

Technical Education Trust Funds Act 1967 No 95

[1967-95]



New South Wales

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Provisions in force

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

Authorisation

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Contents

Long title	4
1 Name of Act and commencement	4
2 Definitions	4
3 Trustees may apply for trust fund to be brought under this Act	5
4 Order specifying trust fund to be a Fund	5
5 Divesting of Fund from previous trustees to Statutory Trustees	5
6 Change of Statutory Trustees	6
6A Holder of specified office changes.....	6
6B Statutory corporation ceasing to exist	6
6C Fund vests in remaining Statutory Trustees or Secretary	7
6D Provisions of Trustee Act 1925 not applicable	7
6E Proof that person is Statutory Trustee	7
7 Trustees may nominate value of, or refuse to make, an award	7
8 Common trust fund.....	8
9 Saving of existing scholarships.....	8
10 Statutory Trustees not entitled to remuneration.....	8
11 Statutory Trustees not personally liable for acts in good faith.....	9
12 Effective date of orders	9
13 Surplus income	9
14 By-laws	9
15 Savings and transitional provisions	10
Schedule 1 Trust funds	10

Schedule 2 Savings and transitional provisions 13

Technical Education Trust Funds Act 1967 No 95



New South Wales

An Act to make provisions with respect to certain trusts for the advancement of education; and for purposes connected therewith.

1 Name of Act and commencement

- (1) This Act may be cited as the *Technical Education Trust Funds Act 1967*.
- (2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2 Definitions

- (1) In this Act, unless the context or subject-matter otherwise indicates or requires:

award means an award of a prize, medal or scholarship, or a grant or donation, made for the purposes of substituted trusts and includes any like award for those purposes.

by-laws means by-laws made under this Act.

educational establishment means:

- (a) an establishment conducted by the TAFE Commission,
- (b) the University of Technology Sydney, or
- (c) any college, institute or other educational body that is declared by the Governor, by notification published in the Gazette, to be an educational establishment for the purposes of this Act.

Fund means a trust fund named in the First Column of Schedule 1, being a fund that was, immediately before becoming a Fund for the purposes of this Act, held on the trusts created by the trust instrument described in that Column in relation to that Fund.

prescribed means prescribed by this Act or the by-laws.

substituted trusts in relation to a Fund means the trusts specified in the Second Column of Schedule 1 opposite the name of the Fund in the First Column of Schedule

1.

trust instrument means an instrument described in the First Column of Schedule 1.

(2) In sections 7, 8, 13 and 14, a reference to **Statutory Trustees** includes a reference to a statutory corporation that is a Statutory Trustee of a Fund.

3 Trustees may apply for trust fund to be brought under this Act

The trustee or trustees of any fund held on trust for the advancement of education at an educational establishment may apply to the Minister for the fund to be brought under the provisions of this Act.

4 Order specifying trust fund to be a Fund

If an application is made under section 3, the Governor may, by order published on the NSW legislation website:

- (a) declare the trust fund that is the subject of the application to be a Fund for the purposes of this Act and specify the substituted trusts of the Fund, and
- (b) appoint:
 - (i) the holders for the time being of two or more offices specified in the order to be the Statutory Trustees of the Fund, or
 - (ii) a statutory corporation specified in the order to be the Statutory Trustee of the Fund, and
- (c) amend Schedule 1 to the extent necessary to give effect to the order.

5 Divesting of Fund from previous trustees to Statutory Trustees

- (1) On the day on which an order specifying a trust fund to be a Fund for the purposes of this Act takes effect:
 - (a) the trusts on which the Fund was held immediately before that day cease to have any effect, except to the extent that their operation is continued by or under this Act, and
 - (b) a person who held office as trustee of the Fund immediately before that day vacates that office, and
 - (c) any provision of a trust instrument relating to the appointment of new trustees or the retirement of trustees of the trust fund that comprises the Fund ceases to have effect, and
 - (d) the substituted trusts relating to the Fund become the trusts to which the Fund is subject, and

(e) the capital of the Fund is to be held on trust to be invested in accordance with the *Trustee Act 1925*.

- (2) On the day on which an order specifying a trust fund to be a Fund for the purposes of this Act takes effect, the Fund vests, without any conveyance or other assurance, in the persons or statutory corporation appointed under that order as the Statutory Trustees or Statutory Trustee of the Fund.
- (3) A Fund for which two or more Statutory Trustees are appointed vests in those Statutory Trustees as joint tenants.

6 Change of Statutory Trustees

- (1) The Governor may, by order published in the Gazette, change the Statutory Trustee or Statutory Trustees of a Fund.
- (2) On the day on which the order takes effect:
 - (a) a person who, or a statutory corporation that, immediately before that day, was a Statutory Trustee of the Fund, ceases to be a Statutory Trustee of that Fund, and
 - (b) the Fund vests, without any conveyance or other assurance, in the persons or statutory corporation appointed under that order as the Statutory Trustees or Statutory Trustee of the Fund.
- (3) A Fund in relation to which two or more Statutory Trustees are appointed vests in those Statutory Trustees as joint tenants.

6A Holder of specified office changes

- (1) On the day on which a person ceases to hold an office specified in an order made under section 4 or 6, the person ceases to be a Statutory Trustee of the Fund to which the order relates.
- (2) On the day on which a person assumes an office specified in an order made under section 4 or 6, the person is taken to have been duly appointed as a Statutory Trustee of the Fund to which the order relates.
- (3) That Fund vests, without any conveyance or other assurance, in that person and the other Statutory Trustees of that Fund as joint tenants.

6B Statutory corporation ceasing to exist

- (1) On the day on which a statutory corporation, that is a Statutory Trustee of a Fund, is dissolved or otherwise ceases to exist:
 - (a) the statutory corporation ceases to be a Statutory Trustee of the Fund, and
 - (b) the Fund vests, without any conveyance or other assurance, in the person who

holds the office of the Secretary of the Department of Industry.

- (2) The person who holds the office of the Secretary of the Department of Industry is taken to be a Statutory Trustee of any Fund that vests in that person by virtue of subsection (1), but ceases to be such a Statutory Trustee if an order is made under section 6 in relation to that Fund.

6C Fund vests in remaining Statutory Trustees or Secretary

- (1) If a person ceases to be a Statutory Trustee by virtue of section 6A (1), and no other person holds the relevant office specified in relation to a Fund, the Fund vests, without any conveyance or other assurance:
 - (a) in the remaining Statutory Trustee (if there is only one), or
 - (b) in the remaining Statutory Trustees of the Fund as joint tenants.
- (2) If all of the persons appointed as Statutory Trustees of a Fund cease to be Statutory Trustees of the Fund by virtue of section 6A (1), and all of the relevant offices specified in relation to that Fund are vacant, the Fund vests, without any conveyance or other assurance, in the person who holds the office of the Secretary of the Department of Industry.
- (3) The person who holds the office of the Secretary of the Department of Industry is taken to be a Statutory Trustee of any Fund that vests in that person by virtue of subsection (2), but ceases to be such a Statutory Trustee if:
 - (a) an order is made under section 6 in relation to that Fund, or
 - (b) a person assumes an office specified in relation to that Fund.

6D Provisions of [Trustee Act 1925](#) not applicable

The provisions of the [Trustee Act 1925](#) relating to the appointment of new trustees and the retirement of trustees do not apply to or in respect of a Statutory Trustee.

6E Proof that person is Statutory Trustee

A certificate, purporting to have been signed by the Secretary of the Department of Industry, to the effect that a person specified in the certificate is a Statutory Trustee for the time being of a Fund so specified is evidence of the matters certified.

7 Trustees may nominate value of, or refuse to make, an award

- (1) Any award shall be of such value as the Statutory Trustees of the Fund from which it is made may determine when deciding to make an award.
- (2) The Statutory Trustees of a Fund may decline to make an award from that Fund if, in their opinion:

- (a) there is no student whose work is of sufficient merit to warrant an award,
 - (b) the income from that Fund is not sufficient to warrant an award,
- or for any other reason they deem to be sufficient in the circumstances.

- (3) The Statutory Trustees of a Fund may, in their discretion, determine whether unexpended income from the Fund shall be treated as capital moneys and added to the Fund, or whether it shall be treated as accrued income for the purposes of awards from the Fund.

8 Common trust fund

- (1) Statutory Trustees who are trustees of more than one Fund may establish, and carry to the credit of, a common trust fund any capital moneys of, or income from, the Funds of which they are trustees.
- (2) Where a common trust fund is established pursuant to this section, the Statutory Trustees shall keep, or cause to be kept, proper books of account showing the amount for the time being at credit in the common trust fund on account of each contributing Fund.
- (3) Moneys in a common trust fund shall not be credited thereto in the name or on account of any particular Fund but any interest or other profits thereon shall be shared proportionately according to the amount contributed by each Fund to the common trust fund and the period for which the contribution formed part of the common trust fund.
- (4) The charges relating to the keeping of a common trust fund shall be borne by each contributing Fund in such manner and to such extent as the Statutory Trustees of the contributing Funds may from time to time in their discretion decide.
- (5) The Statutory Trustees of the contributing Funds may withdraw money from a common trust fund for the purposes of the trusts reposed in them by this Act.

9 Saving of existing scholarships

Every person who, immediately before a trust fund becomes a Fund to which this Act applies, held a scholarship awarded pursuant to trusts created by a trust instrument relating to that trust fund shall, so long as the person observes the terms and conditions applying to the scholarship when it was awarded, be entitled to continue to hold and enjoy the scholarship and to receive any payments or other benefits in respect thereof, as if this Act had not been enacted.

10 Statutory Trustees not entitled to remuneration

Statutory Trustees shall not be entitled to any fees or other remuneration in their capacity as trustees for the purposes of this Act.

11 Statutory Trustees not personally liable for acts in good faith

A matter or thing done or omitted to be done by a Statutory Trustee who is an individual, or by a person acting under the direction of a Statutory Trustee (whether or not the Trustee is an individual) does not, if the matter or thing was done or omitted in good faith for the purpose of executing this Act or any by-law made under this Act, subject the individual or person so acting personally to any action, liability, claim or demand.

12 Effective date of orders

An order made by the Governor for the purposes of any of the provisions of this Act shall take effect upon the day on which it is published in the Gazette or, where some later day is specified in the order for the purpose, on that later day.

13 Surplus income

- (1) Where, in the opinion of the Statutory Trustees of a Fund, the income of the Fund is more than sufficient for the purposes of the substituted trusts relating to that Fund, those trustees may expend the surplus income for the advancement of education as prescribed by by-laws relating to such income.
- (2) Any income expended pursuant to subsection (1) shall be deemed to have been applied for the purposes of the substituted trusts relating to the Fund.

14 By-laws

- (1) Statutory Trustees may, in relation to a Fund of which they are trustees, make by-laws not inconsistent with this Act or the substituted trusts relating to that Fund, for or with respect to all matters or things that by this Act are required or permitted to be prescribed or that are necessary or convenient to be prescribed for giving effect to this Act and those substituted trusts.
- (2) Without limiting the generality of subsection (1), Statutory Trustees of a Fund may make by-laws referred to in that subsection for or with respect to:
 - (a) prescribing the terms and conditions upon which awards may be made,
 - (b) determining eligibility for awards,
 - (c) prescribing the courses, subjects or fields in respect of which, and the stages at which, an award may be made,
 - (d) specifying the purposes for which an award may be utilised,
 - (e) prescribing the educational establishment at which the conditions governing an award may be fulfilled,
 - (f) prescribing the form of an award,

- (g) prescribing the time at which an award may be made,
 - (h) the expenditure of surplus income pursuant to section 13,
 - (i) empowering the Statutory Trustees to determine matters relating to awards in accordance with their opinion, or at their discretion, or to direct the manner in which such matters may be determined,
 - (j) empowering the Statutory Trustees to determine the terms and conditions on which, or the purposes for which, a scholarship may be awarded or an award by virtue of section 13, a grant or a donation may be made.
- (3) A by-law may be general or particular in its application and its application may vary according to time, place or circumstance.
- (4) When making a by-law, Statutory Trustees shall certify that they have had regard to the intentions of the donor of the Fund to which the by-law relates, as expressed by the trust instrument relating to that Fund.
- (5) A by-law made under this Act shall be submitted to the Governor for approval.
- (6) (Repealed)

15 Savings and transitional provisions

Schedule 2 has effect.

Schedule 1 Trust funds

(Section 2)

First column

Fund

John L. Bruce Memorial Fund.
(Constituted in terms of Deed dated 17 August 1925, to provide for the award of an annual prize or annual prizes in connection with the Sanitation classes of Sydney Technical College.)

William and Elizabeth Cuthbertson Memorial Fund.
(Constituted by the will of William Neville Cuthbertson as recited in Deed dated 19 January 1954, registered Number 206 Book 2279, to provide for an annual award or annual awards for the advancement of the study of Marine Engineering and Naval Architecture at Sydney Technical College.)

Second column

Substituted Trusts

Upon trust to apply the income for the purpose of awarding a prize, to be known as the John L. Bruce Memorial Prize, as prescribed.

Upon trust to apply the income for the purpose of awarding, in the name of William and Elizabeth Cuthbertson, prizes and medals, as prescribed.

J. P. Franki Memorial Fund.

(Constituted in terms of Deed dated 3 June 1926, to provide for the annual award:

- (a) of a gold medal and prize to an apprentice to Marine Engineering, and
- (b) a prize to an apprentice to the Mort's Dock and Engineering Company Limited,

and to establish a Marine Engineering Scholarship.)

Upon trust to apply the income for the purpose of awarding:

- (a) in the name of J. P. Franki, a medal and prize, and
 - (b) if the income of the Fund is sufficient, a scholarship to be known as the "J. P. Franki Scholarship",
- as prescribed.

Archibald Howie Memorial Prize Fund.

(Constituted in terms of Deed dated 13 July 1955, registered Number 671 Book 2364, to provide for the award of an annual prize to a student in the Diploma Course in Building at the University of New South Wales.)

Upon trust to apply the income for the purpose of awarding a prize, to be known as the "Archibald Howie Memorial Prize", as prescribed.

Thomas Irons Memorial Fund.

(Constituted in terms of Deed dated 16 July 1919, to provide for the annual award of a medal to a student in certain trade classes in technical schools in the metropolitan area of Sydney).

Upon trust to apply the income for the purpose of awarding a medal, to be known as the "Thomas Irons Memorial Medal", as prescribed.

William Edmund Kemp Memorial Scholarship Fund.

(Constituted in terms of Deed dated 15 September 1930, to provide for the award, from time to time, to a student in Architecture at Sydney Technical College, of a medal and a money prize as a travelling scholarship.)

Upon trust to apply the income for the purpose of awarding a medal, to be known as the "Kemp Memorial Medal" and a prize in the name of W. E. Kemp, as prescribed.

A.H. Martin Memorial Prize Fund.

(Constituted in terms of Deed dated 10 November 1952, registered Number 518 Book 2236, to provide for the award of an annual prize to a student in the Building Foreman and Clerk of Works Course at Sydney Technical College.)

Upon trust to apply the income for the purpose of awarding a prize, to be known as the "A. H. Martin Memorial Prize", as prescribed.

William King McLean Prize Fund.

(Constituted in terms of Deed dated 13 August 1931, to provide for the award of an annual prize to a student in the Building Construction Course at Sydney Technical College.)

Upon trust to apply the income for the purpose of awarding a prize, to be known as the "William King McLean Prize", as prescribed.

Robert K. Murphy Research Fund.

(Constituted in terms of Deed dated 12 February 1948, registered Number 911 Book 2046, to provide for the award from time to time of a scholarship in scientific research at Sydney Technical College or for the making of certain donations.)

Upon trust to apply the income for the purpose of:

- (a) awarding a scholarship, to be known as the "Robert K. Murphy Scholarship",
- (b) awarding prizes, and
- (c) making grants or donations,

as prescribed, or for any of those purposes.

Dr Purdy Memorial Fund.

(Constituted in terms of Deed dated 29 October 1941, to provide for the annual award of a medal in the Health Inspectors' Certificate Course and prizes in the Health Inspectors' Certificate Course, the Sanitary Law Course and the Industrial Hygiene Course, at Sydney Technical College.)

Upon trust to apply the income for the purpose of awarding, in the name of Dr Purdy, a medal and prizes, as prescribed.

Mary Ellen Roberts Memorial Fund.

(Constituted in terms of Deed dated 11 January 1932, to provide for the award from time to time of scholarships in connection with the Women's Handicrafts Department of the Technical Education Branch.)

Upon trust to apply the income for the purpose of awarding, in the name of Mary Ellen Roberts, a scholarship tenable in the metropolitan area of Sydney and a scholarship tenable outside that area, as prescribed.

Barrington Raymund Roberts Memorial Fund.

(Constituted in terms of Deed dated 16 October 1980, to provide for an award from time to time for study at an institution or for a work/study programme either within or outside Australia or both in one or more fields covered by courses offered at the College of Catering Studies and Hotel Administration, Ryde.)

Upon trust to apply the income for the purpose of an award to be known as the "Barrington Raymund Roberts Memorial Award", as prescribed.

Noel Chettle Memorial Art Prize Fund.

(Constituted in terms of Deed dated 15 June 1984, to provide for the award of an annual prize to a student in the School of Art and Design.)

Upon trust to apply the income for the purpose of awarding a prize to be known as the "Noel Chettle Memorial Art Prize", as prescribed.

Coachbuilders 1914-1919 War Memorial Bursary Fund (constituted in terms of an Order of the Commissioner of Dormant Funds dated 8 November 1973, to provide for the annual award of a prize to a student in a Vehicle Body trade course at an establishment conducted by the TAFE Commission, or any college, institute or other educational body that is declared by the Governor, by notification published in the Gazette, to be an educational institution for the purposes of the [Technical Education Trust Funds Act 1967](#)).

Upon trust to apply the income for the purpose of awarding a bursary, to be known as the "Coachbuilders 1914-1919 War Memorial Bursary", as prescribed.

Institute of Mechanical Engineering Craftsmen Prize Fund (constituted in terms of letter dated 29 September 1971, to provide for the annual award of prizes to students in Fitting and Machining classes at technical schools in New South Wales).

Upon trust for the purpose of awarding a prize, to be known as the "Institute of Mechanical Engineering Craftsmen Prize", as prescribed.

TAFE Bicentenary Oliver Shaul Scholarship Fund (constituted in terms of Deed dated 18 December 1987, to provide for the annual award of a travelling scholarship to a student in a commercial cookery course conducted by the TAFE Commission).

Upon trust to apply the income for the purpose of awarding a scholarship, to be known as the "TAFE Bicentenary Oliver Shaul Scholarship", as prescribed.

Bishop Brothers Memorial Fund (constituted in terms of Deed dated 13 May 1926, to provide for the annual award of a prize to a student, under 21 years of age attending a technical school and employed in the coachmaking section of the road vehicle trades (including motor body-building), for proficiency in trade linear drawing and projection).

On trust to apply the income for the purpose of awarding a prize, to be known as the "Bishop Brothers Memorial Prize", as prescribed.

Schedule 2 Savings and transitional provisions

(Section 15)

Part 1 Preliminary

1 Regulations

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

Technical Education Trust Funds Amendment Act 1999

- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Part 2 Provisions consequent on enactment of **Technical Education Trust Funds Amendment Act 1999**

2 Definitions

In this Part:

amending Act means the *Technical Education Trust Funds Amendment Act 1999*.

3 Funds

The substitution of section 4 by the amending Act does not affect the operation of that section in relation to a Fund before its substitution, and any operation that the section had in relation to a Fund immediately before its substitution continues as if the section had not been substituted.

4 Statutory Trustees

A person who was a Statutory Trustee of a Fund immediately before the commencement of the amending Act continues to be a Statutory Trustee of the Fund, subject to this Act, and is taken to have been appointed as a Statutory Trustee by order under section 4, as substituted by the amending Act.