

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.

R. E. WARD,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 12 October, 1977.*

New South Wales



ANNO VICESIMO SEXTO

ELIZABETHÆ II REGINÆ

Act No. , 1977.

An Act to constitute the Elizabeth Bay House Trust
and define its powers, authorities, duties and functions
and to vest certain land and other property in that
Trust.

BE

Elizabeth Bay House Trust.

BE it 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 :—

5

PART I.

PRELIMINARY.

1. This Act may be cited as the "Elizabeth Bay House Short title. Trust Act, 1977".

2. (1) This section and section 1 shall commence on the Commence-
10 date of assent to this Act. ment.

(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.

15 3. This Act is divided as follows :—

Division
of Act.

PART I.—PRELIMINARY—ss. 1–4.

PART II.—THE ELIZABETH BAY HOUSE TRUST—ss.
5–11.

PART III.—ADMINISTRATION—ss. 12–14.

20 PART IV.—FINANCE—ss. 15–18.

PART V.—MISCELLANEOUS—ss. 19–22.

SCHEDULE 1.—PROVISIONS RELATING TO TRUSTEES
AND PROCEDURE OF THE TRUST.

SCHEDULE 2.—LAND VESTED IN THE TRUST.

25 SCHEDULE 3.—TRANSITIONAL AND OTHER PROVI-
SIONS.

Elizabeth Bay House Trust.

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

5 “Curator” means the person appointed as Curator of
Elizabeth Bay House pursuant to section 12 (1)
or a person acting as Curator of Elizabeth Bay
House;

“Elizabeth Bay House” means the building and other
improvements situated on the land vested in the
Trust by section 19;

10 “regulation” means a regulation under this Act;

“Trust” means the Elizabeth Bay House Trust constituted
by section 5;

“trustee” means a trustee referred to in section 6.

PART II.

15 THE ELIZABETH BAY HOUSE TRUST.

5. (1) There is hereby constituted a corporation with the Constitution
of Trust.
corporate name “Elizabeth Bay House Trust”.

(2) The Trust shall have and may exercise and
perform the powers, authorities, duties and functions conferred
20 or imposed on it by or under this or any other Act.

(3) In the exercise and performance of its powers,
authorities, duties and functions the Trust shall, notwithstand-
ing anything contained in this Act, be subject to the control
and direction of the Minister.

25 (4) The Trust shall, for the purposes of any Act, be
deemed to be a statutory body representing the Crown.

Elizabeth Bay House Trust.

6. (1) The Trust shall consist of 5 trustees, who shall be appointed by the Governor on the recommendation of the Minister. Appointment and procedure.

(2) Schedule 1 has effect.

5 7. The principal objects of the Trust are—

Principal objects of Trust.

- (a) to preserve Elizabeth Bay House as a place of historic and architectural interest; and
- (b) to provide Elizabeth Bay House for the enjoyment of the public and as a place of educational and cultural interest.

10

8. (1) The Trust may—

Powers of Trust.

- (a) maintain, or make arrangements for the maintenance of, the property of the Trust and, in pursuance of its objects, acquire (either as property of the Trust or otherwise) items for temporary or permanent exhibition at Elizabeth Bay House;
- (b) subject to such restrictions (whether relating to hours or otherwise) as the Trust imposes, permit admission of the public to the whole or any part of Elizabeth Bay House;
- (c) promote and provide exhibitions, lectures, films, publications and other educational instruction in pursuance of its principal objects and, in exercising this power, shall give particular emphasis to the history of Elizabeth Bay House and the purposes for which it was used in the nineteenth century;

15

20

25

(d)

Elizabeth Bay House Trust.

- 5 (d) subject to such conditions as the Trust imposes, permit the use of any part of Elizabeth Bay House for activities of an educational or cultural nature, for social functions, State occasions or charitable or other promotional activities of a nature approved by the Trust or for the holding of conferences or meetings;
- 10 (e) permit the use of Elizabeth Bay House for the taking of photographs, the making of films or sound recordings and the production of television or radio programmes or material;
- 15 (f) in or in connection with Elizabeth Bay House, provide, or permit the provision of, food or other refreshments and apply for, hold or dispose of any licence, permit or other authority in connection therewith;
- 20 (g) engage and enter into contracts with artists, entertainers, lecturers and performers to appear at Elizabeth Bay House and pay them such fees and remuneration as may be agreed upon;
- 25 (h) charge and receive fees or other amounts for, or in connection with, any service provided, article sold or permission given by the Trust in its exercise of any of the powers granted to it by this section, which fees and other amounts shall be the property of the Trust; and
- (i) enter into any contract or arrangement with any person for the purpose of promoting the objects of the Trust.

30 (2) Subject to this Act and the regulations, the Trust shall have the control and management of all property vested in the Trust.

(3) The Trust may agree to any condition that is not inconsistent with its objects being imposed on its acquisition
35 of any property.

(4)

Elizabeth Bay House Trust.

(4) Where, by gift inter vivos, devise or bequest, the Trust acquires property, it may retain the property in the form in which it is acquired, subject to any condition agreed to by the Trust under subsection (3) in relation to the
5 property.

(5) The rule of law against remoteness of vesting does not apply to a condition to which the Trust has agreed under subsection (3).

(6) The Stamp Duties Act, 1920, does not apply to
10 or in respect of any gift inter vivos, devise or bequest made or to be made to the Trust.

(7) The Trust may establish such committees as it thinks fit for the purpose of assisting it to exercise and perform its powers, authorities, duties and functions.

15 (8) A person may be appointed to a committee whether or not he is a trustee.

(9) The Trust shall have, and may exercise and perform, such powers, authorities, duties and functions, in addition to those specified in this section, as are reasonably
20 necessary for the attainment of its objects, but may only borrow money in accordance with Part IV.

9. (1) The Trust may authorise—

Restriction
on altera-
tions, etc.

(a) the making of alterations to Elizabeth Bay House;
and
25 (b) the carrying out of other improvements upon the land described in Schedule 2,

but only if—

(c) the consent of the Minister to the alterations or improvements has been obtained by the Trust before
30 they are authorised to be made or carried out; and

(d)

Elizabeth Bay House Trust.

5 (d) the Minister, when giving a consent referred to in paragraph (c), considers that the alterations or improvements to which the consent relates, when made or carried out, would not affect the duty of the Trust to preserve Elizabeth Bay House as a place of historic and architectural interest.

(2) Subject to subsection (3), the Minister may grant a consent referred to in subsection (1) (c) and may impose such conditions as he thinks fit upon the grant of his
10 consent under this subsection.

(3) The Minister may only grant his consent under subsection (2) after he has conferred with the Minister administering the Public Works Act, 1912, on the alterations or improvements to which the consent relates.

15 10. (1) In this section, "condition" means a condition to which the Trust has agreed under section 8 (3). Dealings with property.

(2) Subject to subsection (3), the Trust shall not sell, mortgage, demise or otherwise dispose of any property acquired by gift inter vivos, devise or bequest, or any real
20 property otherwise acquired (including the land described in Schedule 2), except—

(a) where the property was acquired without any condition—with the approval of the Governor (which may be given in respect of any case or class of cases); or
25

(b) where the property was acquired subject to a condition—in accordance with the condition or section 11.

(3) Subject to section 8 (4), and except to the
30 extent that it would be in breach of a condition, the Trust shall invest any of its funds not immediately required for the purposes of the Trust in any manner authorised by law for the investment of trust funds.

Elizabeth Bay House Trust.

11. (1) Subject to subsection (2), where the Trust resolves that any property that has been acquired by the Trust subject to a condition to which the Trust has agreed under section 8 (3) is not required for the purposes of the Trust, 5 the Trust may—

- (a) sell the property and retain the proceeds of the sale as property of the Trust;
- (b) exchange the property for other property;
- 10 (c) give the property to an educational institution (including a museum); or
- (d) if the Trust is of the opinion that the property is of no commercial value—dispose of the property without valuable consideration,

notwithstanding the condition subject to which the property 15 was acquired.

(2) The Trust shall not sell, exchange, give or dispose of any property under subsection (1) except with the consent of the Governor and in accordance with any condition the Governor may impose upon the grant of his 20 consent.

(3) The Governor may consent to the sale, exchange, gift or disposal of property for the purposes of this section and may impose any condition he thinks fit upon the grant of his consent.

25

PART III.

ADMINISTRATION.

12. (1) For the purposes of this Act—

- (a) a Curator of Elizabeth Bay House; and

Officers and employees.

(b)

Elizabeth Bay House Trust.

(b) such other officers and employees as may be necessary for the administration of this Act,

may be appointed and employed under and subject to the Public Service Act, 1902.

5 (2) The officers and employees so appointed or employed shall be subject to the Public Service Act, 1902, during their term of office or employment.

13. (1) The Curator is responsible for the administration and management of Elizabeth Bay House, other property
10 of the Trust and any services provided in conjunction therewith.

(2) The Curator shall be the secretary to the Trust.

(3) The Curator is, in the exercise and performance of his powers, authorities, duties and functions under this
15 Act, subject to the control and direction of the Trust.

14. (1) The Trust may, by instrument in writing, delegate to a trustee or to a person appointed or employed pursuant to section 12 the exercise or performance of such of its powers (other than this power of delegation), authorities,
20 duties or functions as are specified in the instrument of delegation and may, by a like instrument, revoke wholly or partly any such delegation.

Delegation
by Trust.

(2) A delegation under this section may be made subject to such conditions or such limitations as to the
25 exercise or performance of any of the powers, authorities, duties or functions delegated, or as to time or circumstances, as are specified in the instrument of delegation.

(3)

Elizabeth Bay House Trust.

(3) A power, authority, duty or function the exercise or performance of which has been delegated under this section may, while the delegation remains unrevoked, be exercised or performed from time to time in accordance with the terms of the delegation.

(4) Notwithstanding any delegation under this section, the Trust may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

(5) Any act or thing done or suffered by a delegate under this section has the same force and effect as if the act or thing had been done or suffered by the Trust and shall be deemed to have been done or suffered by the Trust.

PART IV.

FINANCE.

15 15. (1) For the purpose of providing a statutory fund to Endowment! be applied by the Trust towards—

- (a) the purchase of items for exhibition at Elizabeth Bay House and their presentation;
- 20 (b) the cost of any alterations to Elizabeth Bay House; and
- (c) subject to subsection (2), other expenditure incurred by the Trust,

there shall be paid by the Treasurer to the Trust an annual endowment of such amount as Parliament approves.

25 (2) The statutory fund referred to in subsection (1) may not be applied towards—

- (a) the remuneration of persons appointed or employed pursuant to section 12; or

(b)

Elizabeth Bay House Trust.

(b) general operating expenses, including those related to the maintenance of Elizabeth Bay House, payable by the Trust.

(3) The annual endowment referred to in subsection
5 (1) shall be paid by such instalments as the Treasurer thinks fit.

(4) Any money payable by the Treasurer under this section shall be paid out of money provided by Parliament.

16. (1) For the temporary accommodation of the Trust Temporary accommodation.
10 it may obtain advances by overdraft of current account in any bank or banks to such extent as may be approved by the Governor on the recommendation of the Treasurer.

(2) The Treasurer may lend money to the Trust upon such terms as to repayment and interest as may be agreed
15 upon.

17. The Trust shall cause to be kept proper books of Accounts.
account relating to the funds and transactions of the Trust and shall, not later than 30th September in each year and as soon as practicable after the preceding 30th June, prepare
20 and transmit to the Minister for presentation to Parliament statements of accounts in respect of the year ending on, and made up to, that 30th June in a form approved by the Auditor-General and exhibiting a true and correct view of the financial position and transactions of the Trust.

25 18. (1) The accounts of the Trust shall be audited by Audit of accounts.
the Auditor-General who shall have in respect thereof all the powers conferred on him by law from time to time in force in relation to the audit of public accounts.

(2)

Elizabeth Bay House Trust.

(2) The Audit Act, 1902, applies to the trustees and officers and employees appointed and employed for the purposes of this Act in the same way as it applies to accounting officers of public departments.

5 (3) The Auditor-General shall report to the Minister and the Trust—

(a) whether or not in his opinion—

- 10 (i) due diligence and care have been shown in the collection and banking of money payable to the Trust;
- (ii) expenditure incurred has been duly authorised, vouched and supervised; and
- 15 (iii) any money or other property owned, or controlled and managed, by the Trust has been misappropriated or improperly or irregularly dealt with;

(b) as to any other matters that, in his opinion, call for special notice; and

(c) as to any other prescribed matters.

20 (4) Towards defraying the costs and expenses of the audit of its accounts the Trust shall pay to the Consolidated Revenue Fund such amounts, at such times, as the Treasurer may direct.

Elizabeth Bay House Trust.

PART V.

MISCELLANEOUS.

19. (1) Upon the commencement of this Part, the land described in Schedule 2 shall vest in the Trust for an estate in fee simple freed and discharged from any trusts, obligations, estates, interests, contracts, charges, rates and easements existing immediately before that commencement in respect of that land. Vesting of
certain land
in Trust.

(2) Nothing in subsection (1) affects any responsibilities, powers, authorities, duties or functions from time to time imposed upon or granted to the Trust by or under this Act in relation to the land described in Schedule 2.

20. The Trust shall, not later than 30th September in each year and as soon as practicable after the preceding 30th June, prepare and transmit to the Minister for presentation to Parliament a report of its work and activities during the year that ended on that 30th June. Annual
report.

21. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to— Regulations.

- (a) the meetings of the Trust;
- (b) committees of the Trust;
- (c) the use of Elizabeth Bay House or other property of or services provided by the Trust; and
- (d) regulating or prohibiting the parking or movement of vehicles upon property of the Trust.

(2)

Elizabeth Bay House Trust.

(2) A regulation may—

- (a) apply differently according to such factors as may be specified in the regulation;
- 5 (b) authorise any matter or thing to be from time to time determined, applied or regulated by any person specified therein; and
- (c) impose a penalty not exceeding \$200 for any breach of a regulation.

22. Schedule 3 has effect.

Transitional
and other
provisions.

10

SCHEDULE 1.

Sec. 6 (2).

PROVISIONS RELATING TO TRUSTEES AND PROCEDURE OF THE TRUST.

1. A person—

- (a) who is of or above the age of 70 years;
- 15 (b) who is a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act; or
- 20 (c) who is a bankrupt, is applying to take the benefit of any law for the relief of bankrupt or insolvent debtors, whose debts are subject to a composition with his creditors, or whose remuneration would, upon his appointment, be subject to an assignment for their benefit,

Certain
persons
ineligible
for appoint-
ment.

is not eligible to be appointed a trustee.

- 25 2. (1) In the case of the illness or absence of any trustee the Minister may appoint a person as a deputy to act in the place of the trustee during his illness or absence.

Appoint-
ment of
deputy.

SCHEDULE

Elizabeth Bay House Trust.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO TRUSTEES AND PROCEDURE OF THE
TRUST—*continued.*

(2) A deputy appointed under this clause shall, while he is
5 acting as a deputy, have all the powers, authorities, duties and
functions of a trustee.

(3) A deputy appointed under this clause shall, if the Minister
thinks fit, be paid such remuneration (including travelling and
sustenance allowances) as the Minister may from time to time
10 determine in respect of him.

(4) No person shall be concerned to inquire whether or not
any occasion has arisen requiring or authorising a person to act in
the place of a trustee, or as to the necessity or propriety of any
appointment of a deputy, and all acts and things done or omitted
15 by a deputy when so acting shall be as valid and shall have the same
consequences as if they had been done or omitted by the trustee for
whom the deputy is acting.

3. (1) The term of office of a trustee shall be, and, unless he
vacates his office during his term, a trustee shall hold office for, such
20 period not exceeding 4 years as may be specified in the instrument
appointing him.

(2) A trustee whose term of office expires may, subject to clause
1, be re-appointed as a trustee.

4. The Public Service Act, 1902, does not apply to or in respect of
25 the appointment of a trustee and a trustee is not, in his capacity as a
trustee, subject to that Act during his term of office.

Certain
enactments
not to apply
in respect
of trustee.

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

Allowances
for
trustees.

6. The Governor may, for any cause which to him seems sufficient,
remove a trustee from office.

Removal
from
office.

7. A trustee shall be deemed to have vacated his office if he—

Vacation
of office.

(a) dies;

35 (b) resigns his office by writing under his hand addressed to
the Minister;

Elizabeth Bay House Trust.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO TRUSTEES AND PROCEDURE OF THE
TRUST—*continued.*

- 5 (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration or estate for their benefit;
 - 10 (d) 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 VII of that Act;
 - 15 (e) is absent from 3 consecutive ordinary meetings of the Trust of which notice has been given to him personally or in the ordinary course of post and is not before the expiration of 6 weeks after the latest of those meetings excused by the Trust for his absence from the meetings;
 - (f) is removed from office by the Governor; or
 - (g) attains the age of 70 years.
8. (1) For the purposes of this clause, a trustee shall not be con- Chairman.
sidered to have ceased to be a trustee by reason only of his term of
20 office as a trustee having expired if he is re-appointed by the Governor as a trustee for a term commencing immediately after the date on which his term of office expired.
- (2) The Chairman of the Trust shall be such trustee as the
25 Minister nominates as Chairman.
- (3) A Chairman holds office until the nomination of his successor under this clause or until he ceases to be a trustee, whichever first occurs.
- (4) At a meeting of the Trust—
- 30 (a) the Chairman; or
 - (b) in the absence of the Chairman or if it is a meeting held when no person holds the office of Chairman—a chairman elected by trustees present at the meeting from among their number,
- 35 shall preside.

SCHEDULE

Elizabeth Bay House Trust.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO TRUSTEES AND PROCEDURE OF THE TRUST—*continued.*

9. (1) The procedure for the calling of meetings of the Trust and Procedure,
5 the conduct of business at those meetings shall, subject to this quorum, etc.
Schedule and any regulation, be as determined by the Trust.

(2) The Minister shall call the first meeting of the Trust by
giving notice to the first 5 trustees in such way as he thinks fit.

(3) Three trustees shall form a quorum and any duly con-
10 vened meeting of the Trust at which a quorum is present shall be
competent to transact any business of the Trust and shall have and
may exercise and perform all the powers, authorities, duties and
functions of the Trust.

(4) The person presiding at a meeting of the Trust shall, in the
15 event of an equality of votes, have in addition to a deliberative vote,
a second or casting vote.

(5) A decision supported by a majority of the votes cast at a
meeting of the Trust at which a quorum is present shall be the
decision of the Trust.

20 10. The secretary to the Trust—
(a) shall cause minutes of each meeting of the Trust to be
recorded and preserved;
(b) is entitled to be present at each meeting of the Trust and to
be heard by the Trust on any matter considered by the
25 Trust; and
(c) is an ex officio member of each committee of the Trust.

The
secretary.

11. The common seal of the Trust shall be kept by the secretary Common
to the Trust and shall only be affixed to an instrument or writing— seal.

(a) by resolution of the Trust;
30 (b) in the presence of 2 trustees; and

Elizabeth Bay House Trust.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO TRUSTEES AND PROCEDURE OF THE
TRUST—*continued.*

- 5 (c) with an attestation by the signatures of the persons present,
as required by this clause, of the fact and date of the
affixing of the seal.

SCHEDULE 2.

Sec. 19 (1).

LAND VESTED IN THE TRUST.

- 10 So much of the land originally granted to Alexander Macleay by
Crown Grant dated 19th October, 1831, as is described in Certificate
of Title Volume 5210 Folio 183 and comprises Lot 16 in Deposited
Plan 15713.

SCHEDULE 3.

Sec. 22.

TRANSITIONAL AND OTHER PROVISIONS.

- 15 1. In this Schedule—

“commencement” means commencement of this Schedule;

“Commission” means the New South Wales Planning and
Environment Commission;

- 20 “Interim Committee” means the Elizabeth Bay House Interim
Committee established by the Commission under section 15
of the State Planning Authority Act, 1963.

Interpre-
tation.

2. The Interim Committee is hereby dissolved and any person who
held office as a member of the Interim Committee immediately before
the commencement shall cease to hold that office.

Dissolution
of Interim
Committee

SCHEDULE

Elizabeth Bay House Trust.

SCHEDULE 3—continued.

TRANSITIONAL AND OTHER PROVISIONS—continued.

3. (1) On and from the commencement— Vesting
of assets.
- (a) all—
- 5 (i) real or personal property, any rights and interests therein and all control and management thereof that, immediately before the commencement, belonged to or was or were vested in the Interim Committee; and
- 10 (ii) personal property (being property that, immediately before the commencement, was situated at Elizabeth Bay House), any rights and interests therein and all control and management thereof that, immediately before the commencement, belonged to or was or were vested in the Commission,
- 15 shall vest in and belong to the Trust;
- (b) all money and liquidated and unliquidated claims that, immediately before the commencement, was or were payable to or recoverable by—
- 20 (i) the Interim Committee; or
- (ii) the Commission (in respect of Elizabeth Bay House or personal property situated at that place at any time before the commencement),
- 25 shall be money and liquidated and unliquidated claims payable to or recoverable by the Trust;
- (c) all money and liquidated and unliquidated claims in respect of the control or management of Elizabeth Bay House for which the Interim Committee or the Commission would, but for the enactment of this Act, have been liable shall be money and liquidated or unliquidated claims for which the Trust shall be liable;
- 30
- (d) all proceedings commenced in respect of Elizabeth Bay House or the control or management of that place before the commencement by the Interim Committee or the Commission shall be deemed to be proceedings pending on that commencement by the Trust and all proceedings in respect of Elizabeth Bay House or the control or management of that place so commenced by any person
- 35

SCHEDULE

Elizabeth Bay House Trust.

SCHEDULE 3—*continued.*

TRANSITIONAL AND OTHER PROVISIONS—*continued.*

5 against the Interim Committee or against the Commission
and pending immediately before the commencement shall
be deemed to be proceedings pending on the commencement
by that person against the Trust;

(e) subject to subclause (2) of this clause, all contracts, agree-
ments, arrangements and undertakings entered into with the
Interim Committee or the Commission with respect to the
10 control or management of Elizabeth Bay House and in force
immediately before the commencement shall be deemed to
be contracts, agreements, arrangements and undertakings
entered into with the Trust; and

(f) the Trust may, in addition to pursuing any other remedies
or exercising any other powers that may be available to it,
15 pursue the same remedies for the recovery of money and
claims referred to in this subclause and for the prosecution
of proceedings so referred to as the Interim Committee or
the Commission might have done but for the enactment of
20 this Act.

(2) Nothing in subclause (1) (e) of this clause affects the
operation of section 19 (1).

4. Where any property, right or interest referred to in clause 3 Agreement
(1) (a)— to certain
conditions.

25 (a) was acquired by the Interim Committee or the Commission
before the commencement by gift inter vivos, devise or
bequest, subject to a condition agreed to by the Interim
Committee or the Commission, as the case may be; and

30 (b) was held by the Interim Committee or the Commission
immediately before that commencement,

the Trust shall, on the commencement, be deemed to have agreed,
under section 8 (3), to the condition upon which the property, right
or interest, as the case may be, was acquired.

5. On the commencement, any person who—

Saving.

35 (a) had been appointed to the office of Curator, Elizabeth Bay
House under and subject to the Public Service Act, 1902,
and held that office immediately before the commencement,
shall be deemed to be appointed as the Curator of Elizabeth
Bay House pursuant to section 12; or

SCHEDULE

Elizabeth Bay House Trust.

SCHEDULE 3—*continued.*

TRANSITIONAL AND OTHER PROVISIONS—*continued.*

- 5 (b) had been appointed or employed under and subject to the Public Service Act, 1902, and was engaged in or in connection with the administration or management of Elizabeth Bay House immediately before the commencement, shall be deemed to be appointed or employed, as the case may be, pursuant to section 12.
- 10 6. The persons who held office as members of the Interim Accounts Committee immediately before the commencement shall— and report.
- (a) prepare—
- 15 (i) statements of all accounts of the Interim Committee made up to the commencement in a form approved by the Auditor-General exhibiting a true and complete view of the financial position and transactions of the Interim Committee in respect of the period from 1st July immediately preceding the commencement; and
- 20 (ii) a report of the work and activities of the Interim Committee from 1st July immediately preceding the commencement and up to the commencement; and
- (b) transmit the statements and report to the Trust as soon after the commencement as may be practicable.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1977
[24c]

Elizabeth Day House Trust

SCHEDULE 2 - CONTINUED

TRANSFERS AND OTHER DISBURSMENTS

and had been included in the annual report and subject to the public review for 1977 and was included in the statement with the annual report. The management of Elizabeth Day House immediately before the commencement shall be deemed to be included in the annual report pursuant to section 11.

2

10. The persons who held office as members of the trustee accounts from the commencement of the commencement shall—

in person—

it is required of all members of the trustee accounts to make up to the management in a form approved by the trustee accounts exhibiting a true and correct statement of the financial position and assets of the trustee accounts in the year of the commencement of the trustee accounts and the commencement of the trustee accounts.

12

the report of the trustee accounts and the trustee accounts shall be immediately preceding the commencement and up to the commencement and

20

(b) the management shall report to the trustee accounts the management shall be immediately preceding the commencement and up to the commencement and

BY AUTHORITY

IN WITNESS WHEREOF, I have hereunto set my hand and seal at New York, N.Y., this 1st day of July, 1977.

[246]

ELIZABETH BAY HOUSE TRUST BILL, 1977

No. , 1977.

A BILL FOR

An Act to constitute the Elizabeth Bay House Trust
and define its powers, authorities, duties and functions
and to vest certain land and other property in that
Trust.

[MR WRAN—6 October, 1977.]

BE

Elizabeth Bay House Trust.

BE it 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 :—

5

PART I.

PRELIMINARY.

1. This Act may be cited as the "Elizabeth Bay House Short title. Trust Act, 1977".

2. (1) This section and section 1 shall commence on the Commence-
10 date of assent to this Act. ment.

(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.

15 **3.** This Act is divided as follows :—

Division
of Act.

PART I.—PRELIMINARY—ss. 1–4.

PART II.—THE ELIZABETH BAY HOUSE TRUST—ss.
5–11.

PART III.—ADMINISTRATION—ss. 12–14.

20 PART IV.—FINANCE—ss. 15–18.

PART V.—MISCELLANEOUS—ss. 19–22.

SCHEDULE 1.—PROVISIONS RELATING TO TRUSTEES
AND PROCEDURE OF THE TRUST.

SCHEDULE 2.—LAND VESTED IN THE TRUST.

25 SCHEDULE 3.—TRANSITIONAL AND OTHER PROVI-
SIONS.

Elizabeth Bay House Trust.

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

“Curator” means the person appointed as Curator of Elizabeth Bay House pursuant to section 12 (1) or a person acting as Curator of Elizabeth Bay House;

“Elizabeth Bay House” means the building and other improvements situated on the land vested in the Trust by section 19;

“regulation” means a regulation under this Act;

“Trust” means the Elizabeth Bay House Trust constituted by section 5;

“trustee” means a trustee referred to in section 6.

PART II.

THE ELIZABETH BAY HOUSE TRUST.

5. (1) There is hereby constituted a corporation with the Constitution of Trust.
corporate name “Elizabeth Bay House Trust”.

(2) The Trust shall have and may exercise and perform the powers, authorities, duties and functions conferred or imposed on it by or under this or any other Act.

(3) In the exercise and performance of its powers, authorities, duties and functions the Trust shall, notwithstanding anything contained in this Act, be subject to the control and direction of the Minister.

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

Elizabeth Bay House Trust.

6. (1) The Trust shall consist of 5 trustees, who shall be appointed by the Governor on the recommendation of the Minister. Appointment and procedure.

(2) Schedule 1 has effect.

5 7. The principal objects of the Trust are— Principal objects of Trust.

(a) to preserve Elizabeth Bay House as a place of historic and architectural interest; and

10 (b) to provide Elizabeth Bay House for the enjoyment of the public and as a place of educational and cultural interest.

8. (1) The Trust may— Powers of Trust.

15 (a) maintain, or make arrangements for the maintenance of, the property of the Trust and, in pursuance of its objects, acquire (either as property of the Trust or otherwise) items for temporary or permanent exhibition at Elizabeth Bay House;

20 (b) subject to such restrictions (whether relating to hours or otherwise) as the Trust imposes, permit admission of the public to the whole or any part of Elizabeth Bay House;

25 (c) promote and provide exhibitions, lectures, films, publications and other educational instruction in pursuance of its principal objects and, in exercising this power, shall give particular emphasis to the history of Elizabeth Bay House and the purposes for which it was used in the nineteenth century;

(d)

Elizabeth Bay House Trust.

- 5 (d) subject to such conditions as the Trust imposes, permit the use of any part of Elizabeth Bay House for activities of an educational or cultural nature, for social functions, State occasions or charitable or other promotional activities of a nature approved by the Trust or for the holding of conferences or meetings;
 - 10 (e) permit the use of Elizabeth Bay House for the taking of photographs, the making of films or sound recordings and the production of television or radio programmes or material;
 - 15 (f) in or in connection with Elizabeth Bay House, provide, or permit the provision of, food or other refreshments and apply for, hold or dispose of any licence, permit or other authority in connection therewith;
 - 20 (g) engage and enter into contracts with artists, entertainers, lecturers and performers to appear at Elizabeth Bay House and pay them such fees and remuneration as may be agreed upon;
 - 25 (h) charge and receive fees or other amounts for, or in connection with, any service provided, article sold or permission given by the Trust in its exercise of any of the powers granted to it by this section, which fees and other amounts shall be the property of the Trust; and
 - (i) enter into any contract or arrangement with any person for the purpose of promoting the objects of the Trust.
- 30 (2) Subject to this Act and the regulations, the Trust shall have the control and management of all property vested in the Trust.

(3) The Trust may agree to any condition that is not inconsistent with its objects being imposed on its acquisition of any property.

Elizabeth Bay House Trust.

(4) Where, by gift inter vivos, devise or bequest, the Trust acquires property, it may retain the property in the form in which it is acquired, subject to any condition agreed to by the Trust under subsection (3) in relation to the property.

(5) The rule of law against remoteness of vesting does not apply to a condition to which the Trust has agreed under subsection (3).

(6) The Stamp Duties Act, 1920, does not apply to or in respect of any gift inter vivos, devise or bequest made or to be made to the Trust.

(7) The Trust may establish such committees as it thinks fit for the purpose of assisting it to exercise and perform its powers, authorities, duties and functions.

(8) A person may be appointed to a committee whether or not he is a trustee.

(9) The Trust shall have, and may exercise and perform, such powers, authorities, duties and functions, in addition to those specified in this section, as are reasonably necessary for the attainment of its objects, but may only borrow money in accordance with Part IV.

9. (1) The Trust may authorise—

Restriction
on altera-
tions, etc.

(a) the making of alterations to Elizabeth Bay House; and

(b) the carrying out of other improvements upon the land described in Schedule 2,

but only if—

(c) the consent of the Minister to the alterations or improvements has been obtained by the Trust before they are authorised to be made or carried out; and

(d)

Elizabeth Bay House Trust.

(d) the Minister, when giving a consent referred to in paragraph (c), considers that the alterations or improvements to which the consent relates, when made or carried out, would not affect the duty of the Trust to preserve Elizabeth Bay House as a place of historic and architectural interest.

(2) Subject to subsection (3), the Minister may grant a consent referred to in subsection (1) (c) and may impose such conditions as he thinks fit upon the grant of his consent under this subsection.

(3) The Minister may only grant his consent under subsection (2) after he has conferred with the Minister administering the Public Works Act, 1912, on the alterations or improvements to which the consent relates.

15 **10.** (1) In this section, "condition" means a condition to which the Trust has agreed under section 8 (3). Dealsings
with
property.

(2) Subject to subsection (3), the Trust shall not sell, mortgage, demise or otherwise dispose of any property acquired by gift inter vivos, devise or bequest, or any real property otherwise acquired (including the land described in Schedule 2), except—

(a) where the property was acquired without any condition—with the approval of the Governor (which may be given in respect of any case or class of cases); or

(b) where the property was acquired subject to a condition—in accordance with the condition or section 11.

(3) Subject to section 8 (4), and except to the extent that it would be in breach of a condition, the Trust shall invest any of its funds not immediately required for the purposes of the Trust in any manner authorised by law for the investment of trust funds.

Elizabeth Bay House Trust.

11. (1) Subject to subsection (2), where the Trust Disposal of
resolves that any property that has been acquired by the Trust certain
subject to a condition to which the Trust has agreed under property.
section 8 (3) is not required for the purposes of the Trust,
5 the Trust may—

- (a) sell the property and retain the proceeds of the sale as property of the Trust;
- (b) exchange the property for other property;
- 10 (c) give the property to an educational institution (including a museum); or
- (d) if the Trust is of the opinion that the property is of no commercial value—dispose of the property without valuable consideration,

notwithstanding the condition subject to which the property
15 was acquired.

(2) The Trust shall not sell, exchange, give or dispose of any property under subsection (1) except with the consent of the Governor and in accordance with any condition the Governor may impose upon the grant of his
20 consent.

(3) The Governor may consent to the sale, exchange, gift or disposal of property for the purposes of this section and may impose any condition he thinks fit upon the grant of his consent.

25

PART III.

ADMINISTRATION.

12. (1) For the purposes of this Act—

Officers and employees.

- (a) a Curator of Elizabeth Bay House; and

(b)

Elizabeth Bay House Trust.

(b) such other officers and employees as may be necessary for the administration of this Act,

may be appointed and employed under and subject to the Public Service Act, 1902.

5 (2) The officers and employees so appointed or employed shall be subject to the Public Service Act, 1902, during their term of office or employment.

13. (1) The Curator is responsible for the administration and management of Elizabeth Bay House, other property
10 of the Trust and any services provided in conjunction therewith. Curator.

(2) The Curator shall be the secretary to the Trust.

(3) The Curator is, in the exercise and performance of his powers, authorities, duties and functions under this
15 Act, subject to the control and direction of the Trust.

14. (1) The Trust may, by instrument in writing, delegate to a trustee or to a person appointed or employed pursuant to section 12 the exercise or performance of such of its powers (other than this power of delegation), authorities,
20 duties or functions as are specified in the instrument of delegation and may, by a like instrument, revoke wholly or partly any such delegation. Delegation by Trust.

(2) A delegation under this section may be made subject to such conditions or such limitations as to the
25 exercise or performance of any of the powers, authorities, duties or functions delegated, or as to time or circumstances, as are specified in the instrument of delegation.

(3)

Elizabeth Bay House Trust.

(3) A power, authority, duty or function the exercise or performance of which has been delegated under this section may, while the delegation remains unrevoked, be exercised or performed from time to time in accordance with the terms
5 of the delegation.

(4) Notwithstanding any delegation under this section, the Trust may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

(5) Any act or thing done or suffered by a delegate
10 under this section has the same force and effect as if the act or thing had been done or suffered by the Trust and shall be deemed to have been done or suffered by the Trust.

PART IV.

FINANCE.

15 **15.** (1) For the purpose of providing a statutory fund to Endowment.
be applied by the Trust towards—

- (a) the purchase of items for exhibition at Elizabeth Bay House and their presentation;
- 20 (b) the cost of any alterations to Elizabeth Bay House;
and
- (c) subject to subsection (2), other expenditure incurred by the Trust,

there shall be paid by the Treasurer to the Trust an annual endowment of such amount as Parliament approves.

25 (2) The statutory fund referred to in subsection (1) may not be applied towards—

- (a) the remuneration of persons appointed or employed pursuant to section 12; or

(b)

Elizabeth Bay House Trust.

(b) general operating expenses, including those related to the maintenance of Elizabeth Bay House, payable by the Trust.

(3) The annual endowment referred to in subsection
5 (1) shall be paid by such instalments as the Treasurer thinks fit.

(4) Any money payable by the Treasurer under this section shall be paid out of money provided by Parliament.

16. (1) For the temporary accommodation of the Trust Temporary
10 it may obtain advances by overdraft of current account in accommo-
any bank or banks to such extent as may be approved by the dation.
Governor on the recommendation of the Treasurer.

(2) The Treasurer may lend money to the Trust
upon such terms as to repayment and interest as may be agreed
15 upon.

17. The Trust shall cause to be kept proper books of Accounts.
account relating to the funds and transactions of the Trust
and shall, not later than 30th September in each year and
as soon as practicable after the preceding 30th June, prepare
20 and transmit to the Minister for presentation to Parliament
statements of accounts in respect of the year ending on, and
made up to, that 30th June in a form approved by the
Auditor-General and exhibiting a true and correct view of the
financial position and transactions of the Trust.

25 18. (1) The accounts of the Trust shall be audited by Audit of
the Auditor-General who shall have in respect thereof all the accounts.
powers conferred on him by law from time to time in force
in relation to the audit of public accounts.

(2)

Elizabeth Bay House Trust.

(2) The Audit Act, 1902, applies to the trustees and officers and employees appointed and employed for the purposes of this Act in the same way as it applies to accounting officers of public departments.

5 (3) The Auditor-General shall report to the Minister and the Trust—

(a) whether or not in his opinion—

10 (i) due diligence and care have been shown in the collection and banking of money payable to the Trust;

(ii) expenditure incurred has been duly authorised, vouched and supervised; and

15 (iii) any money or other property owned, or controlled and managed, by the Trust has been misappropriated or improperly or irregularly dealt with;

(b) as to any other matters that, in his opinion, call for special notice; and

(c) as to any other prescribed matters.

20 (4) Towards defraying the costs and expenses of the audit of its accounts the Trust shall pay to the Consolidated Revenue Fund such amounts, at such times, as the Treasurer may direct.

Elizabeth Bay House Trust.

PART V.

MISCELLANEOUS.

19. (1) Upon the commencement of this Part, the land described in Schedule 2 shall vest in the Trust for an estate in fee simple freed and discharged from any trusts, obligations, estates, interests, contracts, charges, rates and easements existing immediately before that commencement in respect of that land. Vesting of certain land in Trust.

(2) Nothing in subsection (1) affects any responsibilities, powers, authorities, duties or functions from time to time imposed upon or granted to the Trust by or under this Act in relation to the land described in Schedule 2.

20. The Trust shall, not later than 30th September in each year and as soon as practicable after the preceding 30th June, prepare and transmit to the Minister for presentation to Parliament a report of its work and activities during the year that ended on that 30th June. Annual report.

21. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to— Regulations.

- (a) the meetings of the Trust;
- (b) committees of the Trust;
- (c) the use of Elizabeth Bay House or other property of or services provided by the Trust; and
- (d) regulating or prohibiting the parking or movement of vehicles upon property of the Trust.

(2)

Elizabeth Bay House Trust.

(2) A regulation may—

- (a) apply differently according to such factors as may be specified in the regulation;
- 5 (b) authorise any matter or thing to be from time to time determined, applied or regulated by any person specified therein; and
- (c) impose a penalty not exceeding \$200 for any breach of a regulation.

22. Schedule 3 has effect.

Transitional
and other
provisions.

SCHEDULE 1.

Sec. 6 (2).

PROVISIONS RELATING TO TRUSTEES AND PROCEDURE OF THE TRUST.

1. A person—

- (a) who is of or above the age of 70 years;
- 15 (b) who is a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act; or
- 20 (c) who is a bankrupt, is applying to take the benefit of any law for the relief of bankrupt or insolvent debtors, whose debts are subject to a composition with his creditors, or whose remuneration would, upon his appointment, be subject to an assignment for their benefit,

Certain
persons
ineligible
for appoint-
ment.

is not eligible to be appointed a trustee.

- 25 2. (1) In the case of the illness or absence of any trustee the Minister may appoint a person as a deputy to act in the place of the trustee during his illness or absence.

Appoint-
ment of
deputy.

SCHEDULE

Elizabeth Bay House Trust.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO TRUSTEES AND PROCEDURE OF THE
TRUST—*continued.*

(2) A deputy appointed under this clause shall, while he is
5 acting as a deputy, have all the powers, authorities, duties and
functions of a trustee.

(3) A deputy appointed under this clause shall, if the Minister
thinks fit, be paid such remuneration (including travelling and
sustenance allowances) as the Minister may from time to time
10 determine in respect of him.

(4) No person shall be concerned to inquire whether or not
any occasion has arisen requiring or authorising a person to act in
the place of a trustee, or as to the necessity or propriety of any
appointment of a deputy, and all acts and things done or omitted
15 by a deputy when so acting shall be as valid and shall have the same
consequences as if they had been done or omitted by the trustee for
whom the deputy is acting.

3. (1) The term of office of a trustee shall be, and, unless he
vacates his office during his term, a trustee shall hold office for, such
20 period not exceeding 4 years as may be specified in the instrument
appointing him.

(2) A trustee whose term of office expires may, subject to clause
1, be re-appointed as a trustee.

4. The Public Service Act, 1902, does not apply to or in respect of
25 the appointment of a trustee and a trustee is not, in his capacity as a
trustee, subject to that Act during his term of office.

Certain
enactments
not to apply
in respect
of trustee.

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

Allowances
for
trustees.

6. The Governor may, for any cause which to him seems sufficient,
remove a trustee from office.

Removal
from
office.

7. A trustee shall be deemed to have vacated his office if he—

Vacation
of office.

(a) dies;

35 (b) resigns his office by writing under his hand addressed to
the Minister;

SCHEDULE

Elizabeth Bay House Trust.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO TRUSTEES AND PROCEDURE OF THE
TRUST—*continued.*

- 5 (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration or estate for their benefit;
- 10 (d) 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 VII of that Act;
- 15 (e) is absent from 3 consecutive ordinary meetings of the Trust of which notice has been given to him personally or in the ordinary course of post and is not before the expiration of 6 weeks after the latest of those meetings excused by the Trust for his absence from the meetings;
- (f) is removed from office by the Governor; or
- (g) attains the age of 70 years.
- 20 8. (1) For the purposes of this clause, a trustee shall not be considered to have ceased to be a trustee by reason only of his term of office as a trustee having expired if he is re-appointed by the Governor as a trustee for a term commencing immediately after the date on which his term of office expired. Chairman.
- 25 (2) The Chairman of the Trust shall be such trustee as the Minister nominates as Chairman.
- (3) A Chairman holds office until the nomination of his successor under this clause or until he ceases to be a trustee, whichever first occurs.
- 30 (4) At a meeting of the Trust—
- (a) the Chairman; or
- (b) in the absence of the Chairman or if it is a meeting held when no person holds the office of Chairman—a chairman elected by trustees present at the meeting from among their number,
- 35 shall preside.

SCHEDULE

Elizabeth Bay House Trust.

SCHEDULE 1—continued.

PROVISIONS RELATING TO TRUSTEES AND PROCEDURE OF THE TRUST—continued.

9. (1) The procedure for the calling of meetings of the Trust and Procedure,
 5 the conduct of business at those meetings shall, subject to this quorum, etc.
 Schedule and any regulation, be as determined by the Trust.

(2) The Minister shall call the first meeting of the Trust by
 giving notice to the first 5 trustees in such way as he thinks fit.

(3) Three trustees shall form a quorum and any duly con-
 10 vened meeting of the Trust at which a quorum is present shall be
 competent to transact any business of the Trust and shall have and
 may exercise and perform all the powers, authorities, duties and
 functions of the Trust.

(4) The person presiding at a meeting of the Trust shall, in the
 15 event of an equality of votes, have in addition to a deliberative vote,
 a second or casting vote.

(5) A decision supported by a majority of the votes cast at a
 meeting of the Trust at which a quorum is present shall be the
 decision of the Trust.

20 10. The secretary to the Trust—

The
 secretary.

(a) shall cause minutes of each meeting of the Trust to be
 recorded and preserved;

(b) is entitled to be present at each meeting of the Trust and to
 25 be heard by the Trust on any matter considered by the
 Trust; and

(c) is an ex officio member of each committee of the Trust.

11. The common seal of the Trust shall be kept by the secretary Common
 to the Trust and shall only be affixed to an instrument or writing— seal.

(a) by resolution of the Trust;

30 (b) in the presence of 2 trustees; and

Elizabeth Bay House Trust.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO TRUSTEES AND PROCEDURE OF THE TRUST—*continued.*

- 5 (c) with an attestation by the signatures of the persons present, as required by this clause, of the fact and date of the affixing of the seal.

SCHEDULE 2.

Sec. 19 (1).

LAND VESTED IN THE TRUST.

- 10 So much of the land originally granted to Alexander Macleay by Crown Grant dated 19th October, 1831, as is described in Certificate of Title Volume 5210 Folio 183 and comprises Lot 16 in Deposited Plan 15713.

SCHEDULE 3.

Sec. 22.

TRANSITIONAL AND OTHER PROVISIONS.

- 15 1. In this Schedule—

Interpretation.

“commencement” means commencement of this Schedule;

“Commission” means the New South Wales Planning and Environment Commission;

- 20 “Interim Committee” means the Elizabeth Bay House Interim Committee established by the Commission under section 15 of the State Planning Authority Act, 1963.

2. The Interim Committee is hereby dissolved and any person who held office as a member of the Interim Committee immediately before the commencement shall cease to hold that office.

Dissolution of Interim Committee.

SCHEDULE

*Elizabeth Bay House Trust.*SCHEDULE 3—*continued.*TRANSITIONAL AND OTHER PROVISIONS—*continued.*

3. (1) On and from the commencement— Vesting
of assets.
- (a) all—
- 5 (i) real or personal property, any rights and interests therein and all control and management thereof that, immediately before the commencement, belonged to or was or were vested in the Interim Committee; and
- 10 (ii) personal property (being property that, immediately before the commencement, was situated at Elizabeth Bay House), any rights and interests therein and all control and management thereof that, immediately before the commencement, belonged to or was or
- 15 were vested in the Commission,
- shall vest in and belong to the Trust;
- (b) all money and liquidated and unliquidated claims that, immediately before the commencement, was or were payable to or recoverable by—
- 20 (i) the Interim Committee; or
- (ii) the Commission (in respect of Elizabeth Bay House or personal property situated at that place at any time before the commencement),
- 25 shall be money and liquidated and unliquidated claims payable to or recoverable by the Trust;
- (c) all money and liquidated and unliquidated claims in respect of the control or management of Elizabeth Bay House for which the Interim Committee or the Commission would, but for the enactment of this Act, have been liable shall
- 30 be money and liquidated or unliquidated claims for which the Trust shall be liable;
- (d) all proceedings commenced in respect of Elizabeth Bay House or the control or management of that place before the commencement by the Interim Committee or the Commission shall be deemed to be proceedings pending on
- 35 that commencement by the Trust and all proceedings in respect of Elizabeth Bay House or the control or management of that place so commenced by any person

SCHEDULE

*Elizabeth Bay House Trust.*SCHEDULE 3—*continued.*TRANSITIONAL AND OTHER PROVISIONS—*continued.*

5 against the Interim Committee or against the Commission
and pending immediately before the commencement shall
be deemed to be proceedings pending on the commencement
by that person against the Trust;

10 (e) subject to subclause (2) of this clause, all contracts, agree-
ments, arrangements and undertakings entered into with the
Interim Committee or the Commission with respect to the
control or management of Elizabeth Bay House and in force
immediately before the commencement shall be deemed to
be contracts, agreements, arrangements and undertakings
entered into with the Trust; and

15 (f) the Trust may, in addition to pursuing any other remedies
or exercising any other powers that may be available to it,
pursue the same remedies for the recovery of money and
claims referred to in this subclause and for the prosecution
of proceedings so referred to as the Interim Committee or
20 the Commission might have done but for the enactment of
this Act.

(2) Nothing in subclause (1) (e) of this clause affects the
operation of section 19 (1).

4. Where any property, right or interest referred to in clause 3 Agreement
(1) (a)— to certain
conditions.

25 (a) was acquired by the Interim Committee or the Commission
before the commencement by gift inter vivos, devise or
bequest, subject to a condition agreed to by the Interim
Committee or the Commission, as the case may be; and

30 (b) was held by the Interim Committee or the Commission
immediately before that commencement,

the Trust shall, on the commencement, be deemed to have agreed,
under section 8 (3), to the condition upon which the property, right
or interest, as the case may be, was acquired.

5. On the commencement, any person who— Saving.

35 (a) had been appointed to the office of Curator, Elizabeth Bay
House under and subject to the Public Service Act, 1902,
and held that office immediately before the commencement,
shall be deemed to be appointed as the Curator of Elizabeth
Bay House pursuant to section 12; or

SCHEDULE

Elizabeth Bay House Trust.

SCHEDULE 3—*continued.*

TRANSITIONAL AND OTHER PROVISIONS—*continued.*

- 5 (b) had been appointed or employed under and subject to the Public Service Act, 1902, and was engaged in or in connection with the administration or management of Elizabeth Bay House immediately before the commencement, shall be deemed to be appointed or employed, as the case may be, pursuant to section 12.
- 10 6. The persons who held office as members of the Interim Committee immediately before the commencement shall—
Accounts and report.
- (a) prepare—
- 15 (i) statements of all accounts of the Interim Committee made up to the commencement in a form approved by the Auditor-General exhibiting a true and complete view of the financial position and transactions of the Interim Committee in respect of the period from 1st July immediately preceding the commencement; and
- 20 (ii) a report of the work and activities of the Interim Committee from 1st July immediately preceding the commencement and up to the commencement; and
- (b) transmit the statements and report to the Trust as soon after the commencement as may be practicable.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1977
[24c]

Elizabeth Bay House Trust.

SCHEDULE 3 - continued.

1. Interpretation and Other Provisions - continued.

(b) had been appointed or employed under and subject to the Public Service Act, 1902, and was engaged in or in connection with the administration or management of Elizabeth Bay House immediately before the commencement shall be deemed to be appointed or employed as the case may be pursuant to section 12.

2

10. The persons who held office as members of the Interim Accounts Committee immediately before the commencement shall

10

(a) prepare -

(i) statement of all accounts of the Interim Committee made up to the commencement in a form approved by the Auditor General exhibiting a true and accurate view of the financial position and transactions of the Interim Committee in respect of the period from 1 July immediately preceding the commencement and

12

(ii) a report of the work and activities of the Interim Committee from 1 July immediately preceding the commencement and up to the commencement; and

20

(c) transfer the accounts and report to the Trust as soon after the commencement as may be practicable.

ELIZABETH BAY HOUSE TRUST BILL, 1977

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

THE objects of this Bill are to constitute the Elizabeth Bay House Trust and define its powers, authorities, duties and functions in relation to the control and management of Elizabeth Bay House.

The Bill contains the following provisions:—

Clause 1. Short title.

Clause 2. Commencement.

Clause 3. Division of proposed Act.

Clause 4. Interpretation.

Clause 5 constitutes the Elizabeth Bay House Trust (hereinafter referred to as "the Trust").

Clause 6 provides that 5 trustees shall comprise the Trust and gives effect to Schedule 1 to the proposed Act.

Clause 7 states the principal objects of the Trust.

Clause 8 states the powers of the Trust.

Clause 9 requires the Trust to obtain the consent of the Minister (given after he has conferred with the Minister administering the Public Works Act, 1912) before it makes any alterations to Elizabeth Bay House or carries out any other improvements upon the land on which the House is situated.

Clause 10 imposes other restrictions on the Trust in its dealings with certain Trust property.

Clause 11 provides for the disposal of certain property that is not required for the purposes of the Trust.

Clause 12 provides for the appointment of officers and employees for the purposes of the proposed Act, one of whom shall be appointed as Curator of Elizabeth Bay House.

Clause 13 states the responsibilities of the Curator of Elizabeth Bay House.

Clause 14 empowers the Trust to delegate certain of its powers, authorities, duties and functions.

Clause 15 provides for an annual endowment to be paid to the Trust by the Treasurer.

Clause 16 empowers the Trust to borrow money with the approval of the Governor.

Clause 17 requires the Trust to prepare annual statements of accounts for presentation to Parliament.

Clause 18 provides for the audit of the accounts of the Trust by the Auditor-General.

Clause 19 vests the land upon which Elizabeth Bay House is situated in the Trust.

Clause 20 requires the Trust to prepare an annual report for presentation to Parliament.

Clause 21 provides for regulations to be made under the proposed Act.

Clause 22 gives effect to Schedule 3 to the proposed Act.

Schedule 1 provides for the procedure of the Trust and other matters relating to trustees.

Schedule 2 describes land to be vested in the Trust by the proposed Act.

Schedule 3 makes provisions of a transitional, saving and ancillary nature.

PROOF

ELIZABETH BAY HOUSE TRUST BILL, 1977

No. , 1977.

A BILL FOR

An Act to constitute the Elizabeth Bay House Trust
and define its powers, authorities, duties and functions
and to vest certain land and other property in that
Trust.

[MR WRAN—6 October, 1977.]

BE

Elizabeth Bay House Trust.

BE it 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 :—

5

PART I.**PRELIMINARY.**

1. This Act may be cited as the "Elizabeth Bay House Short title. Trust Act, 1977".

2. (1) This section and section 1 shall commence on the **Commence-**
10 date of assent to this Act. **ment.**

(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.

15 **3.** This Act is divided as follows :—

PART I.—PRELIMINARY—ss. 1–4.

PART II.—THE ELIZABETH BAY HOUSE TRUST—ss.
5–11.

PART III.—ADMINISTRATION—ss. 12–14.

20 **PART IV.—FINANCE—ss. 15–18.**

PART V.—MISCELLANEOUS—ss. 19–22.

SCHEDULE 1.—PROVISIONS RELATING TO TRUSTEES
AND PROCEDURE OF THE TRUST.

SCHEDULE 2.—LAND VESTED IN THE TRUST.

25 **SCHEDULE 3.—TRANSITIONAL AND OTHER PROVI-**
SIONS.

Division
of Act.

Elizabeth Bay House Trust.

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

5 “Curator” means the person appointed as Curator of
Elizabeth Bay House pursuant to section 12 (1)
or a person acting as Curator of Elizabeth Bay
House;

“Elizabeth Bay House” means the building and other
improvements situated on the land vested in the
Trust by section 19;

10 “regulation” means a regulation under this Act;

“Trust” means the Elizabeth Bay House Trust constituted
by section 5;

“trustee” means a trustee referred to in section 6.

PART II.

15 THE ELIZABETH BAY HOUSE TRUST.

5. (1) There is hereby constituted a corporation with the Constitution
corporate name “Elizabeth Bay House Trust”. of Trust.

(2) The Trust shall have and may exercise and
perform the powers, authorities, duties and functions conferred
20 or imposed on it by or under this or any other Act.

(3) In the exercise and performance of its powers,
authorities, duties and functions the Trust shall, notwithstand-
ing anything contained in this Act, be subject to the control
and direction of the Minister.

25 (4) The Trust shall, for the purposes of any Act, be
deemed to be a statutory body representing the Crown.

Elizabeth Bay House Trust.

6. (1) The Trust shall consist of 5 trustees, who shall be appointed by the Governor on the recommendation of the Minister. Appointment and procedure.

(2) Schedule 1 has effect.

5 7. The principal objects of the Trust are—

Principal
objects of
Trust.

- (a) to preserve Elizabeth Bay House as a place of historic and architectural interest; and
- (b) to provide Elizabeth Bay House for the enjoyment of the public and as a place of educational and cultural interest.

10

8. (1) The Trust may—

Powers of
Trust.

- (a) maintain, or make arrangements for the maintenance of, the property of the Trust and, in pursuance of its objects, acquire (either as property of the Trust or otherwise) items for temporary or permanent exhibition at Elizabeth Bay House;
- (b) subject to such restrictions (whether relating to hours or otherwise) as the Trust imposes, permit admission of the public to the whole or any part of Elizabeth Bay House;
- (c) promote and provide exhibitions, lectures, films, publications and other educational instruction in pursuance of its principal objects and, in exercising this power, shall give particular emphasis to the history of Elizabeth Bay House and the purposes for which it was used in the nineteenth century;

15

20

25

(d)

Elizabeth Bay House Trust.

- 5 (d) subject to such conditions as the Trust imposes, permit the use of any part of Elizabeth Bay House for activities of an educational or cultural nature, for social functions, State occasions or charitable or other promotional activities of a nature approved by the Trust or for the holding of conferences or meetings;
- 10 (e) permit the use of Elizabeth Bay House for the taking of photographs, the making of films or sound recordings and the production of television or radio programmes or material;
- 15 (f) in or in connection with Elizabeth Bay House, provide, or permit the provision of, food or other refreshments and apply for, hold or dispose of any licence, permit or other authority in connection therewith;
- 20 (g) engage and enter into contracts with artists, entertainers, lecturers and performers to appear at Elizabeth Bay House and pay them such fees and remuneration as may be agreed upon;
- 25 (h) charge and receive fees or other amounts for, or in connection with, any service provided, article sold or permission given by the Trust in its exercise of any of the powers granted to it by this section, which fees and other amounts shall be the property of the Trust; and
- (i) enter into any contract or arrangement with any person for the purpose of promoting the objects of the Trust.

30 (2) Subject to this Act and the regulations, the Trust shall have the control and management of all property vested in the Trust.

(3) The Trust may agree to any condition that is not inconsistent with its objects being imposed on its acquisition
35 of any property.

(4)

Elizabeth Bay House Trust.

(4) Where, by gift inter vivos, devise or bequest, the Trust acquires property, it may retain the property in the form in which it is acquired, subject to any condition agreed to by the Trust under subsection (3) in relation to the property.

(5) The rule of law against remoteness of vesting does not apply to a condition to which the Trust has agreed under subsection (3).

(6) The Stamp Duties Act, 1920, does not apply to or in respect of any gift inter vivos, devise or bequest made or to be made to the Trust.

(7) The Trust may establish such committees as it thinks fit for the purpose of assisting it to exercise and perform its powers, authorities, duties and functions.

(8) A person may be appointed to a committee whether or not he is a trustee.

(9) The Trust shall have, and may exercise and perform, such powers, authorities, duties and functions, in addition to those specified in this section, as are reasonably necessary for the attainment of its objects, but may only borrow money in accordance with Part IV.

9. (1) The Trust may authorise—

(a) the making of alterations to Elizabeth Bay House; and

Restriction
on altera-
tions, etc.

(b) the carrying out of other improvements upon the land described in Schedule 2,

but only if—

(c) the consent of the Minister to the alterations or improvements has been obtained by the Trust before they are authorised to be made or carried out; and

(d)

Elizabeth Bay House Trust.

(d) the Minister, when giving a consent referred to in paragraph (c), considers that the alterations or improvements to which the consent relates, when made or carried out, would not affect the duty of the Trust to preserve Elizabeth Bay House as a place of historic and architectural interest.

(2) Subject to subsection (3), the Minister may grant a consent referred to in subsection (1) (c) and may impose such conditions as he thinks fit upon the grant of his consent under this subsection.

(3) The Minister may only grant his consent under subsection (2) after he has conferred with the Minister administering the Public Works Act, 1912, on the alterations or improvements to which the consent relates.

15 **10.** (1) In this section, "condition" means a condition to which the Trust has agreed under section 8 (3). Deals with property.

(2) Subject to subsection (3), the Trust shall not sell, mortgage, demise or otherwise dispose of any property acquired by gift inter vivos, devise or bequest, or any real property otherwise acquired (including the land described in Schedule 2), except—

25 (a) where the property was acquired without any condition—with the approval of the Governor (which may be given in respect of any case or class of cases); or

(b) where the property was acquired subject to a condition—in accordance with the condition or section 11.

(3) Subject to section 8 (4), and except to the extent that it would be in breach of a condition, the Trust shall invest any of its funds not immediately required for the purposes of the Trust in any manner authorised by law for the investment of trust funds.

11.

Elizabeth Bay House Trust.

11. (1) Subject to subsection (2), where the Trust resolves that any property that has been acquired by the Trust subject to a condition to which the Trust has agreed under section 8 (3) is not required for the purposes of the Trust, 5 the Trust may—

- (a) sell the property and retain the proceeds of the sale as property of the Trust;
- (b) exchange the property for other property;
- 10 (c) give the property to an educational institution (including a museum); or
- (d) if the Trust is of the opinion that the property is of no commercial value—dispose of the property without valuable consideration,

notwithstanding the condition subject to which the property 15 was acquired.

(2) The Trust shall not sell, exchange, give or dispose of any property under subsection (1) except with the consent of the Governor and in accordance with any condition the Governor may impose upon the grant of his 20 consent.

(3) The Governor may consent to the sale, exchange, gift or disposal of property for the purposes of this section and may impose any condition he thinks fit upon the grant of his consent.

25

PART III.

ADMINISTRATION.

12. (1) For the purposes of this Act—

- (a) a Curator of Elizabeth Bay House; and

Officers and employees.

(b)

Elizabeth Bay House Trust.

(b) such other officers and employees as may be necessary for the administration of this Act,

may be appointed and employed under and subject to the Public Service Act, 1902.

5 (2) The officers and employees so appointed or employed shall be subject to the Public Service Act, 1902, during their term of office or employment.

13. (1) The Curator is responsible for the administration and management of Elizabeth Bay House, other property
10 of the Trust and any services provided in conjunction therewith. Curator.

(2) The Curator shall be the secretary to the Trust.

(3) The Curator is, in the exercise and performance of his powers, authorities, duties and functions under this
15 Act, subject to the control and direction of the Trust.

14. (1) The Trust may, by instrument in writing, delegate to a trustee or to a person appointed or employed
pursuant to section 12 the exercise or performance of such of
its powers (other than this power of delegation), authorities,
20 duties or functions as are specified in the instrument of delegation and may, by a like instrument, revoke wholly or partly any such delegation. Delegation by Trust.

(2) A delegation under this section may be made subject to such conditions or such limitations as to the
25 exercise or performance of any of the powers, authorities, duties or functions delegated, or as to time or circumstances, as are specified in the instrument of delegation.

(3)

Elizabeth Bay House Trust.

(3) A power, authority, duty or function the exercise or performance of which has been delegated under this section may, while the delegation remains unrevoked, be exercised or performed from time to time in accordance with the terms of the delegation.

(4) Notwithstanding any delegation under this section, the Trust may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

(5) Any act or thing done or suffered by a delegate under this section has the same force and effect as if the act or thing had been done or suffered by the Trust and shall be deemed to have been done or suffered by the Trust.

PART IV.

FINANCE.

15 **15.** (1) For the purpose of providing a statutory fund to Endowment.
be applied by the Trust towards—

- (a) the purchase of items for exhibition at Elizabeth Bay House and their presentation;
- 20 (b) the cost of any alterations to Elizabeth Bay House; and
- (c) subject to subsection (2), other expenditure incurred by the Trust,

there shall be paid by the Treasurer to the Trust an annual endowment of such amount as Parliament approves.

25 (2) The statutory fund referred to in subsection (1) may not be applied towards—

- (a) the remuneration of persons appointed or employed pursuant to section 12; or

(b)

Elizabeth Bay House Trust.

(b) general operating expenses, including those related to the maintenance of Elizabeth Bay House, payable by the Trust.

(3) The annual endowment referred to in subsection
5 (1) shall be paid by such instalments as the Treasurer thinks fit.

(4) Any money payable by the Treasurer under this section shall be paid out of money provided by Parliament.

16. (1) For the temporary accommodation of the Trust
10 it may obtain advances by overdraft of current account in any bank or banks to such extent as may be approved by the Governor on the recommendation of the Treasurer. Temporary accommodation.

(2) The Treasurer may lend money to the Trust
15 upon such terms as to repayment and interest as may be agreed upon.

17. The Trust shall cause to be kept proper books of Accounts, account relating to the funds and transactions of the Trust and shall, not later than 30th September in each year and as soon as practicable after the preceding 30th June, prepare
20 and transmit to the Minister for presentation to Parliament statements of accounts in respect of the year ending on, and made up to, that 30th June in a form approved by the Auditor-General and exhibiting a true and correct view of the financial position and transactions of the Trust.

25 18. (1) The accounts of the Trust shall be audited by the Auditor-General who shall have in respect thereof all the powers conferred on him by law from time to time in force in relation to the audit of public accounts. Audit of accounts.

Elizabeth Bay House Trust.

(2) The Audit Act, 1902, applies to the trustees and officers and employees appointed and employed for the purposes of this Act in the same way as it applies to accounting officers of public departments.

5 (3) The Auditor-General shall report to the Minister and the Trust—

(a) whether or not in his opinion—

- 10 (i) due diligence and care have been shown in the collection and banking of money payable to the Trust;
- (ii) expenditure incurred has been duly authorised, vouched and supervised; and
- 15 (iii) any money or other property owned, or controlled and managed, by the Trust has been misappropriated or improperly or irregularly dealt with;

(b) as to any other matters that, in his opinion, call for special notice; and

(c) as to any other prescribed matters.

20 (4) Towards defraying the costs and expenses of the audit of its accounts the Trust shall pay to the Consolidated Revenue Fund such amounts, at such times, as the Treasurer may direct.

Elizabeth Bay House Trust.

PART V.

MISCELLANEOUS.

19. (1) Upon the commencement of this Part, the land described in Schedule 2 shall vest in the Trust for an estate in fee simple freed and discharged from any trusts, obligations, estates, interests, contracts, charges, rates and easements existing immediately before that commencement in respect of that land.

Vesting of
certain land
in Trust.

(2) Nothing in subsection (1) affects any responsibilities, powers, authorities, duties or functions from time to time imposed upon or granted to the Trust by or under this Act in relation to the land described in Schedule 2.

20. The Trust shall, not later than 30th September in each year and as soon as practicable after the preceding 30th June, prepare and transmit to the Minister for presentation to Parliament a report of its work and activities during the year that ended on that 30th June.

Annual
report.

21. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to—

Regulations.

- (a) the meetings of the Trust;
- (b) committees of the Trust;
- (c) the use of Elizabeth Bay House or other property of or services provided by the Trust; and
- (d) regulating or prohibiting the parking or movement of vehicles upon property of the Trust.

(2)

Elizabeth Bay House Trust.

(2) A regulation may—

- (a) apply differently according to such factors as may be specified in the regulation;
- (b) authorise any matter or thing to be from time to time determined, applied or regulated by any person specified therein; and
- (c) impose a penalty not exceeding \$200 for any breach of a regulation.

22. Schedule 3 has effect.

Transitional
and other
provisions.

SCHEDULE 1.

Sec. 6 (2).

PROVISIONS RELATING TO TRUSTEES AND PROCEDURE OF THE TRUST.

1. A person—

- (a) who is of or above the age of 70 years;
- (b) who is a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act; or
- (c) who is a bankrupt, is applying to take the benefit of any law for the relief of bankrupt or insolvent debtors, whose debts are subject to a composition with his creditors, or whose remuneration would, upon his appointment, be subject to an assignment for their benefit,

Certain
persons
ineligible
for appoint-
ment.

is not eligible to be appointed a trustee.

- 2. (1) In the case of the illness or absence of any trustee the Minister may appoint a person as a deputy to act in the place of the trustee during his illness or absence.

Appoint-
ment of
deputy.

SCHEDULE

Elizabeth Bay House Trust.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO TRUSTEES AND PROCEDURE OF THE
TRUST—*continued.*

(2) A deputy appointed under this clause shall, while he is
5 acting as a deputy, have all the powers, authorities, duties and
functions of a trustee.

(3) A deputy appointed under this clause shall, if the Minister
thinks fit, be paid such remuneration (including travelling and
sustenance allowances) as the Minister may from time to time
10 determine in respect of him.

(4) No person shall be concerned to inquire whether or not
any occasion has arisen requiring or authorising a person to act in
the place of a trustee, or as to the necessity or propriety of any
appointment of a deputy, and all acts and things done or omitted
15 by a deputy when so acting shall be as valid and shall have the same
consequences as if they had been done or omitted by the trustee for
whom the deputy is acting.

3. (1) The term of office of a trustee shall be, and, unless he
vacates his office during his term, a trustee shall hold office for, such
20 period not exceeding 4 years as may be specified in the instrument
appointing him.

(2) A trustee whose term of office expires may, subject to clause
1, be re-appointed as a trustee.

4. The Public Service Act, 1902, does not apply to or in respect of
25 the appointment of a trustee and a trustee is not, in his capacity as a
trustee, subject to that Act during his term of office.

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

6. The Governor may, for any cause which to him seems sufficient,
remove a trustee from office.

7. A trustee shall be deemed to have vacated his office if he—
(a) dies;

35 (b) resigns his office by writing under his hand addressed to
the Minister;

Elizabeth Bay House Trust.

SCHEDULE 1—continued.

PROVISIONS RELATING TO TRUSTEES AND PROCEDURE OF THE TRUST—continued.

- 5 (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration or estate for their benefit;
 - 10 (d) 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 VII of that Act;
 - 15 (e) is absent from 3 consecutive ordinary meetings of the Trust of which notice has been given to him personally or in the ordinary course of post and is not before the expiration of 6 weeks after the latest of those meetings excused by the Trust for his absence from the meetings;
 - (f) is removed from office by the Governor; or
 - (g) attains the age of 70 years.
8. (1) For the purposes of this clause, a trustee shall not be con- Chairman.
20 sidered to have ceased to be a trustee by reason only of his term of office as a trustee having expired if he is re-appointed by the Governor as a trustee for a term commencing immediately after the date on which his term of office expired.
- (2) The Chairman of the Trust shall be such trustee as the
25 Minister nominates as Chairman.
- (3) A Chairman holds office until the nomination of his successor under this clause or until he ceases to be a trustee, whichever first occurs.
- (4) At a meeting of the Trust—
30 (a) the Chairman; or
- (b) in the absence of the Chairman or if it is a meeting held when no person holds the office of Chairman—a chairman elected by trustees present at the meeting from among their number,
35 shall preside.

SCHEDULE

Elizabeth Bay House Trust.

SCHEDULE 1—continued.

PROVISIONS RELATING TO TRUSTEES AND PROCEDURE OF THE TRUST—continued.

9. (1) The procedure for the calling of meetings of the Trust and Procedure,
5 the conduct of business at those meetings shall, subject to this quorum, etc.
Schedule and any regulation, be as determined by the Trust.

(2) The Minister shall call the first meeting of the Trust by
giving notice to the first 5 trustees in such way as he thinks fit.

(3) Three trustees shall form a quorum and any duly con-
10 vened meeting of the Trust at which a quorum is present shall be
competent to transact any business of the Trust and shall have and
may exercise and perform all the powers, authorities, duties and
functions of the Trust.

(4) The person presiding at a meeting of the Trust shall, in the
15 event of an equality of votes, have in addition to a deliberative vote,
a second or casting vote.

(5) A decision supported by a majority of the votes cast at a
meeting of the Trust at which a quorum is present shall be the
decision of the Trust.

20 10. The secretary to the Trust—

(a) shall cause minutes of each meeting of the Trust to be
recorded and preserved;

(b) is entitled to be present at each meeting of the Trust and to
be heard by the Trust on any matter considered by the
25 Trust; and

(c) is an ex officio member of each committee of the Trust.

11. The common seal of the Trust shall be kept by the secretary
to the Trust and shall only be affixed to an instrument or writing— Common
seal.

(a) by resolution of the Trust;

30 (b) in the presence of 2 trustees; and

Elizabeth Bay House Trust.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO TRUSTEES AND PROCEDURE OF THE
TRUST—*continued.*

- 5 (c) with an attestation by the signatures of the persons present,
as required by this clause, of the fact and date of the
affixing of the seal.

SCHEDULE 2.

Sec. 19 (1).

LAND VESTED IN THE TRUST.

- 10 So much of the land originally granted to Alexander Macleay by
Crown Grant dated 19th October, 1831, as is described in Certificate
of Title Volume 5210 Folio 183 and comprises Lot 16 in Deposited
Plan 15713.

SCHEDULE 3.

Sec. 22.

TRANSITIONAL AND OTHER PROVISIONS.

- 15 1. In this Schedule—
“commencement” means commencement of this Schedule;
“Commission” means the New South Wales Planning and
Environment Commission;
20 “Interim Committee” means the Elizabeth Bay House Interim
Committee established by the Commission under section 15
of the State Planning Authority Act, 1963.

Interpre-
tation.

2. The Interim Committee is hereby dissolved and any person who
held office as a member of the Interim Committee immediately before
the commencement shall cease to hold that office.

Dissolution
of Interim
Committee.

SCHEDULE

*Elizabeth Bay House Trust.*SCHEDULE 3—*continued.*TRANSITIONAL AND OTHER PROVISIONS—*continued.*

3. (1) On and from the commencement—
- Vesting
of assets.
- (a) all—
- 5 (i) real or personal property, any rights and interests therein and all control and management thereof that, immediately before the commencement, belonged to or was or were vested in the Interim Committee; and
- 10 (ii) personal property (being property that, immediately before the commencement, was situated at Elizabeth Bay House), any rights and interests therein and all control and management thereof that, immediately before the commencement, belonged to or was or
- 15 were vested in the Commission,
- shall vest in and belong to the Trust;
- (b) all money and liquidated and unliquidated claims that, immediately before the commencement, was or were payable to or recoverable by—
- 20 (i) the Interim Committee; or
- (ii) the Commission (in respect of Elizabeth Bay House or personal property situated at that place at any time before the commencement),
- 25 shall be money and liquidated and unliquidated claims payable to or recoverable by the Trust;
- (c) all money and liquidated and unliquidated claims in respect of the control or management of Elizabeth Bay House for which the Interim Committee or the Commission would, but for the enactment of this Act, have been liable shall
- 30 be money and liquidated or unliquidated claims for which the Trust shall be liable;
- (d) all proceedings commenced in respect of Elizabeth Bay House or the control or management of that place before the commencement by the Interim Committee or the
- 35 Commission shall be deemed to be proceedings pending on that commencement by the Trust and all proceedings in respect of Elizabeth Bay House or the control or management of that place so commenced by any person

SCHEDULE

*Elizabeth Bay House Trust.*SCHEDULE 3—*continued.*TRANSITIONAL AND OTHER PROVISIONS—*continued.*

- 5 against the Interim Committee or against the Commission and pending immediately before the commencement shall be deemed to be proceedings pending on the commencement by that person against the Trust;
- 10 (e) subject to subclause (2) of this clause, all contracts, agreements, arrangements and undertakings entered into with the Interim Committee or the Commission with respect to the control or management of Elizabeth Bay House and in force immediately before the commencement shall be deemed to be contracts, agreements, arrangements and undertakings entered into with the Trust; and
- 15 (f) the Trust may, in addition to pursuing any other remedies or exercising any other powers that may be available to it, pursue the same remedies for the recovery of money and claims referred to in this subclause and for the prosecution of proceedings so referred to as the Interim Committee or the Commission might have done but for the enactment of this Act.
- 20 (2) Nothing in subclause (1) (e) of this clause affects the operation of section 19 (1).
4. Where any property, right or interest referred to in clause 3 (1) (a)—
- 25 (a) was acquired by the Interim Committee or the Commission before the commencement by gift inter vivos, devise or bequest, subject to a condition agreed to by the Interim Committee or the Commission, as the case may be; and
- 30 (b) was held by the Interim Committee or the Commission immediately before that commencement,
- the Trust shall, on the commencement, be deemed to have agreed, under section 8 (3), to the condition upon which the property, right or interest, as the case may be, was acquired.
5. On the commencement, any person who—
- 35 (a) had been appointed to the office of Curator, Elizabeth Bay House under and subject to the Public Service Act, 1902, and held that office immediately before the commencement, shall be deemed to be appointed as the Curator of Elizabeth Bay House pursuant to section 12; or

Agreement
to certain
conditions.

Saving.

SCHEDULE

Elizabeth Bay House Trust.

SCHEDULE 3—*continued.*

TRANSITIONAL AND OTHER PROVISIONS—*continued.*

- 5 (b) had been appointed or employed under and subject to the Public Service Act, 1902, and was engaged in or in connection with the administration or management of Elizabeth Bay House immediately before the commencement, shall be deemed to be appointed or employed, as the case may be, pursuant to section 12.

- 10 6. The persons who held office as members of the Interim Accounts Committee immediately before the commencement shall— and report.

(a) prepare—

- 15 (i) statements of all accounts of the Interim Committee made up to the commencement in a form approved by the Auditor-General exhibiting a true and complete view of the financial position and transactions of the Interim Committee in respect of the period from 1st July immediately preceding the commencement; and
- 20 (ii) a report of the work and activities of the Interim Committee from 1st July immediately preceding the commencement and up to the commencement; and

- (b) transmit the statements and report to the Trust as soon after the commencement as may be practicable.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1977

Elk Island Bay House Trust

SCHEDULE 2—continued

Transfers and Other Provisions—continued

(15) had been appointed or employed under and subject to the Public Service Act, 1902, and was engaged in or in connection with the administration or management of Elk Island Bay House immediately before the commencement, shall be deemed to be appointed or employed as the case may be, pursuant to section 12.

10 Committee immediately before the commencement shall—
a. The persons who held office as members of the Interim Accounts and report.

(a) prepare—

(i) statement of all accounts of the Interim Committee made up to the commencement in a form approved by the Auditor-General, exhibiting a true and complete view of the financial position and transactions of the Interim Committee in respect of the period from 1st July immediately preceding the commencement and

(ii) a report of the work and activities of the Interim Committee from 1st July immediately preceding the commencement and up to the commencement; and

(b) transmit the statement and report to the Trust as soon after the commencement as may be practicable.

ELIZABETH BAY HOUSE TRUST ACT, 1977

New South Wales



ANNO VICESIMO SEXTO

ELIZABETHÆ II REGINÆ

Act No. 109, 1977.

An Act to constitute the Elizabeth Bay House Trust and define its powers, authorities, duties and functions and to vest certain land and other property in that Trust. [Assented to, 29th November, 1977.]

BE

Elizabeth Bay House Trust.

BE it 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 :—

PART I.**PRELIMINARY.****Short title.**

1. This Act may be cited as the "Elizabeth Bay House Trust Act, 1977".

**Commence-
ment.**

2. (1) This section and section 1 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.

**Division
of Act.**

3. This Act is divided as follows :—

- PART I.—PRELIMINARY—ss. 1-4.
- PART II.—THE ELIZABETH BAY HOUSE TRUST—ss. 5-11.
- PART III.—ADMINISTRATION—ss. 12-14.
- PART IV.—FINANCE—ss. 15-18.
- PART V.—MISCELLANEOUS—ss. 19-22.
- SCHEDULE 1.—PROVISIONS RELATING TO TRUSTEES AND PROCEDURE OF THE TRUST.
- SCHEDULE 2.—LAND VESTED IN THE TRUST.
- SCHEDULE 3.—TRANSITIONAL AND OTHER PROVISIONS.

Elizabeth Bay House Trust.

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

“Curator” means the person appointed as Curator of Elizabeth Bay House pursuant to section 12 (1) or a person acting as Curator of Elizabeth Bay House;

“Elizabeth Bay House” means the building and other improvements situated on the land vested in the Trust by section 19;

“regulation” means a regulation under this Act;

“Trust” means the Elizabeth Bay House Trust constituted by section 5;

“trustee” means a trustee referred to in section 6.

PART II.

THE ELIZABETH BAY HOUSE TRUST.

5. (1) There is hereby constituted a corporation with the corporate name “Elizabeth Bay House Trust”. Constitution of Trust.

(2) The Trust shall have and may exercise and perform the powers, authorities, duties and functions conferred or imposed on it by or under this or any other Act.

(3) In the exercise and performance of its powers, authorities, duties and functions the Trust shall, notwithstanding anything contained in this Act, be subject to the control and direction of the Minister.

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

Elizabeth Bay House Trust.

Appointment and procedure.

6. (1) The Trust shall consist of 5 trustees, who shall be appointed by the Governor on the recommendation of the Minister.

(2) Schedule 1 has effect.

Principal objects of Trust.

7. The principal objects of the Trust are—

- (a) to preserve Elizabeth Bay House as a place of historic and architectural interest; and
- (b) to provide Elizabeth Bay House for the enjoyment of the public and as a place of educational and cultural interest.

Powers of Trust.

8. (1) The Trust may—

- (a) maintain, or make arrangements for the maintenance of, the property of the Trust and, in pursuance of its objects, acquire (either as property of the Trust or otherwise) items for temporary or permanent exhibition at Elizabeth Bay House;
- (b) subject to such restrictions (whether relating to hours or otherwise) as the Trust imposes, permit admission of the public to the whole or any part of Elizabeth Bay House;
- (c) promote and provide exhibitions, lectures, films, publications and other educational instruction in pursuance of its principal objects and, in exercising this power, shall give particular emphasis to the history of Elizabeth Bay House and the purposes for which it was used in the nineteenth century;

(d)

Elizabeth Bay House Trust.

- (d) subject to such conditions as the Trust imposes, permit the use of any part of Elizabeth Bay House for activities of an educational or cultural nature, for social functions, State occasions or charitable or other promotional activities of a nature approved by the Trust or for the holding of conferences or meetings;
- (e) permit the use of Elizabeth Bay House for the taking of photographs, the making of films or sound recordings and the production of television or radio programmes or material;
- (f) in or in connection with Elizabeth Bay House, provide, or permit the provision of, food or other refreshments and apply for, hold or dispose of any licence, permit or other authority in connection therewith;
- (g) engage and enter into contracts with artists, entertainers, lecturers and performers to appear at Elizabeth Bay House and pay them such fees and remuneration as may be agreed upon;
- (h) charge and receive fees or other amounts for, or in connection with, any service provided, article sold or permission given by the Trust in its exercise of any of the powers granted to it by this section, which fees and other amounts shall be the property of the Trust; and
- (i) enter into any contract or arrangement with any person for the purpose of promoting the objects of the Trust.

(2) Subject to this Act and the regulations, the Trust shall have the control and management of all property vested in the Trust.

(3) The Trust may agree to any condition that is not inconsistent with its objects being imposed on its acquisition of any property.

Elizabeth Bay House Trust.

(4) Where, by gift inter vivos, devise or bequest, the Trust acquires property, it may retain the property in the form in which it is acquired, subject to any condition agreed to by the Trust under subsection (3) in relation to the property.

(5) The rule of law against remoteness of vesting does not apply to a condition to which the Trust has agreed under subsection (3).

(6) The Stamp Duties Act, 1920, does not apply to or in respect of any gift inter vivos, devise or bequest made or to be made to the Trust.

(7) The Trust may establish such committees as it thinks fit for the purpose of assisting it to exercise and perform its powers, authorities, duties and functions.

(8) A person may be appointed to a committee whether or not he is a trustee.

(9) The Trust shall have, and may exercise and perform, such powers, authorities, duties and functions, in addition to those specified in this section, as are reasonably necessary for the attainment of its objects, but may only borrow money in accordance with Part IV.

Restriction
on altera-
tions, etc.

9. (1) The Trust may authorise—

- (a) the making of alterations to Elizabeth Bay House; and
- (b) the carrying out of other improvements upon the land described in Schedule 2,

but only if—

- (c) the consent of the Minister to the alterations or improvements has been obtained by the Trust before they are authorised to be made or carried out; and

(d)

Elizabeth Bay House Trust.

- (d) the Minister, when giving a consent referred to in paragraph (c), considers that the alterations or improvements to which the consent relates, when made or carried out, would not affect the duty of the Trust to preserve Elizabeth Bay House as a place of historic and architectural interest.

(2) Subject to subsection (3), the Minister may grant a consent referred to in subsection (1) (c) and may impose such conditions as he thinks fit upon the grant of his consent under this subsection.

(3) The Minister may only grant his consent under subsection (2) after he has conferred with the Minister administering the Public Works Act, 1912, on the alterations or improvements to which the consent relates.

10. (1) In this section, "condition" means a condition to which the Trust has agreed under section 8 (3). Dealings with property.

(2) Subject to subsection (3), the Trust shall not sell, mortgage, demise or otherwise dispose of any property acquired by gift inter vivos, devise or bequest, or any real property otherwise acquired (including the land described in Schedule 2), except—

- (a) where the property was acquired without any condition—with the approval of the Governor (which may be given in respect of any case or class of cases); or
- (b) where the property was acquired subject to a condition—in accordance with the condition or section 11.

(3) Subject to section 8 (4), and except to the extent that it would be in breach of a condition, the Trust shall invest any of its funds not immediately required for the purposes of the Trust in any manner authorised by law for the investment of trust funds.

Elizabeth Bay House Trust.

Disposal of
certain
property.

11. (1) Subject to subsection (2), where the Trust resolves that any property that has been acquired by the Trust subject to a condition to which the Trust has agreed under section 8 (3) is not required for the purposes of the Trust, the Trust may—

- (a) sell the property and retain the proceeds of the sale as property of the Trust;
- (b) exchange the property for other property;
- (c) give the property to an educational institution (including a museum); or
- (d) if the Trust is of the opinion that the property is of no commercial value—dispose of the property without valuable consideration,

notwithstanding the condition subject to which the property was acquired.

(2) The Trust shall not sell, exchange, give or dispose of any property under subsection (1) except with the consent of the Governor and in accordance with any condition the Governor may impose upon the grant of his consent.

(3) The Governor may consent to the sale, exchange, gift or disposal of property for the purposes of this section and may impose any condition he thinks fit upon the grant of his consent.

PART III.

ADMINISTRATION.

Officers and
employees.

12. (1) For the purposes of this Act—

- (a) a Curator of Elizabeth Bay House; and

(b)

Elizabeth Bay House Trust.

(b) such other officers and employees as may be necessary for the administration of this Act,
may be appointed and employed under and subject to the Public Service Act, 1902.

(2) The officers and employees so appointed or employed shall be subject to the Public Service Act, 1902, during their term of office or employment.

13. (1) The Curator is responsible for the administration and management of Elizabeth Bay House, other property of the Trust and any services provided in conjunction therewith. Curator.

(2) The Curator shall be the secretary to the Trust.

(3) The Curator is, in the exercise and performance of his powers, authorities, duties and functions under this Act, subject to the control and direction of the Trust.

14. (1) The Trust may, by instrument in writing, delegate to a trustee or to a person appointed or employed pursuant to section 12 the exercise or performance of such of its powers (other than this power of delegation), authorities, duties or functions as are specified in the instrument of delegation and may, by a like instrument, revoke wholly or partly any such delegation. Delegation
by Trust.

(2) A delegation under this section may be made subject to such conditions or such limitations as to the exercise or performance of any of the powers, authorities, duties or functions delegated, or as to time or circumstances, as are specified in the instrument of delegation.

(3)

Elizabeth Bay House Trust.

(3) A power, authority, duty or function the exercise or performance of which has been delegated under this section may, while the delegation remains unrevoked, be exercised or performed from time to time in accordance with the terms of the delegation.

(4) Notwithstanding any delegation under this section, the Trust may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

(5) Any act or thing done or suffered by a delegate under this section has the same force and effect as if the act or thing had been done or suffered by the Trust and shall be deemed to have been done or suffered by the Trust.

PART IV.

FINANCE.

Endowment. 15. (1) For the purpose of providing a statutory fund to be applied by the Trust towards—

- (a) the purchase of items for exhibition at Elizabeth Bay House and their presentation;
- (b) the cost of any alterations to Elizabeth Bay House; and
- (c) subject to subsection (2), other expenditure incurred by the Trust,

there shall be paid by the Treasurer to the Trust an annual endowment of such amount as Parliament approves.

(2) The statutory fund referred to in subsection (1) may not be applied towards—

- (a) the remuneration of persons appointed or employed pursuant to section 12; or

(b)

Elizabeth Bay House Trust.

- (b) general operating expenses, including those related to the maintenance of Elizabeth Bay House, payable by the Trust.

(3) The annual endowment referred to in subsection (1) shall be paid by such instalments as the Treasurer thinks fit.

(4) Any money payable by the Treasurer under this section shall be paid out of money provided by Parliament.

16. (1) For the temporary accommodation of the Trust it may obtain advances by overdraft of current account in any bank or banks to such extent as may be approved by the Governor on the recommendation of the Treasurer. **Temporary accommodation.**

(2) The Treasurer may lend money to the Trust upon such terms as to repayment and interest as may be agreed upon.

17. The Trust shall cause to be kept proper books of account relating to the funds and transactions of the Trust and shall, not later than 30th September in each year and as soon as practicable after the preceding 30th June, prepare and transmit to the Minister for presentation to Parliament statements of accounts in respect of the year ending on, and made up to, that 30th June in a form approved by the Auditor-General and exhibiting a true and correct view of the financial position and transactions of the Trust. **Accounts.**

18. (1) The accounts of the Trust shall be audited by the Auditor-General who shall have in respect thereof all the powers conferred on him by law from time to time in force in relation to the audit of public accounts. **Audit of accounts.**

(2)

Elizabeth Bay House Trust.

(2) The Audit Act, 1902, applies to the trustees and officers and employees appointed and employed for the purposes of this Act in the same way as it applies to accounting officers of public departments.

(3) The Auditor-General shall report to the Minister and the Trust—

(a) whether or not in his opinion—

- (i) due diligence and care have been shown in the collection and banking of money payable to the Trust;
- (ii) expenditure incurred has been duly authorised, vouched and supervised; and
- (iii) any money or other property owned, or controlled and managed, by the Trust has been misappropriated or improperly or irregularly dealt with;

(b) as to any other matters that, in his opinion, call for special notice; and

(c) as to any other prescribed matters.

(4) Towards defraying the costs and expenses of the audit of its accounts the Trust shall pay to the Consolidated Revenue Fund such amounts, at such times, as the Treasurer may direct.

Elizabeth Bay House Trust.

PART V.

MISCELLANEOUS.

19. (1) Upon the commencement of this Part, the land described in Schedule 2 shall vest in the Trust for an estate in fee simple freed and discharged from any trusts, obligations, estates, interests, contracts, charges, rates and easements existing immediately before that commencement in respect of that land. Vesting of certain land in Trust.

(2) Nothing in subsection (1) affects any responsibilities, powers, authorities, duties or functions from time to time imposed upon or granted to the Trust by or under this Act in relation to the land described in Schedule 2.

20. The Trust shall, not later than 30th September in each year and as soon as practicable after the preceding 30th June, prepare and transmit to the Minister for presentation to Parliament a report of its work and activities during the year that ended on that 30th June. Annual report.

21. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to— Regulations.

- (a) the meetings of the Trust;
- (b) committees of the Trust;
- (c) the use of Elizabeth Bay House or other property of or services provided by the Trust; and
- (d) regulating or prohibiting the parking or movement of vehicles upon property of the Trust.

Elizabeth Bay House Trust.

(2) A regulation may—

- (a) apply differently according to such factors as may be specified in the regulation;
- (b) authorise any matter or thing to be from time to time determined, applied or regulated by any person specified therein; and
- (c) impose a penalty not exceeding \$200 for any breach of a regulation.

Transitional
and other
provisions.

22. Schedule 3 has effect.

Sec. 6 (2).

SCHEDULE 1.

PROVISIONS RELATING TO TRUSTEES AND PROCEDURE OF THE TRUST.

Certain
persons
ineligible
for appoint-
ment.

1. A person—

- (a) who is of or above the age of 70 years;
- (b) who is a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act; or
- (c) who is a bankrupt, is applying to take the benefit of any law for the relief of bankrupt or insolvent debtors, whose debts are subject to a composition with his creditors, or whose remuneration would, upon his appointment, be subject to an assignment for their benefit,

is not eligible to be appointed a trustee.

Appoint-
ment of
deputy.

2. (1) In the case of the illness or absence of any trustee the Minister may appoint a person as a deputy to act in the place of the trustee during his illness or absence.

SCHEDULE

Elizabeth Bay House Trust.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO TRUSTEES AND PROCEDURE OF THE
TRUST—*continued.*

(2) A deputy appointed under this clause shall, while he is acting as a deputy, have all the powers, authorities, duties and functions of a trustee.

(3) A deputy appointed under this clause shall, if the Minister thinks fit, be paid such remuneration (including travelling and sustenance allowances) as the Minister may from time to time determine in respect of him.

(4) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising a person to act in the place of a trustee, or as to the necessity or propriety of any appointment of a deputy, and all acts and things done or omitted by a deputy when so acting shall be as valid and shall have the same consequences as if they had been done or omitted by the trustee for whom the deputy is acting.

3. (1) The term of office of a trustee shall be, and, unless he vacates his office during his term, a trustee shall hold office for, such period not exceeding 4 years as may be specified in the instrument appointing him. Term of office.

(2) A trustee whose term of office expires may, subject to clause 1, be re-appointed as a trustee.

4. The Public Service Act, 1902, does not apply to or in respect of the appointment of a trustee and a trustee is not, in his capacity as a trustee, subject to that Act during his term of office. Certain enactments not to apply in respect of trustee.

5. A trustee and a member of a committee established under Part II who is not a trustee shall, if the Minister thinks fit, be paid such remuneration (including travelling and sustenance allowances) as the Minister may from time to time determine in respect of them. Allowances for trustees.

6. The Governor may, for any cause which to him seems sufficient, remove a trustee from office. Removal from office.

7. A trustee shall be deemed to have vacated his office if he— Vacation of office.
(a) dies;
(b) resigns his office by writing under his hand addressed to the Minister;

SCHEDULE

*Elizabeth Bay House Trust.*SCHEDULE 1—*continued.*PROVISIONS RELATING TO TRUSTEES AND PROCEDURE OF THE TRUST—*continued.*

- (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration or estate for their benefit;
- (d) 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 VII of that Act;
- (e) is absent from 3 consecutive ordinary meetings of the Trust of which notice has been given to him personally or in the ordinary course of post and is not before the expiration of 6 weeks after the latest of those meetings excused by the Trust for his absence from the meetings;
- (f) is removed from office by the Governor; or
- (g) attains the age of 70 years.

Chairman. 2-8. (1) For the purposes of this clause, a trustee shall not be considered to have ceased to be a trustee by reason only of his term of office as a trustee having expired if he is re-appointed by the Governor as a trustee for a term commencing immediately after the date on which his term of office expired.

(2) The Chairman of the Trust shall be such trustee as the Minister nominates as Chairman.

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

(4) At a meeting of the Trust—

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

shall preside.

Elizabeth Bay House Trust.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO TRUSTEES AND PROCEDURE OF THE TRUST—*continued.*

9. (1) The procedure for the calling of meetings of the Trust and Procedure, the conduct of business at those meetings shall, subject to this quorum, etc. Schedule and any regulation, be as determined by the Trust.

(2) The Minister shall call the first meeting of the Trust by giving notice to the first 5 trustees in such way as he thinks fit.

(3) Three trustees shall form a quorum and any duly convened meeting of the Trust at which a quorum is present shall be competent to transact any business of the Trust and shall have and may exercise and perform all the powers, authorities, duties and functions of the Trust.

(4) The person presiding at a meeting of the Trust shall, in the event of an equality of votes, have in addition to a deliberative vote, a second or casting vote.

(5) A decision supported by a majority of the votes cast at a meeting of the Trust at which a quorum is present shall be the decision of the Trust.

10. The secretary to the Trust—

The
secretary.

- (a) shall cause minutes of each meeting of the Trust to be recorded and preserved;
- (b) is entitled to be present at each meeting of the Trust and to be heard by the Trust on any matter considered by the Trust; and
- (c) is an ex officio member of each committee of the Trust.

11. The common seal of the Trust shall be kept by the secretary Common to the Trust and shall only be affixed to an instrument or writing— seal.

- (a) by resolution of the Trust;
- (b) in the presence of 2 trustees; and

Elizabeth Bay House Trust.

SCHEDULE 1—continued.

PROVISIONS RELATING TO TRUSTEES AND PROCEDURE OF THE TRUST—continued.

- (c) with an attestation by the signatures of the persons present, as required by this clause, of the fact and date of the affixing of the seal.
-

Sec. 19 (1).

SCHEDULE 2.
LAND VESTED IN THE TRUST.

So much of the land originally granted to Alexander Macleay by Crown Grant dated 19th October, 1831, as is described in Certificate of Title Volume 5210 Folio 183 and comprises Lot 16 in Deposited Plan 15713.

Sec. 22.

SCHEDULE 3.
TRANSITIONAL AND OTHER PROVISIONS.

Interpre-
tation.

1. In this Schedule—

“commencement” means commencement of this Schedule;

“Commission” means the New South Wales Planning and Environment Commission;

“Interim Committee” means the Elizabeth Bay House Interim Committee established by the Commission under section 15 of the State Planning Authority Act, 1963.

Dissolution
of Interim
Committee

2. The Interim Committee is hereby dissolved and any person who held office as a member of the Interim Committee immediately before the commencement shall cease to hold that office.

SCHEDULE

*Elizabeth Bay House Trust.***SCHEDULE 3—continued.****TRANSITIONAL AND OTHER PROVISIONS—continued.****3. (1) On and from the commencement—**Vesting
of assets.**(a) all—**

- (i) real or personal property, any rights and interests therein and all control and management thereof that, immediately before the commencement, belonged to or was or were vested in the Interim Committee; and

- (ii) personal property (being property that, immediately before the commencement, was situated at Elizabeth Bay House), any rights and interests therein and all control and management thereof that, immediately before the commencement, belonged to or was or were vested in the Commission,

shall vest in and belong to the Trust;

- (b) all money and liquidated and unliquidated claims that, immediately before the commencement, was or were payable to or recoverable by—

- (i) the Interim Committee; or

- (ii) the Commission (in respect of Elizabeth Bay House or personal property situated at that place at any time before the commencement),

shall be money and liquidated and unliquidated claims payable to or recoverable by the Trust;

- (c) all money and liquidated and unliquidated claims in respect of the control or management of Elizabeth Bay House for which the Interim Committee or the Commission would, but for the enactment of this Act, have been liable shall be money and liquidated or unliquidated claims for which the Trust shall be liable;

- (d) all proceedings commenced in respect of Elizabeth Bay House or the control or management of that place before the commencement by the Interim Committee or the Commission shall be deemed to be proceedings pending on that commencement by the Trust and all proceedings in respect of Elizabeth Bay House or the control or management of that place so commenced by any person

*Elizabeth Bay House Trust.***SCHEDULE 3—continued.****TRANSITIONAL AND OTHER PROVISIONS—continued.**

against the Interim Committee or against the Commission and pending immediately before the commencement shall be deemed to be proceedings pending on the commencement by that person against the Trust;

- (e) subject to subclause (2) of this clause, all contracts, agreements, arrangements and undertakings entered into with the Interim Committee or the Commission with respect to the control or management of Elizabeth Bay House and in force immediately before the commencement shall be deemed to be contracts, agreements, arrangements and undertakings entered into with the Trust; and

- (f) the Trust may, in addition to pursuing any other remedies or exercising any other powers that may be available to it, pursue the same remedies for the recovery of money and claims referred to in this subclause and for the prosecution of proceedings so referred to as the Interim Committee or the Commission might have done but for the enactment of this Act.

(2) Nothing in subclause (1) (e) of this clause affects the operation of section 19 (1).

Agreement
to certain
conditions.

4. Where any property, right or interest referred to in clause 3 (1) (a)—

- (a) was acquired by the Interim Committee or the Commission before the commencement by gift inter vivos, devise or bequest, subject to a condition agreed to by the Interim Committee or the Commission, as the case may be; and
- (b) was held by the Interim Committee or the Commission immediately before that commencement,

the Trust shall, on the commencement, be deemed to have agreed, under section 8 (3), to the condition upon which the property, right or interest, as the case may be, was acquired.

Saving.

5. On the commencement, any person who—

- (a) had been appointed to the office of Curator, Elizabeth Bay House under and subject to the Public Service Act, 1902, and held that office immediately before the commencement, shall be deemed to be appointed as the Curator of Elizabeth Bay House pursuant to section 12; or

SCHEDULE

Elizabeth Bay House Trust.

SCHEDULE 3—*continued.*

TRANSITIONAL AND OTHER PROVISIONS—*continued.*

- (b) had been appointed or employed under and subject to the Public Service Act, 1902, and was engaged in or in connection with the administration or management of Elizabeth Bay House immediately before the commencement, shall be deemed to be appointed or employed, as the case may be, pursuant to section 12.

6. The persons who held office as members of the Interim Committee immediately before the commencement shall— Accounts and report.

(a) prepare—

- (i) statements of all accounts of the Interim Committee made up to the commencement in a form approved by the Auditor-General exhibiting a true and complete view of the financial position and transactions of the Interim Committee in respect of the period from 1st July immediately preceding the commencement; and
- (ii) a report of the work and activities of the Interim Committee from 1st July immediately preceding the commencement and —

- (b) ~~transmit~~ the statements and report to the Trust as soon after the commencement as may be practicable.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1977

Elizabeth Bay House Trust

SCHEDULE 1—continued

Transfers and Other Provisions

10. A person who has been appointed or employed under and subject to the Public Service Act, 1902, and was engaged or so to be in connection with the administration or management of Elizabeth Bay House immediately before the commencement of this Act shall be deemed to be appointed or employed by the Trust pursuant to section 12.

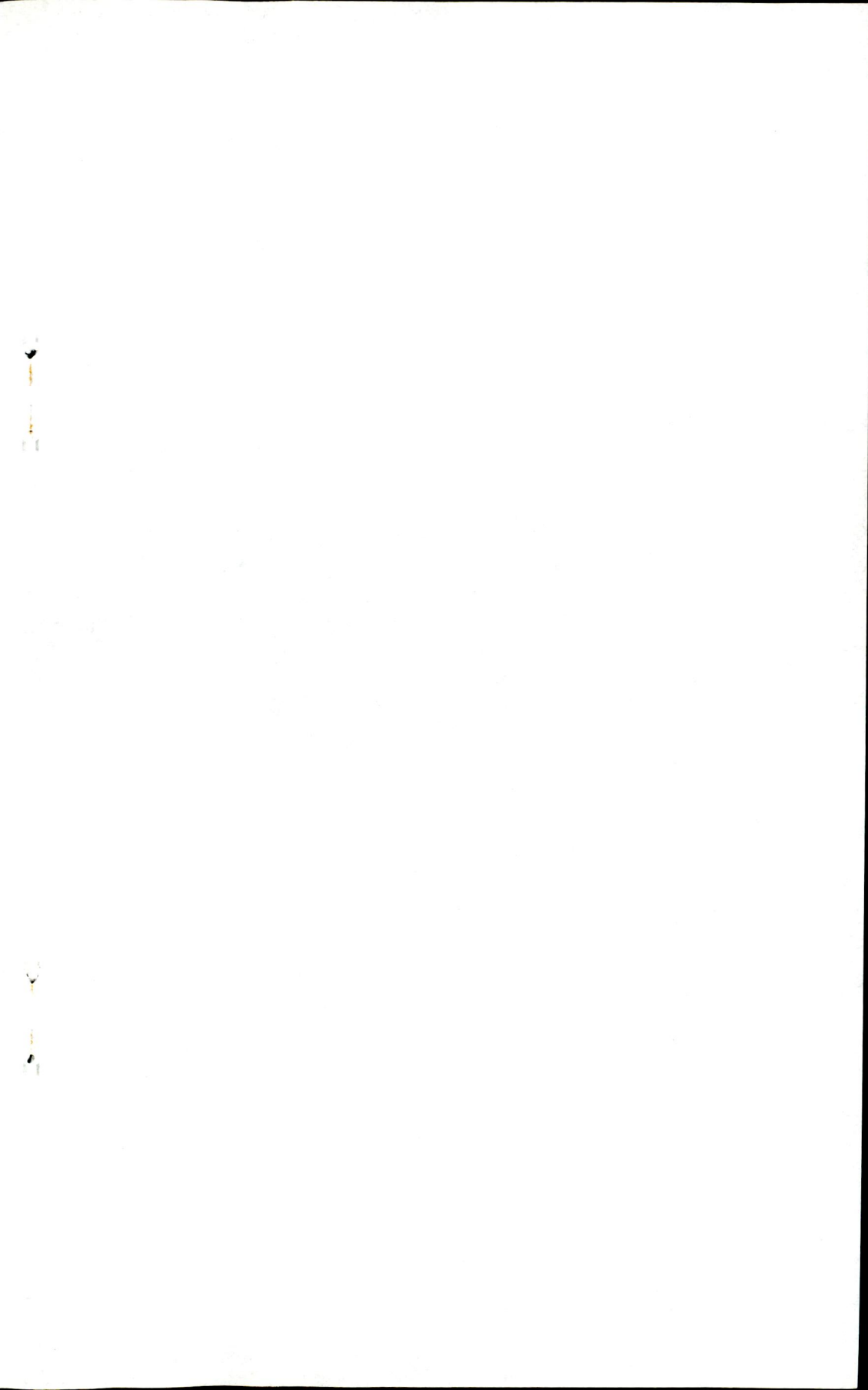
11. A person who holds office as a member of the Board of Directors and report immediately before the commencement of this Act shall be deemed to be appointed or employed by the Trust pursuant to section 12.

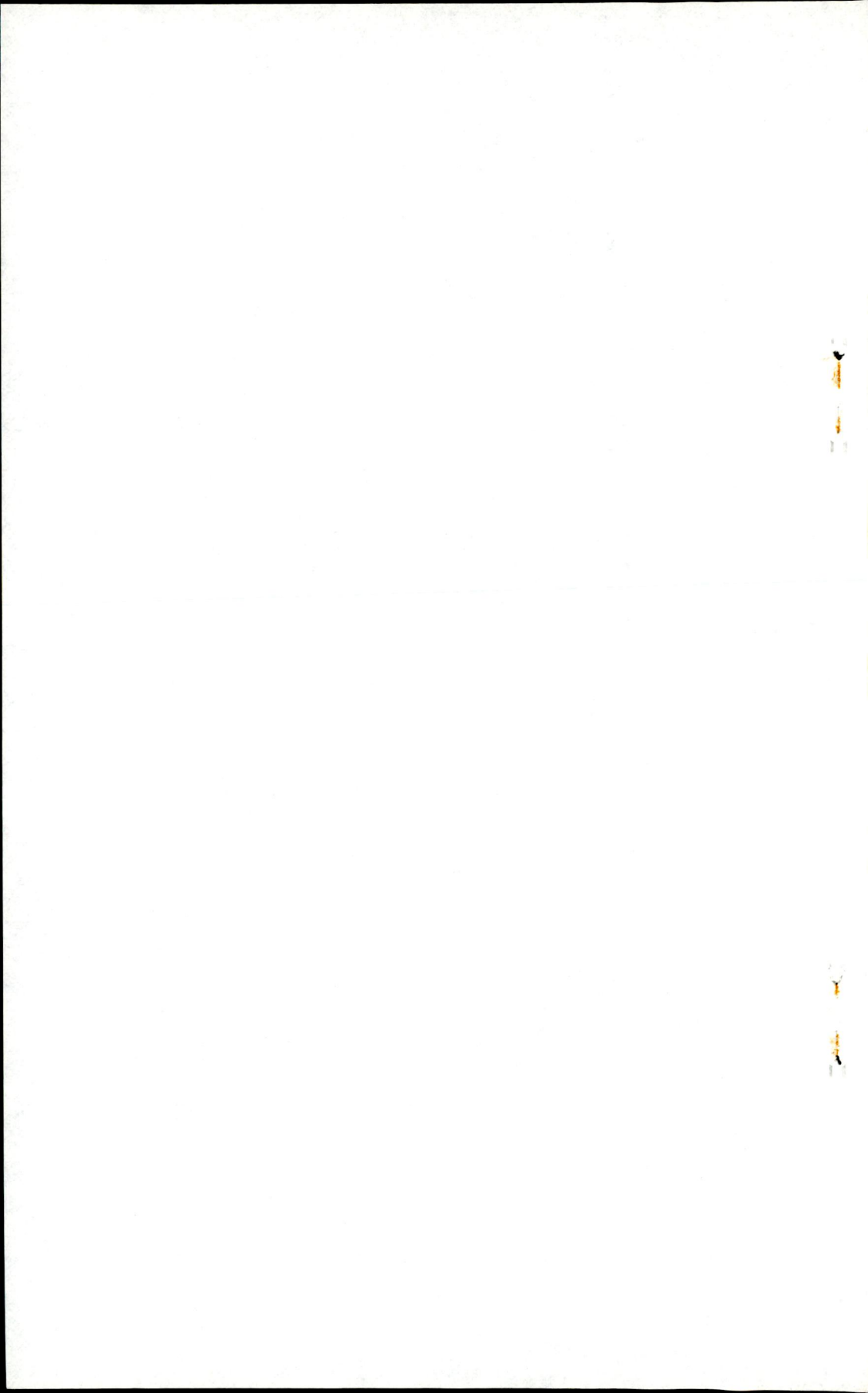
Transfers

(1) A statement of all accounts of the Trust (including any statement made up to the commencement of a term approved by the Auditor-General) exhibiting a true and complete view of the financial position and transactions of the Trust (including in respect of the period from the first day of January, 1977, to the day of the commencement of the term) shall be submitted to the Trust.

(2) A report of the work and conduct of the Trust (including any statement made up to the commencement of a term approved by the Auditor-General) shall be submitted to the Trust.

(3) The Trust shall submit to the Trust a statement of the work and conduct of the Trust (including any statement made up to the commencement of a term approved by the Auditor-General) shall be submitted to the Trust.





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.

R. E. WARD,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 10 November, 1977.*

New South Wales



ANNO VICESIMO SEXTO

ELIZABETHÆ II REGINÆ

Act No. 109, 1977.

An Act to constitute the Elizabeth Bay House Trust and define its powers, authorities, duties and functions and to vest certain land and other property in that Trust. [Assented to, 29th November, 1977.]

BE

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

T. J. CAHILL,
Chairman of Committees of the Legislative Assembly.

Elizabeth Bay House Trust.

BE it 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 :—

PART I.

PRELIMINARY.

Short title. **1.** This Act may be cited as the "Elizabeth Bay House Trust Act, 1977".

**Commence-
ment.** **2.** (1) This section and section 1 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.

**Division
of Act.** **3.** This Act is divided as follows :—
PART I.—PRELIMINARY—ss. 1–4.
PART II.—THE ELIZABETH BAY HOUSE TRUST—ss.
5–11.
PART III.—ADMINISTRATION—ss. 12–14.
PART IV.—FINANCE—ss. 15–18.
PART V.—MISCELLANEOUS—ss. 19–22.
SCHEDULE 1.—PROVISIONS RELATING TO TRUSTEES
AND PROCEDURE OF THE TRUST.
SCHEDULE 2.—LAND VESTED IN THE TRUST.
SCHEDULE 3.—TRANSITIONAL AND OTHER PROVI-
SIONS.

Elizabeth Bay House Trust.

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

“Curator” means the person appointed as Curator of Elizabeth Bay House pursuant to section 12 (1) or a person acting as Curator of Elizabeth Bay House;

“Elizabeth Bay House” means the building and other improvements situated on the land vested in the Trust by section 19;

“regulation” means a regulation under this Act;

“Trust” means the Elizabeth Bay House Trust constituted by section 5;

“trustee” means a trustee referred to in section 6.

PART II.

THE ELIZABETH BAY HOUSE TRUST.

5. (1) There is hereby constituted a corporation with the Constitution
corporate name “Elizabeth Bay House Trust”. of Trust.

(2) The Trust shall have and may exercise and perform the powers, authorities, duties and functions conferred or imposed on it by or under this or any other Act.

(3) In the exercise and performance of its powers, authorities, duties and functions the Trust shall, notwithstanding anything contained in this Act, be subject to the control and direction of the Minister.

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

Elizabeth Bay House Trust.

Appointment and procedure.

6. (1) The Trust shall consist of 5 trustees, who shall be appointed by the Governor on the recommendation of the Minister.

(2) Schedule 1 has effect.

Principal objects of Trust.

7. The principal objects of the Trust are—

- (a) to preserve Elizabeth Bay House as a place of historic and architectural interest; and
- (b) to provide Elizabeth Bay House for the enjoyment of the public and as a place of educational and cultural interest.

Powers of Trust.

8. (1) The Trust may—

- (a) maintain, or make arrangements for the maintenance of, the property of the Trust and, in pursuance of its objects, acquire (either as property of the Trust or otherwise) items for temporary or permanent exhibition at Elizabeth Bay House;
- (b) subject to such restrictions (whether relating to hours or otherwise) as the Trust imposes, permit admission of the public to the whole or any part of Elizabeth Bay House;
- (c) promote and provide exhibitions, lectures, films, publications and other educational instruction in pursuance of its principal objects and, in exercising this power, shall give particular emphasis to the history of Elizabeth Bay House and the purposes for which it was used in the nineteenth century;

(d)

Elizabeth Bay House Trust.

- (d) subject to such conditions as the Trust imposes, permit the use of any part of Elizabeth Bay House for activities of an educational or cultural nature, for social functions, State occasions or charitable or other promotional activities of a nature approved by the Trust or for the holding of conferences or meetings;
- (e) permit the use of Elizabeth Bay House for the taking of photographs, the making of films or sound recordings and the production of television or radio programmes or material;
- (f) in or in connection with Elizabeth Bay House, provide, or permit the provision of, food or other refreshments and apply for, hold or dispose of any licence, permit or other authority in connection therewith;
- (g) engage and enter into contracts with artists, entertainers, lecturers and performers to appear at Elizabeth Bay House and pay them such fees and remuneration as may be agreed upon;
- (h) charge and receive fees or other amounts for, or in connection with, any service provided, article sold or permission given by the Trust in its exercise of any of the powers granted to it by this section, which fees and other amounts shall be the property of the Trust; and
- (i) enter into any contract or arrangement with any person for the purpose of promoting the objects of the Trust.

(2) Subject to this Act and the regulations, the Trust shall have the control and management of all property vested in the Trust.

(3) The Trust may agree to any condition that is not inconsistent with its objects being imposed on its acquisition of any property.

(4)

Elizabeth Bay House Trust.

(4) Where, by gift inter vivos, devise or bequest, the Trust acquires property, it may retain the property in the form in which it is acquired, subject to any condition agreed to by the Trust under subsection (3) in relation to the property.

(5) The rule of law against remoteness of vesting does not apply to a condition to which the Trust has agreed under subsection (3).

(6) The Stamp Duties Act, 1920, does not apply to or in respect of any gift inter vivos, devise or bequest made or to be made to the Trust.

(7) The Trust may establish such committees as it thinks fit for the purpose of assisting it to exercise and perform its powers, authorities, duties and functions.

(8) A person may be appointed to a committee whether or not he is a trustee.

(9) The Trust shall have, and may exercise and perform, such powers, authorities, duties and functions, in addition to those specified in this section, as are reasonably necessary for the attainment of its objects, but may only borrow money in accordance with Part IV.

Restriction
on altera-
tions, etc.

9. (1) The Trust may authorise—

- (a) the making of alterations to Elizabeth Bay House;
and
- (b) the carrying out of other improvements upon the
land described in Schedule 2,

but only if—

- (c) the consent of the Minister to the alterations or
improvements has been obtained by the Trust before
they are authorised to be made or carried out; and

(d)

Elizabeth Bay House Trust.

- (d) the Minister, when giving a consent referred to in paragraph (c), considers that the alterations or improvements to which the consent relates, when made or carried out, would not affect the duty of the Trust to preserve Elizabeth Bay House as a place of historic and architectural interest.

(2) Subject to subsection (3), the Minister may grant a consent referred to in subsection (1) (c) and may impose such conditions as he thinks fit upon the grant of his consent under this subsection.

(3) The Minister may only grant his consent under subsection (2) after he has conferred with the Minister administering the Public Works Act, 1912, on the alterations or improvements to which the consent relates.

10. (1) In this section, "condition" means a condition to which the Trust has agreed under section 8 (3). Dealings
with
property.

(2) Subject to subsection (3), the Trust shall not sell, mortgage, demise or otherwise dispose of any property acquired by gift inter vivos, devise or bequest, or any real property otherwise acquired (including the land described in Schedule 2), except—

- (a) where the property was acquired without any condition—with the approval of the Governor (which may be given in respect of any case or class of cases); or
- (b) where the property was acquired subject to a condition—in accordance with the condition or section 11.

(3) Subject to section 8 (4), and except to the extent that it would be in breach of a condition, the Trust shall invest any of its funds not immediately required for the purposes of the Trust in any manner authorised by law for the investment of trust funds.

Elizabeth Bay House Trust.

Disposal of
certain
property.

11. (1) Subject to subsection (2), where the Trust resolves that any property that has been acquired by the Trust subject to a condition to which the Trust has agreed under section 8 (3) is not required for the purposes of the Trust, the Trust may—

- (a) sell the property and retain the proceeds of the sale as property of the Trust;
- (b) exchange the property for other property;
- (c) give the property to an educational institution (including a museum); or
- (d) if the Trust is of the opinion that the property is of no commercial value—dispose of the property without valuable consideration,

notwithstanding the condition subject to which the property was acquired.

(2) The Trust shall not sell, exchange, give or dispose of any property under subsection (1) except with the consent of the Governor and in accordance with any condition the Governor may impose upon the grant of his consent.

(3) The Governor may consent to the sale, exchange, gift or disposal of property for the purposes of this section and may impose any condition he thinks fit upon the grant of his consent.

PART III.

ADMINISTRATION.

Officers and
employees.

12. (1) For the purposes of this Act—

- (a) a Curator of Elizabeth Bay House; and

(b)

Elizabeth Bay House Trust.

(b) such other officers and employees as may be necessary for the administration of this Act, may be appointed and employed under and subject to the Public Service Act, 1902.

(2) The officers and employees so appointed or employed shall be subject to the Public Service Act, 1902, during their term of office or employment.

13. (1) The Curator is responsible for the administration and management of Elizabeth Bay House, other property of the Trust and any services provided in conjunction therewith. Curator.

(2) The Curator shall be the secretary to the Trust.

(3) The Curator is, in the exercise and performance of his powers, authorities, duties and functions under this Act, subject to the control and direction of the Trust.

14. (1) The Trust may, by instrument in writing, delegate to a trustee or to a person appointed or employed pursuant to section 12 the exercise or performance of such of its powers (other than this power of delegation), authorities, duties or functions as are specified in the instrument of delegation and may, by a like instrument, revoke wholly or partly any such delegation. Delegation by Trust.

(2) A delegation under this section may be made subject to such conditions or such limitations as to the exercise or performance of any of the powers, authorities, duties or functions delegated, or as to time or circumstances, as are specified in the instrument of delegation.

(3)

Elizabeth Bay House Trust.

(3) A power, authority, duty or function the exercise or performance of which has been delegated under this section may, while the delegation remains unrevoked, be exercised or performed from time to time in accordance with the terms of the delegation.

(4) Notwithstanding any delegation under this section, the Trust may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

(5) Any act or thing done or suffered by a delegate under this section has the same force and effect as if the act or thing had been done or suffered by the Trust and shall be deemed to have been done or suffered by the Trust.

PART IV.

FINANCE.

Endowment. 15. (1) For the purpose of providing a statutory fund to be applied by the Trust towards—

- (a) the purchase of items for exhibition at Elizabeth Bay House and their presentation;
- (b) the cost of any alterations to Elizabeth Bay House; and
- (c) subject to subsection (2), other expenditure incurred by the Trust,

there shall be paid by the Treasurer to the Trust an annual endowment of such amount as Parliament approves.

(2) The statutory fund referred to in subsection (1) may not be applied towards—

- (a) the remuneration of persons appointed or employed pursuant to section 12; or

(b)

Elizabeth Bay House Trust.

(b) general operating expenses, including those related to the maintenance of Elizabeth Bay House, payable by the Trust.

(3) The annual endowment referred to in subsection (1) shall be paid by such instalments as the Treasurer thinks fit.

(4) Any money payable by the Treasurer under this section shall be paid out of money provided by Parliament.

16. (1) For the temporary accommodation of the Trust it may obtain advances by overdraft of current account in any bank or banks to such extent as may be approved by the Governor on the recommendation of the Treasurer. Temporary accommodation.

(2) The Treasurer may lend money to the Trust upon such terms as to repayment and interest as may be agreed upon.

17. The Trust shall cause to be kept proper books of account relating to the funds and transactions of the Trust and shall, not later than 30th September in each year and as soon as practicable after the preceding 30th June, prepare and transmit to the Minister for presentation to Parliament statements of accounts in respect of the year ending on, and made up to, that 30th June in a form approved by the Auditor-General and exhibiting a true and correct view of the financial position and transactions of the Trust. Accounts.

18. (1) The accounts of the Trust shall be audited by the Auditor-General who shall have in respect thereof all the powers conferred on him by law from time to time in force in relation to the audit of public accounts. Audit of accounts.

(2)

Elizabeth Bay House Trust.

(2) The Audit Act, 1902, applies to the trustees and officers and employees appointed and employed for the purposes of this Act in the same way as it applies to accounting officers of public departments.

(3) The Auditor-General shall report to the Minister and the Trust—

(a) whether or not in his opinion—

(i) due diligence and care have been shown in the collection and banking of money payable to the Trust;

(ii) expenditure incurred has been duly authorised, vouched and supervised; and

(iii) any money or other property owned, or controlled and managed, by the Trust has been misappropriated or improperly or irregularly dealt with;

(b) as to any other matters that, in his opinion, call for special notice; and

(c) as to any other prescribed matters.

(4) Towards defraying the costs and expenses of the audit of its accounts the Trust shall pay to the Consolidated Revenue Fund such amounts, at such times, as the Treasurer may direct.

PART

Elizabeth Bay House Trust.

PART V.

MISCELLANEOUS.

19. (1) Upon the commencement of this Part, the land described in Schedule 2 shall vest in the Trust for an estate in fee simple freed and discharged from any trusts, obligations, estates, interests, contracts, charges, rates and easements existing immediately before that commencement in respect of that land. Vesting of certain land in Trust.

(2) Nothing in subsection (1) affects any responsibilities, powers, authorities, duties or functions from time to time imposed upon or granted to the Trust by or under this Act in relation to the land described in Schedule 2.

20. The Trust shall, not later than 30th September in each year and as soon as practicable after the preceding 30th June, prepare and transmit to the Minister for presentation to Parliament a report of its work and activities during the year that ended on that 30th June. Annual report.

21. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to— Regulations.

- (a) the meetings of the Trust;
- (b) committees of the Trust;
- (c) the use of Elizabeth Bay House or other property of or services provided by the Trust; and
- (d) regulating or prohibiting the parking or movement of vehicles upon property of the Trust.

(2)

Elizabeth Bay House Trust.

(2) A regulation may—

- (a) apply differently according to such factors as may be specified in the regulation;
- (b) authorise any matter or thing to be from time to time determined, applied or regulated by any person specified therein; and
- (c) impose a penalty not exceeding \$200 for any breach of a regulation.

Transitional
and other
provisions.

22. Schedule 3 has effect.

Sec. 6 (2).

SCHEDULE 1.

PROVISIONS RELATING TO TRUSTEES AND PROCEDURE OF THE TRUST.

Certain
persons
ineligible
for appoint-
ment.

1. A person—

- (a) who is of or above the age of 70 years;
- (b) who is a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act; or
- (c) who is a bankrupt, is applying to take the benefit of any law for the relief of bankrupt or insolvent debtors, whose debts are subject to a composition with his creditors, or whose remuneration would, upon his appointment, be subject to an assignment for their benefit,

is not eligible to be appointed a trustee.

Appoint-
ment of
deputy.

2. (1) In the case of the illness or absence of any trustee the Minister may appoint a person as a deputy to act in the place of the trustee during his illness or absence.

SCHEDULE

Elizabeth Bay House Trust.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO TRUSTEES AND PROCEDURE OF THE
TRUST—*continued.*

(2) A deputy appointed under this clause shall, while he is acting as a deputy, have all the powers, authorities, duties and functions of a trustee.

(3) A deputy appointed under this clause shall, if the Minister thinks fit, be paid such remuneration (including travelling and sustenance allowances) as the Minister may from time to time determine in respect of him.

(4) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising a person to act in the place of a trustee, or as to the necessity or propriety of any appointment of a deputy, and all acts and things done or omitted by a deputy when so acting shall be as valid and shall have the same consequences as if they had been done or omitted by the trustee for whom the deputy is acting.

3. (1) The term of office of a trustee shall be, and, unless he vacates his office during his term, a trustee shall hold office for, such period not exceeding 4 years as may be specified in the instrument appointing him.

(2) A trustee whose term of office expires may, subject to clause 1, be re-appointed as a trustee.

4. The Public Service Act, 1902, does not apply to or in respect of the appointment of a trustee and a trustee is not, in his capacity as a trustee, subject to that Act during his term of office.

Certain enactments not to apply in respect of trustee.

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

Allowances for trustees.

6. The Governor may, for any cause which to him seems sufficient, remove a trustee from office.

Removal from office.

7. A trustee shall be deemed to have vacated his office if he—
(a) dies;
(b) resigns his office by writing under his hand addressed to the Minister;

Vacation of office.

SCHEDULE

*Elizabeth Bay House Trust.*SCHEDULE 1—*continued.*PROVISIONS RELATING TO TRUSTEES AND PROCEDURE OF THE
TRUST—*continued.*

- (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration or estate for their benefit;
- (d) 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 VII of that Act;
- (e) is absent from 3 consecutive ordinary meetings of the Trust of which notice has been given to him personally or in the ordinary course of post and is not before the expiration of 6 weeks after the latest of those meetings excused by the Trust for his absence from the meetings;
- (f) is removed from office by the Governor; or
- (g) attains the age of 70 years.

Chairman. 8. (1) For the purposes of this clause, a trustee shall not be considered to have ceased to be a trustee by reason only of his term of office as a trustee having expired if he is re-appointed by the Governor as a trustee for a term commencing immediately after the date on which his term of office expired.

(2) The Chairman of the Trust shall be such trustee as the Minister nominates as Chairman.

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

(4) At a meeting of the Trust—

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

shall preside.

SCHEDULE

Elizabeth Bay House Trust.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO TRUSTEES AND PROCEDURE OF THE
TRUST—*continued.*

9. (1) The procedure for the calling of meetings of the Trust and Procedure, the conduct of business at those meetings shall, subject to this quorum, etc. Schedule and any regulation, be as determined by the Trust.

(2) The Minister shall call the first meeting of the Trust by giving notice to the first 5 trustees in such way as he thinks fit.

(3) Three trustees shall form a quorum and any duly convened meeting of the Trust at which a quorum is present shall be competent to transact any business of the Trust and shall have and may exercise and perform all the powers, authorities, duties and functions of the Trust.

(4) The person presiding at a meeting of the Trust shall, in the event of an equality of votes, have in addition to a deliberative vote, a second or casting vote.

(5) A decision supported by a majority of the votes cast at a meeting of the Trust at which a quorum is present shall be the decision of the Trust.

10. The secretary to the Trust—

The
secretary.

- (a) shall cause minutes of each meeting of the Trust to be recorded and preserved;
- (b) is entitled to be present at each meeting of the Trust and to be heard by the Trust on any matter considered by the Trust; and
- (c) is an ex officio member of each committee of the Trust.

11. The common seal of the Trust shall be kept by the secretary Common to the Trust and shall only be affixed to an instrument or writing— seal.

- (a) by resolution of the Trust;
- (b) in the presence of 2 trustees; and

SCHEDULE

Elizabeth Bay House Trust.

SCHEDULE 1—continued.

PROVISIONS RELATING TO TRUSTEES AND PROCEDURE OF THE TRUST—continued.

- (c) with an attestation by the signatures of the persons present, as required by this clause, of the fact and date of the affixing of the seal.
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Sec. 19 (1).

SCHEDULE 2.
LAND VESTED IN THE TRUST.

So much of the land originally granted to Alexander Macleay by Crown Grant dated 19th October, 1831, as is described in Certificate of Title Volume 5210 Folio 183 and comprises Lot 16 in Deposited Plan 15713.

Sec. 22.

SCHEDULE 3.
TRANSITIONAL AND OTHER PROVISIONS.

Interpre-
tation.

1. In this Schedule—

“commencement” means commencement of this Schedule;

“Commission” means the New South Wales Planning and Environment Commission;

“Interim Committee” means the Elizabeth Bay House Interim Committee established by the Commission under section 15 of the State Planning Authority Act, 1963.

Dissolution
of Interim
Committee

2. The Interim Committee is hereby dissolved and any person who held office as a member of the Interim Committee immediately before the commencement shall cease to hold that office.

SCHEDULE

Elizabeth Bay House Trust.

SCHEDULE 3—*continued.*

TRANSITIONAL AND OTHER PROVISIONS—*continued.*

3. (1) On and from the commencement—

Vesting
of assets.

(a) all—

- (i) real or personal property, any rights and interests therein and all control and management thereof that, immediately before the commencement, belonged to or was or were vested in the Interim Committee; and
- (ii) personal property (being property that, immediately before the commencement, was situated at Elizabeth Bay House), any rights and interests therein and all control and management thereof that, immediately before the commencement, belonged to or was or were vested in the Commission,

shall vest in and belong to the Trust;

- (b) all money and liquidated and unliquidated claims that, immediately before the commencement, was or were payable to or recoverable by—

- (i) the Interim Committee; or
- (ii) the Commission (in respect of Elizabeth Bay House or personal property situated at that place at any time before the commencement),

shall be money and liquidated and unliquidated claims payable to or recoverable by the Trust;

- (c) all money and liquidated and unliquidated claims in respect of the control or management of Elizabeth Bay House for which the Interim Committee or the Commission would, but for the enactment of this Act, have been liable shall be money and liquidated or unliquidated claims for which the Trust shall be liable;

- (d) all proceedings commenced in respect of Elizabeth Bay House or the control or management of that place before the commencement by the Interim Committee or the Commission shall be deemed to be proceedings pending on that commencement by the Trust and all proceedings in respect of Elizabeth Bay House or the control or management of that place so commenced by any person

SCHEDULE

*Elizabeth Bay House Trust.*SCHEDULE 3—*continued.*TRANSITIONAL AND OTHER PROVISIONS—*continued.*

against the Interim Committee or against the Commission and pending immediately before the commencement shall be deemed to be proceedings pending on the commencement by that person against the Trust;

- (e) subject to subclause (2) of this clause, all contracts, agreements, arrangements and undertakings entered into with the Interim Committee or the Commission with respect to the control or management of Elizabeth Bay House and in force immediately before the commencement shall be deemed to be contracts, agreements, arrangements and undertakings entered into with the Trust; and
- (f) the Trust may, in addition to pursuing any other remedies or exercising any other powers that may be available to it, pursue the same remedies for the recovery of money and claims referred to in this subclause and for the prosecution of proceedings so referred to as the Interim Committee or the Commission might have done but for the enactment of this Act.

(2) Nothing in subclause (1) (e) of this clause affects the operation of section 19 (1).

Agreement
to certain
conditions.

4. Where any property, right or interest referred to in clause 3 (1) (a)—

- (a) was acquired by the Interim Committee or the Commission before the commencement by gift inter vivos, devise or bequest, subject to a condition agreed to by the Interim Committee or the Commission, as the case may be; and
- (b) was held by the Interim Committee or the Commission immediately before that commencement,

the Trust shall, on the commencement, be deemed to have agreed, under section 8 (3), to the condition upon which the property, right or interest, as the case may be, was acquired.

Saving.

5. On the commencement, any person who—

- (a) had been appointed to the office of Curator, Elizabeth Bay House under and subject to the Public Service Act, 1902, and held that office immediately before the commencement, shall be deemed to be appointed as the Curator of Elizabeth Bay House pursuant to section 12; or

SCHEDULE

Elizabeth Bay House Trust.

SCHEDULE 3—*continued.*

TRANSITIONAL AND OTHER PROVISIONS—*continued.*

- (b) had been appointed or employed under and subject to the Public Service Act, 1902, and was engaged in or in connection with the administration or management of Elizabeth Bay House immediately before the commencement, shall be deemed to be appointed or employed, as the case may be, pursuant to section 12.

6. The persons who held office as members of the Interim Accounts Committee immediately before the commencement shall—
and report.

(a) prepare—

- (i) statements of all accounts of the Interim Committee made up to the commencement in a form approved by the Auditor-General exhibiting a true and complete view of the financial position and transactions of the Interim Committee in respect of the period from 1st July immediately preceding the commencement; and
- (ii) a report of the work and activities of the Interim Committee from 1st July immediately preceding the commencement and up to the commencement; and
- (b) transmit the statements and report to the Trust as soon after the commencement as may be practicable.

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

A. R. CUTLER,
Governor.

*Government House,
Sydney, 29th November, 1977.*

CHAPTER 100

AN ACT TO AMEND THE

CONSTITUTION OF THE STATE OF MISSISSIPPI

SECTION 1. The Constitution of the State of Mississippi is amended by adding to the same the following article, to wit:

ARTICLE 10. The persons who hold office as members of the General Assembly shall be elected to their offices for the term of four years.

SECTION 2.

SECTION 3. The General Assembly shall be composed of a Senate and a House of Representatives. The Senate shall be composed of twenty-four members, and the House of Representatives shall be composed of thirty-six members. The members of the Senate shall be elected for the term of four years, and the members of the House of Representatives shall be elected for the term of two years.

SECTION 4. The General Assembly shall meet on the first Monday of January in each year, and shall continue to meet until the adjournment thereof.

SECTION 5. The General Assembly shall have the power to pass bills, to originate revenue bills, and to impeach and remove from office any officer of the State.

in the name and on behalf of the State of Mississippi

W. L. G. B. H.

Secretary

Witness my hand and seal

this 10th day of January, 1917

