

# Stewards' Foundation of Christian Brethren Act 1989 No 172

[1989-172]



New South Wales

## Status Information

### Currency of version

Current version for 1 July 2009 to date (accessed 5 December 2024 at 12:55)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

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

### Responsible Minister

- Attorney General

For full details of Ministerial responsibilities, see the [Administrative Arrangements \(Minns Ministry—Administration of Acts\) Order 2023](#).

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 1 July 2009

# Stewards' Foundation of Christian Brethren Act 1989 No 172



New South Wales

## Contents

<b>Long title</b> .....	4
<b>Part 1 Preliminary</b> .....	4
1 Name of Act .....	4
2 Commencement .....	4
3 Definitions .....	4
<b>Part 2 Constitution and functions of the Foundation</b> .....	5
4 Constitution of the Foundation .....	5
5 Functions of the Foundation .....	5
<b>Part 3 The Committee</b> .....	6
6 The Committee .....	6
7 Constitution of the Committee .....	6
<b>Part 4 Acquisition and vesting of trust property</b> .....	7
8 Vesting of Company property in the Foundation .....	7
9 Vesting of Assembly property in the Foundation .....	7
10 Chapels to be held on particular trust .....	8
<b>Part 5 Powers and duties of Foundation</b> .....	8
11 Investments and loans .....	8
12 Blending of trust funds .....	9
13 Variation of trusts .....	9

14 Reimbursement of the Foundation .....	10
<b>Part 6 General</b> .....	<b>11</b>
15 Delegation by Committee .....	11
16 Seal .....	11
17 Evidence .....	12
18 Receipt for certain money .....	12
19 Exoneration from inquiry .....	12
20 Service of documents .....	13
21 Indemnification of certain persons .....	13
22 Annual report and accounts .....	13
23 Administration of Assembly not affected .....	13
24 By-laws .....	13
25 Savings and transitional provisions .....	14
<b>Schedule 1 Members of the Foundation</b> .....	<b>14</b>
<b>Schedule 2 Procedure of the Foundation</b> .....	<b>15</b>
<b>Schedule 3 The Committee</b> .....	<b>16</b>
<b>Schedule 4 Terms of trust of a chapel</b> .....	<b>18</b>
<b>Schedule 5 Savings and transitional provisions</b> .....	<b>21</b>

# Stewards' Foundation of Christian Brethren Act 1989 No 172



New South Wales

An Act to constitute the Stewards' Foundation of Christian Brethren and to specify its functions; and to provide for the vesting of certain property in the Foundation.

## Part 1 Preliminary

### 1 Name of Act

This Act may be cited as the *Stewards' Foundation of Christian Brethren Act 1989*.

### 2 Commencement

This Act commences on a day or days to be appointed by proclamation.

### 3 Definitions

(1) In this Act:

**appointed day** means the day on which section 4 commences.

**Assembly** means all the members of a congregation of a church in Australia known or styled as an Assembly of Christian Brethren.

**Assembly corporation** means an Assembly organisation which is a corporation.

**Assembly organisation** means an organisation, corporate or unincorporate, whether in New South Wales or not:

- (a) the functions of which are not inconsistent with the general functions of the Foundation, and
- (b) each member of which is a member of an Assembly, and
- (c) the directors or other officers of which are members of an Assembly.

**Committee** means the Committee of the Foundation established under Part 3.

**Company** means the company limited by guarantee, incorporated in New South

Wales and known as the Stewards' Foundation of Christian Brethren.

**Foundation** means the Stewards' Foundation of Christian Brethren constituted under section 4.

**property** includes property located outside New South Wales.

**trust property** means property vested in the Foundation by or pursuant to this Act.

(2) In this Act:

- (a) a reference to a function includes a reference to a power, authority and duty, and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

## Part 2 Constitution and functions of the Foundation

### 4 Constitution of the Foundation

- (1) There is constituted by this Act a corporation under the corporate name of the Stewards' Foundation of Christian Brethren.
- (2) Subject to this Act, the members of the Foundation consist of:
  - (a) the members of the Company immediately before the appointed day, and
  - (b) persons admitted to membership in accordance with Schedule 1.
- (3) Schedule 1 has effect with respect to members.
- (4) Schedule 2 has effect with respect to the procedure of the Foundation.

### 5 Functions of the Foundation

Without limiting section 50 of the [Interpretation Act 1987](#), the functions of the Foundation are:

- (a) to purchase, exchange, take on lease, hold, dispose of and otherwise deal with property as trustee for, or for the purposes of, Assemblies and Assembly organisations, and
- (b) to financially assist Assemblies and Assembly organisations:
  - (i) to erect, alter, demolish, rebuild, maintain and operate assembly halls, churches, chapels and other church buildings, education centres, youth centres, training and conference centres, camps, colleges, schools, hospitals, orphanages, children's homes, hostels, old people's homes, rest homes, retirement villages and any other institutions or undertakings of a similar nature, and

- (ii) to acquire and maintain motor vehicles, aeroplanes and other forms of transport, and
- (iii) to acquire and maintain radio, broadcasting and television equipment, sound equipment and photographic equipment, and
- (iv) to acquire and operate opportunity shops and bookshops, and
- (c) to act as agent for any Assembly or Assembly organisation in the purchase, holding, sale, leasing, letting, management or charging of property or any interest in property, and
- (d) to do, in its own right, any of the things referred to in paragraphs (a) and (b) (i)-(iv), and
- (e) to make gifts and donations for religious or charitable purposes, and
- (f) to acquire property by gift or by devise or bequest and to agree to and carry out the conditions of the gift, devise or bequest, and
- (g) to receive funds on deposit or on loan, on such terms as it thinks fit, for the purpose of exercising the functions referred to in this section, and
- (h) to mortgage, charge or otherwise encumber property, and
- (i) to enter into any guarantee or indemnity which may assist the Foundation in the performance of its functions, and
- (j) to print, publish and distribute (gratuitously or otherwise) any newspapers, periodicals, books or leaflets, and
- (k) to establish branches of the Foundation outside New South Wales, and
- (l) to do and suffer all other things that bodies corporate may, by law, do and suffer and which are necessary for, or incidental to, the exercise of its functions under this Act.

## **Part 3 The Committee**

### **6 The Committee**

- (1) There is to be a Committee of the Foundation.
- (2) The functions of the Foundation may be exercised by the Committee except for those functions which, under this Act or under the by-laws, are to be exercised by the Foundation in general meeting.

### **7 Constitution of the Committee**

- (1) The Committee is to consist of not less than 5 and not more than 10 members,

elected in the manner prescribed by the by-laws, by the members of the Foundation at an annual general meeting.

- (2) Subject to this section, if less than 10 members are elected to the Committee at the annual general meeting, the Committee may appoint another member or members of the Foundation to be a Committee member or Committee members.
- (3) Schedule 3 has effect in relation to the members and procedure of the Committee.

## **Part 4 Acquisition and vesting of trust property**

### **8 Vesting of Company property in the Foundation**

- (1) Subject to this Act, any property that, immediately before the appointed day, was vested in the Company is divested from the Company and is, to the extent that it was so vested, vested (without conveyance) in the Foundation.
- (2) The vesting of Company property in the Foundation does not affect:
  - (a) any reservation, mortgage, charge, encumbrance, lien or lease that affected the property, or
  - (b) except as provided by section 10, any trust on which the property was held, immediately before the vesting of the property.
- (3) No attornment to the Foundation by any lessee of property vested in it by this section is necessary.
- (4) An instrument executed only for:
  - (a) the purpose of giving effect to this section, or
  - (b) a purpose ancillary to, or consequential on, the operation of this section,is exempt from stamp duty.

### **9 Vesting of Assembly property in the Foundation**

- (1) Any property that on or after the appointed day is vested in any person (other than the Foundation) or persons as trustee or trustees for, or for the purposes of, any Assembly or Assembly organisation, is, upon:
  - (a) the consent of the Foundation, and
  - (b) the consent of:
    - (i) that trustee or the majority of those trustees, or
    - (ii) in the case of property held on trust for an Assembly, that trustee or the

majority of those trustees or the consent of the Assembly given in the manner prescribed by the by-laws,

vested in the Foundation (without conveyance) to be held by the Foundation on trust for that Assembly or Assembly organisation.

- (2) Subject to this Act, the Foundation holds the property on trust as if it were the trustee or trustees who held the property immediately before it vested in the Foundation.
- (3) From the date any property vests in the Foundation, the former trustee or trustees are discharged from the trust.
- (4) The vesting of the property in the Foundation does not affect any reservation, mortgage, charge, encumbrance, lien or lease that affected the property immediately before vesting.
- (5) An instrument executed only for:
  - (a) the purpose of giving effect to this section, or
  - (b) a purpose ancillary to, or consequential on, the operation of this section,is exempt from stamp duty.

#### **10 Chapels to be held on particular trust**

- (1) Any property held by the Foundation on trust for, or for the purposes of, an Assembly primarily for the purposes of a chapel is, subject to this section, to be so held in accordance with the terms specified in Schedule 4.
- (2) The provisions of clause 13 (b) and (c) of Schedule 4 do not apply to property which immediately before the appointed day was vested in the Company.
- (3) This section only applies to:
  - (a) property in New South Wales, and
  - (b) property outside New South Wales if the law of the State is the proper law of the trust on which the property is held by the Foundation.

### **Part 5 Powers and duties of Foundation**

#### **11 Investments and loans**

- (1) The Foundation may invest or lend any funds held by it in accordance with the terms of any trust to which the funds are subject.
- (2) The Foundation may also invest or lend any such funds:
  - (a) in accordance with and subject to the [Trustee Act 1925](#), or



(b) in loans, either secured or unsecured, to any Assembly or Assembly organisation on such terms and conditions as the Foundation thinks fit,

unless the investment or loan is expressly forbidden by the instrument (if any) creating the trust to which the funds are subject.

(3) If the Foundation lends funds (whether as an investment or not) to an Assembly or Assembly organisation, the funds advanced and any interest accrued on those funds are to be taken to be a charge on all assets held by the Foundation for the Assembly or Assembly organisation.

## **12 Blending of trust funds**

(1) If the Foundation holds funds on trust for different purposes or activities, it may:

(a) invest the funds or any part of the funds as one fund, and

(b) distribute income arising from the investment of the fund rateably for the benefit of carrying out the several purposes or activities for which the funds invested are held on trust.

(2) Any loss arising from an investment in accordance with this section is to be distributed rateably to the detriment of carrying out the several purposes or activities for which the funds invested are held on trust.

(3) The Foundation may make advances out of money referred to in this section to any Assembly or Assembly organisation.

(4) Any sum so advanced is to be taken to be an investment of the money and bears interest at a rate determined by the Foundation.

(5) The sum advanced, and the interest on that sum, is to be taken as a charge on all the assets held by the Foundation for the Assembly or Assembly organisation.

## **13 Variation of trusts**

(1) If:

(a) property is vested in the Foundation subject to a trust, and

(b) in the opinion of the Foundation it has become impossible or inexpedient to carry out or observe the terms of the trust, whether as to its purpose or any other of its terms,

the Foundation may by resolution declare that opinion and may by the same or a later resolution declare that the property is subject to another trust.

(2) If the Foundation so declares that the property is subject to another trust:

- (a) the replaced trust ceases and determines, and
  - (b) the property is to be held subject to the other trust.
- (3) Except as provided by this section, in making such a declaration the Foundation must ensure that the property is to be dealt with as nearly as may be possible for the purposes for which the property was held immediately before the resolution.
- (4) If the Foundation declares that, in its opinion, it is impossible or inexpedient to so deal with the property by reason of circumstances arising after the creation of the replaced trust, the property may be held, disposed of or otherwise dealt with and applied:
- (a) for the use, benefit or purposes of the Assembly or Assembly organisation subject to the trust declared by the Foundation, or
  - (b) if the Assembly or Assembly organisation has ceased to exist, for such charitable or religious purposes as the Foundation thinks fit.

#### **14 Reimbursement of the Foundation**

- (1) If:
- (a) the Foundation is liable to pay a person any money by reason of:
    - (i) its having complied with a direction of an Assembly or an Assembly organisation, or
    - (ii) its having lawfully incurred the liability on behalf of or in respect of the Assembly or Assembly organisation, and
  - (b) the money has not been paid to the Foundation or on behalf of the Foundation to the other person within 6 months of the service on the Assembly or Assembly organisation in accordance with this section of a notice:
    - (i) requiring payment of the money, and
    - (ii) stating the intention of the Foundation to exercise its powers under this section,

the Foundation may:

- (c) mortgage or sell any trust property held by the Foundation on behalf of the Assembly or Assembly organisation at such time, in such manner and on such terms and conditions as it thinks fit, and
- (d) out of the proceeds of the mortgage or sale, pay the money the subject of the notice to the Foundation or other person, as the case may require, and reimburse the Foundation or pay, as the case may require, all interest and other expenses, including legal costs, if any, incurred in connection with the exercise of its

functions under this section.

- (2) Any residue of money held by the Foundation after it has exercised its powers under this section is to continue to be held by the Foundation in accordance with this Act for, or for the purposes of, the Assembly or Assembly organisation.
- (3) Without limiting any other lawful means of service, a notice is served on an Assembly in accordance with this section if:
  - (a) it is affixed to the notice board or door of the chapel in which the Assembly worships for the time being, or
  - (b) where there is no such chapel it has been exhibited on 3 consecutive Sundays on land used or occupied by the Assembly, or
  - (c) it is served personally on 2 members of a committee of management appointed by the Foundation to act on behalf of the Assembly under clause 2 of Schedule 4.
- (4) A notice is served on an Assembly organisation (other than an Assembly corporation) in accordance with this section if:
  - (a) it is served personally on 2 members of the governing body of the organisation, or
  - (b) it is affixed to the door of the premises in or from which the organisation usually conducts its activities.

## **Part 6 General**

### **15 Delegation by Committee**

The Committee may, in relation to any function which it exercises on behalf of the Foundation, by resolution delegate that function to:

- (a) any member of the Foundation, or
- (b) any other person or body prescribed by the by-laws.

### **16 Seal**

The seal of the Foundation is to be kept by the chairperson, deputy chairperson or secretary of the Committee and is to be affixed to a document only:

- (a) with the authority of a resolution of the Committee, and
- (b) in the presence of a Committee member and of the secretary or such other person as the Committee appoints for the purpose, and
- (c) with an attestation by the signatures of those persons of the fact of the affixing of the seal.

## **17 Evidence**

- (1) A certificate under the seal of the Foundation to the effect that property specified in the certificate is held by it on trust for an Assembly or Assembly organisation is, in any legal proceedings, prima facie evidence that the property is so held.
- (2) A certificate under the seal of the Foundation to the effect that the estate or interest of a person specified in the certificate in land so specified is an estate or interest vested in the Foundation by this Act is, for the purposes of any application by the Foundation to be registered under the *Real Property Act 1900* as the proprietor of that estate or interest pursuant to the vesting, conclusive evidence of the matter so certified.
- (3) A certificate under the seal of the Foundation to the effect that a resolution specified in the certificate was passed by the Foundation or by the Committee in accordance with this Act and the by-laws is prima facie evidence that the resolution was so passed.
- (4) A certificate under the seal of the Foundation to the effect that a by-law specified in the certificate was in force on a day specified in the certificate is prima facie evidence that the by-law was in force in that form on that day.

## **18 Receipt for certain money**

If a receipt for money paid to the Foundation:

- (a) is executed under the seal of the Foundation, or
- (b) is in writing signed by 2 members of the Committee or by a person purporting to be duly authorised for the purpose by 2 members of the Committee,

the receipt exonerates the person by whom or on whose behalf the money is paid from any liability for the loss, misapplication or non-application of the money.

## **19 Exoneration from inquiry**

If the Foundation sells, exchanges, mortgages, leases or otherwise deals with property:

- (a) a purchaser, mortgagee, lessee or other person who is a party to any such dealing, and
- (b) the Registrar-General, the Crown Solicitor or any other person registering or certifying title to the property,

do not have to inquire whether the Foundation has power to so deal with the property and are not affected by notice that the Foundation has no such power.

## **20 Service of documents**

The service of any statement of claim, summons or other legal process on the Foundation may be effected by serving it on the secretary of the Committee, or on any person appearing to be authorised by the Committee to accept service.

## **21 Indemnification of certain persons**

A member of the Foundation and any other person, exercising in good faith a function in relation to trust property pursuant to this Act or any by-law or any direction of an Assembly or Assembly organisation, and their executors and administrators, are entitled to be indemnified out of trust property against all expenses and liabilities incurred by them in connection with the exercise of the function.

## **22 Annual report and accounts**

- (1) At each annual general meeting, the Committee is required to present:
  - (a) an annual report of the operations of the Foundation during the preceding financial year, and
  - (b) financial statements for that financial year, audited in the manner (if any) specified by the by-laws.
- (2) Every annual report must:
  - (a) contain such information as is required by members of the Foundation to enable an informed assessment to be made of the operations of the Foundation, and
  - (b) be signed by 2 members of the Committee.
- (3) The by-laws may make provision for or with respect to the keeping of accounts by the Committee and the inspection of those accounts by members of the Foundation.

## **23 Administration of Assembly not affected**

Except as expressly provided by this Act, the administration of the affairs of any Assembly is not affected by this Act.

## **24 By-laws**

- (1) The Committee may make by-laws, not inconsistent with this Act, for or with respect to any matter that is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to:
  - (a) the manner and time of convening, holding and adjourning meetings of the Foundation, and
  - (b) the manner of voting (including postal voting or voting by proxy) at meetings of

the Foundation, and

- (c) the method of election of Committee members, and
- (d) the manner and time of convening, holding and adjourning meetings of the Committee, and
- (e) the declaration of regions of Assemblies, and
- (f) the manner in which the Foundation may serve notices on Assemblies and Assembly organisations.

(2) A by-law has no effect unless it has been approved by a majority of the members present at a general meeting of the Foundation.

(3) A by-law may be amended or repealed by a subsequent by-law made under this section.

(4) The secretary of the Committee is to make a copy of the approved by-laws available to members of the Foundation for inspection on request.

## **25 Savings and transitional provisions**

Schedule 5 has effect.

## **Schedule 1 Members of the Foundation**

(Section 4 (3))

### **1 New members**

(1) A person may apply to the Committee to become a member of the Foundation.

(2) The person becomes a member if the Committee admits the person to membership.

(3) The Committee must admit the person if the person is a member of an Assembly.

### **2 Register of members**

The Committee must keep a register of members.

### **3 Rights etc of members**

The rights and privileges of a member are personal to the member and give no right to or interest in any of the property of the Foundation.

### **4 Cessation of membership**

A person ceases to be a member of the Foundation if the person:

- (a) dies, or

- (b) resigns membership by instrument in writing addressed to the Committee, or
- (c) ceases to be a member of an Assembly, or
- (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
- (e) becomes a mentally incapacitated person, or
- (f) is:
  - (i) before a general meeting of the Foundation, given notice of the intention to consider at the meeting a motion that the person cease to be a member and of the matters alleged against the person, and
  - (ii) after being given the opportunity of being heard at the general meeting, the subject of a resolution passed in accordance with such a motion by not less than three quarters of the members present at the meeting.

## **5 Membership fee**

A member is required to pay an annual membership fee to the Foundation of \$10 or such other amount as may be prescribed by the by-laws.

## **Schedule 2 Procedure of the Foundation**

(Section 4 (4))

### **1 Annual general meeting**

An annual general meeting of the members of the Foundation is to be held for the purpose of:

- (a) electing members of the Committee, and
- (b) receiving the annual report and financial statements from the Committee, and
- (c) exercising other functions of the Foundation which, under this Act or the by-laws, may only be exercised at an annual general meeting.

### **2 General procedure for meetings**

The procedure for the calling of general meetings (including annual general meetings) of the Foundation and for the conduct of business at those meetings is, subject to this Act and the by-laws, to be as determined by the Committee.

## **Schedule 3 The Committee**

(Section 7 (3))

### **1 Officers of the Committee**

- (1) The Committee must, at its first meeting held after the annual general meeting of the Foundation in each year, elect from its members:
  - (a) a chairperson, and
  - (b) a deputy chairperson, and
  - (c) a secretary,with functions as determined by the Committee or as specified by the by-laws.
- (2) The Committee may retire or remove a person from the office of chairperson, deputy chairperson or secretary for such reason as it considers sufficient or in such circumstances as are determined by it.

### **2 Rotation of Committee members**

- (1) At each annual general meeting, one third of the Committee members must retire from office, or, if their number is not a multiple of 3, then the number nearest to one third must retire from office.
- (2) The Committee members who must retire in any year are those who have been longest in office since the date of their last election.
- (3) If any Committee members were elected to office on the same day and one or more of those members must retire under this clause, the member or members who must retire is or are to be determined by lot (unless the members otherwise agree among themselves).

### **3 Vacancy in office of a Committee member**

- (1) The office of a Committee member becomes vacant if the Committee member:
  - (a) retires from office in accordance with clause 2 and is not re-elected, or
  - (b) resigns the office by instrument in writing addressed to the Committee, or
  - (c) ceases to be a member of the Foundation.
- (2) If, at an annual general meeting, a Committee member retires in accordance with clause 2 and the Foundation:
  - (a) does not elect a member of the Foundation to fill the vacancy, and
  - (b) does not resolve to leave the vacancy unfilled,



the Committee member is to be taken to have been re-elected.

#### **4 Filling of casual vacancy in office of a Committee member**

- (1) If the office of a Committee member becomes vacant, the Committee may appoint a member of the Foundation to fill the vacancy for the remainder of the term of that office.
- (2) If the Committee is unable to fill the vacancy because it is unable to hold a meeting at which a quorum is present, the Foundation may appoint a member of the Foundation to fill the vacancy for the remainder of the term of that office.

#### **5 General procedure of Committee**

The procedure for the calling of meetings of the Committee and for the conduct of business at those meetings is, subject to this Act and the by-laws, to be as determined by the Committee.

#### **6 Quorum**

The quorum for a meeting of the Committee is 3 members or such greater number as may for the time being be determined by the Committee.

#### **7 Presiding Committee member**

- (1) The chairperson of the Committee, or:
  - (a) in the absence of the chairperson, the deputy chairperson, or
  - (b) in the absence of the chairperson and the deputy chairperson, another Committee member elected to chair the meeting by the Committee members present,presides at a meeting of the Committee.
- (2) The person presiding at a meeting of the Committee has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

#### **8 Voting**

A decision supported by a majority of the votes cast at a meeting of the Committee at which a quorum is present is the decision of the Committee.

#### **9 Minutes**

The Committee must cause full and accurate minutes to be kept of the proceedings of each meeting of the Committee.

## **Schedule 4 Terms of trust of a chapel**

(Section 10)

### **1 General powers of the Foundation**

The Foundation may:

- (a) carry out development on the property including the erection of chapels, halls, school rooms or other buildings, and
- (b) add to, maintain, repair, enlarge, alter, pull down, remove and replace any buildings erected on the property, and
- (c) provide for the furnishing and equipping of any such chapel, hall or building on the property with such furniture, furnishings, fixtures or other things as may be considered reasonable, necessary or convenient for the appropriate, effective and convenient use of the building and may maintain, repair, enlarge, alter, pull down, remove or replace any such furniture, furnishings, fixtures or things, and
- (d) use and permit the property to be used for Christian worship, the celebration of The Lord's Supper, prayer, the teaching and exposition of the Word of God, the preaching of the Gospel, Sunday School, youth and other activities carried out by the Assembly (or in association with it) for the promotion, maintenance and furtherance of the principles and practice of Christianity, or as incidental thereto.

### **2 Committee of management**

The Foundation must appoint a committee of management (which may be nominated by the Assembly) to act on behalf of the Assembly in all matters connected with the use, management and maintenance of the property.

### **3 Outgoings**

- (1) The Assembly is responsible for payments required in respect of the property for rates, taxes, repairs, painting and all maintenance, insurance premiums and outgoings of all kinds.
- (2) The Assembly must indemnify the Foundation in respect of any such payments made by the Foundation on its behalf.

### **4 Use of property**

The Foundation may from time to time permit the property or any part of the property to be used by a person or body at a time and for a purpose and on any terms and conditions as to payment or otherwise as determined by the Assembly or its committee of management, or, failing such determination, as the Foundation thinks fit.

## **5 Sale of property with consent of Assembly**

- (1) The Foundation may, with the consent of the Assembly, sell the whole or any part of the property, either by public auction or private sale contract, freed from these trusts.
- (2) The Assembly is to be taken to have consented to such a sale if:
  - (a) at a meeting of the Assembly duly convened for the purpose, a majority of members present at the meeting consented to the sale, and
  - (b) at the same meeting, a majority of elder brethren present at the meeting consented to the sale.
- (3) A meeting of the Assembly is not duly convened for the purposes of this clause unless:
  - (a) notice specifying the purpose of the meeting has been given to the Assembly, on each of the 2 Sundays immediately preceding the day of the meeting, in the usual manner in which announcements are made to the Assembly, and
  - (b) the meeting is held in the hall or other usual meeting place of the Assembly.
- (4) The Foundation may apply the proceeds of any such sale:
  - (a) towards the purchase of another property upon the same or similar trusts, or
  - (b) in the case of a sale of only part of the property, towards the maintenance, repair, improvement, renewal, enlargement or replacement of the whole or part of the remainder of the property, or
  - (c) for such charitable or religious purposes as the Assembly directs.

## **6 Investment of surplus money**

In the event of there being any surplus money arising from the sale of the property (or part of the property), the Foundation may hold the money in trust for, or for the purposes of, the Assembly.

## **7 Mortgage of property**

The Foundation may, with the consent of the Assembly, raise money by giving such mortgages, charges or other encumbrances over the property (or any part of the property) as it thinks fit.

## **8 Insurance of property**

- (1) The Foundation may, at the expense of the Assembly, insure the property against fire and such other risks, including public risk, as it thinks fit.
- (2) If the Assembly or its committee of management requests the Foundation to insure

the property against any risk, the Foundation must comply with the request.

- (3) Insurance under this clause must be for such sum or sums as the Assembly or its committee of management requests or, failing such a request, as the Foundation thinks fit.

## **9 Disputes**

- (1) In the event of any dispute occurring within the Assembly, or between the Assembly or its committee of management and the Foundation, in respect of which no agreement is reached within a period of 6 months, the dispute is to be referred for resolution to a meeting of the elder brethren of the region in which the Assembly is located.
- (2) Such a meeting is to be convened by giving each of the Assemblies in the region 1 month's notice of the meeting.
- (3) A decision concerning the resolution of the dispute by a majority of the elder brethren present at the meeting is binding on the parties to the dispute.

## **10 Reimbursement**

The Foundation is entitled to be reimbursed by the Assembly or, where appropriate, to use the property, to pay all expenses which may from time to time be properly incurred in the execution by the Foundation of its functions in respect of the property.

## **11 Employees, agents etc**

The functions of the Foundation under this Schedule may be exercised by any employee or agent of the Foundation.

## **12 Retirement as trustee**

- (1) In the event of:
  - (a) the Foundation giving 1 calendar month's notice in writing to the Assembly of its intention to retire from trusteeship, or
  - (b) the Assembly giving the Foundation 1 calendar month's notice of its intention to remove the Foundation from being its trustee,

the Assembly may appoint a new trustee in the place of the Foundation which must thereupon execute the necessary Deed of Retirement and Appointment of New Trustee.

- (2) The Assembly may not give the Foundation notice of its intention to remove the Foundation from being its trustee unless:
  - (a) at a meeting of the Assembly duly convened for the purpose, a majority of

members present at the meeting consented to the giving of the notice, and

- (b) at the same meeting, a majority of elder brethren present at the meeting consented to the giving of the notice, and
- (c) the Foundation has been reimbursed by the Assembly for, or has agreed to other arrangements in respect of, all expenses properly incurred by the Foundation in the execution of its functions (whether imposed by these trusts or not) in respect of the property.

(3) A meeting of the Assembly is not duly convened for the purposes of this clause unless:

- (a) notice specifying the purpose of the meeting has been given to the Assembly, on each of the 2 Sundays immediately preceding the day of the meeting, in the usual manner in which announcements are made to the Assembly, and
- (b) the meeting is held in the hall or other usual meeting place of the Assembly.

### **13 Cessation of Assembly**

If the Assembly:

- (a) for a continuous period of 3 calendar months fails to hold any meetings of the kind that, in the opinion of the Foundation, are customarily held by Assemblies of Christian Brethren, or
- (b) ceases to adhere to and observe those doctrines and practices which, in the opinion of the Foundation, are fundamental characteristics of Assemblies, or
- (c) maintains, promulgates or teaches doctrines or practices which, in the opinion of the Foundation, are inconsistent with the doctrines or practices of Assemblies,

the Foundation may sell the property or any part thereof by public auction or private contract, freed from these trusts and may apply the net proceeds of any such sale in exercising such of the functions of the Foundation as it thinks fit.

### **14 Proper law of the trust**

The law of the State is the proper law of these trusts.

## **Schedule 5 Savings and transitional provisions**

(Section 25)

### **1 Members of Committee**

- (1) A director of the Company immediately before the appointed day is to be taken to have been elected a member of the Committee on the appointed day.

- (2) The chairman of the board of the Company immediately before the appointed day is to be taken to have been elected the chairperson of the Committee on the appointed day.
- (3) The secretary of the Company immediately before the appointed day is to be taken to have been elected the secretary of the Committee on the appointed day.

## **2 Rights and liabilities**

On and from the appointed day:

- (a) the rights and liabilities of the Company become rights and liabilities of the Foundation to be exercised and discharged in accordance with this Act, and
- (b) the obligations of the Company become obligations of the Foundation to be performed in accordance with this Act, and
- (c) proceedings before a court or tribunal by or against the Company that, immediately before the appointed day, were pending or in the course of being heard become proceedings by or against the Foundation, and
- (d) to the extent to which an act, matter or thing done or omitted to be done on behalf of the Company had any force or effect immediately before the appointed day, it becomes an act, matter or thing done or omitted to be done by the Foundation, and
- (e) a reference in any instrument to the Company becomes a reference to the Foundation, and
- (f) time that had commenced to run in relation to the Company becomes time that had commenced to run in relation to the Foundation.

## **3 First annual general meeting of Foundation**

- (1) The first annual general meeting of the Foundation to be convened after the appointed day is to be convened, held and adjourned in accordance with clauses 8–30 of the articles of association of the Company (as in force immediately before the appointed day) as if references in those clauses to:
  - (a) the Company were references to the Foundation, and
  - (b) the board or the directors of the board were references to the Committee or members of the Committee, and
  - (c) the chairman of the board were references to the chairperson of the Committee, and
  - (d) the secretary of the board were references to the secretary of the Committee,and as if the Foundation held its last preceding general meeting on 15 August 1989.

- (2) The annual report and financial statements presented to the first annual general meeting in accordance with section 22 must include a report and financial statements relating to the operation of the Company from the beginning of its financial year until the appointed day.

#### **4 Dissolution of Company**

On the appointed day, the Company is dissolved.

#### **5 Former trustees**

- (1) This clause applies to property that immediately before the appointed day was vested in the Company.
- (2) Nothing in section 6 (6) of the *Trustee Act 1925* is to be taken as having prevented a trustee of the property from being discharged from the trust on the Company being appointed in place of the trustee.
- (3) If consent to a trustee retiring from a trust of the property was given in accordance with section 8 (2) of the *Trustee Act 1925*, nothing in that section is to be taken as having prevented the trustee from retiring from the trust and leaving the Company as the only continuing trustee.