

# Tourism New South Wales Act 1984 No 46

[1984-46]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Previously named**  
Tourism Commission Act 1984
- **See also**  
[Public Sector Employment Legislation Amendment Bill 2006](#)

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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## Contents

<b>Long title</b> .....	4
<b>Part 1 Preliminary</b> .....	4
1 Name of Act .....	4
2 Commencement .....	4
3 Definitions .....	4
<b>Part 2 Tourism New South Wales</b> .....	5
4 Constitution of Tourism New South Wales .....	5
5 Functions of the General Manager .....	5
6 Staff of Tourism New South Wales .....	6
<b>Part 3 Functions of Tourism New South Wales</b> .....	6
7 Objects of Tourism New South Wales .....	6
8 Powers of Tourism New South Wales .....	6
9 Grants, loans and guarantees—generally .....	8
10 Terms of guarantees .....	8
11 Acquisition of plant and machinery etc .....	9
12 Grants and loans .....	9
13 Provision of services .....	10
14 Interest on loans and rentals under leases .....	10
15 (Repealed) .....	10
<b>Part 4 Acquisition of land</b> .....	11
16 Acquisition of land .....	11

17 Application of the Public Works Act 1912 .....	11
18 Subdivision .....	11
19 Improvements and dedication .....	11
20 Tourism New South Wales as Constructing Authority .....	12
21 Erection, alteration and extension of buildings .....	12
22 Disposal of land .....	12
<b>Part 5 Finance</b> .....	12
23 Tourism Development Fund .....	12
24 Financial year .....	14
<b>Part 6 Miscellaneous</b> .....	14
25 Disclosure of information.....	14
26 Delegation .....	14
27 Annual report.....	16
28 References to Tourism New South Wales .....	16
29 Service of documents .....	16
30 Authentication of certain documents .....	16
31 Recovery of charges etc by Tourism New South Wales.....	16
32 Proof of certain matters not required .....	17
33 Proceedings for offences .....	17
34 Regulations.....	17
35 Repeals.....	17
36 Savings and transitional provisions .....	17
<b>Schedule 1 Provisions relating to the members of Tourism New South Wales</b> .....	17
<b>Schedule 2 Provisions relating to the procedure of Tourism New South Wales</b> .....	22
<b>Schedule 3 Repeals</b> .....	23
<b>Schedule 4 Savings and transitional provisions</b> .....	23

# Tourism New South Wales Act 1984 No 46



New South Wales

An Act to constitute Tourism New South Wales and define its objects and functions; to repeal the *Tourist Industry Development Act 1976*; and for other purposes.

## Part 1 Preliminary

### 1 Name of Act

This Act may be cited as the *Tourism New South Wales Act 1984*.

### 2 Commencement

- (1) Sections 1 and 2 shall commence on the date of assent to this Act.
- (2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

### 3 Definitions

- (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires:

**Chairperson** means the Chairperson of Tourism New South Wales.

**council** has the same meaning as it has in the *Local Government Act 1993*.

**Fund** means the Tourism Development Fund established under section 23.

**General Manager** means the General Manager of Tourism New South Wales.

**member** means a member of Tourism New South Wales.

**part-time member** means a member referred to in section 4 (4) (b).

**regulation** means a regulation made under this Act.

**Tourism New South Wales** means the corporation with the corporate name of "Tourism New South Wales" constituted by this Act.

(2) In this Act, a reference to:

- (a) a function includes a reference to a power, authority and duty,
- (b) the exercise of a function includes, where the function is a duty, a reference to the performance of the duty, and
- (c) facilitating the development of tourism includes a reference to developing tourism.

## **Part 2 Tourism New South Wales**

### **4 Constitution of Tourism New South Wales**

- (1) There is hereby constituted a corporation under the corporate name of “Tourism New South Wales”.
- (2) Tourism New South Wales:
  - (a) shall have and may exercise the functions conferred or imposed on it by or under this or any other Act,
  - (b) shall, for the purposes of any Act, be deemed to be a statutory body representing the Crown, and
  - (c) shall, in the exercise of its functions (except in relation to the contents of a report or recommendation made by it to the Minister), be subject to the control and direction of the Minister.
- (3) Tourism New South Wales shall consist of not fewer than 7 nor more than 9 members who shall be appointed by the Governor.
- (4) Of the members:
  - (a) one shall, in and by the instrument by which the member is appointed, be appointed as General Manager of Tourism New South Wales, and
  - (b) the others shall, in and by the instruments by which the members are appointed, be appointed as part-time members.
- (5) Schedule 1 has effect with respect to the members.
- (6) Schedule 2 has effect with respect to the procedure of Tourism New South Wales.

### **5 Functions of the General Manager**

The General Manager:

- (a) is responsible, as the chief executive officer of Tourism New South Wales, for the management of the affairs of Tourism New South Wales subject to and in accordance with the policies and any directions of Tourism New South Wales, and

- (b) shall have and may exercise such other functions as are conferred or imposed on the General Manager by or under this or any other Act.

## **6 Staff of Tourism New South Wales**

- (1) Such staff as may be necessary to enable Tourism New South Wales to exercise its functions shall be employed under the *Public Service Act 1979*.
- (2) For the purpose of exercising its functions, Tourism New South Wales may, with:
  - (a) the approval of the Minister, and
  - (b) the approval of:
    - (i) the Minister administering a government department or administrative office, or
    - (ii) a statutory body,and on such terms and conditions as may be approved by the Public Service Board, arrange for the use of the services of any staff or facilities of the department, office or body, as the case may be.
- (3) Tourism New South Wales may, for any purpose approved by the Minister and on such terms and conditions as may be approved by the Public Service Board, appoint, employ or engage any person considered by Tourism New South Wales capable of providing services, information or advice required by Tourism New South Wales in exercising its functions.

## **Part 3 Functions of Tourism New South Wales**

### **7 Objects of Tourism New South Wales**

- (1) The principal object of Tourism New South Wales is to achieve economic and social benefits for the people of New South Wales through the development of tourism.
- (2) Without affecting the generality of subsection (1), Tourism New South Wales shall aim:
  - (a) to promote travel to and within New South Wales, and
  - (b) to co-ordinate the development of ventures relating to tourism.
- (3) Tourism New South Wales shall determine the policies to be implemented by it in attaining its objects.

### **8 Powers of Tourism New South Wales**

- (1) Tourism New South Wales may:
  - (a) construct, establish, maintain and operate tourist facilities, establish, maintain

- and conduct enterprises relating to tourism or enter into contracts, agreements or arrangements relating to any one or more of those activities,
- (b) provide travel and information services relating to tourism and undertake research into tourism,
  - (c) market travel and related services,
  - (d) appoint persons to act as agents of Tourism New South Wales in New South Wales or elsewhere,
  - (e) act as agent for persons engaged in the provision of travel and tourist facilities and related services,
  - (f) demand and receive fees, retainers or commissions:
    - (i) for acting as agent pursuant to the power conferred by paragraph (e),
    - (ii) for the provision or sale of travel or related services,
    - (iii) for the provision of tourist facilities or related services, or
    - (iv) for the provision of any other service by Tourism New South Wales,
  - (g) borrow money and raise loans under and subject to the [Public Authorities \(Financial Arrangements\) Act 1987](#), and
  - (h) provide funds for the undertaking of feasibility studies and research relating to the construction, maintenance or improvement of tourist facilities.
- (2) Tourism New South Wales may agree to any condition that is not inconsistent with its objects being imposed on its acquisition of any property.
- (3) Where, by gift inter vivos, devise or bequest, Tourism New South Wales acquires property, it may retain the property in the form in which it is acquired, except as provided by any condition agreed to by Tourism New South Wales under subsection (2) in relation to the property.
- (4) The rule of law against remoteness of vesting does not apply to a condition to which Tourism New South Wales has agreed under subsection (2).
- (5) Tourism New South Wales may exercise its functions within or outside New South Wales jointly or in association with any other person (including a corporation constituted otherwise than under an Act of the New South Wales Parliament) situated within New South Wales or elsewhere.
- (6) Subject to this Act, Tourism New South Wales shall have such functions, in addition to those specified elsewhere in this Act, as are reasonably necessary for the attainment of its objects.

## 9 Grants, loans and guarantees—generally

- (1) Tourism New South Wales may, with the approval of the Minister:
  - (a) make a grant or loan, or
  - (b) execute a guarantee, either alone or jointly with some other person,for the purpose of facilitating the development of tourism.
- (2) Subject to section 14, Tourism New South Wales may, in making a grant or loan, or in agreeing to enter into a guarantee, impose such conditions as, in the opinion of Tourism New South Wales, are appropriate.
- (3) In this section, **guarantee** means a guarantee of a debt the amount of which is ascertainable when the guarantee is executed.

## 10 Terms of guarantees

- (1) A guarantee executed by Tourism New South Wales is not enforceable against Tourism New South Wales until the creditor has exercised all the rights and remedies of the creditor under all other securities held by or for the creditor in respect of the debt guaranteed.
- (2) Tourism New South Wales may, as a condition of a guarantee, require the creditor to obtain, take and hold, or retain and hold, such securities for the payment of the principal debt and interest thereon as Tourism New South Wales requires.
- (3) Tourism New South Wales may execute a guarantee notwithstanding that the debt guaranteed includes:
  - (a) any interest (including compound interest), charges and expenses chargeable by the creditor against the principal debtor, and
  - (b) the expenses of enforcing or obtaining or endeavouring to enforce or obtain payment of any amount guaranteed, that interest and those charges and expenses.
- (4) Where Tourism New South Wales executes a guarantee, any assignment or encumbrance of the guarantee by the creditor without the consent of Tourism New South Wales has no force or effect.
- (5) Tourism New South Wales shall not execute a guarantee:
  - (a) for the repayment of any money expended or to be expended on:
    - (i) the acquisition of land, or land and buildings,
    - (ii) the construction, improvement or alteration of buildings,



- (iii) the improvement of land otherwise than as referred to in subparagraph (ii), or
  - (iv) the acquisition of vehicles, vessels, plant, machinery or equipment,
- if the amount guaranteed would exceed 90 per cent of:
- (v) the estimated value, ascertained as directed by Tourism New South Wales, of the land, or the land and buildings,
  - (vi) the estimated cost, so ascertained, of the works of construction, improvement or alteration,
  - (vii) the estimated cost, so ascertained, of the works of improvement, or
  - (viii) the estimated value, so ascertained, of the vehicles, vessels, plant, machinery or equipment,

as the case may be, or

- (b) if the amount guaranteed would, together with the amounts of all other guarantees executed by Tourism New South Wales and then in force, or agreed to by Tourism New South Wales but not then executed, exceed such amount as may be determined from time to time by the Treasurer and notified to Tourism New South Wales.

- (6) The execution by Tourism New South Wales of a guarantee referred to in this section is, in favour of the creditor, conclusive evidence that the requirements of this section with respect to the guarantee have been complied with.

## **11 Acquisition of plant and machinery etc**

Tourism New South Wales may purchase, lease or exchange, or otherwise acquire, plant, machinery or equipment for the purpose of making it available, on such terms and subject to such conditions as are determined by Tourism New South Wales, to facilitate the development of tourism.

## **12 Grants and loans**

- (1) Tourism New South Wales may, with the approval of the Minister, enter into, and give effect to, an agreement with a council to make to the council a grant or loan for the purpose of:
  - (a) erecting on land vested in the council any building required to facilitate the development of tourism,
  - (b) altering or extending a building erected on land vested in the council to make it suitable to facilitate the development of tourism,
  - (c) erecting, on land vested in the council, dwelling houses for occupation by persons

employed, or to be employed, on or about a project to facilitate the development of tourism,

(d) improving any land vested in the council to make it suitable for use as a site for a project to facilitate the development of tourism, or

(e) acquiring land for a purpose referred to in paragraph (a), (b), (c) or (d).

(2) Tourism New South Wales may enter into, and give effect to, an agreement with a council for the construction, on land vested in Tourism New South Wales or the council, or in Tourism New South Wales and the council, of buildings suitable to facilitate the development of tourism and the sale, lease or exchange of any such land and buildings.

### **13 Provision of services**

(1) Tourism New South Wales may enter into an agreement with any person with respect to the construction or improvement of roads, works for the supply of water, gas or electricity, or sewerage or drainage works, or other works, whether of the same or of a different kind, to serve any project, being a project to facilitate the development of tourism.

(2) An agreement under this section may provide for:

(a) the whole, or any specified part, of the cost of the roads or other works to be paid by Tourism New South Wales, or

(b) a loan to be made by Tourism New South Wales to meet the whole, or any specified part, of the cost of the roads or other works.

### **14 Interest on loans and rentals under leases**

(1) A loan made by Tourism New South Wales shall be at the rate of interest for the time being fixed by the Treasurer generally for the purposes of this Part or, if the Treasurer so approves, at such rate of interest as may be fixed by the Treasurer in respect of that loan or without interest.

(2) The rental or other consideration to be received by Tourism New South Wales in respect of a lease of real or personal property acquired for the purposes of this Part shall be fixed by Tourism New South Wales so as to produce an amount per annum which represents not less than such percentage as the Minister may direct, in respect of that lease, or of leases of the class to which that lease belongs, of the value of the real or personal property leased.

### **15 (Repealed)**

## **Part 4 Acquisition of land**

### **16 Acquisition of land**

Tourism New South Wales may:

- (a) for the purpose of providing a site for a project, being a project to facilitate the development of tourism, or a site that, in the opinion of Tourism New South Wales, is likely to be required for such a project, and
- (b) with the approval of the Minister,

acquire land (including an interest in land) by agreement or by compulsory process in accordance with the [Land Acquisition \(Just Terms Compensation\) Act 1991](#).

### **17 Application of the [Public Works Act 1912](#)**

- (1) For the purposes of the [Public Works Act 1912](#), any acquisition of land under section 16 is taken to be for an authorised work and the Corporation is, in relation to that authorised work, taken to be the Constructing Authority.
- (2) Sections 34, 35, 36 and 37 of the [Public Works Act 1912](#) do not apply in relation to works constructed under this Act.

### **18 Subdivision**

Tourism New South Wales may cause a plan to be made of any land acquired by Tourism New South Wales under this Part showing the proposed roads and reserves for public recreation or other public purposes, and the land to be set apart as sites for buildings or works.

### **19 Improvements and dedication**

- (1) Tourism New South Wales may:
  - (a) cause any work to be done on or in relation to any land acquired by Tourism New South Wales pursuant to this Part for the purpose of improving it to make it suitable to be used as a site for a project to facilitate the development of tourism or for a dwelling house for occupation by a person employed or to be employed on or about any such project,
  - (b) dedicate by notification in the Gazette any such land as a reserve for public recreation or for other public purposes, and fence, plant and improve any such reserve, and by notification in the Gazette vest the reserve in the council of the area in which it is situated or in trustees, and
  - (c) set apart any such land as sites for buildings or works or for local government purposes.

- (2) Where any reserve is vested under this section, the provisions of the *Crown Lands Consolidation Act 1913* apply to and in respect of the reserve in the same way as they apply to and in respect of land dedicated and vested under that Act.

## **20 Tourism New South Wales as Constructing Authority**

For the purposes of section 81 of the *Public Works Act 1912*, Tourism New South Wales shall be deemed to be a Constructing Authority.

## **21 Erection, alteration and extension of buildings**

- (1) Tourism New South Wales may cause to be erected, on land acquired by Tourism New South Wales under this Part for the purpose referred to in section 16, buildings suitable to facilitate the development of tourism.
- (2) Tourism New South Wales may cause any building erected on land acquired by Tourism New South Wales under this Part for the purpose referred to in section 16 to be altered or extended to make it suitable to facilitate the development of tourism.

## **22 Disposal of land**

- (1) Tourism New South Wales, with the approval of the Minister, may, in such manner and subject to such terms and conditions as in the opinion of Tourism New South Wales are appropriate, sell, lease, exchange or otherwise deal with or dispose of any real or personal property that has been acquired by Tourism New South Wales under this Part and grant easements or rights-of-way over any land or any part thereof that has been so acquired by Tourism New South Wales.
- (2) Any money received by Tourism New South Wales in respect of any transaction that is entered into by Tourism New South Wales under subsection (1) and that relates to any land acquired by Tourism New South Wales for the purpose referred to in section 16 shall be paid into the Fund.

## **Part 5 Finance**

### **23 Tourism Development Fund**

- (1) There shall be established and maintained in the Special Deposits Account in the Treasury a Tourism Development Fund into which shall be paid:
- (a) from the Country Industries Assistance Fund in the Special Deposits Account in the Treasury such amounts as are from time to time agreed upon by the Minister and the Minister administering the *State Development and Industries Assistance Act 1966*, the payment of which from that Fund is hereby authorised,
  - (b) any money appropriated by Parliament for the purposes of the Fund,
  - (c) money borrowed by Tourism New South Wales,

- (d) principal money repaid in respect of loans referred to in subsection 2 (d) and interest received in respect of any such loan,
  - (e) the proceeds of any transaction affecting real or personal property acquired with money from the Fund, and
  - (f) such fees or other amounts received by Tourism New South Wales as may be determined by the Minister with the concurrence of the Treasurer.
- (2) Money in the Fund may be expended by Tourism New South Wales for the purpose of:
- (a) discharging such commitments of the Country Industries Assistance Fund with respect to tourism as were outstanding immediately before the payment into the Fund of the amounts referred to in subsection (1) (a),
  - (b) paying such of the expenses of administering this Act as relate to the collection and expenditure of money in the Fund,
  - (c) promoting and assisting the development of tourism,
  - (d) making grants or loans in aid of projects to facilitate the development of tourism and becoming a member of a company where, in the opinion of the Minister, the company's objects provide principally for projects of that kind,
  - (e) repaying money borrowed by Tourism New South Wales, paying interest on money so borrowed and paying the expenses of Tourism New South Wales in borrowing money,
  - (f) discharging any liability of Tourism New South Wales under a guarantee given by Tourism New South Wales,
  - (g) paying any money for which Tourism New South Wales is liable under the [Capital Debt Charges Act 1957](#),
  - (h) acquiring land pursuant to Part 4, and
  - (i) making any other payments that Tourism New South Wales is, by or under this Act or the regulations, required or authorised to make from the Fund.
- (3) Tourism New South Wales shall, at such times as the Treasurer directs, pay to the Treasurer such part as the Treasurer specifies, when given the direction, of money paid as interest on any transaction referred to in subsection (1) (e) or on loans made under subsection (2) (d), other than loans made from money borrowed by Tourism New South Wales.
- (4) There shall be paid, at such times as the Treasurer directs, from the Fund to the Treasurer for credit of the Consolidated Fund such percentage of such income, or such classes or descriptions of income, received by Tourism New South Wales as may be

prescribed.

(5) In subsection (4), **income** includes, but is not limited to:

- (a) rentals or other consideration in respect of leases, and
- (b) fees or other revenue in respect of licences or agreements.

## **24 Financial year**

The financial year of Tourism New South Wales shall be the year commencing on 1 July.

## **Part 6 Miscellaneous**

### **25 Disclosure of information**

A person shall not disclose any information obtained in connection with the administration or execution of this Act (or any other Act conferring or imposing functions on Tourism New South Wales) unless that disclosure is made:

- (a) with the consent of the person from whom the information was obtained,
- (b) in connection with the administration or execution of this Act (or any such other Act),
- (c) for the purposes of any legal proceedings arising out of this Act (or any such other Act) or of any report of any such proceedings,
- (d) in accordance with a requirement made under the [Ombudsman Act 1974](#), or
- (e) with other lawful excuse.

Maximum penalty: 10 penalty units.

### **26 Delegation**

(1) Tourism New South Wales may, by instrument in writing, delegate to:

- (a) the General Manager,
- (b) a committee comprised of members, including the General Manager or a member nominated by the General Manager,
- (c) an officer or temporary employee of Tourism New South Wales,
- (d) a person for the time being holding or acting in a specified position in the staff establishment of Tourism New South Wales, or
- (e) any person of whose services Tourism New South Wales makes use pursuant to this or any other Act,

the exercise of such of the functions of Tourism New South Wales (other than this

power of delegation) as are specified in the instrument.

- (2) A function the exercise of which has been delegated under this section may, while the delegation remains unrevoked, be exercised from time to time by the delegate in accordance with the terms of the delegation.
- (3) Without limiting the operation of subsection (2), a function the exercise of which has been delegated under this section to the General Manager may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation by:
  - (a) an officer or temporary employee of Tourism New South Wales,
  - (b) a person for the time being holding or acting in a specified position in the staff establishment of Tourism New South Wales, or
  - (c) any person of whose services Tourism New South Wales makes use pursuant to this or any other Act,as authorised by instrument in writing by the General Manager in that behalf either generally or in a particular case or class of cases.
- (4) A delegation or authorisation under this section may be made subject to such conditions or limitations as to the exercise of any function the subject thereof, or as to time or circumstances, as may be specified in the instrument of delegation or authorisation.
- (5) Notwithstanding any delegation under this section, Tourism New South Wales may continue to exercise any function delegated.
- (6) Any act or thing done or suffered by a delegate acting in the exercise of a delegation under this section, or by a person duly authorised in that behalf by the General Manager under this section, has the same force and effect as it would have if it had been done or suffered by Tourism New South Wales and shall be deemed to have been done or suffered by Tourism New South Wales.
- (7) Tourism New South Wales may, by instrument in writing, revoke wholly or in part any delegation under this section, and the General Manager may, by instrument in writing, revoke wholly or in part any authorisation under this section.
- (8) An instrument purporting to have been signed by a person in the capacity of delegate of Tourism New South Wales, or as a person authorised under this section, shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument duly executed by Tourism New South Wales and shall, until the contrary is proved, be deemed to be an instrument signed by a delegate of Tourism New South Wales or by a person duly authorised under this section, as the case may be.

- (9) In subsection (8), a reference to a delegate includes a reference to the chairperson of a committee to which the exercise of a function has been delegated under subsection (1).

## **27 Annual report**

- (1) As soon as practicable after 30 June, but on or before 31 December, in each year, Tourism New South Wales shall prepare and forward to the Minister a report of its work and activities for the 12 months ending on 30 June in that year.
- (2) The Minister shall lay the report or cause it to be laid before both Houses of Parliament as soon as practicable after receiving the report.

## **28 References to Tourism New South Wales**

In any other Act, in any instrument made under any Act or in any other instrument of any kind, except in so far as the context or subject-matter otherwise indicates or requires, a reference to the “Tourism Commission”, to the “Tourism Commission of New South Wales” or to the “NSW Tourism Commission” shall be read and construed as a reference to Tourism New South Wales constituted by this Act.

## **29 Service of documents**

- (1) A document may be served on Tourism New South Wales by leaving it at, or by sending it by post to:
- (a) the office of Tourism New South Wales, or
  - (b) if it has more than one office—any one of its offices.
- (2) Nothing in subsection (1) affects the operation of any provision of a law or of the rules of a court authorising a document to be served on Tourism New South Wales in a manner not provided for by subsection (1).

## **30 Authentication of certain documents**

Every summons, process, demand, order, notice, statement, direction or document requiring authentication by Tourism New South Wales may be sufficiently authenticated without the seal of Tourism New South Wales if signed by the General Manager or by any officer or temporary employee of Tourism New South Wales authorised to do so by the General Manager.

## **31 Recovery of charges etc by Tourism New South Wales**

Any charge, fee or money due to Tourism New South Wales may be recovered by Tourism New South Wales as a debt in a court of competent jurisdiction.



### **32 Proof of certain matters not required**

In any legal proceedings, no proof shall be required (until evidence is given to the contrary) of:

- (a) the constitution of Tourism New South Wales,
- (b) any resolution of Tourism New South Wales,
- (c) the appointment of, or the holding of office by, any member, or
- (d) the presence or nature of a quorum at any meeting of Tourism New South Wales.

### **33 Proceedings for offences**

Proceedings for an offence against this Act may be taken before a Local Court constituted by a Magistrate sitting alone.

### **34 Regulations**

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) A provision of a regulation may:
  - (a) apply generally or be limited in its application by reference to specified exceptions or factors,
  - (b) apply differently according to different factors of a specified kind, or
  - (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,or may do any combination of those things.

### **35 Repeals**

Each Act specified in Schedule 3 is, to the extent specified in that Schedule in relation to that Act, repealed.

### **36 Savings and transitional provisions**

Schedule 4 has effect.

## **Schedule 1 Provisions relating to the members of Tourism New South**

## Wales

(Section 4 (5))

### 1A Employment of General Manager

The employment of the General Manager is subject to Part 2A of the *Public Sector Management Act 1988*, but is not subject to Part 2 of that Act.

### 1 (Repealed)

### 2 Chairperson of Tourism New South Wales

- (1) Of the part-time members, one shall, in and by the relevant instrument of appointment as such a member, or by another instrument executed by the Governor, be appointed as Chairperson of Tourism New South Wales.
- (2) The Governor may remove a part-time member from the office of Chairperson.
- (3) A person who is a part-time member and Chairperson shall be deemed to have vacated office as Chairperson if the person:
  - (a) is removed from that office by the Governor under subclause (2),
  - (b) resigns that office by instrument in writing addressed to the Minister, or
  - (c) ceases to be a part-time member.

### 3 Acting members and acting Chairperson

- (1) The Governor may, from time to time, appoint a person to act in the office of a member during the illness or absence of the member, and the person, while so acting, shall have and may exercise all the functions of the member.
- (2) The Governor may, from time to time, appoint a part-time member to act in the office of Chairperson during the illness or absence of the Chairperson, and the part-time member, while so acting, shall have and may exercise all the functions of the Chairperson.
- (3) The Governor may remove any person from any office to which the person was appointed under subclause (1) or (2).
- (4) A person while acting in the office of a member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.
- (5) For the purposes of this clause:
  - (a) a vacancy in the office of a member or the Chairperson shall be deemed to be an absence from office of the member or Chairperson, as the case may be, and

(b) a part-time member shall be deemed to be absent from office as a part-time member during any period that the member acts in the office of the General Manager pursuant to an appointment under subclause (1).

(6) In subclause (2), clauses 9 and 10 and Schedule 2:

(a) a reference to a member or part-time member includes a reference to a person acting in the office of a member or part-time member,

(b) a reference to the appointment of a member includes a reference to the appointment of a person to act in the office of a member, and

(c) a reference to the office of a member or part-time member includes a reference to the office of a person appointed to act in the office of a member or part-time member.

#### **4 Term of office**

Subject to this Schedule, a part-time member holds office for such term (not exceeding 5 years) as may be specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

#### **5 (Repealed)**

#### **6 Remuneration**

(1) (Repealed)

(2) A part-time member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the part-time member.

#### **7 Filling of vacancy in office of member**

In the event of the office of any member becoming vacant a person shall, subject to this Act, be appointed to fill the vacancy.

#### **8 Casual vacancies**

(1) A part-time member shall be deemed to have vacated office if the member:

(a) dies,

(b) (Repealed)

(c) absents himself or herself from 4 consecutive meetings of Tourism New South Wales of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Minister (which leave the Minister is hereby authorised to grant) or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Minister for

being absent from those meetings,

- (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit,
- (e) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the *Mental Health Act 1958* or a person under detention under Part 7 of that Act,
- (f) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards, or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be an offence so punishable,
- (g) (Repealed)
- (h) resigns the office by instrument in writing addressed to the Minister, or
- (i), (j) (Repealed)
- (k) is removed by the Governor under this clause or under Part 8 of the *Public Sector Management Act 1988*.

(2), (3) (Repealed)

(4) The Governor may remove a part-time member from office.

(5) (Repealed)

## **9 Disclosure of pecuniary interests**

(1) A member who has a direct or indirect pecuniary interest:

(a) in a matter that is being considered, or is about to be considered, at a meeting of Tourism New South Wales, or

(b) in a thing being done or about to be done by Tourism New South Wales,

shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of Tourism New South Wales.

(2) A disclosure by a member at a meeting of Tourism New South Wales that the member:

(a) is a member, or is in the employment, of a specified company or other body,

(b) is a partner, or is in the employment, of a specified person, or

(c) has some other specified interest relating to a specified company or other body or

a specified person,

shall be deemed to be a sufficient disclosure of the nature of the interest in any matter or thing relating to that company or other body or to that person which may arise after the date of the disclosure.

- (3) Tourism New South Wales shall cause particulars of any disclosure made under subclause (1) or (2) to be recorded in a book kept for the purpose and that book shall be open at all reasonable hours to the inspection of any person on payment of such fee as may be determined by Tourism New South Wales from time to time.
- (4) After a member has, or is deemed to have, disclosed the nature of an interest in any matter or thing pursuant to subclause (1) or (2), the member shall not, unless the Minister otherwise determines:
  - (a) be present during any deliberation of Tourism New South Wales, or take part in any decision of Tourism New South Wales, with respect to that matter, or
  - (b) exercise any function under this Act with respect to that thing,as the case may require.
- (5) Notwithstanding that a member contravenes the provisions of this clause, that contravention does not invalidate any decision of Tourism New South Wales or the exercise of any function under this Act.
- (6) Nothing in this clause applies to or in respect of an interest of a member in a matter or thing which arises by reason only that the member is a member of any body concerned in the promotion of tourism.
- (7) A reference in this clause to a meeting of Tourism New South Wales includes a reference to a meeting of a committee of Tourism New South Wales.

## **10 Effect of certain other Acts**

- (1) The *Public Service Act 1979* does not apply to or in respect of the appointment of a part-time member and a part-time member is not, as a member, subject to that Act.
- (2) Where by or under any other Act provision is made requiring a person who is the holder of an office specified therein to devote the whole of his or her time to the duties of that office, or prohibiting the person from engaging in employment outside the duties of that office, that provision shall not operate to disqualify the person from holding that office and also the office of a part-time member or from accepting and retaining any remuneration payable to the person under this Act as a part-time member.
- (3) The office of a part-time member shall for the purposes of any Act be deemed not to be an office or place of profit under the Crown.

## **11-13 (Repealed)**

## **14 Liability of members etc**

No matter or thing done by Tourism New South Wales, and no matter or thing done by any member or by any person acting under the direction of Tourism New South Wales shall, if the matter or thing was done bona fide for the purposes of executing this or any other Act, subject a member or a person so acting personally to any action, liability, claim or demand whatever.

## **Schedule 2 Provisions relating to the procedure of Tourism New South Wales**

(Section 4 (6))

### **1 General procedure**

The procedure for the calling of meetings of Tourism New South Wales and for the conduct of business at those meetings shall, subject to this Act, be as determined by Tourism New South Wales.

### **2 Quorum**

A majority of the members shall form a quorum and any duly convened meeting of Tourism New South Wales at which a quorum is present shall be competent to transact any business of Tourism New South Wales and shall have and may exercise all the functions of Tourism New South Wales.

### **3 Presiding member**

- (1) The Chairperson or, in the absence of the Chairperson, another part-time member elected as chairperson for the meeting by the members present shall preside at a meeting of Tourism New South Wales.
- (2) The person acting as chairperson at any meeting of Tourism New South Wales shall have a deliberative vote and, in the event of an equality of votes, shall have a second or casting vote.

### **4 Voting**

A decision supported by a majority of the votes cast at a meeting of Tourism New South Wales at which a quorum is present shall be the decision of Tourism New South Wales.

### **5 Minutes**

Tourism New South Wales shall cause full and accurate minutes to be kept of the proceedings of each meeting of Tourism New South Wales.

## Schedule 3 Repeals

(Section 35)

*Tourist Industry Development Act 1976 No 58*—the whole Act.

*Miscellaneous Acts (Financial Accommodation) Amendment Act 1981 No 83*—so much of Schedule 1 as amends the *Tourist Industry Development Act 1976*.

*Tourist Industry Development (Amendment) Act 1982 No 172*—the whole Act.

*Tourist Industry Development (Amendment) Act 1983 No 74*—the whole Act.

*Tourist Industry Development (Further Amendment) Act 1983 No 141*—the whole Act.

## Schedule 4 Savings and transitional provisions

(Section 36)

### 1 Definitions

In this Schedule:

**appointed day** means the day appointed and notified under section 2 (2).

**former Act** means the *Tourist Industry Development Act 1976*.

**new corporation** means Tourism New South Wales.

**old corporation** means the corporation constituted by section 5 of the *Tourist Industry Development Act 1976*.

### 2 Continuity of corporation

The new corporation is a continuation of, and the same legal entity as, the old corporation.

### 3 References to old corporation

On and from the appointed day, a reference in any Act, in any instrument made under any Act or in any other instrument of any kind (enacted, made or executed before the appointed day) to the old corporation shall be read and construed as a reference to the new corporation.

### 4 Activities commenced by old corporation

(1) Any act, matter or thing done or commenced to be done under a provision of the former Act or any other Act by or in relation to the old corporation before the appointed day shall be deemed to have been done or commenced to be done and, in the latter case, may be completed, under the corresponding provision of this Act or the provision of the other Act, as the case may be, by or in relation to the new

corporation.

- (2) Nothing in subclause (1) affects the operation of Schedule 2 to the *Miscellaneous Acts (Financial Accommodation) Amendment Act 1981* with respect to the old corporation.

#### **5 First meeting of new corporation**

The Minister shall call the first meeting of the new corporation on or after the appointed day in such manner as the Minister thinks fit.

#### **6 Disposition of former Fund**

The Tourist Industry Development Fund established under the former Act shall be deemed to have been established under section 23 as the Tourism Development Fund.

#### **7 Saving of certain amendments**

The repeal of the former Act by this Act does not affect the amendments made:

- (a) to the *Local Government Act 1919*, by section 30 of the former Act, or
- (b) to the *Government Guarantees Act 1934*, by section 31 of the former Act.

#### **8 Regulations**

- (1) The Governor may make regulations containing provisions of a savings or transitional nature consequent on the enactment of this Act.
- (2) A provision made under subclause (1) may take effect as from the appointed day or a later day.
- (3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
  - (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 therein, or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication therein.
- (4) A provision made under subclause (1) shall, if the regulations under this clause so provide, have effect notwithstanding any other clause of this Schedule (clause 2 excepted).