



Western Australia

## **The Art Gallery of Western Australia Foundation Rules 1989**

Compare between:

[02 Apr 2004, 01-a0-09] and [29 Dec 2018, 01-b0-02]



Western Australia

Art Gallery Act 1959

## **The** Art Gallery of Western Australia Foundation Rules 1989

### **1. Citation**

These rules may be cited as ~~The~~[the](#) Art Gallery of Western Australia Foundation Rules 1989<sup>1</sup>.

[\[Rule 1 amended: Gazette 28 Dec 2018 p. 4885.\]](#)

### **2. Further objects of Foundation**

The Foundation has the following objects in addition to those stated in section 28A(4) of the Act —

- (a) to raise finance for the acquisition of works of art by the Board for the State collection;
- (b) to provide financial assistance for the Art Gallery's educational programme, including exhibitions, displays, publications, research projects, and visits from overseas and interstate artists, art experts and teachers;
- (c) to disseminate, whether by written publication or otherwise, information and material of any nature relating to the Art Gallery and its objectives, activities and needs;
- (d) to widen knowledge, understanding and appreciation in the community of the Art Gallery and its objectives, activities and needs;

- (e) to raise money for the attainment of the objects of the Foundation, or any of them, by such methods as from time to time the Council considers desirable;
- (f) to pay the net proceeds of all moneys raised, after payment of expenses, to the Board for acquisition of works of art by the Board or for such other purposes as the Board may approve; and
- (g) to do all such things as are incidental or conducive to the attainment of the objects of the Foundation, or any of them, or to the preservation, development and improvement of the Art Gallery's collection and the facilities and well-being of the Art Gallery.

### **3. Membership of Foundation**

- (1) The members of the Foundation shall be such persons, whether natural persons or bodies corporate or unincorporate, as qualify for membership under this rule and apply to the Council for membership.
- (2) The qualification for membership is the making of a gift or gifts to the Board or to the Foundation amounting in value to not less than ~~\$4 000 in a period of 5 years.~~ —
  - (a) \$5 000 in a period of 5 years; or
  - (b) \$4 000 in a period of 5 years that ended before the commencement of the *Art Gallery of Western Australia Foundation Amendment Rules 2018* rule 3.
- (3) A gift may be in cash or kind and the value of a gift in kind shall be determined for the purposes of this rule and rule 4 by the Board.
- (4) A person or body that undertakes in a form approved by the Board to make a gift over a period not exceeding 5 years shall be deemed for the purposes of this rule and rule 4 to have made that gift in full so long as the undertaking is complied with.

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- (5) If an undertaking of the kind referred to in subrule (4) is not complied with within 1 month of the posting or other delivery to the member of a notice from the Foundation that a gift specified in the undertaking is due, the membership of the person or body shall cease unless —
- (a) the Board determines otherwise in the particular circumstances; or
  - (b) a gift or gifts previously given qualify that person or body for a category of membership (in which case the person or body becomes qualified for membership of that category).
- (6) A person who covenants with the Board, in a form approved by the Board, to make a testamentary bequest to the Board of a specified amount shall be deemed for the purposes of this rule and rule 4 to have made a gift equal to one half of that amount.
- (7) The Board may grant membership of any category to a person not otherwise qualified for that membership where the Board considers the person to be so deserving by reason of artistic or other achievement or services to the Foundation or the Art Gallery.

[\[Rule 3 amended: Gazette 28 Dec 2018 p. 4885.\]](#)

#### **4. Categories of membership**

- (1) There shall be 6 categories of membership and the qualification for each category is as follows —
- (a) a person who makes a gift or gifts to the Board or to the Foundation in a period of 5 years amounting in value to not less than \$45 000 qualifies to be a member of the Foundation;
  - (b) a person who makes a gift or gifts to the Board or to the Foundation in a period of 5 years amounting in value to not less than \$15 000 qualifies to be a Fellow of the Foundation;

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- (c) a person who makes a gift or gifts to the Board or to the Foundation in a period of 5 years amounting in value to not less than \$50 000 qualifies to be a Benefactor of the Foundation;
- (d) a person who makes a gift or gifts to the Board or to the Foundation in a period of 5 years amounting in value to not less than \$100 000 qualifies to be a Governor of the Foundation;
- (e) a person who makes a gift or gifts to the Board or to the Foundation in a period of 5 years amounting in value to not less than \$500 000 qualifies to be a Vice Patron of the Foundation; and
- (f) a person who makes a gift or gifts to the Board or to the Foundation in a period of 5 years amounting in value to not less than \$1 000 000 qualifies to be a Patron of the Foundation.

(1A) A person who before the commencement of the *Art Gallery of Western Australia Foundation Amendment Rules 2018* rule 3 made a gift or gifts to the Board or to the Foundation in a period of 5 years amounting in value to not less than \$4 000 also qualifies to be a member of the Foundation.

- (2) A member may at any time progress to a higher category of membership by making or undertaking to make such additional contributions as would qualify the member for the higher category of membership.

*[Rule 4 amended: Gazette 28 Dec 2018 p. 4885.]*

## **5. Cessation of membership**

- (1) A member may by notice in writing delivered to the chairman of the Council resign from membership of the Foundation.
- (2) Subject to rule 3(5), membership of the Foundation continues —
  - (a) in the case of a natural person, until resignation or death; and

- (b) in the case of a body corporate or unincorporate, for a period of 15 years from the date of qualification for membership, unless the membership is renewed by the further qualification for membership of the body.

**6. Friends of the Foundation**

The Council may by resolution establish a public register of Friends of the Foundation and determine the qualifications for admission of persons other than members as Friends of the Foundation.

**7. Council of the Foundation**

- (1) There shall be a Council of the Foundation which shall be responsible for the control and management of the affairs of the Foundation and the furtherance of the objects of the Foundation.
- (2) The Council must not take any action that is contrary to the requirements of the Board as made known to the Council by the Board from time to time.
- (3) The Council shall consist of —
  - (a) the chairman of the Board, or in the absence of the chairman, the deputy;
  - (b) the Director; and
  - (c) not less than 3 nor more than 7 persons, who shall in the first instance be appointed by the Board for terms of not less than one nor more than 3 years and subsequently shall be appointed by the Board after consultation with the Council.
- (4) Subject to subrule (3)(c), a member of the Council, other than the chairman of the Board and the Director, shall be appointed for a term of 3 years, except that a member must not be appointed so as to hold office for more than 6 consecutive years.

**8. Vacation of office of Council member**

The office of a member of the Council becomes vacant if —

- (a) the member resigns by written notice delivered to the chairman of the Council or the Director;
- (b) the member is an undischarged bankrupt or a person whose property is subject to an order or arrangement under the laws relating to bankruptcy;
- (c) the member becomes of unsound mind;
- (d) the member is sentenced to imprisonment for 12 months or more; or
- (e) the member is absent, without leave of the Council, from 3 consecutive meetings of the Council of which he or she had notice.

**9. Council procedure**

- (1) The procedure for the calling, adjournment and regulation of meetings of the Council and the conduct of business at those meetings shall, subject to these rules, be as determined by the Council.
- (2) Unless the Council otherwise resolves, 3 members of the Council form a quorum.
- (3) Each member attending a meeting of the Council has a deliberate vote and, in the case of an equality of votes, the chairman or other member presiding has also a casting vote.
- (4) The Assistant Director — Administration of the Art Gallery and the Executive Officer of the Foundation may attend and participate in meetings of the Council but may not vote.
- (5) The Council shall cause accurate minutes of each meeting of the Council to be recorded and preserved and a copy sent to the Board.
- (6) A resolution in writing signed or assented to by letter, telex or facsimile transmission by each member of the Council shall be



as valid and effectual as if it had been passed at a meeting of the Council.

**10. Powers of Council**

- (1) The Council may do all things necessary for or incidental to the achievement of the objects of the Foundation.
- (2) The Council may on behalf of the Foundation employ such persons or agents and procure such professional or other assistance or services as may be required by the Foundation and may pay reasonable fees and remuneration therefor.

**11. Committees of Council**

- (1) The Council may from time to time appoint committees of such persons as the Council thinks appropriate and every such committee shall be responsible to and shall report to the Council concerning the matters for which the committee is constituted.
- (2) The Council may discharge or alter the composition of a committee.
- (3) Subject to the directions of the Council, a committee may determine its own procedure.

**12. General meetings of Foundation**

- (1) An annual general meeting of members of the Foundation shall be held as soon as practicable after the end of each financial year at a time and place determined by the Council.
- (2) The Council shall submit to the annual general meeting an annual report on the operations of the Foundation during the preceding financial year, including a statement of financial transactions for the financial year and a statement of the financial position of the Foundation at the end of the financial year.

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- (3) Special general meetings of the Foundation may be called and shall be held at such times and places as are determined by the Council.
- (4) The Council shall cause not less than 7 days' notice of every general meeting of the Foundation, including notice of the business of the meeting, to be sent to every member at the last known address in Western Australia of that member as recorded by the Foundation.
- (5) The accidental omission to give notice of a meeting to a member does not invalidate the proceedings at the meeting.
- (6) At a general meeting —
  - (a) the chairman of the Council; or
  - (b) in the absence of the chairman, the vice chairman of the Council; or
  - (c) in their absence, a member of the Council elected by the members present at the meeting,shall preside.
- (7) The chairman shall cause accurate minutes of each general meeting of the Foundation to be recorded and preserved and a copy sent to the Board.

**13. Quorum of meeting of Foundation**

Fifty members or 10% of the members of the Foundation, whichever is the less, present in person or by proxy constitute a quorum for a general meeting, but a quorum must include 2 members of the Council of whom one must be the Director or a member appointed under rule 7(3)(c).

**14. Voting at general meetings**

At a general meeting —

- (a) upon a show of hands, each member present in person shall have one vote;

- (b) upon a poll, each member present in person or by proxy shall have one vote;
- (c) in the event of an equality of votes, the person presiding at the meeting has a casting vote as well as a deliberative vote; and
- (d) the person presiding or any 3 members may demand a poll either before or on the declaration of the result of a show of hands.

**15. Voting by proxy or representative**

- (1) A member that is a body corporate or unincorporate may, by notice in writing delivered to the chairman of the Council, appoint a representative to represent and act for it at general meetings of the Foundation and for the purposes of rule 14(1)(a) a body so represented shall be taken to be present in person.
- (2) A member may in writing appoint a proxy to attend and vote at general meetings of the Foundation on behalf of the member.
- (3) The appointment of a proxy shall be for such period and upon such conditions as the appointer determines.

**16. Financial provisions**

- (1) The Council shall cause to be kept, to the satisfaction of the accountable authority of the Art Gallery, proper accounts and records of the transactions and affairs of the Foundation and shall do all things necessary to ensure that all moneys received are properly brought to account, all payments are correctly made and properly authorised and adequate control is maintained over the incurring of liabilities.
- (2) The accounts and records of the Foundation shall be kept at such place or places as the Council determines and shall be open during normal office hours for inspection by members of the Council and members of the Board.

**17. Execution of documents**

Documents authorised by resolution of the Council to be executed on behalf of the Foundation may be so executed —

- (a) in the case of deeds and other documents under seal, by being signed, sealed and delivered on its behalf by 2 members of the Council; and
- (b) in the case of any other documents, by being signed on its behalf by 2 members of the Council.

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## Notes

- <sup>1</sup> This is a ~~reprint as at 2 April 2004~~ [compilation](#) of ~~The~~ [the Art Gallery of Western Australia Foundation Rules 1989](#). ~~The~~ [and includes the amendments made by the other written laws referred to in the](#) following table. [The table also](#) contains information about ~~those rules and~~ any reprint.

### Compilation table

Citation	Gazettal	Commencement
<i>The Art Gallery of Western Australia Foundation Rules 1989</i> <sup>2</sup>	27 Jan 1989 p. 285-7	27 Jan 1989
<b>Reprint 1: <i>The Art Gallery of Western Australia Foundation Rules 1989</i> as at 2 Apr 2004</b>		
<a href="#">Art Gallery of Western Australia Foundation Amendment Rules 2018</a>	<a href="#">28 Dec 2018</a> <a href="#">p. 4884-5</a>	<a href="#">r. 1 and 2: 28 Dec 2018</a> <a href="#">(see r. 2(a));</a> <a href="#">Rules other than r. 1 and 2:</a> <a href="#">29 Dec 2018 (see r. 2(b))</a>

- <sup>2</sup> [Now known as the Art Gallery of Western Australia Foundation Rules 1989; citation changed \(see note under r. 1\).](#)