

**LORD HOWE ISLAND (AMENDMENT) ACT, 1981,
No. 50**

New South Wales



ANNO TRICESIMO

ELIZABETHÆ II REGINÆ

Act No. 50, 1981.

An Act to amend the Lord Howe Island Act, 1953, in order to reconstitute the Lord Howe Island Board, to constitute the Island as a region for the purposes of the Environmental Planning and Assessment Act, 1979, and to dedicate, and provide for the management of, the Lord Howe Island Permanent Park Preserve. [Assented to, 21st May, 1981.]

Lord Howe Island (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title.

1. This Act may be cited as the "Lord Howe Island (Amendment) Act, 1981".

Commencement.

2. (1) This section and sections 1 and 3 shall commence on the date of assent to this Act.

(2) Except as provided in subsections (1) and (3), the several provisions of this Act shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(3) Section 4 shall, in its application to a provision of Schedules 1–7, commence on the day on which the provision commences.

Schedules.

3. This Act contains the following Schedules :—

SCHEDULE 1.—AMENDMENTS TO PART I OF THE LORD HOWE ISLAND ACT, 1953.

SCHEDULE 2.—AMENDMENTS TO PART II OF THE LORD HOWE ISLAND ACT, 1953.

SCHEDULE 3.—AMENDMENTS TO PART III OF THE LORD HOWE ISLAND ACT, 1953.

SCHEDULE 4.—INSERTION OF PART IIIA INTO THE LORD HOWE ISLAND ACT, 1953.

SCHEDULE 5.—AMENDMENTS TO PART IV OF THE LORD HOWE ISLAND ACT, 1953.

SCHEDULE 6.—AMENDMENTS TO PART V OF THE LORD HOWE ISLAND ACT, 1953.

Lord Howe Island (Amendment).

SCHEDULE 7.—INSERTION OF DESCRIPTION OF THE LAND COMPRISING THE LORD HOWE ISLAND PERMANENT PARK PRESERVE INTO THE LORD HOWE ISLAND ACT, 1953.

SCHEDULE 2.—SAVINGS AND TRANSITIONAL PROVISIONS.

Amendment of Act No. 39, 1953.

4. The Lord Howe Island Act, 1953, is amended in the manner set forth in Schedules 1–7.

Savings and transitional provisions.

5. Schedule 8 has effect.

SCHEDULE 1.

(Sec. 4.)

AMENDMENTS TO PART I OF THE LORD HOWE ISLAND ACT, 1953.

(1) (a) Section 2—

Omit “into Parts”.

(b) Section 2—

Omit “AND THE ISLAND COMMITTEE”.

(c) Section 2—

After the matter relating to Part III, insert :—

PART IIIA.—ENVIRONMENTAL PLANNING AND ASSESSMENT.

(d) Section 2—

After the matter relating to Part V, insert :—

SCHEDULE 1.

Lord Howe Island (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO PART I OF THE LORD HOWE ISLAND ACT, 1953
—*continued.*

(2) (a) Section 3, definition of “Committee”—

Omit the definition.

(b) Section 3, definition of “Island”—

After “Lord Howe Island” where secondly occurring, insert “together with the islands known as Ball’s Pyramid, Wheatsheaf Island, Observatory Rock and South-East Rock and the unnamed islands in the vicinity thereof”.

(c) Section 3, definition of “Islander”—

Omit the definition, insert instead :—

“Islander” means, subject to subsection (2), a person who—

- (a) resided on the Island immediately before the commencement of Schedule 1 (2) (c) to the Lord Howe Island (Amendment) Act, 1981, and was an Islander within the meaning of this Act as in force immediately before that commencement;
- (b) has resided on the Island continuously since that commencement and for the period of 5 years that immediately preceded that commencement;
- (c) resides on the Island and has so resided continuously during the immediately preceding period of 10 years; or

Lord Howe Island (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO PART I OF THE LORD HOWE ISLAND ACT, 1953
—*continued.*

(d) is, on the recommendation of the Board made in special circumstances, declared by the Minister, by order published in the Gazette and for the time being in force, to have retained or acquired the status of an Islander.

(d) Section 3, definition of “Reside”—

After the definition of “Regulations”, insert :—

“Reside” has the same meaning as it has in the Crown Lands Consolidation Act, 1913.

(c) Section 3 (2)—

At the end of section 3, insert :—

(2) In determining for the purposes of this Act whether a person resided or resides on the Island at any time or resided continuously on the Island during any period, an absence from the Island—

(a) to attend a school, college, university or other educational institution;

(b) at any time when a school, college, university or other educational institution attended by that person is closed for a holiday or during a vacation;

(c) during any period not exceeding 10 years or during periods totalling not more than 10 years, for the purpose of gaining

Lord Howe Island (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO PART I OF THE LORD HOWE ISLAND ACT, 1953
—*continued.*

experience in a trade, profession or other
gainful employment,

by a person who, immediately before the commence-
ment of his first such absence, resided on the Island
shall be deemed not to interrupt residence on the
Island.

SCHEDULE 2.

(Sec. 4.)

AMENDMENTS TO PART II OF THE LORD HOWE ISLAND ACT,
1953.

(1) Part II, heading—

Omit the heading, insert instead :—

PART II.

LORD HOWE ISLAND BOARD.

DIVISION 1.—*Constitution of the Board.*

(2) (a) Section 4 (2)—

Omit “Governor”, insert instead “Minister”.

(b) Section 4 (3)—

Omit the subsection, insert instead :—

(3) Of the members so appointed—

(a) 3 shall be Islanders who were enrolled as
electors for, and were elected at, the
election under Division 3 that last preceded
their appointment;

Lord Howe Island (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE LORD HOWE ISLAND ACT,
1953—*continued.*

- (b) one shall be an officer of the Department of the Government responsible for the administration of this Act; and
- (c) one shall be an officer of the National Parks and Wildlife Service nominated by the Minister administering the National Parks and Wildlife Act, 1974.

(c) Section 4 (3A), (3B)—

After section 4 (3), insert :—

(3A) The Minister shall appoint a member as chairman of the Board and, at a meeting of the Board, the chairman shall have a casting vote in addition to a deliberative vote.

(3B) Subject to subsection (4B) and section 5—

- (a) a member, other than an elected member, holds office for a term not exceeding 3 years; and
- (b) an elected member holds office until his successor is appointed.

(d) Section 4 (4)—

Omit the subsection.

(e) Section 4 (4A), (4B)—

After section 4 (4), insert :—

Lord Howe Island (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE LORD HOWE ISLAND ACT,
1953—*continued.*

(4A) Where a member vacates his office as a member before the expiration of his term of office, the vacancy shall be filled—

- (a) where the vacancy is in the office of a member referred to in subsection (3) (a) and the Minister is of the opinion that an election under section 9A (b) is not likely during the next succeeding 6 months—by the Minister appointing to the vacant office the Islander elected at an election held as provided by section 9A (c) to fill the vacancy;
- (b) where the vacancy is in the office of a member referred to in subsection (3) (a) and the Minister is of the opinion that an election under section 9A (b) is likely during the next succeeding 6 months—by the Minister appointing an Islander to the vacant office; or
- (c) where the vacancy is in the office of the member referred to in subsection (3) (b) or (c)—by the Minister appointing to the vacant office a person who is qualified to be the member so referred to.

(4B) A member appointed under subsection (4A) holds office for the unexpired portion of the term of office of his predecessor.

(f) Section 4 (5A), (5B)—

After section 4 (5), insert :—

(5A) The office of a member is not an office or place of profit under the Crown.

Lord Howe Island (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE LORD HOWE ISLAND ACT,
1953—*continued.*

(5B) Where, by or under an Act, provision is made requiring the holder of an office specified in the Act 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.

(g) Section 4 (9)—

Omit the subsection, insert instead :—

(9) Each member is 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 from time to time determines in respect of that member.

(3) Section 5—

Omit the section, insert instead :—

Disqualifications.

5. (1) A member shall be deemed to have vacated his office—

- (a) if he dies;
- (b) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his estate for their benefit;
- (c) if he is absent from 3 consecutive ordinary meetings of the Board of which reasonable notice has been given him personally or in the ordinary course of post unless his absence is on leave

Lord Howe Island (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE LORD HOWE ISLAND ACT,
1953—*continued.*

granted by the Board or is excused by the Board before the expiration of 4 weeks after the last of those 3 meetings;

- (d) if he becomes a temporary patient, 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 12 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 Minister and the Minister accepts the resignation;
- (g) if, in the case of a member referred to in section 4 (3) (a), he ceases to be an Islander;
- (h) if, in the case of the member qualified as referred to in section 4 (3) (b) or (c), he ceases to be so qualified; or
- (i) if he is removed from office by the Minister.

(2) The Minister may, for any cause which appears to him sufficient, remove from office a member other than a member referred to in section 4 (3) (a).

(4) Part II, Division 2—

Omit the Division.

Lord Howe Island (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE LORD HOWE ISLAND ACT,
1953—*continued.*

(5) Part II, Division 3—

Before Part III, insert :—

DIVISION 3.—*Elections.*

Elections.

9A. The Electoral Commissioner for New South Wales shall—

- (a) as soon as practicable after the commencement of this Division—conduct an election for the purpose of determining the Islanders to be appointed to the Board pursuant to section 4 (3) (a);
- (b) not later than 3 years after that election and in every third year thereafter—conduct an election for the same purpose; and
- (c) as the occasion requires—conduct an election for the purpose of determining the Islander to be appointed pursuant to section 4 (4A) (a) to fill a vacancy in the office of a member of the Board.

Electors.

9B. A person enrolled on the State electoral roll for the electorate in which the Island is situated is entitled to be enrolled as an elector for an election under this Division if he is resident on the Island and his address on that electoral roll is an address on the Island.

Elections.

9C. The enrolment of electors, the nomination of persons as candidates at an election under this Division, the time for holding such an election, the appointment of electoral officers, the system of election, the method of voting, the conduct of the election, the declaration of the poll and all matters associated with the election shall be as prescribed.

Lord Howe Island (Amendment).

SCHEDULE 3.

(Sec. 4.)

AMENDMENTS TO PART III OF THE LORD HOWE ISLAND ACT,
1953.

(1) Section 10—

After “respects”, insert “(except in so far as it makes a report or recommendation)”.

(2) Section 11 (2)—

After “seed”, insert “, seedlings and trees”.

(3) Section 13 (b)—

Omit “conducting a guest-house”, insert instead “providing accommodation for the public”.

(4) (a) Section 14 (1)—

Omit “the Committee or”.

(b) Section 14 (3)—

Omit “The Committee or any”, insert instead “Any”.

(c) Section 14 (5)—

Omit “the Committee or of”.

Lord Howe Island (Amendment).

SCHEDULE 4.

(Sec. 4.)

INSERTION OF PART IIIA INTO THE LORD HOWE ISLAND
ACT, 1953.

Part IIIA—

After Part III, insert :—

PART IIIA.

ENVIRONMENTAL PLANNING AND ASSESSMENT.

Application of Acts No. 203, 1979, and No. 205, 1979.

15A. (1) For the purposes of the Environmental Planning and Assessment Act, 1979—

- (a) the Island shall be deemed to be a region within the meaning of that Act;
- (b) the Board shall be deemed to be the council of an area situated in that region;
- (c) Part IV of that Act applies as if a reference therein to a consent authority were a reference to the Board; and
- (d) the planning scheme adopted by the Board and in force on the Island immediately before the commencement of this Part is a deemed environmental planning instrument within the meaning of that Act.

(2) Clauses 5 (1) and (2), 6 and 7 (1) of Schedule 3 to the Miscellaneous Acts (Planning) Repeal and Amendment Act, 1979, apply to and in respect of the planning scheme referred to in subsection (1) (d) and so apply as if—

- (a) a reference in any of those clauses to the appointed day were a reference to the commencement of this Part; and

Lord Howe Island (Amendment).

SCHEDULE 4—*continued.*
 INSERTION OF PART IIIA INTO THE LORD HOWE ISLAND
 ACT, 1953—*continued.*

- (b) a reference in any of those clauses to a former planning instrument were a reference to the planning scheme referred to in subsection (1) (d).

Application of Act No. 80, 1974.

15B. Part V of the National Parks and Wildlife Act, 1974, applies to and in respect of land dedicated under section 19A as if it were a national park except that—

- (a) a reference in that Part to the Minister administering that Act shall be construed as a reference to the Minister administering this Act; and
- (b) a plan of management for that land in force under that Part shall be carried out and given effect to by the Board instead of as provided by section 81 (1) of that Act.

 SCHEDULE 5.

(Sec. 4.)

 AMENDMENTS TO PART IV OF THE LORD HOWE ISLAND ACT,
 1953.

(1) Sections 19A, 19B—

After section 19, insert :—

Lord Howe Island Permanent Park Preserve.

19A. (1) The land from time to time described in Schedule 1 is hereby permanently dedicated as the “Lord Howe Island Permanent Park Preserve” for the public purpose of preserving native flora and fauna.

Lord Howe Island (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART IV OF THE LORD HOWE ISLAND ACT,
1953—*continued.*

(2) The Governor may, by notification published in the Gazette, amend Schedule 1 to enlarge the area of land described therein.

(3) The dedication effected by subsection (1), and any notification published under subsection (2), may not be revoked except by an Act.

(4) Land dedicated under subsection (1) may not be leased.

Enforcement of plan of management.

19B. (1) A person who uses any part of land the subject of a dedication in force under section 19A in a manner that contravenes the plan of management for the land is liable to a penalty not exceeding \$500 and, in the case of a continuing offence, a further daily penalty not exceeding \$50.

(2) Where a penalty is imposed on a person under subsection (1) for erecting, or causing to be erected, a building, work or structure, the Board may, by notice in writing specifying a reasonable time for compliance therewith, order that person to demolish the building, work or structure and to remove the materials from the dedicated land.

(3) The provisions of section 317B (2), (3), (4), (4A) and (4C) of the Local Government Act, 1919, apply to land in respect of which an order of the Board is in force under subsection (2) as if—

(a) a reference in those provisions to a council were a reference to the Board; and

Lord Howe Island (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART IV OF THE LORD HOWE ISLAND ACT,
1953—*continued.*

(b) a reference in those provisions to an order were
a reference to an order under subsection (2).

(2) Section 20 (1)—

After “section 19”, insert “or 19A”.

(3) Section 20A—

After section 20, insert :—

Leases to Commonwealth.

20A. The Minister for Lands may lease vacant Crown lands to the Commonwealth at such rent and on such terms and subject to such conditions, reservations and provisions as are agreed upon.

(4) (a) Section 21 (1)—

Omit “five acres”, insert instead “2 hectares”.

(b) Section 21 (2)—

Omit “Islander”, insert instead “Islander of or above the age of 18 years or 2 or more such Islanders as joint tenants or tenants in common”.

(c) Section 21 (7)—

Omit “A condition”, insert instead “Subject to this subsection and subsections (7A) and (7B), a condition”.

(d) Section 21 (7A), (7B)—

After section 21 (7), insert :—

(7A) The Minister may, in special circumstances, for such time and on such terms and conditions as he thinks fit, suspend the condition of residence on a lease held or owned (subject to mortgage) by, or subleased to, an Islander who already (whether jointly or not) holds or owns (subject to mortgage) or subleases not more than one other lease.

Lord Howe Island (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART IV OF THE LORD HOWE ISLAND ACT,
1953—*continued.*

(7B) Where a lease is held or owned (subject to mortgage) by, or is subleased to, 2 or more persons jointly, subsections (7) and (7A) extend to authorising suspension of the condition of residence in respect of any of the joint holders, owners or sublessees in the same way as it does in respect of a sole holder, owner or sublessee.

(e) Section 21 (9)—

Omit “two dollars per acre or part of an acre”, insert instead “not less than \$20 per hectare or part of a hectare or, where some other rent is prescribed for the purposes of this subsection, that other rent”.

(f) Section 21 (10), (11)—

After section 21 (9), insert :—

(10) Where, on a day on which payment of the rent for a lease under this section is due, the lessee is a person referred to in paragraph (a), (b) or (c) of the definition of “eligible pensioner” in section 160AA of the Local Government Act, 1919, he is not liable to pay on that day a greater rent than the minimum rent in force on that day under subsection (9).

(11) Subsections (9) and (10) apply to and in respect of the rent payable under a lease whether or not it has been redetermined under any provision of this Act.

(5) Section 21A—

After section 21, insert :—

Rent of lease in perpetuity.

21A. (1) The Board shall redetermine the rent of each lease granted under section 21 that is current at the commencement of this section and the redetermination

Lord Howe Island (Amendment).

SCHEDULE 5—*continued.*AMENDMENTS TO PART IV OF THE LORD HOWE ISLAND ACT,
1953—*continued.*

(which shall be at the rate of not less than \$20, nor more than \$100, per hectare or part of a hectare) shall take effect on and from the day that is 2 years after that commencement until another redetermination under this section takes effect.

(2) The Board shall determine the rent for each lease that, after the commencement of this section, is granted under section 21.

(3) After a redetermination under subsection (1), or a determination under subsection (2), of the rent of a lease, the Board shall from time to time redetermine the rent of the lease to take effect—

- (a) in the case of the first redetermination under this subsection relating to a lease referred to in subsection (1)—on and from the tenth anniversary of the day on which the redetermination under subsection (1) took effect;
- (b) in the case of the first redetermination under this subsection relating to a lease referred to in subsection (2)—on and from the tenth anniversary of the day on which the lease commenced; and
- (c) in the case of subsequent redeterminations relating to a lease—on and from the tenth anniversary of the day on which the last preceding redetermination in relation to the lease took effect.

(6) (a) Section 23 (1) (a)—

After “exceed”, insert “the fair market value of the interest of the transferor in the unimproved land the subject of the lease,”.

Lord Howe Island (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART IV OF THE LORD HOWE ISLAND ACT,
1953—*continued.*

- (b) Section 23 (1) (a)—
Omit “market value” where secondly occurring, insert instead “market values”.
- (c) Section 23 (1) (a)—
Omit “Board” where secondly occurring, insert instead “Valuer-General”.
- (d) Section 23 (1A)—
After section 23 (1), insert:—
(1A) A lease may be transferred or subleased to 2 or more persons as joint tenants or tenants in common but, for the purposes of any transfer or sublease to 2 or more persons who are not all Islanders, a reference in this Part (however expressed) to a person other than an Islander applies in respect of each transferee or sublessee who is not an Islander.
- (e) Section 23 (4)—
Omit “residing on the Island”.
- (f) Section 23 (11), (12), (13)—
After section 23 (10), insert :—
(11) Where, under the will, or upon the intestacy, of a lineal ancestor, a lease under section 21 devolves beneficially upon a person who is not an Islander, that person shall, for the purposes of subsections (2), (4), (4A) and (7A) and of section 25, be deemed to be an Islander if application is, not later than the expiration of the period of 2 years, or such longer period as the Minister for Lands may in a particular case approve, that next succeeds the death of the lessee, made for his registration as holder of the lease.

Lord Howe Island (Amendment).

SCHEDULE 5—*continued.*AMENDMENTS TO PART IV OF THE LORD HOWE ISLAND ACT,
1953—*continued.*

(12) Where, under the will, or upon the intestacy, of a lineal ancestor a lease under section 21 devolves beneficially upon an Islander who is already a lessee under that section, the Minister for Lands may, on the recommendation of the Board, by order suspend the condition of residence to which the lease is subject for such period, and subject to such conditions as to the transfer of the lease to a child or children of the beneficiary, and such other conditions, as the Minister for Lands thinks fit.

(13) Where a child to whom a condition under subsection (12) as to a transfer to him of a lease relates is not an Islander at the time for compliance with the condition he shall, for the purpose of compliance with the condition, be deemed to be an Islander if application is made for consent to a transfer to him, but registration of such a transfer shall be refused if it is lodged for registration after the expiration of the period of 6 months that next succeeds the expiration of the period for which the condition of residence was suspended under subsection (12).

(7) (a) Section 24—

Omit “value of improvements”, insert instead “values”.

(b) Section 24—

Omit “section 22”, insert instead “section 21A, 22”.

(c) Section 24—

After “reference” where firstly occurring, insert “by a person aggrieved or by the Minister”.

Lord Howe Island (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART IV OF THE LORD HOWE ISLAND ACT,
1953—*continued.*

- (8) (a) Section 25 (4)—
Omit “shall revert to two dollars per acre or part of an acre”, insert instead “shall, subject to section 21 (9), be redetermined by the Board with effect”.
- (b) Section 25 (4)—
After “transfer”, insert “until the expiration of the period of the last preceding determination”.
- (9) Section 28, definition of “capital value of improvements”—
- (a) From paragraph (c), omit “land—and”, insert instead “land.”.
- (b) Omit paragraph (d).
- (10) (a) Section 32 (1) (a)—
Omit “residing”, insert instead “dwelling”.
- (b) Section 32 (1)—
Omit “one hundred dollars”, insert instead “\$500”.
- (c) Section 32 (1)—
Omit “twenty dollars”, insert instead “\$50”.
- (11) Section 33 (2)—
Omit “one hundred dollars”, insert instead “\$500”.
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Lord Howe Island (Amendment).

SCHEDULE 6.

(Sec. 4.)

AMENDMENTS TO PART V OF THE LORD HOWE ISLAND ACT, 1953.

(1) Section 35—

Omit the section, insert instead :—

Accounts.

35. (1) The Board shall cause to be kept proper accounts and records in relation to all of its operations.

(2) The Board shall, as soon as practicable but not later than 6 months after the end of its financial year, prepare and submit to the Minister for presentation to Parliament a statement of accounts together with the Auditor-General's certificate given under this section in relation to the statement.

(3) The statement of accounts shall be in a form approved by the Auditor-General, shall include such information as is requested by him and shall exhibit a true and fair view of the financial position and transactions of the Board.

(4) The Board shall, as soon as practicable but not later than 4 months after the end of the financial year to which a statement of accounts relates, transmit the statement to the Auditor-General for verification and certification.

(5) The Auditor-General's certificate shall state that he has audited the accounts of the Board relating to the relevant financial year, shall indicate whether the statement of accounts complies with subsection (3) and shall set forth any qualifications subject to which the certificate is given.

(6) Nothing in this section prevents the alteration of the statement of accounts with the approval of the Auditor-General, after its receipt by him and before its submission to the Minister.

Lord Howe Island (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART V OF THE LORD HOWE ISLAND ACT,
1953—*continued.*

(7) The Minister shall lay the statement of accounts, or cause it to be laid, together with the Auditor-General's certificate, before both Houses of Parliament as soon as practicable after the receipt by him of the statement.

(8) The financial year of the Board is the year ending on 30th June.

(2) Section 36—

Omit the section, insert instead :—

Audit.

36. (1) The accounts and records and financial transactions of the Board, and the records relating to assets of or in the custody of the Board, shall be inspected and audited by the Auditor-General.

(2) For the purposes of an inspection and audit under subsection (1), the Auditor-General or a person authorised by him is entitled at all reasonable times to full and free access to the accounts, records, documents and papers of the Board and may make copies thereof and take extracts therefrom.

(3) The Auditor-General or a person authorised by him may require a person, being a member, officer or employee of the Board, to furnish him with such information in the possession of the person, or to which the person has access, as the Auditor-General or authorised person considers necessary for the purposes of the functions of the Auditor-General under this Act.

Lord Howe Island (Amendment).

SCHEDULE 6—*continued.*AMENDMENTS TO PART V OF THE LORD HOWE ISLAND ACT,
1953—*continued.*

(4) A person required under subsection (3) to furnish information shall comply with the requirement.

Penalty: \$200.

(5) The Auditor-General shall report to the Board and the Minister on the result of an inspection and audit under this section and as to such irregularities or other matters as in his judgment call for special notice or as are prescribed.

(6) Towards defraying the costs and expenses of an inspection and audit under this section, the Board shall pay to the Consolidated Revenue Fund such amounts, at such times, as the Treasurer decides.

(3) Sections 36A–36H—

After section 36, insert :—

Annual report.

36A. (1) The Board shall, as soon as practicable but not later than 6 months after the end of each financial year of the Board, prepare and submit to the Minister a report on the operations of the Board during that financial year.

(2) The Board shall include in its report under this section particulars of any transfers or sublettings of leases under this Act to persons other than Islanders.

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

Lord Howe Island (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART V OF THE LORD HOWE ISLAND ACT,
1953—*continued.*

Temporary accommodation.

36B. (1) For the temporary accommodation of the Board, it may obtain advances by way of overdraft on current account in a bank or banks on the security of the Board's funds to such extent as the Governor may from time to time approve.

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

Borrowing money.

36C. The Board may, from time to time with the approval of the Minister and the concurrence of the Treasurer, borrow money for—

- (a) the purpose of exercising or performing its powers, authorities, duties and functions under this Act;
- (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) for any other purpose of this Act.

Reserves for repayment.

36D. (1) The Board shall establish a reserve for loan repayment fund in respect of each loan or renewal loan raised by the Board.

(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.

Lord Howe Island (Amendment).

SCHEDULE 6—*continued.*AMENDMENTS TO PART V OF THE LORD HOWE ISLAND ACT,
1953—*continued.*

(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 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 $4\frac{1}{2}$ per cent 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.

Lord Howe Island (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART V OF THE LORD HOWE ISLAND ACT,
1953—*continued.*

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

36E. (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.

(4) Debentures, bonds, inscribed stock or prescribed securities issued under this Act shall as regards both the issue and transfer thereof for full consideration for 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.

(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.

Lord Howe Island (Amendment).

SCHEDULE 6—*continued.*AMENDMENTS TO PART V OF THE LORD HOWE ISLAND ACT,
1953—*continued.*

(6) The due repayment of any loan in respect of which debentures, bonds or any other prescribed securities have been issued, or stock has been inscribed, 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.

Lost debentures, etc.

36F. (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 its place.

(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.

(3) When a 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 Supreme Court may direct have been published;
- (c) 6 months have elapsed since the publication of the last of the advertisements; and

Lord Howe Island (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART V OF THE LORD HOWE ISLAND ACT,
1953—*continued.*

(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.

36G. (1) A person advancing money to the Board shall not be bound to inquire into the application of the money advanced, or be in any way responsible for its non-application or misapplication.

(2) A notification in the Gazette of the approval of the Governor having been given to a borrowing by the Board shall, in favour of a lender and of any holder of a

Lord Howe Island (Amendment).

SCHEDULE 6—*continued.*AMENDMENTS TO PART V OF THE LORD HOWE ISLAND ACT,
1953—*continued.*

security given by the Board, be conclusive evidence that all conditions precedent to the borrowing have been complied with.

Debentures, bonds, etc., to rank pari passu.

36H. 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.

(4) Section 37A—

After section 37, insert :—

Proceedings for offences.

37A. A penalty imposed by this Act or the regulations may be recovered in a summary manner before a court of petty sessions.

(5) (a) Section 38 (2) (a) (iii)—

Omit the subparagraph.

(b) Section 38 (2) (a) (iv)—

Omit “guest-houses”, insert instead “public accommodation and commercial undertakings”.

(c) Section 38 (2) (a) (iv)—

Omit “operating”, insert instead “associated with”.

(d) Section 38 (2) (f)—

Omit “Island.”, insert instead “Island;”.

Lord Howe Island (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART V OF THE LORD HOWE ISLAND ACT,
1953—*continued.*

(e) Section 38 (2) (g), (h)—

After section 38 (2) (f), insert :—

(g) for or with respect to—

- (i) the prohibition, regulation or control of the use of motor vehicles on the Island;
- (ii) the prohibition, regulation or control of the removal from the Island of flora or fauna or coral or any other prescribed substance forming part of the Island;
- (iii) prohibiting damage to, or the destruction of, flora or fauna or coral or any prescribed substance forming part of the Island; or
- (iv) the destruction of plants declared by the regulations to be noxious; and

(h) for or with respect to the production and sale of *Kentia* palm seeds, seedlings and trees.

(f) Section 38 (2A)—

After section 38 (2), insert :—

(2A) Without prejudice to the generality of the power conferred by subsection (1), the Governor may make regulations, not inconsistent with this Act, that are applicable to or in relation to land the subject of a dedication in force under section 19A, being regulations for and with respect to—

- (a) the regulation of the use and enjoyment of the land;

Lord Howe Island (Amendment).

SCHEDULE 6—*continued.*AMENDMENTS TO PART V OF THE LORD HOWE ISLAND ACT,
1953—*continued.*

- (b) the securing of order and decency on the land including the removal of trespassers from the land and the removal from the land of persons causing annoyance or inconvenience thereon;
- (c) the regulation, control or prohibition of the taking of animals on the land and public or other roads traversing the land and the permitting or suffering of animals to be on the land or any such roads;
- (d) the regulation, control or prohibition of mooring adjacent to, or parking or camping on, the land, the making of charges for any such mooring, parking or camping and the collection and receipt of those charges;
- (e) the preservation or protection of, or prevention of damage to, trees, shrubs, ferns, creepers, vines, palms, plants, flowers, herbage or other vegetative cover on the land;
- (f) the conditions under which trees or timber may be cut or removed from the land and the amount and payment of royalties, fees and charges in respect thereof;
- (g) the preservation or protection of any rocks, soil, sand, stone or other similar substance on or comprising part of the land, or the removal of any such substance from the land and the amount and payment of royalties, fees and charges in respect thereof;

Lord Howe Island (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART V OF THE LORD HOWE ISLAND ACT,
1953—*continued.*

- (h) the preservation or protection of any animal or bird, within the meaning of the National Parks and Wildlife Act, 1974, on the land;
- (i) the preservation or protection of, or prevention of damage to, any relic within the meaning of the National Parks and Wildlife Act, 1974, that is on the land;
- (j) the regulation, control or prohibition of the use on the land of any such relic for commercial purposes;
- (k) the making of charges or payment of entrance fees for persons, clubs or associations or for vehicles using or entering the land or any specified part of the land or any public or other road traversing or bounding the land or such a part thereof, and the collection, receipt or waiver of those charges or fees;
- (l) the reservation of a part of the land for such separate or exclusive use as is prescribed by the regulations;
- (m) the regulation, control or prohibition of the entry of any person or class of persons on the land or a specified part thereof and the conditions to be observed with regard thereto;

Lord Howe Island (Amendment).

SCHEDULE 6—*continued.*AMENDMENTS TO PART V OF THE LORD HOWE ISLAND ACT,
1953—*continued.*

- (n) the use of roads, tracks, trails and other ways on the land and the circumstances under which they shall be open or may be closed to public traffic or use;
- (o) the powers and duties of any officer of the Board in relation to the land;
- (p) the regulation or prohibition of the use of vehicles on the land, the conditions under which they may be used on the land and the regulation of the speed of any vehicle permitted on the land;
- (q) the protection of signs and other management facilities placed on the land in accordance with the plan of management;
- (r) the regulation, control or prohibition of exotic plants on the land;
- (s) the collection of scientific specimens, the preservation or protection of marine life (other than fish within the meaning of the Fisheries and Oyster Farms Act, 1935) and the pursuit of research on the land;
- (t) the regulation, control or prohibition of the use of firearms or other weapons on the land and the carrying of firearms or other weapons while on the land;
- (u) the management and maintenance of pounds on the land;
- (v) the procedure for the impounding of animals on the land and for their subsequent disposal, sale or destruction;

Lord Howe Island (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART V OF THE LORD HOWE ISLAND ACT,
1953—*continued.*

- (w) the damage fees, driving charges, sustenance charges, deterrent fees and pound fees chargeable in respect of the impounding of animals on the land; and
- (x) the fees chargeable in respect of the sale or offering for sale and in respect of the destruction of animals impounded on the land.

(g) Section 38 (3)—

Omit “, not exceeding twenty cents per day,”.

(h) Section 38 (4A)—

After section 38 (4), insert :—

(4A) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind; or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person, body or committee,

or may do any combination of those things.

(i) Section 38 (5)—

Omit “one hundred dollars”, insert instead “\$400”.

Lord Howe Island (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART V OF THE LORD HOWE ISLAND ACT,
1953—*continued.*

(j) Section 38 (5)—

After “thereof”, insert “and, in the case of a continuing contravention or breach, a further daily penalty not exceeding \$40”.

(k) Section 38 (6)—

Omit the subsection, insert instead :—

(6) Section 41 of the Interpretation Act, 1897, applies in respect of a regulation as if this Act had been passed after the “commencement of the Interpretation (Amendment) Act, 1969.

SCHEDULE 7.

(Sec. 4.)

INSERTION OF DESCRIPTION OF THE LAND COMPRISING THE
LORD HOWE ISLAND PERMANENT PARK PRESERVE INTO THE
LORD HOWE ISLAND ACT, 1953.

Schedule 1—

At the end of the Act, insert :—

SCHEDULE 1.

(Sec. 19A.)

Part 1

All that piece or parcel of land situated at Lord Howe Island: Commencing at the easternmost corner of Portion 117 and bounded thence by part of the southeastern boundary of that portion to the northernmost corner of Portion 119; thence generally by the eastern boundaries and part of the southeastern boundary of the said Portion 119 to the northernmost corner

Lord Howe Island (Amendment).

SCHEDULE 7—*continued.*INSERTION OF DESCRIPTION OF THE LAND COMPRISING THE
LORD HOWE ISLAND PERMANENT PARK PRESERVE INTO THE
LORD HOWE ISLAND ACT, 1953—*continued.*

of Portion 124; thence by the northeastern boundaries of Portions 124, 123 and 131 to the easternmost corner of the said Portion 131; thence by the southeastern boundary of Portion 131 and its prolongation southwesterly to the southernmost corner of Portion 129; thence by the generally southeastern boundaries of Portion 128 to the southernmost corner of the said Portion 128; thence by part of the southernmost southwestern boundary of the said Portion 128 to a point east of and distant 50 metres from mean high water mark of the South Pacific Ocean; thence by a line 50 metres east of and parallel to that mean high water mark and extending southwesterly for a distance of about 1 400 metres; thence by a line westerly 50 metres to the mean high water mark; thence by that mean high water mark generally southwesterly, northeasterly and northwesterly around all the bays and headlands including King Point, Red Point, Sugarloaf Point, Cut Grass Point, East Point, Edmanoch Point (Boat Harbour Point), Rocky Point and Mutton Bird Point to a point on the mean high water mark of Ross or Blinkenthorpe Bay due east of the aforesaid easternmost corner of Portion 117, thence by a line extending westerly to the point of commencement.

Part 2

All that piece or parcel of land situated at Lord Howe Island: Commencing at the southernmost corner of Portion 74 and bounded thence by the generally northwestern boundaries and the northernmost northeastern boundary of the said Portion 74; thence by northeastern and northwestern boundaries of Portion 73 to the northernmost corner of the said Portion 73; thence by the northern end of road separating Portion 73 from Portion 66; thence by generally southwestern, northeastern and northwestern boundaries of the said Portion 66 to the most easterly northern corner of Portion 66; thence by the northeasterly prolongation of the easternmost northwestern boundary of the said Portion 66 to the mean high water mark of the South Pacific Ocean at Neds Beach; thence by that mean high water mark generally northerly, westerly, southerly and easterly around all the bays and headlands including Old Gulch, Phillip Bluff (Fishy Point), New Gulch, Phillip Point (North Head), North Bay, Dawsons Point and part Hunter Bay to a point at the western end of Old Settlement Beach; thence by a line being the southeasterly prolongation of the southernmost southwestern boundary of Portion 74 extending northwesterly to the point of commencement.

Lord Howe Island (Amendment).

SCHEDULE 7—*continued.*

INSERTION OF DESCRIPTION OF THE LAND COMPRISING THE
LORD HOWE ISLAND PERMANENT PARK PRESERVE INTO THE
LORD HOWE ISLAND ACT, 1953—*continued.*

Part 3

All those pieces or parcels of land situated at Lord Howe Island being the following named islands: Flat Rock, North Rock, Tenth of June, Roach Island, South Island, Sugarloaf, Noddy, Soldiers Cap, Blackburn Island, Gower Island, Sail Rock, Mutton Bird Island and unnamed island north of the most northerly point of Lord Howe Island lying between that point and Soldiers Cap.

Part 4

All those pieces or parcels of land situate at the islands known as Ball's Pyramid, Wheatsheaf Island, Observatory Rock, South-East Rock and the unnamed islands in the vicinity thereof.

SCHEDULE 8.

(Sec. 5.)

SAVINGS AND TRANSITIONAL PROVISIONS.

1. In this Schedule, the Lord Howe Island Act, 1953, is referred to as the Principal Act.
2. This Schedule has effect notwithstanding anything in the Principal Act, as amended by this Act.
3. The Lord Howe Island Board constituted under the Principal Act, as in force immediately before the commencement of Schedule 2, shall continue to be so constituted until the persons appointed as members of that Board as constituted under the Principal Act, as amended by this Act, take office.
4. The reconstitution under the Principal Act, as amended by this Act, of the Lord Howe Island Board does not affect the continuity of that Board as a body corporate.

Lord Howe Island (Amendment).

SCHEDULE 8—*continued.*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

5. The Island Committee constituted under the Principal Act, as in force immediately before the commencement of Schedule 2, shall continue to be so constituted until the persons appointed as members of the Lord Howe Island Board constituted under the Principal Act, as amended by this Act, take office.

6. Where an application for a lease under section 21, or an application for transfer of such a lease, was lodged before, and is dealt with after—

- (a) the commencement of Schedule 1 (2) (c)—it shall be dealt with as if Schedule 1 (2) (c) had not been enacted;
- (b) the commencement of Schedule 5 (4) (d)—it shall be dealt with as if Schedule 5 (4) (d) had not been enacted,

and the provisions of section 21A of the Principal Act, as amended by section 4 and Schedule 5 (5) apply to and in respect of a lease granted after the commencement of those provisions pursuant to such an application as if the lease had been current at the commencement of those provisions.

7. (1) This clause—

- (a) does not affect the operation of section 21A of the Principal Act, as amended by this Act; and
- (b) ceases to have effect on the day that is 2 years after the commencement of Schedule 5 (5).

(2) Section 21 (9) and section 25 (4) of the Principal Act continue in force as if Schedule 5 (4) (d) and (8) had not been enacted.

(3) Where, but for Schedule 5 (8), a payment of annual rent referred to in the proviso to section 25 (4) of the Principal Act, as in force immediately before the commencement of Schedule 5 (8), would fall due before this clause ceases to have effect, that proviso applies in respect of the payment as if Schedule 5 (8) had not been enacted.

8. The amendments made by Schedule 5 (4) (a) and (d) are for the purposes of metric conversion as referred to in section 3 of the Metric Conversion (Savings) Act, 1974.

9. During the period of 3 months that next succeeds the commencement of Schedule 5 (6) (e), section 23 (11) of the Principal Act, as amended by this Act, applies to and in respect of a devolution that took place upon the death of a lessee not earlier than 2 years before that commencement.

Lord Howe Island (Amendment).

SCHEDULE 8—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

10. Where, before the commencement of Schedule 5 (6) (e), a lease under section 21 of the Principal Act devolved beneficially under the will, or upon the intestacy, of a lineal ancestor upon an Islander who was already a lessee under that section and the Minister, otherwise than pursuant to section 21 (7) of that Act, suspended, or purported to suspend, the condition of residence applicable to the lease, the suspension shall be deemed to have been effected, and the conditions to which the suspension was made subject shall be deemed to have been imposed, by order made by the Minister and the suspension and conditions shall have, and be deemed always to have had, the same effect as they would have had if section 23 (12) of the Principal Act, as amended by this Act, had been in force at the time of the suspension.

11. The first statement of accounts of the Lord Howe Island Board under section 35, and its first report under section 36A, of the Principal Act, as amended by this Act, shall—

- (a) where Schedule 6 (1) commences on or after the first day of July in a year and before the first day of the next succeeding January—be in respect of the period of 18 months ending on the thirtieth day of the next succeeding June; or
 - (b) where Schedule 6 (1) commences on or after the first day of January in a year and before the first day of the next succeeding July—be in respect of the period of 6 months ending immediately before that first day of July.
-