



Western Australia

Roman Catholic New Norcia Church Property Act 1929

Compare between:

[16 Nov 2006, 01-b0-02] and [01 Jan 2007, 01-c0-05]

Roman Catholic New Norcia Church Property Act 1929

An Act to vest in the Abbot Nullius of New Norcia and his successors in office land and other property belonging to the Roman Catholic Church within the “Territory Nullius of New Norcia,” and to make further provision for disposing of such property, and for other relative purposes.

1. Short title

This Act may be cited as the *Roman Catholic New Norcia Church Property Act 1929*, and shall come into operation upon a day to be fixed by proclamation ¹.

2. Interpretation

In this Act the word “*property*” includes property of every kind whatsoever, both legal and equitable, real and personal, and choses in action.

3. Certain property vested in Abbot Nullius

The lands comprised in the instruments of title set out in the schedule hereto, and all other property now or hereafter belonging to the Roman Catholic Church or vested in any person as trustee on account of the said Church and situated within the Territory Nullius of New Norcia, shall by virtue hereof vest absolutely in the Abbot Nullius of New Norcia for the time being and his successors in office, subject to all trusts and dispositions respectively affecting the same.

4. Abbot Nullius to be a corporation sole

For the purposes of this Act the said Abbot shall be a corporation sole by the name of “The Abbot Nullius of New Norcia” with perpetual succession, and by and in that name may sue and be sued and shall have power to purchase, hold, and take property and (subject to the trusts and dispositions aforesaid and to the provisions of this Act hereinafter contained), to sell, mortgage, lease, and dispose of any property hereby vested.

5. Power to lease

Subject to section 8, the said Abbot and his successors in office may, from time to time, lease any lands vested in him or them as such Abbot 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.

6. Power to mortgage

- (1) Subject to section 8, the said Abbot 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 Abbot as aforesaid,
 - (a) for the purpose of building upon any of such lands or otherwise improving the same, and for any other purpose or purposes whatsoever which the said Abbot or his successors in office may deem necessary from time to time;
 - (b) for the purpose of paying and discharging debts heretofore incurred and which are secured by existing mortgages on church lands within the Territory Nullius of New Norcia, and to mortgage in fee or for a term of years any of such lands so vested as aforesaid 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 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 or they shall deem expedient, and to give receipts for the moneys so advanced.

- (2) The lands so to be mortgaged shall thenceforth be held by the mortgagee or mortgagees thereof, and his or their executors, administrators and assigns, freed and absolutely discharged from the trusts upon which the same may for the time being be held by the said Abbot.
- (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 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 within the Territory Nullius of New Norcia not therein comprised.
- (5) This section shall not authorise a mortgage of any land held upon any express trust or condition against alienation.

7. Power to sell

Subject to section 8, the said Abbot and his successors in office may, from time to time, sell any lands or any part thereof vested in him or them as such Abbot as aforesaid, and transfer or otherwise assure the same to a purchaser, unless such land is held upon any express trust or condition against alienation.

8. Governor's approval required for certain sales etc.

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 with the advice and consent of the Executive Council.

9. Purchasers, etc., protected from certain irregularities

- (1) Subject to section 8, no purchaser, mortgagee or lessee of any lands vested in the said Abbot as aforesaid shall be bound or concerned to inquire whether any power of sale, mortgage or lease duly or regularly made or exercised, or in anywise to see to the application of any purchase, mortgage or other moneys, 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 unnecessary, irregular or improper.
- (2) No purchaser mortgagee or lessee shall be bound to enquire whether the buildings lands or premises to be affected by any dealing or dealings under this Act are within the Territory Nullius of New Norcia nor as to the appointment of the Abbot Nullius of New Norcia effecting or purporting to effect such dealing, nor be affected by notice that the person purporting to effect such dealing has not been duly and properly appointed The Abbot Nullius of New Norcia.

10. Land titles, registration and fees

The vesting of any land by this Act in "The Abbot Nullius of New Norcia" shall be registered and noted ~~in~~under the ~~Office~~Transfer of Titles Land Act 1893 or the ~~Office of the Registrar~~Registration of Deeds ~~or the Department of Lands and Surveys~~²Act 1856, as the case may require, and on the document of title to such land free of charge.

[Section 10 amended by No. 60 of 2006 s. 156.]

11. Power to appoint attorneys

The said Abbot and his successors in office may, from time to time by an instrument in writing under his or their hand and seal, appoint the Vicar General of the Roman Catholic Abbey Nullius of New Norcia and a Priest of the same Abbey Nullius, or either of them, his attorney or attorneys to exercise all or any of the powers conferred upon the said Abbot by this Act during the absence of the said Abbot from the State of Western Australia, and it shall be lawful for such attorney or attorneys so appointed, subject to the provisions of this Act, in, the name and on behalf of the said Abbot to exercise such powers accordingly and to execute and sign all documents and writings required to give effect thereto.

12. Power to appoint administrator to act on death of Abbot

The said Abbot and his successors in office may, by an instrument in writing under his or their hand and seal, appoint an administrator or administrators to exercise the powers and perform the duties of the said Abbot from the date of his death until his successor has been canonically appointed and has taken possession of the Abbey Nullius; and it shall be lawful for any such administrator or administrators so appointed, subject to the provisions of this Act, to exercise such powers and perform such duties accordingly, and to execute and sign all documents and writings required to give effect thereto and such documents and writings shall have the same force and effect as if they had been duly sealed and signed by the said Abbot in his lifetime.

The Schedule

The Schedule

Grant Enrolled No. 1402 comprising Melbourne location 29.

Certificates of Title:

Volume 34	Folio 40	Volume 478	Folio 57
Volume 34	Folio 41	Volume 479	Folio 85
Volume 292	Folio 31	Volume 498	Folio 1
Volume 309	Folio 33	Volume 617	Folio 131
Volume 401	Folio 105	Volume 792	Folio 101
Volume 401	Folio 114	Volume 792	Folio 102
Volume 415	Folio 175	Volume 792	Folio 103
Volume 424	Folio 193	Volume 911	Folio 180
Volume 426	Folio 187	Volume 914	Folio 2
Volume 427	Folio 2	Volume 994	Folio 48
Volume 427	Folio 3	Volume 1004	Folio 542
Volume 446	Folio 150	Volume 1011	Folio 626

Crown Leases: No. 2663/1915; No. 48/22.

Conditional Purchase Lease: No. 20464/47.

[The Schedule amended by No. 9 of 1930 s. 2.]

Notes

¹ This is a compilation of the *Roman Catholic New Norcia Church Property Act 1929* and includes the amendments made by the other written laws referred to in the following table^{1a}.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Roman Catholic New Norcia Church Property Act 1929</i>	32 of 1929	23 Dec 1929	31 Dec 1930 (see s. 1 and <i>Gazette</i> 31 Dec 1930 p. 2733-4)
<i>Roman Catholic New Norcia Church Property Act Amendment Act 1930 s. 2</i>	9 of 1930	19 Nov 1930	31 Dec 1930 (see <i>Gazette</i> 31 Dec 1930 p. 2733-4)
<u>Land Information Authority Act 2006 s. 156</u>	<u>60 of 2006</u>	<u>16 Nov 2006</u>	<u>1 Jan 2007 (see s. 2(1) and Gazette 8 Dec 2006 p. 5369)</u>

^{1a} ~~On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.~~

Provisions that have not come into operation

Short title	Number and year	Assent	Commencement
<i>Land Information Authority Act 2006 s. 156</i>³	60 of 2006	16 Nov 2006	To be proclaimed (see s. 2(1))

² ~~Under the *Public Sector Management Act 1994* the names of departments may be changed. At the time of this reprint the former Department of Lands and Surveys is called the Department of Land Administration.~~

³ ~~On the date as at which this compilation was prepared, the *Land Information Authority Act 2006 s. 156* had not come into operation. It reads as follows:~~

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~~**156. Roman Catholic New Norcia Church Property Act 1929 amended**~~

~~(1) The amendments in this section are to the *Roman Catholic New Norcia Church Property Act 1929*.~~

~~(2) Section 10 is amended by deleting “in the Office of Titles the Office of the Registrar of Deeds or the Department of Lands and Surveys” and inserting instead~~

~~“~~

~~under the *Transfer of Land Act 1893* or the *Registration of Deeds Act 1856*,~~

~~”~~

~~”~~