
THE CHURCH PROPERTY ACT 1997

(Replacing the Church Funds Act 1990)

No. 1, 1997

AN ACT

TO PROVIDE FOR THE MANAGEMENT OF THE PROPERTY OF THE DIOCESE

Amended: No. 2, 2002
No. 9, 2003
No. 1, 2004
No. 3, 2009

Repeal of Church
Funds Act 1990

BE it enacted by the Bishop the Clergy and the Laity of the Anglican Church of Australia within the Diocese of Wangaratta duly met in Synod according to law as follows:-

Short title
Amended:
Act No. 2, 2002
Act No. 8, 2003
Act No. 1, 2004

1. The Act of this Synod known as The Church Funds Act 1990 shall be repealed except as to every operation effected by or act done under the said enactment or as to any right, title or obligation or liability already acquired or accrued thereunder.

Interpretations

2. This Act may be cited as The Church Property Act 1997-2004.

3. In this Act the following terms unless a contrary intention appears or if not inconsistent with the context shall have the meanings hereinafter respectively assigned to them:

Amended:
Act No. 2, 2002

“Church” shall be taken to designate and apply to the Church known as The Anglican Church of Australia in the Diocese of Wangaratta.

“Common Fund” means the Common Fund which the Synod by resolution passed on 16th September 1986, authorised the Trusts Corporation subject to the directions (if any) of the Synod in its discretion to invest any express moneys held in its hands whether or not they are subject to any trust:

(a) on the separate account of the trust or person; or

(b) (if the moneys are not directed by the terms of the trust to be invested in some other specified manner and investment in a Common Fund is not specifically prohibited by the terms of the trust governing these moneys) as part of a Common Fund established and kept in the books of the Trusts Corporation.

“Diocesan Fund” means the fund into which all moneys of the Church held by the Trusts Corporation, not being subject to any trust or not given or raised and received for an express purpose or not being parochial funds, together with the income therefrom are credited.

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“Property” means land promised or reserved by the Crown for any of the purposes of the Church and all property real and personal including money and securities for money held by or vested or purporting to be vested in or claimable by any person or persons either in trust generally for the Church or for any special purpose in connection therewith or for any benefit or use of the members thereof as such or of any person or persons holding for the time being office therein.

“Trusts Corporation” means The Wangaratta Diocesan Trustees.

Management of the property subject to express trust

4. All property and the income therefrom held by The Trusts Corporation or in any manner acquired by it subject to any express trust shall becoming vested in the Trusts Corporation be held managed dealt with mortgaged charged or otherwise encumbered by the Trusts Corporation in conformity with such express trust and so far as is consistent therewith in such manner as may be determined from time to time by the Bishop in Council. For the purposes of this Act parochial moneys held by the Trusts Corporation pursuant to subsection (2) of Section 129 of the Parish Administration Act 1984-1995 are deemed to be moneys held on express trust.

Management of property not subject to express trust

5. All property of the Church not subject to any express trust shall be vested in the Trusts Corporation and shall be held managed dealt with mortgaged charged or otherwise encumbered in such manner as the Bishop in Council may from time to time direct and such property shall be subject as to management of all or any parts thereof to the regulations of the Bishop in Council in force for the time being which are applicable thereto.

Sale of land

6. Land of the Church not held on any express trust may not be sold otherwise than in accordance with the provisions of Section 17 of the Parish Administration Act 1984 -1995.

Property held for express purpose

7. Any property voluntarily given to or raised for and received by the Church for any express purpose and the income arising therefrom shall be applied to that purpose.

Diocesan Fund

8. The Diocesan Fund shall be chargeable primarily with:
- (a) the stipend and allowances for the Bishop
 - (b) the stipends salaries and allowances for clerical and lay officers and other persons performing or engaged in authorised diocesan duties
 - (c) the costs associate with the Bishop’s registry and diocesan administration and management
 - (d) grants for purposes of the Church within the Diocese generally
 - (e) for sinking or reserve funds in relation to property
 - (f) for the payment of any other moneys directed by the Synod to be made out of the Diocesan Fund

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Diocesan fund
for mission

9. For the mission of the Church within or without the diocese there shall be established a fund to be known as the Diocesan Trust Fund for Mission.

This fund

(a) shall comprise:

- (i) the income from any trust held by the Trusts Corporation specifically for the mission of the Anglican Church; and
- (ii) moneys voluntarily given or raised and received from any parish or church agency or from any person for the general or specific mission of the Anglican Church

(b) shall be appropriated by the Bishop in Council in its discretion from time to time

- (i) as to any sum or sums specifically designated to such designated mission agency
- (ii) otherwise to the mission of the Anglican Church outside the diocese through Anglican or other Christian mission agencies
- (iii) to the mission of the Church within the Diocese which may include without affecting the generality thereof
 - (1) Stewardship support services
 - (2) pastoral extension
 - (3) support of personnel from the Diocese of Wangaratta serving in missionary dioceses
- (iv) to emergency charitable causes

Investment
of monies
Amended
No. 8, 2003

10. It shall be lawful for the moneys held by the Trusts Corporation whether or not they are subject to any express trust, in pursuance of its power to manage and deal with them, to be invested by the Trusts Corporation (unless otherwise regulated or prevented by the terms of any trust) on the separate account of any trust or person in the manner specified by the terms of the trust or by the person but otherwise in the manner authorised by the Trustee Act 1958 or in a Common Fund in the manner and subject to the conditions prescribed by Section 12A of Act No 797 of 1884 and any such investment or part or parts of it may be sold and the proceeds therefrom re-invested in like manner provided that not more than five per centum of the total market value of these investments is held in the shares, stocks, debentures or units of any one company or unit trust as the case may be, except where any such investment is in any one or more registered managed investment schemes, in which case it is provided that not more than fifty per cent of the total market value of these investments is held in any one registered managements investment scheme or schemes. For the purposes of this Section, a registered managed investment scheme means a scheme registered under the provisions of The Managed Investments Act 1998 (Commonwealth of Australia)

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Registers

11. The following registers shall be held in the Bishop's registry and maintained up to date:

(1) Register of lands owned by the diocese, to include:

Parish
 Property situated
 Date of document
 Nature of document
 Document details
 Measurements or area
 Description
 Encumbrances
 Date of acquisition
 How acquired and from whom (with last known address)
 Trusts affecting title
 Improvements
 Later improvements, date and cost
 Cross references: minutes (Synod or Bishop in Council and Register of Faculties)
 Title located at
 National Trust or Heritage Status
 (National Trust, Australian Heritage, State Heritage or Local environment)
 Title temporarily at
 Disposal details
 Date
 Purchaser/Transferee

(2) Register of Express Trusts

The property the subject of the trust
 Date of acquisition and how acquired
 Name of deceased or donor and last known address
 Beneficiary of the trust
 Purpose of the trust and other relevant details including whether perpetual or not
 Separate investment and if so in what or in Common Fund

(3) Register of devises, legacies and bequests for general purposes of the Church:

The property given
 Date of acquisition
 Name of deceased or donor and last known address
 Beneficiary of the gift
 Purpose of the gift or any conditions or other relevant details including whether perpetual or not
 Application of the gift

Audit

12. An audited income and expenditure account and statement of assets and liabilities of property held by the Trusts Corporation for the preceding financial year shall be laid before the Synod at each annual session thereof.

Auditor

13. The Bishop in Council for the purposes of this Act on the recommendation of the Trusts Corporation shall appoint annually one or more qualified persons to act as diocesan auditor or auditors and it shall determine the remuneration to be paid.

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Agent or agents
Amended:
Act No. 1, 2004

14 (a) In exercise of the powers given to it by the Synod to manage and deal with the property of the Church the Bishop in Council is empowered to confer authority to so do to a finance committee appointed as agent by it and to employ such other agent or agents competent to act in such capacity and on such terms and conditions and in such manner as it in its sole discretion shall determine.

Amended:
Act No.3, 2009

14 (b) The Diocesan Treasurer shall be a member of the Finance Committee referred to in Section 14 (a) above and shall be the Secretary of the Committee

Passed: 8th September 1990
Assented to: 10th September 1990

Act Amended No. 2, 2002

Passed: 31st May 2002
Assented to: 31st May 2002

Act Amended No. 8, 2003

Passed: 31st May 2003
Assented to: 13th June 2003

Act Amended No. 1, 2004

Passed: 18th September 2004
Assented to: 20th September 2004

Act Amended No. 3, 2009
Passed: 23rd May 2009
Assented to: 23rd May 2009