



ANNO DECIMO OCTAVO

ELIZABETHAE II REGINAE

A.D. 1969

No. 65 of 1969

An Act to repeal the Boy Scouts Association—South Australian Branch—Incorporation Act, being a private Act of the year 1940, and to enact other provisions relating to the Boy Scout Movement in South Australia.

[Assented to 4th December, 1969.]

WHEREAS The Boy Scouts Association, South Australian Branch was incorporated in South Australia in the year 1940 by the Boy Scouts Association—South Australian Branch—Incorporation Act, and at the time of incorporation was an overseas branch of The Boy Scouts Association incorporated in the United Kingdom by Royal Charter :

Preamble.

AND WHEREAS the said South Australian Branch subsequently became by agreement a Branch of an unincorporated Association inaugurated on the fifteenth day of December nineteen hundred and fifty-eight and called The Australian Boy Scouts Association :

AND WHEREAS on the twenty-third day of August nineteen hundred and sixty-seven Her Majesty the Queen by Royal Charter ordained that The Australian Boy Scouts Association should be a body corporate and that The Boy Scouts Association, South Australian Branch should be a branch of The Australian Boy Scouts Association so incorporated :

AND WHEREAS by reason of the incorporation of The Australian Boy Scouts Association and the provisions of the Royal Charter it is expedient to repeal the Boy Scouts Association—South Australian Branch—Incorporation Act and enact other provisions relating to the Boy Scout Movement in South Australia :

BE IT THEREFORE ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :—

Short title.

1. This Act may be cited as “The Australian Boy Scouts Association, South Australian Branch, Act, 1969”.

Repeal.

2. The Boy Scouts Association—South Australian Branch—Incorporation Act, being a private Act of the year 1940, is repealed.

Interpretation.

3. (1) In this Act unless the contrary intention appears—

“the Association” means The Australian Boy Scouts Association, being the body corporate created by the Royal Charter :

“the Branch” means The Australian Boy Scouts Association, South Australian Branch, being the branch which was incorporated by the repealed Act and is by this Act re-named The Australian Boy Scouts Association, South Australian Branch :

“the Branch Council” means the Council which, by the Constitution, is required to govern the Branch :

“the Constitution” means the Constitution of the Branch as in force for the time being together with any amendments thereof and additions thereto :

“controlled group” means a group registered with the Branch as a controlled group by any organization approved by the Association or the Branch :

“controlling authority” means the person or committee appointed by a controlled group to exercise its functions in respect of that group :

“property” means property of every kind, including rights, interests and privileges :

“the Royal Charter” means the Charter granted by Her Majesty the Queen on the twenty-third day of August nineteen hundred and sixty-seven by which The Australian Boy Scouts Association was incorporated :

“the repealed Act” means the Boy Scouts Association—South Australian Branch—Incorporation Act, being a private Act of the year 1940.

(2) This Act shall not be construed so as to take away or restrict any function or power of the Branch—

(a) to organize, control, and manage a Boy Scout Movement in any place other than South Australia if so authorized by the Association or the Royal Charter;

or

(b) to make any rules or regulations, or to do, execute or perform any act, matter or thing for the purpose of such organization and control.

4. (1) Notwithstanding the Royal Charter, The Boy Scouts Association, South Australian Branch, shall continue in existence as a body corporate without change of corporate identity, but is hereby re-named The Australian Boy Scouts Association, South Australian Branch, and shall be constituted in accordance with and be subject to this Act and the Royal Charter.

Continuance of
incorporation
of Branch.

(2) The persons who are members of the Branch Council at the time of the passing of this Act or who subsequently become such members shall, while they remain such members, constitute the Branch.

(3) The Branch shall have perpetual succession and a common seal and in its corporate name shall be capable of being a party to legal proceedings of any kind, and of purchasing, taking, holding, selling, mortgaging, leasing, taking on lease, exchanging and disposing of property of any kind.

5. (1) The Branch Council may at any duly convened annual or special meeting adopt a constitution of the Branch containing provisions with respect to all or any of the following matters :—

Constitution
and
regulations.

(a) the appointment, retirement and removal of members, officers and employees of the Branch ;

(b) the performance of the duties and functions of the Branch and of any members, officers or employees thereof ;

(c) committees of the Branch, or of the Branch Council and sub-committees of any such committee, and the powers, duties and functions of any such committee or sub-committee ;

(d) meetings of members of the Branch Council or any such committee or sub-committee ;

(e) property of the Branch ;

(f) the making of regulations relating to the proper conduct, organization, and management of the Branch or of areas, districts, groups or bodies of Boy Scouts in South Australia ;

and

(g) providing for any matters incidental to those previously mentioned in this section and any other matters necessary or convenient to be provided for in order to enable the Branch to organize, control and manage the Boy Scout Movement in South Australia.

(2) The Branch Council may at any duly convened annual or special meeting—

(a) amend or add to the Constitution ;

or

(b) revoke the Constitution and adopt another Constitution in its place.

(3) A meeting shall not be deemed to be duly convened for the purpose of adopting or amending or adding to the Constitution unless written notice of the time and place and purpose of the meeting is given to each member of the Branch Council at least twenty-one days before the date of the meeting and a copy of the proposed Constitution or amendment or addition is sent to each member with the notice.

(4) The Constitution of the Branch, as it existed at the commencement of this Act, shall, subject to any amendments thereof or additions thereto, be the Constitution of the Branch until some other Constitution is adopted.

**Change of
names.**

6. (1) The Branch Council may, by the Constitution or any amendment thereof, or addition thereto, do any one or more of the following things namely :—

(a) change the name of the Branch and consequently that of the Branch Council ;

(b) declare that some other designation shall be used instead of the designation Boy Scout ;

and

(c) provide for any matter or thing necessary or convenient to be provided for as a consequence of any such change of name or designation.

(2) A change of name shall not affect the identity, or the rights, powers, privileges or obligations of the Branch or the Branch Council and any legal proceedings which might have been continued or commenced by or against the Branch or the Branch Council by its former name may be continued or commenced by or against it by its new name.

(3) If the designation Boy Scout is altered pursuant to this section, every reference in this Act to a Boy Scout or to Boy Scouts shall, unless the context otherwise requires, be construed as if the altered designation were inserted in its place.

7. The Branch shall—

**Powers of
the Branch.**

(a) control the Boy Scout Movement in South Australia ;
and

(b) have power to do all things which it deems necessary
or convenient for providing and maintaining an
efficient organization for the purposes of The
Association in South Australia, including and
without restricting the generality of this section the
power to perform and exercise all such duties and
powers as are conferred on it by the Constitution.

8. (1) Any person—

**Transfer, etc.,
of properties
to the Branch.**

(a) who at the commencement of this Act holds ;

or

(b) who hereafter acquires ;

or

(c) to whom is or has been given, devised or bequeathed,

any property in South Australia upon trust for or on behalf of
or for the benefit of the Association or the Branch or the
Branch Council or any council association, group or body
formed under the Policy Organization and Rules of the
Association, or any committee thereof, in South Australia shall,
if and when required by notice in writing from the Branch so
to do, transfer, convey and assign that property to the Branch
at its cost, but subject to any conditions or trust upon which the
property is held, acquired, given, devised or bequeathed.

(2) Any notice requiring the transfer, conveyance or assign-
ment of any such property—

(a) shall be signed by the secretary of the Branch or other
authorized officer of the Branch ;

and

(b) shall be deemed to have been properly served upon
and received by the person or persons to whom it is
addressed at the expiration of three days after it
has been forwarded by registered post addressed to
such person or, in the case of joint owners or owners
in common, to one of them, at his usual or last
known place of residence in South Australia.

(3) Upon service of any such notice as aforesaid the right
to call for a transfer, conveyance or assignment of the property
in respect of which it has been given shall, subject to any
conditions and trusts upon which it is held, immediately vest

in the Branch but property vested in, held by or on behalf of, or which is given, devised or bequeathed to, a controlled group shall, subject to any express trust affecting the property, be held in trust for such purpose and be disposed of in such manner as the controlling authority of the group from time to time determines.

(4) Any person, organization or controlling authority served with any such notice as aforesaid may apply by summons to a judge of the Supreme Court for an order that any such transfer, conveyance or assignment of any such property shall be subject to such terms and conditions as the judge determines to be just and equitable having regard to all the circumstances of the case.

(5) If the person, organization or controlling authority holding as aforesaid any property the legal interest in which is transferable or assignable by deed or other document in writing, refuses or neglects, after service upon him or it of a notice requiring him or it so to do, to execute a transfer, conveyance or an assignment thereof to the Branch or if the whereabouts of any such person is unknown—

(a) the Branch may apply by summons to a judge of the Supreme Court for an order directing the Master of the Supreme Court to execute for and on behalf of such person, organization or controlling authority a transfer, conveyance or an assignment of such property to the Branch ;

and

(b) upon proof to the satisfaction of such judge—

(i) that such property is held by such person, organization or controlling authority upon trust for or on behalf of or for the benefit of the Association or the Branch or any council association group or body formed as aforesaid or any committee thereof as aforesaid ;

and

(ii) that notice as aforesaid requiring such person, organization or controlling authority to transfer, convey or assign such property has been given in manner herein provided ;

and

(iii) that such person, organization or controlling authority refuses or neglects to execute

such transfer, conveyance or assignment as aforesaid or that the whereabouts of such person is unknown,

the judge may make such order and the said Master shall thereupon do and perform all such acts and things as may be necessary to transfer, convey or assign such property to the Branch but subject, as to real property, to any charge, mortgage, lease or easement then affecting it and to the trusts on which it was held by such person, organization or controlling authority.

(6) Any person in South Australia who has at any time acquired property by using the name of the Association or the Branch or of any council, association, group or body formed as aforesaid and who is in possession of or otherwise holds such property shall be deemed to be a person holding such property upon trust for or on behalf of or for the benefit of the Association or the Branch or the council, association, group or body formed as aforesaid.

(7) Any liabilities in respect of any property which becomes vested in the Branch by virtue of this section may thereupon be enforced against the Branch.

(8) Any rights accrued or accruing or to accrue to any person in South Australia on behalf of the Association are hereby vested in and may be enforced by the Branch.

9. The Branch shall deal with or dispose of the property vested in the Branch in such manner, subject to any special trust affecting the property, as the Executive Committee appointed under the Constitution thinks fit, but subject in the case of a mortgage or sale of real property to the following conditions, namely :—

Mode of
dealing with
property.

- (a) any proposed mortgage or sale of real property shall be submitted to an ordinary meeting of the Executive Committee, and shall be specially mentioned in the notice convening the meeting ;
- (b) if the proposed mortgage or sale is approved of by not less than two-thirds of those present at the meeting of the Executive Committee to which the proposal is submitted it may be carried into effect by the Executive Committee ;
- (c) a copy of the resolution of the Executive Committee directing the mortgage or sale if sealed with the seal of the Branch shall be conclusive evidence in

favour of any person claiming by, through or under such mortgage or sale that such resolution has been duly passed in compliance with the provisions of this Act, and of the Constitution ;

and

(d) no purchaser or mortgagee shall be bound to see to the application of any moneys paid by him.

Powers and
duties as to
aid granted.

10. The Branch shall receive all gifts, grants of money or contributions made by the Government of South Australia or by any municipality, district council, incorporated body, society or person to the Association or the Branch, and shall apply them in accordance with the terms, provisions and conditions of such gifts, grants or contributions ; or if there are no such terms, provisions or conditions, or they are or become impossible of performance, then in accordance with the objects of the Association.

Certified copy
to be evidence.

11. (1) If after the commencement of this Act any Royal Charter is granted which relates to the Association or the Branch, or if any change is made in the Constitution, a copy of that Charter or the document changing the Constitution certified under the seal of the Branch, shall be lodged in the office of the Registrar of Companies who shall register the copy under the provisions of the Associations Incorporation Act, 1956-1965.

(2) The production of a copy of any instrument so registered, certified by the Registrar of Companies, shall be received in all courts as *prima facie* evidence of the contents of the instrument.

Common seal.

12. (1) The Executive Committee appointed under the Constitution may design, change or alter the common seal of the Branch.

(2) The seal shall be in the custody of the Branch secretary and shall not be affixed to any document except pursuant to a resolution of the Executive Committee.

(3) The affixing of the seal to any document shall not be complete without the signature of three members of the Executive Committee.

(4) It shall not be necessary to affix such seal to any document by which the Branch appoints an attorney, solicitor or proctor in or for the prosecution or defence of any action, suit or other proceeding.

13. A person shall not falsely pretend—

False
pretences.

- (a) that he or any other person is a Boy Scout or a member, officer or employee of the Association, the Branch or any council or committee thereof, or is authorized to collect money or goods or otherwise act on behalf of the Association, the Branch or any such council or committee ;

or

- (b) that any society or group of persons is the Association, the Branch or a council or committee thereof.

Penalty : Fifty dollars.

14. (1) For the purpose of this section any uniform, badge, emblem, decoration or mark which is similar to, or a colourable imitation of, a uniform, badge, emblem, decoration or mark ordinarily worn by Boy Scouts or members of the Association in the course of their activities or duties as such members, shall be deemed to be a Boy Scout uniform, emblem, badge, decoration or mark, as the case may be.

Unauthorized
wearing of
uniforms,
badges, etc.

(2) A person shall not except with the authority of the Branch—

- (a) wear any Boy Scout uniform, emblem, badge, decoration or mark ;

or

- (b) sell any Boy Scout emblem or badge.

Penalty : Fifty dollars.

15. Notice to or service upon the branch secretary or acting branch secretary of the Branch shall be deemed to be a notice to or service upon the Branch and the Branch Council.

Service upon
the body
corporate.

16. Proceedings for offences against this Act shall be disposed of summarily.

Summary
proceedings.

In the name and on behalf of Her Majesty, I hereby
assent to this Bill.

J. W. HARRISON, Governor.