

South Australia

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HISTORY TRUST OF SOUTH AUSTRALIA ACT 1981

An Act to establish the History Trust of South Australia; to define its powers and functions; and for other purposes.

*This Act is reprinted pursuant to the Acts Republication Act 1967 and incorporates all amendments in force as at **14 September 2000**.*

It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.

HISTORY TRUST OF SOUTH AUSTRALIA ACT 1981

being

History Trust of South Australia Act 1981 No. 36 of 1981
[Assented to 19 March 1981]¹

as amended by

History Trust of South Australia (Leasing of Property) Amendment Act 1995 No. 61 of 1995 [Assented to 10 August 1995]
Financial Sector Reform (South Australia) Act 1999 No. 33 of 1999 [Assented to 17 June 1999]²
History Trust of South Australia (Old Parliament House) Amendment Act 2000 No. 47 of 2000 [Assented to 13 July 2000]³

¹ Came into operation 26 March 1981: *Gaz.* 26 March 1981, p. 796.

² Schedule (item 27) came into operation 1 July 1999: being the date specified under section 3(16) of the *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999* of the Commonwealth as the transfer date for the purposes of that Act.

³ **Came into operation 14 September 2000: *Gaz.* 7 September 2000, p. 1637.**

NOTE:

- Asterisks indicate repeal or deletion of text.
- Entries appearing in bold type indicate the amendments incorporated since the last reprint.
- For the legislative history of the Act see Appendix.

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The Parliament of South Australia enacts as follows:

**PART 1
PRELIMINARY**

Short title

1. This Act may be cited as the *History Trust of South Australia Act 1981*.

Commencement

2. This Act shall come into operation on a day to be fixed by proclamation.

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Interpretation

4. In this Act, unless the contrary intention appears—

"**member**" of the Trust includes the Chairman;

"**museum**" means premises in which objects illustrative of, or relevant to, the history of the State are cared for and exhibited (whether or not the premises are devoted exclusively to the care or exhibition of such objects);

"**object**" includes a document, picture, specimen or artifact (but does not include an item as defined in the *South Australian Heritage Act 1978-1980* or the *Aboriginal Heritage Act 1979*);

"**the Trust**" means the History Trust of South Australia established under Part 2 of this Act.

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This Act not to affect operation of certain other Acts

6. This Act does not affect the operation of—

(a) the *South Australian Museum Act 1976-1980*; or

(b) the *South Australian Heritage Act 1978-1980*; or

(c) the *Aboriginal Heritage Act 1979*.

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PART 2
THE HISTORY TRUST OF SOUTH AUSTRALIA
DIVISION 1—CONSTITUTION OF THE TRUST

Establishment of the Trust

7. (1) There shall be a body entitled the "History Trust of South Australia".

(2) The Trust—

- (a) shall be a body corporate with perpetual succession and a common seal; and
- (b) shall be capable of suing and being sued; and
- (c) shall be capable in its corporate name of acquiring, holding and disposing of real and personal property; and
- (d) shall be capable of acquiring or incurring any other rights or liabilities; and
- (e) shall have the powers, authorities, duties and obligations prescribed by or under this Act.

(3) Where an apparently genuine document purports to bear the common seal of the Trust, it shall be presumed in any legal proceedings, in the absence of proof to the contrary, that the common seal of the Trust was duly affixed to that document.

(4) The Trust shall be subject to the control and direction of the Minister.

Membership of the Trust

8. (1) The Trust shall consist of eight members appointed by the Governor.

(2) One of the members of the Trust shall be appointed by the Governor to be Chairman of the Trust.

(3) The Governor may appoint a suitable person to be a deputy of a member of the Trust and a person so appointed may act as a member of the Trust in the absence of the member of whom he has been appointed a deputy.

Conditions of membership

9. (1) A member of the Trust shall be appointed—

- (a) if he is one of the first members of the Trust—for a term of office not exceeding three years specified in the instrument of his appointment;
- (b) in any other case—for a term of three years.

(2) A member of the Trust shall, upon the expiration of a term of appointment, be eligible for re-appointment but no member shall be appointed for more than three consecutive terms.

(3) The Governor may remove a member of the Trust from office for—

- (a) mental or physical incapacity that prevents the member from satisfactorily carrying out his duties as such; or
- (b) neglect of duty; or

(c) dishonourable conduct.

(4) The office of a member of the Trust becomes vacant if—

(a) he dies; or

(b) his term of office expires; or

(c) he resigns by written notice addressed to the Minister; or

(d) he is removed by the Governor under subsection (3).

(5) Upon the office of a member of the Trust becoming vacant, a person shall be appointed in accordance with this Act to the vacant office, but where the office of a member becomes vacant before the expiration of the term for which he was appointed, a person appointed to the vacant office shall be appointed only for the balance of that term.

Disclosure of interest

10. (1) A member of the Trust who is directly or indirectly interested in a contract, or proposed contract, made by, or in contemplation of the Trust—

(a) shall as soon as he becomes aware of the contract, or the proposal to make the contract, disclose the nature of his interest to the Trust; and

(b) shall not take part in any deliberations or decision of the Trust with respect to that contract.

Penalty: One thousand dollars.

(2) Subsection (1) does not apply in respect of an interest that exists only by virtue of the fact that a member is an employee of the Trust.

(3) A disclosure made under this section shall be recorded in the minutes of the Trust.

(4) Where a member makes a disclosure of interest in respect of a contract or proposed contract in accordance with this section, or his interest in a contract or proposed contract is not such as need be disclosed under this section—

(a) the contract is not liable to be avoided by the Trust on any ground arising from the fiduciary relationship between the member and the Trust; and

(b) the member is not liable to account to the Trust for profits derived from the contract.

Remuneration, allowances and expenses

11. A member of the Trust shall, if the Minister thinks fit, be entitled to such remuneration, allowances and expenses as may be determined by the Minister.

Procedure at meetings of the Trust

12. (1) Five members of the Trust shall constitute a quorum of the Trust.

(2) The Chairman shall preside at every meeting of the Trust at which he is present, and in the absence of the Chairman, a member chosen by the members present at the meeting shall preside.

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(3) A decision carried by a majority of the votes of the members present at a meeting of the Trust shall be a decision of the Trust.

(4) Each member present at a meeting shall be entitled to one vote on any matter arising for decision at that meeting, and in the event of an equality of votes on any matter, the person presiding at the meeting shall have a second, or casting, vote.

(5) The Trust shall cause minutes to be kept of its proceedings at meetings.

(6) Subject to this Act, the business of the Trust shall be conducted in such manner as the Trust may determine.

Validity of acts of the Trust and immunity of its members

13. (1) An Act or proceeding of the Trust shall not be invalid by reason only of a vacancy, or vacancies, in its membership.

(2) No liability shall attach to a member of the Trust for any act or omission by him, or by the Trust, in good faith and in the exercise of his or its powers or functions, or in the discharge of his or its duties under this Act.

DIVISION 2—FUNCTIONS AND POWERS OF THE TRUST

General functions and powers of the Trust

14. (1) The functions of the Trust are as follows:

- (a) to carry out, or promote, research relevant to the history of the State; and
- (b) to accumulate and classify data on any subject of significance to the history of the State; and
- (c) to accumulate and care for objects of historical interest; and
- (d) to exhibit objects of historical or cultural interest; and
- (e) to maintain registers of objects of historical significance to the State; and
- (f) to manage and administer museums and other premises that are vested in, or placed under the care, control and management of the Trust; and
- (g) to provide facilities for light refreshment and other amenities in premises vested in or placed under the care, control and management of the Trust; and
- (h) to accredit or otherwise to evaluate museums, and to advise the Minister on the operation of museums and on the allocation of funds or other forms of assistance that may be available for the promotion or development of museums; and
- (i) to disseminate, or encourage the dissemination of, information relevant to the history of the State; and
- (j) to encourage the conservation of objects of historical significance to the State; and
- (k) to advise the Minister on the conservation of objects in the ownership or possession of the Crown that are of historical significance to the State; and
- (l) to perform any other functions assigned to the Trust by or under this Act.

- (2) For the purpose, or in the course, of performing its functions, the Trust may—
- (a) establish sub-committees (which may, but need not, consist of, or include, members of the Trust) to advise the Trust on any aspect of its functions;
 - (b) delegate any of its powers under this Act to a sub-committee, member of the Trust or other person;
 - (c) purchase, receive, take on hire or loan, or otherwise acquire objects of historical or cultural interest;
 - (d) sell, lend, or exchange objects of historical or cultural interest;
 - (e) purchase, receive, take on hire or loan, or otherwise acquire, hold, deal with or dispose of real or personal property;
 - (f) make charges for admission to any museum or premises vested in, or under the care, control and management of, the Trust;
 - (g) make charges for any services or amenities provided by the Trust;
 - (h) apply for, and hold, licences under the *Licensing Act 1967-1980*;
 - (i) enter into any contract or arrangement relevant to the functions of the Trust.

(3) A delegation under subsection (2)(b) is revocable at will and does not derogate from the power of the Trust to act itself in any matter.

(4) A member of the Trust has no authority to act on behalf of the Trust except to the extent that such an authority is conferred on him by delegation or resolution of the Trust (but this subsection does not prevent the subsequent ratification by the Trust of an act of a member done purportedly on behalf of the Trust).

(5) The Trust is not obliged to accept or retain material that is not, in the opinion of the Trust, of sufficient historical or cultural interest to justify preservation under this Act.

(6) Where the Trust accepts a gift or bequest of an object of historical or cultural interest, it shall not, without the consent of the Minister, sell or dispose of that object.

DIVISION 3—HISTORIC PREMISES

Historic premises

15.

* * * * *

- (2) Where—
- (a) premises situated upon land of the Crown are, in the opinion of the Governor, of historical significance to the State; or
 - (b) it would, in the opinion of the Governor, be otherwise expedient for land of the Crown to be placed under the care, control and management of the Trust,

the Governor may place that land under the care, control and management of the Trust.

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(3) Land placed under the care, control and management of the Trust, by or under this section shall be administered by the Trust in accordance with the provisions of this Act.

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DIVISION 4—STAFF OF THE TRUST

Officers and employees

16. (1) The Governor may, subject to and in accordance with the *Public Service Act 1967-1978*, appoint officers to assist the Trust in the administration of this Act.

(2) An officer so appointed shall hold office in accordance with the *Public Service Act 1967-1978*.

(3) The Trust may, with the approval of the Minister, appoint officers and employees to assist the Trust in the administration of this Act.

(4) The *Public Service Act 1967-1978* shall not apply to officers or employees of the Trust appointed under subsection (3).

DIVISION 5—FINANCIAL PROVISIONS

Dealings with moneys of the Trust

17. (1) All moneys received by the Trust shall be paid into an ADI account established by the Trust.

(2) An ADI account established by the Trust shall be operated by cheque signed and countersigned by such persons as the Trust may appoint for the purpose.

(3) Any moneys of the Trust that are not immediately required for the purposes of the Trust may be invested in such manner as the Treasurer may approve.

(4) Except as authorised by the Minister, no moneys shall be expended by the Trust except in accordance with a budget approved by the Minister.

Borrowing of moneys

18. (1) The Trust may, for the purposes of this Act, borrow moneys from the Treasurer, or, with the consent of the Treasurer, from any other person.

(2) A liability incurred by the Trust under subsection (1) with the consent of the Treasurer is guaranteed by the Treasurer.

(3) A liability of the Treasurer under a guarantee arising by virtue of subsection (2) shall be satisfied out of the General Revenue of the State, which is appropriated by this section to the necessary extent.

Accounts and audit

19. (1) The Trust shall cause proper accounts to be kept of its financial affairs.

(2) The Auditor-General may at any time, and shall at least once in every year, audit the accounts of the Trust.

(3) For the purpose of an audit under subsection (2), the Auditor-General may exercise in relation to the accounts of the Trust, and the officers and employees of the Trust, the powers that are vested in the Auditor-General by the *Audit Act 1921-1975*, in respect of public accounts and accounting officers.

**PART 3
MISCELLANEOUS**

Report

20. (1) The Trust shall, on or before the thirtieth day of September in each year, deliver to the Minister a report upon the administration of this Act during the period of twelve months that ended on the preceding thirtieth day of June.

(2) The report must incorporate the audited statement of accounts for the Trust in relation to the relevant period.

(3) The Minister shall cause a copy of the report to be laid before each House of Parliament.

Stamp duty not payable on instruments of conveyance to the Trust

21. No stamp duty is payable on any instrument by virtue of which real or personal property is assured to, or vested in, the Trust.

Damage, etc., to property of the Trust

22. (1) A person who, without the authority of the Trust—

(a) damages or destroys any property of the Trust; or

(b) removes any property of the Trust from the possession or control of the Trust,

shall be guilty of an offence and liable to a penalty not exceeding two thousand dollars or imprisonment for three months.

(2) The court before which a person is convicted of an offence under subsection (1) may order the convicted person to pay to the Trust compensation for loss suffered by the Trust in consequence of the commission of the offence.

(3) Any compensation awarded under subsection (2) may be recovered in the same manner as a fine.

(4) This section does not derogate from criminal liability to which a person may, apart from this section, be subject.

Proceedings

23. Proceedings for an offence against this Act shall be disposed of summarily.

Regulations

24. (1) The Governor may, upon the recommendation of the Trust, make such regulations as are necessary or expedient for the purposes of this Act.

(2) Without limiting the generality of subsection (1), the regulations may require the owner, or the person who has possession or control, of an object registered by the Trust to inform the Trust of any proposal to sell, dispose of, or destroy the registered object.

(3) Any regulation under this section may prescribe a penalty not exceeding five hundred dollars for breach of, or non-compliance with, the regulation.

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APPENDIX

LEGISLATIVE HISTORY

Repeals

The *History Trust of South Australia Act 1981* repealed the *Constitutional Museum Act 1978*.

Transitional Provisions

(Transitional provision from History Trust of South Australia (Old Parliament House) Amendment Act 2000, s. 9)

9. (1) The Governor may, by proclamation, vest any rights or liabilities of the History Trust of South Australia relating to the premises known as *Old Parliament House* (or relating to the land appurtenant to those premises) in—

- (a) a Minister; or
- (b) with the concurrence of the Joint Parliamentary Service Committee—the Joint Parliamentary Service Committee,

(and any such vesting will operate by force of this section and despite the provisions of any other law or instrument).

(2) A proclamation under subsection (1) may make other provisions that in the opinion of the Governor are necessary or expedient in connection with the vesting of rights or liabilities.

Legislative History

(entries in bold type indicate amendments incorporated since the last reprint)

Long title:	amended by 47, 2000, s. 3
Section 3:	repealed by 47, 2000, s. 4
Section 4:	definition of "the constitutional museum" repealed by 47, 2000, s. 5
Section 5:	repealed by 47, 2000, s. 6
Part 2 Division 3 heading:	amended by 47, 2000, s. 7
Section 15(1):	repealed by 47, 2000, s. 8(a)
Section 15(4):	inserted by 61, 1995, s. 2; repealed by 47, 2000, s. 8(b)
Section 17(1):	amended by 33, 1999, Sched. (item 27(a))
Section 17(2):	amended by 33, 1999, Sched. (item 27(b))