VICTORIA

ANNO TERTIO DECIMO

ELIZABETHÆ SECUNDÆ REGINÆ

No. 7115.

An Act to ratify and approve a certain Deed of Trust relating to certain Assets held on Trusts declared by the State War Council of Victoria and for other purposes.

[22*nd April*, 1964.]

Preamble. WHEREAS William Henry Hall, Cuthbert Oswald Harry, Henry Donath, Norman David Wilson, Francis James Eric Gyngell, and Norman Stanley Osborne (hereinafter called the "trustees") are possessed of the assets set out in the Schedule to the Trust Deed contained in the Schedule to this Act upon the trusts declared in the Declaration of Trust dated the tenth day of June One thousand nine hundred and nineteen made by the State War Council of Victoria :

And whereas doubts have arisen as to whether the benefits declared by that Declaration of Trust should be limited to the widows and widowed mothers of sailors and soldiers of the Great War of 1914–1918 or should be extended to the widows and widowed mothers of servicemen of any prior or subsequent wars :

And whereas the trustees with the approval of the Patriotic Funds Council of Victoria have executed a further trust deed dated the nineteenth day of February One thousand nine hundred and sixty-four for the purpose of setting such doubts at rest and clarifying the trusts and conditions on which the assets are to be held :

And

And whereas the further trust deed is expressed to be subject to the approval of an Act of the Parliament of Victoria :

And whereas it is expedient to approve and validate the further trust deed a copy of which is set out in the Schedule to this Act :

Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say) :—

Short title.

1. This Act may be cited as the *R.S.L. Widows and Widowed Mothers' Trust Patriotic Fund Act* 1964.

Ratification and approval of trust deed.

2. (1) The execution of the trust deed contained in the Schedule to this Act is hereby ratified and the trusts therein contained are hereby approved and shall be carried into effect by the trustees.

(2) The assets referred to in the Schedule to the said trust deed shall be subject to the trusts set forth in the said trust deed and to no others.

SCHEDULE.

SCHEDULE.

TO ALL TO WHOM THESE PRESENTS SHALL COME WILLIAM HENRY HALL of 112 Kooyong-road Caulfield in the State of Victoria CUTHBERT OSWALD HARRY of 1A Westminster-street Balwyn in the said State HENRY DONATH of 1A Waiora-road Caulfield in the said State NORMAN DAVID WILSON of 7 Bennett-parade East Kew in the said State FRANCIS JAMES ERIC GYNGELL of 21 Burns-street Elwood in the said State and NORMAN STANLEY OSBORNE of 201 Gower-street Preston in the said State (hereinafter called "the Trustees") SEND GREETING :

WHEREAS these presents are supplemental to a certain Declaration of Trust (hereinafter referred to as "the Principal Deed") dated the tenth day of June One thousand nine hundred and nineteen and made by the State War Council of Victoria declaring the trusts and conditions upon which the sum of £10,096 contributed to such Council by the unincorporated body then known as the Returned Sailors and Soldiers Imperial League of Australia (Victorian Branch) for the benefit of sailors and soldiers widows and widowed mothers and any additions to such sum should be administered AND WHEREAS the Trustees are the present Trustees of the Principal Deed AND WHEREAS short particulars of the Trust Fund now subject to the trusts and conditions of the Principal Deed are set out in the Schedule hereunder written AND WHEREAS doubts have arisen as to whether the benefits declared by the Principal Deed should be limited to the widows and widowed mothers of sailors and soldiers of the Great War of 1914–1918 or should be extended to the widows or widowed mothers of servicemen of any prior or subsequent wars AND WHEREAS for the purpose of setting such doubts at rest and clarifying the trusts and conditions on which the Trust Fund is to be held the Trustees are desirous (subject to the approval of an Act of the Parliament of Victoria) of executing these presents and declaring the trusts and conditions hereinafter contained NOW THESE PRESENTS WITNESS and the Trustees hereby declare that as from the date of the approval of this Deed by the Parliament of the State of Victoria the Trust Fund shall be held upon the trusts and upon and subject to the conditions and provisions hereinafter contained to the exclusion of those declared by the Principal Deed that is to say :—

1. In the reading and construction of these presents unless the context otherwise requires the following words and expressions shall have the following meanings :—

"THE TRUST FUND" means and includes the freehold properties particulars of which are set out in the Schedule hereunder written and all other real and personal property (including moneys) from time to time held by or on account of the Trustees for the purposes of the trusts herein declared and the investments for the time being representing the same and the income arising from such investments.

"THE TRUSTEES" means the Trustees for the time being of this Deed.

"RETURNED SERVICEMAN" and "RETURNED SERVICEMEN" shall mean and include any person who having been appointed enlisted or enrolled in any service of or service auxiliary to the Naval Military or Air Forces of the Commonwealth of Australia the United Kingdom of Great Britain and Northern Ireland or any other part of the Queen's Dominions and having served in a theatre of war or operational area in any war or warlike operation in which Her Majesty or any of her predecessors or (as the case may be) successors or the Commonwealth of Australia has at any time been or may hereafter be engaged.

2. The name of the Fund shall be "The R.S.L. Widows and Widowed Mothers' Trust Patriotic Fund."

3. (*a*) The number of Trustees of the Fund shall be six of whom three shall be appointed and be subject to removal by the Patriotic Funds Council of the State of Victoria and three shall be appointed and subject to removal by the Victorian Branch of the Returned Sailors Soldiers and Airmens Imperial League of Australia.

SCHEDULE—*continued.*

(*b*) Any notification in writing of the appointment or removal of a Trustee signed by the Chairman and Secretary of the Patriotic Funds Council of Victoria or by the President and Secretary of the Victorian Branch of the Returned Sailors Soldiers and Airmens Imperial League of Australia as the case may require addressed and delivered to the Secretary of the Trust Fund shall be conclusive proof of the appointment and/or removal as the case may be of the person or persons named in such notice.

(*c*) The present Trustees of the Trust Fund are—Cuthbert Oswald Harry, William Henry Hall and Francis James Eric Gyngell who have been appointed by the Patriotic Funds Council of Victoria and Norman David Wilson, Henry Donath and Norman Stanley Osborne who have been appointed by the Returned Sailors Soldiers and Airmens Imperial League of Australia.

(*d*) The Trustees shall have power to act notwithstanding any vacancy in their body.

4. The Trustees shall hold the Trust Fund upon trust to purchase take on lease or otherwise acquire lands buildings and other improvements and to erect any such buildings and improvements as the Trustees in their absolute discretion may think proper and to use such lands buildings and improvements for the purpose of providing homes and other accommodation for widows and widowed mothers of deceased servicemen in the following order of preference :

Firstly—for widows or widowed mothers of deceased returned servicemen of the Great War of 1914–1918 whose death was in the opinion of the Trustees due to war service.

Secondly—for widows or widowed mothers of deceased servicemen of the Great War 1914–1918 whose death in the opinion of the Trustees was not due to war service.

Thirdly—for the widows or widowed mothers of deceased servicemen of any prior or subsequent wars.

5. The Trustees may let all or any of the lands and buildings aforesaid or any parts thereof or lease the same or allow the same to be permissively occupied with or without rent or other payment or otherwise for such period or periods and on such terms and conditions as the Trustees having regard to the circumstances of the particular case may decide and the Trustees may re-enter or resume possession of any building or portion thereof so let leased or occupied when and as they may think fit in their absolute discretion and may in particular cases where they consider circumstances warrant the same transfer any land and buildings to the widow or widowed mother of a deceased serviceman for such consideration or without any consideration as they may think fit.

6. The Trustees shall have the power when and as they may think fit to sell all or any part of the Trust Fund ; and for this purpose they shall have all the powers conferred by law on Trustees holding property upon trust for sale.

7. All moneys for the time being forming part of the Trust Fund shall be forthwith paid to the credit of the Trustees at the bank of the Trust and such moneys forming part of the Trust Fund as shall not be immediately required for the purchase or acquisition of land or the erection of buildings or otherwise for the purposes of the trust or for the expenses of the administration of the trust may be invested by the Trustees in such investments as Trustees are allowed by law from time to time to make or on deposit with any savings bank carrying on business in the said State of Victoria.

8. The lands and investments for the time being forming part of the Trust Fund may if the Trustees think fit be vested in three holding Trustees (who shall be appointed and be subject to removal by the Trustees but who need not themselves be Trustees of this Deed) or in a body corporate subject to such terms and conditions as the Trustees may think proper. The said holding Trustees or (as the case may be) body corporate shall comply with any directions in writing given to them or it by the Trustees.

SCHEDULE—*continued.*

9. The trustees shall have the following powers in relation to any land under their control and to the erection and maintenance of buildings and other improvements :—

(*a*) To enter into contracts ;

(*b*) To subdivide land ;

(*c*) To buy or acquire all building material and other goods required for the erection maintenance and upkeep of such buildings and other improvements ;

(*d*) To employ and remunerate architects surveyors engineers builders and all officers servants and workmen deemed necessary in connexion therewith ;

(*e*) To alter repair extend pull down and re-erect existing buildings ;

(*f*) To make and contribute to making drains roads and other public or private utilities ;

(*g*) To pay rates and taxes and effect insurances ;

(*h*) To employ all such persons and do all such things as are necessary or expedient for the proper management and control care and maintenance of the land buildings and other improvements thereon.

10. The Trustees shall have the following general powers :—

(*a*) To open and operate banking accounts and to determine the method by which cheques on their behalf shall be signed from time to time.

(*b*) To employ such officers and employees and to pay such salaries and wages as may be necessary.

(*c*) To make rules and regulations for the management of the Trust Fund and for the use occupation conduct and sale of the lands buildings and improvements for the time being forming part of the Trust Fund and from time to time to revoke alter vary or add to any such rules and regulations provided always that no such rule or regulation shall have any validity unless first approved by the Patriotic Funds Council of Victoria.

(*d*) To borrow money and to authorize and empower the holding Trustee or Trustees to mortgage as security therefor the whole or any part of the Trust property and to sign seal and deliver and execute any mortgage lien or other document in connexion therewith and whether under the Transfer of Land Act or otherwise.

(*e*) To appeal to the public for donations and to organize collections.

(*f*) To accept donations of moneys materials land or other property whether or not subject to any special conditions and to administer the same in accordance with any special conditions attaching to any donation provided the same shall be for the benefit of widows and widowed mothers of deceased servicemen.

(*g*) To employ and remunerate all solicitors brokers estate agents and such other agents as the Trustees may deem necessary from time to time.

(*h*) To pay all costs expenses and outgoings of whatsoever nature incurred or to be incurred in or about the execution of the trusts hereof.

(*i*) To appoint committees consisting of suitable persons to act as committees of assistance in particular districts with a view to assisting in the administration of the Trust Fund.

(*j*) To subscribe or assist with money by way of gift or loan or otherwise assist other persons or corporations providing homes for widows or widowed mothers of deceased servicemen.

(*k*) To do all acts and things in their discretion connected with or ancilliary to the exercise of the above powers and such other powers as may from time to time be conferred upon them by the Patriotic Funds Council of Victoria.

SCHEDULE—*continued.*

11. The following provisions shall govern all meetings of Trustees :—

(*a*) At their first meeting and upon the expiration of each successive period of twelve months thereafter the Trustees shall elect a Chairman and a Deputy Chairman who shall hold office for twelve months if they shall so long remain Trustees. In case the Chairman or Deputy Chairman so elected shall cease to be a Trustee or die then the Trustees at their next meeting shall elect a Chairman or Deputy Chairman who shall hold office until the expiration of the period of twelve months for which the Trustee so ceasing to be a Trustee or dying shall have been appointed. In case the Chairman and Deputy Chairman shall be absent from any meeting the Trustees present at such meeting shall elect one of their number to be the Acting Chairman for such meeting. The Chairman or Deputy or Acting Chairman at every meeting shall have a vote and if there be an equal division in the voting shall also have a casting vote.

(*b*) The decision of the majority of the Trustees or in case there shall be an equal division in the voting the casting vote of the Chairman present at any meeting shall bind the other Trustees whether present or not and shall be as valid as if the Trustees had acted unanimously.

(*c*) Ordinary meetings shall be convened at least six times in every year by seven days' notice in writing setting out the business to be transacted thereat and posted to the last known address of each Trustee or delivered to him personally.

(*d*) Any one Trustee may require the Secretary or Chairman to convene a special meeting and same shall be convened within four days by notice posted or delivered as aforesaid.

(*e*) A minute book shall be kept of all meetings and proceedings thereat.

(*f*) The Trustees may from time to time determine the quorum necessary for the transaction of business and unless otherwise determined a majority of Trustees shall constitute a quorum.

12. The Trustees shall appoint an Auditor whose duty it shall be to make an annual audit of all accounts of the Trust Fund and the administration thereof and who shall prepare and lay before the Trustees an annual statement of receipts and expenditure and a balance-sheet of the Trust Fund together with a report if he shall deem the same necessary.

13. A Trustee shall not (except in the case of his own wilful default) incur any personal liability by reason of anything done or purported to be done under this deed and (save as aforesaid) each Trustee shall be indemnified out of the Trust Fund of which he is a Trustee in respect of all claims demands actions or damages arising out of or connected with any of his acts or omissions in relation to the said Trust Fund.

14. No persons making any purchase from or effecting any sale to or entering into any mortgage or having any other dealings whatsoever with the Trustees shall be concerned to inquire into the terms of the Trust or as to whether any acts or act of the Trustees was within such terms or not and no such person shall be affected by any constructive notice that any purchase sale mortgage or other act of the Trustees was not within their powers as hereinbefore set out.

IN WITNESS whereof this Deed has been duly executed the nineteenth day of February One thousand nine hundred and sixty-four.

SCHEDULE

SCHEDULE—*continued.*

SCHEDULE HEREINBEFORE REFERRED TO.

List of assets of the Fund as at 1st January, 1963, the last date at which the books have been audited.

Properties.	*Year Built or Purchased.*	£	*s.*	*d.*
260 Williams-road, Toorak	1952	28,360	7	1
58 Edwin-street, West Heidelberg	1957	40,858	15	3
160 Waterdale-road, Ivanhoe	1958	30,318	13	6
162 Waterdale-road, Ivanhoe	1958	30,318	13	6
12 Donaldson-street, Ivanhoe	1962	48,545	0	0
14 Donaldson-street, Ivanhoe	1961	64,701	3	1
153 Manning-road, East Malvern	All of these cottages were bought about 1920	3,152	0	0
21 Robb-street, Essendon		2,510	0	0
154 Elm-street, Northcote		1,963	0	0
30 Victoria-street, Box Hill		2,037	0	0
8 McGregor-street, Fairfield		2,375	0	0
102 Doncaster-road, Box Hill		2,073	0	0
		257,212	12	5

The first six of these properties are shown at cost price less depreciation written off at 1½ per cent. per annum, the other cottages are at present-day valuations.

	£	*s.*	*d*
Furniture at Holland House, 58 Edwin-street, West Heidelberg ..	358	12	6
T.V. Antennae	255	0	0
National Bank of A/asia. Ltd. Credit	845	11	9
State Savings Bank, Deposit Stock	4,621	17	0
State Savings Bank, Current Account	42	12	4
	6,123	13	7
Balance owing to the Trust on mortgage	587	16	1

Summary.

Properties	257,212	12	5
Bank balances and Deposit Stock	6,123	13	7
Mortgage	587	16	1
	263,924	2	1

No Liabilities at this Date.

Signed Sealed and Delivered by the said WILLIAM HENRY HALL in the presence of J. G. DAVIS, a Commissioner of the Supreme Court of Victoria for taking affidavits.

L.S.

W. H. HALL.

Signed Sealed and Delivered by the said CUTHBERT OSWALD HARRY in the presence of J. G. DAVIS, a Commissioner of the Supreme Court of Victoria for taking affidavits.

L.S.

C. O. HARRY.

SCHEDULE

SCHEDULE—*continued.*

SCHEDULE HEREINBEFORE REFERRED TO—*continued.*

Signed Sealed and Delivered by the said HENRY DONATH in the presence of J. G. DAVIS, a Commissioner of the Supreme Court of Victoria for taking affidavits.

L.S.

H. DONATH.

Signed Sealed and Delivered by the said NORMAN DAVID WILSON in the presence of J. G. DAVIS, a Commissioner of the Supreme Court of Victoria for taking affidavits.

L.S.

N. D. WILSON.

Signed Sealed and Delivered by the said NORMAN STANLEY OSBORNE in the presence of J. G. DAVIS, a Commissioner of the Supreme Court of Victoria for taking affidavits.

L.S.

N. S. OSBORNE.

Signed Sealed and Delivered by the said FRANCIS JAMES ERIC GYNGELL in the presence of J. G. DAVIS, a Commissioner of the Supreme Court of Victoria for taking affidavits.

L.S.

F. J. E. GYNGELL.