

**ZOOLOGICAL PARKS BOARD ACT.**

**New South Wales**



ANNO VICESIMO SECUNDO

**ELIZABETHÆ II REGINÆ**

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**Act No. 34, 1973.**

An Act to constitute the Zoological Parks Board of New South Wales and to confer and impose on that Board powers, authorities, duties and functions relating to the establishment, maintenance and control of zoological parks; to repeal the Taronga Zoological Park Act, 1956, and certain other Acts; to amend the Local Government Act, 1919, and the Closer Settlement and Public Reserves Fund Act, 1970; and for purposes connected therewith. [Assented to, 2nd May, 1973.]

BE

*Zoological Parks Board.*

No. 34, 1973 **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:—

**PART I.****PRELIMINARY.**

Short title. **1.** This Act may be cited as the "Zoological Parks Board Act, 1973".

Commence-  
ment. **2.** This Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Division  
of Act. **3.** This Act is divided as follows:—

**PART I.—PRELIMINARY—ss. 1–4.**

**PART II.—CONSTITUTION OF THE ZOOLOGICAL PARKS BOARD OF NEW SOUTH WALES—ss. 5–14.**

**PART III.—ESTABLISHMENT, MAINTENANCE AND CONTROL OF ZOOLOGICAL PARKS BY THE BOARD—ss. 15–18.**

**PART IV.—FINANCE—ss. 19–29.**

**PART V.—GENERAL—ss. 30–37.**

**PART VI.—REPEALS, AMENDMENTS, SAVINGS AND TRANSITIONAL PROVISIONS—ss. 38–46.**

**SCHEDULES.**

Interpreta-  
tion. **4.** In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

"animal" includes any bird, fish, reptile or other living zoological specimen;

"Board"

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“Board” means the Zoological Parks Board of New South Wales constituted under this Act; No. 34, 1973

“Chairman” means Chairman of the Board;

“Deputy Chairman” means Deputy Chairman of the Board;

“member” means member of the Board;

“regulations” means regulations under this Act;

“zoological park” means zoological garden, or aquarium, or similar institution, of the nature referred to in section 15 (1) (a).

## PART II.

CONSTITUTION OF THE ZOOLOGICAL PARKS BOARD OF  
NEW SOUTH WALES.

5. (1) There is hereby constituted a corporation under the corporate name of the “Zoological Parks Board of New South Wales”. Constitution of the Board.

(2) The Board—

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

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Appoint-  
ment  
of members.

6. (1) The Board shall consist of—

- (a) ten members (in this Part referred to as “appointed members”) appointed by the Governor upon the nomination of the Minister; and
- (b) one other member (in this Part referred to as “the official member”), who shall be the person for the time being holding office or acting as the Under Secretary of the Department of Lands or an officer of that Department from time to time nominated by him, by instrument in writing, to act as a member.

(2) An appointed member shall, subject to this Act, be appointed for such term not exceeding five years as is specified in the instrument of his appointment and shall, if otherwise qualified, be eligible for re-appointment from time to time for such term not exceeding five years as is specified in the instrument of his re-appointment.

(3) On the occurrence of a vacancy in the office of an appointed member, otherwise than by the expiration of the term for which he was appointed, the Governor may appoint a person, nominated by the Minister, to hold office for the balance, or for a part of the balance, of his predecessor’s term of office, as may be specified in the instrument of his appointment.

(4) A person who is of or over the age of seventy years shall not be appointed as a member.

(5) The person for the time being holding office or acting as the Under Secretary of the Department of Lands may, by instrument in writing, revoke any nomination under subsection (1) (b).

Chairman  
and Deputy  
Chairman.

7. (1) The members shall elect one of the members to be Chairman and one to be Deputy Chairman.

(2)

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(2) The Chairman and the Deputy Chairman shall hold office as such for a term of one year but shall be eligible for re-election. No. 34, 1973

(3) Where the office of Chairman or Deputy Chairman becomes vacant before the expiration of his term of office as Chairman or Deputy Chairman, the members shall, at a meeting specially convened for the purpose, elect one of the members to fill the vacancy.

(4) Subject to this Act, the Chairman or Deputy Chairman elected under subsection (3) shall hold office as Chairman or Deputy Chairman, as the case may be, for the balance of his predecessor's term of office and shall, if otherwise qualified, be eligible for re-election either as Chairman or Deputy Chairman.

(5) In the case of the absence through illness or any other cause of the Chairman, the Deputy Chairman—

- (a) shall act in the place of the Chairman; and
- (b) while so acting shall be deemed to be the Chairman and shall have and may exercise and perform the powers, authorities, duties and functions of the Chairman.

(6) No person shall be concerned to enquire whether or not any occasion has arisen requiring or authorising the Deputy Chairman to act in the place of the Chairman, and all acts or things done or omitted by the Deputy Chairman while so acting shall be as valid and effectual and shall have the same consequences as if they had been done or omitted by the Chairman.

8. (1) The official member may from time to time, by instrument in writing, nominate a person to be his deputy to attend any meeting of the Board during the absence through illness or any other cause of that member and may, by such an instrument, revoke any such nomination. Provisions relating to official member.

(2)

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(2) In the case of the absence through illness or any other cause of the official member, the person for the time being nominated as his deputy under subsection (1)—

- (a) shall act in the place of the official member; and
- (b) while so acting shall be deemed to be a member and shall have and may exercise and perform the powers, authorities, duties and functions of the official member.

General provisions relating to members.

9. (1) Each member shall be entitled to receive such expenses and, if the Minister so approves, such fees and allowances for attending meetings and transacting business of the Board as the Minister may from time to time determine in respect of that member.

(2) Where by or under any Act provision is made requiring the holder of an office specified therein 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, that provision shall not operate to disqualify him from holding that office and also the office of a member or from retaining any expenses, fees or allowances payable to him under this section.

(3) The office of a member shall not for the purposes of any Act be deemed to be an office or place of profit under the Crown.

(4) The provisions of the Public Service Act, 1902, shall not apply to or in respect of the appointment of a member and a member shall not, in his capacity as a member, be subject to the provisions of that Act during his term of office.

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**10. (1) An appointed member shall be deemed to have vacated his office—**

**Vacation  
of office.**

- (a) if he dies;
- (b) if he becomes a bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors, or makes any assignment of his estate for their benefit;
- (c) if he is absent from four consecutive ordinary meetings of the Board of which reasonable notice has been given him personally or in the ordinary course of post except on leave granted by the Board, unless he is, before the expiration of four weeks after the last of those meetings, excused by the Board for his absence from those meetings;
- (d) if he becomes a temporary patient or a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention, under Part VII of that Act;
- (e) if he is convicted in New South Wales of a felony or of a misdemeanour punishable by imprisonment for twelve months or upwards, or if he is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or a misdemeanour so punishable;
- (f) if he resigns his office by writing under his hand addressed to the Governor and the Governor accepts his resignation;
- (g) if he is removed from office by the Governor; or
- (h) on the day on which he attains the age of seventy years.

(2) The Governor may, for any cause which appears to him sufficient, remove any appointed member from office.

**11.**

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Proceedings  
of the  
Board.

**11.** (1) The procedure for the calling of meetings of the Board and for the conduct of business at those meetings shall, subject to this Act and the regulations, be as determined by the Board.

(2) The Chairman or, in the absence of the Chairman, the Deputy Chairman or, in the absence of the Chairman and the Deputy Chairman, the member chosen by the members present at the meeting to act as chairman may preside at any meeting of the Board.

(3) Six members shall form a quorum at any meeting of the Board and any duly convened meeting of the Board at which a quorum is present shall be competent to transact any business of the Board and shall have and may exercise and perform all the powers, authorities, duties and functions of the Board.

(4) The person presiding at any meeting of the Board shall, in the event of an equality of votes, have in addition to a deliberative vote a second or casting vote.

(5) Subject to subsection (4), a decision of a majority of the members present at a meeting of the Board at which a quorum is present shall be the decision of the Board.

(6) The Board shall cause a record of its decisions and full and accurate minutes of the proceedings at its meetings to be kept.

(7) No matter or thing done, and no contract entered into, by the Board, and no matter or thing done by a member or by any other person acting under the direction or as delegate of the Board shall, if the matter or thing was done, or the contract was entered into, bona fide for the purpose of executing this Act or any other Act conferring or imposing powers, authorities, duties or functions on the Board, subject the member or person so acting personally to any action, liability, claim or demand.

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(8) Nothing in subsection (7) shall exempt any member or other person from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of or relating to the Board, and which the member or other person authorised or joined in authorising. No. 34, 1973

**12.** (1) The Board may appoint and employ such persons as may be necessary to enable the Board to exercise and perform its powers, authorities, duties and functions. Employees  
of the  
Board.

(2) Every employee of the Board shall, subject to the terms of his appointment, continue in the service of the Board at the will of the Board only.

(3) All employees of the Board shall be subject to the sole control and governance of the Board, which may, where their salaries or wages or conditions of employment are not fixed in accordance with the provisions of any other Act or law, fix the salaries or wages payable to those employees and their conditions of employment.

(4) The regulations may make provision for or with respect to the conditions of employment of employees of the Board.

(5) The regulations made for the purposes of subsection (4)—

- (a) shall have effect subject to any award by which the Board is bound made by a court of competent jurisdiction and to any industrial agreement to which the Board is a party; and
- (b) shall have effect notwithstanding the provisions of subsection (3).

**13.**

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**No. 34, 1973**    **13.** (1) The Board may, with the approval of the Minister administering any Government department and of the Public Service Board, arrange for the use of the services of any officer or employee of the department for the purposes of this Act.

Use of  
officers or  
employees.

(2) The Board may, with the approval of a public authority constituted under an Act, arrange for the use of the services of any officer or employee of the authority for the purposes of this Act, whether or not the provisions of the Public Service Act, 1902, apply to the appointment of the officer or employee.

**Delegation.**    **14.** (1) The Board may, by instrument in writing under seal, delegate to a member or an employee of the Board or an officer or employee of the Public Service or a public authority constituted under an Act the exercise or performance of such of the powers (other than this power of delegation), authorities, duties and functions conferred or imposed on the Board by or under this or any other Act as may be specified in the instrument of delegation, and may, by such an instrument, revoke wholly or in part any such delegation.

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

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

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

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(5) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing had been done or suffered by the Board and shall be deemed to have been done or suffered by the Board. No. 34, 1973

(6) An instrument purporting to be signed by a delegate of the Board in his capacity as such a delegate shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the Board under seal and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the Board under this section.

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**PART III.**

**ESTABLISHMENT, MAINTENANCE AND CONTROL OF  
ZOOLOGICAL PARKS BY THE BOARD.**

**15. (1) The Board—**

(a) may establish, maintain and control on lands or premises vested in or held by the Board—

Powers,  
authorities,  
etc., of the  
Board.

- (i) zoological gardens;
- (ii) aquariums; and
- (iii) similar institutions,

in which animals are kept or displayed for educational, cultural, scientific or recreational purposes;

(b) may maintain and control—

- (i) the zoological park established before the commencement of this Act on the lands described in Schedules 3 and 4, under the name of "Taronga Zoological Park"; and

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- (ii) other zoological parks on or in lands or premises vested in or held by the Board, being zoological parks not established by the Board; and
- (c) may establish, maintain and control branches of zoological parks referred to in paragraph (a) or (b).

## (2) The Board—

- (a) may investigate and carry out research into—
  - (i) the design of, and equipment and procedures in, zoological parks; and
  - (ii) the care and well being of animals kept in zoological parks,  
whether or not those zoological parks are maintained and controlled by the Board;
- (b) may co-operate with such scientific and other institutions as the Board may determine and provide facilities for research, by persons associated with any such institution, to be carried out in zoological parks maintained and controlled by the Board or elsewhere on or in lands or premises vested in or held by the Board;
- (c) may provide educational services for the public, whether in the nature of lectures, broadcasts, films, publications or otherwise, with respect to zoological parks and the biology of animals;
- (d) may provide and charge for such services in or in connection with zoological parks maintained and controlled by the Board as it may determine; and
- (e) may make recommendations or reports to the Minister with respect to matters connected with the Board's powers, authorities, duties and functions or the administration of this Act, and shall, at such times as the Minister may request, make any such recommendations or reports to him.

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**16.** (1) The powers of the Board to acquire or dispose of lands shall not be exercised except with the consent of the Minister. No. 34, 1973  
Property.

(2) The Board may, pursuant to its powers conferred by section 38 (1) of the Interpretation Act, 1897, acquire and hold lands for purposes connected with the establishment, maintenance or control of zoological parks by it, and may maintain and control any lands so held by it.

(3) Notwithstanding anything in the Crown Lands Consolidation Act, 1913—

(a) the Governor may grant—

- (i) any Crown lands (within the meaning of that Act); or
- (ii) any of the lands described in Schedules 3 and 4,

to the Board for an estate in fee simple; and

(b) the lands granted to the Board under paragraph (a)—

- (i) shall vest in and be held, for the purposes of this Act, by the Board; and
- (ii) may, subject to subsection (1), be disposed of or otherwise dealt with by the Board,

as if the lands had, immediately before the grant, been freehold lands and had been acquired by the Board by purchase.

(4) A grant under subsection (3) shall be subject to such exceptions, reservations and conditions as are specified in the grant.

(5) Upon the grant of lands under subsection (3), all trusts, conditions, provisos, encumbrances, restrictions on alienation, appropriations, dedications and reservations are, to the extent to which, immediately before the grant, they affected those lands, revoked and annulled.

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(6) Nothing in subsection (3) affects the power of the Minister to appoint the Board to be trustees of any lands dedicated or reserved under the Crown Lands Consolidation Act, 1913, or the power of the Governor to grant those lands to the Board under that Act.

(7) Lands acquired by the Board (otherwise than under section 17) shall, in respect of that acquisition, be exempt from stamp duty under the Stamp Duties Act, 1920.

(8) Without affecting the generality of section 38 (1) of the Interpretation Act, 1897, the Board—

(a) may lend or donate animals, plant or machinery to or for zoological parks not maintained or controlled by it; and

(b) may borrow animals to be kept or displayed in zoological parks maintained and controlled by it.

(9) For securing repayment of the principal and interest on any money borrowed under Part IV, the Board may mortgage any lands vested in it or held by it, not being lands dedicated or reserved under the Crown Lands Consolidation Act, 1913.

(10) Nothing in subsection (9) affects the operation of the Trustees of Public Reserves Enabling Act, 1924, with respect to any lands vested in or held by the Board as a public reserve within the meaning of that Act.

Power of  
Board to  
accept  
gifts, etc.

17. (1) The Board shall have power to acquire, by gift inter vivos, devise or bequest, any property for the purposes of this Act and to agree to the condition of any such gift, devise or bequest.

(2) The rule of law against remoteness of vesting shall not apply to any such condition to which the Board has agreed.

18.

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**18.** The Board may make and enter into contracts or agreements with any person— No. 34, 1973

- Contracts  
and  
agreements.
- (a) for the performance of services, or for the supply of goods, plant, machinery or material with respect to the exercise of its powers, authorities, duties and functions;
  - (b) for the use of lands and premises vested in or held by the Board for social or other functions;
  - (c) for the right to take photographs, for fee or reward, in or on any such lands or premises; and
  - (d) for the use of any such lands or premises for cinematograph, radio or television purposes.

## PART IV.

## FINANCE.

**19.** The costs of administration of this Act, and the expenses, fees and allowances payable to a member, shall be paid by the Board out of the funds of the Board. Costs of  
adminis-  
tration of  
this Act.

**20.** (1) The Board shall cause to be kept proper books of accounts in relation to all of its operations, and shall, as soon as practicable after the thirtieth day of June in each year, prepare and transmit to the Minister for presentation to Parliament a statement of accounts in a form approved by the Auditor-General exhibiting a true and correct view of the financial position and transactions of the Board. Accounts to  
be kept by  
the Board.

(2) The Minister shall lay that report, or cause it to be laid, before both Houses of Parliament as soon as practicable after the receipt by him of the report.

**21.** (1) The accounts of the Board shall be audited by the Auditor-General who shall have, in respect thereof, all the powers conferred on him by any law for the time being in force relating to the audit of public accounts, and the Audit Act, 1902, shall apply to the members and employees of the Board in the same manner as it applies to accounting officers of public departments. Audit of  
accounts.

(2)

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No. 34, 1973 (2) The Auditor-General shall report to the Board and the Minister—

(a) whether or not in his opinion—

- (i) due diligence and care have been shown in the collection and banking of money payable to the Board;
- (ii) expenditure incurred has been duly authorised, vouched and supervised; and
- (iii) any of the money or other property of the Board or over which it has control has been misappropriated or improperly or irregularly dealt with; and

(b) as to any other matters which in his judgment call for special notice or which are prescribed.

(3) Towards defraying the costs and expenses of any such audit the Board shall pay to the Consolidated Revenue Fund such amounts, at such periods, as the Treasurer may decide.

Investment  
of funds.

**22.** The Board may invest money held by it in Government securities of the Commonwealth or of the State of New South Wales, or in any securities guaranteed by the Government of that State, or on call or on fixed deposit or partly on call and partly on fixed deposit with the Treasurer or with any bank, or in such other manner as the Governor may approve or as may be prescribed.

Temporary  
accommodation.

**23.** (1) For the temporary accommodation of the Board it may obtain advances by overdraft of current account in any bank or banks to such extent as may from time to time be approved by the Governor.

(2) The Treasurer may advance such amounts to the Board, upon such terms and conditions as to repayment and interest, as may be agreed upon.

**24.**

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**24.** The Board may, from time to time, with the concurrence of the Treasurer and the approval of the Governor, borrow money for—

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 Purposes  
 for which  
 money may  
 be borrowed.

- (a) the purpose of carrying out and performing any of its powers, authorities, duties and functions;
- (b) the renewal of loans;
- (c) the discharge, or partial discharge, of any loan or any indebtedness to the Treasurer or to any bank;  
or
- (d) any other purpose of this Act.

**25.** (1) The Board shall establish a reserve for loan repayment fund in respect of each loan or renewal loan raised by the Board.

Reserves  
 for  
 repayment.

(2) The Board shall during each year transfer to each such fund from the revenue of the Board an amount not less than the amount that the Board in its application for approval of the loan specified that it proposed to transfer to that fund.

(3) Money held as a reserve for loan repayment may be invested in Government securities of the Commonwealth or of the State of New South Wales, or in any securities guaranteed by the Government of that State, or in such other manner as the Governor may approve or as may be prescribed.

(4) Any interest or profits realised on any such investments shall be added to and form part of the reserve for loan repayment fund from which the investments were made.

(5) All money paid into the reserve for loan repayment fund in respect of any loan or renewal loan may be applied in or towards repayment of any other loan or renewal

loan

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No. 34, 1973 loan but may not be applied for any other purpose until the loan or renewal loan in respect of which the fund has been established has been repaid.

(6) Where the Board decides to cancel debentures, bonds, inscribed stock or other prescribed securities purchased from the reserve for repayment of the loan for which they were issued, then, in addition to the amount otherwise payable to the reserve for loan repayment in respect of that loan, the Board shall, subject to any agreement to which it is a party whereby it undertakes to pay interest at a higher rate to that reserve, pay to that reserve interest at the rate of four and one-half per centum per annum on the face value of the cancelled securities from the date of their cancellation until the maturity of the loan.

(7) If, after a loan has been repaid, there remains in the reserve for repayment of that loan any balance, that balance shall form part of the funds of the Board.

(8) A reserve for loan repayment fund shall not be subject to seizure in satisfaction of any debt other than for the loan in respect of which the reserve was created.

(9) This section shall not apply to any loan to be repaid by instalments at intervals of one year or less.

Debentures,  
etc.

**26.** (1) For securing repayment of the principal and interest on any money borrowed, the Board may as provided by the regulations issue debentures, bonds, inscribed stock or other prescribed securities.

(2) Every such debenture or bond and every coupon originally annexed to the debenture or bond and whether separated therefrom or not shall be transferable by simple delivery.

(3) Inscribed stock shall be transferable in the books of the Board in accordance with the regulations.

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(4) Debentures, bonds, inscribed stock or prescribed securities issued under this Act shall as regards both the issue and transfer thereof for full consideration or money or money's worth be deemed to be included in the general exemptions from stamp duty under Part III of the Stamp Duties Act, 1920, contained in the Second Schedule to that Act. No. 34, 1973

(5) The holder of a coupon originally annexed to a debenture or bond and whether separated therefrom or not shall be entitled to receive payment from the Board of the interest specified in the coupon upon its presentation on or after the date when, and at the place where, the interest is payable.

(6) The due repayment of any loan in respect of which debentures, bonds, inscribed stock or any other prescribed securities have been issued by the Board, and the interest thereon, shall be a charge upon the income and revenue of the Board from whatever source arising.

(7) The charge created by subsection (6) shall not prejudice or affect any power of the Board to sell, convey, lease or otherwise deal with free of the charge any property vested in it.

**27.** (1) If any debenture or bond issued by the Board is lost, destroyed or defaced before it has been redeemed, the Board may, subject to the provisions of this section, issue a new debenture or bond in lieu thereof. Lost debentures.

(2) The new debenture or bond with interest coupon annexed shall bear the same date, number, principal sum and rate of interest as the lost, destroyed or defaced debenture or bond.

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(3) When the debenture or bond is lost or destroyed a new debenture or bond shall not be issued unless and until—

- (a) it has been established to the satisfaction of the Supreme Court that the debenture or bond has been lost or destroyed before redemption;
- (b) such advertisements as the Court may direct have been published;
- (c) six months have elapsed since the publication of the last of the advertisements; and
- (d) sufficient security has been given to the Board to indemnify it against any double payment if the missing debenture or bond is presented for redemption.

(4) When the debenture or bond is defaced, the new debenture or bond shall not be issued unless and until the defaced debenture or bond is lodged with the Board for cancellation.

(5) Notwithstanding any other provision of this section, in the case of the loss, theft, destruction, mutilation or defacement of any debenture or bond issued by the Board, a duplicate or new debenture or bond may be issued upon proof to the satisfaction of the Board of the loss, theft or destruction, or upon surrender of the mutilated or defaced debenture or bond, as the case may be, and upon the Board receiving security or indemnity satisfactory to it against double payment if the missing debenture or bond is at any time thereafter presented for redemption.

(6) The provisions of this section shall apply in respect of a lost, stolen, destroyed, mutilated or defaced coupon in the same way as they apply in respect of a lost, stolen, destroyed, mutilated or defaced debenture or bond.

Protection  
of  
investments.

**28.** (1) A person advancing money to the Board shall not be bound to enquire into the application of the money advanced, or be in any way responsible for its **non-application** or misapplication.

(2)

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(2) A notification in the Gazette of the approval of No. 34, 1973 the Governor having been given to a borrowing by the Board shall, in favour of a lender and of any holder of a security given by the Board, be conclusive evidence that all conditions precedent to the borrowing have been complied with.

29. All debentures, bonds, stock or other securities which are secured upon the income and revenue of the Board shall rank *pari passu* without any preference one above another by reason of priority of date or otherwise. Debentures, bonds, etc., to rank *pari passu*.

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PART V.

GENERAL.

30. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter which, by this Act, is required or permitted to be prescribed or which is necessary or convenient to be prescribed for carrying out or giving effect to this Act. Regulations.

(2) Without prejudice to the generality of the power conferred by subsection (1), the Governor may make regulations for or with respect to—

- (a) any of the powers conferred on or duties imposed upon the Board;
- (b) the regulation of meetings of the Board and the conduct of business thereat;
- (c) the regulation of the use and enjoyment of lands of the Board;
- (d) the securing of decency and order on those lands;
- (e) the removal of trespassers and other persons causing annoyance or inconvenience on those lands;

(f)

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- (f) the regulation or prevention of the taking of intoxicants onto, and the consuming thereof on, those lands;
- (g) the regulation or prevention of the taking of animals onto those lands or the permitting or suffering of animals to be on those lands;
- (h) the control of animals taken onto, or permitted or suffered to be on, those lands;
- (i) the regulation, control or prohibition of parking, camping or residing on those lands, the making of charges for parking, camping, or residing on those lands and the collecting and receiving of those charges by the Board or by other persons;
- (j) the preservation or protection of, or prevention of damage to, trees, shrubs, ferns, creepers, vines, palms, plants, flowers, herbage or other vegetative cover on those lands;
- (k) the protection or removal of all dead timber, logs and stumps on those lands, whether standing or fallen;
- (l) the preservation, protection or removal of any rocks, soil, sand, stone or similar substances on or under or comprising part of those lands;
- (m) the preservation or protection of any animals whether natural or introduced, on those lands;
- (n) the making of charges or entrance fees on persons, clubs, or associations or for vehicles using or entering upon those lands, or on any specified part or parts of those lands, and the collecting and receiving of those charges and fees by the Board or by other persons;
- (o) the reservation of any portion of those lands for such separate or exclusive use as the regulations may prescribe;

(p)

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- (p) the closing of those lands or parts thereof and the No. 34, 1973 conditions to be observed with regard thereto;
- (q) the regulation, control or prohibition of private trading on those lands;
- (r) the regulation of the use of motor vehicles or any other vehicles and the conditions under which they may be used on those lands;
- (s) the regulation of the speed of motor vehicles or any other vehicles on those lands;
- (t) the regulation, control or prohibition of the erection of buildings, signs or other structures on those lands;
- (u) the protection of buildings, structures, signs and other improvements on those lands;
- (v) the regulation, control or prohibition of exotic plants on those lands;
- (w) the regulation, control or prohibition of the use of firearms or other weapons and the carrying of firearms or other weapons on those lands; and
- (x) the powers and duties of employees of the Board.

(3) A regulation may—

- (a) impose a penalty for any breach thereof and also impose distinct penalties in case of successive breaches thereof but no such penalty shall exceed \$100; and
- (b) impose also a daily penalty for any continuing breach thereof not exceeding \$10 per day.

(4) Regulations may be made to apply generally to all lands of the Board or any part thereof specified in the regulations and unless so limited shall be taken to apply to all lands of the Board.

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(5) Where any provision of a regulation made to apply to any specified part of lands of the Board is inconsistent with a provision of any regulation relating to all lands of the Board generally, the firstmentioned provision shall prevail.

(6) In this section, "lands of the Board" means lands or premises vested in or held by the Board.

Proof of certain matters not required.

**31.** In any proceedings by or against the Board no proof shall be required (until evidence is given to the contrary) of—

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

Recovery of penalty.

**32.** (1) Any penalty imposed by the regulations may be recovered in a summary manner before a stipendiary magistrate sitting in petty sessions alone.

(2) Where the penalty is a daily penalty it may be recovered either under a separate information or under an information for the sum of the daily penalties.

Compensation for loss, damage or injury.

**33.** (1) Where any person is convicted of an offence against the regulations which results in or causes loss or damage to any lands vested in or held by the Board or to any structure, improvements, goods, machinery or materials thereon or therein, or loss of or injury to any animals kept by the Board the magistrate before whom he was convicted may order payment of such sum as he thinks fit by way of compensation for the loss, damage or injury.

(2)

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(2) Any such order shall be deemed to be a No. 34, 1973 conviction or order whereby a sum of money is adjudged to be paid within the meaning of the Justices Act, 1902.

34. Any charge, fee or money due to the Board under the provisions of this Act or the regulations may be recovered as a debt or liquidated demand in a court of competent jurisdiction. <sup>Recovery of charges, etc.</sup>

35. (1) Proceedings in respect of any damage or injury to a person or to property shall not be commenced against the Board or any member or any employee of the Board or any person acting in its or his aid for anything done or intended to be done or omitted to be done under this Act, until the expiration of one month after notice in writing has been served on the Board, member, employee or person as provided in this section. <sup>Notice of action.</sup>

(2) The notice shall state—

- (a) the cause of action;
- (b) the time and place at which the damage or injury was sustained; and
- (c) the name and place of abode or business of the intended plaintiff and of his attorney, if any, in the case.

(3) In the case of damage to property, any person who produces on demand his authority from the Board shall be permitted to inspect the property damaged, and all facilities and information necessary to ascertain fully the value of the property damaged, and the amount of money, if any, expended in repairing the damage shall be given to him.

(4)

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(4) At the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action that is not stated in the notice, and unless the notice has been served the plaintiff shall not be entitled to maintain the action, but at any stage of the proceedings the court in which the action is pending may, if the court deems it to be just or reasonable in the circumstances so to do—

- (a) amend any defect in the notice on such terms and conditions, if any, as the court may fix; or
- (b) direct that any non-compliance or insufficient compliance with this section shall not be a bar to the maintenance of the action.

(5) Every such action shall be commenced within the period (in this section referred to as the “prescribed period”) of twelve months next after the cause of action arises but, where an application is made to the Supreme Court for an extension of the prescribed period, that Court may, if it is satisfied that sufficient cause has been shown or that, having regard to all the circumstances of the case, it would be reasonable so to do, make an order for extension of the prescribed period for such further period and subject to such terms and conditions, if any, as may be set out in the order.

(6) Any such application for extension may be made either within the prescribed period or at any time within twelve months thereafter.

(7) The Board or any member, employee or person to whom any such notice of action is given, may tender amends to the plaintiff, his attorney or agent at any time within one month after service of notice of action, and if the tender is not accepted may plead the tender as a defence to the action.

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**36.** Any notice, summons, writ or other proceedings to be served on the Board may be served—

(a) by being left; or

(b) in the case of a notice, by posting it addressed to the Board,

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Manner of service of certain documents on the Board.

at its office or, if it has more than one office, at one of its offices.

**37.** (1) The Board shall, as soon as practicable after the thirtieth day of June in each year, forward to the Minister a report of its work and activities for the twelve months preceding that day.

Annual report for Parliament.

(2) The Minister shall lay that report, or cause it to be laid, before both Houses of Parliament as soon as practicable after the receipt by him of the report.

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**PART VI.**

**REPEALS, AMENDMENTS, SAVINGS AND TRANSITIONAL PROVISIONS.**

**38.** In this Part—

Interpretation.

“appointed day” means the day appointed and notified under section 2;

“former trustees” means the Trustees of Taronga Zoological Park, as referred to in section 3 of the Taronga Zoological Park Act, 1956;

“Park lands” means the lands described in Schedules 3 and 4.

**39.**

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No. 34, 1973 **39.** Each Act mentioned in Schedule 1 is repealed.  
Repeals.

Amend- **40.** Each Act specified in Column 1 of Schedule 2 is  
ments. amended in the manner set forth opposite that Act in Column  
2 of Schedule 2.

Revocation **41.** (1) The dedication as a public park under the name  
of dedication of the "Taronga Zoological Park" of the Park lands under the  
of Park Taronga Zoological Park Act, 1956, is revoked.  
lands, etc.

(2) The persons who, immediately before the appointed day, were trustees of the Park lands shall, upon that day, cease to hold office as those trustees.

(3) The body corporate comprised of the former trustees is dissolved.

(4) Any estate or interest in the Park lands that, immediately before the appointed day, was vested in or held by any person is, subject to this Part, divested.

(5) A person referred to in subsection (2) shall, if otherwise qualified, be entitled to be appointed under section 6 as an appointed member of the Board.

Dedication **42.** Upon the appointed day—  
of Park (a) the Park lands shall be deemed to have been dedi-  
lands. cated as a public park under the Crown Lands  
Consolidation Act, 1913; and  
(b) the Board shall be deemed to have been appointed  
as trustees of the Park lands under the Public Trusts  
Act, 1897.

**43.**

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**43.** (1) Any lease or licence of or over the Park lands No. 34, 1973 entered into before the appointed day shall—

- Preservation  
of certain  
leases, etc.
- (a) to the extent to which it was valid and effectual immediately before the appointed day—continue to be valid and effectual after that day; and
  - (b) to the extent to which it was valid and effectual immediately before the grant of any of the Park lands under section 16 (3)—continue to be valid and effectual after the grant,

as if the dedication referred to in section 41 (1) were still in force and notwithstanding anything in section 41 (4).

(2) Nothing in this Part affects the proclamation published under the Main Roads Act, 1924, in Gazette No. 11 of 24th January, 1958, in respect of Main Road No. 400 passing through the Park lands.

**44.** (1) On and from the appointed day—

- Transfer  
of rights,  
liabilities  
and property  
to Board.
- (a) all real and personal property and all right and interest therein and all management and control thereof that, immediately before that day, was vested in or belonged to the former trustees shall vest in and belong to the Board;
  - (b) all moneys and liquidated and unliquidated claims that, immediately before that day, were payable to or recoverable by the former trustees shall be moneys and liquidated and unliquidated claims payable to or recoverable by the Board;
  - (c) all proceedings commenced before that day by the former trustees and pending immediately before that day shall be deemed to be proceedings pending by the Board and all proceedings so commenced by any person against the former trustees and pending immediately before that day shall be deemed to be proceedings pending by that person against the Board;

(d)

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- (d) all contracts, agreements, arrangements and undertakings entered into with, and all securities lawfully given to or by, the former trustees and in force immediately before that day shall be deemed to be contracts, agreements, arrangements and undertakings entered into with and securities given to or by the Board;
- (e) the Board may, in addition to pursuing any other remedies or exercising any other powers that may be available to it, pursue the same remedies for the recovery of moneys and claims referred to in this subsection and for the prosecution of proceedings so referred to as the former trustees might have done but for the enactment of this Act;
- (f) the Board may enforce and realise any security or charge existing immediately before that day in favour of the former trustees and may exercise any powers thereby conferred on the body corporate as if the security or charge were a security or charge in favour of the Board;
- (g) all debts, moneys and claims, liquidated and unliquidated, that, immediately before that day, were due or payable by, or recoverable against, the former trustees shall be debts due, moneys payable by and claims recoverable against, the Board; and
- (h) all liquidated or unliquidated claims for which the former trustees would, but for the enactment of this Act, have been liable shall be liquidated and unliquidated claims for which the Board shall be liable.

(2) This section extends so as to apply to and in respect of the Park lands, but not so as to transfer to the Board the estate or interest of the former trustees under section 3 (1) of the Taronga Zoological Park Act, 1956.

(3)

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(3) No attornment to the Board by a lessee from No. 34, 1973 the former trustees shall be required.

(4) A reference (however expressed) in any other Act or in any by-law, regulation or statutory instrument or in any other document, whether of the same kind or of a different kind, to the former trustees shall be read and construed as a reference to the Board.

(5) A by-law made by the former trustees under the Public Parks Act, 1912, shall, to the extent to which it was in force immediately before the appointed day, and to the extent to which it is not inconsistent with this Act, be deemed to be a regulation made under this Act.

(6) The persons who, immediately before the appointed day, were employees of the former trustees shall, on that day, become and be employees of the Board, and—

- (a) where the salary or wages payable to any such person was or were, immediately before that day, regulated by an award or industrial agreement, that person shall be paid salary or wages at a rate not less than the rate which was payable to him immediately before that day as an employee of the former trustees, subject to any adjustment necessary to give effect to any fluctuation in the basic wage for adult males, or adult females, as the case may be, for the time being in force within the meaning of Part V of the Industrial Arbitration Act, 1940, until that salary or those wages is or are varied by an award by which the Board is bound made by a competent tribunal or by an industrial agreement to which the Board is a party; and
- (b) where any condition of employment of any such person was, immediately before that day, regulated by an award or industrial agreement, that condition shall continue to be so regulated until it is varied by an award by which the Board is bound made by a competent tribunal, or that condition is regulated by an industrial agreement to which the Board is a party;
- (c)

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- (c) annual, sick and long service leave shall continue to accrue to any such person on the same basis as they accrued to him as an employee of the former trustees immediately before that day, until that basis is varied or altered in accordance with this Act or any other Act or law;
- (d) for the purpose of calculating the entitlement to long service leave of any such person under this subsection—
- (i) any service of the person which by the terms of any Act or of any staff agreement or of any award or industrial agreement was, immediately before that day, required to be taken into account for the purpose of determining his entitlement to that leave as an employee of the former trustees shall be deemed to be service with the Board; and
  - (ii) there shall be deducted from any long service leave to which the employee of the Board becomes entitled, as such an employee, any long service leave taken by him in respect of any period of service referred to in subparagraph (i); and
- (e) any such person shall be entitled to receive as an employee of the Board any annual leave or sick leave accrued to him as an employee of the former trustees immediately before that day.
- (7) Nothing in subsection (6) affects the operation of subsection (1) (d) in relation to any contracts, agreements or arrangements entered into by the former trustees with respect to any staff superannuation scheme.
- (8) A person referred to in subsection (6) shall not be entitled to receive benefits under this Act as well as any other Act in respect of the same period of service.

(9)

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(9) Nothing in this section affects the operation of No. 34, 1973 the Industrial Arbitration Act, 1940.

45. The right in the nature of a negative easement vested in The Metropolitan Water Sewerage and Drainage Board, as appurtenant to the land comprised in Certificate of Title Volume 2879 Folio 46, by section 7 of the Taronga Zoological Park Act, 1956, is extinguished. Certain easement extinguished.

46. Notwithstanding anything in Part XIIA of the Local Government Act, 1919, the Board may use any of the lands described in the Second Schedule to the Taronga Zoological Park Act, 1956, for the purposes of agriculture. Use of certain lands for agriculture under section 7 of Taronga Zoological Park Act, 1956, continued.

## SCHEDULE 1.

Sec. 39.

## REPEALS.

Year and number of Act.	Short title of Act.
1956, No. 19 ..	Taronga Zoological Park Act, 1956.
1961, No. 10 ..	Taronga Zoological Park (Amendment) Act, 1961.
1969, No. 58 ..	Taronga Zoological Park (Amendment) Act, 1969.

## SCHEDULE

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## SCHEDULE 2.

Sec. 40.

## AMENDMENT OF ACTS.

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Amendment.
1919, No. 41	Local Government Act, 1919.	<p>Section 4— In the definition of "Statutory body" or "statutory body representing the Crown", before "any district" insert "the Zoological Parks Board of New South Wales,".</p> <p>Section 132 (1)— Insert after paragraph (c) the following new paragraph:— (c1) land which is vested in the Crown or the Zoological Parks Board of New South Wales and is used or occupied by that Board for the purposes thereof; and.</p> <p>Section 654 (5)— Insert after paragraph (r) the following new paragraph:— (s) the Zoological Parks Board of New South Wales.</p>
1970, No. 26	Closer Settlement and Public Reserves Fund Act, 1970.	<p>Section 3— (a) In the definition of "Public reserve", after "apply" insert "and land vested in or held by the Zoological Parks Board of New South Wales"; (b) In the definition of "Trustees", after "trust" insert "and includes the Zoological Parks Board of New South Wales in respect of land vested in or held by that Board".</p>

SCHEDULE

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## SCHEDULE 3.

Secs. 15, 16,  
38.

ALL THAT piece or parcel of land containing by admeasurement 29.15 hectares be the same more or less, Municipality of Mosman, Parish of Willoughby, County of Cumberland, being portion 1220 as shown on plan catalogued C 10341-2030 roll in the Department of Lands, Sydney.

## SCHEDULE 4.

Secs. 15, 16,  
38.

ALL THAT piece or parcel of land containing by admeasurement 1 239 square metres be the same more or less, Municipality of Mosman, Parish of Willoughby, County of Cumberland, being portion 1209 as shown on plan catalogued C 9638-2030 in the Department of Lands, Sydney.

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ABORIGINES