

Zoological Parks Board Act 1973 No 34

[1973-34]



New South Wales

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Provisions in force

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

Notes—

- **Does not include amendments by**
[Justices Legislation Repeal and Amendment Act 2001 No 121](#) (not commenced — to commence on 7.7.2003)

Authorisation

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New South Wales

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Zoological Parks Board Act 1973 No 34



New South Wales

An Act to constitute the Zoological Parks Board of New South Wales and to confer and impose on that Board powers, authorities, duties and functions relating to the establishment, maintenance and control of zoological parks; to repeal the *Taronga Zoological Park Act 1956* and certain other Acts; to amend the *Local Government Act 1919* and the *Closer Settlement and Public Reserves Fund Act 1970*; and for purposes connected therewith.

Part 1 Preliminary

1 Name of Act

This Act may be cited as the *Zoological Parks Board Act 1973*.

2 Commencement

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3 (Repealed)

4 Definitions

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

animal includes any bird, fish, reptile or other living zoological specimen.

Board means the Zoological Parks Board of New South Wales constituted under this Act.

Chairperson means the Chairperson of the Board.

Deputy Chairperson means the Deputy Chairperson of the Board.

member means member of the Board.

regulations means regulations under this Act.

zoological park means a zoological garden, aquarium or similar institution in which animals are kept or displayed for conservation, scientific, educational, cultural or recreational purposes.

Part 2 Constitution of the Zoological Parks Board of New South Wales

5 Constitution of the Board

- (1) There is hereby constituted a corporation under the corporate name of the “Zoological Parks Board of New South Wales”.
- (2) The Board:
 - (a) shall have and may exercise and perform the powers, authorities, duties and 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 powers, authorities, duties and functions (except in relation to the contents of a recommendation or report made by it to the Minister), be subject to the control and direction of the Minister.

6 Appointment of members

- (1) The Board is to consist of 10 members appointed by the Minister, of whom:
 - (a) 5 are to be persons who have, in the opinion of the Minister, qualifications, knowledge, expertise or experience appropriate to the powers, authorities, duties and functions of the Board, and
 - (b) one is to be a person who has, in the opinion of the Minister, expertise in zoology, veterinary science or animal welfare, or in research relating to any one or more of those fields, and
 - (c) one is to be chosen by the Minister from a panel of 2 persons nominated by an organisation determined by the Minister, the principal activity of which is the voluntary provision of financial or other support to the zoological park in Mosman, and
 - (d) one is to be chosen by the Minister from a panel of 2 persons nominated by an organisation determined by the Minister, the principal activity of which is the voluntary provision of financial or other support to the zoological park in Dubbo, and
 - (e) one is to be chosen by the Minister from a panel of 2 persons nominated by the council of the local government area that includes the zoological park in Mosman, and
 - (f) one is to be a person chosen by the Minister from a panel of 2 persons nominated by the council of the local government area that includes the zoological park in Dubbo.

- (2) In making appointments to the Board, the Minister is to have regard to the powers, authorities, duties and functions of the Board referred to in section 15.
- (3) If the Minister would, but for this subsection, be unable to appoint a member referred to in subsection (1) (c)–(f) because a panel of persons has not been nominated:
 - (a) the Minister may instead appoint a person who is, in the opinion of the Minister, suitable to hold that office, and
 - (b) the person so appointed is taken to have been appropriately appointed.
- (4) A member:
 - (a) holds office, subject to this Act, for the term, not exceeding 5 years, that is specified in the member's instrument of appointment or (if not so specified) in a later instrument executed by the Minister, and
 - (b) is (if otherwise qualified) eligible for re-appointment.

7 Chairperson and Deputy Chairperson

- (1) One of the members referred to in section 6 (1) (a) is to be appointed as Chairperson by the instrument appointing the person as a member or by a subsequent instrument executed by the Minister.
- (2) Another of the members referred to in section 6 (1) (a) is to be appointed as Deputy Chairperson by the instrument appointing the person as a member or by a subsequent instrument executed by the Minister.
- (3) The Chairperson and Deputy Chairperson are each to hold office as such for such period, not exceeding 5 years, as the Minister may determine by instrument in writing, and are eligible (if otherwise qualified) for re-appointment.
- (4) The Minister may remove a member from the office of Chairperson or Deputy Chairperson at any time.
- (5) A person who is Chairperson or Deputy Chairperson vacates office as such if the person:
 - (a) is removed from office by the Minister, or
 - (b) resigns that office by instrument in writing addressed to the Minister, or
 - (c) ceases to be a member.
- (6) A person does not cease to be a member merely because of:
 - (a) the person's resignation from the office of Chairperson or Deputy Chairperson, or
 - (b) the expiration of the person's term of office as Chairperson or Deputy

Chairperson.

- (7) During the illness or absence from duty of the Chairperson or a vacancy in the office of Chairperson, the Deputy Chairperson:
 - (a) shall act in the office of Chairperson, and
 - (b) while so acting, has and may exercise and perform the powers, authorities, duties and functions of the Chairperson.
- (8) While acting in the office of Chairperson:
 - (a) the Deputy Chairperson shall be taken to be duly doing so, and
 - (b) anything done or omitted by the Deputy Chairperson, while so acting, shall be taken to have been done or omitted by the Chairperson.

8 (Repealed)

9 General provisions relating to members

- (1) Each member shall be entitled to receive such expenses and, if the Minister so approves, such fees and allowances for attending meetings and transacting business of the Board as the Minister may from time to time determine in respect of that member.
- (2) Where by or under any Act provision is made requiring the holder of an office specified therein to devote the whole of his or her time to the duties of his or her office, or prohibiting him or her from engaging in employment outside the duties of his or her office, that provision shall not operate to disqualify him or her from holding that office and also the office of a member or from retaining any expenses, fees or allowances payable to him or her under this section.
- (3) The office of a member shall not for the purposes of any Act be deemed to be an office or place of profit under the Crown.
- (4) The provisions of the [Public Service Act 1902](#) shall not apply to or in respect of the appointment of a member and a member shall not, in his or her capacity as a member, be subject to the provisions of that Act during his or her term of office.

10 Vacation of office

- (1) A member shall be deemed to have vacated his or her office:
 - (a) if the member dies,
 - (b) if the member becomes a 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 any assignment of his or her estate for their benefit,

- (c) if the member is absent from four consecutive ordinary meetings of the Board of which reasonable notice has been given to him or her personally or in the ordinary course of post except on leave granted by the Board, unless the member is, before the expiration of four weeks after the last of those meetings, excused by the Board for his or her absence from those meetings,
 - (d) if the member becomes a mentally incapacitated person,
 - (e) if he or she is convicted in New South Wales of an indictable offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable,
 - (f) if the member resigns his or her office by writing under his or her hand addressed to the Minister and the Minister accepts his or her resignation, or
 - (g) if the member is removed from office by the Minister.
 - (h) (Repealed)
- (2) The Minister may, for any cause which appears to the Minister sufficient, remove any appointed member from office.

11 Proceedings of Board

- (1) The procedure for the calling of meetings of the Board and for the conduct of business at those meetings shall, subject to this Act and the regulations, be as determined by the Board.
- (2) The Chairperson or, in the absence of the Chairperson, the Deputy Chairperson or, in the absence of the Chairperson and the Deputy Chairperson, the member chosen by the members present at the meeting to act as chairperson may preside at any meeting of the Board.
- (3) The quorum for a meeting of the Board is a majority of its members for the time being. Any duly convened meeting of the Board at which a quorum is present is competent to transact any business of the Board and has and may exercise and perform all the powers, authorities, duties and functions of the Board.
- (4) The person presiding at any meeting of the Board shall, in the event of an equality of votes, have in addition to a deliberative vote a second or casting vote.
- (5) Subject to subsection (4), a decision of a majority of the members present at a meeting of the Board at which a quorum is present shall be the decision of the Board.
- (6) The Board shall cause a record of its decisions and full and accurate minutes of the proceedings at its meeting to be kept.

- (7) No matter or thing done, and no contract entered into, by the Board, and no matter or thing done by a member or by any other person acting under the direction or as delegate of the Board shall, if the matter or thing was done, or the contract was entered into, bona fide for the purpose of executing this Act or any other Act conferring or imposing powers, authorities, duties or functions on the Board, subject the member or person so acting personally to any action, liability, claim or demand.
- (8) Nothing in subsection (7) shall exempt any member or other person from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of or relating to the Board, and which the member or other person authorised or joined in authorising.

12 Employees of the Board

- (1) The Board may appoint and employ such persons as may be necessary to enable the Board to exercise and perform its powers, authorities, duties and functions.
- (2) Every employee of the Board shall, subject to the terms of the employee's appointment, continue in the service of the Board at the will of the Board only.
- (3) All employees of the Board shall be subject to the sole control and governance of the Board, which may, where their salaries or wages or conditions of employment are not fixed in accordance with the provisions of any other Act or law, fix the salaries or wages payable to those employees and their conditions of employment.
- (4) The regulations may make provision for or with respect to the conditions of employment of employees of the Board.
- (5) The regulations made for the purposes of subsection (4):
 - (a) shall have effect subject to any award by which the Board is bound made by a court of competent jurisdiction and to any industrial agreement to which the Board is a party, and
 - (b) shall have effect notwithstanding the provisions of subsection (3), and
 - (c) are subject to Part 2A of the *Public Sector Management Act 1988*.

12A Preservation of rights of certain employees

- (1) The Board may, in the instrument of appointment of an employee of the Board, direct that Schedule 1 is to apply to the employee.
- (2) Schedule 1 has effect with respect to the rights of an employee to whom such a direction applies.
- (3) This section and Schedule 1 do not apply to any employee of the Board who is an executive officer within the meaning of Part 2A of the *Public Sector Management Act*

1988.

13 Use of officers or employees

- (1) The Board may, with the approval of the Minister administering any Government department and of the Public Service Board, arrange for the use of the services of any officer or employee of the department for the purpose of exercising or performing its powers, authorities, duties and functions under this or any other Act.
- (2) The Board may, with the approval of a public authority constituted under an Act, arrange for the use of the services of any officer or employee of the authority for the purpose of exercising or performing its powers, authorities, duties and functions under this or any other Act, whether or not the provisions of the *Public Service Act 1979* apply to the appointment of the officer or employee.

14 Delegation

- (1) The Board may, by instrument in writing under seal, delegate to a member or an employee of the Board or an officer or employee of the Public Service or a public authority constituted under an Act the exercise or performance of such of the powers (other than this power of delegation), authorities, duties and functions conferred or imposed on the Board by or under this or any other Act as may be specified in the instrument of delegation, and may, by such an instrument, revoke wholly or in part any such delegation.
- (2) A power, authority, duty or function, the exercise or performance of which has been delegated under this section may, while the delegation remains unrevoked, be exercised or performed from time to time in accordance with the terms of the delegation.
- (3) A delegation under this section may be made subject to such conditions or such limitations as to the exercise or performance of any of the powers, authorities, duties or functions delegated, or as to time or circumstance, as may be specified in the instrument of delegation.
- (4) Notwithstanding any delegation under this section, the Board may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.
- (5) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing had been done or suffered by the Board and shall be deemed to have been done or suffered by the Board.
- (6) An instrument purporting to be signed by a delegate of the Board in his or her capacity as such a delegate shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the Board under seal and, until the contrary is proved, shall be deemed to be an instrument signed by a

delegate of the Board under this section.

Part 3 Establishment, maintenance and control of zoological parks by the Board

15 Powers, authorities etc of the Board

- (1) The Board may establish, maintain and control zoological parks for the following purposes:
 - (a) carrying out research and breeding programs for the preservation of endangered species,
 - (b) carrying out research programs for the conservation and management of other species,
 - (c) conducting public education and awareness programs about species conservation and management,
 - (d) displaying animals for educational, cultural and recreational purposes.
- (2) The Board may also maintain and control:
 - (a) the zoological park established before the commencement of this Act on the land described in Schedules 3 and 4, under the name of "Taronga Zoological Park", and
 - (b) other zoological parks on land or premises vested in or held by the Board, whether or not those parks were established by the Board,for the purposes referred to in this section.
- (3) The Board:
 - (a) may co-operate with, and provide funds and other assistance to, such scientific and other institutions, governments and other bodies and individuals as the Board may determine in connection with species conservation and management and for other scientific and zoological purposes, and
 - (b) may investigate and carry out research into:
 - (i) the design of, and equipment and procedures in, zoological parks, and
 - (ii) the care and well-being of animals kept in zoological parks,whether or not those zoological parks are maintained and controlled by the Board, and
 - (c) may provide educational services for the public (whether in the nature of lectures, broadcasts, films, publications or otherwise) about species conservation and

management, zoological parks and the biology of animals, and

(d) may provide and charge for such services in connection with zoological parks maintained and controlled by the Board as the Board may determine, and

(e) may make recommendations or reports to the Minister with respect to matters connected with the Board's powers, authorities, duties and functions or the administration of this Act.

(4) The Minister may request the Board to make recommendations or reports to the Minister with respect to matters connected with the Board's powers, authorities, duties and functions or the administration of this Act and the Board is to comply with any such request.

(5) The Board may exercise and perform such other powers, authorities, duties and functions as may be conferred or imposed on the Board by or under this or any other Act.

16 Property

(1) The powers of the Board to acquire or dispose of lands shall not be exercised except with the consent of the Minister.

(2) The Board may, pursuant to its powers conferred by section 50 of the *Interpretation Act 1987*, acquire and hold lands for purposes connected with the establishment, maintenance or control of zoological parks by it, and may maintain and control any lands so held by it.

(3) Notwithstanding anything in the *Crown Lands Consolidation Act 1913*:

(a) the Minister may transfer an estate in fee simple in:

(i) any Crown lands (within the meaning of that Act), or

(ii) any of the lands described in Schedules 3 and 4,

to the Board, and

(b) the lands transferred to the Board under paragraph (a):

(i) shall vest in and be held, for the purposes of this Act, by the Board, and

(ii) may, subject to subsection (1), be disposed of or otherwise dealt with by the Board,

as if the lands had, immediately before the transfer, been freehold lands and had been acquired by the Board by purchase.

(4) A grant under subsection (3) shall be subject to such exceptions, reservations and

conditions as are specified in the transfer.

- (5) Upon the transfer of lands under subsection (3), all trusts, conditions, provisos, encumbrances, restrictions on alienation, appropriations, dedications and reservations are, to the extent to which, immediately before the transfer, they affected those lands, revoked and annulled.
- (6) Nothing in subsection (3) affects the power of the Minister to appoint the Board to be trustees of any lands dedicated or reserved under the *Crown Lands Consolidation Act 1913*, or the power of the Minister to transfer those lands to the Board under that Act.
- (7) Lands acquired by the Board (otherwise than under section 17) shall, in respect of that acquisition, be exempt from stamp duty under the *Stamp Duties Act 1920*.
- (8) Without affecting the generality of section 50 of the *Interpretation Act 1987*, the Board:
 - (a) may lend or donate animals, plant or machinery to or for zoological parks not maintained or controlled by it, and
 - (b) may borrow animals to be kept or displayed in zoological parks maintained and controlled by it.
- (9), (10) (Repealed)

17 Power of Board to accept gifts etc

- (1) The Board shall have power to acquire, by gift inter vivos, devise or bequest, any property for the purposes of this Act and to agree to the conditions of any such gift, devise or bequest.
- (2) The rule of law against remoteness of vesting shall not apply to any such condition to which the Board has agreed.

17A Board may be trustee

- (1) The Board may be and act as a trustee under the terms of a gift, devise or bequest. The Board may do so even if some but not all of the purposes of the trust are not related to the functions of the Board, and even if the Board is or could be a beneficiary under the trust.
- (2) The Board is taken always to have had these powers.
- (3) This section does not authorise the Board to contravene any express provisions of this Act.
- (4) Despite subsection (3), the Board may invest trust money in any way authorised by the trust or by any other law.

(5) This section does not limit any powers the Board has apart from this section.

18 Contracts and agreements

The Board may make and enter into contracts or agreements with any person:

- (a) for the performance of services, or for the supply of goods, plant, machinery or material with respect to the exercise of its powers, authorities, duties and functions,
- (b) for the use of lands and premises vested in or held by the Board for social or other functions,
- (c) for the right to take photographs, for fee or reward, in or on any such lands or premises, and
- (d) for the use of any such lands or premises for cinematograph, radio or television purposes.

Part 4 Finance

19 Costs of administration of this Act

The costs of administration of this Act, and the expenses, fees and allowances payable to a member, shall be paid by the Board out of the funds of the Board.

20 Financial year of the Board

The financial year of the Board shall be:

- (a) where no period is prescribed as referred to in paragraph (b)—the year commencing on 1 July, or
- (b) the period prescribed for the purposes of this section.

21 (Repealed)

22 Investment of funds

The Board may invest money held by it in Government securities of the Commonwealth or of the State of New South Wales, or in any securities guaranteed by the Government of that State, or on call or on fixed deposit or partly on call and partly on fixed deposit with the Treasurer or with any bank, building society or credit union, or in such other manner as the Governor may approve or as may be prescribed.

23-29 (Repealed)

Part 5 General

30 Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter which, by this Act, is required or permitted to be prescribed or which is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Without prejudice to the generality of the power conferred by subsection (1), the Governor may make regulations for or with respect to:
 - (a) any of the powers conferred on or duties imposed upon the Board,
 - (b) the regulation of meetings of the Board and the conduct of business thereat,
 - (c) the regulation of the use and enjoyment of lands of the Board,
 - (d) the securing of decency and order on those lands,
 - (e) the removal of trespassers and other persons causing annoyance or inconvenience on those lands,
 - (f) the regulation or prevention of the taking of intoxicants onto, and the consuming thereof on, those lands,
 - (g) the regulation or prevention of the taking of animals onto those lands or the permitting or suffering of animals to be on those lands,
 - (h) the control of animals taken onto, or permitted or suffered to be on, those lands,
 - (i) the regulation, control or prohibition of parking, camping or residing on those lands, the making of charges for parking, camping, or residing on those lands and the collecting and receiving of those charges by the Board or by other persons,
 - (j) the preservation or protection of, or prevention of damage to, trees, shrubs, ferns, creepers, vines, palms, plants, flowers, herbage or other vegetative cover on those lands,
 - (k) the protection or removal of all dead timber, logs and stumps on those lands, whether standing or fallen,
 - (l) the preservation, protection or removal of any rocks, soil, sand, stone or similar substances on or under or comprising part of those lands,
 - (m) the preservation or protection of any animals, whether natural or introduced, on those lands,
 - (n) the making of charges or entrance fees on persons, clubs, or associations or for vehicles using or entering upon those lands, or on any specified part or parts of

those lands, and the collecting and receiving of those charges and fees by the Board or by other persons,

- (o) the reservation of any portion of those lands for such separate or exclusive use as the regulations may prescribe,
- (p) the closing of those lands or parts thereof and the conditions to be observed with regard thereto,
- (q) the regulation, control or prohibition of private trading on those lands,
- (r) the regulation of the use of motor vehicles or any other vehicles and the conditions under which they may be used on those lands,
- (s) the regulation of the speed of motor vehicles or any other vehicles on those lands,
- (t) the regulation, control or prohibition of the erection of buildings, signs or other structures on those lands,
- (u) the protection of buildings, structures, signs and other improvements on those lands,
- (v) the regulation, control or prohibition of exotic plants on those lands,
- (w) the regulation, control or prohibition of the use of firearms or other weapons and the carrying of firearms or other weapons on those lands, and
- (x) the powers and duties of employees of the Board.

(3) A regulation may:

- (a) impose a penalty for any breach thereof and also impose distinct penalties in case of successive breaches thereof but no such penalty shall exceed 1 penalty unit, and
- (b) impose also a daily penalty for any continuing breach thereof not exceeding 0.1 penalty unit per day.

(4) Regulations may be made to apply generally to all lands of the Board or any part thereof specified in the regulations and unless so limited shall be taken to apply to all lands of the Board.

(5) Where any provision of a regulation made to apply to any specified part of lands of the Board is inconsistent with a provision of any regulation relating to all lands of the Board generally, the firstmentioned provision shall prevail.

(6) In this section, **lands of the Board** means lands or premises vested in or held by the Board.

31 Proof of certain matters not required

In any proceedings by or against the Board no proof shall be required (until evidence is given to the contrary) of:

- (a) the constitution of the Board,
- (b) any resolution of the Board,
- (c) the appointment of any member or any employee of the Board, or
- (d) the presence of a quorum at any meeting of the Board.

32 Recovery of penalty

- (1) Any penalty imposed by the regulations may be recovered in a summary manner before a Local Court constituted by a Magistrate sitting alone.
- (2) Where the penalty is a daily penalty it may be recovered either under a separate information or under an information for the sum of the daily penalties.

33 Compensation for loss, damage or injury

- (1) Where any person is convicted of an offence against the regulations which results in or causes loss or damage to any lands vested in or held by the Board or to any structure, improvements, goods, machinery or materials thereon or therein, or loss of or injury to any animals kept by the Board the Magistrate before whom the person was convicted may order payment of such sum as the Magistrate thinks fit by way of compensation for the loss, damage or injury.
- (2) Any such order shall be deemed to be a conviction or order whereby a sum of money is adjudged to be paid within the meaning of the *Justices Act 1902*.

34 Recovery of charges etc

Any charge, fee or money due to the Board under the provisions of this Act or the regulations may be recovered as a debt or liquidated demand in a court of competent jurisdiction.

35 (Repealed)

36 Manner of service of certain documents on the Board

Any notice, summons, writ or other proceedings to be served on the Board may be served:

- (a) by being left, or
- (b) in the case of a notice, by posting it addressed to the Board,

at its office or, if it has more than one office, at one of its offices.

37 Annual report for Parliament

- (1) The Board shall, as soon as practicable after the thirtieth day of June in each year, forward to the Minister a report of its work and activities for the twelve months preceding that day.
- (2) The Minister shall lay that report, or cause it to be laid, before both Houses of Parliament as soon as practicable after the receipt by the Minister of the report.

Part 6 Repeals, amendments, savings and transitional provisions

38 Definitions

In this Part:

appointed day means the day appointed and notified under section 2.

former trustees means the Trustees of Taronga Zoological Park, as referred to in section 3 of the [Taronga Zoological Park Act 1956](#).

Park lands means the lands described in Schedules 3 and 4.

39, 40 (Repealed)

41 Revocation of dedication of Park lands etc

- (1) The dedication as a public park under the name of the “Taronga Zoological Park” of the Park lands under the [Taronga Zoological Park Act 1956](#) is revoked.
- (2) The persons who, immediately before the appointed day, were trustees of the Park lands shall, upon that day, cease to hold office as those trustees.
- (3) The body corporate comprised of the former trustees is dissolved.
- (4) Any estate or interest in the Park lands that, immediately before the appointed day, was vested in or held by any person is, subject to this Part, divested.
- (5) A person referred to in subsection (2) shall, if otherwise qualified, be entitled to be appointed under section 6 as an appointed member of the Board.

42 Dedication of Park lands

Upon the appointed day:

- (a) the Park lands shall be deemed to have been dedicated as a public park under the [Crown Lands Consolidation Act 1913](#), and
- (b) the Board shall be deemed to have been appointed as trustees of the Park lands

under the *Public Trusts Act 1897*.

43 Preservation of certain leases etc

- (1) Any lease or licence of or over the Park lands entered into before the appointed day shall:
 - (a) to the extent to which it was valid and effectual immediately before the appointed day—continue to be valid and effectual after that day, and
 - (b) to the extent to which it was valid and effectual immediately before the grant of any of the Park lands under section 16 (3)—continue to be valid and effectual after the grant,as if the dedication referred to in section 41 (1) were still in force and notwithstanding anything in section 41 (4).
- (2) Nothing in this Part affects the proclamation published under the *Main Roads Act 1924* in Gazette No 11 of 24 January 1958, in respect of Main Road No 400 passing through the Park lands.

44 Transfer of rights, liabilities and property to Board

- (1) On and from the appointed day:
 - (a) all real and personal property and all right and interest therein and all management and control thereof that, immediately before that day, was vested in or belonged to the former trustees shall vest in and belong to the Board,
 - (b) all moneys and liquidated and unliquidated claims that, immediately before that day, were payable to or recoverable by the former trustees shall be moneys and liquidated and unliquidated claims payable to or recoverable by the Board,
 - (c) all proceedings commenced before that day by the former trustees and pending immediately before that day shall be deemed to be proceedings pending by the Board and all proceedings so commenced by any person against the former trustees and pending immediately before that day shall be deemed to be proceedings pending by that person against the Board,
 - (d) all contracts, agreements, arrangements and undertakings entered into with, and all securities lawfully given to or by, the former trustees and in force immediately before that day shall be deemed to be contracts, agreements, arrangements and undertakings entered into with and securities given to or by the Board,
 - (e) the Board may, in addition to pursuing any other remedies or exercising any other powers that may be available to it, pursue the same remedies for the recovery of moneys and claims referred to in this subsection and for the prosecution of proceedings so referred to as the former trustees might have done but for the

enactment of this Act,

- (f) the Board may enforce and realise any security or charge existing immediately before that day in favour of the former trustees and may exercise any powers thereby conferred on the body corporate as if the security or charge were a security or charge in favour of the Board,
 - (g) all debts, moneys and claims, liquidated and unliquidated, that, immediately before that day, were due or payable by, or recoverable against, the former trustees shall be debts due, moneys payable by and claims recoverable against, the Board, and
 - (h) all liquidated or unliquidated claims for which the former trustees would, but for the enactment of this Act, have been liable shall be liquidated and unliquidated claims for which the Board shall be liable.
- (2) This section extends so as to apply to and in respect of the Park lands, but not so as to transfer to the Board the estate or interest of the former trustees under section 3 (1) of the *Taronga Zoological Park Act 1956*.
- (3) No attornment to the Board by a lessee from the former trustees shall be required.
- (4) A reference (however expressed) in any other Act or in any by-law, regulation or statutory instrument or in any other document, whether of the same kind or of a different kind, to the former trustees shall be read and construed as a reference to the Board.
- (5) A by-law made by the former trustees under the *Public Parks Act 1912* shall, to the extent to which it was in force immediately before the appointed day, and to the extent to which it is not inconsistent with this Act, be deemed to be a regulation made under this Act.
- (6) The persons who, immediately before the appointed day, were employees of the former trustees shall, on that day, become and be employees of the Board, and:
- (a) where the salary or wages payable to any such person was or were, immediately before that day, regulated by an award or industrial agreement, that person shall be paid salary or wages at a rate not less than the rate which was payable to him or her immediately before that day as an employee of the former trustees, subject to any adjustment necessary to give effect to any fluctuation in the basic wage for adult males, or adult females, as the case may be, for the time being in force within the meaning of Part 5 of the *Industrial Arbitration Act 1940*, until that salary or those wages is or are varied by an award by which the Board is bound made by a competent tribunal or by an industrial agreement to which the Board is a party, and
 - (b) where any condition of employment of any such person was, immediately before

that day, regulated by an award or industrial agreement, that condition shall continue to be so regulated until it is varied by an award by which the Board is bound made by a competent tribunal, or that condition is regulated by an industrial agreement to which the Board is a party,

- (c) annual, sick and long service leave shall continue to accrue to any such person on the same basis as they accrued to him or her as an employee of the former trustees immediately before that day, until that basis is varied or altered in accordance with this Act or any other Act or law,
 - (d) for the purpose of calculating the entitlement to long service leave of any such person under this subsection:
 - (i) any service of the person which by the terms of any Act or of any staff agreement or of any award or industrial agreement was, immediately before that day, required to be taken into account for the purpose of determining his or her entitlement to that leave as an employee of the former trustees shall be deemed to be service with the Board, and
 - (ii) there shall be deducted from any long service leave to which the employee of the Board becomes entitled, as such an employee, any long service leave taken by him or her in respect of any period of service referred to in subparagraph (i), and
 - (e) any such person shall be entitled to receive as an employee of the Board any annual leave or sick leave accrued to him or her as an employee of the former trustees immediately before that day.
- (7) Nothing in subsection (6) affects the operation of subsection (1) (d) in relation to any contracts, agreements or arrangements entered into by the former trustees with respect to any staff superannuation scheme.
- (8) A person referred to in subsection (6) shall not be entitled to receive benefits under this Act as well as any other Act in respect of the same period of service.
- (9) Nothing in this section affects the operation of the *Industrial Arbitration Act 1940*.

45 Certain easement extinguished

The right in the nature of a negative easement vested in The Metropolitan Water Sewerage and Drainage Board, as appurtenant to the land comprised in Certificate of Title Volume 2879 Folio 46, by section 7 of the *Taronga Zoological Park Act 1956*, is extinguished.

46 Use of certain lands for agriculture under sec 7 of *Taronga Zoological Park Act 1956* continued

Despite any provision of the *Environmental Planning and Assessment Act 1979* or any

instrument made under the Act, the Board may use any of the lands described in the Second Schedule to the *Taronga Zoological Park Act 1956* for the purposes of agriculture.

47 Savings and transitional regulations

(1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

Zoological Parks Board Amendment Act 2000

(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.

(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:

- (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
- (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.

48 Provisions consequent on enactment of *Zoological Parks Board Amendment Act 2000*

(1) In this section, **amending Act** means the *Zoological Parks Board Amendment Act 2000*.

(2) On the day of repeal of section 6 by the amending Act:

- (a) a person holding office under section 6 (2) (a)–(c) or (5) immediately before that day ceases to hold that office, and
- (b) a person holding office under section 6 (2) (d), (e), (f) or (g) immediately before that day is taken to be appointed as a member under section 6 (1) (c), (d), (e) or (f) (as inserted by the amending Act), respectively, for the balance of the person's term of office, and
- (c) any other person holding office under section 6 (2) immediately before that day is taken to be appointed as a member under section 6 (1) (a) (as inserted by the amending Act) for the balance of the person's term of office.

(3) A person who ceases to hold office under subsection (2) (a):

- (a) is not entitled to any remuneration or compensation because of loss of that office, and
- (b) is eligible (if otherwise qualified) to be appointed as a member.

- (4) On the day of commencement of the amendment made to section 7 (1)–(3) by the amending Act, the persons holding office as Chairperson and Deputy Chairperson immediately before that day are taken to be appointed as Chairperson and Deputy Chairperson, respectively, under section 7 (as amended by the amending Act) for the balance of their respective terms of office as such.

Schedule 1 Preservation of rights of certain employees

(Section 12A)

1 Definition

In this Schedule:

designated employee means an employee of the Board in respect of whom a direction under section 12A has been given.

2 Preservation of rights of designated employee previously public servant etc

- (1) This clause applies where a designated employee was, immediately before being employed by the Board:
- (a) an officer of the Public Service or a Teaching Service,
 - (b) a contributor to a superannuation scheme,
 - (c) an officer employed by a proclaimed statutory body, or
 - (d) a person in respect of whom provision was made by any Act for the retention of any rights accrued or accruing to the person as an officer or employee.
- (2) Subject to the terms of appointment, a designated employee:
- (a) shall retain any rights accrued or accruing to him or her as such an officer, contributor or person,
 - (b) may continue to contribute to any superannuation scheme to which he or she was a contributor immediately before being employed by the Board, and
 - (c) is entitled to receive any deferred or extended leave and any payment, pension or gratuity,
- as if he or she had continued to be such an officer, contributor or person during his or her service as a designated employee.
- (3) Service as a designated employee shall be regarded as service as an officer or employee for the purposes of any law under which those rights accrued or were accruing, under which he or she continues to contribute or by which that entitlement is conferred.

- (4) A designated employee shall be regarded as an officer or employee, and the Board shall be regarded as the employer, for the purposes of the superannuation scheme to which he or she is entitled to contribute under this clause.
- (5) If a designated employee would, but for this subclause, be entitled under subclause (2) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under the scheme:
 - (a) he or she is not so entitled on becoming (whether upon employment by the Board or at any later time while holding office as a designated employee) a contributor to any other superannuation scheme, and
 - (b) the provisions of subclause (4) cease to apply to or in respect of him or her and the Board in any case where he or she becomes a contributor to any such other superannuation scheme.
- (6) Subclause (5) does not prevent the payment to a designated employee (on his or her ceasing to be a contributor to a superannuation scheme) of such amount as would have been payable to him or her if he or she had ceased, because of resignation, to be an officer or employee for the purposes of the scheme.
- (7) A designated employee is not, in respect of the same period of service, entitled to dual benefits of the same kind through the operation of this clause.
- (8) In this clause:

proclaimed statutory body means any body constituted by or under an Act that is declared by the Governor, by proclamation, to be a statutory body for the purposes of this clause.

superannuation scheme means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under an Act.

3 Designated employee entitled to re-appointment to former employment in certain cases

- (1) A designated employee, being a person who:
 - (a) ceases to be an employee of the Board because of the expiration of the period for which the person was appointed or because of resignation,
 - (b) was, immediately before being employed by the Board:
 - (i) an officer of the Public Service or a Teaching Service, or
 - (ii) an officer or employee of a proclaimed statutory body, and
 - (c) has not reached the age at which the person would have been entitled to retire had the person continued to be such an officer or employee,

is entitled to be appointed to some position in the Public Service, the Teaching Service or the service of that proclaimed statutory body, as the case may be, not lower in classification and salary than that which the person held immediately before being employed by the Board.

(2) In this clause:

proclaimed statutory body means any body constituted by or under an Act that is declared by the Governor, by proclamation, to be a statutory body for the purposes of this clause.

Schedule 2 (Repealed)

Schedule 3

(Sections 15, 16, 38)

ALL THAT piece or parcel of land containing by admeasurement 29.15 hectares be the same more or less, Municipality of Mosman, Parish of Willoughby, County of Cumberland, being portion 1220 as shown on plan catalogued C 10341-2030 roll in the Department of Lands, Sydney.

Schedule 4

(Sections 15, 16, 38)

ALL THAT piece or parcel of land containing by admeasurement 1 239 square metres be the same more or less, Municipality of Mosman, Parish of Willoughby, County of Cumberland, being portion 1209 as shown on plan catalogued C 9638-2030 in the Department of Lands, Sydney.