

Culture, Libraries and the Arts (Consequential Provisions) Bill 1998

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Western Australia

LEGISLATIVE ASSEMBLY

**Culture, Libraries and the Arts
(Consequential Provisions) Bill 1998**

A Bill for

An Act –

- to amend the *Art Gallery Act 1959* and the *Museum Act 1969* and various other Acts; and
 - 5 • to repeal the *Library Board of Western Australia Act 1951* and the *Perth Theatre Trust Act 1979*,
- as a consequence of the enactment of the *Culture, Libraries and the Arts Act 1998*, and for related purposes.

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Culture, Libraries and the Arts (Consequential Provisions) Act 1998*.

5 **2. Commencement**

The provisions of this Act come into operation on such day as is, or days as are respectively, fixed by proclamation.

Part 2 — Art Gallery Act 1959

3. The Act amended

This Part amends the *Art Gallery Act 1959**.

[* Reprinted as at 30 March 1989.

5 For subsequent amendments see 1997 Index to Legislation of
 Western Australia, Table 1, p. 15.]

4. Section 4 amended

Section 4 is amended as follows:

- 10 (a) by deleting the definitions of “appointed member”, “Art
 Gallery” and “Board” and inserting the following
 definitions instead —

“

15 “**Art Gallery**” means the art gallery operated by the
 department under the name “The Art Gallery of
 Western Australia”;

 “**Art Gallery operations**” means the operations of the
 department performed for the purposes of the Art
 Gallery;

20 “**Board**” means the Art Gallery Advisory Board
 established by section 5;

”;

- (b) by inserting after the definition of “chairman” the
 following definitions —

“

25 “**chief executive officer**” means the chief executive
 officer of the department;

s. 5

“**Corporate Minister**” means the body corporate referred to in section 6 of the *Culture, Libraries and the Arts Act 1998*;

”;

- 5 (c) by inserting after the definition of “Council” the following definition —

“

“**department**” has the same meaning as it has in the *Culture, Libraries and the Arts Act 1998*;

10

”;

- (d) in the definition of “Director”, by deleting “appointed under” and inserting instead —

“ , as referred to in ”;

15

- (e) in the definition of “member”, by deleting “constituted under section 6(1)”;

- (f) by deleting the definition of “proclaimed date”;

- (g) in the definition of “rules”, by deleting the semicolon at the end of the definition and inserting instead a full stop;

- (h) by deleting the definition of “Trustees”.

20 **5. Section 4A repealed**

Section 4A is repealed.

6. Sections 5 and 6 replaced

Sections 5 and 6 are repealed and the following sections are inserted instead —

25

“

5. Board established

A body called the Art Gallery Advisory Board is established.

6. Constitution of the Board

- (1) The Board is to consist of 5 persons appointed by the Minister.
- (2) The members are to be appointed by the Minister for their experience, skills and qualifications and interest in matters relating to the Art Gallery, and for their ability to contribute to promoting, and encouraging public interest in and support for, the Art Gallery.

5

”.

7. Section 7 amended

Section 7 is amended by deleting “appointed”.

10

8. Section 8 amended

- (1) Section 8(1) is amended as follows:

15

- (a) by deleting “an appointed” in the 2 places where it occurs and inserting in each place instead —
“ a ”;
- (b) in paragraph (b), by deleting “Governor in Council” and inserting instead —
“ Minister ”;
- (c) in paragraph (d), by deleting “Governor;” and inserting instead —
“ Minister; ”.

20

- (2) Section 8(2) is amended by deleting “Governor may appoint an appointed” and inserting instead —

25

“ Minister may appoint a ”.

s. 9

9. Section 9 amended

Section 9 is amended by deleting “an appointed” and inserting instead —

“ a ”.

5 **10. Section 10 amended**

(1) Section 10(1) is amended by deleting “Governor may, in respect of each appointed member,” and inserting instead —

“ Minister may, in respect of each member, ”.

(2) Section 10(1a) is repealed.

10 **11. Section 11 amended**

(1) Section 11(1) is repealed and the following subsection is inserted instead —

“

(1) The Minister shall appoint one of the members to be chairman and another member to be vice chairman.

”.

(2) Section 11(2)(b) is amended as follows:

(a) by deleting “appointed member may” and inserting instead —

“ member shall ”;

(b) by deleting “Governor” and inserting instead —

“ Minister ”.

(3) Section 11(2)(c) is amended by deleting “Governor in Council.” and inserting instead —

“ Minister. ”.

12. Section 12 amended

Section 12(2) is amended by deleting “appointed members present at the meeting shall elect an appointed member from among those present” and inserting instead —

5

“

members present at the meeting shall elect one of those members

”.

13. Section 13 amended

10

Section 13 is amended by deleting “5 members” and inserting instead —

“ 3 members ”.

14. Section 14 amended

Section 14 is amended as follows:

15

(a) by deleting “An appointed member or deputy for an appointed” and inserting instead —

“ A member or deputy for a ”;

(b) by deleting “*Public Service Act 1978*” in the 2 places where it occurs and inserting in each place instead —

20

“ *Public Sector Management Act 1994* ”.

s. 15

15. Section 15 replaced

Section 15 is repealed and the following section is inserted instead —

“

5 **15. Remuneration and allowances**

A member or deputy for a member shall be paid any remuneration and travelling and other allowances that the Minister from time to time determines on the recommendation of the Minister for Public Sector Management.

10

”.

16. Section 16 amended, and savings

(1) Section 16(1) is amended by deleting “appointed — ” and inserting instead —

15

“

employed in accordance with section 23 of the *Culture, Libraries and the Arts Act 1998* —

”.

(2) Section 16(1a), (1b), and (1c) are repealed.

20

(3) Section 16(2) is amended by inserting after “Art Gallery” the following —

“ and the Art Gallery operations ”.

(4) Section 16(2a) is repealed.

(5) Section 16(4) is amended as follows:

25

(a) by deleting “appointed under subsection (1) to be” and inserting instead —

“ employed as ”;

(b) by inserting after “any other officer” the following —
“ for the purposes of this Act ”;

(c) by deleting “*Public Service Act 1978*” and inserting
instead —

5

“ *Public Sector Management Act 1994* ”.

(6) Despite this section, a person appointed and holding office as
the Director or another officer under section 16 of the *Art*
Gallery Act 1959 immediately before the commencement of this
section continues, subject to that Act, to hold office for the
remainder of the period for which he or she was appointed.

10

**17. Sections 17, 18, 19, 20, 20A and 21 replaced by sections 17
and 18**

Sections 17, 18, 19, 20, 20A and 21 are repealed and the
following sections are inserted instead —

15

“

17. Functions of the Board

(1) The functions of the Board are —

(a) to give advice to the Minister and the Corporate
Minister on all matters relating to the Art
Gallery, including matters of policy and
administration; and

20

(b) to promote, and encourage public interest in
and support for, the Art Gallery.

(2) Without limiting subsection (1), the Board is to
formulate policies and give advice —

25

(a) to the Corporate Minister on acquiring, holding,
protecting, preserving, displaying and disposing
of works of art and collections of works of art;

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- 5
- (b) to the Minister on strategic directions, policies and priorities for the Art Gallery;
- (c) to the Minister on establishing, controlling and managing branch and regional art galleries in any part of the State;
- (d) to the Corporate Minister on attracting gifts, including gifts by will, for the purposes of the Art Gallery; and
- 10 (e) on any matters relating to the Art Gallery on which the Minister or Corporate Minister asks for advice from the Board.

18. Powers of the Board

15 The Board may do all things necessary or convenient to be done for or in connection with the performance of its functions.

”.

18. Section 22 repealed, and transitional

- (1) Section 22 is repealed.
- 20 (2) On the commencement of this section, The Art Gallery of Western Australia Fund is to be closed and all money standing to the credit of that Fund immediately before that commencement is to be credited to the operating account of the department.
- 25 (3) Money credited to the operating account of the department under subsection (2) is to be applied for the purposes of, and in accordance with, any trusts affecting it.
- (4) In this section —
“**operating account**” has the same meaning as it has in the *Financial Administration and Audit Act 1985*;

“The Art Gallery of Western Australia Fund” means the account referred to in section 22(2) of the *Art Gallery Act 1959*, as in force immediately before the commencement of this section.

5 **19. Section 23 amended**

(1) Section 23(1) is amended as follows:

(a) by deleting “Board” in the 2 places where it occurs and inserting in each place instead —

“ Corporate Minister ”;

10 (b) by deleting “\$200” and inserting instead —

“ \$10 000 ”.

(2) Section 23(2) is amended by deleting “Board” and inserting instead —

“ Corporate Minister ”.

15 **20. Section 24 amended**

Section 24 is amended by deleting “Board” —

(a) in the first place where it occurs and inserting instead —

“ Minister ”;

(b) in the second and third places where it occurs and inserting in each place instead —

20 “ Corporate Minister ”.

s. 21

21. Section 25 amended

(1) Section 25(1) is amended as follows:

(a) by deleting “The Board may” and inserting instead —

“

5 The Minister may, on the recommendation of the chief
executive officer,

”;

and

10 (b) by deleting “Board or any of its officers” and inserting
instead —

“ Minister or any officer of the department ”.

(2) Section 25(2) is amended as follows:

(a) by deleting “Board” in the 2 places where it occurs and
inserting in each place instead —

15 “ Minister ”;

(b) by deleting “\$40” and inserting instead —

“ \$2 000 ”.

22. Section 26 amended

(1) Section 26(1) is amended as follows:

20 (a) by deleting the subsection designation “(1)” and
“Subject to the provisions of subsection (2),” and
inserting instead —

“

25 Except with the written permission of the
Minister,

”;

(b) by deleting “sole”;

(c) by deleting “Board” and inserting instead —
“ chief executive officer ”;

(d) in the penalty provision at the foot of the subsection, by
deleting “\$100.” and inserting instead —
“ \$5 000. ”.

(2) Section 26(2) is repealed.

23. Section 27 amended

Section 27(1) is amended as follows:

(a) by deleting “of the Board” and inserting instead —
“ of the department ”;

(b) by deleting “chairman may represent the Board in all
respects as if he were the party concerned.” and
inserting instead —

“

Minister may represent the Minister in all
respects.

”.

24. Section 28 repealed

Section 28 is repealed.

25. Section 28A amended

(1) Section 28A(2)(c) is deleted and “and” after that paragraph and
the following is inserted instead —

“

(c) has the functions conferred by this Act;
and

”.

(2) Section 28A(4) is repealed.

s. 26

26. Section 28AA inserted

After section 28A the following section is inserted —

“

28AA. Functions and powers of the Foundation

- 5 (1) The functions of the Foundation are —
- (a) to attract and retain for the Art Gallery continuing public interest and financial support;
 - 10 (b) to encourage gifts, including gifts by will, to maintain, improve and develop the services and facilities provided by the Art Gallery; and
 - (c) to give directions or make recommendations to the chief executive officer as to the manner in which moneys standing to the credit of the Account are to be applied for the benefit of the Art Gallery.
- 15
- (2) The Foundation may accept a gift if it is absolute or if it is —
- (a) subject to conditions; or
 - (b) for the purpose of benefiting anything,
- 20 and complying with those conditions, or conferring that benefit, is within the functions of the Foundation.
- (3) The Foundation may do all things necessary or convenient to be done for or in connection with the performance of its functions.

25

”.

27. Section 28B amended

(1) Section 28B(1) is amended after “(in this section” by inserting —

“ and section 28BA ”.

5 (2) Section 28B(3) is repealed and the following subsections are inserted instead —

“

10 (3) Subject to subsection (4), moneys standing to the credit of the Account are subject to the direction and control of the chief executive officer and may be applied for the purposes of carrying this Act into effect or otherwise applied for the purposes of the Art Gallery.

15 (4) In determining the manner in which moneys standing to the credit of the Account are to be applied, the chief executive officer —

(a) shall ensure that those moneys are applied —

(i) in accordance with any conditions subject to which; or

20 (ii) for the purpose of benefiting anything for the benefit of which,

those moneys were received by the Foundation;

(b) shall give effect to any directions given by the Foundation under paragraph (c) of section 28AA(1); and

25 (c) shall take into account any recommendations made by the Foundation under that paragraph.

”.

s. 28

28. Section 28BA inserted

After section 28B the following section is inserted —

“

28BA. Application of *Financial Administration and Audit Act 1985*

5

The operation of the Account shall be regarded as —

- (a) a service under the control of the department for the purposes of section 52 of the *Financial Administration and Audit Act 1985*; and
- 10 (b) part of the operations of the department for the purposes of Division 13 of Part II of that Act.

”.

29. Section 28C amended

- 15 (1) Section 28C(1) is amended by deleting “section 28A.” and inserting instead —

“ the Foundation. ”.

- (2) Section 28C(2)(a) and (c) are deleted.

30. Section 29 amended

- 20 (1) Section 29(1) is repealed and the following subsection is inserted instead —

“

- 25 (1) The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.

”.

(2) Section 29(2) is amended as follows:

- (a) by deleting paragraph (b);
- (b) in paragraph (c), by deleting “Board;” and inserting instead —

5

“

chief executive officer in relation to the Art
Gallery operations;

”;

10

- (c) in paragraph (d), by deleting “Board” and inserting instead —

“

chief executive officer in relation to the Art
Gallery operations

”;

15

- (d) in paragraph (e), by deleting “Board;” and inserting instead —

“

chief executive officer in relation to the Art
Gallery operations;

”;

20

- (e) in paragraph (f), by deleting “Board;” and inserting instead —

“ Corporate Minister; ”;

25

- (f) in paragraph (h), by deleting “\$50” and inserting instead —

“ \$1 000 ”.

31. Section 30 repealed

Section 30 is repealed.

s. 32

Part 3 — Museum Act 1969

32. The Act amended

This Part amends the *Museum Act 1969*.*.

[* *Act No. 90 of 1969.*

5 *For subsequent amendments see 1997 Index to Legislation of
Western Australia, Table 1, p. 161 and Acts Nos. 57 of 1997
and 10 of 1998.]*

33. Section 6 amended

Section 6 is amended as follows:

10 (a) by deleting the definitions of “appointed Trustee”,
“Board” and “Director” and inserting the following
definitions instead —

“

15 “**chief executive officer**” means the chief executive
officer of the department;

“**Corporate Minister**” means the body corporate
referred to in section 6 of the *Culture, Libraries
and the Arts Act 1998*;

20 “**Council**” means the Museum Council established by
section 7;

“**department**” has the same meaning as it has in the
Culture, Libraries and the Arts Act 1998;

25 “**Director**” means the Director of the Museum, as
referred to in section 18(1);

”;

(b) by inserting after the definition of “Honorary Associate”
the following definition —

“ **“member”** means member of the Council; ”;

- (c) by deleting the definitions of “Museum” and “Trustees” and inserting instead the following definitions —

“

5

“**Museum**” means the museum operated by the department under the name “The Western Australian Museum”;

10

“**Museum operations**” means the operations of the department performed for the purposes of the Museum.

”.

34. Part II heading amended

The heading to Part II is deleted and the following heading is inserted instead —

“

15

Part II — The Museum Council

”.

35. Sections 7, 8, 9 and 10 replaced

Sections 7, 8, 9 and 10 are repealed and the following sections are inserted instead —

20

“

7. Council established

A body called the Museum Council is established.

8. Constitution of the Council

25

- (1) The Council is to consist of not less than 6 persons or more than 10 persons appointed by the Minister.
- (2) The members are to be appointed by the Minister for their experience, skills and qualifications and interest

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in matters relating to the Museum, and for their ability to contribute to promoting, and encouraging public interest in and support for, the Museum.

9. Functions of the Council

- 5 (1) The functions of the Council are —
- (a) to give advice to the Minister and the Corporate Minister on all matters relating to the Museum, including matters of policy and administration; and
 - 10 (b) to promote, and encourage public interest in and support for, the Museum.
- (2) Without limiting subsection (1), the Council is to formulate policies and give advice —
- 15 (a) to the Corporate Minister on acquiring, holding, protecting, preserving, displaying and disposing of museum materials and collections of museum materials;
 - (b) to the Minister on strategic directions, policies and priorities for the Museum;
 - 20 (c) to the Minister on establishing, controlling and managing branch and regional museums in any part of the State;
 - 25 (d) to the Corporate Minister on encouraging, and providing facilities for, the wider education of the public through the display and other use of museum collections and through providing access to information derived from museum collections;

- 5
- 10
- 15
- 20
- 25
- 30
- (e) to the Corporate Minister on establishing and preserving on behalf of the public museum collections that are representative of the Aboriginal peoples of the State, the history of the exploration, settlement and development of the State, the natural history of the State and any other museum collections considered by the Council to be necessary for the wider understanding of those matters and for the educational function of the Museum;
 - (f) to the Corporate Minister on preserving on behalf of the public any remains, wreck, archaeological or anthropological site or other thing, whether in the place where it is discovered or elsewhere, considered by the Council to be of special national, State or local interest;
 - (g) to the Minister on aiding the advancement of knowledge —
 - (i) through research into museum collections and into any other matters considered by the Council to be relevant to that purpose; and
 - (ii) by publishing the results of research;
 - (h) to the Minister on providing facilities to encourage the interest of persons and bodies in the State in the culture and history of the Aboriginal peoples of the State, in the history and natural history of the State and in anything allied to those matters;
 - (i) to the Corporate Minister on attracting gifts, including gifts by will, for the purposes of the Museum; and

s. 36

- (j) on any matters relating to the Museum on which the Minister or the Corporate Minister asks for advice from the Council.

10. Powers of the Council

5 The Council may do all things necessary or convenient to be done for or in connection with the performance of its functions.

”.

36. Section 11 amended

10 (1) Section 11(1) is amended by deleting “the succeeding provisions of this section, a person who is an appointed Trustee” and inserting instead —

“ subsection (2), a member ”.

15 (2) Section 11(2) is amended by deleting “appointed Trustee” in the 2 places where it occurs and inserting in each place instead —

“ member ”.

37. Section 12 amended

(1) Section 12(1) is amended as follows:

20 (a) by deleting “appointed Trustee occurs, if an appointed Trustee — ” and inserting instead —

“ member occurs if a member — ”;

(b) in paragraph (b), by deleting “Governor” and inserting instead —

“ Minister ”;

25 (c) in paragraph (c), by deleting “the Trustees” and “them” and inserting in each place instead —

“ the Council ”;

- (d) in paragraph (d), by deleting “Governor;” and inserting instead —
“ Minister; ”;
- 5 (e) in paragraph (e), by deleting “Trustee.” and inserting instead —
“ member. ”.
- (2) Section 12(2) is amended as follows:
- (a) by deleting “Governor” and inserting instead —
“ Minister ”;
- 10 (b) by deleting “Trustee” and inserting instead —
“ member ”.
- (3) Section 12(3) is repealed and the following subsection is inserted instead —
- 15 “
- (3) The Council may grant leave of absence to a member on such terms and conditions as the Council determines.
- ”.

38. Section 13 amended

- 20 Section 13 is amended as follows:
- (a) by deleting “Trustees” and inserting instead —
“ Council ”;
- (b) by deleting “office of appointed Trustee” and inserting instead —
25 “ membership of the Council ”;
- (c) by deleting “any of them.” and inserting instead —
“ a member. ”.

s. 39

39. Section 14 amended

(1) Section 14(1) is amended as follows:

(a) by deleting “Governor” and inserting instead —
“ Minister ”;

5 (b) by deleting “appointed Trustee” in the 4 places where it
occurs and inserting in each place instead —
“ member ”.

(2) Section 14(2) is amended by deleting “an appointed Trustee”
and inserting instead —

10 “ a member ”.

40. Section 14A repealed

Section 14A is repealed.

41. Section 15 amended

(1) Section 15(1) is amended as follows:

15 (a) by deleting “Governor” and inserting instead —
“ Minister ”;

(b) by deleting “appointed Trustees” and inserting
instead —
“ members ”;

20 (c) by deleting “appointed Trustee” and inserting instead —
“ member ”.

(2) Section 15(2) is amended by deleting “Governor.” and inserting
instead —

“ Minister. ”.

(3) Section 15(3) is amended as follows:

(a) by deleting “an appointed Trustee” and inserting instead —

“ a member ”;

5 (b) by deleting “appointed Trustee, the Governor may appoint another appointed Trustee” and inserting instead —

“

10 member, the Minister may appoint another member

”.

42. Section 16 amended

(1) Section 16(1) is amended by deleting “Trustees.” and inserting instead —

15 “ Council. ”.

(2) Section 16(2) is amended as follows:

(a) by deleting “Trustees” and inserting instead —

“ members ”;

(b) by deleting “their number” and inserting instead —

20 “ those members ”.

43. Section 17 amended

Section 17 is amended as follows:

(a) by deleting “Trustees shall conduct their” and inserting instead —

25 “ Council shall conduct its ”;

(b) by deleting “they” and inserting instead —

“ the Council ”;

s. 44

- (c) in paragraph (a), by deleting “5 Trustees” and inserting instead —
“ a majority of the members ”;
- 5 (d) in paragraph (b), by deleting “Trustee” in the 2 places where it occurs and inserting in each place instead —
“ member ”;
- (e) in paragraph (c), by deleting “Trustees” and inserting instead —
“ members ”.

10 **44. Section 18 amended, and savings**

- (1) Section 18(1), (2) and (3) are repealed and the following subsections are inserted instead —

“

- 15 (1) A Director of the Museum shall be employed in accordance with section 23 of the *Culture, Libraries and the Arts Act 1998*.
- (2) The Director shall manage the Museum and the Museum operations and shall be the principal executive officer of the Council.

20

”.

- (2) Section 18(4) is amended as follows:

- (a) by deleting “appointed under subsection (1) to be” and inserting instead —
“ employed as ”;
- 25 (b) by deleting “*Public Service Act 1978*” and inserting instead —
“ *Public Sector Management Act 1994* ”.

- 5 (3) Despite this section, a person appointed and holding office as Director of the Museum under section 18 of the *Museum Act 1969* immediately before the commencement of this section continues, subject to that Act, to hold office for the remainder of the period for which he or she was appointed.

45. Sections 19 and 20 repealed

Sections 19 and 20 are repealed.

46. Section 21 replaced

10 Section 21 is repealed and the following section is inserted instead —

“

21. Preservation of rights of members

15 A member or deputy of a member is not, in his capacity as member or deputy, a public service officer under the *Public Sector Management Act 1994*, but if a person is a public service officer at the time of his appointment as member or deputy under this Act, the appointment shall not prejudice his rights under the *Public Sector Management Act 1994* or under any
20 other Act applying to him as a public service officer.

”.

47. Section 22 repealed

Section 22 is repealed.

48. Section 23 amended

- 25 (1) Section 23(1) is amended by deleting “Trustees” and inserting instead —

“ Minister ”.

s. 49

(2) Section 23(3) is amended by deleting “Governor” and inserting instead —

“ Minister ”.

49. Section 24 replaced

5 Section 24 is repealed and the following section is inserted instead —

“

24. Remuneration and allowances

10 A member or deputy of a member shall be paid any remuneration and travelling and other allowances that the Minister from time to time determines on the recommendation of the Minister for Public Sector Management.

”.

15 **50. Sections 25, 26, 27, 28 and 28A repealed**

Sections 25, 26, 27, 28 and 28A are repealed.

51. Part III repealed, and transitional

(1) Part III is repealed.

20 (2) On the commencement of this section, the Western Australian Museum Account is to be closed and all money standing to the credit of that Account immediately before that commencement is to be credited to the operating account of the department.

25 (3) Money credited to the operating account of the department under subsection (2) is to be applied for the purposes of, and in accordance with, any trusts affecting it.

(4) In this section —

“operating account” has the same meaning as it has in the
Financial Administration and Audit Act 1985;

5 **“Western Australian Museum Account”** means the account
referred to in section 33(2) of the *Museum Act 1969*, as in
force immediately before the commencement of this
section.

52. Part IV repealed

Part IV is repealed.

10 **53. Section 44 amended**

(1) Section 44(1) is amended by deleting “Museum,” and inserting
instead —

“ Corporate Minister, ”.

15 (2) Section 44(2) is amended by deleting “Museum” and inserting
instead —

“ Corporate Minister ”.

54. Section 45 amended

(1) Section 45(1)(b) and (c) are amended by deleting “Trustees” in
the 4 places where it occurs and inserting in each place
20 instead —

“ Corporate Minister ”.

(2) Section 45(2) is amended as follows:

(a) by deleting “Trustees” in the 2 places where it occurs
and inserting in each place instead —

25 “ Corporate Minister ”;

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- (b) by deleting “them.” and inserting instead —
“ the Corporate Minister. ”.
- (3) Section 45(3) is amended as follows:
- 5 (a) by deleting “Trustees may, with the approval of the
Minister,” and inserting instead —
“
Corporate Minister may, on the
recommendation of the chief executive officer,
”;
- 10 (b) by deleting “Trustees.” and inserting instead —
“ Corporate Minister. ”.
- (4) Section 45(4) is amended by deleting “Trustees,” and inserting
instead —
“ Corporate Minister, ”.
- 15 (5) Section 45(5) is amended as follows:
- (a) by deleting “Trustees shall not refuse to give their” and
inserting instead —
“
20 Corporate Minister shall not refuse
to give
”;
- (b) by deleting “Trustees at” and inserting instead —
“ Corporate Minister at ”;
- 25 (c) by deleting “Trustees have” and inserting instead —
“ Corporate Minister has ”.

(6) Section 45(6) is amended by inserting after “determined by the” the following —

“ Corporate ”.

(7) Section 45(8) is amended by deleting “Trustees” and inserting instead —

“ Corporate Minister ”.

55. Part VIA inserted

After Part VI the following Part is inserted —

“

**Part VIA — Museum, Science and Humanities
Foundation**

45A. Definitions

In this Part —

“**Foundation**” means the Museum, Science and
Humanities Foundation established by
section 45B;

“**Fund**” means the Museum, Science and Humanities
Foundation Fund referred to in section 45E;

“**rules**” means rules made by the Minister under
section 45G.

**45B. Establishment of Museum, Science and Humanities
Foundation**

(1) A body corporate called the Museum, Science and
Humanities Foundation is established.

s. 55

- (2) The Foundation —
 - (a) has perpetual succession and shall have a common seal; and
 - (b) may sue and be sued.

5 **45C. Governing council**

The Foundation shall have a council that, subject to this Part, shall be the governing body of the Foundation.

45D. Functions and powers of the Foundation

- 10 (1) The functions of the Foundation are —
 - (a) to attract and retain for the Museum continuing public interest and financial support;
 - 15 (b) to encourage gifts, including gifts by will, to maintain, improve and develop the services and facilities provided by the Museum; and
 - 20 (c) to give directions or make recommendations to the chief executive officer as to the manner in which moneys standing to the credit of the Fund are to be applied for the benefit of the Museum.
- 25 (2) The Foundation may accept a gift if it is absolute or if it is —
 - (a) subject to conditions; or
 - (b) for the purpose of benefiting anything,and complying with those conditions, or conferring that benefit, is within the functions of the Foundation.

- (3) The Foundation may do all things necessary or convenient to be done for or in connection with the performance of its functions.

45E. Financial arrangements

- 5 (1) There shall be a trust account to be known as the Museum, Science and Humanities Foundation Fund at the Treasury, forming part of the Trust Fund constituted under section 9 of the *Financial Administration and Audit Act 1985*.
- 10 (2) Funds received by the Foundation from the performance of its functions shall be credited to the Fund.
- (3) Any expenditure lawfully incurred by the Foundation in the performance of its functions shall be charged to and paid out of the Fund.
- 15 (4) Subject to subsection (5), moneys standing to the credit of the Fund are subject to the direction and control of the chief executive officer and may be applied for the purposes of carrying this Act into effect or otherwise applied for the purposes of the Museum.
- 20 (5) In determining the manner in which moneys standing to the credit of the Fund are to be applied, the chief executive officer —
- (a) shall ensure that those moneys are applied —
- 25 (i) in accordance with any conditions subject to which; or
- (ii) for the purpose of benefiting anything for the benefit of which,
- those moneys were received by the Foundation;

s. 55

- 5
- (b) shall give effect to any directions given by the Foundation under paragraph (c) of section 45D(1); and
 - (c) shall take into account any recommendations made by the Foundation under that paragraph.

45F. Application of *Financial Administration and Audit Act 1985*

The operation of the Fund shall be regarded as —

- 10
- (a) a service under the control of the department for the purposes of section 52 of the *Financial Administration and Audit Act 1985*; and
 - (b) part of the operations of the department for the purposes of Division 13 of Part II of that Act.

45G. Rules

- 15
- (1) The Minister may, on the recommendation of the Council, make rules that are necessary or convenient for giving effect to this Part.
 - (2) Without limiting subsection (1), the rules may —
 - 20 (a) provide for the appointment, constitution, functions and proceedings of the council, including power to employ persons, appoint agents, obtain professional or other services and do all things necessary or convenient to be done for or in connection with the performance by the Foundation of its functions;
 - 25 (b) provide for membership of the Foundation, including membership of different categories having different privileges;

- (c) provide for meetings and other proceedings of members of the Foundation;
- (d) provide for the appointment of one or more patrons of the Foundation;
- 5 (e) provide for Friends of the Foundation and for the establishment of a register of such persons;
- (f) provide for the manner of execution of documents authorized to be executed by resolution of the council; and
- 10 (g) empower the council, with the approval of the Minister, to make by-laws with respect to the operations and proceedings of the Foundation, the council, committees of the council and persons employed by the Foundation.
- 15 ”.

56. Section 46 amended

- (1) Section 46(1) is amended as follows:
 - (a) by deleting “Museum” in the 2 places where it occurs and inserting in each place instead —
20 “ Corporate Minister ”;
 - (b) by inserting before “specimen” the following —
“ museum ”;
 - (c) in the penalty provision at the foot of the subsection, by
25 deleting “Five hundred dollars” and inserting instead —
“ \$10 000 ”.
- (2) Section 46(2) is amended by deleting “Trustees” and inserting instead —
“ Corporate Minister ”.

s. 57

57. Section 47 amended

Section 47 is amended by deleting “one hundred dollars.” and inserting instead —

“ \$5 000. ”.

5 **58. Section 48 amended**

Section 48 is amended as follows:

(a) by deleting “Trustees” —

(i) in the first place where it occurs and inserting instead —

10 “ Minister under this Act ”;

(ii) in the second place where it occurs and inserting instead —

“ Corporate Minister ”;

15 (b) by deleting “Museum” in the 2 places where it occurs and inserting in each place instead —

“ Corporate Minister ”.

59. Section 49 amended

(1) Section 49(1) is amended as follows:

(a) by deleting “Trustees may” and inserting instead —

20

“

Minister may, on the recommendation of the chief executive officer,

”;

(b) by deleting “them or any member of the staff of the Museum” and inserting instead —

25

“ the Minister or any officer of the department ”.

(2) Section 49(2) is amended as follows:

(a) by deleting “Trustees, on account of any reward that they have paid or are” and inserting instead —

“

5 Minister, on account of any reward that the
 Minister has paid or is

”;

(b) by deleting “fifty dollars,” and inserting instead —

“ \$2 000, ”.

10 **60. Section 50 amended**

Section 50(1) is repealed and the following subsection is inserted instead —

“

15 (1) In any proceedings before a court of petty sessions, an
 officer of the department appointed for the purpose
 generally or in a particular case in writing signed by
 the Minister may represent the Minister in all respects.

”.

61. Section 51 amended

20 (1) Section 51(1) is repealed and the following subsection is inserted instead —

“

25 (1) The Governor may make regulations prescribing all
 matters that are required or permitted by this Act to be
 prescribed, or are necessary or convenient to be
 prescribed for giving effect to the purposes of this Act.

”.

s. 61

(2) Section 51(2) is amended as follows:

(a) in paragraph (a), by deleting “Trustees and of committees;” and inserting instead —

“ Council; ”;

5

(b) by deleting paragraph (b);

(c) by deleting paragraphs (c) and (d) and inserting the following paragraphs instead —

“

10

(c) providing for the establishment and constitution of advisory committees in relation to branch or regional museums, and for the conduct of proceedings at meetings of those committees;

15

(d) providing for the admission of the public or any individual to, and the exclusion or expulsion of the public or any individual from —

(i) the Museum or any part of it; or

(ii) any other place, or any part of a place, under the management or control of the chief executive officer in relation to the Museum operations;

20

”;

(d) in paragraph (e) —

(i) by inserting after “examine” the following —

“ museum ”;

25

(ii) by deleting “Museum” and inserting instead —

“ Corporate Minister ”;

(e) in paragraph (f) —

(i) by inserting after “marking of” the following —

“ museum ”;

- (ii) by deleting “Museum;” and inserting instead —
“ Corporate Minister; ”;
- (f) in paragraph (h), by deleting “one hundred dollars” and
inserting instead —
“ \$500 ”.

5

Part 4 — Repeals, transitional provisions and consequential amendments

62. Definitions

In this Part —

5 **“operating account”** has the same meaning as it has in the
Financial Administration and Audit Act 1985;

“The Library Board of Western Australia Fund” means the
account referred to in section 16(2) of the *Library Board of
Western Australia Act 1951*;

10 **“the Perth Theatre Trust Account”** means the account
referred to in section 23(2) of the *Perth Theatre Trust
Act 1979*.

63. Repeal consequential to amendment of *Art Gallery Act 1959*

15 The *Art Gallery Act (Common Seal) Regulations 1979* are
repealed.

64. *Library Board of Western Australia Act 1951* repealed, and transitional provisions

(1) The *Library Board of Western Australia Act 1951* is repealed.

20 (2) All money standing to the credit of The Library Board of
Western Australia Fund immediately before the commencement
of this section is to be credited to the operating account of the
department.

25 (3) Money credited to the operating account of the department
under subsection (2) is to be applied for the purposes of, and in
accordance with, any trusts affecting it.

- 5 (4) A library that, immediately before the commencement of this section, is a registered public library within the meaning of the Act repealed by subsection (1) is to be taken, on and after that commencement, to be registered under an agreement referred to in section 9(3) of the *Culture, Libraries and the Arts Act 1998*.

65. *Perth Theatre Trust Act 1979* repealed, and transitional provisions

- (1) The *Perth Theatre Trust Act 1979* is repealed.
- 10 (2) All money standing to the credit of the Perth Theatre Trust Account immediately before the commencement of this section is to be credited to the operating account of the department.
- (3) Money credited to the operating account of the department under subsection (2) is to be applied for the purposes of, and in accordance with, any trusts affecting it.

15 **66. Consequential amendments — Schedule 1**

Schedule 1 has effect.

Schedule 1 — Consequential amendments

[s. 66]

1. *Aboriginal Heritage Act 1972* amended, and savings

(1) The *Aboriginal Heritage Act 1972* is amended as follows:

5 (a) in section 4, by deleting the definitions of “Director” and “Museum” and inserting instead the following definitions —

“

“**Director**” means the Director of the Museum, as referred to in section 18(1) of the *Museum Act 1969*;

10 “**Museum**” has the same meaning as it has in the *Museum Act 1969*;

”;

(b) in section 4, by deleting the definition of “the Trustees” and inserting instead the following definitions —

15 “

“**the Corporate Minister**” means the body corporate referred to in section 6 of the *Culture, Libraries and the Arts Act 1998*;

20 “**the Museum Act Minister**” means the Minister responsible for the administration of the *Museum Act 1969*;

”;

(c) by deleting section 6(2a) and inserting instead the following subsection —

25 “

(2a) This Act does not apply to a collection held for the purposes of the Museum and vested in the Corporate Minister.

”;

- (d) in section 39A, by deleting “Trustees” and inserting instead —
“ Museum Act Minister ”;
- 5 (e) in section 39B, by deleting “Trustees.” and inserting instead —
“ Museum Act Minister. ”;
- (f) in section 67, by deleting “a Trustee” in the 2 places where it occurs and inserting in each place instead —
“ the Museum Act Minister ”;
- 10 (2) Despite subsection (1)(e), section 67 of the *Aboriginal Heritage Act 1972*, as in force immediately before the commencement of this section, continues to apply to —
- (a) a person who has been a Trustee; and
- 15 (b) a person who has acted under the direction or authority of a Trustee,

within the meaning of that Act, as in force at that time, as if this section had not been enacted.

2. *Conservation and Land Management Act 1984* amended

20 Section 26H(1)(c) of the *Conservation and Land Management Act 1984* is deleted and the following paragraph is inserted instead —

- “
- (c) one shall be a senior scientific officer of the department principally assisting the Minister to whom the administration of the *Museum Act 1969* is committed in the administration of that Act;
- 25 ”.

3. Constitution Acts Amendment Act 1899 amended

Schedule V to the *Constitution Acts Amendment Act 1899* is amended as follows:

- 5 (a) in Division 2 of Part 2, by deleting “the Western Australian Museum constituted under the *Museum Act 1969*, the Library Board of Western Australia constituted under the *Library Board of Western Australia Act 1951*, or”;
- (b) in Part 3 —
- 10 (i) by inserting after the item that begins “The Architects Board of Western Australia” the following item —
- “
- The Art Gallery Advisory Board established by the *Art Gallery Act 1959*.
- ”;
- 15 (ii) by deleting the item that begins “The Board of the Art Gallery of Western Australia”;
- (iii) by inserting after the item that begins “The Legislative Review and Advisory Committee”, the following item —
- 20 “
- The Libraries Council of Western Australia established by the *Culture, Libraries and the Arts Act 1998*.
- ”;
- 25 (iv) by inserting after the item that begins “The Multicultural and Ethnic Affairs Commission”, the following item —
- “
- 30 “
- The Museum Council established by the *Museum Act 1969*.
- ”;

- (v) by deleting the item that begins “The Perth Theatre Trust”.

4. *Evidence Act 1906* amended

Section 65A of the *Evidence Act 1906* is amended as follows:

- 5 (a) in subsection (1) —
 - (i) by deleting “Library Board of Western Australia” and inserting instead —
“ Arts Department ”;
 - (ii) by deleting “board” and inserting instead —
10 “ department ”;
- (b) by repealing subsection (2) and inserting instead the following subsection —
“
15 (2) In this section, “**officer of the Arts Department**” means an officer of the department of the Public Service principally assisting the Minister to whom the administration of the *Culture, Libraries and the Arts Act 1998* is committed in the administration of that Act who is authorized by the chief executive officer of that department to certify photographs for the purposes of this section; and judicial notice shall, for
20 those purposes, be taken of the official signature of every such officer.
”.

5. *Financial Administration and Audit Act 1985* amended

25 Schedule 1 to the *Financial Administration and Audit Act 1985* is amended as follows:

- (a) by deleting the item “Perth Theatre Trust”;
- (b) by deleting the item “The Board of the Art Gallery of Western Australia”;

- (c) by deleting the item “The Library Board of Western Australia”;
- (d) by deleting the item “The Western Australian Museum”.

6. *Government Employees Superannuation Act 1987* amended

5 Schedule 1 to the *Government Employees Superannuation Act 1987* is amended in Part B —

- (a) by deleting the item “Library Board of Western Australia”;
- (b) by deleting the item “Perth Theatre Trust”;
- (c) by deleting the item “The Art Gallery of Western Australia”;
- 10 (d) by deleting the item “Western Australian Museum”.

7. *Litter Act 1979* amended

Section 26(2)(c)(v) of the *Litter Act 1979* is deleted.

8. *Maritime Archaeology Act 1973* amended

The *Maritime Archaeology Act 1973* is amended as follows:

- 15 (a) in section 3, by inserting after the definition of “Board” the following definition —

“

20 “**department**” means the department referred to in section 19 of the *Culture, Libraries and the Arts Act 1998*;

”;

- (b) in section 3, by deleting the definition of “Director” and inserting the following definition instead —

“

25 “**Director**” means the Director of the Museum, as referred to in section 18(1) of the *Museum Act 1969*;

”;

- (c) in section 3, by deleting the definition of “Museum” and inserting the following definition instead —

“

5

“**Museum**” has the same meaning as it has in the *Museum Act 1969*;

”;

- (d) in section 3, by inserting after the definition of “site” the following definitions —

“

10

“**the Corporate Minister**” means the body corporate referred to in section 6 of the *Culture, Libraries and the Arts Act 1998*;

15

“**the Museum Act Minister**” means the Minister responsible for the administration of the *Museum Act 1969*;

”;

- (e) in section 3 in the definition of “Trustees”, by inserting after “1969,” the following —

“

20

as in force before the commencement of Part 3 of the *Culture, Libraries and the Arts (Consequential Provisions) Act 1998*,

”;

25

- (f) in section 5(1), by deleting “Trustees” in the 2 places where it occurs and inserting in each place instead —

“ Museum Act Minister ”;

- (g) in section 6(1), by deleting “Museum” and inserting instead —

“ Corporate Minister ”;

- (h) in section 6(2)(a), by deleting “Trustees” and inserting
instead —
“ Corporate Minister ”;
- 5 (i) in section 6(2), by deleting “vested in the Museum” and
inserting instead —
“ vested in the Corporate Minister ”;
- (j) in section 6(3), by deleting “Museum” and inserting
instead —
“ Corporate Minister ”;
- 10 (k) in section 6(4), by deleting “Trustees are” and inserting
instead —
“ Museum Act Minister is ”;
- (l) in section 6(4), by deleting “Trustees,” and inserting
instead —
15 “ Museum Act Minister, ”;
- (m) in section 7(1), by deleting “Museum” and inserting
instead —
“ Corporate Minister ”;
- (n) in section 7(2), by deleting “vested in the Museum” and
inserting instead —
20 “ vested in the Corporate Minister ”;
- (o) in section 7(2)(b), by deleting “this Act.” and inserting
instead —
“
25 Part 3 of the *Culture, Libraries and the Arts*
(Consequential Provisions) Act 1998. ”;
- (p) in section 8(1)(a), by deleting “Trustees,” and inserting
instead —
30 “ Corporate Minister, ”;

- (q) in section 8(1)(a), by deleting “Museum” and inserting
instead —
“ Corporate Minister ”;
- 5 (r) in section 8(1)(b), by deleting “Trustees” and inserting
instead —
“ Corporate Minister ”;
- (s) in section 8(1)(c), by deleting “member of the staff or
employee of the Museum or any person acting with the
authority of the Trustees” and inserting instead —
10 “
officer of the department or any person acting with
the authority of the Corporate Minister
”;
- (t) in section 8(2), by deleting “Trustees’ ” and inserting
15 instead —
“ Corporate Minister’s ”;
- (u) in section 9(1), by deleting “Museum” and inserting instead —
“ Corporate Minister ”;
- (v) in section 10(1), by deleting “a member of the staff of the
20 Museum” and inserting instead —
“ an officer of the department ”;
- (w) in section 13, by deleting “Trustees” and inserting instead —
“ Corporate Minister ”;
- (x) in section 14, by deleting “Trustees” and inserting instead —
25 “ Museum Act Minister ”;
- (y) in section 14, by deleting “them or any member of the staff of
the Museum” and inserting instead —
30 “
the Museum Act Minister or any officer of the
department
”;

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- (z) in section 15, by deleting “Trustees” in the first place where it occurs and inserting instead —
“ Museum Act Minister ”;
- 5 (za) in section 15, by deleting “Museum” in the 2 places where it occurs and “Trustees” in the second place where it occurs and inserting in each place instead —
“ Corporate Minister ”;
- (zb) in section 18(1), by deleting “Trustees have” and inserting instead —
10 “ Corporate Minister has ”;
- (zc) in section 18(1), by deleting “Trustees.” and inserting instead —
“ Corporate Minister. ”;
- (zd) in section 18(2), by deleting “Trustees” in the 3 places where it occurs and inserting in each place instead —
15 “ Corporate Minister ”;
- (ze) in section 18(2), by deleting “satisfy them” and inserting instead —
“ satisfy the Corporate Minister ”;
- 20 (zf) in section 18(5), by deleting “Trustees” in the first place where it occurs and inserting instead —
“ Corporate Minister ”;
- (zg) in section 18(5)(b), by deleting “Trustees may defer their” and inserting instead —
25 “
Corporate Minister may defer the Corporate
Minister’s
”;
- 30 (zh) in section 18(6), by deleting “Trustees” in the 2 places where it occurs and inserting in each place instead —
“ Corporate Minister ”;

- (zi) in section 18(7) and (9), by deleting “Trustees” in the
2 places where it occurs and inserting in each place instead —
“ Corporate Minister ”;
- 5 (zj) in section 20(1), by deleting “Museum” and inserting
instead —
“ Corporate Minister ”;
- (zk) in section 20(2), by deleting “Trustees” and inserting
instead —
“ Corporate Minister ”;
- 10 (zl) in section 20(2)(a), by deleting “their request delivers to
them” and inserting instead —
“
15 the Corporate Minister’s request delivers to the
Corporate Minister ”;
- (zm) in section 20(2)(b), by deleting “Trustees” and inserting
instead —
“ Corporate Minister ”;
- 20 (zn) in section 20(2)(c), by deleting “Museum;” and inserting
instead —
“ Corporate Minister; ”;
- (zo) in section 20(2), by deleting “Trustees think” and inserting
instead —
“ Corporate Minister thinks ”;
- 25 (zp) in section 21, by deleting “Trustees are” and inserting
instead —
“ Corporate Minister is ”;
- (zq) in section 21, by deleting “Trustees shall” and inserting
instead —
30 “ Corporate Minister shall ”;

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- (zr) in section 22(1), by deleting “Trustees,” and inserting instead —
“ Corporate Minister, ”;
- 5 (zs) in section 22(1), by deleting “them” in the 3 places where it occurs and inserting in each place instead —
“ the Corporate Minister ”;
- (zt) in section 22(2), by deleting “Trustees” in the 2 places where it occurs and inserting in each place instead —
“ Corporate Minister ”;
- 10 (zu) in section 22(3), by deleting “Trustees shall, unless they” and inserting instead —
“
Corporate Minister shall, unless the Corporate
Minister
15 ”.

9. Public Sector Management Act 1994 amended

Schedule 2 to the *Public Sector Management Act 1994* is amended by deleting items 35, 49, 50 and 54.

10. State Records Act 1998 amended

20 Section 3(1) of the *State Records Act 1998* is amended by deleting the definition of “State collecting institution” and inserting the following definition instead —

- “
“**State collecting institution**” means —
25 (a) the Art Gallery, as defined in section 4 of the *Art Gallery Act 1959*;
(b) a library operated by the department of the Public Service that principally assists the Minister to whom the administration of the
30 *Culture, Libraries and the Arts Act 1998* is for

- the time being committed by the Governor in the administration of that Act; and
- (c) the Museum, as defined in section 6 of the *Museum Act 1969*;

5

”.

11. *Statutory Corporations Liability of Directors Act 1996* amended

Schedule 1 to the *Statutory Corporations Liability of Directors Act 1996* is amended by deleting the item relating to the Perth Theatre Trust.

