

LIBRARY OF NEW SOUTH WALES ACT.

New South Wales



ANNO OCTAVO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 9, 1969.

An Act to alter the name of the Library constituted under the Public Library Act, 1899-1965; to establish a Council of the Library of New South Wales; to define its powers, authorities, duties and functions; to repeal the Public Library Act, 1899, and certain other enactments; and for purposes connected therewith. [Assented to, 20th March, 1969.]

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. (1) This Act may be cited as the "Library of New South Wales Act, 1969".

Short title
and com-
mencement.

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(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, except in so far as the context or subject-matter otherwise indicates or requires—

“Council” means the Council of the Library;

“former trustees” means The Trustees of the Public Library of New South Wales, constituted under the Public Library Act, 1899–1965;

“Library” means the Library of New South Wales;

“member” means member of the Council.

The Library.

3. As from the commencement of this Act—

(a) the institution which before the commencement of this Act was known by the name of the Public Library of New South Wales shall be the Library of New South Wales;

(b) in the construction and for the purposes of any Act, by-law, regulation, ordinance or any other instrument or document whatsoever, of the same or a different kind or nature, any reference express or implied to the Public Library of New South Wales or the former trustees shall be read, deemed and taken to refer to the Library or Council respectively;

(c) the offices of The Trustees of the Public Library of New South Wales shall cease and determine.

Repeals.

4. (1) The Acts mentioned in the Schedule to this Act are to the extent therein expressed hereby repealed.

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(2) All by-laws made under the Public Library Act, No. 9, 1969 1899, as subsequently amended, by the former trustees and in force immediately before the commencement of this Act and which are not inconsistent with any of the provisions of this Act shall be deemed to be by-laws made by the Council under this Act and shall continue in force until amended or repealed by by-laws made under this Act.

5. (1) There shall be a Council of the Library of New South Wales. The Council shall be the governing authority of the Library and shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed upon it by or under this Act. The Council.

(2) The Council shall consist of eleven members who shall be appointed by the Governor.

Of the persons so appointed—

- (a) seven shall be appointed on the nomination of the Minister made after consultation with such persons, authorities, organisations and associations as the Minister thinks fit;
- (b) four, who shall be professors or other members of the permanent academic staff of the universities within New South Wales, shall be appointed on the nomination of the Minister after consultation with the universities.

A person who is of or above the age of seventy years shall not be appointed as a member.

(3) The Council is hereby constituted a body corporate under the name of "The Council of the Library of New South Wales" and by that name shall have perpetual succession and a common seal and may sue and be sued in all courts and shall, for the purposes and subject to the provisions of this Act, be capable of purchasing, holding, granting, demising, disposing of or otherwise dealing with real and personal property and of doing and suffering all such other acts and things that a body corporate may by law do and suffer :

Provided that land, not being land acquired by gift as referred to in section eleven of this Act, shall not be granted, demised, disposed of or otherwise dealt with except with the approval of the Governor. (4)

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(4) Subject to this Act a member shall hold office for a period of four years and shall if otherwise qualified be eligible for reappointment.

(5) A vacancy in the office of a member shall be filled by a person appointed thereto by the Governor on the same nomination as that on which the member whose office became vacant was appointed.

A member appointed pursuant to this subsection shall hold office for the residue of the term of office of his predecessor and shall if otherwise qualified be eligible for reappointment.

(6) The provisions of the Public Service Act, 1902, as subsequently amended, shall not apply to or in respect of the appointment by the Governor of any member, and a member shall not, in his capacity as such member, be subject to the provisions of that Act, as so amended, during his term of office.

(7) A member shall be deemed to have vacated his office if he—

- (a) dies;
- (b) resigns his office by writing under his hand addressed to the Minister;
- (c) becomes bankrupt, compounds with his creditors or makes any assignment of his salary or estate for their benefit;
- (d) becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, as subsequently amended;
- (e) absents himself from four consecutive meetings of the Council without leave of the Council;
- (f) being a person appointed pursuant to paragraph (b) of subsection two of this section, ceases to hold the qualifications by virtue of which he was appointed; or
- (g) is removed from office by the Governor.

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A member shall be deemed to have vacated his office upon No. 9, 1969 the day upon which he attains the age of seventy years.

(8) The Governor may, for any cause which appears to him sufficient, remove any member from office.

6. There shall be a President and Deputy President of the Council who shall be elected annually by the members. President and Deputy President.

At any meeting of the Council the President or in his absence, the Deputy President shall preside, or in the absence of both the President and the Deputy President the members, for the purposes of that meeting, shall elect from their number a member to preside at that meeting.

7. (1) The procedure for the calling of meetings of the Council and the conduct of business at such meetings shall, Procedure, quorum, etc. subject to any by-laws in relation thereto in force under this Act, be as determined by the Council.

(2) Any four members shall be a quorum for the purposes of any meeting of the Council.

(3) (a) Any duly convened meeting of the Council at which a quorum is present shall be competent to transact any business of the Council and shall have and may exercise and perform all the powers, authorities, duties and functions conferred or imposed upon the Council.

(b) A decision of the majority of members present at a meeting of the Council shall be the decision of the Council.

(c) Where the voting is equal at any meeting of the Council the member presiding at such meeting shall have a casting as well as a deliberative vote.

(4) The common seal shall be kept in the custody of the Principal Librarian, and shall not be affixed to any instrument except in pursuance of a resolution of the Council.

Any instrument executed in pursuance of any such resolution shall be attested by the signature of the President or any two members.

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(5) No act or proceeding 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 in the office of any member, or any person not qualified or having ceased to be qualified may have acted as a member.

Officers
and
employees.

8. (1) The Governor may, under and subject to the provisions of the Public Service Act, 1902, as subsequently amended, appoint and employ such officers and employees as may be necessary for the purposes of this Act.

(2) The officers and employees so employed shall be subject to the provisions of the Public Service Act, 1902, as subsequently amended, during their tenure of office or employment.

(3) Officers and employees appointed under the Acts hereby repealed shall be deemed to have been appointed under this Act and such repeal shall not affect any rights or privileges or entitlements accrued or accruing to such officers or employees under the Public Service Act, 1902, as subsequently amended, the Superannuation Act, 1916, as subsequently amended, or any other Act, award or industrial agreement.

General
administra-
tion.

9. Subject to this Act and the by-laws the Council shall have the control and management of all property vested in the Council.

Vesting of
assets, etc.

10. (1) All real and personal property and all right and interest therein which immediately before the commencement of this Act was vested in or belonged to The Trustees of the Public Library of New South Wales shall vest in and belong to the Council.

All property vested in or belonging to the Council by the operation of this subsection shall be held by the Council subject to the conditions or trusts on which it was held immediately before the commencement of this Act.

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(2) Any legal or other proceedings that might, but for the provisions of this Act, have been continued or commenced by or against the former trustees may be continued or commenced by or against the Council. No. 9, 1969

(3) All contracts, agreements and undertakings entered into with the former trustees and in force at the commencement of this Act shall be contracts, agreements and undertakings with the Council.

11. (1) The Council shall have power to acquire by gift inter vivos, devise or bequest, any property for any of the purposes of this Act, and to agree to the condition of any such gift, devise or bequest. Power to accept gifts, etc.

(2) The rule of law relating to perpetuities shall not apply to any such condition to which the Council has agreed.

(3) Nothing contained in the Stamp Duties Act, 1920, as subsequently amended, shall apply to any real or personal property of any nature or kind whatsoever comprised in any gift inter vivos, devise or bequest made or to be made to the Library or the Council.

(4) Where the Council has acquired any property as aforesaid the Council may—

- (a) in any case where such acquisition is subject to any condition or direction of the donor, invest or deal with any moneys so acquired, or sell, let or dispose of any other property so acquired in accordance with such condition or direction; and
- (b) in any other case, invest or deal with any moneys so acquired, or sell, let or dispose of any other property so acquired in such manner as may from time to time be approved by the Governor.

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Annual
endowment.

12. For the purpose of providing a statutory fund for the purchase of books, periodicals, publications and other requirements of the Library, but exclusive of the payment of working expenses of the Library, there shall be paid by the Treasurer, to the Council, an annual endowment of such amount as Parliament approves.

Any moneys payable by the Treasurer under this section shall be paid out of moneys provided by Parliament.

Special
donations.

13. The arrangements made and conditions agreed to by the former trustees with David Scott Mitchell and other persons or their legal representatives with respect to books, manuscripts, paintings, engravings and other library material handed over or donated by the said David Scott Mitchell or other persons for custody and management either in conjunction with other property of the former trustees or separately therefrom shall be carried out and observed by the Council.

The Council may enter into any such arrangements and agree to such conditions as it may think fit with respect to books, manuscripts, paintings, engravings and other library material handed over to or donated to the Library for custody or management either in conjunction with other property of the Council or separately therefrom.

Annual
report.

14. The Council shall as soon as practicable after the thirtieth day of June in each year but not later than the thirtieth day of September next succeeding cause a report of its work and activities during the year ending on the said thirtieth day of June together with a statement of accounts in a form approved by the Auditor-General to be prepared and forwarded to the Minister for presentation to Parliament.

Audit of
accounts.

15. The accounts of the Council shall be audited by the Auditor-General, who shall have, in respect thereof, all the powers conferred on the Auditor-General by any law now or hereafter in force relating to the audit of public accounts, and the Audit Act, 1902, as subsequently amended, shall apply to the members of the Council and officers and employees in the same manner as it applies to accounting officers of public departments.

16.

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

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By-laws.

- (a) the general management and control of the Library;
- (b) the management of the various branches or departments of the Library;
- (c) the admission or exclusion of the public or any person to or from the Library or any branch or department or part thereof;
- (d) the conditions subject to which the use or reading of books or manuscripts or the loan thereof in country districts or the making of copies or extracts therefrom may be allowed;
- (e) the use of books, manuscripts and exhibits for educational and other beneficial purposes;
- (f) regulating the conduct of the proceedings of the Council, including the times, places and conduct of its meetings;
- (g) the perusal and examination of books, manuscripts, paintings, engravings and other library material referred to in section thirteen of this Act; and
- (h) generally for carrying out the purposes of this Act.

(2) The by-laws may impose a penalty not exceeding fifty dollars for any breach thereof. Any such penalty may be recovered before a stipendiary magistrate or any two justices of the peace in petty sessions.

(3) The by-laws shall be submitted for consideration and approval by the Governor, and when so approved shall—

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

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

(5) 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, the by-law or part thereupon ceases to have effect.

Sec. 4.

SCHEDULE.

References to Act.	Short Title.	Extent of Repeal.
No. 54, 1899.	Library and Art Gallery Act, 1899 (renamed Public Library Act, 1899).	The whole.
No. 35, 1937.	Statute Law Revision Act, 1937.	So much of Second Schedule as amended Act No. 54, 1899.
No. 60, 1952.	Library and Art Gallery (Amendment) Act, 1952.	The whole.
No. 1, 1958.	Art Gallery of New South Wales Act, 1958.	Section 2 (1) and (3).

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