

Queensland



ANNO UNDECIMO

ELIZABETHAE SECUNDAE REGINAE.

No. 3.

An Act to Amend "The Grammar Schools Acts, 1860 to 1900," in certain particulars.

[ASSENTED TO 22ND MARCH, 1962.]

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

1. This Act may be cited as "*The Grammar Schools Acts Amendment Act of 1962*," and shall be read as one with "*The Grammar Schools Acts, 1860 to 1900*." Short title.

2. "*The Grammar Schools Acts, 1860 to 1900*," and this Act may be collectively cited as "*The Grammar Schools Acts, 1860 to 1962*." Collective title.

Power to borrow.

3. (1.) Subject to this Act, trustees of any grammar school established under the provisions of "*The Grammar Schools Acts, 1860 to 1900*," may from time to time, for the purpose of enabling them to exercise and perform their functions, borrow money—

- (i.) From the Treasurer ; or
- (ii.) By the sale of debentures, bonds or inscribed stock ; or
- (iii.) Partly in one way and partly in another way or ways as aforesaid.

Negotiations.

(2.) Before entering into negotiations to borrow money by the sale of debentures, bonds or inscribed stock the trustees shall first obtain the sanction of the Treasurer authorising them to enter upon such negotiations, and for the purpose of obtaining that sanction the trustees shall submit to the Treasurer such information as the Treasurer may require.

Authority to borrow.

(3.) (a) Trustees shall not borrow any moneys unless the authority of the Governor in Council thereto is first obtained.

(b) In the case of a loan to be raised in whole or in part by the sale of debentures, bonds or inscribed stock the authority shall be given by Order in Council.

The Order in Council shall declare the amount that may be borrowed, the purposes for which the same shall be borrowed, the currency of the loan, the amount of interest payable thereon, the terms and conditions for the redemption of the loan whether by yearly or half-yearly payments or payments into a sinking fund, and such other conditions as the Governor in Council thinks proper to impose.

Local body.

(4.) Trustees shall be deemed to be a "local body" under and within the meaning of "*The Local Bodies' Loans Guarantee Acts, 1923 to 1957*," the provisions of which shall, subject to such modifications thereof as the Governor in Council may by Order in Council prescribe, either generally or in respect of any particular loan, apply and extend accordingly.

(5.) All moneys borrowed by trustees shall be expended for the purpose for which the trustees were authorised to borrow the same and not otherwise.

If any amount of a loan remains unexpended upon the completion of the purpose for which such loan was borrowed such amount shall be applied as directed by the Treasurer.

4. Before proceeding to borrow money the trustees shall— Procedure before borrowing.

- (i.) At a special meeting called for the purpose, pass a resolution to borrow that money ;
- (ii.) Cause to be prepared—
 - (a) Plans and specifications of the projects or full details of such other purpose for which the money is required to be raised ;
 - (b) An estimate of the cost thereof ;
 - (c) A statement showing the proposed expenditure of the money to be borrowed.

5. (1.) All debentures, bonds and inscribed stock respectively issued under the authority of this Act— Debentures, bonds and stock.

- (i.) Shall, subject to this Act, be sold in such amounts or parcels, at such times and places in or outside Queensland, and in such a manner as the trustees think fit ;
- (ii.) Shall with interest thereon be charged and secured upon the assets and revenues of the trustees, subject to any prior debentures, bonds and stock issued according to law ;
- (iii.) Shall bear interest at the rate and be redeemable at such date or dates and at such place or places in or outside Queensland as specified therein ;
- (iv.) May, in the case of any debentures or bonds with the consent of the holder thereof, or in the case of any inscribed stock of the registered owner thereof, be paid off at any

time previous to the due date thereof at not more than the amount of the principal remaining unpaid at the time in respect thereof or (with the consent of the Governor in Council) at a premium, with interest thereon to date of payment only.

(2.) Interest secured by any such debentures, bonds or stock shall be payable at such times and at such place or places in or outside Queensland as are set forth thereon.

(3.) (a) Every debenture issued under this Act shall be sealed with the seal of the trustees (and when so sealed shall be taken to have been duly issued and the holder thereof shall not be bound to enquire whether such issue was in fact duly authorised) and shall be numbered consecutively so that no two debentures shall at any time bear the same number, and shall be repayable, both as to the principal and interest, at the place and at the time specified therein.

(b) Every debenture may have annexed thereto for every payment (whether of principal or interest or principal and interest) to grow due thereon a coupon, and every debenture and every coupon shall, unless the Governor in Council has otherwise determined when authorising the loan, be transferable by delivery, and payment to any person in possession of any such debenture or coupon of the sum named therein shall discharge the trustees from all liability in respect of that debenture or coupon.

Where a debenture or coupon is not transferable by delivery that fact shall be expressly stated on the face thereof.

(c) In the case of any debenture issued with coupons the holder of any such coupon shall be entitled to receive from the trustees payment of the sum specified in the coupon upon presentation thereof, either annexed to or separated from the debenture, at the place where, and on or after the date when, such sum is payable.

(d) In the case of any debenture issued without coupons, the lender or, in the event of the transfer of such debenture at any time or from time to time, the transferee for the time being shall, subject to this

paragraph, be entitled to receive payments from the trustees in respect of principal or interest, or both, in accordance with the terms and conditions of the debenture.

A transferee with respect to whom the trustees have not been given notice as prescribed shall not be entitled to receive, and the trustees shall not be liable to make to such a transferee, any payment in respect of any debenture issued without coupons (except under attachment by process of law and then only to the extent of moneys due and payable to such transferee under the debenture and unpaid by the trustees to the lender or a prior transferee).

The entitlement of a transferee with respect to whom the trustees have been given notice as prescribed to receive any payment in respect of a debenture issued without coupons shall be subject to any payment which, having become due and payable under such debenture before the trustees were given such notice, was made by it to the lender or a prior transferee.

In this paragraph the expression "notice as prescribed" means a notice in writing signed by the transferor and transferee and verified to the satisfaction of the trustees.

(4.) No notice of any trust express, implied or constructive shall be received by the trustees or by any officer or other servant or any agent of the trustees in relation to any debentures, bonds or stock issued under the authority of this Act, and the trustees or any such officer, servant or agent shall not be bound to see to the execution of any such trust to which any such debentures, bonds or any part of any such stock may be subject.

(5.) An investment, unless expressly forbidden by the instrument (if any) creating the trust, by a trustee of trust funds in any debentures, bonds or stock issued under the authority of this Act shall be and be deemed to be an authorised investment by the trustee pursuant to the provisions of section four of "*The Trustees and Executors Act of 1897*," and such Act shall be read and construed accordingly.

(6.) A person advancing money to the trustees and receiving in consideration of such advance any debentures, bonds or stock issued under the authority of this Act shall not be bound to enquire whether the issue of such security was in fact duly authorised or into the application of the money advanced or be in any way responsible for the non-application or misapplication thereof.

Brokerage.

6. (1.) The trustees may pay moneys by way of brokerage in relation to the making, procuring, negotiating or obtaining the loan of any money the borrowing of which the Governor in Council has approved :

Provided that no moneys shall be paid by the trustees by way of brokerage unless the Treasurer has approved of the payment of brokerage, which approval may be given by the Treasurer subject to such terms and conditions as to him shall seem fit :

Provided further that section fourteen of "*The Money Lenders Acts, 1916 to 1959*," shall not apply or extend to brokerage which the trustees are authorised to pay under and in accordance with this section, and which brokerage has been approved by the Treasurer and is agreed to by the trustees subject to the terms and conditions, if any, imposed by the Treasurer.

Regulations relating to loans.

(2.) Without limiting the power to make regulations conferred by section eight of "*The Grammar Schools Acts, 1860 to 1900*," regulations may be made under that section providing for all or any matters and things relating to the conducting of business connected with the raising and repayment of loans under the authority of this Act, including but without limit to the generality thereof—

- (i.) Providing for the establishment of a registry (at the office of the trustees or at any other place) for the inscription of stock created and issued and the keeping of stock ledgers, regulating the inscription in such stock ledgers of all stock issued and regulating the transfer or transmission of stock or of any shares therein, and restricting the amount of stock which may be transferred ;

- (ii.) Prescribing a standard form of and the manner of the issuing of debentures and of bonds, providing for the keeping and inspection of and the taking of copies of or extracts from the register of debentures and bonds or from any stock ledgers, and making provision for lost or defaced debentures or bonds or stock and the destruction of discharged debentures or bonds or stock :

Provided that a lender may agree to accept a standard form of debenture but no lender shall be bound to do so unless by his agreement ;

- (iii.) Providing for the issue, upon request, of stock to debenture or bond holders and of debentures or bonds to registered owners of stock ;
- (iv.) Prescribing any matters with respect to the raising of loans outside Queensland ;
- (v.) Prescribing any matters with respect to which fees are to be payable and the amounts of those fees ;
- (vi.) Providing for sinking funds or other methods for the repayment of moneys borrowed, providing for and appointing trustees of a debt redemption fund with respect thereto and prescribing the functions, powers and duties of such trustees and regulating and controlling all or any matters with respect to such debt redemption fund, trustees or sinking funds or other methods.

7. (1.) Notwithstanding anything contained in this or any other Act to the contrary, trustees may, for temporary accommodation, obtain advances from any bank or banks by way of overdraft in respect of the General Fund :

Advance by
way of
overdraft.

Provided that such overdraft shall not at any time exceed the amount of the total income of the trustees, exclusive of loans, for the year last past, or such lesser amount as the Governor in Council has for the time being fixed (the Governor in Council being hereby authorised if he deems it desirable in relation to any trustees to fix from time to time such lesser amount as he thinks fit for the purposes hereof).

Statement
of defaults
in repay-
ment of
Treasury
loans.

(2.) (a) In the months of February and August, respectively, in every year, the Treasurer shall cause to be published in the *Gazette* a statement showing, with respect to every loan advanced to trustees by the Treasurer, the amount of money which is then overdue and in arrear and also the total of the principal sum then remaining unpaid.

Treasury
loan.

(b) Every loan advanced by the Treasurer under this Act shall be liquidated by the payment to the Treasurer by the trustees on the first days of January and July respectively, in every calendar year, of such instalments of principal and interest at the prescribed rate as will permit the said loan to be wholly redeemed within the prescribed period of the said loan, and such sums shall continue to be payable until all the moneys advanced from time to time by the Treasurer, together with the interest accruing thereupon, have been so paid.

The Treasurer may at any time make any adjustment which he considers necessary to be made with respect to the period of any loan or the calculation of interest thereupon or with respect to any other matter requiring adjustment.

Appoint-
ment of
receiver by
the
Treasurer.

8. (1.) When and so often as all or any part of the amount of money from time to time due and payable by the trustees to the Treasurer in respect of any loan pursuant to this Act remains unpaid on the thirtieth day of April or the thirty-first day of October, respectively, next following the publication in the *Gazette* pursuant to paragraph (a) of subsection two of section seven of this Act of the statement showing that such amount of money was in the last previous month of February, or August, as the case may be, overdue and in arrear, or if the Treasurer pays any moneys under any guarantee given under "*The Local Bodies' Loans Guarantee Acts, 1923 to 1957*," the Treasurer may make and levy such fees as he considers needful (for which purpose he shall have all the powers, authorities, jurisdiction and remedies of the trustees in that behalf) and may, whether he exercises his remedy as aforesaid or not, appoint, by notification in the *Gazette*, a receiver to collect on his behalf and pay to him all or any moneys chargeable or receivable by or due to the trustees, to the amount stated in such notification.

(2.) Where a receiver is so appointed the Treasurer may from time to time make all such orders and give all such directions with respect to the powers and duties of such receiver and the management by him of the business of the trustees as the Treasurer thinks proper; and judicial notice shall be taken of all such orders and directions.

(3.) Upon the appointment as aforesaid of a receiver, the receiver shall, from the date stated in the notification of his appointment and until the amount stated in the notification of his appointment is collected by him, be the only person legally entitled to receive the revenues of the trustees, and shall be deemed to that extent and for that purpose to be a public accountant within the meaning of "*The Audit Acts, 1874 to 1960.*"

(4.) A receiver may be appointed under this section in respect of the income of the trustees either generally or as regards specified income.

9. (1.) (a) If default is made by trustees in making any payment, whether of principal or interest, to the holder of any debenture or bond or coupon issued or stock inscribed by such trustees, the holder thereof may make application to and procure all necessary orders and directions from the Supreme Court for the appointment of a receiver and such Court shall have power to make all such orders for the appointment of a receiver or for his removal and the appointment of another in his place as may be necessary, and to make any orders and give any directions which such Court may think proper.

Remedies
of bond,
stock and
debenture
holders.

(b) A receiver may be appointed in respect of the income of trustees either generally or as regards specified income.

(c) A receiver shall be deemed to be an officer of such Court and shall act under its directions.

(2.) A receiver appointed by the Treasurer shall be entitled to such commission or remuneration for his services as the Treasurer may order and a receiver appointed by the Court shall be entitled to such commission or remuneration as the Court may order. The commission or remuneration shall be payable out of the income for and in respect of which he has been appointed receiver.

Remunera-
tion of
receiver.

Powers and
duties of
receiver.

(3.) (a) A receiver, whether appointed by the Treasurer or the Court, shall have power to collect all the income payable to trustees, which he has been authorised to collect and for the purposes of this section a receiver shall be deemed to be the trustees and may exercise all the powers of the trustees.

(b) A receiver shall pay and apply all the moneys received by him in the following order, that is to say :—

- (i.) Firstly, in payment of the costs, charges and expenses of collection and of his commission or remuneration ;
- (ii.) Secondly, if appointed by the Treasurer, in payment of the amount due and payable to the Treasurer including any moneys paid by the Treasurer under any guarantee given under the provisions of this Act together with interest at such rate as may be specified by the Treasurer and, if appointed by the Court upon the application of a holder of any debenture or bond or coupon issued or stock inscribed by the trustees, in payment, subject to any order of the Court, to such holder or to and amongst the holders of debentures or bonds or coupons or inscribed stock of the same series as such holder or to the holders of debentures or bonds or coupons or inscribed stock generally in such order of priority or otherwise as the Court may think fit ;
- (iii.) Thirdly, in payment of all the residue of the moneys to the trustees.

Unpaid
principal
and interest
to be debt
of trustees.

(4.) If default is made by trustees in making any payment in subsection one of this section referred to, the amount of that default may be recovered by action in any court of competent jurisdiction against the trustees.

Illegally
borrowing.

10. (1.) (a) The provisions of this subsection shall not prejudice or otherwise affect the provisions of sections three and six of this Act.

Person
lending
unlawfully.

(b) A person lending money to trustees otherwise than in accordance with this or some other Act shall not have any remedy or right whatsoever to recover that money from the trustees.

(2.) If trustees borrow any money which they are not legally authorised to borrow, all trustees who consented to the borrowing of that money shall be jointly and severally liable to repay the same and pay all interest thereon to the person from whom the same was borrowed, and such money and interest may be recovered by action in any court of competent jurisdiction from all or any of those members as money lent to such members.

Trustees borrowing unauthorised money.

11. (1.) The trustees shall establish and keep at all times established in accordance with this Act the following funds :—

Funds to be kept by trustees.

- (a) A general fund ;
- (b) A trust fund ; and
- (c) A loan fund.

The funds shall be separate and distinct, and a separate bank account shall be kept for each fund.

(2.) The general fund shall consist of all moneys received by, paid by, and owing to and by the trustees (other than the moneys referred to in subsections three and four of this section) and shall be applied to the several purposes for which such moneys shall have been received or paid or owing.

(3.) The trust fund shall consist of all moneys paid to the trustees by way of deposit or in trust for any person under this Act or any other Act. The trust fund shall be applied to the payment to or on behalf of the person entitled thereto of moneys held by way of deposit or in trust for any person.

(4.) The loan fund shall consist of all moneys received by way of loan or subsidy in respect of the works or purposes for which any loans shall have been authorised. The loan fund shall be applied to expenditure necessarily incurred in carrying out the works or purposes in respect of which the loan liability was incurred or subsidy received.

(5.) All books and accounts relative to each of the funds referred to in this section shall be open to the inspection of the Auditor-General, and any person authorised by him to inspect the same.

Accounts to
be audited.

12. (1.) The trustees shall cause a full and true balance-sheet of the assets and liabilities, together with a revenue account or profit and loss account for each year, and such other statements as may be necessary to be compiled from the books and submitted to the Auditor-General for audit.

(2.) The Auditor-General shall certify that he has found the accounts in order, or otherwise, as the case may be ; that, in his opinion, the accounts are properly drawn up so as to present a true and correct view of the transactions for the period under review as shown by the books ; that all items of receipts and payments and all known liabilities and assets have been brought into account, and that the value of all assets has in all cases been fairly stated.

(3.) The Auditor-General shall, in respect to such accounts, have all the powers conferred on him by "*The Audit Acts, 1874 to 1960.*"
