



**Statutory Rules 1987 No. 149<sup>1</sup>**

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## **Protection of Movable Cultural Heritage Regulations**

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council and pursuant to section 4 of the *Acts Interpretation Act 1901*, hereby make the following Regulations under the *Protection of Movable Cultural Heritage Act 1986*.

Dated 18 June 1987.

N. M. STEPHEN  
Governor-General

By His Excellency's Command,

BARRY COHEN  
Minister of State for Arts,  
Heritage and Environment

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### **Citation**

1. These Regulations may be cited as the Protection of Movable Cultural Heritage Regulations.

### **Interpretation**

2. In these Regulations, unless the contrary intention appears—
- “authorised person” means an officer of the Department authorised in writing by the Minister for the purposes of the provision in which the expression occurs;
- “bank account” means the bank account established and maintained under subregulation 9 (1) for the purposes of the administration of the Fund;
- “register” means the register referred to in section 22 of the Act;

“the Act” means the *Protection of Movable Cultural Heritage Act 1986*.

### **Prescribed categories**

3. For the purposes of subsection 7 (1) of the Act, the following categories are prescribed:

- (a) archaeological objects of non-Australian origin;
- (b) natural science objects;
- (c) numismatic objects;
- (d) objects of social history;
- (e) philatelic objects.

### **National Cultural Heritage Control List**

4. For the purposes of subsection 8 (1) of the Act, the list of categories of objects that constitute the movable cultural heritage of Australia and are to be subject to export control is the list set out in the Schedule.

### **Prescribed period—refusal to grant permit**

5. For the purposes of subsection 10 (7) of the Act, the period of 14 days is prescribed.

### **Prescribed period—refusal to grant certificate of exemption**

6. For the purposes of subsection 12 (6) of the Act, the period of 14 days is prescribed.

### **Register of expert examiners**

7. (1) In relation to a relevant person, the register shall contain the following particulars:

- (a) the name of the person;
- (b) details:
  - (i) in the case of a natural person—of the usual residential address of the person; or
  - (ii) in the case of a body or association of persons—of the principal office of the person.

(2) In this regulation, “relevant person” means a person in respect of whom or which a determination under subsection 22 (2) of the Act has been made.

### **Money of the Fund**

8. The Fund shall consist of:

- (a) money appropriated by the Parliament for the purposes of the Fund;
- (b) money paid by an authority of a State or Territory for the purposes of the Fund;

- (c) gifts and donations of money or property received for the purposes of the Fund; and
- (d) payments of interest in relation to investment of money standing to the credit of the Fund.

### **Administration of Fund**

**9. (1)** Money of the Fund shall be paid to the credit of a bank account established by the Minister or an authorised person and maintained for the purposes of the administration of the Fund.

**(2)** Subject to these Regulations, the Minister or an authorised person may:

- (a) approve payments out of the bank account for the purposes of the Fund; and
- (b) in relation to payments into the account—issue receipts against the Fund in accordance with subregulation (5).

**(3)** The Minister or an authorised person may:

- (a) deposit money in the bank account;
- (b) withdraw money from that account; and
- (c) obtain bank statements and other documents in relation to that account.

**(4)** There shall be maintained a cash book showing details of money paid into the bank account for the purposes of the Fund and payments out of the bank account as follows:

- (a) the date and amount of each transaction;
- (b) in relation to each transaction:
  - (i) the name of the person paying money into the bank account or to whom payment is made out of the bank account; and
  - (ii) sufficient other details of the transaction to enable the circumstances of the transaction to be identified; and
- (c) a running balance of money standing to the credit of the Fund in the bank account.

**(5)** Where money received from a person for the purposes of the Fund is paid into the bank account:

- (a) a receipt shall be issued to that person from a book of receipts consecutively numbered kept for the purposes of this provision; and
- (b) a duplicate of the receipt shall be retained in the book of receipts.

**(6)** At the end of each period of one month after the commencement of these Regulations, or each lesser period as the Minister may from time to time direct, there shall be provided to the Minister in relation to that period:

- (i) a statement of account in respect of the bank account; and

- (ii) a bank reconciliation statement showing and explaining any discrepancy between that statement and the records maintained for that period in the cash book.

(7) In relation to the bank account, there shall be maintained such records as are sufficient to enable the preparation of an annual account of payments out of the Fund for the purpose of facilitating the acquisition of Australian protected objects.

### **Gifts and bequests**

10. (1) Where a gift or bequest made for the purposes of the Fund is an asset other than money, the Minister or an authorised person shall obtain an expert valuation of the monetary value of the asset.

(2) The monetary value of an asset referred to in subregulation (1) shall be entered in a register kept for the purpose known as the Register of Non-monetary Assets of the Fund.

(3) The Minister or an authorised person may:

- (a) sell a non-monetary asset of the Fund and cause the proceeds of sale to be invested for the purposes of the Fund; and
- (b) from time to time, obtain a further expert valuation of such an asset.

(4) Upon a further expert valuation of a non-monetary asset of the Fund, that valuation shall be entered in the Register of Non-monetary Assets of the Fund in substitution for any previous valuation so entered.

### **Payments out of the Fund**

11. (1) Money of the Fund shall be applied only in relation to the acquisition of a Class A object, or of any Class B object in respect of which the Minister has refused to grant, or has granted subject to conditions, a permit under section 10 of the Act.

(2) The Minister or an authorised person may authorise payment of money of the Fund to a public institution or authority for the purpose of acquiring a Class A object, or a Class B object referred to in subregulation (1), for display or safe keeping but shall not authorise a payment of money of the Fund for the purposes of a private collection.

(3) The Minister or an authorised person shall not authorise payment of money of the Fund under subregulation (2) except after taking into consideration the advice of the Committee in relation to the proposed payment.

(4) Without limiting the generality of subregulation (3), the Committee shall, as appropriate in the circumstances of a particular case, advise the Minister in accordance with that subregulation in relation to the following matters:

- (a) the fair market price of the object in relation to which assistance is sought from the Fund;
  - (b) the priorities determined by the Committee among applications for such assistance;
  - (c) the most appropriate location of the object, or of objects of the class in which the object is included;
  - (d) any conditions to be attached to the payment or to the acquisition of the object, or both.
- (5) In relation to an authorisation of payment under subregulation (2), the Minister or authorised person may:
- (a) direct how the payment is to be effected; and
  - (b) specify a period commencing on the date of the authorisation within which the payment is to be made, or is not to be made.

#### **Investment of money of the Fund**

12. Money standing to the credit of the Fund may be invested by the Minister or an authorised person:

- (a) in any securities of, or guaranteed by, the Government of the Commonwealth or of a State;
- (b) on deposit in a bank; or
- (c) in the purchase of Australian protected objects for the purposes of the Act.

#### **Audit of accounts**

13. For the purpose of the audit of accounts of the Fund, section 63G of the *Audit Act 1901* shall apply in relation to the Fund.

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## **SCHEDULE**

Regulation 4

### **NATIONAL CULTURAL HERITAGE CONTROL LIST**

#### **CATEGORY OF OBJECTS OF AUSTRALIAN ABORIGINAL HERITAGE**

1. In this Schedule, a reference to objects of Australian Aboriginal heritage is a reference to materials and things made by, or having cultural significance to, members of the Aboriginal race of Australia and descendants of the indigenous inhabitants of the Torres Strait Islands.

2. This category consists of the following objects of Australian Aboriginal heritage:
- (a) human remains;
  - (b) sacred and secret ritual objects;
  - (c) rock art;
  - (d) carved burial trees.

3. The objects included in this category are Class A objects.

**NOTE**

1. Notified in the *Commonwealth of Australia Gazette* on 25 June 1987.