

New South Wales



ANNO VICESIMO QUINTO

ELIZABETHÆ II REGINÆ

Act No. 37, 1976.

An Act to amend the Church of England Trust Property Act, 1917. [Assented to, 5th October, 1976.]

BE

Church of England Trust Property (Amendment).

BE 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 :—

1. This Act may be cited as the "Church of England Trust Property (Amendment) Act, 1976".

2. The Church of England Trust Property Act, 1917, is amended in the manner set forth in Schedule 1. Amendment of Act No. 21, 1917.

SCHEDULE 1.

Sec. 2.

AMENDMENTS TO THE CHURCH OF ENGLAND TRUST
PROPERTY ACT, 1917.

(1) Section 6A—

After section 6, insert :—

6A. (1) This section applies to the Diocese of Sydney but does not apply to any other diocese until an ordinance of the synod of that other diocese is published in the Gazette under the hand of the Bishop declaring that this section applies to that other diocese. Term of office of member of corporate body of trustees.

(2) The members of a corporate body of trustees for a diocese to which this section applies (members ex officio excepted) hold office—

(a) for such term as is specified in respect of all members; or

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Church of England Trust Property (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CHURCH OF ENGLAND TRUST
PROPERTY ACT, 1917—*continued.*

- (b) for such different terms as are specified in respect of different members or different classes of members,

in an ordinance of the synod of the diocese published in the Gazette under the hand of the Bishop.

(3) A member of a corporate body of trustees whose term of office as such a member expires is eligible for re-election as such a member.

(2) Section 26A—

After section 26, insert :—

Certain
directions
may be
given in
anticipation.

26A. (1) This section applies to the Diocese of Sydney but does not apply to any other diocese until an ordinance of the synod of that other diocese is published in the Gazette under the hand of the Bishop declaring that this section applies to that other diocese.

(2) The synod of a diocese to which this section applies may by ordinance—

- (a) direct that, upon specified real property becoming church trust property held for the diocese, it may be mortgaged, let on mining, building, occupation or other leases or otherwise dealt with as specified in the ordinance; and
- (b) provide for the application of the personal property arising from any such mortgage, letting or other dealing.

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Church of England Trust Property (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CHURCH OF ENGLAND TRUST
PROPERTY ACT, 1917—*continued.*

(3) Section 27A—

After section 27, insert :—

27A. (1) This section applies to the Diocese of Sydney but does not apply to any other diocese until an ordinance of the synod of that other diocese is published in the Gazette under the hand of the Bishop declaring that this section applies to that other diocese. Certain directions may be given by resolution.

(2) Subject to this section, where the synod of a diocese to which this section applies is authorised by section 26, 26A or 27 to give a direction for or with respect to a mortgage, the direction may be given instead—

- (a) by resolution of its synod or of the standing committee of its synod; and
- (b) in the case of the Diocese of Sydney—also by resolution of the Sydney Church of England Finance and Loans Board,

being, in either case, a resolution that does not contravene or fail to comply with any ordinance referred to in subsection (3) or (4) that is applicable.

(3) A direction may not be given under subsection (2) where—

- (a) the same direction, if given by ordinance under section 26, would require a consent referred to in that section before it could be assented to; and
- (b) that consent has not been given.

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE CHURCH OF ENGLAND TRUST
PROPERTY ACT, 1917—*continued.*

(4) The synod of a diocese may, by ordinance, restrict or regulate the right of its members and of the members of its standing committee to move a resolution referred to in subsection (2) and prescribe the form that any such resolution shall take, and the synod of the Diocese of Sydney may similarly restrict, regulate and prescribe in relation to the Sydney Church of England Finance and Loans Board.

(5) A resolution passed under subsection (2) shall be certified—

- (a) by the Registrar of the diocese for which is held the church trust property to which the resolution relates or by a person for the time being acting in that office; or
- (b) by a secretary of the synod of that diocese or by a person for the time being acting in that office.

(4) Section 32A—

After section 32, insert :—

32A. (1) In this section—

“church trust property” does not include church trust property held for the sole benefit of a particular parish;

Limited
substitution
of trust of
income.

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Church of England Trust Property (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CHURCH OF ENGLAND TRUST
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“prescribed period” in relation to an ordinance
made under subsection (3) means—

- (a) where the ordinance specifies a particular period of 12 months as the prescribed period for the purposes of this section—that period of 12 months; or
- (b) in any other case—the period of 12 months that next succeeds assent to the ordinance by the Bishop of the diocese.

(2) This section applies to the Diocese of Sydney but does not apply to any other diocese until an ordinance of the synod of that other diocese is published in the Gazette under the hand of the Bishop declaring that this section applies to that other diocese.

(3) The synod of a diocese to which this section applies may by ordinance declare that it is temporarily inexpedient to carry out or observe the trusts to which the income from that property, or a specified part of that income, is subject.

(4) Where the synod of a diocese makes an ordinance under subsection (3) with respect to any income it may, by the same or a subsequent ordinance, declare that, during the prescribed period for the ordinance, that income is held upon trusts, specified in the ordinance, for or for the use, benefit or purposes (whether within or beyond that diocese or the State) of the Church of England in Australia.

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE CHURCH OF ENGLAND TRUST
PROPERTY ACT, 1917—*continued.*

(5) Income to which a declaration under subsection (4) relates shall, during the prescribed period for the ordinance by which the declaration is made, be held upon the trusts specified in that ordinance to the exclusion of any other trusts to which it was subject and shall, at the expiration of that prescribed period, become again subject to those other trusts.

(5) (a) Section 35—

After “ordinance” where firstly occurring, insert “or resolution”.

(b) Section 35—

After “assented to”, insert “, or that a resolution in those terms was duly passed”.

(c) Section 35—

After “ordinance” where thirdly occurring, insert “or resolution”.

(d) Section 35—

Omit “ordinance or ordinances”, insert instead “ordinance or resolution or ordinances or resolutions, as the case may be,”.

(6) (a) Section 37—

Omit “or to be made” where firstly occurring, insert instead “or resolution passed”.

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE CHURCH OF ENGLAND TRUST
PROPERTY ACT, 1917—*continued.*

(b) Section 37—

Omit “ordinance, the synod of a diocese may repeal or from time to time amend any ordinance made or to be made by the synod of such diocese.”, insert instead :—

ordinance or resolution—

- (a) the synod of a diocese may by ordinance repeal or amend—
 - (i) any ordinance made by that synod;
 - (ii) any resolution passed by that synod or its standing committee; or
 - (iii) where the diocese is the Diocese of Sydney—any resolution of the Sydney Church of England Finance and Loans Board;
- (b) the standing committee of the synod of a diocese may by resolution repeal or amend any resolution of that committee; and
- (c) the Sydney Church of England Finance and Loans Board may by resolution repeal or amend any resolution of that Board.

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SCHEDULE 1—*continued.*AMENDMENTS TO THE CHURCH OF ENGLAND TRUST
PROPERTY ACT, 1917—*continued.*

(7) (a) Section 43—

After “ordinance” where firstly occurring, insert
“or resolution”.

(b) Section 43—

Omit “twenty-two, twenty-four, twenty-five,
twenty-six, twenty-seven, thirty-two, thirty-seven,
thirty-nine, or forty,” insert instead “22, 24, 25,
26, 26A, 27, 27A, 32, 37, 39 or 40”.

(c) Section 43 (a)—

After “diocese,” insert “or of such resolution,
certified as provided by section 27A (5),”.

(d) Section 43 (b)—

After “diocese”, insert “, or of such resolution
certified as provided by section 27A (5),”.
