

**PRESBYTERIAN CHURCH (NEW SOUTH WALES)
PROPERTY TRUST (AMENDMENT) ACT.**

New South Wales



ANNO OCTAVO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 51, 1969.

An Act to authorise schemes for the use, in co-operation with a church or congregation of a denomination other than Presbyterian, of property vested in The Presbyterian Church (New South Wales) Property Trust; to authorise the General Assembly of the Presbyterian Church of Australia in New South Wales to establish a Central Education Fund; to make further provision with respect to the powers of the Trust; to amend The Presbyterian Church (New South Wales) Property Trust Act, 1936; and for purposes connected therewith. [Assented to, 3rd October, 1969.]

BE

*Presbyterian Church (New South Wales) Property Trust
(Amendment).*

BE it enacted by the Queen's Most Excellent Majesty, by **No. 51, 1969** and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Presbyterian Church (New South Wales) Property Trust (Amendment) Act, 1969". Short title and interpretation.

(2) The Presbyterian Church (New South Wales) Property Trust Act, 1936, is in this Act referred to as the Principal Act.

2. The Principal Act is amended by omitting section ten and by inserting in lieu thereof the following sections :— Amendment of Principal Act.

Subst. sec. 10 and new secs. 10A and 10B.

10. (1) Subject to this section, where the General Assembly has, by resolution, declared— Variation of trusts.

(a) that, by reason of circumstances arising since the creation of the trusts (including trusts declared pursuant to this section) upon which property specified in the resolution is by this Act vested in the Trust, it has, in the opinion of the General Assembly, become impossible or inexpedient for the Trust to carry out or observe those trusts; and

(b) that the property so specified should, in the opinion of the General Assembly, be held upon such trusts for, or for the use, benefit or purposes of, the Presbyterian Church of Australia in New South Wales as it specifies in the resolution,

the property to which the resolution relates shall thereafter be held by the Trust upon the trusts specified in the resolution, freed and discharged from the trusts upon which it was held immediately before the resolution. **(2)**

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(2) The General Assembly shall not make a declaration under subsection one of this section unless it has been requested so to do by the Trust and the Trust shall not, where the property in question is congregational property, make such a request unless it has first received and considered a report on the matter by the Presbytery of the bounds.

(3) Subject to subsection four of this section, the trusts upon which property is to be held pursuant to subsection one of this section shall be as nearly as practicable the same as the trusts upon which it was held immediately before the resolution referred to in that subsection including, in the case of property held on behalf of a congregation that continues as a congregation after the resolution, trusts whereby the property is to be dealt with for the use and benefit of that congregation.

(4) Subsection three of this section shall not apply to or in respect of a resolution referred to in subsection one of this section where, by the resolution, the General Assembly has further declared that, to the extent that subsection three of this section has not been complied with, the circumstances referred to in subsection one of this section have rendered it impossible or inexpedient to do so.

(5) A document that purports to be a copy of a minute of a resolution referred to in subsection one of this section shall, if certified by the Clerk of the General Assembly for the time being to be such a copy, be conclusive evidence that the resolution was, on a day specified by the Clerk in the certificate, duly made by the General Assembly and that all conditions precedent to the making of such a resolution were fulfilled.

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(Amendment).*

10A. The Trust may—

- (a) guarantee the performance of; or
- (b) undertake to indemnify a loss arising out of a failure to perform,

an obligation undertaken in connection with property used for any purpose, activity or institution in Australia that, in the opinion of the Trust, is a purpose, activity or institution of the Presbyterian Church, whether or not the property is also used for some other purpose.

10B. (1) The Trust may, if it is otherwise competent so to do—

- (a) apply for and obtain, or join in applying for and obtaining, probate of the will, or letters of administration of the estate, of a deceased person where the Presbyterian Church, or any congregation, activity, fund, service, institution or interest (whether within or without New South Wales) of or connected with the Presbyterian Church, is a beneficiary under the will or of the estate; or
- (b) accept appointment, and act, as trustee or co-trustee under and in pursuance of any trust where the trust property is not vested in the Trust by this Act and the trust was created wholly or in part for the benefit of the Presbyterian Church or any congregation, activity, fund, service, institution or interest (whether within or without New South Wales) of or connected with the Presbyterian Church,

and may do all things necessary for the exercise or performance of its powers, authorities, duties or functions as executor, administrator or trustee, as the case may be.

No. 51, 1969

Guarantee
by Trust.

Trust may
act as
executor,
etc.

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(2) On behalf of the Trust, a member of the Trust or a person employed by the Trust may, if authorised by the Trust for the purpose, swear an affidavit, make a declaration or statement, give security and do any other act or thing that is, by any charter, Act or rule of court, required to be done by a person applying for or granted probate or letters of administration, or administering a trust, as the case may be.

(3) The Trust may—

- (a) renounce executorship;
- (b) decline to act as administrator of an estate;
- (c) retire, or decline to act, as trustee of property (not being property vested in it by this Act).

Further
amendment
of Principal
Act.

New sec. 27.

Central
Education
Fund.

3. The Principal Act is further amended by inserting next after section twenty-six the following new section :—

27. (1) The General Assembly may establish a Central Education Fund the income and capital of which may be used by the Trustees to establish or endow in New South Wales schools and colleges under the control of the General Assembly and otherwise promote the education of children in New South Wales where that education is accompanied by religious instruction in harmony with the tenets of the Presbyterian Church.

(2) The General Assembly may require a school or college conducted on property vested in the Trustees to contribute to the Central Education Fund such sums, annual or otherwise, as the Trustees, after consultation by them, or on their behalf, with the Council of the school or college, consider reasonable, having regard to the circumstances and needs of the school or college as well as to the necessity to augment the Central Education Fund.

4.

*Presbyterian Church (New South Wales) Property Trust
(Amendment).*

4. (1) The Principal Act is further amended by inserting **No. 51, 1969** next after section twenty-seven the following new sections :—

Further
amendment
of Principal
Act.
New secs.
28, 29, 30
and 31.

28. (1) Where with the consents for the time being and from time to time prescribed by the General Assembly a congregation of the Presbyterian Church of Australia in New South Wales has, at a meeting duly called in accordance with the requirements of the General Assembly, resolved to enter into a scheme of co-operation with, or involving, a church of another denomination or any congregation or activity of such a church, being a scheme that involves the use of property vested in the Trustees, the Trustees may, while the scheme of co-operation continues in force, permit that property to be used, managed and administered in connection with that scheme in such manner and upon such conditions as the General Assembly determines or prescribes. Co-operative
use of
property.

(2) The conditions that the General Assembly may determine or prescribe under subsection one of this section include conditions with respect to the making of contributions of money for the acquisition, construction, alteration or repair of assets vested in or held on behalf of a co-operating church or congregation upon such terms as to charges upon other assets and charges upon property vested in the Trustees for any such contributions from other denominations and otherwise as may be so determined or prescribed, and any such contributions by or on behalf of a congregation of the Presbyterian Church of Australia in New South Wales or towards assets of or held on behalf of such a congregation are, to the extent so determined or prescribed at the time of the contributions, hereby so charged.

(3)

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(3) Neither the Registrar-General nor any person dealing bona fide and for value with any property vested in the Trust shall be bound to enquire whether any security or charge referred to in subsection two of this section exists or be deemed to have notice thereof or be bound thereby by virtue only of this Act or the existence of any scheme of co-operation under this section and—

(a) a conveyance, transfer or other assurance to such a person shall operate as a discharge of any security or charge so referred to, in so far as the property conveyed, transferred or assured would, but for this subsection, be subject thereto; and

(b) a mortgage or charge in favour of such a person shall have priority over any security or charge so referred to that affects the property mortgaged or charged in favour of that person.

(4) The proceeds of the sale, mortgage or other dealing with property referred to in this section, and all moneys collected or held in respect of a scheme of co-operation may be applied in such manner as the General Assembly determines or prescribes.

Rights of
minister of
co-operating
congrega-
tions.

29. The minister or other person in charge of the religious services of a congregation that has entered into a scheme of co-operation may be of a denomination other than Presbyterian and, if that minister or other person is of another denomination he shall, so long as he is in charge of the religious services and so long as that scheme of co-operation is in force, have the rights of a minister that are specified in section seventeen of this Act.

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(Amendment).*

30. Where a congregation of the Presbyterian Church in New South Wales has entered into a scheme of co-operation the Committee of Management of that congregation may include members of any other congregation that is a party to the scheme of co-operation and those members may be of a denomination other than Presbyterian.

No. 51, 1969
Constitution of Committee of Management where scheme of co-operation is in force.

31. (1) The provisions of sections twenty-eight, twenty-nine and thirty of this Act shall apply to and in relation to all property at any time held on behalf of a congregation of the Presbyterian Church of Australia in New South Wales that has entered into a scheme of co-operation except to the extent that the property is held subject to any express trust expressly forbidding its use or administration in any manner referred to in those sections.

Certain provisions to apply to property held on behalf of co-operating congregation.

(2) Subsection one of this section shall not apply to prevent the use or administration of property in a manner referred to in sections twenty-eight, twenty-nine and thirty of this Act if the property is merely directed to be held on trust for Presbyterian worship or purposes.

(2) Subsection one of this section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.