

ART GALLERY OF NEW SOUTH WALES ACT.

Act No. 1, 1958.

An Act to make provision with respect to the administration of the Art Gallery of New South Wales; to amend the Library and Art Gallery Act, 1899-1952; and for purposes connected therewith. [Assented to, 28th March, 1958.] Elizabeth II,
No. 1, 1958.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Art Gallery of New South Wales Act, 1958". Short title
and com-
mencement.

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. (1) The Library and Art Gallery Act, 1899-1952, is amended— Amendment
of Act
No. 54, 1899.

(a) (i) by omitting from the long title the words "and National Art Gallery respectively"; Long title.

(ii) by omitting from the long title the words "those institutions" wherever occurring and by inserting in lieu thereof the words "that institution";

(b) by omitting Part II;

Part II.
(The
National
Art Gallery.)

(c) by omitting from section thirty-two the words "or gallery" wherever occurring; Sec. 32.

(Gifts,
devises and
bequests to
library and
gallery to
be exempt
from stamp
and death
duties.)

Art Gallery of New South Wales Act.**No. 1, 1958.****Sec. 33.**
(Definitions.)

- (d) (i) by omitting from the definition of "By-laws" in section thirty-three the words "the part in which the expression occurs" and by inserting in lieu thereof the words "this Act";
- (ii) by omitting the definition of "The Gallery" in the same section;
- (iii) by omitting from the definition of "Trustees" in the same section the words "in Part I of this Act";
- (iv) by omitting from the same definition the words ", and in Part II means trustees of the gallery";

Sec. 34.
(Short title.)

- (e) by omitting from section thirty-four the words "Library and Art Gallery" and by inserting in lieu thereof the words "Public Library".

(2) (a) As from the commencement of this Act, in the construction and for the purposes of any Act, by-law, regulation, ordinance, or any other instrument or document whatsoever, of the same or a different kind or nature, any reference to The Trustees of the National Art Gallery of New South Wales (in this section referred to as the "former trustees") shall be read, deemed and taken to refer to the trustees.

(b) All real and personal property and all right and interest therein which immediately before the commencement of this Act was vested in the former trustees for or on behalf of or for the purposes of the National Art Gallery of New South Wales shall vest in and belong to the trustees for the purposes of this Act.

All property vested in the trustees by the operation of this subsection shall be held by the trustees subject to the conditions or trusts on which it was held immediately before such vesting.

(c) All by-laws made under the Library and Art Gallery Act, 1899-1952, by the former trustees and in force immediately before the commencement of this Act and which are not inconsistent with any of the provisions of this Act shall be deemed to be by-laws made

Art Gallery of New South Wales Act.

3

made by the trustees under those provisions and shall continue in force until amended or repealed by by-laws made under those provisions. **No. 1, 1958.**

(d) Any legal or other proceedings that might, but for the provisions of this section, have been continued or commenced by or against the former trustees by the name of The Trustees of the National Art Gallery of New South Wales may be continued or commenced by or against the trustees by the name of The Trustees of the Art Gallery of New South Wales.

(e) All contracts, agreements and undertakings entered into with the former trustees and in force at the commencement of this Act shall be contracts, agreements and undertakings with the trustees.

(3) The Library and Art Gallery Act, 1899, as amended by subsequent Acts and by this Act, may be cited as the Public Library Act, 1899-1958.

3. In this Act, unless the context or subject matter otherwise indicates or requires—

“Gallery” means the Art Gallery of New South Wales.

“Trustees” means the trustees by this Act incorporated under the name of “The Trustees of the Art Gallery of New South Wales”.

4. (1) For the purposes of this Act there shall be thirteen trustees who shall be appointed in accordance with the provisions of this section. **Trustees.**

So long as the number of trustees exceeds seven the trustees for the time being holding office shall have and may exercise and perform the powers, authorities, duties and functions conferred and imposed on the trustees by or under this Act.

Nothing in the foregoing provisions of this subsection affects subsections two and three of section eight of this Act.

(2)

Art Gallery of New South Wales Act.**No. 1, 1958.**

(2) The trustees are hereby constituted a body corporate under the name of "The Trustees of the Art Gallery of New South Wales" and by that name shall have perpetual succession and a common seal and may sue and be sued in all courts and shall, for the purposes and subject to the provisions of this Act, be capable of purchasing, holding, granting, demising, disposing of or otherwise dealing with real and personal property and of doing and suffering all such other acts and things that a body corporate may by law do and suffer.

(3) One of the trustees shall be such one of the persons holding office as Director-General of Education or Deputy Director-General of Education as the Governor may from time to time appoint on the nomination of the Minister.

(4) (a) The first trustees to hold office on and after the commencement of this Act shall consist of the person appointed as a trustee under subsection three of this section and the persons (other than either of the persons holding office as Director-General of Education or Deputy Director-General of Education) who immediately before that commencement held office under the Library and Art Gallery Act, 1899-1952, as The Trustees of the National Art Gallery of New South Wales.

(b) If immediately before the commencement of this Act there was a vacancy in the office of any person who held office as aforesaid the Governor may, in respect of that vacancy, appoint a person to be one of the first trustees under this Act, and the person so appointed shall be included in such one of the groups hereinafter referred to as the Governor may determine.

(5) The first trustees, other than the person appointed as a trustee under subsection three of this section, shall be divided into two equal groups and the trustees to be included in each of the two groups shall be as determined by the Governor.

(6) (a) The trustees comprised in such one of the two groups aforesaid as the Governor may determine shall subject to this Act hold office as trustees for a term of two years from the commencement of this Act and shall if otherwise qualified be eligible for reappointment.

(b)

(b) The trustees comprised in the other of the two groups aforesaid shall subject to this Act hold office as trustees for a term of four years from the commencement of this Act and shall if otherwise qualified be eligible for reappointment.

No. 1, 1958.

(7) Upon the second anniversary of the commencement of this Act, and thereafter every two years, the following persons shall take office as trustees, that is to say:—

(a) five persons who shall have been appointed by the Governor on the nomination of the Minister made after consultation with such persons, authorities, organisations and associations as the Minister thinks fit; and

(b) one person who shall have been appointed by the Governor on the nomination of the trustees.

The trustees appointed under this subsection shall subject to this Act hold office as trustees for a term of four years from the date upon which they take office under this subsection and shall if otherwise qualified be eligible for reappointment.

Of the persons nominated by the Minister for appointment as trustees under paragraph (a) of this subsection, not less than two shall be knowledgeable and experienced in the visual arts.

(8) (a) Where a vacancy occurs in the office of a trustee before the expiration of his term of office the casual vacancy so arising shall be filled by a person appointed thereto by the Governor on the same nomination as that on which the trustee in whose office the casual vacancy occurred was appointed.

(b) The trustee filling any such casual vacancy shall, subject to this Act, hold office as trustee until the time when his predecessor's term of office would have expired, and shall if otherwise qualified be eligible for reappointment.

Art Gallery of New South Wales Act.**No. 1, 1958.****Vacancies—
how caused.****5.** (1) A trustee shall be deemed to have vacated his office if he—

- (a) dies;
- (b) resigns his office by writing under his hand addressed to the Governor;
- (c) becomes an insane person or patient or an incapable person within the meaning of the Lunacy Act, 1898-1955;
- (d) is absent from three consecutive ordinary meetings of the trustees of which notice has been given to him personally or in the ordinary course of post and is not before the expiration of six weeks after the last of such meetings excused by the trustees for his absence from such meetings;
- (e) is removed from office by the Governor;
- (f) being the trustee appointed under subsection three of section four of this Act, ceases to hold either of the offices mentioned in that subsection.

(2) The Governor may, for any cause which appears to him to be sufficient, remove any trustee from office.

**Public
Service Act
not to
apply.**

6. The provisions of the Public Service Act, 1902, or any Act amending that Act, shall not apply to the appointment of any trustee, and a trustee shall not, as such trustee, be subject to the provisions of any such Act.

President.

7. (1) The trustees shall elect from amongst their number a president and two vice-presidents. The president and each vice-president shall hold office as president or a vice-president, as the case may be, from the date of his election until the expiry of his term of office as a trustee and shall, if otherwise qualified, be eligible for re-election.

Where the office of the president or a vice-president elected under this section becomes vacant before the expiration of his term of office as president or a vice-president, as the case may be, a successor shall be elected to

to fill the vacancy by the trustees from amongst their number at a meeting of trustees specially convened for the purpose. Such successor shall hold office as president or a vice-president, as the case may be, from the date of his election until the expiry of his term of office as a trustee and shall, if otherwise qualified, be eligible for re-election.

(2) At every meeting of the trustees at which he is present the president shall preside.

In the absence of the president from any meeting of the trustees at which both vice-presidents are present, one of the vice-presidents selected by the trustees present at the meeting shall preside at the meeting.

In the absence of the president and one of the vice-presidents from any meeting at which the other vice-president is present, such other vice-president shall preside at that meeting.

In the absence of the president and both vice-presidents from any meeting of the trustees, the trustees present at the meeting shall select from amongst their number a chairman to preside at that meeting.

S. (1) The procedure for the calling of meetings of the trustees and the conduct of business at such meetings shall, subject to any by-laws in relation thereto in force under this Act, be as determined by the trustees. Procedure, quorum, etc.

(2) Any four trustees shall be a quorum for the purposes of any meeting of the trustees.

(3) (a) Any duly convened meeting of the trustees at which a quorum is present shall be competent to transact any business of the trustees and shall have and may exercise and perform all the powers, authorities, duties and functions by this Act conferred or imposed upon the trustees.

(b) A decision of the majority of trustees present at a meeting of the trustees shall be the decision of the trustees.

(4)

Art Gallery of New South Wales Act.

No. 1, 1958.

(4) The common seal shall be kept in the custody of the president or such other trustee as the trustees may determine, and shall not be affixed to any instrument or writing, except in the presence of a quorum; and the trustees in whose presence the seal is affixed shall attest by their signatures the fact and the date of the seal being so affixed.

(5) No act or proceeding of the trustees shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken or commenced there was a vacancy in the office of any trustee, or any person not qualified or having ceased to be qualified may have acted as a trustee.

Officers and employees.

9. (1) The Governor may, under and subject to the provisions of the Public Service Act, 1902, as amended by subsequent Acts, appoint and employ such officers and employees as may be necessary for the purposes of this Act.

(2) The officers and employees so employed shall be subject to the provisions of the Public Service Act, 1902, as amended by subsequent Acts, during their tenure of office or employment.

Power to accept gifts, etc.

10. (1) The trustees shall have power to acquire by gift inter vivos, bequest or devise, any property for any of the purposes of this Act, and to agree to the condition of any such gift, bequest or devise.

(2) The rule of law relating to perpetuities shall not apply to any such condition to which the trustees have agreed.

(3) Nothing contained in the Stamp Duties Act, 1920, or in any Act amending that Act, whether passed before or after the commencement of this Act, shall apply to any real or personal property of any nature or kind whatsoever comprised in any gift inter vivos, devise or bequest made or to be made to the gallery or the trustees of the gallery.

11. (1) Where the trustees adjudge any work of art for the time being vested in the trustees to be unfit for or not required as part of the collection of the gallery the trustees may notwithstanding the terms of any trust affecting the work of art or of any arrangement or condition made or agreed to by the trustees at the time of its acquisition by them—

No. 1, 1958.
 Sale or disposal of certain works of art.

- (a) sell the work of art or exchange it for another work of art; or
- (b) dispose of without consideration or destroy the work of art if the trustees adjudge it to be of no salable value.

The proceeds of any sale made by the trustees in the exercise of the power conferred on the trustees by paragraph (a) of this subsection shall, after deduction therefrom of the costs of and incidental to the sale, be held by the trustees for the purchase of works of art or other requirements indispensable to an art gallery but exclusive of the payment of rent.

(2) Where a work of art is delivered by any person to and accepted by the trustees for exhibition in the gallery or elsewhere or as an entry in any competition conducted or managed by the trustees or for any other purpose whatsoever and it is not collected from the trustees by that person or by some other person on his behalf within a period of two years after the date of its acceptance by the trustees or, if the trustees have agreed to hold it for a specified period, within a period of two years after the expiration of that period, the trustees may, subject to any arrangement or condition to the contrary made or agreed to by the trustees and after giving the notice hereinafter referred to—

- (a) sell the work of art or exchange it for another work of art; or
- (b) dispose of without consideration or destroy the work of art if the trustees adjudge it to be of no salable value.

The proceeds of any sale made by the trustees in exercise of the power conferred on the trustees by paragraph (a) of this subsection shall, after deduction therefrom

Art Gallery of New South Wales Act.

No. 1, 1958. therefrom of the costs of and incidental to the sale, be held by the trustees for the person from whom the work of art was accepted by the trustees and if not claimed by that person within a period of ten years after the date of the sale, for the purchase of works of art or other requirements indispensable to an art gallery but exclusive of the payment of rent.

The notice hereinbefore required to be given shall be a notice that the trustees intend after the expiration of a period of one month after the date of the giving thereof to sell, exchange or otherwise dispose of the work of art and such notice shall be deemed to have been given if the trustees post it to the person from whom they accepted the work of art at the address of such person last known to the trustees or in the event of an address of such person not being known to the trustees then if the trustees publish the notice in a daily newspaper circulating in Sydney.

(3) Any work of art sold or disposed of by way of exchange or otherwise by the trustees purporting to exercise any of the powers conferred on the trustees by this section shall vest in the person acquiring it by virtue of such sale or other disposition freed and discharged from all trusts, estates and interests whatsoever.

(4) No person acquiring a work of art from the trustees purporting to exercise any of the powers conferred on the trustees by this section shall be concerned to inquire whether a case has arisen to authorise the sale or other disposition of the work of art or whether the prescribed notice was given or whether the power was otherwise properly and regularly exercised or to see to the application of any purchase money paid to the trustees.

Branches.

12. The trustees either alone or by agreement and in conjunction with any other person or body may establish, maintain and control branches of the gallery within New South Wales.

An

An agreement between the trustees and any other person or body shall not be entered into for the purposes of this section unless the Governor has first approved of the agreement. No. 1, 1958.

13. The trustees shall have the following objects and may exercise any or all of the following functions:— Objects and functions of the trustees.

- (a) the control and management of the gallery and of all books, pamphlets, manuscripts, pictures, paintings, engravings, statuary, maps, works of art and other chattels and property contained therein;
- (b) the maintenance and administration of the gallery in such manner as will effectively minister to the needs and demands of the community in any or all branches of the visual arts by—
 - (i) the display of works of art;
 - (ii) the promotion of artistic taste and achievement through illustration of the history and development of the visual arts;
 - (iii) lectures, films, broadcasts, telecasts, publications and other educational means;
 - (iv) scientific research; or
 - (v) any other means which in the opinion of the trustees are necessary or desirable.

14. For the purpose of providing a statutory endowment for the purchase of works of art and other requirements of a gallery and meeting expenses incurred in or out of New South Wales relative or incidental to inquiries for or on behalf of the gallery but exclusive of the payment of working expenses of the gallery, there shall be paid by the Colonial Treasurer to the trustees an annual endowment of such amount as Parliament Statutory endowment.
 approves

12 Art Gallery of New South Wales Act.

No. 1, 1958. approves. Such endowment shall be paid by four equal quarterly instalments on the first day of January, April, July and October in each year.

Any moneys payable by the Colonial Treasurer under this section shall be paid out of moneys provided by Parliament.

Annual reports.

15. The trustees shall as soon as practicable, and not more than three months, after the thirty-first day of December in each year cause a report of its work and activities during the year ending on that date to be prepared and forwarded to the Minister for presentation to Parliament.

Accounts.

16. (1) The trustees shall as soon as practicable, and not more than three months, after the thirtieth day of June in each year prepare and transmit to the Minister for presentation to Parliament statements of accounts in a form approved by the Auditor-General exhibiting a true and correct view of the financial position and transactions of the trustees.

(2) The accounts of the trustees shall be audited by the Auditor-General, who shall have, in respect thereof, all the powers conferred on the Auditor-General by any law now or hereafter in force relating to the audit of public accounts; and the Audit Act, 1902, and Acts amending the same, shall apply to the trustees and officers and employees in the same manner as it applies to accounting officers of public departments.

By-laws.

17. (1) The trustees may make by-laws not inconsistent with this Act for and with respect to—

- (a) the general management and control of the gallery or any branch of the gallery;
- (b) regulating the conduct of the proceedings of the trustees, including the times, places and conduct of their meetings;

(c)

- (c) the admission (including charges therefor) or **No. 1, 1958.** exclusion of the public or any person to or from the gallery or any part thereof or any branch of the gallery or any part thereof;
- (d) the conditions upon which works of art vested in the trustees may be borrowed or copied by any body or person; and
- (e) generally for carrying out the purposes of this Act.

Any by-law made under paragraph (a) or (c) of this subsection with respect to any branch of the gallery shall be subject to any agreement with respect to that branch made under the provisions of section twelve of this Act.

(2) The by-laws may impose a penalty not exceeding twenty pounds for any breach thereof. Any such penalty may be recovered before a stipendiary magistrate or two justices in petty sessions.

(3) Every by-law made by the trustees shall be sealed with the common seal of the trustees, shall be submitted for the consideration and approval of the Governor, and when so approved shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the by-law.

(4) A copy of every such by-law shall be laid before each House of Parliament within fourteen sitting days after the publication thereof if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such by-law has been laid before such House disallowing the by-law or part thereof, such by-law or part thereof shall thereupon cease to have effect.