

## SYDNEY HARBOUR TRUST (AMENDMENT) ACT.

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### Act No. 46, 1928.

An Act to provide for the separation of the Sydney Harbour Trust Accounts from the Consolidated Revenue Fund; to establish certain funds and to make provisions as to their management and control; to amend the Constitution Act, 1902, the Audit Act, 1902, the Sydney Harbour Trust Act, 1900, and certain other Acts; and for purposes connected therewith. [Assented to, 29th December, 1928.]

George V,  
No. 46, 1928.

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**1.** (1) This Act may be cited as the "Sydney Harbour Trust (Amendment) Act, 1928," and shall be read with the Sydney Harbour Trust Act, 1900, as amended by subsequent Acts.

(2) The Sydney Harbour Trust Act, 1900, as so amended, is in this Act referred to as the Principal Act.

(3) The Principal Act, as amended by this Act, may be cited as the "Sydney Harbour Trust Act, 1900-1928."

(4) This Act shall be deemed to have commenced on the first day of July, one thousand nine hundred and twenty-eight, except as elsewhere provided in this Act.

**2.**

**No. 46, 1928.**Amendment  
of Act No. 1,  
1901, ss.  
74-77.  
New section  
74-77L  
Funds.

**2.** The Principal Act is amended by omitting sections seventy-four, seventy-five, seventy-six and seventy-seven, and by inserting in lieu thereof the following new sections :—

74. (1) The Colonial Treasurer shall establish in the Treasury the following funds :—

- (a) the Sydney Harbour Trust Fund, in this Act referred to as the “Fund”;
- (b) the Sydney Harbour Trust Renewals Fund, in this Act referred to as the “Renewals Fund.”

(2) The provisions of this section relating to the establishment and operation of the Renewals Fund shall commence and take effect as from the first day of July, one thousand nine hundred and twenty-nine.

(3) (a) Subject to this Act all moneys in the funds so established shall be vested in and shall be expended by the Commissioners for the purposes for which the same are appropriated by Parliament and, save as expressly provided in this Act or permitted under the provisions of the Audit Act, 1902, not otherwise;

(b) the Commissioners may, with the approval of the Governor, expend from the Fund in anticipation of appropriation by Parliament such sums as may be necessary to provide for expenditure in respect of such services as cannot be reasonably postponed without injury to the public interest, or to carry on any work, the vote in respect of which has become exhausted prior to the completion of the work;

(c) a statement setting out details of any proposal to expend a sum from the Fund in pursuance of paragraph (b) of this subsection shall be laid before both Houses of Parliament within fourteen sitting days after the approval of the Governor to the proposal has been signified, if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session of Parliament.

(4)

(4) Section forty-six of the Constitution <sup>No. 46, 1928.</sup> Act, 1902, shall apply to and in respect of any appropriation out of the said funds.

75. There shall be paid into the Sydney Harbour <sup>Payments into the Fund.</sup> Trust Fund—

- (a) all wharfage and tonnage rates, license fees, rents, berthing, and other charges, and other sums of money levied or collected by the Commissioners;
- (b) all loan moneys raised under any Act and appropriated by Parliament for construction of new wharves, for purchase of plant, for the purchase or resumption of land, or for any other service or work to be undertaken by the Commissioners;
- (c) all interest received in respect of the investment of moneys belonging to the Fund;
- (d) all fines and penalties recovered under this Act by the Commissioners or any of their servants;
- (e) moneys by this or any other Act authorised or directed to be paid into the Fund;
- (f) any sums advanced by the Colonial Treasurer in pursuance of this Act.

76. (1) Any claim or demand against the Commissioners shall be defrayed from the Fund out of <sup>Exoneration of the</sup> Consolidated <sup>Revenue</sup> Fund, such moneys therein as are available for that purpose, and the Consolidated Revenue Fund shall not be liable for any such claim or demand.

(2) If any money in the Fund has been received on trust it may be dealt with in accordance <sup>Trust moneys.</sup> with such trust without appropriation by Parliament.

77. (1) The Sydney Harbour Trust Renewals <sup>Renewals Fund.</sup> Fund shall be available only to meet such appropriations as Parliament may make for renewals and reconstruction of wharves, buildings, equipment, plant, or other wasting assets. All expenditure on any such renewals and reconstruction shall be paid out of the money so appropriated.

(2) The Commissioners shall in each year prepare a statement showing the amount which they propose to transfer from revenue to the credit of Renewals Fund. <sup>Such</sup>

Such statement, after having been submitted to the Committee of Review appointed under this Act for investigation and report, shall be forwarded together with such report to the Governor, who shall determine the amount to be so transferred, and such amount shall be carried to the Renewals Fund without further appropriation by Parliament than this Act.

There shall also be carried to the Renewals Fund such further amounts as may be appropriated by Parliament.

Sydney  
Harbour  
Trust  
Reserve  
Account.

77A. (1) There shall from time to time be transferred from revenue into a Sydney Harbour Trust Reserve Account in the books of the Commissioners such sum as the Auditor-General shall certify to the Governor to be the net profit of the operations of the Commissioners for the preceding financial year.

(2) The amount at the credit of the Reserve Account shall be available only—

- (a) to meet any losses incurred in any year by the Commissioners;
- (b) for the reduction of rates and other charges.

Accounts.

77B. (1) Full and true accounts shall be kept by the Commissioners of their assets, liabilities, income and expenditure.

Complete and separate financial and cost accounts of all commercial and industrial activities controlled by the Commissioners shall also be kept.

(2) The forms and manner of keeping such accounts shall be such as are prescribed by regulations made under the provisions of the Audit Act, 1902.

Report.

77C. (1) At such times as may be prescribed by regulations made under the provisions of the Audit Act, 1902, the Commissioners shall render to the Colonial Treasurer accounts and statements in a form prescribed by regulations made under the said Act, showing fully the true financial position of the Sydney Harbour Trust, and of all services undertaken by the Commissioners, and before the thirty-first day of August in each year accounts and statements in respect of the then next preceding financial year.

(2)

(2) In the accounts for a financial year, all the revenues appertaining to that year shall be brought to account, and the expenditure shall include all liabilities properly chargeable in respect of that year. No. 48, 1928.

(3) The Colonial Treasurer shall cause each of such accounts and statements for the next preceding financial year to be laid before Parliament forthwith if Parliament is then sitting, otherwise within seven sitting days after the commencement of the next ensuing session.

77D. The Commissioners shall in the month of *Estimates*. May in each year, or at such other time or times as may be required by the Colonial Treasurer, prepare and supply to the Colonial Treasurer in a form prescribed by regulations made under the provisions of the Audit Act, 1902, estimates of the income from all sources and of the expenditure proposed for the financial year commencing on the first July following, or for any other period, and which the Commissioners propose that Parliament should appropriate, and shall on request furnish the Colonial Treasurer with all the information at their disposal relating to any item of the estimated income or expenditure.

77E. (1) The Governor may appoint a Committee of Review (in this Act referred to as the Committee) who shall carry out the duties prescribed in this Act. Capital debt Committee of Review.

The Committee shall consist of the persons for the time being holding the following offices, viz. :— The Auditor-General, the President of the Sydney Harbour Trust, and the Under-Secretary to the Treasury, each of whom may appoint in writing a representative to act on his behalf.

The Governor may make regulations prescribing the procedure to be followed by the Committee.

(2) The Committee shall, as soon as practicable, but not later than thirty-first March, one thousand nine hundred and twenty-nine, or such later date as may be fixed by proclamation, consider and review the amount of the capital indebtedness of the State in respect of the Sydney Harbour Trust, in

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in this Act referred to as the capital debt, and shall certify to the Governor the sum at which, in the opinion of the majority of the Committee, the capital debt at the date of the commencement of this Act should for the purposes of this Act be fixed.

The amount so certified shall for the purposes of this Act be the capital debt as at the said date.

(3) Until the Committee has so certified the capital debt as at the said date the capital debt shall for the purposes of this Act be deemed to be the amount certified by the Auditor-General as being the capital debt of the Sydney Harbour Trust as at the thirtieth day of June, one thousand nine hundred and twenty-eight.

(4) As soon as practicable after the close of each financial year the Committee shall certify to the Governor the amount, if any, which should be added to the capital debt on account of additional loan moneys provided for the Commissioners.

Interest on  
capital debt  
as at 30th  
June, 1928.

77F. (1) In respect of the capital debt as at the commencement of the Sydney Harbour Trust (Amendment) Act, 1928, the Commissioners shall, out of the Fund, pay to the Colonial Treasurer on behalf of the State, without further appropriation than this Act, such a proportion of the interest, sinking fund, and other charges payable by the State in respect of the public debt of the State as at the said commencement outstanding (including its renewals and conversions) as the capital debt at that date bears to the cash equivalent of the outstanding public debt at that date.

(2) Payments in respect of such proportion of the interest shall be made to the Colonial Treasurer in quarterly instalments based on the amount of interest charged in the Public Accounts in respect of the capital debt as at the thirtieth day of June, one thousand nine hundred and twenty-eight.

Any adjustments of under or over payments shall be made after the close of the financial year for which the interest is payable.

(3)

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(3) Payments in respect of such proportion of sinking fund and other charges shall be made in such instalments and at such dates as the Colonial Treasurer directs.

(4) The method of calculating the amounts to be paid in respect of interest and sinking fund shall be as prescribed by regulations made under the provisions of the Audit Act, 1902.

77G. In respect of loan moneys provided after the thirtieth day of June, one thousand nine hundred and twenty-eight; to the Commissioners by or through the State—

- (a) the interest payable by the State shall be paid out of the Fund to the Colonial Treasurer, as and when the interest is payable by the State;
- (b) the Commissioners shall, out of the Fund, pay the Colonial Treasurer sinking fund contributions and charges to be paid by the State in respect of the loans from which the provision is made;
- (c) the sinking fund contributions shall be made to the Treasurer at the same ratio and time and in the same manner as the sinking fund contributions are to be made by the State;
- (d) payment of charges shall be made to the Colonial Treasurer on notification by him.

77H. Where any work or service is vested in or removed from the control of the Commissioners, or where any land is vested in or divested from the Commissioners, the Committee shall determine what readjustment of the Commissioners' capital indebtedness is proper, and the Commissioners' capital indebtedness and its obligations, including interest and sinking fund in respect thereof, shall be varied accordingly.

77I. The Fund shall enjoy a proportionate share of the benefits, and shall bear a proportionate share of the burdens borne by the State under the financial agreement entered into between the Commonwealth of Australia and the States in pursuance

Application  
of Audit Act,  
1902.

pursuance of the provisions of the Financial Agreement Ratification Act, 1928, in all respects as if the Fund had continued to form part of the Consolidated Revenue Fund.

77J. (1) Subject to this section the provisions of the Audit Act, 1902, as amended by subsequent Acts, shall extend and apply to and in relation to the funds established in pursuance of this Act in the like manner as those provisions apply to and in relation to the Consolidated Revenue Fund or the General Loan Account.

(2) All moneys received on account of the said funds shall be paid into such accounts and at such bank or banks as the Colonial Treasurer may in writing direct, and shall be deemed to be accounts of the Government within the meaning of and under the said Act.

(3) The Commissioners shall have power to withdraw from the Fund any moneys in excess of their immediate requirements. Any moneys so withdrawn shall be invested with the Colonial Treasurer at such rate of interest as may be agreed upon.

(4) The provisions of section thirty-two of that Act shall not apply to appropriations to the Renewals Fund.

(5) Towards defraying the cost and expense of the audit, the Commissioners shall pay to the Colonial Treasurer such sum as may from time to time be prescribed by regulation.

(6) Regulations may be made under section seventy of that Act to give effect to this section and such regulations may prescribe what duties or obligations of the Colonial Treasurer under the said Act shall be performed and observed by the Commissioners, and may prescribe such modifications of the said Act (if any) as may be deemed necessary or convenient for giving full effect to this section.

Capitalisation  
of interest.

77K. The interest paid or accrued on any moneys expended on any work or in relation thereto during its construction and properly chargeable as capital expenditure may be treated as part of the capital cost and added to the capital debt.

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77L. (1) The Colonial Treasurer may from time to time advance to the Commissioners such sums as the Governor may approve upon such terms and conditions as to repayment and interest as the Governor may direct.

Advances by Colonial Treasurer.

(2) Except as provided in this section the Commissioners shall not borrow any moneys.

3. All rates, rents, tolls, and other income which accrued prior to the first day of July one thousand nine hundred and twenty-eight in respect of the Sydney Harbor Trust, or of any service or work undertaken by the Commissioners, but which are received after that date, shall be credited to the Consolidated Revenue Fund and, except where otherwise specially provided in this Act, all expenditure incurred by the Commissioners prior to the first day of July one thousand nine hundred and twenty-eight in respect thereof which remained unpaid at that date, shall be paid from the Consolidated Revenue Fund.

Adjustment of accounts as at 30th June, 1928.

The Commissioners shall, prior to the thirty-first day of January, one thousand nine hundred and twenty-nine, or at such later date as the Governor may direct, submit to the Colonial Treasurer a statement in respect of accrued rates, rents, tolls, and other income and of the expenditure referred to in this section, and such statement, if certified as correct by the Auditor-General, shall be the basis of the adjustment of accounts under this section.

4. The Principal Act is further amended—

Amendment of Act No. 1, 1901.

- (a) by omitting from section twelve the words "Consolidated Revenue Fund" and by inserting in lieu thereof the words "Sydney Harbour Trust Fund";
- (b) by omitting from section twenty the word and figures "of 1895" and by inserting in lieu thereof the figures "1902."
- (c) by omitting from section two the figures "77" and by inserting in lieu thereof the figures and letter "77L."

Sec. 12.

Sec. 20.

Sec. 2.