

**Anglican Church of Australia Trust Property Act, 1917
Provincial Ordinance 1984 Adopting Ordinance 1985**

No. 75, 1985

AN ORDINANCE to adopt a certain ordinance of the Provincial Synod.

WHEREAS

- A. The Provincial Synod of New South Wales passed an Ordinance entitled "Anglican Church of Australia Trust Property Act, 1917 Provincial Ordinance 1984" on the 29th day of February 1984.
 - B. A copy of the Provincial Synod Ordinance is printed in the Schedule to this Ordinance.
- 10 NOW the Synod of the Diocese of Sydney HEREBY ORDAINS DECLARES DIRECTS AND RULES as follows:
- 1. This Ordinance may be cited as "Anglican Church of Australia Trust Property Act, 1917 Provincial Ordinance 1984 Adopting Ordinance 1985".
 - 2. The said Ordinance Provincial Synod is hereby adopted.

SCHEDULE

ANGLICAN CHURCH OF AUSTRALIA TRUST PROPERTY ACT, 1917
PROVINCIAL ORDINANCE 1984

AN ORDINANCE to authorise application to the Parliament of New South Wales to pass an Act to make certain provisions to facilitate the ownership or use of church trust property.

WHEREAS the Provincial Synod has received a draft bill to provide for amendment to the said Act from the Legal Committee of the Standing Committee of the said Synod a copy whereof is contained in the schedule hereto.

AND WHEREAS it is expedient to make the provisions hereinafter contained for promoting the said bill in the Parliament of New South Wales

AND WHEREAS the Provincial Synod agrees that such bill should be so promoted

WHEREFORE the Provincial Synod in the Province of New South Wales in pursuance of the powers in that behalf conferred on it by the constitution for the management and good government of the Anglican Church of Australia within the State of New South Wales and all other powers thereunto enabling it ORDAINS PRESCRIBES AND RULES as follows:

- 1. Application shall be made to the Parliament of New South Wales by the Standing Committee of this Provincial Synod to pass an Act in terms of the bill contained in the schedule hereto.

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2.

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2. The said Standing Committee is hereby authorised and empowered to promote in the Parliament of New South Wales a bill in terms of the said bill contained in the schedule hereto to the like effect and for the said purpose to confer and to act in conjunction with the Dioceses of the Province or any of them or any other person or persons and to do all such things and incur all such expense as may seem expedient in the circumstances.

3. This Ordinance may be cited as "Anglican Church of Australia Trust Property Act, 1917 Provincial Ordinance 1984".

SCHEDULE

A BILL to make provision with respect to the use of church trust property and ownership thereof pursuant to the Anglican Church of Australia Trust Property Act, 1917 and for such purpose and associated purposes to amend that Act and for other purposes connected therewith.

WHEREAS by an Ordinance duly passed by the Provincial Synod of the Province of New South Wales of the Anglican Church of Australia it was ordained and directed that application be made for the enactment of an Act in or to the effect of the provisions herein contained be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:

1. This Act may be cited as "Anglican Church of Australia Trust Property (Amendment) Act 1984".

2. The Anglican Church of Australia Trust Property Act, 1917 is amended by inserting next after Section 32A the following new part:

"PART VIIIA — JOINT USE OF CHURCH TRUST PROPERTY

Use of property jointly with other churches

"32B(1) The synod of a diocese may, by ordinance, make provision, either generally or for a particular case, and for and in relation to —

- (a) the use, by the Anglican Church, of church trust property for a purpose of the Anglican Church and by a church of another denomination for a purpose of that church, jointly, or jointly and severally;
- (b) the acquisition, by the corporate trustees for the diocese, or by other trustees, of property to be so used; and
- (c) the application of moneys vested in —
 - (i) the corporate trustees for the diocese;
 - (ii) other trustees; or

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(iii) any churchwardens or other persons holding office under an ordinance of the synod, upon trust for the use, benefit or purpose of the Anglican Church in the diocese upon, or in connection with, any specified purpose as defined by sub-section (2).

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"(2) In sub-section (1), 'specified purpose' means —

- (a) the acquisition of land or other property by —
 - (i) the corporate trustees for the diocese;
 - (ii) other trustees on behalf of the Anglican Church; or
 - (iii) trustees on behalf of a church of another denomination,

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to be used by the Anglican Church for a purpose of the Anglican Church and by a church of another denomination for a purpose of that church, jointly, or jointly and severally;

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- (b) the erection of a building to be so used; or
- (c) the repair, alteration, or maintenance of a building or other property so used, or to be so used.

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"(3) Sub-section (2) applies to the erection of a building, and to the repair, alteration or maintenance of a building or other property, whether or not the land on which the building is to be erected, or is erected, or whether or not the property is vested in —

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- (a) the corporate trustees for the diocese;
- (b) other trustees on behalf of the Anglican Church; or
- (c) trustees on behalf of a Church of another denomination.

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"(4) The power of the synod of a diocese to make ordinances under sub-section (1) includes power to make ordinances authorising the bishop of the diocese to enter into an agreement with the proper authority of a Church of another denomination for the use of land or other property (including church trust property) by the Anglican Church for a purpose of the Anglican Church and by the Church of that other denomination for a purpose of that Church, jointly, or jointly and severally, and, in connection with that use, for the acquisition of land or other property, for the erection of a building on land or for the repair, alteration or maintenance of a building on land, or of other property, whether or not the land or other property is vested in —

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- (a) the corporate trustees for the diocese;
- (b) other trustees on behalf of the Anglican Church; or
- (c) trustees on behalf of a Church of another denomination.

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"(5) The corporate trustees for the diocese, and any other trustees holding office under, or in accordance with, this Act, are, by virtue of this sub-section, authorised to hold land that is, for the

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time being, subject to a trust for the use, benefit or purpose of the Anglican Church and of a Church of another denomination.

"(6) The Synod of a diocese has, in relation to land or other property that is, for the time being, subject to a trust for the use, benefit or purpose of the Anglican Church and of a Church of another denomination, and, the corporate trustees for a diocese, or other trustees, in whom any such land or property is vested, have, the like powers, in relation to that land or property, as they have under this Act in relation to church trust property. 5

"(7) In the exercise of powers under section 26, by virtue of sub-section (6) of this section, the synod of a diocese may make provision for the application of the real and personal property arising from the sale, exchange, letting or other dealing mentioned in section 26 for use, benefit or purpose of — 10

- (a) the Anglican Church; 15
- (b) a Church of another denomination; or
- (c) the Anglican Church and a Church of another denomination, either jointly or severally.

"(8) In the exercise of the powers under section 32 by virtue of sub-section (8) of this section, the synod of a diocese may declare other trusts, in respect of property, for the use, benefit or purposes of — 20

- (a) the Anglican Church within the diocese;
- (b) a church of another denomination; or
- (c) the Anglican Church within the diocese and a church of another denomination, either jointly or severally. 25

Instead of the trusts first mentioned in section 32, and the proviso to section 32 shall apply only to and in relation to so much (if any) of the property as is, under the other trusts, to be held for the use, benefit or purposes of the Anglican Church within the diocese. 30

"(9) Subject to sub-section (10), the use of the church trust property, and the application of church trust property (including moneys arising from the conversion into money of church trust property), in accordance with an ordinance made under this section, or in accordance with an agreement entered into in accordance with an ordinance made under this section, shall, for all purposes, be deemed to be, and to have been, lawfully used or applied notwithstanding the provisions of any trust upon which the property was or is, or the moneys were or are, held. 35

"(10) Where — 40

- (a) church trust property, or church trust property from which moneys were derived, was gratuitously granted or assured by a private donor within 20 years before the use or applica-

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- tion of the property or moneys in accordance with an ordinance or agreement referred to in sub-section (9); and
- 5 (b) the trust instrument (if any) relating to that property expressly forbade the use or application of the property by, or for purposes of, the Church of the other denomination concerned, or by, or for such purposes of, a Church of a denomination other than the Anglican Church,
- 10 sub-section (9) does not apply to or in relation to the use or application of the property or moneys in accordance with that ordinance or agreement, unless the donor, if living, has consented to the property or moneys being so used.
- "(1) In this section, unless the contrary intention appears
- 15 (a) a reference to the Anglican Church shall be read as a reference to the Anglican Church of Australia;
- (b) a reference to the corporate trustees for a diocese shall be read as including a reference to the Bishop of a diocese as trustee of land or other property;
- 20 (c) a reference to the use of property by the Anglican Church shall be read as a reference to the use of property by a diocese, a parish, or a body established by a diocese or parish, including, but without limiting the generality of the foregoing, a body of persons worshipping regularly at a place according to the rites of the Anglican Church;
- 25 (d) a reference to the use of property by a Church of another denomination shall be read as a reference to the use of property by any unit of that Church, however designated, or by a body established by that Church or such a unit, including, but without limiting the generality of the foregoing, a body of persons worshipping regularly at a place according to the rites of that Church;
- 30 (e) a reference to a purpose of the Anglican Church shall be read as a reference to a religious, educational or other purpose of the diocese, parish or body referred to in paragraph (c); and
- 35 (f) a reference to a purpose of a Church of another denomination shall be read as a reference to a religious, educational or other purpose of a unit or body of that Church referred to in paragraph (d)."

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40 I CERTIFY that the Ordinance as printed is in accordance with the Ordinance as reported.

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Chairman of Committees

WE CERTIFY that this Ordinance was passed by the Synod of the Diocese of Sydney on this 12 day of October 1985.

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Secretaries of Synod

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I ASSENT to this Ordinance.

Archbishop of Sydney

9/10/1985