



Western Australia

Roman Catholic Church Lands Act 1895

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Roman Catholic Church Lands Act 1895

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Defined terms

Roman Catholic Church Lands Act 1895

An Act to empower the Bishop of the Roman Catholic Church in Western Australia, and his successors in office, to lease, and raise money by way of mortgage on, Church lands, and to sell certain of such lands in certain cases.

Preamble

Whereas by the Ordinance made and passed by the Legislative Council in the 22nd year of the Reign of Her present Majesty, and numbered 4², it was enacted that all estate, right and title, legal and equitable, in and to all churches, buildings, convents, monasteries, lands and premises in the said Colony belonging to, and used in connection with the Roman Catholic Church, and then vested in any person or persons whomsoever as a trustee or trustees, should from and after the passing of that Ordinance and by virtue thereof, and without the necessity of any formal deed of assurance, be divested from such person or persons and vest absolutely and indefeasibly in the Roman Catholic Bishop for the time being administering the ecclesiastical affairs of the Roman Catholic Church in the said Colony and his successors in the said office upon the trusts mentioned and contained in the several deeds or other assurances in the law granting and conveying such churches, buildings, convents, monasteries, lands and premises to such person or persons as a trustee or trustees as aforesaid.

And that the estate in all lands and premises which should be thereafter granted and conveyed by any person or persons for Roman Catholic Church purposes should be vested by deed or other proper assurance in the Roman Catholic Bishop for the time being administering the ecclesiastical affairs of the said Roman Catholic Church in the said Colony, and his successors, under and subject to such trusts as might be imposed by the donors and grantors thereof as conditions of their grant.

Preamble

And whereas the Right Reverend Matthew Gibney is at present the holder of the said office, and is desirous of improving and turning to better account certain of the said lands vested in him as such Bishop as aforesaid, and for such purposes of obtaining the powers and authorities hereinafter mentioned.

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 Western Australia, in this present Parliament assembled, and by the authority of the same, as follows: —

1. Short title

This Act may be cited as the *Roman Catholic Church Lands Act 1895*.

[Section 1 inserted: No. 74 of 2003 s. 149(1).]

2. Power to mortgage

- (1) Subject to the provisions of this Act, the Bishop for the time being administering the ecclesiastical affairs of the Roman Catholic Church in Western Australia, and his successors in office, may from time to time borrow and take up at interest any sum or sums of money on security of any lands vested in him or them as such Bishop as aforesaid, for the purpose of building upon any of such lands or otherwise improving the same and for any other purpose or purposes whatsoever that the said Archbishop in his corporate name, with the consent of the advisers, may deem necessary from time to time and to mortgage in fee or for a term of years any of such lands so vested in him as security for the amount of any such loan, and either with or without a power of sale and leasing respectively in case of default being made in the payment of the principal and interest moneys at the time or times by such mortgage appointed for the payment thereof respectively, and with or without a power of distress and such other and accompanying powers, clauses, and provisions as he shall deem expedient, and to give receipts for the moneys to be advanced.
- (2) The lands so to be mortgaged shall thenceforth be held by the mortgagee or mortgagees thereof, his, her or their heirs and assigns, freed and absolutely discharged from the trusts upon which the same may for the time being be held by such Bishop.
- (3) Unless otherwise therein expressed, no covenant, proviso, or other matter or thing contained in any such mortgage shall be deemed or construed to impose on the mortgagor, his heirs, executors, administrators, or assigns any personal obligation or

responsibility for the repayment of the principal moneys or interest thereby secured.

- (4) Any moneys raised by way of mortgage under this section, or any part of such moneys, may be expended in building on or otherwise improving the lands comprised in the security or any other lands not therein comprised.

[Section 2 amended: No. 4 of 1916 s. 6.]

3. Power to lease

The said Bishop and his successors in office may from time to time lease any lands vested in him or them as such Bishop as aforesaid for any term, with or without a right of renewal, and either by way of building lease or otherwise, and subject to such covenants, conditions, and agreements as the lessor may think fit.

4. Limitation of powers to mortgage and lease

- (1) Nothing this Act contained shall authorise —
- (a) A mortgage, or a lease for any term exceeding 21 years, of any lands which have been granted by the Crown to or for the use or benefit of the Roman Catholic Church, without pecuniary consideration therefor, except with the consent in writing of the Governor in Council, nor —
 - (b) A mortgage of any lands acquired otherwise than by grant from the Crown as aforesaid, if such lands be held upon any express trust or condition against alienation.
- (2) A trust or condition expressed to be for the use or purposes or benefit of the Roman Catholic Church, or in any words of like import, shall not be deemed to be an express trust within the meaning of this section.

5. Power of sale of lands granted by the Crown

With the consent of the Governor in Council, the said Bishop and his successors in office may sell any lands granted by the Crown as aforesaid to him or his predecessors in such office, or that may hereafter be so granted to him or his successors.

6. Purchases etc. protected from certain irregularities

Nothing in this Act contained shall be deemed or construed to make it necessary for any purchaser, mortgagee, or lessee to inquire whether any power of sale, mortgage, or lease was duly and regularly made or exercised, or in anywise to see to the application of any moneys raised under the authority of this Act, or to inquire into the necessity, regularity, or propriety of any such sale, mortgage, or lease, or be affected by notice that the same is or are irregular, unnecessary, or improper; subject, always, to the provisions of the next following section.

7. Certain transactions invalid without Governor's approval

No assurance on sale or mortgage or any lease for a term exceeding 21 years, of lands granted by the Crown to or for the use or benefit of the Roman Catholic Church, without pecuniary consideration therefor, shall be valid unless countersigned as approved by the Governor for the time being of the said Colony, with the advice of the Executive Council.

8. "Lands", definition of

The expression *lands* in this Act shall include lands granted by the Crown to or otherwise acquired by the said Bishop or his successors after the passing of this Act for the use or purposes of the Roman Catholic Church in this Colony.

Notes

¹ This is a compilation of the *Roman Catholic Church Lands Act 1895* and includes the amendments made by the other written laws referred to in the following table³.

Compilation table

Short title	Number and year	Assent	Commencement
<i>The Roman Catholic Church Lands Act 1895</i> ⁴	59 Vict. Private Act	12 Oct 1895	12 Oct 1895
<i>Roman Catholic Church Property Acts Amendment Act 1916</i> s. 6	4 of 1916	17 Nov 1916	17 Nov 1916
Reprint 1: <i>The Roman Catholic Church Lands Act 1895</i> as at 7 Feb 2003 (includes amendments listed above)			
<i>Statutes (Repeals and Minor Amendments) Act 2003</i> s. 149(1)	74 of 2003	15 Dec 2003	15 Dec 2003 (see s. 2)

² Now cited as the *Roman Catholic Church Lands Ordinance 1858*.

³ This Act is to be read as one with the following Act:

Roman Catholic Church Lands Amendment Act 1902.

This Act is affected by the following Acts:

Roman Catholic Church Property Act 1911

Roman Catholic Church Property Act Amendment Act 1912

Roman Catholic Church Property Acts Amendment Act 1916.

Other relevant written laws:

Roman Catholic Church Lands Ordinance 1858

Roman Catholic Geraldton Church Property Act 1925

Roman Catholic New Norcia Church Property Act 1929

Roman Catholic Bunbury Church Property Act 1955

Roman Catholic Bishop of Broome Property Act 1957.

⁴ Now known as the *Roman Catholic Church Lands Act 1895*; short title changed (see note under s. 1).

Defined terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

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