

**TECHNICAL EDUCATION TRUST FUNDS  
ACT.**

**New South Wales**



ANNO SEXTO DECIMO

**ELIZABETHÆ II REGINÆ**

\*\*\*\*\*

**Act No. 95, 1967.**

An Act to make provisions with respect to certain trusts for the advancement of education; and for purposes connected therewith. [Assented to, 18th December, 1967.]

**B**E 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. (1) This Act may be cited as the "Technical Education Trust Funds Act, 1967".

Short title,  
citation and  
commence-  
ment.

(2)

*Technical Education Trust Funds.*

**No. 95, 1967** (2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

**Interpretation.**

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

“appointed day” means the day on which this Act commences;

“award” means an award of a prize, medal or scholarship, or a grant or donation, made for the purposes of substituted trusts and includes any like award for those purposes;

“by-laws” means by-laws made under this Act;

“educational establishment” means—

- (a) a technical college conducted by the Department of Technical Education;
- (b) The New South Wales Institute of Technology;
- (c) The New South Wales Institute of Business Studies; or
- (d) any college, institute or other educational body that is declared by the Governor, by notification published in the Gazette, to be an educational establishment for the purposes of this Act;

“Fund” means a Fund named in the First Column of the Schedule that, before the appointed day, was held upon the trusts created by the trust instrument described in that Column in relation to that Fund;

“notified office” means an office specified in an order published under section three or six of this Act and for the time being in force;

“prescribed” means prescribed by this Act or the by-laws;

“Schedule”

*Technical Education Trust Funds.*

---

“Schedule” means Schedule to this Act;

No. 95, 1967

“substituted trusts” in relation to a Fund means the trusts specified in the Second Column of the Schedule opposite the name of the Fund in the First Column of the Schedule;

“trust instrument” means an instrument described in the First Column of the Schedule.

3. (1) The persons for the time being holding the two or more offices specified by the Governor, by order published in the Gazette for the purposes of this section or section six of this Act and for the time being in force shall, subject to this Act, be the trustees (in this Act referred to as Statutory Trustees) of the Fund or Funds specified in the order and, as such trustees, shall be known by a designation also so specified.

(2) A certificate, purporting to have been signed by the Secretary of the Department of Technical Education, to the effect that a person specified in the certificate is a Statutory Trustee for the time being of a Fund so specified shall, without proof of the signature or of the official capacity of the person purporting to have signed the certificate and whether or not the person purporting to have signed the certificate is a Statutory Trustee of that Fund, be accepted in all courts and by all persons as evidence of the facts stated therein.

(3) For the purpose only of making an order pursuant to subsection one of this section and of any matters necessary for or incidental to making such an order, that subsection shall be deemed to have commenced on the day on which this Act receives the Royal Assent, but shall not commence for all purposes until the appointed day.

(4) An order made pursuant to subsection one of this section before the appointed day shall, notwithstanding anything contained in section twelve of this Act, take effect on the appointed day.

4.

*Technical Education Trust Funds.*

No. 95, 1967

Dissolution  
of trusts and  
creation of  
substituted  
trusts.

4. (1) On the appointed day—

- (a) the trusts, terms and conditions upon which a Fund was held immediately before that day shall, except to the extent that the operation of any of them is continued by or under this Act, cease to have any force or effect;
- (b) a person who, immediately before that day, held office as trustee of a Fund shall vacate that office and shall be discharged and freed from the trusts, agreements or declarations created, entered into or made by the trust instrument relating to that Fund;
- (c) any provision of a trust instrument relating to the appointment of new trustees or the retirement of trustees shall cease to have effect; and
- (d) the substituted trusts relating to a Fund shall, subject to subsection two of this section, become the trusts to which that Fund is subject.

(2) The capital of a Fund shall be held upon trust to invest the same in the manner permitted by the Trustee Act, 1925, as amended by subsequent Acts.

Appoint-  
ment and  
retirement  
of Statutory  
Trustees.

5. (1) On the day on which a person becomes a Statutory Trustee, either by assuming a notified office or by being the holder of an office that becomes a notified office, he shall be deemed to have been duly appointed as a trustee of a Fund specified in the order specifying the notified office.

(2) A Statutory Trustee shall—

- (a) on the day on which he ceases to hold a notified office; or
- (b) on the day on which an office held by him ceases to be a notified office,

vacate his office as trustee of a Fund and shall be discharged from the trusts of that Fund.

(3) Subject to subsection four of this section, a Fund that, immediately before the appointed day, was vested in trustees who vacate office pursuant to paragraph (b) of section four of this Act shall, from time to time and without any conveyance or other assurance, vest in the Statutory Trustees

*Technical Education Trust Funds.*

Trustees for the time being of that Fund, as joint tenants, for the purposes of this Act and the substituted trusts relating to that Fund. No. 95, 1967

(4) Where the number of persons holding office as Statutory Trustees of a particular Fund is reduced to less than two, the Fund shall, without any conveyance or other assurance, vest—

- (a) where, from any cause other than the death of a Statutory Trustee, there is only one Statutory Trustee of the Fund, in that Statutory Trustee; or
- (b) where there are no Statutory Trustees of the Fund, in the person who is, or is acting as, the Permanent Head of the Department of Technical Education,

for the purposes of this Act and the substituted trusts relating to that Fund.

(5) A person in whom a Fund is vested pursuant to paragraph (b) of subsection four of this section shall be deemed to be a Statutory Trustee of the Fund, but shall vacate that office and shall be discharged from the trusts of that Fund upon the assumption of office by a Statutory Trustee of that Fund, appointed pursuant to subsection one of this section.

(6) The provisions of the Trustee Act, 1925, as amended by subsequent Acts, relating to the appointment of new trustees and the retirement of trustees shall not apply to or in respect of Statutory Trustees.

**6.** (1) The trustee or trustees of any gift or bequest for the advancement of education at an educational establishment may apply to the Minister for the extension of the operation of this Act to the gift or bequest. Amendment  
of Schedule.

(2) Where application has been made pursuant to subsection one of this section, the Governor may, by order published in the Gazette—

- (a) designate the gift or bequest as a Fund for the purposes of this Act;

**(b)**

*Technical Education Trust Funds.*

- No. 95, 1967
- (b) specify in relation to that Fund the offices referred to in section three of this Act and the designation of the Statutory Trustees of the Fund; and
  - (c) amend the Schedule to the extent necessary to give effect to the application,

and the Schedule, as so amended, shall be the Schedule to this Act.

(3) Where an order is published pursuant to subsection two of this section, the appointed day shall, in relation to the Fund the subject of the order, be deemed to be the day on which the order takes effect under section twelve of this Act.

Trustees may nominate value of, or refuse to make, an award.

7. (1) Any award shall be of such value as the Statutory Trustees of the Fund from which it is made may determine when deciding to make an award.

(2) The Statutory Trustees of a Fund may decline to make an award from that Fund if, in their opinion—

- (a) there is no student whose work is of sufficient merit to warrant an award;
- (b) the income from that Fund is not sufficient to warrant an award,

or for any other reason they deem to be sufficient in the circumstances.

Members of the Board

(3) The Statutory Trustees of a Fund may, in their discretion, determine whether unexpended income from the Fund shall be treated as capital moneys and added to the Fund, or whether it shall be treated as accrued income for the purposes of awards from the Fund.

Common trust fund.

8. (1) Statutory Trustees who are trustees of more than one Fund may establish, and carry to the credit of, a common trust fund any capital moneys of, or income from, the Funds of which they are trustees.

(2)

*Technical Education Trust Funds.*

(2) Where a common trust fund is established pursuant to this section, the Statutory Trustees shall keep, or cause to be kept, proper books of account showing the amount for the time being at credit in the common trust fund on account of each contributing Fund. No. 95, 1967

(3) Moneys in a common trust fund shall not be credited thereto in the name or on account of any particular Fund but any interest or other profits thereon shall be shared proportionately according to the amount contributed by each Fund to the common trust fund and the period for which the contribution formed part of the common trust fund.

(4) The charges relating to the keeping of a common trust fund shall be borne by each contributing Fund in such manner and to such extent as the Statutory Trustees of the contributing Funds may from time to time in their discretion decide.

(5) The Statutory Trustees of the contributing Funds may withdraw money from a common trust fund for the purposes of the trusts reposed in them by this Act.

9. Every person who, immediately before the appointed day, held a scholarship awarded pursuant to the trusts created by a trust instrument shall, so long as he observes the terms and conditions applying to the scholarship when it was awarded, be entitled to continue to hold and enjoy the scholarship and to receive any payments or other benefits in respect thereof, as if this Act had not been enacted. Saving of existing scholarships.

10. Statutory Trustees shall not be entitled to any fees or other remuneration in their capacity as trustees for the purposes of this Act. Statutory Trustees not entitled to remuneration.

11. The accounts of the Statutory Trustees shall be audited by the Auditor-General who shall have, in respect thereof, all the powers conferred on the Auditor-General by Audit.

*Technical Education Trust Funds.*

**No. 95, 1967** by any law now or hereafter in force relating to the audit of public accounts; and the Audit Act, 1902, as amended by subsequent Acts, shall apply to the Statutory Trustees in the same manner as it applies to accounting officers of public departments.

Effective date of orders.

**12.** An order made by the Governor for the purposes of any of the provisions of this Act shall take effect upon the day on which it is published in the Gazette or, where some later day is specified in the order for the purpose, on that later day.

Surplus income.

**13.** (1) Where, in the opinion of the Statutory Trustees of a Fund, the income of the Fund is more than sufficient for the purposes of the substituted trusts relating to that Fund, those trustees may expend the surplus income for the advancement of education as prescribed by by-laws relating to such income.

(2) Any income expended pursuant to subsection one of this section shall be deemed to have been applied for the purposes of the substituted trusts relating to the Fund.

By-laws.

**14.** (1) Statutory Trustees may, in relation to a Fund of which they are trustees, make by-laws not inconsistent with this Act or the substituted trusts relating to that Fund, for or with respect to all matters or things that by this Act are required or permitted to be prescribed or that are necessary or convenient to be prescribed for giving effect to this Act and those substituted trusts.

(2) Without limiting the generality of subsection one of this section, Statutory Trustees of a Fund may make by-laws referred to in that subsection for or with respect to—

(a) prescribing the terms and conditions upon which awards may be made;

(b) determining eligibility for awards;

(c)



*Technical Education Trust Funds.*

- 
- (c) prescribing the courses, subjects or fields in respect of which, and the stages at which, an award may be made; No. 95, 1967
  - (d) specifying the purposes for which an award may be utilised;
  - (e) prescribing the educational establishment at which the conditions governing an award may be fulfilled;
  - (f) prescribing the form of an award;
  - (g) prescribing the time at which an award may be made;
  - (h) the expenditure of surplus income pursuant to section thirteen of this Act;
  - (i) empowering the Statutory Trustees to determine matters relating to awards in accordance with their opinion, or at their discretion, or to direct the manner in which such matters may be determined;
  - (j) empowering the Statutory Trustees to determine the terms and conditions on which, or the purposes for which, a scholarship may be awarded or an award by virtue of section thirteen of this Act, a grant or a donation may be made.

(3) A by-law may be general or particular in its application and its application may vary according to time, place or circumstance.

(4) When making a by-law, Statutory Trustees shall certify that they have had regard to the intentions of the donor of the Fund to which the by-law relates, as expressed by the trust instrument relating to that Fund.

(5) The by-laws shall—

- (a) be submitted for the approval of the Governor;
- (b) if approved by the Governor, be published in the Gazette;

(c)

(c)

*Technical Education Trust Funds.*

---

- No. 95, 1967 (c) take effect from the day of publication in the Gazette or from a later day specified in the by-laws for the purpose;
- (d) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.

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

---

**SCHEDULE**

*Technical Education Trust Funds.*

## SCHEDULE.

No. 95, 1967

Sec. 2.

FIRST COLUMN. Fund.	SECOND COLUMN. Substituted Trusts.
<p><b>John L. Bruce Memorial Fund.</b> (Constituted in terms of Deed dated 17th August, 1925, to provide for the award of an annual prize or annual prizes in connection with the Sanitation classes of Sydney Technical College.)</p>	<p>Upon trust to apply the income for the purpose of awarding a prize, to be known as the John L. Bruce Memorial Prize, as prescribed.</p>
<p><b>William and Elizabeth Cuthbertson Memorial Fund.</b> (Constituted by the will of William Neville Cuthbertson as recited in Deed dated 19th January, 1954, registered Number 206 Book 2279, to provide for an annual award or annual awards for the advancement of the study of Marine Engineering and Naval Architecture at Sydney Technical College.)</p>	<p>Upon trust to apply the income for the purpose of awarding, in the name of William and Elizabeth Cuthbertson, prizes and medals, as prescribed.</p>
<p><b>J. P. Franki Memorial Fund.</b> (Constituted in terms of Deed dated 3rd June, 1926, to provide for the annual award— (a) of a gold medal and prize to an apprentice to Marine Engineering; and (b) a prize to an apprentice to the Mort's Dock and Engineering Company Limited, and to establish a Marine Engineering Scholarship.)</p>	<p>Upon trust to apply the income for the purpose of awarding— (a) in the name of J. P. Franki, a medal and prize; and (b) if the income of the Fund is sufficient, a scholarship to be known as the "J. P. Franki Scholarship", as prescribed.</p>
<p><b>Archibald Howie Memorial Prize Fund.</b> (Constituted in terms of Deed dated 13th July, 1955, registered Number 671 Book 2364, to provide for the award of an annual prize to a student in the Diploma Course in Building at the University of New South Wales.)</p>	<p>Upon trust to apply the income for the purpose of awarding a prize, to be known as the "Archibald Howie Memorial Prize", as prescribed.</p>
<p><b>Thomas Irons Memorial Fund.</b> (Constituted in terms of Deed dated 16th July, 1919, to provide for the annual award of a medal to a student in certain trade classes in technical schools in the metropolitan area of Sydney.)</p>	<p>Upon trust to apply the income for the purpose of awarding a medal, to be known as the "Thomas Irons Memorial Medal", as prescribed.</p>

*Technical Education Trust Funds.*

No. 95, 1967

SCHEDULE—*continued.*

FIRST COLUMN. Fund.	SECOND COLUMN. Substituted Trusts.
<p>William Edmund Kemp Memorial Scholarship Fund. (Constituted in terms of Deed dated 15th September, 1930, to provide for the award, from time to time, to a student in Architecture at Sydney Technical College, of a medal and a money prize as a travelling scholarship.)</p>	<p>Upon trust to apply the income for the purpose of awarding a medal, to be known as the "Kemp Memorial Medal" and a prize in the name of W. E. Kemp, as prescribed.</p>
<p>A. H. Martin Memorial Prize Fund. (Constituted in terms of Deed dated 10th November, 1952, registered Number 518 Book 2236, to provide for the award of an annual prize to a student in the Building Foreman and Clerk of Works Course at Sydney Technical College.)</p>	<p>Upon trust to apply the income for the purpose of awarding a prize, to be known as the "A. H. Martin Memorial Prize", as prescribed.</p>
<p>William King McLean Prize Fund. (Constituted in terms of Deed dated 13th August, 1931, to provide for the award of an annual prize to a student in the Building Construction Course at Sydney Technical College.)</p>	<p>Upon trust to apply the income for the purpose of awarding a prize, to be known as the "William King McLean Prize", as prescribed.</p>
<p>Robert K. Murphy Research Fund. (Constituted in terms of Deed dated 12th February, 1948, registered Number 911 Book 2046, to provide for the award from time to time of a scholarship in scientific research at Sydney Technical College or for the making of certain donations.)</p>	<p>Upon trust to apply the income for the purpose of— (a) awarding a scholarship, to be known as the "Robert K. Murphy Scholarship"; (b) awarding prizes; and (c) making grants or donations, as prescribed, or for any of those purposes.</p>
<p>Dr. Purdy Memorial Fund. (Constituted in terms of Deed dated 29th October, 1941, to provide for the annual award of a medal in the Health Inspectors' Certificate Course and prizes in the Health Inspectors' Certificate Course, the Sanitary Law Course and the Industrial Hygiene Course, at Sydney Technical College.)</p>	<p>Upon trust to apply the income for the purpose of awarding, in the name of Dr. Purdy, a medal and prizes, as prescribed.</p>

SCHEDULE

*Technical Education Trust Funds.***SCHEDULE—continued.****No. 95, 1967**

FIRST COLUMN. Fund.	SECOND COLUMN. Substituted Trusts.
<p>Mary Ellen Roberts Memorial Fund. (Constituted in terms of Deed dated 11th January, 1932, to provide for the award from time to time of scholarships in connection with the Women's Handicrafts Department of the Technical Education Branch.)</p>	<p>Upon trust to apply the income for the purpose of awarding, in the name of Mary Ellen Roberts, a scholarship tenable in the metropolitan area of Sydney and a scholarship tenable outside that area, as prescribed.</p>

TRANSPORT