



Western Australia

## **Public Institutions and Friendly Societies Lands Improvement Act 1892**

This Act was repealed by the *Statutes (Repeals and Miscellaneous Amendments) Act 2009* s. 12(a) (No. 8 of 2009) as at 22 May 2009 (see s. 2(b))

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## **Public Institutions and Friendly Societies Lands Improvement Act 1892**

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## **Public Institutions and Friendly Societies Lands Improvement Act 1892**

### **An Act to empower Trustees of certain Public and other Institutions to raise Money on Lands by way of Mortgage.**

Whereas it is desirable to empower Trustees of Public Libraries, Public Museums, Lodges of Freemasons and Oddfellows, Working Men's and Mechanics' Institutes, Agricultural Societies, Lodges of Good Templars, Temperance Societies, Friendly Societies established under any law heretofore or hereafter to be passed to regulate Friendly Societies, and any Institution of a public character holding lands granted by the Crown for a public purpose, to raise Money on Lands by way of Mortgage for the purpose of improving the same: 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. Short title**

This Act may be cited as the *Public Institutions and Friendly Societies Lands Improvement Act 1892*.

*[Section 1 amended by No. 74 of 2003 s. 146(1).]*

#### **2. Definition of institution**

In the construction and for the purposes of this Act, the word **“Institution”** shall include any Public Library, Public Museum, Working Men's Institute, Mechanics' Institute, Lodge of Freemasons, Lodge of Oddfellows, Agricultural Society, Lodge of Good Templars, Temperance Society, a corporation that is a

friendly society within the meaning of section 16C of the *Life Insurance Act 1995* of the Commonwealth, and any Association holding lands in the said Colony granted by the Crown to the Trustees thereof for a public purpose and the word “**institution**” shall also include any Trade Union and Trades and Labour Council and any Association in which, or in any trustees for which, any Trades Hall or land acquired or held for the purpose of a Trades Hall is vested.

*[Section 2 amended by No. 39 of 1923 s.2; No. 26 of 1999 s.105.]*

**3. Trustees enabled to raise money by mortgage of lands generally and lands granted by Crown**

- (1) It shall be lawful for an institution or the duly appointed trustees of any institution within the meaning of this Act, and the survivors and survivor of them, and the heirs and assigns of such survivor, or the person or persons for the time being in whom the lands and hereditaments of any such institution or any portion thereof may be vested,
  - (2) With the concurrence of three-fourths of the members of such institution present and voting at a properly constituted meeting of the members of such institution, from time to time to borrow and take up at interest any sum or sums of money on security of the whole or portion of any lands and hereditaments which such institution may hold and have acquired in fee simple or for a term or terms of years by purchase or in any manner otherwise than by grant from the Crown;
  - (3) And with such concurrence to be obtained as aforesaid, and also with the consent in writing of the Governor for the time being of the said Colony, acting with the advice of the Executive Council, from time to time to borrow and take up at interest any sum or sums of money on security of the whole or any portion of any lands and hereditaments granted by the Crown to such institution, or to any person or persons in trust for the same,

for the purpose of erecting any new building or buildings on the said lands, or any part thereof, or any alterations or additions to such new building or buildings, or to any building erected on the said lands or any portion thereof, or for the purpose of paying the cost incurred in the erection of any such building, alteration, or addition; and with the concurrence aforesaid, or with the concurrence and consent aforesaid, as the case may require, by a deed or deeds from time to time, for the purposes aforesaid or any of them, to mortgage the said lands and hereditaments, or any portion thereof, in fee simple or for any term or terms of years, as security to the person or persons advancing the amount of such loan, and either with or without a power of sale and leasing respectively in case of default being made in the payment of the principal and interest moneys at the time or times therein to be appointed for the payment thereof respectively, and with or without a power of distress and such other and accompanying powers, clauses, and provisions as shall be deemed expedient, and to give receipts for the money so to be advanced. And the said lands, hereditaments, and premises so to be mortgaged shall thenceforth be held and enjoyed by the mortgagee or mortgagees thereof, his, her, or their heirs and assigns, freed and absolutely discharged from the trusts to which the same may for the time being be subject.

*[Section 3 amended by No. 39 of 1923 s.3.]*

**4. Liability of mortgagors**

No covenant, proviso, or other matter or thing contained in any such mortgage deed or deeds, or in this Act, shall be deemed or construed to impose on the mortgagor or mortgagors, his, her, or their heirs, executors, administrators, or assigns, any personal responsibility for the repayment of the moneys advanced, or of any interest to accrue due thereon.

**5. Trustees may demise upon lease: lands generally and lands granted by Crown**

- (1) It shall be lawful for an institution or the trustees of any institution within the meaning of this Act, or the person or persons in whom the lands of any such institution or any portion thereof shall for the time being be vested,
  - (2) With the concurrence of three-fourths of the members of such institution present and voting at a properly constituted meeting of the members of such institution, from time to time to demise any portions of any lands and hereditaments which such institution may hold and have acquired in fee simple or for a term or terms of years by purchase or in any manner otherwise than by grant from the Crown;
  - (3) And with such concurrence to be obtained as aforesaid, and also with the consent in writing of the Governor for the time being of the said Colony, with the advice of the Executive Council, from time to time to demise any portions of any lands and hereditaments granted by the Crown to such institution, or to any person or persons in trust for the same,

to any person or persons, upon building or other leases, for any term not exceeding twenty-one years, at such rent or rents, if any, and upon and subject to such covenants, conditions, and agreements as may be approved at such meeting of the members of such institution as aforesaid by such majority as aforesaid.

*[Section 5 amended by No. 39 of 1923 s.3.]*

**6. Purchaser, mortgagee, or lessees not bound to see to the application of money advanced, &c.**

Nothing in this Act contained shall be deemed or construed to make it necessary for any purchaser, mortgagee, or lessee to inquire whether the trustees of any institution within the meaning of this Act, for the time being, or any of them, were duly and regularly appointed, or whether the concurrence of the



members of any such institution in any such loan has been duly and regularly obtained as aforesaid; or whether the said power of sale and mortgage or lease were duly and regularly exercised, or in anywise to see to the application of any moneys raised under the authority of this Act, or to inquire into the necessity, regularity, or propriety of any such mortgage, or mortgages, or leases, or to be affected by notice that the same is or are irregular, unnecessary, or improper, subject always to the provisions of the next following section.

**7. Mortgage to be countersigned by Governor**

No such mortgage or any lease for a term exceeding twelve months shall be valid unless countersigned as approved by the Governor for the time being of the said Colony, with the advice of the Executive Council; and such approval shall be deemed and taken in all Courts of Law to be conclusive evidence of the fact that the institution in question is an institution within the meaning of this Act.

**8. Statutory powers already conferred to remain in force**

Nothing in this Act contained shall take away, abridge, or prejudicially affect any statutory power previously conferred by the Legislature of the said Colony upon the trustees of any institution within the meaning of this Act, but the powers given by this Act shall be deemed to be cumulative thereto in all respects.

### Notes

- <sup>1</sup> This is a compilation of the *Public Institutions and Friendly Societies Lands Improvement Act 1892* and includes all amendments effected by the other Acts referred to in the following Table.

#### Compilation table

| Short title  | Number and Year         | Assent      | Commencement  |
|--|-------------------------|-------------|---|
| <i>The Public Institutions and Friendly Societies Lands Improvement Act 1892</i> <sup>2</sup>        | 56 Vict., No. 7 (1892)  | 13 Jan 1893 | 13 Jan 1893   |
| <i>The Public Institutions and Friendly Societies Lands Improvement Act 1892, Amendment Act 1893</i> | 57 Vict., No. 27 (1893) | 13 Oct 1893 | 13 Oct 1893   |
| <i>Public Institutions and Friendly Societies Lands Improvement Act Amendment Act 1923</i>           | 39 of 1923              | 15 Dec 1923 | 15 Dec 1923   |
| <i>Acts Amendment and Repeal (Financial Sector Reform) Act 1999</i> s. 105                           | 26 of 1999              | 29 Jun 1999 | 1 Jul 1999 (see s. 2(1) and Gazette 30 Jun 1999 p.2905) |
| <i>Statutes (Repeals and Minor Amendments) Act 2003</i> s. 146(1)                                    | 74 of 2003              | 15 Dec 2003 | 15 Dec 2003 (see s. 2)                                  |

**This Act was repealed by the *Statutes (Repeals and Miscellaneous Amendments) Act 2009* s. 12(a) (No. 8 of 2009) as at 22 May 2009 (see s. 2(b))**

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N.B.: This Act is to be read as one with 57 Vict., No. 27 (1893), *The Public Institutions and Friendly Societies Lands Improvement Act 1892, Amendment Act 1893*.

- <sup>2</sup> Now known as the *Public Institutions and Friendly Societies Lands Improvement Act 1892*; short title changed (see note under s. 1).