

Act 1993 No. 20

**ANTIOCHIAN ORTHODOX CHURCH PROPERTY TRUST
BILL 1993**

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

Property is currently held in trust for the Antiochian Orthodox Church by four companies incorporated in New South Wales and limited by guarantee.

The objects of this Bill are:

- (a) to constitute a statutory corporation to hold property on behalf of the Church; and
- (b) to specify the functions of the statutory corporation; and
- (c) to vest in the statutory corporation property held in trust for the Church.

PART 1—PRELIMINARY

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the proposed Act to commence on a day or days to be proclaimed.

Clause 3 defines terms used in the proposed Act. Among the terms defined are “Bishop”, “Board”, “Church” and “trust property”.

PART 2—CONSTITUTION AND FUNCTIONS OF THE TRUST

Clause 4 provides for the Antiochian Orthodox Church Property Trust (referred to in the proposed Act as “the Trust”) to be established as a corporation. The Trust is to consist of a Board of Trustees comprising the Archbishop, the Bishops and 4 office holders appointed by the Archbishop or, if no such members have been appointed, 4 lay persons. The clause also provides that no capacity or power of the Trust is to be affected by the existence of vacancies in its membership and provides for the suspension of the powers exercisable by the Trust where a quorum cannot be constituted.

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Clause 5 provides for the notification in the Gazette of the creation of a new diocese.

Clause 6 specifies the functions of the Trust. These include:

- (a) buying, holding and selling Church property; and
- (b) acquiring property by gift or by devise or bequest; and
- (c) borrowing money for Church purposes; and
- (d) operating and conducting educational, welfare and health institutions or organisations.

Clause 7 will enable the Trust to hold property alone or jointly.

Clause 8 provides for the investment of funds by the Trust.

Clause 9 will enable the Trust to invest, as one fund, money held for different purposes.

Clause 10 will enable the Trust to make arrangements with a Church of another denomination concerning the use of trust property.

Clause 11 will enable the Trust to vary the terms of a trust if it has become impossible or inexpedient to carry out those terms.

Clause 12 will enable the Trust to be the executor or administrator of an estate in which the Church has a beneficial interest. The clause will also enable the Trust to accept appointment as trustee of property held for the Church's benefit.

Clause 13 will authorise the Trust to act on behalf of the Church in settling the compensation payable in the event that any trust property is compulsorily acquired.

PART 3—VESTING OF PROPERTY IN THE TRUST

Clause 14 provides for the vesting in the Trust of property currently held in trust for the Church.

Clause 15 provides for the vesting in the Trust of property given to, or receivable or recoverable by, the Church in the future.

PART 4—MISCELLANEOUS MATTERS

Clause 16 provides for the use and custody of the seal of the Trust.

Clause 17 will empower the Trust to delegate its functions to a Bishop.

Clause 18 provides for the execution on behalf of the Trust of deeds and instruments required by law to be in writing and for the entering into of oral contracts on its behalf.

Clause 19 will enable the Trust to appoint agents to execute documents on its behalf.

Clause 20 will enable the Trust to certify that it holds property in trust for the Church.

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Clause 21 provides that, if a person obtains a receipt for money paid to the Trust, the person will not be liable if subsequently the money is lost or misapplied or is not applied.

Clause 22 is intended to remove the need for a person involved in a property dealing with the Trust to inquire whether the Trust has power to deal with the property and will protect the person even if the person had notice that the Trust had no such power.

Clause 23 will entitle members of the Trust and others to be indemnified out of trust property against liability for certain things done by them in good faith concerning the property.

Clause 24 provides for the service of documents on the Trust.

Clause 25 will enable the Trust to make by-laws for certain purposes.

Clause 26 gives effect to Schedule 2, which contains savings and transitional provisions relating to property vested in the Trust in accordance with proposed section 14.

SCHEDULE 1—COMPANIES HOLDING PROPERTY IN TRUST FOR THE CHURCH

Schedule 1 lists the names of the 4 companies by which property is currently held in trust for the Church. These companies are incorporated in New South Wales and limited by guarantee.

SCHEDULE 2—SAVINGS AND TRANSITIONAL PROVISIONS

Schedule 2 provides that, when property vests in the Trust in accordance with proposed section 14, the rights, obligations and liabilities of the former trustees in relation to the property will become the rights, obligations and liabilities of the Trust.
