

The Synod of Eastern Australia Property Act 1918 (Private Act)

[1918-sea]



New South Wales

Status Information

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Provisions in force

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

Notes—

- **Previously named**
The Synod of Eastern Australia Property Act of 1918

Authorisation

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An Act to make better provision for the vesting, holding, and management of, and dealing with all property in the State of New South Wales held by or on behalf of or in connection with the Synod of Eastern Australia or any congregations, bodies, and adherents connected therewith, and whether standing in the names of the said synod or any congregations, bodies, or adherents connected therewith, or any person or persons holding the same in trust for the said synod or any such congregations, bodies, or adherents, and for other purposes in connection with the premises.

Preamble

WHEREAS the Synod of Eastern Australia holding the same doctrines and principles as the Free Church of Scotland as embodied in her claim of rights agreed to by the General Assembly of the Church of Scotland of the year one thousand eight hundred and forty-two, and in the Act of Separation and “Deed of Demission” of the year one thousand eight hundred and forty-three, was formed on the tenth day of October, in the year one thousand eight hundred and forty-six, and has ever since continued intact and discharges the functions of a Presbyterian Church: And whereas the said Synod of Eastern Australia is sometimes styled “The Presbyterian Church of Eastern Australia” and “The Free Presbyterian Church of New South Wales” and “The Free Church” and similar names, and comprehends various congregations or bodies of Presbyterians throughout the State of New South Wales holding the aforesaid doctrines and principles, and being subject to the authority of the said synod: And whereas the various properties held by or on behalf of or in connection with the said synod, congregations, bodies, and adherents are not vested in a uniform way or in one central authority and continual trouble and expense are entailed upon the synod by reason of trustees or joint or last remaining holders of such property dying or resigning or becoming incapable or unable or unwilling to act as trustees or holders of the said property or to appoint new trustees in the place of those so dying or resigning or becoming incapable, unable, or unwilling to act or to execute necessary assurances and the like: And whereas the said synod, with the consent and approbation of the said congregations, bodies, and adherents, and their ministers and the various trustees and holders now living, has resolved that it is expedient that all such properties as aforesaid, and also any property which may hereafter be held by any person or persons in trust for the said synod, congregations, bodies,

or adherents as aforesaid shall vest in one body of trustees, and that the same shall be a body corporate:

Be it therefore enacted by the Kings'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:

1 Who are the trustees. Trustees to be a body corporate

The Moderator and the clerk and the treasurer of the Synod of Eastern Australia for the time being, and their successors in office, shall be a body corporate by the name of "The Trustees of the Synod of Eastern Australia," and by that name shall have perpetual succession and a common seal, and be capable in law of suing and being sued, and shall have power to acquire and hold any property, real or personal.

2 Vesting of all property in the trustees without conveyance or transfer

All property now or hereafter held by or on behalf of the synod, or any congregation or body of Presbyterians belonging to the same for any purpose in connection with the synod, or any such congregation or body, and whether with or without special words or conditions of trust, shall without any conveyance or transfer, or other assurance vest in the trustees: Provided that if any such property is subject to any charge or mortgage it shall not vest in the trustees without the consent of the chargee or mortgagee thereof, until such charge or mortgage has been discharged, or until the trustees have, with the consent aforesaid, undertaken to answer any liability in respect of such charge or mortgage.

2A Trustees to be indemnified out of trust property

- (1) A person who as the Moderator, the clerk or the treasurer of the synod for the time being exercises or performs, in good faith and in accordance with this Act and any regulations made by the synod under section 6, any power, authority, duty or function in relation to property vested in the trustees, and the executor or administrator of any such person, is entitled to be indemnified out of property vested in the trustees against all expenses and liabilities that the person has incurred in connection with the exercise or performance of the power, authority, duty or function.
- (2) This section applies only in respect of the exercise or performance of a power, authority, duty or function after the commencement of this section.

3 Saving the rights of certain trustees

All the provisions now in force with respect to the appointment, resignation, removal, powers, rights, and duties of the present trustees or holders of any property held by or on behalf of the synod or any congregation or body of Presbyterians belonging to the same shall continue in force in respect to such trustees or holders until the said property becomes vested in the trustees in accordance with the provisions of this Act.

4 Title deeds of property vesting in the trustees to be handed over to them

Upon any property vesting in the trustees under the provisions of this Act the prior trustees or holders thereof shall when called upon so to do by the trustees hand or cause to be handed over to them all title deeds, documents, and writings of and relating thereto which may be in their possession or under their control, and execute, deliver, and hand over to the trustees any conveyance, transfer, authority, order, or other instrument or assurance which the trustees may in their sole discretion call for upon the trustees paying any reasonable and proper costs and expenses to which such prior trustees or holders may be put.

5 Property held by the trustees to be dealt with as the synod may direct

All property held by the trustees shall so far as the same is not subject to any express trust be held and dealt with by them in such manner as the synod may direct.

6 Synod may make regulations

The synod may make regulations for the management, leasing, mortgaging, sale, and disposition of any property held by the trustees, and also for the purchase of any property by the trustees, and for the investment of any funds of the synod, and for any other matter or thing concerning the said property howsoever.

7 Power to sell

The trustees may, with the consent of the synod, sell any property vested in them by public auction or private contract in one lot or several lots, and upon such terms, stipulations, and conditions as to title, evidence, price, and payment thereof, whether in cash or on terms or otherwise, as the synod may in its absolute discretion direct, and may rescind or vary any contract for sale, and resell without being answerable for any loss or damage, and when sold convey or transfer or assure the said property or any part thereof, and thereupon the same shall vest in the purchaser thereof, his heirs, executors, administrators, or assigns, according to the estate or interest of the trustees therein, absolutely freed and discharged from the trusts affecting the same, and the receipt in writing of a majority of the trustees for the purchase money for any property sold under this Act shall absolutely discharge the purchaser thereof from the purchase money payable by him, and shall exonerate him from seeing to the application of the said purchase money and from all liability as to the misapplication or non-application thereof, and shall be conclusive evidence that such consent to sell as aforesaid has been given by the synod.

8 Application of proceeds of sale

The proceeds of any land sold under the provisions of this Act, and all moneys paid by the Government as compensation for any lands resumed by them, shall, with the consent of the synod, be applied by the trustees in the purchase of other lands as a site for a church, or a minister's dwelling-house, or a school-house for the use of the congregation for which

the land so sold or resumed was held in trust, and in and towards the erection, improvement, or maintenance of a church, or a minister's dwelling-house, or a school-house upon the said site, or if such application of the said proceeds or moneys, wholly or in part, shall be deemed inexpedient by the synod, then for such other religious or educational purposes in connection with the church as the trustees, with the consent aforesaid, may determine, or with the consent also of the congregation in and towards the erection, improvement, or maintenance of a church, minister's dwelling-house, or a school-house upon other lands vested in the trustees in trust for the said congregation, or upon the unsold portion of any of the lands aforesaid.

9 Power to mortgage or sell subject to mortgage

The trustees may from time to time, with the consent of the synod, mortgage any real or personal property vested in them, or any part thereof, or sell the same as aforesaid subject to such mortgage for any sum and upon such terms as the synod in its absolute discretion may direct, and in every such case of mortgage or sale subject to mortgage may convey, transfer, and assure the same accordingly free from all the trusts upon which the same was held, and give valid receipts for all moneys received by them; and such receipts shall absolutely discharge the purchaser or mortgagee thereof from the money payable by him, and shall exonerate him from seeing to the application of the said money and from all liability as to the misapplication or non-application thereof, and shall be conclusive evidence that such consent to mortgage or sell and convey as aforesaid shall have been given by the synod.

10 Disposal of moneys arising from mortgage

The trustees shall stand possessed of all moneys arising from any mortgage as aforesaid upon trust in the first place to pay and satisfy the existing mortgage, and as to the balance of the said moneys (if any), or in case there is no such existing mortgage, then as to the whole of the said moneys upon trust to apply the same, with the consent of the synod, in and towards the erection, improvement, or maintenance of any church, minister's dwelling-house, or school-house upon the land so mortgaged as aforesaid, or upon any other land held by the trustees in trust for the same congregation.

11 Power to lease

The trustees, with the consent of the synod, may by deed lease any property vested in them for such period at such rent and upon such terms, conditions, and covenants as the synod may in its absolute discretion direct.

12 Disposal of rents and profits or other income of property

The trustees shall, out of the rents and profits received by them from any glebe lands and other lands belonging to any congregation, in the first place pay to the minister of the said congregation the sum of one hundred and fifty pounds per annum, exclusive of stipend from other sources, and in the next place, with the consent of the synod, apply the

remainder of the said rents and profits towards the building, enlarging, or maintaining of the church or minister's dwelling-house belonging to such congregation, or to such other religious or educational purpose as the synod may determine.

13 Rights of ministers

The minister lawfully appointed, and while he shall continue to hold such appointment, shall have free access and admission to the church of which he is the officiating minister, and the burial-ground belonging thereto, and every part thereof respectively at all times as he shall think fit, and shall freely exercise his spiritual functions therein respectively without interruption or disturbance by any person, and shall while he shall continue to be such minister as aforesaid freely use, possess, and enjoy the minister's dwelling-house and the appurtenances thereto: Provided that no such liberty of access, admission, or possession as aforesaid for any length of time shall confer any right of possession or ownership on such minister after he shall have ceased to be such officiating minister as aforesaid, or after he shall have been legally removed from his office.

14 Power to appoint agents and others

The trustees may employ all agents, assistants, receivers, servants, and others in the performance or carrying out of any of the duties, work, or circumstances arising hereunder, and direct or authorise payment of any moneys payable to them, to any corporation, bank, institution, account, or person as they may deem expedient, and the receipt of any such corporation, bank, institution, account, or person shall be the same as if given by the trustees or the majority of the trustees themselves, and in like manner discharge the person or persons paying therefrom and from all responsibility of seeing to the application thereof or being answerable for the loss, misapplication, or non-application thereof.

15 Certified copy to be evidence of proceedings of the synod

A certified copy under the hands of the said Moderator and clerk of any consent, direction, resolution, act, appointment to any office, or any proceeding whatsoever of the synod that may be given, passed, pronounced, or done by the synod shall always be legal and admissible evidence thereof.

16 Definitions

In this Act:

The trustees means "The Trustees of the Synod of Eastern Australia".

The synod means "The Synod of Eastern Australia".

17 Name of Act

This Act may be cited for all purposes as *The Synod of Eastern Australia Property Act 1918*.