

# Trustees of Schools of Arts Enabling Act 1902 No 68

[1902-68]



New South Wales

## Status Information

### Currency of version

Repealed version for 12 December 1994 to 30 June 2018 (accessed 17 July 2024 at 19:33)

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—

- **Repeal**

This Act was repealed by Sch 8 (g) to the [Crown Land Management Act 2016 No 58](#) with effect from 1.7.2018.

### 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](#).

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# Trustees of Schools of Arts Enabling Act 1902 No 68



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An Act to consolidate the enactments for enabling the trustees of lands held for a Mechanics' Institute or School of Arts, or other institution for public instruction or amusement, to sell, lease, and mortgage such lands, for providing for the appointment of new trustees, and for other matters in connection therewith.

## 1 Name of Act

This Act may be cited as the *Trustees of Schools of Arts Enabling Act 1902*.

## 2 Repeal and savings

- (1) The Act fifty-seven Victoria number five is hereby repealed.
- (2) All sales, leases, or mortgages effected, all resolutions passed or carried, all notices given or published, all consents or approvals obtained, and all persons appointed or elected under the provisions of the Act hereby repealed and existing, having any effect, or holding office, as the case may be, at the time of the passing of this Act, shall be deemed to have been effected, passed, carried, given, published, obtained, appointed, or elected respectively hereunder.

## 3 Definitions

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

***institution*** means Mechanics' Institute, School of Arts, or other institution for public instruction or amusement.

***lands*** means lands reserved, dedicated, granted, or held for any institution.

***trustee*** means trustee of lands.

## 4 Saving of particular Acts

Nothing in this Act shall affect any of the provisions of any Act relating to any particular institution or the trustees thereof.

## **5 Mode of obtaining power to sell etc**

- (1) Any trustees desiring to sell, lease, or mortgage any lands or any part thereof, may, by giving fourteen days' notice by advertisement in two separate issues of a newspaper circulating in the district in which such lands are situate, convene for the special purpose of considering the desirability of such sale, lease, or mortgage, a meeting of the members of the institution for which such lands are reserved, dedicated, granted, or held.
- (2) If at such meeting a resolution to the effect that it is desirable to sell, lease, or mortgage such lands is duly passed and carried by a majority of not less than three-fourths of such members present at such meeting, the trustees may, by giving fourteen days' notice as aforesaid, convene for the special purpose of confirming such resolution a second meeting of such members.
- (3) Such second meeting shall be held not less than one month from the date of holding the meeting first abovementioned.
- (4) At such second meeting such resolution may be confirmed by a resolution duly passed and carried by a majority of not less than three-fourths of such members present at such second meeting.

## **6 Application for Minister's consent**

Such trustees may also apply to the Minister on a full statement to the Minister of the facts relating to the proposed sale, lease, or mortgage, for the Minister's consent thereto in writing.

## **7 Consent**

- (1) The Minister may in any case give consent, either as to the whole, or as to part of any lands in respect of which any application is made, and may at any time withdraw consent, either wholly or partially, or vary the terms and conditions thereof, if the Minister can do so without prejudice to the rights of third parties.
- (2) In the case of an application for leave to sell or lease any lands, the Minister may give consent either generally by authorising the sale or lease of such lands subject to such conditions, restrictions, reservations, and covenants, and in such manner and within such time, as the Minister may think desirable, or by approving of particular contracts of sale or lease.
- (3) In the case of an application for leave to mortgage any land, such general authority shall not be given, but the terms of the proposed mortgage shall in each case be submitted to the Minister for approval, and the Minister's consent shall not, unless under circumstances which in the minute of approval the Minister certifies to be exceptional, be given to a mortgage of any lands for more than one half of their estimated value.

## **8 Sale, lease, and mortgage**

- (1) After the confirmation of such resolution as aforesaid and after obtaining the written consent hereinbefore mentioned, and not otherwise, the trustees may sell, lease, or mortgage the lands, in respect of which such resolution was passed and consent given, according to the terms of such consent;

Provided that where the Minister has given consent generally, as in the next preceding section provided, no lands shall be sold or leased in pursuance of such consent, unless in each case the price agreed upon or rent reserved has been submitted to and approved of by the Minister.

- (2) A mortgage under this Act may contain a power of sale.

## **9 Minister may appoint person to execute conveyance**

- (1) In any case in which trustees desire to exercise the powers conferred by this Act, the Minister may appoint some person who shall have power to execute all conveyances and instruments, and do all things necessary to the due exercise of such powers.
- (2) The receipt of the person so appointed shall be a sufficient discharge to any purchaser, lessee, or mortgagee bona fide paying money in respect of any sale, lease, or mortgage under this Act.

## **10 Bona fide purchaser protected**

No purchaser, lessee, or mortgagee dealing bona fide with a person appointed under section nine shall be prejudiced or affected by any omission or irregularity in respect of any of the matters prescribed by this Act.

## **11 Proceeds to be held on trust and invested**

- (1) The proceeds of any sale, lease, or mortgage under this Act shall be held by the trustees, after payment of costs, expenses, and encumbrances, for the general purposes of the trust, and shall be invested or applied as the Minister directs.
- (2) The Minister may direct that any portion of the income or revenue of the trustees shall be set apart for payment of interest on, or the gradual extinction of, any mortgage debt, and the portion so set apart shall be invested as the Minister directs.

## **12 Conveyance to vest lands free from trust**

Lands conveyed to any person under the provisions of this Act shall vest in the person free from all trusts which affected them in the hands of the persons by whom or on whose behalf they were conveyed.

## **13 Resignation of trustees**

Any trustee, whether appointed as hereinafter provided, or otherwise, may resign by

giving written notice to the Minister.

#### **14 Appointment of new trustees**

- (1) If any trustee, whether appointed as hereinafter provided or otherwise, resigns, or dies, or becomes bankrupt or insane, or if for any other reason it is not desirable that the trustee should continue in the administration of the trust, the members of the institution may, by a resolution duly passed and carried at a meeting specially convened for the purpose, of which not less than fourteen days' notice shall be given in the manner provided in section five, declare the office of such trustee vacant, and thereupon the office of such trustee shall be vacant.
- (2) A copy of such resolution shall be sent to the Minister.
- (3) Thereupon such members may, at a second meeting, of which notice shall be given as aforesaid, elect one or more new trustees to fill the vacancy so caused.
- (4) If the Minister approves of the new trustee or trustees so elected, or any of them, the Minister shall declare the Minister's approval by notice in the Gazette.
- (5) Such notice shall be evidence of the appointment of the new trustee or trustees so approved, and shall have the effect of divesting the estate of the trustee whose office was so vacated as aforesaid, and of vesting the trust property, together with all powers, rights, and choses in action relating thereto in the new trustee or trustees so approved as aforesaid jointly with the surviving or continuing trustee or trustees, if any.