

TASMANIA

**NATIONAL TRUST OF AUSTRALIA
(TASMANIA) AMENDMENT BILL 2004**

CONTENTS

1. Short title
2. Commencement
3. Principal Act
4. Section 2 amended (Interpretation)
5. Part IV inserted
 - PART IV – Appointment, powers, &c., of Administrator
 22. Appointment of Administrator
 23. Functions and powers, &c., of Administrator
 24. Provisions relating to office of Administrator
 25. Expenses of administration
 26. Liability for losses incurred during administration

**NATIONAL TRUST OF AUSTRALIA
(TASMANIA) AMENDMENT BILL 2004**

*(Brought in by the Minister for Tourism, Parks and
Heritage, the Honourable Kenneth John Bacon)*

A BILL FOR

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

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

Short title

1. This Act may be cited as the *National Trust of
Australia (Tasmania) Amendment Act 2004*.

Commencement

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

Principal Act

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

*No. 45 of 1975

Section 2 amended (Interpretation)

4. Section 2 of the Principal Act is amended as follows:

- (a) by inserting "(1)" before "In this Act";
- (b) by inserting the following subsection:

(2) If an Administrator is appointed under section 22 –

- (a) the definition of “Council” includes the Administrator except in section 10; and
- (b) the definition of “executive officer” includes the Administrator; and
- (c) the definition of “Trust” includes the Administrator except in sections 3(2), 4, 4A, 5, 8, 12A(2)(a) and (b), 12A(3) and Schedule 1.

Part IV inserted

5. After section 21 of the Principal Act, the following Part is inserted:

**PART IV – APPOINTMENT, POWERS, &C., OF
ADMINISTRATOR**

Appointment of Administrator

22. (1) The Minister may, by instrument in writing, appoint an Administrator to administer the affairs, activities, business and management of the Trust if the Minister is satisfied that it is in the public interest for an Administrator to be appointed.

(2) The term for which the Administrator is to be appointed is not to exceed 2 years.

(3) A State Service officer or State Service employee may hold office as Administrator in conjunction with State Service employment.

Functions and powers, &c., of Administrator

23. (1) On the appointment of an Administrator under section 22, the Minister must serve on the Trust a copy of the instrument of appointment and, on the service of that instrument –

- (a) the functions and powers of the Trust, the Council and the officers of the Trust are to be performed and exercised by the Administrator in the name and on behalf of the Trust or Council for the period specified in his or her instrument of appointment; and
- (b) the members of the Council and the officers of the Trust cease to hold office; and
- (c) the Administrator is to assume and be responsible for the management, and be responsible for the affairs, activities and business, of the Trust; and
- (d) any delegation made by the Council ceases to have effect.

(2) Subject to this section, an Administrator appointed under this section –

- (a) as soon as practicable after his or her appointment, is to take into his or her

custody or under his or her control all the property and things in action to which the Trust and Council is or appears to be entitled; and

- (b) subject to and in accordance with any direction that may be given to the Administrator by the Minister, is to perform the functions and exercise the powers of the Trust and Council in such manner as the Administrator thinks fit.

(3) Nothing contained in the rules limits the powers of an Administrator during the term of his or her office and the Administrator may perform his or her functions and exercise his or her powers notwithstanding anything contained in the rules.

(4) During the period of administration of the Trust –

- (a) the Administrator may seek advice from the President and the chairpersons of the Regional Committees; and
- (b) the Minister is to consult with persons to ensure that appropriate provision is made for the future of the Trust; and
- (c) the Administrator may take such action and do such things as the Administrator considers necessary to ensure the proper management of the affairs, activities and business of the Trust both during and after the period of administration.

(5) In this section –

“officers of the Trust” means the executive officer and the treasurer of the Trust and any acting treasurer of the Trust.

Provisions relating to office of Administrator

24. (1) An Administrator appointed under section 22 is taken to have vacated office if –

- (a) he or she dies; or
- (b) he or she becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration or estate for their benefit; or
- (c) he or she is convicted, in Tasmania or elsewhere, of a crime or an offence punishable by imprisonment for a term of 12 months or longer; or
- (d) he or she resigns by written notice given to the Minister; or
- (e) his or her appointment is revoked by the Minister under subsection (2).

(2) The Minister may revoke the appointment of an Administrator appointed under section 22.

(3) If the office of Administrator is taken to have been vacated under subsection (1), the Minister may, by instrument in writing, appoint another person to fill the vacancy for the remainder of the Administrator’s term of office.

(4) An Administrator appointed under section 22 is to be paid such remuneration, allowances and expenses as the Minister may determine.

(5) Notwithstanding subsection (4), if a State Service officer or State Service employee is appointed as Administrator under section 22, he or she is entitled to receive, by way of remuneration, allowances and expenses, such amounts as the Minister administering the *State Service Act 2000* may determine.

Expenses of administration

25. (1) The expenses of and incidental to the administration of the affairs, activities, business and management of the Trust and Council by an Administrator appointed under section 22 are payable by the Trust.

(2) The remuneration, allowances and expenses of an Administrator appointed under section 22 who is not a State Service officer or State Service employee are not expenses referred to in subsection (1) and are payable by the Crown.

(3) If an Administrator appointed under section 22 is a State Service officer or State Service employee, the amount determined by the Minister administering the *State Service Act 2000* in respect of the remuneration, allowances and expenses of the officer or employee is not an expense referred to in subsection (1) and is payable by the Crown.

Liability for losses incurred during administration

26. An Administrator appointed under section 22 does not incur legal liability for any loss incurred by the Trust or Council, or by the Administrator while acting in good faith in his or her capacity as Administrator, during his or her term of office unless the loss was attributable to –

- (a) his or her wilful misconduct; or
- (b) his or her gross negligence; or
- (c) his or her wilful failure to comply with any provision of this Act.