

Version No. 021
Victorian Arts Centre Act 1979

Act No. 9354/1979

Version incorporating amendments as at 19 September 1997

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Victorian Arts Centre Act 1979

Act No. 9354/1979

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An Act to constitute the Victorian Arts Centre Trust, to make provision with respect to the Management and Operation of the Victorian Arts Centre and for the Use and Promotion of the Theatre Complex in the Centre and for other purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):

1. *Short title and commencement*

- (1) This Act may be cited as the **Victorian Arts Centre Act 1979**.
- (2) This Act shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the Government Gazette.

2. *Transitional provisions*

On the day upon which this Act comes into operation—

- (a) the Victorian Arts Centre Building Committee shall go out of office;
- (b) the Trust shall become and be the successor in law of the Victorian Arts Centre Building Committee;
- (c) the Trust shall have all the rights powers and duties conferred or imposed upon the Victorian Arts Centre Building Committee

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- and shall be subject to all the liabilities responsibilities and obligations imposed upon or conferred by the said Committee before that day;
- (d) all property vested in the Victorian Arts Centre Building Committee shall be vested in the Trust;
 - (e) every donation gift disposition and trust of property including money lawfully made or declared or deemed to have been made or declared whether before or after the commencement of this Act by deed will or otherwise to or in favour of the Victorian Arts Centre Building Committee or for the use or purposes thereof shall take effect as if the same had in respect of each particular item of property comprised in such donation gift disposition or trust been made or declared to or in favour of or for the use or purposes of the Trust;
 - (f) any reference to the Victorian Arts Centre Building Committee in any other Act or any proclamation Order in Council regulation by-law order legal or other proceeding instrument or document shall be deemed and taken to refer to the Trust;
 - (g) all acts matters and things of a continuing nature made done or commenced by or on behalf of the Victorian Arts Centre Building Committee before that day which are of any force or effect or capable of acquiring any force or effect shall be deemed or taken to be made done or commenced by or in relation to or on behalf of the Trust and shall have effect and may be continued and completed by or on behalf of or in relation to the Trust accordingly;
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(h) any amounts standing to the credit of the Victorian Arts Centre Building Committee Trust Fund shall be transferred to an account to be called the Victorian Arts Centre Trust Account; and

S. 2(i) repealed by No. 4/1995 s. 6(1).

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3. Definitions

In this Act, unless inconsistent with the context or subject-matter—

"Centre" means the land vested in the Victorian Arts Centre Building Committee immediately before the commencement of this Act and the buildings and improvements erected or in the course of erection thereon;

S. 3 def. of "Chairman" inserted by No. 29/1994 s. 16.

¹**"Chairman"** means President;

"National Gallery trustees" means the council of the trustees of the National Gallery of Victoria;

"the Trust" means the Victorian Arts Centre Trust constituted by this Act;

"Treasurer" means the Treasurer of Victoria;

"trustee" means a trustee of the Trust appointed under this Act and includes the Chairman of those trustees.

4. Victorian Arts Centre Trust

(1) There shall be established a body corporate by the name of the Victorian Arts Centre Trust which shall have perpetual succession and a common seal and shall be capable in law of suing and of

being sued and of taking purchasing holding demising selling transferring conveying mortgaging or otherwise disposing of real and personal property for the purposes of and subject to this Act and of being and suffering all acts matters and things which bodies corporate may by law do and suffer.

- (2) Subject to the general direction and control of the Minister the Trust shall be responsible for the management of the Centre.

5. *Functions of the Trust*

The functions of the Trust are—

- (a) to complete the construction of the Centre;
- (b) the care improvement and maintenance of the Centre;
- (c) the control and management of those parts of the Centre other than the parts occupied by National Gallery trustees;
- (d) the presentation and production of theatrical performances operas plays dramas ballets and musical and other performances and entertainment of any kind whatsoever—
 - (i) within those parts of the Centre controlled and managed by the Trust;
 - (ii) with the approval of the National Gallery trustees in those parts of the Centre occupied by the National Gallery trustees; and
 - (iii) outside the Centre; and
- (e) the promotion of the use of the theatres concert hall and other places of assembly by suitable persons and bodies; and

S. 5(d)(iii)
amended by
No. 29/1994
s. 17(a).
S. 5(e)
amended by
No. 29/1994
s. 17(b).

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S. 5(f)
inserted by
No. 29/1994
s. 17(b),
amended by
No. 4/1995
s. 4.

(f) to perform any other functions appropriate to the Centre as the Minister may approve; and

S. 5(g)
inserted by
No. 4/1995
s. 4.

(g) to carry on, whether within or outside Victoria, whether alone or in association with any other person or persons and whether or not in relation to the Centre, a business of providing ticketing, inventory management of admissions, marketing and related services.

6. Powers of Trust

(1) The Trust has power to do all things necessary or convenient to be done for or in connexion with the performance of its functions.

(2) Without limiting the generality of sub-section (1) the powers of the Trust include power—

(a) to purchase or take or hire or to accept on deposit or loan any personal property for use in or in connexion with the Centre;

(b) to grant leases of or licences to use any part of the Centre;

(c) to carry on in the Centre or to enter into contracts or arrangements with any person to carry on any business which in the opinion of the Trust will improve the facilities and amenities of the Centre.

S. 6(2)(ca)
inserted by
No. 77/1988
s. 3,
substituted by
No. 4/1995

(ca) with the consent in writing of the Minister after consultation with the Treasurer, to be a member of a body corporate, association, partnership, trust or other body;

S. 5
S. 6(2)(cb)
inserted by
No. 4/1995
s. 5.

(cb) with the consent in writing of the Minister after consultation with the Treasurer, to form, or participate in the formation of, a

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- body corporate, association, partnership, trust or other body;
- (cc) with the consent in writing of the Minister after consultation with the Treasurer, to enter into a joint venture with another person or other persons;
- (cd) to do all things necessary or convenient to be done for, or in connection with, a joint venture in the performance of the functions of the Trust;
- (d) to acquire and install any equipment or apparatus which in the opinion of the Trust improves the facilities of the Centre;
- (e) to apply for and hold any licence or permit or extended hours permit under the **Liquor Control Act 1987** or any other Act;
- (f) to register, purchase or apply for or otherwise acquire either wholly or in part any invention, copyright, trade-mark or other mark or design, patent, patent rights and privileges, licences, concessions or other like rights which in the opinion of the Trust will be of assistance to the Trust in carrying out its functions and to sell, dispose of, use, exercise and develop such rights or inventions or to grant licences or privileges in respect thereof;
- (g) to enter into any contracts, agreement or arrangement with any person or body whether corporate or unincorporate for the purpose of carrying out its functions under this Act;
- (h) to install, use, work and maintain film cameras and projectors and broadcasting and television apparatus, and to grant the right of
- S. 6(2)(cc) inserted by No. 4/1995 s. 5.
- S. 6(2)(cd) inserted by No. 4/1995 s. 5.
- S. 6(2)(e) amended by No. 97/1987 s. 181(17).

- installing, using, working and maintaining the same within the areas under its control upon such terms and conditions and subject to the payment of such charges as may be determined by the Trust;
- (i) to print or reproduce in any manner or form and to publish or to arrange for the printing or reproduction or publishing of plays, music, programmes, posters and advertisements and such other material as the Trust may deem expedient and to acquire the copyright therein;
 - (j) to commission plays, compositions, musicals, ballets, operas or other works;
 - (k) to purchase and operate or let on hire theatre, cinema or other equipment;
 - (l) to establish and operate a public performing arts museum and a public music library;
 - (m) to take on lease any land which in the opinion of the Trust is required to facilitate the carrying out of its functions under this Act;
 - (n) to accept appointment as a committee of management of Crown lands;
 - (o) to solicit and accept and to hold and administer gifts, bequests or devises of money, securities or other property of whatsoever character for the purposes of carrying out its functions, and with the approval of the Treasurer to sell or exchange or invest or re-invest such moneys, securities or other property in such investments as the Treasurer may from time to time determine; and

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- (p) to do all things necessary or convenient to be done in connexion with, or as incidental to, the performance of its objects.
- (3) Without limiting the generality of sub-section (1), the Trust may with the consent of the Minister enter into a contract, an agreement or an arrangement with any person or body whether corporate or unincorporate—
- (a) for the provision of services by the Trust;
 - (b) for the hire of any plant or equipment of the Trust; or
 - (c) for the grant of a lease of or licence to use any land of the Trust.

7. *Borrowing powers of the Trust*

- (1) The Trust may with the approval of the Treasurer and subject to such terms, conditions and limits as the Treasurer imposes—
- (a) borrow moneys from any bank by way of overdraft; and
 - (b) obtain temporary financial accommodation secured or arranged in such manner and for such period as the Treasurer in each particular case approves.
- (2) The Trust may borrow money from any institution person or body approved by the Treasurer on such terms and conditions as are approved by the Treasurer from time to time and give to any such institution person or body security for money so borrowed in such form as the Treasurer approves in each particular case.
- (3) The Treasurer with the approval of the Governor in Council may execute in favour of any institution person or body lending money to the Trust a guarantee for the repayment thereof and

may in addition guarantee the payment of any interest charges and expenses chargeable by the creditor against the Trust and the expenses of enforcing or obtaining or endeavouring to enforce or obtain payment of the debt guaranteed and those interest charges and expenses.

**S. 7(3A)
inserted by
No. 9741 s. 2.**

- (3A) Where the Trust obtains temporary financial accommodation under this section without a guarantee being executed under sub-section (3) in favour of the institution person or body lending the money the due repayment or satisfaction of the moneys borrowed and the due payment of any interest or other charges payable thereon is hereby guaranteed by the Government of Victoria.
- (4) Any sums required by the Treasurer of Victoria in fulfilling any guarantee given by this Act shall be paid out of the Consolidated Fund (which is hereby to the necessary extent appropriated accordingly) and any sums received or recovered by the said Treasurer from the Trust or otherwise in respect of any sums so paid by the Treasurer shall be paid into the Consolidated Fund.
- (5) Before a guarantee is given by the Treasurer under this section the Trust shall give to the Treasurer such securities as the Treasurer requires and shall execute all such instruments as are necessary for that purpose.
- (6) The Trust shall apply and use all moneys borrowed under the power conferred by this section for the purposes of carrying this Act into effect.

8. *Composition of Trust*

- (1) The Trust shall consist of nine members appointed by the Governor in Council, of whom—
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s. 9

(a) one shall be a person representing the interests of the arts training industry;

S. 8(1)(a) substituted by No. 29/1994 s. 18(1)(a).

* * * * *

S. 8(1)(b) repealed by No. 29/1994 s. 18(1)(a).

(c) one shall be a person resident more than 40 kilometres from the Melbourne General Post Office who is actively associated with the promotion of the arts outside the metropolitan area; and

(d) 7 shall be appointed to represent the interests of the public generally in the carrying out of the functions of the Trust.

S. 8(1)(d) amended by No. 29/1994 s. 18(1)(b).

(2) Subject to this Act, a member of the Trust shall hold office for such term (not exceeding three years) as is specified in the instrument by which he is appointed and shall, subject to sub-sections (2A) and (3), be eligible for re-appointment.

S. 8(2) substituted by No. 9600 s. 3(1), amended by No. 29/1994 s. 18(2).

(2A) ²A person who has been a member of the Trust for 9 consecutive years ceases to hold office and is not eligible for re-appointment unless—

S. 8(2A) inserted by No. 29/1994 s. 18(3).

(a) the person is, or immediately before the expiry of the ninth consecutive year the person was, the Chairman; or

(b) a period of 3 years or more has elapsed since the person last was a member of the Trust.

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S. 8(3) repealed by No. 42/1995 s. 224(Sch. 2 item 44).

(4) A person appointed on the nomination of the National Gallery trustees shall cease to be a member of the Trust if he ceases to be a member of the National Gallery trustees.

9. Vacancies

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- (1) The office of any member of the Trust shall become vacant—
 - (a) at the expiration of his term of office;
 - (b) if he dies;
 - (c) if he is incapable of continuing as a member;
 - (d) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his estate for the benefit of his creditors;
 - (e) if he resigns by writing under his hand addressed to the Governor in Council;
 - (f) if without leave granted by the Chairman he fails to attend four successive meetings of the Trust;
 - (g) if he is removed from office by the Governor in Council.
- (2) Where any leave granted to a member by the Chairman exceeds three consecutive meetings the Trust shall notify the Minister of the granting of the leave.

S. 9(3)(4)
repealed by
No. 29/1994
s. 19.

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10. *Chairman*

- (1) When appointing the members of the Trust the Governor in Council shall appoint one of the members to be the Chairman of the Trust and may fill any vacancy in the office of Chairman.
- (2) The Chairman shall hold office as such for the term of his appointment as a member and shall be eligible for re-appointment as Chairman.

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- (3) If the member of the Trust holding the office of Chairman ceases to be a member of the Trust he shall cease also to be Chairman of the Trust.
 - (4) A Deputy-Chairman shall from time to time be elected by the members of the Trust from among the members of the Trust, shall hold office as such for not more than twelve months and shall be eligible for re-election as Deputy-Chairman.
 - (5) The Chairman shall preside at all meetings of the Trust at which he is present and in his absence the Deputy-Chairman shall preside.
 - (6) In the absence of both the Chairman and the Deputy-Chairman such member of the Trust as is chosen by the members present to be chairman of the meeting shall preside.
 - (7) In the case of an equality of votes at any meeting of the Trust the chairman of the meeting shall have a second or casting vote.
 - (8) Subject to this Act and the regulations the Trust may regulate its own procedure.

11. *Quorum*

A quorum of the Trust shall consist of a majority in number of the members of the Trust for the time being and at any meeting of the Trust at which a quorum is present the members present shall have full power to act.

12. *Travelling expenses*

Each member of the Trust shall be entitled to receive such travelling expenses and fees as are prescribed by regulations under this Act.

**S. 12
amended by
No. 29/1994
s. 20.**

S. 12A
inserted by
No. 29/1994
s. 21.

12A. *Membership of Trust not office of profit*

A member of the Trust shall not be taken by reason of being a member to hold an office or place of profit under the Crown which would—

- (a) prevent the member sitting or voting as a member of the Legislative Council or Legislative Assembly; or
- (b) make void the member's election to the Legislative Council or Legislative Assembly; or
- (c) prevent the member continuing to be a member of the Legislative Council or Legislative Assembly; or
- (d) subject the member to liability to a penalty under the **Constitution Act 1975**.

13. *Trust first constituted*

- (1) The first meeting of the Trust shall be held at such time and place as is fixed by the Chairman.
- (2) The Trust shall be deemed to have been duly constituted on the day on which this Act comes into operation.
- (3) For the purposes of this Act the Trust may from time to time—
 - (a) appoint any two or more of its members and any other person or persons with specialist expertise to be a sub-committee of the Trust;
 - (b) delegate any of its functions under this Act to any such sub-committee; and
 - (c) impose any limitations or restrictions it thinks fit upon any such sub-committee.
- (4) The Trust shall meet at least four times in each calendar year.

S. 13(3)(a)
amended by
No. 29/1994
s. 22.

14. Trust employees

(1) The Trust may employ—

- (a) with the approval of the Minister, a general manager; and
- (b) a deputy general manager; and
- (c) any other persons that are necessary for the purposes of this Act.

S. 14(1)
substituted by
No. 29/1994
s. 23(1).

(1A) The general manager—

- (a) shall be the chief executive officer of the Trust; and
- (b) subject to the general direction and control of the Trust, shall have the control and management of the day to day affairs of the Trust.

S. 14(1A)
inserted by
No. 29/1994
s. 23(1).

(2) The Trust may from time to time enter into contracts for the services of any person with special qualifications on a part-time basis or for a limited period.

S. 14(2)
amended by
No. 29/1994
s. 23(2).

(3) Persons employed by the Trust shall be employed on such conditions as the Trust from time to time determines and shall be paid—

S. 14(3)
amended by
No. 29/1994
s. 23(3).

(a) such remuneration as is fixed from time to time by the Trust; and

S. 14(3)(a)
amended by
No. 29/1994
s. 23(3).

(b) such travelling and other allowances as are fixed from time to time by the Trust.

S. 14(3)(b)
amended by
No. 29/1994
s. 23(3).

(4) A person employed by the Trust is not, in respect of his employment as such an employee, subject to the provisions of the **Public Service Act 1974**.

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s. 16

S. 15
amended by
No. 50/1988
s. 93(2),
repealed by
No. 29/1994
s. 24.

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16. *Victorian Arts Centre Fund*

S. 16(1)
substituted by
No. 47/1987
s. 3(a),
amended by
No. 29/1994
s. 25.

(1) The Trust must establish and keep a fund to be known as the Victorian Arts Centre Fund.

S. 16(2)
amended by
No. 47/1987
s. 3(b).

(2) All moneys received by the Trust shall be paid into the Fund.

S. 16(2A)
inserted by
No. 47/1987
s. 3(c).

(2A) The Trust must cause the money in the Fund to be paid into an account or accounts in any bank or banks approved for the purpose by the Treasurer.

S. 16(3)
amended by
Nos 47/1987
s. 3(d),
104/1995
s. 6(Sch. 1
item 28(a)(b)).

(3) All moneys standing to the credit of the Trust in the Fund which are not for the time being required for the purposes of this Act may be invested in such manner as the Treasurer approves.

S. 16(4)
amended by
No. 47/1987
s. 3(e).

(4) All income from the investments of the Trust shall be paid into the Fund.

S. 16(5)
amended by
No. 47/1987
s. 3(e).

(5) Moneys standing to the credit of the Trust in the Fund shall be applied by the Trust for or towards the costs and expenses of or incidental to the performance of its functions and the exercise of its powers under this Act.

17. *Audits*

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Sch.

* * * * *

S. 17(1)–(5)
repealed by
No. 31/1994
s. 4(Sch. 2
item 99).

(6) The Trust may engage public auditors to carry out intermediate inspections or audits as may be required.

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S. 18
repealed by
No. 31/1994
s. 4(Sch. 2
item 99).

18A. *Trust may make by-laws*

S. 18A
inserted by
No. 29/1994
s. 26.

The Trust may make by-laws not inconsistent with the regulations for or with respect to—

- (a) regulating or prohibiting admission to or removal of persons from those parts of the Centre controlled and managed by the Trust; and
- (b) the care, protection and management of the Centre; and
- (c) the preservation of good order and decency in the Centre.

19. *Regulations*

The Governor in Council may make regulations not inconsistent with this Act, prescribing all matters that are required or permitted by this Act to be prescribed for carrying out or giving effect to this Act.

* * * * *

Sch. (Pt 1)
repealed by
No. 4/1995
s. 6(2).

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Sch. (Pt 2)
repealed by
No. 9863 s. 2.

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NOTES

1. General Information

The **Victorian Arts Centre Act 1979** was assented to on 20 December 1979 and came into operation on 12 March 1980: Government Gazette 5 March 1980 p. 707.

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2. Table of Amendments

This Version incorporates amendments made to the **Victorian Arts Centre Act 1979** by Acts and subordinate instruments.

National Gallery of Victoria and the Victorian Arts Centre (Terms of Appointment of Members) Act 1981, No. 9600/1981

Assent Date: 24.11.81
Commencement Date: 24.11.81
Current State: All of Act in operation

Victorian Arts Centre (Guarantees) Act 1982, No. 9741/1982

Assent Date: 6.7.82
Commencement Date: 6.7.82
Current State: All of Act in operation

Statute Law Revision (Repeals) Act 1982, No. 9863/1982

Assent Date: 5.1.83
Commencement Date: 5.1.83
Current State: All of Act in operation

Victorian Arts Centre (Amendment) Act 1987, No. 47/1987

Assent Date: 25.8.87
Commencement Date: 22.9.87: s. 2
Current State: All of Act in operation

Liquor Control Act 1987, No. 97/1987

Assent Date: 1.12.87
Commencement Date: S. 181(17) on 3.5.88: Government Gazette 27.4.88 p. 1044
Current State: This information relates only to the provision/s amending the **Victorian Arts Centre Act 1979**

State Superannuation Act 1988, No. 50/1988

Assent Date: 24.5.88
Commencement Date: S. 93(2)(Sch. 2 Pt 2 item 66) on 1.7.88: Government Gazette 1.6.88 p. 1487
Current State: This information relates only to the provision/s amending the **Victorian Arts Centre Act 1979**

Victorian Arts Centre (Amendment) Act 1988, No. 77/1988

Assent Date: 15.12.88
Commencement Date: 15.12.88
Current State: All of Act in operation

Arts Institutions (Amendment) Act 1994, No. 29/1994

Assent Date: 31.5.94
Commencement Date: 31.5.94
Current State: All of Act in operation

Financial Management (Consequential Amendments) Act 1994, No. 31/1994

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Assent Date: 31.5.94
Commencement Date: S. 4(Sch. 2 item 99) on 1.1.95: Government Gazette
28.7.94 p. 2055
Current State: This information relates only to the provision/s
amending the **Victorian Arts Centre Act 1979**

Victorian Arts Centre (Amendment) Act 1995, No. 4/1995

Assent Date: 15.3.95
Commencement Date: 15.3.95
Current State: All of Act in operation

Equal Opportunity Act 1995, No. 42/1995

Assent Date: 14.6.95
Commencement Date: S. 224 on 5.10.95: Government Gazette 28.9.95
p. 2731; Sch. 2 item 44 on 1.1.96: Government
Gazette 21.12.95 p. 3571
Current State: This information relates only to the provision/s
amending the **Victorian Arts Centre Act 1979**

Trustee and Trustee Companies (Amendment) Act 1995, No. 104/1995

Assent Date: 5.12.95
Commencement Date: 1.1.96: s. 2
Current State: All of Act in operation

3. Explanatory Details

¹ S. 3 def. of "Chairman": Section 27 of the **Arts Institutions (Amendment) Act 1994**, No. 29/1994 reads as follows:

27. Transitional provisions

- (1) The person holding office as Chairman or Deputy-Chairman under the Principal Act as in force immediately before the commencement of this section continues to hold office as President or Deputy President (as the case may be) for the remainder of the term for which, and on the same terms and conditions as those on which the person was appointed as Chairman or Deputy-Chairman.
- (2) A member of the Victorian Arts Centre Trust who—
 - (a) was appointed under the Principal Act before the commencement of this section; and
 - (b) has held office for 9 consecutive years—

continues to be a member until the expiry of his or her current term of office but on that expiry is not eligible for re-appointment except in accordance with section 8(2A) of the Principal Act.

² S. 8(2A): See note 1.