NORTHERN TERRITORY OF AUSTRALIA

SALVATION ARMY (NORTHERN TERRITORY) PROPERTY TRUST ACT

As in force at 12 April 2017

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NORTHERN TERRITORY OF AUSTRALIA

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SALVATION ARMY (NORTHERN TERRITORY) PROPERTY TRUST ACT

An Act relating to The Salvation Army in the Territory

1 Short title

This Act may be cited as the *Salvation Army (Northern Territory) Property Trust Act*.

2 Commencement

This Act shall come into operation on the date on which the names of the first Trustees are published in the *Gazette*.

3 Definitions

In this Act, unless the contrary intention appears:

Deed of Constitution means the deed poll dated 7 August 1878 under the hand and seal of William Booth and enrolled in the Chancery Division of the High Court of Justice, England, on 13 August 1878.

first deed poll means the deed poll dated 26 July 1904 under the hand and seal of William Booth and enrolled in the Supreme Court of Judicature, England, on 27 July 1904.

General means the General for the time being of The Salvation Army under its constitution.

Land includes an interest in land.

Registrar-General means the Registrar-General and includes an Acting or Deputy Registrar-General.

second deed poll means the deed poll dated 1 June 1920 under the hand and seal of William Bramwell Booth.

The Salvation Army means the religious society or organization referred to in the Deed of Constitution, the first deed poll and the second deed poll.

Trust means "The Salvation Army (Northern Territory) Property Trust" as incorporated by this Act.

Trustees means the persons for the time being constituting the Trust.

Victorian Trust means The Salvation Army (Victoria) Property Trust established by The Salvation Army (Victoria) Property Trust Act 1930 of the State of Victoria.

will includes codicil and every other testamentary disposition.

4 Incorporation

(1) There is established by this Act a body corporate by the name of "The Salvation Army (Northern Territory) Property Trust".

(2) The Trust:

(a) has perpetual succession and a common seal;

(b) subject to this Act, may acquire, hold, and dispose of and manage, control and deal with real and personal property;

(c) may sue and be sued in its corporate name; and

(d) has such other incidental powers as a body corporate may by law have.

(3) All courts, judges or persons acting judicially shall take judicial notice of the common seal of the Trust affixed to a document and shall presume that it was duly affixed.

5 Number and appointment of Trustees

(1) The Trust shall consist of the Trustees.

(2) The General may, by instrument in writing, appoint a person to be a Trustee.

(3) The number of Trustees holding office at any one time shall be not less than 5 nor more than 7.

(4) The exercise of the functions or powers of the Trust is not affected by reason only that the number of Trustees is less than 5, provided that it is not less than 3.

(5) The General shall cause the names of the first Trustees to be published in the *Gazette* as soon as practicable after the passing of this Act.

6 Common seal

(1) A Trustee appointed by the Trust, or the secretary, shall have the custody of the common seal of the Trust.

(2) The form of the common seal and all other matters relating to it shall be determined by the Trust.

7 Exercise of power by Trust

The Trustees, or any 3 of them, acting in pursuance of a resolution of the Trust, may exercise any power conferred by this Act on the Trustees or the Trust.

8 Quorum

At a meeting of the Trust 3 Trustees shall constitute a quorum.

9 Removal and appointment of Trustees

(1) The General may, in writing, remove a Trustee from office.

(2) A Trustee may by notice in writing given to the Trust resign as Trustee.

(3) Where a Trustee, either original or substituted:

(a) dies;

(b) is removed from office under subsection (1); or

(c) resigns,

the General shall, as soon as practicable, appoint another person to be a Trustee in place of that Trustee.

10 Vesting of property in Trust

(1) All real and personal property which, immediately before the commencement of this Act, is situated in the Territory and held by the Victorian Trust shall, upon that commencement, without any formal assignment, transfer or other documentation, vest in the Trust subject to the same trusts upon which that property was held immediately before the commencement of this Act.

(2) Where any property which was before the commencement of this Act vested in the Victorian Trust is land registered in the name of the Victorian Trust in the land register under the *Land Title Act*, the Registrar-General shall, without formal transfer and without fee, on application in that behalf in writing by one of the Trustees, do all things required by that Act and Ordinance as are necessary to

register the Trust as the proprietor of that property.

(3) Upon registration being affected in accordance with subsection (2), the Registrar-General shall release to a Trustee on behalf of the Trust or to the Trust such appropriate documents of its title to the land as are provided for under the *Land Title Act*.

(4) Where, under any law in force in the Northern Territory, the Victorian Trust, a person or an unincorporated body is, immediately before the commencement of this Act, registered or recorded as the owner of personal property or an interest in personal property, in the Territory, the person whose duty it is to keep the register or record of ownership shall, without fee or formal application, at the request of any one of the Trustees, enter the Trust in the register or record book as the owner of that item of personal property or interest.

11 Trust property now held

(1) All real or personal property, vested in the Trust shall, so far as it is not subject to any express trust, be held for the general purposes of The Salvation Army and dealt with in accordance with and subject to such of the trusts, powers and provisions of the Deed of Constitution and the first deed poll as are applicable to those general purposes.

(2) All real or personal property held for the Social Work of The Salvation Army shall be held and dealt with in accordance to the trusts, powers and provisions of the second deed poll.

(3) Notwithstanding subsections (1) and (2), a person dealing with the Trust shall not be bound to inquire into the propriety or necessity of a dealing by the Trust with property held by it.

(4) The Trust may, with the consent of the General, enlarge, modify, vary or alter the trusts upon which for the time being any of the property of the Trust is held.

(5) All property shall, subject to any express trust and to any enlargement, modification, variation or alteration from time to time applicable, be held upon either one or other of the trusts mentioned in subsections (1) and (2).

(6) Subsections (4) and (5) apply to property the subject of an express trust (not being one contained in any of the deeds poll) but only to the extent (if any) and subject to the conditions (if any) in accordance with which that trust could have been altered if this Act has not been passed.

12 Power to mortgage

The Trust may borrow money and, for that purpose, may mortgage or charge all or any real or personal property for the time being vested in it.

13 Limitation on securing debts

No debt incurred for the general purposes of The Salvation Army shall be secured upon any property which is for the time being held upon trust for the Social Work of The Salvation Army, and money raised on any property which is for the time being held upon trust for the Social Work of The Salvation Army shall be used only for the purposes of the Social Work.

14 Power to sell

The Trust may sell any real and personal property vested in it in such manner and on such terms and conditions as the Trustees may deem fit, and may convey, transfer or assign the property sold to the purchaser or to whomever he may direct and the property sold shall thereupon be absolutely freed and discharged from the trusts affecting it.

15 Receipts for mortgage and purchase moneys, &c.

(1) A receipt in writing of a majority of the Trustees, or of any person authorized by the Trust in writing to receive moneys for money borrowed or mortgage money raised on property mortgaged by the Trust, or for the purchase money of any property sold by the Trust, or for any other moneys payable to the Trust, shall exonerate the mortgagee, the purchaser and all other persons for the time being paying moneys to the Trust, or to the person authorized to receive the moneys:

(a) from seeing to the application of the moneys;

(b) from all liability as to the misapplication or non-application of the money; and

(c) from inquiring into the propriety or necessity of any mortgage or sale, lease or other dealing.

(2) This section shall be read in aid of and not in derogation from any other protection afforded to any lender, mortgagee, purchaser or person by any other law in force in the Territory.

16 Proceeds of sale of real or personal property held for the social work

The proceeds of the sale of any real or personal property held for the purpose of the Social Work of The Salvation Army shall be devoted to the purposes of the Social Work and the Trust may for these purposes purchase or otherwise acquire with the proceeds any property real or personal.

17 Meetings of Trustees, minutes, &c.

(1) For the purposes of carrying out the powers, functions, duties and obligations of the Trust, the Trustees shall hold regular meetings, and shall cause minutes to be kept of their proceedings and their resolutions, which shall at all times be open for inspection by the General or any person appointed by him.

(2) The Trust may regulate the time and place of its meetings and the procedure to be followed at the meetings.

(3) A decision of the majority of Trustees at a meeting of the Trust shall be a decision of the Trust.

(4) The Trust shall keep a register of all lands vested in the Trust and shall indicate in this register which lands are held for the general purposes of The Salvation Army and which are held for the Social Work of The Salvation Army.

18 Appointment of officers: evidence of resolutions

(1) The Trust may appoint officers and a certificate under the seal of the Trust of the appointment of a secretary or other officer is prima facie evidence and, in favour of the Crown, the Registrar-General, and every person who deals for value with the Trust, is conclusive evidence of his appointment.

(2) A certificate, signed by the secretary for the time being of the Trust, as to who are the persons for the time being constituting the Trust, and a certificate of the secretary certifying to any resolutions of the Trust, is prima facie evidence and, in favour of the Crown, the Registrar-General and every person who deals for value with the Trust, is conclusive evidence as to who are the Trustees for the time being, and of any resolution (as the case may be).

(3) Judicial notice shall be taken of the signature of the secretary for the time being appearing on every certificate given under this section.

19 Vesting in trust of property given or devised, &c., for the benefit of The Salvation Army

(1) When by a will, deed, or other instrument or by a gift or disposition of property made before, but not taking effect until after, the commencement of this Act, or by a will, deed or other instrument, or by a gift or other disposition of property, made after the commencement of this Act, real or personal property has been or is devised, bequeathed, or given to or for the benefit of The Salvation Army in the Territory, or to or for the benefit of any of its funds, or of any department of its work, or of a branch, corps, auxiliary, or institution of The Salvation Army in the Territory, that real and personal property shall vest in the Trust.

(2) Subsection (1) does not apply to real or personal property devised, bequeathed, or given to specific Trustees upon trust for The Salvation Army or for any of its funds, departments, branches, corps, auxiliaries or institutions.

20 Construction of wills, &c.

(1) Use in a will, deed or other instrument, or in a gift or disposition of real or personal property, of the words "Salvation Army", or of a reference to the funds of The Salvation Army, or to a department of its work, or a branch, corps, auxiliary or institution of The Salvation Army shall, when it relates to or is concerned with, real or personal property in the Territory, be construed, so far as the context allows, as a reference to the Trust or the particular fund, department, branch, corps, auxiliary or institution (as the case may be) of The Salvation Army in the Territory, and the will, deed, instrument, gift or disposition shall operate and take effect accordingly.

(2) Where, pursuant to the operation of subsection (1) real or personal property is held on trust for the Trust, the Trustees may call for the transfer, assignment or delivery of the property to the Trust.

(3) An acknowledgement or receipt for the property given by the Trustees, or any person authorized by them, is a sufficient discharge.

21 Delegation of powers by the General

(1) The General may, by writing under his hand, delegate any of his powers under this Act (except the power of delegation).

(2) A power so delegated may be exercised by the delegate in accordance with the instrument of delegation.

(3) A delegation under this section does not prevent the exercise of a power by the General.

22 Saving of rights

(1) Nothing contained in or done under this Act shall affect prejudicially, or deprive any person of, a right which if this Act had not been passed, might have been enforceable against the General or his predecessors in office.

(2) A right to which subsection (1) refers may, so far as it relates to any property vested in the Trust pursuant to this Act, be enforced against the Trust.

23 Additional powers

Without limiting the generality of the powers conferred on the Trust by this Act, the Trust may in the exercise of its functions have the further powers of:

(a) receiving and holding money; and

(b) operating accounts with ADIs; and

(c) employing servants.

24 Vesting of rights of the General in the Trustees

Rights relating to real or personal property held in trust for or, pursuant to this Act, vested in the Trust, which were, at the time of his death in William Bramwell Booth (referred to in the second deed poll) or immediately before the commencement of this Act, were in the General:

(a) by this Act are vested in the Trust; and

(b) may be enforced by it in the same manner as William Bramwell Booth, if he were still living, or the General (as the case may be) might have enforced them if this Act had not been passed.

ENDNOTES

1 KEY

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz* = *Gazette
hdg = heading
ins = inserted
lt = long title
nc = not commenced
od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2 LIST OF LEGISLATION

***Salvation Army (Northern Territory) Property Trust Ordinance 1976* (Act No. 23, 1976)**

Assent date	28 June 1976
Commenced	3 December 1976 (*Gaz* No. 49, 3 December 1976, p 1346)

***Financial Institutions (Miscellaneous Amendments) Act 1997* (Act No. 23, 1997)**

Assent date	2 June 1997
Commenced	2 June 1997

***Territory Insurance Office (Miscellaneous Amendments) Act 1998* (Act No. 37, 1998)**

Assent date	27 May 1998
Commenced	27 May 1998

***Land Title (Consequential Amendments) Act 2000* (Act No. 45, 2000)**

Assent date	12 September 2000
Commenced	1 December 2000 (s 2, s 2 *Land Title Act 2000* (Act No. 2, 2000) and *Gaz* G38, 27 September 2000, p 2)

***Statute Law Revision (Financial Provisions) Act 2002* (Act No. 38, 2002)**

Assent date	13 September 2002
Commenced	30 October 2002 (*Gaz* G43, 3 October 2002, p 3)

***Statute Law Revision Act 2017* (Act No. 4, 2017)**

Assent date	10 March 2017
Commenced	12 April 2017 (*Gaz* G15, 12 April 2017, p 3)

3 LIST OF AMENDMENTS

s 10	amd No. 45, 2000, s 11
s 23	amd No. 23, 1997, s 6; No. 37, 1998, s 4; No. 38, 2002, s 6; No. 4, 2017, s 34