

**PUBLIC TRUSTS AND OTHER ACTS (AMENDMENT)  
ACT.**

**New South Wales**



ANNO VICESIMO

**ELIZABETHÆ II REGINÆ**

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**Act No. 29, 1971.**

An Act to confer on the Minister certain powers, authorities, duties and functions of the Governor under the Public Trusts Act, 1897, the Commons Regulation Act, 1898, and the Public Parks Act, 1912; to enable the Minister to delegate such powers, authorities, duties and functions; for these and other purposes to amend those Acts; and for purposes connected therewith. [Assented to, 27th September, 1971.]

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*Public Trusts and Other Acts (Amendment).*

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No. 29, 1971 **B**E 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 :—

Short title.           1. This Act may be cited as the "Public Trusts and Other Acts (Amendment) Act, 1971".

Amendment of Act No. 8, 1897.       2. The Public Trusts Act, 1897, is amended—

Sec. 1.  
(Appointment of trustees of land temporarily reserved.)       (a) by omitting from subsection one of section one the words "The Governor shall be deemed to have had and" and by inserting in lieu thereof the words "The Minister";

Sec. 2.  
(Corporations or councils may be appointed trustees.)       (b) (i) by omitting subsection one of section two and by inserting in lieu thereof the following subsection :—

(I) The Minister may—

(a) by notice in the Gazette, appoint as trustees of land set apart, dedicated or reserved (temporarily or otherwise) for any public purpose—

(i) subject to subsection (IA) of this section, a council; or

(ii) any other corporate body; and

(b)

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- (b) by that or a subsequent like notice, No. 29, 1971  
vest the land in such council or corporate body.
- (ii) by inserting next after subsection one of the same section the following new subsection :—
- (IA) A council shall not be appointed trustees of any land that is partly within its area and partly within the area of another council except with the consent of that other council.
- (iii) by omitting from subsection two of the same section the words “, or were the council of a municipality” and by inserting in lieu thereof the words “or council”; (Validation of past appointments.)
- (c) by omitting from section three the words “Governor may by notice in the Gazette, and without any deed, grant, or other assurance,” and by inserting in lieu thereof the words “Minister may by notice in the Gazette”; Sec. 3. (Minister may vest land in trustees.)
- (d) (i) by omitting from section four the word “Governor” wherever occurring and by inserting in lieu thereof the word “Minister”; Sec. 4. (Minister may appoint additional trustees.)
- (ii) by omitting from the same section the words “grant to, or by notice in the Gazette vest in,” and by inserting in lieu thereof the words “by notice in the Gazette vest in”;
- (iii) by omitting from the same section the word “colony” and by inserting in lieu thereof the word “State”;
- (e) by omitting from section 4A the word “Governor” wherever occurring and by inserting in lieu thereof the word “Minister”; Sec. 4A. (Limitation of number of trustees to seven.)
- (f)

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- No. 29, 1971  
 Sec. 4B.  
 (Quorum.)
- Sec. 4C.  
 (Trustees  
 to report  
 annually  
 to Minister.)
- Sec. 4D.  
 (Removal of  
 trustees.)
- Sec. 10.  
 (Recovery  
 of  
 penalties.)
- New secs.  
 10A and 10B.
- (f) by inserting in subsection four of section 4B after the word "body" the words "or council";
- (g) (i) by inserting in subsection two of section 4C after the words "corporate body" wherever occurring the words "or council";
- (ii) by omitting from the same subsection the word "fifty-eight" and by inserting in lieu thereof the word "seventy-three";
- (h) by omitting from section 4D the word "Governor" and by inserting in lieu thereof the word "Minister";
- (i) by omitting from section ten the words "police or";
- (j) by inserting next after section ten the following new sections :—

Delegation  
 by Minister.

10A. (1) Subject to this section the Minister may by instrument in writing delegate to the holder of any prescribed office the exercise or performance of such of the powers (other than this power of delegation), authorities, duties and functions conferred or imposed upon the Minister by or under this Act as may be prescribed in relation to the holder of that office and may in like manner revoke wholly or in part any such delegation or any such delegation made by a predecessor in office.

(2) Any power, authority, duty or function, the exercise or performance of which has been delegated under this section to the holder of a prescribed office, may while the delegation remains unrevoked be exercised or performed from time to time in accordance with the terms of the delegation

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delegation by the person for the time being holding No. 29, 1971 or acting in that office, whether or not the Minister who made the delegation holds office at the time of that exercise or performance.

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

(4) Where any prescribed power, authority, duty or function is exercised or performed by the holder of a prescribed office in relation to whom that power, authority, duty or function is prescribed and the exercise or performance of the power, authority, duty or function is evidenced in writing, signed by the holder of, or person for the time being acting in, that office in the name of the Minister or in his own name on behalf of the Minister, the power, authority, duty or function shall be deemed to have been exercised or performed by the Minister, whether or not an instrument delegating the exercise or performance of the power, authority, duty or function to that holder was, when the power, authority, duty or function was exercised or performed, in force and whether or not any conditions or limitations referred to in subsection three of this section were observed by the person exercising or performing the power, authority, duty or function.

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

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Regulations.

10B. (1) The Governor may make regulations not inconsistent with this Act prescribing—

- (a) the powers, authorities, duties and functions of the Minister under this Act that may be delegated; and
- (b) the offices to the holders of which such powers, authorities, duties and functions may be delegated.

(2) A regulation under subsection one of this section relating to the powers, authorities, duties or functions that may be delegated to the holder of a prescribed office may describe any power, authority, duty or function in general or particular terms and may so describe the power, authority, duty or function that its exercise or performance by the holder of the prescribed office in relation to whom it is prescribed shall be subject to such conditions or limitations as may be specified in the regulation.

Sec. 11.  
(Definitions.)

- (k) by omitting from section eleven the definition of "Governor" and by inserting in lieu thereof the following new definitions :—

"Area" has the meaning ascribed thereto in the Local Government Act, 1919.

"Council" has the meaning ascribed thereto in the Local Government Act, 1919.

Amendment  
of Act No.  
15, 1898.

- 3. The Commons Regulation Act, 1898, is amended—

Sec. 3.

- (a) (i) by inserting in section three next before the definition of "Common" the following new definition :—

"Area" has the meaning ascribed thereto in the Local Government Act, 1919.

(ii)

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- (ii) by inserting in the same section in the definition of "Common" after the word "Governor" where secondly occurring the words "or by the Minister"; No. 29, 1971
- (iii) by inserting in the same section next after the definition of "Commoners' roll" the following new definition :—  
 "Council" has the meaning ascribed thereto in the Local Government Act, 1919.
- (b) by omitting from section four the words "by the Governor,"; Sec. 4.  
(Trustees of commons to be a body corporate.)
- (c) (i) by omitting subsection one of section six and by inserting in lieu thereof the following subsection :— Sec. 6.  
(First trustees.)
- (1) The Minister may appoint the first trustees of any common.
- (ii) by omitting from subsection three of the same section the word "Governor" and by inserting in lieu thereof the word "Minister";
- (d) by omitting from section eight the words "Colonial Secretary" and by inserting in lieu thereof the word "Minister"; Sec. 8.  
(Election to be communicated.)
- (e) by omitting from section nine the word "Governor" and by inserting in lieu thereof the word "Minister"; Sec. 9.  
(Minister may validate election.)
- (f) by omitting from section ten the words "Governor may" and by inserting in lieu thereof the words "Minister may, by notice in the Gazette,"; Sec. 10.  
(Minister may appoint trustees.)

(g)

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- No. 29, 1971**
- Sec. 11.  
(Councils may be appointed trustees.)
- Sec. 14.  
(Moneys received and expended by trustees.)
- Sec. 15.  
(Trustees may make regulations and enforce the same by fines.)
- Sec. 27.  
(Fixing and alteration of commoners' boundaries.)
- Sec. 28.  
(Removal of trustees.)
- New sec. 28A.
- Delegation by Minister.
- (g) by omitting from section eleven the words "Governor may appoint the council of any municipality or shire" and by inserting in lieu thereof the words "Minister may appoint the council of an area";
- (h) by omitting from the proviso to section fourteen the words "the council of a municipality or shire" and by inserting in lieu thereof the words "a council";
- (i) by omitting from section fifteen the words "Colonial Secretary" and by inserting in lieu thereof the word "Minister";
- (j) by omitting from section twenty-seven the words "Governor may" and by inserting in lieu thereof the words "Minister may, by notice in the Gazette,";
- (k) by omitting from section twenty-eight the word "Governor" wherever occurring and by inserting in lieu thereof the word "Minister";
- (l) by inserting next after section twenty-eight the following new section :—
- 28A. (1) Subject to this section the Minister may by instrument in writing delegate to the holder of any prescribed office the exercise or performance of such of the powers (other than this power of delegation), authorities, duties and functions conferred or imposed upon the Minister by or under this Act as may be prescribed in relation to the holder of that office and may in like manner revoke wholly or in part any such delegation or any such delegation made by a predecessor in office.

(2)



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(2) Any power, authority, duty or function, the exercise or performance of which has been delegated under this section to the holder of a prescribed office, may while the delegation remains unrevoked be exercised or performed from time to time in accordance with the terms of the delegation by the person for the time being holding or acting in that office, whether or not the Minister who made the delegation holds office at the time of that exercise or performance. No. 29, 1971

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

(4) Where any prescribed power, authority, duty or function is exercised or performed by the holder of a prescribed office in relation to whom that power, authority, duty or function is prescribed and the exercise or performance of the power, authority, duty or function is evidenced in writing, signed by the holder of, or person for the time being acting in, that office in the name of the Minister or in his own name on behalf of the Minister, the power, authority, duty or function shall be deemed to have been exercised or performed by the Minister, whether or not an instrument delegating the exercise or performance of the power, authority, duty or function to that holder was, when the power, authority, duty or function was exercised or performed, in force and whether or not any conditions or limitations referred to in subsection three of this section were observed by the person exercising or performing the power, authority, duty or function.

(5)

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

Sec. 29.  
(Regulations.)

(m) (i) by omitting from paragraph (1) of section twenty-nine the word "and" where lastly occurring;

(ii) by inserting next after the same paragraph the following new paragraphs :—

(1A) the powers, authorities, duties and functions of the Minister under this Act that may be delegated;

(1B) the offices to the holders of which such powers, authorities, duties and functions may be delegated; and;

(iii) by inserting next after paragraph (2) of the same section the following new paragraph :—

A regulation under this section with respect to the powers, authorities, duties or functions that may be delegated to the holder of a prescribed office may describe any power, authority, duty or function in general or particular terms and may so describe the power, authority, duty or function that its exercise or performance by the holder of the prescribed office in relation to whom it is prescribed shall be subject to such conditions or limitations as may be specified in the regulation.

Amendment  
of Act No.  
40, 1912.

Sec. 1.  
(Short  
title.)

4. The Public Parks Act, 1912, is amended—

(a) by omitting from the matter relating to Part III in section one the figures "7-13" and by inserting in lieu thereof the figures "7-15";

(b)

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- (b) by inserting in section three next before the definition of "Minister" the following new definitions :—
- No. 29, 1971  
Sec. 3.  
(Interpretation.)
- "Area" has the meaning ascribed thereto in the Local Government Act, 1919.
- "Council" has the meaning ascribed thereto in the Local Government Act, 1919.
- (c) (i) by omitting from subsection one of section four the words "Governor may" and by inserting in lieu thereof the words "Minister may, by notice in the Gazette,";
- Sec. 4.  
(Appointment of trustees.)
- (ii) by omitting from subsection three of the same section the words "or may from time to time be prescribed by the Governor," and by inserting in lieu thereof the words "prescribed by the Governor or may from time to time be declared by the Minister, by notice in the Gazette,";
- (d) by omitting from subsection one of section six the words "Governor may appoint the council of any municipality" and by inserting in lieu thereof the words "Minister may, by notice in the Gazette, appoint the council of an area";
- Sec. 6.  
(Councils may be trustees.)
- (e) (i) by omitting from subsection one of section seven the word "municipal";
- Sec. 7.  
(Vacancies how supplied.)
- (ii) by omitting from the same subsection the words "Governor may" and by inserting in lieu thereof the words "Minister may, by notice in the Gazette,";
- (f) by omitting from section 7A the words "Governor may" and by inserting in lieu thereof the words "Minister may, by notice in the Gazette,";
- Sec. 7A.  
(Ex-officio trustees.)

(g)

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Sec. 7B.  
(Quorum.)
- (g) by omitting from subsection four of section 7B the words "the council of a municipality" and by inserting in lieu thereof the words "a council";
- Sec. 7C.  
(Trustees to report annually to Minister.)
- (h) by omitting from subsection two of section 7C the words "the council of a municipality" and by inserting in lieu thereof the words "a council";
- Sec. 7D.  
(Removal of trustees.)
- (i) by omitting from section 7D the word "Governor" and by inserting in lieu thereof the word "Minister";
- Sec. 12.  
(Legal proceedings.)
- (j) by omitting from subsection one of section twelve the words "or police";
- New secs.  
14 and 15.
- (k) by inserting next after section thirteen the following new sections :—

Delegation  
by Minister.

14. (1) Subject to this section the Minister may by instrument in writing delegate to the holder of any prescribed office the exercise or performance of such of the powers (other than this power of delegation), authorities, duties and functions conferred or imposed upon the Minister by or under this Act as may be prescribed in relation to the holder of that office and may in like manner revoke wholly or in part any such delegation or any such delegation made by a predecessor in office.

(2) Any power, authority, duty or function, the exercise or performance of which has been delegated under this section to the holder of a prescribed office, may while the delegation remains unrevoked be exercised or performed from time to time in accordance with the terms of the delegation by the person for the time being holding or acting in that office, whether or not the Minister who made the delegation holds office at the time of that exercise or performance.

(3)

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(3) A delegation made under this section No. 29, 1971 may be made subject to such conditions or such limitations as to the exercise or performance of any of the prescribed powers, authorities, duties or functions delegated or as to time or circumstances as may be specified in the instrument of delegation.

(4) Where any prescribed power, authority, duty or function is exercised or performed by the holder of a prescribed office in relation to whom that power, authority, duty or function is prescribed and the exercise or performance of the power, authority, duty or function is evidenced in writing, signed by the holder of, or person for the time being acting in, that office in the name of the Minister or in his own name on behalf of the Minister, the power, authority, duty or function shall be deemed to have been exercised or performed by the Minister, whether or not an instrument delegating the exercise or performance of the power, authority, duty or function to that holder was, when the power, authority, duty or function was exercised or performed, in force and whether or not any conditions or limitations referred to in subsection three of this section were observed by the person exercising or performing the power, authority, duty or function.

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

15. (1) The Governor may make regulations <sup>Regulations.</sup> not inconsistent with this Act prescribing—

- (a) the powers, authorities, duties and functions of the Minister under this Act that may be delegated; and

(b)

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(b) the offices to the holders of which such powers, authorities, duties and functions may be delegated.

(2) A regulation under subsection one of this section relating to the powers, authorities, duties or functions that may be delegated to the holder of a prescribed office may describe any power, authority, duty or function in general or particular terms and may so describe the power, authority, duty or function that its exercise or performance by the holder of the prescribed office in relation to whom it is prescribed shall be subject to such conditions or limitations as may be specified in the regulation.

Savings.

**5.** All persons holding office as trustees immediately before the commencement of this Act and who were appointed under—

- (a) the Public Trusts Act, 1897, shall be deemed to have been appointed under the Public Trusts Act, 1897, as amended by this Act;
- (b) the Commons Regulation Act, 1898, shall be deemed to have been appointed under the Commons Regulation Act, 1898, as amended by this Act; and
- (c) the Public Parks Act, 1912, shall be deemed to have been appointed under the Public Parks Act, 1912, as amended by this Act.

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SECOND-HAND