

Passed by both Houses



New South Wales

Baptist Churches of New South Wales Property Trust Amendment Bill 2013

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2013*



New South Wales

Baptist Churches of New South Wales Property Trust Amendment Bill 2013

Act No , 2013

An Act to amend the *Baptist Churches of New South Wales Property Trust Act 1984* to make further provision in relation to property held on trust for a congregation; and for other purposes.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Baptist Churches of New South Wales Property Trust Amendment Act 2013*.

2 Commencement

This Act commences on the date of assent to this Act.

Schedule 1 Amendment of Baptist Churches of New South Wales Property Trust Act 1984 No 4

[1] Section 4 Definitions

Omit “church or other building” from paragraph (c) of the definition of *congregation* in section 4 (1).

Insert instead “church building or in any other building”.

[2] Section 4 (1)

Insert in alphabetical order:

deacon, in relation to a congregation, means:

- (a) a person elected to a position of deacon of the congregation by the Baptist Union, or
- (b) a person elected to a position of leadership in the congregation by the Baptist Union (whether the holder of the position is described as an elder or by any other term).

district means an area of land that the Executive Committee has determined in writing is a district for the purposes of this Act.

secretary, in relation to a congregation, means:

- (a) a person elected to the position of secretary of the congregation, or
- (b) if no person has been elected to a position of that title—a person elected to a position that exercises the responsibilities of a secretary of the congregation (whether the holder of the position is described as a Church secretary, an administrator or a public officer, or by any other term).

[3] Section 22 General functions of Trust

Insert “building” after “church” wherever occurring in section 22 (2) (d) and (5) (b) (ii).

[4] Section 22 (2) (e)

Omit the paragraph. Insert instead:

- (e) despite paragraph (d), permit an occasional minister or other person to officiate in any such church building, but only if:
 - (i) the pastor or the deacons of the congregation that for the time being worships in the church building concurs or concur, or
 - (ii) where there is no pastor and there are no deacons of that congregation—the officer who is a member of that congregation and who is nominated by that congregation for the purposes of this subparagraph concurs,

[5] Section 22 (2) (f) (iii)

Omit the subparagraph. Insert instead:

- (iii) a qualifying corporation,

[6] Section 22 (2) (h) (iii)

Omit the subparagraph. Insert instead:

- (iii) a qualifying corporation, and

[7] Section 22 (4)

Omit the subsection. Insert instead:

- (4) A church building, school or manse on land vested in the Trust may be repaired, altered, enlarged, demolished, rebuilt or substituted by another building, and another building may be erected on land so vested, by the Trust only if the Trust has been directed to do so:
 - (a) in the case of a church building, school or land—by the congregation that is entitled to use the church building, school or land, or
 - (b) in the case of a manse—by the congregation whose pastor is entitled to use the manse, or
 - (c) if the Executive Committee has determined in writing that the matter is minor and that the secretary of a congregation can give such a direction in the particular circumstances—by the secretary of the congregation that is entitled to use the church building, school or land, or of the congregation whose pastor is entitled to use the manse, as the case may be.

[8] Section 22 (8)

Insert after section 22 (7):

- (8) In this section:
- qualifying corporation*, in relation to a direction given under subsection (2) (f) or (h), means a corporation:
- (a) that has objects that are not inconsistent with the general objects of the Baptist Union, and
 - (b) the constitution of which provides:
 - (i) that a person is not eligible for membership of the corporation unless that person is a member of the specific congregation giving the direction, and
 - (ii) that a person ceases to be a member of the corporation if that person ceases to be a member of the specific congregation giving the direction, and
 - (iii) that no alteration or amendment to its constitution can take effect without the consent in writing of the Trust, and
 - (c) whose directors and other officers are:
 - (i) members of the corporation (and accordingly members of the congregation giving the direction), or
 - (ii) members of another congregation, or
 - (iii) persons whom the Executive Committee is satisfied are committed adherents of evangelical doctrines or committed members of an evangelical church or party, and
 - (d) that has a proportion of directors or other officers who are neither members of the corporation nor of a congregation that is no more than that determined by the Executive Committee in writing from time to time.

[9] Section 28 Reimbursement of Trust

Omit “of a congregation” from section 28 (1) (a) (i).

Insert instead “given by or on behalf of a congregation”.

[10] Section 28 (3) (b) (i) and (ii)

Insert “building” after “church” wherever occurring.

[11] Sections 29 and 29AA

Omit section 29. Insert instead:

29 Baptist Union temporarily has trust property functions of dissolved congregations

- (1) This section applies if, while any trust property situated in a district is vested in the Trust, a congregation which is or was established in the district is dissolved or dispersed so that there are no members of a congregation in that district meeting together for the public worship of God according to the usages of the Baptist denomination.
- (2) Until a congregation having 10 members or more is again formed in that district, the Baptist Union is to have and may exercise all of the functions with respect to the trust property that the dissolved or dispersed congregation would otherwise have had and would otherwise have been capable of exercising.
- (3) However, for the first 6 months after the dissolution or dispersal:
 - (a) the Baptist Union may not direct the Trust to sell or dispose of any trust property held by it on behalf of the dissolved or dispersed congregation, and
 - (b) the Trust must not sell or dispose of any such trust property.

29AA Baptist Union temporarily has trust property functions of congregations with small membership

- (1) This section applies if, while any trust property situated in a district is vested in the Trust, a congregation which is or was established in the district consists of less than 10 members.
- (2) Until the congregation increases in membership to 10 members or more:
 - (a) the Baptist Union is to have and may exercise all of the functions with respect to the trust property that the congregation would otherwise have had and would otherwise have been capable of exercising, and
 - (b) the congregation does not have those functions and is not capable of exercising them.
- (3) The Baptist Union must not exercise any function pursuant to subsection (2) with respect to trust property held on behalf of a congregation unless the Baptist Union has first consulted the members of the congregation.

- (4) However, for the first 2 years during which the congregation consists of less than 10 members:
 - (a) the Baptist Union may not direct the Trust to sell or dispose of any trust property held by it on behalf of the congregation unless the members of the congregation consent, and
 - (b) the Trust must not sell or dispose of any trust property held by it on behalf of the congregation unless the members of the congregation consent.

[12] Section 42 Directions of congregation to Trust

Omit section 42 (1) and (2). Insert instead:

- (1) A direction of a congregation is, for the purposes of this Act, given when:
 - (a) a resolution in favour of the direction has been passed by the required majority at a meeting of the congregation of which notice has been given in accordance with this section, and
 - (b) in the case only of a congregation with between 10 and 20 members—the Executive Committee has consented to the direction being given.

[13] Section 42 (4A)

Insert after section 42 (4):

- (4A) For the purposes of this section, a resolution is passed by the required majority if it is passed:
 - (a) by a majority of not less than 75% of the personal votes of such of the members of the congregation as are of or above the age of 18 years and as are present and vote at the meeting, and
 - (b) by at least 10 persons.

[14] Section 43 Meetings of District Associations for purpose of giving directions to Trust

Omit “Subject to subsection (2), the” from section 43 (1). Insert instead “A”.

[15] Section 43 (2)

Omit the subsection.