

Version
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Anglican Church Trusts Act 1981

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

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An Act to widen the powers of trustees under trusts in connection with the Church of the Province of New Zealand and the Church of the Province of Melanesia and to provide for the administration of such trusts; and to consolidate and amend the Church of England Trusts Act 1913 and its amendments

Preamble

Whereas there is real and personal property in New Zealand held on trusts for and in connection with the Anglican Churches in New Zealand and Melanesia:

And whereas the powers of the trustees in relation to the investment of the trust assets are limited by the instruments creating the trusts:

And whereas it is desirable to consolidate and extend the powers conferred on trustees by the Church of England Trusts Act 1913 and its amendments and to give greater powers of investment to the major Trust Boards holding property for the said Churches:

And whereas there are trusts held for religious or charitable purposes in connection with the Anglican Church where it has become impossible or impracticable or inexpedient to carry out the trust objects or purposes, and by reason of the limited assets of the particular trusts or for reasons of expense it is desirable to provide a means for varying the trusts in addition to the means provided by the Charitable Trusts Act 1957.

1 Short Title

This Act may be cited as the Anglican Church Trusts Act 1981.

2 Interpretation

In this Act, unless the context otherwise requires,—

Anglican Church, or **Church**, means the Church of the Province of New Zealand; and includes the Church of the Province of Melanesia (in this Act separately referred to as the Anglican Church of Melanesia)

Aotearoa Council means the Aotearoa Council constituted under the canons of the Anglican Church

authorised Trust Board, or **Board**, means any Board or Trust for the time being specified in Schedule 1

General Synod means the General Synod of the Anglican Church

New Zealand Advisory Council has the same meaning as in section 2 of the Melanesian Trusts Act 1974.

Part 1

Authorised Trust Boards

3 Powers of authorised Trust Boards

- (1) Notwithstanding anything to the contrary in any other Act, but subject to this section and to section 18, where any real or personal property is held by an authorised Trust Board for any religious, charitable, educational, or other purpose in connection with the Anglican Church or any part of it, whether the property was conveyed or given to or vested in the Board before or after the commencement of this Act, the Board shall have the powers set out in Schedule 2, and may exercise those powers in such manner as it thinks fit. Those powers are in addition to any powers in, and may be exercised notwithstanding anything to the contrary in, any Act or instrument creating or relating to the trust; and any such Act or instrument shall be read subject to this subsection.

- (2) No land on which there is, or which is held as a future site for, a church, a church hall, a school, a hostel or other building associated with a school, a memorial building or structure, or a burial ground shall by virtue of subsection (1) be sold, exchanged, or mortgaged, or leased for a term (including renewals) of more than 21 years, except with the prior authority in each case of—
- (a) the General Synod if the land is held on its behalf; or
 - (b) the Aotearoa Council if the land is held on behalf of the Bishopric of Aotearoa; or
 - (c) the New Zealand Advisory Council if the land is held on behalf of the Anglican Church of Melanesia; or
 - (d) the Synod of the diocese in which the land is situated, if it is not held on behalf of the General Synod or of the Bishopric of Aotearoa or of the Anglican Church of Melanesia.

4 Power of Board to act together with other persons

- (1) In the exercise of its powers an authorised Trust Board may join with, enter into joint ventures with (whether by way of separate incorporation or otherwise), or act in combination or association with any other person, company, corporation, or body of persons in doing any act or thing which it could by itself lawfully do and which in the Board's opinion will be for the benefit of any trust administered by it.
- (2) This section shall apply notwithstanding that the title to the trust property, or to any property in respect of which trust funds are used pursuant to this section, may not be vested in the Board, and notwithstanding any rule of law or practice to the contrary.

5 Transfer of trust property to authorised Trust Board

- (1) Notwithstanding anything to the contrary in any other Act or in any rule of law or practice or in any instrument creating the trust, any trustee (including any authorised Trust Board) may transfer the whole or any part of any trust funds or real or personal property held by the trustee for any religious, educational, or other charitable purpose of or in connection with the Anglican Church or any part of the Church to any authorised Trust Board, to be held by that Board either—
- (a) as trustee in substitution for the then existing trustee, with the powers set out in Schedule 2; or
 - (b) as custodian trustee on the terms of and with the functions and powers set out in section 67 of the Trusts Act 2019 in addition to the powers set out in Schedule 2.
- (2) In any case to which subsection (1)(b) applies, the original trustee or his or its successor may at any time by notice in writing revoke the appointment of the custodian trustee.

- (3) On receipt of a notice of revocation under subsection (2) the custodian trustee shall forthwith do all such things as are necessary to transfer or revest the trust property into the name of the original trustee or his or its successor.

Section 5(1)(b): amended, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

6 Liabilities of trustee on transfer of property

- (1) Where any funds or property are transferred to an authorised Trust Board under section 5(1)(a),—
- (a) the trustee so transferring shall not be liable for the proper application of the capital and income of the funds or property in accordance with the trust;
 - (b) the authorised Trust Board shall be liable for the proper application and administration of the funds or property.
- (2) Where any funds or property are transferred to an authorised Trust Board as custodian trustee under section 5(1)(b), the trustee so transferring—
- (a) shall remain liable for the proper application of the capital and income of the funds or property in accordance with the trust; but
 - (b) shall not be liable for any loss of capital or diminution of income in respect of any investment made or retained by the authorised Trust Board.

7 Boards to be leasing authorities

- (1) Every authorised Trust Board is hereby declared to be a leasing authority for the purposes of the Public Bodies Leases Act 1969.
- (2) Without prejudice to section 4 of the Public Bodies Leases Act 1969, that Act shall, in its application to a Board, be read subject to section 3(2), so far as it is applicable.

8 Alterations to list of authorised Trust Boards

- (1) The Governor-General may from time to time by Order in Council, on the advice of the Minister of Justice given at the request of the General Synod, amend Schedule 1 by adding or omitting the name of any Trust Board, or by altering the name of any Board or Trust for the time being specified in that schedule.
- (2) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).