

**METHODIST CHURCH (N.S.W.) PROPERTY
TRUST ACT.**

New South Wales



ANNO OCTAVO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 55, 1969.

An Act to constitute the Methodist Church (N.S.W.) Property Trust and to define its powers, authorities, duties and functions; to provide for the vesting of certain property in the Methodist Church (N.S.W.) Property Trust; to authorise schemes for the use, in co-operation with a church or congregation of a denomination other than Methodist, of property vested in the Methodist Church (N.S.W.) Property Trust; to repeal the Wesleyan Methodist Church Property Trust Act, 1889; to amend the Methodist Union Act, 1902; and for purposes connected therewith. [Assented to, 17th October, 1969.]

BE

Methodist Church (N.S.W.) Property Trust.

No. 55, 1969 **B**E it enacted by the Queen's Most Excellent Majesty, by 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:—

PART I.**PRELIMINARY.**

Short title and commencement. **1.** (1) This Act may be cited as the "Methodist Church (N.S.W.) Property Trust Act, 1969".

(2) This Act, Part V excepted, shall commence upon a day to be appointed by the Governor in that behalf and notified by proclamation published in the Gazette.

(3) Part V of this Act shall commence upon a day to be appointed by the Governor in that behalf and notified by proclamation published in the Gazette, being a day that is not earlier than the day appointed pursuant to subsection two of this section.

Division of Act.

2. This Act is divided, as follows:—

PART I.—PRELIMINARY—ss. 1–4.

PART II.—CONSTITUTION OF THE TRUST—ss. 5–11.

PART III.—ACQUISITION OF TRUST PROPERTY—ss. 12–17.

PART IV.—GENERAL—ss. 18–28.

PART V.—CO-OPERATION WITH OTHER DENOMINATIONS—ss. 29, 30.

SCHEDULES.

Repeals.

3. An Act specified in the First Column of the First Schedule to this Act is, to the extent expressed opposite that Act in the Second Column of that Schedule, hereby repealed.

4.

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4. (1) In this Act, except in so far as the context or No. 55, 1969 subject-matter otherwise indicates or requires—

Interpreta-
tion.

“appointed day” means the day appointed pursuant to subsection two of section one of this Act;

“Church” means Methodist Church of Australasia and includes any congregation, circuit, department, society, auxiliary, activity, fund, service, institution or interest thereof;

“Conference” means Annual Conference of the Methodist Church of Australasia in New South Wales;

“property” includes real and personal property and any estate or interest therein;

“the Model Deed” means The Methodist Model Deed of New South Wales that, before the appointed day, was referred to in subsection four of section five of the Methodist Union Act, 1902;

“Trust” means Methodist Church (N.S.W.) Property Trust constituted by this Act;

“trust property” means property vested in the Trust by or pursuant to this Act.

(2) This Act shall not be construed as operating—

(a) to divest any property from or to prevent the vesting of any property in—

(i) the Council of Newington College, the body politic and corporate constituted by the Newington College Council Act, 1922; or

(ii) The Methodist Trust Association, a company incorporated under the laws relating to companies; or

(b) to affect the operation of section eleven of the Methodist Union Act, 1902.

PART

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PART II.

CONSTITUTION OF THE TRUST.

Constitution
of the
Trust.

5. (1) There is hereby constituted a corporation under the name of "Methodist Church (N.S.W.) Property Trust" which shall, subject to this Act, consist of—

- (a) the President of the Conference;
- (b) the Secretary of the Conference;
- (c) the Property Secretary of the Conference;
- (d) the Connexional Secretary of the Conference; and
- (e) four other persons appointed by the Conference or, where—

- (i) no appointment has been made to one or more of the offices referred to in paragraphs (a), (b), (c) and (d) of this subsection; or

- (ii) fewer than four persons have been appointed to hold all those offices,

five other persons so appointed.

(2) Subject to this Act, Gordon McLeod Andrews, Rupert Howard Grove, Harold Nelson Julian and George Harold Slade—

- (a) shall be deemed to have been duly appointed pursuant to paragraph (e) of subsection one of this section as members of the Trust holding office until the end of the Conference next succeeding the appointed day; and

- (b) shall be eligible for reappointment as members of the Trust.

(3)

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(3) Subject to this Act, the members of the Trust No. 55, 1969 appointed pursuant to paragraph (e) of subsection one of this section at a Conference after the appointed day—

- (a) shall take office as members of the Trust immediately after the end of that Conference;
- (b) shall hold office as members of the Trust until the end of the next succeeding Conference; and
- (c) shall be eligible for reappointment as members of the Trust.

6. Two members of the Trust shall constitute a quorum Quorum. for the purpose of any meeting of the Trust and—

- (a) where only two of the members of the Trust are present at a duly convened meeting of the Trust, the unanimous decision of those two members; or
- (b) where more than two such members are present at such a meeting, the decision of a majority of the members present and voting at the meeting,

shall be the decision of the Trust.

7. A member of the Trust appointed pursuant to para- Vacation graph (e) of subsection one of section five of this Act shall of office. be deemed to have vacated his office if he—

- (a) dies;
- (b) resigns his office by notice in writing to the Trust;
- (c) becomes bankrupt or makes any arrangement or composition with his creditors generally;
- (d) becomes, within the meaning of the Mental Health Act, 1958, a mentally ill person, a protected person or an incapable person.

8.

Methodist Church (N.S.W.) Property Trust.

No. 55, 1969 **8.** (1) Where by reason of the occurrence of casual vacancies the number of members of the Trust for the time being holding office is reduced to less than five, the continuing members shall appoint, as members of the Trust filling the vacancies until the end of the next succeeding Conference, persons not fewer in number than that required to increase to five the number of members for the time being holding office.

(2) Subject to subsection one of this section, where there is a casual vacancy in the membership of the Trust, the continuing members of the Trust may appoint a person to fill the vacancy until the end of the next succeeding Conference.

Common seal.

9. (1) The members for the time being of the Trust shall have the custody of its common seal and, subject to this section, the form of the common seal and all other matters relating thereto shall be determined by the Trust.

(2) The common seal of the Trust shall not be affixed to any instrument except in pursuance of a resolution passed at a duly convened meeting of the Trust and every instrument to which the common seal is so affixed shall be signed by not less than two members of the Trust.

(3) An instrument purporting to have been sealed with the common seal of the Trust and purporting to have been signed by not less than two members of the Trust shall be deemed to have been executed in accordance with subsection two of this section.

Form and execution of certain contracts, etc.
cf. Act No. 71, 1961, s. 35.

10. (1) Any deed, instrument, contract or agreement relating to any property or matter which if made or executed by a private person would be by law required to be in writing under seal may be made on behalf of the Trust in writing under the common seal of the Trust.

(2)

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(2) Any instrument, contract or agreement relating to any property or matter which if made by or between private persons would be required to be in writing signed by the parties to be charged therewith may be made on behalf of the Trust in writing by any person acting under its authority express or implied. 55, 1969 No.

(3) Any contract relating to any property or matter which if made between private persons would by law be valid although made by parol only (and not reduced to writing) may be made on behalf of the Trust by any person acting under its authority express or implied.

(4) Any contract which is entered into or any instrument, contract or agreement which is signed in relation to any trust property shall, if it is entered into or signed in accordance with the resolutions of the Conference for the time being in force pursuant to this Act, be deemed to have been entered into or signed with the express authority of the Trust.

11. The Trust may, by writing under its common seal, expressly empower any person, in respect of any specified matter, as its agent or attorney to execute any deed, instrument, contract or agreement on its behalf, and any deed signed by such an agent or attorney on behalf of the Trust and under his seal shall bind the Trust and have the same effect as if it were under its common seal. Execution under seal by agent, etc.

PART III.

ACQUISITION OF TRUST PROPERTY.

12. (1) Subject to this Act, any property that, immediately before the appointed day, was vested in any person subject to the Model Deed, or otherwise in trust for the Church, is hereby divested from that person and is, to the extent Vesting of certain property in the Trust.

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No. 55, 1969 extent that it was so vested, hereby vested in the Trust freed and discharged from any of the provisions and trusts of the Model Deed applicable thereto.

(2) Except in relation to the trusts declared by the Model Deed, the vesting effected by subsection one of this section shall be without prejudice to—

- (a) any special trust;
- (b) any resulting trust;
- (c) any trust in favour of a donor;
- (d) any trust in favour of a person other than the Methodist Church of Australasia; and
- (e) any reservation, mortgage, charge, encumbrance, lien or lease,

that, immediately before the appointed day, affected the property vested.

(3) No attornment to the Trust by any lessee of land vested in it by this section shall be necessary.

Construc-
tion of
certain
instruments.

13. (1) To the extent to which, by a deed, will or other instrument that takes effect on or after the appointed day, any property—

- (a) is devised, bequeathed, given, granted, released, conveyed or appointed to the Church or to a person (not being the Trust) for, or for the benefit of, or in trust for, the Church or the religious, social, educational or charitable work of the Church, or is declared or directed to be held by any person (not being the Trust) for, or for the benefit of, or in trust for, the Church or the religious, social, educational or charitable work of the Church;
- (b) is recoverable by the Church or by any person (not being the Trust) for the Church; or

(c)

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- (c) is payable to, or receivable by, the Church or any person (not being the Trust) on behalf of the Church or for the religious, social, educational or charitable work of the Church, No. 55, 1969

the deed, will or other instrument shall be construed and take effect as if the reference therein to the Church or, as the case may be, to that person, were a reference to the Trust.

(2) A receipt or acknowledgment for any property that vests in the Trust pursuant to this section shall exonerate the person or persons liable to pay, deliver or transfer the property to the Trust from any liability to see to the application thereof and from any liability for the loss, misapplication or non-application thereof, if the receipt or acknowledgment—

- (a) is executed in accordance with this Act under the common seal of the Trust;
- (b) is in writing signed by two persons purporting to be members of the Trust; or
- (c) is in writing signed by a person or persons purporting to be duly authorised for the purpose by the Trust or two members thereof.

14. (1) Subject to this Act, the Trust shall hold trust property in trust for the Methodist Church of Australasia and upon any other trust affecting the property while vested in it. Duties of Trust.

(2) Subject to subsection one of this section the Trust shall hold, manage, administer and otherwise deal with trust property under the control of, and in accordance with the directions and resolutions of the Conference.

15. No title to any land vested in the Trust by this Act shall be held bad either at law or in equity by reason of any breach or non-performance before or after the appointed day of any condition, trust or proviso contained in the grant by the Crown Waiver of certain conditions, etc., in certain Crown grants.

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No. 55, 1969 Crown of the land and every provision for forfeiture or reverter in respect of any such breach or non-performance shall be deemed to have been released by the Crown as from the date of the Crown grant.

Evidence. **16.** (1) A certificate under the common seal of the Trust to the effect that property therein specified is held by it upon trust for the Methodist Church of Australasia shall, in any action, suit or other proceeding, civil or criminal, be prima facie evidence that the property so specified is so held.

(2) A certificate under the common seal of the Trust to the effect that the estate or interest of persons therein specified in land so specified is an estate or interest vested in the Trust by this Act shall, for the purposes of any application by the Trust to be registered under the Real Property Act, 1900, as the proprietor of that estate or interest pursuant to that vesting, be conclusive evidence of the matters so certified.

Certain rights enforceable by the Trust. **17.** Where, immediately before the appointed day, there was vested in any person divested of property by this Act a right (including a chose in action) arising out of contract or tort and relating to that property, the right is hereby vested in, and may be enforced by, the Trust.

PART IV.

GENERAL.

Claims for compensation upon compulsory acquisition, etc. **18.** Subject to any resolution or direction of the Conference or of any Committee appointed by it for the purpose, the Trust may act in relation to the exchange, dedication or compulsory acquisition of any property vested in it, may make claims for compensation in respect thereof and
may

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may agree to and settle any such claims, for such considerations, and on and subject to such terms and conditions, as may appear advisable to it. No. 55, 1969

19. A receipt for moneys payable to the Trust shall exonerate the mortgagee, purchaser or other person by or on whose behalf the moneys are so payable from any liability to see to the application thereof, and from any liability for the loss, misapplication or non-application thereof, if the receipt—

- (a) is executed in accordance with this Act under the common seal of the Trust;
- (b) is in writing signed by two persons purporting to be members of the Trust; or
- (c) is in writing signed by a person or persons purporting to be duly authorised for the purpose by the Trust or two members thereof.

20. No purchaser, mortgagee, lessee or other person dealing with the Trust, and neither the Registrar-General nor the Crown Solicitor nor any other person registering or certifying title shall, upon any sale, exchange, mortgage, lease or other dealing purporting to be entered into by the Trust, be concerned to see or enquire into the necessity for or the propriety of the exercise by the Trust of its powers or the mode of exercising them or be affected by notice that the exercise of any such power is unauthorised, irregular or improper. Exoneration from enquiry.

21. Nothing in, or done under this Act shall operate to deprive any person of any right arising out of contract or tort that was vested in him immediately before the appointed day and any such right that, immediately before that day, was enforceable in respect of any property vested in the Trust by this Act may be enforced against the Trust. Saving of certain rights.

22. A member of the Trust, and any other person, exercising a power or performing a duty in relation to trust property pursuant to this Act or pursuant to any resolution Indemnification of certain persons.

or

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No. 55, 1969 or direction of the Conference, his executors and administrators, shall be entitled to be indemnified out of trust property against all expenses or liabilities incurred by him in connection with the exercise by him of the power and the performance by him of the duty.

Service of documents. **23.** The service of any writ, statement of claim, summons or other legal process on the Trust may be effected by serving it on the President, Secretary, Property Secretary or Connexional Secretary of the Conference or on any person appearing to be authorised by the Trust to accept service thereof.

Legal proceedings. **24.** (1) Legal proceedings relating to any trust property or to any contract or other matter arising out of the management, administration or development of any trust property may be brought in the name of the Trust or in his own name on behalf of the Trust by any person authorised so to do by the Trust.

(2) The Trust may sue and be sued in all actions and proceedings whether at law or in equity for the purpose of ascertaining whether any property is property that is vested in the Trust by or pursuant to this Act and of ascertaining the trusts upon which any such property is held.

Trust may act as executor, etc. **25.** (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 Church has a beneficial interest, vested or contingent, in the estate of that person; 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, or pursuant to, this Act, and the trust was created wholly or partly for the benefit of the Church,

and

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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. 55, 1969

(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 or pursuant to this Act).

(4) Any commission or other remuneration earned by the Trust as an executor, administrator or trustee appointed under the authority of this section shall belong to the Trust and shall be used and applied by it for or towards any object or purpose specified or approved by the Conference in respect thereof.

26. The Trust may hold or acquire any real or personal property either alone or jointly with another or others as joint tenant or tenant-in-common. Trust may hold property jointly

27. The Trust shall make arrangements for the preservation and custody of The Methodist Church Register of Trustees for New South Wales maintained before the appointed day under the Wesleyan Methodist Church Property Trust Act, 1889, and any extract purporting to be an extract from that register in or to the effect of the form contained in the Second Schedule to this Act certified under the common seal of the Trust shall without the production of that register be received and taken in all legal proceedings Register of former trustees.

and

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No. 55, 1969 and in all dealings with land and on all occasions whatsoever as sufficient evidence of the several matters comprised in the extract in so far as they may relate to the land specified in the certificate.

Resolutions. **28.** (1) The Conference may, by resolution, regulate and control the management and administration of, and dealings with, trust property, but no such resolution shall take effect unless it is approved by the General Conference of the Methodist Church of Australasia or any person or body authorised by it for the purpose.

(2) The "Regulations for Trust Committees" approved by the General Conference of the Methodist Church of Australasia in the year one thousand nine hundred and sixty-six shall have the force and effect of resolutions made and approved under subsection one of this section.

(3) A certificate signed by the President for the time being of the Conference that specifies in the certificate or an annexure thereto the form of a resolution under subsection one of this section and in force on a day specified in the certificate shall be conclusive evidence that the resolution was in force in that form on that day.

(4) A resolution under subsection one of this section may from time to time be rescinded, revoked, altered or varied by the Conference but no such rescission, revocation, alteration or variation shall take effect unless it is approved in the same manner as a resolution.

PART V.

CO-OPERATION WITH OTHER DENOMINATIONS.

Co-operative use of property. **29.** (1) Where it has been decided in accordance with the laws of the Methodist Church of Australasia 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

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vested in the Trust, the Trust 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 Conference, or any committee appointed by it for the purpose, determines or prescribes, and the proceeds of sale or mortgage or any other dealing with such property and all moneys collected or held in respect of such scheme of co-operation may be paid and applied in such manner as may be determined or prescribed by the Conference or such committee. No. 55, 1969

(2) The conditions that the Conference 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, maintenance or repair of assets vested in or held on behalf of a co-operating church or congregation and the giving or taking of such security or charge as may be prescribed by any such scheme of co-operation over any property in respect of any contributions of money or in money's worth made or received pursuant to that scheme and any property of the Trust involved in any such scheme is, to the extent prescribed therein, hereby charged.

(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.

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No. 55, 1969 **30.** (1) The provisions of section twenty-nine of this Act shall apply to and in relation to all property at any time held by the Trust except to the extent that any such property is held subject to any express trust expressly forbidding its use in any manner referred to in that section.

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

Sec. 2.

FIRST SCHEDULE.

First Column	Second Column
Wesleyan Methodist Church Property Trust Act, 1889.	The whole.
Methodist Union Act, 1902.	Section 2. Subsections (3), (4) and (5) of section 5. Sections 7, 8, 9, 10, 12, 13 and 14. Subsection (3) (including proviso) of section 15. Sections 16, 18 and 20.

Sec. 27.

SECOND SCHEDULE.

EXTRACT FROM THE METHODIST CHURCH REGISTER OF TRUSTEES FOR NEW SOUTH WALES.

METHODIST CHURCH (N.S.W.) PROPERTY TRUST hereby certifies that, on theday of19 , the Trustees of (here specify the land to which the certificate relates) were the following persons:—

OLD