

# Churches of Christ in New South Wales Incorporation Act 1947 No 2

[1947-2]



New South Wales

## Status Information

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Authorisation

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# Churches of Christ in New South Wales Incorporation Act 1947 No 2



New South Wales

An Act to incorporate the Churches of Christ Property Trust; to define its powers, authorities, duties and functions; to make provision for and in relation to trustees of Churches of Christ and the registration of Churches of Christ; to repeal the *Churches of Christ Property Management Act 1906*; and for purposes connected therewith.

WHEREAS by the *Churches of Christ Property Management Act 1906* provision was made amongst other things for the appointment of trustees to hold property on behalf of individual churches known as Churches of Christ and whereas it is expedient to make provision for the more satisfactory control of property held by or on behalf of Churches of Christ in New South Wales by the incorporation of the Churches of Christ Property Trust to hold property on behalf of the association of churches known as Churches of Christ in New South Wales:

Be it therefore enacted by the King'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:

## Part 1 Preliminary

### 1 Name of Act and commencement

- (1) This Act may be cited as the *Churches of Christ in New South Wales Incorporation Act 1947*.
- (2) This Act shall commence upon the first day of May, one thousand nine hundred and forty-seven.
- (3) (Repealed)

### 2 Repeal

The *Churches of Christ Property Management Act 1906* is hereby repealed.

### 3 Definitions

- (1) In this Act unless the context or subject matter otherwise indicates or requires:

**Church of Christ** means the whole of the members whose names are for the time being on the roll of any particular congregation of a church known or styled as a Church of Christ at any particular place in the State of New South Wales, being a church which is affiliated under the Constitution.

**Church Trustees** means the trustees for the time being of any Church of Christ registered or deemed to be registered as trustees of such Church of Christ pursuant to Part 5.

**Churches of Christ in New South Wales** means the association of Churches of Christ affiliated at the commencement of the [Churches of Christ in New South Wales Incorporation \(Amendment\) Act 1982](#) under the Constitution together with such other Churches of Christ as may from time to time be admitted thereto in accordance with the conditions of admission for the time being in force, but does not include any church whose affiliation has been terminated.

**Conference** means any meeting of delegates of the churches affiliated as “Churches of Christ in New South Wales” duly called together in accordance with the Constitution.

**Conference Auxiliary** means any committee or organisation (not being a Conference Committee) consisting wholly of members of Churches of Christ in New South Wales or elsewhere or any committee or organisation that has for its objects the furtherance of the principles or work of the Churches of Christ in New South Wales or elsewhere or of any Conference Committee and, without limiting the generality of the foregoing, includes the Federal Conference of Churches of Christ in Australia, any Conference of Churches of Christ in any other State or Territory of Australia, any committee or organisation appointed by or formed by the Federal Conference of Churches of Christ in Australia or by any Conference of Churches of Christ in any other State, Territory or Trust Territory of Australia.

**Conference Committee** means any committee or organisation appointed by or formed by Conference and coming either directly or indirectly under the control or direction of Conference.

**Conference Executive** means the committee of that name constituted in accordance with the Constitution.

**Constitution** means the constitution known as “The Constitution of the Conference of Churches of Christ in New South Wales”.

**Member** means member of the Trust.

**Registrar** means the person from time to time holding office as Registrar in accordance with the provisions of this Act.

**Trust** means the Churches of Christ Property Trust constituted under this Act.

(2) Where a church (in this subsection referred to as **the new church**) known or styled as a Church of Christ at a particular place in the State of New South Wales is established by:

- (a) any church affiliated under the Constitution, or
- (b) any committee established by or under the direction of the Churches of Christ in New South Wales,

a reference in this Act to a Church of Christ includes a reference to the whole of the members whose names are for the time being on the roll of the congregation of the new church, until:

- (c) the new church is affiliated under the Constitution, or
- (d) the end of the next annual meeting of Conference called after the new church is established,

whichever first occurs.

(3) When the Trust is the only Church Trustee of any Church of Christ, a reference in this Act to the Church Trustees of that Church of Christ shall be construed as a reference to the Trust.

#### **4 Church government**

Except in respect of the matters and to the extent set forth in this Act nothing in this Act contained shall be held to affect the government management or administration of any Church of Christ coming under the operation of this Act.

## **Part 2 Incorporation of the Churches of Christ Property Trust**

### **5 Incorporation**

“The Churches of Christ Property Trust” constituted as hereinafter provided shall be a body corporate under that name and shall have perpetual succession and a common seal and may sue and be sued in its corporate name and shall be capable of purchasing, holding, granting, demising, disposing of or otherwise dealing with real and personal property, and of doing and suffering all such other acts and things as bodies corporate may by law do and suffer.

#### **5A Contracts**

(1) Contracts on behalf of the Trust may be made as follows:

- (a) a contract which, if made between private persons, would be by law required to be in writing under seal may be made on behalf of the Trust in writing under the common seal of the Trust,

(b) a contract which, if made between private persons, would be by law required to be in writing signed by the parties to be charged thereby may be made on behalf of the Trust in writing signed by any person acting under its express authority, given in writing under the common seal of the Trust.

(2) Any contract made on behalf of the Trust in accordance with subsection (1) (a) or (b) shall be effectual in law and shall bind the Trust and its successors and all other parties thereto and may be varied or discharged in the manner in which it is authorised to be made.

## **6 Seal and quorum**

(1) The members for the time being of the Trust shall have the custody of its common seal and the form of such seal and all other matters relating thereto shall, except as hereinafter provided, be, from time to time, determined at a meeting of the Trust.

(2) The common seal of the Trust shall not be affixed to any instrument except in pursuance of a resolution passed at a meeting of the Trust.

Every instrument to which the common seal is so affixed shall be signed by not less than three members of the Trust.

(3) Five members of the Trust shall constitute a quorum for the purposes of any meeting of the Trust:

Provided that where there are two or three vacancies in the offices of members of the Trust four members of the Trust shall constitute a quorum for the purposes of any meeting of the Trust.

(3A) A decision supported by the majority of the votes cast by the members of the Trust present and voting at a meeting of the Trust at which a quorum is present shall be the decision of the Trust.

(3B) The chairman for a meeting of the Trust shall, in the event of an equality of votes, have, in addition to a deliberative vote, a second or casting vote at the meeting.

(4) No act or proceeding of the Trust shall be invalidated or prejudiced by reason only of the fact that, at the time when such act or proceeding was done, taken or commenced, there were vacancies not exceeding three in number in the offices of members of the Trust.

## **6A Chairman**

(1) A chairman of the Trust shall be elected by the members of the Trust from among their number:

(a) at the first meeting of the Trust held after each annual meeting of Conference, and



- (b) at the next meeting of the Trust held after the office of chairman becomes vacant pursuant to subsection (2).
- (2) The office of chairman of the Trust shall be deemed to have become vacant if the person holding that office for the time being:
- (a) ceases to be a member of the Trust, or
  - (b) resigns that office by giving written notice of his resignation to the Trust.
- (3) A person elected under subsection (1) shall hold office as chairman of the Trust until:
- (a) the election under subsection (1) of his successor in that office, or
  - (b) that office becomes vacant pursuant to subsection (2),
- whichever first occurs.
- (4) The chairman for a meeting of the Trust shall be:
- (a) except as provided by paragraph (b)—the chairman of the Trust, or
  - (b) where the chairman of the Trust is absent from the meeting—another member of the Trust elected to act as chairman by the majority of the votes cast by the members of the Trust present and voting at the meeting.

## **Part 3 Registrar**

### **7 Appointment of Registrar**

The Trust shall, as occasion requires, appoint a member of a Church of Christ to be Registrar under this Act.

If at any time the office of Registrar is vacant the Conference Secretary shall act as Registrar until such time as a Registrar is appointed in accordance with the foregoing provision.

A member of the Trust may be appointed as Registrar.

The person who immediately before the commencement of this Act held office as Registrar under the *Churches of Christ Property Management Act 1906* shall be the Registrar under this Act until his successor has been appointed in accordance with the foregoing provision, but such person shall be eligible for such appointment.

### **8 Notice of appointment**

The Trust shall cause to be inserted in the Gazette notice of appointment of the Registrar and notice of any change in the address of the Registrar.

Such notice shall be in or to the effect of Form 1 or Form 2 (as the case may require) of

Schedule 1.

### **9 Keeping and inspection of duplicates of certificates issued under this Act**

The Registrar shall keep a duplicate of all certificates issued by him under this Act and may make such duplicates available for inspection by any person and shall on demand issue to any person an extract of any such certificate and may charge a fee of fifty cents for each inspection or extract as aforesaid.

### **10 Funds**

All funds in the hands of the Registrar under the *Churches of Christ Property Management Act 1906*, immediately before the commencement of this Act, and all funds coming into the hands of the Registrar under this Act shall be the property of the Trust and shall be applied towards the administration of this Act:

Provided that any such funds that the Trust considers not to be required for such purposes may be used by the Trust for the benefit of the work or objects of Churches of Christ in New South Wales in such manner as the Trust decides.

### **11 Vacancy in office of Registrar**

The office of Registrar shall be deemed to have become vacant if the Registrar:

- (a) dies,
- (b) resigns his office by writing under his hand addressed to the Trust,
- (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit,
- (d) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the *Mental Health Act 1958* or a person under detention under Part 7 of that Act, or
- (e) is removed from office by resolution of the Trust.

## **Part 4 Churches of Christ Property Trust**

### **12 Churches of Christ Property Trust**

- (1) There shall be constituted a Churches of Christ Property Trust.
- (2) The Trust shall, subject to subsection (3), consist of nine members being members in good standing of a Church of Christ and appointed by Conference in the manner hereinafter provided.
- (3)

- (a) The first Trust shall consist of the following members: Andrew Cowie Maclean, Esquire; Norman Douglas Morris, Esquire; Percy Herbert Morton, Esquire; Joseph Leslie Stimson, Esquire; Clement Armour Verco, Esquire; Richard Henry Wakeley, Esquire; and Spencer Charles Woolley, Esquire.
- (b) Such members shall, subject to section 17, hold office until their successors have been appointed at the annual meeting of Conference held in the year, one thousand nine hundred and forty-eight.

### **13 Exercise and discharge of powers, authorities etc by members**

The members shall in the exercise and discharge of their powers, authorities, duties and functions be subject to the direction and control of Conference in so far as the exercise or discharge of such powers, authorities, duties and functions is not regulated or controlled by or under this Act.

### **14 Tenure of office of members**

- (1) At the annual meeting of Conference held in the year, one thousand nine hundred and forty-eight, nine members of the Trust shall be appointed.

Three of such members shall be appointed for a term of nine years, three shall be appointed for a term of six years and three shall be appointed for a term of three years.

Members appointed subsequent to those appointed at the annual meeting of Conference held in the year, one thousand nine hundred and forty-eight, shall be appointed for a term of nine years.

- (2) The terms of nine years, six years and three years for which members have been appointed in accordance with subsection (1) shall be deemed to expire upon the appointment of the successors of such members at the annual meeting of Conference held in the ninth, sixth and third year respectively, following their appointment.
- (3) This section shall be read subject to section 17.

### **15 Appointment of members**

- (1) At the annual meeting of Conference held in every third year after the year one thousand nine hundred and forty-eight, three members shall be appointed to fill the vacancies occurring upon the retirement of members in accordance with section 14.
- (2) In the event of a casual vacancy occurring in the office of a member an appointment of a successor shall be made at the annual meeting of Conference next following the occurrence of such vacancy and the member appointed to fill such vacancy shall hold office only for the remainder of the term of office of the member whose place he fills.
- (3) In the event of the number of members at any time falling below six the remaining

members shall appoint such number of persons qualified for appointment as members as may be necessary to bring the number up to six.

A person so appointed under this subsection shall, subject to section 17, hold office only until the vacancy shall be filled at the next annual meeting of Conference in the like manner and with the like effect as a casual vacancy is filled under subsection (2).

- (4) In the event of any determination at any time being required as to which member shall be the retiring member or which member shall hold office for any particular term, in default of such determination being made by Conference, the Trust shall make such determination.
- (5) Any member if duly qualified shall upon the expiration of his term of office be eligible for re-appointment.

#### **16 Appointments to be by election and to be notified**

- (1) The persons to be appointed members at any annual meeting of Conference shall be the persons who have been the successful candidates at an election held at such annual meeting in such manner as Conference determines.
- (2) As soon as practicable after each appointment of a member the names of all the persons comprising the Trust shall be registered by the Registrar and notice thereof in or to the effect of the form in Schedule 2 shall be published by him in the Gazette.

#### **17 Vacancies in offices of members**

The office of a member shall be deemed to have become vacant if the member:

- (a) dies,
- (b) resigns his office by writing under his hand addressed to the Trust,
- (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit,
- (d) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the [Mental Health Act 1958](#) or a person under detention under Part 7 of that Act,
- (e) absents himself from four consecutive meetings of the Trust without leave of the Trust, or
- (f) is removed from office by resolution of Conference, which resolution shall be carried by a three-fourths majority of those delegates present and entitled to vote.

## **18 Powers of Trust in respect of representation of estate of deceased persons**

- (1) The Trust shall have power from time to time to apply for and obtain representation of the estate of any deceased person under whose will the Trust or any Church of Christ of which the Trust is the Church Trustee under this Act is a beneficiary or under whose will any real or personal property is devised or bequeathed for the benefit of the work or objects of Churches of Christ generally or for the support or advancement of any of the activities, work or objects of Conference or of any Conference Committee or Conference Auxiliary whether any particular Church of Christ, Conference Committee or Conference Auxiliary activity, work or object is specifically named or referred to in such will or not and to do all things necessary to administer such estate.
- (2) Any member of the Trust authorised for the purpose by the Trust may on behalf of the Trust swear affidavits, make declarations, statements of defence or other statements, give security and do any other act or thing required by any Charter, Act of Parliament or rule of court to be made by persons making application for probate or letters of administration.
- (3) Whenever the Trust shall have been appointed executor or administrator it shall be subject in all respects to the same control and to removal or restraint from acting and generally to the jurisdiction of the courts in the same manner as any other executor or administrator and, subject to the provisions of the [Trustee Act 1925](#), as amended by subsequent Acts, all the property real and personal of the Trust and the members thereof and their respective estates shall be liable for the proper discharge of the duties of such office.

## **19 Powers of Trust**

The Trust shall have power:

- (a) to hold on behalf of the Churches of Christ in New South Wales any real or personal property vested by Conference in the Trust, and to manage, administer, sell, exchange, mortgage, lease, dispose of or otherwise deal with such property in accordance with any direction of Conference made in that behalf,
- (b) to hold on behalf of any Conference Committee or Conference Auxiliary any real or personal property vested by such Conference Committee or Conference Auxiliary in the Trust, and to manage, administer, sell, exchange, mortgage, lease, dispose of or otherwise deal with such property in accordance with any direction of such Conference Committee or Conference Auxiliary made in that behalf,
- (c)
  - (i) to take in the name of the Trust and to hold any real or personal property devised, bequeathed, lent or otherwise made available by or under any will, deed of gift, deed of trust or other instrument for the benefit of the work or objects of Churches of Christ generally or for the support or advancement of any of the activities work

or objects of Conference or of any Conference Committee or Conference Auxiliary whether any particular Church of Christ, Conference, Conference Committee or Conference Auxiliary activity, work or object is specifically named or referred to in such will, deed of gift, deed of trust or other instrument or not, and

- (ii) where conditions attach to any real or personal property referred to in subparagraph (i) by any such will, deed of gift, deed of trust or other instrument, to manage, administer, sell, exchange, mortgage, lease, dispose of or otherwise deal with such property in accordance with such conditions, or where no conditions attach or in so far as such conditions do not extend or are not applicable to any such property to manage, administer, sell, exchange, mortgage, lease, dispose of or otherwise deal with such property in accordance with any direction of Conference made in that behalf, and
- (iii) to apply the proceeds, profits or income of or arising from the management, administration, sale, exchange, mortgage, lease, disposal of or other dealing with such property as aforesaid in accordance with the conditions (if any) attaching thereto by such will, deed of gift, deed of trust or other instrument, or if no such conditions attach thereto or in so far as such conditions do not extend or are not applicable thereto, to apply such proceeds, profits or income in accordance with any direction of Conference made in that behalf,
- (d) to purchase, lease or otherwise acquire and hold in the name of the Trust real or personal property as directed by Conference or by any Conference Committee, Conference Auxiliary or Church of Christ (of which the Trust is the Church Trustee under this Act) and to manage, administer, sell, exchange, mortgage, lease, dispose of or otherwise deal with any such property in accordance with the like directions,
- (e) to act as Church Trustee for any Church of Christ in New South Wales in accordance with Part 5,
- (f) to do all things necessary for the proper administration of the properties, estates, bequests or trusts held by the Trust subject to the limitations imposed by law,
- (g) to refuse to hold or manage or administer any property in the hands of or acquired by any Conference Committee, Conference Auxiliary, Church of Christ or any trust unless directed by Conference that it shall not so refuse,
- (h) to invest any moneys held by it and not otherwise required in such manner and on such security as may be directed by Conference or by any Conference Committee, Conference Auxiliary, Church of Christ, or trust on whose behalf the said moneys are held and failing any such direction to invest the said moneys in:
  - (i) securities authorised or deemed to be authorised by any law in force for the time being relating to the investment of trust funds,

- (ii) any security which may in the opinion of the Trust benefit the work or objects of Conference, any Conference Committee, Conference Auxiliary, Church of Christ or trust on whose behalf the moneys are held,
  - (iii) loans to Conference, or to any Conference Committee, Conference Auxiliary or Church of Christ in New South Wales with or without security and on such terms and conditions as may be determined by the Trust, or
  - (iv) loans to any organisation where the principal moneys will be used for the support or advancement of the work or objects of the Churches of Christ in New South Wales,
- (i) to borrow money for the purposes of the Trust,
  - (j) to enter into any agreement, contract, guarantee or other undertaking on behalf of and under the direction of any Church of Christ or of Conference or of any Conference Committee or Conference Auxiliary, and
  - (k) in the event of default being made in the repayment to the Trust of principal or interest in respect of any loan made to any Church of Christ or to Conference or to any Conference Committee or Conference Auxiliary and if that default has not been remedied within 60 days of written notice having been given to the person liable to make the repayment requiring repayment of the principal or interest, as the case may be, to sell, mortgage, lease or otherwise deal with the property of any such defaulting Church of Christ or of Conference or of any such Conference Committee or Conference Auxiliary, as the case may be, without any direction from that Church of Christ or Conference or that Conference Committee or Conference Auxiliary as if the Trust were the absolute owner thereof, but the Trust shall thereupon hold any excess money arising from any such sale, mortgage, leasing or other dealing in trust for that defaulting Church of Christ or for Conference or for that Conference Committee or Conference Auxiliary, as the case may be.

## **20 Protection of purchasers etc**

- (1) No purchaser, lessee, mortgagee or other person dealing with the Trust and neither the Registrar-General nor the Crown Solicitor nor any other person registering or certifying title shall, upon any sale, exchange, lease, mortgage, or other dealing purporting to be made under a power conferred on the Trust by this Act be concerned to see or inquire into the necessity for or the propriety or the mode of exercising the same, or be affected by notice that the exercise of the power is unauthorised, irregular or improper.
- (2) A receipt for any money payable to the Trust signed by a member thereof shall be a sufficient discharge in favour of, and shall exonerate the person paying such money from all responsibility for the application of such money.

## **21 Officers of Trust**

The Trust may appoint a secretary, accountant, auditors and such other officers or employees as it may consider necessary for the effective carrying out of its powers, authorities, duties and functions and may pay such salary, fees or remuneration for such services as the Trust may consider appropriate.

## **22 Expenses**

Any expenses incurred by the Trust under this Act shall be a charge against the property, estate, bequest or trust on account of which the expense is incurred.

## **Part 5 Church Trustees**

### **23 Special resolution**

For the purposes of this Part in order to pass a special resolution a Church of Christ shall adopt the following procedure, namely:

- (a) a special meeting of the members of the Church of Christ shall be called by the secretary of the Church of Christ after being requested so to do by the Church Trustees or by the Board of officers of the Church of Christ or on receipt of a requisition signed by not less than ten members of the Church of Christ,
- (b) notice of such special meeting shall be given by announcement at the church services held by such Church of Christ on the two Sundays preceding the meeting, by affixing a notice in a prominent place at the entrance to the building in which such church services are held and allowing the same to remain there for the two Sundays preceding the meeting and by inserting, not less than three nor more than fourteen days before the date of the meeting, an advertisement in at least one daily or weekly newspaper circulating in the district in which such Church of Christ is situated,
- (b1) written notice of the special meeting shall be given to the Registrar at least 14 days before the date of the meeting,
- (b2) each notice referred to in paragraph (b) or (b1) shall state the nature of the business to be considered at the special meeting to which it relates,
- (c) at such special meeting only such members of the Church of Christ who are 18 years of age or over and whose names are on the roll of such Church of Christ according to the custom and practice of such Church of Christ shall be entitled to vote,
- (c1) any 2 members of the Trust appointed for the purpose by the Registrar may attend and take part in the special meeting, but shall not be entitled to vote at the meeting,
- (d) the members of such Church of Christ present at such meeting shall elect one of their number or a member of the Trust or the Registrar to be chairman thereof and any member present thereat may propose a motion of which notice has been given in



accordance with the appropriate form of resolution set forth in Schedule 3 or such other appropriate form embodying any matter required or permitted by this Part to be the subject of any special resolution. Such motion shall be duly seconded, and after discussion the chairman shall put the motion to the vote of the members of such Church of Christ present at such meeting and the motion shall be deemed carried if three-fourths of the members present and entitled to vote in favour of the motion,

- (e) if the said motion shall be carried as aforesaid the chairman of the meeting shall forward to the Registrar a copy of the motion so carried accompanied by a statutory declaration verifying the said motion in the form set forth in Schedule 4.

#### **24 Churches associated under [Churches of Christ Property Management Act 1906](#)**

Any Church of Christ which immediately before the commencement of this Act was associated with the Churches of Christ under the [Churches of Christ Property Management Act 1906](#) for the purposes of that Act shall be deemed to be registered under this Part and the Registrar shall issue to every such Church of Christ a certificate in or to the effect of Form 1 of Schedule 5.

#### **25 Registration of Churches of Christ**

Any Church of Christ not registered or not deemed to be registered under this Act in which any property is vested or about to be vested may, on passing a special resolution in the appropriate form prescribed by Schedule 3, make application to the Trust to be registered under this Part. The Trust shall consider the application and may, subject to any direction of Conference, approve of the application or reject the application without assigning any reason for so doing.

If the application is approved by the Trust the Registrar shall issue to such Church of Christ a certificate in or to the effect of Form 2 in Schedule 5.

#### **26 Existing Church Trustees continued in office**

The persons who immediately before the commencement of this Act held office as trustees of any Church of Christ associated with the Churches of Christ under the [Churches of Christ Property Management Act 1906](#) shall be deemed to be duly registered as trustees of such Church of Christ under this Part. Upon furnishing the Registrar with such evidence as he may require of their due appointment as Church Trustees under the said Act the Registrar shall issue to the Church of Christ of which such persons are Church Trustees a certificate in or to the effect of Form 3 in Schedule 5.

#### **27 Appointment or change of Church Trustees**

- (1) Subject to subsections (3) and (4), any Church of Christ registered or deemed to be registered or applying for registration under this Part may, by special resolution in the appropriate form prescribed by Schedule 3, appoint Church Trustees or remove any Church Trustee or Church Trustees, or appoint Church Trustees to fill any vacancies in

the offices of Church Trustees or appoint additional trustees.

- (2) Subject to subsection (3), the Trust may pursuant to the foregoing provisions of this section be appointed Church Trustee of any Church of Christ.
- (3) When a Church of Christ makes its initial appointment of Church Trustees after the commencement of the *Churches of Christ in New South Wales Incorporation (Amendment) Act 1982* it may only appoint the Trust as its Church Trustee.
- (4) Where the Trust is or becomes the only Church Trustee of any Church of Christ, no other or additional Church Trustee of that Church of Christ may be appointed, unless the prior approval of Conference or of the Conference Executive has been obtained to the appointment.
- (5) The Registrar shall as soon as practicable after receipt of notification of any special resolution as aforesaid issue to the Church of Christ to which such special resolution relates a Registration of Trustees Certificate in or to the effect of Form 4 in Schedule 5, or an amended certificate in such form as may be necessary to give effect to such special resolution, as the case may require.

## **28 Notice of issue of certificate**

Upon the issue of any certificate under section 25 or section 27, the Registrar shall cause a true copy of the said certificate to be published in the Gazette. From and after the date of such publication the said certificate shall be binding and conclusive on all members of the Church of Christ mentioned therein and upon all persons dealing with the said Church of Christ.

## **29 Church Trustees to hold lands and buildings on conditions**

- (1) The Church Trustees of any Church of Christ deemed to be registered under this Part by virtue of section 26 shall continue to hold, and the Church Trustees of any Church of Christ registered under this Part after the commencement of this Act shall hold the lands and buildings standing in their names as such Church Trustees freed and discharged of and from all trusts and equities which affected the same prior to the appointment of Church Trustees of such Church of Christ and shall continue to hold or hold the same, as the case may be, for and on behalf of the Church of Christ to which before the appointment of Church Trustees of such Church of Christ those lands and buildings belonged, but subject to the following trusts and with the following powers, that is to say:
  - (a) Upon trust at all times to permit the lands and buildings of which they are the trustees as aforesaid to be used for the purpose of the worship of God in public by the members for the time being of the Church of Christ at the place where the lands and buildings are situated according to the faith, doctrine, customs and usages of the Churches of Christ in New South Wales and for the instruction of children and adults, and for the promotion of religious and philanthropic objects

and purposes and for such other purposes as that Church of Christ or its officers shall from time to time decide, provided those purposes are consistent with the faith, doctrine, customs and usages of the Churches of Christ in New South Wales, and, upon the passing of a special resolution of that Church of Christ, to permit those buildings to be altered, enlarged, repaired, taken down, and wholly or partially rebuilt, and also to permit any other building or buildings to be erected upon those lands for the use or benefit of that Church of Christ.

- (b) Upon further trust and upon the passing of a special resolution in that behalf by the Church of Christ of which they are the Church Trustees to raise such sum or sums of money as the said special resolution shall direct, by mortgage over the lands and buildings of the said Church of Christ, or over any portion thereof, and upon trust, at the like direction to sell or lease the whole or any part of the said lands and buildings upon such terms and conditions as the said Church of Christ shall by special resolution decide.
  - (c) Upon further trust, from time to time, to apply the moneys coming to their hands in and towards the administration of the Church of Christ of which they are the Church Trustees as directed by special resolution of the said Church in that behalf.
- (2) A resolution of the Conference Executive passed by not less than three-fourths of its members shall be conclusive evidence, for the purposes of subsection (1) (a), of whether or not:
- (a) a form of worship specified in the resolution constitutes worship according to the faith, doctrine, customs and usages of the Churches of Christ in New South Wales, or
  - (b) a kind of use of land and buildings, being a kind of use specified in the resolution, is a use of land and buildings:
    - (i) for the promotion of religious and philanthropic objects and purposes, or
    - (ii) for a purpose consistent with the faith, doctrine, customs and usages of the Churches of Christ in New South Wales.

## **29A Directions of Conference Executive**

- (1) If at any time it appears to the Conference Executive that a Church of Christ is using its lands and buildings for the teaching or dissemination of doctrines or for practices which in the opinion of the Conference Executive are contrary to the faith, doctrine, customs and usages of the Churches of Christ in New South Wales in a material manner then the Conference Executive may, by resolution, written notice of which is given to the Church Trustees of that Church of Christ, require the Church Trustees to take such specified steps as the Conference Executive may deem expedient to ensure that those lands and buildings are not so used and to furnish to the Conference Executive such evidence as the Conference Executive may from time to time require

as to whether that resolution has been complied with.

- (2) A resolution, written notice of which has been given to the Church Trustees of a Church of Christ under subsection (1), may be revoked by a subsequent resolution of the Conference Executive, of which subsequent resolution written notice shall be given to those Church Trustees.

### **29B Directions to vary trusts**

- (1) Subject to subsection (2), a Church of Christ may, by special resolution, direct its Church Trustees to transfer any specified property real or personal of that Church of Christ to the Trust to be held (or may, by special resolution, direct its Church Trustee, being the Trust, to hold that property) upon trust for or for the benefit of some other Church of Christ or Churches of Christ in New South Wales or for any Conference Committee or Conference Auxiliary as specified in that special resolution and, upon receipt of notice in writing of that special resolution, the Church Trustees or Church Trustee shall do all such things as may be required to give effect thereto, but the Trust shall not accept that property or begin to hold it in trust for that other Church of Christ or for Churches of Christ in New South Wales or for that Conference Committee or Conference Auxiliary, as the case may require, until:
  - (a) that other Church of Christ is registered under this Part, has appointed the Trust as its only Church Trustee and has, by special resolution, agreed to accept that property, or
  - (b) Conference or that Conference Committee or Conference Auxiliary, as the case may be, has, by resolution duly passed, agreed to accept that property.
- (2) A Church of Christ may not give a direction under subsection (1) with respect to any property held subject to a condition imposed by a will, deed of gift, deed of trust or other instrument, unless the Conference Executive has certified in writing:
  - (a) that the direction is not inconsistent with the condition, or
  - (b) that it is impracticable or inexpedient to comply with the condition.

### **29C Churches ceasing to exist**

- (1) Subject to subsection (2), in the event of any Church of Christ:
  - (a) deciding to disband as a Church of Christ and by special resolution declaring its intention of so doing,
  - (b) failing for 3 months to meet for worship, or
  - (c) being reduced to a membership of less than 20 persons,the Conference Executive may, by resolution, direct the Church Trustees of that

Church of Christ to transfer the property of that Church to the Trust to be held (or, being the Trust, to hold that property) upon trust for such one or more of the purposes prescribed by subsection (3) as it may decide, and thereupon the property of that Church shall be so transferred and held (as the case may require) and, in so far as the purposes declared in that resolution do not apply or cease to be applicable to any part of that property, that part shall be held upon trust for the general purposes of the Churches of Christ in New South Wales.

- (2) The Conference Executive may not give a direction under subsection (1) with respect to any property held subject to a condition imposed by a will, deed of gift, deed of trust or other instrument, unless it has certified in writing:
  - (a) that the direction is not inconsistent with the condition, or
  - (b) that it is impracticable or inexpedient to comply with the condition.
- (3) The purposes prescribed by this subsection are the following:
  - (a) the purposes of any particular Church of Christ or Churches of Christ in New South Wales,
  - (b) the support or advancement of any of the activities, work or objects of Conference,
  - (c) the support or advancement of any of the activities, work or objects of any Conference Committee or Conference Auxiliary.

#### **29D Churches ceasing to be affiliated**

- (1) In the event of any Church of Christ ceasing for any reason whatsoever to be affiliated under the Constitution, then, until Conference directs otherwise, the Church Trustee or Church Trustees of that Church of Christ shall manage, administer, sell, exchange, mortgage, lease, dispose of or otherwise deal with any property of that Church of Christ and apply any proceed arising therefrom in accordance with the directions given by a resolution of the Conference Executive and not otherwise.
- (2) The Conference Executive shall, under subsection (1), give directions relating to the management, administration, sale, exchanging, mortgaging, leasing or disposal of or dealing with property of a Church of Christ referred to in that subsection and to the application of the proceeds, if any, arising therefrom so as to preserve any rights in that property as it considers equitable, taking into consideration such assistance as has been given by the Conference Committees, Churches of Christ in New South Wales and members of Churches of Christ to that Church of Christ.

#### **29E Intervention by Conference Executive**

- (1) If, after 3 months from the service of notice of a resolution referred to in section 29A (1), 29B (1), 29C (1) or 29D (1) on Church Trustees of a Church of Christ, the

Conference Executive is satisfied that any of the requirements made by the resolution and which is capable of being lawfully complied with has not been complied with, the Conference Executive, in order to ensure that those requirements are complied with may, by resolution, written notice of which is given to those Church Trustees:

- (a) if the Trust is not the only Church Trustee of that Church of Christ, remove those Church Trustees and appoint in their place the Trust, which shall not be replaced as the Church Trustee without the approval of Conference or the Conference Executive, and
- (b) in any case, require that, until Conference directs otherwise, the Church Trustee or Church Trustees shall deal with the real or personal property to which those requirements relate in accordance with the directions of the Conference Executive and not otherwise.

- (2) Any breach of a direction given under subsection (1) (b) by the Conference Executive with respect to any real or personal property shall be deemed to be a breach of the trust imposed, by the operation of section 29 (1), with respect to that property.

### **30 Existing mortgages etc to continue**

Nothing contained in this Act shall be taken to affect any legal or equitable mortgage or any conveyance or contract made before the commencement of this Act by the Church Trustees of any Church of Christ or entered into by any Church of Christ before becoming registered under this Part (as the case may be) with any person for valuable consideration and bona fide without notice of the trusts affecting the lands and buildings purported to have been mortgaged, conveyed or otherwise become the subject-matter of any contract as aforesaid.

### **31 Copies of special resolution—how dealt with by Registrar**

Upon any special resolution other than a special resolution in or to the effect of any form prescribed by Schedule 3 being passed by any Church of Christ the Registrar shall file the copy of the resolution received by him with the duplicate of the certificate of registration for such Church of Christ.

### **32 Fixing fees**

The Trust shall be entitled to fix fees which they consider adequate to meet all outgoings and expenses incurred by it in the registration of any Church of Christ and the registration of any Church Trustees under this Part, the issue of certificates of registration pursuant to this Part, and the outgoings and expenses which may be incurred by the Trust from time to time if such Trust is appointed to act as Church Trustee for any Church of Christ. In the case of the registration of a Church of Christ such fee shall not exceed six dollars thirty cents and in the case of the registration of Church Trustees such fee shall not exceed four dollars twenty cents and in either case an amount equal to actual out-of-pocket expenses incurred in connection with or incidental to any such registration. The fees payable under

this section shall be paid in advance and the Registrar or the Trust shall be entitled to demand the same before proceeding to carry out any of the provisions of this Part in respect of registration of the Church of Christ or Church Trustees.

### **33 Churches with no Church Trustees**

If at any time a Church of Christ registered or deemed to be registered under this Part and being the holder of real estate has not appointed Church Trustees or if there be no continuing Church Trustees of such Church of Christ and such church fails to call a special meeting of such church for the purpose of passing a special resolution to appoint Church Trustees within three months after being requested so to do by the Registrar, the Registrar may himself call a special meeting of such church for the purpose of appointing Church Trustees. If less than five members of such church entitled to vote attend the said special meeting the Registrar shall, without submitting any resolution to the vote, declare the Trust to be Church Trustee of the said church and shall duly proceed to register the Trust as though the same had been duly appointed by the said church and the Trust shall have the like powers, authorities, duties and functions in respect of such church as if it had been duly appointed Church Trustee thereof in conformity with the provisions of section 27.

### **34 Validity of sale or mortgage**

Upon any sale, mortgage or lease by any Church Trustee or Church Trustees of any Church of Christ registered or deemed to be registered under this Part, the purchaser, mortgagee, or lessee shall be exonerated from seeing to the application of the moneys paid by him to such Church Trustee or Church Trustees and from all liability in respect of the same, upon having produced to him a statutory declaration of the chairman of a special meeting of the said church declaring that at such special meeting a special resolution was passed in accordance with this Act authorising such sale, mortgage, or lease and that the deed of conveyance, transfer, mortgage, lease or other instrument prepared in pursuance thereof properly evidences and carries out the terms of such special resolution and that the person or persons executing the same is or are the Church Trustee or Church Trustees of the Church of Christ so desiring to deal with the property.

## **Part 5A Conference, Conference Committees and Conference Auxiliaries**

### **34A Dealings with property, generally**

- (1) No Conference Committee shall buy or sell real estate without the prior consent of either Conference or the Conference Executive.
- (2) No dealing with any property held by the Trust upon trust for any Conference Committee or Conference Auxiliary shall be effected except pursuant to a resolution passed as provided by this section.

- (3) A resolution referred to in subsection (2) shall be passed at a duly constituted meeting of the Conference Committee or Conference Auxiliary concerned by a number of votes at least equal to three-fourths of the total number of members of the Conference Committee or Conference Auxiliary.
- (4) Notwithstanding anything provided in subsection (2) or (3), a resolution, if passed at a duly constituted meeting of a Conference Committee or Conference Auxiliary by a simple majority of the votes of the members present and voting, shall be deemed to have been passed by three-fourths of the total number of members of that Conference Committee or Conference Auxiliary if there be appended to a copy or copies of that resolution the signatures (signifying their concurrence with the resolution) of not less than three-fourths of that total number of members.
- (5) The Trust shall be entitled to accept as correct and to act on a copy of any resolution of a Conference Committee or Conference Auxiliary certified under the hand of the Chairman or Secretary of that Conference Committee or Conference Auxiliary as being a true copy of a resolution duly passed or deemed to have been passed by the necessary number of members in accordance with this section.

#### **34B Directions creating trusts**

- (1) Conference or a Conference Committee or Conference Auxiliary may, by a resolution duly passed or deemed to have been passed in accordance with section 34A, direct the Trust to hold any specified property real or personal of Churches of Christ in New South Wales or of that Conference Committee or Conference Auxiliary, as the case may be, in trust for or for the benefit of some Church of Christ or for Churches of Christ in New South Wales or for any Conference Committee or Conference Auxiliary as specified in that resolution or for the Churches of Christ generally and, subject to subsection (2), upon receipt of a certified copy of that resolution, the Trust shall do all such things as may be required to give effect thereto.
- (2) The Trust shall not begin to hold property referred to in subsection (1) in trust for a Church of Christ or for Churches of Christ in New South Wales or for a Conference Committee or Conference Auxiliary in accordance with a resolution referred to in that subsection until:
  - (a) any Church of Christ for which the property is to be held in trust is registered under Part 5, has appointed the Trust as its only Church Trustee and has, by special resolution, agreed to the Trust's accepting that property, or
  - (b) where the property is to be held in trust for Churches of Christ in New South Wales or for a Conference Committee or Conference Auxiliary, Conference or that Committee or Auxiliary, as the case may be, has, by resolution duly passed, agreed to the Trust's accepting that property.



## **Part 6 General**

### **35 Vesting of property upon new appointments**

Upon the appointment of new members to the Trust or of any Church Trustees in succession to prior Church Trustees all the property vested immediately before such appointment in the Trust or vested in the Church Trustees of the Church of Christ in respect of which such appointment has been made shall thereupon become and be legally and effectually vested in the Trust or such new Church Trustees as the case may require. Every new member or Church Trustee appointed as aforesaid shall have the same powers, authorities, duties and discretions and shall in all respects act as if he had been originally appointed as a member or Church Trustee, as the case may be.

### **36 Employment of barrister etc**

The Trust and any Church Trustees appointed under this Act shall be entitled at any time to employ a barrister, solicitor, or any other person to advise it or them or to act for it or them or to do anything that it or they consider necessary to protect its or their interests as a Trust or as trustees or the interests of Conference, or any Conference Committee, Conference Auxiliary, Church of Christ, or trust, estate, or bequest for which it or they act as trustee or trustees under this Act.

### **37 Professional men may act**

Any member or Church Trustee being a barrister-at-law, solicitor, accountant, auditor, estate agent, auctioneer, architect, surveyor, builder or engaged in any other profession, business or trade, may in the practice or carrying on of such profession, business or trade, act for and on behalf of the Trust, Conference, or Conference Committee, Conference Auxiliary, Church of Christ, trust, estate or bequest of which he is a member or trustee, as the case may be, in like manner as if he were not a member or trustee and shall be entitled to charge and be paid all professional or other charges for any matter or thing done by him under the authority of this section.

### **38 Indemnity**

Every member and every Church Trustee and the Registrar appointed under this Act shall in the absence of mala fides be indemnified out of the funds of Conference or of the Conference Committee, Conference Auxiliary, Church of Christ, trust, estate or bequest, as the case may require, against all expenses or liability incurred by him in connection with the administration of the property of such Conference, Conference Committee, Conference Auxiliary, Church of Christ, trust, estate or bequest, as the case may be.

### **39 Notice on cessation of affiliation**

Upon any Church of Christ ceasing to be affiliated with the Churches of Christ in New South Wales, the Registrar shall cause to be published in the Gazette a notice in the form prescribed by Schedule 6.

#### 40 Limitation on powers etc of Conference Executive

The Conference Executive shall in the exercise and discharge of its powers, authorities, duties and functions be subject to the direction and control of Conference.

### Schedule 1

(Section 8)

#### Form 1

CHURCHES OF CHRIST IN NEW SOUTH WALES INCORPORATION ACT 1947  
Appointment of Registrar

Notice is hereby given that in accordance with the provisions of the above Act the Churches of Christ Property Trust has appointed ..... as Registrar under the above Act.

This appointment shall take effect from the date of this notice.

The registered address of the Registrar is .....

Dated at Sydney this ..... day of ..... 19 .

By order of the Churches of Christ Property Trust.

} Members.

#### Form 2

CHURCHES OF CHRIST IN NEW SOUTH WALES INCORPORATION ACT 1947  
Change of address of Registrar

Notice is hereby given in accordance with the provisions of the above Act that the registered address of the Registrar has been changed and such address now is .....

Dated at Sydney this ..... day of ..... 19 .

By order of the Churches of Christ Property Trust.

} Members.

### Schedule 2

(Section 16)

CHURCHES OF CHRIST IN NEW SOUTH WALES INCORPORATION ACT 1947  
Members of Churches of Christ Property Trust

At { the conference of the Churches of Christ in New South Wales  
a meeting of the remaining members of the Churches of Christ Property Trust }

held at ..... on ..... an

{ election  
appointment

of members of the Churches of Christ Property Trust  
pursuant to section 15 (3) of the above Act

{ was

{ held  
made

{ in accordance with the provisions of the above Act

and ..... of .....  
and ..... of .....  
and ..... of .....

were appointed as members of the Churches of Christ Property Trust.

As the result of such appointment, the following persons comprise and are registered as the Churches of Christ Property Trust under the said Act namely:

Dated at Sydney this ..... day of ..... 19 .

Registrar.

### Schedule 3

(Sections 23, 25 and 27)

#### Special Resolution—Churches seeking registration

That in the opinion of this meeting it is desirable that the Church of Christ at ..... shall seek registration under Part 5 of the *Churches of Christ in New South Wales Incorporation Act 1947* for the purpose of securing the benefits of the Act and accordingly this meeting hereby instructs the chairman of the meeting to make application to the Registrar and to do all things necessary to effect such registration.

#### Special Resolution—Appointment of Trustees

That this meeting of the members of the Church of Christ at ..... in accordance with the provisions of Part 5 of the *Churches of Christ in New South Wales Incorporation Act 1947* hereby appoints as Church Trustees of all property now owned by or hereafter to be acquired by the Church *or* as Church Trustees to fill vacancies in the offices of the Church Trustees *or* as additional Church Trustees,\* and hereby instructs the chairman of the meeting to make application to the Registrar and to do all things necessary to have the said Trustees duly registered under the Act.

\* Omit whichever is inapplicable.

#### Special Resolution—Alteration of Trustees

That this meeting of the members of the Church of Christ at ..... in accordance with the provisions of Part 5 of the *Churches of Christ in New South Wales Incorporation Act 1947*, being desirous of making a change in the Church Trustees to hold all church property now held by or hereafter to be acquired by the church hereby removes from the office of trustee ..... and appoints as new trustees ..... to act in conjunction with the continuing Trustees ..... and hereby directs the chairman of the meeting to make application to the Registrar and to do all things necessary to have the said alteration of Trustees duly registered under the Act.

Special Resolution—Appointment of Trust as Trustees

That this meeting of the members of the Church of Christ at ..... in accordance with the provisions of Part 5 of the *Churches of Christ in New South Wales Incorporation Act 1947* hereby

{

terminates the appointment of all trustees  
appoints

under the Act and appoints in their stead

}

the  
Churches  
of Christ  
Property  
Trust

to hold all church property now held by or hereafter to be acquired by the church and hereby directs the chairman of the meeting to make application to the Registrar and to do all things necessary to have the Churches of Christ Property Trust duly registered as trustee under the Act.

## Schedule 4

(Section 23)

### CHURCHES OF CHRIST IN NEW SOUTH WALES INCORPORATION ACT 1947

#### Application for Registration of Church and of Trustees

##### Notification to Registrar

(Strike out the portions not applicable.)

On behalf of the Church of Christ at ..... I hereby notify you that at a meeting of the said church held on ..... the undermentioned resolution was duly carried as a special resolution and I hereby request you to—

- (a) register the church under Part 5 of the Act,
- (b) register the trustees as set out hereunder,
- (c) record or otherwise give effect to the said resolution.

Resolution:

Trustees appointed:

Name	Occupation	Address
------	------------	---------

Statutory Declaration

Statutory Declaration

I, ..... of ..... in the State of New South Wales do solemnly and sincerely declare as follows—

- (1) At a special meeting of the members of the Church of Christ at ..... in the said State duly convened in accordance with Part 5 of the abovenamed Act I was elected chairman of such meeting.
- (2) At such meeting the above motion was proposed by ..... and seconded by .....
- (3) That such motion was put by me to the vote of the members of such church present at such meeting, and was

carried by the vote of at least three-fourths of the members present and entitled to vote at the said meeting as required by Part 5 of the above Act.

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1900*.

Chairman.

Made and declared at ..... this ..... day of ..... 19 , before me ..... J.P.

## Schedule 5

(Sections 24-27)

### Form 1

#### CHURCHES OF CHRIST IN NEW SOUTH WALES INCORPORATION ACT 1947

Registration Certificate No

In accordance with the provisions of Part 5 of the above Act the Church of Christ at ..... being a Church of Christ which immediately before the commencement of the *Churches of Christ in New South Wales Incorporation Act 1947* was associated with the Churches of Christ under the *Church of Christ Property Management Act 1906* for the purposes of such Act, is hereby registered under the *Churches of Christ in New South Wales Incorporation Act 1947* as a church entitled to the benefits of such Act.

Dated at ..... this ..... day of ..... 19 .

Registrar.

### Form 2

#### CHURCHES OF CHRIST IN NEW SOUTH WALES INCORPORATION ACT 1947

Registration Certificate No

In accordance with the provisions of Part 5 of the above Act the Church of Christ at ..... having complied with the requirements of the said Act and made application for registration under the said Act and such application having been duly approved by the Churches of Christ Property Trust it is hereby certified that the said Church of Christ has been registered under the above Act as a church entitled to the benefits of the said Act.

Dated at ..... this ..... day of ..... 19 .

Registrar.

### Form 3

#### CHURCHES OF CHRIST IN NEW SOUTH WALES INCORPORATION ACT 1947

Registration of Trustees. Certificate No

The Church of Christ at ..... having had Church Trustees under and in accordance with the provisions of the *Churches of Christ Property Management Act 1906*, the said trustees namely: (Here insert name, occupation, and address of each trustee) have been duly registered as Church Trustees of the said Church of Christ under and in accordance with the provisions of Part 5 of the *Churches of Christ in New South Wales Incorporation Act 1947*.

Dated at ..... this ..... day of ..... 19 .

Registrar.

### Form 4

#### CHURCHES OF CHRIST IN NEW SOUTH WALES INCORPORATION ACT 1947

Registration of Trustees. Certificate No

In accordance with the provisions of Part 5 of the above Act the Church of Christ at .....  
having made application for the registration of

{ ..... as Church Trustees } under section 27  
the Churches of Christ Property Trust as Church Trustee } of the

said Act and having done all things necessary for such registration it is hereby certified that the Church  
Trustee(s) of the said Church of Christ as from the date of this

this certificate { ..... are the persons hereinbefore }  
named. }  
is the Churches of Christ Property Trust.

Dated at ..... this ..... day of ..... 19 .

Registrar.

**Schedule 6**

(Section 39)

CHURCHES OF CHRIST IN NEW SOUTH WALES INCORPORATION ACT 1947

Notice of Termination of Affiliation of Church

Notice is hereby given that the affiliation of the Church of Christ at ..... under the above Act has  
been terminated in accordance with the provisions of the Constitution of the Conference of Churches of Christ in  
New South Wales.

Dated at ..... this ..... day of ..... 19 .

Registrar.