

T A S M A N I A.

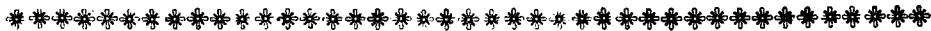


1888.

ANNO QUINQUAGESIMO-SECUNDO

VICTORIÆ REGINÆ,

No. 8.



AN ACT to make better Provision for the Government of Charitable Institutions, and for the Control and Disbursement of Donations and Bequests thereto, or for the Benefit of Inmates thereof.

A.D. 1888.

[3 September, 1888.]

BE it enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

- 1 This Act may be cited as "The Charitable Institutions Act, 1888." Short title.
- 2 In this Act, unless the context otherwise determines— Interpretation.
 - "Chief Secretary" means the Chief Secretary of *Tasmania* for the time being:
 - "Attorney-General" means the Attorney-General of *Tasmania* for the time being:
 - "Governing Body" shall mean and include any Board or Committee of Management, or Trustees or Guardians or Governors of any Charitable Institution that may be registered under this Act:
 - "Registrar" shall mean the Registrar of Charitable Institutions under this Act:

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“Charitable Institution” shall mean and include—

Any hospital established for the treatment of the sick :

Any home or refuge for destitute or unfortunate persons :

Any institution for the gratuitous education or gratuitous maintenance and education of children :

Any society or association of persons established or associated for the purpose of raising and disbursing moneys for the relief or maintenance of indigent persons :

And any other institution which the Attorney-General may certify as a fit and proper institution to be registered under this Act, but shall not include any institution incorporated under the provisions of any Law now in force, or any institution subject to the provisions of any special Act of Parliament regulating the maintenance and management thereof, unless the context expresses the contrary :

“Inmate” means any person who is maintained in any such institution :

“Indigent person” means any person who is or has at any time been an inmate in or in the receipt of relief from the funds of any Charitable Institution registered under this Act.

PART I.

REGISTRATION OF CHARITABLE INSTITUTIONS.

The Registrar.

3 The Governor in Council may, from time to time, appoint a fit and proper person to be Registrar of Charitable Institutions; and may at any time remove any person so appointed to be such Registrar; and on the death, removal, or resignation of any such Registrar may appoint another person in his place; and in case of the absence or temporary incapacity of such Registrar, may appoint a fit and proper person to act in his stead, and such person when so acting shall have and exercise all the powers and duties of the Registrar.

Charitable Institutions may be registered under this Act.

4 The Governing Body of any Charitable Institution established or supported by private contributions, and not incorporated under the provisions of any Law now in force, and not subject to the provisions of any special Act of Parliament regulating the maintenance and management thereof, may apply to the Registrar in manner hereinafter mentioned to have such Charitable Institution registered under this Act. And every such Institution may be registered under this Act, notwithstanding that any land or moneys may have been provided, or may hereafter from time to time be provided, by Parliament, or the Council of any Municipality, for or towards the establishment or support of such Institution.

Governing Body of Institutions to be Corporations.

5 The members of the Governing Body of every Charitable Institution registered under this Act shall be a body Corporate under the name or title of “The Governors of” prefixed to the registered name of the Charitable Institution of which they are the registered Governors under this Act, and by such Corporate name or title shall have perpetual succession, and be capable of suing and being sued, and of taking, purchasing, and holding land and personal estate, and of alienating and conveying the same for any estate or interest, and shall have a Common Seal;

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and in all cases of legal proceedings service or notice thereof upon the Chairman of the Governing Body for the time being shall be sufficient service on the Corporation. A.D. 1888.

6 Every application to register any Charitable Institution under this Act shall be in writing, addressed to the Registrar, in the form given in Schedule (1.), and shall be signed by a majority of the members of the Governing Body thereof, and shall be accompanied by a written or printed copy of the Rules or Regulations or other instrument or document under which the members of such Governing Body derive their authority, and a written or printed copy of any other Rules or Regulations relating to the management and maintenance of such Charitable Institution; and the copy or copies of all such Rules and Regulations forwarded to the Registrar with such application shall be accompanied by such Certificate of the Attorney-General as is hereinafter mentioned; and there shall be paid to the Registrar upon every application to register any Charitable Institution under this Act the fee mentioned in Schedule (2.), and such fees shall be paid by the Registrar to the Treasurer, and shall form part of the Consolidated Revenue Fund. Application to register to be in writing.

7 Every application to register any Charitable Institution under this Act shall be accompanied by the consent of the Attorney-General endorsed upon such application and signed by him. Attorney-General to consent to registration.

8 The Registrar shall, for the purposes of this Act, keep or cause to be kept a book, and such book shall contain the particulars set forth in Schedule (3.), and shall be called "The Register Book of Charitable Institutions;" and such Register Book and all Rules and Regulations filed with the Registrar shall be open to the public during office hours for inspection, or to make extracts therefrom, upon payment of the fees mentioned in the said Schedule (2.), which fees shall be paid to the Registrar, and paid over by him to the Treasurer, and shall form part of the Consolidated Revenue Fund. Registrar to keep Register Book.

9 The Governing Body of any Charitable Institution registered under this Act shall from time to time notify to the Registrar in writing the resignation, retirement, or death of any of the persons constituting the Governing Body of such Charitable Institution, and the name or names of the person or persons elected or appointed to fill the vacancy or vacancies caused by such resignation, retirement, or death as aforesaid. And the Registrar shall, upon receiving any such notification as aforesaid, record in the Register Book of Charitable Institutions such resignation, retirement, or death of any such person, and of the name of the person elected or appointed in his place. Change of persons forming Governing Body to be notified to Registrar.

10 A written or printed copy of every amendment of or addition to the Rules and Regulations of any Charitable Institution registered under this Act, sealed by the Common Seal, and signed by a majority of the members of the Governing Body of such Charitable Institution, shall be transmitted to the Registrar, accompanied by such Certificate of the Attorney-General as is hereinafter mentioned, and shall be filed by him with the Rules and Regulations first deposited with him upon the registration of such Charitable Institution. Amendments to Rules to be filed with Registrar

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Rules and
Regulations to be
certified by Attor-
ney-General.

11 Before any Charitable Institution shall be registered under this Act, two written or printed copies of all Rules and Regulations relating to the maintenance or management of such Charitable Institution, signed by the Chairman and two other members of the Governing Body for the time being of such Charitable Institution, shall be transmitted to the Attorney-General for the purpose of being examined by him previous to application being made for his consent to such Charitable Institution being registered under this Act, and the said Attorney-General is hereby required without unnecessary delay to examine the said Rules and Regulations, and ascertain whether the same are or are not in conformity with Law and whether such Rules or Regulations are or are not in his judgment proper and reasonable and adapted to the uses for which they are framed, and such as entitle the Charitable Institution to which they relate to be registered under this Act, and whether any Rule or Regulation, or part thereof, is or is not repugnant to another Rule or Regulation; and the said Attorney-General, upon being satisfied that such Rules and Regulations comply with all the requirements aforesaid, and that no Rule or Regulation or any part thereof is repugnant to another, shall give a certificate in the form in Schedule (4.); and there shall be payable for every such certificate the fee mentioned in Schedule (2).

Amendments not
to be filed without
Certificate of
Attorney-General.

12 No amendment of or addition to any Rules or Regulations of any Charitable Institution registered under this Act shall be filed by the Registrar unless the same shall have been approved by the Attorney-General, and shall be accompanied by a certificate from him in the form in the said Schedule (4.); and for the purpose of obtaining such certificate two written or printed copies of such amendments of or additions to any such Rules or Regulations, signed by the Chairman and two other members of the Governing Body for the time being of such Charitable Institution, shall be forwarded to the said Attorney-General; and the Attorney-General is hereby required without unnecessary delay to examine such amendments or additions as aforesaid, and upon being satisfied that such amendments or additions are in conformity with Law and are proper and reasonable, and adapted to the uses for which they are framed, and are not repugnant to any other Rule or Regulation of such Charitable Institution, the said Attorney-General shall give a certificate in the form in said Schedule (4.); and there shall be payable for every such certificate the fee mentioned in Schedule (2).

Entry in Register
Book to be
evidence.

13—(1.) Every entry made by the Registrar in the Registry Book of Charitable Institutions shall, for the purpose of determining at any time who are or were at any time the members of the Governing Body of any Charitable Institution, be conclusive evidence thereof, and a copy of such entry, certified under the Seal of the Registrar, shall be received as evidence in all Courts, and before all Judges, Justices, and others.

Certified copy of
Rules to be
evidence.

(2.) A copy of the Rules and Regulations of any Charitable Institution registered under this Act, or of any Amendment thereof, accompanied by a copy of such Certificate of the Attorney-General as aforesaid, and certified under the Seal of the Registrar, shall be received as evidence for the purpose of proving the nature and contents of such Rules and Regulations in all Courts, and before all Judges, Justices, and others.

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14 The Trustee or Trustees in whom may at any time be vested any real or personal property to be held by them for the use or benefit of any Charitable Institution registered under this Act, may at any time convey or transfer such real or personal property to the Governing Body of such Charitable Institution, and such real or personal property shall thereupon and thereafter be vested in such Governing Body upon the same Trusts upon which it was held by the Trustee or Trustees conveying or transferring the same.

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Trustees may convey property to Governing Body.

15 The Registrar shall correct errors in the Register Book of Charitable Institutions, or in memoranda made or caused to be made by him therein under the provisions of this Act, and may supply entries and memoranda omitted to be made therein as required by this Act, but in the correction of any such error he shall not erase or render illegible the original words, and shall affix the date on which such correction was made or entry or memorandum supplied, and initial the same; and every error, entry, or memorandum so corrected or supplied shall have the like validity and effect as if such error had not been made, or such entry or memorandum omitted, except as regards any transaction prior to the actual time of correcting the error or supplying the omitted entry or memorandum.

Power to the Registrar to correct errors.

16 If any person does any of the following things—

Wilfully makes any false statement in or upon any application under this Act; or
 Fraudulently procures, assists in fraudulently procuring, or is privy to the fraudulent procurement of any entry in the Register of Charitable Institutions, or of any erasure or alteration in any entry in such Register; or
 Knowingly misleads or deceives any person herein authorised to require explanation or information in respect of any matter;—
 such person shall be guilty of a Misdemeanor, and shall incur a penalty not exceeding One hundred Pounds, or may, at the discretion of the Court by which he is convicted, be imprisoned for any period not exceeding Three years.

Certain fraudulent acts made Misdemeanors.

17 If any person does any of the following things—

Forges, or procures to be forged, or assists in forging, the name or signature of any person to any instrument, matter, or thing which is by this Act, or in pursuance of any power contained in this Act, expressly or impliedly authorised to be signed by such last-mentioned person; or
 Uses, with intent to defraud, any instrument, matter, or thing to which the name or signature of any person has been forged;—
 such first-mentioned person shall be guilty of Felony, and shall be liable to imprisonment for any term not exceeding Four years.

Forgery.

18 No proceeding or conviction for any act hereby declared to be a Misdemeanor or a Felony shall affect any remedy which any person aggrieved or injured by such act may be entitled to at law or in equity against the person who has committed such act or against his estate; and nothing in this Act contained shall entitle any person to refuse to make a complete discovery by answer to any bill in equity, or to answer any question or interrogatory in any civil proceeding in any Court of law, equity, or bankruptcy; but no answer to such bill, question, or

Preceding Sections not to affect Civil remedies.

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interrogatory shall be admissible against such person in any criminal proceeding.

Fees to form part of Consolidated Revenue.

19 The Fees mentioned in Schedule (2.) as payable for every search and for any copy or extract therein mentioned, and for the Seal of the Registrar to such copy or extract therein mentioned, shall be paid to the Registrar, and paid over by him to the Treasurer, and shall form part of the Consolidated Revenue Fund of the Colony.

PART II.**RECOVERY OF MAINTENANCE, &c.**

Indigent person liable for past maintenance or relief.

20 Every indigent person shall, when he is of sufficient means, be liable upon demand to pay all sums of money which may be demanded of him for and in respect and on account of his maintenance in a Charitable Institution registered under this Act, or in respect of medical attendance or medicine supplied to him in or from any such Charitable Institution, and to repay the amount of all relief granted to him from the Funds of any such Charitable Institution; and the same may be recovered from him in the manner and within the time hereinafter provided for recovering the same from any relative.

Relatives of indigent persons liable for maintenance.

21 The relatives of an indigent person shall, if they are of sufficient means, and if such indigent person is not of sufficient means, be liable in the order hereinafter mentioned :

To repay the cost of such indigent person's past maintenance in any Charitable Institution registered under this Act for any period not exceeding Twelve months.

To repay the amount of all relief granted to such indigent person from the Funds of any Charitable Institution registered under this Act for any period not exceeding Twelve months.

To repay the cost of any medical attendance or medicine supplied to such indigent person in or from any Charitable Institution registered under this Act.

Governing body may appoint person to demand, &c. maintenance from relatives.

22 The Governing Body of any Charitable Institution registered under this Act may appoint a fit and proper person to demand, sue for, and recover any sum of money payable by any indigent person or relative under this Act.

Payment of maintenance may be enforced.

23 If any relative of an indigent person refuses or neglects to pay on demand any sum of money which may be demanded of him by any person appointed by the Governing Body of any Charitable Institution under the last preceding Section, then it shall be lawful for any Justice of the Peace, upon the complaint of such person, to issue his summons to the relative named in such complaint, requiring him to appear before any Two Justices at a certain time and place to be therein named, to show cause why he should not pay any such sum of money.

Justices may make order for maintenance.

24 It shall be lawful for any Two Justices of the Peace to hear and determine every such complaint in a summary way, and to make such order therein as to such Justices seem meet.

Charitable Institutions.

25 In making any such order the relatives of any indigent person shall be held liable for his maintenance in the order and according to the priority hereinafter enumerated :—

- i. Husband or Wife :
- ii. Father or Mother :
- iii. Children :
- iv. Grandfather or Grandmother or Grandchildren.

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Order of liability of relatives.

26 If it appears to such Justices that any relative liable as aforesaid is unable wholly to pay any sum of money which may be demanded of him as aforesaid, but is able to contribute towards the same, such Justices may, in their discretion, order two or more of such relatives to pay any such sum of money, and may prescribe the proportion which each shall contribute for that purpose ; and if it appears that such two or more relatives are unable wholly to pay such sum of money, but are able to contribute towards paying the same, such Justices shall direct the sum in proportion to their ability which such relatives shall pay weekly or otherwise.

Relatives to contribute according to ability.

27 The Justices may, by such order as aforesaid, specify the time during which any sum ordered to be paid for maintenance shall be paid.

Duration of order.

28 Any relative who may be ordered to pay or contribute as aforesaid may, at any time thereafter, upon giving at least Fourteen days' previous notice thereof in writing to any person appointed by any such Governing Body as aforesaid, apply to the Court of General Sessions of the Peace of the District within which such order was made to vary or discharge any such order upon showing the altered circumstances or means of such indigent person or relative, and such Court may (if it sees fit) vary or discharge the said order accordingly ; and any such relative may in like manner from time to time apply to have any such order varied.

Order may be varied.

29 When and so often as any such relative as aforesaid neglects or refuses to pay any sum ordered to be paid by him as aforesaid for the space of Ten days after the same has become due and payable by virtue of such order, it shall be lawful for any Justice of the Peace, and he is hereby required, upon proof being made before him of the amount that is due and in arrear, to issue a warrant of distress to levy such amount by distress and sale of the goods of such relative.

Orders may be enforced by distress.

30 All sums of money made payable by or under this Act, whether for maintenance or otherwise, shall be recovered, and every offence hereby made punishable on summary conviction shall (except where otherwise provided) be heard and determined, by and before any Two Justices of the Peace in the mode prescribed by *The Magistrates Summary Procedure Act*, and any complaint in respect of the non-payment of any sum of money made payable as aforesaid may be made at any time within One year after such sum of money became payable ; and no order or conviction made in pursuance of this Act shall be quashed for want of form, or be removed by writ of *certiorari* or otherwise into the Supreme Court.

Proceedings under 19 Vict. No. 8.

31 No distress made under the authority of this Act shall be deemed unlawful, or the person making the same be deemed a

Distress not unlawful for want of form.

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trespasser, on account of any defect or want of form in the warrant of distress, or in any other proceeding relating thereto; nor shall the person distraining be deemed a trespasser *ab initio* on account of any irregularity which he may afterwards commit, but the person aggrieved by such irregularity may recover full satisfaction for the special damage in an action on the case.

Proof that relative is not of sufficient means to lie upon defendant.

32 Upon the trial of any complaint for the recovery from any relative of any sum of money under this Act, the *onus* of proving that the person complained of is not a relative, or that such relative is not of sufficient means, or that any indigent person is of sufficient means, shall lie upon the defendant, who shall be competent and compellable to give evidence touching the matter of such complaint.

Statements in proceedings.

33 The statement in any complaint or other proceeding that any person named therein was duly appointed by the Governing Body of any Charitable Institution to demand, sue for, and recover any sum of money payable by any indigent person or relative, or that any Charitable Institution is a "Charitable Institution" registered under this Act, or that any person at the time therein named was or is an "inmate" or "indigent person" within the meaning of this Act, shall respectively be deemed and taken to be true, unless the contrary is proved

PART III.

DONATIONS TO CHARITABLE INSTITUTIONS

Bequests to Institutions which have been abolished.

34 In the case of any Institution at any time heretofore existing in *Tasmania* for charitable or benevolent purposes, and which has been abolished or otherwise ceased to exist before the passing of this Act, all unexpended sums of money at any time bequeathed or otherwise given to such Institution, or for the benefit of any inmates thereof, and respecting which no directions have been given as to the disposal thereof in the event of the abolition or cessation of such Institution, are hereby vested, together with all interest that may have accrued thereon, in the Chief Secretary, to be applied by him in and towards such other charitable purposes as the Governor in Council shall, under the authority of Parliament, from time to time direct.

And whenever any Institution now or at any time hereafter existing in *Tasmania* for charitable or benevolent purposes, whether registered or capable of being registered as a Charitable Institution under this Act or not, shall hereafter be abolished or cease to exist, all unexpended sums of money at any time bequeathed or otherwise given to such Institution, or for the benefit of any inmates thereof, and respecting which no directions have been given as to the disposal thereof in the event of the abolition or cessation of the Institution to which or for the benefit of any inmates whereof such moneys were bequeathed or given, shall, immediately on the abolition or cessation of such Institution, become vested, together with all interest that may have accrued thereon, in the Chief Secretary, to be applied by him in and towards such other charitable purposes as the Governor in Council shall, under the authority of Parliament, from time to time direct.

Charitable Institutions.

The provisions of this Section shall apply to any land devised or otherwise given to or for the benefit of any such Institution as aforesaid, and to the rents and profits of any land devised, and to the interest of any moneys bequeathed to or otherwise vested in any Trustees upon trust to pay or expend such rents and profits or such interest to or for the benefit of any such Institution, or for the benefit of any inmates thereof.

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Provided that, whenever practicable, effect shall be given in all such cases as aforesaid as nearly as possible to any stipulation or condition which any testator or donor has or shall have attached to the bequest or donation of any such moneys as aforesaid, or to any direction which such testator or donor may have given as to the original disposal thereof.

35 All moneys which have been or which may hereafter be bequeathed or otherwise given to the General Hospital at *Hobart*, or to the General Hospital at *Launceston*, or for the benefit of any inmates of either of those Hospitals, shall be payable to the Board of Management of the Hospital to which, or for the benefit of any inmates whereof, such moneys have been or shall hereafter be bequeathed or given, and may be disbursed by such Board in such manner as shall be most in accordance with the terms or directions (if any) of the bequest or donation under which such moneys are received; and, in the absence of any terms or directions attached to such bequest or donation, then in such manner as such Board may think best fitted to benefit the persons for whom such moneys have been or may hereafter be bequeathed or given.

Bequests to
Hobart and
Launceston
Hospitals.

36 It shall be lawful for the Governing Body of any Charitable Institution registered under this Act to invest, upon any of the securities mentioned in "The Conveyancing and Law of Property Act, 1884," any moneys bequeathed or otherwise given to such Charitable Institution, or to the Governing Body thereof, or for the benefit of any inmates thereof, and to apply the interest of any such moneys so invested as aforesaid in such manner as such Governing Body shall think best fitted to accomplish the objects for which such moneys were bequeathed or given.

How bequests
may be invested.
47 Vict. No. 19,
s. 42.

The provisions of this Section shall also apply to the Board of Management of the General Hospital at *Hobart*, and the Board of Management of the General Hospital at *Launceston*, and to any moneys that have been or that may hereafter be bequeathed or given to either of the said Boards of Management, or to either of the said Hospitals, or for the benefit of any inmates thereof respectively.

SCHEDULE.**(1.)***To the Registrar of Charitable Institutions.*

Sect. 6.

WE the undersigned Trustees [*or* Governors, *or* Members of the Committee *or* Board of Management, &c., (*as the case may be*)] of

hereby apply to have such registered under

"The Charitable Institutions Act, 1888."

(1.) The names of the present Trustees [*or* Governors, *or* Members, &c.] are *A.B.*

of , *C.D.* of , &c., and they were

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appointed Trustees [*or* Governors, &c.] [*or* derive their authority to act as Trustees (*or* Governors, &c.)] under and by virtue of a deed [*or* document], dated, &c., a true copy of which deed [*or* document] is forwarded herewith and marked A; [*or* under and by virtue of the Rules or Regulations hereinafter mentioned.]

(2.) The accompanying Rules (*or* Regulations) [are the Rules (*or* Regulations) under which the present Trustees (*or* Governors, &c.) derive their authority, and are the only Rules (*or* Regulations)] *or* [are the only Rules (*or* Regulations)] relating to the management and control of the said

(3.) This application is made with the consent of the Attorney-General.

(2.)

SCALE OF FEES.

Sects. 6, 8, 11, 12,
and 19.

On every application to register a Charitable Institution, a fee of Ten Shillings.

For every Search, a fee of One Shilling.

For any copy or extract of any Rules or Regulations, or from any Register Book, a fee of Fourpence for every Seventy-two words.

For the Seal of the Registrar to any copy or extract as aforesaid, a fee of Five Shillings.

For every Certificate to the Rules [*or* Regulations], a fee of Two Pounds Four Shillings and Sixpence.

For every Certificate to the amendment or addition to the Rules [*or* Regulations], a fee of One Pound Three Shillings and Sixpence.

(3.)

Sect. 8.

THE CAMPBELL TOWN HOSPITAL (Registered , 188 .)

Dates of Registration of Governors.	Christian and Surnames of Governors.	Addresses and Descriptions of Governors.	Signature of Registrar authenticating Registration of Governors.	Causes of Cessation from Office of Governors.	Dates of Cessation from Office of Governors.	Signature of Registrar authenticating cessation.

(4.)

Sects. 11 and 12

FORM OF CERTIFICATE.

I HEREBY certify that these Rules [*or* Regulations, *or* alteration of Rules or Regulations, *as the case may be*] are in conformity to Law, and to the provisions of the Act in force relating to Registered Charitable Institutions.

Dated at Hobart this _____ day of _____

A.B.
Attorney-General.