

South Australia

## South Australian Museum Act 1976

An Act to provide for the administration of the South Australian Museum; and for other purposes.

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### Contents

#### Part 1—Preliminary

- 1 Short title
- 5 Interpretation

#### Part 2—Administration

- 6 The Museum Board
- 7 Constitution of Board
- 8 Terms and conditions upon which members of the Board hold office
- 9 Validity of acts of Board
- 10 The Chairman
- 11 Conduct of business by the Board
- 12 Director to attend meetings of Board
- 13 Functions of the Board
- 14 Director and other staff
- 15 Report
- 16 Accounts

#### Part 2A—Meteorites

- 16A Property in meteorites to vest in Board
- 16B Finding of meteorites
- 16C Powers of authorised persons

#### Part 3—Miscellaneous

- 17 Offences
- 18 Proceedings
- 19 Financial provisions
- 20 Regulations

#### Legislative history

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## The Parliament of South Australia enacts as follows:

### Part 1—Preliminary

#### 1—Short title

This Act may be cited as the *South Australian Museum Act 1976*.

#### 5—Interpretation

In this Act, unless the contrary intention appears—

*the Board* means the Museum Board established under the repealed Act which continues in existence under this Act;

*the Director* means the person for the time being holding, or acting in, the office of Director of the Museum;

*meteorite* means any naturally occurring object that has fallen to earth from beyond the atmosphere, but does not include a tektite;

*the Minister* means the Minister of the Crown to whom the administration of this Act is for the time being committed by the Governor and includes any other Minister who is for the time being discharging the duties of that Minister;

*the Museum* means the South Australian Museum (formerly known under the repealed Act as the State Museum);

*private land* means land alienated from the Crown by grant in fee simple, or by lease or licence;

*the State collection* means all property vested in the Board of scientific or historical interest;

*the repealed Act* means the *Museum Act 1939* repealed by this Act.

### Part 2—Administration

#### 6—The Museum Board

- (1) The Museum Board established under the repealed Act shall continue in existence.
- (2) The Board—
  - (a) shall be a body corporate with perpetual succession and a common seal; and
  - (b) shall be capable in its corporate name of acquiring, holding and disposing of real and personal property; and
  - (c) shall be capable of acquiring or incurring any other legal rights or liabilities and of suing and being sued; and
  - (d) 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 Board, it shall be presumed in any legal proceedings, in the absence of proof to the contrary, that the common seal of the Board was duly affixed to that document.

- (4) The rights and obligations vested in, and enforceable against, the Museum Board under the repealed Act shall be vested in, or enforceable against, the Board under this Act.

### **7—Constitution of Board**

- (1) The Board shall consist of eight members appointed by the Governor.
- (2) A member of the Board holding office immediately before the commencement of this Act may continue in office for the balance of his term of office in all respects as if this Act had been in force when he was appointed or last re-appointed a member of the Board and he had then been appointed in pursuance of this Act.

### **8—Terms and conditions upon which members of the Board hold office**

- (1) A member of the Board shall be appointed for such term of office, not exceeding three years, as the Governor may determine and specifies in the instrument of his appointment and, upon the expiration of his term of office, shall be eligible for re-appointment.
- (2) The Governor may appoint a suitable person to be a deputy of a member of the Board, and such a person, while acting in the absence of that member shall be deemed to be a member of the Board, and shall have all the powers, authorities, duties and obligations of the member of whom he has been appointed a deputy.
- (3) The Governor may remove a member of the Board from office for—
  - (a) mental or physical incapacity to carry out satisfactorily the duties of his office; or
  - (b) neglect of duty; or
  - (c) dishonourable conduct.
- (4) The office of a member of the Board shall become vacant if—
  - (a) he dies; or
  - (b) his term of office expires; or
  - (c) he resigns by written notice addressed to the Governor; or
  - (d) he is removed by the Governor pursuant to subsection (3) of this section.
- (5) Upon the office of a member of the Board becoming vacant, a person shall be appointed, in accordance with this Act, to the vacant office.

### **9—Validity of acts of Board**

- (1) An act or proceeding of the Board shall not be invalid by reason only of a vacancy, or vacancies, in its membership.

### **10—The Chairman**

- (1) The Governor may from time to time appoint one of the members of the Board to be the Chairman of the Board.
- (3) If at any time the Chairman ceases to be a member of the Board, he shall cease to be Chairman of the Board.

- (4) A person holding office as Chairman of the Board immediately before the commencement of this Act shall be deemed to have been appointed Chairman of the Board under this Act and shall continue in that office until the expiration of the term for which he was appointed Chairman.

### **11—Conduct of business by the Board**

- (1) Four members of the Board shall constitute a quorum of the Board.
- (2) A decision carried by a majority of the votes of the members present at a meeting of the Board shall be a decision of the Board.
- (3) The Chairman, or if he is not present, a person elected by the members present at a meeting of the Board, shall preside at that meeting.
- (4) The person presiding at a meeting of the Board shall, in the event of and equality of votes upon any question arising before the Board, have a second or casting vote.
- (5) Subject to this Act, the business of the Board shall be conducted in such manner as the Board may determine.

### **12—Director to attend meetings of Board**

The Director shall, unless excused from attendance by the Board, attend at every meeting of the Board.

### **13—Functions of the Board**

- (1) The functions of the Board are as follows:
  - (a) to undertake the care and management of the Museum; and
  - (b) to manage all lands and premises vested in, or placed under the control of, the Board; and
  - (c) to manage all funds vested in, or under the control of, the Board and to apply those funds in accordance with the terms and conditions of any instrument of trust or other instrument affecting the disposition of those moneys; and
  - (d) to carry out, or promote, research into matters of scientific and historical interest; and
  - (e) to accumulate and care for objects and specimens of scientific or historical interest; and
  - (f) to accumulate and classify data in regard to any such matters; and
  - (g) to disseminate information of scientific or historical interest; and
  - (h) to perform any other functions of scientific, educational or historical significance that may be assigned to the Board by regulation.
- (2) The Board shall not be required to accept or accumulate material that does not, in the opinion of the Board, justify collection and classification under this Act.
- (3) In the performance of any of its functions the Board may, upon such terms and conditions as it thinks fit—
  - (a) receive, take, purchase, hire or accept upon loan, any objects of scientific or historical interest; or

- (b) sell, lend, exchange or dispose of any objects of scientific or historical interest; or
- (c) lend or otherwise make available to any institution, body or person carrying out scientific or historical research any object of scientific or historical interest from the State collection.

#### **14—Director and other staff**

- (1) There is to be a Director of the Museum.
- (2) The Director is to be a Public Service employee.
- (3) Other Public Service employees may be assigned to perform duties as staff of the Museum.

#### **15—Report**

- (1) The Board shall, on or before the thirtieth day of September in each year, deliver to the Minister a report in writing upon the administration of the Museum, and of the property under the control of the Board, during the period of twelve months ending on the preceding thirtieth day of June in that year.
- (2) The Minister shall cause a copy of the report to be laid, as soon as practicable, before each House of Parliament.

#### **16—Accounts**

- (1) The Board shall cause proper accounts to be kept of all its financial dealings.
- (2) The Auditor-General may at any time, and shall at least once in each year, audit the accounts of the Board.

### **Part 2A—Meteorites**

#### **16A—Property in meteorites to vest in Board**

- (1) Subject to this section, the property in all meteorites is vested in the Board.
- (2) Where a person was, immediately before the commencement of this Part the owner of a meteorite he shall notwithstanding subsection (1) of this section retain ownership of the meteorite provided that he submits the meteorite for examination and registration by the Board within one year after the commencement of this Part and, if he fails to do so, the property in the meteorite shall, upon the expiration of that period, vest in the Board.
- (3) Whenever a person acquires or disposes of the ownership of a meteorite he shall give notice in writing of the acquisition or disposal, to the Board within one month.  
Maximum penalty: \$100.
- (4) A court, after convicting a person of an offence under subsection (3) of this section, may order that the meteorite concerned be forfeited to the Board.
- (5) In this section—  
*meteorite* means a meteorite that fell to earth in this State (whether before or after commencement of this Part).

## 16B—Finding of meteorites

- (1) The Board may offer and pay rewards—
  - (a) in respect of the delivery of a meteorite to the Board;
  - (b) in respect of any information leading to the finding or recovery of a meteorite.
- (2) A person who finds a meteorite in this State shall as soon as practicable after the finding notify the Board and furnish any other information that the Board may require.  
Maximum penalty: \$100.

## 16C—Powers of authorised persons

- (1) A person authorised in writing by the Board—
  - (a) may enter upon any land for the purpose of searching for or examining a meteorite; and
  - (b) may take such steps as are reasonable in the circumstances for recovery of the meteorite.
- (2) Where an authorised person proposes to exercise powers conferred by this section in relation to private land, he shall give reasonable notice of his intention to do so to the owner or occupier of that land.
- (3) A person who obstructs an authorised person acting in the exercise of powers conferred by this section is guilty of an offence and liable to a penalty not exceeding \$500.

## Part 3—Miscellaneous

### 17—Offences

- (1) Any person who, without the authority of the Board, damages, mutilates, destroys or removes from the possession of the Board any object from the State collection or any other property of the Board, shall be guilty of an offence and liable to a penalty not exceeding \$1 000, or imprisonment for 6 months.
- (1a) A person who, without the authority of the Board—
  - (a) purports to sell a meteorite that is the property of the Board; or
  - (b) is in possession of a meteorite that is the property of the Board,is guilty of an offence and liable to a penalty not exceeding \$500.
- (1b) It is a defence to a charge of an offence under subsection (1a)(b) of this section for the defendant to prove that he was in possession of the meteorite for the purpose of delivering it to the Board.
- (2) The court before which any person is convicted of an offence under subsection (1) or (1a) of this section may order that person to pay to the Board compensation for any loss suffered by the Board in consequence of the commission of the offence.
- (3) This section does not derogate from any criminal liability to which a person may otherwise be subject.

## 18—Proceedings

- (1) Proceedings for an offence against this Act shall be disposed of summarily.
- (2) In any proceedings for an offence against this Act an allegation in the complaint that a meteorite to which the proceedings relate was on a date specified in the complaint the property of the Board shall be deemed to be proved in the absence of proof to the contrary.

## 19—Financial provisions

- (1) Except as provided in subsection (2) of this section, the moneys required for the purposes of this Act shall be paid out of moneys provided by Parliament for those purposes.
- (2) The Board may borrow money from the Treasurer, or, with the consent of the Treasurer, from any other person.
- (3) Any liability incurred by the Board with the consent of the Treasurer under subsection (2) of this section may be guaranteed by the Treasurer.
- (4) Any moneys to be paid in pursuance of a guarantee under subsection (3) of this section shall be paid out of the General Revenue of the State which is hereby, to the necessary extent, appropriated.

## 20—Regulations

- (1) The Governor may, upon the recommendation of the Board, make such regulations as are contemplated by this Act, or as he deems necessary or expedient for the purposes of this Act.
- (2) Without limiting the generality of the foregoing, those regulations may—
  - (a) make provision in relation to any aspect of the control of the Museum, or the State collection; and
  - (b) regulate the proceedings of the Board; and
  - (c) prescribe conditions upon which the public or any person may have access to the Museum, or any land or premises under the control of the Board; and
  - (d) prescribe and provide for the recovery of charges for admission to the Museum or any part thereof; and
  - (e) prescribe and provide for the recovery of charges for any services provided by the Board; and
  - (f) provide for the care and custody of the State collection or any part thereof; and
  - (g) prescribe terms and conditions upon which any person may have access to, or use, the State collection or any part thereof; and
  - (h) provide for the payment of rewards for information of scientific or historical interest; and
  - (i) provide for the payment of rewards for information leading to the conviction of any person for an offence against this Act; and
  - (j) regulate, restrict or prohibit the driving or parking of motor vehicles on land vested in, or under the control of, the Board; and

- (k) prescribe penalties (recoverable summarily) not exceeding five hundred dollars for breach of, or non-compliance with, the provisions of any regulation; and
  - (l) fix expiation fees for alleged offences against the regulations.
- (3) In any proceedings in respect of an offence against a regulation—
- (a) an allegation in a complaint that a person named therein was the owner of a vehicle referred to therein on a specified day shall be deemed to be proved in the absence of proof to the contrary; and
  - (b) where it is proved that a vehicle was parked on land vested in or under the control of the board in contravention of a regulation, it shall be presumed, in the absence of proof to the contrary, that the vehicle was so parked by the owner of the vehicle.

## Legislative history

### Notes

- Amendments of this version that are uncommenced are not incorporated into the text.
- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Legislation repealed by principal Act

The *South Australian Museum Act 1976* repealed the following:

*Museum Act 1939*

### Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1976	21	<i>South Australian Museum Act 1976</i>	4.3.1976	11.3.1976 ( <i>Gazette 11.3.1976 p1132</i> )
1978	78	<i>South Australian Museum Act Amendment Act 1978</i>	16.11.1978	16.11.1978
1980	48	<i>South Australian Museum Act Amendment Act 1980</i>	3.7.1980	14.8.1980 ( <i>Gazette 14.8.1980 p528</i> )
1985	35	<i>South Australian Museum Act Amendment Act 1985</i>	11.4.1985	12.9.1985 ( <i>Gazette 12.9.1985 p796</i> )
1996	34	<i>Statutes Amendment and Repeal (Common Expiation Scheme) Act 1996</i>	2.5.1996	Sch (cl 33)—3.2.1997 ( <i>Gazette 19.12.1996 p1923</i> )
<b>2009</b>	<b>84</b>	<b><i>Statutes Amendment (Public Sector Consequential Amendments) Act 2009</i></b>	<b>10.12.2009</b>	<b>Pt 142 (ss 325 &amp; 326)—1.2.2010 (<i>Gazette 28.1.2010 p320</i>)</b>
2010	19	<i>Statutes Amendment (Arts Agencies Governance and Other Matters) Act 2010</i>	28.10.2010	Pt 10 (ss 83 & 84) & Sch 1 (Pt 9 cll 10 & 19)—uncommenced

### Provisions amended

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Long title	amended under <i>Legislation Revision and Publication Act 2002</i>	
Pt 1		

s 2	<i>omitted under Legislation Revision and Publication Act 2002</i>	
s 3	<i>amended by 48/1980 s 3</i>	14.8.1980
	<i>omitted under Legislation Revision and Publication Act 2002</i>	
s 4	<i>omitted under Legislation Revision and Publication Act 2002</i>	
s 5		
meteorite	inserted by 48/1980 s 4(a)	14.8.1980
private land	inserted by 48/1980 s 4(b)	14.8.1980
the State collection	amended by 48/1980 s 4(c)	14.8.1980
Pt 2		
s 7		
s 7(1)	amended by 35/1985 s 3	12.9.1985
s 8		
s 8(1)	amended by 35/1985 s 4(a)	12.9.1985
s 8(3)	amended by 35/1985 s 4(b)	12.9.1985
s 8(5)	amended by 35/1985 s 4(c)	12.9.1985
<b>s 9</b>		
<b>s 9(2)</b>	<b><i>deleted by 84/2009 s 325</i></b>	<b>1.2.2010</b>
s 10		
s 10(2)	<i>deleted by 35/1985 s 5</i>	12.9.1985
s 13		
s 13(1)	amended by 48/1980 s 5	14.8.1980
<b>s 14</b>	<b>substituted by 84/2009 s 326</b>	<b>1.2.2010</b>
Pt 2A	inserted by 48/1980 s 6	14.8.1980
Pt 3		
s 17		
s 17(1a) and (1b)	inserted by 48/1980 s 7(a)	14.8.1980
s 17(2)	substituted by 48/1980 s 7(b)	14.8.1980
ss 18 and 19	substituted by 48/1980 s 8	14.8.1980
s 20		
s 20(2)	amended by 78/1978 s 2(a)	16.11.1978
	amended by 48/1980 s 9	14.8.1980
	amended by 34/1996 s 4 (Sch cl 33)	3.2.1997
s 20(3)	inserted by 78/1978 s 2(b)	16.11.1978
s 20(4)	<i>inserted by 78/1978 s 2(b)</i>	16.11.1978
	<i>deleted by 34/1996 s 4 (Sch cl 33)</i>	3.2.1997

## **Transitional etc provisions associated with Act or amendments**

### ***Statutes Amendment and Repeal (Common Expiation Scheme) Act 1996***

#### **5—Transitional provision**

An Act repealed or amended by this Act will continue to apply (as in force immediately prior to the repeal or amendment coming into operation) to an expiation notice issued under the repealed or amended Act.

## **Historical versions**

Reprint No 1—15.1.1992

Reprint No 2—3.2.1997