

# AUSTRALIAN WAR MEMORIAL.

No. 85 of 1962.

An Act relating to the Australian War Memorial.

[Assented to 14th December, 1962.]

**B**E it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

## PART I.—PRELIMINARY.

1. This Act may be cited as the *Australian War Memorial Act* 1962. Short title.
2. This Act shall come into operation on a date to be fixed by Proclamation. Commencement.
3. This Act is divided into Parts, as follows:— Parts.
  - Part I.—Preliminary (Sections 1–5).
  - Part II.—Australian War Memorial and Board of Trustees (Sections 6–16).
  - Part III.—Finance (Sections 17–22).
  - Part IV.—Miscellaneous (Sections 23–29).
4. The *Australian War Memorial Act* 1925 and the *Australian War Memorial Act* 1952 are repealed. Repeal.

5. In

## Definitions.

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

- “ active service ” means active service in war or in war-like operations by members of the naval, military or air forces of the Commonwealth, or of any naval or military force of the Crown raised in Australia before the establishment of the Commonwealth;
- “ member ” means a member of the Board;
- “ the Board ” means the Board of Trustees of the Memorial referred to in section seven of this Act;
- “ the Fund ” means the Australian War Memorial Fund referred to in section seventeen of this Act;
- “ the Memorial ” means the Australian War Memorial continued in existence by this Act;
- “ the war relics of the Commonwealth ” means the war relics forming part of the Memorial immediately before the commencement of this Act and such other war relics as are acquired by the Board for inclusion in the Memorial;
- “ war relics ” means any relics, records, publications, pictures, photographs, cinematograph films, models, statues or other things that relate to any war or war-like operations in which Australians have been on active service.

PART II.—AUSTRALIAN WAR MEMORIAL AND BOARD OF TRUSTEES.

Australian War Memorial.

6.—(1.) The Australian War Memorial established by the *Australian War Memorial Act 1925* is continued in existence as a Commonwealth Memorial of Australians who have died on or as a result of active service and shall continue to be known as the Australian War Memorial.

(2.) The Memorial shall consist of—

- (a) the war relics of the Commonwealth; and
- (b) such land owned by the Commonwealth as is made available by the Commonwealth for the purposes of the Memorial and is specified by the Minister by notice in the *Gazette* and any buildings, structures or other improvements on that land.

Board of Trustees.

7.—(1.) For the purposes of this Act, there shall be a Board of Trustees of the Memorial.

(2.) The Board—

- (a) is a body corporate with perpetual succession;
- (b) shall have a seal;
- (c) has power to acquire, hold and dispose of real and personal property; and
- (d) may sue and be sued in its corporate name.

(3.) All

(3.) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Board affixed to a document and shall presume that it was duly affixed.

(4.) Subject to section twenty-four of this Act—

(a) all rights, obligations and liabilities that, immediately before the commencement of this Act, were vested in or imposed on the Board of Management of the Memorial holding office under the *Australian War Memorial Act 1925-1952* are, by force of this Act, vested in or imposed on the Board of Trustees of the Memorial; and

(b) any contract, agreement or other instrument subsisting at the commencement of this Act to which the Board of Management of the Memorial is a party continues to have effect as if—

(i) the Board of Trustees were substituted for the Board of Management as a party to the contract, agreement or other instrument; and

(ii) any reference in the contract, agreement or other instrument to the Board of Management were a reference to the Board of Trustees.

8. The Board shall consist of—

(a) the Chief of the Naval Staff;

(b) the Chief of the General Staff;

(c) the Chief of the Air Staff; and

(d) nine other members, who shall be appointed by the Governor-General and hold office during his pleasure.

**Constitution of  
the Board.**

9.—(1.) A member specified in paragraph (a), (b) or (c) of the last preceding section may appoint a person to be his deputy.

**Deputies of  
members.**

(2.) The Governor-General may appoint a person to be the deputy of a member specified in paragraph (d) of the last preceding section.

(3.) The deputy of a member is, in the event of the absence of the member of whom he is the deputy from a meeting of the Board, entitled to attend that meeting and, when so attending, shall be deemed to be a member of the Board.

10.—(1.) Members, and deputies of members, of the Board shall, subject to the next succeeding sub-section, be paid such allowances (if any) as the Governor-General determines.

**Allowances.**

(2.) A member

(2.) A member, or a deputy of a member, of the Board who is a member of either House of the Parliament shall not be paid any allowance under the last preceding sub-section, but shall be reimbursed such expenses as he reasonably incurs as such member or deputy.

(3.) Any allowance or reimbursement of expenses to which a person is entitled under this section shall be paid out of moneys appropriated by the Parliament for the purpose.

**Chairman of  
the Board.**

11.—(1.) The members of the Board may elect one of their number to be the Chairman of the Board and the member so elected shall hold office as Chairman during the pleasure of the Board.

(2.) The Chairman of the Board shall preside at all meetings of the Board at which he is present.

(3.) In the event of the absence of the Chairman from a meeting of the Board, the members of the Board present at the meeting shall elect one of their number to preside at the meeting.

**Meetings of  
the Board.**

12.—(1.) At a meeting of the Board, five members constitute a quorum.

(2.) All questions arising at a meeting of the Board shall be decided by a majority of the votes of the members present and voting and, for this purpose, the member presiding at the meeting is entitled to a deliberative vote and also, in the event of an equality of votes, to a casting vote.

**Functions of  
the Board.**

13. The functions of the Board are, on behalf of the Commonwealth—

- (a) to manage the Memorial;
- (b) to control and preserve the war relics of the Commonwealth and to arrange, so far as the Board considers desirable, for their public display;
- (c) to carry out, and assist other persons in carrying out, research in connexion with any war or war-like operations in which Australians have been on active service; and
- (d) to disseminate information relating to the Memorial or any war or war-like operations in which Australians have been on active service.

**Powers of  
the Board.**

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

(2.) Without

(2.) Without limiting the generality of the last preceding sub-section, the Board has power—

- (a) to acquire war relics for inclusion in the Memorial;
- (b) to dispose of, lend or hire out war relics or other goods owned by the Board;
- (c) to make or have made, and to sell to the public—
  - (i) reproductions or replicas of war relics; and
  - (ii) photographs relating to the Memorial or to any war or war-like operations in which Australians have been on active service;
- (d) to publish, and to sell to the public, books and other publications relating to the Memorial or to any war or war-like operations in which Australians have been on active service;
- (e) to exhibit cinematograph films relating to the Memorial or to any war or war-like operations in which Australians have been on active service;
- (f) to occupy, use and control any land, building or other structure forming part of the Memorial;
- (g) to accept gifts, devises, bequests and assignments made to the Memorial or the Board (whether on trust or otherwise);
- (h) to act as trustee of war relics or other property vested in the Board upon trust;
- (i) to administer the Fund; and
- (j) to purchase or take on hire, or to accept on deposit or loan, furnishings, equipment and goods needed for the purpose of the Memorial.

(3.) Notwithstanding anything contained in this Act, any war relics or other property held by the Board upon trust shall be dealt with in accordance with the powers and duties of the Board as trustee.

15. The Minister may make arrangements with the appropriate authority for the transfer to the Board, for the purposes of this Act, of the ownership, use or custody of any war relics or other goods belonging to the Commonwealth.

Transfer of war relics, &c., to the Board.

16.—(1.) The Board may, either generally or in relation to a matter or class of matters, by writing under its seal, delegate to a member or other person, or to a committee consisting of members or other persons or partly of members and partly of other persons, any of its powers under this Act, except this power of delegation.

Delegation by Board.

(2.) A power

(2.) A power so delegated may be exercised by the delegate in accordance with the instrument of delegation.

(3.) A delegation under this section is revocable at will and does not prevent the exercise of a power by the Board.

### PART III.—FINANCE.

**Australian War Memorial Fund.**

**17.—**(1.) The Fund established by the *Australian War Memorial Act* 1925 and known as the Australian War Memorial Fund is continued in existence under that name and is vested in the Board.

(2.) The moneys and investments constituting the Fund immediately before the commencement of this Act shall continue to form part of the Fund.

(3.) There shall be paid into the Fund all moneys received by the Board by virtue of—

- (a) the exercise of its powers and the carrying out of its functions under this Act; or
- (b) the operation of sub-section (4.) of section seven of this Act.

**Application of Fund.**

**18.** The moneys in the Fund shall be applied by the Board only in payment or discharge of—

- (a) the costs and expenses incurred by the Board in the exercise of its powers and the carrying out of its functions under this Act; or
- (b) any obligations and liabilities imposed on the Board by virtue of sub-section (4.) of section seven of this Act.

**Investment, &c., of moneys in the Fund.**

**19.—**(1.) Moneys in the Fund not immediately required for the purposes referred to in the last preceding section—

- (a) may be invested in securities of or guaranteed by the Government of the Commonwealth; or
- (b) may be lodged in an account at call or on fixed deposit or partly in an account at call or partly on fixed deposit with the Reserve Bank of Australia or with such other bank or banks as the Treasurer approves.

(2.) Income derived from the investment of moneys in the Fund forms part of the Fund.

**Proper accounts to be kept.**

**20.** The Board shall keep proper accounts and records of the transactions and affairs of the Board and shall do all things necessary to ensure that all payments out of the moneys of the Fund are correctly made and properly authorized and that adequate control is maintained over the assets of, or in the custody of, the Board and the incurring of liabilities by the Board.

**21.—**(1.) The

**21.—(1.)** The Auditor-General shall inspect and audit the accounts and records of financial transactions of the Board and shall forthwith draw the Minister's attention to any irregularity revealed by the inspection and audit that, in the opinion of the Auditor-General, is of sufficient importance to justify his so doing. Audit.

(2.) The Auditor-General or an officer authorized by him is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of the Board relating directly or indirectly to the Fund or to the receipt or payment of moneys by the Board or to the acquisition, receipt, custody or disposal of assets of the Board.

(3.) The Auditor-General or an officer authorized by him may make copies of or take extracts from any such accounts, records, documents or papers.

(4.) The Auditor-General or an officer authorized by him may require a member of the Board or a member of the staff of the Memorial to furnish him with such information in the possession of that person or to which that person has access as the Auditor-General or authorized officer considers necessary for the purposes of an inspection or audit under this Act, and that person shall comply with the requirement.

**22.** The Board is not subject to taxation under any law of the Commonwealth or of a State or Territory of the Commonwealth to which the Commonwealth is not subject. Exemption from taxation.

#### PART IV.—MISCELLANEOUS.

**23.—(1.)** The Board shall furnish to the Minister such reports relating to its operations as the Minister requires. Reports.

(2.) The Board shall, as soon as practicable after each thirtieth day of June, furnish to the Minister, for presentation to each House of the Parliament, a report of its operations during the year ended on that date, together with financial statements in respect of that year in such form as the Minister approves.

(3.) Before furnishing the financial statements to the Minister, the Board shall submit them to the Auditor-General, who shall report to the Minister—

(a) whether the statements are based on proper accounts and records;

(b) whether the statements are in agreement with the accounts and records and show fairly the financial operations of the Board and the state of the Fund and the affairs of the Board;

(c) whether

(c) whether the receipt and expenditure of moneys by the Board during the year have been in accordance with this Act; and

(d) as to such other matters arising out of the statements as the Auditor-General considers should be reported to the Minister.

(4.) The Minister shall lay the report and financial statements of the Board, together with the report of the Auditor-General, before each House of the Parliament within fifteen sitting days of that House after their receipt by the Minister.

Staff of  
Memorial.

24. The staff of the Memorial shall be employed under the *Public Service Act 1922-1960*.

Copyright.

25. Nothing in this Act authorizes the Board to commit any breach of copyright.

Perusal of  
records.

26. Where the Board is satisfied that it is necessary or desirable so to do, the Board may authorize a person to peruse and make extracts from, or copies of, any of the records or documents forming part of the war relics of the Commonwealth that are not upon public display.

Manufacture,  
printing,  
publishing and  
sale of exhibits  
prohibited.

27.—(1.) A person shall not, without the permission in writing of the Board—

(a) sell or offer for sale; or

(b) for the purposes of advertisement or for any other commercial or business purpose, make, use, print, publish or exhibit,

a replica, photograph, representation or copy of an exhibit forming part of the war relics of the Commonwealth.

Penalty: Fifty pounds.

(2.) The last preceding sub-section does not apply to, or in relation to, the publication in a newspaper of a photograph of an exhibit.

Validations of  
delegations by  
Board under  
the repealed  
Act.

28.—(1.) In this section, “the repealed Act” means the *Australian War Memorial Act 1925* or that Act as amended by the *Australian War Memorial Act 1952*.

(2.) Where, before the commencement of this Act, the Board of Management of the Memorial as constituted under the repealed Act purported to delegate, by resolution, to a member of the Board or to committees all or any of its powers and functions under the repealed Act, the purported delegation shall be deemed to have been as valid and effectual for the purposes

of



of the repealed Act as if it had been a delegation made by writing under the hand of each member of the Board in accordance with section nine of the repealed Act.

29. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters that are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and, in particular— **Regulations.**

- (a) for regulating the conduct of persons on any land or in any building forming part of the Memorial; and
- (b) for prescribing penalties not exceeding a fine of Fifty pounds for offences against the regulations.