

Anglican Church Property Trust Diocese of Sydney Ordinance 1965

(Reprinted under the Interpretation Ordinance 1985.)

The Anglican Church Property Trust Diocese of Sydney Ordinance 1965 as amended by the Anglican Church Property Trust Diocese of Sydney Amendment Ordinance 1973, Anglican Church Property Trust Diocese of Sydney Ordinance 1976, Anglican Church Property Trust Diocese of Sydney Ordinance 1965-1973 Amending Ordinance 1977, Anglican Church Property Trust Diocese of Sydney Ordinance Amendment Ordinance 1977, Anglican Church Property Trust Diocese of Sydney Ordinance 1965-1977 Amending Ordinance 1978, Anglican Church Property Trust Diocese of Sydney Ordinance 1965-1978 Amending Ordinance 1981, Church Insurances Ordinance 1981, Anglican Church Property Trust Diocese of Sydney Ordinance 1965-1981 Amending Ordinance 1982 Anglican Church Property Trust Diocese of Sydney Amending Ordinance (No.2) 1982, Anglican Church Property Trust Diocese of Sydney (Change of Name) Ordinance 1982, Anglican Church Property Trust Diocese of Sydney Ordinance Amendment Ordinance 1989, the Anglican Church Property Trust Diocese of Sydney Ordinance 1965 Amending Ordinance 1993, the Miscellaneous Amendments Ordinance 2001, the Diocesan Officers (Retirement) Repeal Ordinance 2001, the Anglican Church Property Trust Diocese of Sydney Amendment Ordinance 2002 and the Anglican Church Property Trust Diocese of Sydney (Financial Reporting) Amendment Ordinance 2014.

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Long Title

An Ordinance to reconstitute the membership of Anglican Church Property Trust Diocese of Sydney, a body corporate, to provide for quorum at its meetings and to enlarge and specify the powers authorities duties and functions of such body corporate and for purposes incidental thereto.

Preamble

Whereas Anglican Church Property Trust Diocese of Sydney (hereinafter called the "Corporate Trustee") is a body corporate under the provisions of the Anglican Church of Australia Trust Property Act 1917 as amended (hereinafter called the said Act) And Whereas pursuant to Section 11 of the said Act the Synod of the said Diocese may from time to time declare what may be the number of the members of the corporate body and pursuant to Section 9 of the said Act may also vary the number of members to constitute a quorum And Whereas it is expedient that the number of members of the Corporate Trustee and of the quorum thereof be increased And Whereas by Section 24 of the said Act the Synod may from time to time by ordinance provide and vary any provision for governing and controlling the management and user of church trust property vested in the Corporate Trustee and for all things incidental to such government and control And Whereas the Synod may pursuant to the Constitutions set forth in the Schedule to Anglican Church of Australia Constitutions Act 1902 make ordinances upon and in respect of all matters and things concerning the order and good government of the Church

within the said Diocese including the management and disposal of all church property moneys and revenues And Whereas it is expedient to provide for governing and controlling the management and user of such property moneys and revenues to the extent hereinafter appearing Now the Standing Committee of the Synod of the Diocese of Sydney in the name and place of the said Synod Hereby Ordains Declares Directs and Rules as follows.

Repeal

1. Anglican Church Property Trust Diocese of Sydney (Increase of Membership) Ordinance 1956 (No. 17 of 1956) is hereby repealed.

Definitions

2. In this Ordinance unless the contrary intention appears –
 - (a) “board” means any council committee board or body constituted by or under the provisions of an ordinance whether incorporated or not to which the management control or user of any church trust property is thereby committed.
 - (b) “church trust property” has the same meaning as in the said Act.
 - (c) “diocesan organisation or body” means any board carrying out any social educational or other purposes of the Church within the Diocese of Sydney.
 - (d) “Standing Committee” means the Standing Committee of the Synod of the Diocese of Sydney.

Membership and Elections

3. The members of the Corporate Trustee shall be the Archbishop of Sydney and not more than ten other members of whom at least three shall be in Holy Orders and at least five shall be laypersons who before their election shall declare themselves to be members of the Anglican Church of Australia having an active affiliation with the said Church.

4. The members of the Corporate Trustee at the date when this Ordinance comes into operation are hereby continued in office.

4A. Subject to section 12 of the said Act and to clauses 4B and 4C each member of the Corporate Trustee shall hold office for a term of six (6) years provided that each member whose term comes to an end under this clause shall continue to hold office until his or her successor is elected.

4B.

4C. A member of the Corporate Trustee whose term of office expires is eligible for re-election as a member of the Corporate Trustee.

4D. Subject to section 12 of the said Act and to clauses 4B and 4C, each member of the Corporate Trustee who is elected by the Standing Committee pursuant to the powers in section 14 of the Act which have been delegated to the Standing Committee pursuant to section 40 of the Act shall hold office until the first day of the ordinary session of the Synod next following such election. Each member whose term comes to an end under this clause shall continue to hold office until his or her successor is elected.

4E. (1) Subject to subclauses (2) to (4), any election by the Synod pursuant to section 14 of the said Act shall take place in accordance with the Synod Elections Ordinance 2000 and any ordinance which replaces or amends that Ordinance.

(2) The elections to take place during any ordinary session of a Synod shall be for members whose office is declared vacant pursuant to section 12 of the said Act by that Synod in the course of that ordinary session.

(3) The Standing Committee shall bring before each ordinary session of a Synod resolutions declaring vacancies in respect of the office of members who, during the period commencing on the first day of the last ordinary session of a Synod preceding that session and ending on the day preceding the first day of that session, have either –

- (a) held office for a term of six (6) years since the date on which that member was last elected which term expired during that period,
- (b)
- (c) been re-elected pursuant to clause 4B, or
- (d) been elected pursuant to clause 4D during that period.

(4) For the purposes of the said ordinances, the elections to take place during any ordinary session of a Synod shall be the elections to the vacancies to be declared pursuant to the resolutions described in subclause (3).

(5) No person shall be declared to be elected a member of the Corporate Trustee unless and until a vacancy has been declared pursuant to section 12 of the said Act.

5. The Standing Committee may, in the exercise of the powers conferred upon it to declare by resolution the existence of a vacancy in the office of a member of the Corporate Trustee by reason inter alia of the age of such member, have regard, subject to any special circumstances which it may deem relevant at the time of make such resolution, to the law relating to the retiring age of directors of public companies in New South Wales.

President

6. The Archbishop shall be President of the Corporate Trustee.

Chairman

7. The Corporate Trustee shall elect a member to be Chairman at meetings from which the President be absent and in the absence of the President and the Chairman may elect a member to be Deputy Chairman.

Proceedings

8. (1) A quorum for the transaction of business at a meeting of the Corporate Trustee shall be four members of whom at least one shall be a member in Holy Orders and at least one shall be a member not in Holy Orders.

(1A) Subject to the provisions of this Ordinance, the Corporate Trustee may regulate its own proceedings and for that purpose has power to make, rescind or alter regulations from time to time.

(2) Any deed, or instrument, executed or signed, and any other act, matter, or thing done by any two members of the Corporate Trustee in pursuance of a resolution of the Corporate Trustee shall be as effectual as if the same had been executed, signed, or done by all the members of the Corporate Trustee.

(3) The members of the Corporate Trustee may pass a resolution without a meeting of the Corporate Trustee being held if all members entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.

(4) For the purposes of clause 8(3) –

- (a) separate copies of the document may be used for signing by the members if the wording of the resolution is identical in each copy; and
- (b) a facsimile message which is received by the secretary of the Corporate Trustee and is expressed to have been sent by a member is taken to be a document signed by that member at the time of receipt of the facsimile message by the secretary; and
- (c) the resolution is passed when the last member signs; and
- (d) the members are to ensure that the resolution is recorded in the minute book of the Corporate Trustee within 1 month.

Trustees of Church Property Trust

9. The Corporate Trustee shall enquire and ascertain or appoint a committee or person to enquire and ascertain who is or are the trustee or trustees of all church trust property not vested in itself and may report to the Standing Committee thereupon and may recommend to the Standing Committee what action (if any) under section 19 of the said Act should be taken with respect to such property.

Powers and Authorities

10. (1) With respect to all church trust property vested or to become vested in it the Corporate Trustee shall have and may subject to the policy and direction (if any) of Synod or the Standing Committee exercise absolute and full powers of managing and controlling such property and without limiting the generality of such powers and so far as may be necessary or convenient in the name and on behalf of the Corporate Trustee may –

- (a) Let or demise the said property or any part or parts thereof for any term not exceeding ten years or on building lease for any term not exceeding fifty years at such rents fixed or progressive and subject to such conditions as the Trust shall think fit save and except as hereinafter provided or grant a licence in respect of the said property or any part or parts thereof for any term not exceeding ten years.
- (b) Accept surrenders of leases licences and tenancies and release tenants and licensees from claims thereunder.
- (c) Receive and give effectual receipts for all moneys accruing from the said property for rent or on any account whatsoever.
- (d) Sub-divide the said property or any part or parts thereof and lay out and make roads streets and ways to be dedicated to the public or not and close existing roads streets and ways and grant easements rights of way or drainage.
- (e) Carry out repairs renovations and alterations of existing buildings on the said property and erect thereon new building or buildings.
- (f) Borrow such sum or sums of money on the security of the said property or of the future rents profits and other income arising therefrom or without security as it may deem necessary for any of the purposes set forth in this clause.
- (g) Use the revenues of the property not otherwise appropriated for any of the purposes aforesaid and for the payment of all costs charges and expenses of and incidental to the management and control of the said property.
- (h) Appoint and remove officers servants and agents and fix their remuneration if any.
- (i) Give or procure the giving of indemnities guarantees or undertakings.
- (j) Establish special funds in the nature of reserve funds sinking funds or otherwise.
- (k) For the purpose of developing any such property consisting of real estate form or join in forming a company.
- (l) Insure against loss or damage whether by fire or otherwise any insurable property and against any risk or liability which it would be prudent for a person to insure if he were acting for himself.

Provided that no part of the said property shall be let licensed or used for any such purpose as the Synod or the Standing Committee may by resolution disapprove.

(2) The powers and authorities aforesaid shall not apply to church trust property the control management or user of which is by ordinance committed to a board unless such board by resolution assents to the exercise thereof and Synod or Standing Committee by ordinance authorises the same.

(3) The powers and authorities aforesaid shall not apply to property held for the sole benefit of any parish provisional parish or provisional district unless a majority of the parish council in writing authorises the same.

11. (1) With respect to all moneys held by it for investment the Corporate Trustee –
- (a) may for the purpose of investment pool the same though subject to separate trusts and in respect of such pooled moneys may average gains losses and interests and deal with all matters and do all things incidental to such pooling.
 - (b) in addition to investing the same in trustee securities authorised by law, may exercise the following powers –
 - (i) to invest in shares of any company listed on any Australian Stock Exchange (other than companies carrying on a business of which Synod or Standing Committee may by resolution disapprove) and exercise rights to take up shares if such rights become available to it;
 - (ii) to invest in debentures issued by any such company;
 - (iii) to invest in any secured or unsecured notes (whether or not convertible into shares or stock) issued or to be issued by any such company;
 - (iv) to invest in units of any unit trust;
 - (v) to purchase any land;
 - (vi) to lend moneys,

- (vii) without limiting the generality of sub-paragraph (vi), to place moneys on deposit, and
- (viii) to invest in any security authorised by an ordinance of Synod.

Provided that nothing contained in this paragraph (b) shall be taken as authorising the Corporate Trustee to carry on the business of money-lending.

- (2) The Corporate Trustee may –
 - (a) appoint any corporation to hold, on behalf of the Corporate Trustee, any church trust property being moneys referred to in subclause (1) of this clause or investments made pursuant to the powers conferred on the Corporate Trustee by that clause and of which the Corporate Trustee is the trustee, and
 - (b) appoint the same or any other corporation to manage and advise on the investment realisation and reinvestment of all or any of such property, and
 - (c) delegate to that corporation all or any one or more of the powers conferred upon the Corporate Trustee by subclause (1) of this clause.

Any such appointment or appointments may be made on such terms and conditions and at such remuneration as the Corporate Trustee may consider appropriate provided always that –

- (i) every such appointment shall contain a covenant to the effect that the corporation appointed shall not invest any church trust property in or retain any investment of church trust property in any company carrying on a business of which the Synod or the Standing Committee may by resolution disapprove after notice of that resolution has been given by the Corporate Trustee to that corporation, and
- (ii) no such appointment shall be made by the Corporate Trustee in relation to church trust property held for the sole benefit of any parish or provisional parish unless a majority of the parish council thereof in writing authorises the same.

Any corporation appointed by the Corporate Trustee pursuant to this subclause shall not be bound to enquire as to whether or not the requirements of paragraph (ii) (if applicable) have been complied with by the Corporate Trustee and shall be entitled to rely on a certificate from the Corporate Trustee to the effect that the said requirements have been satisfied or are not applicable as conclusive evidence of that fact.

12. The Corporate Trustee may at the request of Standing Committee investigate, or appoint some of its members to investigate, and report upon the audited accounts and financial position of any diocesan organisation or body.

13. (1) The Corporate Trustee may for the purpose of its activities engage staff and may, subject to the approval of Standing Committee take over staff engaged in the administrative activities of any diocesan organisation or body and may pay salaries and wages of persons engaged or taken over by it and make arrangements with the Standing Committee and any such organisation or body for contribution towards such salaries and wages.

(2) The Corporate Trustee by power of attorney, may appoint any corporation, firm, person or body of persons to be the attorney or attorneys of the Corporate Trustee for such purposes and with such powers, authorities and discretion (not exceeding those which the Corporate Trustee may have) and for such period and subject to such conditions as the Corporate Trustee may think fit.

14. The Corporate Trustee may appoint an executive officer with this or such other title with the approval of the Standing Committee and define his powers duties and functions in relation to property vested in it, administration of its policy or policies and all other activities and affairs under its government and control.

15. The Corporate Trustee shall take charge of and preserve all documents of title, securities, and other instruments relating to church trust property not otherwise kept or lodged under the provisions of an ordinance.

16. The Corporate Trustee may appoint or nominate a person or persons for election or appointment to a board where an ordinance so provides.

Fees for Management

17. (1) The Corporate Trustee may charge fees at the rate or rates last approved pursuant to Clause 17(3) for services provided by the Corporate Trustee in relation to church trust property held by if for the Diocese. Such fees may be charged in lieu of any revenues which might otherwise be applied pursuant to paragraph 10(1)(g).

(2) The Corporate Trustee may waive the whole or any part of any fee which would otherwise be payable.

(3) A rate is or rates are approved for the purpose of this Clause if –

(a) notification of the rate or rates is given by the Property Trust to the Diocesan Secretary;

(b) the notification is tabled at a meeting of the Standing Committee by the Diocesan Secretary or any member of the Standing Committee; and

(c) the rate or rates specified in the notification are either –

(i) approved by resolution of the Standing Committee;

(ii) not disallowed by resolution of the Standing Committee passed at that meeting or at the next ordinary meeting of the Standing Committee.

Reporting to Synod

18. By 30 June each year, the Corporate Trustee must submit to the Standing Committee for tabling at the next ordinary session of the Synod a report about its membership, structure and activities for the previous year ending 31 December.

Date of coming into force

19. This Ordinance shall come into force upon such date as Standing Committee shall by resolution appoint.

Name of Ordinance

20. This ordinance is the Anglican Church Property Trust Diocese of Sydney Ordinance 1965.

Note

The date appointed by the Standing Committee pursuant to clause 18 was 1 April 1966.

Table of Amendments

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| Preamble | Amended by Ordinance No 29, 1989. |
| Clause 2 | Amended by Ordinance No 29, 1989. |
| Clause 3 | Amended by Ordinances Nos 40, 1973; 41, 1982 and 29, 1989. |
| Clause 4A | Inserted by Ordinance No 39, 1976 and amended by Ordinance No 14, 1982. |
| Clause 4B | Inserted by Ordinance No 39, 1976 and amended by Ordinances Nos 14, 1982; 29, 1989 and 59, 2001. |
| Clause 4C | Inserted by Ordinance No 39, 1977. |
| Clause 4D | Inserted by Ordinance No 39, 1976 and amended by Ordinance No 14, 1982. |
| Clause 4E | Inserted by Ordinance No 39, 1977 and amended by Ordinances Nos 29, 1989; 32, 2001 and 59, 2001. |
| Clause 8 | Amended by Ordinances Nos 6, 1978; 29, 1989 and 39, 2002. |

- Clause 10 Amended by Ordinance Nos 25, 1981; 37, 1981; 14, 1982; 29, 1989 and 1, 1993.
- Clause 11 Amended by Ordinances Nos 31, 1977 and 21, 1982.
- Clause 13 Amended by Ordinance No 29, 1989.
- Clause 16 Amended by Ordinance No 29, 1989.
- Clause 17 New clause inserted by Ordinance No 1, 1993.
- Clause 18 New clause inserted by Ordinance No 11, 2014.
- Clause 19 Amended by various ordinances including Ordinance No 32, 2001 and the Interpretation Ordinance 1985. Renumbered by Ordinance No 11, 2014.
- Clause 20 Renumbered by Ordinance No 11, 2014.

STEVE LUCAS
Manager, Legal Services
26 March 2014

ROBERT WICKS
Diocesan Secretary