



**THE LAW REFORM COMMISSION  
OF WESTERN AUSTRALIA**

**Project No 21**

**Associations Incorporation Act  
1895-1969**

**WORKING PAPER**

**JUNE 1971**



## INTRODUCTION

The Law Reform Committee has been asked to review the *Associations Incorporation Act 1895-1969*.

The Committee has now completed its first consideration of the matter and issues this working paper. The paper does not necessarily represent the final views of the Committee.

Comments and criticisms are invited. The Committee requests that they be submitted by the 10th August, 1971.

Copies of the paper are being forwarded to -

The Chief Justice and Judges of the Supreme Court

The Judges of the District Court

The Law Society

The Magistrates Institute

The Law School

The Crown Law Department

The Registrar of Companies

The Association of Licensed Clubs of W.A. Inc.

Other Law Reform Commissions and Committees with which this Committee is in correspondence.

A notice has been placed in the *West Australian* stating that any person interested will, on application, be sent a copy of the paper.

The research material on which this paper is based is at the offices of the Committee and will be made available on request.

## TERMS OF REFERENCE

1. "To review the *Associations Incorporation Act 1895-1969*".

## PRESENT LAW IN WESTERN AUSTRALIA

2. The *Associations Incorporation Act* provides a simple and inexpensive method under which religious bodies, schools, hospitals and cultural societies, and any other type of voluntary association to which the Attorney General is willing to extend the facilities of the Act, can limit their liability by incorporation.

3. This opportunity to incorporate is freely availed of; for example, 113 associations were incorporated during 1970. The main types of associations, and the numbers for each type incorporated during 1970 were as follows -

With the consent of the Attorney General -

social clubs	3
fund raising associations	1
business or trade associations	5
historical societies	2
hobby clubs	1
sporting bodies	38
welfare civic & progress associations	24
others	13

As of right -

churches and other religious bodies	10
kindergartens	14
schools	2

4. The text of the *Associations Incorporation Act* is set out in the Appendix to this working paper. Its main features are-

- (a) associations "for the purpose of trading or securing pecuniary profit to the members from the transactions thereof" cannot incorporate under the Act;
- (b) members incur no personal liability for the debts of an association;
- (c) property vests in the association upon incorporation and the association may sue and be sued and may acquire and dispose of property;
- (d) application for incorporation is made to the Registrar of Companies by a trustee or person authorised by a majority of the members, and the application must be supported by information about the name, address and objects of the association and be accompanied by a copy of the rules or trust and certified by affidavit;
- (e) notice of intention to incorporate must be given in the press within prescribed periods;
- (f) when satisfied that all requirements have been fulfilled, the Registrar grants a certificate of incorporation;
- (g) as soon as convenient after incorporation, an impression of the common seal of the association together with the names and addresses of persons authorised to use the seal, together with a verifying affidavit, must be filed with the Registrar;
- (h) changes of names must be approved by the Registrar and changes of objects must be certified by the Attorney General as being within the scope of the Act; changes of rules and of persons authorised to use the seal must be notified to the Registrar.

5. A voluntary association can also incorporate under the *Companies Act 1961-1970*, the most appropriate mode being as a company limited by guarantee. If a company is formed for the purpose of "providing recreation or amusement or promoting commerce industry art science religion charity pension or superannuation schemes or any other object useful to the

community, and will apply its profits (if any) or other income in promoting its objects and will prohibit the payment of any dividend to its members" it may apply to the Minister under section 24 of that Act for permission to dispense with the word "limited" as part of its name, and with the filing of annual returns and the publication of accounts.

## **LEGISLATION ELSEWHERE**

### **Australia**

6. South Australia, Tasmania, the Australian Capital Territory, the Northern Territory, and Papua-New Guinea also have legislation designed specifically for the incorporation of non-profit associations. The *Associations Incorporation Act 1964-1966* of Tasmania appears the most comprehensive.

7. Queensland has a *Religious Educational and Charitable Institutions Act* dating back to 1861 which empowers the Governor to incorporate societies by Letters Patent.

8. New South Wales and Victoria have Co-operation Acts which provide for the incorporation of some ten types of associations. It is possible for certain sorts of non-profit associations, such as those formed for charitable purposes or for the promotion of clubs for recreational or other community purposes, to incorporate under the Acts. However, the legislation seems designed largely for co-operative trading associations.

9. Associations may incorporate under the uniform *Companies Act* in force in all Australian jurisdictions and if eligible may apply for the special privileges given in the section corresponding to section 24 of the Western Australian Act (see paragraph 5 above).

### **The United Kingdom**

10. No special legislation exists in the United Kingdom for the purpose of incorporating non-profit associations, the *Companies Act* being used for that purpose. The Board of Trade may grant a license for non-profit recreational or charitable organisations to dispense with the word "limited" as part of their name.

## COMMITTEE'S PROVISIONAL VIEWS

11. The Committee's enquiries have revealed that there are short-comings (see paragraphs 15-34 below) in the present law in Western Australia. There appear to be three main methods of dealing with the problem -

- (1) to repeal the *Associations Incorporation Act*, leaving associations to incorporate, if at all, under the *Companies Act*, and to apply for the privileges in s.24 of that Act;
- (2) to repeal the *Associations Incorporation Act* and enact a statute broadly on the pattern of the Tasmanian Act;
- (3) to retain the present *Associations Incorporation Act* but to amend it in the areas where it has been shown to be deficient in actual practice.

12. It is suggested that the third approach is the most appropriate one. The number of associations incorporated under the Act indicates that it meets a real need for religious, recreational and cultural institutions wishing to obtain the advantages of incorporation. In addition to limited liability, these advantages include perpetual succession, the creation of a clear distinction between the property of members and that of the association and the avoidance of technical difficulties in suing and being sued. To adopt the first approach of repealing the *Associations Incorporation Act* and thereby leaving the *Companies Act* as the only legislation under which these associations could incorporate would inevitably add to their expenses. It would also impose on them and their officers heavier duties and responsibilities than seems required having regard to the activities of most of them. It is noteworthy that only eleven bodies have been licensed under section 24 of the *Companies Act* in contrast with the hundreds incorporated under the *Associations Incorporation Act*.

13. The Registrar of Companies has informed the Committee that, generally speaking, the present legislation operates reasonably smoothly. It seems therefore unnecessary to adopt the second approach of radically reshaping the legislation and increasing its complexity.

14. The Committee is inclined to the view that if the amendments suggested in the ensuing paragraphs were implemented, the Act would be well adapted to the practicalities of the situation.

### **Cancellation of incorporation**

15. There are probably a number of associations still on the files of the Registrar which have ceased to operate. The Registrar has no duty or power of control in this area. It seems desirable to empower him to require evidence of the continued operation of an association, and if he is not satisfied on the evidence tendered that it is still functioning, to cancel the incorporation. A right of appeal to a court against the Registrar's decision should be provided.

16. It seems also desirable to provide for the cancellation of incorporation of an association that is acting outside the ambit of the Act, as for example, where it engages in trading outside the permitted limits (see paragraph 25 below). Since the consequences of cancellation in these circumstances may be grave, it would appear desirable to confine the power of cancellation on this ground to a court. The Registrar should be empowered to call for information as to the association's activities, and if he thought the evidence warranted it, to apply to the court for cancellation.

### **Winding up**

17. There is no provision in the *Associations Incorporation Act* for the winding up of an association. The constitution of an association may provide for voluntary dissolution. An association can be compulsorily wound up under ss. 314-318 of the *Companies Act* as an 'unregistered company'. The provisions of the *Companies Act* are not very well adapted to the circumstances of voluntary associations and there would thus seem to be advantage in making express provision for dissolution in the *Associations Incorporation Act* itself.

### **Disposal of surplus assets**

18. Dissolution or cancellation raises the question of disposal of surplus assets. In most of the Australian jurisdictions mentioned in paragraph 6 above, the legislation provides that in a compulsory winding up, the court may make such order for the distribution of surplus assets

as it thinks just, having regard to the wishes of the association expressed in a special resolution of its members. At present in Western Australia on a compulsory winding up, outstanding assets of an association vest in the Registrar of Companies who has wide powers of sale (*Companies Act*, ss.309 & 310). The money remaining from the sale after payment of expenses may be paid into court (s.311(4)), but it is not clear what powers the court has over its ultimate disposal. It would seem preferable to deal with the disposal of surplus assets expressly as is done in these other jurisdictions.

19. As ancillary to a voluntary dissolution it would seem useful to enable the association to transfer its property to some other body with similar objects or to the local authority of the district. In regard to property the association holds on trust the proper course would seem to be to empower the association to apply to a court for authority to dispose of in accordance with an appropriate plan. This latter provision could be made general so as to apply even though the association is not being wound up.

20. In cases where the Registrar cancels the incorporation on the grounds that the association has ceased to exist it would seem useful to provide for any assets to vest in the Registrar with power of sale and for the payment of any surplus to the Treasurer after payment of debts and expenses. Any person claiming the money could apply to the Treasurer.

### **Trading and pecuniary profit**

21. Section 2 of the *Associations Incorporation Act* states that the Act shall not apply "to associations for the purpose of trading or securing pecuniary profit to the members from the transactions thereof."

22. The only reported decision the Committee has found directly in point on the construction of these words is *Re Proprietary Articles Trading Association of South Australia* [1949] S.A.S.R. 88. The court held that an association for the purpose of fixing prices for the sale of certain goods, with power to fine members for under-selling or over-charging was entitled to register under the South Australian legislation which had a similar prohibition. The court held that the association was clearly not itself trading nor was any pecuniary profit secured to its members from the transactions of the association since the profit, if any, of the

members was secured by the sale of their own goods. The Act does not forbid the securing of profit indirectly.

23. Many incorporated associations in Western Australia do some form of business with their members as, for example, by selling them refreshments. Some charitable organisations operate clothing or food stalls at which the public can purchase items. It is difficult to decide whether, strictly speaking, such activities take the association outside the ambit of the Act. It could possibly be argued that 'trading' means trading with the public and not with members only, and that in any case the prohibition is against the association having trade as its sole purpose or one of its main purposes, as distinct from an ancillary purpose.

24. There would probably be no dispute that, in general, an association incorporated under the *Associations Incorporation Act* should not be able to engage in any activity which secures profit to its members. There may, however, be disagreement about the extent to which they should be permitted to trade. Presumably the answer depends on the extent to which the interests of the creditors would be jeopardised. If their interests are in peril, the proper course is for an association which actively trades to incorporate under the *Companies Act*, which has rigorous provisions to protect the interests of creditors.

25. It is suggested that the enactment of the following rules would probably strike a just balance -

- (a) trading with the public should not be permitted unless it is ancillary to the main purposes of the association and is not substantial in volume in relation to its other activities;
- (b) trading with members should be permitted, provided it is ancillary to the main purposes of the association;
- (c) distribution to members of the profits of an association, however obtained, should be forbidden.

Since there may be circumstances in which it would be unjust to compel an association to adhere rigidly to any of these rules, there would seem to be merit in empowering the Attorney

General to exempt particular associations from these requirements, on such conditions as he thinks fit.

### **Failure to file memorial**

26. Section 5(4) of the *Association Incorporation Act* provides that if an association fails to file with the Registrar

- (1) a memorial of -
  - (a) names and addresses of persons authorised to use the common seal and of changes of those persons;
  - (b) change of name of the association; or
- (2) a copy of any change of objects, rules or trusts,

the powers of the association are suspended (subject to the rights of third parties) until the failure is made good. It has been held that, under this provision, the suspension is not restricted to such powers as depend on the Act for their authority but include all the powers of the association (*Keper v. W.A. Pearlers' Association* (1926) 38 C.L.R. 507).

27. This provision seems harsh. It would seem preferable to provide that a change of name, objects, rules or trusts should remain inoperative until the information has been filed with the Registrar (it may be impractical to render inoperative changes of seal holders pending filing of a memorial). In addition it would seem desirable to place an obligation on an officer of the association (for example, the secretary) to file the information with the Registrar on pain of a small penalty. The rights of third parties should remain safeguarded as they are at present.

### **Use of expression "Incorporated" or the abbreviation "Inc."**

28. The present Act does not deem the expression "Incorporated" or the abbreviation "Inc." to be part of the name of an association, nor is there any obligation on an association to include the expression in notices or documents issued by it.

29. It is suggested that both these defects should be rectified. As a corollary an association that is not incorporated should be prohibited from using the expression as part of its name.

### **Power of Registrar to waive certain requirements**

30. Sometimes an association must advertise its intention to apply for incorporation a second time because it has inadvertently failed to comply with the requirements of s.3(2) & (3) of the Act as to the periods within which the notice of intention to incorporate must be published. It would seem desirable to empower the Registrar to waive these requirements if satisfied that the publicity in fact given was reasonably in conformity with those requirements and that no-one is likely to be adversely affected.

31. It would also seem desirable to empower the Registrar in special circumstances to extend the time for the performance or doing of any act or thing under the legislation.

### **Model rules**

32. Tasmania and Papua New Guinea prescribe model rules which an association may adopt. The Committee is informed that in this State at present, associations at a loss for appropriate rules are referred to precedents in the *Australian Encyclopaedia of Forms and Precedents*. It may be helpful if rules were prescribed, to be adopted or not as an association chooses.

### **Amalgamation of associations**

33. It would appear desirable that, with the approval of the Registrar, two or more associations having similar aims should be able to amalgamate whenever their objects and purposes are better served thereby. Tasmania, South Australia and Papua-New Guinea have a provision of this type.

### **Statutory declarations**

34. Under the Act, except for registrations of instruments under the *Transfer of Land Act*, an affidavit is required whenever a memorial, instrument or other document has to be verified. It would seem that a statutory declaration is sufficient for all purposes.

## APPENDIX

### ASSOCIATIONS INCORPORATION ACT 1895-1969

AN ACT to make Provision for the Incorporation of Religious and other Bodies.

BE IT ENACTED etc...

- Short title      1. This Act may be cited for all purposes as the *Associations Incorporation Act, 1895-1969*.
- Interpretation of terms      2. In the interpretation of this Act the following words shall have the following meanings -
- The word "Association" shall include churches, chapels, and all religious bodies, schools, hospitals, and all benevolent and charitable institutions, mechanics' institutes, and all associations for the purpose of promoting and encouraging literature, science, and art, and all other institutions and associations formed, or to be formed, for promoting the like objects, and any other association, institution, or body which the Attorney General certifies as being one to which the facilities given by this Act ought to be extended: Provided that this Act shall not apply to associations for the purpose of trading or securing pecuniary profit to the members from the transactions thereof.
- "Registrar" means the Registrar of Companies appointed under the provisions of the *Companies Act, 1961-1969*, and includes a duly appointed acting or deputy Registrar.
- Mode of incorporation      3. (1) An Association may be incorporated under this Act by a trustee or a person authorised by a majority of the members of the Association so to do, filing with the Registrar the following -
- (a) a memorial in the prescribed form and containing the particulars therein required to be set forth, together with an affidavit by the trustee or person, verifying the contents of the memorial; and
- (b) a copy of the rules and regulations or Trust or Settlement deed of the Association, together with an affidavit by the trustee or person, verifying the contents of the copy of the rules and regulations or Trust or Settlement deed of the Association.
- (2) The trustee or person shall, after filing the memorial and the rules and regulations or Trust or Settlement deed of the Association as the case may be, cause to be published twice, at an interval of not less than seven nor more than fourteen days, in a newspaper approved by the Registrar and circulating in the district mentioned in the memorial as that in which the Association is situated or established, a notice in the prescribed form, the first of such publications to be made within twenty-eight days of such filing.

- (3) (a) If at any time after the expiration of one month from the date of the later publication of the notice, the trustee or person proves to the satisfaction of the Registrar that the notice as required by the last preceding subsection has been duly published, the Registrar may, subject to the provisions of sections four and four A of this Act, grant to the trustee or person a certificate of incorporation in the prescribed form.
- (b) The certificate of incorporation or a copy of the certificate certified by the Registrar shall be received in evidence without further proof in any Court, that the Association to which the certificate refers is duly incorporated under the provisions of this Act.

Incorporation may be restrained.

4. Any trustee, or any person interested in the Association sought to be incorporated, before the expiration of one calendar month from the date of the last published notice may apply to the Supreme Court, or a Judge thereof in Chambers, for an injunction to restrain the trustee or person giving such notice from all further proceedings; and the Court or Judge shall have full power and authority to determine the matters in question, notwithstanding all the parties interested shall not be parties to the suit or affair.

When Association shall not be incorporated.

4A. An Association shall not be incorporated under the provisions of this Act by a name which in the opinion of the Registrar is –

(a) offensive;

(b) likely to mislead the public as to the object or purpose of the Association;

(c) undesirable; or

(d) identical with that by which an Association in existence is already incorporated under the provisions of this Act or which in the opinion of the Registrar resembles any such name in a manner calculated or likely to mislead the public; or

(e) identical with that by which a company is registered under the *Companies Act, 1961-1969*, or which in the opinion of the Registrar resembles any such name in a manner calculated or likely to mislead the public.

Memorial to be filed.

5. (1) Every Association shall, as soon as conveniently may be after such incorporation, file with the Registrar a memorial, in the form prescribed, containing the name or names, together with the place or places of abode of the person or persons authorised to use the common seal of the corporation, with an impression of such seal, and verified by an affidavit of and countersigned by such person or persons, and upon every change of such person or persons or any change of the name of the Association a fresh memorial to the like effect shall be filed with the Registrar and verified.

(2) All such persons, or such one or more of them as shall be fixed by the rules of the Association, shall in all cases countersign any deed, instrument, or document to which the seal of the corporation shall be fixed.

(3) (a) An Association incorporated under the provisions of this Act shall within twenty-eight days after the making of any additional rules, regulations or trusts, or any alteration to any rules, regulations or trusts, file with the Registrar, a copy of the additional rules, regulations or trusts or the alteration to the rules, regulations or trusts.

(b) The copy so filed shall be verified by the affidavit of the person or persons authorised for the time being to use the Common Seal of the Association.

(4) In case any incorporated Association shall neglect to file such memorial as last aforesaid, or such copy of the rules, regulations, and trusts, or of the additions or alterations thereto or therein from time to time, or the copy of any alteration, variation, rescission or addition from time to time made to the objects of the Association required to be filed by subsection (4) of section seven A of this Act, then the powers of the Association shall be suspended during such period as the Association shall so neglect as aforesaid. Provided, nevertheless, that every such Association shall be liable to be sued and proceeded against as a corporation; and all dealings and transactions between the Association and any person whomsoever shall be valid against the Association and all persons claiming under such Association, notwithstanding such suspension.

(5) The production of the memorial or of the copy rules, regulations, or trusts for the time being filed with the Registrar under the provisions of this section, or an office copy thereof, shall be conclusive evidence in any Court, and in all proceedings and transactions whatsoever, that the person named in such memorial was at the time of his using the common seal of the corporation duly authorised so to do, and that the registered rules, regulations, and trusts are duly and legally made.

Effect of  
incorporation.

6. Upon such certificate of incorporation as aforesaid being granted in manner hereinbefore provided, the Association shall, as from the date of such certificate, be incorporated for the purposes following, that is to say -

- (1) for the purpose of using the name of the Association, adding thereto the word "incorporated" or the abbreviation "Inc.";
- (2) for the purpose of having and using a common seal (with power to break, alter, and change the same from time to time), but on which must be inscribed the name of the Association;
- (3) for the purpose of suing, and being sued, by the name of the corporation, in respect of any claim by or upon the Association, upon or by any person whether interested in the

Association or not;

- (4) to purchase, or in any other manner acquire, and hold lands, tenements, and hereditaments, goods/chattels and effects, and all other real and personal estate, in the name of the Association, and for the purposes thereof, and to let, sell, mortgage or dispose of, and otherwise deal with the same as fully and effectually as an individual owner could do; and for such purposes to execute all such transfers, deeds, mortgages, assurances, instruments, writings, and things as may be necessary or desirable.

Provided that no lands granted to the Association by the Crown before or after the passing of this Act, without pecuniary consideration therefor, shall be sold, mortgaged, or leased for a period exceeding twenty-one years, without the consent, in writing, of the Governor in Council, to be endorsed upon the deed of assurance on such sale, or mortgage, or lease.

Change of names & rules of Association.

7. (1) (a) Any Association, with the sanction required by its constitution, may with the written approval of the Registrar change its name, and upon such change being made the Registrar if he is satisfied that the provisions of paragraph (b) of this subsection have been complied with shall note the new name and shall issue a fresh certificate of incorporation altered to meet the circumstances of the case.
- (b) Where an Association changes its name under the provisions of paragraph (a) of this subsection, notice of the alteration shall be published by the Association within fourteen days after the alteration is made, or within such longer period as the Registrar may allow, once in a newspaper approved by the Registrar and circulating in the district mentioned in the memorial for incorporation of the Association as that in which the Association is situated or established.

(2) Any Association may from time to time alter, vary, or rescind any or all of its rules and regulations, or the provisions of its trust deed or deeds, and make new or additional rules and regulations or trusts.

(3) No alteration of name, or alteration, variation, rescission of, or addition to the rules and regulations, or provisions of the trust deed or deeds, shall affect any rights or obligations of the Association, or render defective any legal proceedings instituted by or against the Association, and any such legal proceeding may be continued by or against the Association in its new name.

(4) An affidavit of the person or persons authorised for the time being to use the common seal of the Association that the sanction required by the constitution of the Association to any such alteration of name or such alteration, variation, rescission or addition to the rules and regulations or provisions of the trust deed or deeds has been duly given shall be conclusive

evidence that such sanction has been duly given.

Change of  
objects of  
Association.

7A. (1) Any Association may from time to time with the sanction required by its constitution, alter, vary, rescind or add to the objects for which it is constituted:

Provided that no such alteration, variation, rescission of or addition to the objects of an Association shall be of any force or effect unless and until the Attorney General certifies that after such alteration, variation, rescission or addition is made, such Association will continue to be an Association to which the facilities given by this Act ought to be extended and until the provisions of subsection (4) of this section have been complied with.

(2) No alteration, variation, rescission or addition to the objects of an Association shall affect any then existing rights or obligations of the Association.

(3) An affidavit of the person or persons authorised for the time being to use the common seal of the Association that the sanction required by the constitution of the Association to any such alteration, variation, rescission or addition to the objects of the Association has been duly given shall be conclusive evidence that such sanction has been duly given.

(4) A copy of any alteration, variation, rescission or addition from time to time made to the objects of an Association shall be filed with the Registrar and shall be verified by the affidavit of the person or persons authorised for the time being to use the common seal of the Association.

(5) The production of the statement of the objects of an Association for the time being filed Registrar or an office copy thereof and the production of the copy of all alterations, variations, rescissions or additions made to such objects filed under subsection (4) of this section or an office copy thereof shall be conclusive evidence in all proceedings and transactions whatsoever of the objects of the Association and of any such alteration, variation, rescission or addition to such objects having been duly and legally made.

Affidavit by  
persons  
authorised to  
use common  
seal.

7B. Where a provision of this Act requires any act, matter or thing to be verified by the affidavit of the persons authorised, for the time being, to use the common seal of an Association, it is sufficient compliance with such requirements if the affidavit -

- (a) is made by such of those persons as are present in the State at the time the affidavit is made; and
- (b) verifies the name or names of such of those persons as is or are absent from the State at the time the affidavit is made.

Liability of  
members

8. No trustee, officer, or member of an incorporated Association shall, as such, be under any personal liability to any creditor of the Association beyond the property of the Association in his hands.

- Persons interested may amend rules to enable Association to be incorporated.
9. The proprietors or other persons having the management of, or being interested in, any Association intended to be incorporated or a majority of them, may do all such acts as may be necessary for bringing such Association under the operation of this Act, and for that purpose such proprietors or persons may alter, vary, or add to the rules and regulations or the provisions of the trust deed or deeds of the Association, so as to enable the same to comply with the provisions of this Act, anything in such rules, regulations, or deeds contained to the contrary notwithstanding, and in all cases in which any such alteration, variation, or addition shall be necessary, the same may be made with the consent of the majority present at a duly convened general or special meeting of the proprietors or other persons having the management of, or being interested in, such association.
- Vesting of real and personal estate, subject to trusts, etc.
10. (1) Subject as in this section mentioned, all personal property held by any trustee or trustees or other persons on the behalf of an Association shall, after incorporation as aforesaid, vest in the corporation; and all real estate vested in any trustee or trustees, or in any other person or persons on behalf of the Association, and described in the memorial next hereinafter mentioned, shall, after the certificate of the incorporation or a certified copy thereof shall be deposited with the Registrar of Deeds and the Registrar of Titles as the case may be, together with a memorial in the form prescribed, verified by the declaration of one or more of such trustees or other persons, vest in the corporation without any conveyance thereof.
- (2) Such real or personal property shall be so vested in the corporation, subject to all trusts, covenants, contracts, and liabilities affecting the same.
- Statutory declaration to accompany document to be registered under *Transfer of Land Act, 1893*
- 10A. Where the common seal of an Association is affixed to any instrument lodged in the Office of Titles for registration under the *Transfer of Land Act, 1893*, if the instrument is accompanied by a statutory declaration -
- (a) made by the persons so affixing the seal; and
- (b) certifying that at the time the seal was so affixed they were duly authorised to do so, a copy of the memorial relating to the Association last filed with the Registrar under subsection (1) of section five of this Act is not required to be filed in the Office of Titles.
- Service of notices.
11. In all cases wherein it may be necessary for any person to serve or to give any summons, demand, or notice or any writ or other proceeding at law or in equity, or otherwise upon any Association incorporated under this Act, service thereof upon the person or persons named in the beforementioned memorial as the person or persons authorised to use the common seal of the Association shall, by leaving the same at the usual place of abode of any such person or persons, be deemed good and sufficient service of the same respectively on the said Association.
- Notices, etc. of Association,
12. In all cases wherein it may be necessary for any Association incorporated under this Act to serve or give any summons, demand, or notice of any kind whatsoever, to any person or corporation, such summons,

how to be signed. demand, or notice may be given in writing, signed by the person or some one of the persons (if more than one) authorised to use the seal of the Association, or by the solicitor for the time being of the Association, without being required to be under the common seal of the Association.

Affidavits. 13. All affidavits and declarations required to be made by this Act may be made before any Justice or any commissioner for taking affidavits for use in the Supreme Court of Western Australia.

14. *[Repealed by No. 8 of 1953, s.12].*

Contracts how made, varied or discharged. 15. Contracts on behalf of any incorporated Association may be made, varied, or discharged, as follows –

(1) Any contract which, if made between private persons, would be by law required to be in writing under seal, may be made, varied, or discharged in the name and on behalf of the Association, in writing, under the seal of the Association.

(2) Any contract which, if made between private persons, would be by law required to be in writing and signed by the parties to be charged therewith, may be made, varied, or discharged in the name and on behalf of the Association in writing, signed by any person acting under the express or implied authority of the Association.

(3) Any contract which, if made between private persons, would by law be valid, although made by parole only, and not reduced into writing, may be made, varied, or discharged by parole, in the name and on behalf of the Association, by any person acting under the express or implied authority of the Association.

And all contracts made according to the provisions herein contained shall be effectual in law, and shall be binding upon the Association and all other parties thereto, their heirs, executors, or administrators, as the case may be.

Regulations 16. (1) Regulations, not inconsistent with this Act, may be made by the Governor prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed to carry this Act into effect, or to give effect to any power, function, duty or authority under this Act, and without limiting the generality of the power conferred by this section, the regulations may prescribe -

- (a) the fees to be paid to the Registrar under this Act;
- (b) the forms to be used under this Act;
- (c) the duties of the Registrar for the purposes of this Act;
- (d) generally the conduct and regulation of registration under this Act, and any matters or things convenient to be prescribed for carrying this Act into effect.

(2) The regulations may prescribe penalties not exceeding forty dollars for any breach thereof.

*[Schedules A, B, C, D, E, and F repealed by No. 8 of 1953, s.14]*