

TRUSTEES (INCORPORATION) ACT**Principal Act**

Act. No. 1935-05	<i>Commencement</i>	9.4.1935
	<i>Assent</i>	9.4.1935

Amending enactment	Relevant current provisions	Commencement date
Acts. 1961-09	–	
1984-48	s.6	
2007-17	ss. 2(1) & (2), 4, 5(1), (2) & (3), 8, 12(1)	14.6.2007

English source

Charitable Trustees Incorporation Act 1872 (35 & 36 Vict. c.24)

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AN ACT TO PROVIDE FOR THE INCORPORATION OF THE TRUSTEES OF CERTAIN BODIES AND ASSOCIATIONS OF PERSONS.

Short title.

1. This Act may be cited as the Trustees (Incorporation) Act.

Incorporation of trustees.

2.(1) Trustees or a trustee may be appointed by any body or association of persons established for any religious, educational, literary, scientific, social or charitable purpose, and such trustees or trustee may apply, in manner hereinafter mentioned, to the Minister responsible for justice for a certificate of registration of the trustees or trustee of such body or association of persons as a corporate body.

(2) If the Minister responsible for justice, having regard to the extent, nature and objects and other circumstances of such body or association of persons, shall consider such incorporation expedient, he may grant such certificate accordingly, subject to such conditions or directions generally as he shall think fit to insert in such certificate, and particularly relating to the qualifications and number of the trustees, their tenure and avoidance of office, the mode of appointing new trustees, the custody and use of the common seal, the amount of the land which such trustees may hold, and the purposes for which such land may be applied.

(3) The trustees or trustee shall thereupon become a body corporate by the name described in the certificate, and shall have perpetual succession and a common seal, and power to sue and be sued in such corporate name, and subject to the conditions and directions contained in the certificate to hold and acquire, and by instruments under such common seal, to convey, assign and demise, any land or any interest therein now or hereafter belonging to, or held for the benefit of, such body or association of persons, in such and the like manner, and subject to such restrictions and provisions, as such trustees or trustee might, without such incorporation, hold or acquire, convey or assign, or demise the same for the purposes of such body or association of persons.

Vesting of property.

3. The certificate of incorporation shall vest in such body corporate all real and personal estate, of what nature or tenure soever, belonging to or held by any person or persons in trust for such body or association of persons, and thereupon any person or persons in whose name or names any stocks, funds or securities shall be standing in trust for the body or association of persons, shall transfer the same into the name of such body corporate, and all

covenants and conditions relating to any such real estate enforceable by or against the trustees thereof before their incorporation shall be enforceable to the same extent and by the same means by or against them after their incorporation.

Form of application.

4. Every application to the Minister responsible for justice for a certificate under this Act shall be in writing, signed by the person or persons making the same, and shall contain the several particulars specified in the Schedule, or such of them as shall be applicable to the case. The Minister responsible for justice may require such declaration or other evidence in verification of the statements and particulars in the application, and such other particulars, information and evidence (if any) as he may think necessary or proper.

Appointment of trustees.

5.(1) Before a certificate of incorporation is granted, the trustees or trustee shall have been effectually appointed to the satisfaction of the Minister responsible for justice, and where a certificate of incorporation has been granted vacancies in the number of the trustees shall from time to time be filled up so far as shall be required by the constitution or settlement of the body or association of persons, or by any such conditions or directions as aforesaid, by such legal means as would have been available for the appointment of new trustees of the body or association if no certificate of incorporation had been granted, or otherwise as shall be required by such conditions or directions as aforesaid.

(2) The appointment of every new trustee shall be certified by, or by the direction of, the trustees to the Minister responsible for justice upon the completion of such appointment.

(3) Within one month after the expiration of each period of five years after the grant of a certificate of incorporation, or whenever required by the Minister responsible for justice, a return shall be made to the Minister responsible for justice by the then trustees or trustee of the names of the trustees at the expiration of each such period, with their residences and additions.

Liability of trustees.

6. After a certificate of incorporation has been granted under the provisions of this Act all trustees of the body or association of persons, notwithstanding their incorporation, shall be chargeable for such property as shall come into their hands, and shall be answerable and accountable for their own acts, receipts, neglects and defaults, and for the due administration of the body or association of persons and its property, in the same manner and to the same extent as if no such incorporation had been

effected, and nothing herein contained shall diminish or impair any control or authority exercisable by the Attorney-General or the Charity Commissioners over the trustees who shall be so incorporated, but they shall remain subject jointly and separately to such control and authority as if they were not incorporated.

Certificate to be evidence of compliance.

7. A certificate of incorporation so granted shall be conclusive evidence that all the preliminary requisitions herein contained and required in respect of such incorporation have been complied with, and the date of incorporation mentioned in such certificate shall be deemed to be the date at which incorporation has taken place.

Records and copies.

8. The Minister responsible for justice shall, in such manner as he shall think fit, direct a record to be kept of all such applications for and certificates of incorporation, and shall in like manner direct all documents sent to him under the provisions of this Act to be preserved, and any person may require a copy or extract of any such document to be certified under the hand of such person as shall be appointed for that purpose by the Minister responsible for justice, and there shall be paid for such certified copy or extract such fee as may be prescribed by the Minister responsible for justice.

Enforcement of orders and directions.

9. All conditions and directions inserted in any certificate of incorporation shall be binding upon and performed or observed by the trustees as trusts of the body or association of persons, and shall also be enforceable by the Attorney-General or the Charity Commissioners by the same means or in the same manner as proceedings taken by them under the Charities Act.

Applications and certificates to be stamped.

10. Every application for a certificate of incorporation under this Act, and every such certificate, shall be charged with a stamp duty of 50 pence, and a stamp denoting the payment of that duty shall be impressed or affixed upon such application or certificate.

Gifts to vest in corporate body.

11. After the incorporation of the trustees or trustee of any association or body of persons pursuant to this Act, every donation, gift and disposition of land, or any interest therein, theretofore lawfully made (but not having actually taken effect) or hereafter lawfully made by deed, will or otherwise to or in favour of such body or association of persons, or the trustees thereof, or otherwise for the purposes thereof, shall take effect as if the same

had been made to, or in favour of, the corporate body or otherwise for the like purposes.

Common seal.

12.(1) The common seal of the corporate body shall have such device as may be approved by the Minister responsible for justice, and until such common seal is provided the seal of some person may be authorized by the Minister responsible for justice for use as the common seal of the corporate body.

(2) Any instrument to which the common seal of the corporate body has been affixed, in apparent compliance with the conditions or directions for the use of such common seal referred to in section 2, shall be binding on such corporate body, notwithstanding any defect or circumstances affecting the execution of such instrument.

Payments in reliance on corporate seal protected.

13. Any person who makes or permits to be made any transfer or payment bona fide, in reliance on any instruments to which the common seal of any body corporate created under this Act is affixed, shall be indemnified and protected in respect of such transfer or payment, notwithstanding any defect or circumstances affecting the execution of the instrument.

Petitions to decide questions of membership.

14. When any question arises as to whether any person is a member of such corporate body as aforesaid, any person interested in such question may apply by petition to the Supreme Court for its opinion on such question. Notice of the hearing shall be given to such persons and in such manner as the court shall think fit, and any opinion given by the court on an application under this section shall be deemed to have the force of a declaratory decree.

SCHEDULE.

Section 4.

**PARTICULARS TO BE INSERTED IN APPLICATIONS FOR
INCORPORATION.**

The objects of the body or association of persons, and the rules and regulations of the same, together with the date of, and parties to every deed, will or other instrument (if any) creating, constituting or regulating the same.

A statement and short description of the land, or interest in land, which at the date of application is possessed by, or belonging to, or held on behalf of such body or association of persons.

The names, residences and additions of the trustees of such body or association of persons.

The proposed title of the corporate body, of which title the words “trustees” and “registered” shall form part.

The proposed device of the common seal.

The regulations for the custody and use of the common seal.