



Western Australia

The Roman Catholic Church Lands Act 1895

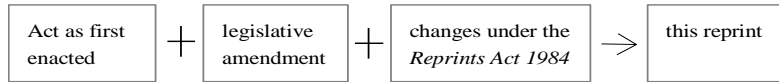


Roman Catholic Church Lands Amendment Act 1902

Reprint 1: The Acts as at 7 February 2003

Guide for using this reprint

What the reprint includes



Endnotes, Compilation table, and Table of provisions that have not come into operation

1. Details about the original Act and legislation that has amended its text are shown in the Compilation table in endnote 1, at the back of the reprint. The table also shows any previous reprint.
2. Validation, transitional, savings, or other provisions identified in the Compilation table may be important. The table may refer to another endnote setting out the text of these provisions in full.
3. A table of provisions that have not come into operation, to be found in endnote 1a if it is needed, lists any provisions of the Act being reprinted that have not come into operation and any amendments that have not come into operation. The full text is set out in another endnote that is referred to in the table.

Notes amongst text (italicised and within square brackets)

1. If the reprint includes a section that was inserted, or has been amended, since the Act being reprinted was passed, editorial notes at the foot of the section give some history of how the section came to be as it is. If the section replaced an earlier section, no history of the earlier section is given (the full history of the Act is in the Compilation table).

Notes of this kind may also be at the foot of Schedules or headings.

2. The other kind of editorial note shows something has been —
 - removed (because it was repealed or deleted from the law); or
 - omitted under the *Reprints Act 1984* s. 7(4) (because, although still technically part of the text, it no longer has any effect).

The text of anything removed or omitted can be found in an earlier reprint (if there is one) or one of the written laws identified in the Compilation table.

Reprint numbering and date

1. The reprint number (in the footer of each page of the document) shows how many times the Act has been reprinted. For example, numbering a reprint as “Reprint 3” would mean that the reprint was the 3rd reprint since the Act was passed. Reprint numbering was implemented as from 1 January 2003.
2. The information in the reprint is current on the date shown as the date as at which the Act is reprinted. That date is not the date when the reprint was published by the State Law Publisher and it is probably not the date when the most recent amendment had effect.

Reprinted under the
Reprints Act 1984 as
at 7 February 2003

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The Roman Catholic Church Lands Act 1895

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Western Australia

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The 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

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.

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*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.

s. 3

- (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 by 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 reprint is a compilation as at 7 February 2003 of *The Roman Catholic Church Lands Act 1895* and includes the amendments made by the other written laws referred to in the following table ³.

Compilation table

| Short title | Number and year | Assent | Commencement |
|--|-------------------------|-------------|--------------|
| <i>The Roman Catholic Church Lands Act 1895</i> | 59 Vict. Private Act | 12 Oct 1895 | 12 Oct 1895 |
| <i>Roman Catholic Church Property Acts Amendment Act 1916 s. 6</i> | 4 of 1916 | 17 Nov 1916 | 17 Nov 1916 |

- 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.

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Western Australia

Roman Catholic Church Lands Amendment Act 1902

An Act to amend the Ordinance 22nd Victoria, No. 4², and the *Roman Catholic Church Lands Act 1895*, and to enable the bishop, for the time being, of each diocese of the Roman Catholic Church to exercise, in respect of the lands within his diocese, the powers granted by the said Act.

Preamble

Preamble

Whereas at the respective times of the passing of the said Ordinance and Act there was only one Roman Catholic diocese in Western Australia embracing the whole of the State, and one bishop administering the ecclesiastical affairs of the Roman Catholic Church in Western Australia: And whereas the State is now divided into 2 dioceses, *viz.*, the dioceses of Perth and Geraldton, and other dioceses may hereafter be created in the said State: And it is expedient that the lands and premises of the said church within each diocese should be vested in the bishop for the time being of the diocese: And that such bishop should be enabled to exercise in respect of all buildings, lands, and premises situate within his diocese and belonging to the Roman Catholic Church the powers granted by the said *Roman Catholic Church Lands Act 1895*: Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this 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 Amendment Act 1902*¹.

2. Lands in the diocese of Geraldton vested in the Bishop of Geraldton

All the estate and interest in all buildings, lands, and premises belonging to the Roman Catholic Church, situate within the diocese of Geraldton, shall, without the necessity of any formal deed of assurance or transfer, from the time of the passing of this Act absolutely and indefeasibly vest in the Bishop of Geraldton and his successors in the said office, subject to the trusts mentioned and contained in the several deeds or other assurances in the law affecting the same³.

3. Lands in any new diocese to vest in its bishop

- (1) Hereafter on the creation of a new diocese of the Roman Catholic Church, and the appointment of a bishop thereof, or an alteration of the boundaries of any diocese by adding an area thereto, whether the alteration is made before or after the coming into operation of the *Acts Amendment (Roman Catholic Church Lands) Act 1972*¹, all the buildings, lands, and premises belonging to the said Church, situate within such new diocese or within the area added to a diocese, shall, without the necessity of any formal deed of assurance or transfer, vest absolutely and indefeasibly in such bishop and his successors in office or in the bishop of the diocese to which the area has been added and his successors in office, subject to the trusts in the several deeds or other assurances in the law affecting the same; and the estate and interest in all buildings, lands, and premises situate within a diocese which may hereafter be given, granted, or transferred by the Crown, or any person or persons, for Roman Catholic Church purposes, shall vest and be vested in the bishop, and his successors in office, of the diocese within which such buildings, lands, and premises are situate, under and subject to such trusts

as may be imposed by the donors, grantors, or transferors thereof.

- (2) Where a question arises as to the diocese in which any buildings, land and premises belonging to the Roman Catholic Church are situated, a certificate under the hand and seal of The Roman Catholic Archbishop of Perth certifying that the buildings, land or premises are situate in the diocese specified in the certificate shall for the purposes of this Act be conclusive evidence of the fact.

[Section 3 amended by No. 67 of 1972 s. 3.]

4. Lands in the diocese of Perth continue vested in the Archbishop of Perth

Subject to the provisions of this Act all buildings, lands, and premises situate in the diocese of Perth⁴, and belonging to the Roman Catholic Church, shall continue vested in the Bishop⁵ of the diocese of Perth, or his successors in office, subject to the trusts affecting the same.

5. Powers of bishops as to vested lands

All or any of the powers and authorities granted by the *Roman Catholic Church Lands Act 1895*, to 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 be exercised by the bishop of the diocese in respect of the lands vested in him within his diocese, but subject always to the provisions of the said Act and the obligations, restrictions, and exceptions therein contained.

6. Purchases etc. protected from certain irregularities

No purchaser, mortgagee, or lessee shall be bound to inquire whether the buildings, lands, and premises to be affected by any dealing or dealings are within the diocese of the bishop exercising, or purporting to exercise any of the aforesaid powers and authorities with respect to lands vested in him, nor as to the

appointment of such bishop, nor be affected by notice that the person purporting to exercise any such powers or authorities has not been duly and properly appointed the bishop of the diocese.

7. This Act to be read with 1895 Act

This Act shall be incorporated and read together with the *Roman Catholic Church Lands Act 1895*.

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Notes

- ¹ This reprint is a compilation as at 7 February 2003 of the *Roman Catholic Church Lands Amendment Act 1902* and includes the amendments made by the other written laws referred to in the following table ⁶.

Compilation table

| Short title | Number and year | Assent | Commencement |
|--|-----------------|-------------|--------------|
| <i>Roman Catholic Church Lands Amendment Act 1902</i> | 1 & 2 Edw. VII | 19 Feb 1902 | 19 Feb 1902 |
| <i>Acts Amendment (Roman Catholic Church Lands) Act 1972 Pt. I</i> | 67 of 1972 | 16 Nov 1972 | 16 Nov 1972 |

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

- ³ Also see *Roman Catholic Geraldton Church Property Act 1925*.

- ⁴ Now the Archdiocese of Perth. See *Roman Catholic Church Property Acts Amendment Act 1916* s. 2.

- ⁵ Now the Archbishop of Perth. See *Roman Catholic Church Property Acts Amendment Act 1916*. Note also *Roman Catholic Church Property Act 1911* s. 12.

- ⁶ This Act is to be read as one with the following Act:

The Roman Catholic Church Lands Act 1895.

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.