

[Act 1996 No 20]



New South Wales

# Royal Botanic Gardens and Domain Trust Amendment Bill 1995

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

### Overview of Bill

The object of this Bill is to amend the *Royal Botanic Gardens and Domain Trust Act 1980*, so as:

- (a) to enable the Trust, on terms and conditions approved by the Minister, to grant leases of the Trust lands for purposes consistent with its objects.
  - (b) to cede certain areas of the Domain to the Art Gallery of New South Wales.
  - (c) to enable the issue of penalty notices for littering, parking offences and other minor offences committed on Trust land.
  - (d) to increase from 2 penalty units to 5 penalty units the maximum penalty for offences against regulations made under the Act.
  - (e) to allow certain subsurface land of the Trust previously used as a Commonwealth fuel oil installation to be used for some other purpose approved by the Governor-in-Council on the recommendation of the Trust.
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- (f) to amend the schedule of Trust lands as a consequence of consolidation of deposited plans.

The Bill proposes other amendments of a minor character. These are explained in detail later in this note.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be proclaimed.

**Clause 3** is a formal provision giving effect to the amendments to the *Royal Botanic Gardens and Domain Trust Act 1980* set out in Schedules 1 and 2.

**Clause 4** amends the *Justices Act 1902* to facilitate enforcement of penalty notices to be issued under proposed section 22B of the principal Act (inserted by Schedule 1 [7]).

**Clause 5** vests in the Art Gallery of New South Wales Trust a part of the Trust lands now occupied by extensions to the Gallery.

## **Schedule 1 Amendments relating to land management and other business of the Trust**

### **Principal objects of the Trust**

**Schedule 1 [1]** amends section 7 of the principal Act in order to specify plant conservation as one of the principal objects of the Trust.

### **Grant of leases and licences over scheduled lands**

**Schedule 1 [3]** repeals and replaces section 20 (2) (a) of the principal Act, which currently contains a list of the only permissible leases of Trust lands that are specified in Schedule 2 to the Act. This list is replaced by a provision conferring a general power on the Trust to lease any of these lands for purposes consistent with its objects. The repeal and replacement of section 9 of the principal Act by Schedule 1 [2], and the amendment made by Schedule 1 [4], are consequential.

## **Regulations**

**Schedule 1 [5]** amends the regulation-making power of the principal Act to make it clear that the Trust may charge a fee for use of the Trust lands for other forms of commercial filming or photography besides cinema and television (such as the making of a commercial videotape).

**Schedule 1 [6]** raises from 2 penalty units to 5 penalty units the maximum penalty that may be imposed for a contravention of the regulations.

## **Parking and other minor offences**

**Schedule 1 [7]** enacts a new section 22A which makes the owner of a vehicle liable for parking offences committed under the principal Act by means of the vehicle to the same extent as with parking offences under the *Traffic Act 1909*. It also enacts a new section 22B which allows penalty notices to be served for offences under the regulations.

## **Legal presumptions**

**Schedule 1 [7]** enacts a new section 22C which, in any legal proceedings, would give the Trust the benefit of certain presumptions in relation to its constitution, the regularity of its meetings and conduct and the holding of office by its members.

## **Description of lands constituting the Domain**

**Schedule 1 [8]** amends Schedule 2 to the principal Act so as to replace the land description of the Domain contained in Part 2 of that Schedule. This reflects the consolidation of certain allotments.

## **Divestment of lands for the benefit of the Art Gallery**

**Schedule 1 [9]** repeals and replaces Part 4 of Schedule 2 to the principal Act, so as to exclude from the Trust lands the portion of land vested in the Art Gallery of New South Wales Trust by proposed section 5.

## **Transitional and other provisions**

**Schedule 1 [10]** enacts certain transitional provisions in consequence of the enactment of the proposed Act, and enables regulations to be made for further savings and transitional provisions if required. It also contains a validation of certain licences granted by the Trust over portions of its land and provides for their termination, and makes provision with respect to the future use of subsurface Trust land previously used by the Commonwealth as a fuel oil installation.

## **Schedule 2 Amendments by way of statute law revision**

**Schedule 2** amends the principal Act by way of statute law revision.