

# The Presbyterian Church (New South Wales) Property Trust Act 1936 (Private Act)

[1936-pcn]



New South Wales

## Status Information

### Currency of version

Current version for 1 July 2018 to date (accessed 13 February 2025 at 23:59)

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.

### 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 2017

# The Presbyterian Church (New South Wales) Property Trust Act 1936 (Private Act)



New South Wales

## Contents

<b>Long title</b> .....	4
Preamble .....	4
1 Name of Act .....	5
2 Repeal of 1904 Act; saving of existing regulations until replaced and saving of rights .....	5
3 Definitions .....	5
4 Incorporation of Trustees and power to hold real and personal property etc .....	5
5 Number, appointment and retirement of Trustees and appointment of officers, evidence of resolutions etc .....	6
6 Present Trustees to function until new appointed .....	6
7 Custody of common seal and quorum of Trustees .....	6
8 Execution of deeds .....	6
9 Vesting of property in Trustees .....	7
10 Variation of Trusts .....	7
10A Guarantee by Trust .....	8
10B Trust may act as executor etc .....	8
11 Provisions now in force relating to Congregational Trustees to continue until property vested in Trustees hereunder .....	9
12 Power to make regulations .....	9
13 Power of General Assembly to appoint and grant constitutions etc .....	10
14 Trust property now held .....	10
14A Validation of grants .....	10

15 Trustees' discretionary powers .....	11
16 Disposition of rents etc of glebe lands.....	11
17 Rights of ministers.....	11
18 Disposition of rents of pews etc.....	12
19 Trustees' powers to mortgage .....	12
20 Trustees' powers to sell etc and disposal of proceeds etc .....	12
21 Receipts for mortgage and purchase moneys etc and no person bound to enquire etc.....	13
21A Investment of trust funds .....	13
21B Blending of trust funds .....	13
21C Delegation of functions .....	14
22 Meeting of Trustees, minutes etc.....	14
23 Construction of wills etc .....	14
24 Preservation of rights of claimants .....	15
25 Vesting of rights of former Trustees in new Trustees .....	15
26 Saving of Act passed in 1870, Maitland Church lands .....	15
27 Central Education Fund .....	15
28 Co-operative use of property.....	15
29 Rights of minister of co-operating congregations.....	16
30 Constitution of Committee of Management where scheme of co-operation is in force.....	17
31 Certain provisions to apply to property held on behalf of co-operating congregations .....	17

# The Presbyterian Church (New South Wales) Property Trust Act 1936 (Private Act)



New South Wales

An Act to provide for the regulation, management and control of the temporal affairs of the Presbyterian Church of Australia in the State of New South Wales, and to repeal the *Presbyterian Church Property Consolidation Act of 1904*.

## Preamble

WHEREAS the temporal affairs of the Presbyterian Church of Australia in the State of New South Wales are regulated by the "*Presbyterian Church Property Consolidation Act of 1904*" AND WHEREAS such Act has been found not sufficiently wide to cover the present activities of the Church AND WHEREAS it is expedient in relation to the said Church to define clearly the rights of Ministers to the proportion of rents of glebe lands which they are to receive in augmentation of their stipends also to make provision for claims in respect of resumptions differentiating between properties belonging to congregations and those held by the corporate trustees for general Church purposes also to alter the personalities of the persons eligible to act as trustees so as to permit business knowledge and attainments to be secured in a greater ratio than are under the present rules of appointment procurable also to increase the number of trustees to enable a quorum to be readily assured in cases of urgent as well as ordinary business and also to empower the General Assembly to appoint Boards and Directors and Committees to carry on schools and various activities of the Church and to grant constitutions for all such and to alter and amend all or any of such constitutions also to make such provisions as may be requisite to enable the General Assembly to determine what trusts and gifts owing to rearrangement of any of the Church's activities and services may be found to be unnecessary of continuance ineffective or impossible of further usefulness and to provide for the user of any property theretofore held for any of such purposes in other and as far as possible similar Church work whether religious educational or charitable the discretion of the General Assembly to be exercised after consultation with each particular interested Presbytery within the bounds also to make clear provision for the receipts of the corporate trustees operating as complete discharges for any legacies and gifts to the Church generally and any service activity or purpose of the Church or any particular congregation also to provide for the complete sufficiency of the certificate of the Clerk of the Assembly as to all necessary consents having been given and formalities observed in relation to all dealings with property of the Church whether congregational or general also to make provision for the

election of trustees to fill vacancies in the trusteeship and generally to remove anomalies questions and difficulties in administration relating to property according to the rules enunciated in the Church code which have in practice been found to exist or arise under the present state of the law AND WHEREAS it is expedient to repeal the said Act and to provide for the matters hereinbefore referred to:

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:

### **1 Name of Act**

This Act may be cited as *The Presbyterian Church (New South Wales) Property Trust Act 1936*.

### **2 Repeal of 1904 Act; saving of existing regulations until replaced and saving of rights**

- (1) The *Presbyterian Church Property Consolidation Act of 1904* is hereby repealed.
- (2) All regulations made under such repealed Act and in force at the commencement of this Act to the extent to which they are not inconsistent with this Act continue in force until altered or replaced by regulation under this Act.
- (3) The repeal enacted by this section shall not unless a contrary intention in this Act appears affect:
  - (a) any right accrued or obligation incurred before the commencement of this Act under the enactment so repealed,
  - (b) any action or proceeding pending or incompleated at the commencement of this Act.
- (4) Every such action or proceeding may be carried on and completed as if such repeal had not been enacted.

### **3 Definitions**

In this Act unless the context or subject matter otherwise indicates or requires the words:

**Trustees** or **Trust** means The Presbyterian Church (New South Wales) Property Trust.

**The General Assembly** shall mean the General Assembly for the time being of the Presbyterian Church of Australia in the State of New South Wales.

### **4 Incorporation of Trustees and power to hold real and personal property etc**

The Trustees shall be a body corporate by the name of The Presbyterian Church (New South Wales) Property Trust and shall have perpetual succession and a common seal and shall be capable of acquiring holding managing and controlling and subject to this Act

granting mortgaging demising selling exchanging dedicating disposing of and otherwise dealing with any property real and personal and of suing and being sued by the aforesaid name and doing and suffering all such other acts and things as bodies corporate may by law do or suffer.

## **5 Number, appointment and retirement of Trustees and appointment of officers, evidence of resolutions etc**

The Trustees shall consist of twelve persons of whom six shall be Ministers and six Communicants or Adherents of the Presbyterian Church of Australia in the State of New South Wales. The Trustees shall be elected by the General Assembly from time to time for a period of three years with the exception that following upon the first election four of the trust being two ministers and two laymen shall retire at the end of the first year and four others ministers and laymen similarly at the end of the second year in each case eligible for re-election. The order of such retirements shall be determined by the General Assembly. Any casual vacancy occurring at any time or times in the trust shall be filled by the appointment of another person of similar qualifications but so that the said ratio is not disturbed. Every such appointment is to be made by the continuing Trustees for the time being and is to be effective and operative till the next meeting of the General Assembly. A certificate signed by the clerk for the time being of the General Assembly of any and every such appointment shall be for all purposes conclusive evidence that such appointees respectively possessed the qualifications required and that they were duly appointed. Trustees being ministers or elders shall be ex-officio members of the General Assembly.

## **6 Present Trustees to function until new appointed**

The first election of Trustees under this Act shall be made at the first meeting of the General Assembly after the passing of this Act and until such Trustees are so elected the Trustees of the Presbyterian Church of Australia in the State of New South Wales appointed under and pursuant to the [Presbyterian Church Property Consolidation Act of 1904](#) shall continue to function with full power and authority as if such repeal of the said The [Presbyterian Church Property Consolidation Act of 1904](#) had not been enacted.

## **7 Custody of common seal and quorum of Trustees**

The Trustees shall have the custody of the common seal of the said corporate body and the form of such seal and all other matters relating to the use of the same and generally with regard to the meetings and proceedings of the Trustees shall from time to time be determined by the said corporate body and four members for the time being of the said corporate body shall constitute a quorum.

## **8 Execution of deeds**

Any deed or instrument executed or signed by and any other act matter or thing done by any four members of the corporate body aforesaid and in pursuance of a resolution of the

said corporate body and under the common seal of the said corporate body shall be as effectual as if the same had been executed signed or done by all the members of the said corporate body.

## **9 Vesting of property in Trustees**

All lands tenements and hereditaments (including chattels real) together with all rights easements and appurtenances relating thereto or belonging and all personal property which were at the date of the election of the Trustees vested in the Trustees of the Presbyterian Church of Australia in the State of New South Wales and all such of the same as may then or at any time or times thereafter belong whether in possession reversion remainder or expectancy to or be held by any person firm or company in trust for the Presbyterian Church of Australia in the State of New South Wales generally or for any congregation thereof or any activity fund service institution or interest of the said church or in any way connected therewith shall without any conveyance or transfer vest in the Trustees on and from the date of their election and all such together with such other property as may be acquired by the Trustees or which may become vested in them under this Act shall be held by them subject to any express trust affecting the same respectively to be dealt with upon the trusts and with the powers, authorities and discretions and subject to the terms and conditions and provisions of this Act and subject to no other trusts or provisions whatsoever: 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 until such charge or mortgage has been discharged or until the Trustees with the consent of the chargee or mortgagee have undertaken to answer for the liabilities imposed in respect of such charge or mortgage.

## **10 Variation of Trusts**

(1) Subject to this section, where the General Assembly has, by resolution, declared:

- (a) that, by reason of circumstances arising since the creation of the trusts (including trusts declared pursuant to this section) upon which property specified in the resolution is by this Act vested in the Trust, it has, in the opinion of the General Assembly, become impossible or inexpedient for the Trust to carry out or observe those trusts, and
- (b) that the property so specified should, in the opinion of the General Assembly, be held upon such trusts for, or for the use, benefit or purposes of, the Presbyterian Church of Australia in New South Wales as it specifies in the resolution,

the property to which the resolution relates shall thereafter be held by the Trust upon the trusts specified in the resolution, freed and discharged from the trusts upon which it was held immediately before the resolution.

(2) The General Assembly shall not make a declaration under subsection one of this section unless it has been requested so to do by the Trust and the Trust shall not,

where the property in question is congregational property, make such a request unless it has first received and considered a report on the matter by the Presbytery of the bounds.

- (3) Subject to subsection four of this section, the trusts upon which property is to be held pursuant to subsection one of this section shall be as nearly as practicable the same as the trusts upon which it was held immediately before the resolution referred to in that subsection including, in the case of property held on behalf of a congregation that continues as a congregation after the resolution, trusts whereby the property is to be dealt with for the use and benefit of that congregation.
- (4) Subsection three of this section shall not apply to or in respect of a resolution referred to in subsection one of this section where, by the resolution, the General Assembly has further declared that, to the extent that subsection three of this section has not been complied with, the circumstances referred to in subsection one of this section have rendered it impossible or inexpedient to do so.
- (5) A document that purports to be a copy of a minute of a resolution referred to in subsection one of this section shall, if certified by the Clerk of the General Assembly for the time being to be such a copy, be conclusive evidence that the resolution was, on a day specified by the Clerk in the certificate, duly made by the General Assembly and that all conditions precedent to the making of such a resolution were fulfilled.

#### **10A Guarantee by Trust**

The Trust may:

- (a) guarantee the performance of, or
- (b) undertake to indemnify a loss arising out of a failure to perform,

an obligation undertaken in connection with property used for any purpose, activity or institution in Australia that, in the opinion of the Trust, is a purpose, activity or institution of the Presbyterian Church, whether or not the property is also used for some other purpose.

#### **10B Trust may act as executor etc**

- (1) The Trust may, if it is otherwise competent so to do:
  - (a) apply for and obtain, or join in applying for and obtaining, probate of the will, or letters of administration of the estate, of a deceased person where the Presbyterian Church, or any congregation, activity, fund, service, institution or interest (whether within or without New South Wales) of or connected with the Presbyterian Church, is a beneficiary under the will or of the estate, or
  - (b) accept appointment, and act, as trustee or co-trustee under and in pursuance of any trust where the trust property is not vested in the Trust by this Act and the



trust was created wholly or in part for the benefit of the Presbyterian Church or any congregation, activity, fund, service, institution or interest (whether within or without New South Wales) of or connected with the Presbyterian Church,

and may do all things necessary for the exercise or performance of its powers, authorities, duties or functions as executor, administrator or trustee, as the case may be.

- (2) On behalf of the Trust, a member of the Trust or a person employed by the Trust may, if authorised by the Trust for the purpose, swear an affidavit, make a declaration or statement, give security and do any other act or thing that is, by any charter, Act or rule of court, required to be done by a person applying for or granted probate or letters of administration, or administering a trust, as the case may be.
- (3) The Trust may:
  - (a) renounce executorship,
  - (b) decline to act as administrator of an estate,
  - (c) retire, or decline to act, as trustee of property (not being property vested in it by this Act).

#### **11 Provisions now in force relating to Congregational Trustees to continue until property vested in Trustees hereunder**

All the provisions now in force with respect to the appointment resignation removal powers rights duties and responsibilities of Congregational Trustees shall continue in force with respect to such Trustees until the property vested in them is in accordance with the provisions of this Act vested in the Trustees hereby constituted.

#### **12 Power to make regulations**

The General Assembly may make regulations for the purchase or acquisition of freehold or leasehold property as an investment for the funds of the church or for any particular use activity service or object or for the purposes of the church generally and in respect of the dealing with management and control of all or any property vested in the Trustees and in the case of all property held on behalf of congregations of the Presbyterian Church of Australia in the State of New South Wales or by Congregational Trustees until the same shall be vested in the Trustees under this Act such Assembly may make regulations for the management leasing mortgaging selling disposing of and exchanging thereof and with regard to all matters relating to resumptions of the same respectively by any competent authority: Provided that no regulation shall in the case of congregational property be passed to allow any such property to be nor shall the same in any case be leased, mortgaged, sold or exchanged or resumption claims in respect thereof made and completed without the consent of the congregations interested therein such consent to be operative and evidenced by a unanimous or majority vote as the case may be of the

members of such respective congregations who are present at a meeting of the same congregations duly called for the purpose of considering and deciding on the questions affecting the particular matter to be then submitted to them.

### **13 Power of General Assembly to appoint and grant constitutions etc**

The General Assembly may from time to time appoint and grant constitutions and powers of management and control to any councils committees boards or directors who are appointed by it for the working and carrying on of any of the activities or projects of the church generally and may at its pleasure at any time or times cancel revoke alter or amend the same respectively: Provided that all such as may be operating under appointments made and constitutions created before the passing of this Act shall continue to function thereunder until otherwise determined by the General Assembly.

### **14 Trust property now held**

Subject to the terms and provisions of this Act 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 they may in their discretion think best: Provided always that the General Assembly may from time to time give such directions or instructions to the Trustees with regard to any matter affecting any property held by them for the church generally or for any fund institution activity or service thereof as it may deem expedient and all such directions and instructions shall be followed and obeyed by the Trustees. Subject as before enacted the Trustees may grant leases of any lands and premises held by them for such terms of years at such rents and subject to such terms and conditions as they may deem expedient.

#### **14A Validation of grants**

(1) No title to any land to which this section applies shall be held bad either at law or in equity by reason of any breach or non-performance before or after the commencement of *The Presbyterian Church (New South Wales) Property Trust (Amendment) Act 1956* of any condition, trust or proviso contained in the grant by the Crown of the land and every provision for forfeiture or reverter in respect of any such breach or non-performance shall be deemed to have been released by the Crown as from the date of the Crown grant.

(2) (Repealed)

(3) In this section:

***land to which this section applies*** means any land:

(a) granted by the Crown before or after the commencement of *The Presbyterian Church (New South Wales) Property Trust (Amendment) Act 1956* for or for the use benefit or purposes of the Presbyterian Church of Australia in the State of New South Wales, and

- (b) which was at the date of such grant subject to any reservation or dedication made before such commencement under the provisions of the Crown Lands Acts as defined in section five of the *Crown Lands Consolidation Act 1913*, as amended by subsequent Acts.

### **15 Trustees' discretionary powers**

The Trustees shall subject to the rights of congregations under the provisions of section twelve hereof have full discretionary power to act in relation to all cases of exchange dedication and resumption of all property vested in them under this Act and shall make claims for compensation and otherwise in respect of same and agree to and settle such claims for such considerations and on and subject to such terms and conditions as may appear advisable to them.

### **16 Disposition of rents etc of glebe lands**

The Trustees shall out of the net rents and profits received by them from any glebe and other lands belonging to any congregation after payment thereof of all rates taxes and impositions insurance premiums and cost of repairs thereto and improvement and maintenance thereof and interest on any loans made on the security of such lands in the first place pay to the minister for the time being of the said congregation during each year a sum of three hundred dollars (exclusive of stipend from other sources) and in the next place shall apply such part of the remainder of the said rents and profits towards the building improving enlarging or maintaining of the church or minister's dwelling-house belonging to such congregation as may be required for such purposes and shall apply the balance if any firstly to such social, religious, educational, charitable or other purpose within the parish and then to purposes otherwise connected with the Presbyterian Church in New South Wales as they may determine. The minister in the event of his having received in any one or more years less than the said sum of three hundred dollars per annum shall have a claim in respect of such deficiency against the net rents and profits received or accruing in any subsequent year or years but subject nevertheless after he has ceased to be the minister of such congregation to the right of the settled minister for the time being of such congregation to receive out of the said net rents and profits a sum of three hundred dollars per annum in respect of each year of his tenure of the pastorate in priority to such claim and provided further that the amount of such deficiency to be so paid to each such minister who has ceased as aforesaid to be minister of such congregation shall not exceed a sum of one thousand dollars. In the event of there being more than one claimant in respect of any such deficiency and the surplus rents and profits being insufficient to meet their respective claims in full they shall share in such surplus rents and profits up to the said sum of one thousand dollars each in the proportions to which their respective claims stand in relation to the surplus rents and profits available from year to year.

### **17 Rights of ministers**

The minister lawfully appointed 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 persons 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 and shall subject to the provisions of this Act be entitled to receive for his own use and benefit out of the net rents issues and profits of any glebe or other lands belonging to his congregation yearly a sum of three hundred dollars a year exclusive of stipend from other sources: Provided that no such liberty of access admission or possession as aforesaid for any length of time shall confer any right of possession or property 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.

#### **18 Disposition of rents of pews etc**

The deacon's court or committee of management of any congregation may fix the annual or other rent of each pew or sitting and collect any moneys which may be due in respect of any such pew or sitting and shall hold all moneys so collected on behalf of such congregation and apply the same as the General Assembly may by regulation or otherwise direct and such court or committees may from time to time with the approval of the Trustees exercise all or any of the functions of management of the property of the congregation.

#### **19 Trustees' powers to mortgage**

Subject to the rights of congregations under section twelve hereof it shall be lawful for the Trustees from time to time and at all times hereafter to mortgage, and for that purpose to convey and assure in fee or for any term of years all or any lands hereby vested in them and/or all or any lands which may hereafter be or become vested in them to any person, firm or company for securing such sum or sums of money with interest thereon as they may deem requisite or necessary for the purposes of the church generally or any of its funds, services, institutions or interests or for the purposes of any congregation of such church.

#### **20 Trustees' powers to sell etc and disposal of proceeds etc**

Subject as before enacted it shall and may be lawful for the trustees from time to time and at all times hereafter to sell any real and personal property now hereby vested in them or which shall hereafter vest in shall vest in by public auction or private contract as they may deem expedient at such prices as can be reasonably obtained for the same and when sold convey the property sold or any part thereof and thereupon the same shall vest in the purchasers their heirs executors administrators and assigns according to the estate and interest of the Trustees therein absolutely freed and discharged from all trusts. The Trustees shall stand possessed of the net moneys obtained from any mortgage given as aforesaid and the net moneys arising from the sale or resumption of any property sold or resumed after payment and satisfaction of mortgage and other moneys chargeable

against any such property and apply the same with the consent of the General Assembly in or towards the erection of buildings for the congregation to which the property mortgaged sold or resumed belongs the improvement repair enlargement or maintenance of the church the minister's dwelling school house and hall property of the congregation or in the purchase of other property and/or the erection of buildings for such congregation or otherwise use the same for the benefit of such congregation as the General Assembly shall direct, and if there shall be no congregation or if any such property shall be held for the church generally or for any fund institution activity or service thereof then the Trustees shall apply such net moneys according to the direction of the General Assembly.

## **21 Receipts for mortgage and purchase moneys etc and no person bound to enquire etc**

Any receipt under seal executed in accordance with section eight hereof or in writing of a majority of the Trustees or any person duly authorised by a resolution of the Trustees to receive the same for the mortgage moneys raised on any property mortgaged by the Trustees or for the purchase money of any property sold under this Act or the moneys received on any resumption by any competent authority or for any other moneys which shall be payable to them when exercising any of the powers hereby conferred upon them or otherwise receivable by them under this Act shall exonerate the mortgagee and/or the purchaser and/or all other persons for the time being paying such moneys to the Trustees or the person or persons authorised as aforesaid to receive the same therefrom and from all liability to see to the application of the same and as to the loss misapplication or non-application thereof and from inquiring into the propriety necessity or regularity of any mortgage or sale lease or other dealing whatsoever and no such mortgagees purchasers or other persons shall be entitled or concerned to enquire whether any consents have been given or rules regulations and formalities have been made or imposed or whether the same if made or imposed have been observed and complied with in the premises.

### **21A Investment of trust funds**

The Trustees, unless forbidden by the terms of any express trust, may invest any funds in their hands, whether at the time in a state of investment or not, in any form of investment authorised by law for the investment of trust funds or by the General Assembly.

### **21B Blending of trust funds**

- (1) If the Trustees hold money on trust for different trusts, including different purposes or activities of the Church, it is lawful for the Trustees from time to time to invest the money or any part or parts of the money as one fund and to distribute income arising from the investment rateably among the several trusts for which the money so invested is held and any loss arising from the investment shall likewise be borne rateably.
- (2) The Trustees may make advances out of the money referred to in subsection (1) for any activity, service, institution or interest of the Church.

- (3) Any sum advanced under subsection (2) shall be deemed an investment of the money and shall bear interest at a rate fixed by the Trustees and the sum advanced and the interest thereon shall be deemed to be a charge on all assets which are held by the Trustees for the relevant activity, service, institution or interest of the Church in respect of which the advance is made.

### **21C Delegation of functions**

The Trustees may delegate any of their functions (other than this power of delegation) to any person or body.

### **22 Meeting of Trustees, minutes etc**

The Trustees shall have power to regulate the time and place of their meetings and of the procedure to be followed thereat. The chairman shall be appointed annually by the Trustees and in the absence of the chairman from any meeting for any cause or reason the Trustees shall elect one of their number to be chairman of such meeting. They shall hold regular meetings and shall cause to be kept minutes of their proceedings and their resolutions which shall at all times be open for inspection by the official auditor of the Church.

### **23 Construction of wills etc**

Whenever by any will deed or other instrument any property real or personal has been or shall be devised bequeathed given granted released conveyed or appointed or has been or shall be declared or directed to be held for or upon trust for or for the benefit of the Presbyterian Church of Australia in the State of New South Wales or any congregation of such church or any fund institution activity or service thereof respectively or shall be recoverable by or payable to the said church or any congregation thereof or by or to any such fund institution activity or service or for the religious social educational or charitable work of the church or be receivable by or payable to any officer or official thereof respectively for the benefit of the church generally or any of its funds institutions activities or services or that of any congregation the said will deed or instrument shall be construed and shall operate and take effect as though the Trustees were named therein and the acknowledgment or receipt of the Trustees under seal executed in accordance with section eight hereof or in writing of a majority of the Trustees or of any person authorised by resolution of the Trustees to receive the same shall be a sufficient discharge and complete exoneration to the person or persons liable to pay deliver or transfer any such property under such will deed or instrument and all such property so devised bequeathed given granted released conveyed or appointed or declared or directed to be held in trust as aforesaid shall be held and dealt with by and be under the direction and control of the Trustees subject to the trusts declared concerning the same in any such will, deed or instrument so far as the same are capable of taking effect and the Trustees may call for and require payment transfer conveyance and delivery of the same to them.

#### **24 Preservation of rights of claimants**

Nothing in this Act contained or that may be done under this Act shall be deemed to prejudicially affect or deprive any person of any right whatsoever which he now has arising out of contract or tort and any such right which may at the time of the passing of this Act have been enforceable against the Trustees of the Presbyterian Church of Australia in the State of New South Wales and in respect of which the property hereby vested was liable shall be enforceable against the Trustees constituted under this Act.

#### **25 Vesting of rights of former Trustees in new Trustees**

Any rights (including choses in action) arising out of contract or tort relating in any wise to the real and personal property hereby vested in the Trustees which are at the time of the election of the Trustees vested in the Trustees of the Presbyterian Church of Australia in the State of New South Wales are hereby vested in the Trustees constituted by this Act on and from the date of their election and may be enforced by them.

#### **26 Saving of Act passed in 1870, Maitland Church lands**

Nothing contained in this Act shall be construed to repeal or in any way affect the provisions of a certain Private Act of the Legislature of New South Wales passed in the year one thousand eight hundred and seventy and intituled "An Act to enable the Trustees of certain church lands at Maitland to appropriate the income derivable from the same for the benefit of the Presbyterian Congregations of Maitland East and Maitland West and to confer extended powers of leasing on the Trustees and for other purposes."

#### **27 Central Education Fund**

- (1) The General Assembly may establish a Central Education Fund the income and capital of which may be used by the Trustees to establish or endow in New South Wales schools and colleges under the control of the General Assembly and otherwise promote the education of children in New South Wales where that education is accompanied by religious instruction in harmony with the tenets of the Presbyterian Church.
- (2) The General Assembly may require a school or college conducted on property vested in the Trustees to contribute to the Central Education Fund such sums, annual or otherwise, as the Trustees, after consultation by them, or on their behalf, with the Council of the school or college, consider reasonable, having regard to the circumstances and needs of the school or college as well as to the necessity to augment the Central Education Fund.

#### **28 Co-operative use of property**

- (1) Where with the consents for the time being and from time to time prescribed by the General Assembly a congregation of the Presbyterian Church of Australia in New South Wales has, at a meeting duly called in accordance with the requirements of the

General Assembly, resolved to enter into a scheme of co-operation with, or involving, a church of another denomination or any congregation or activity of such a church, being a scheme that involves the use of property vested in the Trustees, the Trustees may, while the scheme of co-operation continues in force, permit that property to be used, managed and administered in connection with that scheme in such manner and upon such conditions as the General Assembly determines or prescribes.

- (2) The conditions that the General Assembly may determine or prescribe under subsection one of this section include conditions with respect to the making of contributions of money for the acquisition, construction, alteration or repair of assets vested in or held on behalf of a co-operating church or congregation upon such terms as to charges upon other assets and charges upon property vested in the Trustees for any such contributions from other denominations and otherwise as may be so determined or prescribed, and any such contributions by or on behalf of a congregation of the Presbyterian Church of Australia in New South Wales or towards assets of or held on behalf of such a congregation are, to the extent so determined or prescribed at the time of the contributions, hereby so charged.
- (3) Neither the Registrar-General nor any person dealing bona fide and for value with any property vested in the Trust shall be bound to enquire whether any security or charge referred to in subsection two of this section exists or be deemed to have notice thereof or be bound thereby by virtue only of this Act or the existence of any scheme of co-operation under this section and:
  - (a) a conveyance, transfer or other assurance to such a person shall operate as a discharge of any security or charge so referred to, in so far as the property conveyed, transferred or assured would, but for this subsection, be subject thereto, and
  - (b) a mortgage or charge in favour of such a person shall have priority over any security or charge so referred to that affects the property mortgaged or charged in favour of that person.
- (4) The proceeds of the sale, mortgage or other dealing with property referred to in this section, and all moneys collected or held in respect of a scheme of co-operation may be applied in such manner as the General Assembly determines or prescribes.

## **29 Rights of minister of co-operating congregations**

The minister or other person in charge of the religious services of a congregation that has entered into a scheme of co-operation may be of a denomination other than Presbyterian and, if that minister or other person is of another denomination he shall, so long as he is in charge of the religious services and so long as that scheme of co-operation is in force, have the rights of a minister that are specified in section seventeen of this Act.



**30 Constitution of Committee of Management where scheme of co-operation is in force**

Where a congregation of the Presbyterian Church in New South Wales has entered into a scheme of co-operation the Committee of Management of that congregation may include members of any other congregation that is a party to the scheme of co-operation and those members may be of a denomination other than Presbyterian.

**31 Certain provisions to apply to property held on behalf of co-operating congregations**

- (1) The provisions of sections twenty-eight, twenty-nine and thirty of this Act shall apply to and in relation to all property at any time held on behalf of a congregation of the Presbyterian Church of Australia in New South Wales that has entered into a scheme of co-operation except to the extent that the property is held subject to any express trust expressly forbidding its use or administration in any manner referred to in those sections.
- (2) Subsection one of this section shall not apply to prevent the use or administration of property in a manner referred to in sections twenty-eight, twenty-nine and thirty of this Act if the property is merely directed to be held on trust for Presbyterian worship or purposes.