

**ROMAN CATHOLIC CHURCH TRUST PROPERTY
(AMENDMENT) ACT 1986 No. 190**

NEW SOUTH WALES



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PROPERTY ACT 1936

**ROMAN CATHOLIC CHURCH TRUST PROPERTY (AMENDMENT)
ACT 1986 No. 190**

NEW SOUTH WALES



Act No. 190, 1986

An Act to amend the Roman Catholic Church Trust Property Act 1936 in relation to the management and transfer of Church trust property and the powers of bodies corporate created by that Act. [Assented to 18 December 1986]

See also Roman Catholic Church Communities' Lands (Amendment) Act 1986.

Roman Catholic Church Trust Property (Amendment) 1986

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:

Short title

1. This Act may be cited as the "Roman Catholic Church Trust Property (Amendment) Act 1986".

Amendment of Act No. 24, 1936

2. The Roman Catholic Church Trust Property Act 1936 is amended in the manner set forth in Schedule 1.

SCHEDULE 1

(Sec. 2)

AMENDMENTS TO THE ROMAN CATHOLIC CHURCH TRUST
PROPERTY ACT 1936

(1) Preamble—

- (a) Omit "held, and", insert instead "held,".
- (b) After "expensive", insert "and also that other activities which are or may be for the benefit of the Roman Catholic Church may be conducted by those bodies corporate".

(2) Section 2 (Definitions)—

Definition of "Diocesan Consultors"—

Omit the definition, insert instead:

"Diocesan Consultors" means—

- (a) the Diocesan Consultors for the time being of a diocese;
- (b) in relation to a diocese in which a Cathedral Chapter exists, the members for the time being of that Cathedral Chapter; or
- (c) in relation to a diocese in which a College of Consultors exists, the members for the time being of that College of Consultors.

Roman Catholic Church Trust Property (Amendment) 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE ROMAN CATHOLIC CHURCH TRUST
PROPERTY ACT 1936—*continued*

(3) Section 4 (**Trustees to be bodies corporate**)—

Section 4 (3)—

After section 4 (2), insert:

(3) The objects of a body corporate created by this Act include—

- (a) the operation and conduct of educational, welfare and health institutions, organisations or other bodies; and
- (b) the performance of all such acts, matters and things of any nature (which may include, without limiting the scope of this paragraph, borrowing money) as, in its opinion, are or may be for its benefit or for the benefit of the Church.

(4) Section 8 (**Vesting of Church trust property**)—

Section 8 (3)—

After section 8 (2), insert:

(3) The reference in subsection (1) (b) to the person in whom Church trust property was vested before the creation of a body corporate includes, and shall be deemed to have always included, a reference to a body corporate created under section 4 in which that property was formerly vested.

(5) Section 9 (**Powers of bodies corporate**)—

(a) Section 9—

Omit “Every body corporate created by this Act shall have power, from time to time”, insert instead “A body corporate created by this Act has all of the powers of a natural person, including (without limiting the scope of those powers) the power”.

(b) Section 9 (a)—

Omit “and”.

Roman Catholic Church Trust Property (Amendment) 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE ROMAN CATHOLIC CHURCH TRUST
PROPERTY ACT 1936—*continued*

(c) Section 9 (c)—

Omit the paragraph, insert instead:

- (c) to execute any document and to do any other thing the execution or doing of which, in its opinion, is necessary or convenient to achieve its objects.

(6) Section 9B (**Delegation of powers, etc., of bodies corporate**)—

Section 9B (1)—

After “section”, insert “or section 9c”.

(7) Sections 9C, 9D—

After section 9B, insert:

Variation of trusts

9C. (1) If, after the creation of the trusts to which any real or personal property vested in or held by a body corporate constituted by this Act is for the time being subject, it has, in the opinion of the body corporate, become impossible or inexpedient to carry out or observe those trusts, the body corporate may by resolution declare that opinion, and by the same or a later resolution declare other trusts subject to which such property may be held, being trusts for the use, benefit or purposes of the Church.

(2) A resolution declaring other trusts causes the replaced trusts to cease and determine and the property which was subject to those trusts shall be held subject to the other trusts.

(3) The property shall be dealt with as nearly as may be possible for the purposes for which the property was, immediately before the resolution, held unless the body corporate by resolution declares that by reason of circumstances arising after the creation of the replaced trusts it is, in the opinion of the body corporate, impossible or inexpedient to deal with or apply the property or some part of the property for the same or like purposes.

SCHEDULE 1—*continued*AMENDMENTS TO THE ROMAN CATHOLIC CHURCH TRUST
PROPERTY ACT 1936—*continued*

(4) If a resolution is passed under subsection (3) in relation to property or some part of property, the property or part may be dealt with and applied for the use, benefit or purposes of the Church subject to the trusts declared by resolution of the body corporate.

(5) This section applies to trusts created before or after the commencement of the Roman Catholic Church Trust Property (Amendment) Act 1986.

(6) In subsection (1), the reference to trusts which have been created includes a reference to trusts declared by a resolution passed under this section.

Blending of trust funds

9D. (1) Where a body corporate holds money on trust for different purposes or activities it shall be lawful for the body corporate from time to time—

- (a) to invest the money or any part or parts of the money as one fund; and
- (b) to distribute income arising from the investment of the fund rateably for the benefit of carrying out the several purposes or activities for which the money invested is held on trust.

(2) Any loss arising from an investment in accordance with this section shall be distributed rateably to the detriment of carrying out the several purposes or activities for which the money invested is held on trust.

(8) Section 16—

After section 15, insert:

Exemption from stamp duty

16. (1) An instrument executed only for—

- (a) a purpose ancillary to, or consequential on, the operation of section 8; or

Roman Catholic Church Trust Property (Amendment) 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE ROMAN CATHOLIC CHURCH TRUST
PROPERTY ACT 1936—*continued*

- (b) the purpose of giving effect to that section,
shall be exempt from stamp duty.
- (2) An instrument, being an agreement for the sale, conveyance
or demise of any property—
- (a) from a body corporate created by this Act to another body
corporate so created or to a body corporate created by the
Roman Catholic Church Communities' Lands Act 1942; or
- (b) from a body corporate created by the Roman Catholic
Church Communities' Lands Act 1942 to a body corporate
created by this Act,
shall be exempt from stamp duty.
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