

ART GALLERY OF NEW SOUTH WALES BILL, 1980

EXPLANATORY NOTE

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

The Liquor (Art Gallery of New South Wales) Amendment Bill, 1980, is cognate with this Bill.

The objects of this Bill are—

- (a) to constitute the Art Gallery of New South Wales Trust (“the Trust”) and to define its powers, authorities, duties and functions;
- (b) to repeal the Art Gallery of New South Wales Act, 1958; and
- (c) to make provision with respect to the administration of the Art Gallery of New South Wales.

The Bill contains the following provisions:—

Clause 1. Short title.

Clause 2. Commencement.

Clause 3. Arrangement.

Clause 4. Interpretation.

Clause 5 constitutes the Trust.

Clause 6 provides that the Trust shall consist of 9 trustees and gives effect to Schedule 1 to the Act.

Clause 7 specifies the principal objects of the Trust.

Clause 8 specifies the powers of the Trust.

Clause 9 restricts the power of the Trust in its dealings with certain Trust property.

Clause 10 authorises the disposal of certain property not required for the purposes of the Trust.

Clause 11 provides for the appointment of a Director of the Art Gallery of New South Wales and of other persons required for the administration of the proposed Act.

Clause 12 specifies the responsibilities of the Director.

Clause 13 enables the Trust to delegate its powers.

Clause 14 authorises the Treasurer to pay an annual endowment to the Trust.

Clause 15 enables the Trust to obtain temporary loans by way of overdraft and to borrow money from the Treasurer.

Clause 16 preserves the effect of an instrument creating a trust, notwithstanding the provisions of clauses 17 and 18 in relation to trust funds.

Clause 17 enables the Trust to pool moneys from different trust funds and from a general purposes account, and to apply the moneys so pooled to a single investment.

Clause 18 provides for the periodic distribution of the income of an investment pool to the credit of particular trust funds whose moneys contributed to the pool, in the same relative proportions as the contributions.

Clause 19 provides that, while moneys may be pooled as provided in clause 17, the nature of trust funds held by the Trust is substantially unaffected.

Clause 20 requires the Trust to keep proper accounts.

Clause 21 authorises and requires the Auditor-General to inspect and audit the accounts of the Trust.

Clause 22 requires the Trust to prepare an annual report for presentation by the Minister to Parliament.

Clause 23 enables the Governor to make by-laws to give effect to the proposed Act.

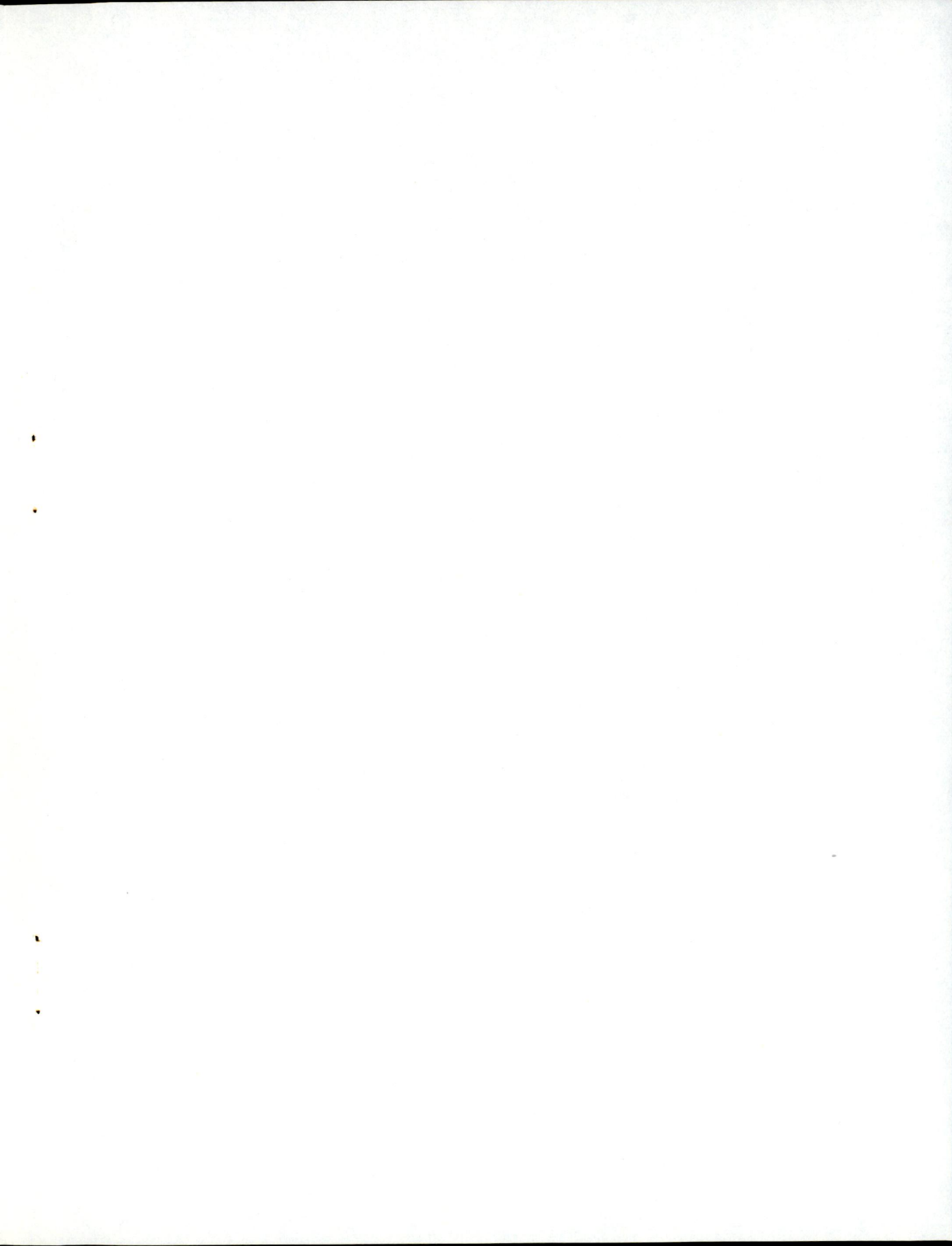
Clause 24 repeals the Art Gallery of New South Wales Act, 1958, and other enactments amending that Act.

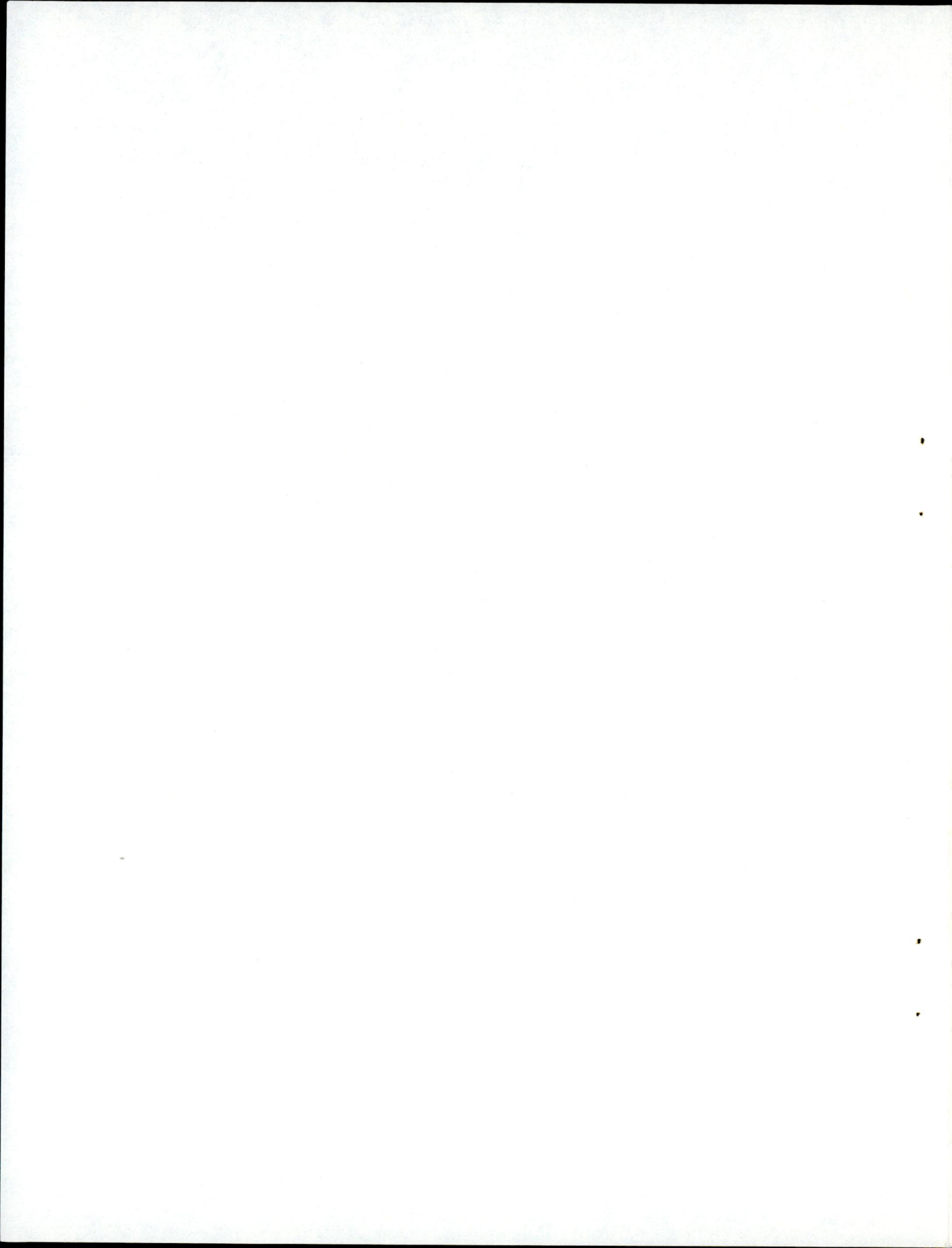
Clause 25 gives effect to Schedule 3 to the proposed Act.

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

Schedule 2 specifies the enactments repealed by the proposed Act.

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





ART GALLERY OF NEW SOUTH WALES BILL, 1980

No. , 1980.

A BILL FOR

An Act to constitute the Art Gallery of New South Wales Trust and define its functions; to repeal the Art Gallery of New South Wales Act, 1958; to make provision with respect to the administration of the Art Gallery; and for certain other purposes.

[MR WRAN—27 *March*, 1980.]

See also Liquor (Art Gallery of New South Wales) Amendment Bill, 1980.

Art Gallery of New South Wales.

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 :—

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PART I.

PRELIMINARY.

1. This Act may be cited as the "Art Gallery of New South Wales Act, 1980". Short title.

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

Arrange-
ment.

PART I.—PRELIMINARY—ss. 1–4.

PART II.—THE ART GALLERY OF NEW SOUTH WALES TRUST—ss. 5–10.

PART III.—ADMINISTRATION—ss. 11–13.

20 **PART IV.—FINANCE—ss. 14–21.**

PART V.—MISCELLANEOUS—ss. 22–25.

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

SCHEDULE 2.—REPEALS.

25 **SCHEDULE 3.—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.**

Art Gallery of New South Wales.

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

“Art Gallery” means the Art Gallery of New South Wales;

“by-laws” means by-laws made under this Act;

5 “Director” means the person appointed and employed as Director of the Art Gallery pursuant to section 11 (1) (a) or a person acting as Director of the Art Gallery;

“functions” includes powers, authorities and duties;

10 “Trust” means the Art Gallery of New South Wales Trust constituted by section 5;

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

(2) A reference in this Act to the exercise of a function includes, where that function is a duty, the performance of that duty.

PART II.

15

THE ART GALLERY OF NEW SOUTH WALES TRUST.

5. (1) There is hereby constituted a corporation, to be known as the “Art Gallery of New South Wales Trust”. Constitution of Trust.

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

6. (1) The Trust shall consist of 9 trustees who shall be appointed by the Governor on the recommendation of the Minister and at least 2 of whom shall be knowledgeable and experienced in the visual arts. Appointment and procedure.

25

Art Gallery of New South Wales.

(2) Schedule 1 has effect.

7. (1) The principal objects of the Trust are—

Principal
objects
of Trust.

- (a) to develop and maintain a collection of works of art; and
- (b) to propagate and increase knowledge and appreciation of art.

5

(2) When acting in pursuance of its objects, the Trust shall give particular emphasis to the visual art of Australia and the southern hemisphere.

8. (1) The Trust may—

Powers of
Trust.

- 10 (a) maintain, or make arrangements for the maintenance of, Trust property or property in the custody of the Trust and, in pursuance of its objects, acquire works of art and other property;
- 15 (b) promote and provide exhibitions, lectures, films, publications and other educational or cultural instruction or materials;
- 20 (c) provide professional advice and services to the public or to any person or body with respect to any matter concerning art or works of art and their maintenance and preservation;
- 25 (d) subject to any conditions the Trust imposes, permit the use of any part of the Art Gallery or any branch thereof for activities of an educational or cultural nature, for social functions, State occasions or charitable or other promotional activities or for the holding of conferences or meetings;
- 30 (e) permit the use of the Art Gallery or any branch thereof for the taking of photographs, the making of films or sound recordings and the production of television or radio programmes or material;

Art Gallery of New South Wales.

- (f) in the Art Gallery or any branch thereof, 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;
- 5 (g) engage and enter into contracts with artists, entertainers, lecturers and performers—
- (i) to appear at the Art Gallery or any branch thereof; or
- 10 (ii) in connection with any service provided under this section or otherwise in pursuance of the objects of the Trust;
- (h) charge and receive fees or other amounts for or in connection with any advice or service provided, article sold or permission given by the Trust in its exercise of any of the functions conferred on it by this section, which
- 15 fees and other amounts shall be the property of the Trust;
- (i) lend works of art to, or borrow works of art from, art galleries or museums for exhibition, upon such conditions
- 20 as may be agreed to; and
- (j) enter into any contract or arrangement with any person for the purpose of carrying out or promoting the objects of the Trust.

(2) Subject to this Act and the by-laws, the Trust shall

25 have the control and management of the Art Gallery and of all property vested in the Trust.

(3) The Trust may agree to the imposition of any condition on its acquisition of any property, except where the condition is inconsistent with its objects.

30 (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.

Art Gallery of New South Wales.

(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 its functions.

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

(9) The Trust may establish, control and manage branches or departments of the Art Gallery.

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

9. (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, 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 10.

Art Gallery of New South Wales.

(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.

- 5 **10.** (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—
- 10 (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 institution that is an educational institution for the purposes of the Educational Institutions (Stamp Duties Exemption) Act, 1961; or
- 15 (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.
- 20 (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.
- 25 (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.

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PART III.

ADMINISTRATION.

11. (1) For the purposes of this Act—

Officers
and
employees.

(a) a Director of the Art Gallery; and

5 (b) such other persons as may be necessary for the
administration of this Act,

may be appointed and employed under Part IV of the Public
Service Act, 1979.

(2) The persons so appointed or employed shall be subject
10 to the Public Service Act, 1979, during their term of office or
employment.

12. (1) The Director is responsible for the administration Director.
and management of the Art Gallery and any services provided in
conjunction therewith.

15 (2) The Director shall be the chief executive officer of
the Trust.

(3) The Director is, in the exercise of his functions under
this Act, responsible to the Trust.

13. (1) The Trust may, by instrument in writing, delegate Delegation
20 to a trustee or to a person appointed or employed pursuant to by Trust.
section 11 the exercise of such of its functions (other than this
power of delegation) as are specified in the instrument of delegation
and may, by a like instrument, revoke wholly or partly any such
delegation.

Art Gallery of New South Wales.

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

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

(4) Notwithstanding any delegation under this section,
10 the Trust may continue to exercise all or any of the 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
15 been done or suffered by the Trust.

PART IV.

FINANCE.

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

- 20 (a) the purchase and acquisition of works of art;
- (b) the remuneration, if any, to be paid under clause 5 of Schedule 1 to trustees, deputies of trustees and members of committees established under section 8 (7) who are not trustees; and
- 25 (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.

Art Gallery of New South Wales.

(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 11 (1); or
- 5 (b) general operating expenses, including those related to the maintenance of any property of 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
10 section shall be paid out of money provided by Parliament.

15 **15.** (1) For the temporary accommodation of the Trust it may obtain advances by overdraft on 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.

16. The terms of any instrument creating a trust with respect to a fund held by the Trust shall have effect notwithstanding sections 17 and 18. Trust instruments apply notwithstanding ss. 17, 18.

20 **17.** (1) The Trust may establish and maintain one or more investment pools for the collective investment of funds held by the Trust whether or not those funds are, or any of those funds is, subject to a trust. Investment pools.

(2) The Trust may from time to time bring into or
25 withdraw from an investment pool the whole or any part of any fund referred to in subsection (1).

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(3) Notwithstanding subsections (1) and (2), the Trust shall not bring into or retain in an investment pool the whole or any part of a fund subject to a trust if the investments in which the capital of the investment pool is invested are not investments
5 made in accordance with and subject to the Trustee Act, 1925, or any other Act authorising the investment of trust funds.

18. (1) The Trust shall, at the time the whole or any part of a fund referred to in subsection (2) (a) is withdrawn from an investment pool, and, in any event, at least once a year, distribute
10 the income of an investment pool. Distri-
bution of
income of
investment
pools.

(2) Where the Trust distributes the income of an investment pool under subsection (1)—

15 (a) it shall, in respect of a fund the subject of a trust which specifies that the income from the investment of that fund shall be applied for a purpose other than the general purposes of the Art Gallery, credit the income of that investment pool to the account kept by it in respect of that fund proportionately according to the value of that fund or part at the date of distribution
20 and the period for which that fund or part has formed part of the capital of that investment pool; and

(b) it may, in respect of a fund, other than a fund referred to in paragraph (a), credit the income of that investment pool to any account kept by it.

25 19. The inclusion in an investment pool of the whole or any part of a fund held by the Trust does not affect— Nature of
funds not
affected by
pooling.

(a) the identity of that fund or part; or

(b) any trust to which that fund or part is subject.

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20. (1) The Trust shall cause to be kept proper accounts and records in relation to all of its operations. Accounts.

(2) The Trust shall, as soon as practicable, but within 6 months, after the end of each financial year of the Trust, prepare and submit to the Minister for presentation to Parliament a statement of accounts, together with the Auditor-General's certificate given under this section in relation to the statement.

(3) The statement of accounts shall be in a form approved by the Auditor-General, and shall include such information as is requested by him, and shall exhibit a true and fair view of the financial position and transactions of the Trust.

(4) The Trust shall, as soon as practicable, but within 4 months, after the end of the financial year to which a statement of accounts relates, transmit the statement to the Auditor-General for verification and certification.

(5) The Auditor-General's certificate shall state that he has audited the accounts of the Trust relating to the relevant financial year, and shall indicate whether the statement of accounts complies with subsection (3), and shall set forth any qualifications subject to which the certificate is given.

(6) Nothing in this section prevents the alteration of the statement of accounts, with the approval of the Auditor-General, after its receipt by him and before its submission to the Minister.

(7) The Minister shall lay the statement of accounts, or cause it to be laid, together with the Auditor-General's certificate, before both Houses of Parliament as soon as practicable after the receipt by him of the statement.

(8) The financial year of the Trust shall be the year commencing on 1st July.

Art Gallery of New South Wales.

21. (1) The accounts and records of financial transactions of the Trust, and the records relating to assets of or in the custody of the Trust, shall be inspected and audited by the Auditor-General. Audit.

(2) For the purposes of any such inspection and audit, the Auditor-General or a person authorised by him is entitled at all reasonable times to full and free access to the accounts, records, documents and papers of the Trust and may make copies thereof or take extracts therefrom.

(3) The Auditor-General or a person authorised by him may require a person, being a trustee or an officer or employee of the Trust, to furnish him with such information in the possession of the person or to which the person has access as the Auditor-General or authorised person considers necessary for the purposes of the functions of the Auditor-General under this Act, and the person shall comply with the requirement.

Penalty : \$200.

(4) The Auditor-General may dispense with all or any part of the detailed inspection and audit of any accounts or records referred to in subsection (1).

(5) The Auditor-General shall report to the Trust and the Minister on the result of any such inspection and audit, and as to such irregularities or other matters as in his judgment call for special notice or as are prescribed.

(6) Towards defraying the costs and expenses of any such inspection and audit, the Trust shall pay to the Consolidated Revenue Fund such amounts, at such times, as the Treasurer decides.

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PART V.

MISCELLANEOUS.

22. (1) As soon as practicable after 30th June, but on or before 30th September, in each year, the Trust shall prepare and forward to the Minister a report of its work and activities for the 12 months ending on 30th June in that year. ^{Annual report.}

(2) The Minister shall lay the report or cause it to be laid before both Houses of Parliament as soon as practicable after the receipt by him of the report.

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

15 (a) meetings of the Trust;

(b) committees of the Trust;

(c) the conditions upon which works of art or other property of the Trust may be borrowed, inspected or copied by any person;

20 (d) the admission (including charges therefor) of the public or any person to the Art Gallery or any part thereof or any branch or part thereof or any exhibition held by the Trust;

25 (e) the exclusion of the public or any person from the Art Gallery or any part thereof or any branch or part thereof or any exhibition held by the Trust;

(f) regulating or prohibiting the parking or movement of vehicles upon property of the Trust or land dedicated for the purposes of the Art Gallery;

Art Gallery of New South Wales.

- (g) regulating or prohibiting the taking of photographs by the public or by any person in the Art Gallery or any part thereof or any branch or part thereof or in any place where an exhibition is held by the Trust; and
 - 5 (h) the fees or other amounts to be charged for or in connection with any advice or service provided, article sold or permission given by the Trust.
- (2) A provision of a by-law may—
- 10 (a) apply differently according to such factors as are specified in the by-law; or
 - (b) authorise any matter or thing to be from time to time determined, applied or regulated by any person specified therein.
- (3) A provision of a by-law may impose a penalty not
15 exceeding \$500 for a breach of the by-law.

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

25. Schedule 3 has effect.

Savings,
transi-
tional and
other pro-
visions.

Art Gallery of New South Wales.

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;
- 5 (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
- 10 (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 or a deputy of a trustee.
2. (1) In the case of the illness or absence of any trustee the Minister
15 may appoint a person as a deputy to act in the place of the trustee during his illness or absence.
- (2) A deputy appointed under this clause shall, while he is acting as a deputy, have all the functions of a trustee.
- 20 (3) 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
25 had been done or omitted by the trustee for whom the deputy is acting.
3. The Public Service Act, 1979, 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.
4. (1) The term of office of a trustee shall be, and (unless he vacates
30 his office during his term) a trustee shall hold office for, such period not exceeding 3 years as may be specified in the instrument appointing him.
- (2) Subject to subclause (3) of this clause and to clause 1, a trustee whose term of office has expired may be re-appointed as a trustee.

Certain persons ineligible for appointment.

Appointment of deputy.

Certain enactments not to apply in respect of trustee.

Term of office and casual vacancies.

*Art Gallery of New South Wales.*SCHEDULE 1—*continued.*PROVISIONS RELATING TO TRUSTEES AND PROCEDURE OF THE
TRUST—*continued.*

- (3) No trustee shall hold office for 4 consecutive terms.
- 5 (4) On the occurrence of a vacancy in the office of a trustee otherwise than by the expiration of his term of office, the Governor may appoint a person to hold that office for the balance of his predecessor's term of office.
- 10 5. A trustee, a deputy of a trustee and a member of a committee established under section 8 (7) who is not a trustee are each entitled to be paid such remuneration (including travelling and subsistence 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.
- 15 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;
- 20 (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;
- 25 (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;
- 30 (f) is removed from office by the Governor; or
- (g) attains the age of 70 years.

Art Gallery of New South Wales.

SCHEDULE 1—*continued.*

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

8. (1) The President of the Trust shall be such trustee as the Minister
5 appoints as President. President
and Vice-
President.

(2) A President of the Trust holds office until his successor is
appointed by the Minister or until he ceases to be a trustee, whichever first
occurs.

(3) At the first meeting of the Trust and at each meeting next
10 following the expiry of the term of office of a Vice-President, the trustees
shall elect a Vice-President from among their number.

(4) The term of office of a Vice-President expires—

- (a) if he vacates his office as trustee; or
15 (b) if his term of office as trustee during which he was elected as
Vice-President expires, notwithstanding that he may be sub-
sequently re-appointed as a trustee.

(5) A retiring President or Vice-President is, while he is a trustee,
eligible for re-appointment or re-election, as the case may be.

(6) At a meeting of the Trust—

- 20 (a) the President;
(b) in the absence of the President—the Vice-President; or
(c) in the absence of both the President and Vice-President—a
chairman elected by trustees present at the meeting from among
their number,

25 shall preside.

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

(2) The Minister shall call the first meeting of the Trust by giving
30 notice to the first 9 trustees in such way as he thinks fit.

*Art Gallery of New South Wales.*SCHEDULE 1—*continued.*PROVISIONS RELATING TO TRUSTEES AND PROCEDURE OF THE TRUST—*continued.*

5 (3) Subject to clause 10 (2) (b), 5 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 all the functions of the Trust.

10 (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.

15 10. (1) A trustee present at a meeting of the Trust who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Trust, otherwise than as a member of, and in common with the other members of, an incorporated company consisting of more than 25 persons, shall, as soon as practicable after the commencement of the meeting, disclose the nature of his interest. Disclosure of interest.

20 (2) A disclosure under subclause (1) of this clause shall be recorded in the minutes of the Trust and the trustee—

- (a) shall not take part, after the disclosure, in any deliberation or decision of the Trust with respect to that matter; and
- 25 (b) shall be disregarded for the purpose of constituting a quorum of the Trust for any such deliberation or decision.

11. The secretary to the Trust shall cause minutes of each meeting of the Trust to be recorded and preserved. Minutes of meetings.

12. The Director—

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

The Director.

Art Gallery of New South Wales.

SCHEDULE 1—*continued.*

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

13. The common seal of the Trust shall be kept by the secretary to the
5 Trust. Common seal.

SCHEDULE 2.

Sec. 24.

REPEALS.

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Extent of Repeal.
1958, No. 1 ..	Art Gallery of New South Wales Act, 1958.	The whole Act.
1973, No. 2 ..		The whole Act.
15 1975, No. 84 ..	Miscellaneous Acts (Administrative Changes) Amendment Act (No. 2), 1975.	Section 7.

SCHEDULE 3.

Sec. 25.

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

1. In this Schedule—

- 20 “commencement” means the commencement of this Schedule;
- “former Act” means the Art Gallery of New South Wales Act, 1958, repealed by this Act;
- “former trustees” means the trustees incorporated by section 4 of the
25 former Act, under the name of “The Trustees of the Art Gallery of New South Wales”.

Interpre-
tation.

*Art Gallery of New South Wales.*SCHEDULE 3—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

2. A reference—

Construction
of other
instruments,
etc.

- 5 (a) in any other Act, or in any by-law, regulation or ordinance or any other instrument or document whatever, to the former trustees in their capacity as trustees of any property under the former Act; or
- 10 (b) to the former trustees in any instrument in relation to any gift inter vivos, devise or bequest, which gift, devise or bequest would, but for the enactment of this Act, have vested in the former trustees in their capacity as trustees of any property under the former Act,

shall be construed as a reference to the Trust.

- 15 3. (1) For the purposes of subclause (2) of this clause, a reference in that subclause to the former trustees is a reference to those trustees in their capacity as trustees of any property under the former Act. Vesting of assets, etc.

(2) On and from the commencement—

- 20 (a) all property, whether real or personal, all rights and interests therein and all control and management thereof that, immediately before the commencement, belonged to or was or were vested in the former trustees shall belong to and vest in the Trust;
- 25 (b) all money and liquidated and unliquidated claims that, immediately before the commencement, was or were payable to or recoverable by the former trustees shall be money and liquidated and unliquidated claims payable to or recoverable by the Trust;
- (c) all money and liquidated and unliquidated claims for which the former trustees would, but for the enactment of this Act, have been liable shall be money and liquidated and unliquidated claims for which the Trust shall be liable;
- 30 (d) all proceedings commenced by the former trustees and pending immediately before the commencement shall be deemed to be proceedings pending on the commencement by the Trust and all proceedings so commenced by any person against the former trustees and pending immediately before the commencement shall
- 35 be deemed to be proceedings pending on the commencement by that person against the Trust;

Art Gallery of New South Wales.

SCHEDULE 3—*continued.*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

5 (e) all contracts, agreements, arrangements and undertakings entered into with the former trustees and in force immediately before the commencement shall be deemed to be contracts, agreements, arrangements and undertakings entered into with the Trust;

10 (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 former trustees might have done but for the enactment of this Act; and

15 (g) all acts, matters and things done or omitted by, or done or suffered in relation to, the former trustees, being acts, matters or things not referred to in the foregoing provisions of this subclause, shall have the same force and effect as if they had been done or omitted by, or done or suffered in relation to, the Trust.

4. Where any property, right or interest referred to in clause 3 (2) (a)— Agreement to certain conditions.

20 (a) was acquired by the former trustees before the commencement in their capacity as trustees of any property under the former Act, by gift inter vivos, devise or bequest, subject to a condition agreed to by the former trustees; and

(b) was held by the former trustees in such a capacity immediately before the commencement,

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

30 5. (1) The by-laws made under the former Act and in force immediately before the commencement shall, to the extent that they are not inconsistent with this Act, be deemed to be by-laws made under this Act. **Savings.**

(2) A reference, however expressed, in any other Act or instrument, to by-laws made under the former Act shall be construed as a reference to by-laws made under this Act.

Art Gallery of New South Wales.

SCHEDULE 3—*continued.*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

- (3) Any person who—
- 5 (a) was employed as Director of the Art Gallery of New South Wales under the Public Service Act, 1979, immediately before the commencement, shall, on the commencement, be deemed to be appointed and employed as the Director pursuant to section 11 (1); and
- 10 (b) was employed under the Public Service Act, 1979, and was engaged in or in connection with the administration or management of any property, being property vested in the former trustees under the former Act, immediately before the commencement, shall, on the commencement, be deemed to be appointed and employed pursuant to section 11 (1).
- 15 6. (1) No matter or thing done, and no contract entered into, by the Trust and no matter or thing done by a trustee or by any other person acting under the direction of the Trust shall, if the matter or thing was done, or the contract was entered into, in good faith for the purposes of executing this Act, subject a trustee or person so acting personally to any
20 action, liability, claim or demand. Protection from liability.
- (2) No matter or thing done, and no contract entered into, by the former trustees and no matter or thing done by a former trustee or by any person acting under the direction of the former trustees shall, if the matter or thing was done, or the contract was entered into, in good faith for the
25 purposes of executing the former Act, subject a former trustee or person so acting personally to any action, liability, claim or demand.
7. The former trustees shall—
- (a) prepare— Accounts and report.
- 30 (i) statements of all accounts in respect of the administration of property held by them under the former Act, made up to the commencement in a form approved by the Auditor-General and exhibiting a true and complete view of the financial position and transactions in respect of that administration, for the period from 1st July immediately preceding the commencement and up to the commence-
35 ment; and

Art Gallery of New South Wales.

SCHEDULE 3—*continued.*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

- 5 (ii) a report of their work and activities in relation to the exercise of their functions under the former Act from 1st January 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.

8. The former trustees shall, on the commencement, cease to hold the
10 offices to which they were last appointed under the former Act.

Dis-
solution of
offices of
former
trustees.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1980

(55c)

**ART GALLERY OF NEW SOUTH WALES ACT,
1980, No. 65**

New South Wales



ANNO VICESIMO NONO

ELIZABETHÆ II REGINÆ

Act No. 65, 1980.

An Act to constitute the Art Gallery of New South Wales Trust and define its functions; to repeal the Art Gallery of New South Wales Act, 1958; to make provision with respect to the administration of the Art Gallery; and for certain other purposes. [Assented to, 28th April, 1980.]

See also Liquor (Art Gallery of New South Wales) Amendment Act, 1980.

Art Gallery of New South Wales.

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 "Art Gallery of New South Wales Act, 1980".

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.

Arrange-
ment. **3.** This Act is divided as follows :—

PART I.—PRELIMINARY—ss. 1–4.

PART II.—THE ART GALLERY OF NEW SOUTH WALES TRUST—ss. 5–10.

PART III.—ADMINISTRATION—ss. 11–13.

PART IV.—FINANCE—ss. 14–21.

PART V.—MISCELLANEOUS—ss. 22–25.

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

SCHEDULE 2.—REPEALS.

SCHEDULE 3.—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Art Gallery of New South Wales.

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

“Art Gallery” means the Art Gallery of New South Wales;

“by-laws” means by-laws made under this Act;

“Director” means the person appointed and employed as Director of the Art Gallery pursuant to section 11 (1) (a) or a person acting as Director of the Art Gallery;

“functions” includes powers, authorities and duties;

“Trust” means the Art Gallery of New South Wales Trust constituted by section 5;

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

(2) A reference in this Act to the exercise of a function includes, where that function is a duty, the performance of that duty.

PART II.

THE ART GALLERY OF NEW SOUTH WALES TRUST.

5. (1) There is hereby constituted a corporation, to be known as the “Art Gallery of New South Wales Trust”. Constitution of Trust.

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

6. (1) The Trust shall consist of 9 trustees who shall be appointed by the Governor on the recommendation of the Minister and at least 2 of whom shall be knowledgeable and experienced in the visual arts. Appointment and procedure.

Art Gallery of New South Wales.

(2) Schedule 1 has effect.

Principal
objects
of Trust.

7. (1) The principal objects of the Trust are—

- (a) to develop and maintain a collection of works of art; and
- (b) to propagate and increase knowledge and appreciation of art.

(2) When acting in pursuance of its objects, the Trust shall give particular emphasis to the visual art of Australia and the southern hemisphere.

Powers of
Trust.

8. (1) The Trust may—

- (a) maintain, or make arrangements for the maintenance of, Trust property or property in the custody of the Trust and, in pursuance of its objects, acquire works of art and other property;
- (b) promote and provide exhibitions, lectures, films, publications and other educational or cultural instruction or materials;
- (c) provide professional advice and services to the public or to any person or body with respect to any matter concerning art or works of art and their maintenance and preservation;
- (d) subject to any conditions the Trust imposes, permit the use of any part of the Art Gallery or any branch thereof for activities of an educational or cultural nature, for social functions, State occasions or charitable or other promotional activities or for the holding of conferences or meetings;
- (e) permit the use of the Art Gallery or any branch thereof for the taking of photographs, the making of films or sound recordings and the production of television or radio programmes or material;

Art Gallery of New South Wales.

- (f) in the Art Gallery or any branch thereof, 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—
 - (i) to appear at the Art Gallery or any branch thereof; or
 - (ii) in connection with any service provided under this section or otherwise in pursuance of the objects of the Trust;
- (h) charge and receive fees or other amounts for or in connection with any advice or service provided, article sold or permission given by the Trust in its exercise of any of the functions conferred on it by this section, which fees and other amounts shall be the property of the Trust;
- (i) lend works of art to, or borrow works of art from, art galleries or museums for exhibition, upon such conditions as may be agreed to; and
- (j) enter into any contract or arrangement with any person for the purpose of carrying out or promoting the objects of the Trust.

(2) Subject to this Act and the by-laws, the Trust shall have the control and management of the Art Gallery and of all property vested in the Trust.

(3) The Trust may agree to the imposition of any condition on its acquisition of any property, except where the condition is inconsistent with its objects.

(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.

Art Gallery of New South Wales.

(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 its functions.

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

(9) The Trust may establish, control and manage branches or departments of the Art Gallery.

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

Dealings
with
property.

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

(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, 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 10.

Art Gallery of New South Wales.

(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.

10. (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—

Disposal of
certain
property.

- (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 institution that is an educational institution for the purposes of the Educational Institutions (Stamp Duties Exemption) Act, 1961; 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.

Art Gallery of New South Wales.

PART III.

ADMINISTRATION.

Officers
and
employees.

11. (1) For the purposes of this Act—

(a) a Director of the Art Gallery; and

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

may be appointed and employed under Part IV of the Public Service Act, 1979.

(2) The persons so appointed or employed shall be subject to the Public Service Act, 1979, during their term of office or employment.

Director.

12. (1) The Director is responsible for the administration and management of the Art Gallery and any services provided in conjunction therewith.

(2) The Director shall be the chief executive officer of the Trust.

(3) The Director is, in the exercise of his functions under this Act, responsible to the Trust.

Delegation
by Trust.

13. (1) The Trust may, by instrument in writing, delegate to a trustee or to a person appointed or employed pursuant to section 11 the exercise of such of its functions (other than this power of delegation) as are specified in the instrument of delegation and may, by a like instrument, revoke wholly or partly any such delegation.

Art Gallery of New South Wales.

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

(3) A function the exercise of which has been delegated under this section may, while the delegation remains unrevoked, be exercised 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 all or any of the 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.

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

- (a) the purchase and acquisition of works of art;
- (b) the remuneration, if any, to be paid under clause 5 of Schedule 1 to trustees, deputies of trustees and members of committees established under section 8 (7) who are not trustees; 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.

Art Gallery of New South Wales.

(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 11 (1); or
- (b) general operating expenses, including those related to the maintenance of any property of 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.

Temporary
accommodation.

15. (1) For the temporary accommodation of the Trust it may obtain advances by overdraft on 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 upon.

Trust
instruments
apply not-
withstanding
ss. 17, 18.

16. The terms of any instrument creating a trust with respect to a fund held by the Trust shall have effect notwithstanding sections 17 and 18.

Investment
pools.

17. (1) The Trust may establish and maintain one or more investment pools for the collective investment of funds held by the Trust whether or not those funds are, or any of those funds is, subject to a trust.

(2) The Trust may from time to time bring into or withdraw from an investment pool the whole or any part of any fund referred to in subsection (1).

Art Gallery of New South Wales.

(3) Notwithstanding subsections (1) and (2), the Trust shall not bring into or retain in an investment pool the whole or any part of a fund subject to a trust if the investments in which the capital of the investment pool is invested are not investments made in accordance with and subject to the Trustee Act, 1925, or any other Act authorising the investment of trust funds.

18. (1) The Trust shall, at the time the whole or any part of a fund referred to in subsection (2) (a) is withdrawn from an investment pool, and, in any event, at least once a year, distribute the income of an investment pool. Distribution of income of investment pools.

(2) Where the Trust distributes the income of an investment pool under subsection (1)—

- (a) it shall, in respect of a fund the subject of a trust which specifies that the income from the investment of that fund shall be applied for a purpose other than the general purposes of the Art Gallery, credit the income of that investment pool to the account kept by it in respect of that fund proportionately according to the value of that fund or part at the date of distribution and the period for which that fund or part has formed part of the capital of that investment pool; and
- (b) it may, in respect of a fund, other than a fund referred to in paragraph (a), credit the income of that investment pool to any account kept by it.

19. The inclusion in an investment pool of the whole or any part of a fund held by the Trust does not affect— Nature of funds not affected by pooling.

- (a) the identity of that fund or part; or
- (b) any trust to which that fund or part is subject.

Art Gallery of New South Wales.

Accounts. **20.** (1) The Trust shall cause to be kept proper accounts and records in relation to all of its operations.

(2) The Trust shall, as soon as practicable, but within 6 months, after the end of each financial year of the Trust, prepare and submit to the Minister for presentation to Parliament a statement of accounts, together with the Auditor-General's certificate given under this section in relation to the statement.

(3) The statement of accounts shall be in a form approved by the Auditor-General, and shall include such information as is requested by him, and shall exhibit a true and fair view of the financial position and transactions of the Trust.

(4) The Trust shall, as soon as practicable, but within 4 months, after the end of the financial year to which a statement of accounts relates, transmit the statement to the Auditor-General for verification and certification.

(5) The Auditor-General's certificate shall state that he has audited the accounts of the Trust relating to the relevant financial year, and shall indicate whether the statement of accounts complies with subsection (3), and shall set forth any qualifications subject to which the certificate is given.

(6) Nothing in this section prevents the alteration of the statement of accounts, with the approval of the Auditor-General, after its receipt by him and before its submission to the Minister.

(7) The Minister shall lay the statement of accounts, or cause it to be laid, together with the Auditor-General's certificate, before both Houses of Parliament as soon as practicable after the receipt by him of the statement.

(8) The financial year of the Trust shall be the year commencing on 1st July.

Art Gallery of New South Wales.

21. (1) The accounts and records of financial transactions of **Audit.** the Trust, and the records relating to assets of or in the custody of the Trust, shall be inspected and audited by the Auditor-General.

(2) For the purposes of any such inspection and audit, the Auditor-General or a person authorised by him is entitled at all reasonable times to full and free access to the accounts, records, documents and papers of the Trust and may make copies thereof or take extracts therefrom.

(3) The Auditor-General or a person authorised by him may require a person, being a trustee or an officer or employee of the Trust, to furnish him with such information in the possession of the person or to which the person has access as the Auditor-General or authorised person considers necessary for the purposes of the functions of the Auditor-General under this Act, and the person shall comply with the requirement.

Penalty : \$200.

(4) The Auditor-General may dispense with all or any part of the detailed inspection and audit of any accounts or records referred to in subsection (1).

(5) The Auditor-General shall report to the Trust and the Minister on the result of any such inspection and audit, and as to such irregularities or other matters as in his judgment call for special notice or as are prescribed.

(6) Towards defraying the costs and expenses of any such inspection and audit, the Trust shall pay to the Consolidated Revenue Fund such amounts, at such times, as the Treasurer decides.

Art Gallery of New South Wales.

PART V.

MISCELLANEOUS.

Annual
report.

22. (1) As soon as practicable after 30th June, but on or before 30th September, in each year, the Trust shall prepare and forward to the Minister a report of its work and activities for the 12 months ending on 30th June in that year.

(2) The Minister shall lay the report or cause it to be laid before both Houses of Parliament as soon as practicable after the receipt by him of the report.

By-laws.

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

- (a) meetings of the Trust;
- (b) committees of the Trust;
- (c) the conditions upon which works of art or other property of the Trust may be borrowed, inspected or copied by any person;
- (d) the admission (including charges therefor) of the public or any person to the Art Gallery or any part thereof or any branch or part thereof or any exhibition held by the Trust;
- (e) the exclusion of the public or any person from the Art Gallery or any part thereof or any branch or part thereof or any exhibition held by the Trust;
- (f) regulating or prohibiting the parking or movement of vehicles upon property of the Trust or land dedicated for the purposes of the Art Gallery;

Art Gallery of New South Wales.

- (g) regulating or prohibiting the taking of photographs by the public or by any person in the Art Gallery or any part thereof or any branch or part thereof or in any place where an exhibition is held by the Trust; and
- (h) the fees or other amounts to be charged for or in connection with any advice or service provided, article sold or permission given by the Trust.

(2) A provision of a by-law may—

- (a) apply differently according to such factors as are specified in the by-law; or
- (b) authorise any matter or thing to be from time to time determined, applied or regulated by any person specified therein.

(3) A provision of a by-law may impose a penalty not exceeding \$500 for a breach of the by-law.

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

25. Schedule 3 has effect.

Savings,
transi-
tional and
other pro-
visions.

Art Gallery of New South Wales.

Sec. 6 (2).

SCHEDULE 1.

PROVISIONS RELATING TO TRUSTEES AND PROCEDURE OF THE TRUST.

Certain persons ineligible for appointment.

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 or a deputy of a trustee.

Appointment 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.

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

(3) 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.

Certain enactments not to apply in respect of trustee.

3. The Public Service Act, 1979, 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.

Term of office and casual vacancies.

4. (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 3 years as may be specified in the instrument appointing him.

(2) Subject to subclause (3) of this clause and to clause 1, a trustee whose term of office has expired may be re-appointed as a trustee.

Art Gallery of New South Wales.

SCHEDULE 1—*continued.*

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

(3) No trustee shall hold office for 4 consecutive terms.

(4) On the occurrence of a vacancy in the office of a trustee otherwise than by the expiration of his term of office, the Governor may appoint a person to hold that office for the balance of his predecessor's term of office.

5. A trustee, a deputy of a trustee and a member of a committee established under section 8 (7) who is not a trustee are each entitled to be paid such remuneration (including travelling and subsistence 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;
- (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.

Art Gallery of New South Wales.

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

President
and Vice-
President.

8. (1) The President of the Trust shall be such trustee as the Minister appoints as President.

(2) A President of the Trust holds office until his successor is appointed by the Minister or until he ceases to be a trustee, whichever first occurs.

(3) At the first meeting of the Trust and at each meeting next following the expiry of the term of office of a Vice-President, the trustees shall elect a Vice-President from among their number.

(4) The term of office of a Vice-President expires—

(a) if he vacates his office as trustee; or

(b) if his term of office as trustee during which he was elected as Vice-President expires, notwithstanding that he may be subsequently re-appointed as a trustee.

(5) A retiring President or Vice-President is, while he is a trustee, eligible for re-appointment or re-election, as the case may be.

(6) At a meeting of the Trust—

(a) the President;

(b) in the absence of the President—the Vice-President; or

(c) in the absence of both the President and Vice-President—a chairman elected by trustees present at the meeting from among their number,

shall preside.

Procedure,
quorum,
etc.

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

(2) The Minister shall call the first meeting of the Trust by giving notice to the first 9 trustees in such way as he thinks fit.

Art Gallery of New South Wales.

SCHEDULE 1—*continued.*

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

(3) Subject to clause 10 (2) (b), 5 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 all the 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. (1) A trustee present at a meeting of the Trust who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Trust, otherwise than as a member of, and in common with the other members of, an incorporated company consisting of more than 25 persons, shall, as soon as practicable after the commencement of the meeting, disclose the nature of his interest. Disclosure of interest.

(2) A disclosure under subclause (1) of this clause shall be recorded in the minutes of the Trust and the trustee—

- (a) shall not take part, after the disclosure, in any deliberation or decision of the Trust with respect to that matter; and
- (b) shall be disregarded for the purpose of constituting a quorum of the Trust for any such deliberation or decision.

11. The secretary to the Trust shall cause minutes of each meeting of the Trust to be recorded and preserved. Minutes of meetings.

12. The Director—

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

The Director.

*Art Gallery of New South Wales.*SCHEDULE 1—*continued.*PROVISIONS RELATING TO TRUSTEES AND PROCEDURE OF THE
TRUST—*continued.*Common
seal.

13. The common seal of the Trust shall be kept by the secretary to the Trust.

Sec. 24.

SCHEDULE 2.

REPEALS.

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Extent of Repeal.
1958, No. 1 ..	Art Gallery of New South Wales Act, 1958.	The whole Act.
1973, No. 2 ..	Art Gallery of New South Wales (Amendment) Act, 1973.	The whole Act.
1975, No. 84 ..	Miscellaneous Acts (Administrative Changes) Amendment Act (No. 2), 1975.	Section 7.

Sec. 25.

SCHEDULE 3.

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Interpre-
tation.

1. In this Schedule—

“commencement” means the commencement of this Schedule;

“former Act” means the Art Gallery of New South Wales Act, 1958, repealed by this Act;

“former trustees” means the trustees incorporated by section 4 of the former Act, under the name of “The Trustees of the Art Gallery of New South Wales”.

Art Gallery of New South Wales.

SCHEDULE 3—*continued.*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

2. A reference—

- (a) in any other Act, or in any by-law, regulation or ordinance or any other instrument or document whatever, to the former trustees in their capacity as trustees of any property under the former Act; or
- (b) to the former trustees in any instrument in relation to any gift inter vivos, devise or bequest, which gift, devise or bequest would, but for the enactment of this Act, have vested in the former trustees in their capacity as trustees of any property under the former Act,

Construction
of other
instruments,
etc.

shall be construed as a reference to the Trust.

3. (1) For the purposes of subclause (2) of this clause, a reference in that subclause to the former trustees is a reference to those trustees in their capacity as trustees of any property under the former Act.

Vesting of
assets, etc.

(2) On and from the commencement—

- (a) all property, whether real or personal, all rights and interests therein and all control and management thereof that, immediately before the commencement, belonged to or was or were vested in the former trustees shall belong to and vest in the Trust;
- (b) all money and liquidated and unliquidated claims that, immediately before the commencement, was or were payable to or recoverable by the former trustees shall be money and liquidated and unliquidated claims payable to or recoverable by the Trust;
- (c) all money and liquidated and unliquidated claims for which the former trustees would, but for the enactment of this Act, have been liable shall be money and liquidated and unliquidated claims for which the Trust shall be liable;
- (d) all proceedings commenced by the former trustees and pending immediately before the commencement shall be deemed to be proceedings pending on the commencement by the Trust and all proceedings so commenced by any person against the former trustees and pending immediately before the commencement shall be deemed to be proceedings pending on the commencement by that person against the Trust;

Art Gallery of New South Wales.

SCHEDULE 3—continued.
SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—continued.

- (e) all contracts, agreements, arrangements and undertakings entered into with the former trustees and in force immediately before the commencement shall be deemed to be contracts, agreements, arrangements and undertakings entered into with the Trust;
- (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 former trustees might have done but for the enactment of this Act; and
- (g) all acts, matters and things done or omitted by, or done or suffered in relation to, the former trustees, being acts, matters or things not referred to in the foregoing provisions of this subclause, shall have the same force and effect as if they had been done or omitted by, or done or suffered in relation to, the Trust.

Agreement
to certain
conditions.

4. Where any property, right or interest referred to in clause 3 (2) (a)—
- (a) was acquired by the former trustees before the commencement in their capacity as trustees of any property under the former Act, by gift inter vivos, devise or bequest, subject to a condition agreed to by the former trustees; and
 - (b) was held by the former trustees in such a capacity immediately before the commencement,

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

Savings.

5. (1) The by-laws made under the former Act and in force immediately before the commencement shall, to the extent that they are not inconsistent with this Act, be deemed to be by-laws made under this Act.

(2) A reference, however expressed, in any other Act or instrument, to by-laws made under the former Act shall be construed as a reference to by-laws made under this Act.

Art Gallery of New South Wales.

SCHEDULE 3—*continued.*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

- (3) Any person who—
- (a) was employed as Director of the Art Gallery of New South Wales under the Public Service Act, 1979, immediately before the commencement, shall, on the commencement, be deemed to be appointed and employed as the Director pursuant to section 11 (1); and
 - (b) was employed under the Public Service Act, 1979, and was engaged in or in connection with the administration or management of any property, being property vested in the former trustees under the former Act, immediately before the commencement, shall, on the commencement, be deemed to be appointed and employed pursuant to section 11 (1).

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

**Protection
from
liability.**

(2) No matter or thing done, and no contract entered into, by the former trustees and no matter or thing done by a former trustee or by any person acting under the direction of the former trustees shall, if the matter or thing was done, or the contract was entered into, in good faith for the purposes of executing the former Act, subject a former trustee or person so acting personally to any action, liability, claim or demand.

7. The former trustees shall—

(a) prepare—

- (i) statements of all accounts in respect of the administration of property held by them under the former Act, made up to the commencement in a form approved by the Auditor-General and exhibiting a true and complete view of the financial position and transactions in respect of that administration, for the period from 1st July immediately preceding the commencement and up to the commencement; and

**Accounts
and
report.**

Art Gallery of New South Wales.

SCHEDULE 3—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

- (ii) a report of their work and activities in relation to the exercise of their functions under the former Act from 1st January 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.

Dis-
solution of
offices of
former
trustees.

8. The former trustees shall, on the commencement, cease to hold the offices to which they were last appointed under the former Act.

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

A. R. CUTLER,
Governor.

*Government House,
Sydney, 28th April, 1980.*

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1980