

NATIONAL GALLERY ACT 1975 – Section 11

Disposal of property left with Gallery

- (1) Where:
- (a) the Council wishes to apply this section to any property (including a work of art) that is not the property of the Gallery but has been submitted to the Gallery with a view to its acceptance by the Gallery or for any other purpose;
 - (b) the property has remained in the possession or custody of the Gallery for a period of not less than 1 year after its submission to the Gallery;
 - (c) in a case to which subsection (2) applies:
 - (i) the Council has complied with the requirements of that subsection; and
 - (ii) the period specified in the notice under that subsection or, if such notices were sent to more than 1 person, the period specified in the notice last sent, has expired; and
 - (d) the property is not the subject of a claim lodged with the Gallery by the person who submitted the property to the Gallery or by any other person who has an interest in the property;

this section applies in relation to that property.

- (2) Where the Gallery has a record of the name and address of a person who has an interest in property referred to in paragraph (1)(a) or of the person who submitted that property to the Gallery, the Council shall send by pre-paid registered post to that person or to each of those persons, addressed to him or her at the relevant address, a notice informing him or her that, after the expiration of 3 months from the date of the notice, the Council intends, unless the person who submitted the property to the Gallery or any other person who has an interest in the property lodges with the Gallery a claim with respect to the property, to deal with the property under this section.
- (3) The Council may, in respect of property in relation to which this section applies, cause a notice, in accordance with subsection (4), relating to the property to be published twice, with an interval of at least 7 days between the dates of the publications, in such daily newspapers as will ensure its publication in every State and internal Territory.
- (4) A notice under subsection (3) shall sufficiently identify the property to which it relates and shall state that, at the expiration of 3 months from the date of publication of the notice, the Council intends to deal with the property under this section unless, before that time, the person who submitted the property to the Gallery or any other person who has an interest in the property has lodged with the Gallery a claim with respect to the property.
- (5) Where:
- (a) the period of 3 months specified in a notice under subsection (3) that has been published for the second time has expired; and
 - (b) the property to which the notice relates has not ceased to be property in relation to which this section applies;
- the Council may:
- (c) if the property is a work of art and the Council wishes to acquire it for the national collection – request the Minister to approve its acquisition for the national collection; or
 - (d) in any other case – request the Minister to approve its disposal in accordance with this section.
- (6) Before approving of the acquisition of a work of art in accordance with a request under paragraph (5)(c), the Minister shall obtain a valuation of the work of art from an independent expert.
- (7) Where a work of art the subject of a request under paragraph (5)(c) has not ceased to be property in relation to which this section

- applies, the Minister may, by notice published in the Gazette, approve the acquisition of the work of art for the national collection.
- (8) Upon the publication in the Gazette of a notice under subsection (7), the work of art to which the notice applies is, by force of this subsection:
- (a) vested in the Commonwealth; and
 - (b) freed and discharged from all interests, trusts, restrictions, obligations, contracts, licences and charges;
- to the intent that the legal estate in the work of art and all rights and powers incident to that legal estate are vested in the Commonwealth.
- (9) The Minister shall, on behalf of the Commonwealth, transfer to the Gallery for inclusion in the national collection a work of art referred to in subsection (8).
- (10) Where property the subject of a request under paragraph (5)(d) has not ceased to be property in relation to which this section applies, the Minister may approve the disposal of the property and advise the Council accordingly.
- (11) Where the Minister has advised the Council of his or her approval of the disposal of property and the property has not ceased to be property in relation to which this section applies, the Gallery may:
- (a) cause the property to be sold by public auction; or
 - (b) if the Council determines that the property is valueless or that for some other reason it is not practicable to sell the property by public auction – cause the property to be disposed of otherwise than by sale or to be destroyed.
- (12) For the purposes of a sale or other disposal of goods under subsection (11), the Gallery shall be deemed to be the absolute owner of the property.
- (13) The interest of every person in a work of art to which a notice published under subsection (7) relates is, on the date of acquisition of that work of art, converted into a right to compensation against the Commonwealth.
- (14) Parts VII and IX of the *Lands Acquisition Act 1989* apply in relation to a right to compensation referred to in subsection (13) as if:
- (a) that right were an entitlement to compensation under section 52 of that Act;
 - (b) a reference in those Parts to an interest in land were a reference to the legal estate in the work of art to which that right relates; and
 - (c) a reference in those Parts to the Minister were a reference to the Minister administering this Act.
- (15) Where a person satisfies the Council that he or she had an interest in property immediately before the property was sold by virtue of subsection (11), the Gallery shall pay to the person such amount as it considers appropriate having regard to the interest that person had in the property but not exceeding the amount by which the amount of the proceeds of the sale exceeded the amount of any expenses incurred by the Gallery in connexion with the storage and sale of the property.
- (16) No action, other than an action under the *Lands Acquisition Act 1989* as applied by subsection (14), lies against any person by reason of any act or thing done in accordance with this section.