

1996

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN
CAPITAL TERRITORY

ROMAN CATHOLIC CHURCH PROPERTY TRUST
(AMENDMENT) BILL 1996

EXPLANATORY MEMORANDUM

Circulated by authority of the Minister for the Environment,
Land and Planning
Mr Gary Humphries MLA

ROMAN CATHOLIC CHURCH PROPERTY TRUST (AMENDMENT) BILL 1996

Outline

This is an amending Bill. It amends the *Roman Catholic Church Property Trust Act 1937* (the Principal Act) which relates to property held in trust for, or for the benefit, purposes or use of, the Roman Catholic Church in the ACT (the Church).

The Principal Act provides for the establishment of trustees of Church trust property (the Trust). By virtue of the Act the Trust is a body corporate with the authority to hold, sublet, sell or raise money on the security of any estate or interest in Territory land on behalf of the Church. The amending Bill will expand the powers of the Trust to include the operation of educational, welfare and health services. It will also allow the Trust to undertake other activities it deems appropriate and beneficial to it or the Church.

The proposed amendments to the Principal Act are consistent with NSW legislation where the powers of the Trust were expanded in 1986 to enable the Trust to undertake educational, welfare and charitable activities on behalf of the Church.

In some instances it has become impractical for the Trust to observe the initial objects of trust funds and gifts bequeathed to the Church. Under present arrangements the objects of a trust may only be varied by application to the Supreme Court. The amending Bill will allow the Trust to vary, by instrument, the objects of a trust where it is not reasonable or possible to meet its initial intentions. The varied terms and conditions of a trust are to be restated in a form as near as possible to the original objects of that trust. Where this is not possible the Bill will enable the Trust to replace the objects of that trust.

The amending Bill will allow the Trust to blend trust funds for investment purposes. Any income or loss resulting from the investment will be distributed rateably among the various activities and purposes for which the money invested is held in trust.

The Principal Act requires that instruments be executed by the Bishop and two members of the Trust. This is an inefficient process and the amending Bill will remove this requirement by enabling the Bishop to execute instruments on the behalf of the Trust.

Financial Implications

There are no financial implications.

Clause Notes

Clauses 1, 2 and 3 deal with the title and commencement of the Bill. Clause 3 identifies the Act being amended.

Common seal

Clause 4 of the Bill amends subsection 5(5) of the Principal Act to omit the requirement for the signing of instruments by two members of the Trust in addition to the Bishop. The amendment allows the Bishop to sign instruments bearing the common seal on behalf of the Trust.

Objects of trust

Clause 5 provides for the insertion of a new section into the Principal Act. Section 6A expands the objects of the Trust to enable it to undertake on behalf of the Church the operation of educational, welfare and health services. This section will also allow the Trust to undertake activities it deems appropriate and beneficial to it or the Church.

Variation of trusts and blending of funds

Clause 6 of the Bill provides for the insertion of two new sections into the Principle Act.

Section 8A allows the Trust to vary the objects of a trust, by way of instrument, where the Trust is satisfied that it is not possible or reasonable to observe the terms and conditions of a trust. The Trust is to ensure the amended terms and conditions are restated in a form as near as possible to the original objects.

Where the Trust determines it is not possible or reasonable to vary the objects of a trust in a form as near as possible to the original objects, the Trust may, by way of instrument, replace the objects of that trust.

Section 8B enables the Trust to invest money, or proportions of money, it holds in trust for various purposes and activities as one fund. Income or loss resulting from the investment will be distributed rateably among the various purposes and activities for which the money invested is held in trust.

Execution of instruments

Clause 7 of the Bill amends section 9 of the Principal Act. Section 9 provides for the Bishop and two members of the Trust to execute instruments on behalf of the Trust. The amendment will remove the requirement for the execution of instruments by two members of the Trust in addition to the Bishop.