

No. 9 of 1992.

National Museum and Art Gallery Act 1992.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

National Museum and Art Gallery Act 1992,

Being an Act to provide for the continued establishment, maintenance and control of the National Museum and Art Gallery to be incorporated and read as one with the *National Cultural Property (Preservation) Act 1965* and the *War Surplus Material Act 1952*, and to amend the *Tourism Development Corporation Act 1990*, and for related purposes.

PART I. – PRELIMINARY.

1. INTERPRETATION.

In this Act, unless the contrary intention appears–

“**branch**” means a branch of the Museum established under Section 3;

“**cultural centre**”, in relation to a province, means a centre declared to be a cultural centre by the Provincial Government for that province;

“**donation**” means objects, specimens or moneys willed or given to the Museum;

“**exhibit**” includes antiquities, utilitarian objects, natural history specimens, objects of antiquity or works of art;

“**exhibition**” means public display of exhibits;

“**the Board**” means the Board of Trustees of the Museum established under Section 5 and appointed under Section 6;

“**the Director**” means the Director of the National Museum and Art Gallery appointed under Section 20;

“**the Museum**” means the National Museum and Art Gallery continued in establishment under Section 2 and includes a branch of the Museum established under Section 3;

“the President” means the President of the Trustees appointed under Section 8;

“the Tourism Development Corporation” means the Tourism Development Corporation established under Section 3 of the *Tourism Development Corporation Act 1990*;

“the Tourism Promotion Authority” means the Tourism Promotion Authority established under Section 3 of the *Tourism Promotion Authority Act 1993*;

“the Trustees” means the Trustees of the Museum, appointed Section 6;

“this Act” includes the regulations;

“specimen” includes—

- (a) photographic and archival material; and
- (b) prehistoric objects and other finds; and
- (c) material culture and structures including any national cultural property within the meaning of the *National Cultural Property (Preservation) Act 1965*; and
- (d) contemporary arts and crafts; and
- (e) a member of any species of flora or fauna or natural history items; and
- (f) geological material; and
- (g) objects and structures of contemporary importance; and
- (h) war relics within the meaning of the *War Surplus Material Act 1952*;

“working committee” means a committee appointed under Section 16.

PART II. – THE MUSEUM.

2. CONTINUANCE OF THE ESTABLISHMENT OF THE MUSEUM.

The National Museum and Art Gallery continues in establishment.

3. BRANCH MUSEUMS AND CULTURAL CENTRES.

(1) The Trustees may establish, maintain and control a branch of the Museum.

(2) A cultural centre may, become a branch of the Museum if the Provincial Government responsible for that cultural centre so requests the Trustees, and the Trustees so approve.

(3) Notwithstanding Subsection (2), the Trustees may assist a cultural centre by whatever means.

4. FUNCTIONS, ETC., OF THE MUSEUM.

(1) The functions of the Museums are to—

- (i) protect and conserve the cultural and natural heritage of Papua New Guinea as required by the *Environmental Planning Act 1978*, *National Cultural Property (Preservation) Act 1965* and the *Conservation Areas Act 1978*; and
- (ii) collect, document, photograph, conserve and manage examples of prehistoric artifacts, traditional arts and material culture and contemporary history and art; and
- (iii) administer the *National Cultural Property (Preservation) Act 1965* and *War Surplus Material Act 1952* and any other Act that applies to the functions of the Museum; and
- (iv) research and document the prehistory of Papua New Guinea by archaeological surveys and excavations and manage the national archaeological collections; and
- (v) monitor archaeological research in Papua New Guinea and issue archaeological permits for the short-term loan of archaeological material for study overseas; and
- (vi) maintain the national register of traditional and archaeological sites, locate and record prehistoric sites and monuments, and carry out the salvage of archaeological excavations as required by the *National Cultural Property (Preservation) Act 1965* and the *Environmental Planning Act 1978*; and
- (vii) identify, document and monitor the conditions of objects of national cultural significance, recommend their proclamation as national cultural property, and keep a register of national cultural property; and

- (viii) monitor the collection and export of artifacts, issuing permits and perform other duties as required by the *National Cultural Property (Preservation) Act 1965*; and
- (ix) manage and preserve prehistoric sites, traditional structures and movable objects of cultural significance as required by the *National Cultural Property (Preservation) Act 1965* and the *Conservation Areas Act 1978*; and
- (x) conserve objects, sites and structures using traditional and modern techniques; and
- (xi) maintain a national collection of natural history specimens and carry out research on the flora and fauna of Papua New Guinea; and
- (xii) undertake field research on the collections, and publish the results of such research in the Museum records and other appropriate publications; and
- (xiii) monitor and affiliate researchers from other institutions carrying out research in the areas of the Museum's functions; and
- (xiv) maintain a reference library that serves the Museum's functions; and
- (xv) mount permanent, temporary and travelling exhibitions for the education and enjoyment of the public; and
- (xvi) assist and provide training programmes for personnel from provincial and regional cultural centres; and
- (xvii) recommend to the Minister the implementation of international conventions relating to the cultural and natural heritage of mankind where Papua New Guinea is a party to such conventions; and
- (xviii) recommend to the Minister the seeking of the return from overseas countries of objects and collections of national and cultural significance; and
- (xix) establish Friends of the Museum under a special Trust Fund; and
- (xx) assisting and encourage contemporary arts at the national, provincial, local and individual levels.

(2) In the exercise and performance of its powers and functions, the Museum shall operate within any programme for the preservation and development of all aspects of culture and the arts within any framework of policy laid down from time to time by the Trustees.

PART III. – THE BOARD OF TRUSTEES OF THE MUSEUM.

5. THE BOARD OF TRUSTEES.

- (1) There shall be a Board of Trustees.
- (2) The Board of Trustees shall—
 - (a) advise the Minister on any matter referred to it by the Minister; and
 - (b) set policy guidelines for the preservation of the cultural, natural and contemporary heritage of Papua New Guinea; and
 - (c) encourage the development of Papua New Guinea culture and contemporary arts; and
 - (d) perform the functions, exercise the powers and manage the affairs of the Museum.

6. APPOINTMENT OF TRUSTEES.

(1)¹ ²There shall be Trustees of the Museum appointed in accordance with the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*.

(2) There shall be not less than five Trustees.

(3) A Trustee holds office for a period (not exceeding three years) specified in the notice by which he was appointed and is eligible for re-appointment.

7. INCORPORATION OF THE TRUSTEES.

The Trustees—

- (a) are a corporation by the name of “Trustees of the Papua New Guinea National Museum and Art Gallery”; and
- (b) have perpetual succession; and
- (c) shall have a seal; and
- (d) are capable of suing and being sued in their corporate name; and
- (e) may, subject to this Act, acquire, hold, mortgage and dispose of property.

8. PRESIDENT OF THE TRUSTEES.

(1) There shall be a President of the Trustees.

(2) The President shall be a Trustee appointed as President—

- (a) by the Minister by notice in the National Gazette; and
- (b) for the term of his office as a Trustee.

¹ Section 6 Subsection (1) substituted by No. 97 of 2006, Sched. 1.

² Section 6 Subsection (1) substituted by No. 97 of 2006, Sched. 1.

(3) A Trustee holds office subject to such terms and conditions as are determined under the *Boards (Fees and Allowances) Act 1955*.

9. CASUAL VACANCIES.

(1) If a Trustee—

- (a) dies; or
- (b) resigns by written notice signed by him and received by the President; or
- (c) has been absent for a period of three months or more from all meetings of the Trustees held during that period without permission of the Trustees granted by resolution before the expiration of that period; or
- (d) is removed by the Minister,

there shall be deemed to be a casual vacancy in the office of the Trustee.

(2) The Minister may, by notice in the National Gazette, appoint a person to fill a casual vacancy in the office of a Trustee.

(3) A Trustee appointed under Subsection (2) holds office for the unexpired portion of the term of the office of his predecessor.

10. MEETINGS.

Meetings of Trustees shall be held at such times and places as are prescribed, but the President may call a special meeting as he thinks proper.

11. PROCEDURE AT MEETINGS.

At a meeting of the Trustees—

- (a) a quorum is three Trustees; and
- (b) the President, or in his absence a Trustee elected by the Trustees, shall preside; and
- (c) all matters shall be decided by open voting and by the majority of votes of the Trustees present; and
- (d) the person presiding under Paragraph (b) has a deliberative and, in the event of an equality of votes on a matter, also has a casting vote; and
- (e) no proxy shall be allowed.

12. CHARGES, ETC.

Notwithstanding this Act or any other law, the Trustees may, with the approval of the Minister—

- (a) make or authorize the making of such charges as are approved by the Minister for the admission of persons to the Museum; and

(b) limit or restrict the use of the Museum.

13. DELEGATION.

The Trustees may, with the approval of the Minister, delegate to a working committee all or any of its powers and functions under this Act (except this power of delegation).

14. PURPOSES OF THE MUSEUM TO BE PUBLIC PURPOSES.

For the purposes of any law relating to the acquisition of land by the State, the purposes of the Museum shall be deemed to be a public purpose.

15. VESTING OF PROPERTY IN THE TRUSTEES.

(1) The Minister may transfer to the Trustees any exhibit that is the property of the State, and the exhibit vests in the Trustees.

(2) The Trustees may—

(a) receive, take or purchase any book, manuscript, document, paper, picture, engraving or other work of art, coin, medal or specimens; and

(b) with the approval of the Minister, sell, exchange or otherwise dispose of it or any of them.

(3) The Trustees may lend any of the objects mentioned in Subsection (2) to museums, art galleries and like institutions within or outside the country, on proper and sufficient guarantees against loss or damage.

(4) The Trustees may acquire by gift, bequest or devise any property for the purposes of this Act.

(5) A gift, bequest or devise to the Museum or the Trustees is not subject to death, succession or stamp duties under any law.

16. APPOINTMENT OF WORKING COMMITTEES.

(1) The Trustees may from time to time appoint and dissolve a working committee for any general or special purpose to assist the Trustee perform its functions, duties and responsibilities.

(2) A working committee shall consist of not more than three persons one of whom shall be the Director or his nominee.

17. EXERCISE OF POWERS, ETC., OF THE WORKING COMMITTEES.

The powers and functions of a working committee shall be exercised and performed in such a manner as the Trustees determine.

18. THE BY-LAWS.

(1) Subject to this Act, the Trustees may make by-laws for carrying out the objectives of this Act.

(2) The by-laws may prescribe penalties of fines not exceeding K10,000.00 for offences against the by-laws.

(3) By-laws made under Subsection (1) are of no force or effect until—

- (a) approved by the Head of State, acting on advice; and
- (b) published in the National Gazette.

19. ANNUAL REPORT.

As soon as practicable after 31 March each year, the Trustees shall, in respect of the year ended 31 December preceding, present a report to the Minister for presentation to Parliament—

- (a) on the operation of the Museum; and
- (b) on the state of the cultural, natural and contemporary heritage, preservation and development programme; and
- (c) recommending any changes in legislation or administration that to it seem necessary or desirable for improving the operation or achieving the objectives of this Act.

PART IV. – STAFF, ADMINISTRATION, ETC.

20. DIRECTOR.

(1) There shall be a Director of the Museum who–

(a)³ shall be appointed, suspended or dismissed in the manner as is specified in the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*; and

(b) shall be appointed for such period as the Trustees fix.

(2) The Director is the–

(a) Chief Executive Officer; and

(b) head of the Staff,

of the Museum.

21. FUNCTIONS OF THE DIRECTOR.

The Director shall–

(a) manage the Museum including any of its branches in accordance with the policy and direction set down by the Trustees; and

(b) advise the Trustees on any matter concerning the Museum or its branches referred to him by the Trustees; and

(c) have such other functions as the Trustees may, from time to time, determine.

22. STAFF.

(1) The Director may appoint to be officers and employees of the Museum such persons as he considers necessary for the purpose of giving effect to this Act.

(2) Officers appointed under this Section constitute the staff of the Museum.

23. TEMPORARY AND CASUAL EMPLOYEES.

(1) The Director of the Museum may appoint such temporary and casual employees as he thinks necessary for the purposes of this Act.

(2) Officers or employees appointed under Section 22 and Subsection (1) hold office on such terms and conditions as are provided for under the *Public Services (Management) Act 1995*.

³ Section 20 Subsection (1) amended by No. 97 of 2006, Sched. 1.

PART V. – FINANCE.

24. APPLICATION OF PUBLIC FINANCES (MANAGEMENT) ACT.

The *Public Finances (Management) Act 1995* applies to and in relation to the Trustees, subject to the exceptions and modifications specified in Schedule 1.

PART VI. – MISCELLANEOUS.

25. AMENDMENTS.

The provisions specified in Schedule 2 are amended.

26. REGULATIONS.

The Head of State, acting on advice, may make regulations not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular for prescribing—

- (a) the conditions under which exhibits or specimens may be borrowed; and
- (b) penalties of fines not exceeding K10,000.00 for offences against the regulations; and
- (c) fees to be paid for entry to any exhibition organized by the Trustees.

PART VII. – SAVINGS AND TRANSITIONAL.

27. TRANSFER OF ASSETS, ETC., TO THE MUSEUM.

(1) All assets occupied or held by, and obligations and liabilities of the Museum—

- (a) transferred to the Tourism Development Corporation from Museum by virtue of Section 46 of the *Tourism Development Corporation Act 1990*; or
- (b) acquired by or incurred by the Tourism Development Corporation on behalf of or in connection with the management of the Museum by the Tourism Development Corporation under the *Tourism Development Corporation Act 1990*,

and occupied or held by and not extinguished immediately before the coming into operation of this Act are, on that coming into operation, transferred to the Museum.

(2) Where any property vested in the Tourism Development Corporation is land registered under the *Land Registration Act 1981*, the Registrar of Titles shall, without formal transfer and without fee, on application in that behalf by the Museum, enter or register the Museum in the Register Book and, on entry or registration, grant a certificate of title, lease or other instrument evidencing title of the land, as the owner of the land within that Act.

28. SAVINGS OF CONTRACTS, ETC.

All contracts and agreements (other than contracts of employment) entered into, made with or addressed to—

- (a) the Museum as established by the *Tourism Development Corporation Act 1990* prior to coming into force of this Act; or
- (b) the *Tourism Development Corporation*, in so far as such contracts and agreements relate to the Museum,

are, to the extent that they were immediately before the coming into operation of this Act binding on and enforceable against the Tourism Development Corporation binding and of full force and effect against or in favour of the Museum as fully and effectively as if the Museum had been a part of them or bound by them or is entitled to the benefit of them.

29. DIRECTOR AND STAFF.

Until appointments are first made under this Act, the persons who immediately before the coming into operation of this Act respectively held positions as—

- (a) Director of the Museum; and
- (b) officers of the Tourism Development Corporation employed in the Museum,

shall hold the equivalent positions under this Act and on the terms and conditions of employment which were, immediately before the coming into operation of this Act, applicable to their positions.

30. ACTIONS NOT TO ABATE.

Where, immediately before the coming into operation of this Act, any action, arbitration or proceeding was pending or existing by, against or in favour of the Tourism Development Corporation pertaining to the Museum, it does not on the coming into operation of this Act abate or discontinue but it may be prosecuted, continued or enforced by, against or in favour of the Museum.

31. APPLICATION OF ACTS, ETC.

Where any Act or subordinate enactment, other than this Act, contains a reference, express or implied, to the Museum or to the Board as established under the *Tourism Development Corporation Act 1990* in so far as its functions relate to the Museum that reference shall, on and after the coming into operation of this Act, except where the context otherwise requires, be read and construed as a reference to the Museum or the Trustees as the case may be.

SCHEDULE 1 – EXCEPTIONS AND MODIFICATIONS TO THE *PUBLIC FINANCES (MANAGEMENT) ACT 1995.*

Sec. 31.

Provision	Modification
Section 51	Particulars of proposed expenditure are also to be submitted to the Trustees.
Section 55	Particulars of proposed expenditure are also to be submitted to the Trustees.
Section 56	The consent of the Trustees must be obtained.
Section 59(1)	Applies as if the reference to the sum specified in the constituent law was K2,000.00.
Section 62	Report and financial statements are also to be submitted to the Trustees.

SCHEDULE 2

The amendments effected by Sec. 25. and this Schedule have been incorporated into Acts:

- (a) *National Cultural Property (Preservation) Act 1965;*
- (b) *War Surplus Material Act 1952.*

Office of Legislative Counsel, PNG