

The Salvation Army (New South Wales) Property Trust Act 1929 (Private Act)

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New South Wales

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The Salvation Army (New South Wales) Property Trust Act 1929 (Private Act)



New South Wales

An Act to provide for the temporal affairs of The Salvation Army in the State of New South Wales.

Preamble

WHEREAS by a Deed Poll hereinafter called the Deed of Constitution dated the seventh day of August, one thousand eight hundred and seventy-eight, and under the hand and seal of William Booth and afterwards enrolled in the Chancery Division of the High Court of Justice on the thirteenth day of August, one thousand eight hundred and seventy-eight, the origin and doctrines of the Christian Mission therein referred to were recited and stated and it was by the said Deed Poll amongst other things provided that the said Christian Mission was and should always be thereafter under the oversight direction and control of some one person who should be the General Superintendent thereof whose duty it should be to determine and enforce the discipline and laws and superintend the operations of the said Christian Mission and to conserve the same to and for the objects and purposes for which it was first originated and that the said General Superintendent should have the powers therein mentioned and that the said William Booth should continue to be for the term of his natural life the General Superintendent of the said Christian Mission unless he should resign such office that the said William Booth and other General Superintendent who should succeed him should have power to appoint his successor to the office of General Superintendent and all the rights powers and authorities should vest in the person so appointed upon the decease of the said William Booth or other General Superintendent appointing him or at such other period as might be named in the document appointing him and that it should be the duty of every General Superintendent to make in writing as soon as conveniently might be after his appointment a statement as to his successor and as to the means which were to be taken for the appointment of the successor on the decease of the General Superintendent or upon his ceasing to perform the duties of the office such statement to be signed by the General Superintendent and delivered under seal to the Solicitor for the time being of the said Christian Mission but such statement might be altered at will by the General Superintendent at any time during his continuance in office pending a new statement being signed by him and delivered as before mentioned to such Solicitor as aforesaid And whereas by the said recited Deed Poll it was provided that the General Superintendent should have power to

expend on behalf of the Christian Mission all moneys contributed for the general purposes of the said Christian Mission or for any of the special objects of its operations but he should annually publish a balance-sheet duly audited of all such receipts and expenditure and that the General Superintendent should have power to acquire by gift purchase or otherwise any hall or meeting-house school-room vestry land building and appurtenances and any seats fittings furniture or other property whatsoever which might in his judgment be required for the purposes of the said Christian Mission and to build upon such land or alter or pull down any such buildings and to hire on lease or otherwise any land or buildings and to lend give away and sell or otherwise dispose of any such properties lands or buildings as he might deem necessary in the interests of the said Christian Mission wherein all trustees should render him every assistance and that he might in all such cases as he should deem it expedient so to do nominate trustees or a trustee of any part or parts thereof respectively of any such property and direct the conveyance and transfer thereof to such trustees or trustee with power for the General Superintendent to declare the trusts thereof and from time to time if it should seem expedient to him so to do to revoke any such trusts or the appointment of any such trustees or trustee and pending such revocation the same property should be conveyed or transferred to such persons or person upon such trusts as he might direct but only for the benefit of the said Christian Mission And whereas by a further Deed Poll under the hand of the said William Booth bearing date the twenty-sixth day of July, one thousand nine hundred and four, and enrolled in the Supreme Court of Judicature England on the twenty-seventh day of July, one thousand nine hundred and four, it was recited that on or about the first day of January, one thousand eight hundred and seventy-nine, the name of the said religious society or organization was changed from "The Christian Mission" to "The Salvation Army" as appears by Memorandum under the hand of the said William Booth dated the twenty-fourth day of June, one thousand eight hundred and eighty, and endorsed on the said recited Deed Poll of the seventh day of August, one thousand eight hundred and seventy-eight, and that the said society or organization had since been and was then known as it now is as The Salvation Army and that the title of the "General Superintendent" thereof had been altered and shortened into that of "General" and that the said William Booth was then known and designated and it was expected that every successor of his would be thereafter known and designated as the "General" of The Salvation Army And whereas it was also recited by the lastly herein recited Deed Poll of the twenty-sixth day of July, one thousand nine hundred and four, that in order to minimise the possibility of doubt dispute or litigation it was considered desirable to provide more fully and specifically than was done by the Deed of Constitution for the events in which the General for the time being should cease to perform the duties of his office and also for the nomination and appointment of a successor to the General for the time being on his dying or ceasing to perform the duties of office and that the said William Booth had accordingly determined to execute the said recited Deed Poll of the twenty-sixth day of July, one thousand nine hundred and four And whereas the said Deed Poll now in recital sets forth more fully and effectually such events and makes provision inter alia that every General for the time being of The Salvation Army should be deemed to cease to perform the duties of his office within the meaning of clause six of the said Deed of Constitution and to vacate such office upon the happening of any of the events

therein referred to that is to say if inter alia the Commissioners of The Salvation Army or a majority of such Commissioners amounting to at least four in five should declare in writing under their hands that they are satisfied that the General is inter alia permanently incapacitated by mental or physical infirmity from the adequate performance of the duties of his office or if a resolution adjudicating the General unfit for office and removing him therefrom should be passed by a majority of not less than three-fourths of the members present and voting at a meeting of the High Council of The Salvation Army as thereafter provided for And whereas by a Deed Poll under the hand and seal of William Bramwell Booth bearing date the first day of June, one thousand nine hundred and twenty, it was recited that the said William Booth had died on the twentieth day of August, one thousand nine hundred and twelve, having by Deed Poll under his hand and seal dated the twenty-first day of August, one thousand eight hundred and ninety, in exercise of the power in that behalf vested in him by the said Deed of Constitution as aforesaid appointed the said William Bramwell Booth to be his successor in the office of General of The Salvation Army and that the said William Bramwell Booth had by Deed Poll under his hand and seal dated the twenty-third day of August, one thousand nine hundred and twelve, duly accepted the said office And whereas it was recited by the said recited Deed Poll of the first day of June, one thousand nine hundred and twenty, that in connection with and as the outcome of the work teaching and experience of The Salvation Army in the United Kingdom and in Australia and other countries of the world the said William Booth and the said William Bramwell Booth had evolved and promulgated various operations for the social temporal and moral welfare of the poorer and more needy classes of society and all persons who were destitute feeble-minded or vicious or suffering from injuries or sickness or ill-health or orphans or for children needing care in orphanages or reformatories and for other charitable purposes which operations are generally known and described as the Social Work of The Salvation Army and which in relation to the Commonwealth of Australia (thereinafter called the said Commonwealth) are sometimes referred to as the Social Work and that in connection with the carrying out of the Social Work of the said Commonwealth the said William Booth and the said William Bramwell Booth as his successor in office had acquired certain real and personal property particularised in the schedule thereto and other real and personal property would thereafter be acquired for the purposes of the Social Work and that it was thought desirable that the same respectively should be kept distinct from the other or proper real and personal property of The Salvation Army and be used and devoted exclusively in and to the Social Work in and connected with the said Commonwealth and that the Social Work should be confined and regulated and the trusts of the said real and personal property already acquired and thereafter to be acquired for or in connection therewith declared as thereafter appearing And whereas by the said recited Deed Poll of the first day of June, one thousand nine hundred and twenty, the said William Bramwell Booth declared that the real and personal property particularised in the said schedule and all property real and personal which might thereafter be acquired by gift grant purchase or in any manner whatsoever for the purposes of the Social Work in or in connection with the said Commonwealth and all real and personal property for the time being representing the same or any part thereof respectively and all which are sometimes thereafter collectively referred to as the trust property should at all times thereafter be held

upon trust to use and apply the same and the income thereof for the social temporal and moral welfare and the improvement of the poorer and more needy classes of society and all persons who were destitute or vicious or feeble-minded or suffering from injuries or sickness or ill-health or orphans or for children needing care in orphanages or reformatories in the said Commonwealth and for other charitable purposes in connection with the said Commonwealth in such ways and by such means as the said William Bramwell Booth or other the Director as thereafter defined for the time being of the Social Work should at any time or from time to time think fit subject nevertheless to the provisos therein contained And whereas by the said Deed Poll now in recital it was provided that the said Social Work should at all times thereafter be under the oversight direction and control of the person who should for the time being be General of The Salvation Army and he should be called in relation to the Social Work the Director of the Social Work (thereinafter referred to as the said Director) and that it should be his duty to determine and enforce the laws and to superintend the operations of the Social Work and to conserve the same and the trust property for the purpose of the trusts thereby declared And whereas it was provided that for the purpose of identifying or ear-marking the trust property and the income thereof and of keeping the same distinct from all property of The Salvation Army full accounts of all moneys contributed collected or received for the Social Work and of the application thereof should be kept in such manner as to keep the same always distinct and separate from the property of The Salvation Army and that all conveyances leases transfers assignments and assurances made to the Director for the time being for the purposes of the Social Work should be expressed to be made to him as such Director and should thereupon become subject to the trusts of the presents now in recital and that whenever any property real or personal required for the purposes of the Social Work should be conveyed leased assigned transferred or assured to any trustees or trustee other than the Director for the time being such trustees or trustee should in each case execute a sufficient declaration of trust so as in every case to enable the property so conveyed leased assigned transferred or assured to be sufficiently identified or ear-marked as being property devoted to the purposes of the Social Work And whereas the said recited Deed Poll of the first day of June, one thousand nine hundred and twenty, set forth the powers which the Director should have over and on and concerning the said trust property And whereas at a duly convened meeting of the High Council of The Salvation Army held at Sunbury in the United Kingdom on the thirteenth day of February, one thousand nine hundred and twenty-nine, the High Council of The Salvation Army referred to in the said recited Deed Poll of the twenty-sixth day of July, one thousand nine hundred and four, duly and in accordance with the said Deed Poll adjudicated the said William Bramwell Booth unfit for office and removed him therefrom and by way of record declared that the said adjudication was based upon the state of health of the said William Bramwell Booth and the said High Council in pursuance of the power vested in it by the said Deed Poll of the twenty-sixth day of July, one thousand nine hundred and four, elected Edward John Higgins a Commissioner of The Salvation Army as successor in the office of General of The Salvation Army to the said William Bramwell Booth And whereas by Deed Poll under his hand and seal dated the thirteenth day of February, one thousand nine hundred and twenty-nine, the said Edward John Higgins duly accepted the said office upon and subject to the terms of the said recited Deeds Poll dated the seventh day of

August, one thousand eight hundred and seventy-eight, and the twenty-sixth day of July, one thousand nine hundred and four, respectively And whereas the said William Bramwell Booth died on the sixteenth day of June, one thousand nine hundred and twenty-nine And whereas it is expedient to provide that the whole of the property real and personal of The Salvation Army in New South Wales which was at the time of his death held and now stands in the name of the said William Bramwell Booth upon the trusts of the hereinbefore recited Deeds Poll of the seventh day of August, one thousand eight hundred and seventy-eight, and the twenty-sixth day of July, one thousand nine hundred and four, and the first day of June, one thousand nine hundred and twenty, respectively, and also that all other property real and personal of or to which The Salvation Army in New South Wales is entitled held by and standing in the name of the said William Bramwell Booth at the time of his death or now standing in the name or names of any other person or persons and which the General for the time being of The Salvation Army as such General and as Director of the said Social Work of The Salvation Army respectively is entitled to have vested in him upon the trusts of the said recited Deeds Poll according to the nature of the same shall vest in a body of Trustees and the said Trustees shall be a body corporate with the powers and authorities hereinafter set forth:

Be it therefore enacted by the King's Most Excellent Majesty by and with the advice of the Legislative Council and the Legislative Assembly of the State of New South Wales in Parliament assembled and by the authority of the same as follows:

1 Name of Act

This Act may be cited as *The Salvation Army (New South Wales) Property Trust Act 1929*.

2 Definitions

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

- (a) **Trustees** or **Trust** mean "The Salvation Army (New South Wales) Property Trust",
- (b) **General** or **The General** shall mean the General of The Salvation Army under its Constitution or his Attorney for the time being in the State of New South Wales duly authorised in that behalf or such other person as shall for the time being have vested in him under the said Constitution general control and authority over the property in England of The Salvation Army or the attorney for the time being in the State of New South Wales of such person duly authorised in that behalf.

3 Incorporation of Trustees: Power to hold real and personal property etc

The Trustees shall be a body corporate by the name of "The Salvation Army (New South Wales) Property Trust", and shall have perpetual succession and a common seal, and shall be capable of acquiring, holding, managing, controlling, and subject to this Act, granting, mortgaging, demising, selling, disposing of or otherwise dealing with any property, real and/or personal, and of suing and being sued by the aforesaid name and doing and

suffering all such other acts and things as bodies corporate may by law do or suffer.

4 Number and appointment of Trustees

The number of the Trustees shall be not less than five and not more than seven, and shall consist of persons appointed in writing by the General.

5 Custody of common seal and quorum of Trustees

The Trustees for the time being shall have the custody of the common seal of the said corporate body, and the form of such seal and all other matters relating thereto shall from time to time be determined at a meeting of the said corporate body, and three members for the time being of the said corporate body shall constitute a quorum.

6 Execution of deed

Any deed or instrument executed or signed, and any other act, matter, or thing done by any three members of the corporate body aforesaid, and in pursuance of a resolution of the said corporate body and under the common seal of the said corporate body shall be as effectual as if the same had been executed, signed, or done by all the members of the said corporate body.

7 Vesting of property in Trustees

All lands, tenements, and hereditaments, including chattels real situate in the State of New South Wales, together with all rights, easements, and appurtenances relating thereto and all personal property which were at the time of his death held by and now stand in the name of the said William Bramwell Booth, as General of The Salvation Army or Director of the Social Work of The Salvation Army respectively, upon the trusts of the said respective Deeds Poll, and all other lands, tenements, and hereditaments whatsoever, including chattels real situate as aforesaid, which at the time of the passing of this Act stand in the name of the said William Bramwell Booth or in the name or names of any other person or persons in trust for The Salvation Army in New South Wales or for any of its funds or any auxiliary or department of its work or any corps or institution of The Salvation Army in New South Wales or to which The Salvation Army in New South Wales is otherwise entitled save and except any property held by The Salvation Army Auxiliary Company of Australia Proprietary, Limited, shall without any conveyance or transfer vest in the Trustees, upon the trusts and with the powers, authorities, and discretions and subject to the terms, provisions, and conditions of this Act and the said recited Deed of Constitution, and the said Deed Poll of William Booth bearing date the twenty-sixth day of July, one thousand nine hundred and four, or the Deed Poll under the hand and seal of William Bramwell Booth bearing date the first day of June, one thousand nine hundred and twenty, according to the particular trusts in each case upon which the same shall be held at the time of the passing of this Act but subject and without prejudice to any special trusts if any upon which the same may be held and subject also to any reservation, mortgage, charge, encumbrance, lien, or lease affecting the same respectively and

subject and without prejudice to any resulting trust or any trust of any such lands, tenements, or hereditaments in favour of the donor or any person or corporation other than The Salvation Army and upon and subject to no other trusts or provisions whatsoever.

8 Powers of Trustees

The Trustees shall be entitled at all times hereafter to exercise all the powers relating to the lands, tenements, and hereditaments and personal property hereby vested in them, and in respect of all lands, tenements, and hereditaments and personal property which may hereafter be acquired by them or which may become vested in them under this Act which are now exercisable by the General of The Salvation Army and the Director of the Social Work of The Salvation Army for the time being respectively under the said recited Deeds Poll of the seventh day of August, one thousand eight hundred and seventy-eight, the twenty-sixth day of July, one thousand nine hundred and four, and the first day of June, one thousand nine hundred and twenty, according as they shall and may hold the same upon one or the other of such trusts, and may exercise such powers and all or any of the powers by this Act conferred upon them, notwithstanding there shall be for the time being any vacancy in the office of General of The Salvation Army and/or the office of Director of the Social Work of The Salvation Army.

9 Trust property: how held

All property held by the Trustees shall, so far as the same is not subject to any express trust, be held and dealt with by them in accordance with and subject to the powers and provisions of the said recited Deeds Poll respectively, according to the trusts upon which the same shall respectively be held: Provided that no person dealing with the Trustees shall be bound to inquire into the propriety or necessity of any such dealing.

10 Power to mortgage

It shall and may be lawful to and for the Trustees from time to time and at all times hereafter to mortgage and for that purpose to appoint, convey, and assure in fee or for any term of years all or any lands hereby vested in them and/or all or any lands which may hereafter be or become vested in them to any person for securing such sum or sums of money as they may deem requisite or necessary for the purposes of The Salvation Army and/or the Social Work of The Salvation Army: Provided nevertheless that any moneys raised on any property which shall for the time being be held upon trust for the Social Work of The Salvation Army shall only be used for the purposes of the said Social Work.

11 Power to sell

It shall and may be lawful to and for the Trustees from time to time and at all times hereafter to sell any real and personal estate now hereby vested in them or which shall hereafter vest in them by public auction or private contract as they may deem expedient

at such price as can be reasonably obtained for the same and when sold convey the same or any part thereof, and thereupon the same shall vest in the purchasers, their heirs, executors, administrators, or assigns according to the estate and interest of the Trustees therein absolutely freed and discharged from the trusts affecting the same.

12 Receipts for mortgage and purchase moneys etc

The receipt in writing of a majority of the Trustees or of any person or persons authorised by such majority in writing to receive the same for the mortgage moneys raised on any property mortgaged by the Trustees or for the purchase money of any property sold under this Act or for any moneys which shall be payable to them when exercising any of the powers hereby conferred upon them or when exercising any of the powers for the time being vested in the General or the Director of the Social Work as the case may be under and by virtue of the said recited Deeds Poll shall exonerate the mortgagee and/or the purchaser and/or all other persons for the time being paying such moneys to the Trustees, or the person or persons authorised as aforesaid from seeing to the application of the same, and from all liability as to the misapplication or non-application thereof and from inquiring into the propriety or necessity of any mortgage or sale, lease, or other dealing whatsoever.

13 Proceeds of sale of land held for the Social Work

The proceeds of the sale of any lands held for the purpose of the said Social Work shall be devoted to the purposes of the Social Work, and the Trustees may for such purposes acquire therewith other lands and buildings for the purposes of such Work.

14 Meetings of Trustees, minutes etc

The Trustees shall have power to regulate the time and place of their meetings and of the procedure to be followed thereat. They shall hold regular meetings and, shall cause to be kept minutes of their proceedings and their resolutions, which shall at all times be open for inspection by the General, and the Trustees shall keep a register of all lands now or hereafter vested in them, and shall indicate in such register which lands are held for the general purposes of The Salvation Army and which are held for the Social Work of The Salvation Army: Provided nevertheless that the trusts upon which any of the said lands for the time being are held may with the consent of the General be enlarged, modified, varied, or altered from time to time: Provided that all such land shall from time to time be held upon either one or the other of the trusts hereinbefore mentioned.

15 Removal of Trustees

The General may from time to time by writing remove any person from the office of Trustee and appoint another person to be a Trustee in the place of the person so removed.

16 Power of continuing Trustees to act

The continuing Trustees, provided there shall be not less than three Trustees, shall be

empowered to act notwithstanding there shall be a vacancy or vacancies in the number of Trustees either by death, resignation, or removal, but each such vacancy shall be filled as soon as practicable after such vacancy occurs.

17 Appointment of officers: evidence of resolutions

The Trustees may appoint officers of the Trust, and the New South Wales Government Gazette containing a notification, purporting to be signed by the attorney for the time being of the General, of the appointment of a secretary and/or other officer shall be prima facie evidence and in favour of the Crown and the Registrar-General and every person who deals for value with the Trustees conclusive evidence of his or their due appointment, and a certificate signed by the secretary for the time being of the Trust as to who are the persons for the time being constituting the Trustees, and a certificate of such secretary certifying to any resolution of the Trustees shall be prima facie evidence and in favour of the Crown and the Registrar-General and every person who deals for value with the Trustees conclusive evidence as to who are the Trustees for the time being, and of any such resolution, as the case may be, and judicial notice shall be taken of the signature of the secretary for the time being of every such certificate.

18 Construction of wills etc

Whenever by any will, deed, or other instrument any property, real or personal, has been or shall be devised, bequeathed, given, granted, released, conveyed, or appointed or has been or shall be declared or directed to be held upon trust to or for the benefit of The Salvation Army or of any fund, institution, branch, or corps thereof or shall be or become recoverable by or payable to The Salvation Army or by or to the said fund, institution, branch, or corps or be receivable by or payable to any officer thereof for the benefit of The Salvation Army or any of its funds, institutions, branches, or corps, or for its Social Work, the said will, deed, or instrument as aforesaid shall be construed and operate and take effect as though the Trustees were named therein, and the acknowledgment or receipt of the Trustees or a majority of them or of any person or persons authorised in writing by the Trustees, or a majority of them, for any such gift shall be a sufficient discharge to the person or persons liable to deliver or transfer any such money or property under such will, deed, or instrument, and all property, real or personal, so devised, bequeathed, given, granted, released, conveyed, or appointed, or declared or directed to be held upon trust as aforesaid shall, subject to the trusts of such will, deed, or other instrument, and subject to any direction to the contrary therein contained so far as the same are capable of taking effect, be under the direction and control of the Trustees, and they may call for the transfer, conveyance, or delivery thereof.

19 Vesting in Trustees of property given or devised etc for benefit of The Salvation Army

- (a) Whenever by any will, deed, or other instrument, or by any gift or disposition of property made before but not taking effect until after the passing of this Act, or by any will or other instrument or by any gift or other disposition of property made after the passing of this Act any real or personal property has been or is devised, bequeathed,

or given to or for the benefit of The Salvation Army or to or for the benefit of any fund, corps, institution, branch, or auxiliary thereof other than real or personal property devised, bequeathed, or given to specific trustees upon trust for The Salvation Army or for any such fund, corps, institution, branch, or auxiliary thereof all such real and personal property shall vest in the Trustees incorporated under the authority of this Act.

- (b) The Trustees shall hold any such real and personal property upon the trusts, if any declared in respect thereof, and if no such trusts have been declared shall hold and deal with such real and personal property and the proceeds thereof in trust for The Salvation Army for such purposes and in such manner as they may deem expedient, and may convey, transfer, or deliver any such real or personal property to such persons and upon such trusts as they think fit, and the Trustees and any person to whom any such real or personal property is so conveyed, transferred, or delivered may sell, lease, mortgage, or otherwise deal with any such real or personal property: Provided that the receipt in writing of the Trustees or a majority of them or of any person or persons authorised in writing by the Trustees or a majority of them of any moneys receivable by them in the exercise of these powers shall exonerate the person paying the same to them from seeing to the application thereof and all liability as to the misapplication or non-application thereof, and no person shall be bound to inquire into the validity of any sale, conveyance, lease, or mortgage as aforesaid.

20 Preservation of rights of claimants

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 the passing of this Act have been enforceable against the General or his predecessor in the office of the General of the Salvation Army and in respect of which right the property hereby vested was liable may be enforced against the Trustees.

21 Vesting of rights of the General in the Trustees

Any rights, including choses in action, arising out of contract or tort relating in any wise to the real and personal property hereby vested in the Trustees which were at the time of his death in the said William Bramwell Booth or at the time of the passing of this Act are in the General are hereby vested in the Trustees and may be enforced by them.