
Church Trust Property Ordinance 1990-2005

AN ORDINANCE to provide for the control management and investment of Anglican Church Trust Property within the Diocese of Bathurst.

The Synod of the Diocese of Bathurst ordains as follows:

- 1 The corporation constituted by the Church of England Trust Property Incorporation Act 1881 and referred to in S5 of the Anglican Church Trust Property Act 1917 as "Church of England Property Trust Diocese of Bathurst", which by virtue of Clause (3) of the Church Trust Property Ordinance 1919 as amended of the Diocese of Bathurst was named "Anglican Property Trust, Diocese of Bathurst" continues to exist and its constitution control and procedures shall be in accordance with this Ordinance.
- 2 The members of the Anglican Property Trust Diocese of Bathurst shall be the Bishop, a person appointed by the Bishop being an Assistant Bishop or Diocesan Archdeacon and six other members. At least two members shall be in Holy Orders and at least three shall be lay persons.
Amended by Ordinance 1994 and 2005
- 3 The members of the Anglican Property Trust, Diocese of Bathurst at the date when this ordinance comes into operation are hereby continued in office until the conclusion of the First Session of Synod for the year 1991.
- 4 (1) The Bishop, Assistant Bishop or Diocesan Archdeacon may nominate in writing addressed to the secretary an alternate to represent them either at a particular meeting or generally until revocation of the nomination.
Amended by Ordinance 1994 and 2005
(2) An alternate may attend any meeting of the Property Trust and speak thereat whether or not the person whom he or she represents also attends such meeting provided that -
 - (a) Both a member and his or her nominee shall not be counted when computing a quorum;
 - (b) Both a member and his or her alternate shall not exercise the right to vote on any motion.(3) Subject to subclause (2), four members or alternate members of the Property Trust shall constitute a quorum.
Amended by Ordinance 1991
- 5 The Bishop shall be President of the Property Trust.
- 6 The Property Trust shall elect a member to be Chairman at meetings from which the President is absent and in the absence of the President and the Chairman may elect a member to be Deputy Chairman.
- 7 Subject to S12 of the Act and to Clauses 8 and 9, each elected member of the Property Trust shall hold office for a term of six years provided that each member whose term comes to an end under this Clause shall continue to hold office until his or her successor is elected.

8 The term of office of each member of the corporate trustee shall come to an end upon that member attaining the age of 72 years. Any member whose term of office comes to an end under this Clause and who is re-elected, shall, subject to S 12 of the said Act hold office for a term of one year. Each member whose term comes to an end under this clause, shall continue to hold office until his or her successor is elected.

Amended by Ordinance 2005

9 A member of the Property Trust whose term of office expires, is eligible for re-election as a member of the Property Trust.

10 Notwithstanding clause 7, at the election to be held at the 1991 Synod, the member of clergy and lay person gaining the highest number of votes and the person with the highest number of votes of the remaining candidates shall hold office for six years. The other three persons elected shall hold office for three years. At the first session of each succeeding triennial synod three persons shall be elected to hold office for six years.

CASUAL VACANCIES

11 (1) Any casual vacancy on the Property Trust shall be filled by Bishop-in-Council.

(2) A person chosen to fill a casual vacancy shall hold office until the person who was replaced would have ceased to hold office had the casual vacancy not occurred.

RELATIONSHIP TO BISHOP-IN-COUNCIL

12 It is hereby declared that except in so far as the trusts upon which it holds property otherwise provide, the Corporate Trustees shall follow the directions and advice of Bishop-in-Council, and shall, whenever practicable, consult with and obtain directions and advice from Bishop-in-Council as to their administration and functions.

EFFECTIVE EXECUTION OF DEEDS

13 Any deed or instrument executed or signed and any other act matter or thing done by any three of the Corporate Trustees in pursuance of a resolution of the said Corporate Trustees and under the common seal of the said Corporate Trustees shall be as effectual as if the same had been executed signed or done by all of the Corporate Trustees.

RULES AND REGULATIONS

14 The Corporate Trustees may subject to the provisions of the Anglican Trust Property Act 1917-1982 make rules regulations for the transaction of business.

TRUSTEES TO ACCEPT OR REJECT TRANSFER

15 The Corporate Trustees may accept or reject the transfer of any property which may be offered to them for purposes of Church Trust Property and shall in all cases report any action taken to the next ensuing session of Synod.

TRUSTS FOR PARISHES OR INSTITUTIONS

- 16 (1) Whenever any Church Trust Property is vested in the Corporate Trustees on behalf of any parish organisation or institution, the purpose of the trust and the terms and conditions upon which the property is held shall be ascertained and duly recorded and the relevant deeds, the record of the trust and all ancillary documents shall be filed in the Diocesan Registry in such a way as to be readily identifiable as appertaining to the parish organisation or institution concerned.
- (2) Whenever any Church Trust Property is vested in the Corporate Trustees otherwise than for the purpose of a parish organisation or institution, the purpose of the trust and the terms and conditions upon which the property is held shall be ascertained and duly recorded and the relevant deeds, the record of the trust and ancillary documents shall be held in the Diocesan Registry.
- (3) Whenever it seems to the Corporate Trustees proper so to do, they may give advice and directions as to how any money or other property held on behalf of the Diocese or any Parish Church organisation or institution thereof should be dealt with and, if it appears to the Corporate Trustees that such advice or direction is not being followed that fact may be reported by the Corporate Trustees to Bishop-in-Council which shall in turn report the same to the Synod.

PART II

17 Repealed by Ordinance 1994

18 Repealed by Ordinance 1994

SECRETARY

19 The Registrar of the diocese for the time being shall be the Secretary of the Corporate Trustees.

GENERAL DUTIES OF SECRETARY

20 The Secretary shall at and within the building known as the Diocesan Registry at Bathurst have the custody of the common seal of the Corporate Trustees and in addition to other duties hereinafter stated or assigned to him under clause 14 hereof shall carry out the provisions contained in sections 42 and 43 of the Anglican Trust Property Act 1917-1982.

21 The Corporate Trustees are hereby authorised to pay such emoluments as they consider necessary to carry out the provision of this Ordinance.

PART III

PRELIMINARY REQUIREMENTS FOR ORDINANCES

- 22 No rule or ordinance under the provisions of parts 5, 6 and/or 7 of the Anglican Trust Property Act 1917-1982 (No 21) shall be presented to Synod unless:-
- (a) The proposed ordinance contains a preamble reciting the circumstances on which such Ordinance is founded and bringing the case within the provisions of the Anglican Trust Property Act 1917-1982 (No 21) and stating the matters in reference to which the Ordinance is sought.
 - (b) A notice stating the intention to apply to Synod for the proposed Ordinance has been posted at or upon the main entrance door of the principal Church of the Parish affected by such proposed Ordinance and on the door of any other Church in such Parish which may be especially affected by same. The said notice shall also state the general objects of the proposed Ordinance and also that any petition in opposition to such Ordinance will be presented with the petition asking that the said Ordinance be passed.
 - (c) The said notice has been posted as hereinbefore directed for a period of twenty-one days between the 120th and 80th days before the date of any session of Synod to which it is intended that such Ordinance shall be presented and the attention of the congregation or congregations of the Church or Churches affected by such proposed Ordinance has been directed to the terms of the notice by the Clergy officiating at such Church or Churches at the ordinary services held on at least one Sunday during the aforesaid period of twenty-one days.
 - (d) Within seven days of the expiration of the aforesaid period of twenty-one days there has been delivered or posted to the Diocesan Registrar:-
 - (1) A petition signed by at least twelve parishioners of the parish affected by the proposed Ordinance for leave to present the proposed Ordinance to Synod.
 - (2) Petition (if any) in opposition to the proposed Ordinance.
 - (3) Certificate of the rector of the Parish or his locum tenens that due notice has been given as provided for in sub-clauses "b" and "c" above.
 - (4) Thirty printed or typed copies of the proposed Ordinance.
 - (5) Sketch plan of any land referred to in the proposed Ordinance.
 - (6) A fee of \$20 or such amount as Bishop-in-Council may from time to time prescribe.
 - (e) Bishop-in-Council may in its absolute discretion dispense with the requirements of any part of this clause.

VARIATIONS FOR EXTRA-PAROCHIAL PROPERTY

- 23 Sub clauses 22 (b), (c) and (d) hereof shall not apply in the case of Church Trust Property which is held on Trust for extra-parochial purposes but in such case at least seventy days before the session of Synod to which it is intended that the proposed Ordinance shall be presented there shall be delivered or posted to the Diocesan Registrar:-
- (1) A petition signed by the Bishop of the Diocese or three of the members for the time being of the Anglican Property Trust Diocese of Bathurst for leave to present the proposed Ordinance to Synod.
 - (2) Thirty printed or typed copies of the proposed Ordinance.
 - (3) Sketch plan of any land referred to in the proposed Ordinance.
 - (4) A fee of \$20 or such amount as Bishop-in-Council may from time to time prescribe.
- 24 If in the opinion of the Anglican Property Trust Diocese of Bathurst any power or authority conferred it by Ordinance has become stale by reason of the fact that any such power or authority has not been acted upon then the Anglican Property Trust Diocese of Bathurst shall not exercise any such power or authority unless:-
- (a) In the case of parochial property twenty-one days' notice of intention to exercise such power or authority is given mutatis mutandis as required by Clause 22 (b) hereof, and the Rector of the Parish shall certify that no objection has been raised to the proposed exercise of such power or authority.
 - (b) In the case of extra-parochial property without referring the matter to Synod who shall by resolution direct whether such power or authority shall or shall not be exercised.

CORPORATE TRUSTEES TO EXAMINE AND REPORT

- 25 (a) Every such Ordinance shall be examined by the Corporate Trustees who shall hear such evidence for or against such Ordinance as the said Trustees may think necessary and shall have authority to amend such Ordinance when not in accordance with sub-clause (a) of clause 22 hereof.
- (b) The Corporate Trustees shall present a report upon such Ordinance at the next session of Synod and the report shall specify:-
- (1) Whether the preamble has been proved and if not in what respects.
 - (2) What amendments (if any) are required in the Ordinance.
 - (3) The said Trustees' opinion on all matters at issue between the promoters of the Ordinance and any person opposing it and
 - (4) The reasons why the said Trustees are of the opinion that the Ordinance should or should not be passed.

DELEGATION OF POWERS IN CERTAIN CASES

- 26 (a) The Bishop-in-Council of the Diocese as constituted by the Bishop-in-Council Ordinance 1912-1980 is hereby appointed a Committee or Council under Section 40 of the Anglican Trust Property Act 1917-1982 and may during the recess of the Synod exercise in place of the Synod of the Diocese such of the powers and functions and do and make such of the things referred to in such act as may be done by the Synod of the Diocese under the provisions of the Anglican Trust Property Act 1917-1982 and shall report to the Synod at the next Session all actions taken under this section.
- (b) No Ordinance shall be presented to Bishop-in-Council under the provisions of the last preceding sub-clause hereof without the consent in writing of the Bishop of the Diocese or in the absence of the Bishop that of his commissary or in the event of a vacancy in the See of that of the Administrator of the Diocese.

PROCEDURE OF BISHOP-IN-COUNCIL

- 27 (a) All things done in pursuance of the powers delegated in the preceding clause shall be done by Bishop-in-Council under the form and manner in which they are required to be done by the Synod of the Diocese and for this purpose the Standing Orders and any Rules or Ordinances of the Synod of the Diocese of Bathurst which apply or have reference to any matters done under the powers so delegated shall be adopted as far as applicable to regulate the procedure of Bishop-in-Council in doing such things and such Rules and Standing Orders hereinbefore mentioned and the foregoing clauses of the Ordinance shall mutatis mutandis apply to Bishop-in-Council as they apply to Synod.
- (b) Notwithstanding the foregoing provisions of this clause it shall be lawful in the case of Ordinances to be presented to Bishop-in-Council under the provisions contained in clause 26 hereof for the Corporate Trustees from time to time by resolution to shorten any time or period of time fixed by the preceding clauses of this part of this Ordinance save only the aforesaid period of twenty-one days.

PART IV

POWERS OF CORPORATE TRUSTEES

- 28 (1) The Corporate Trustees are hereby empowered to invest Church Trust Property in one or more of the following investments with power to transfer vary or realise all or any such investments and deal with all or any securities in respect thereof as the said Trustees may think fit. Provided always that in the case of any Church Trust Property which is for the time being subject to express trusts relating to the manner and mode of investment thereof the said Trustees shall hold such Church Trust Property subject to investment in terms prescribed by such express trusts and not otherwise.
- (a) Any investment authorised by the Trustee Act 1925 as amended;
- (b) First mortgage on real property in any part of the State of New South Wales not exceeding two thirds of the value thereof on the valuation of a competent valuator approved by the Trustees;
- (c) Anglican Managed Investments Fund (Diocese of Bathurst);
Amended by Ordinance 1998

- (d) Any securities issued by any Corporation incorporated in Australia provided that the same is made on the written recommendation of a prescribed investment adviser;
- (e) Any interest in a managed fund or property trust provided that the same is made on the written recommendation of a prescribed investment adviser;
- (f) With the consent of Bishop-in-Council, any securities of a government of a country outside Australia or of a corporation incorporated outside Australia provided that the same is made on the written recommendation of a prescribed investment adviser.

Amended by Ordinance 1998

- (2) For the purpose of this clause, "prescribed investment adviser" means and includes a practising stockbroker who is a member of the Australian Stock Exchange or any person who holds a licence as an Investment Adviser under the Corporations Law or a person who has been certified by Bishop-in-Council as a person whose investment advice may be acted upon by the Corporate Trustees.

Inserted by Ordinance 1998

29 The Corporate Trustees shall:-

- (a) Cause the accounts of all transactions of the said Trustees to be regularly entered in proper books which shall be kept for the purpose by the Secretary and such books and accounts shall be audited by the Diocesan Auditor annually.
Amended by Ordinance 1994
- (b) Supply to Bishop-in-Council, Diocese of Bathurst, after the close of each financial year a balance sheet and statement of accounts showing the whole of the transactions of the said Trustees during the previous year, in order that such balance sheet and statement of accounts may be duly presented to Synod at its next session following, and after the said balance sheet and statement of accounts have been received and adopted by the Synod shall cause them to be published in next issue of the official Year Book of the Diocese.
- (c) Pay-
 - (1) Interest at such rate or rates and at such time or times as the said Trustees shall from time to time determine to the person or persons entitled to receive income from any Church Trust property held by the Corporate Trustees for investment or management.
 - (2) All necessary expense under section 21 hereof.
 - (3) Deleted by Ordinance 1998
- (d) Furnish such other particulars as to all or any of the funds under its control at any time if called upon to do so by the Bishop-in-Council.

EXPENSE OF MANAGEMENT

- 30 The Corporate Trustees shall be entitled to charge against the income of each trust property the special charge connected therewith and a proportion of all payments and expenditure under section 29 (c) (1) and (2) hereof.

Amended by Ordinance 1998

PART V

POOLING OF INVESTMENTS

- 31 The Corporate Trustees may pool for purposes of investment separate Church Trust properties which have been placed under their control and management.
- 32 Deleted by Ordinance 1998
- 33 The Synod or Bishop-in-Council may, by resolution, lay down guidelines for the investment of funds by the Property Trust.
- 34 In this Ordinance unless the contrary intention appears "the Act" means "the Anglican Church Trust Property Act 1917 as amended" and "the Property Trust" means "Anglican Property Trust, Diocese of Bathurst".
- 35 The Church Trust Property Ordinance 1919-1983 is hereby repealed except as to any operation already effected by or act done thereunder as at the date of assent of this Ordinance.
- 36 This Ordinance may be cited as "Church Trust Property Ordinance 1990-1998".

Note: The above Ordinance is printed as amended by:

Miscellaneous Amendments Ordinance 1991
Financial Responsibility Ordinance 1994
Church Trust Property Amendment Ordinance 1995
Church Trust Property Amendment Ordinance 1998
Anglican Managed Investments Fund (Diocese of Bathurst) Ordinance 1998
Church Trust Property Amendment Ordinance 2005