

# **Museums & Galleries NSW**

## **Bequests**

Bequests are one means of acquiring objects or financial support. Museums and galleries need to be aware of some important legal and management considerations in this area.

- While the would-be-donor may communicate their intentions to bequeath certain items or financial donations, their intention must also be expressed in a legal Will for their wishes to be carried out.
- The organisation is entitled to claim the gift once Probate has been carried out.
- The executors of the Will should honour the legacy, however in some instances it has been up to the beneficiary to chase up the bequest themselves. This process is made difficult of course if the "donor" dies intestate or has no legal representation. In these situations the organisation may not necessarily be notified of the death.
- If items have been disposed of before the time of the organisation's claim in the event of a deceased estate, the executors have the responsibility for the return of the requested items, or be held liable.
- If items have been disposed of by the donor before their death, the organisation has no claim despite the fact it is mentioned in the Will.
- The organisation is not restricted by the request and can reject the offer.
- If the bequest is accompanied by unsuitable conditions the organisation can apply to the court or the executors to have the Will amended.

If a bequest policy is established at an organisation it is vital to formulate a carefully worded letter to would-be-donors. The need for a legal Will to reinforce the bequest objective should be stressed in the letter. To avoid having inappropriate objects bequeathed to the organisation, an outline of the collections policy should also be included. The organisation should also state the intention to reject, return or dispose of unsuitable objects. The collections policy should include a clause which covers bequests as an additional acquisition method, if this is not included in the current policy.

Gifts of money should also be addressed and can be handled in a number of ways. A general purpose fund can be established in which these gifts in addition to money obtained from other sources is deposited. Alternatively, an organisation may establish a general bequest fund which can be used as a resource for special projects. A more satisfactory operation is to establish different funds for different projects. For this to occur, an organisation must nominate specific projects. Some popular programs financed through bequests are:

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- staff training
- a conservation program for the most significant objects
- backlog documentation and/or research programs
- purchase of automated collections management systems, including imaging facilities
- exhibition development including multi media components
- development of education packages and programs
- publication of a catalogue or other works
- provision of updated controlled storage facilities and equipment.

Costing of such projects is obviously advised before they are committed, and should be included in the letter to potential donors. The 'donor' should also be made aware of the various projects available so they can nominate in which area they would like their money used.

Such financial gifts should be maintained as individual components of the overall museum infrastructure. Donations should be deposited in separate accounts which reflect their different objectives. Assistance from an accountant and/or a solicitor is advised. The services of these professionals may be employed to draft a bequest policy if this method is felt to become a major source of acquisition.

## Fact Sheet

Museum\_\_\_\_\_

Address\_\_\_\_\_

Telephone/Fax\_\_\_\_\_

### DEED OF GIFT

This Deed made the\_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

BETWEEN\_\_\_\_\_ (full name of Donor)

of \_\_\_\_\_ (full address of Donor)  
(hereinafter called 'the donor' on the One part)

and the \_\_\_\_\_ as Administrators of  
(name of administrating body of the Museum)

the \_\_\_\_\_  
(name of Museum) (hereinafter called 'the Museum' of the Other part)

WHEREAS the Donor desires to give the goods and property described in the Schedule hereunder to the Museum upon the following terms and conditions:

#### NOW THIS DEED WITNESSED AS FOLLOWS

(1) The Donor warrants to the Museum that she/he is the sole beneficial and unencumbered owner of the goods and property described in the Schedule hereunder free from all claims and encumbrances.

(2) Upon the occurrence of the event described in Clause (5) hereof, the Donor, for her/himself, her/his executors, administrators, assigns and heirs, hereby agrees to give, convey, dispose and deliver to the Museum, her/his right title and interest in the goods and property described in the Schedule hereunder including all rights of copyright, if applicable to the Museum absolutely.

(3) The Donor agrees and declares that this deed shall not be determined by her/his death and upon occurrence of the event specified in Clause (5) hereof the Deed shall be absolute, whether or not the Donor is alive upon that occurrence, and this Deed shall bind Legal; personal representatives of the Donor.

(4) The Donor agrees and declares that this Deed and the gift of goods and property hereunder shall ensure to the benefit of the museum, its successors, assigns and transferees in perpetuity.

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(5) \_\_\_\_\_  
(insert the event by which the property will transfer, e.g. date or event) or twenty one years from the date hereof whichever is the earlier

(6) The Donor declares she/he has entered into this Deed of her/his own free will, voluntarily and without influence.

(7) The Donor declares she/he has held or obtained all permits and licenses of and incidental to the goods and property.

(8) It is agreed that words importing the singular number or plural number shall include the plural number and singular number respectively and words importing any gender shall include each other gender.

This gift of goods and property have been given in consideration for the Museum paying/giving the Donor \_\_\_\_\_  
(name the benefit e.g. free entry to the Museum)

**Schedule of Goods and Property**

*e.g. description of object, including acquisition number if possible*

**SIGNED, SEALED & DELIVERED**

by \_\_\_\_\_  
*Donor*

in the presence of \_\_\_\_\_  
*Witness*

**2 copies to be made, one retained by the Donor and one by the Museum**

(PLEASE NOTE: In respect of a company, the company seal should be affixed.)

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Museum\_\_\_\_\_

Address\_\_\_\_\_

### GIFT ACKNOWLEDGMENT

I \_\_\_\_\_ of \_\_\_\_\_  
(full name of Donor) (full address of Donor)  
hereinafter called the 'Donor'

for myself, executors, administrators, assigns and heirs, in consideration for the  
Museum

paying/giving the Donor, \_\_\_\_\_  
(name the benefit e.g. free entry)

hereby give to \_\_\_\_\_ as administrators of \_\_\_\_\_,  
(name of administrating body) (name of Museum)  
(hereinafter called the 'Museum')

the goods and property described in the schedule below, and I the Donor do:

(1) Warrant that I am the sole beneficial and unencumbered owner of the goods and property in the Schedule, free from all claims.

(2) Hereby give, convey, dispose and deliver unto the Museum all my right title and interest in the goods and property in the Schedule hereto including rights of copyright, if applicable to the Museum absolutely.

(3) Declare that this gift shall not be determined upon my death and shall bind my legal personal representatives.

(4) Declare that this gift shall ensure for the benefit of the Museum, its successors and transferees in perpetuity.

(5) Declare that I have entered into this gift of my own free will, voluntarily, and without influence.

(6) Declare that I have held or obtained all permits and licenses of / and incidental to the goods and property.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

Signed \_\_\_\_\_  
(signed by Donor)

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### Schedule of Goods and Property

*e.g. description of object, including acquisition number if possible*

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#### Acknowledgment of Museum

The Museum hereby accepts the gift of goods and property described by the Donor in the Schedule above.

Signed \_\_\_\_\_  
(signed on behalf of the Museum)

Dated \_\_\_\_\_

**2 copies of this form to be signed, one retained by the Donor, one by the Museum.**