



National Collecting Institutions Legislation Amendment Act 2021

No. 20, 2021

**An Act to amend the law relating to national
collecting institutions, and for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

Contents

1	Short title.....	1
2	Commencement.....	2
3	Schedules.....	2
Schedule 1—Investments		3
	<i>Australian National Maritime Museum Act 1990</i>	3
	<i>National Film and Sound Archive of Australia Act 2008</i>	4
	<i>National Gallery Act 1975</i>	6
	<i>National Library Act 1960</i>	7
	<i>National Museum of Australia Act 1980</i>	9
	<i>National Portrait Gallery of Australia Act 2012</i>	11
Schedule 2—Other amendments		13
	<i>Australian National Maritime Museum Act 1990</i>	13
	<i>National Film and Sound Archive of Australia Act 2008</i>	17
	<i>National Gallery Act 1975</i>	19
	<i>National Library Act 1960</i>	23
	<i>National Museum of Australia Act 1980</i>	27
	<i>National Portrait Gallery of Australia Act 2012</i>	32



National Collecting Institutions Legislation Amendment Act 2021

No. 20, 2021

An Act to amend the law relating to national collecting institutions, and for related purposes

[Assented to 2 March 2021]

The Parliament of Australia enacts:

1 Short title

This Act is the *National Collecting Institutions Legislation
Amendment Act 2021*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	A single day to be fixed by Proclamation. However, if the provisions do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	1 May 2021 (F2021N00075)

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Investments

Australian National Maritime Museum Act 1990

1 Subsection 45(2)

After “does not prevent investment, under”, insert “subsection (3) of this section or”.

2 At the end of section 45

Add:

- (3) In addition to investments authorised by section 59 of the *Public Governance, Performance and Accountability Act 2013*, the Museum may invest the following in any other form of investment:
- (a) money accepted as a gift or bequest to the Museum;
 - (b) money that the Museum receives from the disposal of property given, devised, bequeathed or assigned to the Museum by a person other than the Commonwealth;
 - (c) income received from an investment made under this subsection or from the disposal of such an investment.

Note: See subsection 50(2) for obligations of the Museum as trustee of a trust.

- (4) An investment under subsection (3), or the disposal of such an investment, must be in accordance with a policy in force under section 46.

3 After section 45

Insert:

46 Investment policy

- (1) The Council may formulate a written policy in relation to the following matters:
- (a) the investment strategy of the Museum;
 - (b) benchmarks and standards for assessing the performance of the Museum’s investments;
 - (c) risk management for the Museum’s investments.

Note: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

Publication of policy

- (2) If the Council formulates a policy under subsection (1), the Council must cause a copy of the policy to be published on the Museum's website.

Review of policy

- (3) If the Council formulates a policy under subsection (1), the Council must conduct periodic reviews of the policy.

Compliance with policy

- (4) If the Council formulates a policy under subsection (1), the Museum must comply with the policy.
- (5) A failure to comply with the policy does not affect the validity of any transaction.

Policy not a legislative instrument

- (6) A policy formulated under subsection (1) is not a legislative instrument.

National Film and Sound Archive of Australia Act 2008

4 Subsection 38(2)

After “does not prevent investment, under”, insert “subsection (3) of this section or”.

5 At the end of section 38

Add:

- (3) In addition to investments authorised by section 59 of the *Public Governance, Performance and Accountability Act 2013*, the National Film and Sound Archive of Australia may invest the following in any other form of investment:
- (a) money accepted as a gift or bequest to the National Film and Sound Archive of Australia;

-
- (b) money that the National Film and Sound Archive of Australia receives from the disposal of property given, devised, bequeathed or assigned to the National Film and Sound Archive of Australia by a person other than the Commonwealth;
 - (c) income received from an investment made under this subsection or from the disposal of such an investment.

Note: See subsection 7(3) for obligations of the National Film and Sound Archive of Australia as trustee of a trust.

- (4) An investment under subsection (3), or the disposal of such an investment, must be in accordance with a policy in force under section 38A.

6 After section 38

Insert:

38A Investment policy

- (1) The Board may formulate a written policy in relation to the following matters:
 - (a) the investment strategy of the National Film and Sound Archive of Australia;
 - (b) benchmarks and standards for assessing the performance of the National Film and Sound Archive of Australia's investments;
 - (c) risk management for the National Film and Sound Archive of Australia's investments.

Note: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

Publication of policy

- (2) If the Board formulates a policy under subsection (1), the Board must cause a copy of the policy to be published on the National Film and Sound Archive of Australia's website.

Review of policy

- (3) If the Board formulates a policy under subsection (1), the Board must conduct periodic reviews of the policy.

Compliance with policy

- (4) If the Board formulates a policy under subsection (1), the National Film and Sound Archive of Australia must comply with the policy.
- (5) A failure to comply with the policy does not affect the validity of any transaction.

Policy not a legislative instrument

- (6) A policy formulated under subsection (1) is not a legislative instrument.

National Gallery Act 1975

7 Subsection 37(2)

After “does not prevent investment, under”, insert “subsection (3) of this section or”.

8 At the end of section 37

Add:

- (3) In addition to investments authorised by section 59 of the *Public Governance, Performance and Accountability Act 2013*, the Gallery may invest the following in any other form of investment:
 - (a) money accepted as a gift or bequest to the Gallery;
 - (b) money that the Gallery receives from the disposal of property given, devised, bequeathed or assigned to the Gallery by a person other than the Commonwealth;
 - (c) income received from an investment made under this subsection or from the disposal of such an investment.

Note: See subsection 7(4) for obligations of the Gallery as trustee of a trust.

- (4) An investment under subsection (3), or the disposal of such an investment, must be in accordance with a policy in force under section 37A.

9 After section 37

Insert:

37A Investment policy

- (1) The Council may formulate a written policy in relation to the following matters:
 - (a) the investment strategy of the Gallery;
 - (b) benchmarks and standards for assessing the performance of the Gallery's investments;
 - (c) risk management for the Gallery's investments.

Note: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

Publication of policy

- (2) If the Council formulates a policy under subsection (1), the Council must cause a copy of the policy to be published on the Gallery's website.

Review of policy

- (3) If the Council formulates a policy under subsection (1), the Council must conduct periodic reviews of the policy.

Compliance with policy

- (4) If the Council formulates a policy under subsection (1), the Gallery must comply with the policy.
- (5) A failure to comply with the policy does not affect the validity of any transaction.

Policy not a legislative instrument

- (6) A policy formulated under subsection (1) is not a legislative instrument.

National Library Act 1960**10 Subsection 22(2)**

After "does not prevent investment, under", insert "subsection (3) of this section or".

11 At the end of section 22

Add:

- (3) In addition to investments authorised by section 59 of the *Public Governance, Performance and Accountability Act 2013*, the Library may invest the following in any other form of investment:
- (a) money accepted as a gift or bequest to the Library;
 - (b) money that the Library receives from the disposal of property given, devised, bequeathed or assigned to the Library by a person other than the Commonwealth;
 - (c) income received from an investment made under this subsection or from the disposal of such an investment.

Note: See subsection 7(3) for obligations of the Library as trustee of a trust.

- (4) An investment under subsection (3), or the disposal of such an investment, must be in accordance with a policy in force under section 23.

12 After section 22

Insert:

23 Investment policy

- (1) The Council may formulate a written policy in relation to the following matters:
- (a) the investment strategy of the Library;
 - (b) benchmarks and standards for assessing the performance of the Library's investments;
 - (c) risk management for the Library's investments.

Note: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

Publication of policy

- (2) If the Council formulates a policy under subsection (1), the Council must cause a copy of the policy to be published on the Library's website.

Review of policy

- (3) If the Council formulates a policy under subsection (1), the Council must conduct periodic reviews of the policy.

Compliance with policy

- (4) If the Council formulates a policy under subsection (1), the Library must comply with the policy.
- (5) A failure to comply with the policy does not affect the validity of any transaction.

Policy not a legislative instrument

- (6) A policy formulated under subsection (1) is not a legislative instrument.

National Museum of Australia Act 1980**13 Subsection 35(2)**

After “does not prevent investment, under”, insert “subsection (3) of this section or”.

14 At the end of section 35

Add:

- (3) In addition to investments authorised by section 59 of the *Public Governance, Performance and Accountability Act 2013*, the Museum may invest the following in any other form of investment:
- (a) money accepted as a gift or bequest to the Museum;
 - (b) money that the Museum receives from the disposal of property given, devised, bequeathed or assigned to the Museum by a person other than the Commonwealth;
 - (c) income received from an investment made under this subsection or from the disposal of such an investment.

Note: See subsection 7(4) for obligations of the Museum as trustee of a trust.

- (4) An investment under subsection (3), or the disposal of such an investment, must be in accordance with a policy in force under section 36.

15 After section 35

Insert:

36 Investment policy

- (1) The Council may formulate a written policy in relation to the following matters:
 - (a) the investment strategy of the Museum;
 - (b) benchmarks and standards for assessing the performance of the Museum's investments;
 - (c) risk management for the Museum's investments.

Note: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

Publication of policy

- (2) If the Council formulates a policy under subsection (1), the Council must cause a copy of the policy to be published on the Museum's website.

Review of policy

- (3) If the Council formulates a policy under subsection (1), the Council must conduct periodic reviews of the policy.

Compliance with policy

- (4) If the Council formulates a policy under subsection (1), the Museum must comply with the policy.
- (5) A failure to comply with the policy does not affect the validity of any transaction.

Policy not a legislative instrument

- (6) A policy formulated under subsection (1) is not a legislative instrument.

National Portrait Gallery of Australia Act 2012**16 Subsection 46(2)**

After “does not prevent investment, under”, insert “subsection (3) of this section or”.

17 At the end of section 46

Add:

- (3) In addition to investments authorised by section 59 of the *Public Governance, Performance and Accountability Act 2013*, the Gallery may invest the following in any other form of investment:
- (a) money accepted as a gift or bequest to the Gallery;
 - (b) money that the Gallery receives from the disposal of property given, devised, bequeathed or assigned to the Gallery by a person other than the Commonwealth;
 - (c) income received from an investment made under this subsection or from the disposal of such an investment.

Note: See subsection 8(3) for obligations of the Gallery as trustee of a trust.

- (4) An investment under subsection (3), or the disposal of such an investment, must be in accordance with a policy in force under section 46A.

18 After section 46

Insert:

46A Investment policy

- (1) The Board may formulate a written policy in relation to the following matters:
- (a) the investment strategy of the Gallery;
 - (b) benchmarks and standards for assessing the performance of the Gallery’s investments;
 - (c) risk management for the Gallery’s investments.

Note: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

Publication of policy

- (2) If the Board formulates a policy under subsection (1), the Board must cause a copy of the policy to be published on the Gallery's website.

Review of policy

- (3) If the Board formulates a policy under subsection (1), the Board must conduct periodic reviews of the policy.

Compliance with policy

- (4) If the Board formulates a policy under subsection (1), the Gallery must comply with the policy.
- (5) A failure to comply with the policy does not affect the validity of any transaction.

Policy not a legislative instrument

- (6) A policy formulated under subsection (1) is not a legislative instrument.

19 Application provision

The amendments made by this Schedule apply in relation to the following:

- (a) money accepted as a gift or bequest before, on or after the commencement of this item;
- (b) money received from the disposal of property before, on or after that commencement.

Schedule 2—Other amendments

Australian National Maritime Museum Act 1990

1 Subsection 8(6)

Repeal the subsection.

2 Subsections 10(4) and (5)

Repeal the subsections, substitute:

- (4) If the Council has determined, in accordance with this section, that material included in the national maritime collection be disposed of, the Museum may dispose of that material accordingly.

Note: Particulars of any such disposals must be included in the annual report (see section 48).

- (5) Subsection (4) is subject to section 47 (about restrictions on financial transactions).

3 Section 14

Repeal the section.

4 After subsection 17(5)

Insert:

- (5AA) A person must not be appointed as a member referred to in paragraph (1)(a) or (c) for a period if the sum of the following exceeds 9 years:

- (a) that period;
- (b) any periods of previous appointment of the person as a member.

5 Subsection 23(10)

Omit “and shall forward a copy of those minutes to the Minister”.

6 Division 3 of Part 3

Repeal the Division.

7 Section 39

Before “The Director may”, insert “(1)”.

8 At the end of section 39

Add:

Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

- (2) In exercising a delegated power, the delegate must comply with any written directions of the Director.

9 Section 47

Repeal the section, substitute:

47 Restrictions on financial transactions

- (1) The Museum must not, without the written approval of the Minister:
- (a) acquire any maritime historical material for a consideration exceeding in amount or value the amount prescribed by the regulations for the purposes of this paragraph; or
 - (b) dispose of any maritime historical material if the amount or value of the consideration for the disposal, or the value of the maritime historical material, exceeds the amount prescribed by the regulations for the purposes of this paragraph; or
 - (c) acquire any property, right or privilege, other than maritime historical material, for a consideration exceeding in amount or value the amount prescribed by the regulations for the purposes of this paragraph; or
 - (d) dispose of any property, right or privilege, other than maritime historical material, if the amount or value of the consideration for the disposal, or the value of the property, right or privilege, exceeds the amount prescribed by the regulations for the purposes of this paragraph; or
 - (e) enter into a contract for the construction of a building for the Museum, being a contract under which the Museum is to pay an amount exceeding the amount prescribed by the regulations for the purposes of this paragraph; or
 - (f) enter into a lease of land for a period exceeding 10 years.

-
- (2) An approval under subsection (1) is not a legislative instrument.
 - (3) The value of maritime historical material referred to in paragraph (1)(b) is to be determined in accordance with regulations made for the purposes of this subsection.
 - (4) Subsection (1) does not apply to a contract if the contract provides for the supply of a service to the Museum for the day-to-day operations of the Museum.
 - (5) Subsection (1) does not apply to the following:
 - (a) an investment acquired under subsection 45(3);
 - (b) the disposal of such an investment.

10 Section 48

Repeal the section, substitute:

48 Extra matter to be included in annual report

Each annual report prepared by the Council and given to the Minister under section 46 of the *Public Governance, Performance and Accountability Act 2013* for a period must include particulars of any disposals of material included in the national maritime collection under subsection 10(4) of this Act during that period.

11 After section 53

Insert:

53A Minister may give directions to Council

- (1) The Minister may, by legislative instrument, give written directions to the Council about the performance of its functions or the exercise of its powers.

Note: Section 42 (disallowance) and Part 4 of Chapter 3 (sunsetting) of the *Legislation Act 2003* do not apply to the directions (see regulations made for the purposes of paragraphs 44(2)(b) and 54(2)(b) of that Act).

- (2) A direction under subsection (1) must be of a general nature only.
- (3) The Council must comply with a direction under subsection (1).

53B Delegation by the Minister

- (1) The Minister may, in writing, delegate all or any of the Minister's functions or powers under this Act to:
 - (a) the Secretary of the Department; or
 - (b) an SES employee, or acting SES employee, in the Department.

Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

- (2) However, subsection (1) does not apply to the Minister's powers under section 8, 18 or 53A.
- (3) In performing a delegated function or exercising a delegated power, the delegate must comply with any written directions of the Minister.

12 Application and saving provisions

- (1) Subsection 8(6) of the *Australian National Maritime Museum Act 1990*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to a delegation in force under that subsection immediately before that commencement.
- (2) The amendment of section 10 of the *Australian National Maritime Museum Act 1990* made by this Schedule applies in relation to a determination made under that section on or after the commencement of this item.
- (3) Section 14 of the *Australian National Maritime Museum Act 1990*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to a direction in force under that section immediately before that commencement.
- (4) Subsection 17(5AA) of the *Australian National Maritime Museum Act 1990*, as inserted by this Schedule, applies in relation to an appointment made under subsection 17(2) of that Act on or after the commencement of this item, whether a period of previous appointment referred to in paragraph 17(5AA)(b) of that Act occurred before, on or after that commencement.

-
- (5) The amendment of section 23 of the *Australian National Maritime Museum Act 1990* made by this Schedule applies in relation to a meeting held on or after the commencement of this item.
 - (6) The amendments of section 39 of the *Australian National Maritime Museum Act 1990* made by this Schedule apply in relation to a delegation in force on or after the commencement of this item, whether that delegation was made before, on or after that commencement.
 - (7) The repeal and substitution of section 47 of the *Australian National Maritime Museum Act 1990* made by this Schedule does not affect the validity of an approval in force under that section immediately before the commencement of this item.
 - (8) Subsection 47(4) of the *Australian National Maritime Museum Act 1990*, as substituted by this Schedule, applies on and after the commencement of this item in relation to contracts entered into before, on or after that commencement.

National Film and Sound Archive of Australia Act 2008

13 Part 5

Repeal the Part.

14 Section 39

Repeal the section, substitute:

39 Restrictions on financial transactions

- (1) The National Film and Sound Archive of Australia must not, without the written approval of the Minister:
 - (a) acquire any item for the national collection referred to in paragraph 6(1)(a) for a consideration exceeding in amount or value the amount prescribed by the regulations for the purposes of this paragraph; or
 - (b) dispose of any item in the national collection referred to in paragraph 6(1)(a) if the amount or value of the consideration for the disposal, or the value of the item, exceeds the amount prescribed by the regulations for the purposes of this paragraph; or

- (c) acquire any property, right or privilege, other than an item for the national collection referred to in paragraph 6(1)(a), for a consideration exceeding in amount or value the amount prescribed by the regulations for the purposes of this paragraph; or
 - (d) dispose of any property, right or privilege, other than an item in the national collection referred to in paragraph 6(1)(a), if the amount or value of the consideration for the disposal, or the value of the property, right or privilege, exceeds the amount prescribed by the regulations for the purposes of this paragraph; or
 - (e) enter into a contract for the construction of a building for the National Film and Sound Archive of Australia, being a contract under which the National Film and Sound Archive of Australia is to pay an amount exceeding the amount prescribed by the regulations for the purposes of this paragraph; or
 - (f) enter into a lease of land for a period exceeding 10 years.
- (2) An approval under subsection (1) is not a legislative instrument.
 - (3) Subsection (1) does not apply to a contract if the contract provides for the supply of a service to the National Film and Sound Archive of Australia for the day-to-day operations of the National Film and Sound Archive of Australia.
 - (4) Subsection (1) does not apply to the following:
 - (a) an investment acquired under subsection 38(3);
 - (b) the disposal of such an investment.

15 After section 42

Insert:

42A Delegation by the Minister

- (1) The Minister may, in writing, delegate all or any of the Minister's functions or powers under this Act to:
 - (a) the Secretary of the Department; or
 - (b) an SES employee, or acting SES employee, in the Department.

Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

- (2) However, subsection (1) does not apply to the Minister's functions or powers under section 11, 12, 16 or 42.
- (3) In performing a delegated function or exercising a delegated power, the delegate must comply with any written directions of the Minister.

16 Application and saving provisions

- (1) The repeal and substitution of section 39 of the *National Film and Sound Archive of Australia Act 2008* made by this Schedule does not affect the validity of an approval in force under that section immediately before the commencement of this item.
- (2) Subsection 39(3) of the *National Film and Sound Archive of Australia Act 2008*, as substituted by this Schedule, applies on and after the commencement of this item in relation to contracts entered into before, on or after that commencement.

National Gallery Act 1975

17 Section 5

Repeal the section.

18 Paragraph 6(1)(b)

After "others,", insert "in Australia or elsewhere,".

19 Subsection 9(5)

Repeal the subsection, substitute:

- (5) If the Council has resolved, in accordance with this section, that a work of art be disposed of, the Gallery may dispose of that work of art accordingly.
- (6) Subsection (5) is subject to section 38 (about restrictions on financial transactions).

20 After subsection 13(3)

Insert:

- (3A) A person must not be appointed as a member referred to in paragraph (1)(a) or (c) for a term if the sum of the following exceeds 9 years:
- (a) that term;
 - (b) any terms of previous appointment of the person as a member.

21 Section 15

Repeal the section, substitute:

15 Acting members

Acting by operation of law

- (1) The Deputy Chair is to act as the Chair:
- (a) during a vacancy in the office of Chair (whether or not an appointment has previously been made to the office); or
 - (b) during any period, or during all periods, when the Chair:
 - (i) is absent from duty or from Australia; or
 - (ii) is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to persons acting as the Chair, see section 33A of the *Acts Interpretation Act 1901*.

Acting appointments

- (2) The Council may, by written instrument, appoint a member to act as the Deputy Chair during any period, or during all periods, when the Deputy Chair:
- (a) is acting as the Chair; or
 - (b) is absent from duty or from Australia; or
 - (c) is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.

-
- (3) The Minister may, by written instrument, appoint a person to act as a member (other than as the Director, Chair or Deputy Chair):
- (a) during a vacancy in the office of a member (whether or not an appointment has previously been made to the office); or
 - (b) during any period, or during all periods, when a member:
 - (i) is acting as the Deputy Chair; or
 - (ii) is absent from duty or from Australia; or
 - (iii) is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.

22 Subsection 16(1)

Omit “, the deputy of a member”.

23 Subsection 20(6)

Omit “7 members constitute a quorum”, substitute “a quorum is constituted by a majority of members”.

24 Section 38

Repeal the section, substitute:

38 Restrictions on financial transactions

- (1) The Gallery must not, without the written approval of the Minister:
- (a) acquire any work of art for a consideration exceeding in amount or value the amount prescribed by the regulations for the purposes of this paragraph; or
 - (b) dispose of any work of art if the amount or value of the consideration for the disposal, or the value of the work of art, exceeds the amount prescribed by the regulations for the purposes of this paragraph; or
 - (c) acquire any property, right or privilege, other than a work of art, for a consideration exceeding in amount or value the amount prescribed by the regulations for the purposes of this paragraph; or
 - (d) dispose of any property, right or privilege, other than a work of art, if the amount or value of the consideration for the

- disposal, or the value of the property, right or privilege, exceeds the amount prescribed by the regulations for the purposes of this paragraph; or
- (e) enter into a contract for the construction of a building for the Gallery, being a contract under which the Gallery is to pay an amount exceeding the amount prescribed by the regulations for the purposes of this paragraph; or
 - (f) enter into a lease of land for a period exceeding 10 years.
- (2) An approval under subsection (1) is not a legislative instrument.
 - (3) Subsection (1) does not apply to a contract if the contract provides for the supply of a service to the Gallery for the day-to-day operations of the Gallery.
 - (4) Subsection (1) does not apply to the following:
 - (a) an investment acquired under subsection 37(3);
 - (b) the disposal of such an investment.

25 After section 45

Insert:

45A Minister may give directions to the Council

- (1) The Minister may, by legislative instrument, give written directions to the Council about the performance of its functions or the exercise of its powers.

Note: Section 42 (disallowance) and Part 4 of Chapter 3 (sunsetting) of the *Legislation Act 2003* do not apply to the directions (see regulations made for the purposes of paragraphs 44(2)(b) and 54(2)(b) of that Act).

- (2) A direction under subsection (1) must be of a general nature only.
- (3) The Council must comply with a direction under subsection (1).

45B Delegation by the Minister

- (1) The Minister may, in writing, delegate all or any of the Minister's functions or powers under this Act to:
 - (a) the Secretary of the Department; or

- (b) an SES employee, or acting SES employee, in the Department.

Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

- (2) However, subsection (1) does not apply to the Minister's powers under section 8, 15, 33 or 45A.
- (3) In performing a delegated function or exercising a delegated power, the delegate must comply with any written directions of the Minister.

26 Application and saving provisions

- (1) The amendment of section 9 of the *National Gallery Act 1975* made by this Schedule applies where the Council resolves, on or after the commencement of this item, that a work of art be disposed of.
- (2) Subsection 13(3A) of the *National Gallery Act 1975*, as inserted by this Schedule, applies in relation to an appointment made under subsection 13(2) of that Act on or after the commencement of this item, whether a term of previous appointment referred to in paragraph 13(3A)(b) of that Act occurred before, on or after that commencement.
- (3) The repeal and substitution of section 38 of the *National Gallery Act 1975* made by this Schedule does not affect the validity of an approval in force under that section immediately before the commencement of this item.
- (4) Subsection 38(3) of the *National Gallery Act 1975*, as substituted by this Schedule, applies on and after the commencement of this item in relation to contracts entered into before, on or after that commencement.

National Library Act 1960

27 Section 7A

Repeal the section.

28 After subsection 10(5)

Insert:

(5A) A person must not be appointed as a member referred to in paragraph (2)(c) for a period if the sum of the following exceeds 9 years:

- (a) that period;
- (b) any periods of previous appointment of the person as a member.

29 Paragraph 15(1)(c)

Repeal the paragraph.

30 After subsection 15(1)

Insert:

(1A) If a member elected by either House of the Parliament ceases to be a member of that House, he or she ceases to be a member of the Council.

31 Subsection 15(2)

Omit “paragraph (1)(c)”, substitute “subsection (1A)”.

32 Subsection 16(6)

Omit “5 members constitute a quorum”, substitute “a quorum is constituted by a majority of members”.

33 Subsections 17(5) to (8)

Repeal the subsections.

34 Before section 26

Insert:

24 Restrictions on financial transactions

- (1) The Library must not, without the written approval of the Minister:
- (a) acquire any library material for a consideration exceeding in amount or value the amount prescribed by the regulations for the purposes of this paragraph; or
 - (b) dispose of any library material if the amount or value of the consideration for the disposal, or the value of the library

-
- material, exceeds the amount prescribed by the regulations for the purposes of this paragraph; or
- (c) acquire any property, right or privilege, other than library material, for a consideration exceeding in amount or value the amount prescribed by the regulations for the purposes of this paragraph; or
 - (d) dispose of any property, right or privilege, other than library material, if the amount or value of the consideration for the disposal, or the value of the property, right or privilege, exceeds the amount prescribed by the regulations for the purposes of this paragraph; or
 - (e) enter into a contract for the construction of a building for the Library, being a contract under which the Library is to pay an amount exceeding the amount prescribed by the regulations for the purposes of this paragraph; or
 - (f) enter into a lease of land for a period exceeding 10 years.
- (2) An approval under subsection (1) is not a legislative instrument.
 - (3) Subsection (1) does not apply to a contract if the contract provides for the supply of a service to the Library for the day-to-day operations of the Library.
 - (4) Subsection (1) does not apply to the following:
 - (a) an investment acquired under subsection 22(3);
 - (b) the disposal of such an investment.

25 Annual report

Each annual report prepared by the Council and given to the Minister under section 46 of the *Public Governance, Performance and Accountability Act 2013* for a period must include a statement relating to disposals of library material during the period.

35 After section 27B

Insert:

27C Minister may give directions to Council

- (1) The Minister may, by legislative instrument, give written directions to the Council about the performance of its functions or the exercise of its powers.

Note: Section 42 (disallowance) and Part 4 of Chapter 3 (sunsetting) of the *Legislation Act 2003* do not apply to the directions (see regulations made for the purposes of paragraphs 44(2)(b) and 54(2)(b) of that Act).

- (2) A direction under subsection (1) must be of a general nature only.
- (3) The Council must comply with a direction under subsection (1).

27D Delegation by the Minister

- (1) The Minister may, in writing, delegate all or any of the Minister's functions or powers under this Act to:
 - (a) the Secretary of the Department; or
 - (b) an SES employee, or acting SES employee, in the Department.

Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

- (2) However, subsection (1) does not apply to the Minister's powers under section 11 or 27C.
- (3) In performing a delegated function or exercising a delegated power, the delegate must comply with any written directions of the Minister.

36 Application and saving provisions

- (1) The repeal of section 7A of the *National Library Act 1960* made by this Schedule does not affect the validity of an approval in force under that section immediately before the commencement of this item.
- (2) Subsection 10(5A) of the *National Library Act 1960*, as inserted by this Schedule, applies in relation to an appointment made under paragraph 10(2)(c) of that Act on or after the commencement of this item, whether a period of previous appointment referred to in paragraph 10(5A)(b) of that Act occurred before, on or after that commencement.

-
- (3) Subsection 24(3) of the *National Library Act 1960*, as inserted by this Schedule, applies on and after the commencement of this item in relation to contracts entered into before, on or after that commencement.
- (4) Section 25 of the *National Library Act 1960*, as inserted by this Schedule, applies in relation to an annual report for a period ending after the commencement of this item, where the disposals occurred at any time during that period.

National Museum of Australia Act 1980

37 Subsection 3(1) (definition of *deputy part-time member*)

Repeal the definition.

38 Subsection 9(4)

Repeal the subsection, substitute:

- (4) If the Council has resolved, in accordance with this section, that historical material be disposed of, the Museum may dispose of that historical material accordingly.

Note: Particulars of any such disposals must be included in the annual report (see section 38).

- (5) Subsection (4) is subject to section 37 (about restrictions on financial transactions).

39 Subsection 9A(3)

Repeal the subsection, substitute:

- (3) If the Council has resolved, in accordance with this section, that historical material be disposed of, the Museum may dispose of that historical material accordingly.

Note: Particulars of any such disposals must be included in the annual report (see section 38).

- (4) Subsection (3) is subject to section 37 (about restrictions on financial transactions).

40 Section 12

Repeal the section.

41 After subsection 13(3)

Insert:

- (3A) A person must not be appointed as a member referred to in paragraph (1)(a) or (c) for a term if the sum of the following exceeds 9 years:
- (a) that term;
 - (b) any terms of previous appointment of the person as a member.

42 Section 15

Repeal the section, substitute:

15 Acting members

Acting by operation of law

- (1) The Deputy Chair is to act as the Chair:
- (a) during a vacancy in the office of Chair (whether or not an appointment has previously been made to the office); or
 - (b) during any period, or during all periods, when the Chair:
 - (i) is absent from duty or from Australia; or
 - (ii) is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to persons acting as the Chair, see section 33A of the *Acts Interpretation Act 1901*.

Acting appointments

- (2) The Council may, by written instrument, appoint a member to act as the Deputy Chair during any period, or during all periods, when the Deputy Chair:
- (a) is acting as the Chair; or
 - (b) is absent from duty or from Australia; or
 - (c) is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.

-
- (3) The Minister may, by written instrument, appoint a person to act as a member (other than as the Director, Chair or Deputy Chair):
- (a) during a vacancy in the office of a member (whether or not an appointment has previously been made to the office); or
 - (b) during any period, or during all periods, when a member:
 - (i) is acting as the Deputy Chair; or
 - (ii) is absent from duty or from Australia; or
 - (iii) is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.

43 Paragraphs 16(1)(a) and (b)

Repeal the paragraphs, substitute:

- (a) a part-time member; or

44 Subsection 20(6)

Omit “7 members constitute a quorum”, substitute “a quorum is constituted by a majority of members”.

45 At the end of section 32

Add:

- (3) The Director may, in writing, delegate the Director’s powers under this section to an SES employee, or acting SES employee, of the Museum.

Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

- (4) In exercising a delegated power, the delegate must comply with any written directions of the Director.

46 Section 37

Repeal the section, substitute:

37 Restrictions on financial transactions

- (1) The Museum must not, without the written approval of the Minister:

- (a) acquire any historical material for a consideration exceeding in amount or value the amount prescribed by the regulations for the purposes of this paragraph; or
 - (b) dispose of any historical material if the amount or value of the consideration for the disposal, or the value of the historical material, exceeds the amount prescribed by the regulations for the purposes of this paragraph; or
 - (c) acquire any property, right or privilege, other than historical material, for a consideration exceeding in amount or value the amount prescribed by the regulations for the purposes of this paragraph; or
 - (d) dispose of any property, right or privilege, other than historical material, if the amount or value of the consideration for the disposal, or the value of the property, right or privilege, exceeds the amount prescribed by the regulations for the purposes of this paragraph; or
 - (e) enter into a contract for the construction of a building for the Museum, being a contract under which the Museum is to pay an amount exceeding the amount prescribed by the regulations for the purposes of this paragraph; or
 - (f) enter into a lease of land for a period exceeding 10 years.
- (2) An approval under subsection (1) is not a legislative instrument.
- (3) Subsection (1) does not apply to a contract if the contract provides for the supply of a service to the Museum for the day-to-day operations of the Museum.
- (4) Subsection (1) does not apply to the following:
- (a) an investment acquired under subsection 35(3);
 - (b) the disposal of such an investment.

47 After section 41

Insert:

41A Minister may give directions to Council

- (1) The Minister may, by legislative instrument, give written directions to the Council about the performance of its functions or the exercise of its powers.

Note: Section 42 (disallowance) and Part 4 of Chapter 3 (sunsetting) of the *Legislation Act 2003* do not apply to the directions (see regulations made for the purposes of paragraphs 44(2)(b) and 54(2)(b) of that Act).

- (2) A direction under subsection (1) must be of a general nature only.
- (3) The Council must comply with a direction under subsection (1).

48 Section 42

Repeal the section, substitute:

42 Delegation by the Minister

- (1) The Minister may, in writing, delegate all or any of the Minister's functions or powers under this Act to:
 - (a) the Secretary of the Department; or
 - (b) an SES employee, or acting SES employee, in the Department.

Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

- (2) However, subsection (1) does not apply to the Minister's functions or powers under section 8, 15 or 41A.
- (3) In performing a delegated function or exercising a delegated power, the delegate must comply with any written directions of the Minister.

49 Application and saving provisions

- (1) The amendments of sections 9 and 9A of the *National Museum of Australia Act 1980* made by this Schedule apply where the Council resolves, on or after the commencement of this item, that historical material be disposed of.
- (2) Section 12 of the *National Museum of Australia Act 1980*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to a direction in force under that section immediately before that commencement.
- (3) Subsection 13(3A) of the *National Museum of Australia Act 1980*, as inserted by this Schedule, applies in relation to an appointment made

under subsection 13(2) of that Act on or after the commencement of this item, whether a term of previous appointment referred to in paragraph 13(3A)(b) of that Act occurred before, on or after that commencement.

- (4) The repeal and substitution of section 37 of the *National Museum of Australia Act 1980* made by this Schedule does not affect the validity of an approval in force under that section immediately before the commencement of this item.
- (5) Subsection 37(3) of the *National Museum of Australia Act 1980*, as substituted by this Schedule, applies on and after the commencement of this item in relation to contracts entered into before, on or after that commencement.

National Portrait Gallery of Australia Act 2012

50 At the end of Part 3

Add:

29A Delegation by the Board

- (1) The Board may, in writing, delegate its powers under section 11 to:
 - (a) the Director; or
 - (b) a Board member; or
 - (c) an SES employee, or acting SES employee, of the Gallery.

Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

- (2) In exercising a delegated power, the delegate must comply with any written directions of the Board.
- (3) The delegation continues in force despite a change in the membership of the Board.
- (4) The delegation may be varied or revoked by the Board (whether or not there has been a change in the membership of the Board).

51 Part 5

Repeal the Part.

52 Section 47

Repeal the section, substitute:

47 Restrictions on financial transactions

- (1) The Gallery must not, without the written approval of the Minister:
 - (a) acquire any portrait, another work of art or related material for a consideration exceeding in amount or value the amount prescribed by the regulations for the purposes of this paragraph; or
 - (b) dispose of any portrait, another work of art or related material if the amount or value of the consideration for the disposal, or the value of the portrait, other work of art or related material, exceeds the amount prescribed by the regulations for the purposes of this paragraph; or
 - (c) acquire any property, right or privilege, other than a portrait, another work of art or related material, for a consideration exceeding in amount or value the amount prescribed by the regulations for the purposes of this paragraph; or
 - (d) dispose of any property, right or privilege, other than a portrait, another work of art or related material, if the amount or value of the consideration for the disposal, or the value of the property, right or privilege, exceeds the amount prescribed by the regulations for the purposes of this paragraph; or
 - (e) enter into a contract for the construction of a building for the Gallery, being a contract under which the Gallery is to pay an amount exceeding the amount prescribed by the regulations for the purposes of this paragraph; or
 - (f) enter into a lease of land for a period exceeding 10 years.
- (2) An approval under subsection (1) is not a legislative instrument.
- (3) Subsection (1) does not apply to a contract if the contract provides for the supply of a service to the Gallery for the day-to-day operations of the Gallery.
- (4) Subsection (1) does not apply to the following:
 - (a) an investment acquired under subsection 46(3);
 - (b) the disposal of such an investment.

53 Application and saving provisions

- (1) The repeal and substitution of section 47 of the *National Portrait Gallery of Australia Act 2012* made by this Schedule does not affect the validity of an approval in force under that section immediately before the commencement of this item.
- (2) Subsection 47(3) of the *National Portrait Gallery of Australia Act 2012*, as substituted by this Schedule, applies on and after the commencement of this item in relation to contracts entered into before, on or after that commencement.

[*Minister's second reading speech made in—
House of Representatives on 3 December 2020
Senate on 25 February 2021*]

(160/20)