



Australian Capital Territory

# **Presbyterian Church (Proposals for Union with other Churches) Act 1972 No 17**

## **Republication No 2**

Republication date: 24 July 2002

Last amendment made by [A2001-44](#)

Amendments incorporated to 12 September 2001

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Presbyterian Church (Proposals for Union with other Churches) Act 1972* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 24 July 2002. It also includes any amendment, repeal or expiry affecting the republished law to 12 September 2001.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

### Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.

Amendments incorporated to  
12 September 2001



Australian Capital Territory

# Presbyterian Church (Proposals for Union with other Churches) Act 1972

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Amendments incorporated to  
12 September 2001



Australian Capital Territory

# **Presbyterian Church (Proposals for Union with other Churches) Act 1972**

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An Act to make provision in relation to the trusts on which property of the  
Presbyterian Church of Australia is to be held

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**1 Name of Act**

This Act is the *Presbyterian Church (Proposals for Union with other Churches) Act 1972*.

**2 Definitions for Act**

In this Act:

*Note* A definition applies except so far as the contrary intention appears (see [Legislation Act 2001](#), s 155).

*church trust property*—see [the Trust Property Act](#).

*congregation*—see [the Trust Property Act](#).

*the Church*—see [the Trust Property Act](#).

*the commission* means the commission referred to in section 7.

*the General Assembly* means the General Assembly of the Presbyterian Church of Australia.

*the Trust*—see [the Trust Property Act](#).

*the Trust Property Act* means the [Presbyterian Church Trust Property Act 1971](#).

**3 Provisions applicable if less than 1/3 of members of a congregation vote ‘Yes’ to second question**

If—

- (a) the members of each congregation in the ACT have voted, in accordance with schedule 1, clause 2, on the questions set out in schedule 1, clause 1 relating to a proposed union of the Church with another church or other churches; and
- (b) less than 1/3 of the members of a congregation who voted on the questions voted ‘Yes’ on the second question; and
- (c) the General Assembly has resolved to enter into union with another church or churches;

all property held by the Trust on behalf of that congregation shall, unless an application is made as provided by section 5 cease, on the passing of that resolution, to be church trust property within the meaning of [the Trust Property Act](#) and shall be held by the Trust for the purposes of the church to be formed as a result of the union specified in the resolution.

**4 Provisions applicable if  $\frac{1}{3}$  or more vote ‘Yes’ to second question**

If—

- (a) the members of each congregation in the ACT have voted, in accordance with schedule 1, clause 2, on the questions set out in schedule 1, clause 1 relating to a proposed union of the Church with another church or other churches; and
- (b)  $\frac{1}{3}$  or more than  $\frac{1}{3}$  of the members of a congregation who voted on the questions voted ‘Yes’ on the second of the questions; and
- (c) the General Assembly has resolved to enter into union with another church or churches;

all property held by the Trust on behalf of that congregation shall, unless an application is made as provided by section 5, continue to be church trust property within the meaning of [the Trust Property Act](#) and shall be held by the Trust as if this Act had not been made.

**5 Application for determination of trusts by commission**

At any time after the counting of votes cast by members of a congregation and before the General Assembly has resolved to enter into union with other churches, an application signed by not less than  $\frac{1}{20}$  of the members of the congregation who were entitled to cast a vote may be made to the General Assembly requesting the General Assembly, in the event of the General Assembly resolving to enter into union with other churches, to

refer for hearing and determination by a commission to be constituted by the General Assembly the question on what trusts the property held, on the date of the resolution, by the Trust on behalf of the congregation is thereafter to be held by the Trust.

**6 Dealings with congregational property pending determination by commission**

If an application is made by members of a congregation in accordance with section 5, property that is, on the day when the General Assembly resolves to enter into union with the other church or churches, held by the Trust on behalf of the congregation shall continue, after that day and unless the commission makes, under section 8 a determination to the contrary in relation to that property, to be held by the Trust as if this Act had not been made.

**7 Constitution of commission**

- (1) If—
- (a) an application is made under section 5; and
  - (b) the General Assembly resolves to enter into union with another church or other churches;
- the General Assembly shall refer the application to a commission consisting of—
- (c) 2 groups, each of the same number, one group representing persons who have voted in favour of the union and the other group representing persons who have voted to remain in membership of the Presbyterian Church of Australia; and
  - (d) 3 independent persons acceptable to both of those groups;
- who shall be appointed by the General Assembly.

- (2) The General Assembly shall appoint 1 of the persons referred to in subsection (1) (d) to be chairperson of the commission.

**8 Hearing and determination by commission**

The commission shall, as soon as practicable after an application under section 5 is referred to it, hear, in accordance with the procedure prescribed by the regulations, the application and shall make, in accordance with the principles specified in the regulations as the principles to be applied by it, a determination specifying the trusts on which the property referred to in the application is to be held.

**9 Effect of determination by the commission**

If the commission has determined that property be held by the Trust for the purposes of the church to be formed as a result of the union, that property shall, on and from the date of the determination by the commission, cease to be church trust property within the meaning of [the Trust Property Act](#) and shall be held, on and from that date and until other provision is made by law, by the Trust for the purposes of the church to be formed as a result of the union.

**10 Regulation-making power**

The Executive may make regulations for this Act.

*Note* Regulations must be notified, and presented to the Legislative Assembly, under the [Legislation Act 2001](#).

## **Schedule 1 Provisions relating to voting by members of congregations**

(see s 3 (1), s 4 (1))

- 1 The following questions are the questions on which the members of a congregation are to vote:
  - (a) Do you desire this congregation to become a congregation of the church which may result from the proposed union?
  - (b) Should the required majority vote for union be obtained in presbyteries, state general assemblies and the general assembly of Australia, do you desire to remain in membership of any Presbyterian Church of Australia continuing to function on the present basis?
- 2
  - (1) For the purpose of enabling members of congregations to vote on the questions set out in clause 1, all sessions shall have purged their communion roles as at a date specified by a commission of the General Assembly appointed by the General Assembly for the purpose and shall have submitted to the presbytery of the bounds a voting register in duplicate showing all names on the communion roll at the date of the submission to the presbytery.
  - (2) Both copies of the voting register shall be certified by the moderator and clerk of the session as being the voting register.
  - (3) The presbytery of the bounds shall following the submission to it of the voting register attest both copies and shall return 1 copy to the session from which it was received and shall retain the other copy.
  - (4) Only those persons whose names are on an attested voting register may take part in the vote.
  - (5) Sessions shall make available voting papers containing the said questions at least 14 days before a date fixed by the session for

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the close of voting, upon which the voters shall indicate whether their answer is 'Yes' or 'No' to each of the questions.

- (6) Voting papers must be signed by the voter and returned prior to the close of voting.
- (7) The session shall count the votes and transmit the number of 'Yes' votes and the number of 'No' votes cast with respect of each question to the clerk of the presbytery of the bounds for transmission to the clerk of the assembly through the clerk of the state general assembly.

## Endnotes

1 About the endnotes

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## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

If the republished law includes penalties, current information about penalty unit values appears on the republication inside front cover.

### 2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	p = page
cl = clause	par = paragraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	prov = provision
exp = expires/expired	pt = part
Gaz = Gazette	r = rule/subrule
hdg = heading	reg = regulation/subregulation
IA = Interpretation Act 1967	renum = renumbered
ins = inserted/added	reloc = relocated
LA = Legislation Act 2001	R[X] = Republication No
LR = legislation register	s = section/subsection
LRA = Legislation (Republication) Act 1996	sch = schedule
mod = modified / modification	sdiv = subdivision
No = number	sub = substituted
num = numbered	SL = Subordinate Law
o = order	<u>underlining</u> = whole or part not commenced or to be expired
om = omitted/repealed	

### 3 Legislation history

This Act was originally a Commonwealth ordinance—the *Presbyterian Church (Proposals for Union with other Churches) Ordinance 1972* Ord1972-17 (Cwlth).

The *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 34 (4) converted most former Commonwealth ordinances in force in the ACT into ACT enactments. This allowed the ACT Legislative Assembly to amend and repeal the laws. This Act was converted into an ACT enactment on 11 May 1989 (self-government day).

As with most ordinances in force in the ACT, the name was changed from *Ordinance* to *Act* by the *Self-Government (Citation of Laws) Act 1989* A1989-21, s 5 on 11 May 1989 (self-government day).

Before 11 May 1989, ordinances commenced on their notification day unless otherwise stated (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12).

#### Legislation before becoming Territory enactment

##### **Presbyterian Church (Proposals for Union with other Churches) Act 1972 A1972-17**

notified 16 June 1972

commenced 16 June 1972

as amended by

##### **Ordinances Revision (Administrative Arrangements) Ordinance 1977 Ord1977-18 pt 6**

notified 21 June 1977

pt 6 commenced 21 June 1977

##### **Self-Government (Consequential Amendments) Ordinance 1989 Ord1989-38 sch 1**

notified 10 May 1989 (Cwlth Gaz 1989 No S160)

s 1, s 2 commenced 10 May 1989 (s 2 (1))

sch 1 commenced 11 May 1989 (s 2 (2) and see Cwlth Gaz 1989 No S164)

## Endnotes

4 Amendment history

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### Legislation after becoming Territory enactment

#### [Legislation \(Consequential Amendments\) Act 2001 A2001-44](#) pt 294

notified 26 July 2001 ([Gaz 2001 No 30](#))

s 1, s 2 commenced 26 July 2001 (IA s 10B)

pt 294 commenced 12 September 2001 (s 2 and see [Gaz 2001 No S65](#))

## 4 Amendment history

### Regulation-making power

s 10 am [Ord1977-18](#) s 12; [Ord1989-38](#) sch 1  
sub [A2001-44](#) amdt 1.3273

## 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

Replication No	Amendments to	Replication date
1	<a href="#">Ord1989-38</a>	1 July 1993

Authorised by the ACT Parliamentary Counsel—also accessible at  
[www.legislation.act.gov.au](http://www.legislation.act.gov.au)

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