

[Act 2001 No 12]



New South Wales

Russian Orthodox Church Property Trust Amendment Bill 2001

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Russian Orthodox Church Property Trust Act 1991*:

- (a) to limit the operation of the Trust established by the Act to property in New South Wales, and
 - (b) to recognise the distinction between property that is held by the Trust for the benefit of the Diocese (*Diocesan property*) and property that is held for the benefit of a Parish (*Parish property*), and
 - (c) to require the Trust to deal with Diocesan property in accordance with the rules of the Church (*the Statute*), and Parish property in accordance with the Statute and the By-laws of a Parish, and
 - (d) to alter the make-up of the Board of the Trust so that the Board will comprise the members for the time being of the Diocesan Council, and
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- (e) to make other minor amendments with respect to arrangements with other churches, contract procedures, by-law making powers, and the terminology of the Act.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Russian Orthodox Church Property Trust Act 1991* set out in Schedule 1.

Schedule 1 Amendments

Application of Act only to property in NSW

Schedule 1 [4] makes an amendment to limit the operation of the Act to property in New South Wales. **Schedule 1 [3]** makes a consequential amendment to the definition of *property* (among other consequential amendments).

Schedule 1 [5] (substituted section 4 (1)) changes the name of the Trust established by the Act by including “(NSW)” in its name. **Schedule 1 [1]** and **[2]** make changes to the long and short titles of the Act to reflect this change of name.

Diocesan property and Parish property

Schedule 1 [17] and **[18]** amend provisions that presently operate to vest property in the Trust in trust for the Church. The amendments provide instead for property to be vested in trust for the Diocese or for a Parish to reflect the fact that property vested in the Trust is considered to be either property of the Diocese or property of a Parish.

Schedule 1 [6] alters the functions of the Trust to require that the Trust holds Diocesan property in trust for the Diocese and holds Parish property in trust for the Parish concerned.

Schedule 1 [8] requires the Trust to act in a manner consistent with the Statute and, when Parish property is involved, in a manner consistent with the Parish By-laws of the Parish.

Schedule 1 [7], [10], [11], [13], [14], [15], [16] and [20] make amendments that are consequential on the distinction between Diocesan property and Parish property and the alteration of the functions of the Trust to reflect this distinction.

The Board of the Trust

Schedule 1 [5] (substituted section 4 (2)) changes the make up of the Board of the Trust so that the members for the time being of the Diocesan Council (which is the representative executive body of the Church) will be the Board of the Trust. The number of members of the Board required to constitute a quorum is changed from 3 to 7 to reflect the change in number of Board members. Provision is also made for a secretary of the Trust, and for meetings of the Board to be able to be conducted by various electronic communication methods. The title “Ruling Bishop” is substituted for that of “Archbishop”.

Other amendments

Schedule 1 [9] makes a minor change to broaden the power of the Board to make by-laws with respect to Trust property.

Schedule 1 [12] omits a section that provides for arrangements with other churches for the use of Trust property.

Schedule 1 [19] omits a provision that allows oral contracts to be entered into on behalf of the Trust.

Schedule 1 [21]–[24] enact consequential transitional provisions.

Various amendments are made to update terminology, to accord with the Statute and the usages of the Church.