

Sydney University Settlement Incorporation Act 1959 No 16

[1959-16]



New South Wales

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Sydney University Settlement Incorporation Act 1959 No 16



New South Wales

An Act to incorporate the executive committee of the Sydney University Settlement; to confer and impose on the corporation so created certain powers, authorities, duties and functions; to vest in such corporation the property of the Sydney University Settlement; and for purposes connected therewith.

1 Name of Act

This Act may be cited as the *Sydney University Settlement Incorporation Act 1959*.

2 Definitions

(1) In this Act unless the context or subject matter otherwise indicates or requires:

Constitution means the constitution for the time being of the Settlement.

Corporation means the body incorporated by this Act.

Executive committee means the executive committee for the time being appointed under the constitution.

Settlement means the association known as the Sydney University Settlement.

(2) The constitution (so far as it relates to the constitution of the executive committee of the Settlement as existing immediately before the commencement of this Act) shall, subject to this Act, be the constitution of the corporation at such commencement.

2A, 2B (Repealed)

3 Incorporation

The members for the time being of the executive committee shall be a body corporate under the name of "The Sydney University Settlement" and by that name shall have perpetual succession and a common seal and may sue and be sued, and shall be capable of purchasing, holding, granting, demising, disposing of and alienating real and personal property, and of doing and suffering all such other acts and things as bodies corporate may by law do and suffer.

3A (Repealed)

4 Vesting of property

- (1) All property in New South Wales:
 - (a) which immediately before the commencement of this Act was vested in or held by any person in trust for or on behalf of or for the benefit of the Settlement shall by virtue of this Act be divested from such person and shall vest in the corporation as from such commencement, and
 - (b) which shall at any time after such commencement be given, devised or bequeathed to any person in trust for or on behalf of or for the benefit of the Settlement shall be deemed to be property given, devised or bequeathed, as the case may be, to the corporation.
- (2) A certificate under the common seal of the corporation that the land described in the certificate is situated within New South Wales and is property vested in or held by any person in trust for or on behalf of or for the benefit of the Settlement shall:
 - (a) for the purpose of any application by the corporation to be registered as the proprietor, pursuant to a vesting by this Act, of any land under the provisions of the *Real Property Act 1900*, as amended by subsequent Acts, of which the body corporate is not the registered proprietor, be conclusive evidence, and
 - (b) in any action, suit or other proceeding, whether civil or criminal, be prima facie evidence,
of the facts so certified.
- (3) All property vested in the corporation by the operation of:
 - (a) paragraph (a) of subsection one of this section shall be held by it subject to the conditions or trusts on which it was held immediately before such vesting, and
 - (b) paragraph (b) of subsection one of this section shall be held by it, where the gift, devise or bequest was made subject to any express conditions or trusts, subject to those conditions or trusts, and where the gift, devise or bequest was not so made, subject to a trust for the objects of the Settlement specified in its constitution:

Provided that where by or under the constitution power has been conferred on the executive committee to sell, grant, convey, demise or otherwise dispose of, either absolutely or by way of mortgage or otherwise, any of the property of the Settlement that power may be exercised by the corporation notwithstanding any condition or trust affecting the property in the hands of the corporation.
- (4) All rights accruing or accrued to any person in New South Wales on behalf of the Settlement in respect of any property vested in the corporation by the operation of

subsection one of this section are hereby vested in the corporation and may be enforced by the corporation.

All liabilities of the Settlement or of any person in New South Wales on behalf of the Settlement in respect of any property vested in the corporation by the operation of subsection one of this section may be enforced against the corporation.

5 Protection of purchasers etc

(1) No purchaser, mortgagee, lessee or other person dealing with the corporation, and neither the Registrar-General nor the Crown Solicitor nor any other person registering or certifying title shall, upon any sale, exchange, mortgage, lease or other dealing purporting to be made under a power conferred by this Act, be concerned to see or enquire into the necessity for or the propriety or the mode of exercising the power, or be affected by notice that the exercise of the power is unauthorised, irregular or improper, and a receipt for any money payable to the corporation, signed by its treasurer, shall be a sufficient discharge in favour of and shall exonerate the person paying such money from all responsibility for the application of such money.

(2) Where:

- (a) an instrument purports to be executed by the corporation and to pass or create an estate or interest in land described in the instrument as being land held in trust for the Settlement,
- (b) that land is not under the provisions of the *Real Property Act 1900*, as amended by subsequent Acts, and
- (c) the instrument is registered under the provisions of the *Registration of Deeds Act 1897*, as amended by subsequent Acts,

such instrument shall:

- (i) in favour of every person claiming any estate or interest under or through the instrument, be conclusive evidence against the corporation that the land described in the instrument as being land held in trust for the Settlement was at the time of the execution of the instrument held in trust for the Settlement, and that the corporation had at the time of the execution thereof an estate or interest in the land so described sufficient to make the instrument effective to pass or create the estate or interest which the instrument purported to pass or create, and
- (ii) in favour of every person claiming any estate or interest under or through the instrument and having taken for value, without notice that the land in which the instrument purports to create an estate or interest was not land held in trust for the Settlement or that the corporation had not an estate or interest sufficient to make the instrument effective to pass or create the estate or interest which the instrument purports to pass or create and in favour of every person claiming under

or through any person having so taken, as against every person claiming under or through an instrument executed before the commencement of this Act, or under or through an instrument executed by the corporation, and not in either of such cases registered under the *Registration of Deeds Act 1897*, as amended by subsequent Acts, before the registration under that Act, as so amended, of the instrument by this subsection made evidence, be conclusive evidence that the land described in the instrument so made evidence as being land held in trust for the Settlement was at the time of execution of the instrument land held in trust for the Settlement, that at the time of such execution the corporation had an estate or interest in the land so described sufficient to make that instrument effective to pass or create the estate or interest which that instrument purported to pass or create and that power had been conferred by or under the constitution on the corporation to execute that instrument.

- (3) Any person deprived of any estate or interest in land by any such instrument as is mentioned in subsection two of this section may bring and prosecute an action for damages against the corporation and any judgment recovered by the plaintiff in any such action shall be enforceable by execution against the real or personal property for the time being vested in the corporation whether trust property or not and any real or personal property taken by a purchaser on a sale in any such execution shall be free of all trusts affecting the same while vested in the execution debtor, except a trust created by the Crown, and the proceeds of every such sale shall in the hands of the Sheriff and of the execution creditor be free of all trusts to which it would be subject in the hands of the execution debtor.

6 Seal and execution of documents

- (1) It shall be lawful for the executive committee at any time to design and to change or alter the common seal of the corporation. Such seal shall be in the custody of the secretary of the Settlement and shall not be affixed to any document except pursuant to a resolution of the executive committee.

The execution of any document to which the common seal is affixed shall not be complete without the signature of two 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.

- (2)
- (a) Every instrument bearing what purports to be the common seal of the corporation and purporting to be executed in accordance with the provisions of subsection one of this section shall, in favour of a person claiming for value and in good faith under or through that instrument, be conclusively presumed to have been duly executed by the corporation.

(b) Section 51A of the *Conveyancing Act 1919*, as amended by subsequent Acts, does not apply to or in respect of any instrument executed by the corporation.

7 Service upon corporation

Notice to or service upon the secretary of the Settlement shall be deemed to be a notice to or service upon the corporation.

8 Constitution to be registered

As soon as practicable after the commencement of this Act a copy of the constitution in force immediately before the commencement of this Act, certified under the common seal of the corporation, shall be registered in the office of the Registrar-General in the manner prescribed by regulations made under the *Conveyancing Act 1919*, as amended by subsequent Acts.

Any instrument effecting a change in the constitution shall be certified and registered in like manner.

The production of a copy of any instrument so registered, certified by the Registrar-General or a Deputy Registrar-General, shall be received in all courts as conclusive evidence of the contents of the instrument; and in favour of any person dealing bona fide and for value with the corporation shall, together with this Act, be conclusive evidence of the objects and powers for the time being of the corporation unless such person shall have notice to the contrary.

9 Office

As soon as practicable after the commencement of this Act a notification of the address of the office of the corporation in or to the effect of the form and in the manner prescribed by regulations made under the *Conveyancing Act 1919*, as amended by subsequent Acts, shall be registered in the office of the Registrar-General and a like notification of every change of address shall be registered in like manner.

10 Duty of secretary

It shall be the duty of the secretary of the Settlement to take all necessary steps to comply with the provisions of sections eight and nine of this Act.

11-18 (Repealed)

Schedule 1 (Repealed)