



Western Australia.

ANNO QUINQUAGESIMO NONO

VICTORIÆ REGINÆ.

No. XX.

AN ACT to make Provision for the Incorporation of Religious and other Bodies.

[Assented to, 2nd October, 1895.]

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 for all purposes as the "Associations Incorporation Act, 1895."

Short title.

2. IN the interpretation of this Act the following words shall have the following meanings:—

Interpretation of terms.

The word "Association" shall include churches, chapels, and all religious bodies, schools, hospitals, and all benevolent and charitable institutions, mechanics' institutes, and all associations for the purpose of promoting and encouraging literature, science, and art, and all other institutions and associations formed, or to be formed, for promoting the like objects, and any other association, institution, or body which the Attorney General certifies as being one to which the facilities given by this Act ought to be extended: Provided that this Act shall not apply to associations for the purpose of trading or securing pecuniary

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pecuniary profit to the members from the transactions thereof.

Public Notice.

The words "Public Notice" shall mean notice by advertisement published in the *Government Gazette* and in one newspaper published in the place nearest to where the association is situated or established.

Mode of incorporation.

3. ANY Association may be incorporated under this Act, as follows:—

(a.) Any trustee of, or any person thereunto authorised by a majority of the members of such Association, may give public notice, for fourteen days, in the form, or to the effect, set forth in Schedule "A" of this Act, of his desire to incorporate such Association, and in every such notice a copy of the memorial next hereinafter mentioned shall be set forth:

(b.) At any time after the expiration of one calendar month from the date of the last notice it shall be lawful for the trustee or such other person (unless restrained as in Section 4 mentioned) to file a memorial in the Supreme Court, in the form or to the effect of the memorial prescribed in Schedule "B" to this Act, and containing the particulars therein required to be set forth, together with an affidavit by such trustee or person verifying the contents of such memorial:

(c.) The Master of the Supreme Court shall thereupon grant to the trustee, or person filing and verifying such memorial, a certificate of incorporation in the form specified in the Schedule "C" to this Act; and the same, or any copy thereof certified by the Master of the Supreme Court, shall be received in evidence without further proof in any Court of Law or Equity that such Association has been duly incorporated under this Act.

Incorporation may be restrained.

4. ANY trustee, or any person interested in the Association sought to be incorporated, before the expiration of one calendar month from the date of the last published notice may apply to the Supreme Court, or a Judge thereof in Chambers, for an injunction to restrain the trustee or person giving such notice from all further proceedings; and the Court or Judge shall have full power and authority to determine the matters in question, notwithstanding all the parties interested shall not be parties to the suit or affair.

Memorial to be filed.

5. (1.) EVERY Association shall, as soon as conveniently may be after such incorporation, file in the Supreme Court a memorial, in the form or to the effect set forth in Schedule "D" to this Act,

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containing the name or names, together with the place or places of abode of the person or persons authorised to use the common seal of the corporation, with an impression of such seal, and verified by an affidavit of and countersigned by such person or persons, and upon every change of such person or persons a fresh memorial to the like effect shall be filed in the Court and verified.

(2.) All such persons, or such one or more of them as shall be fixed by the rules of the Association, shall in all cases countersign any deed, instrument, or document to which the seal of the corporation shall be fixed.

(3.) At the time of filing the memorial last aforesaid a copy of the rules and regulations, or Trust or Settlement Deed of the Association, shall also be filed in the Supreme Court; and a like copy shall from time to time be filed in the said Court of all additional rules, regulations, and trusts, and of any alteration therein which may from time to time be made; and all copies of such rules, regulations, and trusts, and additions and alterations thereto or therein, shall, on the filing thereof, be verified by the affidavit of the person or persons authorised for the time being to use the common seal of the Association.

(4.) In case any incorporated Association shall neglect to file such memorial as last aforesaid, or such copy of the rules, regulations, and trusts, or of the additions or alterations thereto or therein from time to time, then the powers of the Association shall be suspended during such period as the Association shall so neglect as aforesaid. Provided, nevertheless, that every such Association shall be liable to be sued and proceeded against as a corporation; and all dealings and transactions between the Association and any person whomsoever shall be valid against the Association and all persons claiming under such Association, notwithstanding such suspension.

(5.) The production of the memorial or of the copy rules, regulations, or trusts for the time being filed in the said Court under the provisions of this clause, or an office copy thereof, shall be conclusive evidence in any Court of Law or Equity, and in all proceedings and transactions whatsoever, that the person named in such memorial was at the time of his using the common seal of the corporation duly authorised so to do, and that the registered rules, regulations, and trusts are duly and legally made.

6. UPON such certificate of incorporation as aforesaid being granted in manner hereinbefore provided, the Association shall, as from the date of such certificate, be incorporated for the purposes following, that is to say—

1. For the purpose of using the name of the Association, adding thereto the word "incorporated":

Effect of
Incorporation.

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- II. For the purpose of having and using a common seal (with power to break, alter, and change the same from time to time), but on which must be inscribed the name of the Association:
- III. For the purpose of suing, and being sued, by the name of the corporation, in respect of any claim by or upon the Association, upon or by any person whether interested in the Association or not:
- IV. To purchase, or in any other manner acquire, and hold lands, tenements, and hereditaments, goods, chattels, and effects, and all other real and personal estate, in the name of the Association, and for the purposes thereof, and to let, sell, mortgage or dispose of, and otherwise deal with the same as fully and effectually as an individual owner could do; and for such purposes to execute all such transfers, deeds, mortgages, assurances, instruments, writings, and things as may be necessary or desirable.

Provided that no lands granted to the Association by the Crown before or after the passing of this Act, without pecuniary consideration therefor, shall be sold, mortgaged, or leased for a period exceeding twenty-one years, without the consent, in writing, of the Governor-in-Council, to be endorsed upon the deed of assurance on such sale, or mortgage, or lease.

Change of names and
rules of Association.

7. (1.) ANY Association, with the sanction required by its constitution, may change its name, and upon such change being made the Master shall note the new name and shall issue a fresh certificate of incorporation altered to meet the circumstance of the case: Provided that public notice of any such alteration shall be given forthwith after the making thereof:

(2.) Any Association may from time to time alter, vary, or rescind any or all of its rules and regulations, or the provisions of its trust deed or deeds, and make new or additional rules and regulations or trusts.

(3.) No alteration of name, or alteration, variation, rescission of, or addition to the rules and regulations, or provisions of the trust deed or deeds, shall affect any rights or obligations of the Association, or render defective any legal proceedings instituted by or against the Association, and any such legal proceeding may be continued by or against the Association in its new name.

(4.) The written certificate of any two of the trustees of the Association shall be conclusive evidence that the sanction required by the constitution of the Association to any such alteration of name, or such alteration, variation, rescission or addition to the rules and

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regulations, or provisions of the trust deed or deeds, has been duly given.

8. NO trustee, officer, or member of an incorporated Association shall, as such, be under any personal liability to any creditor of the Association beyond the property of the Association in his hands.

Liability of members.

9. THE proprietors or other persons having the management of, or being interested in, any Association intended to be incorporated or a majority of them, may do all such acts as may be necessary for bringing such Association under the operation of this Act, and for that purpose such proprietors or persons may alter, vary, or add to the rules and regulations or the provisions of the trust deed or deeds of the Association, so as to enable the same to comply with the provisions of this Act, anything in such rules, regulations, or deeds contained to the contrary notwithstanding, and in all cases in which any such alteration, variation, or addition shall be necessary, the same may be made with the consent of the majority present at a duly convened general or special meeting of the proprietors or other persons having the management of, or being interested in, such Association.

Persons interested may amend rules to enable Association to be incorporated.

10. (1.) SUBJECT as in this section mentioned, all personal property held by any trustee or trustees or other persons on the behalf of an Association shall, after incorporation as aforesaid, vest in the corporation; and all real estate vested in any trustee or trustees, or in any other person or persons on behalf of the Association, and described in the memorial next hereinafter mentioned, shall, after the certificate of the incorporation or a certified copy thereof shall be deposited with the Registrar of Deeds and the Registrar of Titles as the case may be, together with a memorial in the form prescribed in Schedule E to this Act, verified by the declaration of one or more of such trustees or other persons, vest in the corporation without any conveyance thereof.

Vesting of real and personal estate, subject to trusts, &c.

(2.) Such real or personal property shall be so vested in the corporation, subject to all trusts, covenants, contracts, and liabilities affecting the same.

11. IN all cases wherein it may be necessary for any person to serve or to give any summons, demand, or notice or any writ or other proceeding at law or in equity, or otherwise upon any Association incorporated under this Act, service thereof upon the person or persons named in the before-mentioned memorial as the person or persons authorised to use the common seal of the Association shall, by leaving the same at the usual place of abode of any such person or persons, be deemed good and sufficient service of the same respectively on the said Association.

Service of notices.

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Notices, &c., of
Association, how
to be signed.

12. IN all cases wherein it may be necessary for any Association incorporated under this Act to serve or give any summons, demand, or notice of any kind whatsoever, to any person or corporation, such summons, demand, or notice may be given in writing, signed by the person or some one of the persons (if more than one) authorised to use the seal of the Association, or by the solicitor for the time being of the Association, without being required to be under the common seal of the Association.

Affidavits.

13. ALL affidavits and declarations required to be made by this Act may be made before any Justice of the Peace for the Colony.

Fees.

14. THE fees specified in Schedule F to this Act shall be payable in respect of the several matters and things therein mentioned.

15. CONTRACTS on behalf of any incorporated Association may be made, varied, or discharged, as follows:—

- (1.) Any contract which, if made between private persons, would be by law required to be in writing under seal, may be made, varied, or discharged in the name and on behalf of the Association, in writing, under the seal of the Association.
- (2.) Any contract which, if made between private persons, would be by law required to be in writing and signed by the parties to be charged therewith, may be made, varied, or discharged in the name and on behalf of the Association in writing, signed by any person acting under the express or implied authority of the Association.
- (3.) Any contract which, if made between private persons, would by law be valid, although made by parole only, and not reduced into writing, may be made, varied, or discharged by parole, in the name and on behalf of the Association, by any person acting under the express or implied authority of the Association.

And all contracts made according to the provisions herein contained shall be effectual in law, and shall be binding upon the Association and all other parties thereto, their heirs, executors, or administrators, as the case may be.

In the name and on behalf of the Queen I hereby assent
to this Act.

ALEX. C. ONSLOW, Administrator.

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SCHEDULES REFERRED TO.

A.

I, _____ of _____, trustee of or person hereunto authorised by
[*set out name of Association*], do hereby give notice that I am desirous that such Section 3.
[*Institution, Church, or otherwise, as the case may be*] should be incorporated under
the provisions of "The Associations Incorporation Act, 1895."

[Signature of Trustee.]

The following is a copy of the memorial intended to be filed in the Supreme
Court under the provisions of the said Act:—

[*Set out Memorial.*]

B.

Memorial of [*insert name or style of the Institution intended to be incorporated*]
filed in pursuance of "The Associations Incorporation Act, 1895." Section 3

1. Name of the Institution.
2. Object or purpose of the Institution.
3. Where situated or established.
4. The name or names of the trustee or trustees.
5. In whom the management of the institution is vested, and by what means
[*whether by deed, settlement, or otherwise*].

C.

These are to certify that [*insert name and style of Association*] is registered
under the provisions of "The Associations Incorporation Act, 1895." Section 3.

Dated this _____ day of _____, 18 _____.

[Seal of Court.]

[Signature of Master.]

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D.

Section 5.

Memorial of the name and residence of the person authorised to use the common seal of [*insert name or style of the Institution*] incorporated under the provisions of "The Associations Incorporation Act, 1895."

Name of Person.	Place of Abode.	Occupation.	Impression of Seal.

E.

Section 10.

MEMORIAL of the real estate vested in the trustees of [*insert name or style of Institution*] required to be registered under the provisions of "The Associations Incorporation Act, 1895" :—

Name or Names of Trustees.	Name of Incorporated Association.	Description of Property and nature of Tenancy.

I (*or we*) do hereby declare that to the best of my (*or our*) knowledge and belief the above memorial contains a true statement of the names of the trustees (*or trustee*) in whom the real estate of the said institution was vested, and also a true description of all such real estate.

F.

Section 14.

The following fees shall be payable in respect of the several matters and things herein mentioned :—

	£	s.	d.
For every search at the Supreme Court for documents filed	0	2	6
For filing any document	0	2	6
For certificate of registration	2	0	0