



Australian Capital Territory

# **Cultural Facilities Corporation Act 1997 No 48**

## **Republication No 2**

Republication date: 23 April 2002

Last amendment made by Act 2001 No 44

Amendments incorporated to 12 September 2001

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Cultural Facilities Corporation Act 1997* as in force on 23 April 2002. It includes any amendment, repeal or expiry affecting the republished law to 12 September 2001 and any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes).

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### 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 Act 2001*, part 11.3 authorises 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 Act 2001*, s 115 and s 117). 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.

This republication includes amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

### Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.

Amendments incorporated to  
12 September 2001



Australian Capital Territory

# Cultural Facilities Corporation Act 1997

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Amendments incorporated to  
12 September 2001



Australian Capital Territory

# **Cultural Facilities Corporation Act 1997**

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

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## Part 1 Preliminary

### 1 Name of Act

This Act is the *Cultural Facilities Corporation Act 1997*.

### 3 Definitions for Act

In this Act:

*Note* A definition applies except so far as the contrary intention appears (see *Legislation Act 2001*, s 155).

***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 declared by the Minister under section 3A (Declaration of designated locations).

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

***plan***—see the *Land (Planning and Environment) Act 1991*.

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

### 3A Declaration of designated locations

- (1) The Minister may, in writing, declare a location to be a designated location.



(2) A declaration is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

## **Part 2 Corporate status**

### **Division 2.1 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 ACT; 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 ACT; and
- (e) to undertake activities in cooperation with other persons where appropriate for the purpose of exercising its other functions; and
- (f) to exercise any other functions given to the corporation by or under this Act or another Territory law.

## **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 subsection (1), the corporation has the same capacity as an individual.

## **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 ACT.

## **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 exercise of its functions.
- (2) Subject to any direction by the corporation, an advisory committee may determine how it is to exercise 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) If the corporation enters into a partnership or participates in a joint venture for which the Minister has given particular approval, the Minister shall—
  - (a) prepare a statement setting out particulars of, and the reasons for, the partnership or joint venture; and
  - (b) present a copy of the statement to the Legislative Assembly with the next report given to him or her under section 29 (1).

## **Division 2.2                      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 schedule 2, clause 2;
  - (b) the chief executive officer.
- (2) The exercise of the functions of the corporation is not affected only because of a vacancy or vacancies in the membership of the corporation.

### **11      Chairperson and deputy chairperson**

- (1) The Minister shall, in writing, 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 section 10 (1) (a).

## **Division 2.3 Meetings**

### **13 Calling meetings**

- (1) The chairperson or, if the chairperson is unable to do so, the deputy chairperson shall call the meetings of the corporation—
  - (a) that the chairperson or the deputy chairperson considers necessary for the efficient exercise of its functions; or
  - (b) that the Minister directs by written notice given to the chairperson or the deputy chairperson.
- (2) The chief executive officer shall call 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) If the chairperson is not present at a meeting, the deputy chairperson shall preside.
- (3) If 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 call 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 that 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 that 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 in relation to the relevant matter; or
  - (b) take part in any decision of the corporation in relation to that matter.
- (4) A member disclosing an interest shall not—
  - (a) be present during any deliberation of the corporation in relation to a determination referred to in subsection (3); or

- (b) take part in any decision of the corporation in relation 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 3.1** 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 exercising the functions of the chief executive officer.
- (3) The chief executive officer shall be the public servant for the time being exercising 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 3.2** 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 give the corporation a power to enter into a contract of employment.



## Part 4 Management

### 21 Definitions for pt 4

In this part:

*business plan*, in relation to a financial year, means the business plan of the corporation as in force in relation to 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 relation to a financial year shall contain—
  - (a) the statement of intent provided in accordance with the Financial Management Act, section 58 in relation to that financial year; and
  - (b) a description of the main undertakings of the corporation in relation to 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 relation to 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 written notice 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.
- (2) The corporation shall, as far as practicable within 1 month after the beginning of each financial year, submit to the Minister a draft business plan in relation to that financial year.
- (3) The draft shall contain the statement, and descriptions of the type, referred to in section 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 relation to 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) give the Minister a revised version of the business plan that, 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 gives the Minister a revised version of the business plan, the provisions of that plan shall be the business plan of the corporation in relation to that financial year.
- (8) The Minister shall, within 3 sitting days of a business plan coming into effect, present a copy of the plan to the Legislative Assembly.
- (9) Before presenting a copy of the business plan to the Legislative Assembly, the Minister may delete from the plan any part dealing with commercially sensitive information but then he or she shall present to 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 section 23 (1), the corporation may modify the business plan of the corporation in relation to 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) give the Minister a revised version of the proposal that, 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 gives 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 present a copy of the proposal or revised proposal to the Legislative Assembly with the next report given to him or her under section 29 (1).
- (8) Before presenting a copy of the proposal or revised proposal to 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 present to 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 Financial Management Act, pt 8**

- (1) Funds shall not be invested, or money borrowed, for the purposes of the corporation except in accordance with the Financial Management Act, part 8.
- (2) Subsection (1) does not limit the application of the Financial Management Act, part 8 in relation to the corporation.

## Part 5                      Miscellaneous

### 27      **Provision of information**

The corporation shall give the Minister the information relating to its operations that the Minister requires.

### 28      **Ministerial directions**

- (1) The Minister may give written directions to the corporation in relation to the exercise of its functions, either generally or in relation to a particular matter.
- (2) The corporation shall give effect to any direction under subsection (1).
- (3) The Minister shall present a copy of a 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 present a copy of each report given to him or her under subsection (1) to the Legislative Assembly within 6 sitting days after the day he or she receives the report.

### **30 Annual report**

The report prepared by the corporation for the *Annual Reports (Government Agencies) Act 1995*, section 8 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 Territory law.

### **31 Regulation-making power**

The Executive may make regulations for of this Act.

*Note* Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

### **32 Vesting of assets**

- (1) If the Minister is satisfied—
- (a) that an asset of the Territory, other than 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, in writing, divest and transfer the asset accordingly.
- (2) If the Territory is—
    - (a) a party to a contract or an agreement; or
    - (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 relation to that contract, agreement or obligation.
  - (3) If 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.

## Schedule 1 Designated locations

(see s 3)

<b>column 1 item</b>	<b>column 2 designated locations</b>
1	Canberra Theatre Centre
2	Canberra Museum & Gallery
3	Lanyon Historic Property
4	Calthorpe's House
5	Nolan Gallery



## Schedule 2      Appointment and terms and conditions of appointed members

(see s 12)

### 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 section 10 (1) (a) shall be appointed by the Minister in writing.
- (2) Before appointing a person under subclause (1), the Minister shall ensure that the following areas of expertise are represented among 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 the terms and conditions (if any) in relation to matters not provided for by this Act that 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 the remuneration, allowances and other entitlements—

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

**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, in writing, 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 exercise 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 under 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.
- (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 clause 2 (2) for appointment to the office of the member if that office were to become permanently vacant.

## Endnotes

1 About the endnotes

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## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

If the republished law includes penalties, current information about penalty unit values appears on the republication inside front cover.

### 2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	p = page
cl = clause	par = paragraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	prov = provision
exp = expires/expired	pt = part
Gaz = Gazette	r = rule/subrule
hdg = heading	reg = regulation/subregulation
ins = inserted/added	renum = renumbered
LA = Legislation Act 2001	reloc = relocated
LR = legislation register	R[X] = Republication No
LRA = Legislation (Republication) Act 1996	s = section/subsection
mod = modified / modification	sch = schedule
No = number	sdiv = subdivision
num = numbered	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

### 3 Legislation history

**Cultural Facilities Corporation Act 1997 No 48**

notified 19 September 1997 (Gaz 1997 No S264)

s 1, s 2 commenced 19 September 1997 (s 2 (1))

remainder commenced 1 November 1997 (s 2 (2) and Gaz 1997 No S325)

as amended by

**Acts Revision (Taxation of Territory Authorities) Act 1998 No 35 sch pt 1**

notified 14 October 1998 (Gaz 1998 No 41)

commenced 14 October 1998 (s 2)

**Legislation (Consequential Amendments) Act 2001 No 44 pt 95**

notified 26 July 2001 (Gaz 2001 No 30)

s 1, s 2 commenced 26 July 2001 (IA s 10B)

pt 95 commenced 12 September 2001 (s 2 and Gaz 2001 No S65)

### 4 Amendment history

**Commencement**

s 2 om R1 LRA

**Definitions for Act**

s 3 am 2001 No 44 amdt 1.1014, amdt 1.1016

def **designated location** am 2001 No 44 amdt 1.1015

**Declaration of designated locations**

s 3A ins 2001 No 44 amdt 1.1017

**Establishment, functions and powers**

div 2.1 hdg (prev pt 2 div 1 hdg) renum R2 LA

**Membership**

div 2.2 hdg (prev pt 2 div 2 hdg) renum R2 LA

**Meetings**

div 2.3 hdg (prev pt 2 div 3 hdg) renum R2 LA

**Chief executive officer**

div 3.1 hdg (prev pt 3 div 1 hdg) renum R2 LA

**Staff and consultants**

div 3.2 hdg (prev pt 3 div 2 hdg) renum R2 LA

## Endnotes

5 Earlier republications

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**Liability for ACT taxes etc**

s 30A ins 1998 No 35 sch pt 1

**Development of first business plan**

s 33 om R1 LRA

**Repeal**

s 34 om R1 LRA

## 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	Act 1998 No 35	20 October 2000

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