



TASMANIA

**NATIONAL TRUST OF AUSTRALIA (TASMANIA)
AMENDMENT ACT 1992**

No. 53 of 1992

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**NATIONAL TRUST OF AUSTRALIA (TASMANIA)
AMENDMENT ACT 1992**

No. 53 of 1992

**AN ACT to amend the *National Trust of Australia (Tasmania)*
*Act 1975***

[Royal Assent 4 February 1993]

BE it enacted by His Excellency the Governor of Tasmania,
by and with the advice and consent of the Legislative
Council and House of Assembly, in Parliament assembled, as
follows:—

Short title

1—This Act may be cited as the *National Trust of Australia (Tasmania) Amendment Act 1992*.

Commencement

2—This Act commences on the day on which it receives the Royal Assent.

Principal Act

3—In this Act, the *National Trust of Australia (Tasmania) Act 1975** is referred to as the Principal Act.

Section 2 substituted

4—Section 2 of the Principal Act is repealed and the following section is substituted:—

Interpretation

2—In this Act, unless the contrary intention appears—

“**Council**” means the Council of the Trust;

“**councillor**” means a member of the Council;

“**executive officer**” means the executive officer of the Trust;

“**member**” means a member of the Trust;

“**President**” means the President of the Trust;

“**region**” means a region referred to in section 7;

“**rules**” means rules made and in force under section 12A;

“**Regional Committee**” means a Regional Committee of the Trust;

“**Trust**” means the National Trust of Australia (Tasmania) established under this Act.

Part II: heading substituted and Division 1 heading inserted

5—The heading to Part II of the Principal Act is omitted and the following headings are substituted:—

PART II

THE TRUST, REGIONAL COMMITTEES AND THE COUNCIL

Division 1—The Trust

*No. 45 of 1975. Amended by No. 19 of 1980 and No. 43 of 1991.

Section 3 amended (Establishment and objects of the National Trust of Australia (Tasmania))

6—Section 3 (3) of the Principal Act is amended by omitting paragraph (a) and substituting the following paragraph:—

- (a) may purchase, hold, lease, sub-lease, mortgage, exchange, dispose of or otherwise deal with real property; and

Section 4 amended (Constitution and meetings of the Trust)

7—Section 4 of the Principal Act is amended as follows:—

- (a) by omitting from subsection (1) “(being individuals)” and substituting “, including an incorporated or unincorporated body of persons,”;

- (b) by omitting subsections (3) to (7) inclusive and substituting the following subsection:—

(3) Schedule 1 has effect with respect to meetings of the Trust.

Section 4A inserted

8—After section 4 of the Principal Act, the following section is inserted:—

Officers of the Trust

4A—(1) There is to be a President of the Trust who is to be a member elected in accordance with the rules at the annual general meeting of the Trust.

(2) The President holds office for one year.

(3) The President is eligible for re-election but may not hold office as President for more than 3 consecutive years.

(4) There is to be a treasurer of the Trust who is to be a member elected in accordance with the rules at the annual general meeting of the Trust.

(5) The treasurer of the Trust holds office for one year and is eligible for re-election.

(6) The President and the treasurer of the Trust may resign from office by notice in writing given to the executive officer.

(7) If a person is not elected as treasurer of the Trust at an annual general meeting of the Trust or the position of treasurer of the Trust becomes vacant, the Council may appoint a person to be acting treasurer of the Trust.

(8) The person appointed as acting treasurer of the Trust by the Council holds office until the next annual general meeting of the Trust.

(9) Where a vacancy occurs in the office of President or treasurer of the Trust, the person appointed to fill the vacancy holds office for the remainder of the term of office of the President or treasurer of the Trust, as the case may be.

(10) There is to be an executive officer of the Trust who is to be appointed by the Council.

(11) The day-to-day affairs of the Trust are to be managed by the executive officer in accordance with the directions of the Council.

(12) The executive officer may resign from office by notice in writing given to the President.

(13) The Council may remove the executive officer from office.

(14) References in this section to a year are to be construed as references to the period commencing at the conclusion of an annual general meeting of members of the Trust and ending at the conclusion of the next annual general meeting.

Sections 5, 6 and 7 repealed

9—Sections 5, 6 and 7 of the Principal Act are repealed.

Section 8 renumbered (Patrons of the Trust)

10—Section 8 of the Principal Act is renumbered as section 5.

Sections 9, 10 and 11 repealed

11—Sections 9, 10 and 11 of the Principal Act are repealed.

Section 12 renumbered and amended (Common seal of the Trust)

12—(1) Section 12 of the Principal Act is renumbered as section 6.

(2) Section 6 of the Principal Act (as renumbered by subsection (1)) is amended as follows:—

- (a) by omitting from subsection (2) all the words following “the order of the” (first occurring) and substituting “Council.”;
- (b) by omitting from subsection (3) all the words following “Council” (first occurring).

Part II: Divisions 2, 3 and 4 inserted

13—After section 6 of the Principal Act (as renumbered by this Act), the following Divisions are inserted:—

Division 2—Regional Committees

Regions

7—For the purposes of this Act, the State is divided into 3 regions as prescribed by the rules.

Regional Committees

8—(1) There is established in respect of each region a Regional Committee of the Trust.

(2) Each Regional Committee consists of—

- (a) a chairperson; and
- (b) such number of members prescribed by the rules—elected in accordance with the rules by members resident in that region.

(3) A person may not be elected as chairperson or as a member of a Regional Committee unless the person is a member of the Trust and resides in the region for which the Regional Committee is established.

(4) A Regional Committee has such functions and powers as may be prescribed by the rules.

Division 3—The Council

Council

9—There is established a Council of the Trust.

Constitution of the Council

10—(1) The Council consists of—

- (a) the President, who is to be the chairperson of the Council; and
- (b) the treasurer of the Trust; and
- (c) the chairpersons of the Regional Committees; and
- (d) 3 representatives from each region elected by the Regional Committee for the region; and
- (e) the immediate past President of the Trust.

(2) Schedule 2 has effect with respect to the membership of the Council.

(3) Schedule 3 has effect with respect to meetings of the Council.

Functions and powers of the Council

11—(1) The activities of the Trust and the business and management of the Trust is to be administered, managed and conducted by the Council.

(2) The Council has and may exercise and perform the powers and functions that are conferred or imposed on it or the Trust by or under this Act or any other Act.

Delegation by the Council

12—(1) The Council may in writing—

- (a) delegate to any person any of its functions or powers other than this power of delegation; and
- (b) revoke wholly or partly a delegation.

(2) A delegation—

- (a) may be made either generally or as otherwise provided by the instrument of delegation; and
- (b) does not prevent the performance or exercise of a function or power by the Council.

(3) A function or power performed or exercised by a delegate has the same effect as if performed or exercised by the Council.

Division 4—General

Rules

12A—(1) Rules may be made for any purpose for which they may be made under any provision of this Act and generally for the regulation of the affairs, business and management of the Trust.

(2) Without limiting the generality of subsection (1), the rules may make provision for or with respect to all or any of the following matters:—

- (a) the convening, holding and conduct of meetings of the members of the Trust, the Council and the Regional Committees, including special conferences of members of the Trust;
- (b) the quorum at any meeting of members of the Trust and the Regional Committees and the voting at those meetings (whether by post, proxy or otherwise);
- (c) the election of the President and the treasurer of the Trust, the chairperson and members of Regional Committees and certain councillors;
- (d) the appointment of a person to fill a vacancy in the office of President or treasurer of the Trust;
- (e) the admission, resignation and expulsion of members;
- (f) the subscriptions payable by, and the imposition of levies on, members and the recovery of any such subscriptions and levies;
- (g) the duties of the President, treasurer of the Trust, executive officer and other officers of the Trust;
- (h) the establishment, functions and operations of councillors and other bodies for the purpose of furthering the objects of the Trust.

(3) Rules made under this section may be made at a general meeting of the Trust on the recommendation of the Council.

(4) Where the Council proposes to recommend to the Trust the making or amendment of any rules, the Council must request the views of the Regional Committees on the proposed rule or amendment.

(5) A Regional Committee must submit its views on the proposed rule or amendment to the Council within 30 days of the receipt of a request from the Council.

(6) Section 47 of the *Acts Interpretation Act 1931* does not apply to rules made under this section and any such rules are deemed not to be statutory rules within the meaning of the *Rules Publication Act 1953*.

Section 14 amended (Limitation on borrowing)

14—Section 14 of the Principal Act is amended by omitting “shall not, without the approval of the Minister” and substituting “may”.

Section 15 amended (Investment of funds)

15—Section 15 (1) of the Principal Act is amended by omitting “any manner in which trustees are authorized by law to invest trust funds” and substituting “such manner as the Treasurer approves”.

Section 16 amended (Audit)

16—Section 16 of the Principal Act is amended as follows:—

- (a) by omitting from subsections (1), (2) and (3) “*Audit Act 1918*” and substituting “*Financial Management and Audit Act 1990*”;
- (b) by omitting from subsections (1), (2) and (3) “Executive” (wherever occurring) and substituting “Council”.

Section 20 amended (Charges)

17—Section 20 (1) (a) of the Principal Act is amended by inserting “or buildings” after “lands”.

Part IV repealed

18—Part IV of the Principal Act is repealed.

Schedules 1, 2 and 3 inserted

19—After section 21 of the Principal Act, the following Schedules are inserted:—

SCHEDULE 1

Section 4

PROVISIONS WITH RESPECT TO MEETINGS OF THE TRUST

Annual general meeting of Trust

1—(1) An annual general meeting of members of the Trust is to be held in accordance with the rules not later than 6 months after the end of each financial year.

(2) At least 14 days' notice of an annual general meeting of the Trust is to be given to members in accordance with the rules.

Special general meeting of Trust

2—(1) A special general meeting of members of the Trust may be convened by the executive officer in accordance with the rules on receipt of a request from at least 20 financial members of the Trust.

(2) At least 14 days' notice of a special general meeting of the Trust is to be given to members in accordance with the rules.

Special conference of Trust

3—(1) A special conference of members of the Trust may be convened by the Council by notice published, at least 14 days before the day on which the special conference is to be held, in a newsletter or other publication published on behalf of the Trust and in a daily newspaper circulating in each region.

(2) A notice referred to in subsection (1) is to indicate the reason for convening the special conference.

SCHEDULE 2

Section 10

**PROVISIONS WITH RESPECT TO MEMBERSHIP OF THE
COUNCIL**

Term of office

1—(1) The councillors referred to in section 10 (1) (d) hold office, subject to subclause (2), for 2 years and are eligible for re-election.

(2) With respect to the first elected councillors referred to in section 10 (1) (d)—

(a) 2 from each region are to retire on the day immediately preceding the first anniversary of their election; and

(b) one from each region is to retire on the day immediately preceding the second anniversary of his or her election; and

(c) the councillors who are to retire on the day immediately preceding the first anniversary of their election are to be determined by lot by their respective Regional Committees in such manner as the Regional Committee determines.

(3) Each Regional Committee must appoint a substitute councillor for each councillor elected by it and the substitute councillor may, with the approval of the chairperson of the Regional Committee, attend a meeting of the Council when the councillor for whom the substitute councillor is appointed as a substitute councillor is unable to attend.

(4) The chairperson of the Council must cause copies of all minutes of the Council to be provided to substitute members of the Council.

Filling of vacancies

2—Where a vacancy occurs in the office of a councillor referred to in section 10 (1) (d), the Regional Committee which elected that councillor may appoint a member resident in the region to fill the vacancy for the remainder of the term of office of that councillor.

Age of councillors

3—A person is not entitled to hold office as a councillor unless the person has attained the age of 18 years.

Resignation of councillor

4—A councillor referred to in section 10 (1) (d) may resign from office by written notice given to the executive officer.

Removal from office of councillor

5—The Council may remove from office any councillor referred to in section 10 (1) (d) if—

- (a) the Council is satisfied that the councillor has become incapable of performing the duties of a councillor; or
- (b) the Council is satisfied that the councillor has misconducted himself or herself in the performance of the duties of a councillor; or
- (c) the councillor has applied to take, or takes, advantage of any law relating to bankruptcy, or has compounded, or entered into an arrangement, with his or her creditors; or
- (d) the councillor has been convicted (whether in this State or elsewhere) of an offence of such a nature that, in the opinion of the Council, renders it improper for the councillor to continue to be a councillor; or
- (e) without leave of the Council, the councillor has been absent from 3 or more consecutive meetings of the Council; or
- (f) the councillor has ceased to reside in the region which the councillor is elected to represent.

Validity of proceedings, &c.

6—(1) An act or proceeding of the Council or any person acting pursuant to a direction of the Council is not invalidated or prejudiced by reason only of the fact that, at the time when the act or proceeding was done, taken or commenced, there was a vacancy in the membership of the Council.

(2) All acts and proceedings of the Council or any person acting pursuant to any decision or direction of the Council are, notwithstanding the subsequent discovery of any defect in the election of any councillor or that any councillor was disqualified from acting as or incapable of being a councillor, as valid as if that councillor had been duly elected and was qualified to act as or capable of being a councillor and as if the Council had been duly and fully constituted.

(3) Where a councillor does or purports to do, or omits or purports to omit to do, any act or thing in good faith in the performance or exercise of any functions or powers under this Act or for the purpose of giving effect to the objects specified in section 3 (4), the councillor is not to be personally subjected to any such action, liability, claim or demand in respect of that act or omission.

Presumptions

7—In any proceedings by or against the Council, unless evidence is given to the contrary, proof is not required of—

- (a) the constitution of the Council; or
- (b) a resolution of the Council; or
- (c) the election of any member of the Council; or
- (d) the presence of a quorum at any meeting of the Council.

SCHEDULE 3

Section 10

**PROVISIONS WITH RESPECT TO MEETINGS OF THE
COUNCIL**

Convening of meetings of the Council

1—Meetings of the Council may be convened by the President or any 4 members of the Council.

Procedure at meetings

2—(1) Ten members of the Council form a quorum at any duly convened meeting of the Council.

(2) Questions arising at a meeting of the Council are to be determined by a majority of votes of the members of the Council present and voting.

Presiding member

3—(1) The President or, in the absence of the President, another member of the Council chosen by the members present, is to preside at a meeting of the Council.

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

General procedure

4—The procedure for the calling of meetings of the Council and for the conduct of business of the Council at those meetings is, subject to this Act and the rules, to be determined by the Council.

Transitional provisions

20—(1) The persons who, immediately before the commencement of this Act, held office as councillors continue to hold office as councillors until the conclusion of the adjourned annual general meeting of the Trust.

(2) The persons who, immediately before the commencement of this Act, held office as President and treasurer of the Trust continue to hold office as President and treasurer of the Trust until the conclusion of the adjourned annual general meeting of the Trust.

(3) The person who, immediately before the commencement of this Act, held office as Secretary, holds office as executive officer until the conclusion of the first meeting of the Council constituted as provided in section 10.

(4) Where, before the conclusion of the adjourned annual general meeting of the Trust, there is a vacancy in the office of councillor or President or treasurer of the Trust, the Trust may appoint a member to fill the vacancy until the conclusion of the adjourned annual general meeting of the Trust.

(5) Where, before the first meeting of the Council constituted as provided in section 10, there is a vacancy in the office of executive officer, the Trust may appoint a person to fill that vacancy until the first meeting of the Council constituted as provided in section 10.

(6) For the purposes of subsections (1), (2) and (4), **“adjourned annual general meeting of the Trust”** means the annual general meeting of the Trust which was held on 17 October 1992 and adjourned until a date not later than 4 weeks after the day on which this Act receives the Royal Assent.
