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Wellington Park Act 1993

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Wellington Park Act 1993

An Act to establish Wellington Park, to provide for its protection, use and management and for the assessment of major projects affecting it and to make provision for incidental and consequential matters

[Royal Assent 10 September 1993]

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

PART 1 - Preliminary

1. Short title

This Act may be cited as the Wellington Park Act 1993 .

2. Commencement

This Act commences on a day to be proclaimed.

3. Interpretation

(1) *[Section 3 Subsection (1) amended by No. 30 of 1995, s. 3 and Sched. 1]* In this Act, unless the contrary intention appears –

[Section 3 Subsection (1) amended by No. 86 of 2000, Sched. 1, Applied:01 May 2001] **Agency** means a Government department or State authority or other organization specified in Column 1 of Schedule 1 to the State Service Act 2000 ;

[Section 3 Subsection (1) amended by No. 64 of 2002, Sched. 1, Applied:31 Dec 2002]

[Section 3 Subsection (1) amended by No. 64 of 2002, Sched. 1, Applied:31 Dec 2002] **authorized officer** means a police officer, a ranger within the meaning of the National Parks and Reserves Management Act 2002 , a ranger within the meaning of the Nature Conservation Act 2002 or a person appointed as an authorized officer under section 13 ;

[Section 3 Subsection (1) amended by No. 4 of 2003, s. 4, Applied:16 Apr 2003] *[Section 3 Subsection (1) amended by No. 28 of 2009, s. 65, Applied:01 Sep 2009]* **Commission** means the Tasmanian Planning Commission established under section 4 of the Tasmanian Planning Commission Act 1997 ;

development includes –

- (a) the construction, exterior alteration or exterior decoration of a building; and
- (b) the demolition or removal of a building or works; and
- (c) the construction or carrying out of works; and
- (d) the subdivision or consolidation of land, including buildings or airspace; and
- (e) the placing or relocation of a building or works on land; and
- (f) the construction or putting up for display of signs or hoardings –

but does not include any development of a class or description, including a class or description mentioned in paragraphs (a) to (f) , prescribed by the regulations for the purposes of this definition;

Fund means the Wellington Park Management Fund established under section 16 ;

[Section 3 Subsection (1) amended by No. 86 of 2000, Sched. 1, Applied:01 May 2001] **Government department** means a department established under section 11 of the State Service Act 2000 ;

hearing means a hearing held for the purposes of section 42 ;

land includes land covered by water, and the part of that water covering that land;

management plan means any management plan approved under section 23 and for the time being in force in respect of Wellington Park;

municipality means a council;

private right, when used in relation to Crown land, Crown land vested in a public authority or land owned by a public authority, means any estate, interest or right (not being an interest arising under a contract for the grant of an estate in fee simple) pursuant to which the holder of the estate, interest or right has the right to occupy or use that land or to carry out any operations on that land or to take any water, products or materials from that land;

public authority means –

- (a) any municipality; or
- (b) any other body corporate established under an enactment having jurisdiction limited to a district, locality or part of the State; or
- (c) any body corporate established under an enactment or in the exercise of the prerogative rights of the Crown to administer or control any department, business, undertaking or public institution on behalf of the State; or
- (d) a department or other agency of government of the Commonwealth; or
- (e) an authority of the Commonwealth established for a public purpose;

restricted area means the part of Wellington Park which is declared in a management plan to be an area to which the public has not a general right of access;

State authority means a body or authority, whether incorporated or not, which is established or constituted by or under an Act or under the royal prerogative, being a body or authority which, or of which the governing authority, wholly or partly comprises a person or persons appointed by the Governor, a Minister or another State authority;

[Section 3 Subsection (1) amended by No. 25 of 2001, s. 4, Applied: 26 Apr 2001]

Trust means the Wellington Park Management Trust established under section 9 ;

Wellington Park means –

- (a) the area of land indicated as bounded by a heavy black line on Plan No. 2789 in the Central Plan Register, a reduced copy of which is set out, by way of illustration only, in Schedule 1 ; or
- (b) that area of land as varied pursuant to sections 6 , 7 and 8 ;

[Section 3 Subsection (1) amended by No. 25 of 2001, s. 4, Applied: 26 Apr 2001] **works** includes any change to the natural or existing condition or topography of land including the removal, destruction or lopping of trees and the removal of vegetation or topsoil.

(2) *[Section 3 Subsection (2) amended by No. 64 of 2002, Sched. 1, Applied: 31 Dec 2002]* Words and expressions used both in this Act and in the National Parks and Reserves Management Act 2002 have in this Act, unless the contrary intention appears, the same respective meanings as they have in that Act.

(3) *[Section 3 Subsection (3) substituted by No. 64 of 2002, Sched. 1, Applied: 31 Dec 2002]* Section 3(2), (3), (4), (5), (6), (7), (8), (9), (10), (11) and (12) of the Nature Conservation Act 2002 apply to this Act in the same way as they apply to that Act.

4. Act binds Crown

This Act binds the Crown in right of Tasmania and, so far as the legislative power of Parliament permits, in all its other capacities.

PART 2 - Wellington Park

5. Wellington Park

Wellington Park is set aside as a reserve for the following purposes:

- (a) the provision of recreational and tourism uses and opportunities consistent with the purposes specified in paragraphs (b) to (e) ;
- (b) the preservation or protection of the fauna or flora contained in or on the land;
- (c) the preservation or protection of the natural beauty of the land or of any features of the land of natural beauty or scenic interest;
- (d) the preservation or protection of any features of the land being features of historical, Aboriginal, archaeological, scientific, architectural or geomorphological interest;
- (e) the protection of the water catchment values of the land.

6. Acquisition of land to be annexed to Wellington Park

- (1) The Minister may acquire any land that the Minister, acting on the advice of the Trust, considers should be annexed to Wellington Park or that is required for the purposes for which Wellington Park is set aside.
- (2) Land that may be acquired under this section may be acquired under and in accordance with the Land Acquisition Act 1993 , or by any means by which land may be surrendered to, or may revert to and revert in, the Crown.
- (3) Where any land that may be acquired under this section is held under a single title with other land, the Minister may acquire the whole or part of that other land.
- (4) Where the Minister is authorized under this section to acquire any land, that land may be acquired by the exchange for that land of any Crown land.
- (5) An exchange of land under this section may be made on such terms and conditions as may be agreed, including terms and conditions with respect to the payment, giving or receipt of any money or other consideration by way of exchange.
- (6) For the purpose of effecting an exchange the Governor, in the name of the Crown, may grant any Crown land for an estate in fee simple.
- (7) Any land that has been acquired under this section and does not become part of Wellington Park may be disposed of or dealt with in accordance with the Crown Lands Act 1976 or otherwise as if it were Crown land within the meaning of that Act.

7. Declaration of land to form part of Wellington Park

- (1) Subject to subsection (2) , where the Governor, acting on the advice of the Trust, considers that any Crown land, Crown land vested in a public authority or land owned by a public authority should be annexed to Wellington Park the Governor may, by proclamation, declare that land to form part of Wellington Park.
- (2) A proclamation may not be made under subsection (1) in respect of Crown land vested in a public authority or land owned by a public authority without the consent of the public authority.
- (3) A proclamation referred to in subsection (1) does not have effect until it has been approved by both Houses of Parliament.
- (4) For the purposes of subsection (3) , a House of Parliament is to be taken to have approved a proclamation if a copy of it has been laid on the table of that House and –
 - (a) it is approved by that House; or
 - (b) at the expiration of 15 sitting days after it was laid on the table of that House, no notice has been given of a motion to disallow it or, if such notice has been given, the notice has been withdrawn or the

motion has been negatived; or

(c) if any notice of a motion to disallow it is given during that period of 15 sitting days, the notice is, after the expiration of that period, withdrawn or the motion is negatived.

(5) Where a proclamation is made under subsection (1) declaring any land owned by a public authority to form part of Wellington Park and the land is subject to the Land Titles Act 1980 or is alienated land not subject to that Act, the Minister must, as soon as possible after the proclamation is made, cause it to be registered in respect of the land to which it relates.

(6) Where land that is subject to the Land Titles Act 1980 is declared, by proclamation, to form part of Wellington Park, the proclamation does not come into force until it is registered under that Act.

(7) Where alienated land that is not subject to the Land Titles Act 1980 is declared, by proclamation, to form part of Wellington Park, the proclamation does not come into force until it is registered under the Registration of Deeds Act 1935 .

(8) The provisions of Schedule 2 have effect in relation to the registration of proclamations referred to in this section.

(9) Nothing in section 40 of the Land Titles Act 1980 is to be construed as affecting the validity of any proclamation referred to in this section or as prejudicing or affecting the operation of any such proclamation.

(10) Subject to any proclamation made under section 8 , where any area of land has become part of Wellington Park it remains part of Wellington Park notwithstanding any subsequent disposition of the land or any other dealing in the land.

8. Revocation of Wellington Park or part of Wellington Park

(1) The Governor may, by proclamation, declare that, on such date as may be specified in the proclamation, the whole or part of Wellington Park ceases to be, or form part of, Wellington Park and, on that date, Wellington Park is abolished or varied accordingly.

(2) A proclamation may not be made under subsection (1) unless a draft of it has first been approved by each House of Parliament.

(3) Where a proclamation is made under subsection (1) , the Minister must, as soon as possible after the proclamation is made, cause it to be registered in respect of the land to which it relates.

(4) The provisions of Schedule 2 have effect in relation to the registration of proclamations referred to in this section.

(5) Nothing in section 40 of the Land Titles Act 1980 is to be construed as affecting the validity of any proclamation referred to in this section or as prejudicing or affecting the operation of any such proclamation.

PART 3 - Administration

Division 1 - Establishment of Wellington Park Management Trust

9. Wellington Park Management Trust

- (1) A Wellington Park Management Trust is established.
- (2) The Trust is a body corporate with perpetual succession and a common seal.
- (3) The common seal is to be kept and used as authorized by the Trust.
- (4) The Trust may sue and be sued in its corporate name.
- (5) The execution of a document sealed by the Trust is to be attested by 2 members of the Trust.
- (6) All courts and persons acting judicially must take judicial notice of the imprint of the common seal on a document and presume that it was duly sealed by the Trust.

10. Constitution of Trust

[Section 10 Subsection (1) amended by No. 57 of 1996, s. 55 and Sched. 5]

- (1) *[Section 10 Subsection (1) amended by No. 30 of 1995, s. 3 and Sched. 1]*The Trust consists of –
 - (a) the chairperson; and
 - (b) the Director-General of Lands or a person nominated by the Director-General; and
 - (c) the Director of National Parks and Wildlife or a person nominated by the Director; and
 - (d) the chief executive officer of Tourism Tasmania or a person nominated by that chief executive officer; and
 - (e) two persons nominated by the Hobart City Council; and
 - (f) a person nominated by the Glenorchy City Council; and
 - (g) a person nominated by the Hobart Regional Water Board.
- (2) The Minister must appoint as members of the Trust the persons nominated under subsection (1) (e) , (f) and (g) .
- (3) The chairperson of the Trust is to be appointed by the Minister and, where the member referred to in subsection (1) (b) , (c) or (d) is a person nominated by the Director-General of Lands, the Director of National Parks and Wildlife or the Director of Tourism, that member is to be appointed by the Minister.
- (4) Schedules 3 and 4 have effect.

11. Functions and powers of Trust

- (1) The functions of the Trust are as follows:
 - (a) to provide for the management and maintenance of Wellington Park in a manner that is consistent with the purposes for which it is set aside;
 - (b) to give effect to any management plan in force for Wellington Park;
 - (c) to prepare plans with a view to their submission to the Governor for approval as management plans for Wellington Park and to keep under review the provisions of management plans;
 - (d) to ensure that any development undertaken in Wellington Park is consistent with the purposes for which it is set aside and with any management plan;
 - (e) when required to do so by the Minister, to advise on any development proposed for Wellington Park;

(f) to carry out, or arrange for the carrying out of, research and other activities that appear to it to be desirable in connection with the administration of this Act;

(g) to be the managing authority of Wellington Park;

(h) to perform such other functions as are imposed on it by or under this or any other Act.

(2) The Trust may do all things necessary or convenient to be done for or in connection with, or incidental to, the performance of its functions.

(3) Without limiting subsection (2), the Trust may use, or arrange for the use of, Wellington Park as it considers appropriate to promote the purposes for which it is set aside and may –

(a) provide and maintain facilities and conveniences for the use or benefit of persons resorting to Wellington Park, and charge for the use of those facilities or conveniences; and

(b) sell or let on hire to, or otherwise provide for the use of, those persons, goods and other articles and things; and

(c) obtain and use for the purpose of the exercise of its powers under this section any produce of, or materials in, Wellington Park; and

(d) make arrangements with any other person for the doing of anything referred to in paragraph (a), (b) or (c); and

(e) erect or construct any buildings or other works and purchase or acquire any articles or other things.

(4) The arrangements referred to in subsection (3) (d) may be arrangements pursuant to which any person has the right or obligation to do any of the things referred to in that subsection, and those arrangements may provide for the furnishing of consideration in respect of the giving of that right or the imposition of that obligation.

(5) The Minister may give directions to the Trust with respect to the performance of its functions and, in performing its functions, the Trust must comply with any directions so given.

(6) The power conferred on the Minister by subsection (5) is not to be exercised so as –

(a) to require the Trust to do anything that it is not empowered to do by this Act; or

(b) to prevent the Trust from performing any function that it is expressly required by this Act to perform, whether conditionally or unconditionally; or

(c) to interfere with the formation by the Trust of any opinion or belief in relation to any matter that has to be determined as a prerequisite to the performance or exercise by the Trust of any of its functions or powers under this Act.

12. Committees

The Trust may establish committees for the purpose of advising it on the management and planning of Wellington Park and on such other matters arising in relation to the performance of its functions as it may specify.

13. Authorized officers

The Trust may appoint a person employed by a body which is represented on the Trust as an authorized officer for the purposes of the management of Wellington Park.

14. Delegation

The Trust may delegate any of its functions or powers other than this power of delegation.

15. Protection from liability

(1) A member or delegate of the Trust does not incur any personal liability in respect of any act done or omitted to be done by the member or delegate in good faith in the performance or exercise, or purported performance or exercise, of any function or power of the Trust or in the administration or execution, or purported administration or execution, of this Act.

(2) Subsection (1) does not preclude the Trust from incurring liability that a member or delegate of the Trust would, but for subsection (1), incur.

Division 2 - Finances of the Trust

16. Wellington Park Management Fund

- (1) There is established a fund to be known as the Wellington Park Management Fund.
- (2) The Fund consists of –
 - (a) money appropriated by Parliament for the purposes of the Trust; and
 - (b) money received by the Trust by way of fees and charges imposed under this Act; and
 - (c) money derived by the Trust from –
 - (i) licences issued under this Act in respect of any part of Wellington Park; or
 - (ii) the sale or disposal by the Trust of any property that the Trust has power to sell or dispose of; and
 - (d) other money received from any other source by the Trust.
- (3) The Fund is to be administered by the Trust.

17. Application of Fund

Money in the Fund is to be applied –

- (a) in the payment or discharge of the expenses, charges and obligations incurred or undertaken by the Trust in the performance of its functions and the exercise of its powers; and
- (b) in the payment of any remuneration payable under this Act.

18. Authorised deposit-taking institution accounts

- (1) *[Section 18 Subsection (1) amended by No. 74 of 1999, Sched. 2, Applied: 01 Jan 2000] [Section 18 Subsection (1) amended by No. 62 of 1996, s. 3 and Sched. 1]* The Trust must open and maintain at least one account in an authorised deposit-taking institution in this State.
- (2) The Trust must pay any money received by it into the account referred to in subsection (1).
- (3) Payment of money into the account referred to in subsection (1) is taken to be a payment of money into the Fund.
- (4) The Trust must ensure that any money received or held by it on trust is paid into an account that does not contain any money of the Trust not held on trust.

19. Temporary investment of funds

The Trust may invest any money that it is holding and for which it has no immediate use in any manner in which trustees are authorized to invest trust funds under the Trustee Act 1898.

20. Money held on trust

- (1) The Trust may accept money or property on trust and may act as trustee of money or property held by it on trust.
- (2) The Trust may invest any money held by it on trust in any manner in which trustees are authorized to invest trust funds under the Trustee Act 1898.

21. Accounts and records

- (1) The Trust must keep proper accounts and records in relation to all its operations and must do all things necessary to ensure that all payments made by it are correctly made and properly authorized and that adequate

control is maintained over the assets of, or in the custody of, the Trust and over the incurring of liabilities of the Trust.

(2) *[Section 21 Subsection (2) substituted by No. 50 of 2008, Sched. 2, Applied:01 Jul 2010]* The Trust is to prepare and forward to the Auditor-General a copy of its financial statements for each financial year in accordance with the Audit Act 2008 .

22.

[Section 22 Amended by No. 50 of 2008, Sched. 1, Applied:01 Mar 2009]

PART 4 - Management of Wellington Park

Division 1 - Management plans

23. Management plans

- (1) The Governor may, on the recommendation of the Trust, approve plans for the protection, use, development and management of Wellington Park.
- (2) Any plan approved under subsection (1) may be a plan that in whole or in part rescinds, replaces or alters any plan previously approved under that subsection.
- (3) The plans approved under this section and for the time being in force in respect of Wellington Park are in this Act referred to as the management plan for Wellington Park.
- (4) *[Section 23 Subsection (4) inserted by No. 4 of 2003, s. 5, Applied: 16 Apr 2003]* Where a planning scheme in force under the Land Use Planning and Approvals Act 1993 affects the protection, use, development or management of any land contained in Wellington Park –
 - (a) the relevant provisions of the management plan are taken to be included in that planning scheme; and
 - (b) in the event of conflict between the management plan and the planning scheme, the management plan is to prevail.
- (5) *[Section 23 Subsection (5) inserted by No. 4 of 2003, s. 5, Applied: 16 Apr 2003]* If a provision of the management plan is inconsistent with a provision of a planning directive issued under section 13 of the Land Use Planning and Approvals Act 1993, the latter provision prevails.
- (6) *[Section 23 Subsection (6) inserted by No. 4 of 2003, s. 5, Applied: 16 Apr 2003]* The planning directive may contain provisions for resolving any conflict between the management plan and the planning scheme.

24. Formulation of management plans

- (1) It is the responsibility of the Trust to cause to be prepared, with a view to its submission to the Governor, a plan referred to in section 23 (1).
- (2) Where the Trust considers that an Act administered in or by an Agency or State authority will or may be affected by a restriction on the exercise of a statutory power that it is proposed to include in a management plan, being a statutory power the right to exercise which is conferred on –
 - (a) the responsible officer of the Agency or State authority; or
 - (b) a person employed in the Agency or employed by or in the State authority (not being the responsible officer of the Agency or State authority); or
 - (c) the State authority, in the case of an Act administered in or by the State authority; or
 - (d) the Minister responsible for the administration of the Agency or State authority –the Trust must, by written notice given to the responsible officer of the Agency or State authority, request that officer to provide the Trust with written representations stating whether or not the officer considers the inclusion of the restriction in the plan to be necessary or desirable and giving reasons for making the representations.
- (3) For the purposes of subsection (2), **responsible officer** means –
 - (a) in relation to an Agency, the Head of that Agency; and
 - (b) in relation to a State authority, the president, chairperson or other principal or presiding member of the State authority or, if the State authority comprises a single person, that person.
- (4) Where the Trust considers that –
 - (a) a private right to take water; or
 - (b) any land within a municipality –

will, or may, be affected by a management plan, it must consult with the holder of that private right or with that municipality.

(5) The Trust may, in a notice given by it for the purposes of subsection (2) , specify a time, being not less than 30 days after the date of the receipt of the notice by the person to whom it is given, in which the Trust is to be provided with representations for the purposes of that subsection.

(6) A notice given for the purposes of subsection (2) may be sent by post or delivered personally to the person to whom it is directed.

(7) Before a plan is submitted to the Governor for approval under section 23 (1) , the Trust must cause to be published in a daily newspaper circulating within the State a notice –

(a) stating that it is proposed to submit a plan in respect of Wellington Park to the Governor for approval; and

(b) specifying the place at which the plan may be inspected and copies obtained; and

(c) stating that representations with respect to the plan may be made to the Trust before such date as may be specified in the notice, not being earlier than 30 days after the publication of the notice.

(8) Where a notice has been published in respect of a plan under subsection (7) , the Trust must, on payment of such charge (if any) as it fixes, provide a copy of that plan to any person requesting the plan.

(9) *[Section 24 Subsection (9) amended by No. 4 of 2003, s. 6, Applied:16 Apr 2003]* Subject to subsections (10) and (11) , the Trust must submit a plan to the Governor for approval after the Trust has considered any representations with respect to the plan made to it by any person in response to a notice under subsection (2) or subsection (7) or any report made by the Commission under section 24D .

(10) A plan submitted for the Governor's approval under section 23 may be an unaltered plan or a plan containing such alterations as, subject to subsection (11) , the Trust thinks desirable, having regard to the representations referred to in subsection (9) .

(11) The Trust must not make alterations to a plan, being alterations that will affect a restriction on the exercise of a statutory power included in that plan, unless it has consulted the Minister administering the Act under which that statutory power is exercised.

24A. Referral of representations to Commission

[Section 24A Inserted by No. 4 of 2003, s. 7, Applied:16 Apr 2003] The Trust, within 30 days after receiving any representations under section 24(7)(c) or within any further period that the Minister allows, is to forward to the Commission –

(a) a copy of all representations received under section 24 ; and

(b) a report containing –

(i) a summary of the representations; and

(ii) the Trust's opinion on the merits of the representations including whether or not it believes the representations to be of sufficient merit to warrant modification of the plan; and

(iii) a summary of any proposed modification to the plan; and

(iv) any additional information that the Trust considers relevant.

24B. Public exhibition of representations, &c.

[Section 24B Inserted by No. 4 of 2003, s. 7, Applied:16 Apr 2003]

(1) The Commission, as soon as practicable after receipt of copies of representations and the report of the Trust under section 24A , is to notify by public notice –

(a) the places at which copies of the representations and report are to be exhibited; and

(b) the period during which they are to be exhibited; and

(c) any other information that the Commission considers relevant.

(2) At least one of the places referred to in subsection (1)(a) is to be in the city of Hobart.

(3) The Trust and the Commission may make available any information that may assist public consideration of the representations and the report of the Trust at the places referred to in subsection (1)(a) .

24C. Review by Commission

[Section 24C Inserted by No. 4 of 2003, s. 7, Applied:16 Apr 2003]

(1) The Commission is to review the representations and the report of the Trust made under section 24A with reference to the management plan.

(2) The Commission, within 21 days after receipt of the copies of the representations and the report of the Trust or within any further period that the Minister allows, is to decide whether or not to hold a hearing to assist in its review of the representations.

(3) If the Commission decides to hold a hearing, the Commission is to notify the Trust of that decision.

(4) If the Commission decides not to hold a hearing, the Commission, within 14 days after making that decision, is to give written notice of that decision to –

(a) the Trust; and

(b) any person who has made a representation under section 24(7) .

(5) *[Section 24C Subsection (5) amended by No. 28 of 2009, s. 66, Applied:01 Sep 2009]* A hearing is to be conducted in accordance with Part 3 of the Tasmanian Planning Commission Act 1997 .

24D. Report of Commission

[Section 24D Inserted by No. 4 of 2003, s. 7, Applied:16 Apr 2003]

(1) The Commission, within such period as the Minister allows, is to provide the Trust with a report of the review under section 24C .

(2) As soon as practicable after the period referred to in subsection (1) , the Commission is to publish in the *Gazette* and in a daily newspaper circulating generally within the State notice of –

(a) the making of its report; and

(b) the places where copies of its report are available for inspection by the public.

25. Contents of management plans

(1) A management plan may indicate the purposes for which, or the manner in which, Wellington Park, or any part of Wellington Park, is to be protected, used, developed or managed and, in particular –

(a) may indicate the manner in which the powers of the Trust are to be exercised in relation to Wellington Park or any part of Wellington Park; and

(b) may prohibit or restrict, in relation to Wellington Park or any part of Wellington Park, the exercise of those powers; and

(ba) *[Section 25 Subsection (1) amended by No. 48 of 2004, s. 4, Applied:17 Dec 2004]* may contain any provision which a planning scheme under the Land Use Planning and Approvals Act 1993 may contain; and

(c) may contain any other provisions that are authorized by this Act to be contained in the plan.

(2) Subject to subsection (3) , a management plan may make provision for the use or development of Wellington Park otherwise than under the powers conferred by this Act and for that purpose may authorize the exercise in relation to Wellington Park, subject to such restrictions (if any) as may be specified in the plan, of any statutory power.

(3) Any provisions in a management plan giving such authority as is referred to in subsection (2) are of no effect unless the inclusion of those provisions in that plan is approved by resolution of each House of Parliament.

(4) The Clerk of the House by which a resolution referred to in subsection (3) is passed must publish notice of the resolution in the *Gazette* as soon as possible after it is passed.

(5) A management plan may prohibit or restrict the exercise in relation to Wellington Park of any statutory powers.

(6) Any restriction imposed under this section on the exercise of a statutory power may be a restriction specifying the conditions subject to which it may be exercised, or the circumstances in which it may or may not be exercised.

(7) Any condition imposed under this section on the exercise of a statutory power may be a condition requiring the carrying out, or designed to facilitate or promote the carrying out, of works and other operations during or after the exercise of that power, or requiring the entering into of contracts or the making of any other arrangements designed to secure the carrying out of those works or operations.

26. Notification and taking effect of management plans

(1) Subject to subsection (2), the Trust must, as soon as possible after the Governor has approved a management plan, cause notice of the approval of the plan to be published in the *Gazette*.

(2) Where provisions giving such authority as is referred to in section 25 (2) are included in a management plan, the notice of the approval of the plan published pursuant to subsection (1) –

(a) is to state whether or not the inclusion of those provisions in the plan has been approved by resolution of each House of Parliament; and

(b) is to state, if the inclusion of those provisions has not been so approved, that –

(i) they are of no effect unless their inclusion is so approved; and

(ii) an inspection of the plan may be made pursuant to subsection (4) for the purpose of obtaining information about those provisions.

(3) Subject to section 25 (3), a management plan takes effect on the seventh day after the date of notice of its approval has been published as required by subsection (1).

(4) Where notice of the approval of a management plan has been published under subsection (1), the Trust –

(a) must, on the request of any person and without payment of a fee, permit that person to inspect the plan; and

(b) if it is practicable, must, on the request of any person and on payment by that person of such charge (if any) as the Trust fixes, provide that person with a copy of the plan.

Division 2 - Management

27. Duty of owners, &c., of land in Wellington Park

(1) It is the duty of all owners or occupiers of land in Wellington Park to exercise their functions and powers and to use and manage the land in a manner that is consistent with the purposes for which it is set aside and with any management plan.

(2) The owners of land in Wellington Park must not sell, lease or otherwise dispose of the land without the approval of the Trust.

28. Developments undertaken in Wellington Park

[Section 28 Amended by No. 4 of 2003, s. 8, Applied: 16 Apr 2003] Until a management plan takes effect in relation to Wellington Park, the owners or occupiers of land in Wellington Park must consult with, and take account of the views of, the Trust in relation to any development proposed to be undertaken on that land.

29. Dealings with Wellington Park

- (1) A statutory power may not be exercised in relation to Wellington Park except as may otherwise be authorized by a management plan or, subject to subsection (2) , by an Act under which a body represented on the Trust is constituted.
- (2) A body represented on the Trust may exercise a statutory power in relation to land in Wellington Park owned or occupied by, or vested in, that body in such manner as is authorized by the Act under which that body is constituted.
- (3) Notwithstanding subsections (1) and (2) , where, at the time that any land becomes part of Wellington Park, there are subsisting in respect of that land any private rights, nothing in this Act prejudices or affects those rights and they continue to subsist and may be dealt with, and the like powers may be exercised in relation to those rights, as if that land had not become part of Wellington Park.
- (4) Notwithstanding anything in subsection (3) , the power under any Act to terminate, discharge or otherwise abrogate any private right over land that is required for the purposes of any other Act or for any public purpose may be exercised in respect of any such right subsisting over Wellington Park in any case where the Trust certifies that the land should, for the purposes of this Act, be freed from that right.

30. Restriction of public access to Wellington Park

The management plan for Wellington Park may declare that any part of Wellington Park is an area to which the public has not a general right of access.

31. Licensing of activities in Wellington Park

- (1) A person must not in Wellington Park –

- (a) sell or hire out, offer or expose for sale or hiring out, or have in his or her possession for the purpose of selling or hiring out, any article, material or other thing; or
- (b) provide, or offer to provide, or hold himself or herself out as being willing to provide, any service or facility for any reward or other consideration –

unless that person is the holder of a licence to do so issued under any other Act or, where no such licence is required under any other Act, a licence issued under this section.

Penalty: Fine not exceeding 10 penalty units.

- (2) A person who seeks a licence under this section must make application to the Trust in a form approved for that purpose by the Trust.
- (3) The Trust must, as soon as practicable after receiving an application under subsection (2) , issue or refuse to issue the licence.
- (4) A licence issued under this section –
 - (a) is subject to such fees, conditions and restrictions as are specified in the licence; and
 - (b) is in force for such period as is specified in the licence; and
 - (c) may be renewed on application to the Trust in the same manner as an application for an original licence for such period and subject to such fees, conditions and restrictions as the Trust may determine.
- (5) The Trust may vary the terms or conditions of a licence issued by it.
- (6) The holder of a licence who contravenes or fails to comply with any condition or restriction to which the licence is subject is guilty of an offence.

Penalty: Fine not exceeding 20 penalty units.

- (7) Where the holder of a licence is convicted of an offence under subsection (6) , the Trust may cancel the licence.

32. Leases, licences, &c., relating to land within Wellington Park

[Section 32 Amended by No. 25 of 2001, s. 5, Applied:26 Apr 2001] Where a person has a power to issue a lease or licence to occupy any land or to undertake any commercial activity within Wellington Park, the person must not exercise that power without the prior approval of the Trust.

33. Fencing of Wellington Park

- (1) Where between Wellington Park and any adjoining land there is no sufficient fence or no rabbit-proof fence, the Trust may cause –
 - (a) a sufficient fence or rabbit-proof fence to be erected between those lands; or
 - (b) any fence between those lands to be converted into a rabbit-proof fence.
- (2) Subject to this section, the Trust may recover as a debt due to it from the owner of any adjoining land half the cost reasonably incurred in erecting the fence, or converting the existing fence, as the case may be.
- (3) The Trust is not entitled under subsection (2) to recover from the owner of any land referred to in that subsection any part of the costs incurred in the erection or conversion of any fence between Wellington Park and that land unless the erection or conversion is carried out in a manner specified in a notice served by the Trust on the owner of the land at least 30 days before the commencement of the erection or conversion of the fence or in such other manner as may be agreed between the Trust and the owner of that land.
- (4) Part IV of the Boundary Fences Act 1908 applies to any dispute arising under this section as it applies to disputes arising under that Act, and for the purposes of the provisions of that Act as so applied the Trust is to be treated as the owner of Wellington Park.
- (5) Section 47 of the Boundary Fences Act 1908 applies to the service of notices under this section as it applies to the service of notices under that Act.
- (6) Words and expressions used in this section have the same meaning as they have for the purposes of the Boundary Fences Act 1908 .

34. Notable places, &c.

- (1) The Trust may, with the consent of the owner of any land affected, erect and maintain guide-posts to any place, building, structure, tree or object of historical, archaeological, architectural, scientific or scenic interest.
 - (2) *[Section 34 Subsection (2) omitted by No. 44 of 2005, Sched. 1, Applied:24 Nov 2005]*
 - (3) Except with the consent of the Trust, a person must not remove, destroy, damage or disfigure anything erected or maintained under this section.
- Penalty: Fine not exceeding 20 penalty units.

Division 3 -

[Division 3 of Part 4 Repealed by No. 25 of 2001, s. 6, Applied:26 Apr 2001]

35.

[Section 35 Repealed by No. 25 of 2001, s. 6, Applied:26 Apr 2001]

36.

[Section 36 Repealed by No. 25 of 2001, s. 6, Applied:26 Apr 2001]

37.

[Section 37 Repealed by No. 25 of 2001, s. 6, Applied:26 Apr 2001]

38.

[Section 38 Repealed by No. 25 of 2001, s. 6, Applied:26 Apr 2001]

39.

[Section 39 Repealed by No. 25 of 2001, s. 6, Applied:26 Apr 2001]

40.

[Section 40 Repealed by No. 25 of 2001, s. 6, Applied:26 Apr 2001]

41.

[Section 41 Repealed by No. 25 of 2001, s. 6, Applied:26 Apr 2001]

42.

[Section 42 Repealed by No. 25 of 2001, s. 6, Applied:26 Apr 2001]

43.

[Section 43 Repealed by No. 25 of 2001, s. 6, Applied:26 Apr 2001]

44.

[Section 44 Repealed by No. 25 of 2001, s. 6, Applied:26 Apr 2001]

45.

[Section 45 Repealed by No. 25 of 2001, s. 6, Applied:26 Apr 2001]

46.

[Section 46 Repealed by No. 25 of 2001, s. 6, Applied:26 Apr 2001]

47.

[Section 47 Repealed by No. 25 of 2001, s. 6, Applied:26 Apr 2001]

Division 4 -

[Division 4 of Part 4 Repealed by No. 25 of 2001, s. 6, Applied:26 Apr 2001]

48.

[Section 48 Repealed by No. 25 of 2001, s. 6, Applied:26 Apr 2001]

49.

[Section 49 Repealed by No. 25 of 2001, s. 6, Applied:26 Apr 2001]

50.

[Section 50 Repealed by No. 25 of 2001, s. 6, Applied:26 Apr 2001]

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[Section 51 Repealed by No. 25 of 2001, s. 6, Applied:26 Apr 2001]

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[Section 52 Repealed by No. 25 of 2001, s. 6, Applied:26 Apr 2001]

53.

[Section 53 Repealed by No. 25 of 2001, s. 6, Applied:26 Apr 2001]

54.

[Section 54 Repealed by No. 25 of 2001, s. 6, Applied:26 Apr 2001]

55.

[Section 55 Repealed by No. 25 of 2001, s. 6, Applied:26 Apr 2001]

Division 5 -

[Division 5 of Part 4 Repealed by No. 25 of 2001, s. 6, Applied:26 Apr 2001]

56.

[Section 56 Repealed by No. 25 of 2001, s. 6, Applied:26 Apr 2001]

57.

[Section 57 Repealed by No. 25 of 2001, s. 6, Applied:26 Apr 2001]

58.

[Section 58 Repealed by No. 25 of 2001, s. 6, Applied:26 Apr 2001]

59.

[Section 59 Repealed by No. 25 of 2001, s. 6, Applied:26 Apr 2001]

60.

[Section 60 Repealed by No. 25 of 2001, s. 6, Applied:26 Apr 2001]

61.

[Section 61 Repealed by No. 25 of 2001, s. 6, Applied:26 Apr 2001]

62.

[Section 62 Repealed by No. 25 of 2001, s. 6, Applied:26 Apr 2001]

PART 5 - Enforcement Provisions

Division 1 - [Division 1 of Part 5 Heading inserted by No. 25 of 2001, s. 7, Applied:26 Apr 2001] Miscellaneous

63. Power to require offenders to disclose identity and leave land

(1) Where an authorized officer has reasonable grounds for believing that a person has committed, or is committing, an offence against this Act, the authorized officer may require that person –

- (a) to state the person's name and address; and
- (b) to leave Wellington Park.

(2) A person must not, when required by an authorized officer under this section to do so –

- (a) fail or refuse to give the person's full name and address; or
- (b) refuse to leave Wellington Park or fail to leave Wellington Park with reasonable expedition.

Penalty: Fine not exceeding 20 penalty units or imprisonment for a term not exceeding 6 months, or both.

64. Production of licences, &c.

(1) An authorized officer may require any person to produce any document relevant to the management of Wellington Park issued to the person under this or any other Act.

(2) A person must not fail or refuse to produce a document when required to do so by an authorized officer under subsection (1) .

Penalty: Fine not exceeding 20 penalty units or imprisonment for a term not exceeding 6 months, or both.

65. Powers and duties of seizure

(1) Where an authorized officer has reasonable grounds for believing that an offence has been committed, or is being committed, under this Act, the officer may seize any plant, wildlife, product of wildlife, hunting equipment, document or other animate or inanimate thing that –

- (a) the officer has reasonable grounds for believing has been, or is being, used in connection with the commission of that offence; or
- (b) appears to indicate that an offence under this Act has been, or is being, committed.

(2) An authorized officer may seize a document issued under this Act if the officer has reasonable grounds for believing that the holder of the document has committed, or is committing, an offence under this Act.

(3) An authorized officer may, subject to the directions of the Director or a person authorized by the Director for that purpose, retain anything seized under this Act until –

- (a) the determination of any proceedings that may be instituted for an offence against this Act in respect of which the thing seized is or may be required; or
- (b) a direction is given by a court of petty sessions under subsection (4) .

(4) If any thing has been seized under this Act and proceedings have not been instituted for an offence in relation to which the thing may be forfeited to the Crown, a court of petty sessions, on the application of a person otherwise entitled to possession of the thing, may direct the thing to be returned to the person.

(5) A person must not, when required to do so by an authorized officer, refuse to deliver to that officer any thing which the officer is entitled to seize under this Act.

Penalty: Fine not exceeding 20 penalty units or imprisonment for a term not exceeding 6 months, or both.

66. Powers of entry and search

- (1) If an authorized officer has reason to believe that any thing which the authorized officer is entitled to seize under this Act is in or on any premises, conveyance or container, the authorized officer may search the premises, conveyance or container.
- (2) For the purposes of conducting a search under this section in a conveyance, an authorized officer –
 - (a) may require that conveyance to be stopped; and
 - (b) may bring it, or cause or require it to be brought, to some convenient place for the search to be carried out.
- (3) In exercising the powers conferred, or in performing the duties imposed, by section 65 or this section, an authorized officer may, without warrant, do any or all of the following things at all reasonable times:
 - (a) enter any premises, conveyance or container;
 - (b) in any premises, conveyance or container lawfully entered, search for, examine and make copies of, or take extracts from, any document that appears to indicate that an offence under this Act has been, or is being, committed;
 - (c) in any premises, conveyance or container lawfully entered, open any container.
- (4) For the purpose of facilitating the exercise of powers under this section in respect of any premises, conveyance or container, an authorized officer may require the person apparently in charge of the premises, conveyance or container, or any person apparently employed in or on the premises or conveyance, to give the authorized officer such assistance as the officer requires.
- (5) A person must not, without reasonable excuse (proof of which lies on that person), refuse or fail to comply with any requirements made by an authorized officer under this section.

Penalty: Fine not exceeding 20 penalty units or imprisonment for a term not exceeding 6 months, or both.

- (6) In exercising the powers conferred, or in performing the duties imposed, by section 65 or this section, an authorized officer must not enter any premises, or any part of any premises, used as a principal residence except where the officer has obtained a warrant under subsection (7) or the permission of the occupier to enter the residence.
- (7) If a magistrate or justice is satisfied, on the application of an authorized officer, that there is reasonable cause to permit entry to any premises or any part of any premises used as a principal residence, the magistrate or justice may issue a warrant authorizing an authorized officer to enter the premises or the part of the premises specified in the warrant for the purpose of exercising the powers conferred, and the duties imposed, by section 65 or this section in those premises or that part.
- (8) A warrant issued under subsection (7) –
 - (a) is valid for a period of 30 days; and
 - (b) authorizes all persons acting in aid of an authorized officer to enter the premises, or the part of the premises, specified in the warrant.

67. Powers of arrest

- (1) In this section,
found offending has the same meaning as in section 55 (5) of the Police Offences Act 1935 .
- (2) An authorized officer may arrest without warrant any person found offending who –
 - (a) fails or refuses on demand to give the person's full name and address; or
 - (b) gives any name or address that the officer has reasonable grounds for believing is false; or
 - (c) does not deliver up to that officer, on demand, any thing in that person's possession or under that person's control, that the authorized officer is entitled to seize under this Act.

68. Production and cancellation of licences, &c.

(1) When requested to do so by a court, the holder of a licence, permit or other document who is charged with an offence under this Act must produce the licence, permit or other document to the court except where the holder has a reasonable excuse for not doing so.

Penalty: Fine not exceeding 2 penalty units.

(2) If a person is convicted of an offence under this Act, the court may make an order doing any one or more of the following in addition to, or instead of, imposing any other penalty:

(a) cancelling or suspending any licence, permit or other document issued to the person under this or any other Act and which the court considers relevant to the offence;

(b) prohibiting the person from applying for, or being granted or issued, any such licence, permit or other document for the period specified in the order;

(c) prohibiting the person from being in possession or control of any hunting equipment for the period specified in the order.

(3) Where a licence, permit or other document is ordered to be cancelled or suspended under subsection (2) and the licence, permit or other document is available to the clerk of the court, the clerk –

(a) must endorse on the licence, permit or other document a statement that the licence, permit or other document has been cancelled or suspended; and

(b) must cause the licence, permit or other document to be delivered to the person who issued the licence, permit or other document.

(4) Where any order is made under subsection (2) (a) or (b), the clerk of the court which made the order must provide the person who issued, or has power to grant or issue, the licence, permit or other document with a copy of the order.

(5) The cancellation or suspension of a licence, permit or other document under this section takes effect when a copy of the order is served on the holder of the licence, permit or other document.

(6) An order is effectively served on a person if it is –

(a) given to the person; or

(b) left at, or sent by post to, the person's postal or residential address or the place or address of business or employment last known to the server of the order.

69. Contravention of order under section 68 (2) (c)

(1) A person must not contravene or fail to comply with an order made under section 68 (2) (c) .

Penalty: Fine not exceeding 20 penalty units or imprisonment for a term not exceeding 6 months, or both.

(2) If an authorized officer has reasonable grounds for believing that a person has committed an offence under subsection (1) , the authorized officer may, without warrant –

(a) arrest that person; and

(b) for the purpose of arresting that person –

(i) enter, by force if necessary, any premises on which the authorized officer has reasonable grounds for believing that person is present; and

(ii) search those premises.

70. Forfeiture of articles, &c., on conviction

(1) On the conviction of a person for an offence under this Act, any wildlife, product of wildlife or plant taken, had in possession or dealt with in contravention of any of the provisions of this Act is forfeited to the Crown.

- (2) On the conviction of a person for an offence under this Act, hunting equipment is forfeited to the Crown –
- (a) if it was used in, or in connection with, the commission of that offence; or
 - (b) if the offence was committed in relation to it.
- (3) On convicting a person of an offence under this Act, the court may order hunting equipment referred to in subsection (2) to be returned to another person if the court is satisfied that –
- (a) the other person owns or has an interest in the equipment; and
 - (b) the equipment was used in, or in connection with, the commission of the offence, or the offence was committed in relation to the equipment, without the consent of the other person; and
 - (c) it would be unjust to the other person for the equipment to be forfeited to the Crown.
- (4) On conviction for an offence under this Act, the court may declare forfeited to the Crown any thing seized under this Act.
- (5) Any wildlife, product of wildlife, plant, hunting equipment or other thing forfeited under this section is to be disposed of in a manner prescribed or, if no manner is prescribed, as the Director may determine.

71. Evidentiary provision

- (1) In any proceedings for an offence under this Act, any place specified in the complaint as being within Wellington Park is to be taken, in the absence of proof to the contrary, to be within that Park.
- (2) Where, in proceedings for an offence under this Act, a defendant produces proof to the satisfaction of the magistrate before whom the proceedings are heard that a place specified in the relevant complaint is not within Wellington Park, the defendant is entitled to the costs incurred by the defendant in supplying that proof.

Division 2 - Infringement notices

71A. Infringement notices

[Section 71A of Part 5 Inserted by No. 25 of 2001, s. 8, Applied:26 Apr 2001]

- (1) An authorized officer may serve an infringement notice on a person if of the opinion that the person has committed a prescribed offence against this Act.
- (2) An infringement notice –
- (a) is not to relate to 4 or more offences; and
 - (b) is not to be served on a person under the age of 18 years.
- (3) *[Section 71A Subsection (3) inserted by No. 72 of 2007, Sched. 1, Applied:28 Apr 2008]* An infringement notice is to be in accordance with section 14 of the Monetary Penalties Enforcement Act 2005 .

71B.

[Section 71B of Part 5 Inserted by No. 25 of 2001, s. 8, Applied:26 Apr 2001] [Section 71B Repealed by No. 72 of 2007, Sched. 1, Applied:28 Apr 2008]

71C.

[Section 71C of Part 5 Inserted by No. 25 of 2001, s. 8, Applied:26 Apr 2001] [Section 71C Repealed by No. 72 of 2007, Sched. 1, Applied:28 Apr 2008]

71D.

[Section 71D of Part 5 Inserted by No. 25 of 2001, s. 8, Applied:26 Apr 2001] [Section 71D Repealed by No. 72 of 2007, Sched. 1, Applied:28 Apr 2008]

71E.

[Section 71E of Part 5 Inserted by No. 25 of 2001, s. 8, Applied:26 Apr 2001] [Section 71E Repealed by No. 72 of 2007, Sched. 1, Applied:28 Apr 2008]

71F.

[Section 71F of Part 5 Inserted by No. 25 of 2001, s. 8, Applied:26 Apr 2001] [Section 71F Repealed by No. 72 of 2007, Sched. 1, Applied:28 Apr 2008]

71G.

[Section 71G of Part 5 Inserted by No. 25 of 2001, s. 8, Applied:26 Apr 2001] [Section 71G Repealed by No. 72 of 2007, Sched. 1, Applied:28 Apr 2008]

71H. Payments

[Section 71H of Part 5 Inserted by No. 25 of 2001, s. 8, Applied:26 Apr 2001] Any payment made in respect of an infringement notice is payable to the Trust.

PART 6 - Miscellaneous

72. Protection of authorized officer

An authorized officer does not incur any personal liability in respect of any act done or omitted in good faith –

(a) in the performance or exercise, or the purported performance or exercise, of any function or power under this Act; or

(b) in the administration or execution, or the purported administration or execution, of this Act.

73. Vesting or reservation of land in Wellington Park

Without affecting the reservation of Wellington Park, the Governor may, with the consent of the public authority in whom the land is vested or, in the case of Crown land, with the consent of the Minister for Crown Lands and on the recommendation of the Trust, by proclamation, confirm, vary or rescind that vesting or reservation.

74. Adjustment of State forest, &c.

(1) *[Section 74 Subsection (1) amended by No. 25 of 1994, s. 45 and Sched. 3]* In this section –

dedicated includes reserved;

Forestry corporation means the Forestry corporation established by section 6 of the Forestry Act 1920 ;

[Section 74 Subsection (1) amended by No. 7 of 2013, Sched. 9, Applied:03 Jun 2013]

[Section 74 Subsection (1) amended by No. 7 of 2013, Sched. 9, Applied:03 Jun 2013] **Register of Permanent Timber Production Zone Land** and **State forest** have the same meanings as in the Forestry Act 1920 .

[Section 74 Subsection (1) amended by No. 25 of 2001, s. 9, Applied:26 Apr 2001]

(2) *[Section 74 Subsection (2) amended by No. 25 of 1994, s. 45 and Sched. 3]* Any land within Wellington Park that is State forest ceases, by virtue of this subsection and with the advice and consent of the Forestry corporation, to be State forest.

(3) *[Section 74 Subsection (3) omitted by No. 25 of 2001, s. 9, Applied:26 Apr 2001]*

(4) *[Section 74 Subsection (4) amended by No. 25 of 2001, s. 9, Applied:26 Apr 2001]* If any land within Wellington Park that ceases to be State forest under subsection (2) was dedicated as such, that dedication is revoked in so far as it relates to that land.

(5) *[Section 74 Subsection (5) amended by No. 7 of 2013, Sched. 9, Applied:03 Jun 2013]* *[Section 74 Subsection (5) amended by No. 25 of 1994, s. 45 and Sched. 3]* If any land that ceases to be State forest by virtue of subsection (2) is entered in the Register of Permanent Timber Production Zone Land, that land is, by virtue of this subsection and with the advice and consent of the Forestry corporation, deleted from that register.

(6) The boundary of State forest that is south-west of and adjacent to Wellington Park between boundary points indicated as R and S on Plan 2789 in the Central Plan Register is, by virtue of this subsection, adjusted so as to accord with the boundary of Wellington Park.

(7) *[Section 74 Subsection (7) amended by No. 7 of 2013, Sched. 9, Applied:03 Jun 2013]* Any land that becomes State forest by virtue of subsection (6) is, by virtue of this subsection, entered in the Register of Permanent Timber Production Zone Land.

74A. Council by-laws not apply

[Section 74A Inserted by No. 25 of 2001, s. 10, Applied:26 Apr 2001] Any by-laws made by a council under the Local Government Act 1993 do not apply to Wellington Park.

75. Annual report

(1) The Trust must, on or before 31 October in each year, submit to the Minister a report on its operations during the period of 12 months that ended on 30 June in that year.

(2) The report referred to in subsection (1) is to incorporate the audited statements of accounts of the Trust in respect of the 12 month period referred to in that subsection.

(3) The Minister must, within 14 sitting days after receiving the report referred to in subsection (1) , cause a copy of the report to be laid before each House of Parliament.

76. Appropriation of fines

All fines and penalties enforced or recovered under this Act are to be paid to the Trust.

77. Recovery of fees or charges

Any fees or charges payable to the Trust under this Act may be recovered by the Trust as a debt or liquidated demand in a court of competent jurisdiction.

78. References to Land Acquisition Act 1993

For the purposes of the operation of a provision of this Act in which there is a reference to the Land Acquisition Act 1993 and that Act has not commenced, the reference to the Land Acquisition Act 1993 is to be read as a reference to the Public Authorities' Land Acquisition Act 1949 .

79. Regulations with respect to Wellington Park

(1) The Governor may make regulations for the purposes of this Act.

(2) Without limiting subsection (1) , regulations under this Act may make provision for or with respect to the care, control and management of any part of Wellington Park and, in particular, may make provision for or with respect to –

(a) the preservation or protection of the fauna or flora of Wellington Park or of any living things kept in or on Wellington Park; and

(b) the preservation and protection of potable water supplies; and

(c) the prevention of damage or injury to Wellington Park or the property or other things in or on Wellington Park; and

(d) the preservation or protection of the property or other things in or on Wellington Park; and

(e) the prohibition or control of the removal of any property or other things from Wellington Park; and

(f) the prohibition or control of the bringing into, or over, or the use or possession in or over, Wellington Park of any conveyance or thing; and

(g) the conduct of persons in Wellington Park; and

(h) the exclusion or rejection of persons from Wellington Park or any part of Wellington Park; and

(i) the issuing of licences and permits in connection with the management of Wellington Park for any purpose that is consistent with the purposes for which it is set aside and with any management plan and the transfer, cancellation or suspension of such licences and permits; and

(j) the terms and conditions to which a licence or permit referred to in paragraph (i) may be subject; and

(k) the making and collection of charges for admission to Wellington Park or any part of Wellington Park or for the use of a public highway in Wellington Park.

(3) Regulations may not be made under this section prohibiting any person from entering, or remaining in, any area of Wellington Park (other than a restricted area) unless –

(a) a prohibition is imposed on account of that person's conduct or condition; or

(b) the prohibition is a prohibition on that person entering, or remaining in, that area otherwise than in the company of a prescribed person; or

(c) that prohibition is necessary for the proper care, control or management of that area.

- (4) Regulations made under this section may confer powers and discretions on the Trust and on authorized officers in relation to the matters referred to in subsection (2) .
- (5) Subject to subsection (6) , the powers referred to in subsection (4) include power, in such cases or circumstances as may be prescribed, to seize, destroy or kill creatures found in or on Wellington Park.
- (6) Regulations made under this section may not authorize the destruction or killing of a creature unless –
- (a) that creature is not under the proper and efficient control of some person; or
 - (b) its presence on Wellington Park is, in the opinion of the person authorized to seize it, causing or likely to cause injury to or damage to, or likely to disturb, the fauna or flora of Wellington Park, or any living things kept in or on Wellington Park.
- (7) Without limiting the generality of subsection (1) , regulations under this section may –
- (a) *[Section 79 Subsection (7) amended by No. 25 of 2001, s. 11, Applied:26 Apr 2001]*
 - (b) *[Section 79 Subsection (7) amended by No. 25 of 2001, s. 11, Applied:26 Apr 2001]*
 - (c) make provision for or with respect to –
 - (i) the payment and collection of fees by any person in relation to any Act, matter or thing done or arising under this Act; and
 - (ii) the remission of, or exemption from liability for, any such fees; and
 - (d) be of general or specially limited application; and
 - (e) authorize any act, matter or thing in relation to which they may be made to be from time to time determined, applied or regulated by such person as is specified in the regulations for the purpose, being the Minister, the Trust, the Director or an authorized officer.
- (8) Regulations under this section may be made subject to such conditions, or be made so as to apply differently according to such factors as may be specified in the regulations or according to such limitations or restrictions, whether as to time or circumstance or otherwise, as may be so specified.
- (9) Regulations under this section may –
- (a) provide that a contravention of, or a failure to comply with, any of the regulations is an offence; and
 - (b) in respect of such an offence, provide for the imposition of a fine not exceeding 50 penalty units and, in the case of a continuing offence, a further fine not exceeding 5 penalty units for each day during which the offence continues.
- (10) Action does not lie in respect of the failure of any person to exercise the power conferred on that person by regulations made under this section to exclude or reject any other person from Wellington Park.
- (11) Nothing in the regulations made for the purposes of this Act prohibits the doing of anything required to be done for the purposes of complying with any other Act.

80.

The amendments effected by these sections have been incorporated into the authorised versions of the following Acts:

- (a) *Hobart Corporation Act 1963 ;*
- (b) *Fire Service Act 1979 .*

81.

82. Administration of Act

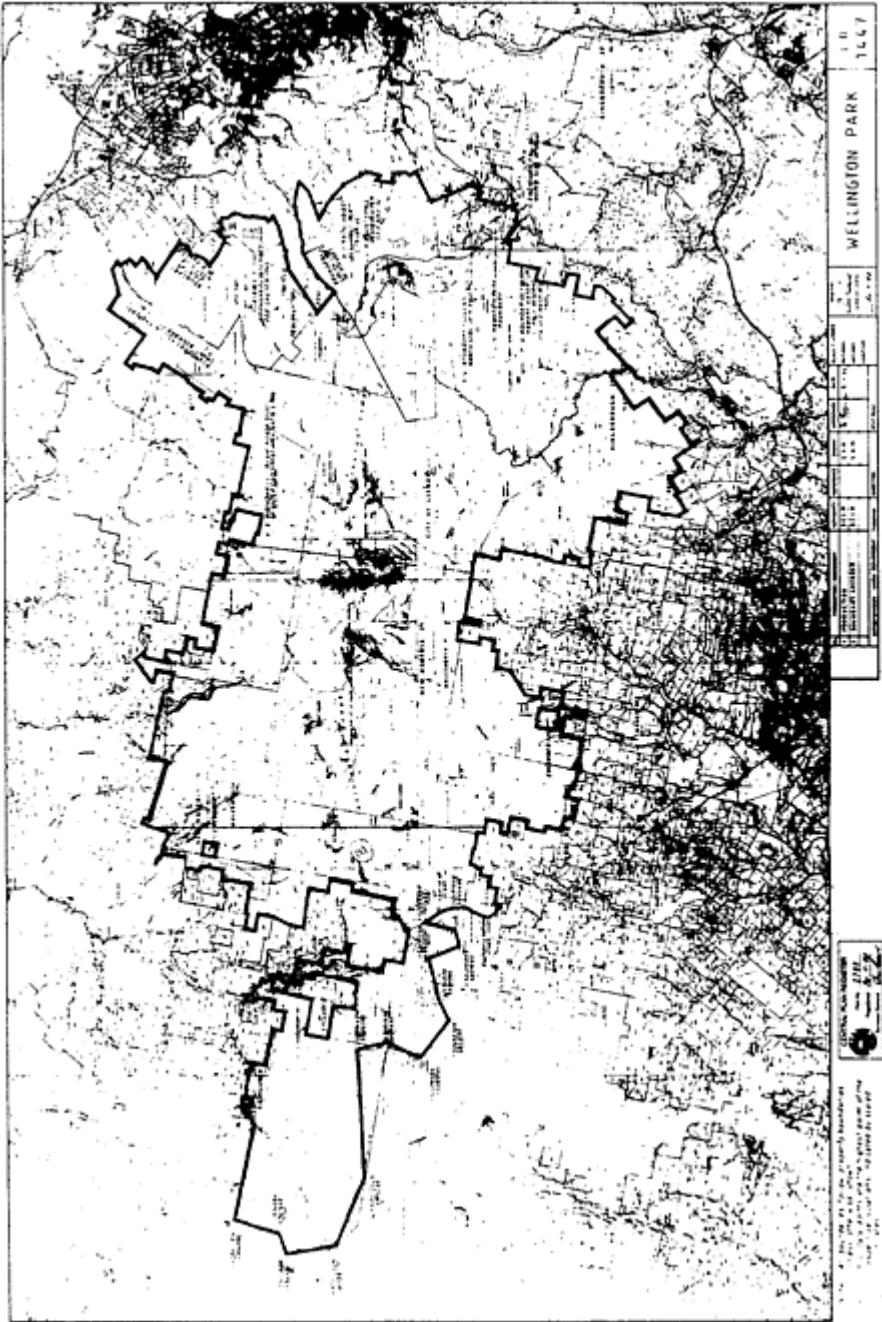
Until provision is made in relation to this Act by order under section 4 of the Administrative Arrangements Act 1990 –

- (a) the administration of this Act is assigned to the Minister for Environment and Land Management; and

(b) the Department responsible to the Minister for Environment and Land Management in relation to the administration of this Act is the Department of Environment and Land Management.

SCHEDULE 1 - Wellington Park

Sections 3 and 5



SCHEDULE 2 - Registration of Proclamations

[Schedule 2 Amended by No. 30 of 1995, s. 3 and Sched. 1]

Sections 7 and 8

1.

(1) Where under section 7 (5) a proclamation, relating to land held which is subject to the Land Titles Act 1980 , is required to be registered –

(a) a copy of the proclamation; and

(b) a description of the land in a manner approved by the Recorder –

is to be lodged with the Recorder.

(2) The Recorder must register the proclamation as if it were a dealing lodged in accordance with the Land Titles Act 1980 .

(3) If for any reason the certificate of title, grant or duplicate registered dealing of the land to be affected by the proclamation are unable to be produced to the Recorder in accordance with the Land Titles Act 1980 , section 51 (1) of that Act does not apply.

2.

(1) Where under section 7 (5) a proclamation, relating to alienated land the title to which is not subject to the Land Titles Act 1980 , is required to be registered –

(a) a copy of the proclamation; and

(b) a description of the land in a manner approved by the Recorder –

is to be lodged with the Recorder.

(2) The Recorder must register the proclamation as if it were an instrument lodged in accordance with the Registration of Deeds Act 1935 .

(3) If a proclamation is lodged under the Registration of Deeds Act 1935 , it must be accompanied by an application under section 11 of the Land Titles Act 1980 .

3. Where a proclamation relates to land, not being land owned by a municipality, which is held in more than one title, the Minister may, in a form approved by the Recorder, apply to the Recorder for the issue of a single folio of the Register for that land and the Minister's application is to have the same effect as an adhesion order made by a municipality under section 110 of the Local Government (Building and Miscellaneous Provisions) Act 1993 .

4.

(1) Where under section 8 (3) a proclamation required to be registered –

(a) a copy of the proclamation; and

(b) a description of the land to which the proclamation relates in a manner approved by the Recorder –

is to be lodged with the Recorder.

(2) The Recorder must register the proclamation as if it were a dealing lodged in accordance with the Land Titles Act 1980 .

(3) If for any reason the certificate of title, grant or duplicate registered dealing of the land to be affected by the proclamation are unable to be produced to the Recorder in accordance with the Land Titles Act 1980 , section 51 (1) of that Act does not apply.

5. In this Schedule, ***Register*** has the same meaning as it has in the Land Titles Act 1980 .

SCHEDULE 3 - Provisions with Respect to Constitution and Membership of the Trust

[Schedule 3 Amended by No. 30 of 1995, s. 3 and Sched. 1][Schedule 3 Amended by No. 57 of 1996, s. 55 and Sched. 5]

Section 10

1. Term of appointment

A member of the Trust is to be appointed for such term, not exceeding 3 years, as is specified in the member's instrument of appointment and, if otherwise qualified, is eligible for re-appointment.

2. Provisions requiring devotion of whole of time to other duties

Where, by or under any Act, provision is made requiring the holder of an office to devote the whole of his or her time to the duties of office under that Act, that provision does not operate to disqualify that person from holding that office and also the office of a member of the Trust.

3. Terms and conditions of appointment

(1) Subject to subclause (2) , a member of the Trust is entitled to be paid such remuneration and allowances as the Governor may from time to time determine.

(2) *[Schedule 3 Amended by No. 86 of 2000, Sched. 1, Applied:01 May 2001]* A member of the Trust who is a State Service officer or State Service employee is not entitled to remuneration under subclause (1) , except with the approval of the Minister administering the State Service Act 2000 .

(3) An appointed member holds office on such terms and conditions not provided for in this Act as are determined by the Minister.

4. Disclosure of interests

(1) If a member of the Trust has or acquires an interest (whether pecuniary or otherwise) that would conflict with the proper performance of the member's functions in relation to a matter being considered or about to be considered by the Trust, the member must disclose the nature of that interest at a meeting of the Trust.

(2) A disclosure under subclause (1) is to be recorded in the minutes of the meeting of the Trust and the member must not, unless the Trust otherwise determines –

- (a) be present during any deliberation of the Trust with respect to that matter; or
- (b) take part in any decision of the Trust with respect to that matter.

(3) For the purpose of making a determination by the Trust under subclause (2) in relation to a member who has made a disclosure under subclause (1) , a member who has a direct or indirect pecuniary interest in the matter to which the disclosure relates must not take part in the making by the Trust of the determination.

5. Deputies of members

(1) The Minister may appoint a deputy of a member of the Trust.

(2) The deputy of –

(a) the member referred to in section 10 (1) (b) must be nominated by the Director-General of Lands; and

(b) the member referred to in section 10 (1) (c) must be nominated by the Director of National Parks and Wildlife; and

(c) the member referred to in section 10 (1) (d) must be nominated by the chief executive officer of Tourism Tasmania; and

- (d) a member referred to in section 10 (1) (e) must be nominated by the Hobart City Council; and
- (e) the member referred to in section 10 (1) (f) must be nominated by the Glenorchy City Council; and
- (f) the member referred to in section 10 (1) (g) must be nominated by the Hobart Regional Water Board.

(3) If a member of the Trust is unable for any reason to perform the duties of a member, the member's deputy may perform those duties and, when doing so, is deemed to be a member.

(4) A deputy member of the Trust holds office for such term, not exceeding 3 years, and on such conditions, as are specified in his or her instrument of appointment.

6. Resignation

A member of the Trust may resign by signed notice given to the Minister.

7. Termination of appointment

(1) The Minister may terminate the appointment of a member if the member –

- (a) becomes mentally or physically incapable of performing satisfactorily the duties of office; or
- (b) is convicted in Tasmania, or elsewhere, of an offence punishable by imprisonment for 2 years or longer; or
- (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors or compounds with his or her creditors or makes an assignment of his or her remuneration or estate for their benefit; or
- (d) fails, without reasonable excuse, to comply with clause 4 .

(2) The Minister may remove a member referred to in section 10 (1) (b) , (c) , (d) , (e) , (f) or (g) from office if the Minister is satisfied, having regard to the information supplied by the person or body which nominated that member for appointment, that the member is no longer qualified to be appointed to the Trust.

8. Validity of proceedings

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

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

(3) Where a member of the Trust does or purports to do, or omits or purports to omit to do, any act or thing in good faith for the purpose of administering or executing this Act, the member is not to be personally subjected to any action, liability, claim or demand in respect of that act or omission.

9. Presumptions

In any proceedings by or against the Trust, unless evidence is given to the contrary, no proof is required of –

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

SCHEDULE 4 - Provisions with Respect to Meetings of the Trust

Section 10

1. Convening of meetings of the Trust

Meetings of the Trust may be convened by the chairperson of the Trust or by any 2 members of the Trust.

2. Procedure at meetings

(1) Four members of the Trust of whom one must be the chairperson form a quorum at any duly convened meeting of the Trust.

(2) Any duly convened meeting of the Trust at which a quorum is present is competent to transact any business of the Trust.

(3) Questions arising at a meeting of the Trust are to be determined by a majority of votes of the members of the Trust present and voting and, in the case of an equality of votes, the chairperson of the Trust has a casting vote.

3. General procedure

The procedure for the calling of, or for the conduct of business at, meetings of the Trust is, subject to any procedure that is specified in this Act, to be as determined by the Trust.

SCHEDULE 5 - Objectives of the Resource Management and Planning System of Tasmania

Section 38

1. The objectives of the resource management and planning system of Tasmania are –
 - (a) to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity; and
 - (b) to provide for the fair, orderly and sustainable use and development of air, land and water; and
 - (c) to encourage public involvement in resource management and planning; and
 - (d) to facilitate economic development in accordance with the objectives set out in paragraphs (a) , (b) and (c) ; and
 - (e) to promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State.
2. In clause 1 (a) , ***sustainable development*** means managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural well-being and for their health and safety while –
 - (a) sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations; and
 - (b) safeguarding the life-supporting capacity of air, water, soil and ecosystems; and
 - (c) avoiding, remedying or mitigating any adverse effects of activities on the environment.