

ANNO DECIMO QUINTO

ELIZABETHAE II REGINAE

A.D. 1966

No. 87 of 1966

An Act to establish an Aboriginal Lands Trust, to define the powers and functions thereof, for purposes incidental thereto and for other purposes.

[Assented to 8th December, 1966.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Part I.

PART I

PRELIMINARY.

- Short Title **1.** This Act may be cited as the “Aboriginal Lands Trust Act, 1966”.
- Commence-
ment **2.** This Act shall come into operation on a day to be fixed by the Governor by proclamation.
- Interpretation. **3.** In this Act, unless the context otherwise requires –
 - “chairman” means the chairman of the Trust:
 - “member” means member of the Trust and includes the chairman :
 - “Minister” means the Minister of Aboriginal Affairs :
 - “Secretary” means the Secretary to the Trust:
 - “Trust” means the Aboriginal Lands Trust constituted under this Act.

PART I.

Arrangement

4. this Act is divided into Parts as follows : -

PART I.—PRELIMINARY.

PART II.—THE ABORIGINAL LANDS TRUST.

PART III.—SECRETARY AND STAFF OF THE TRUST.

PART IV.—PROVISIONS WITH RESPECT TO ABORIGINAL
LANDS.

PART V.—FINANCE.

PART II.

PART II

THE ABORIGINAL LANDS TRUST.

5. (1) There shall be constituted a body to be known as the “Aboriginal Lands Trust”.

Constitution of
Aboriginal
Lands Trust.

(2) The Trust shall be a body corporate with perpetual succession and a common seal and, subject to this Act, shall have power in its corporate name to receive, accept, hold, acquire by means of agreement, or exchange, possess, and to dispose of property of every kind and be a party to any legal proceedings.

(3) Every court and every person acting judicially shall take judicial notice of the seal of the Trust and when the seal appears on any document shall presume that it was properly affixed thereto.

6. (1) The Trust shall consist of a chairman and at least two other members appointed by the Governor: Provided that the Governor may whenever he thinks it fit so to do appoint additional members not exceeding nine upon the recommendation of Aborigines Reserve Councils constituted pursuant to regulations under the Aboriginal Affairs Act, 1962. No such Council may recommend more than one member for the Trust at any one time and thereafter shall only recommend a member to fill a vacancy caused by the vacation of office by or retirement of a person whom it has previously recommended. Each member of the Trust shall be an Aboriginal or person of Aboriginal blood within the meaning of the Aboriginal Affairs Act, 1962.

Membership
of Trust

(2) The chairman and other members of the Trust shall, subject to this Act, hold office for three years.

(3) Any member of the Trust may at the expiration of his term of office be re-appointed.

(4) Whenever a vacancy occurs in the office of a member of the Trust whether expiration of his term of office or otherwise the Governor may, subject to subsection (1) of this section, appoint a person to fill the vacancy : Provided that the person appointed to fill a vacancy caused otherwise than by the expiration of the term of office of a member shall hold office only for the unexpired portion of the term of office of the member in whose place he is appointed : Provided further that any retiring member whose term of office expires by effluxion of time shall hold office until his successor is appointed.

(5) The provisions of the Public Service Act, 1936-1959, as amended, shall not apply to any member of the Trust by virtue only of his appointment as a member.

Casual
Vacancies

7. (1) The seat of a member shall become vacant on -
- (a) his death, lunacy or his being convicted of an indictable offence ;
 - (b) his resignation by notice in writing posed or delivered to the Minister or his absence from three consecutive meetings of the Trust without the leave of the Trust ;
 - (c) his ceasing to reside in the State ;
 - (d) his becoming bankrupt or making an assignment of his property for the benefit of his creditors or compounding with his creditors for less than one hundred cents in the dollar ;
 - (e) his removal from the Trust by the Governor pursuant to this section.

(2) The Governor may remove any member from office for neglect of duty, incapacity to perform his duties, dishonourable conduct other cause deemed sufficient by the Governor.

Remuneration
Of Trust

8. Each member of the Trust shall be paid out of the funds of the Trust such remuneration for his services and such travelling and other allowances, if any, as the Governor approves.

Validity of
acts of Trust.

9. (1) An act proceeding of the Trust shall not be invalid or illegal by reason only of the fact that at the time of the act or proceeding there was a vacancy in the office of any member.

(2) All acts and proceedings of the Trust shall notwithstanding the subsequent discovery of any defect in the appointment of any member or that any member was disqualified or disentitled to act be as valid as if such member had been duly appointed and was qualified and entitled to act and had acted as a member and as if the Trust had been properly and fully constituted.

10. (1) At any meeting of the Trust the chairman if present shall preside and in the absence of the chairman the members present at any meeting of the Trust shall elect one of their number to preside at that meeting.

Meetings and
quorum

(2) The person presiding at any meeting of the Trust shall have both a deliberative and a casting vote.

(3) No meeting of the Trust shall be held in the absence of the Secretary or, in the event of his illness or inability to act, in the absence of an officer of the Department of Aboriginal Affairs appointed by the Minister to act in his place.

11. One half of the members of the Trust if the number be even plus one, and if the number be uneven the number nearest to but more than half the total number of members, shall constitute a quorum of the Trust.

Quorum of
Trust

12. The Trust shall not be a department of the Government of the State of represent or except as expressly authorized by the Governor with the consent of the Trust be an agent servant of the Crown.

Trust not to
Represent
Crown.

13. (1) The Trust shall, on or before the first day of October in every year, report to the Governor on the working of this Act during the preceding financial year and shall in any such report set out a summary of the receipts and expenditure during the said period and any other particulars which the Trust may from time to time consider fit to be included in the report.

Annual reports.

(2) All such reports shall be laid before Parliament.

PART III.

PART III

SECRETARY AND STAFF OF THE TRUST.

14. The Director of Aboriginal Affairs shall be the Secretary to the Trust.

Secretary.

15. (1) The Trust may, with the approval of the Minister, appoint such officers and employees as are required to carry out the functions and duties of the Trust. Such officers and employees shall not be subject to the Public Service Act, 1936-1959, but shall hold office on such terms and conditions as are determined by the Trust and approved by the Minister.

Officers and
Employees.

(2) The Minister may make arrangements with the Trust for the use by the Trust of the services of any officers of the Department of Aboriginal Affairs on such terms as are agreed upon.

Part IV.

PART IV.

PROVISIONS WITH RESPECT TO ABORIGINAL
LANDS.

Power to
Transfer lands
To Trust.

16. (1) Notwithstanding anything in the Aboriginal Affairs Act, 1962, or any other act contained, the Governor may by proclamation transfer any Crown lands or any lands for the time being reserved for Aborigines to the Trust : Provided that no such proclamation shall be made in respect of any lands reserved for Aborigines within the meaning of the said Aboriginal Affairs Act and in respect of which a Reserve Council pursuant to regulations under that Act has been constituted without the consent of such Council : Provided further that no such proclamation shall be made in respect of the North-West Reserve (referred to in subsection (6) of this section) until such a Reserve Council for that Reserve has been constituted and such Council has consented to the making of such a proclamation : Provided further that no such proclamation shall be made in respect of any Crown lands (not being lands at the time of the passing of this Act reserved for Aborigines) except upon the recommendation of the Minister of Lands or the Minister of Irrigation as the case may require and the recommendation of both Houses of Parliament by resolution passed during the same or different sessions of the same Parliament.

(2) Upon the making of any such proclamation such lands shall be vested free of all encumbrances in the Trust except and reserved unto Her Majesty, Her heirs and successors, all gold, silver, copper, tin and other metals, ore, minerals and other substances containing metal and all gems and precious stones, coal and mineral oil in and upon any such lands.

(3) Notwithstanding the provisions of the Real Property Act, 1886-1963, the Registrar-General shall make such entries in the Register Book as are necessary to give effect to the transfer.

(4) The Treasurer shall from time to time pay to the Trust such amounts as may be appropriated by Parliament for the purpose up to but not exceeding the amount of royalties paid to the Crown or a Minister of the Crown in any financial year in respect of any lease or licence granted or issued under the Mining Act, 1930-1962, or the Mining (Petroleum) Act, 1940-1963, in respect of any lands vested in the Trust.

(5) The Trust may -

- (a) with the consent of the Minister, sell, lease, mortgage or otherwise deal with land vested in it pursuant to this Act; or
- (b) develop such land subject to compliance with the provisions of any Act or law relating thereto,

as it thinks fit : Provided that neither the Trust nor any lessee or assign of the Trust shall depasture any stock on any lands situate within the pastoral area of the State as defined in the Pastoral Act, 1936-1960, and vested in the Trust without the approval of, and upon such conditions (including the number of stock to be depastured on any such land) as may be specified by the Pastoral Board. The Minister shall not withhold his consent unless he is satisfied that the sale, lease, mortgage or dealing fails to preserve to the Aboriginal people of South Australia the benefits and value of the land in question: Provided that no land vested in the Trust may be sold unless both Houses of Parliament during the same or different sessions of any Parliament have by resolution authorized such sale.

(6) Notwithstanding the provisions of subsection (5) of this section, the Trust shall not sell, lease nor in any way alienate any portion of the North-West Reserve (as defined in the proclamation of His Excellency the Governor dated the thirteenth day of February, One thousand nine hundred and sixty-four as land reserved for Aborigines) from use by Aborigines or persons of Aboriginal blood nor shall the Trust encumber any portion of the said Reserve unless both houses of Parliament during the same or different sessions of any Parliament have by resolution authorized such alienation or encumbering.

(7) No lease or licence granted by the Trust under sub-section (5) of this section shall be assigned nor shall any lessee or licensee sublet or part with the possession of the land the subject thereof without the consent in writing of the Minister first had and obtained. A lease or licence shall be forfeit upon any breach of this provision.

17. All moneys held by the Trust including the proceeds of any sale or lease or other dealing with any land vested in the Trust shall, subject to payment thereof of the costs of administration of this Act, be held by the Trust and used by it for the development and improvement of lands the property of the Trust and the acquisition and development of further lands for the purposes of the Trust and for the purposes of section 18.

Assets of
Trust

18. Subject to the approval of the Minister the Trust may grant technical or other assistance or advance moneys to Aborigines and persons of Aboriginal blood or to recognized Aboriginal groups for such purposes and upon such conditions as the Trust thinks fit: Provided that no assistance shall be granted and no moneys shall be advanced, under this section to any member of the Trust or, except with the consent of the Minister, to any relative of a member of the Trust.

Power to
grant
Assistance.

Part V.

PART V.

FINANCE.

Banking and
Finance

19. (1) For the purposes of this Act the Trust shall open and maintain an account of accounts at a bank trading in Adelaide and with the approval of the Minister may arrange with that bank for overdrafts or advances.

(2) The Minister may from time to time out of moneys provided by Parliament for the purpose pay to the Trust by way of grant or by way of loan or both such sums as he thinks proper.

(3) There shall be paid into the bank account of the Trust all such sums as the Treasurer and the Minister pay to the Trust and all other money received by the Trust from any source.

Audits

20. The Auditor-General shall, without fee, audit the accounts of the Trust annually. For the purposes of any such audit the Audit Act, 1921-1957, as amended, shall apply as if the Trust were a department of the Public Service.

In the name and on behalf of Her Majesty, I hereby
assent to this Bill.

EDRIC BASTYAN, Governor.