

Libraries and Mechanics' Institutes Act 1908

Public Act 1908 No 103
Date of assent 4 August 1908

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An Act to consolidate certain enactments of the General Assembly relating to the establishment of public libraries and mechanics' institutes

1 Short Title, etc

- (1) The Short Title of this Act is the Libraries and Mechanics' Institutes Act 1908.
- (2) This Act is a consolidation of the enactments mentioned in Schedule 1 hereto, and with respect to those enactments the following provisions shall apply:
 - (a) All libraries, corporations, institutes, appointments, polls, bylaws, instruments, and generally all acts of authority which originated under any of the said enactments, and are subsisting or in force on the coming into operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated:

Provided that every such corporation shall be deemed to be the same corporation under this Act, without change of corporate entity or otherwise:

Provided also that in the case of trustees elected or appointed for a specified term the current term shall be computed from the date of its commencement:
 - (b) All trustees holding office under any such enactment on the coming into operation of this Act shall continue in office until their successors under this Act come into office:
 - (c) All matters and proceedings commenced under any such enactment, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.
- (3) This Act is divided into Parts, as follows:
 - PART 1—Public Libraries Managed by Local Authorities. (Sections 2 to 13.)
 - PART 2—Public Libraries and Mechanics' Institutes Managed by Trustees. (Sections 14 to 26.)

Part 1
**Public libraries managed by local
authorities**

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Sections 2-13 were repealed by section 9(1) Local Government Amendment Act 1979.

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Part 2
Public libraries and mechanics' institutes
managed by trustees

14 Declaration of intention to establish institution

Any number of persons, not less than 10, having subscribed or holding together not less than \$40 in money or money's worth for the use of their intended institution may make and sign a declaration (in duplicate) of their intention to establish a public library, mechanics' institute, athenaeum, or other similar institution, as the case may be, at some place to be named in such declaration, in which they shall also state—

- (a) The name of the intended institution:
- (b) Its purposes:
- (c) The amount of money or money's worth subscribed by them respectively or held by them for the use thereof:
- (d) The names of those who are to be the first trustees for managing its affairs, and the mode in which their successors are to be appointed:
- (e) The mode in which new members of the corporation are to be admitted, and the mode in which bylaws are to be made:
- (f) Generally such other particulars and provisions as they may think necessary, not being contrary to this Part of this Act or to law.

Compare: 1875 No 88 s 2

The expression "\$40" was substituted for the words "twenty pounds" by section 7 of the Decimal Currency Act 1964.

15 Duplicate declaration, how disposed of

- (1) One duplicate of such declaration shall be filed in the office of the Registrar of the High Court nearest to the site of the intended institution by one of the subscribing parties, who shall, before such Registrar, acknowledge the execution thereof by himself, and declare the same to have been executed by the other parties thereto or by their attorneys.
- (2) The Registrar shall keep the duplicate so filed, and deliver the other to the person who filed it, with a certificate of the same having been so filed and of the execution having been attested before him; and such duplicate, or any copy thereof certified

by such Registrar, shall be *prima facie* evidence of the facts alleged in such declaration and certificate.

Compare: 1875 No 88 ss 3, 4

The reference to the High Court was substituted for a reference to the Supreme Court pursuant to section 12 of the Judicature Amendment Act 1979.

16 When to become incorporated

When the formalities aforesaid have been complied with, the persons who signed such declaration, together with the trustees or office bearers and the committee for the time being of such institution, and their successors, shall be a body corporate under the name stated in the aforesaid declaration, and shall have the powers, rights, and immunities vested in such bodies by law, with power to such corporation, in its corporate name, from time to time to acquire and hold to it and its successors, for the uses of such corporation, any lands situate within the provincial district.

Compare: 1875 No 88 s 5

17 Trustees

The affairs of every such corporation shall be managed by the trustees thereof for the time being appointed as hereinafter or by any bylaw of the corporation provided, who, or a majority of whom, may exercise all the powers of the corporation, and act in its name and on its behalf, and use its seal, subject always to any provisions limiting the exercise of such powers in the declaration aforesaid or in any bylaw of the corporation.

Compare: 1875 No 88 s 7

18 Bylaws

Such trustees, or a majority of them, may make bylaws binding the members and officers of the corporation, and all others who agree to be bound by them, for all purposes relative to the affairs and business of the corporation, except as to matters touching which it is provided by the declaration that bylaws shall be made in some other manner.

Compare: 1875 No 88 s 8

19 Officers

The members of the corporation may, at their annual meeting to be held on the day appointed by a bylaw of the corporation, choose from among themselves a president, and may appoint (unless it is otherwise provided in the declaration or bylaws) a librarian, treasurer, and secretary, or such other officers as they think necessary, and fix and pay their remuneration (if any), and may also choose a board of trustees of such corporation, who shall hold office for one year, or such further time as may be limited or permitted by the declaration or bylaws.

Compare: 1875 No 88 s 9

20 Failure to elect trustees

A failure to elect trustees on any day appointed for that purpose by the declaration or by any bylaws shall not effect the dissolution of the corporation, but the trustees then in office shall remain in office until their successors are elected, which they may be (if no other provision is made therefor by the declaration or bylaws) at any meeting of the corporation at which a majority of such members are present, in whatever way such meeting may have been called.

Compare: 1875 No 88 s 10

21 What fines may be imposed

The corporation may by its bylaws impose a fine not exceeding \$2 on any member contravening the same, or on any person not being a member of the corporation who has in writing agreed to obey the bylaw for the contravention whereof it is imposed.

Compare: 1875 No 88 s 11

The expression "\$2" was substituted for the words "one pound" by section 7 of the Decimal Currency Act 1964.

22 Recovery of fines and subscriptions

- (1) Any such fine, if incurred, and any subscription or other sum of money which any member or other person may have agreed to pay to the corporation for his subscription to the funds of the corporation for any certain time, or for the loan of any book or instrument, or for the right of entry to the rooms of the corporation, or for any other privilege or advantage afforded to

him by the corporation, may be recovered by the corporation, by action in any Court of competent jurisdiction, on proof of the signature of the defendant to some writing by which he has undertaken to pay such subscription or to obey such bylaw, and of the breach of such undertaking, which breach, as regards a promise to pay any sum of money, shall be presumed until the contrary is shown, and as regards the contravention of any such bylaw may be proved by the oath of any one credible witness.

- (2) All fines so recovered shall belong to the corporation for the use thereof.

Compare: 1875 No 88 ss 12, 14

23 Witnesses and evidence of bylaws

In any action to which the corporation is a party, any member or officer of the corporation shall be a competent witness, and a copy of any bylaw bearing the signature of the defendant, or being certified as a correct copy of such bylaw by the president or other 2 officers of the corporation, shall be *prima facie* evidence of such bylaw.

Compare: 1875 No 88 s 13

24 When shares transferable

If it is provided in the declaration or by the bylaws of the corporation that the shares of the members in the property of the corporation shall be transferable, then they shall be transferable accordingly, in the way and subject to the conditions mentioned in the declaration or in the bylaws, if by such declaration such transfers are to be regulated by them.

Compare: 1875 No 88 s 15

25 Shares to be personal property

All such shares shall be personal property, and by the declaration or bylaws provision may be made for the forfeiture of the shares in cases to be therein named, or for preventing the transfer thereof to others than persons of some certain description or resident within some certain locality.

Compare: 1875 No 88 s 16

26 Dissolution provided for

Provision for the dissolution of the corporation may be made by the declaration, or it may be therein provided that such provision may be made by the bylaws of the corporation, but no such dissolution shall take effect until the liabilities of the corporation are discharged.

Compare: 1875 No 88 s 17

Schedule 1

Section 1(2)

Enactments consolidated

- 1869, No 67—The Public Libraries Act 1869.
- 1875, No 88—The Public Libraries Powers Act 1875.

Schedule 2

Section 3(2)

Repealed by section 9(1) Local Government Amendment Act 1979.