

Queensland



ANNO VICESIMO SEXTO

ELIZABETHAE SECUNDAE REGINAE

No. 8 of 1977

An Act to provide for the establishment and incorporation of a body to be known as the Queensland Performing Arts Trust, to make provision with respect to the administration of that body and for purposes incidental thereto

[ASSENTED TO 5TH APRIL, 1977]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

1. Short title and commencement. (1) This Act may be cited as the *Queensland Performing Arts Trust Act 1977*.

(2) This Act shall commence on a date to be fixed by Proclamation.

2. Arrangement. This Act is divided into Parts and Divisions of Parts as follows:—

PART I—PRELIMINARY (ss. 1-4);

PART II—THE TRUST;

Division I—Constitution and Membership of Trust (ss. 5–15);*Division II—Objects and Powers of Trust* (ss. 16–19);*Division III—Meetings, Proceedings and Business of Trust* (ss. 20–29);

PART III—FINANCIAL PROVISIONS;

Division I—Funds, Accounts and Budget (ss. 30–38);*Division II—Borrowing powers* (ss. 39–52);

PART IV—GENERAL PROVISIONS (ss. 53–64).

3. Interpretation. In this Act, save where the contrary intention appears—

- “by-laws” means by-laws made under this Act;
- “Chairman” means the Chairman of the Trust;
- “Deputy Chairman” means the Deputy Chairman of the Trust;
- “equipment” includes furniture, furnishings, plant, stage scenery, light and sound equipment, properties, costumes, drapes, curtains and chattels suitable or convenient for the production of stage presentations and presentation of the performing arts;
- “financial year” means the period of 12 months ending on 30 June in any year;
- “member” means a person occupying any of the offices of member of the Trust including that of Chairman;
- “Minister” means the Minister for Education and Cultural Activities or other Minister of the Crown who, at the material time, is charged with the administration of this Act and includes a Minister of the Crown who is temporarily performing the duties of the Minister;
- “the performing arts” means any of the branches of the musical, operatic, dramatic, terpsichorean, visual or auditory arts;
- “Trust” means the Queensland Performing Arts Trust established and incorporated under this Act.

4. Trust a statutory corporation. It is hereby declared that the Trust is a statutory corporation for the purposes of the *Queensland Cultural Centre Trust Act 1976*.

PART II—THE TRUST

Division I—Constitution and Membership of Trust

5. Constitution of Trust. (1) There is hereby established a body under the name and style, Queensland Performing Arts Trust.

(2) The Queensland Performing Arts Trust is a body corporate and shall have perpetual succession and a common seal and, subject to this Act, shall be capable of—

- (a) suing and being sued;
- (b) compounding or proving in any court of competent jurisdiction all debts and sums of money due to it;

(c) acquiring, holding, letting and alienating (by exchange, sale, demise or otherwise) property or any interest therein, whether situated in Queensland or elsewhere;

(d) doing and suffering all such other acts and things as bodies corporate may, in law, do and suffer.

(3) All courts and persons acting judicially shall take judicial notice of the common seal of the Trust and, until the contrary is proved, shall presume that it was duly affixed to any document on which it appears.

6. Membership of Trust. The Trust shall consist of nine members who have not attained the age of 70 years at the date of their appointment of whom—

(a) one shall be the Director-General of Education or his nominee;

(b) not less than four of the other members shall be persons who are knowledgeable and experienced in the performing arts.

7. First appointment to Trust. (1) The Governor in Council shall by notification published in the Gazette, appoint a date on or before which the Trust is to be first constituted under this Act.

(2) The Trust shall be constituted in the manner prescribed on or before the date appointed pursuant to subsection (1).

(3) Upon the appointment of the total number of members in the manner prescribed, the Trust shall be duly constituted on and from the date on which the notification of such appointment is published in the Gazette or from such later date as may be specified in the notification.

(4) The first appointed members other than the Director-General of Education or his nominee shall be appointed upon the recommendation of the Minister made after consultation with such persons, authorities, organizations and associations as the Minister deems fit.

8. Term of appointment. (1) The first appointed members other than the Director-General of Education or his nominee shall be divided into two equal groups and the members to be included in each of the groups shall be determined by the Governor in Council.

(2) The members comprising such one of the groups referred to in subsection (1) as the Governor in Council determines shall hold office as members for a term of two years from the commencement of this Act and shall, if otherwise qualified, be eligible for reappointment.

(3) The members not comprising the group referred to in subsection (2) shall hold office as members for a term of four years from the commencement of this Act and shall, if otherwise qualified, be eligible for reappointment.

(4) Upon the second anniversary of the commencement of this Act, and thereafter every two years, four persons shall be appointed as members by the Governor in Council on the recommendation of the Minister made after consultation with such persons, authorities, organizations and associations as the Minister deems fit.

(5) A member appointed pursuant to subsection (4) shall hold office as a member for a term of four years from the date upon which he takes up office as a member but, if by the expiration of that term his successor has not been duly appointed he shall hold office as a member until his successor takes up office as a member.

(6) A member appointed pursuant to subsection (4) shall, if otherwise qualified, be eligible for reappointment as a member.

9. Casual vacancies. (1) Where a vacancy occurs in the office of a member before the expiration of his term of office, the vacancy so arising shall be filled by a person appointed thereto by the Governor in Council on the recommendation of the Minister.

(2) A person appointed to fill a casual vacancy shall, subject to this Act, hold office as a member until the time when his predecessor's term of office would have expired, and shall, if otherwise qualified, be eligible for reappointment.

10. Vacation of office. (1) The office of a member shall become vacant if the member—

- (a) dies;
- (b) declines to act or to act further as a member;
- (c) resigns his office by writing under his hand addressed to the Minister (such resignation to be complete and take effect from the time it is received by the Minister);
- (d) is absent without prior leave granted by the Trust from three consecutive meetings of the Trust of which due notice has been given to him personally or in the ordinary course of post;
- (e) ceases to be qualified to be a member;
- (f) is removed from office as a member by the Governor in Council or
- (g) attains the age of 70 years.

(2) A member who is directly or indirectly interested in a contract made or proposed to be made by the Trust (otherwise than as a shareholder, and in common with the other shareholders, of an incorporated company consisting of not less than 25 shareholders) shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Trust.

(3) A disclosure made under subsection (2) shall be recorded in the minutes of the Trust and the member—

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

11. Disqualification from office. A person who—

- (a) is an undischarged bankrupt or takes advantage of the laws in force for the time being relating to bankrupt or insolvent debtors;
- (b) has been convicted in Queensland of an indictable offence or elsewhere than in Queensland in respect of an act or omission that if done or made by him in Queensland would have constituted an indictable offence; or

(c) is a patient within the meaning of the *Mental Health Act* 1974,
shall not be capable of being or continuing to be a member.

12. Removal from office. The Governor in Council may at any time remove a member other than the Director-General of Education or his nominee from office as member if—

- (a) he becomes incapable, in the opinion of the Governor in Council, of discharging the duties of his office;
- (b) he is, in the opinion of the Governor in Council, incompetent or unfit to hold office.

13. Chairman and Deputy Chairman. (1) The Governor in Council shall appoint a member to be Chairman of the Trust and another member to be Deputy Chairman of the Trust.

(2) A member appointed as the Chairman or Deputy Chairman shall hold office as such until—

- (a) the appointment of another member as the Chairman, or, as the case may be, Deputy Chairman;
 - (b) the expiration of the period of his appointment as member;
or
 - (c) he otherwise ceases to be a member,
- whichever first occurs.

(3) The Chairman or Deputy Chairman may, by writing under his hand addressed to the Minister resign his office as Chairman or Deputy Chairman.

(4) Where a member appointed as Chairman or Deputy Chairman is, upon ceasing to be Chairman or, as the case may be, Deputy Chairman by virtue of the expiration of the period of his appointment as a member, reappointed as a member he is eligible for reappointment as Chairman or Deputy Chairman.

(5) A person appointed to fill a vacancy in the office of a member who was Chairman or Deputy Chairman shall not by reason only of his appointment as member be Chairman or, as the case may be, Deputy Chairman.

14. Allowances. (1) Subject to subsection (2), each member shall be paid such allowances, if any, as the Minister from time to time determines.

(2) Allowances shall not be paid by the Trust to a member who is an officer of the Public Service of Queensland for attendance at any meeting of the Trust held during ordinary office working hours of that officer.

15. Holders of office not affected by restrictive employment provisions. A provision of any enactment requiring the holder of an office to devote the whole of his time to the duties of his office or prohibiting him from engaging in employment outside the duties of his office shall not operate to hinder his holding that office and also an appointment as member, Chairman or Deputy Chairman or, subject to section 14 (2), his acceptance and retention of any allowances payable under this Act.

*Division II—Objects and Powers of Trust***16. Objects of Trust.** The objects of the Trust are—

- (a) to produce, present and manage the performing arts in the building occupied by the Trust at the Queensland Cultural Centre as defined in the *Queensland Cultural Centre Trust Act 1976* or any other building;
- (b) to establish and conduct schools, lectures, courses, seminars and other forms of education in the performing arts;
- (c) to teach, train and instruct persons and promote education and research in the performing arts;
- (d) to provide or assist in providing premises and equipment for the purpose of the presentation of the performing arts;
- (e) to promote and encourage the development and presentation of the performing arts;
- (f) to promote and encourage public interest and participation in the performing arts;
- (g) to promote and encourage either directly or indirectly the knowledge, understanding, appreciation and enjoyment of the performing arts.

17. General powers of Trust. (1) Subject to this Act, the Trust has power to do all things necessary or convenient to be done in connexion with, or as incidental to, the carrying out of its objects.

(2) Without limiting the generality of subsection (1), and any other powers conferred upon the Trust by the provisions of this Act other than this section, the powers of the Trust include power—

- (a) to enter into leases, licences or other contracts with the Queensland Cultural Centre Trust as defined in the *Queensland Cultural Centre Trust Act 1976* or any other person or body with a view to obtaining the right to occupy and use premises temporarily or permanently;
- (b) to engage and enter into contracts for the appearance of artists, entertainers and performers;
- (c) to employ writers, composers, choreographers, designers, producers, directors, instructors, technical personnel and such other employees as the Trust thinks fit;
- (d) to purchase, hire or take on loan or otherwise obtain the right to use equipment and install and use that equipment in any premises;
- (e) to make charges for admission to performances or other functions held by the Trust;
- (f) to grant rights to televise, broadcast, film or record performances or other functions held or controlled by the Trust;
- (g) to publish works and to license their performance in any form.

18. Power to co-operate with other bodies. (1) The Trust may co-operate with—

- (a) a statutory corporation within the meaning of the *Queensland Cultural Centre Trust Act 1976*; or

(b) a corporation, body or society (whether in Queensland or not) that has one or more objects wholly or substantially similar to an object of the Trust,

for the purpose of promoting the objects of the statutory corporation, corporation, body or society or the objects of the Trust.

(2) If the Trust thinks fit it may become a member or an affiliate of a corporation, body or society referred to in paragraph (b) of subsection (1).

19. Power to lend and accept property on loan. (1) The Trust may lend or make available to a statutory corporation, corporation, body or society referred to in section 18 (1) upon such terms and conditions as the Trust thinks fit, any premises or other property of the Trust or of which it has the care or control.

(2) The Trust may accept on loan any premises, equipment or other property.

Division III—Meetings, Proceedings and Business of Trust

20. Conduct of business. Subject to this Act, the Trust shall conduct its business and proceedings at meetings in such manner as it determines from time to time.

21. Quorum. (1) The quorum of the Trust shall consist of a majority of the total number of members for the time being holding office as members.

(2) A duly convened meeting of the Trust at which a quorum is present shall be competent to transact any business of the Trust and shall have and may exercise all the powers, authorities, functions and duties by this Act conferred or imposed upon the Trust.

22. Meetings. (1) The Trust shall meet at such times and places as it determines.

(2) Notice of every meeting or adjourned meeting, save a meeting adjourned to a later hour of the same day on which it was appointed to be held, shall be in writing and shall be given to every member at least seven days prior to the date appointed for that meeting.

Where circumstances exist which in the opinion of the Chairman or two members constitute an emergency, the Chairman or, as the case may be, two members may call a meeting of the Trust and that meeting may be held without notice having been given as prescribed.

A notice of a meeting or an adjourned meeting may be given to a member by prepaid post letter addressed to his place of business or residence last known to the Chairman.

(3) The members present at a meeting of the Trust may from time to time adjourn the meeting.

If a quorum is not present at a meeting of the Trust within 15 minutes after the time appointed for the commencement of the meeting, the member or members present or the majority of them if more

than two are present or the secretary of the Trust if no member is present or if the members present are equally divided on the issue may adjourn the meeting to a time and date not later than seven days from the date of the adjournment.

The provisions of this subsection shall be construed so as not to prevent the adjournment of a meeting to a later hour of the same day on which the meeting was appointed to be held.

(4) The Chairman shall preside at each meeting of the Trust at which he is present and in his absence the Deputy Chairman if present shall preside.

If both the Chairman and Deputy Chairman are absent from a meeting, a member elected at that meeting shall preside.

A member elected to preside at a meeting shall, while he presides, have all the powers, functions, duties and immunities of the Chairman.

23. Conduct of affairs. The Trust shall exercise or perform a power, authority, function or duty by a majority vote of its members present at the meeting and voting on the business in question.

A member who, being present at a meeting and eligible to vote, abstains from voting shall be taken to have voted for the negative.

The Chairman shall have a deliberative vote and, in the event of an equality of votes, a casting vote.

24. Minutes. The Trust shall keep a record of its proceedings at meetings.

25. Validity of proceedings. No act or proceeding of the Trust shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken or commenced there was a vacancy in the office of any member, there was a defect in the appointment of a member or a person not qualified or having ceased to be qualified may have acted as a member.

26. Staff. (1) (a) The Governor in Council may, on the recommendation of the Minister, appoint a person to be the Director of the Trust and the appointee shall also be the secretary of the Trust.

(b) The Director shall be paid such salary as is determined by the Governor in Council.

(2) (a) The Trust may appoint and employ such other employees as it thinks necessary for the carrying out of the objects of the Trust.

(b) Those employees shall, subject to any applicable award of any industrial court, commission, tribunal or authority, be appointed and employed on such terms and conditions as to salary and otherwise as the Trust thinks fit.

(3) Salaries of the Director and other employees of the Trust shall be paid by the Trust from its general fund.

27. Delegation by Trust. (1) The Trust may, in relation to any matter or class of matters, or in relation to any activity or function of the Trust, by resolution, delegate all or any of its powers and authorities,

duties and functions under this Act (except this power of delegation, its powers in relation to the making of by-laws, the adoption of a budget and the approval by it of the proposed disposition of moneys pursuant to section 36 (5)) to any member or to any committee of its members, or to any employee or employees of the Trust.

(2) Every delegation under this section may be varied or revoked by resolution of the Trust, and no delegation shall prevent the exercise of any power, authority, duty or function by the Trust.

(3) Any power, authority, duty or function delegated by the Trust may be exercised or performed by the delegate—

(a) in accordance with the resolution of delegation; and

(b) if the exercise of the power or authority or the performance of the duty or function is dependent upon the opinion, belief or state of mind of the Trust in relation to a matter, upon the opinion, belief or state of mind of the delegate in relation to that matter.

28. Common seal. (1) The common seal of the Trust shall be kept in the custody of the Director of the Trust or, where there is a vacancy in that position, the Chairman.

(2) The common seal shall not be affixed to a document except under the authority of a resolution of the Trust and shall be affixed by the person who has custody of the seal in accordance with this Act.

(3) A document made or issued by the Trust for the purposes of this Act shall be sufficiently authenticated if it is made or, as the case may be, signed by the Director of the Trust.

29. Protection of members. A person who is or has been a member is not personally liable for anything done or omitted in good faith, in, or in connexion with the exercise of any power conferred, or the carrying out of any duty imposed, on the Trust by this Act, or reasonably believed by that person to have been conferred or imposed by this Act.

PART III—FINANCIAL PROVISIONS

Division I—Funds, Accounts and Budget

30. Funds. The Trust shall establish and at all times keep—

(a) a general fund;

(b) a trust fund;

(c) a loan fund; and

(d) such other funds as are prescribed.

The funds shall be separate and distinct and separate bank accounts shall be kept for each fund.

31. General fund. (1) There shall be paid into the general fund all moneys appropriated by Parliament in each year out of the consolidated revenue of the State for the purposes of and paid to the Trust.

(2) All other moneys paid to the Trust other than moneys prescribed to be paid into the trust fund, loan fund or other prescribed fund shall be paid into the general fund.

(3) The Trust shall apply the moneys from time to time standing to the credit of its general fund towards the costs incurred by it in or in connexion with the proper exercise and performance of its powers, authorities, functions and duties and in fulfilling any prescribed purpose for which any other prescribed fund is not appropriated by this Act.

32. Trust fund. (1) There shall be paid into the trust fund all moneys paid to the Trust for the use of any person or for any specified purpose within the purview of this Act, and the proceeds from the sale of any gift, bequest or devise accepted by the Trust.

(2) The Trust shall apply the money from time to time standing to the credit of the trust fund to the uses or purposes for which it was paid to the Trust. Where no special condition is attached to any gift, bequest or devise, the proceeds of such gift, bequest or devise, subject to the approval of the Minister, shall be used for any special project approved by resolution of the Trust.

33. Loan fund. (1) There shall be paid into the loan fund all moneys paid to the Trust by way of loan or subsidy for the purposes of this Act.

(2) The Trust shall apply the moneys standing to the credit of its loan fund to expenditure necessarily incurred by it in carrying out the works or purposes for which the loans were authorized or subsidies paid.

34. Accounts and audit. (1) The Trust shall keep accurately such accounts, books and records of its receipts and expenditure as shall record and explain correctly all transactions.

(2) The Auditor-General or a person authorized by him shall at least once in each year audit the accounts and records of financial transactions of the Trust.

(3) The Trust shall, as soon as practicable but not more than three months after the end of each financial year, furnish to the Minister a balance sheet of its affairs at the close of that year and a statement of account for that year in respect of each fund kept by it in such form and containing such particulars as the Minister, on the recommendation of the Auditor-General, directs.

The Auditor-General shall certify whether or not the balance sheet and statements of account—

(a) are in agreement with the books and accounts kept by the Trust; and

(b) in his opinion fairly set out the financial transactions of the Trust for the financial year in question.

(4) (a) The Auditor-General shall, at least once in each year, report to the Trust the results of the audit carried out under subsection (2) and shall, if he thinks fit, make recommendations to the Trust with respect to the conduct of the financial transactions of the Trust and the manner of operating and maintaining its accounts.

(b) A copy of any report and recommendation made pursuant to paragraph (a) shall be furnished by the Auditor-General to the Minister.

(5) The Trust shall give due consideration to the report and recommendations, if any, of the Auditor-General made pursuant to subsection (4).

(6) The Auditor-General or person authorized by him shall have the right of access at all reasonable times to the accounts, books and records of the Trust and may direct the Director or any member or employee of the Trust to make available copies of or extracts from those accounts, books and records or to supply such information and explanations as he thinks fit for the purpose of the audit and the Director, member or employee shall comply with a direction so given.

35. Annual report. (1) The Trust shall as soon as practicable but not more than three months after the end of each financial year cause a report of its works and activities during the year in question to be prepared and forwarded to the Minister for presentation to Parliament.

(2) The report shall contain a copy of the balance sheet and statements of account furnished to the Minister pursuant to section 34 (3).

36. Budget. (1) Before 31 May in each year, the Trust shall approve, adopt and lodge with the Minister a budget in respect of its general fund wherein it shall estimate as accurately as possible—

(a) the amount to be disbursed by it from that fund during the financial year next following in the proper exercise by it of its functions;

(b) the amount to be received by it into the general fund during the financial year next following.

(2) The budget lodged pursuant to subsection (1) shall be of no force or effect until it is approved by the Minister, and the Minister may amend the budget in such way as he thinks reasonable and shall amend it where necessary and in any item so that it shall as nearly as possible balance for the year to which it relates having regard to the general fund revenues reasonably expected for that year.

(3) When the Minister approves of the budget, the budget as approved, whether or not it has been amended pursuant to subsection (2) shall be binding on the Trust.

(4) If the general fund contains a surplus or shows a deficit at the end of a financial year, the Trust shall take the surplus or, as the case may be, deficit into account for the next succeeding financial year by—

(a) showing a surplus as a receipt of revenue for that succeeding financial year; or

(b) showing a deficit as a disbursement for that succeeding financial year.

(5) The Trust shall, before 31 May in each year, review moneys available to it in the trust and loan funds and such other funds as may be prescribed and shall, subject to the terms of any trust and before any disbursement is made, approve the proposed dispositions of those moneys.

37. Observance of budget. (1) Subject to this section, the Trust shall confine its disbursements from its general fund throughout a financial year within the items and amounts contained in its general fund budget for that year as approved by the Minister.

(2) If during any financial year it appears to the Trust that an extraordinary circumstance has arisen requiring the Trust to make in that financial year a disbursement from its general fund—

(a) that was not provided for in the budget (as approved) for that financial year; or

- (b) that exceeds the amount estimated in respect of that disbursement in the budget (as approved) for that financial year,
- the Trust shall before making such disbursement or excess disbursement—
- (c) by resolution approve that such disbursement or excess disbursement be made; and
- (d) obtain approval of the Minister for an amendment to the budget.
- (3) The Trust shall ensure that the budget as amended and approved will not then be exceeded in any item or in total by the disbursement referred to in subsection (2).

38. Investment of moneys. (1) The Trust may, from time to time, invest moneys standing to the credit of any fund established by it under section 30 and not required for the time being for the purposes of this Act, in any investment authorized by the *Trusts Act 1973* or upon security with an approved dealer or upon such other security or investment as the Treasurer approves.

(2) Every security or safe custody acknowledgment or other document evidencing title issued in respect of any investment shall be held by the Trust.

(3) For the purposes of this section the expression “approved dealer” means a person who—

- (a) is an authorized dealer in the short term money market with established lines of credit with the Reserve Bank of Australia as a lender of last resort; and
- (b) is approved by Order in Council.

(4) The powers conferred on the Trust by this section shall not be exercised in relation to moneys standing to the credit of the trust fund if in respect of those moneys—

- (a) the instrument creating the trust directs expressly to the contrary; or
- (b) the exercise of the powers constitutes a breach of a condition under which those moneys were acquired.

Division II—Borrowing powers

39. Power to borrow. (1) Subject to this Act, the Trust may from time to time borrow money—

- (a) from the Treasurer;
- (b) by the sale of debentures, bonds or inscribed stock; or
- (c) partly in one and partly in another of the ways specified in subparagraphs (a) and (b).

(2) Before entering into negotiations to borrow money in any way specified in subsection (1), the Trust shall obtain the sanction of the Treasurer authorizing it to enter into such negotiations and for that purpose shall forthwith furnish to the Treasurer such information as he requires.

(3) The Trust shall not borrow money pursuant to negotiations sanctioned by the Treasurer without the authority of the Governor in Council given by Order in Council first had and obtained.

The Order in Council shall declare—

- (a) the amount of money that may be borrowed;
- (b) the purposes for which the money is to be borrowed;
- (c) the currency of the loan;
- (d) the amount of interest payable on the loan;
- (e) the terms and conditions for the redemption of the loan, whether by yearly, half-yearly or quarterly payments or by payments into a sinking fund; and
- (f) such other conditions as the Governor in Council thinks fit to impose.

(4) The Trust shall be a local body within the meaning of the *Local Bodies' Loans Guarantee Act 1923-1975*, the provisions whereof shall apply and extend accordingly, subject to such modifications as the Governor in Council prescribes generally by regulations or in respect of a particular loan by Order in Council.

40. Procedure before borrowing. Before proceeding to borrow money the Trust—

- (a) shall, at a special meeting of the Trust called for the purpose, pass a resolution to borrow that money;
- (b) shall cause to be prepared—
 - (i) plans and specifications of the projects or full details of any other undertakings for which the money to be borrowed is required;
 - (ii) an estimate of the cost of those projects or other undertakings;
 - (iii) a statement showing details of the proposed expenditure of the money to be borrowed.

41. Application of loan moneys. All moneys borrowed by the Trust shall be expended for the purposes for which the Trust was authorized to borrow those moneys and not otherwise.

If any moneys comprising a loan remain unexpended upon the completion of the purposes for which the moneys were borrowed, those moneys shall be applied as the Treasurer directs.

42. Repayment of Treasury loans. (1) Every loan advanced by the Treasurer under the provisions of this Act shall be liquidated by payment to the Treasurer by the Trust on 1 January and 1 July respectively in each year, of such instalments of principal and interest at the prescribed rate as will permit the loan to be wholly redeemed within the prescribed period of the loan, until all moneys advanced from time to time by the Treasurer, together with interest thereon, have been paid.

The Treasurer may at any time make any adjustments that he considers necessary with respect to the period of any loan or the calculation of interest thereon or with respect to any other matter in connexion with any loan.

(2) In February and August in each year the Treasurer shall cause to be published in the Gazette in relation to any loan advanced by the Treasurer to the Trust under this Act, in respect of which payment of any instalment is overdue and in arrear, a statement specifying both the amount of money comprising instalments overdue and in arrear and the principal sum remaining unpaid on the last days of January and July respectively last preceding.

If thereafter on the last days of April and October respectively next following, any moneys remain unpaid to the Treasurer on account of such loan or on account of moneys paid by the Treasurer under a guarantee given by him in respect of any loan advanced by him to the Trust under this Act, the Treasurer may, by notification published in the Gazette, specify the amount then owing and may, by that notification, appoint a receiver to collect on the Treasurer's behalf and to pay to the Treasury moneys due and owing to the Trust to the amount so specified.

(3) A receiver may be appointed under this section in respect of the revenues of the Trust generally or of specified income.

Upon his appointment, the receiver shall from the date stated in the notification be the only person legally entitled to receive the revenues of the Trust in respect of which he is appointed or, if he is appointed receiver only in respect of specified income, to receive that income and shall be deemed to that extent and for that purpose to be a public accountant within the meaning of the *Audit Act* 1874-1968.

(4) The Treasurer may from time to time make such orders and give such directions with respect to the powers and duties of a receiver appointed under this section and the management by the receiver of the affairs of the Trust in respect of which he is appointed as the Treasurer thinks fit and judicial notice shall be taken of those orders and directions.

43. Debentures, bonds and stock. (1) All debentures, bonds and inscribed stock issued under the authority of this Act—

- (a) shall be issued in such series or sold in such amounts or parcels at such times and places in or outside the State or in such manner as the Trust thinks fit;
- (b) shall with interest thereon be charged and secured upon the assets and revenues of the Trust concerned subject to any prior debentures, bonds or stock issued according to law;
- (c) shall bear interest at such rate and be redeemable at such date or dates and at such place or places in or outside the State as are specified therein;
- (d) may, in the case of debentures or bonds, with the consent of the holder thereof or in the case of inscribed stock of the registered owner thereof, be paid off at any time previous to the due date (at not more than the amount of the principal sum remaining unpaid at the time or with the consent of the Governor in Council at a premium) with interest thereon to the date of payment only.

(2) Interest secured by debentures, bonds or stock shall be payable at such times and at such places in or outside the State as are specified therein.

- (3) (a) Every debenture issued under the authority of this Act—
- (i) shall be sealed with the seal of the Trust and signed by the Chairman and the Director and when so sealed and signed shall be taken to be duly issued;
 - (ii) shall be numbered consecutively so that no two debentures in a series bear the same number; and
 - (iii) shall have set forth therein the places and dates at which the principal and interest are payable.

(b) Every debenture issued under the authority of this Act may at the option of the lender have annexed to it for every payment to become due thereon (whether of principal or interest or principal and interest) a coupon and that debenture and coupon shall, unless the Governor in Council has otherwise determined when authorizing the loan concerned, be transferable by delivery and payment to any person in possession of that debenture or coupon of the sum named therein shall discharge the Trust from all liability with respect to that debenture or coupon.

Where a debenture or coupon is not transferable by delivery that fact shall be stated on it.

(c) In the case of a debenture issued under the authority of this Act with coupons, the holder of a coupon, whether it be separated from the debenture or not, shall be entitled to receive payment from the Trust of the sum named therein upon presentation on or after the due date for payment at the place where the coupon is expressed to be made payable.

(d) In the case of a debenture issued under the authority of this Act without coupons, the lender or, in the event of a transfer of the debenture, the transferee for the time being shall, subject to this paragraph (d), be entitled to receive payments from the Trust in respect of principal or interest or both, in accordance with the terms and conditions of the debenture.

A transferee with respect to whom the Trust has not been given notice as prescribed shall not be entitled to receive and the Trust shall not be liable to make to that transferee any payment in respect of any debenture issued without coupons, save under attachment by process of law and then only to the extent of moneys payable to that transferee under the debenture and unpaid by the Trust to the lender or a prior transferee.

The entitlement of a transferee with respect to whom the Trust has been given notice as prescribed to receive a payment in respect of a debenture issued without coupons shall be subject to any payment that, having become payable under that debenture before the Trust was given notice, was made by it to the lender or a prior transferee.

In this paragraph (d) the expression "notice as prescribed" means a notice in writing signed by the transferor and transferee and verified to the satisfaction of the Trust.

(e) A lender of money to the Trust may agree to accept a standard form of debenture but shall not be bound to do so.

(f) A person lending money to the Trust and receiving in consideration therefor debentures duly issued and, in the event of a transfer of debentures so issued, the transferee for the time being shall not be bound to enquire whether the issue of those debentures was in fact duly authorized or into the application of the money so lent or be in any way responsible for the non-application or misapplication thereof.

(4) The Trust or an employee or an agent thereof shall not receive and shall be deemed not to have received notice of any trust express, implied or constructive with respect to debentures, bonds or inscribed stock issued under the authority of this Act and the Trust, or employee or agent shall not be bound to see to the execution of any such trust to which such debentures, bonds or inscribed stock may be subject.

44. Brokerage. The Trust may, but only with the approval of the Treasurer and upon such terms and conditions as he thinks fit, pay moneys for brokerage with respect to making, procuring, negotiating or obtaining any loan.

Section 14 of the *Money Lenders Act* 1916-1973 does not apply or extend to brokerage that the Trust is authorized by this section to pay.

45. Remedies of bond, stock and debenture holders. If the Trust defaults in making a payment whether of principal or interest to the holder of a bond, debenture or coupon issued or stock inscribed by the Trust under the authority of this Act, that holder may make application to and procure all necessary orders and directions from the Supreme Court for the appointment of a receiver and the Court shall have power to make all such orders for the appointment of the receiver and for his removal and the appointment of another in his stead as are necessary, and to make any further orders and give any directions that the Court thinks proper.

A receiver appointed pursuant to this section:—

- (a) may be appointed in respect of the revenues of the Trust generally or of specified income thereof;
- (b) shall be deemed to be an officer of the Court;
- (c) shall act under the directions of the Court.

46. Remuneration, powers and duties of a receiver. (1) A receiver appointed pursuant to section 42 shall be entitled to such commission or remuneration for his services as the Treasurer orders.

A receiver appointed pursuant to section 45 shall be entitled to such commission or remuneration for his services as the Court orders.

The commission or remuneration of a receiver shall be payable out of the revenues of the Trust.

(2) A receiver, whether appointed pursuant to section 42 or 45, may collect all the revenues payable to the Trust or, in the case of his appointment in respect of specified income, all that income and for the purposes of this section a receiver shall be deemed to be the Trust and may exercise all its powers.

A receiver shall apply all moneys received by him in the course of his receivership as follows:—

- (a) firstly in payment of the costs, charges and expenses of collection and his commission or remuneration;
- (b) secondly—
 - (i) if he was appointed pursuant to section 42, in payment of the amount due and owing to the Treasurer together with interest on that amount at such rate as is specified by the Treasurer;

(ii) if he was appointed pursuant to section 45 upon the application of a holder of a bond, debenture or coupon issued or stock inscribed by the Trust, in payment, subject to any order of the Court, to that holder or to and amongst the holders of bonds, debentures or coupons of the same series as that holder or of inscribed stock or to the holders of bonds, debentures or coupons or inscribed stock generally in such order of priority as the Court thinks fit, of the amount due and owing to that holder or, as the case may be, those holders;

(c) thirdly in payment of the residue to the Trust.

47. Recovery of moneys as debt. If the Trust defaults in making a payment referred to in section 45, the person to whom that payment should have been made may recover the amount thereof as a debt by action against the Trust in any court of competent jurisdiction.

The remedy conferred by this section is in addition to the remedy conferred by section 45.

48. Illegal borrowing. (1) A person who lends money to the Trust otherwise than in accordance with this Act or some other Act shall have no remedy or right of any kind to recover money from the Trust in respect of that loan.

(2) If the Trust borrows money that it is not authorized under this Act or some other Act to borrow, the members who have consented to the borrowing of that money shall be jointly and severally liable to repay it and to pay interest thereon to the person from whom it was borrowed and that money and interest may be recovered from those members or any of them as money lent by that person to those members or, as the case may be, that member by action in any court of competent jurisdiction.

(3) If moneys are appropriated from any fund kept under this Act for the purpose of repaying money so borrowed or paying interest thereon, the members who have consented to the appropriation of those moneys for that purpose shall be jointly and severally liable to refund them with interest thereon at a rate determined by the Treasurer in respect of that appropriation and those moneys and interest may be recovered from those members or any of them by action in any court of competent jurisdiction at the suit of the Treasurer.

In any action brought under this subsection, the Treasurer shall be entitled to costs as between solicitor and client and he shall pay any amount recovered as a result of that action into the fund concerned.

(4) The provisions of this section shall be construed so as not to prejudice the operation of section 43 (3) (f).

49. Advances by way of overdraft. The Trust may for temporary financial accommodation obtain advances from any bank or banks by way of overdraft on the general fund.

The Trust shall not, during any financial year, suffer the amount of its overdraft to exceed the amount for the time being prescribed.

50. Regulations with respect to loans. The power conferred upon the Governor in Council by section 63 to make regulations includes the power to make regulations for or with respect to the raising and

repayment of loans under the authority of this Act and without limiting the generality of that power—

- (a) the establishment of a registry at any place for the inscription of stock created and issued and the keeping of stock ledgers; regulating the inscription in stock ledgers kept of all stock issued, the transfer or transmission of stock or any shares therein, the amount of stock that may be transferred;
- (b) the form and the manner of the issuing of bonds and debentures; the keeping and inspection of and the taking of copies of or extracts from registers of bonds and debentures or stock ledgers; lost or defaced bonds, debentures or stock certificates, the issue of duplicates thereof and the destruction of discharged bonds, debentures or stock certificates;
- (c) the issue upon request of stock to bond or debenture holders and of bonds or debentures to registered owners of stock;
- (d) the raising of loans outside the State;
- (e) the fees payable and the purposes for which those fees are payable;
- (f) sinking funds or other methods for the repayment of moneys borrowed; debt redemption funds and trustees thereof; powers, authorities, functions and duties of those trustees.

51. Power to establish trust funds and to accept gifts and the like subject to conditions. (1) The Trust may establish and administer trust funds for any purpose in connexion with the exercise and performance of its powers, authorities, functions and duties.

(2) The Trust may agree to and carry out conditions to which a gift, grant, bequest, devise, purchase, lease or other means whereby it acquires or holds property is subject.

(3) For the purpose of the application of Part XIV of the *Property Law Act 1974* to any gift or devise to the Trust it is declared that the purposes of the Trust are charitable purposes.

52. Power to establish investment common funds. (1) The Trust may establish investment common funds for the collective investment of moneys of the Trust, trust moneys or other moneys held by or in the custody of the Trust.

(2) The Trust may, from time to time without liability for breach of trust, bring into or withdraw from an investment common fund established by it the whole or any part of moneys of the Trust, trust moneys or other moneys held by or in the custody of the Trust.

(3) Subject to subsections (4) and (5), the Trust shall distribute periodically the income of each investment common fund amongst those funds participating in the common fund, having regard to the extent of the participation of those funds in the common fund during the relevant accounting period.

(4) In a case where the Trust has brought into an investment common fund sums of money that, having been received by it to be expended for a stated purpose, will not for any cause be expended for that purpose forthwith, the Trust may pay into its general fund the

whole or any part of that portion of the income of such investment common fund that is attributable to the participation of those sums of money in that common fund and that is not required for the stated purpose.

(5) The Trust may if it considers it proper so to do, from time to time, add a portion of the income of an investment common fund to the capital thereof or use another portion of that income to establish or augment a fund or funds as a provision against capital depreciation or reduction of income.

PART IV—GENERAL PROVISIONS

53. Sale or disposal of certain property. (1) Where the Trust is satisfied that any property for the time being vested in it and held by it subject to any condition or trust is unfit or not required for the objects of the Trust, it may, subject to the approval of the Governor in Council and notwithstanding the terms of any trust affecting the property or any arrangement or condition made or agreed to by it at the time of the acquisition of the property by the Trust—

- (a) sell the property or exchange it for any other property; or
- (b) dispose of the property without consideration or, in the case of personal property, destroy the property if the Trust adjudges it to be of no saleable value.

(2) The proceeds of any sale made by the Trust in exercise of the power conferred on it by subsection (1) shall after deduction therefrom of the costs of and incidental to the sale be held for the objects of the Trust.

(3) Any property sold or disposed of by way of exchange or otherwise by the Trust purporting to exercise any of the powers conferred on it by subsection (1) shall vest in the person acquiring the property by virtue of the sale or disposition freed and discharged from any trust arrangement or condition relating to any sale or disposition of the property or to the use of the property to which the property was subject in the hands of the Trust.

(4) No person acquiring any property from the Trust purporting to exercise any of the powers conferred on it by subsection (1) shall be concerned to enquire whether a case has arisen to authorize the sale or other disposition of the property or whether the power was otherwise properly and regularly exercised or to see to the application of any purchase money paid to the Trust.

54. Disposal of assets upon discontinuance of Trust. (1) Upon the discontinuance of the Trust, the Governor in Council may prescribe by Order in Council the manner in which property (other than Crown land granted in trust or reserved and set apart for the purposes of the Trust under the *Land Act* 1962–1975) held by the Trust shall be disposed of or held.

Property to which this section refers shall be disposed of in such manner or, as the case may be, held upon such trusts as the Governor in Council prescribes or, so far as he has not prescribed, as the Minister directs.

For the purposes of this section, the Governor in Council or the Minister may, in respect of property held in trust, prescribe or, as the case may be, direct such variations in the person of the trustee, the beneficiary under or the purpose of the trust or otherwise as he considers just.

All persons shall give effect to a direction of the Minister under this section.

(2) The provisions of this section shall be construed and applied so as not to override any instrument creating the trust upon which property to which this section refers was held that provides for the variation of that trust upon the discontinuance of the Trust.

55. Exemption from duties. Notwithstanding the provisions of any other Act or law, any instrument, agreement or contract executed or decree or order made whereby any property is transferred to the Trust shall be exempt from stamp duty.

56. Form of contract. (1) Where the Trust is authorized to enter into contracts, that authority may be exercised in the following manner:—

- (a) any agreement or contract that, if made between private persons, would by law be required to be in writing under seal may be made on behalf of the Trust in writing under the common seal of the Trust;
- (b) any agreement or contract that, if made between private persons, would by law be required to be in writing signed by the parties to be charged therewith may be made on behalf of the Trust in writing signed by a person acting under the express or an implied authority of the Trust;
- (c) any agreement or contract that, if made between private persons, would by law be valid although made by parol only (and not reduced into writing) may be made by parol on behalf of the Trust by a person acting under the express or an implied authority of the Trust.

Any agreement or contract so made shall be effectual in law and shall bind the Trust and all other parties thereto and may be varied or discharged in the manner in which it is authorized to be made.

(2) A document or proceeding requiring authentication by the Trust may be signed by an officer of the Trust authorized so to do by the Trust and need not be under its common seal.

57. Liability for damage, etc., of property. (1) Any person who—

- (a) unlawfully removes from the possession of the Trust any equipment or chattel; or
 - (b) unlawfully damages, mutilates or destroys any equipment or chattel in the possession of the Trust,
- commits an offence against this Act.

(2) Without limiting or affecting any liability imposed on such person by subsection (1) or otherwise, that person shall be liable for and shall pay to the Trust the full amount of the value of the equipment or chattel so damaged, mutilated, destroyed or removed which amount may be recovered in a summary way under the *Justices Act 1886-1975*.

Proceedings under this subsection may be taken by the Trust or by any person authorized in writing in that behalf either generally, or in a particular case, by the Trust.

(3) Where any such damage, mutilation, destruction or removal constitutes an offence against subsection (1) or otherwise, and in any proceedings in respect thereof a person is convicted, the court convicting that person may in addition to imposing a penalty, order that person to pay to the Trust the full amount of the value of the equipment or chattel damaged, mutilated, destroyed or removed, which amount shall be recoverable as if it were part of the penalty so imposed, notwithstanding that the total of the penalty and the amount exceeds the maximum penalty that may be imposed.

58. Reward for information. (1) Subject to the approval of the Governor in Council, the Trust may offer and pay a reward to any person who gives information to the Trust or any of its employees of the commission of an offence against this Act or of the damaging, mutilation, destruction or removal from the possession of the Trust of any equipment or chattel in the possession of the Trust whether the damaging, mutilation, destruction or removal is an offence against this Act or not.

(2) Where proceedings are taken in any court—

(a) in respect of any offence that consists in the damaging, mutilation, destruction or removal of any equipment or chattel in the possession of the Trust and a conviction is recorded; or

(b) for recovery of the full amount or a portion of the value of any equipment or chattel referred to in provision (a) that is damaged, mutilated, destroyed or removed and an order for payment of such value or part thereof is made,

the court may, in addition, order the person against whom the proceedings are taken to pay to the Trust the amount of any reward that the Trust has paid or is required to pay for information relating to the damaging, mutilation, destruction or removal and that amount shall be recoverable under the order so made.

59. Proceedings for offences. (1) An offence against this Act may be prosecuted in a summary way under the *Justices Act 1886-1975* upon the complaint of the Director, or a person authorized in that behalf either generally or in a particular case by the Trust.

(2) A prosecution for an offence against this Act may be commenced within one year from the time when the matter of complaint arose or within six months after the matter of complaint comes to the knowledge of the complainant whichever is the later to occur.

60. Description of property in complaint. In any proceeding taken in respect of the stealing, damaging, mutilation or destruction of any equipment or chattel in the possession of the Trust or in respect of the removal of any of the same from the possession of the Trust and in which proceeding it is material to prove ownership of the item in question it shall be sufficient to allege ownership of the item as being in the Trust.

61. General penalty. (1) A person who contravenes or fails to comply with any provision of this Act commits an offence against this Act and, save where a specific penalty is otherwise provided, is liable to a penalty of \$500.

(2) All penalties recovered in respect of offences against this Act shall be paid to the Trust.

62. Evidentiary provisions. In any proceedings for the purposes of this Act—

- (a) a statement in a complaint commencing that proceeding of the date on which the matter of complaint came to the knowledge of the complainant shall be evidence and, in the absence of evidence to the contrary, conclusive evidence thereof;
- (b) proof shall not be required of the authority of any person to prosecute an offence against this Act or to take any proceeding on behalf of the Trust unless evidence is given to the contrary;
- (c) proof shall not be required of the appointment of the Director of the Trust or of any other person appointed for the effectual administration of this Act or of the signature of the Director.

63. Regulations. The Governor in Council may make regulations not inconsistent with this Act for or with respect to all matters required or permitted by this Act to be prescribed and all matters that, in the opinion of the Governor in Council, are necessary or convenient for the proper administration of this Act or to achieve the objects and purposes of this Act.

A regulation may impose a penalty not exceeding \$200 for a breach of that regulation or any other regulation.

64. By-laws. (1) The Trust may from time to time make by-laws not inconsistent with this Act with respect to—

- (a) the general management and control of any property occupied by the Trust;
- (b) regulating the conduct of the proceedings of the Trust including the times, places and conduct of its meetings;
- (c) the management of the affairs of the Trust;
- (d) the admission or exclusion or removal of the public or any person to or from any property in the occupation of the Trust or any part thereof or any building or place of which the Trust has the management or control or any part thereof;
- (e) the conditions upon which any performance or any item or other part of any performance may be presented;
- (f) the conditions upon which any performance or any item from or any part of any performance presented by or under the authority of the Trust may be televised, broadcast, copied or presented in any other place or at any other time by any body or person;
- (g) the protection of property of, or under the control of, the Trust from trespass, damage or misuse;

(h) any purpose, matter or thing necessary or convenient to be prescribed for the purposes of the administration or the carrying out of the objects of this Act.

(2) The by-laws may impose a penalty for any breach thereof not exceeding \$200 for any one breach.

(3) Section 28A of the *Acts Interpretation Act* 1954-1971 (Tabling of Regulations) shall apply with respect to by-laws made for the purposes of this Act and, for the purposes of such application, that section shall be read and construed as if references therein to regulations were references to by-laws made for the purposes of this Act.