

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 26 November, 1968.*

New South Wales



ANNO SEPTIMO DECIMO

ELIZABETHÆ II REGINÆ

Act No. , 1968.

An Act to authorise the Trustees of the H.M.S. Endeavour Trust Fund to make a proportionate refund of certain donations made to that Fund and to make certain other payments; and for purposes connected therewith.

WHEREAS during the year one thousand nine hundred ^{Preamble.} and sixty-four a group of interested persons in Sydney resolved to commemorate certain voyages of discovery of Captain Cook and in particular his discovery in the year one thousand seven hundred and seventy of the east coast of Australia;

H.M.S. Endeavour Trust Fund.

Australia; and whereas, pursuant to that resolution, by declaration of trust dated the twelfth day of October, one thousand nine hundred and sixty-four, a Fund (designated therein as the "H.M.S. Endeavour Trust Fund") was constituted with power to the Trustees named therein to collect 5 money and to invest, manage, control and expend it for the purpose of building, in England, a replica of the H.M.S. Endeavour, and having it sailed to Australia so as to arrive, if practicable, before April, one thousand nine hundred and 10 seventy, and thereafter to maintain it as or in connection with a maritime museum and to provide for the maintenance and management in perpetuity of the ship and the museum; and whereas in that declaration of trust it was recited that it had been decided to establish a non-profit making company 15 limited by guarantee under the Companies Act, 1961, as subsequently amended, to be known as "Captain Cook's Endeavour Limited", which Company was duly incorporated; and whereas an appeal for donations was duly conducted and donations were collected throughout the Commonwealth of 20 Australia and elsewhere; and whereas due to increases in costs and the insufficiency of the funds in hand it has become apparent that the original purposes of the trust cannot be achieved and it is considered desirable that donations be proportionately refunded to the donors thereof wherever 25 practicable and that any surplus money in the hands of or under the control of the Trustees and Captain Cook's Endeavour Limited be made (after payment of necessary expenses) available for expenditure on the development and maintenance of the Captain Cook Museum and Information Centre at 30 Kurnell, New South Wales, under the control of the Trustees of the Captain Cook's Landing Place :

BE it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South 35 Wales in Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as the "H.M.S. Endeavour Trust Short title. Fund Act, 1968".

2.

H.M.S. Endeavour Trust Fund.

2. In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Interpretation.

“Company” means Captain Cook’s Endeavour Limited, referred to in the preamble to this Act;

5 “donation” means a donation that was made to the Fund and that forms part of the Fund;

“donor” means a person who has made a donation, and, in relation to a natural person, includes his legal personal representatives;

10 “Fund” means the H.M.S. Endeavour Trust Fund, referred to in the preamble to this Act;

“person” includes a body of persons, whether incorporated or unincorporated;

“Trustees” means the Trustees of the Fund.

15 3. The Trustees may, subject to this Act, make a proportionate refund of a donation to the donor thereof. a Power to make refunds.

4. The Trustees shall not make a refund under this Act unless— Notice.

20 (a) the Trustees give, by advertisement published in such newspaper or newspapers as they think fit and by such other means as they think fit, notice of their intention to make, under this Act, a proportionate refund of a donation made by a person—

25 (i) who, within a period specified for the purpose in the notice under this paragraph, claims to be a donor; and

(ii) whose claim is approved by the Trustees; and

(b)

H.M.S. Endeavour Trust Fund.

5 (b) upon the expiration of the period referred to in subparagraph (i) of paragraph (a) of this section, the Trustees notify (as far as practicable) each person who claims to be a donor, but whose claim has not been approved by the Trustees, that, unless it is approved by the Trustees within a period specified for the purpose in the notice under this paragraph, it will be disregarded.

10 5. The Trustees shall not approve a claim under this Act unless the person making the claim satisfies the Trustees— Approval of claims.

(a) that he is a donor; and

(b) as to the amount of his donation.

6. (1) In this section—

15 “prescribed amount” means the amount that is the difference between— Calculation and payment of refunds.

(a) the amount that, on the prescribed day, is in the hands of or under the control of the Trustees and the Company; and

20 (b) the amount that, on the prescribed day, the Trustees consider to be required for administering and winding up the affairs of the Trustees and the Company;

25 “prescribed day” means such day as the Trustees decide shall be the prescribed day, being a day not earlier than the day on which the latest of the periods specified under paragraph (b) of section four of this Act expires;

30 “prescribed total” means the amount that in the opinion of the Trustees is or is as near as practicable to the total amount of donations.

(2)

H.M.S. Endeavour Trust Fund.

(2) Subject to subsection three of this section, the Trustees may refund, to each person whose claim has been approved under this Act, the amount (to the next cent if a fraction of a cent would otherwise be payable) that bears to 5 the amount of his donation the same proportion as the prescribed amount bears to the prescribed total.

(3) The Trustees shall not—

- 10 (a) refund an amount that would otherwise be payable under subsection two of this section if that amount is less than one dollar; or
- (b) refund to any person an amount that exceeds the amount of his donation.

(4) Where—

- 15 (a) a claim has been approved under this Act;
- (b) in respect of that claim an amount is payable to a person under the foregoing provisions of this section; and
- (c) the Trustees are unable to pay that amount to that person for any reason,

20 the Trustees may pay that amount to the Treasurer to be placed to the credit of the Consolidated Revenue Fund.

(5) The Trustees, when paying any amount to the Treasurer under subsection four of this section, shall furnish to the Treasurer such particulars with respect to that amount 25 as the Treasurer requires.

(6) The Treasurer may pay any amount paid to him under subsection four of this section to the person who appears to him to be entitled thereto.

30 (7) The person referred to in subsection four of this section shall, if the amount so referred to has not been paid to him under subsection six of this section, but subject to subsection eight of this section, be entitled to recover that amount from the Treasurer.

(8) Where any amount that has been paid by him to 35 some person appearing to him to be entitled thereto is afterwards claimed by another person, the Treasurer shall not be

H.M.S. Endeavour Trust Fund.

be liable to make any payment to that other person, but that other person may have recourse against the person to whom the Treasurer has paid that amount.

(9) Any amount to be paid by the Treasurer under subsection six of this section or recovered from the Treasurer under subsection seven of this section shall be paid from the Consolidated Revenue Fund.

7. (1) The Trustees and the Company respectively shall pay to the Trustees of the Captain Cook's Landing Place, reserved under the National Parks and Wildlife Act, 1967, for the development and maintenance of the Captain Cook Museum and Information Centre, any surplus money that remains in the hands of or under the control of the Trustees or the Company after provision is made for all payments under section six of this Act and for payment of all amounts necessary to administer and wind up the affairs of the Trustees and the Company.

(2) Where any money paid under subsection one of this section cannot be expended for the purpose referred to in that subsection, the Minister for the time being administering the National Parks and Wildlife Act, 1967, shall direct for what purpose that money is to be expended, being a purpose—

(a) which is of a like nature to that referred to in that subsection; and

(b) a gift for which is deductible from the assessable income of the donor thereof under the provisions of the Income Tax Assessment Act 1936 of the Parliament of the Commonwealth of Australia, as subsequently amended,

and that money may thereupon be expended for that purpose.

8. An action or suit for a refund of any donation or part thereof shall not lie against the Trustees.

No action or suit for refund.
9.

H.M.S. Endeavour Trust Fund.

9. (1) Payment by the Trustees in accordance with this Act of any amount shall not constitute a breach of trust by the Trustees.

Protection
of Trustees
and
Company.

(2) Payment by the Company in accordance with this Act of any amount shall be deemed to be a payment made in furtherance of the objects of the Company.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1968
[10c]

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No. 1000

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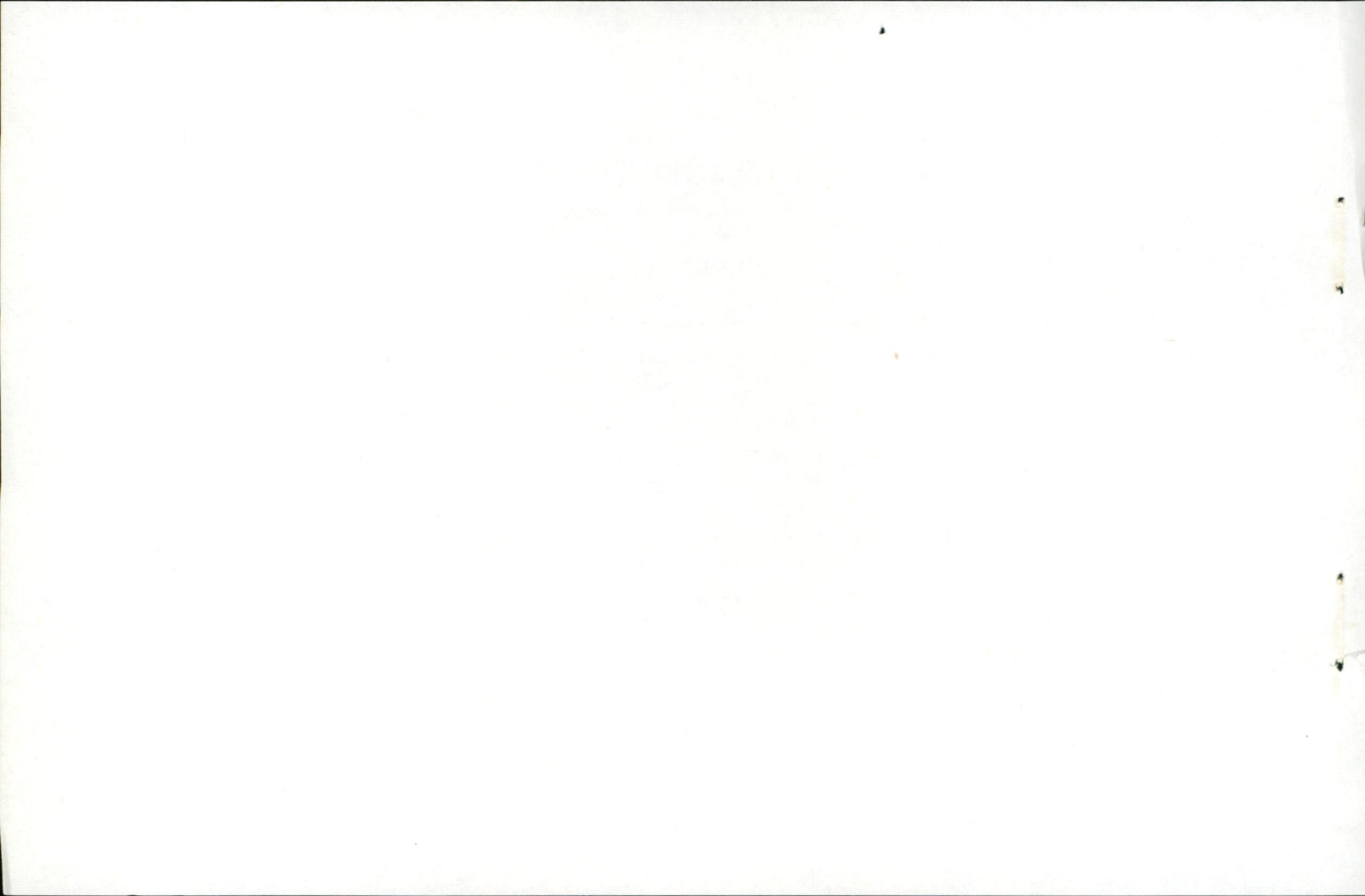
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H.M.S. ENDEAVOUR TRUST FUND BILL, 1968

EXPLANATORY NOTE

THE objects of this Bill are—

- (a) to authorise the Trustees of the H.M.S. Endeavour Trust Fund (hereinafter referred to as "the Fund"), after giving such notice as they think necessary, to make a proportionate refund of donations made to the Fund to persons who claim to be donors and whose claims are approved by the Trustees;
- (b) to provide that the Trustees of the Fund are not required to make a refund if the refund would be less than one dollar;
- (c) to require the Trustees of the Fund to pay to the Trustees of the Captain Cook's Landing Place Historic Site, at Kurnell, all surplus money after provision is made for refunds and other necessary expenses;
- (d) to provide that an action or suit for a refund of any donation does not lie against the Trustees; and
- (e) to make other provisions of an ancillary or minor character.



No. , 1968.

A BILL

To authorise the Trustees of the H.M.S. Endeavour Trust Fund to make a proportionate refund of certain donations made to that Fund and to make certain other payments; and for purposes connected therewith.

[Mr McCaw—6 November, 1968.]

WHEREAS during the year one thousand nine hundred and sixty-four a group of interested persons in Sydney resolved to commemorate certain voyages of discovery of Captain Cook and in particular his discovery in the year one thousand seven hundred and seventy of the east coast of Australia;

Preamble.

H.M.S. Endeavour Trust Fund.

Australia; and whereas, pursuant to that resolution, by declaration of trust dated the twelfth day of October, one thousand nine hundred and sixty-four, a Fund (designated therein as the "H.M.S. Endeavour Trust Fund") was constituted with power to the Trustees named therein to collect money and to invest, manage, control and expend it for the purpose of building, in England, a replica of the H.M.S. Endeavour, and having it sailed to Australia so as to arrive, if practicable, before April, one thousand nine hundred and 5
10 seventy, and thereafter to maintain it as or in connection with a maritime museum and to provide for the maintenance and management in perpetuity of the ship and the museum; and whereas in that declaration of trust it was recited that it had been decided to establish a non-profit making company 15 limited by guarantee under the Companies Act, 1961, as subsequently amended, to be known as "Captain Cook's Endeavour Limited", which Company was duly incorporated; and whereas an appeal for donations was duly conducted and donations were collected throughout the Commonwealth of 20 Australia and elsewhere; and whereas due to increases in costs and the insufficiency of the funds in hand it has become apparent that the original purposes of the trust cannot be achieved and it is considered desirable that donations be proportionately refunded to the donors thereof wherever 25 practicable and that any surplus money in the hands of or under the control of the Trustees and Captain Cook's Endeavour Limited be made (after payment of necessary expenses) available for expenditure on the development and maintenance of the Captain Cook Museum and Information Centre at 30 Kurnell, New South Wales, under the control of the Trustees of the Captain Cook's Landing Place :

BE it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South 35 Wales in Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as the "H.M.S. Endeavour Trust Short title. Fund Act, 1968".

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H.M.S. Endeavour Trust Fund.

2. In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Interpretation.

“Company” means Captain Cook’s Endeavour Limited, referred to in the preamble to this Act;

5 “donation” means a donation that was made to the Fund and that forms part of the Fund;

“donor” means a person who has made a donation, and, in relation to a natural person, includes his legal personal representatives;

10 “Fund” means the H.M.S. Endeavour Trust Fund, referred to in the preamble to this Act;

“person” includes a body of persons, whether incorporated or unincorporated;

“Trustees” means the Trustees of the Fund.

15 3. The Trustees may, subject to this Act, make a proportionate refund of a donation to the donor thereof. a Power to make refunds.

4. The Trustees shall not make a refund under this Act unless— Notice.

20 (a) the Trustees give, by advertisement published in such newspaper or newspapers as they think fit and by such other means as they think fit, notice of their intention to make, under this Act, a proportionate refund of a donation made by a person—

25 (i) who, within a period specified for the purpose in the notice under this paragraph, claims to be a donor; and

(ii) whose claim is approved by the Trustees; and

(b)

H.M.S. Endeavour Trust Fund.

5 (b) upon the expiration of the period referred to in subparagraph (i) of paragraph (a) of this section, the Trustees notify (as far as practicable) each person who claims to be a donor, but whose claim has not been approved by the Trustees, that, unless it is approved by the Trustees within a period specified for the purpose in the notice under this paragraph, it will be disregarded.

10 5. The Trustees shall not approve a claim under this Act unless the person making the claim satisfies the Trustees— ^{Approval of claims.}

- (a) that he is a donor; and
- (b) as to the amount of his donation.

15 6. (1) In this section—

“prescribed amount” means the amount that is the difference between— ^{Calculation and payment of refunds.}

- 15 (a) the amount that, on the prescribed day, is in the hands of or under the control of the Trustees and the Company; and
- 20 (b) the amount that, on the prescribed day, the Trustees consider to be required for administering and winding up the affairs of the Trustees and the Company;

25 “prescribed day” means such day as the Trustees decide shall be the prescribed day, being a day not earlier than the day on which the latest of the periods specified under paragraph (b) of section four of this Act expires;

30 “prescribed total” means the amount that in the opinion of the Trustees is or is as near as practicable to the total amount of donations.

H.M.S. Endeavour Trust Fund.

(2) Subject to subsection three of this section, the Trustees may refund, to each person whose claim has been approved under this Act, the amount (to the next cent if a fraction of a cent would otherwise be payable) that bears to the amount of his donation the same proportion as the prescribed amount bears to the prescribed total.

(3) The Trustees shall not—

- 10 (a) refund an amount that would otherwise be payable under subsection two of this section if that amount is less than one dollar; or
- (b) refund to any person an amount that exceeds the amount of his donation.

(4) Where—

- 15 (a) a claim has been approved under this Act;
- (b) in respect of that claim an amount is payable to a person under the foregoing provisions of this section; and
- (c) the Trustees are unable to pay that amount to that person for any reason,

20 the Trustees may pay that amount to the Treasurer to be placed to the credit of the Consolidated Revenue Fund.

(5) The Trustees, when paying any amount to the Treasurer under subsection four of this section, shall furnish to the Treasurer such particulars with respect to that amount as the Treasurer requires.

(6) The Treasurer may pay any amount paid to him under subsection four of this section to the person who appears to him to be entitled thereto.

30 (7) The person referred to in subsection four of this section shall, if the amount so referred to has not been paid to him under subsection six of this section, but subject to subsection eight of this section, be entitled to recover that amount from the Treasurer.

35 (8) Where any amount that has been paid by him to some person appearing to him to be entitled thereto is afterwards claimed by another person, the Treasurer shall not be

H.M.S. Endeavour Trust Fund.

be liable to make any payment to that other person, but that other person may have recourse against the person to whom the Treasurer has paid that amount.

(9) Any amount to be paid by the Treasurer under subsection six of this section or recovered from the Treasurer under subsection seven of this section shall be paid from the Consolidated Revenue Fund.

7. (1) The Trustees and the Company respectively shall pay to the Trustees of the Captain Cook's Landing Place, reserved under the National Parks and Wildlife Act, 1967, for the development and maintenance of the Captain Cook Museum and Information Centre, any surplus money that remains in the hands of or under the control of the Trustees or the Company after provision is made for all payments under section six of this Act and for payment of all amounts necessary to administer and wind up the affairs of the Trustees and the Company.

(2) Where any money paid under subsection one of this section cannot be expended for the purpose referred to in that subsection, the Minister for the time being administering the National Parks and Wildlife Act, 1967, shall direct for what purpose that money is to be expended, being a purpose—

(a) which is of a like nature to that referred to in that subsection; and

(b) a gift for which is deductible from the assessable income of the donor thereof under the provisions of the Income Tax Assessment Act 1936 of the Parliament of the Commonwealth of Australia, as subsequently amended,

and that money may thereupon be expended for that purpose.

8. An action or suit for a refund of any donation or part thereof shall not lie against the Trustees.

9.

No action or suit for refund.

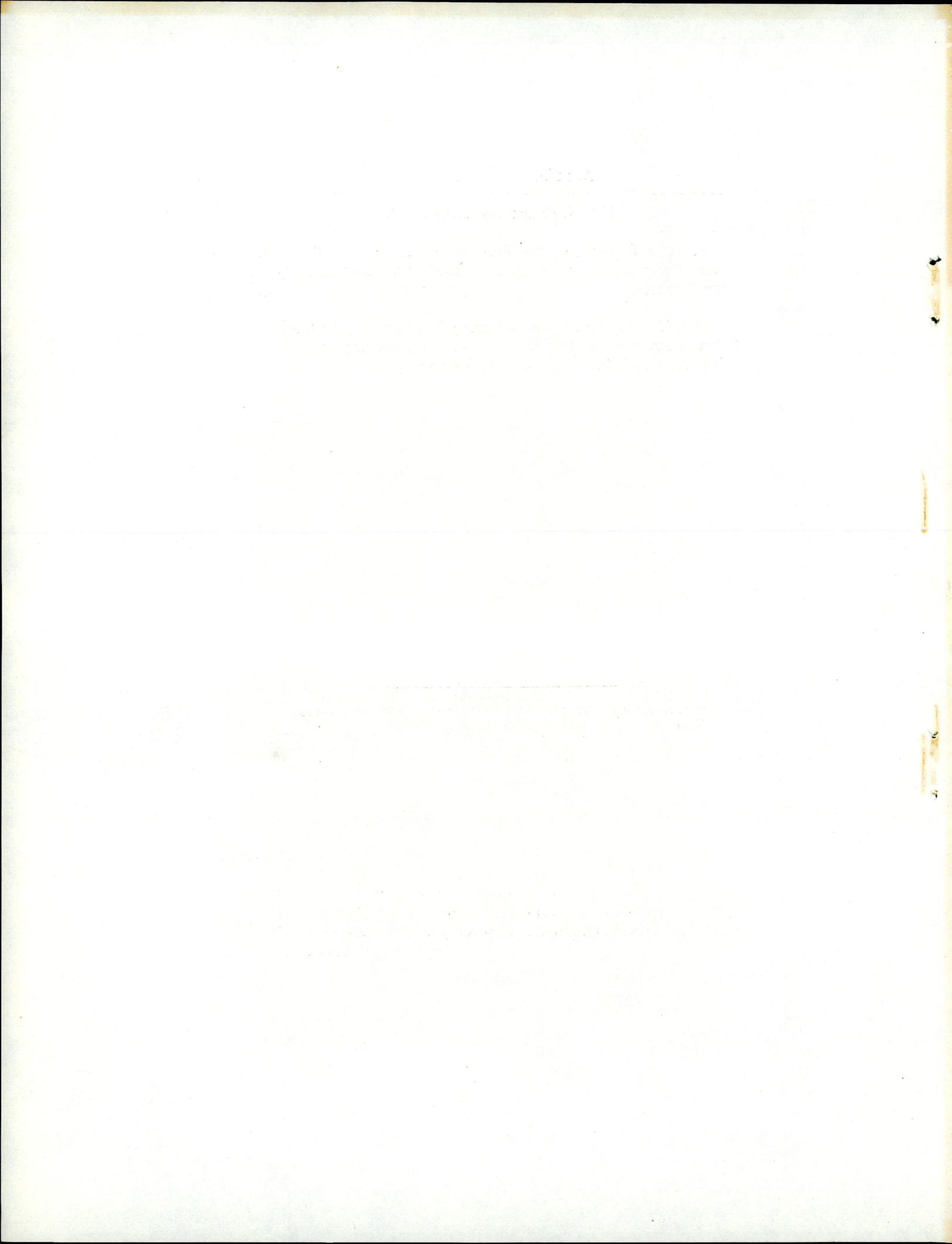
H.M.S. Endeavour Trust Fund.

9. (1) Payment by the Trustees in accordance with this Act of any amount shall not constitute a breach of trust by the Trustees. Protection
of Trustees
and
Company.

(2) Payment by the Company in accordance with this Act of any amount shall be deemed to be a payment made in furtherance of the objects of the Company.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1968
[10c]



PROOF

No. , 1968.

A BILL

To authorise the Trustees of the H.M.S. Endeavour Trust Fund to make a proportionate refund of certain donations made to that Fund and to make certain other payments; and for purposes connected therewith.

[MR McCaw—6 November, 1968.]

WHEREAS during the year one thousand nine hundred and sixty-four a group of interested persons in Sydney resolved to commemorate certain voyages of discovery of Captain Cook and in particular his discovery in the year one thousand seven hundred and seventy of the east coast of Australia;

Preamble.

H.M.S. Endeavour Trust Fund.

Australia; and whereas, pursuant to that resolution, by declaration of trust dated the twelfth day of October, one thousand nine hundred and sixty-four, a Fund (designated therein as the "H.M.S. Endeavour Trust Fund") was constituted with power to the Trustees named therein to collect money and to invest, manage, control and expend it for the purpose of building, in England, a replica of the H.M.S. Endeavour, and having it sailed to Australia so as to arrive, if practicable, before April, one thousand nine hundred and
10 seventy, and thereafter to maintain it as or in connection with a maritime museum and to provide for the maintenance and management in perpetuity of the ship and the museum; and whereas in that declaration of trust it was recited that it had been decided to establish a non-profit making company
15 limited by guarantee under the Companies Act, 1961, as subsequently amended, to be known as "Captain Cook's Endeavour Limited", which Company was duly incorporated; and whereas an appeal for donations was duly conducted and donations were collected throughout the Commonwealth of
20 Australia and elsewhere; and whereas due to increases in costs and the insufficiency of the funds in hand it has become apparent that the original purposes of the trust cannot be achieved and it is considered desirable that donations be proportionately refunded to the donors thereof wherever
25 practicable and that any surplus money in the hands of or under the control of the Trustees and Captain Cook's Endeavour Limited be made (after payment of necessary expenses) available for expenditure on the development and maintenance of the Captain Cook Museum and Information Centre at
30 Kurnell, New South Wales, under the control of the Trustees of the Captain Cook's Landing Place :

BE it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South
35 Wales in Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as the "H.M.S. Endeavour Trust Short title. Fund Act, 1968".

2.

H.M.S. Endeavour Trust Fund.

2. In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Interpretation.

“Company” means Captain Cook’s Endeavour Limited, referred to in the preamble to this Act;

5 “donation” means a donation that was made to the Fund and that forms part of the Fund;

“donor” means a person who has made a donation, and, in relation to a natural person, includes his legal personal representatives;

10 “Fund” means the H.M.S. Endeavour Trust Fund, referred to in the preamble to this Act;

“person” includes a body of persons, whether incorporated or unincorporated;

“Trustees” means the Trustees of the Fund.

15 3. The Trustees may, subject to this Act, make a proportionate refund of a donation to the donor thereof. a Power to make refunds.

4. The Trustees shall not make a refund under this Act unless— Notice.

20 (a) the Trustees give, by advertisement published in such newspaper or newspapers as they think fit and by such other means as they think fit, notice of their intention to make, under this Act, a proportionate refund of a donation made by a person—

25 (i) who, within a period specified for the purpose in the notice under this paragraph, claims to be a donor; and

(ii) whose claim is approved by the Trustees; and

(b)

H.M.S. Endeavour Trust Fund.

5 (b) upon the expiration of the period referred to in subparagraph (i) of paragraph (a) of this section, the Trustees notify (as far as practicable) each person who claims to be a donor, but whose claim has not been approved by the Trustees, that, unless it is approved by the Trustees within a period specified for the purpose in the notice under this paragraph, it will be disregarded.

10 5. The Trustees shall not approve a claim under this Act unless the person making the claim satisfies the Trustees— Approval of claims.

- (a) that he is a donor; and
- (b) as to the amount of his donation.

6. (1) In this section—

15 “prescribed amount” means the amount that is the difference between— Calculation and payment of refunds.

- (a) the amount that, on the prescribed day, is in the hands of or under the control of the Trustees and the Company; and
- 20 (b) the amount that, on the prescribed day, the Trustees consider to be required for administering and winding up the affairs of the Trustees and the Company;

25 “prescribed day” means such day as the Trustees decide shall be the prescribed day, being a day not earlier than the day on which the latest of the periods specified under paragraph (b) of section four of this Act expires;

30 “prescribed total” means the amount that in the opinion of the Trustees is or is as near as practicable to the total amount of donations.

(2)

H.M.S. Endeavour Trust Fund.

(2) Subject to subsection three of this section, the Trustees may refund, to each person whose claim has been approved under this Act, the amount (to the next cent if a fraction of a cent would otherwise be payable) that bears to the amount of his donation the same proportion as the prescribed amount bears to the prescribed total.

(3) The Trustees shall not—

- 10 (a) refund an amount that would otherwise be payable under subsection two of this section if that amount is less than one dollar; or
- (b) refund to any person an amount that exceeds the amount of his donation.

(4) Where—

- 15 (a) a claim has been approved under this Act;
- (b) in respect of that claim an amount is payable to a person under the foregoing provisions of this section; and
- (c) the Trustees are unable to pay that amount to that person for any reason,

20 the Trustees may pay that amount to the Treasurer to be placed to the credit of the Consolidated Revenue Fund.

(5) The Trustees, when paying any amount to the Treasurer under subsection four of this section, shall furnish to the Treasurer such particulars with respect to that amount as the Treasurer requires.

(6) The Treasurer may pay any amount paid to him under subsection four of this section to the person who appears to him to be entitled thereto.

30 (7) The person referred to in subsection four of this section shall, if the amount so referred to has not been paid to him under subsection six of this section, but subject to subsection eight of this section, be entitled to recover that amount from the Treasurer.

35 (8) Where any amount that has been paid by him to some person appearing to him to be entitled thereto is afterwards claimed by another person, the Treasurer shall not be

H.M.S. Endeavour Trust Fund.

be liable to make any payment to that other person, but that other person may have recourse against the person to whom the Treasurer has paid that amount.

(9) Any amount to be paid by the Treasurer under subsection six of this section or recovered from the Treasurer under subsection seven of this section shall be paid from the Consolidated Revenue Fund.

7. (1) The Trustees and the Company respectively shall pay to the Trustees of the Captain Cook's Landing Place, reserved under the National Parks and Wildlife Act, 1967, for the development and maintenance of the Captain Cook Museum and Information Centre, any surplus money that remains in the hands of or under the control of the Trustees or the Company after provision is made for all payments under section six of this Act and for payment of all amounts necessary to administer and wind up the affairs of the Trustees and the Company.

(2) Where any money paid under subsection one of this section cannot be expended for the purpose referred to in that subsection, the Minister for the time being administering the National Parks and Wildlife Act, 1967, shall direct for what purpose that money is to be expended, being a purpose—

(a) which is of a like nature to that referred to in that subsection; and

(b) a gift for which is deductible from the assessable income of the donor thereof under the provisions of the Income Tax Assessment Act 1936 of the Parliament of the Commonwealth of Australia, as subsequently amended,

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8. An action or suit for a refund of any donation or part thereof shall not lie against the Trustees.

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No action or suit for refund.

H.M.S. Endeavour Trust Fund.

9. (1) Payment by the Trustees in accordance with this Act of any amount shall not constitute a breach of trust by the Trustees.

Protection
of Trustees
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(2) Payment by the Company in accordance with this Act of any amount shall be deemed to be a payment made in furtherance of the objects of the Company.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1968

New South Wales



ANNO SEPTIMO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 51, 1968.

An Act to authorise the Trustees of the H.M.S. Endeavour Trust Fund to make a proportionate refund of certain donations made to that Fund and to make certain other payments; and for purposes connected therewith. [Assented to, 10th December, 1968.]

WHEREAS during the year one thousand nine hundred Preamble.
and sixty-four a group of interested persons in Sydney resolved to commemorate certain voyages of discovery of Captain Cook and in particular his discovery in the year one thousand seven hundred and seventy of the east coast of
Australia;

H.M.S. Endeavour Trust Fund.

Australia; and whereas, pursuant to that resolution, by declaration of trust dated the twelfth day of October, one thousand nine hundred and sixty-four, a Fund (designated therein as the "H.M.S. Endeavour Trust Fund") was constituted with power to the Trustees named therein to collect money and to invest, manage, control and expend it for the purpose of building, in England, a replica of the H.M.S. Endeavour, and having it sailed to Australia so as to arrive, if practicable, before April, one thousand nine hundred and seventy, and thereafter to maintain it as or in connection with a maritime museum and to provide for the maintenance and management in perpetuity of the ship and the museum; and whereas in that declaration of trust it was recited that it had been decided to establish a non-profit making company limited by guarantee under the Companies Act, 1961, as subsequently amended, to be known as "Captain Cook's Endeavour Limited", which Company was duly incorporated; and whereas an appeal for donations was duly conducted and donations were collected throughout the Commonwealth of Australia and elsewhere; and whereas due to increases in costs and the insufficiency of the funds in hand it has become apparent that the original purposes of the trust cannot be achieved and it is considered desirable that donations be proportionately refunded to the donors thereof wherever practicable and that any surplus money in the hands of or under the control of the Trustees and Captain Cook's Endeavour Limited be made (after payment of necessary expenses) available for expenditure on the development and maintenance of the Captain Cook Museum and Information Centre at Kurnell, New South Wales, under the control of the Trustees of the Captain Cook's Landing Place :

BE it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title.

1. This Act may be cited as the "H.M.S. Endeavour Trust Fund Act, 1968".

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2. In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Interpretation.

“Company” means Captain Cook’s Endeavour Limited, referred to in the preamble to this Act;

“donation” means a donation that was made to the Fund and that forms part of the Fund;

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(i) who, within a period specified for the purpose in the notice under this paragraph, claims to be a donor; and

(ii) whose claim is approved by the Trustees; and

(b)

H.M.S. Endeavour Trust Fund.

- (b) upon the expiration of the period referred to in subparagraph (i) of paragraph (a) of this section, the Trustees notify (as far as practicable) each person who claims to be a donor, but whose claim has not been approved by the Trustees, that, unless it is approved by the Trustees within a period specified for the purpose in the notice under this paragraph, it will be disregarded.

Approval
of claims

5. The Trustees shall not approve a claim under this Act unless the person making the claim satisfies the Trustees—

- (a) that he is a donor; and
(b) as to the amount of his donation.

Calculation
and payment
of refunds.

6. (1) In this section—

“prescribed amount” means the amount that is the difference between—

- (a) the amount that, on the prescribed day, is in the hands of or under the control of the Trustees and the Company; and
(b) the amount that, on the prescribed day, the Trustees consider to be required for administering and winding up the affairs of the Trustees and the Company;

“prescribed day” means such day as the Trustees decide shall be the prescribed day, being a day not earlier than the day on which the latest of the periods specified under paragraph (b) of section four of this Act expires;

“prescribed total” means the amount that in the opinion of the Trustees is or is as near as practicable to the total amount of donations.

H.M.S. Endeavour Trust Fund.

(2) Subject to subsection three of this section, the Trustees may refund, to each person whose claim has been approved under this Act, the amount (to the next cent if a fraction of a cent would otherwise be payable) that bears to the amount of his donation the same proportion as the prescribed amount bears to the prescribed total.

(3) The Trustees shall not—

- (a) refund an amount that would otherwise be payable under subsection two of this section if that amount is less than one dollar; or
- (b) refund to any person an amount that exceeds the amount of his donation.

(4) Where—

- (a) a claim has been approved under this Act;
- (b) in respect of that claim an amount is payable to a person under the foregoing provisions of this section; and
- (c) the Trustees are unable to pay that amount to that person for any reason,

the Trustees may pay that amount to the Treasurer to be placed to the credit of the Consolidated Revenue Fund.

(5) The Trustees, when paying any amount to the Treasurer under subsection four of this section, shall furnish to the Treasurer such particulars with respect to that amount as the Treasurer requires.

(6) The Treasurer may pay any amount paid to him under subsection four of this section to the person who appears to him to be entitled thereto.

(7) The person referred to in subsection four of this section shall, if the amount so referred to has not been paid to him under subsection six of this section, but subject to subsection eight of this section, be entitled to recover that amount from the Treasurer.

(8) Where any amount that has been paid by him to some person appearing to him to be entitled thereto is afterwards claimed by another person, the Treasurer shall not
be

H.M.S. Endeavour Trust Fund.

be liable to make any payment to that other person, but that other person may have recourse against the person to whom the Treasurer has paid that amount.

(9) Any amount to be paid by the Treasurer under subsection six of this section or recovered from the Treasurer under subsection seven of this section shall be paid from the Consolidated Revenue Fund.

Surplus
money.

7. (1) The Trustees and the Company respectively shall pay to the Trustees of the Captain Cook's Landing Place, reserved under the National Parks and Wildlife Act, 1967, for the development and maintenance of the Captain Cook Museum and Information Centre, any surplus money that remains in the hands of or under the control of the Trustees or the Company after provision is made for all payments under section six of this Act and for payment of all amounts necessary to administer and wind up the affairs of the Trustees and the Company.

(2) Where any money paid under subsection one of this section cannot be expended for the purpose referred to in that subsection, the Minister for the time being administering the National Parks and Wildlife Act, 1967, shall direct for what purpose that money is to be expended, being a purpose—

- (a) which is of a like nature to that referred to in that subsection; and
- (b) a gift for which is deductible from the assessable income of the donor thereof under the provisions of the Income Tax Assessment Act 1936 of the Parliament of the Commonwealth of Australia, as subsequently amended,

and that money may thereupon be expended for that purpose.

No action
or suit
for refund.

8. An action or suit for a refund of any donation or part thereof shall not lie against the Trustees.

9.

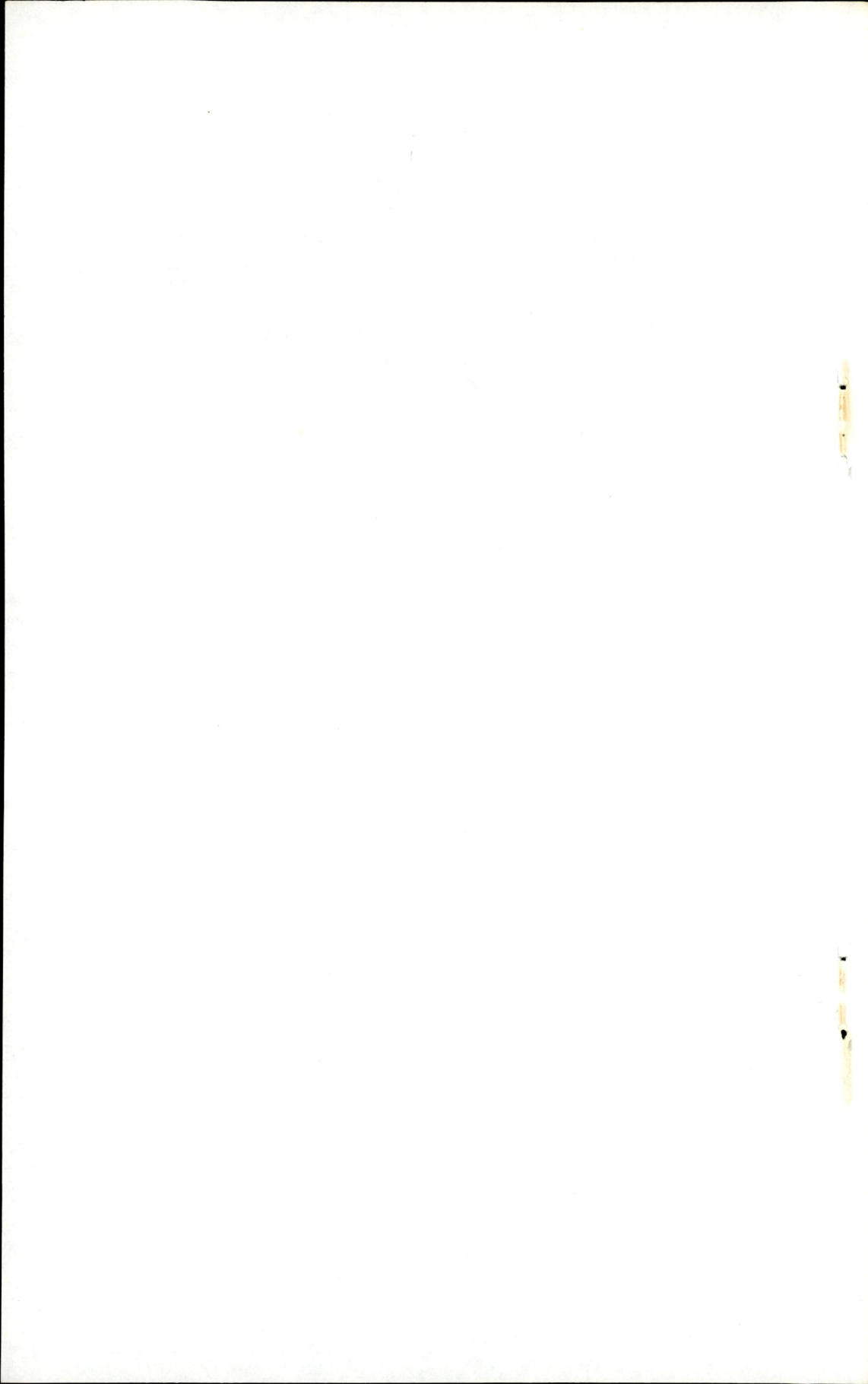
H.M.S. Endeavour Trust Fund.

9. (1) Payment by the Trustees in accordance with this Act of any amount shall not constitute a breach of trust by the Trustees. Protection of Trustees and Company.

(2) Payment by the Company in accordance with this Act of any amount shall be deemed to be a payment made in furtherance of the objects of the Company.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1968



I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 3 December, 1968.*

New South Wales



ANNO SEPTIMO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 51, 1968.

An Act to authorise the Trustees of the H.M.S. Endeavour Trust Fund to make a proportionate refund of certain donations made to that Fund and to make certain other payments; and for purposes connected therewith. [Assented to, 10th December, 1968.]

WHEREAS during the year one thousand nine hundred Preamble.
and sixty-four a group of interested persons in Sydney resolved to commemorate certain voyages of discovery of Captain Cook and in particular his discovery in the year one thousand seven hundred and seventy of the east coast of Australia;

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

L. A. PUNCH,
Chairman of Committees of the Legislative Assembly.

H.M.S. Endeavour Trust Fund.

Australia; and whereas, pursuant to that resolution, by declaration of trust dated the twelfth day of October, one thousand nine hundred and sixty-four, a Fund (designated therein as the "H.M.S. Endeavour Trust Fund") was constituted with power to the Trustees named therein to collect money and to invest, manage, control and expend it for the purpose of building, in England, a replica of the H.M.S. Endeavour, and having it sailed to Australia so as to arrive, if practicable, before April, one thousand nine hundred and seventy, and thereafter to maintain it as or in connection with a maritime museum and to provide for the maintenance and management in perpetuity of the ship and the museum; and whereas in that declaration of trust it was recited that it had been decided to establish a non-profit making company limited by guarantee under the Companies Act, 1961, as subsequently amended, to be known as "Captain Cook's Endeavour Limited", which Company was duly incorporated; and whereas an appeal for donations was duly conducted and donations were collected throughout the Commonwealth of Australia and elsewhere; and whereas due to increases in costs and the insufficiency of the funds in hand it has become apparent that the original purposes of the trust cannot be achieved and it is considered desirable that donations be proportionately refunded to the donors thereof wherever practicable and that any surplus money in the hands of or under the control of the Trustees and Captain Cook's Endeavour Limited be made (after payment of necessary expenses) available for expenditure on the development and maintenance of the Captain Cook Museum and Information Centre at Kurnell, New South Wales, under the control of the Trustees of the Captain Cook's Landing Place :

BE it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title. 1. This Act may be cited as the "H.M.S. Endeavour Trust Fund Act, 1968".

2.

H.M.S. Endeavour Trust Fund.

2. In this Act, except in so far as the context or subject-matter otherwise indicates or requires— **Interpretation.**

“Company” means Captain Cook’s Endeavour Limited, referred to in the preamble to this Act;

“donation” means a donation that was made to the Fund and that forms part of the Fund;

“donor” means a person who has made a donation, and, in relation to a natural person, includes his legal personal representatives;

“Fund” means the H.M.S. Endeavour Trust Fund, referred to in the preamble to this Act;

“person” includes a body of persons, whether incorporated or unincorporated;

“Trustees” means the Trustees of the Fund.

3. The Trustees may, subject to this Act, make a proportionate refund of a donation to the donor thereof. **Power to make refunds.**

4. The Trustees shall not make a refund under this Act unless— **Notice.**

(a) the Trustees give, by advertisement published in such newspaper or newspapers as they think fit and by such other means as they think fit, notice of their intention to make, under this Act, a proportionate refund of a donation made by a person—

(i) who, within a period specified for the purpose in the notice under this paragraph, claims to be a donor; and

(ii) whose claim is approved by the Trustees; and

(b)

H.M.S. Endeavour Trust Fund.

- (b) upon the expiration of the period referred to in subparagraph (i) of paragraph (a) of this section, the Trustees notify (as far as practicable) each person who claims to be a donor, but whose claim has not been approved by the Trustees, that, unless it is approved by the Trustees within a period specified for the purpose in the notice under this paragraph, it will be disregarded.

**Approval
of claims**

5. The Trustees shall not approve a claim under this Act unless the person making the claim satisfies the Trustees—

- (a) that he is a donor; and
(b) as to the amount of his donation.

**Calculation
and payment
of refunds.**

6. (1) In this section—

“prescribed amount” means the amount that is the difference between—

- (a) the amount that, on the prescribed day, is in the hands of or under the control of the Trustees and the Company; and
(b) the amount that, on the prescribed day, the Trustees consider to be required for administering and winding up the affairs of the Trustees and the Company;

“prescribed day” means such day as the Trustees decide shall be the prescribed day, being a day not earlier than the day on which the latest of the periods specified under paragraph (b) of section four of this Act expires;

“prescribed total” means the amount that in the opinion of the Trustees is or is as near as practicable to the total amount of donations.

(2)

H.M.S. Endeavour Trust Fund.

(2) Subject to subsection three of this section, the Trustees may refund, to each person whose claim has been approved under this Act, the amount (to the next cent if a fraction of a cent would otherwise be payable) that bears to the amount of his donation the same proportion as the prescribed amount bears to the prescribed total.

(3) The Trustees shall not—

- (a) refund an amount that would otherwise be payable under subsection two of this section if that amount is less than one dollar; or
- (b) refund to any person an amount that exceeds the amount of his donation.

(4) Where—

- (a) a claim has been approved under this Act;
- (b) in respect of that claim an amount is payable to a person under the foregoing provisions of this section; and
- (c) the Trustees are unable to pay that amount to that person for any reason,

the Trustees may pay that amount to the Treasurer to be placed to the credit of the Consolidated Revenue Fund.

(5) The Trustees, when paying any amount to the Treasurer under subsection four of this section, shall furnish to the Treasurer such particulars with respect to that amount as the Treasurer requires.

(6) The Treasurer may pay any amount paid to him under subsection four of this section to the person who appears to him to be entitled thereto.

(7) The person referred to in subsection four of this section shall, if the amount so referred to has not been paid to him under subsection six of this section, but subject to subsection eight of this section, be entitled to recover that amount from the Treasurer.

(8) Where any amount that has been paid by him to some person appearing to him to be entitled thereto is afterwards claimed by another person, the Treasurer shall not
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H.M.S. Endeavour Trust Fund.

be liable to make any payment to that other person, but that other person may have recourse against the person to whom the Treasurer has paid that amount.

(9) Any amount to be paid by the Treasurer under subsection six of this section or recovered from the Treasurer under subsection seven of this section shall be paid from the Consolidated Revenue Fund.

Surplus
money.

7. (1) The Trustees and the Company respectively shall pay to the Trustees of the Captain Cook's Landing Place, reserved under the National Parks and Wildlife Act, 1967, for the development and maintenance of the Captain Cook Museum and Information Centre, any surplus money that remains in the hands of or under the control of the Trustees or the Company after provision is made for all payments under section six of this Act and for payment of all amounts necessary to administer and wind up the affairs of the Trustees and the Company.

(2) Where any money paid under subsection one of this section cannot be expended for the purpose referred to in that subsection, the Minister for the time being administering the National Parks and Wildlife Act, 1967, shall direct for what purpose that money is to be expended, being a purpose—

- (a) which is of a like nature to that referred to in that subsection; and
- (b) a gift for which is deductible from the assessable income of the donor thereof under the provisions of the Income Tax Assessment Act 1936 of the Parliament of the Commonwealth of Australia, as subsequently amended,

and that money may thereupon be expended for that purpose.

No action
or suit
for refund.

8. An action or suit for a refund of any donation or part thereof shall not lie against the Trustees.

9.

H.M.S. Endeavour Trust Fund.

9. (1) Payment by the Trustees in accordance with this Act of any amount shall not constitute a breach of trust by the Trustees. Protection of Trustees and Company.

(2) Payment by the Company in accordance with this Act of any amount shall be deemed to be a payment made in furtherance of the objects of the Company.

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

*Government House,
Sydney, 10th December, 1968.*

