

[Act 1998 No 82]



New South Wales

Environmental Trust Bill 1998

Explanatory note

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

Overview of Bill

The object of this Bill is to fund environmental restoration, rehabilitation, research and education. For that purpose, the Bill:

- (a) constitutes the Environmental Trust to administer the funding arrangements, and
- (b) provides for a standing annual appropriation of \$13.5 million (as adjusted for inflation).

The Bill repeals the *Environmental Restoration and Rehabilitation Trust Act 1990*, the *Environmental Research Trust Act 1990* and the *Environmental Education Trust Act 1990* (under which 3 separate Trusts are currently established to provide funding for environmental purposes out of money paid for certain licences issued by Sydney Water for the discharge of trade wastes into sewers).

The Bill also amends the *Forestry Restructuring and Nature Conservation Act 1995* (which makes interim arrangements for payments from the environmental trusts for forestry restructuring and certain environmental

* Amended in committee—see table at end of volume.

projects and which suspends the making of grants in accordance with the Trust Acts until the end of the 1999–2000 financial year). The amendments extend the period during which forestry restructuring payments may be made by one year until the end of 2000–2001 financial year and extend the environmental projects for which funding is made available in accordance with that Act.

Outline of provisions

Part 1 Preliminary

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 defines certain words and expressions used in the proposed Act.

Clause 4 provides that the proposed Act is subject to the *Forestry Restructuring and Nature Conservation Act 1995*. That Act displaces the projects for which funding may be provided until the end of the 1999–2000 financial year.

Part 2 Environmental Trust

Clause 5 constitutes a body corporate named the Environmental Trust (the *Trust*).

Clause 6 provides that the Trust is to consist of 5 members, being the Minister, the Secretary of the Treasury, the Director-General of the Environment Protection Authority, a nominee of the Nature Conservation Council and a nominee of the Local Government and Shires Associations.

Clause 7 outlines the objects of the Trust. The objects are:

- (a) to encourage restoration and rehabilitation projects that will reduce pollution in New South Wales,
- (b) to promote research into environmental problems,
- (c) to promote environmental education in order to increase public awareness of environmental issues.

Clause 8 outlines the functions of the Trust. Generally, the Trust may:

- (a) make grants for projects, matters and purposes that relate to its objects, and supervise the expenditure of money so granted,

- (b) expend money on certain pollution clean-up measures (see clause 16),
- (c) engage in other activities that relate to its objects.

Clause 9 provides that the Trust is to establish Technical Review Committees. The Trust may also establish other committees to assist it in connection with the exercise of any of its functions. Under proposed section 14, a Technical Review Committee is to assess each application for a grant and provide the Trust with its assessment.

Clause 10 provides that the Trust may, with Ministerial approval, arrange for the use of the services of any staff or facilities of a government department or public authority. Any person whose services are used is considered to be an officer of the Trust.

Clause 11 provides that the Trust may delegate the exercise of its functions to a member, committee or officer of the Trust.

Part 3 Grants

Clause 12 requires the Trust to ensure that during a financial year, a minimum amount is granted in relation to each of its objects (see proposed section 7), namely, \$1 million for restoration and rehabilitation projects, \$0.5 million for research and \$0.5 million for environmental education.

Clause 13 provides that the Trust is to determine grants programs each financial year and for grants to be made in accordance with those programs. Such a program must identify the policies of the Trust for determining grants, including priorities for funding, amounts available for grants in different program areas and limits on the size of individual grants. The Trust is required to publish a grants program.

Clause 14 provides for each application for a grant to be referred to a Technical Review Committee to be assessed for practicability and overall worthiness.

Clause 15 provides generally for the making of grants. Among other things, it provides that each grant is subject to a condition that it is to be expended within 3 years after it is made.

Clause 16 provides that the Trust may expend money on specified measures to deal with serious pollution that requires immediate action and with the unlawful disposal of so-called orphan waste material. However, the Trust may not spend more than \$0.5 million on those measures in any one financial year. The clause authorises the Trust to publish guidelines with respect to expenditure under the clause.

Clause 17 provides for the recovery of the whole or any part of a grant that is not applied in accordance with any condition to which the grant was subject.

Part 4 Finance

Clause 18 establishes an Environmental Trust Fund (the *Trust Fund*) in the Special Deposits Account into which the following amounts are to be paid:

- (a) amounts appropriated under proposed section 20 from the Consolidated Fund or otherwise by Parliament,
- (b) proceeds of investment money in the Trust Fund,
- (c) gifts or bequests of money to the Trust,
- (d) any other money required or permitted to be paid into the Trust Fund.

The clause also provides that the money in the Trust Fund is under the control of the Trust and can be expended by the Trust for:

- (a) the purpose of exercising its functions under the proposed Act, or
- (b) any purposes authorised by the *Forestry Restructuring and Nature Conservation Act 1995*.

Clause 19 provides for the payment from the Consolidated Fund into the Trust Fund each financial year of \$13.5 million, adjusted for inflation in each year following the 1998–99 financial year.

Clause 20 makes provision for the Trust to invest the money held in the Trust Fund.

Part 5 Miscellaneous

Clause 21 provides that the proposed Act binds the Crown.

Clause 22 describes the financial year of the Trust as the year commencing 1 July.

Clause 23 protects the Trust, any member of the Trust, or any person acting under the direction of the Trust, from liability arising from any matter or thing done in good faith for the purposes of executing the proposed Act or any other Act.

Clause 24 is an evidentiary provision relating to proof of the constitution of the Trust, its members, or its meetings.

Clause 25 contains the regulation-making power.

Clause 26 requires the Minister to review the proposed Act after a period of 5 years from the date of assent to the proposed Act, and to table a report on the outcome of the review in each House of Parliament.

Clause 27 repeals the *Environmental Restoration and Rehabilitation Trust Act 1990*, the *Environmental Research Trust Act 1990* and the *Environmental Education Trust Act 1990*.

Clause 28 is a formal provision giving effect to the amendments contained in Schedule 2 (Amendment of other Acts).

Clause 29 is a formal provision giving effect to Schedule 3 (Savings, transitional and other provisions).

Schedule 1 contains provisions relating to the members and the procedure of Trust.

Schedule 2 contains consequential amendments to the following Acts:

- (a) *Forestry Restructuring and Nature Conservation Act 1995*,
- (b) *Protection of the Environment Administration Act 1991*,
- (c) *Public Finance and Audit Act 1983*.

The *Forestry Restructuring and Nature Conservation Act 1995* is further amended:

- (a) by Schedule 2.1 [5], which amends section 4 of that Act to provide a mechanism for the addition of new environmental activities to Schedule 1 to that Act by regulation,
- (b) by Schedule 2.1 [9], which amends section 7 of that Act to extend the current sunset clause to allow for payments to be made in respect of Forestry Restructuring expenditure until 30 June 2001,
- (c) by Schedule 2.1 [14], which amends Schedule 1 to that Act to allow funds to be expended on additional environmental activities, including:
 - (i) comprehensive assessment of forested land in New South Wales.
 - (ii) acquisition. and subsequent management, of land for national parks and other categories of dedicated or reserved land,
 - (iii) implementation of a solid waste strategy on Lord Howe Island.

Schedule 3 contains provisions of a savings or transitional nature. In particular:

- (a) clause 1 allows savings and transitional regulations to be made,
- (b) clause 2 provides for the construction of certain superseded references to Trusts constituted by the repealed Acts, references to those Acts and to the Funds established under them,
- (c) clause 3 dissolves the Trusts constituted by each of the Acts repealed by the proposed Act,
- (d) clause 4 terminates the Funds established by each of the Acts repealed by the proposed Act,
- (e) clause 5 provides for transitional funding arrangements for the Environmental Trust constituted by the proposed Act (in particular, it enables the new funding arrangements to be delayed by one or two financial years).