

# The Sir Moses Montefiore Jewish Home Act 1927 (Private Act)

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New South Wales

## Status Information

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### Provisions in force

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### Authorisation

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# The Sir Moses Montefiore Jewish Home Act 1927 (Private Act)



New South Wales

An Act to incorporate the members of the Sir Moses Montefiore Jewish Home; to promote the objects thereof; to vest certain lands and other property in a Body Corporate; to declare the trusts thereof and to confer powers thereon; and for other incidental purposes.

WHEREAS by an Indenture bearing date the fifteenth day of September, one thousand eight hundred and eighty-six, registered number ninety-eight, book three hundred and seventy-eight, made between Henry Solomon, David Mitchell, The Honorable Henry Emanuel Cohen, George Judah Cohen and Mark Myers therein described and designated Trustees of the first part the said David Mitchell and William Mears therein described of the second part and the several persons whose names and seals were or should be from time to time subscribed and affixed thereto of the third part The said parties of the first second and third parts each for himself severally and respectively and for his several and respective heirs executors and administrators did thereby covenant promise and declare with and to the others and other of them and each and every of their heirs executors administrators and assigns jointly and severally in manner following (inter alia) that the several parties thereto should become and be associated together and constitute and form a Society under the name or style of "The Sir Moses Montefiore Jewish Home" and that the objects and purposes of the Society should be the erecting and building of a Messuage or House as a Home for the shelter, support and relief of aged, infirm and destitute persons of the Jewish Faith, the purchase of other land for the like purpose or the purchase of any tenement or premises for the shelter and support of any such persons as aforesaid and the relief of any such persons as aforesaid by admission to the Home donations pensions and loans and such Home should be carried on and supported by voluntary subscriptions and donations And that the said Henry Solomon, David Mitchell, Henry Emanuel Cohen, George Judah Cohen and Mark Myers be and they were thereby appointed the Trustees of the said Society and that certain land situate on the west side of Dowling-street in the City of Sydney described in an Indenture of Conveyance bearing date the twentieth day of November one thousand eight hundred and eighty-six made between Alban Joseph Riley therein described of the one part and the said Trustees of the other part should as at the date of the now reciting Indenture stand in the names of the said Trustees and that they should stand seized of the same upon trust for the objects and purposes of the said Society and should convey or assure the same as the Board of Management should in writing from time to time direct or appoint And whereas a messuage or house was erected

and built upon the said land situate in Dowling-street aforesaid and was used as a Home by the said Society And whereas the said land situate in Dowling-street aforesaid with the messuage or house erected thereon was sold by the Board of Management of the said Society for the time being and duly conveyed by the then Trustees of the said Society And whereas certain other land in the Municipality of Woollahra more particularly described in the Schedule hereto together with a building thereon was purchased by the Board of Management for the time being of the said Society for the purpose of the said Society and conveyed to the present Trustees of the said Society And whereas by the unanimous voice of a combined meeting of members of a Society known as the Sydney Hebrew Philanthropic and Orphan Society and of members of the Sir Moses Montefiore Jewish Home the said two institutions became amalgamated on the twentieth day of May one thousand eight hundred and eighty-nine And whereas under the terms of Amalgamation it was stipulated that the name of The Sydney Hebrew Philanthropic and Orphan Society should be preserved and the amalgamated Societies have since then been known as The Sir Moses Montefiore Jewish Home with which is incorporated the Sydney Hebrew Philanthropic Society And whereas with the increase of population since their amalgamation entailing much larger scope for charitable activity it may now or in future be desirable to separate them and that each again may act in its own charitable sphere and whereas doubts have arisen as to whether these amalgamated Societies can be separated And whereas doubts have also arisen as to whether the said Societies have power jointly or severally to join amalgamate with or form a constituent part of or become a member of a Federation Union or Organisation of Jewish Charities And whereas doubts have also arisen as to the true intent and meaning of certain provisions in the hereinbefore recited Indenture of the fifteenth day of September one thousand eight hundred and eighty-six And whereas no power is contained in the said Indenture to alter any of its provisions And whereas it is expedient to remove such doubts and to remodel and declare the trusts expressed and implied in the said Indenture of the fifteenth day of September one thousand eight hundred and eighty-six in respect of all the real and personal property both present and future of or to which the said Society is shall or maybe entitled and to vest the same in a Body Corporate And whereas the present Trustees of the said Society in whom the said land as more particularly described in the Schedule hereto is legally vested are George Judah Cohen, Leopold Wolfe Cohen, Louis Morris Phillips, Ernest Ralph Cohen and Bernard David Rothbury:

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 New South Wales in Parliament assembled, and by the authority of the same, as follows:

## **1 Interpretation**

In this Act, unless the context or subject-matter otherwise requires:

**Board of Management** means the persons who for the time being constitute the Board of Management of the Body Corporate.

**Body Corporate** means the Body Corporate constituted by this Act.

**Members** include:

- (a) all persons of the Jewish Faith who at the date of the passing of this Act are entitled according to the Constitution and Rules of the Society to vote at General Meetings of the Society,
- (b) all persons of the Jewish Faith who are entitled according to the Rules for the time being in existence of the Body Corporate to vote at General Meetings of the Body Corporate or who are otherwise according to such Rules members of the Body Corporate.

**Society** means all persons who at the date of the passing of this Act are members of and constitute the body known as The Sir Moses Montefiore Jewish Home with which is incorporated the Sydney Hebrew Philanthropic and Orphan Society, whose objects are more particularly defined in subsection (c) of section five of this Act.

## **2 Incorporation**

From and after the passing of this Act the members of the Society shall be and they are hereby constituted a Body Corporate by the name of "The Sir Moses Montefiore Jewish Home" and by that name shall have perpetual succession and a Common Seal and may enter into contracts and sue and be sued and proceed and be proceeded against in all courts.

## **3 Vesting real and personal estate in Body Corporate**

- (a) The land described in the Schedule hereunder written is hereby vested in the Body Corporate in fee simple subject to any Mortgages Liens and Encumbrances (if any) existing thereon at the date of the passing of this Act and subject thereto the said land shall be held by the Body Corporate freed and discharged from any and all trusts affecting the same but upon a charitable trust for the objects of the Body Corporate as specified in section five of this Act. If however it becomes impracticable to give effect to the said objects the said land or the investments for the time being representing the same shall be held upon trust for such charitable objects and subject to such powers of sale and disposition as the members of the Body Corporate shall determine by resolution in manner prescribed in section twenty-three of this Act.
- (b) The Registrar-General is hereby directed and empowered to make every such entry cancellation and correction on the said Certificate of Title and in the Register as shall or may be necessary to register the Body Corporate as the Registered Proprietor of the said land and to issue in the name of the Body Corporate the said Certificate of Title or a new Certificate of Title to the said land free from all trusts caveats and other notifications.
- (c) All other real and personal estate which at the date of the passing of this Act is vested in and held by any person in trust for and on behalf of the Society is hereby transferred to and vested in the Body Corporate subject to any trusts affecting the

same.

#### **4 Power to hold real and personal estate**

The Body Corporate may:

- (a) take purchase acquire hold and enjoy in fee-simple or for any less estate lands with or without buildings thereon,
- (b) take purchase acquire and receive hold and enjoy any chattels and personal property and
- (c) upon such terms and conditions as to it may seem fit to sell grant convey demise and otherwise dispose of either absolutely or by way of mortgage or charge or otherwise howsoever any of the real and personal property belonging or which may belong to the Body Corporate including the whole or any part of the land described in the said Schedule hereunder written Provided always that the land comprised in the said Schedule shall not neither shall any part thereof be sold or mortgaged or charged or leased at any one time for a term exceeding five years without the authority of the members first had and obtained which authority shall be evidenced by Resolution in manner prescribed in section twenty-three of this Act Provided always that the Board of Management may from time to time without such authority borrow upon the Security of any lands belonging to the Body Corporate by way of mortgage charge or encumbrance or by deposit of title deeds such sum and sums of money as the Board of Management may think necessary for any of the objects or purposes of the Body Corporate Provided further that if the said land or any part thereof be alienated by the Body Corporate the trusts declared by section five of this Act shall attach to whatever is received by the Body Corporate by way of consideration or in exchange Provided also that if such consideration or any part thereof consists of money then pending the application of same in providing and maintaining a Home for the purposes mentioned in subsection (a) of section five of this Act such money shall be invested in manner prescribed by subsection (f) of section eight of this Act and the nett income derived therefrom shall be applied in and towards all or any of the objects set forth in subsections (a) (b) and (c) of the said section five.

#### **5 Objects of the Body Corporate**

The objects of the Body Corporate as set forth in this section shall not be altered and such objects shall be:

- (a) To provide and maintain a Home for the shelter support and relief permanent as well as temporary of aged or infirm or destitute persons of both sexes of the Jewish Faith.
- (b) To provide elsewhere than in the Home to be provided and maintained as mentioned in subclause (a) hereof for the shelter support and relief permanent as well as temporary of aged or infirm or destitute persons of both sexes of the Jewish Faith.

- (c) And as referring more particularly to the objects of the amalgamated Sydney Hebrew Philanthropic and Orphan Society to grant relief to any persons of the Jewish Faith by monetary payments to any such persons either by way of gift or upon loan or by guaranteeing the repayment of any moneys borrowed from any person Society or Institution by any such person or persons or by gift or loan of goods or by gifts of clothing.

#### **6 Purchaser not concerned to inquire as to necessity or propriety of sale or mortgage**

No purchaser, mortgagee, lessee, or other person or the Registrar-General upon any sale, exchange, mortgage, lease or other dealing purporting to be made under the powers granted by or under this Act shall be concerned to see or inquire into the necessity or propriety thereof or the mode of exercising the same nor be affected by notice that the exercise of the power is unauthorised irregular or improper nor be concerned to see to the application or disposition of any purchase mortgage or other money or moneys.

#### **7 Receipts**

The receipt of the Treasurer for the time being of the Body Corporate countersigned by the Secretary for the time being or by such other person as the Board of Management may from time to time appoint for any and all moneys payable to the Body Corporate shall be a good and valid discharge therefor exonerating the person paying such moneys from seeing to the application thereof or being concerned as to the non-application or misapplication thereof without any proof that the person signing and countersigning such receipt is such Treasurer Secretary or other person.

#### **8 Application of alienation and mortgage moneys**

If at any time any land or any part or parts thereof other than that mentioned in the said Schedule are alienated leased mortgaged or charged the net proceeds of such alienation lease mortgage or charge or the net income derived from any investment thereof shall be applied in one or more of the ways following, that is to say:

- (a) In the purchase of an estate in fee-simple in any lands in the said State for the purposes of the Body Corporate.
- (b) In maintaining in a proper and sufficient state of repair and insuring any buildings and improvements of or belonging to the Body Corporate.
- (c) In the erection of buildings and other improvements of a permanent nature upon any lands belonging to the Body Corporate.
- (d) In liquidation of any mortgage encumbrance or liability on or in respect of any part of any of such lands buildings and improvements.
- (e) In carrying into effect any of the objects or purposes of the Body Corporate.
- (f) Pending application of such net proceeds for any or either of the foregoing purposes



the same shall be invested in or upon mortgage of real estate in the State of New South Wales or in upon Government (Federal as well as State) Municipal or Shire Securities or on deposit fixed or otherwise in any Bank carrying on business in the said State.

## **9 Board of Management**

The Board of Management shall consist of a president, honorary treasurer, honorary secretary, and not more than ten committeemen (male or female) being members of the Jewish Faith.

## **10 Annual meeting**

A general meeting of members of the Sir Moses Montefiore Jewish Home shall be held in the month of February of each year.

## **11 Board of Management**

The members of the Board of Management in office at the date of the passing of this Act shall constitute the first Board of Management of the Body Corporate and shall hold office until the first General Meeting of the Body Corporate and at such General Meeting and thereafter at each annual General Meeting the Board of Management shall retire from office and a new Board of Management shall be elected at such annual General Meeting and in the event of no such appointment being made the members of the Board of Management then in office shall continue to hold such office until their successors are appointed. A retiring member shall be eligible for re-election.

## **12 Filling vacancies on Board of Management**

If a vacancy occur in the office of a member of the Board of Management between two annual General Meetings the remaining members of the Board of Management may at a duly constituted meeting of the said Board of Management elect in such manner as they shall think fit a person qualified to be a member thereof to fill the vacancy.

## **13 Evidence of Resolution**

A document purporting to be a copy of any Resolution of the Body Corporate or of the Board of Management, as the case may be, authorising any sale exchange mortgage lease or other dealing and the appointment of any person or persons to carry out and receive moneys in respect of such sale exchange mortgage lease or other dealing certified under the hand of the President of the Board of Management and two members thereof for the time being shall be prima facie evidence in favour of all persons purchasing advancing moneys leasing or otherwise acquiring or possessing any estate or interest in the property therein referred to and shall be conclusive evidence that such Resolutions were duly passed without the necessity of proving that the signatories to such documents were such President and members.

#### **14 Power to join other organisations**

The Body Corporate may from time to time and at any time as to all or any one or more of its objects as defined in and by section five upon and subject to such terms and conditions as the Body Corporate may by Resolution determine and especially subject to the retention by the Body Corporate of any gift bequest or endowment which has been is now and may be at any time hereafter given or bequeathed to the Sir Moses Montefiore Jewish Home join amalgamate with or form a constituent part of or become a member of any federation union society or organisation of any Jewish Charities whether or not having objects similar in all or any respects to all or any of the objects of the Body Corporate and without in any way limiting abridging or prejudicing the generality of the foregoing in particular an Organisation to be called "The Federation of Jewish Societies of Sydney" And upon the exercise by the Body Corporate of any of the powers herein conferred by this section it may admit as members of the Body Corporate persons who are members of or subscribers to any federation union society or organisation aforesaid subject or not subject to the payment to the Body Corporate of any sum of money whether by way of donation subscription gift or otherwise.

#### **15 Power to separate objects**

- (a) The Body Corporate may by Resolution passed by a two-thirds majority present at a meeting of the members of the Body Corporate separate or divide the objects mentioned in section five of this Act the one relating to those mentioned in subsections (a) and (b) of that section and the other relating to that mentioned in subsection (c) of the same section and the Body Corporate may pursue the objects mentioned in the said subsection (a) and (b) separately and apart from that mentioned in the said subsection (c).
- (b) If and whenever the said objects are separated or divided as aforesaid all moneys whether invested or not belonging to the Body Corporate or to which it is or may be in anywise entitled shall by virtue of this Act be vested in the Body Corporate for the sole purposes of subsection (a) and (b) of section five of this Act unless the Body Corporate by resolution determines to allocate any part or parts thereof for the purposes of subsection (c) of the said section five or unless any real or personal estate shall have been or may be specifically given or bequeathed to the said Sydney Hebrew Philanthropic and Orphan Society.
- (c) If and whenever the said objects are separated or divided the said Sydney Hebrew Philanthropic and Orphan Society may under that distinct designation after its separation from the Body Corporate join or amalgamate with any other Jewish Society or Societies of similar objects to it and may also under its distinct designation upon and subject to such terms and conditions as the Board of Management of the Body Corporate may determine and subject to the provisions in section fourteen and and subsection (b) of this section form a constituent part of or become a member of a Federation Union Society or Organisation of any Jewish Charities whether or not

having objects similar in all or any respects to all or any of the objects of the Body Corporate.

## **16 Power to make Regulations**

The Regulations and By-laws of the Society as existing at the date of the passing of this Act shall subject to the provisions of this Act be the Regulations and By-laws of the Body Corporate until the same shall be altered in accordance with the provisions of this Act.

## **17 Power to make Rules**

The Board of Management may from time to time with the approval of the Body Corporate alter or repeal all or any Rules and may make new Rules not only for the objects of the Body Corporate as a whole but also for those objects if and when the same are separated or divided into two separate and distinct objects as provided by section fifteen of this Act and in particular and without restricting the generality of this provision may make Rules:

- (a) for regulating the times and modes of calling Meetings and for regulating the transaction of business at Meetings,
- (b) for the exercise by the Body Corporate of all or any of its powers,
- (c) for the application or investment of its funds,
- (d) for the appointment by election or otherwise of officers to manage all or any of the affairs of the Body Corporate and for the retirement or removal of such officers,
- (e) for the admission or qualification of persons as members of the Body Corporate,
- (f) for fixing the votes of the members of the Body Corporate,
- (g) for the appointment of staff and servants,
- (h) generally for the support management and government of the Body Corporate and of all officers servants and other persons employed by the Body Corporate.

## **18 Power to guarantee payment of loans**

The President or Chairman for the time being and the Secretary or Treasurer for the time being of the Board of Management may from time to time on behalf of the Body Corporate jointly guarantee the payment of any moneys borrowed or about to be borrowed by any persons in accordance with the provisions of subsection (c) of section five of this Act.

## **19 Life Governors**

Any person who at the date of the passing of this Act is a Life Governor of The Sir Moses Montefiore Jewish Home shall be a Life Governor of the Body Corporate and be entitled to vote at any General Meeting and to be elected as a member of the Board of Management. Every donor of the sum of fifty pounds or more given in one sum may be appointed a Life

Governor. Any person who shall confer any signal benefit on the Sir Moses Montefiore Jewish Home irrespective of a donation may be appointed a Life Governor of the Body Corporate.

## **20 Reports and balance-sheets**

The Board of Management shall cause true accounts to be kept of all the Real and Personal property of the Body Corporate and of the receipts disbursements credits and liabilities thereof and the Board shall lay before the members of the Body Corporate present at the Annual General Meeting thereof a statement of the income and expenditure from the first day of January to the thirty-first day of December of the preceding year. The accounts of the Body Corporate shall be examined and the correctness of the Balance Sheet ascertained by two Auditors to be appointed by the Body Corporate at the Annual General Meeting or failing such appointment to be appointed by the Board of Management.

## **21 Quorum**

No question shall be decided at any meeting of the Board of Management unless six members at the least shall be present at the time of such decision, and no question shall be decided at any General Meeting of members of the Body Corporate unless fifteen members shall be present at the time of such decision.

## **22 Securing of rights**

Nothing in this Act contained or that may be done under this Act shall be deemed prejudicially to affect or to deprive any person of any right whatsoever which he now has arising out of contract or tort and any such right which may at the time of passing of this Act have been enforceable against the Trustees of the unincorporated Sir Moses Montefiore Jewish Home in their capacity as such Trustees may be enforced in like manner against the Body Corporate.

## **23 Winding up**

If any of the objects specified in section five of this Act shall fail or if from insufficiency of funds or from any other cause it shall at any time hereafter be found that the Body Corporate cannot be properly worked and carried on according to the true intent and meaning of this Act it shall be lawful for a Special General Meeting of the Body Corporate called for the purpose of taking into consideration the propriety of winding up the affairs thereof to pass a Resolution to that effect and the manner in which the net proceeds shall be applied but such Resolution shall have no force or effect until confirmed by the votes of three-fourths of the members present at another Special General Meeting to be held not later than one calendar month after the previous meeting.

## **24 Dissolution**

If it shall be resolved according to the preceding section of this Act to wind up the affairs

of the Body Corporate then the Body Corporate shall be dissolved and the whole of the Real and Personal estate belonging thereto shall be sold by public auction tender or private contract and the proceeds thereof shall be applied in and towards the payment of all costs charges and expenses of and incidental to such sale and winding-up and in payment of all liabilities of the Body Corporate and the net proceeds shall be dealt with in such manner as shall be determined by Resolution passed in terms of the preceding section of this Act.

- 25** The Board of Management Trustees and other officers of the Body Corporate shall be indemnified and saved harmless out of the funds of the Body Corporate from and against all loss costs costs charges damages and expenses which may be incurred or sustained for or on account of the Body Corporate or in consequence of any act matter or thing which may be done in carrying into effect the objects and purposes of the Body Corporate or in or about any proceeding or arbitration to be brought commenced defended or entered into on account or by direction of the Board of Management or otherwise in or about the execution of their respective offices or trusts except such costs charges losses damages or expenses as shall happen by or through the wilful neglect of any member of such Board of Management or the Trustees or other officers respectively.
- 26** The members of the Board of Management for the time being of the Body Corporate shall be charged and chargeable only for so much money as they and each of them respectively shall actually receive and shall not be answerable or accountable for the receipt by the others or other of them nor for joining in any receipt for the sake of conformity but each only for his own acts and defaults Provided that no Trustee or Member of the Board of Management shall be responsible for any loss which may arise from a failure to insure the buildings belonging to the Body Corporate or to keep any insurance on foot.

**27 Name of Act**

This Act may be cited as *The Sir Moses Montefiore Jewish Home Act 1927*.

**Schedule**

ALL that piece or parcel of land situate at the corner of Old South Head road and Victoria-road, Bellevue Hill, in the Parish of Alexandria, County of Cumberland, and State of New South Wales, being the whole of the land comprised in Certificate of Title registered Volume 3,390 Folio 174.