

**AUSTRALIAN MUSEUM TRUST ACT.**

**New South Wales**



ANNO VICESIMO QUARTO

**ELIZABETHÆ II REGINÆ**

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**Act No. 95, 1975.**

**An Act to constitute the Australian Museum Trust and define its powers, authorities, duties and functions; to dissolve the board of trustees incorporated under the Australian Museum Act, 1902; and for these purposes to repeal that Act and certain other enactments. [Assented to, 17th December, 1975.]**

**BE**

*Australian Museum Trust.*

**B**E it enacted by the Queen's Most Excellent Majesty, by No. 95, 1975  
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 :—

**PART I.****PRELIMINARY.**

1. This Act may be cited as the "Australian Museum Short title.  
Trust Act, 1975".

2. (1) This section and section 1 shall commence on the Commence-  
date of assent to this Act. ment.

(2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

3. This Act is divided as follows :—

Division of  
Act.

PART I.—PRELIMINARY—ss. 1–4.

PART II.—THE AUSTRALIAN MUSEUM TRUST—ss.  
5–10.

PART III.—ADMINISTRATION—ss. 11–13.

PART IV.—FINANCE—ss. 14–17.

PART V.—MISCELLANEOUS—ss. 18–20.

SCHEDULE 1.—COMPOSITION AND PROCEDURE OF  
THE TRUST.

SCHEDULE 2.—REPEALS.

SCHEDULE 3.—SAVINGS AND OTHER PROVISIONS.

**4.**

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**No. 95, 1975**     **4.** In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

Interpre-  
tation.

“Director” means the person appointed as Director of the Australian Museum pursuant to section 11 or a person acting as Director of the Australian Museum;

“regulation” means a regulation under this Act;

“Trust” means the Australian Museum Trust constituted by section 5;

“trustee” means a trustee referred to in section 6.

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**PART II.**

**THE AUSTRALIAN MUSEUM TRUST.**

**Constitution of Trust.**     **5.** (1) There is hereby constituted a corporation with the corporate name “Australian Museum Trust”.

(2) The Trust is a continuation of, and the same legal entity as, the body corporate entitled “The Trustees of the Australian Museum” incorporated under the Australian Museum Act, 1902.

(3) The Trust shall have and may exercise and perform the powers, authorities, duties and functions conferred or imposed on it by or under this or any other Act.

**Appoint-  
ment and  
procedure.**

**6.** (1) The Trust shall consist of 10 trustees of whom—  
(a) 8 shall be appointed by the Governor; and  
(b) 2 shall be elected by the trustees appointed by the Governor.

(2) Schedule 1 has effect.

**7.**

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7. (1) The objects of the Trust are to propagate knowledge about the natural environment of Australia and to increase that knowledge. No. 95, 1975  
Objects of Trust.

(2) When acting in pursuance of its objects, the Trust shall give particular emphasis to propagating and increasing knowledge in the natural sciences of biology, anthropology and geology.

8. (1) The Trust may—

Powers of Trust.

- (a) procure from within or outside the State, and preserve, specimens and scientific data relating to the natural sciences;
- (b) promote and provide exhibits, lectures, films, publications and other educational instruction relating to the natural sciences;
- (c) provide scientific information to the public and to any museum or scientific body, whether within or outside the State;
- (d) undertake scientific research in the natural sciences, including research outside the State, in pursuance of its objects;
- (e) carry out surveys and other research for statutory bodies that are subject to the control and direction of a Minister of the Crown and for other persons;
- (f) permit a person or body to use any part of the Australian Museum for activities of an educational or cultural nature; and

(g)

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(g) charge and receive fees for—

(i) any survey or other research that may be carried out under paragraph (e); and

(ii) any permission given under paragraph (f), which fees shall be the property of the Trust.

(2) Subject to this Act and the regulations, the Trust shall have the control and management of all property vested in the Trust.

(3) The Trust may agree to any condition that is not inconsistent with its objects being imposed on its acquisition of any property.

(4) Where, by gift inter vivos, devise or bequest, the Trust acquires property, it may retain the property in the form in which it is acquired, subject to any condition agreed to by the Trust in relation to the property under subsection (3).

(5) The rule of law against remoteness of vesting does not apply to a condition to which the Trust has agreed under subsection (3).

(6) The Stamp Duties Act, 1920, does not apply to or in respect of any gift inter vivos, devise or bequest made or to be made to the Australian Museum or the Trust.

(7) The Trust may establish such committees as it thinks fit for the purpose of assisting it to exercise and perform its powers, authorities, duties and functions.

(8) A person may be appointed to a committee whether or not he is a trustee.

(9) The Trust may provide, control and manage branches or departments of the Australian Museum.

(10)

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(10) The Trust shall have, and may exercise and perform, such powers, authorities, duties and functions, in addition to those specified in this section, as are reasonably necessary for the attainment of its objects, but may only borrow money in accordance with Part IV. **No. 95, 1975**

9. (1) In this section, "condition" means a condition to which the Trust has agreed under section 8 (3). **Deals with property.**

(2) Subject to subsection (3), the Trust shall not sell, mortgage, demise or otherwise dispose of any property acquired by gift inter vivos, devise or bequest, or any real property otherwise acquired, except—

- (a) where the property was acquired without any condition—with the approval of the Governor (which may be given in respect of any case or class of cases); or
- (b) where the property was acquired subject to a condition—in accordance with the condition or section 10.

(3) Subject to section 8 (4), and except to the extent that it would be in breach of a condition, the Trust shall invest any of its funds not immediately required for the purposes of the Trust in any manner authorised by law for the investment of trust funds.

10. (1) Subject to subsection (2), where the Trust resolves that any property that has been acquired by the Trust subject to a condition to which the Trust has agreed under section 8 (3) is not required for the purposes of the Trust, the Trust may— **Disposal of certain property.**

- (a) sell the property and retain the proceeds of the sale as property of the Trust;
- (b) exchange the property for other property;

(c)

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- No. 95, 1975**
- (c) give the property to an educational institution (including a museum); or
  - (d) if the Trust is of the opinion that the property is of no commercial value—dispose of the property without valuable consideration,

notwithstanding the condition subject to which the property was acquired.

(2) The Trust shall not sell, exchange, give or dispose of any property under subsection (1) except with the consent of the Governor and in accordance with any condition the Governor may impose upon the grant of his consent.

(3) The Governor may consent to the sale, exchange, gift or disposal of property for the purposes of this section and may impose any condition he thinks fit upon the grant of his consent.

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**PART III.**

**ADMINISTRATION.**

**Officers and employees.** **11.** (1) The Governor may, under and subject to the Public Service Act, 1902, 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 Public Service Act, 1902, during their term of office or employment.

(3) One of the officers appointed by the Governor pursuant to this section shall be appointed as the Director of the Australian Museum.

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**12.** (1) The Director is responsible for the administration and management of the Australian Museum and any services provided in conjunction therewith. **No. 95, 1975**  
Director.

(2) The Director shall be the secretary to the Trust.

(3) The Director is, in the exercise or performance of his powers, authorities, duties and functions under this Act, subject to the control and direction of the Trust.

**13.** (1) The Trust may, by instrument in writing, delegate to a trustee or to a person appointed or employed pursuant to section 11 the exercise or performance of such of its powers (other than this power of delegation), authorities, duties or functions as are specified in the instrument of delegation and may, by a like instrument, revoke wholly or partly any such delegation. Delegation by Trust.

(2) A delegation under this section may be made subject to such conditions or such limitations as to the exercise or performance of any of the powers, authorities, duties or functions delegated, or as to time or circumstances, as are specified in the instrument of delegation.

(3) A power, authority, duty or function the exercise or performance of which has been delegated under this section may, while the delegation remains unrevoked, be exercised or performed from time to time in accordance with the terms of the delegation.

(4) Notwithstanding any delegation under this section, the Trust may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

(5)



- No. 95, 1975 (5) Any act or thing done or suffered by a delegate under this section has the same force and effect as if the act or thing had been done or suffered by the Trust and shall be deemed to have been done or suffered by the Trust.
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**PART IV.****FINANCE.**

Endowment. **14.** (1) For the purpose of providing a statutory fund for the purchase of specimens and other requirements of the Trust, whether within or outside the State, but exclusive of the payment of working expenses of the Australian Museum, there shall be paid by the Treasurer to the Trust an annual endowment of such amount as Parliament approves.

(2) The annual endowment referred to in subsection (1) shall be paid by 4 equal quarterly instalments on the first day of July, October, January and April.

(3) Any money payable by the Treasurer under this section shall be paid out of money provided by Parliament.

Temporary accommodation. **15.** (1) For the temporary accommodation of the Trust it may obtain advances by overdraft of current account in any bank or banks to such extent as may be approved by the Governor on the recommendation of the Treasurer.

(2) The Treasurer may lend money to the Trust upon such terms as to repayment and interest as may be agreed upon.

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**16.** The Trust shall cause to be kept proper books of account relating to the funds and transactions of the Trust and shall, not later than the thirtieth day of September in each year and as soon as practicable after the preceding thirtieth day of June, prepare and transmit to the Minister for presentation to Parliament statements of accounts in respect of the year ending on, and made up to, that thirtieth day of June in a form approved by the Auditor-General and exhibiting a true and correct view of the financial position and transactions of the Trust.

**17. (1)** The accounts of the Trust shall be audited by the Auditor-General who shall have in respect thereof all the powers conferred by law from time to time in relation to the audit of public accounts.

**(2)** The Audit Act, 1902, applies to the trustees and officers and employees appointed and employed for the purposes of this Act in the same way as it applies to accounting officers of public departments.

**(3)** The Auditor-General shall report to the Minister and the Trust—

**(a)** whether or not in his opinion—

**(i)** due diligence and care have been shown in the collection and banking of money payable to the Trust;

**(ii)**

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- (ii) expenditure incurred has been duly authorised, vouched and supervised; and
  - (iii) any money or other property owned, or controlled and managed, by the Trust has been misappropriated or improperly or irregularly dealt with;
- (b) as to any other matters that, in his opinion, call for special notice; and
- (c) as to any other prescribed matters.

(4) Towards defraying the costs and expenses of the audit of its accounts the Trust shall pay to the Consolidated Revenue Fund such amounts, at such times, as the Treasurer may direct.

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**PART V.****MISCELLANEOUS.**Annual  
report.

**18.** The Trust shall, not later than the thirtieth day of September in each year and as soon as practicable after the preceding thirtieth day of June, prepare and transmit to the Minister for presentation to Parliament a report of its work and activities during the year that ended on that thirtieth day of June.

**19.**

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**19. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to—**

- (a) the meetings of the Trust;
- (b) committees of the Trust;
- (c) the use of the Australian Museum or other property of or services provided by the Trust; and
- (d) the fixing and payment of fees for—
  - (i) admission to the Australian Museum or any part thereof;
  - (ii) the taking of photographs within the Australian Museum; and
  - (iii) the use or purchase of any written material that is the property of the Trust.

(2) A regulation may—

- (a) apply differently according to such factors as may be specified in the regulation;
- (b) authorise any matter or thing to be from time to time determined, applied or regulated by any person specified therein; and
- (c) impose a penalty not exceeding \$200 for any breach of a regulation.

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- No. 95, 1975**    **20.** (1) The Acts specified in Schedule 2 are repealed.
- Repeals and transitional provisions.**                      (2) Schedule 3 has effect.

**Sec. 6 (2).**

**SCHEDULE 1.**

**COMPOSITION AND PROCEDURE OF THE TRUST.**

**Compo-  
sition.**

1. (1) Of the trustees appointed by the Governor—
- (a) 3 shall be members of institutions or organisations that, in the opinion of the Minister, have objects compatible with the objects of the Trust and shall be nominated by the Minister for their knowledge of, and experience relating to, the natural sciences or education; and
- (b) 5 shall be persons nominated by the Minister after he has consulted such persons, authorities, organisations or associations as he thinks fit.
- (2) A person—
- (a) who is of or above the age of 70 years;
- (b) who is a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act; or
- (c) who is a bankrupt, is applying to take the benefit of any law for the relief of bankrupt or insolvent debtors, whose debts are subject to a composition with his creditors, or whose allowances would, upon his appointment or election, be subject to an assignment for their benefit,

is not eligible to be appointed or elected a trustee.

**Appoint-  
ment of  
deputy.**

2. (1) In the case of the illness or absence of any trustee the Minister may appoint a person as a deputy to act in the place of the trustee during his illness or absence.

(2) A deputy appointed under this clause shall, while he is acting as a deputy, have all the powers and authorities of a trustee.

(3) A deputy appointed under this clause may, if the Minister thinks fit, be paid such travelling and subsistence allowances as the Minister may from time to time determine in respect of him.

**SCHEDULE**

*Australian Museum Trust.*SCHEDULE 1—*continued.*

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(4) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising a person to act in the place of a trustee, or as to the necessity or propriety of any appointment of a deputy, and all acts and things done or omitted by a deputy when so acting shall be as valid and shall have the same consequences as if they had been done or omitted by the trustee for whom the deputy is acting.

3. (1) Subject to subclause (2), the term of office of a trustee appointed by the Governor under section 6 (1) shall be, and, unless he vacates his office during his term, a trustee so appointed shall hold office for, 4 years. **Term of office.**

(2) Five of the first 8 trustees to be appointed by the Governor under section 6 (1) shall be appointed to hold office and, except in the case (if any) of any of those trustees who vacates his office during his term, shall hold office until the expiration of 2 years commencing on and including the day on which this Schedule commences.

(3) The term of office of a trustee elected under clause 9 (3) (b) shall extend, and, unless he vacates his office during his term, a trustee so elected shall hold office, from the time of his election until the expiration of 4 years commencing on and including the day on which this Schedule commences.

(4) The term of office of a trustee elected under clause 9 (4) shall extend, and, unless he vacates his office during his term, a trustee so elected shall hold office, from the time of his election until the expiration of the terms of office of the last 3 trustees appointed by the Governor under section 6 (1) before his election.

(5) Where a trustee appointed by the Governor vacates his office before the expiration of his term of office, the Governor may under this subclause appoint a person to fill the vacant office for the residue of the term of office of his predecessor, so that the Trust is constituted as provided by clause 1 (1).

(6) Where a trustee elected by the trustees appointed by the Governor vacates his office before the expiration of his term of office, the trustees so appointed shall, at the next meeting of the Trust held after the vacancy occurs, elect a person to fill the vacant office for the residue of the term of office of his predecessor.

(7) A trustee whose term of office expires may, if he is otherwise eligible, be appointed, elected, re-appointed or re-elected as a trustee.

4. The Public Service Act, 1902, does not apply to or in respect of the appointment of a trustee and a trustee is not, in his capacity as a trustee, subject to that Act during his term of office. **Certain enactments not to apply in respect of trustee.**

SCHEDULE

*Australian Museum Trust.*

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SCHEDULE 1—*continued.*Allowances  
for  
trustees.

5. A trustee shall, in his capacity as a trustee, be paid such travelling and subsistence allowances as the Minister from time to time determines in respect of that trustee.

Removal  
from  
office.

6. The Governor may, for any cause which to him seems sufficient, remove a trustee from office.

Vacation  
of office.

7. 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 Minister;
- (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his allowances, or estate, for their benefit;
- (d) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- (e) is absent from 3 consecutive ordinary meetings of the Trust of which notice has been given to him personally or in the ordinary course of post and is not before the expiration of 6 weeks after the latest of those meetings excused by the Trust for his absence from the meetings;
- (f) is one of the trustees appointed pursuant to clause 1 (1) (a) and ceases to hold the qualification by virtue of which he was so appointed;
- (g) is removed from office by the Governor; or
- (h) attains the age of 70 years.

President  
and Deputy  
President.

8. (1) For the purposes of this clause, a trustee shall not be considered to have ceased to be a trustee by reason only of his term of office as a trustee having expired if he is appointed or re-appointed by the Governor as a trustee for a term commencing immediately after the date on which his term of office expired.

(2) The trustees shall elect from among their number a President and a Deputy President—

- (a) at the second meeting of the Trust; and
- (b) at the first meeting of the Trust held—
  - (i) after June in each year; or
  - (ii) after any person holding office as President ceases to be a trustee or resigns his office as President.

SCHEDULE

*Australian Museum Trust.***SCHEDULE 1—continued.****No. 95, 1975**

(3) The trustees shall elect from among their number a Deputy President at the next meeting of the Trust held after any person holding office as Deputy President ceases to be a trustee or resigns his office as Deputy President.

(4) A President or a Deputy President holds office until the election of his successor under this clause or until he ceases to be a trustee, whichever first occurs.

(5) A retiring President or Deputy President is, while he remains a trustee, eligible for re-election as President or Deputy President.

(6) At a meeting of the Trust—

(a) the President;

(b) in the absence of the President—the Deputy President; or

(c) in the absence of both the President and Deputy President or if it is a meeting held when no person holds the office of President or Deputy President—a chairman elected by trustees present at the meeting from among their number,

shall preside.

9. (1) The procedure for the calling of meetings of the Trust and the conduct of business at those meetings shall, subject to this Schedule and any regulation, be as determined by the Trust. **Procedure, quorum, etc.**

(2) The Minister shall call the first meeting of the Trust by giving notice to the first 8 trustees appointed by the Governor in such way as he thinks fit.

(3) At the first meeting of the Trust the trustees appointed by the Governor shall—

(a) elect a chairman for the meeting from among their number;

(b) elect 2 persons to be the first 2 trustees elected by the trustees; and

(c) nominate a time and place for the second meeting of the Trust,

and no other business shall be conducted at the meeting, except business ancillary to the elections required to be held by this subclause.

(4) At the next meeting of the Trust held after the expiration of 4 years commencing on and including the day on which this Schedule commences and at the next meeting of the Trust held after the expiration of each consecutive further period of 4 years, the trustees appointed by the Governor shall elect 2 persons to be trustees.

**SCHEDULE**



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SCHEDULE 1—*continued.*

(5) Five trustees shall form a quorum and any duly convened meeting of the Trust (other than the first meeting) at which a quorum is present shall be competent to transact any business of the Trust and shall have and may exercise and discharge all the powers, authorities, duties and functions of the Trust.

(6) The chairman of a meeting of the Trust shall, in the event of an equality of votes, have in addition to a deliberative vote, a second or casting vote.

(7) A decision supported by a majority of the votes cast at a meeting of the Trust at which a quorum is present shall be the decision of the Trust.

**The  
secretary.**

10. The secretary to the Trust—

- (a) shall cause minutes of each meeting of the Trust to be recorded and preserved;
- (b) is entitled to be present at each meeting of the Trust and to be heard by the Trust on any matter considered by the Trust;
- (c) is an ex officio member of each committee of the Trust; and
- (d) shall communicate to the Minister the name of any person elected to be a trustee by the trustees appointed by the Governor as soon after the date of the election as may be practicable.

**Common  
seal.**

11. The common seal of the Trust shall be kept by the secretary to the Trust and shall only be affixed to an instrument or document—

- (a) by resolution of the Trust;
- (b) in the presence of—
  - (i) 2 trustees; and
  - (ii) an officer appointed by the Trust for that purpose; and
- (c) with an attestation by the signatures of the persons present, as required by this clause, of the fact and date of the affixing of the seal.

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SCHEDULE

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## SCHEDULE 2.

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## REPEALS.

Sec. 20 (1).

Year and number of Act.	Short title of Act.
1902, No. 61 .. ..	Australian Museum Act, 1902.
1931, No. 39 .. ..	Australian Museum (Amendment) Act, 1931.
1936, No. 5 .. ..	Australian Museum (Amendment) Act, 1936.

## SCHEDULE 3.

Sec. 20 (2).

## SAVINGS AND OTHER PROVISIONS.

1. A reference, in any other Act, or in any regulation, ordinance, **References.**  
by-law or any other instrument or document whatever, of the same  
or a different kind or nature—

(a) to the board of trustees directed to be constituted and  
incorporated under section 4 of the Australian Museum Act,  
1902; or

(b) to The Trustees of the Australian Museum,  
shall be read as a reference to the Trust.

2. On the commencement of this Schedule, a person who, immedi- **Vacation of**  
ately before that commencement, held office as a trustee under the **offices.**  
Australian Museum Act, 1902, shall cease to hold his office.

3. Officers and employees holding office or employed for the pur- **Officers**  
poses of the Australian Museum Act, 1902, immediately before the **and**  
commencement of this Schedule shall, on that commencement, be **employees.**  
deemed to have been appointed or employed for the purposes of this  
Act, and the repeal of that Act shall not affect any rights, privileges  
or entitlements accrued or accruing to those officers and employees  
under the Public Service Act, 1902, the Superannuation Act, 1916,  
or any other Act, award or industrial agreement.

## SCHEDULE

*Australian Museum Trust.*

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SCHEDULE 3—*continued.*Agreement  
to certain  
conditions.

## 4. Where any property—

- (a) was acquired by The Trustees of the Australian Museum before the commencement of this Schedule by gift inter vivos, devise or bequest, subject to a condition agreed to by The Trustees of the Australian Museum; and
- (b) was held by The Trustees of the Australian Museum immediately before that commencement,

the Trust shall, on that commencement, be deemed to have agreed, under section 8 (3), to the condition upon which the property was acquired.

Accounts  
and  
report.

5. (1) In this clause, "commencement date" means the date of commencement of this Schedule.

(2) The persons who held office as trustees under the Australian Museum Act, 1902, immediately before the commencement date shall—

## (a) prepare—

- (i) statements of all accounts of The Trustees of the Australian Museum made up to the commencement date in a form approved by the Auditor-General exhibiting a true and correct view of the financial position and transactions of The Trustees of the Australian Museum in respect of the period from the first day of July immediately preceding the commencement date; and
- (ii) a report of the work and activities of The Trustees of the Australian Museum from the first day of July immediately preceding the commencement date, up to the commencement date; and

(b) transmit the statements and report to the Trust as soon after the commencement date as may be practicable.