

Queensland



ANNO TRICESIMO

ELIZABETHAE SECUNDAE REGINAE

No. 85 of 1981

An Act to amend the Schools of Arts (Winding Up and Transfer) Act 1960–1973 in certain particulars and for other purposes

[ASSENTED TO 13TH NOVEMBER, 1981]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. Short title and citation. (1) This Act may be cited as the *Schools of Arts (Winding Up and Transfer) Act Amendment Act 1981*.

(2) In this Act the *Schools of Arts (Winding Up and Transfer) Act 1960–1973* is referred to as the Principal Act.

(3) The Principal Act as amended by this Act may be cited as the *Schools of Arts (Winding Up and Transfer) Act 1960–1981*.

2. Amendment of s. 7. Section 7 of the Principal Act is amended by omitting subsections (3), (4) and (5) and substituting the following subsections:—

“(3) Where in respect of any such School of Arts or library as aforesaid the Board certifies and recommends to the Minister as prescribed by subsection (1) the Governor in Council, upon the Minister's recommendation, may by Order in Council declare that all property, real and personal, vested in or held by trustees upon trust for the establishment and maintenance of such School of Arts or library or for any purpose of such trust shall vest in and be held by the Local Authority of the Area in which such School of Arts or library is situated.

Land the holding of which or any estate or interest in which is affected by an order made under this subsection shall be described in the order by reference to its surveyed description and the title reference (if any) relevant to such land.

(4) Upon publication in the Gazette of an order made under subsection (3) the property described therein and all other property held by trustees upon trust for the establishment and maintenance or any other purpose of the School of Arts or library specified therein shall, by virtue of the order—

- (a) in the case of land vested in such trustees, be divested from such trustees and be vested in the Local Authority named in the order for the same estate or interest previously had by such trustees therein; or
- (b) in the case of land reserved and set apart and placed under the control of such trustees, pass from the control of such trustees into the control of the Local Authority named in the order, subject, however, in either case to this section.

(5) Property vested in a Local Authority by virtue of an order made under subsection (3)—

- (a) where it is land granted in trust by the Governor in Council to trustees, shall remain subject to the trusts upon and subject to which it was held immediately before it so vested;
- (b) where it is land reserved and set apart by the Governor in Council and placed under the control of trustees, shall continue to be reserved and set apart and shall be under the control of

the Local Authority for the public purpose for which it was placed under the control of the trustees;

- (c) where it is land or an interest in land other than that referred to in paragraph (a) or (b), shall be freed and discharged from the trusts upon and subject to which it was held by trustees immediately before it so vested;
- (d) where it is property not hereinbefore referred to in this subsection, shall be freed and discharged from the trusts upon and subject to which it was held by trustees immediately before it so vested.

(6) For as long as land referred to in paragraph (a) or (b) of subsection (5) is vested in or under the control of a Local Authority as a result of an order made under subsection (3) the land and the holding or control thereof shall be subject to Part XI of the *Land Act 1962-1978*, and, unless it is otherwise dealt with under that Part, it shall be applied to the purposes of the trusts on which it was held or, as the case may be, the public purpose for which it was reserved and set apart immediately before it vested in or came under the control of the Local Authority.

The provision or maintenance by a Local Authority of a public library service pursuant to this subsection shall be to a standard approved by the Board.

(7) Subject to subsection (8), a Local Authority shall apply land and other property referred to in paragraph (c) or (d) of subsection (5) vested in it as a result of an order made under subsection (3), whether it so vested before or after the passing of the *School of Arts (Winding Up and Transfer) Act Amendment Act 1981*—

- (a) to the provision and maintenance within its Area of a public library service to a standard approved by the Board; or
- (b) to any other purpose, being a function of local government, approved by the Board.

Where a Local Authority proposes to use land or other property vested in it under this section for a purpose referred to in provision (b) of the preceding paragraph it shall first agree with the Board, in writing, to provide and maintain a public library service of a standard approved by the Board on a site within its Area and shall contribute, in accordance with that agreement or, if there be no provision in that agreement as to the time when such contribution is to be made, upon the making of that agreement, towards the cost of providing and maintaining or, as the case may be, maintaining such library service an amount equal at the least to the value of such land or other property.

For the purposes of this subsection such value shall be established, in the case of land, by the Valuer-General and, in the case of other property, by the Valuer-General or some competent person appointed by him, as he thinks fit.

(8) With the approval of the Board first had and obtained in writing a Local Authority in which land or other property referred to in subsection (7) is vested under this section may sell and convert into money such land or property for the estate or interest therein vested in the Local

Authority and, after paying the costs and expenses of such sale or conversion, the Local Authority shall apply the proceeds thereof towards providing and maintaining or, as the case may require, maintaining a public library service on a site within its Area of a standard approved by the Board.

A Local Authority shall be a trustee for the Board of so much of the proceeds of a sale or conversion pursuant to this subsection as has not been applied to the purpose prescribed by this subsection.”.

3. Further amendment of s. 7. Section 7 of the Principal Act is further amended by renumbering subsection (6) as subsection (9).

4. Ratification of certain take-overs of Schools of Arts or libraries. Where before the passing of this Act a Local Authority has taken over a School of Arts or library otherwise than in accordance with the law in force at the material time applicable to such a taking over—

- (a) such taking over shall be deemed to be and to have been at all material times lawful and effectual in law to vest in or place under the control of the Local Authority all property that at the time of such taking over was being applied to the purposes of such School of Arts or library to the same extent and with the same consequences as if the taking over had been by way of an Order in Council made under section 7 (3) of the *Schools of Arts (Winding Up and Transfer) Act 1960–1981*;
- (b) every exercise in good faith by a Local Authority, in relation to property vested in it by virtue of such a taking over, of any right that is or was at the material time incidental in the ownership of such property, save an exercise that contravened any provision relevant to such property of Part XI of *The Land Act of 1962* or that Act as amended at the time of such exercise or any other enactment that at the time of the exercise regulated the use of land granted in trust or reserved and set apart for a public purpose, shall be deemed to be or, as the case may be, to have been at all times a lawful exercise of such right;
- (c) it shall be deemed that the trustees of property vested in a Local Authority by virtue of such a taking over have not committed any breach of the trusts upon and subject to which such property was vested in or held by them by reason of their procuring, aiding or permitting such taking over or exercise of such right;
- (d) it is not competent to any person to bring legal proceedings claiming any remedy or relief on account of any act, matter or thing deemed to be lawful or not to be a breach of trust by virtue of any of the foregoing provisions of this section; and
- (e) the Local Authority is required to apply and authorized to dispose of land and other property vested in it or under its control by virtue of such a taking over as if the land or other property had vested in it or come under its control as a result of an Order in Council made under section 7 (3) of the *Schools of Arts (Winding Up and Transfer) Act 1960–1981*.

5. Ratification of current or past usage of property. Where at the passing of this Act property that, according to law, should be applied to the purposes of a School of Arts or library is being applied by a Local Authority to any other purpose, being a function of local government, or where before the passing of this Act any such property has been so applied by a Local Authority to such another purpose—

- (a) it shall be deemed that the Local Authority has not thereby committed any breach of the duty imposed on it in respect of the use to be made of such property; and
- (b) it is not competent to any person to bring legal proceedings claiming any remedy or relief on account of any such application of such property.

6. Recording vesting of property. Where property that by virtue of section 4 is deemed to be vested in a Local Authority is such that title to it is recorded in any register kept pursuant to law then, if it is not practicable to acquire title thereto, by transfer or otherwise, from the trustees who previously held the same, a request in writing may be made by or on behalf of the Local Authority to the Registrar of Titles, Registrar of Dealings or other person charged with the function of keeping the registers of title to such property to record the vesting of such property in the Local Authority as prescribed by this Act and the registrar or other person to whom the request is made, upon being satisfied—

- (a) that the property specified in the request is to be deemed to have vested in the Local Authority; and
- (b) that the trustees aforesaid do not exist at the time of making the request or that they or any of them are or is then not readily available,

shall make such entries and endorsements in the appropriate register book and in the relevant document of title, if it is produced to him, and do such acts and things as he thinks necessary or desirable to give full effect to the objects and purposes of section 4.