

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

---

*(As read a third time)*

**AUSTRALIAN NATIONAL MARITIME MUSEUM BILL 1990**

**TABLE OF PROVISIONS**

**PART 1—PRELIMINARY**

Section

1. Short title
2. Commencement
3. Interpretation
4. Extension to external Territories

**PART 2—THE AUSTRALIAN NATIONAL MARITIME MUSEUM**

5. Establishment of Museum
6. Functions of Museum
7. Powers of Museum
8. Land etc. for Museum
9. National maritime collection
10. Disposal of material in national maritime collection

**PART 3—THE COUNCIL OF THE MUSEUM**

*Division 1—Establishment, functions etc. of Council*

11. Establishment of Council
12. Functions of Council
13. Council may give directions to Director
14. Directions to Council
15. Committees of Council
16. Delegation by Council

## TABLE OF PROVISIONS—continued

## Section

*Division 2—Membership and meetings of Council*

- 17. Membership of Council
- 18. Acting members
- 19. Leave of absence
- 20. Resignation
- 21. Termination of appointment
- 22. Disclosure of interests
- 23. Meetings of Council
- 24. Remuneration and allowances

*Division 3—Strategic plans and annual operational plans*

- 25. Strategic plans
- 26. Approval and commencement of strategic plans
- 27. Variation of strategic plans
- 28. Annual operational plans
- 29. Compliance with plans

## PART 4—THE DIRECTOR OF THE MUSEUM

- 30. Director
- 31. Duties of Director
- 32. Director not to engage in other work
- 33. Remuneration and allowances
- 34. Leave of absence
- 35. Resignation
- 36. Termination of appointment
- 37. Disclosure of interests
- 38. Acting Director
- 39. Delegation by Director

## PART 5—STAFF AND CONSULTANTS

- 40. Staff
- 41. Arrangements relating to staff
- 42. Engagement of consultants

## PART 6—FINANCE

- 43. Appropriation of money
- 44. Australian National Maritime Museum Fund
- 45. Application of money
- 46. Estimates
- 47. Contracts
- 48. Application to Museum of Division 3 of Part XI of Audit Act
- 49. Exemption from taxation

## PART 7—MISCELLANEOUS

- 50. Trust money etc.
- 51. Limits on charges
- 52. Operation of certain other laws not affected
- 53. Supply of liquor
- 54. Regulations

THIS Bill originated in the Senate; and, having this day passed, is now ready for presentation to the House of Representatives for its concurrence.

HARRY EVANS  
*Clerk of the Senate.*

The Senate,  
Canberra, 19 September 1990

## A BILL

FOR

### **An Act to establish the Australian National Maritime Museum**

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

#### **PART 1—PRELIMINARY**

##### **Short title**

- 5     1. This Act may be cited as the *Australian National Maritime Museum Act 1990*.

##### **Commencement**

- 10    2. This Act commences:
- (a) if this Act receives the Royal Assent before 1 July 1989—on 1 July 1989; or
  - (b) if this Act receives the Royal Assent on or after 1 July 1989—one month after it receives the Royal Assent.

**Interpretation**

3. (1) In this Act, unless the contrary intention appears:

“acquire” means acquire by means of purchase, lease, loan or otherwise;

“appointed member” means a member other than the Director; 5

“Australia” includes all external Territories;

“Australian marine environment” includes the environment of:

(a) the sea above the continental shelf adjacent to the coast of Australia and the bed of that sea; and

(b) the waters and beds of the lakes, rivers and other internal waters of Australia; 10

“Australian maritime history” includes:

(a) the history, including biological and geological history, of the Australian marine environment;

(b) the history of the interaction of human beings with the Australian marine environment; 15

(c) the history of sea travel by Australians, and by persons to and from Australia, whether for the purpose of migration, trade, exploration, defence or otherwise; and

(d) the history of research into, and the recovery of materials related to, any of the matters referred to in paragraphs (a), (b) and (c); 20

“Chairperson” means the Chairperson of the Council;

“continental shelf” has the same meaning as in the *Seas and Submerged Lands Act 1973*; 25

“Council” means the Council of the Australian National Maritime Museum established by section 11;

“Director” means the Director of the Museum;

“Fund” means the Australian National Maritime Museum Fund established by section 44; 30

“maritime historical material” means material (whether in written form or in any other form) relating to Australian maritime history;

“member” means a member of the Council;

“money of the Museum” includes money standing to the credit of the Fund; 35

“Museum” means the Australian National Maritime Museum established by section 5;

“national maritime collection” means the national collection of maritime historical material referred to in subsection 9 (1); 40

“vessel” means any kind of vessel or other craft that is, or has been, used in navigation by water, whether above or below the surface and however propelled or moved.

(2) Where, during a period, a place was a Territory referred to in section 122 of the Constitution (including a Territory administered by Australia under a Trusteeship Agreement), then, for the purposes of the definitions of “Australian marine environment” and “Australian maritime history” in subsection (1), a reference in those definitions to Australia includes a reference to the place during the period when it was such a Territory.

#### **Extension to external Territories**

4. This Act extends to all the external Territories.

## **10 PART 2—THE AUSTRALIAN NATIONAL MARITIME MUSEUM**

### **Establishment of Museum**

5. (1) There is established by this section a museum by the name of the Australian National Maritime Museum.

(2) The Museum:

- 15 (a) is a body corporate;
- (b) shall have a seal; and
- (c) may sue and be sued.

(3) The seal of the Museum shall be kept in such custody as the Council directs and shall not be used except as authorised by the Council.

(4) All courts, judges and persons acting judicially shall take judicial notice of the imprint of the seal of the Museum appearing on a document and shall presume the document was duly sealed.

### **Functions of Museum**

25 6. The functions of the Museum are:

- (a) to exhibit, or to make available for exhibition by others, in Australia or elsewhere, material included in the national maritime collection or maritime historical material that is otherwise in the possession of the Museum;
- 30 (b) to co-operate with other institutions (whether public or private) in the exhibiting, or in the making available for exhibition, of such material;
- (c) to develop, preserve and maintain the national maritime collection in accordance with section 9;
- 35 (d) to disseminate information relating to Australian maritime history and information relating to the Museum and its functions;
- (e) to conduct, arrange for and assist research into matters relating to Australian maritime history; and

- (f) to develop sponsorship, marketing and other commercial activities relating to the Museum's functions.

### **Powers of Museum**

7. (1) Subject to this Act, the Museum has power to do all things necessary or convenient to be done for or in connection with the performance of its functions and, in particular, has power: 5
- (a) to purchase, commission the creation of or take on hire, deposit or loan, maritime historical material; 10
  - (b) to lend or hire out or otherwise deal with maritime historical material; 10
  - (c) to recover, or to arrange for or assist in the recovery of, maritime historical material from the Australian marine environment and from other areas;
  - (d) to dispose of, in accordance with section 10, material included in the national maritime collection and to dispose of maritime historical material that is otherwise in the possession of the Museum; 15
  - (e) from time to time as the occasion requires, to exhibit in Australia or elsewhere, material, whether in written form or in any other form and whether relating to Australia or to a foreign country; 20
  - (f) to accept gifts, devises, bequests or assignments made to the Museum, whether on trust or otherwise, and whether unconditionally or subject to a condition and, if a gift, devise, bequest or assignment is accepted by the Museum on trust or subject to a condition, to act as trustee or to comply with the condition, as the case may be; 25
  - (g) to acquire and operate vessels, whether in Australian waters or otherwise and whether or not the vessels are maritime historical material;
  - (h) to collect, and make available (whether in writing or in any other form and whether by sale or otherwise), information relating to Australian maritime history; 30
  - (j) to make available information relating to the Museum and its functions;
  - (k) to make available (whether by sale or otherwise) reproductions, replicas or other representations (whether in writing or in any other form) of maritime historical material; 35
  - (m) to arrange for the manufacture and distribution of (whether by sale or otherwise), any article or thing bearing a mark, symbol or writing that is associated with the Museum; 40
  - (n) to enter into contracts;
  - (o) to acquire, hold and dispose of real or personal property;
  - (p) to erect buildings and structures and carry out works;

- (q) to take on leases of land or buildings and to grant leases and sub-leases of land or buildings;
- (r) to fix charges for entry onto any land, or into any building, owned by, or under the control of the Museum, being charges that:
  - (i) are in addition to the charges fixed by the regulations; and
  - (ii) relate to special exhibitions or other special events;
- (s) to purchase or take on hire, deposit or loan, and to dispose of or otherwise deal with, furnishings, equipment and other goods;
- (t) to raise money for the purposes of the Museum by appropriate means, having regard to the proper performance of the functions of the Museum;
- (u) to charge such fees and impose such charges (in addition to the charges fixed by regulations) as are reasonable in respect of services rendered by the Museum;
- (w) to act on behalf of the Commonwealth or of an authority of the Commonwealth in the administration of a trust relating to maritime historical material or related matters; and
- (y) to appoint agents and attorneys and act as an agent for other persons.

(2) The Museum may exercise its powers either alone or jointly with another person or other persons.

#### **Land etc. for Museum**

8. (1) The Minister may make available to the Museum for the purposes of the Museum:

- (a) such areas of land (including any buildings, structures or other improvements on those areas); and
- (b) such areas of water;

owned or held under lease by, or otherwise under the control of, the Commonwealth as are specified by the Minister by notice in the *Gazette*.

(2) The Minister may:

- (a) where the Council so requests, transfer or cause to be transferred to the Museum maritime historical material owned by the Commonwealth; and
- (b) transfer or cause to be transferred to the Museum such other goods or equipment owned by the Commonwealth as the Minister considers would be of use to the Museum.

(3) Where the Minister causes an asset to be transferred to the Museum under subsection (2), the Minister may, by writing signed by him or her, declare that the transfer shall be taken to have had effect from a specified day, not being a day earlier than the day on which

this Act commences, and, where the Minister makes such a declaration, it has effect accordingly.

(4) Where an asset of the Commonwealth is transferred to the Museum under subsection (2), the Museum becomes liable to pay and discharge all debts, liabilities and obligations of the Commonwealth (if any) that existed immediately before the transfer in respect of that asset.

(5) The Minister may, by writing signed by him or her, declare that a specified agreement or a specified instrument:

- (a) to which the Commonwealth or the Commonwealth Government is a party; and
- (b) that immediately before the commencement of this Act related to a maritime museum;

has effect, after the commencement of this Act, as if:

- (c) the Museum were substituted for the Commonwealth or the Commonwealth Government, as the case may be, as a party to the agreement or instrument; and
- (d) any reference in the agreement or instrument to the Commonwealth or the Commonwealth Government were (except in relation to matters that occurred before the commencement of this Act) a reference to the Museum;

and, where the Minister makes such a declaration, it has effect accordingly.

(6) The Minister may, by writing signed by him or her, delegate, to the person holding or performing the duties of the office of Secretary to the Department, all or any of the Minister's powers under this section.

### **National maritime collection**

9. (1) The Museum shall develop a national collection of maritime historical material.

(2) The national maritime collection shall consist of all maritime historical material in the sole ownership of the Museum that the Council has determined in accordance with subsection (3) should be included in the national maritime collection.

(3) The Council shall, from time to time, determine which of the maritime historical material that comes into the sole ownership of the Museum should be included in the national maritime collection.

(4) Any determination made by the Council for the purposes of subsection (3) shall be based upon criteria, and made in accordance with guidelines, approved by the Minister.



(5) The Museum shall not sell or otherwise dispose of material included in the national maritime collection except in accordance with section 10.

**Disposal of material in national maritime collection**

5      10. (1) Subject to subsections (2) and (3), where the Council is satisfied that material included in the national maritime collection:

- (a) is unfit for the collection; or
- (b) is not required as part of the collection;

10      the Council may determine that the material be disposed of by sale, exchange, gift or destruction.

15      (2) The Council shall not determine that material included in the national maritime collection be disposed of until the Council has obtained and considered reports from 2 independent experts setting out the views of those experts on the importance of the material to the national maritime collection.

(3) The Council shall not determine that material included in the national maritime collection be disposed of by destruction unless the Council is satisfied that the material cannot be disposed of by sale, exchange or gift.

20      (4) Where:

- (a) the Council has determined, in accordance with this section, that material included in the national maritime collection should be disposed of; and
- 25      (b) if the value of the material, as determined in accordance with regulations made for the purposes of this paragraph, exceeds \$10,000, the Minister has approved of its disposal;

the Museum may dispose of the material accordingly.

**PART 3—THE COUNCIL OF THE MUSEUM**

***Division 1—Establishment, functions etc. of Council***

30      **Establishment of Council**

11. There is established by this section a council by the name of the Council of the Australian National Maritime Museum.

**Functions of Council**

35      12. The functions of the Council are to ensure the proper and efficient performance of the functions of the Museum and, subject to section 14, to determine the policy of the Museum with respect to any matter.

**Council may give directions to Director**

13. (1) The Council may give directions to the Director regarding the management of the affairs of the Museum.

(2) The Director shall comply with any such directions.

**Directions to Council**

14. (1) The Minister may, by notice in writing to the Chairperson, give directions to the Council with respect to the performance of the functions, or the exercise of the powers, of the Museum.

(2) The Council shall comply with any such directions.

(3) The Minister shall cause a copy of each direction to be laid before each House of the Parliament within 6 sitting days of that House after the direction is given.

(4) A direction that is not laid before each House of the Parliament in accordance with subsection (3) ceases to have effect.

**Committees of Council**

15. (1) The Council may constitute such committees as it thinks necessary for the purposes of this Act.

(2) A committee may be constituted wholly by members of the Council or partly by one or more members of the Council and partly by one or more other persons.

**Delegation by Council**

16. (1) The Council may, by resolution, either generally, or as otherwise provided by the resolution, delegate all or any of its powers under this Act to the Director, to any other member or to a member of staff of the Museum.

(2) A delegate is, in the exercise of a power so delegated, subject to the directions of the Council.

(3) A delegation of a power under this section:

(a) may be revoked by resolution of the Council (whether or not constituted by the persons constituting the Council at the time the power was delegated); and

(b) continues in force notwithstanding a change in the membership of the Council.

***Division 2—Membership and meetings of Council*****Membership of Council**

17. (1) The Council shall consist of the following members:

(a) the Chairperson;

(b) the Director;

(c) not fewer than 7 nor more than 10 other members.

(2) The members referred to in paragraphs (1) (a) and (c) shall be appointed by the Governor-General as part-time members.

5 (3) An appointed member shall be a person having knowledge and experience with respect to matters relating to Australian maritime history or with respect to any other area of knowledge relevant to the affairs of the Museum.

10 (4) A person who has attained the age of 65 years shall not be appointed as a member and a person shall not be appointed as a member for a period that extends beyond the day on which the person will attain the age of 65 years.

(5) An appointed member holds office for such period, not exceeding 3 years, as is specified in the instrument of appointment of the member.

15 (6) The performance of the functions, or the exercise of the powers, of the Council is not affected merely because:

- (a) there is a vacancy in the office of Chairperson or Director; or
- (b) the number of persons appointed under paragraph (1) (c) falls below 7 for not longer than 3 months.

#### **Acting members**

20 18. (1) The Minister may appoint a person who is an appointed member to act as Chairperson:

- (a) during a vacancy in the office of Chairperson (whether or not an appointment has previously been made to the office); or
- 25 (b) during any period, or during all periods, when the Chairperson is absent from duty or from Australia or is, for any other reason, unable to perform the functions of the office of Chairperson.

(2) The Minister may appoint a person who is not a member to act as a member referred to in paragraph 17 (1) (c):

- 30 (a) during a vacancy in the office of the member (whether or not an appointment has previously been made to the office); or
- (b) during any period, or during all periods, when the member is absent from duty or from Australia or is, for any other reason (including the reason that the member is acting as Chairperson),  
35 unable to perform the duties of the office of member.

(3) A person appointed under this section to act during a vacancy shall not continue to act for more than 12 months.

(4) Anything done by or in relation to a person purporting to act under this section is not invalid on the ground that:

- 40 (a) the occasion for the person's appointment had not arisen;

- (b) there is a defect or irregularity in connection with the person's appointment;
- (c) the person's appointment had ceased to have effect; or
- (d) the occasion for the person to act had not arisen or had ceased.

**Leave of absence**

5

19. The Council may, in accordance with guidelines approved by the Minister, grant to an appointed member leave of absence from a meeting of the Council upon such terms and conditions as to remuneration or otherwise as the Council determines.

**Resignation**

10

20. An appointed member may resign the office of appointed member by writing signed by the appointed member and delivered to the Governor-General.

**Termination of appointment**

21. (1) The Governor-General may terminate the appointment of an appointed member by reason of the misbehaviour or physical or mental incapacity of that member.

15

(2) If an appointed member:

(a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit;

20

(b) is absent, except on leave granted by the Council in accordance with section 19, from 3 consecutive meetings of the Council otherwise than on business of the Council undertaken with the approval of the Council; or

25

(c) contravenes section 22 without reasonable excuse;

the Governor-General shall terminate the appointment of that member.

**Disclosure of interests**

22. (1) A member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Council shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Council.

30

(2) A disclosure under subsection (1) shall be recorded in the minutes of the meeting of the Council and the member shall not unless the Minister or the Council otherwise determines:

35

(a) be present during any deliberation of the Council with respect to that matter; or

(b) take part in any decision of the Council with respect to that matter.

40

(3) For the purpose of the Council making such a determination in relation to a member who has made a disclosure, a member who has a direct or indirect pecuniary interest in the matter to which the disclosure relates shall not:

- 5 (a) be present during any deliberation of the Council for the purpose of making the determination; or  
(b) take part in making the determination.

### **Meetings of Council**

23. (1) The Chairperson:

- 10 (a) shall convene such meetings of the Council as are necessary for the efficient conduct of its functions; and  
(b) shall, on receipt of a written request signed by not fewer than 4 members, convene a meeting of the Council.

(2) The Minister may at any time convene a meeting of the Council.

- 15 (3) The Chairperson shall preside at all meetings of the Council at which he or she is present.

(4) In the event of the absence of the Chairperson from a meeting of the Council, the members present shall elect one of their number to preside at that meeting.

- 20 (5) At a meeting of the Council, a quorum is constituted by a majority of the members.

- (6) Where, because of subsection 22 (2), a member is not present at a meeting of the Council during a deliberation of the Council with respect to a matter, but there would be a quorum if that member were present, the remaining members present constitute a quorum for the purpose of any deliberation or decision of the Council at the meeting with respect to that matter.

- 30 (7) Subject to subsection (8), all questions arising at a meeting of the Council shall be decided by a majority of the votes of the members present and voting, including the member presiding.

- 35 (8) In the event of an equality of votes on a resolution proposed at a meeting of the Council, the resolution shall be taken not to be passed but, if the same resolution is proposed at the first meeting of the Council held after the date of that first-mentioned meeting and there is again an equality of votes, the member presiding has a casting vote on the resolution.

(9) The Council may regulate the conduct of proceedings at its meetings as it thinks fit.

- 40 (10) The Council shall keep minutes of proceedings at its meetings and shall forward a copy of those minutes to the Minister.

(11) If the Council so determines, a member of the Council may participate in, and form part of a quorum at, a meeting of the Council by means of any of the following methods of communication:

- (a) telephone;
- (b) close circuit television;
- (c) any other method of communication determined by the Council.

(12) A determination of the Council under subsection (11) may be made in respect of a particular meeting, or in respect of all meetings, of the Council.

(13) A member of the Council who participates in a meeting as provided by subsection (11) shall be taken for the purposes of this Part to be present at the meeting.

(14) If the Council so determines, a resolution shall be taken to have been passed at a meeting of the Council if, without meeting, a majority of the members who would, if present at a meeting of the Council and entitled to vote on the resolution at that meeting, have constituted a quorum of the Council indicate agreement with the resolution in accordance with the method determined by the Council.

### **Remuneration and allowances**

24. (1) This section applies to a person who is:
- (a) an appointed member; or
  - (b) a member of a committee constituted under section 15 (other than a member of the Council).

(2) A person to whom this section applies shall be paid such remuneration as is determined by the Remuneration Tribunal but, if no determination of that remuneration by the Tribunal is in operation, the person shall be paid such remuneration as is prescribed.

(3) A person to whom this section applies shall be paid such allowances as are prescribed.

(4) This section has effect subject to the *Remuneration Tribunal Act 1973*.

### ***Division 3—Strategic plans and annual operational plans***

#### **Strategic plans**

25. (1) The Council shall develop, and prepare in writing, for each successive period determined in accordance with subsection (2), a strategic plan setting out the manner in which it is proposed that its functions will be performed during that period.

(2) The first strategic plan prepared in accordance with this section shall be expressed to relate to a period of 3 years commencing on a day occurring within 12 months after the commencement of this Act

and each subsequent strategic plan shall be expressed to relate to the period of 3 years commencing at the end of the period to which the immediately preceding strategic plan relates.

- 5 (3) A strategic plan prepared in accordance with this section shall be laid before each House of the Parliament within 15 sitting days of that House after approval by the Minister of the plan.

#### **Approval and commencement of strategic plans**

26. A strategic plan prepared under section 25:

- 10 (a) shall be submitted to the Minister for approval not less than 3 months, or such lesser period as the Minister, in special circumstances, allows, before the day of commencement of the period to which the strategic plan relates; and
- (b) shall come into force on:
- 15 (i) the day on which it is approved by the Minister; or
- (ii) the day of commencement of the period to which it relates;
- whichever is the later.

#### **Variation of strategic plans**

- 20 27. (1) The Council shall from time to time, during the period in respect of which a strategic plan prepared under section 25 is in force, consider whether a variation of the strategic plan is necessary.

(2) Where the Council considers that a variation of a strategic plan is necessary, the Council may, with the approval of the Minister, vary the strategic plan.

- 25 (3) Where a variation of a strategic plan is approved by the Minister the plan as so varied shall continue in force on and after the day on which the variation is so approved as if the plan had originally been approved by the Minister as so varied.

- 30 (4) A variation of a strategic plan prepared in accordance with this section shall be laid before each House of the Parliament within 15 sitting days of that House after approval by the Minister of the variation.

#### **Annual operational plans**

- 35 28. (1) The Council shall develop, and prepare in writing, in respect of each financial year ending after the commencement of this Act, an operational plan, setting out particulars of:

- (a) the programs the Council proposes to carry out; and
- (b) the resources the Council proposes to allocate to each program;
- during the year in giving effect to the strategic plan that relates, or the intended strategic plan that will relate, to a period that includes that
- 40 year or a part of that year.

(2) If the Minister is of the opinion that an operational plan in relation to a financial year is inconsistent with the strategic plan relating to the period that includes that year or a part of that year, the Minister may, in writing, request the Council to revise the operational plan.

(3) The Council may at any time, revise an operational plan, and shall revise the plan if the Minister requests it under subsection (2) to do so and gives written reasons for the request.

(4) An operational plan, or a revision of an operational plan:

(a) shall be submitted to the Minister as soon as practicable; and

(b) comes into force when it is approved, in writing, by the Minister.

(5) The Minister shall approve an operational plan, or a revision of an operational plan, unless the Minister is of the opinion that the plan, or the plan as proposed to be revised, as the case may be, is inconsistent with the strategic plan.

### **Compliance with plans**

29. To the extent that it is practicable to do so and subject to this Act, the Museum shall perform its functions and exercise its powers in a manner that is consistent with, and is designed to give effect to, any strategic plan and any operational plans that are in force.

## **PART 4—THE DIRECTOR OF THE MUSEUM**

### **Director**

30. (1) There shall be a Director of the Museum who shall be appointed by the Governor-General.

(2) A person who has attained the age of 65 years shall not be appointed as Director and a person shall not be appointed as Director for a period that extends beyond the day on which the person will attain the age of 65 years.

(3) The Director holds office for such period, not exceeding 7 years, as is specified in the instrument of appointment of the Director.

(4) The Director holds office on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined by the Governor-General.

### **Duties of Director**

31. (1) The Director shall manage the affairs of the Museum subject to the directions of, and in accordance with policies determined by, the Council.

(2) All acts and things done in the name of, or on behalf of, the Museum by the Director shall be deemed to have been done by the Museum.



**Director not to engage in other work**

32. The Director shall not engage in paid employment outside the duties of his or her office except with the approval of the Minister.

**Remuneration and allowances**

5 33. (1) The Director shall be paid such remuneration as is determined by the Remuneration Tribunal but, if no determination of that remuneration by the Tribunal is in operation, the Director shall be paid such remuneration as is prescribed.

(2) The Director shall be paid such allowances as are prescribed.

10 (3) This section has effect subject to the *Remuneration Tribunal Act* 1973.

**Leave of absence**

15 34. (1) Subject to subsection (2), the Minister may grant leave of absence to the Director on such terms and conditions as to remuneration or otherwise as the Minister determines.

(2) The Chairperson may grant leave of absence to the Director, on such terms and conditions as to remuneration or otherwise as the Chairperson determines, if the period of the leave of absence is less than 5 working days.

20 **Resignation**

35. The Director may resign the office of Director by writing signed by the Director and delivered to the Governor-General.

**Termination of appointment**

25 36. (1) The Governor-General may terminate the appointment of the Director by reason of the misbehaviour or physical or mental incapacity of the Director.

(2) If the Director:

30 (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit;

(b) is absent from duty, except on leave granted by the Minister or by the Chairperson in accordance with section 34, for 14 consecutive days or for 28 days in any 12 months;

35 (c) is absent, except on leave granted by the Minister or by the Chairperson in accordance with section 34, from 3 consecutive meetings of the Council otherwise than on business of the Council undertaken with the approval of the Council;

40 (d) engages in paid employment outside the duties of his or her office without the approval of the Minister; or

(e) contravenes section 22 or 37 without reasonable excuse;  
the Governor-General shall terminate the appointment of the Director.

### **Disclosure of interests**

37. The Director shall give a written notice to the Minister of all direct or indirect pecuniary interests that the Director has or acquires in any business or in any body corporate carrying on any business.

### **Acting Director**

38. (1) The Minister may appoint a person other than a member to act as Director:

- (a) during a vacancy in the office of Director (whether or not an appointment has previously been made to the office); or
- (b) during any period, or during all periods, when the Director is absent from duty or from Australia or is, for any other reason, unable to perform the duties of the office of Director;

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

(2) Anything done by or in relation to a person purporting to act under this section is not invalid on the ground that:

- (a) the occasion for the person's appointment had not arisen;
- (b) there is a defect or irregularity in connection with the person's appointment;
- (c) the person's appointment had ceased to have effect; or
- (d) the occasion for the person to act had not arisen or had ceased.

### **Delegation by Director**

39. The Director may, with the approval of the Council, either generally or as otherwise provided by the instrument of delegation, by writing signed by the Director, delegate to a member of the staff of the Museum all or any of the Director's powers under this Act.

## **PART 5—STAFF AND CONSULTANTS**

### **Staff**

40. (1) Subject to section 41, the staff of the Museum shall be persons appointed or employed under the *Public Service Act 1922*.

(2) The Director has all the powers of, or exercisable by, a Secretary of a Department of the Australian Public Service under the *Public Service Act 1922*, so far as those powers relate to the branch of the Australian Public Service comprising the staff referred to in subsection (1), as if that branch were a separate Department of the Australian Public Service.

**Arrangements relating to staff**

41. (1) The Director may, on behalf of the Museum, arrange with the Secretary of a Department of the Australian Public Service, or with a body established for a public purpose by or under a law of the Commonwealth, for the services of officers or employees of the Department or body to be made available to the Museum.

(2) The Director may, on behalf of the Museum, enter into an arrangement with the appropriate authority of a State or Territory for the services of officers or employees of the Public Service of the State or Territory, or of a body established for a public purpose by or under a law of the State or Territory, to be made available to the Museum.

**Engagement of consultants**

42. (1) The Director may, on behalf of the Museum, engage persons having suitable qualifications and experience as consultants to the Museum.

(2) The terms and conditions of the engagement of a person under subsection (1) are such as are determined by the Director.

**PART 6—FINANCE**

**Appropriation of money**

43. (1) There is payable to the Museum such money as is appropriated by the Parliament for the purposes of the Museum.

(2) The Minister for Finance may give directions as to the amounts in which, and the times at which, money referred to in subsection (1) is to be paid to the Museum.

**Australian National Maritime Museum Fund**

44. (1) There is established by this section a fund by the name of the Australian National Maritime Museum Fund.

(2) Income received from the investment of money standing to the credit of the Fund forms part of the Fund.

(3) There shall be paid into the Fund:

(a) gifts and bequests of money accepted by the Museum otherwise than on trust; and

(b) money received by the Museum (other than money to be held on trust by the Museum) from the disposal of property given, devised, bequeathed or assigned to the Museum.

(4) The payment of money into a bank account maintained by the Museum in accordance with section 63J of the *Audit Act 1901* (as that section applies because of section 48 of this Act) under the name of the Australian National Maritime Museum Fund shall be deemed, for

the purposes of subsection (3) of this section, to be a payment of the money into the Fund.

### **Application of money**

**45. (1)** The money of the Museum shall be applied only:

- (a) in payment or discharge of the costs, expenses and other obligations incurred by the Museum in the performance of its functions or the exercise of its powers under this Act; and 5
- (b) in payment of any remuneration and allowances payable to any person under this Act.

**(2)** Money of the Museum not immediately required for the purposes of the Museum may be invested: 10

- (a) on deposit with a bank that is an approved bank for the purposes of section 63J of the *Audit Act 1901*;
- (b) in securities of the Commonwealth; or
- (c) in any other manner approved by the Treasurer. 15

### **Estimates**

**46. (1)** The Museum shall prepare estimates, in such form as the Minister directs, of the receipts and expenditure of the Museum for each financial year and, if the Minister so directs, for any other period specified by the Minister. 20

**(2)** Subject to subsection (3), the Museum shall submit estimates so prepared to the Minister not later than such date as the Minister determines.

**(3)** The Museum shall not submit estimates to the Minister that have not been approved by the Council. 25

**(4)** Estimates referred to in this section shall not include estimates of receipts by the Museum of money to be held on trust or of expenditure by the Museum of money held on trust.

**(5)** The money of the Museum, other than money held on trust, shall not be expended otherwise than in accordance with estimates of expenditure approved by the Minister. 30

### **Contracts**

**47. (1)** Subject to subsection 10 (4), the Museum shall not, except with the approval of the Minister, enter into a contract under which the Museum is to pay or receive: 35

- (a) in the case of a contract for the acquisition of any maritime historical material—an amount exceeding \$100,000 or, if a higher amount is prescribed for the purposes of this paragraph, an amount exceeding that higher amount; or

- (b) in any other case—an amount exceeding \$100,000 or, if a higher amount is prescribed for the purposes of this paragraph, an amount exceeding that higher amount.

(2) The Museum shall not, except with the approval of the Minister, enter into a lease of land for a period exceeding 10 years.

(3) Subsection (1) does not apply to the investment of money by the Museum in accordance with subsection 45 (2) or paragraph 50 (2) (b).

**Application to Museum of Division 3 of Part XI of Audit Act**

48. (1) It is hereby declared that the Museum is a public authority to which Division 3 of Part XI of the *Audit Act 1901* applies.

(2) In the application of section 63M of the *Audit Act 1901*, as that section applies, because of subsection (1) of this section, in relation to the annual reports and financial statements of the Museum, the period commencing on the day on which this Act commences and ending on 30 June next following that day shall be treated, for the purposes of preparing and submitting the first such report and financial statements, as if it were a period of one year ending on that 30 June.

(3) Each annual report submitted by the Museum under section 63M of the *Audit Act 1901*, as that section applies because of subsection (1) of this section, shall include:

- (a) particulars of each direction given by the Minister to the Council under section 14 of this Act during the financial year to which the report relates;
- (b) any operational plan, or revision of an operational plan, that came into force during the financial year; and
- (c) an assessment of the extent to which the Museum's operations during the financial year have contributed to the objectives set out in the strategic plan and the operational plan that were in force during the financial year.

**Exemption from taxation**

49. The Museum is not subject to taxation under any law of the Commonwealth or of a State or Territory, and, in particular:

- (a) the income, property and transactions of the Museum are not subject to taxation under:
  - (i) the laws of the Commonwealth relating to sales tax; or
  - (ii) the *Debts Tax Act 1982*; and
- (b) the transactions of the Museum in respect of goods for use (whether as goods or in some other form), and not for sale, by the Museum are not subject to taxation under the laws of the Commonwealth relating to sales tax.

## PART 7—MISCELLANEOUS

## Trust money etc.

50. (1) The Museum shall ensure that any money received or held by the Museum on trust is paid into an account opened and maintained under section 63J of the *Audit Act 1901* (as that section applies because of section 48 of this Act) that does not, or accounts referred to in that section that do not, contain any money of the Museum not held on trust.

(2) Notwithstanding anything contained in this Act:

(a) money or other property held by the Museum on trust or accepted by the Museum subject to a condition shall not be dealt with except in accordance with the obligations of the Museum as trustee of the trust or as the person who has accepted the money or other property subject to the condition, as the case may be; and

(b) money held by the Museum on trust may be invested:

(i) in any manner in which the Museum is authorised to invest that money by the terms of the trust; or

(ii) in any manner in which trust money may, for the time being, be invested under law;

but not otherwise.

(3) Section 63K of the *Audit Act 1901* (as that section applies because of section 48 of this Act) has effect as if:

(a) the reference in that section to the transactions and affairs of the Museum included a reference to transactions and affairs relating to money or property received or held by the Museum on trust; and

(b) the reference in that section to payments out of the money of the Museum included a reference to payments out of money held by the Museum on trust.

(4) Section 63L of the *Audit Act 1901* (as that section applies because of section 48 of this Act) has effect as if:

(a) the reference in subsection 63L (1) to financial transactions of the Museum included a reference to transactions relating to money received or held by the Museum on trust;

(b) the reference in subsection 63L (1) to assets of, or in the custody of, the Museum included a reference to assets held by the Museum on trust;

(c) the reference in subsection 63L (4) to the receipt or payment of money by the Museum included a reference to the receipt or payment by the Museum of money received or held by the Museum on trust; and

- (d) the reference in subsection 63L (4) to the acquisition, receipt, custody or disposal of assets by the Museum included a reference to the acquisition, receipt, custody or disposal by the Museum of assets received or held by the Museum on trust.

**5 Limits on charges**

**51.** The amount or rate of a charge fixed under this Act shall not be such as to amount to taxation.

**Operation of certain other laws not affected**

- 52.** Nothing in this Act affects the operation of any law (whether passed before or after the commencement of this Act) relating to copyright, to the preservation and use of archival resources or to the rights of members of the public to access to official documents of the Government of the Commonwealth and of its agencies.

**Supply of liquor**

- 53. (1)** The regulations may make provision for and in relation to the sale, supply, disposal, possession or control of liquor on or in any land, building or vessel owned by, or under the control of, the Museum.

- (2)** Regulations referred to in subsection (1) that are in force in respect of land, or a building or vessel, owned by, or under the control of, the Museum, have effect to the exclusion of any provisions of the law of a State or Territory that would otherwise apply.

**(3)** In this section, “liquor” means any liquid containing alcohol ordinarily used, or fit for use, as a beverage.

**Regulations**

- 54. (1)** The Governor-General may make regulations, not inconsistent with this Act, prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient for carrying out or giving effect to this Act;

and, in particular, may make regulations:

- (c) regulating, restricting or prohibiting the entry of persons onto or into any Museum premises, or any part of any Museum premises, and regulating the conduct of persons on or in any Museum premises, or any part of any Museum premises, including making provision for and in relation to the removal of persons from any Museum premises, or any part of any Museum premises;
- (d) fixing charges for entering any Museum premises;
- (e) regulating, restricting or prohibiting the making, using, printing, publishing, exhibiting, selling or offering for sale of replicas, photographs, representations or copies of maritime historical material in the ownership or possession of the Museum; and

(f) prescribing penalties not exceeding a fine of \$500 for offences against the regulations.

(2) In subsection (1):

“Museum premises” means an area of land or water, or a building, structure or vessel, being an area, or a building, structure or vessel, as the case may be, that is owned by, or under the control of, the Museum.

5

