

# THE TERRITORY FOR THE SEAT OF GOVERNMENT.

No. 19 of 1928.

## AN ORDINANCE

### Relating to Church of England Trust Property.

**B**E it ordained by the Deputy of the Governor-General of the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *Seat of Government Acceptance Act* 1909 and the *Seat of Government (Administration) Act* 1910, as follows:—

1. This Ordinance may be cited as the *Church of England Property Trust Ordinance* 1928. Short title.
2. The Acts of the State of New South Wales specified in the Schedule to this Ordinance shall cease to apply to the Territory. State Acts to cease to apply.
3. In this Ordinance, unless the contrary intention appears— Definitions.
  - “ Church trust property ” means all property in the Territory which is for the time being subject to any trust, by dedication, consecration, trust instrument, or otherwise, for or for the use, benefit or purposes of the Church of England;
  - “ the Act ” means the *Church of England Property Trust Act*, 1917 of the State of New South Wales;
  - “ the corporate body of trustees ” means the Church of England Property Trust Diocese of Goulburn constituted or deemed to be constituted under the Act;
  - “ the Diocese ” means the Diocese of Goulburn of the Church of England in the State of New South Wales;
  - “ the Real Property Ordinance ” means the *Real Property Ordinance* 1925-1927;
  - “ the Registrar of Titles ” means the Registrar of Titles appointed under the Real Property Ordinance, and includes any Acting Registrar of Titles or Deputy Registrar of Titles so appointed.
4. Any church trust property which at any time belongs to or is vested in any trustees shall, upon the consent of the trustees or the majority of them given in writing, or upon the consent of the Vesting trust property in corporate trustees.

synod of the Diocese given by or under an ordinance of the synod, by virtue of that consent and without other assurance in the law, become vested in the corporate body of trustees:

Provided that if in consequence of death or disability the consent of any trustee cannot be obtained, the bishop of the Diocese may consent in the place of that trustee.

Property vested  
in bishops.

5. All church trust property which at any time belongs to or is vested in the bishop of the Diocese shall, by force of this Ordinance, vest from time to time in the person who for the time being is or is deemed to be the successor of the bishop of the Diocese as if that property had belonged to or had been originally granted or conveyed to the bishop of the Diocese and his successors as a body corporate.

Property vested  
in new trustee.

6. Upon the election or appointment of a new trustee, all the church trust property in respect of which the election or appointment is made shall, by virtue of the election or appointment, and without other assurance in the law, become vested in the new trustee either alone or jointly with the surviving or continuing trustees, as the case requires, and every new trustee so elected or appointed shall have the same powers and authorities and discretions, and shall in all respects act as if he had been originally made a trustee on the creation of the trust.

Vesting of trust  
property in  
case of new  
diocese &c.

7. If, by ordinance made in pursuance of section 22 of the Act, the synod of the Diocese allocates any church trust property for any other diocese or proposed diocese, that church trust property shall, by virtue of that ordinance and without other assurance in the law, from the times respectively provided in that ordinance, be held for the other diocese or proposed diocese instead of the Diocese so allocating the property, and be vested in the new trustees respectively then or thereafter to be elected for that church trust property in the place of the trustees thereof for the time being or any of them, and upon the trusts to which that property is for the time being subject, but for or for the use, benefit or purposes of the Church of England in the diocese or proposed diocese for which that property has been so allocated in the place of the diocese so allocating the property.

Property vested  
in separate  
trustees.

8. Upon the election of separate trustees for any church trust property that property shall, by virtue of the election and without other assurance in the law, become vested in the separate trustees in the place of the trustees thereof for the time being, and the separate trustees shall, with respect to that property, have the same powers, authorities and discretions, and shall in all respects act as if they had been originally made trustees on the creation of the trust.

9. A purchaser, mortgagee, lessee or other person or the Registrar of Titles, upon any sale, exchange, mortgage, lease or other dealing purporting to be made under the powers granted by or under the Act, shall not be concerned to see or inquire into the necessity or propriety thereof, or the mode of exercising the powers, or be affected by notice that the exercise of the powers is unauthorized, irregular or improper, or be concerned to see to the application or disposition of any purchase, mortgage or other money or rent paid by him. Protection of purchasers &c.

10. The moneys (if any) arising from any sale, exchange, mortgage, lease or other dealing purporting to be made under the powers granted by or under the Act, shall be paid to the trustees in whom the property, the subject-matter of the sale, exchange, mortgage, lease or other dealing immediately theretofore vested, or to such other person as the ordinance (if any) directing the sale, exchange, mortgage, lease or other dealing provides, and the receipt of the trustee or other person, as the case may be, shall be an effectual discharge therefor. Discharge for purchase moneys &c.

11. A certificate signed by the bishop of the Diocese shall be *prima facie* evidence, and, in favour of the Registrar of Titles and of all persons purchasing, advancing moneys on, leasing or otherwise acquiring or possessing any estate or interest in the church trust property referred to therein, shall be conclusive evidence that the persons named in the certificate are the duly constituted members of the corporate body of trustees and that they became such members at the date or respective dates mentioned in the certificate. Membership of corporate bodies.

12. A certificate signed by the bishop of the Diocese shall be *prima facie* evidence, and, in favour of the Registrar of Titles and of all persons purchasing, advancing moneys on, leasing, or otherwise acquiring or possessing any estate or interest in the church trust property therein referred to, shall be conclusive evidence that the persons named in the certificate are the duly constituted trustees of the property, and that they became such trustees at the date or respective dates and in the manner mentioned in the certificate, and in the case of lands under the Real Property Ordinance shall entitle the trustees to be registered as the proprietors thereof accordingly, and to have a certificate of title issued to them without any formal transfer. Trusteeship.

13. A document purporting to be a copy ordinance certified and recorded in accordance with the Act or any Act repealed by the Act or a certified or office copy thereof, shall be *prima facie* evidence, and, in favour of all persons purchasing, advancing moneys on, leasing, or otherwise acquiring or possessing any estate or interest in the property therein referred to, shall be conclusive evidence that an ordinance in terms of the copy was duly made and Making of Ordinances.

assented to, and that all necessary consents and directions were duly given, and that all proceedings in connexion therewith were regular and in due form, and that the ordinance was not repealed or amended except (if at all) by such ordinances as are for the time being certified and recorded in accordance with the Act or any such repealed Act.

Notification in  
State Gazette.

**14.** A copy of the *New South Wales Government Gazette* containing a notification purporting to be published in pursuance of the provisions of the Act or any Act repealed by the Act, shall be *prima facie* evidence of the matters therein notified, the notification of which is authorized by the Act or any such repealed Act.

Record of  
ordinances.

**15.** Where any lands referred to in any ordinance made under section twenty-two, twenty-four, twenty-five, twenty-six, twenty-seven, thirty-two, thirty-seven, thirty-nine, or forty of the Act are under the Real Property Ordinance, a copy of the ordinance certified by the bishop of the Diocese shall be deposited with the Registrar of Titles for safe custody and reference.

## THE SCHEDULE.

Date of Assent.	Short Title.	Reference to Act.
31st March, 1881 ..	<i>Church of England Trust Property Incorporation Act, 1881</i>	44th Vic.
21st May, 1889 ..	Church of England Property Act of 1889	52nd Vic.
28th October, 1892 ..	Church of England Property Act of 1889 Amendment Act of 1892	56th Vic.
24th July, 1896 ..	Church of England Property Act of 1889 Further Amendment Act of 1896	60th Vic.
24th November, 1897 ..	Church Acts Repealing Act of 1897	61st Vic.

Dated this sixth day of September, One thousand nine hundred and twenty-eight.

W. P. CULLEN

Deputy of the Governor-General.

By His Excellency's Command,

NEVILLE HOWSE

Minister of State for Home and Territories.

By Authority: H. J. GREEN, Government Printer, Canberra.