

**NEW SOUTH WALES STATE CONSERVATORIUM
OF MUSIC (AMENDMENT) ACT, 1977**

New South Wales



ANNO VICESIMO SEXTO

ELIZABETHÆ II REGINÆ

Act No. 119, 1977.

An Act to amend the New South Wales State Conservatorium of Music Act, 1965, to reconstitute The Board of Governors of the Conservatorium, to clarify the borrowing and investment powers of that Board and to remove restrictions on the type of academic awards that may be made by that Board. [Assented to, 9th December, 1977.]

BE

New South Wales State Conservatorium of Music (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 :—

1. This Act may be cited as the "New South Wales State Conservatorium of Music (Amendment) Act, 1977". Short title.

2. (1) This section, sections 1, 3 and 4 and Schedule 3 shall commence on the date of assent to this Act. Commencement.

(2) For the purposes only of the election and appointment of members of The Board of Governors of the New South Wales State Conservatorium of Music as reconstituted under the Principal Act, as amended by this Act, and of matters necessary for or incidental to that election, appointment and reconstitution, section 5 and Schedule 1 shall commence on the date of assent to this Act.

(3) Subject to subsection (2), sections 5 and 7 and Schedule 1 shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(4) Section 6 shall, in its application to a provision of Schedules 2 and 3, commence on the day on which that provision commences.

(5) The several provisions of Schedule 2 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. The New South Wales State Conservatorium of Music Act, 1965, is in this Act referred to as the Principal Act. Principal Act.

4.

New South Wales State Conservatorium of Music (Amendment).

Schedules.

4. This Act contains the following Schedules :—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT RECONSTITUTING THE BOARD OF GOVERNORS.

SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT.

SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW REVISION.

5. The Principal Act is amended in the manner set forth in Schedule 1.

Amendment of Act No. 5, 1965.

6. The Principal Act is further amended in the manner set forth in Schedules 2 and 3.

Further amendment of Act No. 5, 1965.

Reconstitution of Board.

7. (1) In this section—

“appointed day” means the day appointed and notified under section 2 (3);

“Board” means The Board of Governors of the New South Wales State Conservatorium of Music.

(2) On and from the appointed day the Board shall be reconstituted as provided by the Principal Act, as amended by this Act.

(3) Nothing in this Act prejudices or affects the continuity of the body corporate constituted under section 3 of the Principal Act.

(4) The members of the Board reconstituted as provided by the Principal Act, as amended by this Act, shall assume office on the appointed day.

SCHEDULE

New South Wales State Conservatorium of Music (Amendment).

SCHEDULE 1.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT RECONSTITUTING THE
BOARD OF GOVERNORS.

(1) Section 4—

Omit the section, insert instead :—

4. (1) The Board shall consist of not less than **Members**.
14, and not more than 16, members comprising—

- (a) 6 persons appointed by the Minister, being the persons referred to in subsection (2);
- (b) not less than 6, and not more than 8, persons appointed by the Minister, being the persons referred to in subsection (3);
- (c) the person for the time being holding or acting in the office of Director; and
- (d) the person for the time being holding or acting in the office prescribed by the by-laws for the purposes of this paragraph.

(2) The persons to be appointed pursuant to subsection (1) (a) shall comprise—

- (a) 2 members of the staff of the Conservatorium who—
 - (i) have the prescribed qualifications and experience which may be the same for both of them or different for each of them; and

SCHEDULE

New South Wales State Conservatorium of Music (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RECONSTITUTING THE
BOARD OF GOVERNORS—*continued.*

(ii) are elected as prescribed, whether that prescription is the same for both of them or different for each of them;

(b) a student of the Conservatorium who—

(i) has the prescribed qualifications and experience; and

(ii) is elected as prescribed;

(c) a person elected, as prescribed, by the persons who, but for this paragraph, would comprise the Board;

(d) a person who is an officer of the Public Service employed in a Department of the Government administered by the Minister;
and

(e) an officer of the Public Service who—

(i) is experienced in cultural matters;
and

(ii) is nominated by the Premier.

(3) The persons to be appointed pursuant to subsection (1) (b) shall comprise such persons as the Minister considers to be suitable for appointment after he has consulted such persons as he thinks fit.

SCHEDULE

New South Wales State Conservatorium of Music (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RECONSTITUTING THE
BOARD OF GOVERNORS—*continued.*

(4) Subject to this Act, the members (other than the members referred to in subsection (1) (c) and (d)) hold office—

(a) in the case of a member referred to in subsection (2) (a), (b) or (c)—until—

(i) the expiration of such period as is prescribed in respect of that member; or

(ii) the accession to office of his successor,

whichever is the later; and

(b) in the case of a member referred to in subsection (2) (d) or (e) or subsection (3)—for such period not exceeding 4 years as is specified (whether by reference to the expiry date of the period or otherwise) in the instrument of his appointment.

(5) A person may not be appointed as a member if he is of or above the age of 70 years.

(6) The provisions of the Public Service Act, 1902, do not apply to the appointment of a member and a member is not, as a member, subject to the provisions of that Act.

SCHEDULE

New South Wales State Conservatorium of Music (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RECONSTITUTING THE
BOARD OF GOVERNORS—*continued.*

(2) Section 5—

Omit the section, insert instead :—

Casual
vacancies.

5. (1) A member (other than a member referred to in subsection (1) (c) or (d)) vacates his office, and there is a casual vacancy in his office, if—

- (a) he attains the age of 70 years;
- (b) he dies;
- (c) 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;
- (d) 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;
- (e) he is convicted in New South Wales of a felony or of a misdemeanour punishable by imprisonment for 12 months or longer, or if he is convicted outside New South Wales of an offence which, if committed in New South Wales, would be a felony or misdemeanour so punishable;
- (f) he resigns his office by writing under his hand addressed to the Minister and his resignation is accepted;

SCHEDULE

New South Wales State Conservatorium of Music (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RECONSTITUTING THE
BOARD OF GOVERNORS—*continued.*

- (g) he is absent from 3 consecutive meetings of the Board of which reasonable notice has been given to him personally or in the ordinary course of post and is not, within 6 weeks after the last of those meetings, excused by the Board for his absence;
- (h) being a member referred to in section 4 (2) (a), he ceases to be a member of the staff of the Conservatorium;
- (i) being the member referred to in section 4 (2) (b), he ceases to be a student of the Conservatorium;
- (j) being a member referred to in section 4 (2) (d) or (e), he ceases to be an officer of the Public Service; or
- (k) he is removed from office by the Minister.

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

(3) Where a casual vacancy occurs in the office of a member of the Board, the vacancy shall be filled—

- (a) by the Minister appointing a person as prescribed by the by-laws in relation to the office vacated; or

SCHEDULE

New South Wales State Conservatorium of Music (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RECONSTITUTING THE
BOARD OF GOVERNORS—*continued.*

(b) where the by-laws do not provide for the filling of the vacancy—by the Minister appointing a person eligible for appointment in the same way as the member who vacated his office.

(4) A member appointed to fill a casual vacancy holds office as a member for the balance of the term of office of his predecessor.

(3) Section 6—

Omit the section, insert instead :—

**Election of
Chairman,
etc.**

6. (1) The Chairman and Deputy Chairman of the Board shall be elected and hold office as prescribed and shall have such powers and duties as are prescribed.

(2) At a meeting of the Board from which the Chairman and Deputy Chairman are absent, the members present at the meeting shall elect one of their number to preside at the meeting.

(4) Section 7 (3)—

Omit “four”, insert instead “8”.

SCHEDULE

New South Wales State Conservatorium of Music (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RECONSTITUTING THE
BOARD OF GOVERNORS—*continued.*

(5) Section 16 (1) (aa)—

After section 16 (1) (a), insert :—

- (aa) the election of the elected members of the Board and their accession to office and the election of the Chairman and Deputy Chairman of the Board and their terms of office;

SCHEDULE 2.

Sec. 6.

AMENDMENTS TO THE PRINCIPAL ACT.

(1) (a) Section 12 (b)—

Omit the paragraph, insert instead :—

- (b) subject to the approval of the Minister, the establishment, maintenance and control, whether or not by agreement with any person, of branches of the Conservatorium within New South Wales;

(b) Section 12 (2), (3), (4)—

At the end of section 12, insert :—

- (2) The Board may, within such limits, to such extent and upon such conditions (as to security or otherwise) as the Governor upon the recommendation of the Treasurer approves,

SCHEDULE

*New South Wales State Conservatorium of Music (Amendment).*SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

borrow money for the purpose of exercising or performing any of its powers, authorities, duties or functions, the renewal of loans or the discharge of its debts.

(3) The Board may invest any funds belonging to or vested in the Board—

- (a) in the manner for the time being authorised by law for the investment of trust funds; or
- (b) in any manner approved by the Governor on the recommendation of the Treasurer, either generally or in a particular case or class of cases,

unless a condition upon which the funds were acquired by the Board provides for their investment in some other manner.

(4) The Public Service Board may, in relation to the Board constituted under this Act, exercise its powers under section 11A of the Public Service Act, 1902, in the same way as it may exercise them in relation to an officer.

(2) Section 15A—

After section 15, insert :—

Delegation
by Board.

15A. (1) The Board may, by resolution, delegate to the Director or an officer or employee appointed and employed under section 11 or to a committee

SCHEDULE

New South Wales State Conservatorium of Music (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

appointed by the Board the exercise or performance of any power, authority, duty or function of the Board other than—

- (a) a power, authority, duty or function delegated to the Board under section 12 (4);
and
- (b) the power of delegation conferred on it by this section.

(2) A delegation under this section may be made subject to such conditions or limitations as to the exercise or performance of the delegated power, authority, duty or function, or as to time or circumstance, as may be specified by the delegation resolution.

(3) The delegation under this section of a power, authority, duty or function does not prevent its exercise or performance by the Board.

(4) Any act or thing done or suffered by a delegate when acting in the exercise of a delegation under this section has the same force and effect as it would have had if it had been done or suffered by the Board.

(5) The Board may, by resolution, revoke a delegation under this section.

SCHEDULE

New South Wales State Conservatorium of Music (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(3) (a) Section 16 (1) (ba)—

After section 16 (1) (b), insert :—

(ba) the discipline of students at the Conservatorium and the imposition of penalties for breaches of discipline by those students;

(b) Section 16 (1) (c)—

Omit the paragraph, insert instead :—

(c) the conferring of awards, the conduct of examinations and the acceptance of specified qualifications as the equivalent of specified examination results;

Sec. 6.

SCHEDULE 3.

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE
LAW REVISION.

(1) (a) Section 1 (2)—

Omit “subsection three of this section”, insert instead “subsection (3)”.

(b) Section 1 (3)—

Omit “subsection two of this section”, insert instead “subsection (2)”.

SCHEDULE

New South Wales State Conservatorium of Music (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE
LAW REVISION—*continued.*

(2) (a) Section 11 (1)—

Omit “as amended by subsequent Acts.”.

(b) Section 11 (2)—

Omit “and any Act amending that Act.”.

(3) Section 12 (a)—

Omit “of this section”.

(4) (a) Section 13 (2)—

Omit “relating to perpetuities shall not”, insert
instead “against remoteness of vesting does not”.

(b) Section 13 (3)—

Omit “or in any Act amending that Act, whether
passed before or after the commencement of this
Act.”.

(5) Section 15 (2)—

Omit “and Acts amending the same.”.

(6) (a) Section 16 (1)—

Omit “paragraph (b) of section twelve of this
Act”, insert instead “section 12 (b)”.

SCHEDULE

New South Wales State Conservatorium of Music (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE
LAW REVISION—*continued.*

(b) Section 16 (4)—

Omit the subsection, insert instead :—

(4) Section 41 of the Interpretation Act, 1897, applies in respect of a by-law as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.
