

# State Sports Centre Trust Act 1984 No 68

[1984-68]



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—

- **See also**  
[Statute Law \(Miscellaneous Provisions\) Bill 2006](#)

### Authorisation

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# State Sports Centre Trust Act 1984 No 68



New South Wales

An Act to constitute the State Sports Centre Trust and define the objects, functions and powers of the Trust; to vest certain land in the Trust; and to provide for related matters.

## Part 1 Preliminary

### 1 Name of Act

This Act may be cited as the *State Sports Centre Trust Act 1984*.

### 2 Commencement

- (1) Sections 1, 2 and 16 (1), (2) and (3) 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) For the purpose only of enabling the Trust to be constituted on or after, but not before, the commencement day, appointments may be made to the Trust, and any other act, matter or thing may be done, before that day as if the whole of this Act had commenced on the date of assent to this Act.

### 3 Definitions

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

**additional land** means land (other than the original land) acquired by the Trust, including land, if any, acquired under section 7 (6).

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

**Director** means the Director of the State Sports Centre holding office as such under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service.

**easement** includes an easement in gross.

**original land** means the land vested in the Trust under section 16.

**regulation** means a regulation made and in force under this Act.

**statutory authority** means a body or authority that is constituted, established or otherwise created by or under an Act and is subject to the control of a Minister.

**Trust** means the State Sports Centre Trust constituted by section 4.

**trust land** means the original land and the additional land (if any).

**trust property** means the trust land and all personal property held by or vested in the Trust.

**trustee** means a trustee referred to in section 5.

(2) In this Act, a reference to:

(a) a function includes a reference to a power, authority and duty, and

(b) the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

## **Part 2 The State Sports Centre Trust**

### **4 Constitution of the Trust**

(1) There is by this section constituted a corporation under the corporate name of the "State Sports Centre Trust".

(2) The Trust:

(a) shall hold the trust property in trust for the benefit of the people of New South Wales,

(b) shall have and may exercise the functions conferred or imposed on it by or under this or any other Act, and

(c) shall, for the purposes of any Act, be deemed to be a statutory body representing the Crown.

### **5 Appointment etc of the trustees**

(1) The Trust shall consist of 9 trustees, who shall be appointed by the Governor on the recommendation of the Minister.

(2) Schedule 1 has effect with respect to the trustees.

(3) Schedule 2 has effect with respect to meetings and the procedure of the trustees.

- (4) The Trust shall be subject to the control of the Minister and, except in relation to the contents of a report or a recommendation made by it to the Minister, shall comply with any direction given by the Minister under subsection (5).
- (5) The Minister may, after consultation with the Trust, give to the Trust in writing, such directions with respect to the exercise of its functions as appear to the Minister to be in the public interest.
- (6) The Trust may, and when requested by the Minister shall, make reports and recommendations to the Minister with respect to any matter relating to the objects of the Trust and, in particular, with respect to the future management and development of the trust land.

## **6 Objects and principal function of the Trust**

- (1) The objects of the Trust are:
  - (a) to establish and maintain on the trust land a comprehensive sports and recreational complex, to be known as the State Sports Centre, comprising:
    - (i) facilities for holding competitive sporting events, including competitive sporting events of international, national and State standards,
    - (ii) a training centre for training sportspersons who are seeking to improve their sporting standards, performances and skills,
    - (iii) a sports education centre for the purpose of developing the respective skills or potential skills of sports administrators, coaches and sportspersons and to provide tuition and instruction for that purpose, and
    - (iv) such other ancillary facilities as may be required for the effective operation of the facilities and structures referred to in the foregoing subparagraphs,
  - (b) to encourage, promote and facilitate the use and enjoyment of the trust property by members of the public, and
  - (c) such other objects, consistent with the use and enjoyment by the public of the trust property, as the Trust considers appropriate,and it is the principal function of the Trust to attain or carry out those objects.
- (2) It is a further object of the Trust to develop or manage (or both) sporting facilities, other than those on trust land.

## **7 Powers of the Trust**

- (1) The Trust may do all things necessary or convenient to be done for or in connection with, or as incidental to, the attainment or carrying out of its objects.

(1A) The Trust cannot employ any staff.

**Note—**

Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Trust to exercise its functions.

(2) Without limiting the generality of subsection (1) and any other provision of this Act by which a power is conferred on the Trust, the Trust has power:

- (a) to use or authorise the use of the whole or any part of the trust property for activities of a sporting, recreational, educational or cultural nature or for the purposes of public entertainment or any public purpose approved by the Minister,
- (b) to provide or permit other persons to provide refreshments for consumption by persons using or visiting the trust land and to apply for, hold and dispose of any licence, permit or other authority required in connection with the provision of those refreshments,
- (c) to acquire, hold and, subject to section 18, dispose of all kinds of personal property required for or in connection with the use or operation of the trust land,
- (d) to carry out or arrange to be carried out work in connection with the maintenance, development and improvement of the trust land and, in particular, for the purpose of making the trust land suitable for the activities referred to in paragraph (a),
- (e) to promote and provide exhibits, lectures, films, publications and other types of instruction relating to sporting and recreational activities,
- (f) subject to the regulations, to charge and receive fees or other sums for, or in connection with, the use of or admission to any facility established or provided on the trust land or any service provided, article sold, permission given or licence granted by or on behalf of the Trust,
- (g) with the approval of the Minister and the Minister administering or responsible for the government department or statutory authority concerned, to make use of any plant, machinery or equipment that is used in that department or by that authority, and
- (h) to enter into any contract or arrangement with any person for the purpose of attaining or carrying out the objects of the Trust.

(3) In subsection (2) (d), the reference to work includes:

- (a) the redesign and reconstruction of an area of the trust land to enable any particular sporting or recreational activity to be performed there,
- (b) the construction, reconstruction or demolition of any building or structure on the trust land, and

- (c) the provision of accommodation, either seating or standing or both, for persons using or visiting the trust land.
- (4) The Trust may agree to any condition, not inconsistent with the objects of the Trust, being imposed on the acquisition of any property by the Trust.
- (5) The Trust may borrow money for the purpose of enabling it to exercise its functions, but only in accordance with the *Public Authorities (Financial Arrangements) Act 1987*.
- (6) The Trust may acquire by gift, bequest or devise any property for any of the purposes of this Act and the Trust may agree to and carry out the conditions of the gift, bequest or devise.
- (7) Where the Trust acquires property in accordance with subsection (6), the Trust may retain the property in the form in which it is acquired, subject to any condition agreed to by the Trust in relation to the property.
- (8) The rule of law against remoteness of vesting does not apply to a condition to which the Trust has agreed under subsection (6).
- (9) The *Stamp Duties Act 1920* does not apply to or in respect of a gift, bequest or devise made to the Trust.

#### **7A Power to develop and manage other sporting facilities**

- (1) The Trust may, with the approval of the Minister, develop or manage (or both) a sporting facility on any land, not being trust land.
- (2) The Trust may do all such things as are necessary or convenient to enable it to exercise its functions under this section.
- (3) Sections 7, 10, 12 and 20 apply to land to which this section applies in the same way as they apply to trust land or trust property.
- (4) Any work carried out under the power conferred by section 7 in relation to a sporting facility to which this section applies must be approved by the Minister.

#### **8 Power to establish committees**

- (1) The Trust has power to establish such committees as it thinks necessary for the purpose of enabling the objects of the Trust to be attained or carried out.
- (2) A person may be appointed to be a member of a committee established under subsection (1) whether or not the person is a trustee.
- (3) The procedure for calling meetings of a committee established under subsection (1) shall, subject to the regulations, be as determined by the Trust or, to the extent that any matter is not provided for by the regulations or by a determination of the Trust,



shall be as determined by the committee.

**9 (Repealed)**

**10 Director of the State Sports Centre**

- (1) (Repealed)
- (2) The Director:
  - (a) is responsible, as the chief executive officer of the Trust, for the day to day management of the affairs of the Trust and the administration of the trust property subject to and in accordance with any direction of the Trust, and
  - (b) shall have and may exercise such functions as are conferred or imposed on the holder of that position by or under this or any other Act.
- (3) Schedule 3 has effect with respect to the Director.

**11 Delegation**

- (1) The Trust may, by instrument in writing, delegate to:
  - (a) one or more of the trustees,
  - (b) a committee established under section 8,
  - (c) the Director,
  - (d) an employee of the Trust other than the Director, or
  - (e) any person of whose services the Trust makes use pursuant to this or any other Act,the exercise of such of the functions of the Trust (other than this power of delegation) as are specified in the instrument.
- (2) A function, the exercise of which has been delegated under subsection (1) 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 Director may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation by:
  - (a) any other employee of the Trust, or
  - (b) any person of whose services the Trust makes use pursuant to this or any other Act,

as authorised by instrument in writing by the Director 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 that is the subject of the delegation or authorisation, or as to time or circumstances, as may be specified in the instrument of delegation or authorisation.
- (5) Notwithstanding the delegation of any function under this section, the Trust may continue to exercise the function.
- (6) Any act or thing done or suffered by a delegate acting pursuant to a delegation under this section, or by a person duly authorised in that behalf by the Director under this section, has the same force and effect as it would have if it had been done or suffered by the Trust and shall be deemed to have been done or suffered by the Trust.
- (7) The Trust may, by instrument in writing, revoke wholly or in part any delegation under this section and the Director may, by similar instrument, revoke wholly or in part any authorisation under this section.
- (8) An instrument purporting to be signed by a person in that person's capacity as a delegate of the Trust, 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 the Trust and shall, until the contrary is proved, be deemed to be an instrument signed by a delegate of the Trust 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).

## **12 Funds of the Trust**

- (1) The Trust shall establish at a bank, building society or credit union in New South Wales an account to be known as the "State Sports Centre Trust Account" (in this section referred to as **the Trust Account**).
- (2) The funds of the Trust shall be paid to the credit of the Trust Account and shall consist of:
  - (a) any money appropriated by Parliament for the purposes of the Trust,
  - (b) all money derived by the Trust from fees and other charges imposed for the hire of the trust property or of any part of it or for admission to any sporting or other event held on the trust land,
  - (c) all money derived by the Trust from the sale, leasing, letting on hire or other

disposal by the Trust of any property which the Trust has power to sell, lease, let on hire or otherwise dispose of,

- (d) all money received by the Trust as profit arising out of any investment made by it in the exercise of its powers,
  - (e) all money borrowed by the Trust, and
  - (f) all other money received from any source by the Trust.
- (3) A payment of money to the credit of the Trust Account shall not be made if the payment would be a breach of a condition affecting the money.
- (4) The funds of the Trust shall be applied only:
- (a) in payment or discharge of the expenses, charges and obligations incurred or undertaken by the Trust in the exercise of its functions, and
  - (b) in the payment of any remuneration payable under this Act.

### **13 Financial year of the Trust**

The financial year of the Trust shall be the year commencing on 1 July.

### **14 Budget**

- (1) As soon as practicable after the commencement day, the Trust shall present to the Minister a budget showing estimates of its revenue and expenditure over the balance of the financial year within which that budget is presented and thereafter the Trust shall, before the commencement of each succeeding financial year, present to the Minister a budget showing estimates of the Trust's revenue and expenditure for that financial year.
- (2) The Minister may approve a budget presented to the Minister pursuant to subsection (1) or direct or allow the Trust to amend a budget before the Minister approves that budget.
- (3) The Trust shall not, without the consent of the Minister, make any expenditure that is not provided for in a budget that has been approved by the Minister under this section.

### **15 Investment**

Subject to any condition agreed to under section 7, the Trust may invest any money that it is holding and that is not immediately required to enable it to exercise its functions:

- (a) on call or on fixed deposit, or partly on call or on fixed deposit, with the Treasurer or with any bank, building society or credit union, or

- (b) in:
  - (i) Government securities of the Commonwealth or of the State,
  - (ii) securities guaranteed by the Government of the State, or
  - (iii) such other securities as the Minister approves or as are prescribed by the regulations.

#### **16 Provisions with respect to the original land of the Trust**

- (1) Subject to subsection (2), at any time after the passing of this Act, the Governor may, by proclamation published in the Gazette, declare:
  - (a) land described in the proclamation to be original land for the purposes of this Act,
  - (b) easements or rights of user so described to be easements or rights of user that are appurtenant to that land, and
  - (c) other easements or rights of user so described to be easements or rights of user that burden that land.
- (2) A proclamation under subsection (1) shall not be made in respect of land other than:
  - (a) Crown land,
  - (b) land vested in a constructing authority under the *Public Works Act 1912* for or on behalf of the Crown, or
  - (c) land vested in a statutory body representing the Crown.
- (3) Land declared by proclamation under subsection (1) to be original land shall:
  - (a) if the proclamation is published in the Gazette on or before the commencement day—on that day, or
  - (b) if the proclamation is so published after that day—on the day of publication of the proclamation,

vest in the Trust for an estate in fee simple with the benefit of any easements or rights of user declared in the proclamation to be appurtenant to that land and subject to any easements or rights of user declared in the proclamation to burden that land, but freed and discharged from all other trusts, obligations, estates, interests, charges and rates existing or unpaid before the land is so vested.
- (4) Notwithstanding anything in any other Act to the contrary:
  - (a) the original land shall not be capable of being compulsorily or otherwise acquired, and

- (b) the easements or rights of user (if any) declared under subsection (1) to be appurtenant to that land shall not be capable of being acquired or extinguished, except by Act of Parliament.
- (5) Except as provided by subsection (6), the Trust shall not:
- (a) transfer, convey, mortgage, encumber, charge, demise, grant incorporeal rights over or otherwise alienate any of the original land, or
  - (b) transfer, assign, surrender or otherwise extinguish the easements or rights of user (if any) declared under subsection (1) to be appurtenant to that land.
- (6) The Trust may, for the purpose of providing services to be enjoyed in connection with the original land and consistently with the good management of that land, from time to time and on such terms and conditions as are approved by the Minister, grant:
- (a) subject to subsection (7), leases of parts of the trust land,
  - (b) easements through, on or in the trust land for any purpose that it considers necessary and that would directly or indirectly assist in the attainment or carrying out of the objects of the Trust, and
  - (c) licences for the use of parts of the trust land.
- (6A) The Trust may, with the consent of the Minister, from time to time and on such terms and conditions as are approved by the Minister, grant:
- (a) easements through, on or in the original land:
    - (i) for the construction, laying, maintenance, replacement, repair or use of pipelines or cables or any apparatus to be used in connection with pipelines or cables, or
    - (ii) to a public or local authority constituted by or under any Act, a statutory body representing the Crown or any person exercising the functions of any such authority or body or other functions on behalf of the Crown, and
  - (b) licences for the use of parts of the original land in connection with any such easement or proposed easement.
- (7) A lease referred to in subsection (6) (a) shall not be granted for a term which, including any period by which that term may be extended pursuant to a right contained in the lease and the term of any further lease which may be granted pursuant to an option or right of renewal so contained, exceeds 25 years.
- (8) Without limiting the generality of subsection (6) (c) or (6A) (b), the Trust may, from time to time, grant licences authorising entry on the trust land for the purpose of enabling any cables or pipelines to be maintained, re-laid or repaired, or any

apparatus used in connection with those cables or pipelines to be repaired or replaced.

- (9) Despite subsection (7), the Trust may grant a lease referred to in subsection (6) of part of the trust land for the purposes of the erection and operation of a tennis centre and related facilities for a term that does not exceed 41 years (including any period by which that term may be extended pursuant to a right contained in the lease and the term of any further lease that may be granted pursuant to an option or right of renewal contained in the lease).

### **17 Provisions with respect to additional land of the Trust**

- (1) The Trust may, but only with the approval of the Minister, acquire any land (whether or not adjoining the original land) required by it in order to facilitate the attainment or carrying out of its objects.
- (2) The Trust may, but only with the approval of the Minister, transfer, convey, mortgage, encumber, demise, grant incorporeal rights over or otherwise alienate any of the additional land.
- (3) Subsection (2) does not apply to additional land that is property to which section 18 relates.
- (4) The Trust may expend its money in connection with the use, improvement or development of any of the additional land.

### **18 Dealing with certain property that is held by the Trust subject to a condition**

- (1) Where property is held by the Trust subject to a condition which the Trust has agreed to under section 7, the Trust shall not dispose of or otherwise deal with any of the property except in accordance with the condition or in accordance with subsection (2).
- (2) Subject to subsection (3), where the Trust resolves that any property held by the Trust subject to a condition of the kind referred to in subsection (1) is no longer required for the purposes of the Trust or can no longer be used for those purposes, the Trust may, notwithstanding that condition:
- (a) sell the property and retain the proceeds of sale as property of the Trust,
  - (b) exchange the property for other property that is capable of being used for the purposes of the Trust,
  - (c) give the property to an institution which engages in activities of a sporting recreational, educational or cultural nature, or
  - (d) if the Trust is of the opinion that the property is of no commercial value—dispose of or otherwise deal with the property without valuable consideration.

- (3) The Trust shall not sell, exchange, give, dispose of or otherwise deal with property under subsection (2) except with the consent of the Minister and in accordance with any condition that the Minister may impose on the grant of that consent.
- (4) The Minister may consent to the sale, exchange, gift or disposal of, or to any other dealing with, property for the purposes of this section and may impose any condition that the Minister thinks fit on the grant of that consent.

## **19 (Repealed)**

## **Part 3 Miscellaneous**

### **20 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 and, in particular, for or with respect to:
  - (a) the care, control and management of the trust property,
  - (b) the use of the trust land or any specified part of it, and the regulation of its use and enjoyment or any specified part of it,
  - (c) the admission of persons, clubs and associations to the trust land or any specified part of it, including the determination of admission charges and the collection and disposal of those charges,
  - (d) the regulation or prohibition of admission of persons to the trust land or any specified part of it without the authority of the Trust,
  - (e) the protection of fence, gate, building, structure, plant, machinery or equipment or other property vested in, or under the control of, the Trust and wholly or partly on the trust land,
  - (f) the preservation or protection of, or prevention of damage to, trees, shrubs, plants, lawn, turf or other vegetable cover on any part of the trust land,
  - (g) the maintenance of order on the trust land,
  - (h) the removal of persons found committing offences against the regulations or causing annoyance or inconvenience to members of the public who are lawfully and peaceably on the trust land,
  - (i) the regulation or prevention of taking liquor or other intoxicants on to, and the consumption of any such liquor or intoxicants on, the trust land or any specified part of it,

- (j) the regulation and control of taking animals on to or into the trust land or any specified part of it, or permitting animals or animals of specified kinds to be on or in the trust land or any specified part of it,
  - (k) the regulation, control or prohibition of parking of vehicles on the trust land or any specified part of it, the making of charges for any such parking and the collection and disposal of any such charges,
  - (l) the reservation of any portion of the trust land for such separate or exclusive uses as the regulations may prescribe or authorise,
  - (m) the closing, for a specified period, of the trust land or a specified part of it for any specified purpose, and the conditions to be observed with respect to any such closure,
  - (n) the regulation, control or prohibition of private trading within the trust land or any specified part of it, and
  - (o) the appointment and removal from office of honorary stewards in relation to the maintenance of order on the trust land.
- (2) The regulations may provide for any contravention of, or failure to comply with, any provision of the regulations to be an offence and may provide for the imposition of a penalty not exceeding 5 penalty units for any such offence.
- (3) A provision of the regulations 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 the Minister, a specified trustee or employee of the Trust or a specified committee of the Trust,
- or may do any combination of those things.
- (4) Where the regulations apply to or in respect of any parcel of the trust land, the Trust shall cause copies of the regulations to be posted in not fewer than 2 conspicuous places situated within that parcel.

## **20A Liability of vehicle owner for parking offences**

- (1) If a parking offence occurs in relation to any vehicle, the person who at the time of the occurrence of the offence is the owner of the vehicle shall, by virtue of this section, be guilty of an offence against the regulation concerned as if the person were the actual offender guilty of the parking offence.



- (2) Nothing in this section affects the liability of the actual offender, but if a penalty has been imposed on or recovered from any person in relation to a parking offence no further penalty shall be imposed on or recovered from any other person in relation to that offence.
- (3) The owner of a vehicle is not guilty of an offence by virtue of this section if the owner satisfies:
  - (a) in any case where the offence is dealt with under section 20B—the authorised officer described in the penalty notice served under that section, or
  - (b) in any other case—the court,that the vehicle was at the relevant time a stolen vehicle or a vehicle illegally taken or used.
- (4) The owner of a vehicle is not, by virtue of this section, guilty of an offence if:
  - (a) in any case where the offence is dealt with under section 20B, the owner:
    - (i) within 21 days after service on the owner of a penalty notice under that section alleging that the owner is guilty of the offence, supplies by statutory declaration to an authorised officer described in the notice the name and address of the person who was in charge of the vehicle at all relevant times relating to the offence, or
    - (ii) satisfies such an authorised officer that the owner did not know and could not with reasonable diligence have ascertained that name and address, or
  - (b) in any other case, the owner:
    - (i) within 21 days after service on the owner of a summons in respect of the offence, supplies by statutory declaration to the informant the name and address of the person who was in charge of the vehicle at all relevant times relating to the offence, or
    - (ii) satisfies the court that the owner did not know and could not with reasonable diligence have ascertained that name and address.
- (5) Any such statutory declaration if produced in any proceedings against the person named in it and in relation to the offence in respect of which the statutory declaration was supplied is evidence that that person was in charge of the vehicle at all relevant times relating to that offence.
- (6) Any such statutory declaration which relates to more than one offence shall be deemed not to be a statutory declaration under, or for the purposes of, subsection (4).
- (7) In this section:

**owner**, in relation to a vehicle, includes:

- (a) every person who is the owner or joint owner or part owner of the vehicle and any person who has the use of the vehicle under a hire-purchase agreement (but not the lessor under any such agreement), and
- (b) in the case of a motor vehicle—the responsible person for the vehicle within the meaning of the *Road Transport (General) Act 2005*.

**parking offence** means any offence against a regulation made for or with respect to the parking of vehicles on trust land.

## **20B Penalty notices for certain offences**

- (1) An authorised officer may serve a penalty notice on a person if it appears to the officer that the person has committed, or by virtue of section 20A is guilty of, a parking offence as defined in that section, but only if the offence is prescribed for the purposes of this section.
- (2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person may pay to the Trust, within the time specified in the notice, the amount of penalty prescribed by the regulations for the offence if dealt with under this section.
- (3) A penalty notice:
  - (a) may be served personally or by post, or
  - (b) if it relates to an offence of which the owner of a vehicle is guilty by virtue of section 20A, may be addressed to the owner without naming the owner or stating the address of the owner and may be served by leaving it on or attaching it to the vehicle.
- (4) If the amount of any penalty prescribed for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.
- (5) Payment under this section shall not be regarded as an admission of liability for the purpose of, nor in any way affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence.
- (6) The regulations may:
  - (a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence, and
  - (b) prescribe the amount of penalty payable for the offence if dealt with under this section, and
  - (c) prescribe different amounts of penalties for different offences or classes of

offences.

- (7) The amount of a penalty prescribed under this section for an offence shall not exceed 0.5 penalty unit or the maximum amount of penalty which could be imposed for the offence by a court, whichever is the lower amount.
- (8) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings which may be taken in respect of offences.
- (9) In this section, **authorised officer** means an officer of the Trust authorised by the Trust for the purposes of this section or a member of the Police Force.

## **21 Proceedings for offences**

Proceedings for an offence against the regulations may be disposed of summarily before a Local Court constituted by a Magistrate sitting alone.

## **22 Vesting of certain trust land in Roads and Traffic Authority**

- (1) So much of the original land as is comprised in Lots 8 and 12 in Deposited Plan 778665 is vested in the Roads and Traffic Authority.
- (2) The land that is vested in the Roads and Traffic Authority by this section is taken to have been acquired by the Authority by compulsory process under the [Land Acquisition \(Just Terms Compensation\) Act 1991](#) as if this section were an acquisition notice under that Act published on the date of commencement of this section. The provisions of that Act (Division 1 of Part 2 excepted) apply accordingly.
- (3) Despite subsection (2), Part 3 of the [Land Acquisition \(Just Terms Compensation\) Act 1991](#) (Compensation for acquisition of land) does not apply to the compulsory acquisition of the land from the Trust but the amount of compensation to be paid to the Trust for that acquisition is to be determined by the Valuer-General.
- (4) The land that is vested in the Roads and Traffic Authority by this section ceases, on being so vested, to be original land.

## **Schedule 1 Provisions relating to the trustees**

(Section 5 (2))

### **1 Certain persons ineligible for appointment**

A person:

- (a) (Repealed)
- (b) who is 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, or

- (c) who is a bankrupt, who is applying to take the benefit of any law for the relief of bankrupt or insolvent debtors, whose debts are subject to a composition with his or her creditors or whose remuneration would, upon his or her appointment, be subject to an assignment for their benefit,

is not eligible to be appointed as a trustee.

## **2 Appointment of deputy**

- (1) In the case of the illness or absence of any trustee, the Minister may appoint a person as a deputy to act in the place of the trustee during that illness or absence.
- (2) A deputy appointed under this clause shall, while acting as a deputy, have all the functions of a trustee.
- (3) A deputy appointed under this clause shall, if the Minister thinks fit, be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the deputy.
- (4) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising a person to act in the place of a trustee or as to the necessity or propriety of any appointment of a deputy, and all acts and things done or omitted by a deputy when so acting shall be as valid and shall have the same consequences as if they had been done or omitted by the trustee for whom the deputy is acting.
- (5) For the purposes of this clause, a vacancy in the office of a trustee shall be deemed to be an absence from office of the trustee.

## **3 Term of office**

- (1) The term of office of a trustee shall be, and, unless the trustee vacates that office during the term, a trustee shall hold office for, such period not exceeding 4 years as may be specified in the instrument appointing the trustee.
- (2) A trustee whose term of office expires may, subject to clause 1, be re-appointed as a trustee.

## **4 Certain provisions not to apply in respect of trustees**

- (1) The [Public Service Act 1979](#) does not apply to or in respect of the appointment of a trustee and a trustee is not, as a trustee, 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 trustee or from accepting and retaining any remuneration payable to the person under this Act as a trustee.

- (3) The office of trustee shall for the purposes of any Act be deemed not to be an office or place of profit under the Crown.

## **5 Allowances for trustees**

A trustee and a member of a committee established under section 8 who is not a trustee shall, if the Minister thinks fit, be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of each of them.

## **6 Removal from office**

The Governor may remove a trustee from office for incapacity, incompetence or misbehaviour.

## **7 Vacation of office**

A trustee shall be deemed to have vacated office:

- (a) when the trustee dies,
- (b) if the trustee resigns the office by instrument in writing addressed to the Governor,
- (c) if the trustee becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with the trustee's creditors or makes an assignment of the trustee's remuneration or estate for their benefit,
- (d) if the trustee 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,
- (e) if the trustee is absent from 3 consecutive ordinary meetings of the trustees of which notice has been given to the trustee personally or in the ordinary course of post and is not before the expiration of 6 weeks after the latest of those meetings excused by the Trust for the trustee's absence from the meetings, or
- (f) if the trustee is removed from office by the Governor.
- (g) (Repealed)

## **8 Chairperson**

- (1) For the purposes of this clause, a trustee shall not be considered to have ceased to be a trustee by reason only of the term of office of the trustee as a trustee having expired if the trustee is re-appointed by the Governor as a trustee for a term commencing immediately after the date on which the term of office of the trustee expires.
- (2) The chairperson of the Trust shall be such trustee as the Minister nominates as its chairperson.

- (3) A chairperson of the Trust holds office until the nomination of a successor under this clause or until the chairperson ceases to be a trustee, whichever first occurs.

**9 Disclosure of pecuniary interests**

- (1) A trustee 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 the trustees, or
- (b) in a thing being done or about to be done by the Trust,

shall, as soon as possible after the relevant facts have come to the trustee's knowledge, disclose the nature of the interest at a meeting of the trustees.

- (2) A disclosure by a trustee at a meeting of the trustees that the trustee:

- (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) The chairperson of the Trust 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 the Trust from time to time.

- (4) After a trustee has, or is deemed to have, disclosed the nature of an interest in any matter or thing pursuant to subclause (1) or (2), the trustee shall not, unless the Minister otherwise determines:

- (a) be present during any deliberation of the trustees, or take part in any decision of the trustees with respect to that matter, or
- (b) exercise any functions under this Act with respect to that thing,

as the case may require.

- (5) Notwithstanding that a trustee contravenes the provisions of this clause, that contravention does not invalidate any decision of the Trust or the exercise of any function under this Act.

- (6) A reference in this clause to a meeting of the trustees includes a reference to a

meeting of a committee of the Trust.

- (7) A failure to comply with or a contravention of this clause shall be deemed to constitute misbehaviour for the purposes of clause 6.

## **10 Common seal**

The common seal of the Trust shall be kept by the Director.

## **11 Personal liability of trustees etc**

A matter or thing done by the Trust, a trustee, the Director or any person acting under the direction of the Trust does not, if the matter or thing was done in good faith for the purposes of this or any other Act, subject the trustee, the Director or a person so acting personally to any action, liability, claim or demand.

# **Schedule 2 Meetings and procedure of the Trust**

(Section 5 (3))

## **1 Procedure, quorum etc**

- (1) The procedure for the calling of meetings of the trustees and the conduct of business at those meetings shall, subject to this Schedule and any regulation, be as determined by the trustees.
- (2) The Minister shall call the first meeting of the trustees by giving notice to the trustees in such way as the Minister thinks fit.
- (3) Five trustees shall form a quorum and any duly convened meeting of the trustees at which a quorum is present shall be competent to transact any business of the Trust and shall have and may exercise all the functions of the Trust.
- (4) The person presiding at a meeting of the trustees shall, in the event of an equality of votes, have, in addition to a deliberative vote, a second or casting vote.
- (5) A decision supported by a majority of the votes cast at a meeting of the trustees at which a quorum is present shall be the decision of the Trust.

## **2 Minutes of meetings**

The Director shall cause minutes of each meeting of the trustees to be recorded and preserved.

## **3 Chairperson to preside at meeting of trustees**

At a meeting of the trustees:

- (a) the chairperson of the Trust, or

- (b) in the absence of the chairperson or if it is a meeting held when no person holds the office of chairperson of the Trust—a chairperson elected by trustees present at the meeting from among their number,

shall preside.

### **Schedule 3 Provisions applicable to the Director**

(Section 10 (3))

#### **1 Director to devote whole of his time to duties**

- (1) The Director shall devote the whole of his or her time to the duties of the office of Director except with the consent of the Trust.

(2) (Repealed)

#### **2 Right of Director to attend meeting of trustees etc**

The Director:

- (a) is entitled to be heard by the trustees on any matter considered by them and is entitled to be present at each meeting of the trustees, and
- (b) is an ex officio member of each committee of the Trust.

#### **3 Clause 9 of Schedule 1 to apply to Director**

- (1) Clause 9 (subclause (7) excepted) of Schedule 1 shall, so far as relevant and with any necessary modifications, apply to and in respect of the Director in the same way as it applies to and in respect of a trustee.

(2) (Repealed)

#### **4 Preservation of rights of Director previously public servant etc**

- (1) In this clause:

**statutory body** means any body declared under clause 6 to be a statutory body for the purposes of this Schedule.

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

- (2) Subject to subclause (3) and to the terms of appointment, where the Director was, immediately before being appointed as Director:
- (a) an officer of the Public Service or the Teaching Service,
- (b) a contributor to a superannuation scheme,



(c) an officer employed by a 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,

he or she:

(e) shall retain any rights accrued or accruing to him or her as such an officer, contributor or person,

(f) may continue to contribute to any superannuation scheme to which he or she was a contributor immediately before being appointed as Director, and

(g) shall be 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 Director and:

(h) his or her service as Director shall be deemed to be service as an officer or employee for the purpose 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, and

(i) he or she shall be deemed to be an officer or employee, and the Trust shall be deemed to be the employer, for the purpose of the superannuation scheme to which he or she is entitled to contribute under this clause.

(3) If the Director 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, he or she shall not be so entitled upon becoming (whether upon appointment as Director or at any later time while holding office as Director) a contributor to any other superannuation scheme, and the provisions of subclause (2) (i) cease to apply to or in respect of him or her and the Trust in any case where he or she becomes a contributor to any such other superannuation scheme.

(4) Subclause (3) does not prevent the payment to the Director upon 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, by reason of resignation, to be an officer or employee for the purpose of the scheme.

(5) The Director shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

## **5 Director entitled to re-appointment to former employment in certain cases**

(1) In this clause, **statutory body** means any body declared under clause 6 to be a statutory body for the purposes of this Schedule.

(2) A person who:

- (a) ceases to be Director by reason of the expiration of the period for which the person was appointed or by reason of resignation, and
- (b) was, immediately before being appointed as Director:
  - (i) an officer of the Public Service or the Teaching Service, or
  - (ii) an officer or employee of a statutory body,
- (c) (Repealed)

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

(3) Where subclause (2) does not apply to a person who:

- (a) was, immediately before being appointed to a full-time office constituted by an Act, an officer or employee referred to in subclause (2) (b), and
- (b) is after that appointment appointed as Director,

the person shall have such rights (if any) to appointment as such an officer or employee, in the event of ceasing to be Director, as are specified in the instrument by which the person is designated as Director or as are agreed upon by the person and by or on behalf of the Government.

## **6 Declaration of statutory bodies**

The Governor may, by proclamation published in the Gazette, declare any body constituted by or under any Act to be a statutory body for the purposes of this Schedule.