

Queensland



NEWSTEAD HOUSE TRUST ACT 1939

**Reprinted as in force on 13 December 1995
(includes amendments up to Act No. 58 of 1995)**

Reprint No. 1

**This reprint is prepared by
the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy**

Information about this reprint

This Act is reprinted as at 13 December 1995. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- update citations and references (pt 4, div 2)
- update references (pt 4, div 3)
- express gender specific provisions in a way consistent with current drafting practice (s 24)
- use gender neutral office names (s 25)
- use different spelling consistent with current drafting practice (s 26(2))
- use standard punctuation consistent with current drafting practice (s 27)
- use expressions consistent with current drafting practice (s 29)
- relocate marginal or cite notes (s 34)
- use aspects of format and printing style consistent with current drafting practice (s 35)
- omit provisions that are no longer required (ss 37, and 39)
- omit the enacting words (s 42A)
- number and renumber certain provisions and references (s 43)
- correct minor errors (s 44)
- make all necessary consequential amendments (s 7(1)(k)).

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in the reprint, including—**
 - **table of changed names and titles**
 - **table of obsolete and redundant provisions**
 - **table of corrected minor errors**
 - **table of renumbered provisions.**

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NEWSTEAD HOUSE TRUST ACT 1939

[as amended by all amendments that commenced on or before 15 December 1995]

An Act to authorise the creation of a trust with respect to a building known as Newstead House; to define the powers and duties of the said trust, and for other purposes

Preamble

WHEREAS there exists in Brisbane a building known as Newstead House which at present is under the ownership and control of the Brisbane City Council, which said Newstead House is a building associated with the early history of Queensland.

And whereas at the present time portion of the said building is under lease to a society called the Historical Society of Queensland, and several historical records of the society are stored therein.

And whereas it is desirable that the said building should be preserved as an archive for the placing therein of historical and other records of the State.

And whereas the Brisbane City Council is prepared to hand over the said building to the historical society and to expend sums of money in renovating the said building before same is handed over.

And whereas owing to the national nature of the position it is considered that the said building, together with appurtenant land, instead of being handed over to the said society should be handed over and vested in a trust to be created in connection therewith.

Short title

1. This Act may be cited as the *Newstead House Trust Act 1939*.

Establishment of trust

3.(1) For the government, management, and control of Newstead House as referred to in the preamble there shall be established a board of trustees (“**the trust**”) constituted as hereinafter provided.

Number of members

(2) The trust shall consist of 3 members, who shall be appointed by order in council.

(2A) One of such members shall be a representative of the government nominated in that behalf by the Minister; such member shall be chairperson of the trust.

(2B) One of such members shall be a representative of the Brisbane City Council nominated in that behalf by the Brisbane City Council.

(2C) One of such members shall be a representative of the historical society nominated in that behalf by the said society and approved by the Governor in Council.

Tenure

(3) All such members shall be appointed for such period not exceeding 3 years as the Governor in Council shall declare, but such members shall on being duly nominated be eligible for reappointment for a like period of 3 years.

Failure to nominate

(4) If within 28 days from a date to be fixed by the Minister (who is hereby authorised to fix such date) the Brisbane City Council or the historical society fail to nominate any person for appointment to the trust, the Governor in Council may without nomination appoint any person or persons to be a member or members of the trust, and any person or persons so appointed shall for all purposes be and be deemed to have been duly appointed a member or members of the trust.

Vacancies

(5) Any extraordinary vacancy which at any time occurs in the office of member by removal, death, resignation, disqualification, or otherwise shall be filled as soon as may be by the appointment or appointment after nomination as aforesaid, as the case may be, of another member; but any member appointed to fill any vacancy shall hold office for the balance of the period only for which the member's predecessor would have held office had no such vacancy occurred.

Disqualification

(6) Any person who has his or her affairs under liquidation or is an uncertificated or undischarged bankrupt or insolvent, or has been convicted of an indictable offence or is undergoing sentence of imprisonment, or becomes a patient within the meaning of the *Mental Health Act 1974* shall be disqualified from being appointed or from continuing as a member of the trust.

Vice-chairperson

(7) The trust shall before proceeding to the dispatch of any other business choose one of its members to be vice-chairperson, and as often as the office of vice-chairperson becomes vacant the trust shall choose a member to be vice-chairperson.

(7A) The vice-chairperson shall cease to hold office as vice-chairperson if he or she ceases to be a member.

Absence of the chairperson

(8) In the absence of the chairperson or in the event of a vacancy in the office of chairperson the vice-chairperson shall preside at meetings of the board, and shall during such absence or vacancy have and exercise the duties and functions of the chairperson.

(9) Two persons shall constitute a quorum of the trust.

Vacation of office

(10) The office of member of the trust shall be vacated—

- (a) if such member is or has become disqualified under this Act; or
- (b) if such member without leave obtained from the trust in that behalf has been absent from more than 3 consecutive ordinary

meetings of the trust; or

(c) upon death or resignation.

(11) A member may resign office by written notice of resignation given to the Minister.

Trust to be a body corporate

4.(1) The trust shall be a body corporate under the name and style of the Board of Trustees of Newstead House, and by that name shall have perpetual succession and an official seal, and shall be capable in law of suing and being sued in its corporate name and of acquiring, holding, and disposing of property.

(2) All courts, judges, justices, and persons acting judicially shall take judicial notice of the seal of the trust affixed to any document or notice and shall presume that it was duly affixed.

Vesting of assets

5.(1) After the commencement of this Act all property and assets, including maps, manuscripts, charts, documents, and other papers and records being the property of the historical society and situate at or within Newstead House shall without any transfer, assignment, conveyance, or notice other than this Act be divested from the said society and shall be transferred to and vested in the trust.

(2) Moreover all such property and assets, together with all such property and assets which may be acquired by or devolve upon the trust, shall be held, administered, and appropriated by the trust under this Act.

Transfer and vesting of land

6. The Brisbane City Council shall as soon as may be after the constitution of the trust transfer all that piece or parcel of land situated in the county of Stanley, parish of North Brisbane, described as resubdivision A of subdivision 50 of resubdivision A of subdivision 70 of eastern suburban allotment 63 containing an area of 29.46 p, be the same a little more or less, for an estate in fee simple to the trust, and the registrar of titles shall upon the lodgment in his or her office of such transfer register the Board of

Trustees of Newstead House as the registered proprietor as trustee of an estate in fee simple in the above described land upon and subject to the trusts imposed by this Act, and for that purpose may issue a new certificate of title and make such endorsement or endorsements as may be necessary in any certificate of title or deed of grant bound up in any register book in his or her office, and may make any such entry in any such register book as may be necessary and proper for the purposes of this Act.

Gifts and bequests

7. Any gift or bequest may be made by any person of any property to or for the benefit or purposes of the trust.

General powers

8. Subject to this Act, the trust shall have the management and control of Newstead House and of the affairs and concerns thereof, and may act in all matters therein in such manner as appears to it best calculated to promote the interests thereof.

Officers

9. The trust may appoint a secretary or caretaker who shall exercise and perform such duties as shall be directed by the trust.

Newstead House Fund

10.(1) The trust shall establish a fund to be called the Newstead House Fund.

(2) There shall be paid into the fund unless invested by the trust in pursuance of this Act—

- (a) all donations, bequests, legacies, grants, and contributions received by the trust under or pursuant to this Act, and all moneys arising from any gift or devise of real property received by or vested in the trust under or pursuant to this Act;
- (b) all moneys received from consolidated fund (which moneys may from time to time be appropriated for the purpose);

- (c) all moneys received from the Brisbane City Council;
- (d) all other moneys received by the trust on any account whatsoever.

(3) The fund shall be applied by the trust towards the payment of all expenses necessarily incurred in carrying this Act into execution and in doing and performing any acts and things which the trust is by this Act empowered or required to do or perform.

(4) The trust may pay out of the fund any moneys which the trust has decided to invest in pursuance of this Act and any sum due under any agreement lawfully made for the purposes of this Act and any sum recovered against the trust by process of law.

(5) All gifts, bequests, and devises of property made to the trust or vested in the trust pursuant to this Act shall be strictly applied in manner directed by the donors or testators respectively, but in the absence of any such direction shall be applied in aid of the execution of this Act in such manner as the trust may from time to time determine.

Unlawful damage etc. of picture exhibits etc.

11.(1) If any person unlawfully damages, mutilates, destroys, or removes from the possession of the trust any picture, print, exhibit, coin, medal, curio, object of natural history, object or work of art, book, map, manuscript, document, pamphlet, paper, or other chattel the property of or in the possession of the trust at the time of the damaging, mutilation, destruction, or removal, the person shall be guilty of an offence and shall, without limiting or affecting any other liability imposed on the person by this Act or otherwise, be liable for and shall pay to the trust the full amount of the value of such chattel so damaged, mutilated, destroyed, or removed.

(2) Such amount shall be recoverable summarily in the same manner as penalties for offences against this Act are recoverable or at the option of the trust in any court of competent jurisdiction.

(3) Any proceedings under this section may be taken by the trust or by any person purporting to be authorised in writing by the trust.

General penalty

13.(1) Any person guilty of an offence against this Act shall where no

penalty is specifically provided be liable to a penalty not exceeding 2 penalty units.

Proceedings for offences

(2) All proceedings in respect of offences against this Act shall be heard and determined and all penalties imposed by this Act shall be recoverable summarily on complaint under the *Justices Acts 1886*, by the secretary or by any person authorised in writing by the trust.

Regulations

14.(1) The Governor in Council may make regulations under this Act.

(2) A regulation may be made for or about the following—

Management

- (a) the good government and management of the affairs of the trust;

Seal

- (b) the use and custody of the official seal;

Meetings

- (c) the manner and time of convening, holding, and adjourning the meetings of the trust;
- (d) the powers and duties of the chairperson thereof;
- (e) the conduct and record of the business and minutes of proceedings;

Property

- (f) the management, control, and investment of the property and assets of the trust;

Protection of land etc.

- (g) the protection of the land and property of or under the control of the trust from trespass, injury, or misuse;

Admission

- (h) for the admission and for the exclusion or expulsion of the public or any individual to and from Newstead House or any land or

premises the property of or under the control of the trust;

Further powers etc. of trust

- (i) empowering the trust to acquire by purchase or otherwise books, manuscripts, public and other documents, pictures, works of art, and other things of historical interest;

General conditions

- (j) for specifying the conditions and restrictions upon and subject to which the public may be allowed—
 - (i) to read books, manuscripts, public and other documents, or to make copies thereof or extracts therefrom;
 - (ii) to inspect the pictures, works of art, and exhibits in Newstead House and to make drawings or copies thereof;

Penalties

- (k) for prescribing offences for a contravention of a regulation and fixing a maximum penalty of not more than 1 penalty unit.

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 13 December 1995. Future amendments of the Newstead House Trust Act 1939 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

4 List of legislation

Newstead House Trust Act 1939 3 Geo 6 No. 31

date of assent 6 December 1939

commenced 1 March 1940 (proc pubd gaz 24 February 1940 p 798)

Note—Repealed by the Queensland Museum (Newstead House Acquisition) Act 1987 No. 84 s 4 (never proclaimed into force and rep 1991 No. 53 s 2(1) sch 1)

as amended by—

Statute Law (Miscellaneous Provisions) Act 1994 No. 15 ss 1–3 sch 2

date of assent 10 May 1994

commenced on date of assent

Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1

date of assent 28 November 1995

commenced on date of assent

5 List of annotation

Short title

s 1 amd R1 (see RA s 37)

Definitions

s 2 om 1994 No. 15 s 3 sch 2

Establishment of trust

s 3 amd 1995 No. 58 s 4 sch 1

Audit of books and accounts

s 12 om 1994 No. 15 s 3 sch 2

General penalty

s 13 amd 1995 No. 58 s 4 sch 1

Regulations

s 14 amd 1994 No. 15 s 3 sch 2; 1995 No. 58 s 4 sch 1

6 Table of changed names and titlesTABLE OF CHANGED NAMES AND TITLES
under the Reprints Act 1992 ss 23 and 23A

Old	New	Reference provision
consolidated revenue	consolidated fund	Financial Administration and Audit Act 1977 s 112
insane person (or a like term)	patient (within the meaning of the Mental Health Act 1974)	Mental Health Act 1974 s 79(a)

7 Table of obsolete and redundant provisionsTABLE OF OBSOLETE AND REDUNDANT PROVISIONS
under the Reprints Act 1992 s 39

Omitted provision	Provision making omitted provision obsolete/redundant
references to Queensland implied	Acts Interpretation Act 1954 s 35

8 Table of corrected minor errorsTABLE OF CORRECTED MINOR ERRORS
under the Reprints Act 1992 s 44

Provision	Description
s 14(1)	after 'Council' ins 'may'

9 Table of renumbered provisions

TABLE OF RENUMBERED PROVISIONS under the Reprints Act 1992 s 43

Previous	Renumbered as
3(2), 2nd sentence	3(2A)
3(2), 3rd sentence	3(2B)
3(2), 4th sentence	3(2C)
3(7), 2nd sentence	3(7A)
4, 1st sentence	4(1)
4, 2nd sentence	4(2)
5, 1st sentence	5(1)
5, 2nd sentence	5(2)
14(2)(i)	14(2)(a)
14(2)(ii)	14(2)(b)
14(2)(iii), 1st unnum para	14(2)(c)
14(2)(iii), 2nd unnum para	14(2)(d)
14(2)(iii), 3rd unnum para	14(2)(e)
14(2)(iv)	14(2)(f)
14(2)(v)	14(2)(g)
14(2)(vi)	14(2)(h)
14(2)(vii)	14(2)(i)
14(2)(viii)	14(2)(j)
14(2)(viii)(a)	14(2)(j)(i)
14(2)(viii)(b)	14(2)(j)(ii)
14(2)(ix)	14(2)(k)