



Australian Capital Territory

# **Cultural Facilities Corporation Act 1997**

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## About this republication

### The republished law

This is a republication of the *Cultural Facilities Corporation Act 1997* effective from 20 October 2000 to 11 September 2001.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation (Republication) Act 1996*, part 3, division 2 authorised the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation (Republication) Act 1996*, s 14 and s 16). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

As in force on  
20 October 2000



Australian Capital Territory

# Cultural Facilities Corporation Act 1997

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Australian Capital Territory

## Cultural Facilities Corporation Act 1997

An Act to establish the Cultural Facilities Corporation and for related purposes

### PART 1—PRELIMINARY

#### 1 Short title

This Act may be cited as the *Cultural Facilities Corporation Act 1997*.

#### 3 Interpretation

##### (1) In this Act:

*Note* A definition applies except so far as the contrary intention appears (see *Interpretation Act 1967*, s 11G).

***Civic Square precinct*** means the land constituting Blocks 18, 20 and 22, Section 19, Division of City, Canberra Central District.

***corporation*** means the Cultural Facilities Corporation.

***cultural activities*** includes artistic, historical or otherwise cultural entertainments, displays and exhibitions.

***designated location*** means—

- (a) a location specified in Schedule 1; or
- (b) a location specified by the Minister by notice in the Gazette.

***member*** means a member of the corporation.

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***plan*** has the same meaning as in the *Land (Planning and Environment) Act 1991*.

***Public Sector Management Act*** means the *Public Sector Management Act 1994*.

(2) A notice under paragraph (b) of the definition of ***designated location*** in subsection (1) is a disallowable instrument.

## **PART 2—CORPORATE STATUS**

### ***Division 1—Establishment, functions and powers***

#### **4 Establishment**

- (1) The Cultural Facilities Corporation is established.
- (2) The corporation—
  - (a) is a body corporate; and
  - (b) shall have a common seal.

#### **5 Functions**

The functions of the corporation are—

- (a) to manage, develop, present, coordinate and promote cultural activities at designated locations and other places in the Territory; and
- (b) to establish and research collections; and
- (c) to conserve and exhibit collections in the possession or under the control of the corporation; and
- (d) to manage and develop Civic Square precinct as a cultural focus of the Territory; and
- (e) to undertake activities in cooperation with other persons where appropriate for the purpose of discharging its other functions; and
- (f) such other functions as are conferred on the corporation by or under this Act or another law of the Territory.

#### **6 Powers**

- (1) The corporation has power to do all things necessary and convenient to be done in connection with the performance of its functions.
- (2) Without limiting the generality of subsection (1), the corporation has the same capacity as a natural person.

**7 Matters to be taken into account**

In exercising its powers under section 6, the corporation shall have regard to—

- (a) any cultural policies or priorities of the Executive known to the corporation; and
- (b) other cultural activities in the Territory.

**8 Advisory committees**

(1) The corporation—

- (a) shall constitute advisory committees in relation to museum collections, historic places and the performing arts; and
- (b) may constitute such other advisory committees as it thinks necessary;

to assist in the performance of its functions.

(2) Subject to any direction by the corporation, an advisory committee may determine the manner in which it is to perform its functions.

**9 Companies, partnerships and joint ventures**

(1) The corporation shall not, without the written approval of the Minister—

- (a) form, or participate in the formation of, a company; or
- (b) subscribe for, or purchase, company shares or securities; or
- (c) enter into a partnership; or
- (d) participate in a joint venture.

(2) The Minister's approval—

- (a) may be given particularly or generally; and
- (b) may be expressed to be subject to conditions specified in the approval.

(3) Where the corporation enters into a partnership or participates in a joint venture for which the Minister has given particular approval, the Minister shall—

- (a) cause to be prepared a statement setting out particulars of, and the reasons for, the partnership or joint venture; and



- (b) cause a copy of the statement to be laid before the Legislative Assembly with the next report given to him or her under subsection 29 (1).

***Division 2—Membership***

**10 Constitution**

- (1) The corporation shall consist of 7 members, as follows:
  - (a) a chairperson and 5 other persons appointed by the Minister under clause 2 of Schedule 2;
  - (b) the chief executive officer.
- (2) The performance of the functions and the exercise of the powers of the corporation are not affected by reason only of there being a vacancy or vacancies in the membership of the corporation.

**11 Chairperson and deputy chairperson**

- (1) The Minister shall, by instrument, appoint a member to be chairperson of the corporation.
- (2) There shall be a deputy chairperson of the corporation who shall be 1 of the members of the corporation (other than the chairperson) elected by members of the corporation.

**12 Appointed members**

Schedule 2 has effect in relation to the members referred to in paragraph 10 (1) (a).

***Division 3—Meetings***

**13 Convening meetings**

- (1) The chairperson, or if the chairperson is unable to do so, the deputy chairperson, shall convene such meetings of the corporation—
  - (a) as the chairperson or the deputy chairperson, as the case requires, considers necessary for the efficient performance of its functions; or
  - (b) as the Minister directs by notice in writing given to the chairperson or the deputy chairperson.

(2) The chief executive officer shall convene a meeting of the corporation at the request of 3 members.

#### **14 Procedure**

(1) The chairperson shall preside at all meetings of the corporation at which he or she is present.

(2) Where the chairperson is not present at a meeting the deputy chairperson shall preside.

(3) Where the chairperson and the deputy chairperson are both absent from a meeting, the members present shall elect 1 of their number to preside.

(4) The member presiding at a meeting may give directions regarding the procedure to be followed in connection with the meeting.

(5) Questions arising at a meeting shall be decided by a majority of the votes of the members present and voting.

(6) The member presiding at a meeting has a deliberative vote and, in the event of an equality of votes, a casting vote.

(7) The corporation shall keep minutes of its proceedings.

(8) The corporation may convene or hold a meeting by means of instantaneous communication.

(9) In subsection (8):

*instantaneous communication* means communication by means of telephone, television or any other device which permits instantaneous audio communication with or without instantaneous visual communication.

#### **15 Quorum**

At a meeting of the corporation, a majority of the members of the corporation constitutes a quorum.

**16 Disclosure of interest**

- (1) A member who has a direct or indirect pecuniary or personal interest in a matter which has been submitted for consideration by the corporation shall disclose the nature of the interest at a meeting of the corporation as soon as practicable after the relevant facts have come to the member's knowledge.
- (2) The member presiding at a meeting at which an interest is disclosed shall cause that disclosure to be recorded in the minutes of the meeting.
- (3) A member disclosing an interest shall not, unless the Minister or the corporation determines otherwise—

  - (a) be present during any deliberation of the corporation with respect to the relevant matter; or
  - (b) take part in any decision of the corporation with respect to that matter.
- (4) A member disclosing an interest shall not—

  - (a) be present during any deliberation of the corporation with respect to a determination referred to in subsection (3); or
  - (b) take part in any decision of the corporation with respect to such a determination.
- (5) The chairperson shall give a written report to the Minister about any determination of the corporation under subsection (3) specifying the nature of the interest disclosed and the reasons for the determination.

**PART 3—CHIEF EXECUTIVE OFFICER, STAFF AND CONSULTANTS**

***Division 1—Chief executive officer***

**17 Office and office holder**

- (1) There shall be a chief executive officer of the corporation.
- (2) The chief executive shall create and maintain an executive office in the public service the duties of which include performing the functions of the chief executive officer.
- (3) The chief executive officer shall be the public servant for the time being performing the duties of the public service office referred to in subsection (2).

**18 Role**

The chief executive officer shall, subject to and in accordance with the directions of the corporation, manage the affairs of the corporation.

***Division 2—Staff and consultants***

**19 Staff**

- (1) The staff of the corporation shall be employed under the Public Sector Management Act.
- (2) The Public Sector Management Act applies in relation to the management of the staff of the corporation.

**20 Consultants**

- (1) The corporation may engage consultants.
- (2) Subsection (1) does not confer on the corporation a power to enter into a contract of employment.

## **PART 4—MANAGEMENT**

### **21 Definitions of pt 4**

In this Part:

*business plan*, in relation to a financial year, means the business plan of the corporation as in force in respect of that year and includes any modification of that plan.

*Financial Management Act* means the *Financial Management Act 1996*.

### **22 Management focus**

The functions of the corporation shall be discharged—

- (a) in accordance with sound business practice; and
- (b) so as to achieve the business plan of the corporation.

### **23 Business plans**

(1) The business plan of the corporation in respect of a financial year shall contain—

- (a) the statement of intent provided in accordance with section 58 of the Financial Management Act in respect of that financial year; and
- (b) a description of the main undertakings of the corporation in respect of that financial year and each of the next 2 financial years; and
- (c) a description of the business and corporate strategies of the corporation in respect of that financial year and each of the next 2 financial years.

(2) The business plan of the corporation shall include any other information that the Minister, by notice in writing to the chief executive officer, requires be included.

### **24 Development of business plans**

(1) The object of this section is to provide for the development by the corporation, in consultation with the Minister, of an annual business plan for the corporation within, as far as practicable, the first 2 months of each financial year, and shall be construed accordingly.

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- (2) The corporation shall, as far as practicable within 1 month after the commencement of each financial year, submit to the Minister a draft business plan in respect of that financial year.
- (3) The draft shall contain the statement, and descriptions of the type, referred to in subsection 23 (1).
- (4) The Minister shall, in writing, as soon as practicable after receipt of the draft—
- (a) provide comments to the corporation on the draft; or
  - (b) advise the corporation that he or she proposes to make no comments.
- (5) If the Minister advises the corporation that he or she proposes to make no comments, the provisions of the draft shall be the business plan of the corporation in respect of that financial year.
- (6) As soon as practicable after receipt of any comments by the Minister, the corporation shall—
- (a) consider the comments; and
  - (b) consult with the Minister on any of the comments with which the corporation does not agree with a view, as far as practicable, to reaching agreement; and
  - (c) forward to the Minister a revised version of the business plan which, as far as practicable, gives effect to the Minister's comments and other matters agreed on during consultations with the Minister.
- (7) If the corporation forwards to the Minister a revised version of the business plan, the provisions of that plan shall be the business plan of the corporation in respect of that financial year.
- (8) The Minister shall, within 3 sitting days of a business plan coming into effect, cause a copy of the plan to be laid before the Legislative Assembly.
- (9) Before laying a copy of the business plan before the Legislative Assembly the Minister may delete from the plan any part dealing with commercially sensitive information but then he or she shall lay before the Legislative Assembly, with the plan, a further statement setting out the general nature of the material deleted and the reason for the deletion.

**25 Modification of business plans**

(1) Subject to this section and to subsection 23 (1), the corporation may modify the business plan of the corporation in respect of a financial year.

(2) The corporation may submit to the Minister a proposal to modify its business plan.

(3) The Minister shall, in writing, as soon as practicable after receipt of the proposal—

- (a) provide comments to the corporation on the proposal; or
- (b) advise the corporation that he or she proposes to make no comments.

(4) If the Minister advises the corporation that he or she proposes to make no comments, the business plan shall be modified in accordance with the provisions of the proposal.

(5) As soon as practicable after receipt of any comments by the Minister, the corporation shall—

- (a) consider the comments; and
- (b) consult with the Minister on any of the comments with which the corporation does not agree with a view, as far as practicable, to reaching agreement; and
- (c) forward to the Minister a revised version of the proposal which, as far as practicable, gives effect to the Minister's comments and other matters agreed on during consultations with the Minister.

(6) If the corporation forwards to the Minister a revised version of the proposal, the business plan shall be modified in accordance with the provisions of the proposal.

(7) If a business plan is modified in accordance with a proposal or a revised proposal, the Minister shall cause a copy of the proposal or revised proposal, as the case may be, to be laid before the Legislative Assembly with the next report given to him or her under subsection 29 (1).

(8) Before laying a copy of the proposal or revised proposal before the Legislative Assembly the Minister may delete from the proposal or revised proposal any part dealing with commercially sensitive information but then he or she shall lay before the Legislative Assembly, with the proposal or revised proposal, a further statement setting out the general nature of the material deleted and the reason for the deletion.

## **26 Application of Part 8 of Financial Management Act**

(1) Funds shall not be invested, or moneys borrowed, for the purposes of the corporation except in accordance with Part 8 of the Financial Management Act.

(2) Subsection (1) does not limit the application of Part 8 of the Financial Management Act in relation to the corporation.



**PART 5—MISCELLANEOUS**

**27 Provision of information**

The corporation shall furnish to the Minister such information relating to its operations as the Minister requires.

**28 Ministerial directions**

(1) The Minister may give written directions to the corporation in relation to the performance of its functions, either generally or in relation to a particular matter.

(2) The corporation shall give effect to any such direction.

(3) The Minister shall present a copy of any such direction to the Legislative Assembly within 5 sitting days after it is given to the corporation.

(4) The Territory shall pay to the corporation the reasonable costs of complying with a direction.

(5) The amount payable under subsection (4) shall be the amount agreed between the corporation and the Treasurer or, failing agreement, as determined by the Chief Minister.

**29 Quarterly reports**

(1) The corporation shall, as soon as practicable after the end of each quarter, prepare and give to the Minister a report on the operations of this Act and of the corporation during that quarter.

(2) In subsection (1):

*quarter* means the period of 3 months commencing on 1 January, 1 April, 1 July or 1 October in each year.

(3) The Minister shall cause a copy of each report given to him or her under subsection (1) to be laid before the Legislative Assembly within 6 sitting days after the day on which he or she receives the report.

**30 Annual report**

The report prepared by the corporation for the purposes of section 8 of the *Annual Reports (Government Agencies) Act 1995* shall include, in relation to the reporting period—

- (a) a copy of any direction given by the Minister under section 28 during the period; and
- (b) a statement by the corporation about action taken during the period to give effect to any direction given by the Minister under that section.

**30A Liability for ACT taxes etc**

The corporation is not exempt from liability for any tax (however described), or any fee or charge, under a law of the Territory.

**31 Regulation-making power**

The Executive may make regulations for of this Act.

**32 Vesting of assets**

(1) Where the Minister is satisfied—

- (a) that an asset of the Territory, not being an interest in land—
  - (i) has been made available for use, or has been used, in connection with; or
  - (ii) otherwise relates or substantially relates to; the operations of the corporation; and
- (b) that it would be appropriate to divest the asset from the Territory and transfer the asset to the corporation; and
- (c) that the corporation, in writing, consents to the transfer;

the Minister shall, by instrument, divest and transfer the asset accordingly.

(2) Where the Territory is—

- (a) a party to a contract or an agreement; or

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(b) subject to an obligation;

that relates to an asset referred to in subsection (1), the Minister may in the instrument referred to in that subsection or in another instrument declare that the corporation is substituted for the Territory in respect of that contract, agreement or obligation, as the case may be.

(3) Where the contract, agreement or obligation relates to an asset as well as to other property, the corporation shall be taken to be substituted for the Territory to the extent to which the contract, agreement or obligation relates to the asset.

(4) An instrument made by a Minister under this section takes effect according to its terms.

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**SCHEDULE 1**

(See s 3)

**DESIGNATED LOCATIONS**

Canberra Theatre Centre  
Canberra Museum & Gallery  
Lanyon Historic Property  
Calthorpe's House  
Nolan Gallery

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## **SCHEDULE 2**

(See s 12)

### **APPOINTMENT AND TERMS AND CONDITIONS OF APPOINTED MEMBERS**

#### **1 Meaning of *appointed member***

In this Schedule:

***appointed member*** means a member appointed under clause 2.

#### **2 Appointment and terms of office**

(1) The persons referred to in paragraph 10 (1) (a) shall be appointed by the Minister by instrument.

(2) Before appointing a person under subclause (1), the Minister shall ensure that the following areas of expertise are represented amongst the appointed members:

- (a) experience consisting of working in a cultural or heritage field;
- (b) knowledge of financial grants programs related to cultural or heritage matters.

(3) An appointed member holds office, subject to this Act—

- (a) for the period specified in the instrument of appointment; and
- (b) on such terms and conditions (if any) in relation to matters not provided for by this Act as are specified in the instrument of appointment.

(4) The period of the appointment shall not be more than 3 years.

(5) A former appointed member is eligible for reappointment.

#### **3 Remuneration and allowances**

An appointed member is entitled to such remuneration, allowances and other entitlements—

- (a) as are determined by the remuneration tribunal in respect of an appointed member; or
- (b) if there is no such determination—as are determined by the Chief Minister in respect of an appointed member by an interim determination under the *Remuneration Tribunal Act 1995*.

**SCHEDULE 2**—continued

**4 Resignation**

An appointed member may resign his or her office by writing signed by the member and delivered to the Minister.

**5 Termination of appointment**

(1) The Minister may terminate the appointment of an appointed member because of the misbehaviour or physical or mental incapacity of the member.

(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; or
- (b) is absent, except on leave, for 3 consecutive meetings; or
- (c) without reasonable excuse contravenes section 16; or
- (d) is convicted in Australia or elsewhere of an offence punishable by imprisonment for 1 year or longer;

the Minister shall terminate the appointment of that member.

**6 Acting appointments**

(1) The Minister may, by instrument, appoint a suitable person to act as an appointed member—

- (a) during a vacancy in the office of the member, whether or not an appointment has previously been made to that office; or
- (b) during any period, or during all periods, when the member is for any reason unable to perform the functions of the office.

(2) A person appointed to act as an appointed member during a vacancy in the office of a member shall not so act continuously for more than 12 months.

(3) Anything done by or in relation to a person purporting to act pursuant to an appointment under subclause (1) is not invalid on the ground that—

- (a) the appointment was ineffective or had ceased to have effect; or
- (b) the occasion to act had not arisen or had ceased.

**SCHEDULE 2**—continued

(4) In this section:

***suitable person***, in relation to a member of the corporation, means a person who would, in the opinion of the Minister, be suitable in accordance with subclause 2 (2) for appointment to the office of the member if that office were to become permanently vacant.

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## ENDNOTES

### 1 About this republication

This is a republication of the *Cultural Facilities Corporation Act 1997* as in force on 20 October 2000. It includes all amendments made to the Act up to Act 1998 No 35.

Amending and modifying laws are annotated in the table of legislation and table of amendments. However, any current modifications are not included in the republished Act but are set out in the endnotes.

The Parliamentary Counsel's Office currently prepares 2 kinds of republications of ACT laws: authorised printed republications to which the *Legislation (Republication) Act 1996* applies and unauthorised electronic republications. The status of a republication appears on its cover and is indicated by its republication number.

A republication number without a letter (eg 1, 2, 3 etc) indicates that the republication is an authorised printed republication. A number with a letter (eg 1A, 1B, 1C etc) indicates that the republication is an unauthorised electronic republication.

Section 13 of the *Legislation (Republication) Act 1996* authorises the Parliamentary Counsel, in preparing a law for republication, to make textual amendments of a formal nature which the Parliamentary Counsel considers desirable in accordance with current legislative drafting practice. The amendments do not effect a substantive change in the law.

In preparing this republication, amendments have been made under section 13.

Not all amendments made under section 13 are annotated in the table of amendments. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

### 2 Abbreviation key

#### Key to abbreviations in tables

am = amended	pres = present
amdt = amendment	prev = previous
ch = chapter	(prev...) = previously
cl = clause	prov = provision
def = definition	pt = part
dict = dictionary	r = rule/subrule
div = division	reg = regulation/subregulation
exp = expires/expired	renum = renumbered
Gaz = Gazette	reloc = relocated
hdg = heading	R[X] = Republication No
ins = inserted/added	s = section/subsection
LR = Legislation (Republication) Act 1996	sch = schedule
mod = modified	sdiv = subdivision
No = number	sub = substituted
notfd = notified	SL = Subordinate Law
o = order	sp = spent
om = omitted/repealed	* SL unless otherwise stated
orig = original	† Act or Ordinance unless otherwise stated
p = page	
par = paragraph	



*Cultural Facilities Corporation Act 1997*

**3 Table of legislation**

Act†	Year and number†	Gazette Notification	Commencement	Transitional provisions
<i>Cultural Facilities Corporation Act 1997</i>	1997 No 48	19 Sept 1997	ss 1 and 2: 19 Sept 1997 remainder: 1 Nov 1997 (see Gaz 1997 No S325)	
<i>Acts Revision (Taxation of Territory Authorities) Act 1998</i>	1998 No 35	14 Oct 1998	14 Oct 1998	—

**4 Table of amendments**

Provision	How affected†
s 2.....	exp R1 (LR s 15 (1) (o) (iv))
s 30A.....	ins 1998 No 35
ss 33, 34 .....	exp R1 (LR s 15 (1) (o) (iv))