

Queensland



QUEENSLAND PERFORMING ARTS TRUST ACT 1977

**Reprinted as in force on 14 December 1995
(includes amendments up to Act No. 58 of 1995)**

Reprint No. 2

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Information about this reprint

This Act is reprinted as at 14 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))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

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—

- use expressions consistent with current drafting practice (s 29)
- use aspects of format and printing style consistent with current drafting practice (s 35).

This page is specific to this reprint. See previous reprint for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

Queensland



**QUEENSLAND PERFORMING ARTS
TRUST ACT 1977**

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QUEENSLAND PERFORMING ARTS TRUST ACT 1977

[as amended by all amendments that commenced on or before 9 December 1995]

An Act to provide for the establishment and incorporation of a body to be known as the Queensland Performing Arts Trust, to make provision with respect to the administration of that body and for purposes incidental thereto

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Queensland Performing Arts Trust Act 1977*.

Definitions

3. In this Act—

“**appointed member**” means a member appointed as such by the Governor in Council.

“**chairperson**” means the chairperson of the trust.

“**complex**” means part of the Queensland Cultural Centre that is occupied and operated by the trust, and includes an area designated in a lease agreement.

“**deputy chairperson**” means the deputy chairperson of the trust.

“**equipment**” includes furniture, furnishings, plant, stage scenery, light and sound equipment, properties, costumes, drapes, curtains and chattels suitable or convenient for the production of stage presentations and presentation of the performing arts.

“member” means a person occupying any of the offices of member of the trust including that of chairperson.

“the performing arts” means any of the branches of the musical, operatic, dramatic, terpsichorean, visual or auditory arts.

“trust” means the Queensland Performing Arts Trust established and incorporated under this Act.

PART 2—THE TRUST

Division 1—Constitution and membership of trust

Constitution of trust

5.(1) There is hereby established a body under the name and style, Queensland Performing Arts Trust.

(2) The Queensland Performing Arts Trust is a body corporate and shall have perpetual succession and a common seal and, subject to this Act, shall be capable of—

- (a) suing and being sued;
- (b) compounding or proving in any court of competent jurisdiction all debts and sums of money due to it;
- (c) acquiring, holding, letting and alienating (by exchange, sale, demise or otherwise) property or any interest therein, whether situated in Queensland or elsewhere;
- (d) doing and suffering all such other acts and things as bodies corporate may, in law, do and suffer.

(3) All courts and persons acting judicially shall take judicial notice of the common seal of the trust and, until the contrary is proved, shall presume that it was duly affixed to any document on which it appears.

Membership of trust

6. The trust shall consist of not more than 9 members of whom—

- (a) 1 shall be the chief executive for the time being or the chief executive's nominee; and
- (b) 1 shall be the director of the trust for the time being; and
- (c) not more than 7 persons appointed by the Governor in Council.

Term of appointment

7. Every member appointed pursuant to section 6(c) shall be appointed for a term of 3 years and, if otherwise qualified, shall be eligible for further appointment as a member.

Casual vacancies

9.(1) Where a vacancy occurs in the office of an appointed member before the expiration of the appointed member's term of office, the vacancy so arising shall be filled by a person appointed thereto by the Governor in Council on the recommendation of the Minister.

(2) A person appointed to fill a casual vacancy shall, subject to this Act, hold office as a member until the time when the person's predecessor's term of office would have expired, and shall, if otherwise qualified, be eligible for reappointment.

Vacation of office

10.(1) The office of an appointed member shall become vacant if the member—

- (a) dies; or
- (b) declines to act or to act further as a member; or
- (c) resigns office by writing under his or her hand addressed to the Minister (such resignation to be complete and take effect from the time it is received by the Minister); or
- (d) is absent without prior leave granted by the trust from 3 consecutive meetings of the trust of which due notice has been

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given to the member personally or in the ordinary course of post;
or

- (e) ceases to be qualified to be an appointed member; or
- (f) is removed from office as a member by the Governor in Council.

(2) A member who is directly or indirectly interested in a contract made or proposed to be made by the trust (otherwise than as a shareholder, and in common with the other shareholders, of an incorporated company consisting of not less than 25 shareholders) shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the member's interest at a meeting of the trust.

(3) A disclosure made under subsection (2) shall be recorded in the minutes of the trust and the member—

- (a) shall not take part after the disclosure in any deliberation or decision of the trust with respect to that contract; and
- (b) shall be disregarded for the purpose of constituting a quorum of the trust for that deliberation or decision.

Disqualification from office

11. A person who—

- (a) is an undischarged bankrupt or takes advantage of the laws in force for the time being relating to bankrupt or insolvent debtors;
or
- (b) has been convicted in Queensland of an indictable offence or elsewhere than in Queensland in respect of an act or omission that if done or made by the person in Queensland would have constituted an indictable offence; or
- (c) is a patient within the meaning of the *Mental Health Act 1974*;

shall not be capable of being appointed a member or continuing as an appointed member.

Removal from office

12. The Governor in Council may, for any cause which appears to the

Governor in Council to be sufficient, remove any appointed member from office.

Chairperson and deputy chairperson

13.(1) The Governor in Council shall appoint a member to be chairperson of the trust and another member to be deputy chairperson of the trust.

(2) A member appointed as the chairperson or deputy chairperson shall hold office as such until—

- (a) the appointment of another member as the chairperson, or, as the case may be, deputy chairperson; or
- (b) the expiration of the period of his or her appointment as member; or
- (c) he or she otherwise ceases to be a member;

whichever first occurs.

(3) The chairperson or deputy chairperson may, by signed writing addressed to the Minister resign office as chairperson or deputy chairperson.

(4) Where a member appointed as chairperson or deputy chairperson is, upon ceasing to be chairperson or, as the case may be, deputy chairperson by virtue of the expiration of the period of his or her appointment as a member, reappointed as a member the member is eligible for reappointment as chairperson or deputy chairperson.

(5) A person appointed to fill a vacancy in the office of a member who was chairperson or deputy chairperson shall not by reason only of his or her appointment as member be chairperson or, as the case may be, deputy chairperson.

Allowances

14. A member is entitled to be paid the allowances decided by the Governor in Council.

Holders of office not affected by restrictive employment provisions

15. A provision of any enactment requiring the holder of an office to devote the whole of his or her time to the duties of his or her office or prohibiting him or her from engaging in employment outside the duties of his or her office shall not operate to hinder his or her holding that office and also an appointment as member, chairperson or deputy chairperson or his or her acceptance and retention of any allowances payable under this Act.

Division 2—Objects and powers of trust**Objects of trust**

16. The objects of the trust are—

- (a) to produce, present and manage the performing arts in the building occupied by the trust at the Queensland Cultural Centre as defined in the *Queensland Cultural Centre Trust Act 1976* or any other building;
- (b) to establish and conduct schools, lectures, courses, seminars and other forms of education in the performing arts;
- (c) to teach, train and instruct persons and promote education and research in the performing arts;
- (d) to provide or assist in providing premises and equipment for the purpose of the presentation of the performing arts;
- (e) to promote and encourage the development and presentation of the performing arts;
- (f) to promote and encourage public interest and participation in the performing arts;
- (g) to promote and encourage either directly or indirectly the knowledge, understanding, appreciation and enjoyment of the performing arts.

General powers of trust

17.(1) Subject to this Act, the trust has power to do all things necessary

or convenient to be done in connection with, or as incidental to, the carrying out of its objects.

(2) Without limiting the generality of subsection (1), and any other powers conferred upon the trust by the provisions of this Act other than this section, the powers of the trust include power—

- (a) to enter into leases, licences or other contracts with the Queensland Cultural Centre Trust as defined in the *Queensland Cultural Centre Trust Act 1976* or any other person or body with a view to obtaining the right to occupy and use premises temporarily or permanently;
- (b) to engage and enter into contracts for the appearance of artists, entertainers and performers;
- (c) to employ writers, composers, choreographers, designers, producers, directors, instructors, technical personnel and such other employees as the trust thinks fit;
- (d) to purchase, hire or take on loan or otherwise obtain the right to use equipment and install and use that equipment in any premises;
- (e) to make charges for admission to performances or other functions held by the trust;
- (f) to grant rights to televise, broadcast, film or record performances or other functions held or controlled by the trust;
- (g) to publish works and to license their performance in any form.

Power to cooperate with persons etc.

18. If the trust considers that it will be beneficial for it so to do, it may cooperate with any body of persons (whether corporate or unincorporate) or any natural person (whether such body or person is in Queensland or not) and may become a member or an affiliate of any such body.

Power to deal with property

19.(1) The trust may lend, hire or make available otherwise to a natural person or a body of persons (whether corporate or unincorporate), upon such terms and conditions as the trust thinks fit, any premises or other

property of the trust or of which it has the care or control.

(2) The trust may accept on loan any premises, equipment or other property.

Division 3—Meetings, proceedings and business of trust

Conduct of business

20. Subject to this Act, the trust shall conduct its business and proceedings at meetings in such manner as it determines from time to time.

Quorum

21.(1) The quorum of the trust shall consist of a majority of the total number of members for the time being holding office as members.

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

Meetings

22.(1) The trust shall meet at such times and places as it determines.

(2) Notice of every meeting or adjourned meeting, save a meeting adjourned to a later hour of the same day on which it was appointed to be held, shall be in writing and shall be given to every member at least 7 days prior to the date appointed for that meeting.

(2A) Where circumstances exist which in the opinion of the chairperson or 2 members constitute an emergency, the chairperson or, as the case may be, 2 members may call a meeting of the trust and that meeting may be held without notice having been given as prescribed.

(2B) A notice of a meeting or an adjourned meeting may be given to a member by prepaid post letter addressed to the member's place of business or residence last known to the chairperson.

(3) The members present at a meeting of the trust may from time to time

adjourn the meeting.

(3A) If a quorum is not present at a meeting of the trust within 15 minutes after the time appointed for the commencement of the meeting, the member or members present or the majority of them if more than 2 are present or the secretary of the trust if no member is present or if the members present are equally divided on the issue may adjourn the meeting to a time and date not later than 7 days from the date of the adjournment.

(3B) The provisions of subsection (3A) shall be construed so as not to prevent the adjournment of a meeting to a later hour of the same day on which the meeting was appointed to be held.

(4) The chairperson shall preside at each meeting of the trust at which the chairperson is present and in the chairperson's absence the deputy chairperson if present shall preside.

(5) If both the chairperson and deputy chairperson are absent from a meeting, a member elected at that meeting shall preside.

(6) A member elected to preside at a meeting shall, while the member presides, have all the powers, functions, duties and immunities of the chairperson.

Conduct of affairs

23.(1) The trust shall exercise or perform a power, authority, function or duty by a majority vote of its members present at the meeting and voting on the business in question.

(2) A member who, being present at a meeting and eligible to vote, abstains from voting shall be taken to have voted for the negative.

(3) The chairperson shall have a deliberative vote and, in the event of an equality of votes, a casting vote.

Minutes

24. The trust shall keep a record of its proceedings at meetings.

Validity of proceedings

25. No act or proceeding of the trust 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 member, there was a defect in the appointment of a member or a person not qualified or having ceased to be qualified may have acted as a member.

Director

26.(1) The Governor in Council may appoint a person to be the director of the trust.

(2) The director is the secretary of the trust.

(3) The director is to be paid the salary decided by the Governor in Council.

(4) The director holds office on the other terms decided by the trust.

(5) The remuneration of the director is payable by the trust from its general fund.

Employees

26A.(1) The trust may employ the persons it considers necessary to perform its functions.

(2) The trust may decide its employees' terms of employment.

(3) However, subsection (2) has effect subject to any relevant award or industrial agreement.

(4) The remuneration of the employees is payable by the trust from its general fund.

Delegation by trust

27.(1) The trust may delegate its powers under this Act to a member, the director or another employee of the trust.

(2) However, the trust may not delegate—

- (a) the approval of a proposed disbursement under section 36(5); or
- (b) its power to make by-laws.

Common seal

28.(1) The common seal of the trust shall be kept in the custody of the director of the trust or, where there is a vacancy in that position, the chairperson.

(2) The common seal shall not be affixed to a document except under the authority of a resolution of the trust and shall be affixed by the person who has custody of the seal in accordance with this Act.

(3) A document made or issued by the trust for the purposes of this Act shall be sufficiently authenticated if it is made or, as the case may be, signed by the director of the trust.

Trust subject to direction by Minister

28A. In the exercise and performance of its powers, authorities, functions and duties the trust shall, except where it makes a recommendation to the Minister, be subject to the general control and direction of the Minister.

Protection of members

29. A person who is or has been a member is not personally liable for anything done or omitted in good faith, in, or in connection with the exercise of any power conferred, or the carrying out of any duty imposed, on the trust by this Act, or reasonably believed by that person to have been conferred or imposed by this Act.

PART 3—FINANCIAL PROVISIONS*Division 1—Funds, accounts and budget***Funds**

30.(1) The trust shall establish and at all times keep—

- (a) a general fund; and

- (b) a trust fund; and
- (c) a loan fund; and
- (d) such other funds as are prescribed.

(2) The funds shall be separate and distinct and a separate bank account shall be kept for the trust fund.

General fund

31.(1) There shall be paid into the general fund all moneys appropriated by Parliament in each year out of the consolidated fund of the State for the purposes of and paid to the trust.

(2) All other moneys paid to the trust other than moneys prescribed to be paid into the trust fund, loan fund or other prescribed fund shall be paid into the general fund.

(3) The trust shall apply the moneys from time to time standing to the credit of its general fund towards the costs incurred by it in or in connection with the proper exercise and performance of its powers, authorities, functions and duties and in fulfilling any prescribed purpose for which any other prescribed fund is not appropriated by this Act.

Trust fund

32.(1) There shall be paid into the trust fund all moneys paid to the trust for the use of any person or for any specified purpose within the purview of this Act, and the proceeds from the sale of any gift, bequest or devise accepted by the trust.

(2) The trust shall apply the money from time to time standing to the credit of the trust fund to the uses or purposes for which it was paid to the trust.

(3) Where no special condition is attached to any gift, bequest or devise, the proceeds of such gift, bequest or devise, subject to the approval of the Minister, shall be used for any special project approved by resolution of the trust.

Loan fund

33.(1) There shall be paid into the loan fund all moneys paid to the trust by way of loan or subsidy for the purposes of this Act.

(2) The trust shall apply the moneys standing to the credit of its loan fund to expenditure necessarily incurred by it in carrying out the works or purposes for which the loans were authorised or subsidies paid.

Application of Financial Administration and Audit Act 1977

34. The trust is a statutory body under the *Financial Administration and Audit Act 1977*.

Budget

36.(1) Before 31 May in each year, the trust shall prepare and lodge with the Minister a preliminary estimate of its budget in respect of its general fund wherein it shall estimate as accurately as possible—

- (a) the amount to be disbursed by it from that fund during the financial year next following in the proper exercise by it of its functions;
- (b) the amount to be received by it into the general fund during the financial year next following.

(1A) After Parliament has appropriated an amount for the purposes of the trust in respect of the financial year referred to in subsection (1) the trust shall approve, adopt and lodge with the Minister a balanced budget in respect of its general fund for that financial year.

(2) The budget lodged pursuant to subsection (1A) shall be of no force or effect until it is approved by the Minister who may amend it in such way as the Minister thinks necessary, except that the Minister may not vary the amount appropriated by Parliament.

(3) When the Minister approves of the budget, the budget as approved, whether or not it has been amended pursuant to subsection (2) shall be binding on the trust.

(3A) Any disbursement by the trust from its general fund in the month of July or August in any financial year which may reasonably be regarded

as an ordinary disbursement is hereby authorised and shall be included in the budget in respect of that fund for that financial year.

(4) If the general fund contains a surplus or shows a deficit at the end of a financial year, the trust shall take the surplus or, as the case may be, deficit into account for the next succeeding financial year by—

- (a) showing a surplus as a receipt of revenue for that succeeding financial year; or
- (b) showing a deficit as a disbursement for that succeeding financial year.

(5) The trust shall, before 31 May in each year, review moneys available to it in the trust and loan funds and such other funds as may be prescribed and shall, subject to the terms of any trust and before any disbursement is made, approve the proposed dispositions of those moneys.

Observance of budget

37.(1) Subject to this section, the trust shall confine its disbursements from its general fund throughout a financial year within the items and amounts contained in its general fund budget for that year as approved by the Minister.

(2) If during any financial year it appears to the trust that an extraordinary circumstance has arisen requiring the trust to make in that financial year a disbursement from its general fund—

- (a) that was not provided for in the budget (as approved) for that financial year; or
- (b) that exceeds the amount estimated in respect of that disbursement in the budget (as approved) for that financial year;

the trust shall before making such disbursement or excess disbursement—

- (c) by resolution approve that such disbursement or excess disbursement be made; and
- (d) obtain approval of the Minister for an amendment to the budget.

(3) The trust shall ensure that the budget as amended and approved will not then be exceeded in any item or in total by the disbursement referred to in subsection (2).

Investment of moneys

38.(1) The trust may, from time to time, invest moneys standing to the credit of any fund established by it under section 30 and not required for the time being for the purposes of this Act, in any investment authorised by the *Trusts Act 1973* or upon security with an approved dealer or upon such other security or investment as the Treasurer approves.

(2) Every security or safe custody acknowledgment or other document evidencing title issued in respect of any investment shall be held by the trust.

(3) For the purposes of this section—

“approved dealer” means a person who—

- (a) is an authorised dealer in the short term money market with established lines of credit with the Reserve Bank of Australia as a lender of last resort; and
- (b) is approved by the Treasurer.

(4) The powers conferred on the trust by this section shall not be exercised in relation to moneys standing to the credit of the trust fund if in respect of those moneys—

- (a) the instrument creating the trust directs expressly to the contrary; or
- (b) the exercise of the powers constitutes a breach of a condition under which those moneys were acquired.

Superannuation schemes

38A.(1) The trust may—

- (a) establish or amend superannuation schemes; or
- (b) join in establishing or amending superannuation schemes; or
- (c) take part in superannuation schemes.

(2) Subsection (1) does not apply to employees who are required by another Act to contribute to similar schemes.

(3) The auditor-general may audit schemes mentioned in subsection (1).

(4) Subsection (3) is subject to the *Financial Administration and Audit*

Act 1977, part 6.¹

Division 2—Borrowing powers

Power to borrow

39.(1) Subject to this Act, the trust may from time to time borrow money—

- (a) from the Treasurer; or
- (b) by the sale of debentures, bonds or inscribed stock; or
- (c) partly in one and partly in another of the ways specified in paragraphs (a) and (b).

(2) Before entering into negotiations to borrow money in any way specified in subsection (1), the trust shall obtain the sanction of the Treasurer authorising it to enter into such negotiations and for that purpose shall forthwith furnish to the Treasurer such information as the Treasurer requires.

(3) The trust shall not borrow money pursuant to negotiations sanctioned by the Treasurer without the authority of the Governor in Council.

(4) The trust is a statutory authority under the *Statutory Bodies Financial Arrangements Act 1982*.

Procedure before borrowing

40. Before proceeding to borrow money the trust—

- (a) shall, at a special meeting of the trust called for the purpose, pass a resolution to borrow that money;
- (b) shall cause to be prepared—
 - (i) plans and specifications of the projects or full details of any other undertakings for which the money to be borrowed is required;

¹ Part 6 (Audit of public accounts and public sector entities)

- (ii) an estimate of the cost of those projects or other undertakings;
- (iii) a statement showing details of the proposed expenditure of the money to be borrowed.

Application of loan moneys

41.(1) All moneys borrowed by the trust shall be expended for the purposes for which the trust was authorised to borrow those moneys and not otherwise.

(2) If any moneys comprising a loan remain unexpended upon the completion of the purposes for which the moneys were borrowed, those moneys shall be applied as the Treasurer directs.

Repayment of Treasury loans

42.(1) Every loan advanced by the Treasurer under the provisions of this Act shall be liquidated by payment to the Treasurer by the trust on 1 January and 1 July respectively in each year, of such instalments of principal and interest at the prescribed rate as will permit the loan to be wholly redeemed within the prescribed period of the loan, until all moneys advanced from time to time by the Treasurer, together with interest thereon, have been paid.

(1A) The Treasurer may at any time make any adjustments that the Treasurer considers necessary with respect to the period of any loan or the calculation of interest thereon or with respect to any other matter in connection with any loan.

(2) In February and August in each year the Treasurer shall cause to be published in the gazette in relation to any loan advanced by the Treasurer to the trust under this Act, in respect of which payment of any instalment is overdue and in arrear, a statement specifying both the amount of money comprising instalments overdue and in arrear and the principal sum remaining unpaid on the last days of January and July respectively last preceding.

(2A) If thereafter on the last days of April and October respectively next following, any moneys remain unpaid to the Treasurer on account of such loan or on account of moneys paid by the Treasurer under a guarantee given

by the Treasurer in respect of any loan advanced by the Treasurer to the trust under this Act, the Treasurer may, by notification published in the gazette, specify the amount then owing and may, by that notification, appoint a receiver to collect on the Treasurer's behalf and to pay to the Treasury moneys due and owing to the trust to the amount so specified.

(3) A receiver may be appointed under this section in respect of the revenues of the trust generally or of specified income.

(3A) Upon the receiver's appointment, the receiver shall from the date stated in the notification be the only person legally entitled to receive the revenues of the trust in respect of which the receiver is appointed or, if the receiver is appointed receiver only in respect of specified income, to receive that income.

(4) The Treasurer may from time to time make such orders and give such directions with respect to the powers and duties of a receiver appointed under this section and the management by the receiver of the affairs of the trust in respect of which the receiver is appointed as the Treasurer thinks fit and judicial notice shall be taken of those orders and directions.

Debentures, bonds and stock

43.(1) All debentures, bonds and inscribed stock issued under the authority of this Act—

- (a) shall be issued in such series or sold in such amounts or parcels at such times and places in or outside the State or in such manner as the trust thinks fit;
- (b) shall with interest thereon be charged and secured upon the assets and revenues of the trust concerned subject to any prior debentures, bonds or stock issued according to law;
- (c) shall bear interest at such rate and be redeemable at such date or dates and at such place or places in or outside the State as are specified therein;
- (d) may, in the case of debentures or bonds, with the consent of the holder thereof or in the case of inscribed stock of the registered owner thereof, be paid off at any time previous to the due date (at not more than the amount of the principal sum remaining unpaid at the time or with the consent of the Governor in Council at a

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premium) with interest thereon to the date of payment only.

(2) Interest secured by debentures, bonds or stock shall be payable at such times and at such places in or outside the State as are specified therein.

(3) Every debenture issued under the authority of this Act—

- (a) shall be sealed with the seal of the trust and signed by the chairperson and the director and when so sealed and signed shall be taken to be duly issued; and
- (b) shall be numbered consecutively so that no 2 debentures in a series bear the same number; and
- (c) shall have set forth therein the places and dates at which the principal and interest are payable.

(3A) Every debenture issued under the authority of this Act may at the option of the lender have annexed to it for every payment to become due thereon (whether of principal or interest or principal and interest) a coupon and that debenture and coupon shall, unless the Governor in Council has otherwise determined when authorising the loan concerned, be transferable by delivery and payment to any person in possession of that debenture or coupon of the sum named therein shall discharge the trust from all liability with respect to that debenture or coupon.

(3B) Where a debenture or coupon is not transferable by delivery that fact shall be stated on it.

(3C) In the case of a debenture issued under the authority of this Act with coupons, the holder of a coupon, whether it be separated from the debenture or not, shall be entitled to receive payment from the trust of the sum named therein upon presentation on or after the due date for payment at the place where the coupon is expressed to be made payable.

(3D) In the case of a debenture issued under the authority of this Act without coupons, the lender or, in the event of a transfer of the debenture, the transferee for the time being shall, subject to subsections (3E) and (3F), be entitled to receive payments from the trust in respect of principal or interest or both, in accordance with the terms and conditions of the debenture.

(3E) A transferee with respect to whom the trust has not been given notice as prescribed shall not be entitled to receive and the trust shall not be liable to make to that transferee any payment in respect of any debenture

issued without coupons, save under attachment by process of law and then only to the extent of moneys payable to that transferee under the debenture and unpaid by the trust to the lender or a prior transferee.

(3F) The entitlement of a transferee with respect to whom the trust has been given notice as prescribed to receive a payment in respect of a debenture issued without coupons shall be subject to any payment that, having become payable under that debenture before the trust was given notice, was made by it to the lender or a prior transferee.

(3G) In subsections (3E) and (3F)—

“notice as prescribed” means a notice in writing signed by the transferor and transferee and verified to the satisfaction of the trust.

(3H) A lender of money to the trust may agree to accept a standard form of debenture but shall not be bound to do so.

(3I) A person lending money to the trust and receiving in consideration therefor debentures duly issued and, in the event of a transfer of debentures so issued, the transferee for the time being shall not be bound to inquire whether the issue of those debentures was in fact duly authorised or into the application of the money so lent or be in any way responsible for the nonapplication or misapplication thereof.

(4) The trust or an employee or an agent thereof shall not receive and shall be deemed not to have received notice of any trust express, implied or constructive with respect to debentures, bonds or inscribed stock issued under the authority of this Act and the trust, or employee or agent shall not be bound to see to the execution of any such trust to which such debentures, bonds or inscribed stock may be subject.

Brokerage

44.(1) The trust may, but only with the approval of the Treasurer and upon such terms and conditions as the Treasurer thinks fit, pay moneys for brokerage with respect to making, procuring, negotiating or obtaining any loan.

(2) The *Credit Act 1987*, section 76² does not apply to brokerage that the

² Section 76 (Unauthorised fees)

trust is authorised to pay by this section.

Remedies of bond, stock and debenture holders

45.(1) If the trust defaults in making a payment whether of principal or interest to the holder of a bond, debenture or coupon issued or stock inscribed by the trust under the authority of this Act, that holder may make application to and procure all necessary orders and directions from the Supreme Court for the appointment of a receiver and the court shall have power to make all such orders for the appointment of the receiver and for the receiver's removal and the appointment of another in the receiver's stead as are necessary, and to make any further orders and give any directions that the court thinks proper.

(2) A receiver appointed pursuant to this section—

- (a) may be appointed in respect of the revenues of the trust generally or of specified income thereof;
- (b) shall be deemed to be an officer of the court;
- (c) shall act under the directions of the court.

Remuneration, powers and duties of a receiver

46.(1) A receiver appointed pursuant to section 42 shall be entitled to such commission or remuneration for the receiver's services as the Treasurer orders.

(1A) A receiver appointed pursuant to section 45 shall be entitled to such commission or remuneration for the receiver's services as the court orders.

(1B) The commission or remuneration of a receiver shall be payable out of the revenues of the trust.

(2) A receiver, whether appointed pursuant to section 42 or 45, may collect all the revenues payable to the trust or, in the case of the receiver's appointment in respect of specified income, all that income and for the purposes of this section a receiver shall be deemed to be the trust and may exercise all its powers.

(3) A receiver shall apply all moneys received by the receiver in the course of his or her receivership as follows—

- (a) firstly in payment of the costs, charges and expenses of collection and the receiver's commission or remuneration;
- (b) secondly—
 - (i) if the receiver was appointed pursuant to section 42—in payment of the amount due and owing to the Treasurer together with interest on that amount at such rate as is specified by the Treasurer;
 - (ii) if the receiver was appointed pursuant to section 45 upon the application of a holder of a bond, debenture or coupon issued or stock inscribed by the trust—in payment, subject to any order of the court, to that holder or to and amongst the holders of bonds, debentures or coupons of the same series as that holder or of inscribed stock or to the holders of bonds, debentures or coupons or inscribed stock generally in such order of priority as the court thinks fit, of the amount due and owing to that holder or, as the case may be, those holders;
- (c) thirdly in payment of the residue to the trust.

Recovery of moneys as debt

47.(1) If the trust defaults in making a payment referred to in section 45, the person to whom that payment should have been made may recover the amount thereof as a debt by action against the trust in any court of competent jurisdiction.

(2) The remedy conferred by this section is in addition to the remedy conferred by section 45.

Illegal borrowing

48.(1) A person who lends money to the trust otherwise than in accordance with this Act or some other Act shall have no remedy or right of any kind to recover money from the trust in respect of that loan.

(2) If the trust borrows money that it is not authorised under this Act or some other Act to borrow, the members who have consented to the borrowing of that money shall be jointly and severally liable to repay it and

to pay interest thereon to the person from whom it was borrowed and that money and interest may be recovered from those members or any of them as money lent by that person to those members or, as the case may be, that member by action in any court of competent jurisdiction.

(3) If moneys are appropriated from any fund kept under this Act for the purpose of repaying money so borrowed or paying interest thereon, the members who have consented to the appropriation of those moneys for that purpose shall be jointly and severally liable to refund them with interest thereon at a rate determined by the Treasurer in respect of that appropriation and those moneys and interest may be recovered from those members or any of them by action in any court of competent jurisdiction at the suit of the Treasurer.

(3A) In any action brought under subsection (3), the Treasurer shall be entitled to costs as between solicitor and client and the Treasurer shall pay any amount recovered as a result of that action into the fund concerned.

(4) The provisions of this section shall be construed so as not to prejudice the operation of section 43(3I).

Advances by way of overdraft

49.(1) The trust may for temporary financial accommodation obtain advances from any bank or banks by way of overdraft on the general fund.

(2) The trust shall not, during any financial year, suffer the amount of its overdraft to exceed the amount for the time being prescribed.

Regulations about loans

50.(1) A regulation may be made about the raising and repayment of loans under this Act.

(2) In particular, a regulation may be made for or about—

- (a) the establishment of a registry at any place for the inscription of stock created and issued and the keeping of stock ledgers;
- (aa) regulating the inscription in stock ledgers kept of all stock issued, the transfer or transmission of stock or any shares therein, the amount of stock that may be transferred;

- (b) the form and the manner of the issuing of bonds and debentures; the keeping and inspection of and the taking of copies of or extracts from registers of bonds and debentures or stock ledgers; lost or defaced bonds, debentures or stock certificates, the issue of duplicates thereof and the destruction of discharged bonds, debentures or stock certificates;
- (c) the issue upon request of stock to bond or debenture holders and of bonds or debentures to registered owners of stock;
- (d) the raising of loans outside the State;
- (e) the fees payable and the purposes for which those fees are payable;
- (f) sinking funds or other methods for the repayment of moneys borrowed; debt redemption funds and trustees thereof;
- (g) powers, authorities, functions and duties of those trustees.

Power to establish trust funds and to accept gifts and the like subject to conditions

51.(1) The trust may establish and administer trust funds for any purpose in connection with the exercise and performance of its powers, authorities, functions and duties.

(2) The trust may agree to and carry out conditions to which a gift, grant, bequest, devise, purchase, lease or other means whereby it acquires or holds property is subject.

(3) For the purpose of the application of the *Property Law Act 1974*, part 14 to any gift or devise to the trust it is declared that the purposes of the trust are charitable purposes.

Power to establish investment common funds

52.(1) The trust may establish investment common funds for the collective investment of moneys of the trust, trust moneys or other moneys held by or in the custody of the trust.

(2) The trust may, from time to time without liability for breach of trust, bring into or withdraw from an investment common fund established by it

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the whole or any part of moneys of the trust, trust moneys or other moneys held by or in the custody of the trust.

(3) Subject to subsections (4) and (5), the trust shall distribute periodically the income of each investment common fund amongst those funds participating in the common fund, having regard to the extent of the participation of those funds in the common fund during the relevant accounting period.

(4) In a case where the trust has brought into an investment common fund sums of money that, having been received by it to be expended for a stated purpose, will not for any cause be expended for that purpose forthwith, the trust may pay into its general fund the whole or any part of that portion of the income of such investment common fund that is attributable to the participation of those sums of money in that common fund and that is not required for the stated purpose.

(5) The trust may if it considers it proper so to do, from time to time, add a portion of the income of an investment common fund to the capital thereof or use another portion of that income to establish or augment a fund or funds as a provision against capital depreciation or reduction of income.

PART 4—GENERAL PROVISIONS

Sale or disposal of certain property

53.(1) Where the trust is satisfied that any property for the time being vested in it and held by it subject to any condition or trust is unfit or not required for the objects of the trust, it may, subject to the approval of the Governor in Council and notwithstanding the terms of any trust affecting the property or any arrangement or condition made or agreed to by it at the time of the acquisition of the property by the trust—

- (a) sell the property or exchange it for any other property; or
- (b) dispose of the property without consideration or, in the case of personal property, destroy the property if the trust adjudges it to be of no saleable value.

(2) The proceeds of any sale made by the trust in exercise of the power

conferred on it by subsection (1) shall after deduction therefrom of the costs of and incidental to the sale be held for the object of the trust.

(3) Any property sold or disposed of by way of exchange or otherwise by the trust purporting to exercise any of the powers conferred on it by subsection (1) shall vest in the person acquiring the property by virtue of the sale or disposition freed and discharged from any trust arrangement or condition relating to any sale or disposition of the property or to the use of the property to which the property was subject in the hands of the trust.

(4) No person acquiring any property from the trust purporting to exercise any of the powers conferred on it by subsection (1) shall be concerned to inquire whether a case has arisen to authorise the sale or other disposition of the property or whether the power was otherwise properly and regularly exercised or to see to the application of any purchase money paid to the trust.

Disposal of assets upon discontinuance of trust

54.(1) On the discontinuance of the trust, the Governor in Council may decide the way in which property held by the trust is to be disposed of or held.

(1A) Property to which this section refers shall be disposed of in such manner or, as the case may be, held upon such trusts as the Governor in Council prescribes or, so far as the Governor in Council has not prescribed, as the Minister directs.

(1B) For the purposes of this section, the Governor in Council or the Minister may, in respect of property held in trust, prescribe or, as the case may be, direct such variations in the person of the trustee, the beneficiary under or the purpose of the trust or otherwise as the Governor in Council or Minister considers just.

(1C) All persons shall give effect to a direction of the Minister under this section.

(2) The provisions of this section shall be construed and applied so as not to override any instrument creating the trust upon which property to which this section refers was held that provides for the variation of that trust upon the discontinuance of the trust.

Exemption from duties

55. Notwithstanding the provisions of any other Act or law, any instrument, agreement or contract executed or decree or order made whereby any property is transferred to the trust shall be exempt from stamp duty.

Form of contract

56.(1) Where the trust is authorised to enter into contracts, that authority may be exercised in the following manner—

- (a) any agreement or contract that, if made between private persons, would by law be required to be in writing under seal may be made on behalf of the trust in writing under the common seal of the trust;
- (b) any agreement or contract that, if made between private persons, would by law be required to be in writing signed by the parties to be charged therewith may be made on behalf of the trust in writing signed by a person acting under the express or an implied authority of the trust;
- (c) any agreement or contract that, if made between private persons, would by law be valid although made by parol only (and not reduced into writing) may be made by parol on behalf of the trust by a person acting under the express or an implied authority of the trust.

(1A) Any agreement or contract so made shall be effectual in law and shall bind the trust and all other parties thereto and may be varied or discharged in the manner in which it is authorised to be made.

(2) A document or proceeding requiring authentication by the trust may be signed by an officer of the trust authorised so to do by the trust and need not be under its common seal.

Liability for damage etc. of property

57.(1) Any person who—

- (a) unlawfully removes from the possession of the trust any equipment or chattel; or

- (b) unlawfully damages, mutilates or destroys any equipment or chattel in the possession of the trust;

commits an offence against this Act.

(2) Without limiting or affecting any liability imposed on such person by subsection (1) or otherwise, that person shall be liable for and shall pay to the trust the full amount of the value of the equipment or chattel so damaged, mutilated, destroyed or removed which amount may be recovered in a summary way under the *Justices Act 1886*.

(2A) Proceedings under subsection (2) may be taken by the trust or by any person authorised in writing in that behalf either generally, or in a particular case, by the trust.

(3) Where any such damage, mutilation, destruction or removal constitutes an offence against subsection (1) or otherwise, and in any proceedings in respect thereof a person is convicted, the court convicting that person may in addition to imposing a penalty, order that person to pay to the trust the full amount of the value of the equipment or chattel damaged, mutilated, destroyed or removed, which amount shall be recoverable as if it were part of the penalty so imposed, notwithstanding that the total of the penalty and the amount exceeds the maximum penalty that may be imposed.

Reward for information

58.(1) Subject to the approval of the Governor in Council, the trust may offer and pay a reward to any person who gives information to the trust or any of its employees of the commission of an offence against this Act or of the damaging, mutilation, destruction or removal from the possession of the trust of any equipment or chattel in the possession of the trust whether the damaging, mutilation, destruction or removal is an offence against this Act or not.

(2) Where proceedings are taken in any court—

- (a) in respect of any offence that consists in the damaging, mutilation, destruction or removal of any equipment or chattel in the possession of the trust and a conviction is recorded; or
- (b) for recovery of the full amount or a portion of the value of any equipment or chattel referred to in paragraph (a) that is damaged,

mutilated, destroyed or removed and an order for payment of such value or part thereof is made;

the court may, in addition, order the person against whom the proceedings are taken to pay to the trust the amount of any reward that the trust has paid or is required to pay for information relating to the damaging, mutilation, destruction or removal and that amount shall be recoverable under the order so made.

Proceedings for offences

59.(1) An offence against this Act may be prosecuted in a summary way under the *Justices Act 1886* upon the complaint of the director, or a person authorised in that behalf either generally or in a particular case by the trust.

(2) A prosecution for an offence against this Act may be commenced within 1 year from the time when the matter of complaint arose or within 6 months after the matter of complaint comes to the knowledge of the complainant whichever is the later to occur.

Description of property in complaint

60. In any proceeding taken in respect of the stealing, damaging, mutilation or destruction of any equipment or chattel in the possession of the trust or in respect of the removal of any of the same from the possession of the trust and in which proceeding it is material to prove ownership of the item in question it shall be sufficient to allege ownership of the item as being in the trust.

General penalty

61.(1) A person who contravenes or fails to comply with any provision of this Act commits an offence against this Act and, save where a specific penalty is otherwise provided, is liable to a penalty of 10 penalty units.

(2) All penalties recovered in respect of offences against this Act shall be paid to the trust.

Evidentiary provisions

62. In any proceedings for the purposes of this Act—

- (a) a statement in a complaint commencing that proceeding of the date on which the matter of complaint came to the knowledge of the complainant shall be evidence and, in the absence of evidence to the contrary, conclusive evidence thereof;
- (b) proof shall not be required of the authority of any person to prosecute an offence against this Act or to take any proceeding on behalf of the trust unless evidence is given to the contrary;
- (c) proof shall not be required of the appointment of the director of the trust or of any other person appointed for the effectual administration of this Act or of the signature of the director.

By-law making power

64.(1) The trust may make by-laws under this Act.

(2) A by-law may be made for or about—

- (a) the general management and control of any property occupied by the trust;
- (b) regulating the conduct of the proceedings of the trust including the times, places and conduct of its meetings;
- (c) the management of the affairs of the trust;
- (d) the admission or exclusion or removal of the public or any person to or from any property in the occupation of the trust or any part thereof or any building or place of which the trust has the management or control or any part thereof;
- (da) the regulation and control of access to the complex and the conduct of persons, and the presence and use of vehicles, in the complex;
- (e) the conditions upon which any performance or any item or other part of any performance may be presented;
- (f) the conditions upon which any performance or any item from or any part of any performance presented by or under the authority of the trust may be televised, broadcast, copied or presented in

any other place or at any other time by any body or person;

- (g) the protection of property of, or under the control of, the trust from trespass, damage or misuse.

(3) Without limiting subsection (1), by-laws may be made under that subsection with respect to—

- (a) the removal of vehicles—
- (i) that are parked or left standing in the complex in ways that obstruct, interfere with or cause danger to other vehicles on, or users of, the complex; or
 - (ii) that appear to be abandoned in the complex; or
 - (iii) that are parked in contravention of parking signs; or
 - (iv) that are parked in contravention of directions given by persons authorised by the trust to regulate parking in the complex; and
- (b) the storage of removed vehicles (whether on or off the complex); and
- (c) the fixing and payment of removal and storage fees for removed vehicles.

(4) A by-law may impose a maximum penalty of not more than 4 penalty units for a contravention of a by-law.

(5) A by-law must be approved by the Governor in Council.³

Regulation making power

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

(2) A regulation may create offences and prescribe penalties of not more than 4 penalty units for an offence.

³ A by-law is subordinate legislation (see *Statutory Instruments Act 1992*, sections 7, 8(b)(i) and 9(1)(a)).

ENDNOTES**1 Index to endnotes**

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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 14 December 1995. Future amendments of the Queensland Performing Arts Trust Act 1977 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 Table of earlier reprints

Reprint No.	Amendments included	Reprint date
1	to Act No. 36 of 1992	22 November 1994

5 Tables in earlier reprints

Name of Table	Reprint No.
Changed names and titles	1
Obsolete and redundant provisions	1
Renumbered provisions	1

6 List of legislation

Queensland Performing Arts Trust Act 1977 No. 8

date of assent 5 April 1977

commenced 25 March 1978 (proc pubd gaz 25 March 1978 p 1261)

as amended by—

Queensland Art Gallery Act and Other Acts Amendment Act 1979 No. 29 pt 4

date of assent 8 June 1979
 commenced on date of assent

**Queensland Theatre Company Act and Another Act Amendment Act 1985
 No. 89 pt 3**

date of assent 9 December 1985
 commenced on date of assent

Queensland Performing Arts Trust Act Amendment 1988 No. 2

date of assent 17 March 1988
 ss 1–2 commenced on date of assent
 remaining provisions commenced 24 March 1988 (proc pubd gaz 24 March
 1988 p 1675A)

Statute Law (Miscellaneous Provisions) Act 1990 No. 88 s 3 sch

date of assent 6 December 1990
 commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 1992 No. 36 ss 1–2 sch 1

date of assent 2 July 1992
 commenced on date of assent

**Statutory Authorities Superannuation Legislation Amendment Act 1995 No. 36
 ss 1–2, 9 sch 2**

date of assent 16 June 1995
 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

7 List of annotations**Short title**

prov hdg amd 1995 No. 58 s 4 sch 1
s 1 amd 1995 No. 58 s 4 sch 1

Arrangement

s 2 om 1992 No. 36 s 2 sch 1

Definitions

prov hdg sub 1995 No. 58 s 4 sch 1
s 3 def “**appointed member**” ins 1988 No. 2 s 4
 def “**by-laws**” om 1992 No. 36 s 2 sch 1
 def “**complex**” ins 1992 No. 36 s 2 sch 1
 def “**Departmental head**” ins 1979 No. 29 s 20(a)
 om R1 (see RA s 39)
 def “**financial year**” om 1992 No. 36 s 2 sch 1
 def “**Minister**” amd 1979 No. 29 s 20(b)
 om 1992 No. 36 s 2 sch 1

Trust a statutory corporation

s 4 om 1995 No. 58 s 4 sch 1

Membership of trust

s 6 amd 1979 No. 29 s 21
sub 1988 No. 2 s 5
amd 1995 No. 58 s 4 sch 1

Term of appointment

s 7 sub 1988 No. 2 s 5

Certain members to go out of office

s 8 sub 1988 No. 2 s 5
om R1 (see RA s 37)

Casual vacancies

s 9 amd 1988 No. 2 s 6; 1990 No. 88 s 3 sch

Vacation of office

s 10 amd 1988 No. 2 s 7

Disqualification from office

s 11 amd 1988 No. 2 s 8

Removal from office

s 12 amd 1979 No. 29 s 22
sub 1988 No. 2 s 9

Chairperson and deputy chairperson

s 13 amd 1990 No. 88 s 3 sch

Allowances

s 14 sub 1995 No. 58 s 4 sch 1

Holders of office not affected by restrictive employment provisions

s 15 amd 1995 No. 58 s 4 sch 1

Power to cooperate with persons etc.

s 18 sub 1988 No. 2 s 10

Power to deal with property

prov hdg amd 1988 No. 2 s 11(a)
s 19 amd 1988 No. 2 s 11(b)

Director

s 26 sub 1995 No. 58 s 4 sch 1

Employees

s 26A ins 1995 No. 58 s 4 sch 1

Delegation by trust

s 27 sub 1995 No. 58 s 4 sch 1

Trust subject to direction by Minister

s 28A ins 1988 No. 2 s 12

Funds

s 30 amd 1988 No. 2 s 13

Application of Financial Administration and Audit Act 1977

s 34 sub 1988 No. 2 s 14; 1995 No. 58 s 4 sch 1

Annual report

s 35 om 1988 No. 2 s 14

Budget

s 36 amd 1988 No. 2 s 15

Investment of moneys

s 38 amd 1995 No. 58 s 4 sch 1

Superannuation schemes

s 38A sub 1995 No. 36 s 9 sch 2

Power to borrow

s 39 amd 1995 No. 58 s 4 sch 1

Repayment of Treasury loans

s 42 amd 1995 No. 58 s 4 sch 1

Brokerage

s 44 amd 1995 No. 58 s 4 sch 1

Regulations about loans

prov hdg sub 1995 No. 58 s 4 sch 1

s 50 amd 1995 No. 58 s 4 sch 1

Disposal of assets upon discontinuance of trust

s 54 amd 1995 No. 58 s 4 sch 1

General penalty

s 61 amd 1995 No. 58 s 4 sch 1

Regulations

s 63 amd 1992 No. 36 s 2 sch 1

om 1995 No. 58 s 4 sch 1

By-law making power

prov hdg sub 1995 No. 58 s 4 sch 1

s 64 amd 1992 No. 36 s 2 sch 1; 1995 No. 58 s 4 sch 1

Regulation making power

s 65 ins 1995 No. 58 s 4 sch 1