



Arts, Environment, Tourism and Territories Legislation Amendment Act 1990

No. 88 of 1990

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Arts, Environment, Tourism and Territories Legislation Amendment Act 1990

No. 88 of 1990

An Act to amend legislation relating to the arts, the environment, tourism and Territories

[Assented to 20 November 1990]

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 *Arts, Environment, Tourism and
Territories Legislation Amendment Act 1990*.

Commencement

- 10 2. (1) Parts 1, 4, 5, 6, 7 and 8 commence on the day on which this
Act receives the Royal Assent.
- 15 (2) Part 2 is taken to have commenced immediately after the
commencement of section 6 of the *Arts, Territories and Environment
Legislation Amendment Act 1989*.
- (3) Part 3 is taken to have commenced immediately after the
commencement of section 55 of the *Australian Capital Territory
(Planning and Land Management) Act 1989*.

**PART 5—AMENDMENTS OF THE NATIONAL GALLERY ACT
1975**

Principal Act

5 9. In this Part, “Principal Act” means the *National Gallery Act 1975*⁴.

Disposal of works of art from national collection

10 10. Section 9 of the Principal Act is amended:

- (a) by omitting from subsection (1) “subsections (3) and (4)” and substituting “subsection (4)”;
- (b) by omitting subsection (3).

Application of Division 3 of Part XI of Audit Act

15 11. Section 40 of the Principal Act is amended by adding at the end the following subsection:

“(2) The Gallery must, in each report prepared under section 63M of the *Audit Act 1901* (as that section applies by virtue of subsection (1) of this section), include particulars of any disposals of works of art under section 9 during the financial year to which the report relates.”.

**PART 6—AMENDMENT OF THE NATIONAL PARKS AND
WILDLIFE CONSERVATION ACT 1975**

20 **Principal Act**

12. In this Part, “Principal Act” means the *N. tional Parks and Wildlife Conservation Act 1975*⁵.

Repeal of section 67

13. Section 67 of the Principal Act is repealed.

25 **PART 7—AMENDMENTS OF THE PROTECTION OF
MOVABLE CULTURAL HERITAGE ACT 1986**

Principal Act

14. In this Part, “Principal Act” means the *Protection of Movable Cultural Heritage Act 1986*⁶.

30 **Interpretation**

15. Section 3 of the Principal Act is amended by inserting in subsection (1) the following definition:

“‘principal collecting institution’ means:

- (a) a public art gallery; or
- 35 (b) a public museum; or

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- (c) a public library; or
 - (d) public archives;
- established under a law of the Commonwealth, a State or a Territory;”.

Grant of permits in respect of particular objects

16. Section 10 of the Principal Act is amended by inserting in paragraph (5)(a) “to export the Class B object concerned” after “permit”. 5

Insertion of new section

17. After section 10 of the Principal Act the following section is inserted: 10

Grant of general permits for certain institutions

“10A. (1) A principal collecting institution may apply to the Minister for a permit to export a Class B object that is accessioned into the collection for which the institution is responsible.

“(2) If a principal collecting institution is not a body corporate, the person responsible for the institution’s operations may make an application under subsection (1). 15

“(3) An application is to be made in writing in the prescribed form, or, if no form is prescribed, the form approved by the Minister.

“(4) On receipt of an application, the Minister must refer it to the Committee. 20

“(5) The Committee must submit to the Minister a written report on the application.

“(6) The Minister must consider the report and:

(a) grant to the applicant a permit to export any Class B object that is accessioned into the collection for which the institution is responsible; or 25

(b) refuse to grant a permit.

“(7) A permit is subject to:

(a) a condition that an exportation of a Class B object is not in accordance with the permit unless it is exported on loan for the purposes of research, public exhibition or a similar purpose; and 30

(b) such other conditions (if any) as the Minister specifies in the permit. 35

“(8) If the Minister refuses to grant a permit, the Minister must, within the prescribed period after the decision is made, cause to be served on the applicant written notice of the refusal, setting out the reasons for the refusal.”.

Permits

18. Section 11 of the Principal Act is amended by inserting in subsections (1) and (2) "or 10A" after "section 10".

Insertion of new section

5 19. After section 13 of the Principal Act, the following section is inserted in Division 1 of Part II:

Address for service of notices

10 "13A. (1) A person applying for a permit under section 10 or 10A or a certificate under section 12 must specify, as the person's address for the purposes of this Part, an address in Australia.

15 "(2) A person who has specified an address, under subsection (1) or through a previous application of this subsection, may, at any time, give to the Minister a written notice specifying, as the person's address for the purposes of this Part, an address in Australia that is different from the address last specified.

"(3) The last address specified by a person under this section is taken to be the person's place of residence or business for the purpose of serving notices on the person under this Part."

Unlawful imports

20 20. Section 14 of the Principal Act is amended by adding at the end the following subsections:

"(3) This section does not apply in relation to the importation of an object if:

- 25 (a) the importation takes place under an agreement between:
- (i) the Commonwealth, a State, a Territory, a principal collecting institution or an exhibition co-ordinator; and
 - (ii) any other person or body (including a government); and
- 30 (b) the agreement provides for the object to be loaned, for a period not exceeding 2 years, to the Commonwealth, State, Territory, principal collecting institution or exhibition co-ordinator, as the case may be, for the purpose of its public exhibition within Australia.

"(4) In subsection (3):

35 'exhibition co-ordinator' means a body that arranges for the conducting in Australia of public exhibitions of objects from collections outside Australia, and that achieves this by, from time to time:

- 40 (a) entering into an agreement with a person or body (including a government) for the importation of such objects on loan; and
- (b) entering into an agreement with the Commonwealth, a State or a Territory under which the Commonwealth, State or Territory

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agrees to compensate the person or body referred to in paragraph (a) for any loss of or damage to the objects arising from, or connected with, the carrying out of the agreement referred to in that paragraph or the public exhibition of the objects in Australia.”

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Functions of Committee

21. Section 16 of the Principal Act is amended by omitting from paragraph (b) “subsection 10 (4)” and substituting “subsections 10 (4) and 10A (5)”.

Constitution of Committee

10

22. Section 17 of the Principal Act is amended by inserting after subsection (1) the following subsection:

“(1A) The member referred to in paragraph (1) (c) must be:

(a) a person of the Aboriginal race of Australia; or

(b) a descendant of an indigenous inhabitant of the Torres Strait Islands.”

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Administrative Appeals Tribunal

23. Section 48 of the Principal Act is amended by inserting in paragraph 48 (1) (b) “, 10A (7) (b)” after “10 (5) (a)”.

PART 8—AMENDMENTS OF THE PUBLIC LENDING RIGHT ACT 1985 20

Principal Act

24. In this Part, “Principal Act” means the *Public Lending Right Act 1985*.”

Membership of Committee

25

25. Section 9 of the Principal Act is amended by inserting at the end the following subsection:

“(8) The performance of the Committee’s functions and the exercise of its powers are not affected merely because of vacancies in the Committee’s membership ”.

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Insertion of new sections

26. After section 16 of the Principal Act the following sections are inserted:

Conduct of meetings

“16A. (1) If the Committee so determines, a member may participate in, and form part of a quorum at, a meeting of the Committee by means of any of the following methods of communication:

35

(a) telephone;

- (b) closed circuit television;
- (c) another method of communication determined by the Committee.

5 “(2) A determination may be made in respect of a particular meeting, or in respect of all meetings of the Committee.

“(3) A member who participates in a meeting as provided by subsection (1) is taken to be present at the meeting.

Resolutions without meetings

10 “16B. Where the Committee so determines, a resolution is taken to have been passed at a meeting of the Committee if:

- (a) without meeting, a majority of the number of members indicate agreement with the resolution in accordance with the method determined by the Committee; and
- 15 (b) that majority would, if present at a meeting of the Committee and entitled to vote on the resolution at that meeting, have constituted a quorum.”

PART 9—AMENDMENTS OF THE SEAT OF GOVERNMENT (ADMINISTRATION) ACT 1910

Principal Act

20 27. In this Part, “Principal Act” means the *Seat of Government (Administration) Act 1910*⁸.

Ordinances

28. Section 12 of the Principal Act is amended:

- 25 (a) by omitting paragraph (1)(a) and substituting the following paragraph:

“(a) the jurisdiction, practice and procedure of the Supreme Court of the Territory;”;

- (b) by omitting subsection (1B) and substituting the following subsection:

30 “(1B) Subject to subsection (1C), paragraphs (1)(a), (c) and (k) cease to have effect:

- (a) on or after 1 July 1992; or
- 35 (b) after regulations made for the purposes of subsection 34(6) of the *Australian Capital Territory (Self-Government) Act 1988* have amended Schedule 3 to that Act by omitting all the laws in that Schedule, other than those referred to in Schedule 5 to that Act;

whichever occurs sooner.”;

- 40 (c) by omitting from subsection (1C) “1 July 1990” and substituting “1 July 1992”.

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NOTES

1. No. 60, 1989.
2. No. 108, 1988.
3. No. 136, 1987.
4. No. 61, 1975, as amended. For previous amendments, see No. 36, 1978; No. 65, 1985 (as amended by No. 193, 1985); and Nos. 21 and 60, 1989.
5. No. 12, 1975, as amended. For previous amendments, see Nos. 29 and 36, 1978; Nos. 42 and 155, 1979; No. 70, 1980; No. 111, 1982; Nos. 10, 63 and 72, 1984; No. 94, 1985; No. 76, 1986; Nos. 15 and 16, 1987; No. 38, 1988; and No. 21, 1989.
6. No. 11, 1986, as amended. For previous amendments, see No. 126, 1988.
7. No. 200, 1985.
8. No. 25, 1910, as amended. For previous amendments, see No. 9, 1927; No. 44, 1928; No. 2, 1930; No. 9, 1931; No. 4, 1933; No. 86, 1939; No. 14, 1940; No. 10, 1947; No. 70, 1955; No. 90, 1959; No. 24, 1963; No. 111, 1965; No. 90, 1970; No. 38, 1972; No. 216, 1973; No. 40, 1978; No. 26, 1982; No. 115, 1983; No. 65, 1985; No. 168, 1986; Nos. 38, 87, 99, 108 and 109, 1988; and No. 21, 1989.

[*Minister's second reading speech made in—*
House of Representatives on 10 October 1990
Senate on 17 October 1990]