

ACTS AMENDMENT (LIBRARIES).

4° Elizabeth II., No. XX.

No. 20 of 1955.

AN ACT to amend certain Acts relating to the Provision of Libraries and Library Services for the Public.

[Assented to 3rd November, 1955.]

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 Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Acts Amendment (Libraries) Act, 1955.* Short title.

2. This Act shall come into operation on the first day of December, one thousand nine hundred and fifty-five, unless the Governor by proclamation Commence-
ment.

appoints a previous day for the coming into operation of this Act, in which case this Act shall come into operation on the day so appointed.

Arrange-
ment.

3. This Act is arranged as follows—

PART I.—AMENDMENT OF THE LIBRARY BOARD
OF WESTERN AUSTRALIA ACT, 1951.

PART II.—AMENDMENT OF THE PUBLIC
LIBRARY, MUSEUM, AND ART GALLERY OF
WESTERN AUSTRALIA ACT, 1911.

PART I.—AMENDMENT OF THE PUBLIC LIBRARY
BOARD OF WESTERN AUSTRALIA ACT, 1951.

Citation.

4. (1) In this Part, the Library Board of Western
Australia Act, 1951,

Act No. 42 of 1951,

is referred to as the principal Act.

(2) The principal Act as amended by this Act
may be cited as the Library Board of Western Aus-
tralia Act, 1951-1955.

S. 3
amended.

5. Section three of the principal Act is amended—

(a) by substituting for the interpretation,
“participating body”, the following inter-
pretation—

“participating body” means—

(i) a local authority; or

(ii) an approved body;

which elects and is declared to be a
participating body pursuant to the
provisions of this Act, during such
time as it continues to be and to
participate as such in a scheme;

- (b) by substituting for the interpretation, "registered free library", the following interpretation—

"registered public library" means a free library registered by the Board in pursuance of the provisions of this Act;

and

- (c) by adding after the interpretation, "scheme" the following interpretation—

"State Library" means The State Library of Western Australia, known prior to coming into operation of the Acts Amendment (Libraries) Act, 1955 as the Public Library of Western Australia.

6. Section five of the principal Act is amended by adding after subsection (1) the following subsection— S. 5 amended.

(1a) This section shall be read and construed as subject to section twenty A of this Act.

7. Section six of the principal Act is amended— S. 6 amended.

- (a) by substituting for subsection (1) the following subsection—

(1) (a) The Board shall appoint as State Librarian a person who is a qualified librarian.

(b) The person appointed to the office of State Librarian shall, by virtue of that office, be the Executive Officer and Secretary of the Board.

(c) The Board may appoint such other officers as are required for the purpose of carrying out the Board's functions in pursuance of this Act. ;

and

(b) by substituting for the word, "Secretary" in line one of subsection (2), the words, "State Librarian".

S. 8
amended.

8. Section eight of the principal Act is amended by deleting paragraph (d).

S. 15
amended.

9. Section fifteen of the principal Act is amended—

(a) by adding before paragraph (a) the following paragraph—

(Aa) control and manage The State Library;

(b) by substituting for the word, "free" where it appears—

(i) in line one of paragraph (c); and

(ii) in lines five and six of paragraph (d);

the words, "registered public"; and

(c) by substituting for the word, "free" in line two of paragraph (e), the word, "public".

s. 16
amended.

10. Section sixteen of the principal Act is amended—

(a) by deleting the word, "and" after the word, "use" in line three of paragraph (d) of subsection (1); and

(b) by adding after the word, "Board" in line two of paragraph (e) of subsection (1) the following passage—

; and

(f) such moneys as the Board acquires under section twenty A of this Act.

11. Section eighteen of the principal Act is amended by substituting for the word, "free" in line one of paragraph (a), the word, "public". S. 18 amended.

12. Section nineteen of the principal Act is amended by substituting for the word, "free" wherever it appears, the words, "registered public". S. 19 amended.

13. The principal Act is amended by adding after section twenty the following section— S. 20A added.

20A. (1) In this section unless the context requires otherwise— Transition provisions relating to transfer of Public Library to the Board.

"appointed day" means the day of the coming into operation of the Acts Amendment (Libraries) Act, 1955; Interpretations.

"Public Library" means the Public Library of Western Australia mentioned in the Public Library Act;

"Public Library Act" means the Public Library, Museum, and Art Gallery of Western Australia Act, 1911; No. 27 of 1911.

"Trustees" means the trustees in office under the Public Library Act.

(2) On the appointed day

(a) the library known until then as the Public Library shall become and be thereafter known as The State Library of Western Australia;

Change of name and control.

- (b) government of that library by the Trustees shall cease;
- (c) the control and management of that library on and from that day shall become and be the duty of the Board;
- (d) there shall cease to be three *ex officio* members, and on and after the appointed day, the *ex officio* members shall be
 - (i) the Director of Education;
 - (ii) the Director of Adult Education;
- (e) the three offices of nominee member occupied by persons mentioned in subparagraph (vi) of paragraph (b) of subsection (3) of section five of this Act shall be reduced to one; and the occupants shall vacate those offices but shall be eligible for re-appointment as members of the Board; and for the purpose of filling the one office of nominee member from time to time the Minister shall request the Library Association of Australia, Western Australian Branch, to submit to him a panel of three names in the manner prescribed by paragraph (a) of subsection (4) of section five of the principal Act;
- (f) the two offices of nominee member mentioned in subparagraph (vii) of that paragraph shall be increased to five, but the occupants of those two offices at the appointed day shall vacate those offices and shall be eligible for re-appointment as members of the Board; and for the purpose of determining the first, but only the first, occupants of two of those five offices the Minister

shall in the manner prescribed by paragraph (a) of subsection (4) of section five of the principal Act request the Trustees of the Public Library, Museum and Art Gallery of Western Australia to submit to him a panel of not less than five names from which he shall select the occupants of two of those five offices;

- (g) the term of tenure of office of the occupants at the appointed day of the five offices of nominee members mentioned in subparagraphs (i), (ii), (iii), (iv) and (v) of that paragraph shall be adjusted to two years from the appointed day, and after the expiration of that period of two years, the term of tenure of those five offices from time to time shall be four years;
- (h) the term of tenure of office of the first occupant of the office referred to in paragraph (e) of this subsection shall be two years from the appointed day and after the expiration of that period, the term of tenure of that office from time to time shall be four years;
- (i) the term of tenure of office of the first occupants of the five offices of nominee member, mentioned in paragraph (f) of this subsection, shall be four years from the appointed day, and after the expiration of that term of four years, the term of tenure of those offices from time to time shall be four years; and
- (j) the number of members necessary to constitute a quorum shall cease to be seven as required under subsection (12) of section five of this Act, and on and from that day shall become and be six.

Vesting
of land.

(3) (a) So much of the land described in the Schedule to the Public Library Act, and so much of the buildings on that land, as the Governor by proclamation declares to be vested in the Board, shall, by operation of this Act and the proclamation, cease to be vested in the Trustees, and shall become and be vested in the Board for such estate or interest as is mentioned in the proclamation, without the necessity of any transfer or conveyance.

(b) The Board shall not, without the consent of the Governor sell, exchange, lease, mortgage or otherwise dispose of or encumber the land so vested, or any part of, or estate or interest in, the land.

Vesting of
chattels.

(4) (a) On the appointed day all books, periodicals, newspapers or other printed matter and all maps, plans, music, manuscripts, pictures, prints, motion pictures, sound recordings, photographic plates or photographic films or any other matters or things whereby words or sounds are recorded or reproduced, together with all library fittings, furniture and equipment in the possession or control of or held in trust by the Trustees for the purpose of being used for the provision of a library service shall be transferred to and vested in the Board.

(b) Where any doubt or difficulty arises as to whether paragraph (a) of this subsection applies to any property, the Minister may by notice in writing give directions as to that property and a direction so given shall be binding upon all persons, courts and tribunals.

(c) All contracts entered into or rights enjoyed prior to the commencement of the Acts Amendment (Libraries) Act, 1955 by the Trustees which relate to the Public Library or library services shall be deemed to have been entered into or enjoyed by the Board and the Board shall take and exercise in respect thereof all the powers, duties, rights, liabilities and immunities of the Trustees.

(5) (a) All gifts and bequests made to or on behalf of or for the benefit or purposes of the Public Library shall, whether made before or after the coming into operation of the Acts Amendment (Libraries) Act, 1955, be deemed gifts and bequests to or on behalf of or for the benefit of the Board.

Gifts.

(b) All gifts and bequests made to or on behalf of or for the benefit or purposes of the Public Library, Museum and Art Gallery of Western Australia shall, whether made before or after the coming into operation of the Acts Amendment (Libraries) Act, 1955, be allocated to or divided between the Board and the Trustees as the Governor thinks fit.

(6) Any references in any other Act to the Trustees of the Public Library, Museum and Art Gallery of Western Australia shall insofar as they refer to the Public Library or to the library service be construed as a reference to the Board.

References to Trustees and Public Library in other Acts.

(7) (a) All officers and employees holding office or being employed at the appointed day in the Public Library of Western Australia shall be deemed to have been appointed and engaged by the Board under the provisions of the Library Board of Western Australia Act, 1951-1955.

(b) All rights and accruing rights of such officers and employees of the Trustees and of the officers and employees of the Board at the appointed day shall remain unimpaired and shall continue for the purposes of those persons' employment with the Board and the Board shall undertake all matters incidental to the fulfilment of any obligations in connection therewith and the Trustees shall at the appointed day be freed and discharged from any such obligations.

(8) Where doubt or difficulty arises as a result of the operation of the Acts Amendment (Libraries) Act, 1955, or if in the opinion of the Governor that Act omits to make adequate provision for any matters necessary to be provided for the transfer of the Public Library to

Power of Governor to resolve doubts.

the control and management of the Board, the Governor may by Order in Council make such provision as he thinks just and reasonable in the circumstances for the purpose of removing any such doubt or difficulty or determining what is to be done and upon being published in the *Gazette* such Order in Council shall have effect as if it had been enacted in that Act.

(9) Where by this section power conferred upon the Governor is exercisable by the making of a proclamation or an Order in Council, the Governor may, from time to time, by subsequent proclamation or Order in Council, as the case requires, amend or alter any previous proclamation or order so made.

PART II.—AMENDMENT OF THE PUBLIC LIBRARY,
MUSEUM, AND ART GALLERY OF WESTERN
AUSTRALIA ACT, 1911.

Citation.

14. (1) In this Part the Public Library, Museum and Art Gallery of Western Australia Act, 1911, Act No. 27 of 1911,

is referred to as the principal Act.

(2) The principal Act as amended by this Act may be cited as the Museum, and Art Gallery of Western Australia Act, 1911-1955.

Long title amended.

15. The long title to the principal Act is amended by deleting the passage, "the Public Library of Western Australia, and" in lines two and three.

S. 1 amended.

16. Section one of the principal Act is amended by deleting the passage, "Public Library," in line one.

S. 1A added.

17. The principal Act is amended by adding after section one the following section—

Interpretations.

1A. In this Act unless the context requires otherwise—

"appointed day" means the day of the coming into operation of the Acts Amendment (Libraries) Act, 1955;

“Library Board Act” means the Library Board of Western Australia Act, 1951 and any Act passed in amendment of, or substitution for, that Act;

No. 42 of
1951.

“Board” means The Library Board of Western Australia, constituted under the Library Board Act.

18. Section three of the principal Act is amended— S. 3
amended.

- (a) by substituting for the word, “For” in line one of subsection (1), the passage, “Subject to subsection (3) of this section, there shall, for”;
- (b) by deleting the words, “there shall” in line three of subsection (1);
- (c) by substituting for the word, “The” in line one of subsection (2), the passage, “Subject to subsection (3) of this section, the”;
- (d) by adding after the subsection (2) the following subsection—

(3) On and after the appointed day—

- (a) the library known until then as the Public Library of Western Australia shall become and be known as The State Library of Western Australia;
- (b) government of that library by the Trustees shall cease;
- (c) the control and management of that library shall become and be the duty of the Board; and
- (d) the Trustees shall become and be known as The Trustees of the Museum, and Art Gallery of Western Australia.

19. Section fourteen of the principal Act is amended— S. 14
amended.

- (a) by substituting for the word, “The” in line one, the subsection designation, “(1)” and the passage, “Subject to subsection (2) of this section, the”; and

- (b) by adding after the word, "Governor" being the last word in the third proviso, the following subsection—

(2) Notwithstanding subsection (1) of this section, where the Governor by proclamation made under section twenty A of the Library Board Act, declares that any of the land mentioned in the Schedule to this Act, and the buildings thereon, or any estate or interest in that land, shall vest in the Board mentioned in that Act, the declaration shall have effect and the Schedule to this Act shall be amended as if the declaration were contained in an Act.

S. 15
amended.

20. Section fifteen of the principal Act is amended—

- (a) by adding after the word, "shall" in line three of subsection (2), the passage, ", subject to the Library Board Act,"; and
(b) by adding after the word, "empowered" in line one of subsection (3), the passage, ", subject to the Library Board Act,".

S. 17
amended.

21. Section seventeen of the principal Act is amended by deleting the words, "the Public Library of Western Australia and" in lines two and three and the word, "respectively" in line four.

S. 18
amended.

22. Section eighteen of the principal Act is amended—

- (a) by adding before the word, "books" in line one of subparagraph (i) of paragraph (d) of subsection (1), the word, "such"; and by adding after the word, "documents" in line two of that subparagraph, the passage, ", as are in the custody or control of the trustees";
(b) by adding before the word, "books" in line three of paragraph (e) of subsection (1) the words, "and such"; and by adding after the word, "papers" in line four of that paragraph, the passage, "as are in the custody or control of the trustees,"; and
(c) by repealing subsection (2).