

# Sydney Cricket and Sports Ground Act 1978 No 72

[1978-72]



New South Wales

## Status Information

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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 2007](#)

### Authorisation

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# Sydney Cricket and Sports Ground Act 1978 No 72



New South Wales

An Act to constitute the Sydney Cricket and Sports Ground Trust; to provide for the dedication of certain lands for public recreation; to appoint the Trust as trustee of those lands and to charge the Trust with the care, control and management thereof; to confer and impose on the Trust certain responsibilities, powers, authorities, duties and functions in relation to those and other lands; and to repeal the *Sydney Sports Ground and Sydney Cricket Ground Amalgamation Act 1951* and certain other enactments.

## Part 1 Preliminary

### 1 Name of Act

This Act may be cited as the *Sydney Cricket and Sports Ground Act 1978*.

### 2 Commencement

- (1) This section and sections 1 and 32 (2) shall commence on the date of assent to this Act.
- (2) Except as provided in 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### 3 (Repealed)

### 4 Definitions

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

**additional lands** means lands (other than scheduled lands) acquired by the Trust.

**by-law** means a by-law made under this Act.

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

**designated land** means the land described in Schedule 2A.

**functions** includes responsibilities, powers, authorities and duties.

**member** means a member of the Trust.

**scheduled lands** means:

- (a) the land described in Part 1 of Schedule 2,
- (b) on and from the day appointed and notified under section 9—the land described in Part 2 of Schedule 2, and
- (c) on and from the day appointed and notified under section 9A—the land described in Part 3 of Schedule 2.

**Secretary** means the Secretary of the Trust holding office as such under Chapter 1A of the *Public Sector Employment and Management Act 2002*.

**Trust** means the Sydney Cricket and Sports Ground Trust constituted by this Act.

**trust lands** means the scheduled lands and the additional lands of the Trust.

- (2) In this Act, a reference to the carrying out of any improvements includes:
  - (a) a reference to the carrying out of development within the meaning of the *Environmental Planning and Assessment Act 1979*,
  - (b) a reference to the erection of a building within the meaning of the *Local Government Act 1993*, and
  - (c) a reference to the dedication of land as a public road within the meaning of the *Roads Act 1993*.

## Part 2 Constitution of the Trust

### 5 Constitution of Trust

- (1) There is hereby constituted a corporation under the corporate name of the “Sydney Cricket and Sports Ground Trust”.
- (2) The Trust:
  - (a) shall have and may exercise and perform the functions conferred or imposed on it by or under this or any other Act or law, and
  - (b) shall, in the exercise or performance of its functions under this Act, be subject to the control and direction of the Minister.
- (3) 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.

## **6 Members of Trust**

- (1) The Trust shall consist of:
  - (a) 13 members appointed by the Governor, and
  - (b) 2 additional members so appointed, being persons elected in accordance with subsection (2).
- (2) The 2 persons to be appointed under subsection (1) (b) shall be persons elected by the members of the Sydney Cricket Ground (other than junior and honorary members) from among their number in accordance with the by-laws.
- (3) If 2 persons are not elected as provided by subsection (2) and the period within which they are required to be elected has expired, the Governor may appoint 2 persons selected by the Minister to be members of the Trust, and the persons so selected shall, on being appointed, be deemed to be persons elected as provided by subsection (2).
- (4) (Repealed)

## **7 Provisions relating to constitution and procedure of Trust**

Schedule 1 has effect.

## **Part 3 The Sydney Cricket Ground and the Sydney Sports Ground**

### **8 Continuation of dedication of land in Part 1 of Schedule 2**

The land described in Part 1 of Schedule 2 is taken to be Crown land dedicated under the *Crown Lands Act 1989* for public recreation.

### **9 Vesting and dedication of land in Part 2 of Schedule 2**

On and from a day to be appointed by the Governor for the purposes of this section and notified by proclamation published in the Gazette:

- (a) the land described in Part 2 of Schedule 2 is vested in Her Majesty freed and discharged from any trusts, estates, interests, dedications, conditions, restrictions, covenants and provisions affecting that land or any part thereof, and
- (b) that land is taken to be Crown land dedicated under the *Crown Lands Act 1989* for public recreation.

### **9A Vesting and dedication of land in Part 3 of Schedule 2**

On and from a day to be appointed by the Governor for the purposes of this section and notified by proclamation published in the Gazette:

- (a) the land described in Part 3 of Schedule 2 is vested in Her Majesty freed and discharged from any trusts, estates, interests, dedications, conditions, restrictions, covenants and provisions affecting that land or any part thereof, and
- (b) that land is taken to be Crown land dedicated under the *Crown Lands Act 1989* for public recreation.

#### **9B Application of *Crown Lands Act 1989***

The *Crown Lands Act 1989* applies to and in respect of scheduled lands, except for the following provisions:

- (a) sections 100, 101, 111, 111A, 121A and 122-128,
- (b) Divisions 4, 6 and 7 of Part 5.

#### **10 Revocation of dedication**

- (1) Despite the provisions of this or any other Act, a dedication referred to in section 8, 9 or 9A cannot be revoked except by an Act of Parliament.
- (2) However, subsection (1) does not affect the operation of section 104 of the *Crown Lands Act 1989*.

#### **11 Appointment of Trust as trustee**

The Trust is taken to be a reserve trust under the *Crown Lands Act 1989* of the scheduled lands and is the sole trustee of the scheduled lands.

#### **12 Estate of Trust in, and dealings with, scheduled lands**

- (1) For the purposes only of this Act and any by-law under this Act, and the provisions of Division 5 of Part 5 of the *Crown Lands Act 1989* applying by virtue of section 9B of this Act, the Trust is taken to have an estate in fee simple in the scheduled lands.
- (2) Subsection (1) operates only to the extent that the Trust would not have an estate in fee simple in the scheduled lands apart from that subsection.
- (3) The Trust is not capable of alienating, charging, granting leases of, or licences in respect of, the scheduled lands or any part of the scheduled lands except in accordance with the provisions of Division 5 of Part 5 of the *Crown Lands Act 1989* applying by virtue of section 9B of this Act.
- (4) A reference in section 108 of the *Crown Lands Act 1989* to prescribed purposes includes, in relation to the scheduled lands, a reference to the purposes referred to in section 14 of this Act.
- (5) A reference in the provisions of Division 5 of Part 5 of the *Crown Lands Act 1989* applying by virtue of section 9B of this Act to the Minister is, in relation to the



scheduled lands, to be read as a reference to the Minister administering this Act.

- (6) The Trust is, in the exercise or performance of its functions in relation to the grant of licences under section 108 of the [Crown Lands Act 1989](#), subject to the control and direction of the Minister.

## **Part 4 Functions of the Trust**

### **13 Trust charged with care, control and management**

The Trust is charged with the care, control and management of the scheduled lands.

### **14 Trust may authorise use of scheduled lands**

The Trust may allow the scheduled lands, or any part thereof, to be used by such persons, clubs, associations, leagues or unions at such times and on such terms and conditions as the Trust may think fit and proper for or in connection with cricket, football or tennis or any other game, or for or in connection with athletic sports or public amusement, or for or in connection with any other purpose whatever which the Minister may approve.

### **15 Additional lands**

- (1) The Trust may, but only with the approval of the Minister, acquire any land.
- (2) The Trust may, but only with approval of the Minister, exchange, dispose of or otherwise deal with any of its additional lands.
- (3) The Trust may expend trust money in using or improving any of its additional lands.
- (4) The additional lands of the Trust may be used for purposes that are the same as or connected with any of the purposes for which the scheduled lands may be used.

### **15A Carrying out of work relating to, and management of, other sporting facilities**

- (1) The Trust may, with the approval of the Minister, carry out any work in relation to or manage (or both) a sporting facility on any land, not being trust lands.
- (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 16, 17, 26, 27 and 29 apply to land to which this section applies in the same way as they apply to trust lands.
- (4) Any work carried out under the power conferred by section 16 in relation to a sporting facility to which this section applies must be approved by the Minister.

### **16 Carrying out of works on trust lands**

- (1) The Trust may carry out any work in connection with the improvement, development

and maintenance of the trust lands or for making the trust lands suitable for the purposes referred to in sections 14 and 15, and any such work may include:

- (a) the redesigning of the areas used for any of those purposes,
  - (b) the construction, reconstruction or demolition of any building or structure on the trust lands, and
  - (c) the provision of stands and other accommodation for spectators and other persons frequenting the trust lands.
- (2) For the purpose of enabling any work to be carried out pursuant to subsection (1) in relation to the scheduled lands, the Minister may, after a report has been made to the Minister by the Trust, by notice in writing to the parties to any agreement, lease or licence relating to the scheduled lands, or any part thereof, determine:
- (a) that the agreement, lease or licence, or any terms or conditions thereof, shall, as from such date as the Minister may specify in the notice, cease to be binding on the parties or any party to the agreement, lease or licence, or
  - (b) that the agreement, lease or licence shall, as from such date as the Minister may specify in the notice, be varied or modified to the extent the Minister deems equitable.
- (3) As from the date specified in a notice under subsection (2), the agreement, lease or licence to which the notice relates shall terminate or have effect subject to the tenor of the notice.

#### **16A Carrying out of certain improvements**

- (1) Subject to subsection (2), the Minister may approve the carrying out of improvements on the designated land and any plans or specifications relating to the improvements.
- (2) The Minister may not, under subsection (1), approve the carrying out of improvements or any plans or specifications unless the Minister certifies in the approval that the Minister has consulted with:
  - (a) the Minister for the time being administering the *Public Works Act 1912*, and
  - (b) the Minister for the time being administering the *Environmental Planning and Assessment Act 1979*,with respect to the carrying out of the improvements.

#### **16B Application of certain laws to designated land**

Where the Minister, under section 16A, approves the carrying out of improvements on the designated land:

- (a) the *Environmental Planning and Assessment Act 1979*,
  - (a1) the *Local Government Act 1993*,
  - (b) (Repealed)
  - (c) any instrument in force under any of those Acts,
- shall not apply to or in respect of:
- (d) the approval of the Minister to the carrying out of those improvements,
  - (e) the carrying out of those improvements by the Trust or any person on behalf of or with the authority of the Trust,
  - (f) the use, at any time, of those improvements, or
  - (g) the designated land on which the improvements are carried out or used or are proposed to be carried out or used.

**16C Additional uses allowed on scheduled lands**

- (1) Subject to section 16D, any part of the scheduled lands may be used for purposes permitted on that part by a State environmental planning policy.
- (2) After the commencement of this section, a State environmental planning policy may not permit the use of the scheduled lands for any purpose unless the use of the land for that purpose has been approved by the Minister administering this Act.
- (3) Section 16B does not prevent provision being included in a State environmental planning policy in relation to any part of the scheduled lands that is designated land. However, if such provision is made, section 16B ceases to apply to that part of the land except in relation to:
  - (a) any improvement or use of that part of the land carried out pursuant to an approval under section 16A that was granted before the date on which the State environmental planning policy took effect, or
  - (b) any improvement carried out, or use of that part of the land, pursuant to an approval under section 16A that was granted on or after the date on which the State environmental planning policy took effect in response to an application made by the Trust before that date.
- (4) This section:
  - (a) does not affect any provision of a State environmental planning policy as in force before the commencement of this section, and
  - (b) affects provisions included in a State environmental planning policy after the

commencement of this section only to the extent that those provisions relate to the scheduled lands.

- (5) In this section, **State environmental planning policy** has the same meaning as in the *Environmental Planning and Assessment Act 1979*.

#### **16D Certain uses of scheduled lands restricted**

- (1) Despite any other provision of this Act, any other Act or any instrument made under this or any other Act:
- (a) no part of the scheduled lands (other than land described in Schedule 2B) may be used for residential accommodation, and
  - (b) no part of the scheduled lands (other than designated land) may be used for tourist and visitor accommodation.

- (2) In this section:

**residential accommodation** means a building or place used predominantly as a place of residence, but does not include tourist and visitor accommodation.

**tourist and visitor accommodation** means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes hotel accommodation and serviced apartments.

#### **16E Ancillary provisions relating to development and use of scheduled lands for additional purposes**

- (1) The dedication of the scheduled lands for public recreation does not prevent or otherwise affect the use of any part of the scheduled lands for a permissible purpose and does not prevent or otherwise affect the grant of a lease or licence that permits or otherwise provides for its use for a permissible purpose.
- (2) The provisions of sections 102, 103 and 108 of the *Crown Lands Act 1989* extend to the leasing and licensing of any part of the scheduled lands for a permissible purpose.
- (3) Without limiting the work that may be carried out by the Trust to enable the use of any part of the scheduled lands for a permissible purpose, the provisions of section 16 apply to any such purpose in the same way as they apply to purposes referred to in sections 14 and 15.
- (4) For the purpose of enabling the use of any part of the scheduled lands for a permissible purpose, the functions of the Trust may be exercised by the Trust in a partnership, joint venture or other association with other persons or bodies.
- (5) In this section, **permissible purpose**, in relation to a part of the scheduled lands, means a purpose permitted on that part by a State environmental planning policy

referred to in section 16C.

### **17 Carrying out of works outside trust lands**

- (1) The Trust may, with the approval of the Minister and the consent of the owner, expend trust money in connection with the improvement of any land, where in its opinion that expenditure is desirable to provide or improve access to any of the trust lands, or to provide or improve facilities or amenities for persons visiting any of the trust lands.
- (2) Without limiting the generality of subsection (1), the Trust may expend trust money for or in connection with the deviation of Driver Avenue or the provision or rearrangement of any water, sewerage, drainage or electricity service or other public utility service preparatory to or consequent upon the land described in Part 2 of Schedule 2 becoming part of the scheduled lands within the meaning of this Act.

### **18 Power to accept gifts etc of property**

- (1) The Trust may acquire by gift, bequest or devise any property for any of the purposes of this Act and may agree to and carry out the conditions of the gift, bequest or devise.
- (2) The rule of law relating to remoteness of vesting does not apply to any condition of a gift, bequest or devise to which the Trust has agreed.

### **19 Indemnity**

- (1) Without affecting any other functions of the Trust, the Trust may, but only with the approval of the Minister and the concurrence of the Treasurer, indemnify a person with respect to the amount of any duty or tax payable in respect of or in connection with:
  - (a) a gift, bequest or devise to the Trust or the property that is the subject of such a gift, bequest or devise, or
  - (b) that gift, bequest or devise or property, together with any other things,but not exceeding the amount by which the duty or tax payable by that person at the time the liability to pay the duty or tax arises would have been reduced if that property had never existed.
- (2) A reference in this section to:
  - (a) indemnifying a person includes a reference to agreeing or undertaking to indemnify a person,
  - (b) a person includes a reference to the person's estate or the person's personal representatives,
  - (c) a duty or tax is a reference to a duty or tax under the law of the State or any other law, and

- (d) a gift, bequest or devise to the Trust includes a reference to a proposed gift, bequest or devise to the Trust.

## **Part 5 Finance**

### **20 Financial year**

(1)–(7) (Repealed)

(8) The financial year of the Trust shall be the year ending on the last day of February.

### **21 (Repealed)**

### **22 Investment**

The Trust may invest money held by it in Government securities of the Commonwealth or of the State or in any securities guaranteed by the Government of the 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 securities as the Governor approves or as are prescribed.

### **23, 24 (Repealed)**

## **Part 6 Miscellaneous**

### **24A Prohibited entry to playing fields**

- (1) A person must not enter or remain on a playing field within the Ground unless the person:
- (a) is participating in a cricket match, football match, game, sport or event held with the permission of the Trust, or
  - (b) is engaged in the control or management of any such cricket match, football match, game, sport or event, or
  - (c) has, or is a member of a class of persons that has, been given permission by the Trust to go on the playing field.

Maximum penalty: 50 penalty units.

- (2) In this section, **the Ground** means such parts of the scheduled lands as are vested or dedicated from time to time pursuant to Part 3, and includes the land commonly known as the Sydney Cricket Ground and the Sydney Football Stadium.

### **25 Annual report**

- (1) The Trust shall, as soon as practicable after the last day of February, and in any case on or before 31 August, in each year prepare and forward to the Minister a report of its work and activities for the 12 months preceding that last day of February.

- (2) The Minister shall lay the report, or cause it to be laid, before each House of Parliament as soon as practicable after the Minister receives the report.

## **26 Power of Minister to enter trust lands**

- (1) The Minister, or any person authorised by the Minister for the purpose, may enter the trust lands at any time and may inspect those lands.
- (2) A person who obstructs the Minister, or a person authorised by the Minister, in the exercise of his or her power under this section is guilty of an offence and liable to a penalty not exceeding 1 penalty unit.

## **27 Aid of police may be called in**

The Trust, or any officer appointed by the Trust, may call in the aid of the police for the removal, by force if necessary, of any person who is found committing a breach of any by-law, or who by disorderly or insulting conduct on the trust lands or on any public place causes annoyance or inconvenience to persons on the trust lands or going to or coming from the trust lands.

## **28 (Repealed)**

## **29 By-laws**

- (1) The Governor may make by-laws, 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 lands,
  - (b) the use of the trust lands or any part thereof, and the regulation of the use and enjoyment of the trust lands or any part thereof,
  - (c) the admission of persons, clubs or associations to the trust lands, or any part thereof, including the determination of entrance charges and the collecting and receiving of any such charges,
  - (d) the regulation or prohibition of the entry of persons on the trust lands, or any part thereof, without the authority of the Trust,
  - (e) the admission to membership of the trust lands, or any part thereof, including the determination of membership fees or subscriptions,
  - (f) the protection of any fence, gate, building, structure, machinery or equipment or other property vested in, or under the control of, the Trust and wholly or partly on the trust lands,
  - (g) the preservation or protection of, or prevention of damage to, trees, shrubs, ferns,

creepers, vines, palms, plants, flowers, herbage, lawn, turf, grass or other vegetative cover on the trust lands,

- (h) the securing of decency and order upon the trust lands,
  - (i) the removal of trespassers and other persons causing annoyance or inconvenience upon the trust lands or any part thereof,
  - (j) the regulation or prevention of the taking of intoxicants on to, and the consuming thereof upon, the trust lands or any part thereof,
  - (k) the regulation and control of the taking of animals on to the trust lands, or any part thereof, or the permitting or suffering of animals to be on the trust lands or any part thereof,
  - (l) the regulation, control or prohibition of parking, camping or residing on the trust lands, or any part thereof, the making of charges for any such parking, camping or residing, and the collecting and receiving of any such charges,
  - (m) the reservation of any portion of the trust lands for such separate or exclusive uses as the by-laws may prescribe,
  - (n) the closing of the trust lands, or any part thereof, and the conditions to be observed with regard thereto,
  - (o) the regulation, control or prohibition of private trading upon the trust lands or any part thereof,
  - (p) the appointment and removal of rangers in respect of the trust lands and the defining of their powers and duties,
  - (q) the regulation of meetings of the Trust and the conduct of business thereat, and
  - (r) the election of persons pursuant to section 6 (2).
- (2) A provision of a by-law may:
- (a) apply generally or be limited in its application by reference to specified exceptions or factors, or
  - (b) apply differently according to different factors of a specified kind,
- or may do any combination of those things.
- (3) A by-law may impose a penalty not exceeding 10 penalty units for any breach thereof.
- (4) Any penalty imposed for a breach of a by-law, and any amount paid under section 30A (Penalty notices) as the penalty prescribed under that section for an alleged offence, shall be paid to the Trust to be used by it for the purposes of this Act.



- (5) The Trust shall cause a copy of any by-law applicable to any of the trust lands to be posted in some conspicuous place on the lands to which it relates.

### **30 Recovery of penalties**

Any penalty imposed by this Act or the by-laws may be recovered in a summary manner before a Local Court constituted by a Magistrate sitting alone.

#### **30A Penalty notices**

- (1) An authorised officer may serve a penalty notice on a person if it appears to the officer that the person has committed an offence against this Act or the by-laws, being an offence prescribed by the by-laws as a penalty notice offence.
- (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, within the time and to the person specified in the notice, the amount of penalty prescribed by the by-laws for the offence if dealt with under this section.
- (3) A penalty notice may be served personally or by post.
- (4) If the amount of 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 is not to be regarded as an admission of liability for the purpose of, and does not in any way affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence.
- (6) The by-laws 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 is not to exceed the maximum amount of penalty that could be imposed for the offence by a court.
- (8) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.
- (9) In this section, **authorised officer** means a person authorised by the Trust for the purposes of this section, a police officer or any other person of a class prescribed by the by-laws.

### **31 Repeals**

Each Act specified in Column 1 of Schedule 3 is, to the extent specified opposite that Act in Column 2 of that Schedule, repealed.

### **32 Savings and transitional provisions**

(1) Schedule 4 has effect.

(2) For the purpose only of enabling the Trust to be constituted on or after (but not before) the commencement day in accordance with this Act, elections may be held, and appointments may be made, and any other act, matter or thing may be done, before that day as if the whole of this Act commenced on the date of assent to this Act.

## **Schedule 1 Provisions relating to constitution and procedure of the Trust**

(Section 7)

### **1 (Repealed)**

### **2 Term of office**

Subject to this Act, a member shall hold office for such period not exceeding 4 years as may be specified in the instrument of appointment of the member, but is eligible (if otherwise qualified) for re-appointment.

### **3 Remuneration of and allowances for members**

Each member is entitled to be paid, out of the funds of the Trust, such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

### **4 [Public Service Act 1979](#) not to apply**

The provisions of the [Public Service Act 1979](#) do not apply to or in respect of the appointment of a member and a member is not, in his or her capacity as member, subject to the provisions of that Act during his or her term of office.

### **5 Office of member not to be office of profit under the Crown**

The office of a member shall, for the purposes of any Act, be deemed not to be an office or place of profit under the Crown.

### **6 Vacation of office**

(1) A member shall be deemed to have vacated office:

(a) if the member dies,

- (b) (Repealed)
- (c) if the member becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration, allowances or estate for their benefit,
- (d) if the member is absent from 3 consecutive ordinary meetings of the Trust of which reasonable notice has been given to the member, either personally or in the ordinary course of post, unless on leave granted by the Trust or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Trust for his or her absence from those meetings,
- (e) if the member becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the *Mental Health Act 1958* or a person under detention under Part 7 of that Act,
- (f) 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,
- (g) if the member resigns the office by writing under his or her hand addressed to the Governor and the Governor accepts the resignation,
- (h) if the member is removed from office by the Governor under subclause (2) of this clause,
- (i) if the member ceases to reside in the State, or
- (j) if, in the case of a member elected pursuant to section 6 (2) but not deemed by section 6 (3) or clause 7 (2) to be so elected, the member ceases to be a member of the Sydney Cricket Ground.

- (2) The Governor may, for any cause which to the Governor seems sufficient, remove a member from office.

## **7 Filling of casual vacancies**

- (1) On the occurrence of a vacancy in the office of a member, otherwise than by the expiration of the member's term of office, the Governor may appoint a person to the vacant office for the balance of his or her predecessor's term of office, so that the Trust is constituted in accordance with section 6.
- (2) Notwithstanding anything in this Act, if a vacancy occurs in the office of a member appointed under section 6 (1) (b), otherwise than by the expiration of the member's term of office, and the vacancy occurs within 6 months before the expiration of the

term for which the member was appointed, the Governor may appoint a person, selected by the Minister, to the vacant office for the balance of his or her predecessor's term of office, and the person so selected shall, on being appointed, be deemed to be a person elected as provided by section 6 (2).

## **8 Chairperson and Deputy Chairperson of Trust**

- (1) Of the members, one shall, in and by the relevant instrument of appointment as such a member, or by another instrument executed by the Governor, be appointed as Chairperson and one shall be so appointed as Deputy Chairperson.
- (2) The Governor may remove a member from the office of Chairperson or Deputy Chairperson.
- (3) A person who is a member and Chairperson or Deputy Chairperson shall be deemed to have vacated office as Chairperson or Deputy Chairperson if the person:
  - (a) is removed from that office by the Governor under subclause (2),
  - (b) resigns that office by instrument in writing addressed to the Minister, or
  - (c) ceases to be a member.
- (4) The Governor may, from time to time, appoint a member to act in the office of Chairperson or Deputy Chairperson during the illness or absence of the Chairperson or Deputy Chairperson, and the member, while so acting, shall have and may exercise all the functions of the Chairperson or Deputy Chairperson and shall be deemed to be the Chairperson or Deputy Chairperson.
- (5) The Governor may remove any person from an office to which the person was appointed under this clause.
- (6) For the purposes of this clause, a vacancy in the office of the Chairperson or Deputy Chairperson shall be deemed to be an absence from the office of the Chairperson or Deputy Chairperson.

## **8A Extension of office of Chairperson**

The person holding office as Chairperson immediately before 31 December 1987 does not cease to be a member only because of attaining the age of 70 years and may, notwithstanding clause 6, continue to hold office as a member and as Chairperson for a period of 3 months after the day on which the person attains that age.

## **9 Quorum**

The number of members which shall constitute a quorum at any meeting of the Trust is 8.

## **10 Meetings**

- (1) Any duly convened meeting of the Trust at which a quorum is present shall be competent to transact any business of the Trust.
- (2) Questions arising at a meeting of the Trust shall be determined by a majority of votes of the members present and voting.
- (3) At a meeting of the Trust:
  - (a) the Chairperson,
  - (b) in the absence of the Chairperson—the Deputy Chairperson, or
  - (c) in the absence of both the Chairperson and the Deputy Chairperson—a member elected by the members present at the meeting from among their number,shall preside.
- (4) The person presiding at a meeting of the Trust has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

## **11 General procedure**

- (1) The procedure for the calling of, and for the conduct of business at, meetings of the Trust shall, subject to any procedure that is specified in this Act or prescribed, be as determined by the Trust.
- (2) The first meeting of the Trust shall be called in such manner as the Minister directs.

## **12 Protection from liability**

No matter or thing done, and no contract entered into, by the Trust, and no matter or thing done by a member, by the Secretary, or by any person acting under the direction of the Trust, shall, if the matter or thing was done, or the contract was entered into, in good faith for the purposes of executing this Act, subject a member, the Secretary, or a person so acting, personally to any action, liability, claim or demand.

## **13 Pecuniary interest in contract**

- (1) A member may have a pecuniary interest, direct or indirect, in a contract or proposed contract with the Trust.
- (2) Where a member has a pecuniary interest, direct or indirect, in a contract or proposed contract with the Trust, and the member is present at a meeting of the Trust at which the contract or proposed contract is the subject of consideration, the member shall, at the meeting, as soon as practicable after the commencement thereof, disclose the member's interest and shall not take part in the consideration or discussion of, or vote on any question with respect to, the contract or proposed contract.

- (3) Subject to subclause (4) of this clause, where it has been disclosed to the Trust, or it has reason to believe, that one of the members has or may have a pecuniary interest, direct or indirect, in a proposed contract with it, it shall not enter into that contract unless:
- (a) the Trust has caused to be published in a newspaper circulating in Sydney a notice:
    - (i) setting out the nature of work or services to be performed, or goods to be supplied, or both, as the case may be, under the contract, and
    - (ii) inviting persons willing to perform the work or services, or supply the goods, or both, as the case may be, to submit tenders to the Trust on or before a date and time specified in the notice (being not earlier than 21 days after the publication of the notice) and at an address specified in the notice, and
  - (b) the Trust is satisfied, after considering all the tenders submitted in accordance with the notice, that, having regard to all the circumstances, none of the tenders is more advantageous than that submitted in relation to that contract.
- (4) Nothing in subclause (3) of this clause applies in the case of an emergency.
- (5) For the purposes of this clause, a person shall be treated as having an indirect pecuniary interest in a contract or proposed contract if:
- (a) the person or the person's nominee is a member of a company or other body with which the contract is made or is proposed to be made, or
  - (b) the person is a partner, or is in the employment, of a person with whom the contract is made or is proposed to be made,
- but a member of a company or other body shall not, by reason only of that membership, be treated as being so interested if the member has no beneficial interest in any shares of that company or other body.
- (6) Where a member has an indirect pecuniary interest in a contract or proposed contract, and would not be treated as having such an interest but for the fact that the member has a beneficial interest in shares of a company or other body, then, if the total nominal value of those shares does not exceed \$1,000 or one-hundredth of the total nominal value of the issued share capital of the company or other body, whichever is the lesser, so much of subclause (2) of this clause as prohibits the member from taking part in the consideration or discussion of, or from voting on any question with respect to, the contract or proposed contract shall not apply to the member, without prejudice, however, to the duty of disclosure imposed by that subclause.
- (7) Where the share capital of the company or other body referred to in subclause (6) of

this clause is of more than one class, that subclause shall not apply if the total nominal value of all the shares of any one class in which the member so referred to has a beneficial interest exceeds one-hundredth part of the total issued share capital of that class of the company or other body.

- (8) In the case of a husband and wife who are living together, the interest of one spouse shall, if known to the other, be deemed for the purposes of this clause to be also an interest of the other spouse.
- (9) A general notice given in writing by a member to each of the other members, or to the Secretary, to the effect that the member or the member's spouse is a member of or in the employment of a specified company or other body, or that the member or the member's spouse is a partner or in the employment of a specified person, shall, unless and until the notice is withdrawn, be deemed to be a sufficient disclosure of the member's interest in any contract or proposed contract relating to that company or other body or to that person which may be the subject of consideration after the date of the notice.
- (10) The Trust shall cause to be recorded in a book to be kept for the purpose particulars of any disclosure made under subclause (2) of this clause, and of any notice given under subclause (9) of this clause.
- (11) If a person fails to comply with the provisions of subclause (2) of this clause, the person shall for each offence be liable to a penalty not exceeding 2 penalty units, unless the person proves that the person did not know that a contract or proposed contract in which the person had a pecuniary interest was the subject of consideration at the meeting.
- (12) Where a person is convicted of an offence against this clause, the person shall be deemed to have vacated his or her office as a member, unless the court by which the person is convicted sees fit in the circumstances of the case to declare that the person shall not by virtue of the conviction be deemed to have vacated his or her office.
- (13) The Minister may, subject to such conditions as the Minister may think fit to impose, remove any disability imposed by subclause (2) of this clause in any case in which the number of members so disabled at any one time would be so great a proportion of the whole as to impede the transaction of business, or in any other case in which it appears to the Minister that it is in the public interest that the disability should be removed.
- (14) The Trust may by resolution provide for the exclusion of a member from a meeting of the Trust while any contract or proposed contract in which the member has an interest, as referred to in this clause, is under consideration.
- (15) In this clause, **shares** includes stock, and **share capital** shall be construed accordingly.

## Schedule 2 Description of lands

(Sections 4, 8, 9)

### Part 1 Cricket and Sports Ground

All that piece or parcel of land containing 11.208 ha situate at Paddington in the City of Sydney Parish of Alexandria County of Cumberland and being Portions 1528 and 1530 of that Parish.

### Part 2 Driver Avenue (etc) land

All that piece or parcel of land containing 5851 sq m situate at Paddington in the City of Sydney Parish of Alexandria County of Cumberland and being Portion 1529 of that Parish.

### Part 3 Army Engineers Depot, Moore Park

All that piece or parcel of land situated at Moore Park in the Parish of Alexandria and County of Cumberland containing 3.685 hectares, and being Lot 1 in Deposited Plan No 205794 and formerly being the whole of the land in Certificate of Title Volume 9079 Folio 56 but now being Crown land.

## Schedule 2A Designated land

(Sections 4, 16A, 16B)

All that piece or parcel of land situated in the Parish of Alexandria County of Cumberland comprising Portion 1528, part of Portion 1530 and part of Lot 1 Deposited Plan 205794: commencing on the eastern side of Driver Avenue at its intersection with the northern side of a right of way shown in Sydney County Council Plan of Survey dated 27 August 1980 File Number S6343; and bounded thence on the west, southwest and northwest by the eastern, northeastern and southeastern sides of Driver Avenue bearing successively 356 degrees 20 seconds 165.48 metres, 355 degrees 36 minutes 68.37 metres, 308 degrees 41 minutes 114.89 metres, 322 degrees 20 minutes 20.115 metres, 346 degrees 20 minutes 20.115 metres, 4 degrees 50 minutes 20.115 metres and 18 degrees 20 minutes 75.74 metres to the intersection of the southeastern side of Driver Avenue with the southwestern side of Moore Park Road; on the northeast by the southwestern side of Moore Park Road bearing successively 103 degrees 22 minutes 30 seconds 50.27 metres, 106 degrees 8 minutes 95.72 metres, 110 degrees 16 minutes 30 seconds 60.13 metres, 113 degrees 4 minutes 27.62 metres, 113 degrees 30 minutes 22.53 metres, 114 degrees 32 minutes 7.15 metres, 115 degrees 40 seconds 21.54 metres, 116 degrees 34 minutes 20 seconds 21.33 metres, 117 degrees 44 minutes 30 seconds 18.18 metres, 119 degrees 56 minutes 20.45 metres, 121 degrees 56 minutes 40 seconds 32.105 metres, 123 degrees 41 minutes 18.3 metres, 125 degrees 29 minutes 30 seconds 22.755 metres, 126 degrees 51 minutes 30 seconds 15.405 metres, 125 degrees 23 minutes 13.72 metres and 122 degrees 24 minutes 19.065 metres to the northeastern corner of the land occupied, as at the date of assent to the [Sydney Cricket and Sports Ground \(Amendment\) Act 1985](#), by the Department of the Army; on the southeast by a fenced line on the northwestern side of the bitumen sealed access walkway to the Sydney Showground bearing 217 degrees 37 minutes 40 seconds 144.4 metres to the corner of brick garages; along the southeastern face of those brick garages bearing successively 217 degrees 25 minutes 30 seconds 34.65 metres to the angle in the southeastern wall of the garages and a line bearing 231 degrees 46 minutes 30 seconds 39.91 metres; on the south by the southern face of a brick building and prolongation thereof bearing 262 degrees 27 minutes 14.23 metres and a line bearing 262 degrees 55 minutes 40 seconds 10.415 metres to the southeastern corner of the brick wall around the tennis



courts, along the southern face of that brick wall to its southwestern corner bearing 262 degrees 12 minutes 30 seconds 37.77 metres and a line bearing 243 degrees 28 minutes 15.465 metres to the northern side of the Sydney County Council right of way aforesaid; generally on the southeast by lines along the generally northwestern sides of the right of way aforesaid bearing 265 degrees 52 minutes 5.8 metres, 262 degrees 29 minutes 7.16 metres, 259 degrees 21 minutes 6.875 metres, 256 degrees 28 minutes 6.955 metres, 253 degrees 1 minute 6.95 metres, 250 degrees 24 minutes 6.81 metres, 246 degrees 11 minutes 11.685 metres, 191 degrees 16 minutes 15.97 metres, 234 degrees 33 minutes 59.24 metres and 266 degrees 7.08 metres to the point of commencement and containing in all an area of 9.832 hectares or thereabout.

## **Schedule 2B Section 16D—land description**

(Section 16D (1) (a))

All that piece or parcel of land situated in the Parish of Alexandria County of Cumberland comprising part of Portion 1528 and part of Portion 1530 being part of the land in Schedule 2A: commencing on the southeastern side of Driver Avenue at its intersection with the southwestern side of Moore Park Road bounded thence on the northeast by the southwestern side of Moore Park Road bearing successively 102 degrees 6 minutes 50.27 metres, 104 degrees 51 minutes 30 seconds 95.72 metres, 109 degrees 60.13 metres and 111 degrees 47 minutes 30 seconds 23.475 metres to the intersection of the southwestern side of Moore Park Road with the northeastern face of a concrete kerb; on the northeast by the northeastern face of a concrete kerb and the prolongation thereof bearing 161 degrees 29 minutes 30 seconds 34.945 metres to the corner of a concrete pavement; on the southeast by a line joining the corner of a concrete pavement to the northeastern corner of a brick wall bearing 246 degrees 23 minutes 20 seconds 19.1 metres; along the southeastern face of a brick wall bearing successively 243 degrees 40 minutes 2.275 metres, 238 degrees 34 minutes 9.515 metres and 233 degrees 19 minutes 5.36 metres to the southeastern corner of a brick wall; by a line joining the southeastern corner of a brick wall to the northeastern corner of a brick wall bearing 230 degrees 52 minutes 10.745 metres; along the southeastern face of a brick wall bearing successively 229 degrees 10 minutes 4.965 metres and 222 degrees 22 minutes 3.77 metres; by a line joining the southeastern corner of a brick wall to the northeastern corner of a brick wall bearing 222 degrees 11 minutes 2.305 metres; along the southeastern face of a brick wall bearing 222 degrees 24 minutes 14.915 metres; by a line joining the southeastern corner of a brick wall to the northeastern corner of a concrete kerb bearing 209 degrees 55 minutes 7.16 metres; along the southeastern face of a concrete kerb bearing successively 209 degrees 27 minutes 12.315 metres, 202 degrees 37 minutes 11.73 metres, 200 degrees 19 minutes 9.26 metres and 192 degrees 25 minutes 8.805 metres; along the southeastern face of a brick wall bearing 189 degrees 13 minutes 2.62 metres; on the south by the southern face of a brick wall bearing 277 degrees 45 minutes 4.53 metres; on the southeast by the southeastern face of a timber retaining wall bearing 252 degrees 25 minutes 4.03 metres; on the east by the eastern edge of a concrete dish drain bearing 186 degrees 36 minutes 14.26 metres; on the south by the southern face of a concrete kerb bearing 273 degrees 34 minutes 10 seconds 58.155 metres to the intersection of the kerb and the eastern side of Driver Avenue; on the southwest, west and northwest by the northeastern, eastern and southeastern sides of Driver Avenue bearing successively 307 degrees 24 minutes 30 seconds 114.89 metres, 321 degrees 3 minutes 30 seconds 20.115 metres, 345 degrees 3 minutes 30 seconds 20.115 metres, 3 degrees 33 minutes 30 seconds 20.115 metres and 17 degrees 3 minutes 30 seconds 75.74 metres to the point of commencement and containing in all an area of 3.2 hectares or thereabout.

## Schedule 3 Repeals

(Section 31)

Column 1		Column 2
Year and number of Act	Short title of Act	Extent of repeal
1951 No 32	<a href="#">Sydney Sports Ground and Sydney Cricket Ground Amalgamation Act 1951.</a>	The whole Act.
1955 No 53	<a href="#">Public Parks and Reserves Act 1955.</a>	The unrepealed portion.
1959 No 15	<a href="#">Sydney Sports Ground and Sydney Cricket Ground Amalgamation (Amendment) Act 1959.</a>	The whole Act.
1972 No 80	<a href="#">Sydney Sports Ground and Sydney Cricket Ground Amalgamation (Amendment) Act 1972.</a>	The whole Act, except sections 1 and 3.
1974 No 37	<a href="#">Crown Lands and Other Acts (Reserves) Amendment Act 1974.</a>	Section 13 (1) and (2).
1976 No 19	<a href="#">Sydney Sports Ground and Sydney Cricket Ground Amalgamation (Amendment) Act 1976.</a>	The whole Act.

## Schedule 4 Savings and transitional provisions

(Section 32 (1))

### Part 1 Preliminary

#### 1A Regulations

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

*[Sydney Cricket and Sports Ground Amendment Act 2006](#)*

- (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:
- 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
  - 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.

## **Part 2 Provisions consequent on enactment of this Act**

### **1 Definition**

In this Schedule, **former trustees** means the persons who, immediately before the commencement day, held office as trustees of the land described in Part 1 of Schedule 2.

### **2 Former trustees**

The former trustees cease on the commencement day to be trustees of the scheduled lands, or any part thereof, but any former trustee is, if otherwise qualified, eligible to be appointed as a member under section 6.

### **3 Transfer of assets, debts and liabilities**

As from the commencement day:

- (a) the property of the former trustees relating to the care, control and management of the trust lands, including all moneys, books of account, registers, records and all documents and things relating to, or connected with, the operation of the trust lands, shall become the property of the Trust,
- (b) all moneys and liquidated and unliquidated claims that, immediately before that day, were payable to or recoverable by the former trustees in connection with the care, control and management of the trust lands shall be moneys and liquidated and unliquidated claims payable to or recoverable by the Trust,
- (c) all proceedings pending immediately before that day at the suit of the former trustees, in connection with the care, control and management of the trust lands, shall be deemed to be proceedings pending at the suit of the Trust and all proceedings so pending at the suit of any person against the former trustees shall be deemed to be proceedings pending at the suit of that person against the Trust,
- (d) all contracts, agreements, arrangements and undertakings entered into with, and all securities lawfully given to or by, the former trustees, in connection with the care, control and management of the trust lands, 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 Trust,
- (e) the Trust may, in connection with the care, control and management of the trust lands, 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 clause, and for the prosecution of proceedings so referred to, as the former trustees might have done but for this Act,
- (f) the Trust may enforce and realise any security or charge existing immediately before that day in favour of the former trustees in connection with the care, control and

management of the trust lands, and may exercise any powers thereby conferred on the former trustees as if the security or charge were a security or charge in favour of the Trust,

- (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 in connection with the care, control and management of the trust lands shall be debts due, moneys payable by and claims recoverable against the Trust,
- (h) all liquidated and unliquidated claims in connection with the care, control and management of the trust lands for which the former trustees would, but for this Act, have been liable shall be liquidated and unliquidated claims for which the Trust shall be liable, and
- (i) all acts, matters and things done or omitted by, or done or suffered in relation to, the former trustees, being acts, matters and things not referred to in the foregoing provisions of this clause, shall have the same force and effect as if they had been done or omitted by, or done or suffered in relation to, the Trust.

#### **4 No attornment by lessee**

No attornment to the Trust by a lessee from the former trustees shall be necessary.

#### **5 Rules and regulations made by former trustees**

- (1) The rules and regulations made under the *Sydney Sports Ground and Sydney Cricket Ground Amalgamation Act 1951* and in force immediately before the commencement day in respect of the land described in Schedule 1 to that Act, shall, to the extent that they are not inconsistent with this Act, be deemed to be by-laws made under this Act in respect of the same land.
- (2) The rules and regulations made under the *Sydney Sports Ground and Sydney Cricket Ground Amalgamation Act 1951* and in force immediately before the commencement day in respect of the land described in Schedule 2 to that Act shall, to the extent that they are not inconsistent with this Act, be deemed to be by-laws made under this Act in respect of the same land.
- (3) A reference (however expressed) in any Act enacted before the commencement day, other than this Act, or in any instrument issued, made or published under an Act before that day, to rules and regulations made under the *Sydney Sports Ground and Sydney Cricket Ground Amalgamation Act 1951* shall be construed as a reference to by-laws made under this Act.
- (4) A reference (however expressed) in the by-laws to the trustees shall be construed as a reference to the Trust, except where the context or subject-matter otherwise requires.

## **6 Preservation of rights of members etc**

Persons who, immediately before the commencement day, were entitled to any rights and privileges in respect of the trust lands, or any part thereof, whether as holders of medals or tickets of admission issued or training permits granted before that day or as members, junior members or honorary members of the trust lands, or any part thereof, shall, subject to any by-laws, be entitled to the like rights and privileges in respect of those lands or that part, as the case may be, after that day.

## **7 Nominations for membership not dealt with**

Nominations for membership of any part of the trust lands received by the former trustees and not finally dealt with at the commencement day shall be deemed to be nominations for membership received by the Trust in respect of that part.

## **8 Officers and employees**

- (1) The persons who, immediately before the commencement day, were officers or employees of the former trustees shall, on that day, become and be officers or employees, respectively, of the Trust 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 the person immediately before that day as an officer or 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 Trust is bound made by a competent tribunal or by an industrial agreement to which the Trust is a party,
  - (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 Trust is bound made by a competent tribunal, or that condition is regulated by an industrial agreement to which the Trust 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 the person as an officer or employee of the former trustees immediately before that day, until that basis is varied or altered in accordance with any Act or law,
  - (d) for the purpose of calculating the entitlement to long service leave of any such person under this subclause:
    - (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 the person's entitlement to that leave as an officer or employee of the former trustees shall be deemed to be service with the Trust, and

(ii) there shall deducted from any long service leave to which the officer or employee of the Trust becomes entitled, as such an officer or employee, any long service leave taken by the person in respect of any period of service referred to in subparagraph (i), and

(e) any such person shall be entitled to receive as an officer or employee of the Trust any annual leave or sick leave accrued to the person as an officer or employee of the former trustees immediately before that day.

- (2) Nothing in subclause (1) of this clause affects the operation of clause 3 (d) in relation to any contracts, agreements or arrangements entered into by the former trustees with respect to any staff superannuation scheme.
- (3) A person referred to in subclause (1) of this clause shall not be entitled to receive benefits under this Act as well as any other Act in respect of the same period of service.
- (4) Nothing in this clause affects the operation of the *Industrial Arbitration Act 1940*.
- (5) The person holding office as Secretary to the former trustees immediately before the commencement day shall be deemed to have been appointed as Secretary under section 28.

### **Part 3 Provisions consequent on enactment of [Sydney Cricket and Sports Ground Amendment Act 2006](#)**

#### **9 Dedication of scheduled lands**

No amendment made by the *Sydney Cricket and Sports Ground Amendment Act 2006* affects the continued dedication of the scheduled lands for the purposes of public recreation as referred to in section 8, 9 or 9A.

#### **10 Existing leases and licences**

- (1) An amendment to this Act made by the *Sydney Cricket and Sports Ground Amendment Act 2006* does not affect any lease or licence granted by the Trust and in force immediately before the commencement of the amendment.
- (2) However, subclause (1) does not limit the operation of section 16 (2) and (3) (as applied by section 16E) in relation to a lease or licence referred to in that subclause.