

**MINING (GEOLOGICAL AND MINING MUSEUM)
AMENDMENT ACT 1989 No. 141**

NEW SOUTH WALES



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SCHEDULE 1 - AMENDMENT OF MINING ACT 1973

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STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

WITNESSETH

THAT

THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
DO HEREBY CERTIFY
THAT THE FOREGOING IS
A TRUE AND CORRECT
COPY OF THE ORIGINAL
FILED IN THE OFFICE
OF THE COUNTY CLERK
ON THIS _____ DAY
OF _____ 19____

ATTEST:

COUNTY CLERK

NOTARY PUBLIC

**MINING (GEOLOGICAL AND MINING MUSEUM)
AMENDMENT ACT 1989 No. 141**

NEW SOUTH WALES



Act No. 141, 1989

An Act to amend the Mining Act 1973 to constitute the Geological and Mining Museum Trust; to define the Trust's objects and functions; to make provision with respect to the administration of the Geological and Mining Museum; to amend certain other Acts; and for other purposes. [Assented to 25 October 1989]

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Mining (Geological and Mining Museum) Amendment Act 1989.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Mining Act 1973 No. 42

3. The Mining Act 1973 is amended as set out in Schedule 1.

Amendment of certain other Acts

4. Each Act specified in Schedule 2 is amended as set out in that Schedule.

SCHEDULE 1 - AMENDMENT OF MINING ACT 1973

(Sec. 3)

(1) Part 9A:

After Part 9, insert:

PART 9A - GEOLOGICAL AND MINING MUSEUM

Division 1 - Preliminary

Definitions

169A. (1) In this Part:

"Director" means the Director of the Museum;

SCHEDULE 1 - AMENDMENT OF MINING
ACT 1973 - *continued*

"**mineral**" includes uranium, petroleum, coal and shale;

"**Museum**" means the Geological and Mining Museum originally established under the Mining Act 1906;

"**Trust**" means the Geological and Mining Museum Trust constituted under section 169B;

"**trustee**" means a trustee referred to in section 169B.

(2) In this Part:

- (a) a reference to a function includes a reference to a power, authority and duty, and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

Division 2 - The Geological and Mining Museum Trust

Constitution of the Trust

169B. (1) There is constituted by this Act a corporation under the corporate name of the Geological and Mining Museum Trust.

(2) The Trust is to consist of 9 trustees appointed by the Governor on the recommendation of the Minister, at least 4 of whom are, in the opinion of the Minister, knowledgeable and experienced in geology or mineral resource development.

(3) The Director is eligible (if otherwise qualified) to be appointed as a trustee.

(4) Part 1 of the Sixth Schedule has effect with respect to the trustees.

(5) Part 2 of the Sixth Schedule has effect with respect to the procedure of the Trust.

Objects of the Trust

169C. The objects of the Trust are to control and manage the Museum in a manner which:

SCHEDULE 1 - AMENDMENT OF MINING
ACT 1973 - *continued*

- (a) stimulates interest in the sciences and technologies related to the development and use of mineral and energy resources; and
- (b) increases and disseminates knowledge of the importance of mining, and of mineral and energy resources, to the socio-economic development of Australia; and
- (c) promotes the responsible development and use of mineral and energy resources.

Functions of the Trust

169D. (1) The Trust has the functions conferred or imposed on it by or under this or any other Act.

- (2) The Trust may:
 - (a) manage and maintain all Trust property and property in the custody of the Trust; and
 - (b) construct premises to be used for the Museum; and
 - (c) acquire specimens, equipment, photographic items, historical publications and other items and scientific data relating to the sciences and technologies associated with the mineral and energy industries; and
 - (d) provide to any person scientific information concerning those sciences and technologies; and
 - (e) undertake scientific research in those sciences and technologies; and
 - (f) promote and provide exhibitions, lectures, films, publications and other educational instruction or materials; and
 - (g) subject to any conditions the Trust imposes, permit the use of any premises used for the Museum in relation to:
 - (i) activities of an educational or cultural nature;
or

SCHEDULE 1 - AMENDMENT OF MINING
ACT 1973 - *continued*

- (ii) social functions; or
 - (iii) State occasions; or
 - (iv) charitable, commercial or other promotional activities; or
 - (v) the holding of conferences or meetings; and
 - (h) subject to any conditions the Trust imposes, permit the use of any premises used for the Museum for the taking of photographs, the making of films or sound recordings and the production of television or radio programs or material; and
 - (i) provide, or allow the provision of, food or other refreshments on any premises used for the Museum and apply for, hold or dispose of any relevant licence, permit or other authority for that purpose; and
 - (j) engage, or enter into contracts or arrangements with, artists, entertainers, lecturers and performers:
 - (i) to appear on any premises used for the Museum; or
 - (ii) in connection with any service provided in pursuance of the objects of the Trust; and
 - (k) charge and receive fees or other amounts for, or in connection with, entry into any premises used for the Museum or any advice or service provided, any article sold or any permission given by the Trust.
- (3) Subject to this Part and the regulations, the Trust has the control and management of the Museum and of all property vested in the Trust.
- (4) The fees and other amounts received by the Trust (as referred to in subsection (2) (k)) and any income earned from them are its property.
- (5) The Trust has such functions, in addition to those specified in this section, as are reasonably necessary for the achievement of its objects.
- (6) In the exercise of its functions the Trust is subject to the control and direction of the Minister.

SCHEDULE 1 - AMENDMENT OF MINING
ACT 1973 - *continued*

Division 3 - Trust property

Acquisition of property

169E. (1) The Trust may agree to any condition that is not inconsistent with its objects being imposed on its acquisition of any property.

(2) The Trust may acquire, by gift or by devise or bequest, any property for the purposes of this Part and the Trust may agree to and carry out the conditions of the gift, devise or bequest.

(3) The rule of law against remoteness of vesting does not apply to any condition to which the Trust has agreed under this section.

(4) If the Trust acquires any property by gift or by devise or bequest, it may retain the property in the form in which it was acquired, subject to any condition to which the Trust has agreed in relation to the property.

(5) The Stamp Duties Act 1920 does not apply to or in respect of any such acquisition of property by the Trust.

Disposal of property

169F. (1) In this section:

"condition" means a condition to which the Trust has agreed under section 169E.

(2) The Trust may not sell, mortgage or otherwise dispose of any real property, or any property acquired by gift or by devise or bequest, except:

- (a) if the property was acquired without any condition - with the approval of the Governor; or
- (b) if the property was acquired subject to such a condition - in accordance with the condition or subsection (3).

(3) If the Trust determines that any property acquired by the Trust subject to such a condition is not required for the

SCHEDULE 1 - AMENDMENT OF MINING
ACT 1973 - *continued*

purposes of the Trust, the Trust may, with the approval of the Governor:

- (a) sell the property and retain the proceeds of the sale; or
- (b) exchange the property for other property; or
- (c) give the property to any recreational, scientific or educational institution or to a government department, administrative office or public or local authority; or
- (d) if the Trust is of the opinion that the property is of no commercial value - dispose of the property without valuable consideration.

Vesting of certain property

169G. (1) The Minister may direct, by notice published in the Gazette, that any property that:

- (a) is vested in the Crown and subject to the control and direction of the Minister; and
- (b) in the opinion of the Minister:
 - (i) relates to the sciences and technologies associated with the mineral and energy industries; or
 - (ii) is necessary for the Trust's achievement of its objects,

is to cease to be vested in the Crown and is to vest in the Trust.

(2) If the Minister gives such a direction, the property described in the direction ceases to vest in the Crown and, without any further conveyance or transfer, vests in the Trust.

SCHEDULE 1 - AMENDMENT OF MINING
ACT 1973 - *continued*

Division 4 - Administration

Staff of the Trust etc.

169H. (1) For the purposes of this Part:

- (a) a Director of the Museum; and
- (b) such other persons as may be necessary to enable the Trust to exercise its functions,

may be employed under Part 2 of the Public Sector Management Act 1988.

(2) The Trust may, with the approval of the Minister, arrange for the use of the services of any staff (by secondment or otherwise) or facilities of a government department, an administrative office or a public or local authority.

(3) The Trust may engage such consultants as the Trust requires to exercise its functions.

The Director

169I. (1) The Director is the chief executive officer of the Trust.

(2) The Director is responsible for the administration and management of the Museum, and of any services provided in connection with it, subject to and in accordance with any directions of the Trust.

(3) The Director has such other functions as are conferred or imposed on the Director by or under this or any other Act.

Committees

169J. (1) The Trust may establish committees to assist it in connection with the exercise of any of its functions.

(2) A person may be appointed to be a member of such a committee whether or not the person is a trustee.

(3) The procedure for the calling of meetings of a committee and for the conduct of business at those meetings is, subject to the regulations, to be as determined by the Trust

SCHEDULE 1 - AMENDMENT OF MINING
ACT 1973 - *continued*

or (subject to any determination of the Trust) by the committee.

Division 5 - Financial provisions

Financial year

169K. (1) The financial year of the Trust is the year commencing on 1 July.

(2) A different financial year may be determined by the Treasurer under section 4 (1A) of the Public Finance and Audit Act 1983.

Funds of the Trust

169L. (1) The Trust is to establish at a bank in New South Wales an account to be known as the Geological and Mining Museum Trust Account (in this section referred to as "the Trust Account").

(2) The funds of the Trust are to be paid to the credit of the Trust Account and are to consist of:

- (a) any money appropriated by Parliament for the purposes of the Trust; and
- (b) all money derived by the Trust from admission fees and from fees and other charges imposed for the hire of the trust property or any part of it; and
- (c) all money derived by the Trust from the sale, leasing, letting or hire or other disposal by the Trust of any property which the Trust has power to sell, lease, let or hire or otherwise dispose of; and
- (d) all money received by the Trust as profit arising out of any investment made by it in the exercise of its powers; and

SCHEDULE 1 - AMENDMENT OF MINING
ACT 1973 - *continued*

- (e) all money borrowed by the Trust; and
- (f) all other money received from any source by the Trust.

(3) A payment of money must not be made to the credit of the Trust Account if the payment would be a breach of a condition affecting the money.

- (4) The funds of the Trust are to be applied only:
 - (a) in payment or discharge of the expenses, charges and obligations incurred or undertaken by the Trust in the exercise of its functions; and
 - (b) in the payment of any remuneration payable under this Part.

Trust instruments apply despite secs. 169N, 169O and 169P

169M. The terms of any instrument creating a trust with respect to a fund held by the Trust have effect despite sections 169N, 169O and 169P.

Investment and financial accommodation

169N. (1) The Trust may invest any funds held by the Trust:

- (a) in such manner as may be authorised by the Public Authorities (Financial Arrangements) Act 1987; or
- (b) if that Act does not confer power to invest those funds:
 - (i) in accordance with and subject to the Trustee Act 1925; and
 - (ii) in any other manner approved by the Minister with the concurrence of the Treasurer.

(2) The Trust may obtain financial accommodation and effect financial adjustments under and subject to the Public Authorities (Financial Arrangements) Act 1987 for the purpose of enabling the Trust to exercise its functions.

SCHEDULE 1 - AMENDMENT OF MINING
ACT 1973 - *continued*

Investment pools

169o. (1) The Trust may establish and maintain one or more investment pools for the collective investment of funds held by the Trust.

(2) The Trust may from time to time bring into or withdraw from an investment pool the whole or any part of any funds held by the Trust.

Distribution of income of investment pools

169p. (1) The Trust must distribute the income of an investment pool at least once a year.

(2) On the distribution of the income of an investment pool under this section, the Trust is required, in respect of:

- (a) a fund in the investment pool that is the subject of a trust that specifies:
 - (i) that the income from the investment of the fund is to be applied for a special purpose other than the general purposes of the Trust; or
 - (ii) that the fund is to be applied for a purpose other than the general purposes of the Trust and that fund is insufficient, without the addition of the income from the investment of the fund, to achieve that purpose; and
- (b) any other fund in the investment pool in respect of which the Trust is otherwise required to do so,

to credit the income of that investment pool to the account kept by it in respect of that fund proportionately according to the value attributed equitably to that fund by the Trust at the date of distribution and the period for which that fund has formed part of that investment pool since the date of the last preceding distribution of the income of that investment pool.

(3) If the Trust distributes the income of an investment pool under this section, it may, in respect of a fund, other than

SCHEDULE 1 - AMENDMENT OF MINING
ACT 1973 - *continued*

a fund referred to in subsection (2) (a) or (b), credit the income of that investment pool to any account kept by it.

Nature of funds not affected by pooling

169o. The inclusion in an investment pool of the whole or any part of a fund does not affect:

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

Division 6 - Miscellaneous

Reports to Minister

169r. The Trust is required, in addition to any other report required by the Annual Reports (Statutory Bodies) Act 1984, to provide the Minister with such reports on the activities of the Trust as the Minister may from time to time direct.

Delegation by Trust and Director

169s. (1) The Trust may delegate to a person any of its functions, other than this power of delegation.

(2) The Director may sub-delegate to a person any of the functions delegated to the Director by the Trust, if the Director is authorised in writing to do so by the Trust.

Personal liability of trustees etc.

169t. No matter or thing done by the Trust, any trustee or any person acting under the direction of the Trust, if the matter or thing was done in good faith for the purposes of executing the provisions of this or any other Act, subjects a trustee or a person so acting personally to any action, liability, claim or demand.

Recovery of charges etc. by Trust

169u. Any charge, fee or money due to the Trust may be recovered by the Trust as a debt in a court of competent jurisdiction.

SCHEDULE 1 - AMENDMENT OF MINING
ACT 1973 - *continued*

(2) Section 195 (**Regulations**):

(a) Section 195 (2) (t1):

Omit "and" where lastly occurring.

(b) Section 195 (2) (t2):

After section 195 (2) (t1), insert:

(t2) in relation to the Geological and Mining Museum Trust:

- (i) meetings of the Trust; and
- (ii) committees of the Trust; and
- (iii) the use and custody of the seal of the Trust; and
- (iv) the use of property or services provided by the Trust; and
- (v) the methods to be used in the care of property of the Trust; and
- (vi) the determination and payment of fees to the Trust; and
- (vii) the election of a person by the Trust who has rendered any service to the Geological and Mining Museum or who has furthered the objects of the Trust as an honorary associate of the Museum; and

(3) Section 198 (**Transitional provisions and savings**):

At the end of the section, insert:

(2) The transitional provisions and savings in Part 3 of the Sixth Schedule have effect.

(4) Sixth Schedule:

After the Fifth Schedule, insert:

SCHEDULE 1 - AMENDMENT OF MINING
ACT 1973 - *continued*

SIXTH SCHEDULE - THE
GEOLOGICAL AND MINING MUSEUM

(Sec. 169B (4) and (5))

PART 1 - THE TRUSTEES

Chairperson of the Trust

1. (1) Of the trustees, one is to be appointed as Chairperson of the Trust (in and by the trustee's instrument of appointment or by another instrument executed by the Governor).

(2) The Governor may remove a trustee from the office of Chairperson at any time.

(3) A trustee who is Chairperson vacates the office of Chairperson if the trustee:

- (a) is removed from that office by the Governor; or
- (b) resigns that office by instrument in writing addressed to the Minister; or
- (c) ceases to be a trustee.

Deputies

2. (1) The Minister may, from time to time, appoint a person to be the deputy of a trustee, and the Minister may revoke any such appointment.

(2) In the absence of a trustee, the trustee's deputy:

- (a) is, if available, to act in the place of the trustee; and
- (b) while so acting, has all the functions of the trustee and is to be taken to be the trustee.

(3) The deputy of a trustee who is Chairperson of the Trust does not have the trustee's functions as Chairperson.

(4) A person while acting in the office of a trustee is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

SCHEDULE 1 - AMENDMENT OF MINING
ACT 1973 - *continued*

Term of office

3. (1) Subject to this Schedule, a trustee holds office for such period (not exceeding 3 years) as may be specified in the trustee's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

(2) A person may be re-appointed as a trustee but no trustee is to hold office for more than 3 consecutive terms.

Remuneration

4. A trustee is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the trustee.

Vacancy in office of a trustee

5. (1) The office of a trustee becomes vacant if the trustee:

- (a) dies; or
- (b) completes a term of office and is not re-appointed; or
- (c) resigns the office by instrument in writing addressed to the Minister; or
- (d) is removed from office by the Governor under this clause or under Part 8 of the Public Sector Management Act 1988; or
- (e) is absent from 4 consecutive meetings of the Trust of which reasonable notice has been given to the trustee personally or in the ordinary course of post (unless the trustee is granted leave by the Trust or unless, before the expiration of 6 weeks after the last of those meetings, the trustee is excused by the Trust for being absent from those meetings); or
- (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or

SCHEDULE 1 - AMENDMENT OF MINING
ACT 1973 - *continued*

- (g) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983; or
- (h) is convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.

(2) The Governor may remove a trustee from office at any time.

(3) Without limiting the generality of subclause (2), the Governor may remove from office a trustee who contravenes the provisions of clause 7.

Filling of vacancy in office of trustee

6. If the office of any trustee becomes vacant, a person is, subject to this Schedule, to be appointed to fill the vacancy.

Disclosure of pecuniary interests

7. (1) If:

- (a) a trustee has a direct or indirect pecuniary interest in a matter being considered or about to be considered, at a meeting of the Trust; and
- (b) the interest appears to raise a conflict with the proper performance of the trustee's duties in relation to the consideration of the matter,

the trustee is required, as soon as possible after the relevant facts have come to the trustee's knowledge, to disclose the nature of the interest at a meeting of the Trust.

(2) A disclosure by a trustee at a meeting of the Trust that the trustee:

SCHEDULE 1 - AMENDMENT OF MINING
ACT 1973 - *continued*

- (a) is a member, or is in the employment, of a specified company or other body; or
- (b) is a partner, or is in the employment, of a specified person; or
- (c) has some other specified interest relating to a specified company or other body or a specified person,

is sufficient disclosure of the nature of the interest in any matter or thing relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).

(3) Particulars of any disclosure made under this clause are to be recorded in a book kept for the purpose and that book is required to be open at all reasonable hours to the inspection of any person on payment of the fee determined by the trustees.

(4) After a trustee has disclosed the nature of an interest in any matter or thing, the trustee may not, unless the Minister or the other trustees otherwise determine:

- (a) be present during any deliberation of the Trust, or take part in any decision of the Trust, with respect to that matter; or
- (b) exercise any function under this Act with respect to that thing.

(5) For the purposes of the making of a determination of the trustees under subclause (4), a trustee who has a direct or indirect pecuniary interest in a matter to which the disclosure relates may not:

- (a) be present during any deliberation of the other trustees for the purposes of making the determination; or
- (b) take part in the making by the other trustees of the determination.

SCHEDULE 1 - AMENDMENT OF MINING
ACT 1973 - *continued*

(6) A contravention of this clause does not invalidate any decision of the trustees or the exercise of any function under this Act.

(7) This clause does not apply to or in respect of an interest of a trustee (being the provision of goods or services to the trustee by the Trust) if the goods or services are, or are to be, available to members of the public on the same terms and conditions.

(8) A reference in this clause:

- (a) to a meeting of the Trust includes a reference to a meeting of a committee of the Trust; and
- (b) to a trustee includes a reference to a member of such a committee.

Effect of certain other Acts

8. (1) The Public Sector Management Act 1988 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 (except Part 8).

(2) If by or under any other Act provision is made:

- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office; or
- (b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of a trustee or from accepting and retaining any remuneration payable to the person under this Act as a trustee.

(3) The office of a trustee is not, for the purposes of any Act, an office or place of profit under the Crown.

**SCHEDULE 1 - AMENDMENT OF MINING
ACT 1973 - *continued***

**PART 2 - THE PROCEDURE OF THE
GEOLOGICAL AND MINING MUSEUM TRUST**

General procedure

9. The procedure for the calling of meetings of the Trust and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Trust.

Quorum

10. The quorum for a meeting of the Trust is 5 trustees.

Presiding trustee

11. (1) The Chairperson of the Trust or, in the absence of the Chairperson, another trustee elected to chair the meeting by the trustees present presides at a meeting of the Trust.

(2) The person presiding at any meeting of the Trust has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

Voting

12. A decision supported by a majority of the votes cast at a meeting of the Trust at which a quorum is present is the decision of the Trust.

Minutes

13. The Trust must cause full and accurate minutes to be kept of the proceedings of each meeting of the Trust.

The Director

14. The Director, if not a trustee:

- (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.

SCHEDULE 1 - AMENDMENT OF MINING
ACT 1973 - *continued*

**PART 3 - TRANSITIONAL PROVISIONS
AND SAVINGS CONSEQUENT ON THE
ENACTMENT OF THE MINING (GEOLOGICAL
AND MINING MUSEUM) AMENDMENT ACT
1989**

Definitions

15. In this Part:

"**appointed day**" means the day on which section 169B commences;

"**Museum**" means the Geological and Mining Museum originally established under the Mining Act 1906;

"**the 1989 Act**" means the Mining (Geological and Mining Museum) Amendment Act 1989;

"**Trust**" means the Geological and Mining Museum Trust constituted under section 169B;

"**trustee**" means a trustee referred to in section 169B.

First meeting of the Trust

16. The Minister may call the first meeting of the Trust on or after the appointed day in such manner as the Minister thinks fit.

Vesting of property

17. (1) On the appointed day:

- (a) the collections of specimens, equipment, photographic items, books, documents and other items and scientific data (wherever housed) that, immediately before that day, were:
 - (i) used or maintained for the purposes of the Museum; and
 - (ii) vested in the Crown; and
 - (iii) subject to the control and direction of the Minister; and

SCHEDULE 1 - AMENDMENT OF MINING
ACT 1973 - *continued*

- (b) the stock and records of any shop conducted in connection with the Museum, which immediately before that day were:
 - (i) vested in the Crown; and
 - (ii) subject to the control and direction of the Minister; and
 - (c) any display cases, equipment and materials used in connection with the collections, stock or records referred to in paragraph (a) or (b); and
 - (d) all rights and interests in, and all control and management of, such collections, stock or records,
- are vested in the Trust.

(2) If any property, right or interest:

- (a) was, before the appointed day, acquired by the Crown for use in connection with, or for the purposes of, any of the collections referred to in subclause (1) by gift or by devise or bequest, subject to a condition agreed to by the Crown; and
 - (b) was held by the Crown for use in connection with any such collection immediately before the appointed day,
- the Trust is, on that day, to be taken to have agreed, under section 169E, to the condition subject to which the property, right or interest was acquired.

Claims and liabilities

18. On and from the appointed day:

- (a) all money and liquidated and unliquidated claims that, immediately before the appointed day, was or were payable to or recoverable by the Crown in connection with the Museum is or are money and liquidated and unliquidated claims payable to or recoverable by the Trust; and
- (b) the Trust may, in addition to pursuing any other remedies or exercising any other powers that may be

SCHEDULE 1 - AMENDMENT OF MINING
ACT 1973 - *continued*

available to it, pursue the same remedies for the recovery of any such money or claims as the Crown might have done but for the enactment of the 1989 Act; and

- (c) the Trust is liable for all money and liquidated and unliquidated claims for which the Crown would have been liable but for the enactment of the 1989 Act.

Regulations

19. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the 1989 Act.

(2) Any such provision may, if the regulations so provide, take effect from the date of assent to the 1989 Act or a later day.

(3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

SCHEDULE 2 - AMENDMENT OF OTHER ACTS

(Sec. 4)

Public Authorities (Financial Arrangements) Act 1987 No. 33:

Schedule 1 (Authorities):

Insert in alphabetical order the following words:

Geological and Mining Museum Trust.

SCHEDULE 2 - AMENDMENT OF OTHER
ACTS - *continued*

Public Finance and Audit Act 1983 No. 152:

Schedule 2 (Statutory Bodies):

Insert in alphabetical order the following words:

Geological and Mining Museum Trust.

*[Minister's second reading speech made in -
Legislative Assembly on 12 September 1989
Legislative Council on 10 October 1989]*

1970-1971
1972-1973
1974-1975

1976-1977
1978-1979
1980-1981
1982-1983

1984-1985
1986-1987
1988-1989
1990-1991

1992-1993
1994-1995
1996-1997





FIRST PRINT

**MINING (GEOLOGICAL AND MINING MUSEUM)
AMENDMENT BILL 1989**

NEW SOUTH WALES



EXPLANATORY NOTE

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

The object of this Bill is to amend the Mining Act 1973 to create a body (the Geological and Mining Museum Trust) which will be responsible for the control and management of the Geological and Mining Museum and to specify the functions of that body.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 gives effect to the Schedule of amendments to the Principal Act.

Clause 4 is a formal provision giving effect to the Schedule of amendments to other Acts.

SCHEDULE 1 - AMENDMENTS

Schedule 1 (1) inserts a new Part 9A into the Principal Act. The proposed Part contains sections 169A - 169U.

Proposed section 169A defines expressions used in the proposed Part.

Museum Trust

Proposed section 169B constitutes a corporate body to be called the Geological and Mining Museum Trust. The Trust will consist of 9 members appointed by the Governor on the recommendation of the Minister.

Mining (Geological and Mining Museum) Amendment 1989

Proposed section 169C states the objects of the Trust. These include promoting the responsible development and use of mineral and energy resources in New South Wales.

Proposed section 169D confers various functions on the Trust including control and management of the Geological and Mining Museum.

Trust property

Proposed section 169E provides that the Trust may acquire property conditionally and may retain property in the form in which it was acquired.

Proposed section 169F enables the Trust, with the approval of the Governor, to sell or mortgage land or any property acquired by gift or under a will.

Proposed section 169G empowers the Minister to vest Crown property in the Trust.

Administration

Proposed section 169H provides for the employment, under the Public Sector Management Act 1988, of a Director of the Museum and of staff of the Museum. It also enables the Trust to engage consultants.

Proposed section 169I makes the Director of the Museum responsible for managing the Museum but subject to the direction of the Trust.

Proposed section 169J provides that the Trust may establish committees.

Financial provisions

Proposed section 169K states that the financial year of the Trust is the year commencing on 1 July but may be changed by the Treasurer under the Public Finance and Audit Act 1983.

Proposed section 169L requires the Trust to establish a Trust Account in a bank in New South Wales and to pay all money received by the Trust into the account. The funds of the Trust are to be applied only in paying expenses incurred by the Trust in exercising its functions.

Proposed section 169M provides that where the investment of particular funds by the Trust is controlled by special conditions attaching to those funds, those conditions are not affected by sections 169N - 169P.

Proposed section 169N authorises the Trust to invest its funds in a manner specified in the section, including investment in accordance with the Trustee Act 1925 and the Public Authorities (Financial Arrangements) Act 1987. It also enables the Trust to obtain financial accommodation.

Proposed section 169O authorises the Trust to pool its investments.

Proposed section 169P provides for the distribution of income from an investment pool.

Proposed section 169Q provides that the identity or nature of funds held by the Trust is not affected by the pooling of those funds for investment purposes.

Miscellaneous

Proposed section 169R requires the Trust to report to the Minister on the activities of the Trust.

Mining (Geological and Mining Museum) Amendment 1989

Proposed section 169s provides for the delegation of functions by the Trust and the Director.

Proposed section 169t protects trustees from personal liability for anything done by them in good faith in the execution of their official duties.

Proposed section 169u enables the Trust to recover charges and other money due as a debt.

Schedule 1 (2) amends section 195 of the Principal Act to empower the making of regulations generally for the purposes of the proposed Trust.

Schedule 1 (4) inserts a new Sixth Schedule into the Principal Act.

Part 1 of that Schedule relates to the trustees of the proposed Trust. It enables deputies to be appointed when vacancies arise and provides that the term of office of a trustee is to be no more than 3 years (re-appointment being permissible for up to 3 consecutive terms). Other provisions deal with allowances, removal from office of and vacation of office by trustees, the appointment of a Chairperson and disclosure of pecuniary interests by trustees.

Part 2 of that Schedule deals with the procedure at meetings of the Trust, including voting, the taking of minutes of meetings and determining who shall preside.

Savings and transitional provisions

Schedule 1 (3) contains an amendment which gives effect to Part 3 of the proposed Sixth Schedule. Part 3 contains provisions of a savings or transitional nature consequent on the enactment of the proposed Act.

It enables the appointment of trustees to take effect from the date the proposed Act commences.

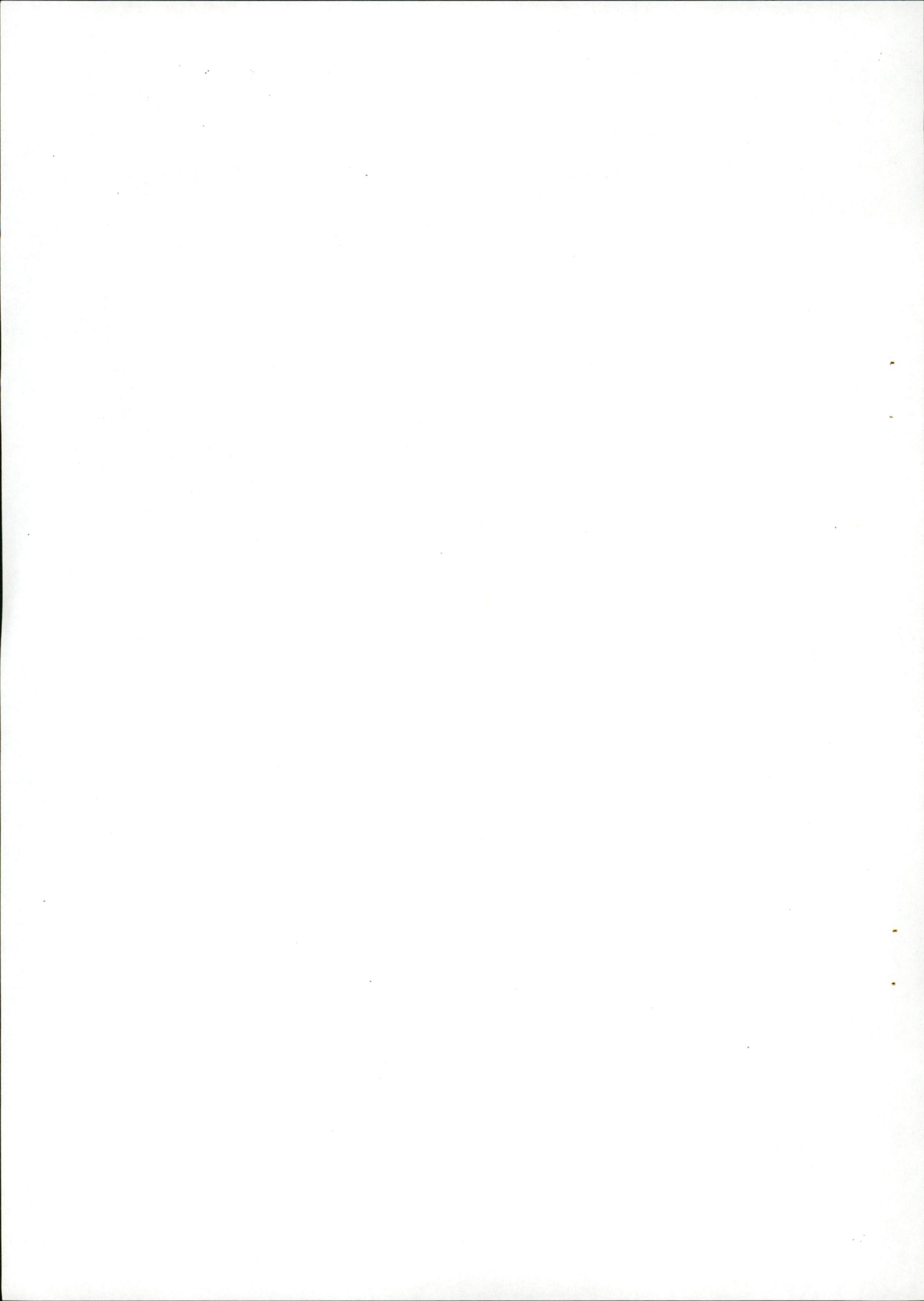
Provision is made for the vesting of the Museum collections in the Trust.

The Trust is made responsible for pursuing any existing claims recoverable by the Museum and for existing liabilities of the Museum.

SCHEDULE 2 - AMENDMENT OF OTHER ACTS

The Public Authorities (Financial Arrangements) Act 1987 is amended to apply the borrowing and other provisions of that Act to the Trust.

An amendment is made to the Public Finance and Audit Act 1983 to bring the Trust under the auditing and finance provisions of that Act relating to statutory bodies.



FIRST PRINT

**MINING (GEOLOGICAL AND MINING MUSEUM)
AMENDMENT BILL 1989**

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
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SCHEDULE 1 - AMENDMENT OF MINING ACT 1973
SCHEDULE 2 - AMENDMENT OF OTHER ACTS

**MINING (GEOLOGICAL AND MINING MUSEUM)
AMENDMENT BILL 1989**

NEW SOUTH WALES



No. , 1989

A BILL FOR

An Act to amend the Mining Act 1973 to constitute the Geological and Mining Museum Trust; to define the Trust's objects and functions; to make provision with respect to the administration of the Geological and Mining Museum; to amend certain other Acts; and for other purposes.

Mining (Geological and Mining Museum) Amendment 1989

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Mining (Geological and Mining Museum) Amendment Act 1989.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Mining Act 1973 No. 42

3. The Mining Act 1973 is amended as set out in Schedule 1.

Amendment of certain other Acts

4. Each Act specified in Schedule 2 is amended as set out in that Schedule.

SCHEDULE 1 - AMENDMENT OF MINING ACT 1973

(Sec. 3)

(1) Part 9A:

After Part 9, insert:

PART 9A - GEOLOGICAL AND MINING MUSEUM

Division 1 - Preliminary

Definitions

169A. (1) In this Part:

"Director" means the Director of the Museum;

SCHEDULE 1 - AMENDMENT OF MINING
ACT 1973 - *continued*

"**mineral**" includes uranium, petroleum, coal and shale;

"**Museum**" means the Geological and Mining Museum originally established under the Mining Act 1906;

"**Trust**" means the Geological and Mining Museum Trust constituted under section 169B;

"**trustee**" means a trustee referred to in section 169B.

(2) In this Part:

- (a) a reference to a function includes a reference to a power, authority and duty; and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

Division 2 - The Geological and Mining Museum Trust

Constitution of the Trust

169B. (1) There is constituted by this Act a corporation under the corporate name of the Geological and Mining Museum Trust.

(2) The Trust is to consist of 9 trustees appointed by the Governor on the recommendation of the Minister, at least 4 of whom are, in the opinion of the Minister, knowledgeable and experienced in geology or mineral resource development.

(3) The Director is eligible (if otherwise qualified) to be appointed as a trustee.

(4) Part 1 of the Sixth Schedule has effect with respect to the trustees.

(5) Part 2 of the Sixth Schedule has effect with respect to the procedure of the Trust.

Objects of the Trust

169C. The objects of the Trust are to control and manage the Museum in a manner which:

SCHEDULE 1 - AMENDMENT OF MINING
ACT 1973 - *continued*

- (a) stimulates interest in the sciences and technologies related to the development and use of mineral and energy resources; and
- (b) increases and disseminates knowledge of the importance of mining, and of mineral and energy resources, to the socio-economic development of Australia; and
- (c) promotes the responsible development and use of mineral and energy resources.

Functions of the Trust

169D. (1) The Trust has the functions conferred or imposed on it by or under this or any other Act.

(2) The Trust may:

- (a) manage and maintain all Trust property and property in the custody of the Trust; and
- (b) construct premises to be used for the Museum; and
- (c) acquire specimens, equipment, photographic items, historical publications and other items and scientific data relating to the sciences and technologies associated with the mineral and energy industries; and
- (d) provide to any person scientific information concerning those sciences and technologies; and
- (e) undertake scientific research in those sciences and technologies; and
- (f) promote and provide exhibitions, lectures, films, publications and other educational instruction or materials; and
- (g) subject to any conditions the Trust imposes, permit the use of any premises used for the Museum in relation to:
 - (i) activities of an educational or cultural nature;
or

SCHEDULE 1 - AMENDMENT OF MINING
ACT 1973 - *continued*

- (ii) social functions; or
- (iii) State occasions; or
- (iv) charitable, commercial or other promotional activities; or
- (v) the holding of conferences or meetings; and
- (h) subject to any conditions the Trust imposes, permit the use of any premises used for the Museum for the taking of photographs, the making of films or sound recordings and the production of television or radio programs or material; and
- (i) provide, or allow the provision of, food or other refreshments on any premises used for the Museum and apply for, hold or dispose of any relevant licence, permit or other authority for that purpose; and
- (j) engage, or enter into contracts or arrangements with, artists, entertainers, lecturers and performers:
 - (i) to appear on any premises used for the Museum; or
 - (ii) in connection with any service provided in pursuance of the objects of the Trust; and
- (k) charge and receive fees or other amounts for, or in connection with, entry into any premises used for the Museum or any advice or service provided, any article sold or any permission given by the Trust.

(3) Subject to this Part and the regulations, the Trust has the control and management of the Museum and of all property vested in the Trust.

(4) The fees and other amounts received by the Trust (as referred to in subsection (2) (k)) and any income earned from them are its property.

(5) The Trust has such functions, in addition to those specified in this section, as are reasonably necessary for the achievement of its objects.

(6) In the exercise of its functions the Trust is subject to the control and direction of the Minister.

SCHEDULE 1 - AMENDMENT OF MINING
ACT 1973 - *continued*

Division 3 - Trust property

Acquisition of property

169E. (1) The Trust may agree to any condition that is not inconsistent with its objects being imposed on its acquisition of any property.

(2) The Trust may acquire, by gift or by devise or bequest, any property for the purposes of this Part and the Trust may agree to and carry out the conditions of the gift, devise or bequest.

(3) The rule of law against remoteness of vesting does not apply to any condition to which the Trust has agreed under this section.

(4) If the Trust acquires any property by gift or by devise or bequest, it may retain the property in the form in which it was acquired, subject to any condition to which the Trust has agreed in relation to the property.

(5) The Stamp Duties Act 1920 does not apply to or in respect of any such acquisition of property by the Trust.

Disposal of property

169F. (1) In this section:

"condition" means a condition to which the Trust has agreed under section 169E.

(2) The Trust may not sell, mortgage or otherwise dispose of any real property, or any property acquired by gift or by devise or bequest, except:

- (a) if the property was acquired without any condition - with the approval of the Governor; or
- (b) if the property was acquired subject to such a condition - in accordance with the condition or subsection (3).

(3) If the Trust determines that any property acquired by the Trust subject to such a condition is not required for the

SCHEDULE 1 - AMENDMENT OF MINING
ACT 1973 - *continued*

purposes of the Trust, the Trust may, with the approval of the Governor:

- (a) sell the property and retain the proceeds of the sale;
or
- (b) exchange the property for other property; or
- (c) give the property to any recreational, scientific or educational institution or to a government department, administrative office or public or local authority; or
- (d) if the Trust is of the opinion that the property is of no commercial value - dispose of the property without valuable consideration.

Vesting of certain property

169G. (1) The Minister may direct, by notice published in the Gazette, that any property that:

- (a) is vested in the Crown and subject to the control and direction of the Minister; and
- (b) in the opinion of the Minister:
 - (i) relates to the sciences and technologies associated with the mineral and energy industries; or
 - (ii) is necessary for the Trust's achievement of its objects,

is to cease to be vested in the Crown and is to vest in the Trust.

(2) If the Minister gives such a direction, the property described in the direction ceases to vest in the Crown and, without any further conveyance or transfer, vests in the Trust.

SCHEDULE 1 - AMENDMENT OF MINING
ACT 1973 - *continued*

Division 4 - Administration

Staff of the Trust etc.

169H. (1) For the purposes of this Part:

- (a) a Director of the Museum; and
- (b) such other persons as may be necessary to enable the Trust to exercise its functions,

may be employed under Part 2 of the Public Sector Management Act 1988.

(2) The Trust may, with the approval of the Minister, arrange for the use of the services of any staff (by secondment or otherwise) or facilities of a government department, an administrative office or a public or local authority.

(3) The Trust may engage such consultants as the Trust requires to exercise its functions.

The Director

169I. (1) The Director is the chief executive officer of the Trust.

(2) The Director is responsible for the administration and management of the Museum, and of any services provided in connection with it, subject to and in accordance with any directions of the Trust.

(3) The Director has such other functions as are conferred or imposed on the Director by or under this or any other Act.

Committees

169J. (1) The Trust may establish committees to assist it in connection with the exercise of any of its functions.

(2) A person may be appointed to be a member of such a committee whether or not the person is a trustee.

(3) The procedure for the calling of meetings of a committee and for the conduct of business at those meetings is, subject to the regulations, to be as determined by the Trust

SCHEDULE 1 - AMENDMENT OF MINING
ACT 1973 - *continued*

or (subject to any determination of the Trust) by the committee.

Division 5 - Financial provisions

Financial year

169K. (1) The financial year of the Trust is the year commencing on 1 July.

(2) A different financial year may be determined by the Treasurer under section 4 (1A) of the Public Finance and Audit Act 1983.

Funds of the Trust

169L. (1) The Trust is to establish at a bank in New South Wales an account to be known as the Geological and Mining Museum Trust Account (in this section referred to as "the Trust Account").

(2) The funds of the Trust are to be paid to the credit of the Trust Account and are to consist of:

- (a) any money appropriated by Parliament for the purposes of the Trust; and
- (b) all money derived by the Trust from admission fees and from fees and other charges imposed for the hire of the trust property or any part of it; and
- (c) all money derived by the Trust from the sale, leasing, letting or hire or other disposal by the Trust of any property which the Trust has power to sell, lease, let or hire or otherwise dispose of; and
- (d) all money received by the Trust as profit arising out of any investment made by it in the exercise of its powers; and

SCHEDULE 1 - AMENDMENT OF MINING
ACT 1973 - *continued*

- (e) all money borrowed by the Trust; and
- (f) all other money received from any source by the Trust.

(3) A payment of money must not be made to the credit of the Trust Account if the payment would be a breach of a condition affecting the money.

- (4) The funds of the Trust are to be applied only:
 - (a) in payment or discharge of the expenses, charges and obligations incurred or undertaken by the Trust in the exercise of its functions; and
 - (b) in the payment of any remuneration payable under this Part.

Trust instruments apply despite secs. 169N, 169O and 169P

169M. The terms of any instrument creating a trust with respect to a fund held by the Trust have effect despite sections 169N, 169O and 169P.

Investment and financial accommodation

169N. (1) The Trust may invest any funds held by the Trust:

- (a) in such manner as may be authorised by the Public Authorities (Financial Arrangements) Act 1987; or
- (b) if that Act does not confer power to invest those funds:
 - (i) in accordance with and subject to the Trustee Act 1925; and
 - (ii) in any other manner approved by the Minister with the concurrence of the Treasurer.

(2) The Trust may obtain financial accommodation and effect financial adjustments under and subject to the Public Authorities (Financial Arrangements) Act 1987 for the purpose of enabling the Trust to exercise its functions.

SCHEDULE 1 - AMENDMENT OF MINING
ACT 1973 - *continued*

Investment pools

169o. (1) The Trust may establish and maintain one or more investment pools for the collective investment of funds held by the Trust.

(2) The Trust may from time to time bring into or withdraw from an investment pool the whole or any part of any funds held by the Trust.

Distribution of income of investment pools

169p. (1) The Trust must distribute the income of an investment pool at least once a year.

(2) On the distribution of the income of an investment pool under this section, the Trust is required, in respect of:

- (a) a fund in the investment pool that is the subject of a trust that specifies:
 - (i) that the income from the investment of the fund is to be applied for a special purpose other than the general purposes of the Trust; or
 - (ii) that the fund is to be applied for a purpose other than the general purposes of the Trust and that fund is insufficient, without the addition of the income from the investment of the fund, to achieve that purpose; and
- (b) any other fund in the investment pool in respect of which the Trust is otherwise required to do so,

to credit the income of that investment pool to the account kept by it in respect of that fund proportionately according to the value attributed equitably to that fund by the Trust at the date of distribution and the period for which that fund has formed part of that investment pool since the date of the last preceding distribution of the income of that investment pool.

(3) If the Trust distributes the income of an investment pool under this section, it may, in respect of a fund, other than

SCHEDULE 1 - AMENDMENT OF MINING
ACT 1973 - *continued*

a fund referred to in subsection (2) (a) or (b), credit the income of that investment pool to any account kept by it.

Nature of funds not affected by pooling

169q. The inclusion in an investment pool of the whole or any part of a fund does not affect:

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

Division 6 - Miscellaneous

Reports to Minister

169r. The Trust is required, in addition to any other report required by the Annual Reports (Statutory Bodies) Act 1984, to provide the Minister with such reports on the activities of the Trust as the Minister may from time to time direct.

Delegation by Trust and Director

169s. (1) The Trust may delegate to a person any of its functions, other than this power of delegation.

(2) The Director may sub-delegate to a person any of the functions delegated to the Director by the Trust, if the Director is authorised in writing to do so by the Trust.

Personal liability of trustees etc.

169t. No matter or thing done by the Trust, any trustee or any person acting under the direction of the Trust, if the matter or thing was done in good faith for the purposes of executing the provisions of this or any other Act, subjects a trustee or a person so acting personally to any action, liability, claim or demand.

Recovery of charges etc. by Trust

169u. Any charge, fee or money due to the Trust may be recovered by the Trust as a debt in a court of competent jurisdiction.

SCHEDULE 1 - AMENDMENT OF MINING
ACT 1973 - *continued*

(2) Section 195 (**Regulations**):

(a) Section 195 (2) (t1):

Omit "and" where lastly occurring.

(b) Section 195 (2) (t2):

After section 195 (2) (t1), insert:

(t2) in relation to the Geological and Mining Museum Trust:

- (i) meetings of the Trust; and
- (ii) committees of the Trust; and
- (iii) the use and custody of the seal of the Trust; and
- (iv) the use of property or services provided by the Trust; and
- (v) the methods to be used in the care of property of the Trust; and
- (vi) the determination and payment of fees to the Trust; and
- (vii) the election of a person by the Trust who has rendered any service to the Geological and Mining Museum or who has furthered the objects of the Trust as an honorary associate of the Museum; and

(3) Section 198 (**Transitional provisions and savings**):

At the end of the section, insert:

(2) The transitional provisions and savings in Part 3 of the Sixth Schedule have effect.

(4) Sixth Schedule:

After the Fifth Schedule, insert:

SCHEDULE 1 - AMENDMENT OF MINING
ACT 1973 - *continued*

**SIXTH SCHEDULE - THE
GEOLOGICAL AND MINING MUSEUM**

(Sec. 169B (4) and (5))

PART 1 - THE TRUSTEES

Chairperson of the Trust

1. (1) Of the trustees, one is to be appointed as Chairperson of the Trust (in and by the trustee's instrument of appointment or by another instrument executed by the Governor).

(2) The Governor may remove a trustee from the office of Chairperson at any time.

(3) A trustee who is Chairperson vacates the office of Chairperson if the trustee:

- (a) is removed from that office by the Governor; or
- (b) resigns that office by instrument in writing addressed to the Minister; or
- (c) ceases to be a trustee.

Deputies

2. (1) The Minister may, from time to time, appoint a person to be the deputy of a trustee, and the Minister may revoke any such appointment.

(2) In the absence of a trustee, the trustee's deputy:

- (a) is, if available, to act in the place of the trustee; and
- (b) while so acting, has all the functions of the trustee and is to be taken to be the trustee.

(3) The deputy of a trustee who is Chairperson of the Trust does not have the trustee's functions as Chairperson.

(4) A person while acting in the office of a trustee is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

SCHEDULE 1 - AMENDMENT OF MINING
ACT 1973 - *continued*

Term of office

3. (1) Subject to this Schedule, a trustee holds office for such period (not exceeding 3 years) as may be specified in the trustee's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

(2) A person may be re-appointed as a trustee but no trustee is to hold office for more than 3 consecutive terms.

Remuneration

4. A trustee is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the trustee.

Vacancy in office of a trustee

5. (1) The office of a trustee becomes vacant if the trustee:

- (a) dies; or
- (b) completes a term of office and is not re-appointed; or
- (c) resigns the office by instrument in writing addressed to the Minister; or
- (d) is removed from office by the Governor under this clause or under Part 8 of the Public Sector Management Act 1988; or
- (e) is absent from 4 consecutive meetings of the Trust of which reasonable notice has been given to the trustee personally or in the ordinary course of post (unless the trustee is granted leave by the Trust or unless, before the expiration of 6 weeks after the last of those meetings, the trustee is excused by the Trust for being absent from those meetings); or
- (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or

SCHEDULE 1 - AMENDMENT OF MINING
ACT 1973 - *continued*

- (g) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983; or
- (h) is convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.

(2) The Governor may remove a trustee from office at any time.

(3) Without limiting the generality of subclause (2), the Governor may remove from office a trustee who contravenes the provisions of clause 7.

Filling of vacancy in office of trustee

6. If the office of any trustee becomes vacant, a person is, subject to this Schedule, to be appointed to fill the vacancy.

Disclosure of pecuniary interests

7. (1) If:

- (a) a trustee has a direct or indirect pecuniary interest in a matter being considered or about to be considered, at a meeting of the Trust; and
- (b) the interest appears to raise a conflict with the proper performance of the trustee's duties in relation to the consideration of the matter,

the trustee is required, as soon as possible after the relevant facts have come to the trustee's knowledge, to disclose the nature of the interest at a meeting of the Trust.

(2) A disclosure by a trustee at a meeting of the Trust that the trustee:

SCHEDULE 1 - AMENDMENT OF MINING
ACT 1973 - *continued*

- (a) is a member, or is in the employment, of a specified company or other body; or
- (b) is a partner, or is in the employment, of a specified person; or
- (c) has some other specified interest relating to a specified company or other body or a specified person,

is sufficient disclosure of the nature of the interest in any matter or thing relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).

(3) Particulars of any disclosure made under this clause are to be recorded in a book kept for the purpose and that book is required to be open at all reasonable hours to the inspection of any person on payment of the fee determined by the trustees.

(4) After a trustee has disclosed the nature of an interest in any matter or thing, the trustee may not, unless the Minister or the other trustees otherwise determine:

- (a) be present during any deliberation of the Trust, or take part in any decision of the Trust, with respect to that matter; or
- (b) exercise any function under this Act with respect to that thing.

(5) For the purposes of the making of a determination of the trustees under subclause (4), a trustee who has a direct or indirect pecuniary interest in a matter to which the disclosure relates may not:

- (a) be present during any deliberation of the other trustees for the purposes of making the determination; or
- (b) take part in the making by the other trustees of the determination.

SCHEDULE 1 - AMENDMENT OF MINING
ACT 1973 - *continued*

(6) A contravention of this clause does not invalidate any decision of the trustees or the exercise of any function under this Act.

(7) This clause does not apply to or in respect of an interest of a trustee (being the provision of goods or services to the trustee by the Trust) if the goods or services are, or are to be, available to members of the public on the same terms and conditions.

(8) A reference in this clause:

- (a) to a meeting of the Trust includes a reference to a meeting of a committee of the Trust; and
- (b) to a trustee includes a reference to a member of such a committee.

Effect of certain other Acts

8. (1) The Public Sector Management Act 1988 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 (except Part 8).

(2) If by or under any other Act provision is made:

- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office; or
- (b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of a trustee or from accepting and retaining any remuneration payable to the person under this Act as a trustee.

(3) The office of a trustee is not, for the purposes of any Act, an office or place of profit under the Crown.

SCHEDULE 1 - AMENDMENT OF MINING
ACT 1973 - *continued*

**PART 2 - THE PROCEDURE OF THE
GEOLOGICAL AND MINING MUSEUM TRUST**

General procedure

9. The procedure for the calling of meetings of the Trust and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Trust.

Quorum

10. The quorum for a meeting of the Trust is 5 trustees.

Presiding trustee

11. (1) The Chairperson of the Trust or, in the absence of the Chairperson, another trustee elected to chair the meeting by the trustees present presides at a meeting of the Trust.

(2) The person presiding at any meeting of the Trust has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

Voting

12. A decision supported by a majority of the votes cast at a meeting of the Trust at which a quorum is present is the decision of the Trust.

Minutes

13. The Trust must cause full and accurate minutes to be kept of the proceedings of each meeting of the Trust.

The Director

14. The Director, if not a trustee:

- (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.

SCHEDULE 1 - AMENDMENT OF MINING
ACT 1973 - *continued*

**PART 3 - TRANSITIONAL PROVISIONS
AND SAVINGS CONSEQUENT ON THE
ENACTMENT OF THE MINING (GEOLOGICAL
AND MINING MUSEUM) AMENDMENT ACT
1989**

Definitions

15. In this Part:

"appointed day" means the day on which section 169B commences;

"Museum" means the Geological and Mining Museum originally established under the Mining Act 1906;

"the 1989 Act" means the Mining (Geological and Mining Museum) Amendment Act 1989;

"Trust" means the Geological and Mining Museum Trust constituted under section 169B;

"trustee" means a trustee referred to in section 169B.

First meeting of the Trust

16. The Minister may call the first meeting of the Trust on or after the appointed day in such manner as the Minister thinks fit.

Vesting of property

17. (1) On the appointed day:

(a) the collections of specimens, equipment, photographic items, books, documents and other items and scientific data (wherever housed) that, immediately before that day, were:

- (i) used or maintained for the purposes of the Museum; and
- (ii) vested in the Crown; and
- (iii) subject to the control and direction of the Minister; and

SCHEDULE 1 - AMENDMENT OF MINING
ACT 1973 - *continued*

- (b) the stock and records of any shop conducted in connection with the Museum, which immediately before that day were:
 - (i) vested in the Crown; and
 - (ii) subject to the control and direction of the Minister; and
 - (c) any display cases, equipment and materials used in connection with the collections, stock or records referred to in paragraph (a) or (b); and
 - (d) all rights and interests in, and all control and management of, such collections, stock or records,
- are vested in the Trust.

(2) If any property, right or interest:

- (a) was, before the appointed day, acquired by the Crown for use in connection with, or for the purposes of, any of the collections referred to in subclause (1) by gift or by devise or bequest, subject to a condition agreed to by the Crown; and
- (b) was held by the Crown for use in connection with any such collection immediately before the appointed day,

the Trust is, on that day, to be taken to have agreed, under section 169E, to the condition subject to which the property, right or interest was acquired.

Claims and liabilities

18. On and from the appointed day:

- (a) all money and liquidated and unliquidated claims that, immediately before the appointed day, was or were payable to or recoverable by the Crown in connection with the Museum is or are money and liquidated and unliquidated claims payable to or recoverable by the Trust; and
- (b) the Trust may, in addition to pursuing any other remedies or exercising any other powers that may be

**SCHEDULE 1 - AMENDMENT OF MINING
ACT 1973 - *continued***

available to it, pursue the same remedies for the recovery of any such money or claims as the Crown might have done but for the enactment of the 1989 Act; and

- (c) the Trust is liable for all money and liquidated and unliquidated claims for which the Crown would have been liable but for the enactment of the 1989 Act.

Regulations

19. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the 1989 Act.

(2) Any such provision may, if the regulations so provide, take effect from the date of assent to the 1989 Act or a later day.

(3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

SCHEDULE 2 - AMENDMENT OF OTHER ACTS

(Sec. 4)

Public Authorities (Financial Arrangements) Act 1987 No. 33:

Schedule 1 (Authorities):

Insert in alphabetical order the following words:

Geological and Mining Museum Trust.

Mining (Geological and Mining Museum) Amendment 1989

**SCHEDULE 2 - AMENDMENT OF OTHER
ACTS - *continued***

Public Finance and Audit Act 1983 No. 152:

Schedule 2 (Statutory Bodies):

Insert in alphabetical order the following words:

Geological and Mining Museum Trust.

