

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

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New South Wales

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New South Wales

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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 Provided always that any such real property 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 any such real property or any part thereof be alienated by the Body Corporate whatever is received by the Body Corporate by way of consideration or in exchange shall be applied for or towards the attainment of the objects of the Body Corporate 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 Rules made pursuant to subsection (c) of section seventeen of this Act and the nett income derived therefrom shall be applied in and towards all or any of the objects set forth in the said section five.

#### **4A Registration of certain securities etc**

Where the Body Corporate has acquired by bequest, gift, purchase or otherwise any inscribed stock, money, fixed deposit, debenture or share in a corporation and registrable in its books, and registration thereof in the name of the Body Corporate has been refused, the Board of Management may cause the stock, money, deposit debenture or share, as the case may be, to be registered in the joint names of the persons for the time being holding office as President, Honorary Secretary and Honorary Treasurer of the Board of Management.

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

The objects of the Body Corporate shall be:

- (a) to provide and maintain a home for the shelter, support and relief, permanent as well as temporary, of such aged, infirm or other persons of both sexes of the Jewish faith as are, in the opinion of the Board of Management, deserving of the assistance of the Body Corporate,
- (b) to provide and maintain a home for the shelter, support and relief, permanent as well as temporary, of such poor, orphaned or other children of both sexes of the Jewish faith under the age of eighteen years as are, in the opinion of the Board of Management, deserving of the assistance of the Body Corporate,
- (c) to provide, otherwise than in the home referred to in subsection (a) of this section, for the shelter, support and relief, permanent as well as temporary, of such aged, infirm or other persons of both sexes of the Jewish faith as are, in the opinion of the Board of Management, deserving of the assistance of the Body Corporate,
- (d) to provide, otherwise than in the home referred to in subsection (b) of this section, for the shelter, support and relief, permanent as well as temporary, of such poor, orphaned or other children of both sexes of the Jewish faith under the age of eighteen years as are, in the opinion of the Board of Management, deserving of the assistance of the Body Corporate,
- (e) 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 gifts or loan of goods or by gifts of clothing or in such other way as the Board of Management shall think fit,
- (f) to provide and maintain a hospital, convalescent home and nursing home, or any of them, for such persons of both sexes of the Jewish faith as, in the opinion of the Board of Management, should be admitted to any such hospital, convalescent home or nursing home whether or not those persons are residents of one of the other homes provided and maintained by the Body Corporate,
- (g) to undertake and execute any trusts the undertaking whereof may be calculated to advance any one or more of the objects of the Body Corporate,
- (h) to promote good feeling and friendly intercourse and relationship amongst the residents of the homes or other institutions provided and maintained by the Body Corporate,
- (i) to appoint from time to time either with full or restricted powers of delegation and either with or without remuneration, agents, attorneys, local directors or other persons or corporations under power of attorney or otherwise within the Commonwealth or elsewhere for the purpose of carrying out all or any of the objects of the Body Corporate and to revoke or cancel all or any of such appointments or delegations,



- (j) to take such steps by personal or written appeals, public meetings or otherwise as may from time to time be deemed expedient for the purpose of procuring contributions to the funds of the Body Corporate in the form of donations, annual subscriptions or otherwise,
- (k) to obtain any Act of Parliament, order of any Court or other source of power which may be deemed requisite for the purposes of the Body Corporate,
- (l) to support with its funds or otherwise any charitable or other object which in the opinion of the Board of Management is deserving of the support of the Body Corporate,
- (m) to do all such other lawful things as are incidental or conducive to the attainment of the above objects.

## **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 honorary treasurer or honorary secretary for the time being of the Body Corporate or of 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 honorary treasurer or honorary secretary or other person.

## **8 (Repealed)**

## **9 Board of Management**

The Board of Management shall comprise:

- (a) a president, a vice-president, an honorary treasurer, an honorary secretary and not more than eleven other persons of the Jewish faith (all of whom are in this Act referred to as ***elected members***), and
- (b) other members appointed from time to time by the elected members if they think fit so to do, not exceeding in number the number of persons that would, with the elected members, constitute a Board of Management of eighteen persons.

## **9A Powers of Board of Management**

The business of the Body Corporate shall be managed by the Board of Management which may, for that purpose but subject to any Rules not inconsistent with this Act prescribed by the members of the Body Corporate in general meeting, exercise all such powers of the Body Corporate as are not by this Act required to be exercised by those members in general meeting but no such Rule shall operate to invalidate any prior act of the Board of Management that would have been valid had the Rule not been prescribed.

## **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 the elected members of the new Board of Management shall be elected at such annual General Meeting and in the event of no such election being held the members of the Board of Management then in office shall continue to hold such office until the successors to the elected members are elected. A retiring member shall be eligible for election, appointment, re-election or re-appointment, as the case may require.

## **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 any two of the president, vice-president, honorary treasurer and honorary secretary 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 the persons authorised by this section for the purpose.

## **14 (Repealed)**

## **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, one division relating to those mentioned in subsections (a) and (c) of that section, another division relating to those mentioned in subsections (b) and (d) of that section, another division relating to subsection (e) of that section and another division relating to subsection (f) of that section and the Body Corporate may pursue the object or objects mentioned in one division separately and apart from that or those mentioned in any other division and, except in so far as they relate to the objects pursued, separately and apart from the objects mentioned in subsections (g), (h), (i), (j), (k), (l) and (m) of that section.
- (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 the objects pursued, except in so far as the Body Corporate by resolution allocates them to other objects and except in so far as 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) (Repealed)

## **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 Vice-President for the time being and the Honorary Secretary or Honorary 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 (e) of section five of this Act.

## **19 Life Governors**

- (a) A person who, immediately before the commencement of the *Sir Moses Montefiore Jewish Home (Amendment) Act 1969*, held office as a Life Governor, or as a Junior Life Governor, of the Body Corporate shall, after that commencement, continue in the office held by him.
- (b) A person over the age of twenty-one years:
  - (i) who was, immediately before that commencement, eligible for appointment as a Life Governor of the Body Corporate,
  - (ii) who, after that commencement, makes a donation to the Body Corporate of five hundred dollars or more in one amount, or
  - (iii) who, after that commencement, confers a signal benefit on the Body Corporate, not being a gift of money,may be appointed by the Board of Management as a Life Governor of the Body Corporate.
- (c) A Life Governor of the Body Corporate shall be entitled to vote at a general meeting of the Body Corporate and shall be eligible for election as a member of the Board of Management.
- (d) A person under the age of twenty-one years who makes a donation to the Body Corporate of two hundred dollars or more in one amount may be appointed by the Board of Management as a Junior Life Governor of the Body Corporate.

## **19A Investment of funds and change of investments**

The Board of Management may realise any investment of the Body Corporate made before or after the commencement of the *Sir Moses Montefiore Jewish Home (Amendment) Act 1969*, and may invest the proceeds thereof, and any other funds of the

Body Corporate, in the manner authorised by the Rules.

## **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 nine 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 at the least 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.