in
16 connection with the maintenance, development and
17 improvement of any Trust venue and, in particular, for
18 the purpose of making any Trust venue suitable for the
19 activities or purposes referred to in section 10(2)(b);
- 20 (c) enter into a contract or other arrangement, including a
21 contract or arrangement for the provision of services to
22 the Trust;
- 23 (d) without limiting paragraph (c), enter into a contract or
24 arrangement for any person to manage any Trust venue;
- 25 (e) provide, or permit any person to provide, refreshments
26 (including liquor) at Trust venues and apply for, hold
27 and dispose of any licence, permit or other authority
28 required in connection with the provision of those
29 refreshments;
- 30 (f) participate in a business arrangement and acquire, hold
31 and dispose of shares, units or other interests in or
32 relating to a business arrangement;

s. 11

- 1 (g) cooperate with, and provide financial or other assistance
2 to, other bodies and individuals;
- 3 (h) produce and deal in any equipment, facilities or system
4 associated with the performance of its functions;
- 5 (i) develop and turn to account any technology, software,
6 resource or intellectual property that relates to its
7 functions and, for that purpose, apply for, hold, receive,
8 exploit and dispose of any intellectual property;
- 9 (j) provide and turn to account advertising opportunities or
10 opportunities to participate in arrangements in the nature
11 of advertising or having a purpose similar to advertising;
- 12 (k) use its expertise and resources to provide consultancy,
13 management, advisory or other services for a fee or
14 otherwise;
- 15 (l) without limiting paragraph (k), provide, for a fee or
16 otherwise, ticketing services for any activity at a Trust
17 venue or any place that is not a Trust venue;
- 18 (m) require payment of rent, fees or other charges for, or in
19 connection with —
- 20 (i) the hire or use of a Trust venue, or any part of a
21 Trust venue, or any other Trust property; or
- 22 (ii) entry to a Trust venue or any part of a Trust
23 venue; or
- 24 (iii) admission to any activity at a Trust venue; or
- 25 (iv) the parking of vehicles on or in any part of a
26 Trust venue;
- 27 (n) fix the amount of rent, fees or charges referred to in
28 paragraphs (k), (l) and (m) with power to waive, reduce
29 or refund the amount payable in particular cases;
- 30 (o) produce and publish information on matters related to its
31 functions;
- 32 (p) appoint or engage agents or attorneys;
- 33 (q) act as agent for other persons.

- 1 (4) Subsections (2) and (3) are subject to sections 12, 13 and 14.
- 2 (5) Subsection (3) does not limit subsection (2) or any of the Trust’s
3 other powers.
- 4 (6) The Trust may —
- 5 (a) make any gift for a charitable purpose or any other
6 purpose of benefit to the community or a section of the
7 community; or
- 8 (b) accept any gift, bequest or other payment if it is
9 absolute, or subject to conditions that the Trust would be
10 able to satisfy.
- 11 (7) In exercising any power under this section, the Trust may act in
12 conjunction with —
- 13 (a) any person or firm, or public authority; or
- 14 (b) any department of the Public Service, or other agency or
15 instrumentality, of this State, another State or Territory
16 or the Commonwealth.

17 **12. General restrictions on Trust’s powers**

- 18 (1) The Trust’s power to dispose of real property does not extend to
19 the transfer of Crown land for an estate in fee simple.
- 20 (2) If any real property is vested in or placed under the care, control
21 and management of the Trust under a written law, the operation
22 of section 11(3)(a) in relation to the property is subject to —
- 23 (a) the conditions upon which it is vested in or placed under
24 the care, control and management of the Trust; and
- 25 (b) in the case of land to which the LA Act applies — that
26 Act.
- 27 (3) The Trust must not exercise the following powers without the
28 Minister’s written approval —
- 29 (a) the power conferred by section 11(3)(a) to acquire or
30 dispose of real property;

s. 13

1 (b) the power conferred by section 11(3)(d).

2 **13. Requirement for approval to participate in business**
3 **arrangements**

4 (1) The Trust must not exercise a power conferred by
5 section 11(3)(f) in relation to a business arrangement unless the
6 terms and conditions of that business arrangement are terms and
7 conditions approved by the Minister and the Treasurer in respect
8 of —

9 (a) that business arrangement; or

10 (b) business arrangements of that class; or

11 (c) business arrangements generally.

12 (2) The Treasurer may, by written notice given to the Trust, exempt
13 any business arrangement, or class of business arrangement,
14 from the operation of subsection (1) either unconditionally or on
15 conditions specified in the notice.

16 (3) A notice under subsection (2) may be revoked or amended by
17 the Treasurer by written notice given to the Trust.

18 (4) The Treasurer may also give directions to be complied with
19 generally by the Trust in the exercise of the power referred to in
20 subsection (1).

21 **14. Requirement for approval to provide ticketing services for**
22 **activities not at Trust venues**

23 (1) The Trust must not exercise the power conferred by
24 section 11(3)(l) to provide ticketing services for any activity at
25 any place that is not a Trust venue without the Minister's
26 written approval.

27 (2) The Minister may, by written notice given to the Trust, exempt
28 ticketing services for any activity, or class of activities, at any
29 place, or class of places, from the operation of subsection (1)
30 either unconditionally or on conditions specified in the notice.

- 1 (3) A notice under subsection (2) may be revoked or amended by
2 the Minister by written notice given to the Trust.
- 3 (4) The Minister may also give directions to be complied with
4 generally by the Trust in the exercise of the power referred to in
5 subsection (1).
- 6 **15. Delegation**
- 7 (1) The Trust may delegate any power or duty of the Trust under
8 another provision of this Act to —
- 9 (a) a Board member; or
10 (b) a staff member; or
11 (c) a committee.
- 12 (2) The delegation must be in writing executed by the Trust.
- 13 (3) A person or committee to whom or which a power or duty is
14 delegated under this section cannot delegate the power or duty.
- 15 (4) A person or committee exercising or performing a power or
16 duty that has been delegated to the person or committee under
17 this section is taken to do so in accordance with the terms of the
18 delegation unless the contrary is shown.
- 19 (5) Nothing in this section limits the ability of the Trust to perform
20 a function through a staff member or an agent.
- 21 (6) This section does not apply to the execution of documents but
22 authority to execute documents on behalf of the Trust can be
23 given under section 40(5).

1 **Part 3 — Administration of the Trust**

2 **Division 1 — The Board**

3 **Subdivision 1 — How the Board is constituted**

4 **16. Board is governing body**

5 (1) The Trust must have a board.

6 (2) The Board is the governing body of the Trust and, in the name
7 of the Trust, must perform the Trust's functions.

8 **17. Board membership**

9 (1) The Board consists of 9 persons, each of whom is appointed by
10 the Minister as a **Board member**.

11 (2) The Minister must ensure that —

12 (a) at least 3 Board members have, in the opinion of the
13 Minister, knowledge of and experience in 1 or more of
14 the following —

15 (i) commerce;

16 (ii) law;

17 (iii) financial management;

18 (iv) human resource management;

19 (v) marketing;

20 and

21 (b) at least 2 Board members have, in the opinion of the
22 Minister, knowledge of and experience in infrastructure
23 planning and management; and

24 (c) each other Board member has, in the opinion of the
25 Minister, knowledge of and experience in a field related
26 to the Trust's functions.

27 (3) Neither the CEO nor the Department CEO is eligible to be
28 appointed as a Board member.

1 **18. Chairperson and deputy chairperson**

- 2 (1) The Minister must designate a Board member to be the
3 chairperson of the Board and another to be the deputy
4 chairperson of the Board.
- 5 (2) If the chairperson is unable to act or if there is no chairperson,
6 the deputy chairperson must act in the chairperson's place.
- 7 (3) An act or omission of the deputy chairperson acting in the
8 chairperson's place cannot be questioned on the ground that the
9 occasion to act in the chairperson's place had not arisen or had
10 ceased.

11 **19. Term of office**

- 12 A Board member —
- 13 (a) holds office for the period, not exceeding 4 years,
14 specified in the instrument of appointment; and
- 15 (b) is eligible for reappointment once or more than once.

16 **20. Casual vacancies, resignation and removal from office**

- 17 (1) The office of a Board member becomes vacant if the Board
18 member —
- 19 (a) dies, resigns or is removed from office under this
20 section; or
- 21 (b) is, according to the *Interpretation Act 1984* section 13D,
22 a bankrupt or a person whose affairs are under
23 insolvency laws; or
- 24 (c) is convicted of an offence punishable by imprisonment
25 for more than 12 months; or
- 26 (d) is convicted of an offence under section 36(1) or (2)
27 or 67(1).
- 28 (2) A Board member may at any time resign from office by written
29 notice given to the Minister.

- 1 (3) Subject to subsection (4), the resignation takes effect on the day
2 on which it is received by the Minister.
- 3 (4) If the resignation specifies a day on which it is to have effect
4 that is later than the day on which the resignation is received by
5 the Minister, the resignation takes effect on the day specified in
6 the resignation.
- 7 (5) The Minister may remove a Board member from office —
8 (a) on the grounds of neglect of duty; or
9 (b) on the grounds of misconduct or incompetence; or
10 (c) on the grounds of mental or physical incapacity, other
11 than temporary illness, impairing the performance of the
12 Board member's duties; or
13 (d) on the grounds of absence, without leave, from 3
14 consecutive meetings of the Board of which the Board
15 member has had notice; or
16 (e) for any other reasonable cause.

17 **21. Extension of term of office**

18 If the office of a Board member becomes vacant because the
19 Board member's term of office expires by effluxion of time, the
20 Board member continues to be a Board member during that
21 vacancy until the earlier of the following —

- 22 (a) the end of the period of 3 months immediately following
23 the expiry of the term of office;
24 (b) the vacancy being filled;
25 (c) the Board member resigning;
26 (d) the Board member being removed from office under
27 section 20.

28 **22. Leave of absence**

29 The Board may, on any terms and conditions it thinks fit, grant
30 a Board member leave to be absent from office.

1 **23. Alternate Board members**

- 2 (1) If a Board member is unable to act, the Minister may appoint
3 another person as an alternate Board member to act temporarily
4 in the Board member's place.
- 5 (2) Subsection (1) does not apply in relation to the chairperson.
- 6 (3) If the deputy chairperson is acting in the chairperson's place, the
7 Minister may, under subsection (1), appoint another person as
8 an alternate Board member to act temporarily in the deputy
9 chairperson's place.
- 10 (4) While acting in accordance with the appointment, the alternate
11 Board member is taken to be, and to have any entitlement of, a
12 Board member.

13 **24. Remuneration and allowances**

14 A Board member is entitled to be paid any remuneration and
15 allowances that the Minister may from time to time determine
16 on the recommendation of the Public Sector Commissioner.

17 **Subdivision 2 — Board meetings**

18 **25. Holding meetings**

- 19 (1) The first meeting of the Board must be convened by the
20 chairperson, and subsequent meetings are to be held at times
21 and places determined by the Board.
- 22 (2) The Board must meet at least 4 times a year.
- 23 (3) A special meeting of the Board may at any time be convened by
24 the chairperson.

25 **26. Quorum**

26 The quorum for a meeting of the Board is 5 members of the
27 Board.

1 **27. Presiding Board members**

2 (1) The chairperson, if present, must preside at a meeting of the
3 Board.

4 (2) If neither the chairperson, nor the deputy chairperson acting as
5 the chairperson, is presiding under subsection (1), the Board
6 members present at the meeting must elect 1 of their number to
7 preside.

8 **28. Procedure at meetings**

9 The Board may determine its own meeting procedures to the
10 extent that they are not fixed by this Act.

11 **29. Voting**

12 (1) At a meeting of the Board, each Board member present has a
13 deliberative vote unless section 37 prevents the Board member
14 from voting.

15 (2) In the case of an equality of votes, the presiding Board member
16 has a casting vote in addition to a deliberative vote.

17 (3) A question is resolved according to how a majority of the votes
18 are cast.

19 **30. Holding meetings remotely**

20 The presence of a Board member at a meeting of the Board need
21 not be by attendance in person but may be by that Board
22 member and each other Board member at the meeting being
23 simultaneously in contact by telephone or other means of
24 instantaneous communication.

25 **31. Resolution without meeting**

26 A resolution in writing signed or otherwise assented to in
27 writing by each Board member has the same effect as if it had
28 been passed at a meeting of the Board.

1 **32. CEO and Department CEO may attend meetings**

2 (1) In this section —

3 *relevant person* means —

4 (a) the CEO; or

5 (b) a person authorised in writing by the CEO to attend a
6 meeting of the Board as the representative of the CEO;
7 or

8 (c) the Department CEO; or

9 (d) a person authorised in writing by the Department CEO
10 to attend a meeting of the Board as the representative of
11 the Department CEO.

12 (2) Subject to subsection (3), a relevant person may attend meetings
13 of the Board and participate in its deliberations but cannot vote
14 at a meeting of the Board.

15 (3) If the Board requests the CEO, or a person referred to in
16 paragraph (b) of the definition of *relevant person*, not to attend
17 a particular meeting, or part of a particular meeting, of the
18 Board, the CEO or other person (as the case may be) must
19 comply with the request.

20 (4) Sections 30, 36, 37 and 38 apply, with any necessary
21 modifications, to a relevant person in relation to attendance at
22 meetings of the Board as if the relevant person were a Board
23 member.

24 **33. Minutes**

25 The Board must cause accurate minutes to be kept of the
26 proceedings at each of its meetings.

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Subdivision 3 — Committees

2

34. Committees

3

(1) The Board may —

4

(a) appoint committees to investigate and advise the Trust on any aspect of its functions or assist the Trust in the performance of its functions; and

5

6

(b) discharge or alter any committee it has appointed.

7

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(2) A committee may include persons who are not Board members but must include at least 1 Board member.

9

10

(3) The Board may give directions to a committee on the following matters —

11

12

(a) the functions to be performed by the committee;

13

(b) the committee's procedures;

14

(c) reporting by the committee on the performance of its functions.

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(4) A committee must comply with a direction of the Board.

17

(5) A committee may determine its own procedures but they must be consistent with any directions of the Board and the terms of any delegation under which the committee is acting.

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(6) A committee must —

21

(a) keep minutes of its meetings to a standard approved by the Board; and

22

23

(b) provide the Board with a copy of the minutes of each meeting.

24

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35. Remuneration and allowances

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A member of a committee is entitled to be paid any remuneration and allowances that the Minister may from time to time determine on the recommendation of the Public Sector Commissioner.

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Subdivision 4 — Disclosure of interests

36. Disclosure of material personal interests

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

Penalty for this subsection: a fine of \$10 000.

(2) A member of a committee who has a material personal interest in a matter being considered or about to be considered by the committee must, as soon as possible after the relevant facts have come to the member’s knowledge, disclose the nature of the interest at a meeting of the committee.

Penalty for this subsection: a fine of \$10 000.

(3) Subsection (2) applies to a person who is a member of a committee and also a Board member even though the person has already disclosed the nature of the interest at a meeting of the Board.

(4) A disclosure under subsection (1) or (2) must be recorded in the minutes of the meeting.

37. Voting by interested member

(1) A Board member or a member of a committee who has a material personal interest in a matter being considered or about to be considered by the Board or the committee —

(a) must not vote, whether at a meeting or otherwise, on the matter; and

(b) must not be present while the matter is being considered at a meeting.

- 1 (2) A reference in subsection (1)(a) or (b) to a matter includes a
2 reference to a proposed resolution under section 38 in respect of
3 the matter, whether relating to that member or a different
4 member.

5 **38. Section 37 may be declared inapplicable**

6 Section 37 does not apply if —

- 7 (a) a Board member or a member of a committee has
8 disclosed under section 36(1) or (2) an interest in a
9 matter; and
10 (b) the Board or committee, as the case requires, has at any
11 time passed a resolution that —
12 (i) specifies the member, the interest and the matter;
13 and
14 (ii) states that the members voting for the resolution
15 are satisfied that the interest is so trivial or
16 insignificant as to be unlikely to influence the
17 disclosing member's conduct and should not
18 disqualify the member from considering or
19 voting on the matter.

20 **39. Quorum if s. 37 applies**

- 21 (1) Despite section 26, if a Board member is disqualified under
22 section 37, a quorum is present during the consideration of the
23 matter if at least 4 Board members who are entitled to vote on
24 any motion that may be moved at the meeting in relation to the
25 matter are present.
26 (2) The Minister may deal with a matter to the extent that the Board
27 cannot deal with it because of subsection (1).

28 **Subdivision 5 — Execution of documents**

29 **40. Execution of documents by Trust**

- 30 (1) The Trust must have a common seal.

- 1 (2) A document is duly executed by the Trust if —
2 (a) the common seal of the Trust is applied to it in
3 accordance with subsections (3) and (4); or
4 (b) it is signed on behalf of the Trust by a person or persons
5 authorised to do so under subsection (5).
- 6 (3) The common seal of the Trust must not be applied to any
7 document except as authorised by the Trust.
- 8 (4) The common seal of the Trust must be applied to a document in
9 the presence of any 2 Board members, each of whom must sign
10 the document to attest that the common seal was so applied.
- 11 (5) The Trust may, by writing under its common seal, authorise 1 or
12 more Board members or staff members to sign documents on
13 behalf of the Trust, either generally or subject to the conditions
14 that are specified in the authorisation.
- 15 (6) A document purporting to be executed in accordance with this
16 section must be presumed to be duly executed unless the
17 contrary is shown.
- 18 (7) When a document is produced bearing a seal purporting to be
19 the common seal of the Trust, it must be presumed that the seal
20 is the common seal of the Trust until the contrary is shown.

21 **Division 2 — Staff of the Trust**

22 **Subdivision 1 — The CEO**

23 **41. CEO**

- 24 (1) The Trust must have a chief executive officer (the *CEO*).
- 25 (2) The CEO must administer the day-to-day operations of the Trust
26 subject to the control of the Board.

1 **42. Effect of Trust being SES organisation**

2 While the Trust is an SES organisation under the *Public Sector*
3 *Management Act 1994*, the CEO is —

- 4 (a) its chief executive officer under that Act; or
5 (b) if section 44(2) of that Act applies, its chief employee
6 under that Act.

7 **43. Effect of Trust becoming non-SES organisation**

8 If the Trust becomes a non-SES organisation under the *Public*
9 *Sector Management Act 1994*, the CEO is to be its chief
10 employee under that Act.

11 **44. Appointment of CEO**

12 (1) If section 42(a) applies, the CEO must be appointed and hold
13 office under the *Public Sector Management Act 1994* Part 3.

14 (2) If section 42(b) or 43 applies —

- 15 (a) the CEO must be appointed by the Trust; and
16 (b) Subdivision 2 has effect with respect to the tenure,
17 salary and conditions of service of the CEO and the
18 other matters provided for in that Subdivision.

19 **Subdivision 2 — Provisions applying to the CEO if section 42(b)**
20 **or 43 applies**

21 **45. Application**

22 This Subdivision applies if section 42(b) or 43 applies.

23 **46. Term of office**

24 The CEO holds office for a term, not exceeding 5 years, fixed
25 by the instrument of appointment and is eligible for
26 reappointment once or more than once.

1 **47. Remuneration and allowances**

2 Subject to the *Salaries and Allowances Act 1975*, the CEO —

- 3 (a) is entitled to be paid remuneration and allowances at
4 such rates per annum as the Trust determines on the
5 recommendation of the Public Sector Commissioner;
6 and
7 (b) has the same annual leave, personal leave and long
8 service leave entitlements as a permanent officer of the
9 Public Service.

10 **48. Casual vacancies, resignation and removal from office**

11 (1) The office of CEO becomes vacant if the CEO —

- 12 (a) dies, resigns or is removed from office under this
13 section; or
14 (b) is, according to the *Interpretation Act 1984* section 13D,
15 a bankrupt or a person whose affairs are under
16 insolvency laws; or
17 (c) is convicted of an offence punishable by imprisonment
18 for more than 12 months; or
19 (d) is convicted of an offence under section 67(1).

20 (2) The CEO may at any time resign from office by written notice
21 given to the Trust.

22 (3) Subject to subsection (4), the resignation takes effect on the day
23 on which it is received by the Trust.

24 (4) If the resignation specifies a day on which it is to have effect
25 that is later than the day on which the resignation is received by
26 the Trust, the resignation takes effect on the day specified in the
27 resignation.

28 (5) The Trust may remove the CEO from office —

- 29 (a) on the grounds of neglect of duty; or
30 (b) on the grounds of misconduct or incompetence; or

- 1 (c) on the grounds of mental or physical incapacity, other
2 than temporary illness, impairing the performance of the
3 CEO's duties; or
4 (d) for any other reasonable cause.

5 **49. Entitlements of public service officer as CEO**

- 6 (1) If a person occupied an office in the Public Service immediately
7 before being appointed to the office of CEO, the person retains
8 existing and accruing entitlements based upon service as if
9 service as the CEO were a continuation of service in the office
10 in the Public Service.
11 (2) If a person ceases to be the CEO and is appointed to an office in
12 the Public Service, the person's service as the CEO must be
13 regarded as service in the Public Service for the purposes of
14 determining the person's rights as a public service officer.

15 **50. Other conditions of service**

16 Subject to this Division, the Trust may, on the recommendation
17 of the Public Sector Commissioner, determine other terms and
18 conditions of service (if any) that apply to the CEO.

19 **51. Acting CEO**

- 20 (1) If the CEO is unable to act or the office of CEO is vacant, the
21 Trust may appoint a person to act as the CEO.
22 (2) A person cannot act under an appointment under subsection (1)
23 for a continuous period exceeding 12 months.
24 (3) A person acting as the CEO holds office on the terms and
25 conditions of appointment, including as to remuneration,
26 determined by the Trust.
27 (4) The remuneration of a person acting as the CEO cannot exceed
28 that of the holder of the office or, if the office is vacant, the
29 most recent holder of the office.

- 1 (5) An act or omission of a person acting as the CEO cannot be
2 questioned on the ground that the occasion for the appointment
3 or acting had not arisen or had ceased.

4 **Subdivision 3 — Other staff of the Trust**

5 **52. Other staff of Trust**

- 6 (1) Public service officers may be appointed under the *Public*
7 *Sector Management Act 1994* Part 3 to enable the Trust to
8 perform its functions.
- 9 (2) The Trust may, subject to any relevant written law or any
10 binding award, order or industrial agreement under the
11 *Industrial Relations Act 1979*, employ or engage and manage
12 staff otherwise than under the *Public Sector Management*
13 *Act 1994* Part 3.
- 14 (3) This section does not detract from the power that the *Public*
15 *Sector Management Act 1994* section 100 gives the employing
16 authority of the Trust to engage a person under a contract for
17 services or appoint a person on a casual employment basis.
- 18 (4) The Trust may, by arrangement on such terms as are agreed
19 with the relevant parties, make use of the services of a person
20 employed by another person.

21 **53. Use of government staff and facilities**

- 22 (1) The Trust may, by arrangement with the relevant employing
23 authority, make use, either full-time or part-time, of the services
24 of any officer or employee —
- 25 (a) in the Public Service; or
26 (b) in a State agency; or
27 (c) otherwise in the service of the State.
- 28 (2) The Trust may, by arrangement with a department of the Public
29 Service or a State agency, make use of any facilities of the
30 department or agency.

1 (3) An arrangement under subsection (1) or (2) must be made on
2 terms agreed to by the parties.

3 **54. Agreements to recover cost of employing or engaging staff**

4 The Trust may, by agreement with a person using a Trust venue
5 to conduct an activity, recover from the person the whole or part
6 of the cost of employing or engaging staff for the purposes of
7 the Trust venue while it is being used by the person to conduct
8 the activity.

1 **Part 4 — Accountability and financial provisions**

2 **Division 1 — Accountability**

3 **55. Minister may give directions**

- 4 (1) The Minister may give written directions to the Trust with
5 respect to the performance of its functions, either generally or in
6 relation to a particular matter, and the Trust must give effect to
7 any such direction.
- 8 (2) The Minister must cause the text of any direction under
9 subsection (1) to be laid before each House of Parliament within
10 14 days after the day on which the direction is given.
- 11 (3) The text of a direction under subsection (1) must be included in
12 the annual report submitted by the accountable authority of the
13 Trust under the *Financial Management Act 2006* Part 5.

14 **56. Minister to be kept informed**

15 The Trust must —

- 16 (a) keep the Minister reasonably informed of the operations,
17 financial performance and financial position of the
18 Trust, including the assets and liabilities, profits and
19 losses and prospects of the Trust; and
- 20 (b) give the Minister reports and information that the
21 Minister requires for the making of informed
22 assessments of matters referred to in paragraph (a).

23 **57. Minister to have access to information**

- 24 (1) In this section —
- 25 **document** includes any tape, disk or other device or medium on
26 which information is recorded or stored mechanically,
27 photographically, electronically or otherwise;
- 28 **information** means information specified, or of a description
29 specified, by the Minister that relates to the Trust's functions.

- 1 (2) The Minister is entitled —
- 2 (a) to have information in the possession of the Trust; and
- 3 (b) if the information is in or on a document, to have, and
- 4 make and retain copies of, that document.
- 5 (3) For the purposes of subsection (2), the Minister may —
- 6 (a) request the Trust to give information to the Minister;
- 7 and
- 8 (b) request the Trust to give the Minister access to
- 9 information; and
- 10 (c) request the use of a staff member to obtain the
- 11 information and give it to the Minister.
- 12 (4) The Trust must comply with a request under subsection (3).

13 **58. Protection for disclosure or compliance with directions**

14 The Trust or another person performing a function under this

15 Act is not liable —

- 16 (a) in respect of any claim arising as a consequence of the
- 17 disclosure of information or documents under —
- 18 (i) section 56, 57 or 65; or
- 19 (ii) a requirement imposed under the *Financial*
- 20 *Management Act 2006* or the *Auditor General*
- 21 *Act 2006*;
- 22 or
- 23 (b) for the fact of having done or omitted a thing that is
- 24 required to be done or omitted by a direction given
- 25 under this Act.

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Division 2 — Financial provisions

59. Application of *Financial Management Act 2006* and *Auditor General Act 2006*

The provisions of the *Financial Management Act 2006* and the *Auditor General Act 2006* regulating the financial administration, audit and reporting of statutory authorities apply to and in relation to the Trust and its operations.

60. Arts and Culture Trust Account

- (1) An account called the Arts and Culture Trust Account must be established as an agency special purpose account under the *Financial Management Act 2006* section 16.
- (2) Money received by the Trust must be credited to, and money paid by the Trust must be charged to, the Arts and Culture Trust Account.

61. Trust’s funds

- (1) Subject to subsection (2), the funds available for the purposes of enabling the Trust to perform its functions under this or any other Act consist of money that is, under this or any other Act, lawfully received by or made available to, the Trust.
- (2) If any money has been accepted by the Trust upon trust or lawful condition, the Trust must apply the money in accordance with the trust or condition.

62. Borrowing

The Trust may, with the Treasurer’s prior approval —

- (a) borrow or re-borrow money; and
- (b) otherwise arrange for financial accommodation to be extended to the Trust.

1 **63. Guarantees by Treasurer**

2 (1) The Treasurer, on the Minister's recommendation, may, in the
3 name and on behalf of the State, guarantee the payment of any
4 money payable by the Trust in respect of money borrowed by it
5 under section 62.

6 (2) A guarantee must be in a form, and contain terms and
7 conditions, determined by the Treasurer.

8 (3) Before a guarantee is given, the Trust must —

9 (a) give the Treasurer any security the Treasurer requires;
10 and

11 (b) execute all instruments that are necessary for the
12 purpose.

13 (4) The Treasurer may fix charges to be paid by the Trust to the
14 credit of the Consolidated Account in respect of a guarantee
15 given under this section.

16 **64. Effect of guarantee**

17 (1) The due payment of money under a guarantee given under
18 section 63 must be —

19 (a) made by the Treasurer; and

20 (b) charged to, and paid out of, the Consolidated Account,
21 which this subsection appropriates accordingly.

22 (2) The Treasurer must cause to be credited to the Consolidated
23 Account any amounts received or recovered from the Trust or
24 otherwise in respect of any payment made by the Treasurer
25 under a guarantee given under section 63.

26 **65. Notice of financial difficulty**

27 (1) The Trust must notify the Minister if it forms the opinion that it
28 is unable to, or will be unlikely to be able to, satisfy any of its
29 financial obligations from the financial resources available to it,

- 1 or likely to be available to it, at the time the financial obligation
2 is due.
- 3 (2) The notice must be in writing, giving reasons for the Trust's
4 opinion.
- 5 (3) Within 7 days after receipt of the notice, the Minister must —
- 6 (a) confer with the Treasurer and the Trust for the purpose
7 of determining what action is required to ensure that the
8 Trust is able to satisfy the relevant financial obligation
9 when it is due; and
- 10 (b) initiate such action as is required to ensure that the Trust
11 is able to satisfy the relevant financial obligation when it
12 is due.
- 13 (4) For the purposes of subsection (3), the Minister may give the
14 Trust a direction under section 55 requiring the Trust to cease or
15 limit the performance of any function.

Part 5 — Miscellaneous

66. Protection from liability for wrongdoing

- (1) No action or claim for damages lies against a person other than the Trust for anything that the person has done, in good faith, in the performance or purported performance of a function under this Act.
- (2) The protection given by subsection (1) applies even though the thing done as described in that subsection may have been capable of being done whether or not this Act had been enacted.
- (3) Despite subsection (1), neither the Trust nor the State is relieved of any liability that it might have for another person having done anything as described in that subsection.
- (4) In this section, a reference to the doing of anything includes a reference to an omission to do anything.

67. Confidentiality

- (1) A person must not, directly or indirectly, use or disclose any information obtained by the person because of —
- (a) the person’s office, position, employment or engagement under or for the purposes of this Act; or
 - (b) any disclosure made to the person under or for the purposes of this Act.
- Penalty for this subsection: a fine of \$10 000.
- (2) Subsection (1) does not apply in relation to the use or disclosure of information that is already in the public domain.
- (3) A person does not commit an offence under subsection (1) if the use or disclosure of the information is authorised under section 68(1).

1 **68. Authorised use or disclosure of information**

- 2 (1) For the purposes of this Act, the use or disclosure of
3 information is authorised if the information is used or disclosed
4 in good faith in any of the following circumstances —
- 5 (a) for the purpose of, or in connection with, performing a
6 function under this or any other Act;
 - 7 (b) as otherwise authorised or required under or for the
8 purposes of this Act;
 - 9 (c) under another law;
 - 10 (d) to a court or other person or body acting judicially in the
11 course of proceedings before the court, person or body;
 - 12 (e) under an order of a court or other person or body acting
13 judicially;
 - 14 (f) any other circumstances prescribed for the purposes of
15 this subsection.
- 16 (2) If the use or disclosure of information is authorised under
17 subsection (1) —
- 18 (a) no civil or criminal liability is incurred in respect of the
19 use or disclosure; and
 - 20 (b) the use or disclosure must not be regarded as —
 - 21 (i) a breach of any duty of confidentiality or secrecy
22 imposed by law; or
 - 23 (ii) a breach of professional ethics or standards or
24 any principles of conduct applicable to a
25 person's employment; or
 - 26 (iii) unprofessional conduct.

27 **69. Laying documents before House of Parliament not sitting**

- 28 (1) This section applies if —
- 29 (a) a provision of this Act requires the Minister to cause a
30 document to be laid before each House of Parliament
31 within a period; and

s. 70

- 1 (b) at the beginning of the period, a House of Parliament is
2 not sitting; and
- 3 (c) in the Minister’s opinion, the House will not sit before
4 the end of the period.
- 5 (2) The Minister must send the document to the Clerk of the House
6 before the end of the period.
- 7 (3) When the document is sent to the Clerk of the House it is taken
8 to have been laid before the House.
- 9 (4) The laying of the document that is taken to have occurred under
10 subsection (3) must be recorded in the Minutes, or Votes and
11 Proceedings, of the House on the first sitting day of the House
12 after the Clerk receives the document.

13 **70. General regulations**

- 14 (1) The Governor may make regulations prescribing matters —
15 (a) required or permitted by this Act to be prescribed; or
16 (b) necessary or convenient to be prescribed for giving
17 effect to this Act.
- 18 (2) Without limiting subsection (1), the regulations may provide
19 for, authorise, prescribe, require, prohibit, restrict or otherwise
20 regulate the following —
- 21 (a) the care, control, management, maintenance,
22 development and improvement of Trust venues and
23 other Trust property;
- 24 (b) the use and hiring out of Trust venues or any part of a
25 Trust venue;
- 26 (c) the conduct of activities at Trust venues, including in
27 relation to noise levels, lighting and pyrotechnics;
- 28 (d) the times at which a Trust venue, or any part of a Trust
29 venue, must be open or closed to the public;
- 30 (e) the maintenance of good order at Trust venues;

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- 1 (f) the duties and conduct of persons at Trust venues;
2 (g) the admission of persons, vehicles and animals to Trust
3 venues;
4 (h) the things that may be brought into or onto Trust venues;
5 (i) without limiting paragraph (h), the taking of liquor into
6 or onto, and its consumption at, Trust venues;
7 (j) the removal of persons found committing offences
8 against the regulations or causing annoyance or
9 inconvenience to other persons at Trust venues;
10 (k) the appointment of authorised persons and their powers
11 in connection with the operation and enforcement of the
12 regulations;
13 (l) the reservation of any part of a Trust venue for separate
14 or exclusive use specified in the regulations;
15 (m) private trading at Trust venues or any part of a Trust
16 venue;
17 (n) without limiting section 11 or 71, the imposition and
18 payment of fees and charges;
19 (o) the affairs, business and management of the Trust.
20 (3) The regulations may provide that contravention of a regulation
21 is an offence and may provide for the offence to be punishable
22 on conviction by a penalty not exceeding a fine of \$5 000.

23 **71. Traffic regulations**

- 24 (1) In this section —
25 *authorised person* means a person appointed under regulations
26 mentioned in section 70(2)(k).
27 (2) Without limiting section 70, the regulations may provide for,
28 authorise, prescribe, require, prohibit, restrict or otherwise
29 regulate the following —
30 (a) the use of vehicles on or in any part of a Trust venue;

s. 71

- 1 (b) the control, supervision and management of parking or
2 standing areas on or in any part of a Trust venue.
- 3 (3) The regulations may —
- 4 (a) include provisions as to speed, manner of driving, class
5 of vehicles, routes, entrances and exits, one-way traffic,
6 noise, parking and standing and the control of traffic
7 generally; and
- 8 (b) provide for the payment of fees to the Trust in respect of
9 the parking of vehicles on or in any part of a Trust venue
10 and the determination and collection of those fees; and
- 11 (c) provide for the issue of permits to park vehicles on or in
12 any part of a Trust venue for periods, and on other terms
13 and conditions specified in the permits, and the
14 amendment, suspension or revocation of those permits;
15 and
- 16 (d) provide for the display, erection or marking of signs for
17 the purposes of controlling traffic and the protection of
18 those signs, and any equipment relating to parking and
19 standing areas, against misuse, damage or interference;
20 and
- 21 (e) require a person in charge of a vehicle on or in any part
22 of a Trust venue to —
- 23 (i) obey the orders and directions of an authorised
24 person given for the purposes of controlling
25 traffic; or
- 26 (ii) if requested to do so by an authorised person
27 who reasonably suspects that the person has
28 committed an offence against the regulations,
29 give their name and address to the authorised
30 person;
- 31 and

- 1 (f) prescribe the following —
2 (i) the circumstances under which an authorised
3 person may remove a vehicle, or cause it to be
4 removed, from any area of a Trust venue to a
5 place specified in the regulations (whether within
6 the Trust venue or not);
7 (ii) the scale of fees to be paid to the Trust to recover
8 the vehicle from the place;
9 (iii) the circumstances in which the Trust may hold
10 the vehicle until the fees are paid;
11 and
12 (g) prescribe evidentiary provisions in relation to speed
13 measuring equipment and the use of that equipment; and
14 (h) prohibit the removal by any person, other than the driver
15 of a vehicle in respect of which an offence against a
16 regulation is alleged to have been committed, of any
17 notice relating to that offence attached to the vehicle or
18 left in or on the vehicle by a person authorised under the
19 regulations to leave the notice.

20 **72. Review of Act**

- 21 (1) The Minister must review the operation and effectiveness of this
22 Act, and prepare a report based on the review —
23 (a) as soon as practicable after the 5th anniversary of the day
24 on which this section comes into operation; and
25 (b) after that, at intervals of not more than 10 years.
26 (2) The review must address the following —
27 (a) the effectiveness of the operations of the Trust;
28 (b) the need for the continuation of the functions of the
29 Trust;
30 (c) any other matters that appear to the Minister to be
31 relevant to the operation and effectiveness of this Act.

s. 72

- 1 (3) The Minister must cause the report to be laid before each House
2 of Parliament as soon as practicable after the report is prepared,
3 but not later than 12 months after the 5th anniversary or the
4 expiry of the period of 10 years, as the case may be.

1 **Part 6 — Repeals and consequential amendments**

2 **Division 1 — Repeals**

3 **73. Written laws repealed**

- 4 (1) The *Perth Theatre Trust Act 1979* is repealed.
- 5 (2) The *Perth Theatre Trust (Common Seal) Regulations 1980* are
- 6 repealed.

7 **Division 2 — Consequential amendments**

8 **74. *Constitution Acts Amendment Act 1899* amended**

- 9 (1) This section amends the *Constitution Acts Amendment Act 1899*.
- 10 (2) In Schedule V Part 3 delete the item for The Perth Theatre Trust
- 11 established by the *Perth Theatre Trust Act 1979*.
- 12 (3) In Schedule V Part 3 insert in alphabetical order:

13

14 The Arts and Culture Trust established under the *Arts and*

15 *Culture Trust Act 2021*.

16

17 **75. *Financial Management Act 2006* amended**

- 18 (1) This section amends the *Financial Management Act 2006*.
- 19 (2) In Schedule 1 delete the item for Perth Theatre Trust.
- 20 (3) In Schedule 1 insert in alphabetical order:

21

22 Arts and Culture Trust

23

Arts and Culture Trust Bill 2021

Part 6 Repeals and consequential amendments

Division 2 Consequential amendments

s. 76

1 **76. *Public Sector Management Act 1994* amended**

2 (1) This section amends the *Public Sector Management Act 1994*.

3 (2) Before Schedule 2 item 3 insert:

4

1 Arts and Culture Trust, established under the *Arts and
Culture Trust Act 2021*

5

6 (3) Delete Schedule 2 item 35.

7 **77. *State Superannuation (Transitional and Consequential
Provisions) Act 2000* amended**

9 (1) This section amends the *State Superannuation (Transitional and
10 Consequential Provisions) Act 2000*.

11 (2) Delete section 57.

12 **78. *Statutory Corporations (Liability of Directors) Act 1996*
13 amended**

14 (1) This section amends the *Statutory Corporations (Liability of
15 Directors) Act 1996*.

16 (2) In Schedule 1 delete the item for Perth Theatre Trust.

1 **Part 7 — Transitional and savings provisions**

2 **Division 1 — Preliminary**

3 **79. Terms used**

4 In this Part —

5 *Arts and Culture Trust* means the Arts and Culture Trust
6 established under section 7(1);

7 *asset* —

8 (a) means any legal or equitable estate or interest (whether
9 present or future, whether vested or contingent and
10 whether personal or assignable) in real or personal
11 property of any description; and

12 (b) includes any money, security, chose in action or
13 document;

14 *commencement day* means the day on which section 73(1)
15 comes into operation;

16 *liability* means any liability, duty or obligation whether actual,
17 contingent or prospective, liquidated or unliquidated, or whether
18 owed alone or jointly or jointly and severally with any other
19 person;

20 *Perth Theatre Trust* means the Perth Theatre Trust established
21 under the repealed Act;

22 *repealed Act* means the *Perth Theatre Trust Act 1979* as it was
23 in force immediately before commencement day;

24 *right* means any right, power, privilege or immunity whether
25 actual, prospective or contingent;

26 *this Part* includes regulations referred to in section 95(2).

27 **80. Interpretation Act 1984 not affected**

28 This Part is in addition to the provisions of the *Interpretation*
29 *Act 1984* and, unless the contrary intention appears, does not

1 limit or otherwise affect the operation of those provisions in
2 relation to the repeals effected by section 73.

3 **Division 2 — Perth Theatre Trust abolished**

4 **81. Perth Theatre Trust abolished**

5 On commencement day the Perth Theatre Trust is abolished and
6 the trustees of the Perth Theatre Trust go out of office.

7 **Division 3 — Transfer of the Perth Theatre Trust’s assets,
8 rights and liabilities**

9 **82. Assets, rights and liabilities**

10 (1) On commencement day —

11 (a) the assets and rights of the Perth Theatre Trust
12 immediately before commencement day are assigned to
13 and become assets and rights of the Arts and Culture
14 Trust; and

15 (b) the liabilities of the Perth Theatre Trust immediately
16 before commencement day are assigned to and become
17 liabilities of the Arts and Culture Trust.

18 (2) On and after commencement day, any proceedings that
19 immediately before commencement day might have been
20 brought or continued by the Perth Theatre Trust may be brought
21 or continued by the Arts and Culture Trust.

22 (3) On and after commencement day, any remedy that immediately
23 before commencement day might have been available against or
24 to the Perth Theatre Trust is available against or to the Arts and
25 Culture Trust.

26 **83. Perth Theatre Trust Account**

27 (1) On commencement day, any money standing to the credit of the
28 Perth Theatre Trust Account referred to in section 23(2) of the
29 repealed Act (the *former account*) must be credited to the Arts

1 and Culture Trust Account, and the former account must then be
2 closed.

- 3 (2) Money referred to in subsection (1) may be applied —
4 (a) in the payment of any liabilities of the former account
5 arising before commencement day; and
6 (b) for the purposes of this Act.
- 7 (3) The Arts and Culture Trust Account must be credited with any
8 money payable to the former account before commencement
9 day that is paid on or after commencement day.
- 10 (4) If in a contract, agreement, instrument or other document there
11 is a reference to the former account, that reference is, unless the
12 context otherwise requires, to be read or to have effect from
13 commencement day as if it were a reference to the Arts and
14 Culture Trust Account.

15 **84. Investments**

- 16 (1) The investment of any money that was authorised under
17 section 23 of the repealed Act immediately before
18 commencement day continues to be authorised on and after
19 commencement day as if that Act had not been repealed.
- 20 (2) Income derived from the invested money, and any money that
21 ceases to be invested, must be credited to the Arts and Culture
22 Trust Account.

23 **85. Reserves**

- 24 (1) This section applies to any Crown land that, immediately before
25 commencement day, was a reserve under the LA Act section 41
26 for which the Perth Theatre Trust was the management body
27 under the LA Act section 46(1).

Arts and Culture Trust Bill 2021

Part 7 Transitional and savings provisions

Division 3 Transfer of the Perth Theatre Trust's assets, rights and liabilities

s. 85

- 1 (2) On commencement day —
- 2 (a) Crown land to which this section applies is taken to be a
- 3 reserve under the LA Act section 41 for the purposes of
- 4 this Act; and
- 5 (b) the Arts and Culture Trust is taken to be the
- 6 management body of the reserve under the LA Act
- 7 section 46(1).
- 8 (3) For the purposes of section 86 and the purposes of the LA
- 9 Act —
- 10 (a) subsection (2)(a) must be treated as if it were an order
- 11 made under the LA Act section 51 changing the purpose
- 12 of the reserve; and
- 13 (b) subsection (2)(b) must be treated as if it were —
- 14 (i) an order made under the LA Act section 50(1)(a)
- 15 revoking the management order placing the care,
- 16 control and management of the reserve with the
- 17 Perth Theatre Trust and specifying that any
- 18 interests that existed in, or any caveats that
- 19 existed in respect of, the reserve immediately
- 20 before commencement day continue to exist in
- 21 respect of the reserve on and after
- 22 commencement day; and
- 23 (ii) a management order made under the LA Act
- 24 section 46(1) placing the care, control and
- 25 management of the reserve with the Arts and
- 26 Culture Trust subject to any conditions (with the
- 27 changes necessary to take account of differences
- 28 as to the purpose and management body) to
- 29 which the management order referred to in
- 30 subparagraph (i) was subject immediately before
- 31 commencement day.

1 **86. Registration of documents**

2 (1) In this section —

3 *relevant official* means —

- 4 (a) the Registrar of Titles under the *Transfer of Land*
5 *Act 1893*; or
6 (b) the Registrar of Deeds and Transfers under the
7 *Registration of Deeds Act 1856*; or
8 (c) any other person authorised by a written law to record
9 and give effect to the registration of documents.

10 (2) A relevant official must —

- 11 (a) take notice of this Part; and
12 (b) record and register in the appropriate manner the
13 documents necessary to give effect to this Part.

14 **87. Exemption from State tax**

15 (1) In this section —

16 *State tax* includes —

- 17 (a) duty chargeable under the *Duties Act 2008*; and
18 (b) any other tax, duty, fee, levy or charge under a law of
19 the State.

20 (2) State tax is not payable in relation to —

- 21 (a) anything that occurs by operation of this Part; or
22 (b) anything done (including a transaction entered into or an
23 instrument or document of any kind made, executed,
24 lodged or given) under this Part, or to give effect to this
25 Part, or for a purpose connected with or arising out of
26 giving effect to this Part.

27 (3) The Minister may certify in writing that —

- 28 (a) a specified thing occurred by operation of this Part; or

Arts and Culture Trust Bill 2021

Part 7 Transitional and savings provisions

Division 4 Chief executive officer and other staff of the Perth Theatre Trust

s. 88

1 (b) a specified thing was done under this Part, or to give
2 effect to this Part, or for a purpose connected with or
3 arising out of giving effect to this Part.

4 (4) For all purposes and in all proceedings, a certificate under
5 subsection (3) is sufficient evidence of the matters it certifies,
6 except so far as the contrary is shown.

7 **Division 4 — Chief executive officer and other staff of the Perth**
8 **Theatre Trust**

9 **88. Chief executive officer of Perth Theatre Trust**

10 (1) On and after commencement day, the person who immediately
11 before commencement day occupied the office of chief
12 executive officer of the Perth Theatre Trust continues in office,
13 under this Act and the *Public Sector Management Act 1994*, as
14 the CEO.

15 (2) Subject to the *Public Sector Management Act 1994*, the person's
16 employment as the CEO continues to be governed by the terms
17 and conditions of employment that applied immediately before
18 commencement day to the person as the chief executive officer
19 of the Perth Theatre Trust.

20 (3) Except as otherwise agreed by the person referred to in
21 subsection (1), the operation of that subsection does not —

22 (a) affect the person's remuneration; or

23 (b) affect the person's existing or accruing rights in respect
24 of annual leave, long service leave, personal leave or
25 any other leave; or

26 (c) affect any rights under a superannuation scheme; or

27 (d) interrupt the continuity of the person's service.

1 **89. Other staff**

- 2 (1) A person who immediately before commencement day was a
3 public service officer appointed under the *Public Sector*
4 *Management Act 1994* Part 3 to enable the Perth Theatre Trust
5 to perform its functions is, on and after commencement day,
6 taken to be a public service officer appointed under that Act for
7 the purposes of section 52(1) of this Act on the same terms and
8 conditions that applied to the person immediately before
9 commencement day.
- 10 (2) A person who immediately before commencement day was
11 appointed by the Perth Theatre Trust under section 17(1)(b) of
12 the repealed Act is, on and after commencement day, taken to
13 have been employed by the Arts and Culture Trust under
14 section 52(2) of this Act on the same terms and conditions that
15 applied to the person immediately before commencement day.
- 16 (3) A person who immediately before commencement day was
17 employed on a casual or temporary basis by the Perth Theatre
18 Trust under section 17A(1) of the repealed Act is, on and after
19 commencement day, taken to have been employed by the Arts
20 and Culture Trust under section 52(2) of this Act on the same
21 terms and conditions that applied to the person immediately
22 before commencement day.
- 23 (4) Except as otherwise agreed by a person referred to in this
24 section, the operation of this section does not —
- 25 (a) affect the person's remuneration; or
26 (b) affect the person's existing or accruing rights in respect
27 of annual leave, long service leave, personal leave or
28 any other leave; or
29 (c) affect any rights under a superannuation scheme; or
30 (d) interrupt the continuity of the person's service.

1 **Division 5 — Continuing effect of things done**

2 **90. Completion of things commenced**

3 Anything commenced by the Perth Theatre Trust before
4 commencement day may be continued on and after
5 commencement day by the Arts and Culture Trust so far as the
6 doing of the thing is within the Arts and Culture Trust’s
7 functions.

8 **91. Continuing effect of things done**

9 (1) In this section —

10 *relevant act* means an act, matter or thing done or omitted to be
11 done before commencement day by, to or in respect of the Perth
12 Theatre Trust.

13 (2) To the extent that a relevant act has force or significance on or
14 after commencement day it is taken, on and after
15 commencement day, to have been done or omitted by, to or in
16 respect of the Arts and Culture Trust so far as the act, matter or
17 thing is relevant to the Arts and Culture Trust’s functions.

18 (3) This section does not affect the operation of any other provision
19 of this Part.

20 **92. Contracts, agreements, arrangements and other instruments**

21 (1) In this section —

22 *relevant agreement* means any of the following subsisting
23 immediately before commencement day —

24 (a) a contract, agreement or other instrument to which the
25 Perth Theatre Trust is a party or which contains a
26 reference to the Perth Theatre Trust;

27 (b) an arrangement with the Council of the City of Perth
28 entered into by the Perth Theatre Trust under
29 section 19(1) of the repealed Act.

- 1 (2) A relevant agreement has effect on and after commencement
2 day as if —
- 3 (a) the Arts and Culture Trust were substituted for the Perth
4 Theatre Trust as a party to the relevant agreement; and
- 5 (b) any reference in the relevant agreement to the Perth
6 Theatre Trust were, unless the context otherwise
7 requires, amended to be or include a reference to the
8 Arts and Culture Trust.

9 **93. Business arrangements**

- 10 (1) Subsection (2) applies if immediately before commencement
11 day —
- 12 (a) the Perth Theatre Trust was exercising its powers under
13 section 16(2)(da) of the repealed Act in relation to a
14 business arrangement; and
- 15 (b) the terms and conditions of the business arrangement
16 were approved under section 16(3) of the repealed Act.
- 17 (2) On and after commencement day, the Arts and Culture Trust
18 may exercise its powers under section 11(3)(f) of this Act in
19 relation to the business arrangement as if the terms and
20 conditions of the business arrangement were approved under
21 section 13(1) of this Act.
- 22 (3) Subsection (4) applies if immediately before commencement
23 day —
- 24 (a) the Perth Theatre Trust was exercising its powers under
25 section 16(2)(da) of the repealed Act in relation to a
26 business arrangement; and
- 27 (b) the business arrangement was exempted, by notice under
28 section 16(4) of the repealed Act, from the operation of
29 section 16(3) of the repealed Act.
- 30 (4) On and after commencement day, the Arts and Culture Trust
31 may exercise its powers under section 11(3)(f) of this Act in
32 relation to the business arrangement as if the business

1 arrangement were exempted, by notice under section 13(2) of
2 this Act, from the operation of section 13(1) of this Act on the
3 same conditions (if any) specified in the notice under
4 section 16(4) of the repealed Act.

5 **94. Declarations of theatres under s. 3(2) of repealed Act**

- 6 (1) This section applies if —
- 7 (a) a building or structure has been declared under
8 section 3(2) of the repealed Act to be a theatre for the
9 purposes of that Act; and
- 10 (b) the declaration is in force immediately before
11 commencement day.
- 12 (2) On and after commencement day, the declaration continues in
13 force, with any necessary modifications, as if it were a
14 declaration under section 4(1) of this Act that the building or
15 structure is a venue used, or intended to be used, wholly or
16 partly for cultural or artistic purposes.

17 **Division 6 — Other transitional provisions**

18 **95. Transitional regulations**

- 19 (1) In this section —
- 20 *publication day*, for transitional regulations, means the day on
21 which the transitional regulations are published in the *Gazette*;
22 *specified*, in relation to transitional regulations, means specified
23 or described in the transitional regulations;
- 24 *transitional matter* —
- 25 (a) means a matter of a transitional nature that arises as a
26 result of —
- 27 (i) the repeals effected by section 73; or
28 (ii) an amendment made under Part 6; or
29 (iii) the enactment of this Act;
- 30 and

- 1 (b) includes a saving or application matter;
- 2 *transitional regulations* means regulations referred to in
- 3 subsection (2).
- 4 (2) If there is not sufficient provision in this Act for dealing with a
- 5 transitional matter, regulations under this Act may prescribe all
- 6 matters that are required or necessary or convenient to be
- 7 prescribed for dealing with the matter.
- 8 (3) Transitional regulations may provide that specified provisions
- 9 of a written law —
- 10 (a) do not apply to or in relation to a specified matter; or
- 11 (b) apply with specified modifications to or in relation to
- 12 any matter.
- 13 (4) If transitional regulations provide that a specified state of affairs
- 14 is taken to have existed, or not to have existed, on and after a
- 15 day that is earlier than publication day but not earlier than the
- 16 day on which this section comes into operation, the transitional
- 17 regulations have effect according to their terms.
- 18 (5) If transitional regulations contain a provision referred to in
- 19 subsection (4), the provision does not operate so as —
- 20 (a) to affect in a manner prejudicial to any person (other
- 21 than the State or an authority of the State) the rights of
- 22 that person existing before publication day; or
- 23 (b) to impose liabilities on any person (other than the State
- 24 or an authority of the State) in respect of anything done
- 25 or omitted to be done before publication day.

26 **96. Savings**

- 27 The operation of this Part must not be regarded as —
- 28 (a) a breach of contract or confidence or otherwise as a civil
- 29 wrong; or
- 30 (b) a breach of any contractual provision prohibiting,
- 31 restricting or regulating the assignment or transfer of

Arts and Culture Trust Bill 2021

Part 7 Transitional and savings provisions

Division 6 Other transitional provisions

s. 96

- 1 assets, rights or liabilities or the disclosure of
2 information; or
- 3 (c) giving rise to any right to damages or compensation; or
- 4 (d) giving rise to any remedy by a party to an instrument, or
5 as causing or permitting the termination of any
6 instrument, because of a change in the beneficial or legal
7 ownership of any asset, right or liability; or
- 8 (e) causing any contract or instrument to be void or
9 otherwise unenforceable; or
- 10 (f) releasing or allowing the release of any surety.

=====

Defined terms

[This is a list of terms defined and the provisions where they are defined.

The list is not part of the law.]

Defined term	Provision(s)
acquire.....	11(1)
activity	3
Arts and Culture Trust	79
Arts and Culture Trust Account	3
arts organisation	3
asset.....	79
authorised person	71(1)
Board.....	3
Board member.....	3, 17(1)
business arrangement	11(1)
CEO	3, 41(1)
chairperson.....	3
commencement day	79
committee	3
Department CEO.....	3
deputy chairperson.....	3
dispose of	11(1)
document.....	57(1)
former account	83(1)
information.....	57(1)
LA Act	3
liability	79
misconduct	3
participate	11(1)
Perth Theatre Trust	79
place.....	3
production activity	3
promote	10(1)
publication day.....	95(1)
relevant act.....	91(1)
relevant agreement.....	92(1)
relevant official	86(1)
relevant person.....	32(1)
remuneration	3
repealed Act	79
resident company	3
right.....	79
specified	95(1)
staff member	3
State tax	87(1)

Defined terms

this Part	79
ticketing services.....	3
transitional matter	95(1)
transitional regulations.....	95(1)
Trust.....	3
Trust property	3
Trust venue	3
Trust venue programming.....	3
unable to act.....	3
venue.....	3
work	11(1)