

CONCURRENCE COPY

CENTENNIAL PARK TRUST BILL, 1983

EXPLANATORY NOTE

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

The objects of this Bill are—

- (a) to constitute the Centennial Park Trust (“the Trust”);
- (b) to vest certain property in the Trust and to provide for the acquisition of other property by the Trust; and
- (c) to confer and impose certain functions on the Trust.

The Bill contains the following provisions:—

PART I.—PRELIMINARY.

Clause 1. Short title.

Clause 2. Commencement.

Clause 3. Arrangement.

Clause 4. Interpretation.

Clause 5 makes provision with respect to the declaration of certain land to be vested in the Trust by clause 19 on or after a day appointed under the proposed Act. Land so declared is referred to in the proposed Act as the “original land” which, together with other land, if any, acquired by the Trust after the day so appointed, will comprise the “Trust lands”.

PART II.—THE CENTENNIAL PARK TRUST.

Clause 6 constitutes the Trust as a corporation which is subject to the direction and control of the Minister and is deemed to be a statutory body representing the Crown.

Clause 7 makes provision for the appointment of trustees and for the procedure of the Trust.

Clause 8 states the objects of the Trust which include encouragement of the use and enjoyment of the Trust lands by the public.

Clause 9 specifies the functions of the Trust, which include the control and management of property vested in the Trust, and provides for the giving of advice by the Trust to the Minister on matters relating to the objects of the Trust.

Clause 10 prohibits the disposal of so much of the Trust lands as was formerly vested in the Chief Minister under the Centenary Celebration Act, being the original land.

Clause 11 places restrictions on the disposal of other property by the Trust, including property the subject of a gift accepted by the Trust.

Clause 12 provides for the disposal, with the consent of the Minister, of certain property acquired by the Trust subject to conditions, where the disposal of that property would be contrary to those conditions.

PART III.—ADMINISTRATION.

Clause 13 makes provision for the appointment of a Director of Centennial Park ("the Director") and a secretary to the Trust.

Clause 14 specifies the responsibilities of the Director in relation to the Trust lands.

Clause 15 enables the Trust to delegate certain of its functions.

PART IV.—FINANCE.

Clause 16 states the financial year of the Trust.

Clause 17 requires the Trust to keep accounts in a form approved by the Auditor-General and lays down the procedures to be followed in relation to those accounts.

Clause 18 provides for the manner in which accounts are to be submitted to the Auditor-General and for the auditing of those accounts by the Auditor-General.

PART V.—MISCELLANEOUS.

Clause 19 vests certain land formerly vested in the Chief Minister under the Centenary Celebration Act (being the original land) in the Trust and provides that the land so vested shall not be appropriated or resumed except by an Act of Parliament.

Clause 20 provides for the granting of certain leases, easements and licences by the Trust.

Clause 21 provides for the making of an annual report by the Trust.

Clause 22 empowers the Governor to make regulations with respect to certain matters relating to the Trust and the property of the Trust.

Clause 23 provides for the liability of a vehicle owner for certain offences.

Clause 24 provides for the giving of penalty notices for certain offences.

Clause 25 enables proceedings for an offence against the proposed Act or the regulations to be heard summarily.

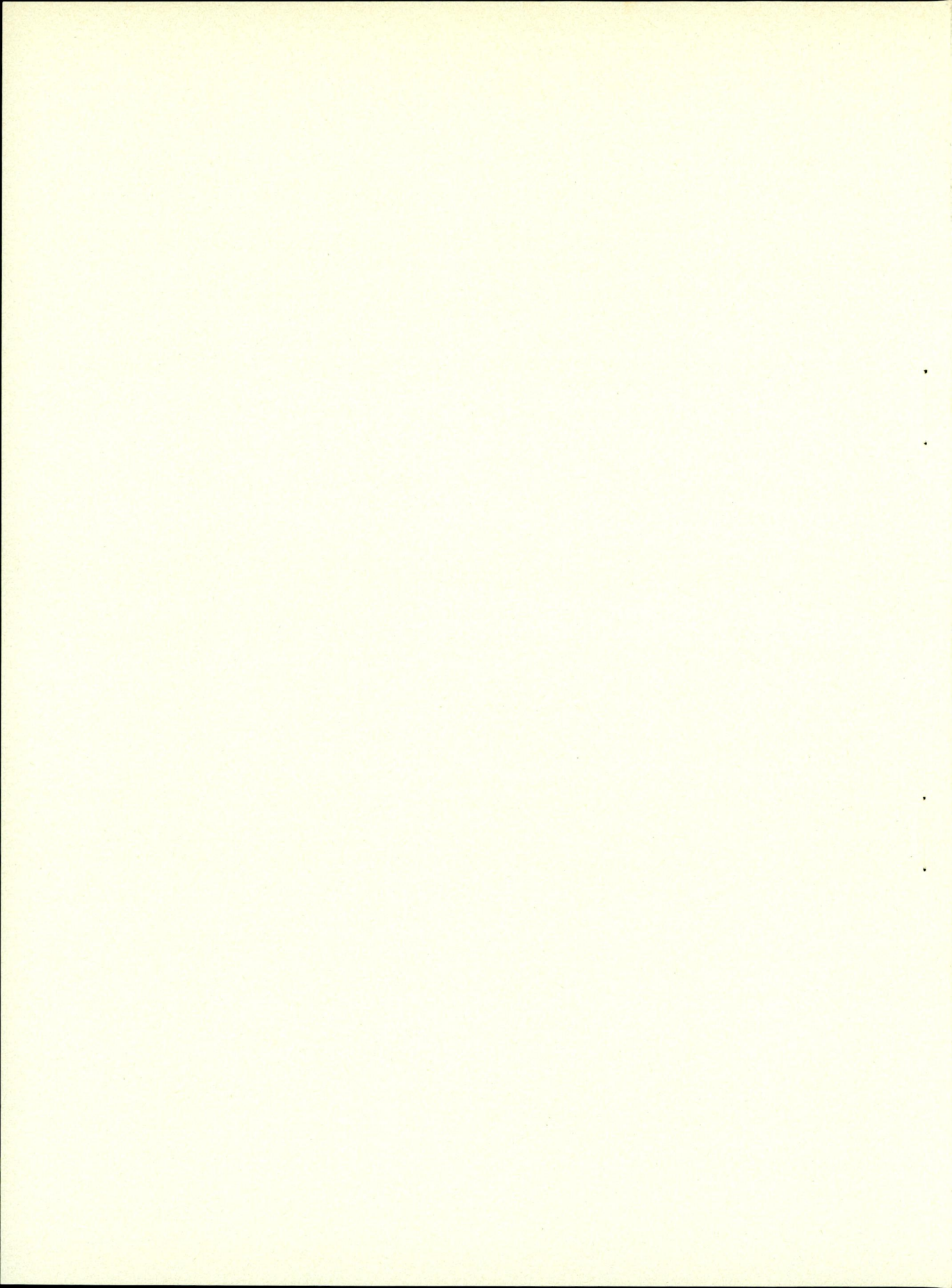
Clause 26 repeals the Centenary Celebration Act and the Centenary Park Sale Act, 1904.

Clause 27 brings into effect the vesting and transitional provisions contained in Schedule 2.

Clause 28 gives the Governor power to repeal by proclamation certain of the provisions of the proposed Act relating to accounts and auditing.

Schedule 1 contains provisions relating to the appointment and terms of office of trustees and the procedure for the conduct of meetings of the Trust.

Schedule 2 vests certain property, rights and interests in the Trust, provides for the construction of certain references in Acts and other instruments and makes certain provisions of a saving nature.



CENTENNIAL PARK TRUST BILL, 1983

No. , 1983.

A BILL FOR

An Act to **constitute** the Centennial Park Trust and define its functions; to vest **certain land** and other property in that Trust; and to repeal the Centenary Celebration Act and the Centenary Park Sale Act, 1904.

[MR WALKER *on behalf of* MR WRAN—22 November, 1983.]

Centennial Park 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:—

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

1. This Act may be cited as the "Centennial Park Trust Act, 1983".

Commencement.

- 10 2. (1) Sections 1, 2, 4 (2) and 5 shall commence on the date of assent to this Act.

- 15 (2) Except as provided by 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, being a day occurring not earlier than the day on which an order made under section 5 is so published.

Arrangement.

3. This Act is arranged as follows:—

PART I.—PRELIMINARY—ss. 1–5.

20 PART II.—THE CENTENNIAL PARK TRUST—ss. 6–12.

PART III.—ADMINISTRATION—ss. 13–15.

PART IV.—FINANCE—ss. 16–18.

PART V.—MISCELLANEOUS—ss. 19–28.

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

SCHEDULE 2.—TRANSITIONAL AND OTHER PROVISIONS.

Centennial Park Trust.

Interpretation.

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

5 “Director” means the person employed as Director of Centennial Park pursuant to section 13 (a) or a person acting as Director of Centennial Park;

“original land” means land for the time being vested in the Trust under section 19 (1);

“regulation” means a regulation made under this Act;

10 “supplementary land” means land acquired by the Trust otherwise than by the operation of section 19 (1);

“Trust” means the Centennial Park Trust constituted by section 6;

“Trust lands” means the original land and any supplementary land for the time being vested in the Trust;

15 “trustee” means a trustee referred to in section 7.

(2) In this Act, a reference to—

(a) a Deposited Plan is a reference to a plan filed as a deposited plan in the Office of the Registrar-General;

20 (b) a function includes a reference to a power, authority and duty; and

(c) the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

Specification of original land.

5. (1) The Governor may, by order published in the Gazette, declare 25 land, certified by the Registrar-General to be—

(a) where the certificate is given before the Centenary Celebration Act is repealed—land to which that Act applied when the certificate was given; or

30 (b) where the certificate is given after the Centenary Celebration Act is repealed—land to which that Act applied immediately before that Act was repealed,

to be original land.

Centennial Park Trust.

(2) Land may be described in an order made or a certificate given under subsection (1)—

(a) by reference to a Deposited Plan or to lots in a Deposited Plan;

(b) by reference to points, bearings and distances; or

5 (c) in such other manner as the Governor or Registrar-General considers appropriate.

PART II.

THE CENTENNIAL PARK TRUST.

Constitution of Trust.

10 6. (1) There is hereby constituted a corporation under the corporate name of the "Centennial Park Trust".

(2) The Trust—

(a) shall have and may exercise the functions conferred or imposed on it by or under this or any other Act;

15 (b) shall, for the purposes of any Act, be deemed to be a statutory body representing the Crown; and

(c) shall, in the exercise of its functions (except in relation to the contents of a report or recommendation made by it to the Minister), be subject to the control and direction of the Minister.

20 Appointment and procedure.

7. (1) The Trust shall consist of 7 trustees, who shall be appointed by the Governor on the recommendation of the Minister.

(2) Schedule 1 has effect with respect to the trustees and procedure of the Trust.

Centennial Park Trust.

Objects of Trust.

8. The objects of the Trust are—

- (a) to maintain and improve the Trust lands;
- 5 (b) to encourage the use and enjoyment of the Trust lands by the public by promoting and increasing the recreational, historical, scientific, educational, cultural and environmental value of those lands;
- (c) to maintain the right of the public to the use of the Trust lands;
- (d) to ensure the protection of the environment within the Trust lands; and
- 10 (e) such other objects, consistent with the functions of the Trust in relation to the Trust lands, as the Trust considers appropriate.

Functions of Trust.

9. (1) The Trust may—

- 15 (a) permit the use of the whole or any part of the Trust lands for activities of a recreational, historical, scientific, educational or cultural nature;
- (b) in or in connection with the Trust lands provide, or permit the provision of, food or other refreshments and apply for, hold or
- 20 dispose of any licence, permit or other authority in connection therewith;
- (c) in pursuance of its objects, procure specimens and obtain scientific data from within or outside the State;
- (d) maintain, or make arrangements for the maintenance of, the
- 25 property of the Trust;
- (e) in pursuance of its objects, carry out surveys, assemble collections and engage in scientific research, including research outside the State, with respect to botany and ornamental horticulture;
- (f) disseminate scientific information to the public and educational and
- 30 scientific institutions, whether within or outside the State;

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(g) promote and provide exhibits, lectures, films, publications and other types of educational instruction relating to botany and ornamental horticulture;

5 (h) subject to the regulations, 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 or other amounts shall be the property of the Trust; and

10 (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.

15 (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.

20 (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.

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

(9) The Trust may establish, control and manage branches or departments with respect to the Trust lands, or any part thereof.

Centennial Park Trust.

(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 the Public Authorities (Financial Accommodation) Act, 1981.

- 5 (11) The Trust may, and when requested by the Minister shall, make reports and recommendations to the Minister with respect to any matter relating to the objects of the Trust and in particular with respect to the future management of Trust lands.

Disposal of certain land prohibited.

- 10 10. Subject to section 20 (2), the Trust shall not sell, mortgage, demise or otherwise dispose of any of the original land.

Dealings with certain property.

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

- 15 (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 property being supplementary land otherwise acquired, except—

- 20 (a) where the property was acquired without any condition—with the approval of the Minister (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 12.

- 25 (3) Subject to section 9 (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.

Centennial Park Trust.

Disposal of certain property.

5 **12. (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 9 (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 or scientific **institution**; or
- 10 (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.

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

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

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PART III.

ADMINISTRATION.

Officers and employees, etc.

25 **13.** For the purposes of this Act—
(a) a Director of Centennial Park;
(b) a secretary to the Trust; and
(c) such other persons as may be necessary to **enable the Trust** to exercise its functions,
shall be employed under the Public Service Act, 1979.

Centennial Park Trust.

Director.

14. (1) The Director is responsible for the administration and management of the Trust lands and any services provided in conjunction therewith.

5 (2) The Director is, in the exercise of the Director's functions under this Act, subject to the control and direction of the Trust.

Delegation by Trust.

15 (1) The Trust may, by instrument in writing, delegate to the Director, the secretary to the Trust, a trustee or a person employed pursuant to section 13 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.

15 (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.

20 (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 it would have if it had been done or suffered by the Trust and shall be deemed to have been done or suffered by the Trust.

Centennial Park Trust.

PART IV.

FINANCE.

Financial year.

16. The financial year of the Trust shall be the year commencing on 1st
5 July.

Accounts.

17. (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
10 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
15 Auditor-General (having regard to current accounting standards and practices relating to such organisations as the Trust), shall include such information as is requested by the Auditor-General 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,
20 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 or she has audited the accounts of the Trust relating to the relevant financial year, shall
25 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 the Auditor-General and before its submission to the Minister.

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(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 the Minister of the statement.

5 **Audit.**

18. (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.

(2) For the purposes of any such inspection and audit, the Auditor-
10 General or a person authorised by the Auditor-General 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 the Auditor-
15 General may require a person, being a trustee or an officer or employee of the Trust, to furnish the Auditor-General 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
20 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).

25 (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 the judgment of the Auditor-General call for special notice or as are prescribed.

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

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PART V.

MISCELLANEOUS.

Vesting of certain land in Trust.

5 **19. (1)** Land declared to be original land by an order published in the Gazette under section 5 (1) shall—

- (a) if the order is so published on or before the commencement of this section—on that commencement; or
- (b) if the order is so published after the commencement of this section—on the publication of the order,

10 vest in the Trust for an estate in fee simple freed and discharged from any trusts, obligations, estates, interests, charges and rates existing immediately before the land is so vested.

(2) Notwithstanding anything contained in any other Act, the original land shall not be appropriated or resumed except by an Act of
15 Parliament.

Grant of leases, easements and licences.

20. (1) In this section, “easement” includes an easement in favour of—

- (a) the Crown in right of the State or the Commonwealth; or
- (b) any public or local authority constituted by an Act of Parliament,

20 without a dominant tenement.

(2) The Trust may, for the purpose of the provision of services to be enjoyed in connection with the Trust lands and consistently with the good management of those lands, from time to time and upon such terms and conditions as are approved by the Minister, grant—

- 25 (a) subject to subsection (3), leases of parts of the Trust lands;
- (b) easements through, upon or in the Trust lands—
 - (i) for the construction of pipelines, the laying or re-laying of cables or the construction of any apparatus to be used in connection with those pipelines or cables;

Centennial Park Trust.

(ii) for the purpose of providing access to the dwellings situated on or within those lands; or

(iii) for any other purpose it considers necessary and that would directly or indirectly assist in the attainment of its objects; and

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(c) licences for the use of parts of the Trust lands.

(3) A lease granted pursuant to subsection (2) (a) may not have a term that, together with the term of any further lease which may be granted pursuant to an option contained in the lease, exceeds 8 years.

15 (4) Sections 88A and 181A of the Conveyancing Act, 1919, apply to and in respect of an instrument purporting to grant an easement under subsection (2) (b).

(5) Without limiting the generality of subsection (2) (c), the Trust may, from time to time and upon such terms and conditions as are approved
15 by the Minister, grant licences authorising entry upon the Trust lands for the purpose of the maintenance, re-laying or repair of any pipelines or cables or the maintenance or repair of any apparatus used in connection therewith, being pipelines, cables or apparatus situated on or in those lands at the commencement of this section.

20 Annual report.

21. (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.

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

Regulations.

22. (1) In this section, a reference to the Trust lands includes a reference to any part of the Trust lands.

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5 **(2)** 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—

- (a) the use and enjoyment of the Trust lands;
- (b) the care, control and management of the Trust lands;
- (c) the determination and payment of fees for—
 - 10 (i) the use of the playing fields situated within the Trust lands;
 - (ii) the use of formed paths, tracks and roads within the Trust lands;
 - (iii) filming or photographing within the Trust lands for the purposes of cinema or television productions or commercial use;
 - 15 (iv) the use or purchase of any written or other material that is the property of the Trust; and
 - (v) such other articles or services as the Trust may provide;
- (d) the meetings of the Trust; and
- (e) the committees of the Trust.

20 **(3)** A regulation may impose a penalty not exceeding \$200 for any breach of a regulation.

- (4)** A provision of a regulation may—
- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
 - 25 (b) apply differently according to different factors of a specified kind; or
 - (c) authorise any matter or thing to be from time to time determined, applied or regulated by a specified person or body,
- or may do any combination of those things.

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Liability of vehicle owner for certain offences.

23. (1) Where an offence against any regulation occurs in relation to any vehicle, the person who at the time of the occurrence of the offence is the owner of the vehicle shall, by virtue of this section, be guilty of an offence
5 against the regulation as if the person were the actual offender guilty of the offence unless—

- (a) in any case where the offence is dealt with under section 24, the person satisfies a prescribed officer described in the notice served
10 under that section that the vehicle was at the relevant time a stolen vehicle or a vehicle illegally taken or used; or
- (b) in any other case, the court is satisfied that the vehicle was at the relevant time a stolen vehicle or a vehicle illegally taken or used.

(2) Nothing in this section shall affect the liability of the actual offender but where a penalty has been imposed on or recovered from any
15 person in relation to any such offence no further penalty shall be imposed on or recovered from any other person in relation thereto.

(3) Notwithstanding subsection (1), no owner of a vehicle shall, by virtue of that subsection, be guilty of an offence if—

- (a) in any case where the offence is dealt with under section 24, the
20 person—
- (i) within 21 days after service on the person of a notice under that section alleging that the person has been guilty of the offence, supplies by statutory declaration to a prescribed officer described in the notice the name and address
25 of the person who was in charge of the vehicle at all relevant times relating to the offence; or
- (ii) satisfies that prescribed officer that the person did not know and could not with reasonable diligence have ascertained that name and address; or
- (b) in any other case, the person—
30
- (i) within 21 days after service on the person of a summons in respect of the offence, supplies by statutory declaration to the informant the name and address of the person who was in charge of the vehicle at all relevant times relating to the
35 offence; or

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(ii) satisfies the court that the person did not know and could not with reasonable diligence have ascertained that name and address.

5 (4) A statutory declaration under subsection (3) if produced in any proceedings against the person named therein and in relation to the offence in respect of which the statutory declaration was supplied shall be prima facie evidence that that person was in charge of the vehicle at all relevant times relating to that offence.

10 (5) A statutory declaration which relates to more than one offence shall be deemed not to be a statutory declaration under, or for the purposes of, subsection (3).

(6) In this section—

“owner”, in relation to a vehicle, being a registered vehicle, includes—

- 15 (a) every person who is the owner or joint owner or part owner of the vehicle and any person who has the use of the vehicle under a hire-purchase agreement but not the lessor under any such agreement;
- 20 (b) the person in whose name the vehicle is registered except where that person has sold or otherwise disposed of the vehicle and has complied with the provisions of the regulations under the Motor Traffic Act, 1909, applicable to the person in regard to that sale or disposal;
- 25 (c) in the case of a vehicle to which a trader’s plate is affixed, the person to whom that trader’s plate is on issue; and
- (d) a person who, pursuant to a regulation under section 3 (1) (q11) or (q12) of the Motor Traffic Act, 1909, is to be treated as being, for the purposes of section 18A of that Act, the owner of the vehicle;

“registered” means registered under the Motor Traffic Act, 1909;

30 “trader’s plate” means a trader’s plate issued under the Motor Traffic Act, 1909, for use as prescribed by the regulations under that Act.

Centennial Park Trust.

Penalty notices for certain offences.

24. (1) Where it appears to a prescribed officer that any person has committed, or by virtue of section 23 is guilty of, any offence against any regulation, the officer may serve a notice on that person to the effect that,
5 if that person does not desire to have the matter determined by a court, that person may pay to the secretary to the Trust within the time specified therein an amount of penalty prescribed for the offence if dealt with under this section.

(2) Any notice under subsection (1)—

10 (a) may be served personally or by post; or

(b) if it relates to an offence of which the owner of a vehicle is guilty by virtue of section 23, may be addressed to the owner without naming the owner or stating the address of the owner and may be served by leaving it on or attaching it to the vehicle.

15 (3) Any person alleged to have committed or to be guilty of an offence to which subsection (1) applies shall have the right to decline to be dealt with under this section.

(4) Any person who fails to pay the penalty within the time specified in the notice served on the person under subsection (1) or within such
20 further time as may in any particular case be allowed by a prescribed officer shall be deemed to have declined to be dealt with under this section.

(5) Where the amount of any penalty prescribed for an alleged offence is paid pursuant to this section no person shall be liable for any further proceedings for the alleged offence.

25 (6) Payment of a penalty pursuant to this section shall not be regarded as an admission of liability for the purpose of nor in any way affect or prejudice any civil claim, action or proceeding arising out of the same occurrence.

(7) The provisions of this section are supplemental to and not in
30 derogation of the provisions of any other section of this Act or any other Act in relation to proceedings which may be taken in respect of offences.

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Proceedings for offences.

25. (1) Proceedings for an offence against this Act or the regulations may be disposed of summarily before a court of petty sessions constituted by a stipendiary magistrate sitting alone.

5 (2) Any such proceedings may be commenced only by information laid within 12 months after the time when the offence is alleged to have been committed.

Repeal of Act 51 Vic. No. 9 and Act No. 23, 1904.

26. The Centenary Celebration Act and the Centenary Park Sale Act, 10 1904, are repealed.

Transitional and other provisions.

27. Schedule 2 has effect.

Repeal of certain provisions.

15 28. The several provisions of sections 17 and 18 shall be repealed on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

SCHEDULE 1.

(Sec. 7 (2).)

PROVISIONS RELATING TO TRUSTEES AND PROCEDURE OF THE TRUST.**20 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

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Centennial Park Trust.

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

- 5 (c) who is a bankrupt, who 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 or her creditors or whose remuneration would, upon his or her appointment, be subject to an assignment for their benefit,
- is not eligible to be appointed as a trustee.

Appointment of deputy.

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

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

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

(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
20 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.

(5) For the purposes of this clause, a vacancy in the office of a trustee shall be deemed to be an absence from office of the trustee.

25 Term of office.

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

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

Centennial Park Trust.

SCHEDULE 1—*continued.*PROVISIONS RELATING TO TRUSTEES AND PROCEDURE OF THE TRUST—*continued.***Certain provisions not to apply in respect of trustees.**

- 5 4. The Public Service Act, 1979, does not apply to or in respect of the appointment of a trustee and a trustee is not, as a trustee, subject to that Act.

Allowances for trustees.

- 10 5. A trustee and a member of a committee established under section 9 who is not a trustee shall, if the Minister thinks fit, be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of each of them.

Removal from office.

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

Vacation of office.

- 15 7. A trustee shall be deemed to have vacated office if the trustee—
- (a) dies;
 - (b) resigns the office by instrument in writing 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 the trustee's creditors or makes an assignment of the trustee's remuneration or estate for their benefit;
 - 20 (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 the trustee 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 the trustee's absence from the meetings;
 - (f) is removed from office by the Governor; or
 - (g) attains the age of 70 years.

Centennial Park Trust.

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

5 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 the term of office of the trustee as a trustee having expired if the trustee is re-appointed by the Governor as a trustee for a term commencing immediately after the date on which the term of office of the trustee expires.

10 (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 a successor under this clause or until the trustee ceases to be a trustee, whichever first occurs.

(4) At a meeting of the Trust—

- 15 (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.

Procedure, quorum, etc.

20 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 regulation, be as determined by the Trust.

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

25 (3) Four 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.

30 (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.

Centennial Park Trust.

SCHEDULE 1—*continued.*

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

Minutes of meetings.

- 10 5 10. The secretary to the Trust shall cause minutes of each meeting of the Trust to be recorded and preserved.

The Director.

11. The Director—
- 10 (a) is entitled to be heard by the Trust on any matter considered by the Trust and, unless the Trust otherwise directs, is entitled to be present at each meeting of the Trust; and
- (b) is an ex officio member of each committee of the Trust.

Common seal.

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

SCHEDULE 2.

15

(Sec. 27.)

TRANSITIONAL AND OTHER PROVISIONS.

Interpretation.

1. In this Schedule—
- 20 “commencement” means the commencement of this Schedule;
- “corporation” means the corporation sole constituted by section 2 of the repealed Act;
- “repealed Act” means the Centenary Celebration Act.

Centennial Park Trust.

SCHEDULE 2—*continued.*TRANSITIONAL AND OTHER PROVISIONS—*continued.***Construction of other instruments, etc.**

2. (1) A reference to the Chief Minister or the corporation in any instrument in
5 relation to any gift inter vivos, devise or bequest, which gift inter vivos, devise or
bequest would, but for the enactment of this Act, have vested in the corporation shall
be construed as a reference to the Trust.

(2) A reference in any other Act, or in any by-law, regulation, ordinance or
any other instrument or document whatever, which took effect or was made before the
10 commencement—

(a) to Centennial Park, or any part thereof; or

(b) to Queen's Park, or any part thereof,

shall be construed as a reference to the corresponding part of the original land.

(3) A reference in any other Act, or in any by-law, regulation, ordinance or any
15 other instrument or document whatever, to the Chief Minister in the Chief Minister's
capacity as the corporation shall be construed as a reference to the Trust.

Vesting of assets, etc.

3. (1) 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 commence-
ment, belonged to or was or were vested in the corporation shall 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 corporation
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 corporation
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 corporation 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 corporation and pending immediately before the
35 commencement shall be deemed to be proceedings pending on the
commencement by that person against the Trust;

Centennial Park Trust.

SCHEDULE 2—*continued.*TRANSITIONAL AND OTHER PROVISIONS—*continued.*

- 5 (e) all deeds, contracts, agreements, arrangements and **undertakings** entered into with the corporation in relation to the original land and in force immediately before the commencement shall be deemed to be **deeds, 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 **corporation** 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 corporation, 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.

(2) This clause has effect notwithstanding section 19 (1).

Savings.

20 4. (1) The Centennial Park Regulations, as in force **immediately** before the commencement, shall, on the commencement, be deemed to be **regulations** made under this Act.

25 (2) A reference in the Regulations referred to in **subclause (1)**, and in any written permission or authorisation issued thereunder, to the **Minister of Agriculture**, the Minister for Agriculture, the Officer-in-charge or the **Department of Agriculture** shall be construed as a reference to the Minister, the **Director or the Premier's** Department, respectively.

30 (3) Any person who was employed under the **Public Service Act, 1979**, and was engaged in or in connection with the administration or **management** of the Trust lands, or part thereof, immediately before the commencement, **shall, on the commencement,** be deemed to be employed pursuant to section 13.

(4) Section 19 (1) does not operate so as to vest in the **Trust** any pipeline or cable, or any apparatus used in connection therewith, **that—**

- (a) immediately before the commencement, was **situated on or** in any part of the Trust lands; and

Centennial Park Trust.

SCHEDULE 2—*continued.*

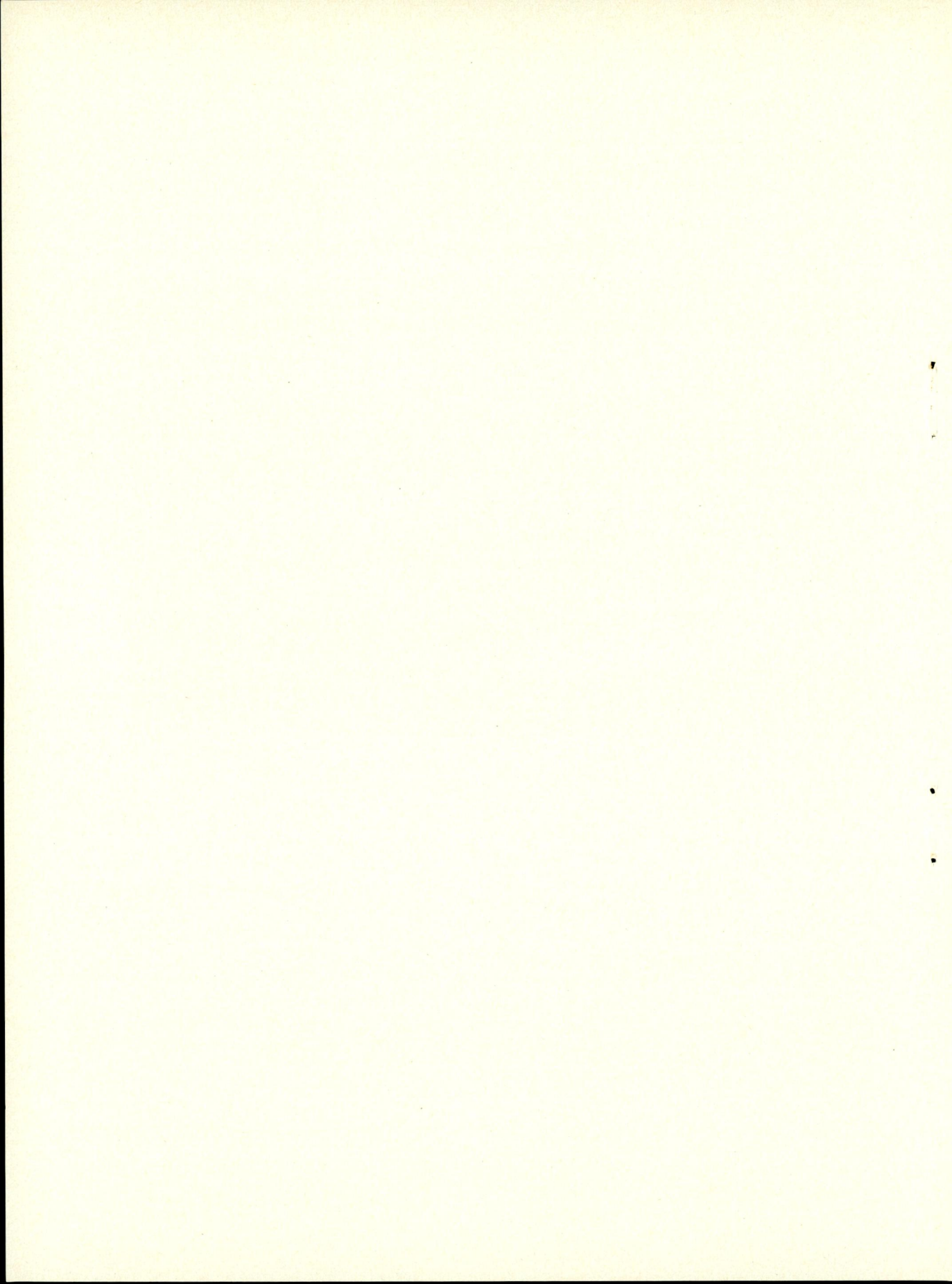
TRANSITIONAL AND OTHER PROVISIONS—*continued.*

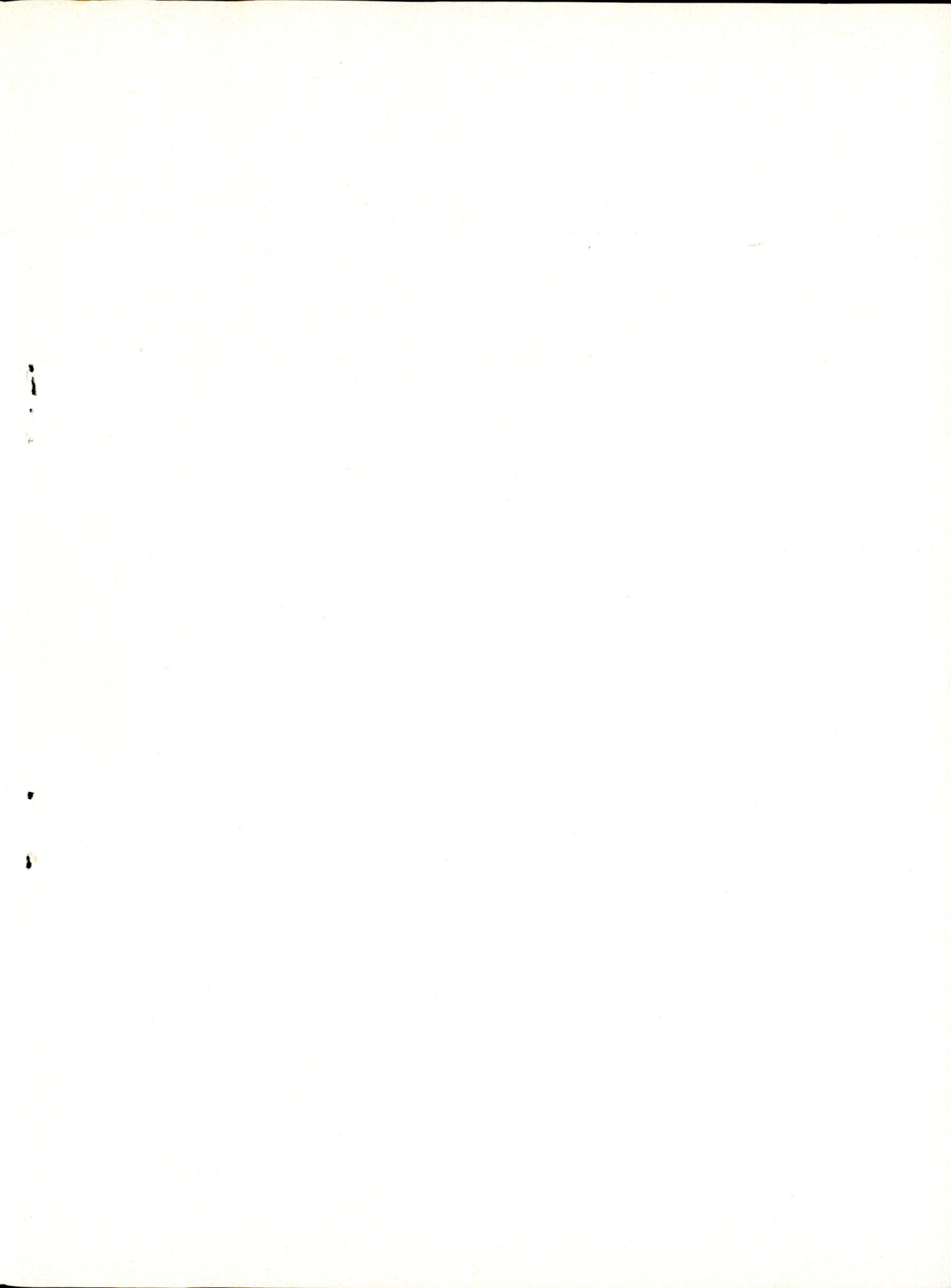
- 5 (b) was laid or constructed by or on behalf of The Australian Gas Light Company, The Electricity Commission of New South Wales, The Metropolitan Water Sewerage and Drainage Board or The Sydney County Council.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1983

(80c)





CENTENNIAL PARK TRUST ACT, 1983, No. 145

New South Wales



ANNO TRICESIMO SECUNDO

ELIZABETHÆ II REGINÆ

Act No. 145, 1983.

An Act to constitute the Centennial Park Trust and define its functions; to vest certain land and other property in that Trust; and to repeal the Centenary Celebration Act and the Centenary Park Sale Act, 1904. [Assented to, 22nd December, 1983.]

Centennial Park 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 "Centennial Park Trust Act, 1983".

Commencement.

2. (1) Sections 1, 2, 4 (2) and 5 shall commence on the date of assent to this Act.

(2) Except as provided by 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, being a day occurring not earlier than the day on which an order made under section 5 is so published.

Arrangement.

3. This Act is arranged as follows:—

PART I.—PRELIMINARY—*ss.* 1–5.

PART II.—THE CENTENNIAL PARK TRUST—*ss.* 6–12.

PART III.—ADMINISTRATION—*ss.* 13–15.

PART IV.—FINANCE—*ss.* 16–18.

PART V.—MISCELLANEOUS—*ss.* 19–28.

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

SCHEDULE 2.—TRANSITIONAL AND OTHER PROVISIONS.

Centennial Park Trust.

Interpretation.

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

“Director” means the person employed as Director of Centennial Park pursuant to section 13 (a) or a person acting as Director of Centennial Park;

“original land” means land for the time being vested in the Trust under section 19 (1);

“regulation” means a regulation made under this Act;

“supplementary land” means land acquired by the Trust otherwise than by the operation of section 19 (1);

“Trust” means the Centennial Park Trust constituted by section 6;

“Trust lands” means the original land and any supplementary land for the time being vested in the Trust;

“trustee” means a trustee referred to in section 7.

(2) In this Act, a reference to—

- (a) a Deposited Plan is a reference to a plan filed as a deposited plan in the Office of the Registrar-General;
- (b) a function includes a reference to a power, authority and duty; and
- (c) the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

Specification of original land.

5. (1) The Governor may, by order published in the Gazette, declare land, certified by the Registrar-General to be—

- (a) where the certificate is given before the Centenary Celebration Act is repealed—land to which that Act applied when the certificate was given; or
- (b) where the certificate is given after the Centenary Celebration Act is repealed—land to which that Act applied immediately before that Act was repealed,

to be original land.

Centennial Park Trust.

(2) Land may be described in an order made or a certificate given under subsection (1)—

- (a) by reference to a Deposited Plan or to lots in a Deposited Plan;
- (b) by reference to points, bearings and distances; or
- (c) in such other manner as the Governor or Registrar-General considers appropriate.

PART II.

THE CENTENNIAL PARK TRUST.

Constitution of Trust.

6. (1) There is hereby constituted a corporation under the corporate name of the "Centennial Park Trust".

(2) The Trust—

- (a) shall have and may exercise the functions conferred or imposed on it by or under this or any other Act;
- (b) shall, for the purposes of any Act, be deemed to be a statutory body representing the Crown; and
- (c) shall, in the exercise of its functions (except in relation to the contents of a report or recommendation made by it to the Minister), be subject to the control and direction of the Minister.

Appointment and procedure.

7. (1) The Trust shall consist of 7 trustees, who shall be appointed by the Governor on the recommendation of the Minister.

(2) Schedule 1 has effect with respect to the trustees and procedure of the Trust.

Centennial Park Trust.

Objects of Trust.

8. The objects of the Trust are—
- (a) to maintain and improve the Trust lands;
 - (b) to encourage the use and enjoyment of the Trust lands by the public by promoting and increasing the recreational, historical, scientific, educational, cultural and environmental value of those lands;
 - (c) to maintain the right of the public to the use of the Trust lands;
 - (d) to ensure the protection of the environment within the Trust lands; and
 - (e) such other objects, consistent with the functions of the Trust in relation to the Trust lands, as the Trust considers appropriate.

Functions of Trust.

9. (1) The Trust may—
- (a) permit the use of the whole or any part of the Trust lands for activities of a recreational, historical, scientific, educational or cultural nature;
 - (b) in or in connection with the Trust lands 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;
 - (c) in pursuance of its objects, procure specimens and obtain scientific data from within or outside the State;
 - (d) maintain, or make arrangements for the maintenance of, the property of the Trust;
 - (e) in pursuance of its objects, carry out surveys, assemble collections and engage in scientific research, including research outside the State, with respect to botany and ornamental horticulture;
 - (f) disseminate scientific information to the public and educational and scientific institutions, whether within or outside the State;

Centennial Park Trust.

- (g) promote and provide exhibits, lectures, films, publications and other types of educational instruction relating to botany and ornamental horticulture;
- (h) subject to the regulations, 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 or 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) 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 its functions.

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

(9) The Trust may establish, control and manage branches or departments with respect to the Trust lands, or any part thereof.

Centennial Park Trust.

(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 the Public Authorities (Financial Accommodation) Act, 1981.

(11) The Trust may, and when requested by the Minister shall, make reports and recommendations to the Minister with respect to any matter relating to the objects of the Trust and in particular with respect to the future management of Trust lands.

Disposal of certain land prohibited.

10. Subject to section 20 (2), the Trust shall not sell, mortgage, demise or otherwise dispose of any of the original land.

Dealings with certain property.

11. (1) In this section, "condition" means a condition to which the Trust has agreed under section 9 (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 property being supplementary land otherwise acquired, except—

- (a) where the property was acquired without any condition—with the approval of the Minister (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 12.

(3) Subject to section 9 (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.

Centennial Park Trust.

Disposal of certain property.

12. (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 9 (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 or scientific institution; 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 Minister and in accordance with any condition the Minister may impose upon the grant of that consent.

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

PART III.**ADMINISTRATION.****Officers and employees, etc.**

- 13.** For the purposes of this Act—
- (a) a Director of Centennial Park;
 - (b) a secretary to the Trust; and
 - (c) such other persons as may be necessary to enable the Trust to exercise its functions,
- shall be employed under the Public Service Act, 1979.

Centennial Park Trust.

Director.

14. (1) The Director is responsible for the administration and management of the Trust lands and any services provided in conjunction therewith.

(2) The Director is, in the exercise of the Director's functions under this Act, subject to the control and direction of the Trust.

Delegation by Trust.

15. (1) The Trust may, by instrument in writing, delegate to the Director, the secretary to the Trust, a trustee or a person employed pursuant to section 13 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.

(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 it would have if it had been done or suffered by the Trust and shall be deemed to have been done or suffered by the Trust.

Centennial Park Trust.

PART IV.

FINANCE.

Financial year.

16. The financial year of the Trust shall be the year commencing on 1st July.

Accounts.

17. (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 (having regard to current accounting standards and practices relating to such organisations as the Trust), shall include such information as is requested by the Auditor-General 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 or she has audited the accounts of the Trust relating to the relevant financial year, 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 the Auditor-General and before its submission to the Minister.

Centennial Park Trust.

(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 the Minister of the statement.

Audit.

18. (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.

(2) For the purposes of any such inspection and audit, the Auditor-General or a person authorised by the Auditor-General 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 the Auditor-General may require a person, being a trustee or an officer or employee of the Trust, to furnish the Auditor-General 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 the judgment of the Auditor-General 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 Fund such amounts, at such times, as the Treasurer decides.

Centennial Park Trust.

PART V.**MISCELLANEOUS.****Vesting of certain land in Trust.**

19. (1) Land declared to be original land by an order published in the Gazette under section 5 (1) shall—

- (a) if the order is so published on or before the commencement of this section—on that commencement; or
- (b) if the order is so published after the commencement of this section—on the publication of the order,

vest in the Trust for an estate in fee simple freed and discharged from any trusts, obligations, estates, interests, charges and rates existing immediately before the land is so vested.

(2) Notwithstanding anything contained in any other Act, the original land shall not be appropriated or resumed except by an Act of Parliament.

Grant of leases, easements and licences.

20. (1) In this section, “easement” includes an easement in favour of—

- (a) the Crown in right of the State or the Commonwealth; or
- (b) any public or local authority constituted by an Act of Parliament, without a dominant tenement.

(2) The Trust may, for the purpose of the provision of services to be enjoyed in connection with the Trust lands and consistently with the good management of those lands, from time to time and upon such terms and conditions as are approved by the Minister, grant—

- (a) subject to subsection (3), leases of parts of the Trust lands;
- (b) easements through, upon or in the Trust lands—
 - (i) for the construction of pipelines, the laying or re-laying of cables or the construction of any apparatus to be used in connection with those pipelines or cables;

Centennial Park Trust.

- (ii) for the purpose of providing access to the dwellings situated on or within those lands; or
- (iii) for any other purpose it considers necessary and that would directly or indirectly assist in the attainment of its objects; and

(c) licences for the use of parts of the Trust lands.

(3) A lease granted pursuant to subsection (2) (a) may not have a term that, together with the term of any further lease which may be granted pursuant to an option contained in the lease, exceeds 8 years.

(4) Sections 88A and 181A of the Conveyancing Act, 1919, apply to and in respect of an instrument purporting to grant an easement under subsection (2) (b).

(5) Without limiting the generality of subsection (2) (c), the Trust may, from time to time and upon such terms and conditions as are approved by the Minister, grant licences authorising entry upon the Trust lands for the purpose of the maintenance, re-laying or repair of any pipelines or cables or the maintenance or repair of any apparatus used in connection therewith, being pipelines, cables or apparatus situated on or in those lands at the commencement of this section.

Annual report.

21. (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 receiving the report.

Regulations.

22. (1) In this section, a reference to the Trust lands includes a reference to any part of the Trust lands.

Centennial Park Trust.

(2) 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—

- (a) the use and enjoyment of the Trust lands;
- (b) the care, control and management of the Trust lands;
- (c) the determination and payment of fees for—
 - (i) the use of the playing fields situated within the Trust lands;
 - (ii) the use of formed paths, tracks and roads within the Trust lands;
 - (iii) filming or photographing within the Trust lands for the purposes of cinema or television productions or commercial use;
 - (iv) the use or purchase of any written or other material that is the property of the Trust; and
 - (v) such other articles or services as the Trust may provide;
- (d) the meetings of the Trust; and
- (e) the committees of the Trust.

(3) A regulation may impose a penalty not exceeding \$200 for any breach of a regulation.

(4) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind; or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by a specified person or body,

or may do any combination of those things.

Centennial Park Trust.

Liability of vehicle owner for certain offences.

23. (1) Where an offence against any regulation occurs in relation to any vehicle, the person who at the time of the occurrence of the offence is the owner of the vehicle shall, by virtue of this section, be guilty of an offence against the regulation as if the person were the actual offender guilty of the offence unless—

- (a) in any case where the offence is dealt with under section 24, the person satisfies a prescribed officer described in the notice served under that section that the vehicle was at the relevant time a stolen vehicle or a vehicle illegally taken or used; or
- (b) in any other case, the court is satisfied that the vehicle was at the relevant time a stolen vehicle or a vehicle illegally taken or used.

(2) Nothing in this section shall affect the liability of the actual offender but where a penalty has been imposed on or recovered from any person in relation to any such offence no further penalty shall be imposed on or recovered from any other person in relation thereto.

(3) Notwithstanding subsection (1), no owner of a vehicle shall, by virtue of that subsection, be guilty of an offence if—

- (a) in any case where the offence is dealt with under section 24, the person—
 - (i) within 21 days after service on the person of a notice under that section alleging that the person has been guilty of the offence, supplies by statutory declaration to a prescribed officer described in the notice the name and address of the person who was in charge of the vehicle at all relevant times relating to the offence; or
 - (ii) satisfies that prescribed officer that the person did not know and could not with reasonable diligence have ascertained that name and address; or
- (b) in any other case, the person—
 - (i) within 21 days after service on the person of a summons in respect of the offence, supplies by statutory declaration to the informant the name and address of the person who was in charge of the vehicle at all relevant times relating to the offence; or

Centennial Park Trust.

- (ii) satisfies the court that the person did not know and could not with reasonable diligence have ascertained that name and address.

(4) A statutory declaration under subsection (3) if produced in any proceedings against the person named therein and in relation to the offence in respect of which the statutory declaration was supplied shall be prima facie evidence that that person was in charge of the vehicle at all relevant times relating to that offence.

(5) A statutory declaration which relates to more than one offence shall be deemed not to be a statutory declaration under, or for the purposes of, subsection (3).

(6) In this section—

“owner”, in relation to a vehicle, being a registered vehicle, includes—

- (a) every person who is the owner or joint owner or part owner of the vehicle and any person who has the use of the vehicle under a hire-purchase agreement but not the lessor under any such agreement;
- (b) the person in whose name the vehicle is registered except where that person has sold or otherwise disposed of the vehicle and has complied with the provisions of the regulations under the Motor Traffic Act, 1909, applicable to the person in regard to that sale or disposal;
- (c) in the case of a vehicle to which a trader’s plate is affixed, the person to whom that trader’s plate is on issue; and
- (d) a person who, pursuant to a regulation under section 3 (1) (q11) or (q12) of the Motor Traffic Act, 1909, is to be treated as being, for the purposes of section 18A of that Act, the owner of the vehicle;

“registered” means registered under the Motor Traffic Act, 1909;

“trader’s plate” means a trader’s plate issued under the Motor Traffic Act, 1909, for use as prescribed by the regulations under that Act.

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Penalty notices for certain offences.

24. (1) Where it appears to a prescribed officer that any person has committed, or by virtue of section 23 is guilty of, any offence against any regulation, the officer may serve a notice on that person to the effect that, if that person does not desire to have the matter determined by a court, that person may pay to the secretary to the Trust within the time specified therein an amount of penalty prescribed for the offence if dealt with under this section.

(2) Any notice under subsection (1)—

(a) may be served personally or by post; or

(b) if it relates to an offence of which the owner of a vehicle is guilty by virtue of section 23, may be addressed to the owner without naming the owner or stating the address of the owner and may be served by leaving it on or attaching it to the vehicle.

(3) Any person alleged to have committed or to be guilty of an offence to which subsection (1) applies shall have the right to decline to be dealt with under this section.

(4) Any person who fails to pay the penalty within the time specified in the notice served on the person under subsection (1) or within such further time as may in any particular case be allowed by a prescribed officer shall be deemed to have declined to be dealt with under this section.

(5) Where the amount of any penalty prescribed for an alleged offence is paid pursuant to this section no person shall be liable for any further proceedings for the alleged offence.

(6) Payment of a penalty pursuant to this section shall not be regarded as an admission of liability for the purpose of nor in any way affect or prejudice any civil claim, action or proceeding arising out of the same occurrence.

(7) The provisions of this section are supplemental to and not in derogation of the provisions of any other section of this Act or any other Act in relation to proceedings which may be taken in respect of offences.

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Proceedings for offences.

25. (1) Proceedings for an offence against this Act or the regulations may be disposed of summarily before a court of petty sessions constituted by a stipendiary magistrate sitting alone.

(2) Any such proceedings may be commenced only by information laid within 12 months after the time when the offence is alleged to have been committed.

Repeal of Act 51 Vic. No. 9 and Act No. 23, 1904.

26. The Centenary Celebration Act and the Centenary Park Sale Act, 1904, are repealed.

Transitional and other provisions.

27. Schedule 2 has effect.

Repeal of certain provisions.

28. The several provisions of sections 17 and 18 shall be repealed on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

SCHEDULE 1.

(Sec. 7 (2).)

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

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

- (c) who is a bankrupt, who 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 or her creditors or whose remuneration would, upon his or her appointment, be subject to an assignment for their benefit,

is not eligible to be appointed as 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 that illness or absence.

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

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

(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.

(5) For the purposes of this clause, a vacancy in the office of a trustee shall be deemed to be an absence from office of the trustee.

Term of office.

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

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

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SCHEDULE 1—*continued.*PROVISIONS RELATING TO TRUSTEES AND PROCEDURE OF THE TRUST—*continued.***Certain provisions not to apply in respect of trustees.**

4. The Public Service Act, 1979, does not apply to or in respect of the appointment of a trustee and a trustee is not, as a trustee, subject to that Act.

Allowances for trustees.

5. A trustee and a member of a committee established under section 9 who is not a trustee shall, if the Minister thinks fit, be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of each of them.

Removal from office.

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

Vacation of office.

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

- (a) dies;
- (b) resigns the office by instrument in writing 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 the trustee's creditors or makes an assignment of the trustee's 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 the trustee 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 the trustee's absence from the meetings;
- (f) is removed from office by the Governor; or
- (g) attains the age of 70 years.

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SCHEDULE 1—*continued.*PROVISIONS RELATING TO TRUSTEES AND PROCEDURE OF THE TRUST—*continued.***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 the term of office of the trustee as a trustee having expired if the trustee is re-appointed by the Governor as a trustee for a term commencing immediately after the date on which the term of office of the trustee expires.

(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 a successor under this clause or until the trustee 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.

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 regulation, be as determined by the Trust.

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

(3) Four 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.

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

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

The Director.

11. The Director—

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

Common seal.

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

SCHEDULE 2.

(Sec. 27.)

TRANSITIONAL AND OTHER PROVISIONS.**Interpretation.**

1. In this Schedule—

“commencement” means the commencement of this Schedule;

“corporation” means the corporation sole constituted by section 2 of the repealed Act;

“repealed Act” means the Centenary Celebration Act.

Centennial Park Trust.

SCHEDULE 2—*continued.*TRANSITIONAL AND OTHER PROVISIONS—*continued.***Construction of other instruments, etc.**

2. (1) A reference to the Chief Minister or the corporation in any instrument in relation to any gift inter vivos, devise or bequest, which gift inter vivos, devise or bequest would, but for the enactment of this Act, have vested in the corporation shall be construed as a reference to the Trust.

(2) A reference in any other Act, or in any by-law, regulation, ordinance or any other instrument or document whatever, which took effect or was made before the commencement—

(a) to Centennial Park, or any part thereof; or

(b) to Queen's Park, or any part thereof,

shall be construed as a reference to the corresponding part of the original land.

(3) A reference in any other Act, or in any by-law, regulation, ordinance or any other instrument or document whatever, to the Chief Minister in the Chief Minister's capacity as the corporation shall be construed as a reference to the Trust.

Vesting of assets, etc.

3. (1) 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 corporation shall 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 corporation 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 corporation 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 corporation 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 corporation and pending immediately before the commencement shall be deemed to be proceedings pending on the commencement by that person against the Trust;

Centennial Park Trust.

SCHEDULE 2—*continued.*TRANSITIONAL AND OTHER PROVISIONS—*continued.*

- (e) all deeds, contracts, agreements, arrangements and undertakings entered into with the corporation in relation to the original land and in force immediately before the commencement shall be deemed to be deeds, 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 corporation 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 corporation, 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.
- (2) This clause has effect notwithstanding section 19 (1).

Savings.

4. (1) The Centennial Park Regulations, as in force immediately before the commencement, shall, on the commencement, be deemed to be regulations made under this Act.

(2) A reference in the Regulations referred to in subclause (1), and in any written permission or authorisation issued thereunder, to the Minister of Agriculture, the Minister for Agriculture, the Officer-in-charge or the Department of Agriculture shall be construed as a reference to the Minister, the Director or the Premier's Department, respectively.

(3) Any person who was employed under the Public Service Act, 1979, and was engaged in or in connection with the administration or management of the Trust lands, or part thereof, immediately before the commencement, shall, on the commencement, be deemed to be employed pursuant to section 13.

(4) Section 19 (1) does not operate so as to vest in the Trust any pipeline or cable, or any apparatus used in connection therewith, that—

- (a) immediately before the commencement, was situated on or in any part of the Trust lands; and

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SCHEDULE 2—*continued.*

TRANSITIONAL AND OTHER PROVISIONS—*continued.*

- (b) was laid or constructed by or on behalf of The Australian Gas Light Company, The Electricity Commission of New South Wales, The Metropolitan Water Sewerage and Drainage Board or The Sydney County Council.

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

J. A. ROWLAND,
Governor.

*Government House,
Sydney, 22nd December, 1983.*





