

Western Australia

**Geraldton Sailors and Soldiers' Memorial
Institute Act 1929**

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Western Australia

Geraldton Sailors and Soldiers' Memorial Institute Act 1929

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Defined terms

Western Australia

Geraldton Sailors and Soldiers' Memorial Institute Act 1929

**An Act to vest the Geraldton Sailors and Soldiers' Memorial
Institute in Trustees and for purposes incidental thereto.**

Preamble

WHEREAS the Sailors and Soldiers' Memorial Institute Incorporated is registered as the proprietor of all those pieces of land being: —

Firstly: Portion of Geraldton town lot 54 and being part of lot 1 on Diagram 3065 now the subject of Diagram 5349, and secondly, portion of Geraldton town lot 54 and being lot 2 on Plan 3065, and being the whole of the land comprised in Certificate of Title Volume 768, Folio 48: And whereas the said land, together with certain furniture, fittings, goods, and chattels now upon or about the said land or in, upon, or about the buildings erected thereon was purchased with certain funds collected by a committee, for the purpose of providing in Geraldton a suitable memorial to fallen sailors and soldiers: And whereas the sum of One thousand one hundred and thirteen pounds fifteen shillings and sevenpence (£1,113 15s. 7d.)² or thereabouts, being the unexpended balance of such funds and interest thereon, is now held by the mayor of Geraldton, having been handed over by the said committee to the said mayor: And whereas it is expedient to vest the said land and the said furniture, fittings, goods, and chattels and the said money in trustees and to invest such trustees with certain powers:

Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in the present Parliament assembled, and by the authority of the same, as follows: —

s. 1

1. Short title

This Act may be cited as the *Geraldton Sailors and Soldiers' Memorial Institute Act 1929*¹.

2. Interpretation

In this Act —

The said land means the land hereinbefore referred to;

The said moneys means the sum of money hereinbefore referred to and all interest thereon;

The trustees means the trustees for the time being appointed under this Act;

Returned soldier means any person who is eligible for membership of The Returned and Services League of Australia WA Branch Incorporated.

[Section 2 amended by No. 18 of 1956 s. 2; No. 47 of 2011 s. 17.]

3. Incorporation dissolved

- (1) The incorporation of the Sailors and Soldiers' Memorial Institute under the *Association Incorporation Act 1895*³, is hereby dissolved.
- (2) Any and every deed, contract, agreement, act, matter, or thing heretofore executed or done by such association shall have and take effect as if such corporation had been regular and in accordance with the said Act.

[Section 3 amended by No. 19 of 2010 s. 51.]

4. Trustees to be a corporate body

- (1) For the purpose of this Act there shall be 5 trustees, who shall be a body corporate, under the name of The Trustees of the Geraldton Sailors and Soldiers' Memorial Institute, with perpetual succession and a common seal, and shall have power to hold real and personal property and to sue and be sued.

- (2) The mayor for the time being of the City of Geraldton shall (*ex officio*) be one of the trustees and the chairman thereof.
- (3) Two of the trustees shall be ratepayers from Geraldton elected by the City of Geraldton which may at any time replace either or both of those trustees.
- (4) The remaining 2 trustees shall be appointed by the executive for the time being of the Geraldton sub-branch of The Returned and Services League of Australia WA Branch Incorporated, which on any vacancy, from any cause occurring in the trustees appointed by it shall, fill such vacancy by the appointment of another person or other persons.
- (4A) The 2 trustees appointed under subsection (4) shall cease to hold office on 1 January 1957 and the vacancies shall be filled by the executive, which shall appoint one trustee for a period of one year and the other trustee for a period of 2 years computed in each case from 1 January 1957.
- (4B) Subject to subsection (4A), every appointment made by the executive to fill a vacancy occurring by effluxion of time shall be an appointment for a period of 2 years from the occurrence of the vacancy, but an appointment made to fill a vacancy occurring from any other cause shall be an appointment for a period being the balance of the term for which the former holder of the vacant office was appointed.
- (4C) A former trustee shall be eligible for appointment.
- (5) The Governor may, at any time, exercise the powers of the said local government or the said executive under this section if such local government or executive shall fail to make any necessary election.
- (6) The certificate of the said mayor shall, in the absence of fraud, be conclusive evidence of the names of the trustees for the time being appointed and of the due appointment of such trustees.

[Section 4 amended by No. 18 of 1956 s. 3; No. 14 of 1996 s. 4; No. 19 of 2010 s. 51; No. 47 of 2011 s. 17.]

5. Land, chattels and money vested in trustees

Such land, chattels, and money are hereby vested in the trustees as to the land in fee simple, and as to the chattels absolutely, on the following trusts: —

- (a) as to the land and chattels in trust to be used as a club house for all returned soldiers;
- (b) as to the money in trust to invest as trust funds may be invested under Part III of the *Trustees Act 1962*, and to apply the income therefrom in the maintenance, upkeep, improvement, or replacement of the said land, including the buildings thereon and the said chattels.

[Section 5 amended by No. 1 of 1997 s. 18.]

6. Trustees' powers

- (1) The trustees are hereby authorised and empowered, with the approval of the Governor, to exercise any of the following powers with relation to the said land: —
 - (a) to sell the said land or any portion thereof, with the buildings thereon, and to transfer or otherwise assure the same to a purchaser or purchasers free and absolutely discharged from any trust to which such land or any portion thereof may be subject;
 - (b) mortgage such lands or any portion thereof for the purpose of any security to assure the same to the mortgagee freed and discharged from any such trusts as aforesaid;
 - (c) to lease the land or any portion thereof, notwithstanding such trusts, for any term with or without a right of renewal or option of purchase, and subject to such covenants, conditions, and agreements as they may think fit.
- (2) The trustees may, without the approval of the Governor, lease for a term of not longer than 3 years the said land and buildings, and the said chattels to the said Geraldton sub-branch of the

Returned Sailors' Soldiers' and Airmen's Imperial League of Australia and, if it does so, the sub-branch shall use such land, buildings, and chattels as a club for returned soldiers.

[Section 6 amended by No. 18 of 1956 s. 4; No. 19 of 2010 s. 51.]

7. Common seal, affixing of

The common seal of the trustees shall not be affixed to any instrument except by a majority of the trustees, and the trustees so affixing such common seal shall countersign every such instrument.

8. Registrar of Titles to register trustees as proprietors of land

The Registrar of Titles shall upon application by the trustees enter the trustees under their corporate name as proprietors of the said land for an estate in fee simple therein.

9. Trustees' expenses to be reimbursed

The trustees shall be entitled to be reimbursed in respect of all proper expenses incurred by them as such, but no trustee shall accept any remuneration or reward for his services as such.

10. Protection of trustees

No trustee shall be liable as such to any creditor of the trustees beyond the property of the trustees in his hands.

11. Accounts, annual report, and financial statement

The trustees shall present to the City of Geraldton annually a financial statement certified by the City's chief executive officer or auditor, and a report of their proceedings and operations during the year.

[Section 11 amended by No. 14 of 1996 s. 4.]

Notes

- ¹ This is a compilation of the *Geraldton Sailors and Soldiers' Memorial Institute Act 1929* and includes the amendments made by the other written laws referred to in the following table ^{1a, 4}. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Geraldton Sailors and Soldiers' Memorial Institute Act 1929</i>	38 of 1929	31 Dec 1929	31 Dec 1929
<i>Geraldton Sailors and Soldiers' Memorial Institute Act Amendment Act 1956</i>	18 of 1956	2 Nov 1956	2 Nov 1956
<i>Local Government (Consequential Amendments) Act 1996 s. 4</i>	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
<i>Trustees Amendment Act 1997 s. 18</i>	1 of 1997	6 May 1997	16 Jun 1997 (see s. 2 and <i>Gazette</i> 10 Jun 1997 p. 2661)
Reprint 1: The <i>Geraldton Sailors and Soldiers' Memorial Institute Act 1929</i> as at 9 May 2003 (includes amendments listed above)			
<i>Standardisation of Formatting Act 2010 s. 51</i>	19 of 2010	28 Jun 2010	11 Sep 2010 (see s. 2(b) and <i>Gazette</i> 10 Sep 2010 p. 4341)
<i>Statutes (Repeals and Minor Amendments) Act 2011 s. 17</i> ⁵	47 of 2011	25 Oct 2011	26 Oct 2011 (see s. 2(b))

- ^{1a} On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

Provisions that have not come into operation

Short title	Number and year	Assent	Commencement
<i>Statutes (Repeals and Minor Amendments) Act 2014 s. 16</i> ⁶	17 of 2014	2 Jul 2014	To be proclaimed (see s. 2(b))

- ² The reference to the old currency is of historical interest only and so has not been amended under the *Decimal Currency Act 1965*.

³ Repealed by the *Associations Incorporation Act 1987*.

⁴ This Act shall be read with the following Acts:

Geraldton Sailors and Soldiers' Memorial Institute Enabling Act 1934.

Geraldton Sailors and Soldiers' Memorial Institute (Trust Property Disposition) Act 1938.

Related Act:

Geraldton Sailors and Soldiers' Memorial Institute Lands Vesting Act 1933.

⁵ The amendment in the *Statutes (Repeals and Minor Amendments) Act 2011* s. 17 to s. 6(c) is not included because it was unclear where the amendment was intended to be made.

⁶ On the date as at which this compilation was prepared, the *Statutes (Repeals and Minor Amendments) Act 2014* s. 16 had not come into operation. It reads as follows:

16. Geraldton Sailors and Soldiers' Memorial Institute Act 1929 amended

- (1) This section amends the *Geraldton Sailors and Soldiers' Memorial Institute Act 1929*.
- (2) In section 6(2) delete “the Returned Sailors' Soldiers' and Airmen's Imperial League of Australia” and insert:

the Returned & Services League of Australia WA Branch
Incorporated

Defined terms

Defined terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined term	Provision(s)
Returned soldier	2
The said land	2
The said moneys	2
The trustees	2