

**THE NATIONAL TRUST OF AUSTRALIA (NEW
SOUTH WALES) ACT.**

Act No. 10, 1960.

An Act to provide for the establishment and incorporation of a body to be called “The National Trust of Australia (New South Wales)”; to dissolve the company registered under the Companies Act, 1936, as amended by subsequent Acts, and known by the same name; to vest in the said body the property vested in the said company; to define the objects, powers, authorities, duties and functions of the said body; and for purposes connected therewith. [Assented to, 25th March, 1960.]

Elizabeth II,
No. 10, 1960.

BE it enacted by the Queen’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. This Act may be cited as “The National Trust of Australia (New South Wales) Act, 1960”. Short title.

2. In this Act, unless the context or subject matter otherwise indicates or requires— Definitions.

“By-laws” means by-laws made under this Act.

“Council” means the Council of the National Trust.

“Councillor” means a member of the Council.

“National Trust” means The National Trust of Australia (New South Wales) constituted and incorporated under this Act.

“Rules”

The National Trust of Australia (New South Wales) Act.

No. 10, 1960.

“Rules” means rules made under this Act.

“The company” means the company incorporated under the Companies Act, 1936, as amended by subsequent Acts, on the fifth day of December, one thousand nine hundred and fifty, and registered by the name of “The National Trust of Australia (New South Wales)”.

Constitu-
tion
of the
National
Trust.

3. (1) There shall be constituted under this Act a body to be called “The National Trust of Australia (New South Wales)” which shall consist of the persons who under the rules of the National Trust in force from time to time are the members thereof and, after the constitution of the Council under section nine of this Act, the persons who from time to time hold office under subsections two and four of that section as ex officio councillors and appointed councillors respectively.

(2) The National Trust shall be a body corporate, with perpetual succession and a common seal, and shall be capable, in its corporate name, of—

- (a) suing and being sued;
- (b) taking, purchasing and holding real and personal property;
- (c) granting, selling, alienating, assigning and demising real and personal property;
- (d) borrowing moneys either with or without security; and
- (e) doing and suffering all such other acts and things as bodies corporate may do or suffer.

Objects of
the
National
Trust.

4. The objects for which the National Trust is established are—

- (a) to acquire, control, maintain, protect and preserve for the benefit of the public generally lands, buildings, works, structures and articles, of beauty or of national, historical, antiquarian, scientific, artistic, architectural or cultural interest (including aboriginal relics, aboriginal rock carvings and aboriginal rock paintings and archaeological sites);

(b)

The National Trust of Australia (New South Wales) Act.

75

- (b) to protect and preserve the natural features of, and to conserve the fauna and flora on, any lands referred to in paragraph (a) of this section and acquired by or under the control of the National Trust; No. 10, 1960.
- (c) to encourage and promote, by any means whatsoever, public appreciation, knowledge and enjoyment of, respect for, and interest in, any lands, buildings, works, structures or articles, referred to in paragraph (a) of this section;
- (d) to provide and improve amenities on and access to any lands, buildings, works and structures referred to in paragraph (a) of this section and acquired by or under the control of the National Trust;
- (e) to co-operate with any corporation, body or society, either within or outside New South Wales, having objects wholly or substantially similar to the objects of the National Trust, in promoting the objects of such corporation, body or society or the National Trust.

5. (1) Upon the commencement of this Act the company shall by virtue of this Act be dissolved, and the Registrar-General shall strike its name off the register of companies kept under the Companies Act, 1936, as amended by subsequent Acts. Dissolution
of the
company.

(2) (a) As on and from the commencement of this Act, in the construction and for the purposes of any Act other than this Act, or any by-law, regulation, ordinance, or any other instrument or document whatsoever, of the same or a different kind or nature, any reference to The National Trust of Australia (New South Wales) shall be read, deemed and taken to refer to the National Trust.

(b) All real and personal property and all right and interest therein which immediately before the commencement of this Act was vested in the company shall vest in and belong to the National Trust for the purposes of this Act.

All property vested in the National Trust by the operation of this subsection shall be held by it subject to the conditions or trusts on which it was held immediately before such vesting.

(c)

No. 10, 1960. (c) All rights accruing or accrued to the company in respect of any property vested in the National Trust by the operation of this subsection are hereby vested in the National Trust and may be enforced by the National Trust.

(d) All liabilities of the company in respect of any property vested in the National Trust by the operation of this subsection may be enforced against the National Trust.

(e) All contracts, agreements and undertakings entered into with the company and in force at the commencement of this Act shall be contracts, agreements and undertakings with the National Trust.

(f) Any legal or other proceedings that might, but for the provisions of this section, have been continued or commenced by or against the company by the name of The National Trust of Australia (New South Wales) may be continued or commenced by or against the National Trust by the said name.

**The Council
of the
National
Trust.**

6. (1) There shall be a Council of the National Trust which shall, subject to the provisions of this Act, have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed upon the Council or the National Trust by or under this or any other Act.

(2) Subject to the provisions of this Act and to the rules, the Council shall administer, manage and conduct the affairs of the National Trust and the business and management thereof, and may do and perform all acts and things that are necessary or convenient for giving effect to the objects of the National Trust set out in section four of this Act.

**Constitu-
tion
of the
first
Council.**

7. (1) The first Council shall consist of the persons who immediately before the commencement of this Act held office as members of the Council of the company.

(2) The members of the first Council shall, subject to this Act, hold office until the Council is duly constituted and appointed under section nine of this Act or until the expiration of one year from the commencement of this Act, whichever is the earlier.

(3)

(3) Where a casual vacancy occurs in the office of a member of the first Council the remaining members of the Council may appoint a person to the vacant office. The person so appointed shall hold office for the residue of his predecessor's term of office.

(4) A person who is a member of the first Council shall, unless otherwise disqualified, be eligible for election or appointment under section nine of this Act.

(5) Without prejudice to the generality of section six of this Act, the first Council shall take all steps necessary to ensure that the Council is duly constituted and appointed under section nine of this Act as early as possible after the commencement of this Act.

8. The persons who immediately before the commencement of this Act held office as the President, a Vice-President, the Secretary or the Treasurer of the company shall hold office as the President, a Vice-President, the Secretary or the Treasurer, as the case may be, of the National Trust until their respective successors are elected in accordance with the provisions of section thirteen of this Act.

First
President,
Vice-
Presidents,
Secretary
and
Treasurer
of the
National
Trust.

9. (1) The Council, other than the first Council, shall be constituted in accordance with this section and shall consist of not more than twenty-seven councillors.

Constitu-
tion of the
Council,
other than
the first
Council.

(2) Two councillors (in this Act referred to as the ex officio councillors) shall be the persons for the time being holding office respectively as the Under Secretary, Department of Local Government, and the Director-General of Education.

(3) Fifteen councillors (in this Act referred to as the elected councillors) shall be elected annually, in accordance with the rules, from amongst the members of the National Trust.

(4) Ten councillors (in this Act referred to as the appointed councillors) shall be appointed to the Council, where the time for such appointments is prescribed by the by-laws,

The National Trust of Australia (New South Wales) Act.

No. 10, 1960. by-laws, within the time so prescribed, or where the time is not so prescribed, within one month after the annual general meeting of the National Trust. Of the appointed councillors—

- (a) one shall be appointed by the Cumberland County Council;
- (b) one shall be appointed by the Fauna Protection Panel constituted under the Fauna Protection Act, 1948;
- (c) one shall be appointed by The Royal Australian Institute of Architects, New South Wales Chapter;
- (d) one shall be appointed jointly by the governing bodies of the Local Government Association of New South Wales and the Shires Association of New South Wales;
- (e) one shall be appointed by The Trustees of the Public Library of New South Wales, constituted under the Public Library Act, 1899, as amended by subsequent Acts;
- (f) one shall be appointed by The Trustees of the Australian Museum, constituted under the Australian Museum Act, 1902, as amended by subsequent Acts;
- (g) one shall be appointed by the University of Sydney;
- (h) one shall be appointed by the University of New South Wales;
- (i) one shall be appointed by the University of New England;
- (j) one shall be appointed by the Country Women's Association of New South Wales.

(5) The Under Secretary, Department of Local Government may appoint any officer of that Department, and the Director-General of Education may appoint any officer of the Department of Education, as a deputy to act on his behalf at any meeting of the Council at which he is unable to attend, and a deputy so appointed shall be entitled so to act and, while so acting, shall be deemed to be an ex officio councillor.

(6)

The National Trust of Australia (New South Wales) Act.

79

(6) The elected councillors shall, subject to sections **No. 10, 1960.** ten and eleven of this Act, hold office until the annual general meeting of the National Trust next following their election as elected councillors.

(7) An appointed councillor shall, subject to sections ten and eleven of this Act, hold office, where the by-laws prescribe a time after the annual general meeting of the National Trust within which the appointed councillors shall be appointed, until the expiration of the time so prescribed for the appointment of his successor, or where the by-laws do not prescribe such a time, until the appointment of his successor or the expiration of one month after the annual general meeting of the National Trust next following his appointment as an appointed member, whichever first happens.

(8) All retiring councillors shall, unless otherwise disqualified, be eligible for re-election or re-appointment, as the case may be.

(9) Where a casual vacancy occurs in the office of an elected councillor the remaining members of the Council shall appoint a person, being a member of the National Trust, to the vacant office.

Where a casual vacancy occurs in the office of an appointed councillor, the body which appointed the councillor whose office has become vacant shall appoint a person to the vacant office.

Any person appointed to the Council pursuant to this subsection shall hold office as a councillor for the residue of his predecessor's term of office.

10. A person who—

- (a) is not of or above the age of twenty-one years;
- (b) is an undischarged bankrupt, or has his affairs under liquidation by arrangement with his creditors;
- (c) has been convicted in New South Wales of a felony or of a misdemeanour which is punishable by imprisonment for twelve months or upwards or has been

Disquali-
fications, }

The National Trust of Australia (New South Wales) Act.

No. 10, 1960.

been convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or a misdemeanour punishable as aforesaid;

(d) is a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958;

(e) holds any office or place of profit under the National Trust.

shall not be capable of being or continuing to be a councillor.

Vacancies
on Council.

11. A councillor, not being an ex officio councillor, shall be deemed to have vacated his office if he—

(a) dies;

(b) declines to act;

(c) resigns his office by writing under his hand addressed to the President of the National Trust;

(d) is absent, without the leave of the Council, from three consecutive ordinary meetings of the Council of which notice has been given to him personally or in the ordinary course of post;

(e) being an elected councillor, ceases to be a member of the National Trust.

Executive
of Council.

12. After the Council has been duly constituted under section nine of this Act there shall be an Executive of the Council which shall have and may exercise and discharge such powers, authorities, duties and functions as are for the time being conferred and imposed upon, or delegated to, it by the Council.

The Executive of the Council shall consist of the President, Vice-Presidents, Secretary and Treasurer, of the National Trust, together with the councillors elected to be members of the Executive of the Council under paragraph (b) of subsection one of section thirteen of this Act.

13. (1) At the first duly convened meeting of the Council No. 10, 1960.
held after the annual general meeting of the National Trust,
the councillors shall, in accordance with the rules, elect—

- (a) from amongst the elected councillors a President, such number (not exceeding four) of Vice-Presidents as may be specified in the rules, a Secretary and a Treasurer, of the National Trust;
- (b) from amongst any of the councillors, such number of councillors (in this section referred to as elected members of the Executive of the Council) to be members of the Executive of the Council as may be specified by the rules.

The persons elected under the provisions of this subsection shall hold office until the election of their respective successors at the corresponding meeting of the Council in the next ensuing year and during the period between the annual general meeting of the National Trust in the next ensuing year and the election of their respective successors shall not, for the purposes only of subsection one of section nine of this Act, be counted as councillors.

(2) (a) Where a casual vacancy occurs in the office of the President, a Vice-President, the Secretary or the Treasurer, the councillors shall, in accordance with the rules, elect from amongst the remaining elected councillors a successor to fill the vacant office and such successor shall hold office for the residue of his predecessor's term of office.

In this paragraph "elected councillor" includes a person appointed under subsection nine of section nine of this Act to the vacant office of an elected councillor.

(b) Where a casual vacancy occurs in the office of any elected member of the Executive of the Council the councillors shall, in accordance with the rules, elect from amongst any of the remaining councillors a successor to fill the vacant office and such successor shall hold office for the residue of his predecessor's term of office.

(3) At every meeting of the Council and the Executive of the Council at which he is present the President or in the absence of the President, other the councillor determined in the manner prescribed by the rules, shall preside.

The

The National Trust of Australia (New South Wales) Act.

No. 10, 1960. The President or other the councillor presiding at any meeting of the Council or the Executive of the Council shall have a deliberative vote and, in the event of an equality of votes, a second or casting vote.

(4) (a) A decision of the majority of the councillors present at any meeting of the Council at which there is a quorum shall be the decision of the Council.

(b) A decision of the majority of the members of the Executive of the Council present at any meeting of the Executive of the Council at which there is a quorum shall be the decision of the Executive of the Council.

Validity
of acts
and
proceed-
ings.

14. (1) No act or proceeding of the Council or the Executive of the Council or of any person acting pursuant to any direction of the Council or the Executive of the Council shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken or commenced there was a vacancy or vacancies in the office or offices of any councillor or member of the Executive of the Council.

(2) All acts and proceedings of the Council or the Executive of the Council, or of any person acting pursuant to any direction of the Council or the Executive of the Council, shall, notwithstanding the subsequent discovery of any defect in the appointment or election of any councillor or member of the Executive of the Council, or that any such councillor or member was disqualified from acting as or incapable of being a councillor or member of the Executive of the Council, be as valid as if such councillor or member had been duly appointed or elected and was qualified to act as or capable of being, and had acted as, a councillor or member of the Executive of the Council, as the case may be, and as if the Council or the Executive of the Council, as the case may be, had been properly and fully constituted.

Common
Seal.

15. (1) The Council shall have the custody of the common seal of the National Trust and the form of such seal and all other matters relating thereto shall subject as hereinafter provided in this section be from time to time determined at a duly constituted meeting of the Council.

(2)

(2) The common seal of the National Trust shall not ^{No. 10, 1960.} be used except upon the order of the Council or, where authority to use the common seal has been delegated by the Council to the Executive of the Council, upon the order of the Executive of the Council.

(3) Every instrument to which the common seal is affixed shall be signed by two councillors and either the Secretary of the National Trust or such other person as the Council may appoint.

(4) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the National Trust, and shall presume that it was duly affixed.

16. (1) The Council may make by-laws not inconsistent ^{By-laws.} with this Act for or with respect to—

- (a) the care, control and management of lands, buildings, works or structures, or articles, referred to in paragraph (a) of section four of this Act and acquired by or under the control of the National Trust;
- (b) the regulation of the use and enjoyment of such lands, buildings, works or structures, or articles;
- (c) the securing of decency and order upon such lands, buildings, works or structures;
- (d) the removal of trespassers and other persons causing annoyance or inconvenience upon or in such lands, buildings, works or structures;
- (e) the regulation or prevention of the taking of intoxicants on to or into, and the consuming thereof upon or in, such lands, buildings, works or structures;
- (f) the regulation and control of the taking of animals on to or into such lands, buildings, works or structures or the permitting or suffering of animals to be on or in such lands, buildings, works or structures;

(g)

The National Trust of Australia (New South Wales) Act.

No. 10, 1960.
~~1960~~

- (g) the regulation, control or prohibition of parking, camping or residing on or in such lands, buildings, works or structures, the making of charges for such parking, camping or residing, and the collecting and receiving of such charges by the Council or by other persons;
- (h) the preservation or protection of, or prevention of damage to, trees, shrubs, ferns, creepers, vines, palms, plants, flowers, herbage, or other vegetative cover on such lands;
- (i) the protection or removal of all dead timber, logs and stumps on such lands, whether standing or fallen;
- (j) the preservation, protection or removal of any rocks, soil, sand, stone or other similar substances on or under or comprising part of such lands;
- (k) the preservation or protection of any animals, birds, fish and any other fauna of any nature whatsoever and whether natural or introduced on such lands;
- (l) the making of charges or entrance fees on persons, clubs, or associations using or entering upon such lands, buildings, works or structures or any specified part or parts thereof, and the collecting and receiving of such charges and fees by the Council or by other persons;
- (m) prescribing the manner of appointing persons to the Council under subsection four of section nine of this Act and the time after the annual general meeting of the National Trust within which such persons shall be appointed to the Council;
- (n) generally any matters necessary or convenient for carrying out or giving effect to this Act, not being matters for and with respect to which rules may be made.

(2) The power of the National Trust under subsection one of this section to make by-laws for or with respect to any lands shall extend to authorising the National Trust to make by-laws applying to any lands acquired by or under the control of the National Trust and used in conjunction with any building, work or structure referred to in paragraph (a) of section four of this Act and acquired by or under the control of the National Trust. No. 10, 1960.

(3) The by-laws may impose a penalty not exceeding fifty pounds for any breach thereof. Any such penalty may be recovered before a stipendiary magistrate or two justices in petty sessions and shall be paid to the National Trust.

(4) Every by-law made by the Council shall be sealed with the common seal of the National Trust, shall be submitted for the consideration and approval of the Governor, and when so approved shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the by-law.

(5) A copy of every such by-law shall be laid before each House of Parliament within fourteen sitting days after the publication thereof if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such by-law has been laid before such House disallowing the by-law or part thereof, such by-law or part thereof shall thereupon cease to have effect.

17. (1) The National Trust may in general meeting make Rules, not inconsistent with this Act or the by-laws for or with respect to—

- (a) regulating the affairs, business and management of the National Trust;
- (b)

No. 10, 1960.

- (b) the method and time of convening, holding and adjourning meetings of the National Trust, the Council and the Executive of the Council; the voting at such meetings (including postal and proxy voting); the conduct and record of the business of the National Trust, the Council and the Executive of the Council; the quorum at meetings of the National Trust, the Council and the Executive of the Council;
- (c) the election of a President of the National Trust, such number (not exceeding four) of Vice-Presidents of the National Trust as may be specified in the rules, a Secretary and a Treasurer of the National Trust and the elected councillors;
- (d) the resignation of elected councillors and appointed councillors and of elected members of the Executive of the Council;
- (e) casual vacancies in the office of any elected member of the Executive of the Council or in the office of President, Vice-President, Secretary or Treasurer of the National Trust;
- (f) regulating the admission, resignation and expulsion of members of the National Trust;
- (g) all matters which are required or permitted by this Act to be prescribed by the rules.

(2) The Articles of Association of the company in force immediately before the commencement of this Act and not inconsistent with the provisions of this Act shall so far as they are applicable be deemed to be the rules of the National Trust made under those provisions and shall continue in force and may be amended or repealed by rules made under those provisions.

Prohibition
on payment
of
dividends,
etc., from
income or
property of
National
Trust.

18. No dividend, bonus or other profit shall at any time be paid out of the income or property of the National Trust to any member of the National Trust.

19.

19. (1) The National Trust may, subject to the provisions of any trust affecting its funds or to any directions or restrictions attached thereto or imposed by the donor thereof, from time to time invest any of its funds in : —

No. 10, 1960.

Investment
of funds
of the
National
Trust.

- (a) any securities from time to time authorised by law for the investment of trust funds ;
- (b) (i) the shares, stock, debentures or debenture stock of any company carrying on business within the Commonwealth of Australia, whether or not there is not a liability in respect of any such shares or stock and whether or not the registered office of any such company is within the Commonwealth of Australia ; or
- (ii) in notes or other similar securities issued by any public company, with or without security, if such notes or other securities are, or are intended to be, officially listed on any stock exchange within the Commonwealth of Australia ; or
- (iii) on fixed deposit with any public company whose registered office is within the Commonwealth of Australia ; or
- (iv) in units of a fixed or flexible trust issued by a company incorporated under the law of any State or Territory of, and carrying on business within, the Commonwealth of Australia.

(2) The National Trust may sell or exchange any investments made by it under subsection one of this section.

(3) The National Trust may retain and hold any investments which may be transferred to the National Trust otherwise than by way of purchase notwithstanding that such investments may not be of the nature authorised by subsection one of this section.

20. (1) The National Trust shall have power to acquire by gift inter vivos, bequest or devise, any property for any of the purposes of this Act, and to agree to the condition of any such gift, bequest or devise.

Power of
National
Trust to
accept
gifts, etc.

(2)

No. 10, 1960. (2) The rule of law relating to perpetuities shall not apply to any such condition to which the National Trust has agreed.

Sale or disposal of certain property.

21. (1) Where the National Trust adjudges any real or personal property for the time being vested in it to be unfit or not required for the objects of the National Trust it may notwithstanding the terms of any trust affecting the property or of any arrangement or condition made or agreed to by it at the time of the acquisition of the property by the National Trust—

- (a) sell the property or exchange it for any other property; or
- (b) dispose of without consideration or in the case of personal property destroy the property if the National Trust adjudges it to be of no salable value.

The proceeds of any sale made by the National Trust in the exercise of the power conferred on it by paragraph (a) of this subsection shall, after deduction therefrom of the costs of and incidental to the sale, be held for the objects of the National Trust.

(2) Any property sold or disposed of by way of exchange or otherwise by the National Trust purporting to exercise any of the powers conferred on it by subsection one of this section shall vest in the person acquiring the property by virtue of the sale or disposition freed and discharged from any trust, arrangement or condition relating to any sale or disposition of the property or to the use of the property, to which the property was subject in the hands of the National Trust.

(3) No person acquiring any property from the National Trust purporting to exercise any of the powers conferred on it by subsection one of this section shall be concerned to inquire whether a case has arisen to authorise the sale or other disposition of the property or whether the power was otherwise properly and regularly exercised or to see to the application of any purchase money paid to the National Trust.

The National Trust of Australia (New South Wales) Act.

89

22. The National Trust may act as trustee of any lands, buildings, works, structures or articles, referred to in paragraph (a) of section four of this Act, if appointed so to act by any person (including the Crown) entitled to appoint trustees thereof.

No. 10, 1960.
Power of National Trust to act as trustee.

23. The National Trust may, for the purpose of promoting the objects of any corporation, body or society, either within or outside New South Wales, having objects wholly or substantially similar to the objects of the National Trust, lend any moneys or articles of the National Trust to such corporation, body or society.

Power of National Trust to lend moneys and articles.

24. Nothing contained in the Stamp Duties Act, 1920, or in any Act amending that Act, whether passed before or after the commencement of this Act, shall apply to any real or personal property of any nature or kind whatsoever comprised in—

Exemption from stamp duty and death duty.

- (a) any instrument executed after the commencement of this Act whereby such real or personal property is, or is agreed to be, conveyed, transferred or leased to, or mortgaged by, the National Trust, or
- (b) any devise or bequest in favour of the National Trust and taking effect after such commencement.

25. The National Trust shall as soon as practicable, and not more than three months, after the thirtieth day of June in each year cause a report of its work and activities during the year ending on that date to be prepared and forwarded to the Minister for presentation to Parliament.

Annual reports.