

Act No. 68, 1902.

TRUSTEES OF  
SCHOOLS OF ARTS  
ENABLING.

An Act to consolidate the enactments for enabling the trustees of lands held for a Mechanics' Institute or School of Arts, or other institution for public instruction or amusement, to sell, lease, and mortgage such lands, for providing for the appointment of new trustees, and for other matters in connection therewith. [5th September, 1902.]

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the "Trustees of Schools of Arts Enabling Act, 1902."

2.

*Trustees of Schools of Arts Enabling.*

2. (1) The Act fifty-seven Victoria number five is hereby repealed. Repeal and savings.

(2) All sales, leases, or mortgages effected, all resolutions passed or carried, all notices given or published, all consents or approvals obtained, and all persons appointed or elected under the provisions of the Act hereby repealed and existing, having any effect, or holding office, as the case may be, at the time of the passing of this Act, shall be deemed to have been effected, passed, carried, given, published, obtained, appointed, or elected respectively hereunder.

3. In this Act, unless the context or subject-matter otherwise indicates or requires,— Interpretation.

“institution” means Mechanics’ Institute, School of Arts, or other institution for public instruction or amusement;

“lands” means lands reserved, dedicated, granted, or held for any institution;

“Minister” means the Minister administering the Public Instruction Act of 1880, or any Act in substitution of the same;

“trustee” means trustee of lands.

4. Nothing in this Act shall affect any of the provisions of any Act relating to any particular institution or the trustees thereof. Saving of particular Acts. Ibid. s. 11.

5. (1) Any trustees desiring to sell, lease, or mortgage any lands or any part thereof, may, by giving fourteen days’ notice by advertisement in two separate issues of a newspaper circulating in the district in which such lands are situate, convene for the special purpose of considering the desirability of such sale, lease, or mortgage, a meeting of the members of the institution for which such lands are reserved, dedicated, granted, or held. Mode of obtaining power to sell, &c. Ibid. s. 2.

(2) If at such meeting a resolution to the effect that it is desirable to sell, lease, or mortgage such lands is duly passed and carried by a majority of not less than three-fourths of such members present at such meeting, the trustees may, by giving fourteen days’ notice as aforesaid, convene for the special purpose of confirming such resolution a second meeting of such members. First meeting. Second meeting.

(3) Such second meeting shall be held not less than one month from the date of holding the meeting first above mentioned. When to be held.

(4) At such second meeting such resolution may be confirmed by a resolution duly passed and carried by a majority of not less than three-fourths of such members present at such second meeting. Confirmation of resolution.

6. Such trustees may also apply to the Minister on a full statement to him of the facts relating to the proposed sale, lease, or mortgage, for his consent thereto in writing. Application for Minister’s consent. Ibid. s. 2.

7. (1) The Minister may in any case give his consent, either as to the whole, or as to part of any lands in respect of which any application is made, and may at any time withdraw his consent, either wholly or partially, or vary the terms and conditions thereof, if he can do so without prejudice to the rights of third parties. Consent. Ibid. s. 5.

*Trustees of Schools of Arts Enabling.*

General and  
particular consent.  
57 Vic. No. 5, s. 3.

(2) In the case of an application for leave to sell or lease any lands, the Minister may give his consent either generally by authorising the sale or lease of such lands subject to such conditions, restrictions, reservations, and covenants, and in such manner and within such time, as he may think desirable, or by approving of particular contracts of sale or lease.

(3) In the case of an application for leave to mortgage any land, such general authority shall not be given, but the terms of the proposed mortgage shall in each case be submitted to the Minister for approval, and his consent shall not, unless under circumstances which in the minute of approval he certifies to be exceptional, be given to a mortgage of any lands for more than one half of their estimated value.

Sale, lease, and  
mortgage.  
*Ibid.* s. 1.

8. (1) After the confirmation of such resolution as aforesaid and after obtaining the written consent hereinbefore mentioned, and not otherwise, the trustees may sell, lease, or mortgage the lands, in respect of which such resolution was passed and consent given, according to the terms of such consent :

Proviso.  
*Ibid.* s. 4.

Provided that where the Minister has given his consent generally, as in the next preceding section provided, no lands shall be sold or leased in pursuance of such consent, unless in each case the price agreed upon or rent reserved has been submitted to and approved of by him.

Power of sale.  
*Ibid.* s. 3.

(2) A mortgage under this Act may contain a power of sale.

Minister may appoint  
person to execute  
conveyance.  
*Ibid.* s. 6.

9. (1) In any case in which trustees desire to exercise the powers conferred by this Act, the Minister may appoint some person who shall have power to execute all conveyances and instruments, and do all things necessary to the due exercise of such powers.

(2) The receipt of the person so appointed shall be a sufficient discharge to any purchaser, lessee, or mortgagee bona fide paying money in respect of any sale, lease, or mortgage under this Act.

Bona fide purchaser  
protected.  
*Ibid.* s. 7.

10. No purchaser, lessee, or mortgagee dealing bona fide with a person appointed under section nine shall be prejudiced or affected by any omission or irregularity in respect of any of the matters prescribed by this Act.

Proceeds to be held  
on trust and invested.  
*Ibid.* s. 8.

11. (1) The proceeds of any sale, lease, or mortgage under this Act shall be held by the trustees, after payment of costs, expenses, and encumbrances, for the general purposes of the trust, and shall be invested or applied as the Minister directs.

(2) The Minister may direct that any portion of the income or revenue of the trustees shall be set apart for payment of interest on, or the gradual extinction of, any mortgage debt, and the portion so set apart shall be invested as the Minister directs.

*Piracy Punishment.*

12. Lands conveyed to any person under the provisions of this Act shall vest in him free from all trusts which affected them in the hands of the persons by whom or on whose behalf they were conveyed.

Conveyance to vest lands free from trust.  
57 Vic. No. 5, s. 9.

13. Any trustee, whether appointed as hereinafter provided, or otherwise, may resign by giving written notice to the Minister.

Resignation of trustees.  
*Ibid.* s. 10.

14. (1) If any trustee, whether appointed as hereinafter provided or otherwise, resigns, or dies, or becomes bankrupt or insane, or if for any other reason it is not desirable that he should continue in the administration of the trust, the members of the institution may, by a resolution duly passed and carried at a meeting specially convened for the purpose, of which not less than fourteen days' notice shall be given in the manner provided in section five, declare the office of such trustee vacant, and thereupon the office of such trustee shall be vacant.

Appointment of new trustees.  
*Ibid.*

(2) A copy of such resolution shall be sent to the Minister.

(3) Thereupon such members may, at a second meeting, of which notice shall be given as aforesaid, elect one or more new trustees to fill the vacancy so caused.

(4) If the Minister approves of the new trustee or trustees so elected, or any of them, he shall declare his approval by notice in the Gazette.

(5) Such notice shall be evidence of the appointment of the new trustee or trustees so approved, and shall have the effect of divesting the estate of the trustee whose office was so vacated as aforesaid, and of vesting the trust property, together with all powers, rights, and choses in action relating thereto in the new trustee or trustees so approved as aforesaid jointly with the surviving or continuing trustee or trustees, if any.

