

New South Wales

Historic Houses Amendment Bill 2004

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 *Historic Houses Act 1980* as follows:

- (a) to more accurately reflect the role of the Historic Houses Trust (the **Trust**) in managing and maintaining not only houses of historical importance, but also various other buildings, structures and sites,
- (b) to enable the Trust to carry out alterations and improvements to historic buildings or places in accordance with conservation plans approved by the Minister,
- (c) to enable the Trust to sell or dispose of certain property (such as items in collections acquired by the Trust that are not subject to conditions) with the approval of the Minister (instead of the Governor),
- (d) to make other miscellaneous changes to the Act of a consequential or minor nature.

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 appointed by proclamation.

Clause 3 is a formal provision that gives effect to the amendments to the *Historic Houses Act 1980* set out in Schedule 1.

Schedule 1 Amendments

Role of the Historic Houses Trust in relation to historic buildings or places

Schedule 1 [5] substitutes section 7 of the Act (Principal objects of Trust) to reflect the role of the Trust in controlling, managing, maintaining and conserving the buildings, sites and other property of the Trust. The new section recognises that the Trust has responsibility not only for historic houses and house museums, but also for certain other buildings and places of historical significance.

In light of the Trust's redefined objects, references in the Act to *historic house* are replaced with references to *historic building or place* where appropriate, and references to *house museum* are amended (**Schedule 1 [1], [2], [6]–[12], [21] and [23]**).

Alterations to historic buildings and places

At present, the consent of the Minister is required for all alterations and other improvements to a historic building or place authorised by the Trust, including minor alterations. **Schedule 1 [15]** substitutes section 10 of the Act to enable the Trust to authorise alterations and improvements in accordance with a conservation plan, prepared by the Trust and approved by the Minister, in respect of the historic building or place concerned.

Miscellaneous amendments

Schedule 1 [3] makes it clear that nothing in the *Historic Houses Act 1980* applies to land reserved under the *National Parks and Wildlife Act 1974* (eg regional parks, historic sites).

Schedule 1 [4] provides that the 9 trustees who comprise the Historic Houses Trust are to be nominated by the Minister (at present, 7 are nominated by the Minister, one by the Minister administering the *Public Works Act 1912* and one by the Minister administering the *Heritage Act 1977*). The amendment also provides for at least one trustee to have knowledge or experience in history and for at least one trustee to have knowledge or experience in architecture.

At present, the approval of the Governor must be obtained before the Trust sells or otherwise disposes of real property, or other property acquired by gift, devise or bequest, if the property was acquired without being subject to a condition. **Schedule**

1 [16] and [17] provide that where property (such as items in a collection) has been acquired without being subject to a condition, the Minister's approval will be required to sell or otherwise dispose of the property (rather than the approval of the Governor). In the case of real property acquired without being subject to a condition, the approval of the Governor will continue to be required before the Trust sells or otherwise disposes of that real property.

Schedule 1 [13], [18] and [25] update references to legislation.

Schedule 1 [14], [19] and [22] repeal redundant provisions relating to the Trust's borrowing powers, its annual endowment and its annual reporting requirements.

Schedule 1 [20] amends a reference to "building".

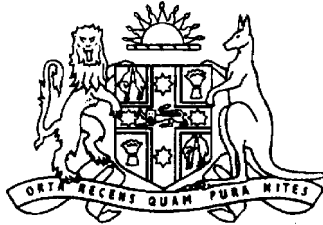
Schedule 1 [24] and [26] contain savings, transitional and other provisions, including the power to make regulations of a savings or transitional nature consequent on the enactment of the proposed Act. Existing trustees' offices are not affected, and provision is made for the validation of anything done by the Trust before the proposed Act commences that could have been validly done had the amendments been in force.

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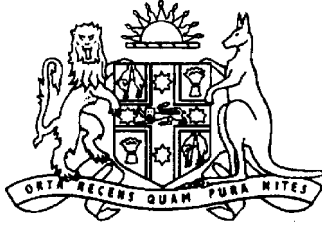
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No. , 2004

A Bill for

An Act to amend the *Historic Houses Act 1980* with respect to the objects and powers of the Historic Houses Trust; and for other purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Historic Houses Amendment Act 2004*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Historic Houses Act 1980 No 94

The *Historic Houses Act 1980* is amended as set out in Schedule 1.

Schedule 1	Amendments	1
	(Section 3)	2
[1] Long title		3
	Insert “, and other buildings and places,” after “houses”.	4
[2] Section 4 Definitions and application of Act		5
	Omit the definition of <i>historic house</i> from section 4 (1). Insert instead:	6
	<i>historic building or place</i> means a building, structure or site (and any of its appurtenant grounds or works):	7
	(a) acquired by the Trust under this Act, except for any building or land acquired under section 8 (1A) (a), or	8
	(b) vested in the Trust under section 20 or by or under the provisions of any other Act.	9
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[3] Section 4 (3)		13
	Insert after section 4 (2):	14
	(3) Nothing in this Act applies to land reserved under the <i>National Parks and Wildlife Act 1974</i> .	15
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[4] Section 6 Trustees and procedure of Trust		17
	Omit section 6 (1). Insert instead:	18
	(1) The Trust is to consist of 9 trustees appointed by the Governor on the nomination of the Minister. At least one trustee is to have knowledge or experience in history, and at least one trustee is to have knowledge or experience in architecture.	19
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[5] Section 7		23
	Omit the section. Insert instead:	24
	7 Principal objects of Trust	25
	The principal objects of the Trust are as follows:	26
	(a) to control, manage, maintain and conserve historic buildings or places, having regard to the historic, social and architectural interest and significance of those buildings and places,	27
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	(b) to collect, manage, maintain and conserve objects and materials associated with, and of significance to, those buildings and places,	31
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(c)	to research and interpret the significance of those buildings, places, objects and materials, having regard to their historic, social and architectural interest and value,	1 2 3
(d)	to provide educational, cultural and professional services (including by way of research, publications, information, public programs and activities) in respect of those buildings, places, objects and materials that, in the opinion of the Trust, will:	4 5 6 7 8
	(i) increase public knowledge and enjoyment of, and access to, those buildings, places, objects and materials, and	9 10 11
	(ii) promote their place in the heritage of the State.	12
[6]	Section 7A	13
	Omit the section. Insert instead:	14
	7A Acquisition of historic buildings or places	15
	(1) The Minister may, if satisfied that a building, structure or site is suitable for control and management by the Trust, authorise in writing the acquisition (either as property of the Trust or otherwise) by the Trust of the building, structure or site along with any of its appurtenant grounds or works.	16 17 18 19 20
	(2) The Trust may, in accordance with the Minister's authorisation, purchase, lease or otherwise acquire the building, structure or site and any such grounds or works.	21 22 23
[7]	Section 7B Notification of intention to manage property	24
	Omit the section.	25
[8]	Section 8 Powers of Trust	26
	Omit "houses or" from section 8 (1) (a).	27
	Insert instead "buildings or places and other".	28
[9]	Section 8 (1) (a)	29
	Omit "in a historic house".	30
[10]	Section 8 (1) (b)	31
	Omit "otherwise than in a historic house".	32
[11]	Section 8 (1) (c) and (e)–(h) and (1A) (a) and (b)	33
	Omit "house" wherever occurring. Insert instead "building or place".	34

[12] Section 8 (1A) (c)	1
Omit section 8 (1A) (c) and (d). Insert instead:	2
(c) undertake such investigation as may be necessary to ascertain the extent to which a building, structure or site may be suitable for control and management by the Trust.	3 4 5
[13] Section 8 (6)	6
Omit “ <i>Stamp Duties Act 1920</i> ”. Insert instead “ <i>Duties Act 1997</i> ”.	7
[14] Section 8 (7)	8
Omit “, but may borrow money only in accordance with Part 4”.	9
[15] Section 10	10
Omit the section. Insert instead:	11
10 Alterations to historic buildings or places	12
(1) The Trust may carry out or authorise the carrying out of alterations and improvements to a historic building or place.	13 14
(2) Such alterations and improvements may be carried out or authorised to be carried out only in accordance with a conservation plan (as in force from time to time) applying to the historic building or place.	15 16 17 18
(3) The Trust may prepare a conservation plan applying to any one or more historic buildings or places.	19 20
(4) A conservation plan has no effect unless it is approved by the Minister.	21 22
[16] Section 11 Dealings with property	23
Insert “(being real property)” after “property” in section 11 (2) (a).	24
[17] Section 11 (2) (a1)	25
Insert after section 11 (2) (a):	26
(a1) where the property (not being real property) was acquired without being subject to a condition—with the approval of the Minister (which may be given in respect of any case or class of cases), or	27 28 29 30
[18] Section 13 Officers and employees	31
Omit “ <i>Public Sector Management Act 1988</i> ”.	32
Insert instead “ <i>Public Sector Employment and Management Act 2002</i> ”.	33

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Schedule 1 Amendments

[19] Part 4 Finance	1
Omit the Part.	2
[20] Section 20 Acquisition of certain real property	3
Omit “a building situated on the land” from section 20 (2).	4
Insert instead “the land (including any building, structure or works on the land)”.	5 6
[21] Section 20 (2)	7
Omit “house”. Insert instead “building or place”.	8
[22] Section 22 Annual report	9
Omit the section.	10
[23] Section 23 Regulations	11
Omit “house” from section 23 (1) (c). Insert instead “building or place”.	12
[24] Section 24	13
Insert after section 23:	14
24 Savings, transitional and other provisions	15
Schedule 2 has effect.	16
[25] Schedule 1 Provisions relating to trustees and procedure of the Trust	17
Omit clause 4. Insert instead:	18
4 Public Sector Employment and Management Act 2002 (Chapter 5 excepted) does not apply to trustee	19 20
The <i>Public Sector Employment and Management Act 2002</i> (Chapter 5 excepted) does not apply to or in respect of the appointment of a trustee and a trustee is not, in his or her capacity as a trustee, subject to that Act during his or her term of office.	21 22 23 24

[26] Schedule 2	1
Insert after Schedule 1:	2
Schedule 2 Savings, transitional and other provisions	3 4
	(Section 24) 5
Part 1 Preliminary	6
1 Savings and transitional regulations	7
(1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:	8 9 10
<i>Historic Houses Amendment Act 2004</i>	11
(2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.	12 13
(3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:	14 15 16
(a) to affect in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or	17 18 19
(b) to impose liabilities on any person (other than the State or an authority of the State) in respect of any thing done or omitted to be done before the date of its publication.	20 21 22
Part 2 Provisions consequent on enactment of Historic Houses Amendment Act 2004	23 24
2 Existing trustees	25
The amendment to section 6 of this Act by the <i>Historic Houses Amendment Act 2004</i> does not affect the appointment of any trustee holding office immediately before the commencement of that amendment, and any such trustee continues, subject to Schedule 1 to this Act, to hold office for the balance of his or her term of office.	26 27 28 29 30 31

3 Validation of things done by Trust

Anything done by the Trust before the commencement of this clause that would have been valid if this Act, as amended by the *Historic Houses Amendment Act 2004*, had been in force when the thing was done is validated.

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