

# Scout Association of Australia (New South Wales Branch) Incorporation Act 1928 No 26

[1928-26]



New South Wales

## Status Information

### Currency of version

Current version for 6 July 2009 to date (accessed 20 June 2024 at 23:35)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Previously named**  
Boy Scouts Association—New South Wales Branch Incorporation Act 1928

### Responsible Minister

- Attorney General

For full details of Ministerial responsibilities, see the [Administrative Arrangements \(Minns Ministry—Administration of Acts\) Order 2023](#).

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 6 July 2009

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## Contents

<b>Long title</b> .....	3
1 Name of Act .....	3
2 Definitions .....	3
3 Incorporation .....	3
4 Name .....	4
4A Change of name of Corporation .....	4
4B Further change of name .....	5
5 Powers .....	5
6 Unauthorised use of name .....	5
7 Unauthorised use or sale of uniform etc .....	5
8 Property vested in Corporation .....	6
9 The Corporation capable of holding and disposing of property .....	6
10 Dealings with property .....	6
11 Powers and duties as aid granted .....	7
12 Documents to be lodged with Corporate Affairs Commission .....	7
13 Common seal .....	8
14 Service on or notice to the Corporation .....	8
15 Proceedings for offences .....	8
16 Savings and transitional provisions .....	9
<b>Schedule 1 Savings and transitional provisions</b> .....	9

# Scout Association of Australia (New South Wales Branch) Incorporation Act 1928 No 26



New South Wales

An Act to incorporate the Executive Committee of the Boy Scouts Association, New South Wales Branch; to confer and impose upon that body certain powers, duties, rights, and liabilities; to vest in it the property of the said Association in New South Wales; and for purposes connected therewith.

## 1 Name of Act

This Act may be cited as the *Scout Association of Australia (New South Wales Branch) Incorporation Act 1928*.

## 2 Definitions

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

**The Association** means:

- (a) the Boy Scouts Association incorporated in the United Kingdom by Royal Charter dated 4 January 1912, or
- (b) from the commencement of the *Boy Scouts Association (Amendment) Act 1986*—The Scout Association of Australia (previously styled The Australian Boy Scouts Association) incorporated by Royal Charter dated 17 October 1967.

**The Branch** means “The Corporation”.

**The Constitution** means the instrument, as amended and in force from time to time, by which powers are delegated by the Association to the Branch.

**The Corporation** means the body incorporated by this Act.

## 3 Incorporation

The Honourable Sir William Portus Cullen, K.C.M.G., L.L.D., Lieutenant Governor of New South Wales; The Right Honourable Sir Adrian Knox, P.C., K.C.M.G., Chief Justice of Australia; The Honourable Sir Philip Whistler Street, K.C.M.G., Chief Justice of the State of New South Wales; Sir Hugh Robert Denison, K.B.E., company director; John McLean Arnott,

C.M.G., manufacturer; John Smith Purdy, D.S.O., doctor of medicine; William Archibald Windeyer, M.B.E., solicitor and notary public; Kelso King, manager; Ernest Trenchard Miller, importer; Benjamin Richard Gelling, accountant; George Montague Merivale, accountant; Walter Linton, solicitor; Robert Knight Allport, importer; Ernest Gladstone Blanshard, accountant; Henry Campbell Budge, civil servant; Robert Vicars, manufacturer; Kenneth MacKenzie, accountant; Alfred Spain, architect; Alfred Fletcher Twine, civil servant; Henry Robert Lee, secretary; Fred Danvers Power, mining engineer; and Colin Doust, engineer; (or other the members from time to time of the executive committee of the said branch) are hereby incorporated under the name of “The Boy Scouts Association, New South Wales Branch”.

#### **4 Name**

The Corporation constituted by this Act shall be known as “The Boy Scouts Association, New South Wales Branch” and by that name shall have perpetual succession, and a common seal, and may sue and be sued or otherwise appear and answer and be answered or proceed, or be proceeded against in all courts.

#### **4A Change of name of Corporation**

- (1) As from the commencement of the *Boy Scouts Association—New South Wales Branch Incorporation (Amendment) Act 1968*:
  - (a) the name of the Corporation constituted by section three of this Act shall be “The Australian Boy Scouts Association, New South Wales Branch”,
  - (b) a reference in this or any other Act or any by-law, regulation, ordinance or any other instrument or document whatsoever, of the same or a different kind or nature, to The Boy Scouts Association, New South Wales Branch shall be read and construed as a reference to The Australian Boy Scouts Association, New South Wales Branch.
- (2) Nothing contained in the *Boy Scouts Association—New South Wales Branch Incorporation (Amendment) Act 1968*, shall prejudice or affect in any way the continuity of the Corporation but the same shall continue notwithstanding the provisions of the said Act.
- (3) The alteration of name effected by subsection one of this section shall not affect any property, powers, rights, authorities, duties, functions, liabilities or obligations of the Corporation, or render defective any legal or other proceedings instituted by or against the said Corporation.

Any legal or other proceedings may be continued or commenced by or against the Corporation by the name of The Australian Boy Scouts Association, New South Wales Branch, that might have been continued or commenced by or against the Corporation by the name of The Boy Scouts Association, New South Wales Branch.

#### **4B Further change of name**

- (1) From the commencement of the *Boy Scouts Association (Amendment) Act 1986*, the name of the Corporation shall be The Scout Association of Australia, New South Wales Branch.
- (2) From that commencement, a reference in any other Act or statutory instrument, or in any other instrument, or in any contract or agreement to the Corporation under either of its former names shall be read as a reference to The Scout Association of Australia, New South Wales Branch.
- (3) The Corporation's former names are The Boy Scouts Association, New South Wales Branch, and The Australian Boy Scouts Association, New South Wales Branch.
- (4) The Scout Association of Australia, New South Wales Branch, is a continuation of, and the same legal entity as, The Boy Scouts Association, New South Wales Branch, and The Australian Boy Scouts Association, New South Wales Branch.

#### **5 Powers**

The Corporation shall control the Scout Movement in New South Wales and shall have power to do all things deemed necessary or requisite for providing and maintaining an efficient organisation for the purposes of the Association in New South Wales including and without restricting the generality of this provision the performance and exercise of all such duties or powers as may be delegated to it by the Association under the provisions of the Royal Charter.

#### **6 Unauthorised use of name**

Any person who without authority of the Corporation uses the name Boy Scouts Association, Australian Boy Scouts Association, Scout Association of Australia, Boy Scout, Scout, Cub Scout, Venturer Scout or Rover Scout or the name of any local branch of the Association or any name implying that any other society or body is the Association or a branch of the Association or falsely pretends that he is connected with the Association shall be liable to a penalty not exceeding \$200.

#### **7 Unauthorised use or sale of uniform etc**

- (1) Any person who, except with the authority of the Corporation:
  - (a) wears or uses any uniform, emblem, badge, decoration, descriptive or designating mark or title used either before or after the commencement of this Act by the Association or any branch of the Association for carrying out the purposes of the Association in such manner as to suggest that the wearer or user is authorised by the Association or such branch or is connected with the operations thereof, or
  - (b) sells, supplies or distributes any such emblem or badge,

shall be liable to a penalty not exceeding \$200.

- (2) Subsection one of this section shall not extend to the sale, supply or distribution of any part of a scout's equipment other than an emblem or badge.

## **8 Property vested in Corporation**

- (1) All real and personal property in New South Wales which is now vested in or held by or which may hereafter at any time be given, devised, or bequeathed to any person in trust for or on behalf of or for the benefit of the Association or any Branch, Area Council, District Association, Group, Section or Committee in New South Wales shall by virtue of this Act vest in the Corporation subject to the conditions or trusts upon which it is now held, or may hereafter be given, devised, or bequeathed; and all other persons are hereby divested of all such property of which they are seised or possessed.
- (2) Property vested in, held by or on behalf of, or given, devised or bequeathed to, any Sponsored Group, Section or Committee shall, subject to any express trust affecting the property, be held by the Corporation in trust for such purposes and be disposed of in such manner as the Sponsoring Authority may from time to time direct in writing.
- (3) The Sponsoring Authority is the Sponsoring Authority of the relevant Group, Section or Committee, as defined in the document published by the Association and styled the Policy Organisation and Rules of the Association.
- (4) All rights accrued or accruing to any person in New South Wales on behalf of the Association are hereby vested in and may be enforced by and all liabilities of the Association in New South Wales or any person in New South Wales on behalf of the Association may be enforced against the said Corporation.

## **9 The Corporation capable of holding and disposing of property**

The said corporation shall be capable in law of taking, purchasing, and holding to it and its successors land and other real estate, chattels real, and chattel and other personal property, and of selling, mortgaging, demising, or otherwise disposing thereof, and shall have power to do or suffer all things which a body corporate may lawfully do or suffer.

## **10 Dealings with property**

- (1) The Corporation shall deal with or dispose of the real and personal property of the Corporation, subject to any express trust affecting the property, in such manner as the Executive Committee appointed under the Constitution thinks fit.
- (2) A proposed mortgage or sale of real property shall be submitted to an ordinary meeting of the Executive Committee.
- (3) Notice of that meeting shall specially mention the proposal.

- (4) If the proposal is approved by resolution passed by a majority comprising not less than two-thirds of the members present when the motion is put, the Executive Committee may give effect to the proposal.
- (5) A copy of the resolution, sealed by the Corporation, is conclusive evidence in favour of a person claiming by, through or under the mortgage or sale that the resolution was duly passed in compliance with this Act and the Constitution.
- (6) A purchaser or mortgagor is not bound to see to the application of money paid or advanced.

## **11 Powers and duties as aid granted**

The Corporation shall receive all gifts, grants of money or contributions made by the Government of New South Wales or by any municipality, incorporated body, society or person to the Association or the Branch, and shall apply the same in accordance with the terms, provisions and conditions of such gifts, grants or contributions; or if there be none such, or on such terms, provisions or conditions becoming impossible of performance, then in accordance with the objects of the Association.

## **12 Documents to be lodged with Corporate Affairs Commission**

- (1) Within 1 month after the commencement of the *Boy Scouts Association (Amendment) Act 1986*, the Corporation shall lodge with the Corporate Affairs Commission:
  - (a) a copy, sealed by the Corporation, of the Royal Charter dated 17 October 1967 incorporating the Association,
  - (b) a copy, sealed by the Corporation, of any by-laws made under that Royal Charter,
  - (c) a copy, sealed by the Corporation, of the Constitution, and
  - (d) a notice in a form approved by the Commission of the address of the office of the Corporation.
- (2) The Corporation shall also lodge with the Corporate Affairs Commission:
  - (a) a copy, sealed by the Corporation, of any Royal Charter which subsequently affects the Association,
  - (b) a copy, sealed by the Corporation, of any instrument which subsequently changes the Constitution, and
  - (c) a notice in a form approved by the Commission of any change in the address of the office of the Corporation,within 1 month after the Royal Charter or instrument becomes available to the Corporation or the change occurs.

- (3) Documents shall be lodged in the form and manner, and be accompanied by the fee, required by the Commission.
- (4) A copy of a document lodged with the Commission under this section and certified by the Commission to be a true copy is evidence (except of the address of the Corporation) in any proceedings, in the absence of evidence to the contrary, of the contents of the original of the document.

Penalty: \$100.

### **13 Common seal**

It shall be lawful for the Executive Committee to design at any time and to change or alter the common seal of the Corporation; such seal shall be in the custody of the chief executive and shall not be affixed to any document except pursuant to a resolution of the Executive Committee.

The fixing of the said common seal to any document shall not be complete without the signature of three members of the Executive Committee:

Provided that it shall not be necessary to require such seal to be affixed as evidence of the appointment by the said Corporation of an attorney, solicitor, or proctor in or for the prosecution or defence of any action, suit, or other proceeding.

### **14 Service on or notice to the Corporation**

- (1) A document may be served on the Corporation:
  - (a) by delivering a copy of the document personally to the chief executive or acting chief executive, or
  - (b) by leaving it at, or by sending it by post to, the office of the Corporation.
- (2) For that purpose, the address of the office of the Corporation shall be deemed to be the address most recently notified to the Corporate Affairs Commission under section 12.
- (3) A certificate of the Commission as to the address most recently notified is in any proceedings conclusive evidence of the address of the Corporation.
- (4) Notice given to the chief executive or acting chief executive of the Corporation shall be deemed to have been given to the Corporation.

### **15 Proceedings for offences**

Proceedings for an offence against this Act may be dealt with summarily before the Local Court.



## **16 Savings and transitional provisions**

Schedule 1 has effect.

### **Schedule 1 Savings and transitional provisions**

(Section 16)

#### **Boy Scouts Association (Amendment) Act 1986**

##### **1 Gifts etc of property**

After the commencement of the *Boy Scouts Association (Amendment) Act 1986*, a reference to a troop or pack in a gift, devise or bequest to, or to any person for or on behalf of, the troop or pack shall be read as a reference to a group or section specified by the Corporation for the purpose.

##### **2 Prior lodgment of documents with CAC**

A copy of a document lodged by the Corporation with the Corporate Affairs Commission before the commencement of the *Boy Scouts Association (Amendment) Act 1986* shall be deemed to have been lodged under section 12.