

Western Australia

**Roman Catholic Bishop of Broome
Property Act 1957**

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Western Australia

Roman Catholic Bishop of Broome Property Act 1957

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Roman Catholic Bishop of Broome Property Act 1957

An Act to vest in the Roman Catholic Vicar Apostolic of the Kimberleys and his successors in office the property belonging to or held in trust for or on behalf of the Roman Catholic Church within the Roman Catholic Vicariate of the Kimberleys, to make provision for the Vicar Apostolic to deal with that property and for other incidental purposes.

1. Short title

This Act may be cited as the *Roman Catholic Bishop of Broome Property Act 1957*¹.

[Section 1 amended by No. 41 of 1970 s. 1.]

2. Interpretation

In this Act,

“**property**” means property of every kind whatsoever including legal and equitable, real and personal property, and choses in action.

3. Certain property vested in Bishop of Broome

The lands comprised in the instruments of title set out in the First Schedule and which are vested —

- (a) as to the lands comprised in the instruments of title set out in Part I of that Schedule, in the Roman Catholic Bishop of Perth, and

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- (b) as to the lands comprised in the instruments of title set out in Part II of that Schedule, in the Roman Catholic Bishop of Geraldton, and
- (c) as to the lands comprised in the instruments of title set out in Part III of that Schedule, in the Pious Society of Missions Incorporated of Broome,

and all other property belonging to the Roman Catholic Church or held by any person in trust for or on behalf of that Church and situated within the Roman Catholic Vicariate of the Kimberleys², shall from the coming into operation of the *Roman Catholic Vicariate of the Kimberleys Property Act Amendment Act 1970*¹, and without the execution of any formal deed of assurance or transfer, vest absolutely and indefeasibly in the Roman Catholic Vicar Apostolic for the time being of that Vicariate³ and his successors in office, subject to the trusts, encumbrances and dispositions respectively affecting the same.

[Section 3 amended by No. 41 of 1970 s. 2.]

4. Bishop of Broome to be a corporation sole

The Roman Catholic Vicar Apostolic³ for the time being of the Vicariate of the Kimberleys² is a corporation sole by the name of "The Roman Catholic Vicar Apostolic of the Kimberleys"³ with perpetual succession and a common seal, and by and in that name may sue and be sued, and has power to purchase, hold, and take property and, subject to the provisions of section 5 to sell, mortgage, lease or otherwise dispose of any property vested in him pursuant to the provisions of section 3 or acquired after the coming into operation of this Act, and in respect of any real property whether freehold or leasehold so vested or acquired, may also exercise all the powers conferred on the Bishop for the time being administering the ecclesiastical affairs of the Roman Catholic Church in Western Australia and his successors in office, by the *Roman Catholic Church Lands Act 1895*.

5. Power to sell, mortgage and lease lands

- (1) Notwithstanding anything contained in the Acts mentioned in the Second Schedule, it is lawful for the Vicar Apostolic³ of the Vicariate of the Kimberleys² in his corporate name as “The Roman Catholic Vicar Apostolic of the Kimberleys”³ subject to any express trust or condition against alienation and to the provisions of section 7 of the *Roman Catholic Church Lands Act 1895* —
- (a) to sell any lands vested in him pursuant to the provisions of section 3 of this Act and transfer or otherwise assure the same to a purchaser freed and absolutely discharged from any trust or condition affecting the lands, not being an express trust or condition against alienation;
 - (b) to mortgage the lands to secure moneys borrowed for the purpose of paying and discharging debts already incurred and secured by existing mortgages on lands belonging to the Roman Catholic Church, or to secure moneys which may be lawfully borrowed after the coming into operation of this Act and by way of security to assure to a mortgagee and his assigns the lands freed and discharged from any trust or condition affecting the lands, not being an express trust or condition against alienation; and
 - (c) to lease the lands for any term with or without right of renewal and either by way of building lease or otherwise and subject to such covenants, conditions, and agreements as the Vicar Apostolic thinks fit to impose, notwithstanding any trust or condition affecting the lands, not being an express trust or condition against leasing.
- (2) For the purposes of this Act, a trust or condition expressed to be for the use or purposes or benefit of the Roman Catholic Church in general or the Roman Catholic Vicariate of the Kimberleys in particular or in words of like import is not an express trust or condition against alienation.

- (3) No purchaser, mortgagee, or lessee of any lands sold, mortgaged or leased under the provisions of this section is bound or concerned to inquire whether the power of sale, mortgage or lease was duly and regularly exercised, or to see to the application of any purchase, mortgage or other moneys, or to inquire into the necessity, regularity, or propriety of any sale, mortgage or lease, or be affected by notice that a sale, mortgage or lease is irregular, unnecessary or improper.

6. Land titles, registration and fees

The vesting of any land by this Act in “The Roman Catholic Vicar Apostolic of the Kimberleys”³ shall on the application of the Vicar Apostolic or his attorney or attorneys be registered and noted in the Office of Titles, the Office of the Registrar of Deeds or the Department of Lands and Surveys⁴ as the case may require, and on the respective instrument of title to that land, free of charge.

7. Power to appoint attorneys

The Roman Catholic Vicar Apostolic of the Kimberleys³ may, from time to time, by an instrument in writing under his hand and seal, appoint one or more Priests of the Vicariate of the Kimberleys² to be his attorney or attorneys to exercise all or any of the powers conferred upon the Vicar Apostolic³ by this Act, and it shall be lawful for the attorney or attorneys so appointed, in the name and on behalf of the Roman Catholic Vicar Apostolic of the Kimberleys³, to exercise those powers accordingly, and to execute all documents required to give effect thereto.

8. Acting Bishop or Bishop-Elect to act on death of Bishop until successor appointed

Upon the death of a Roman Catholic Vicar Apostolic³ of the Vicariate of the Kimberleys² the Acting Bishop or Bishop-Elect duly elected by the consultors of that Vicariate shall be entitled to exercise the powers and be liable to perform the duties of the

Vicar Apostolic³ until the appointment and consecration of his successor, and it shall be lawful for the Acting Bishop or Bishop-Elect to exercise those powers and to perform those duties and to execute all documents required to give effect thereto and the documents so executed shall have the same force and effect as if they had been duly executed by The Roman Catholic Vicar Apostolic of the Kimberleys³.

[Section 8 amended by No. 41 of 1970 s. 3.]

9. References to Roman Catholic Vicariate of the Kimberleys and The Roman Catholic Vicar Apostolic, etc. changed

On and after the date of the coming into operation of the *Roman Catholic Vicariate of the Kimberleys Property Act Amendment Act 1970*¹, a reference in this Act or in any other Act, law of the State or document in force immediately before that date to —

- (a) the Roman Catholic Vicariate of the Kimberleys or to the Vicariate of the Kimberleys or to the Vicariate shall be read, construed and applied as a reference to the Roman Catholic Diocese of Broome;
- (b) The Roman Catholic Vicar Apostolic of the Kimberleys or to the Roman Catholic Vicar Apostolic or to the Vicar Apostolic shall be read, construed and applied as a reference to the Roman Catholic Bishop of Broome.

[Section 9 inserted by No. 41 of 1970 s. 4.]

First Schedule

First Schedule

[S. 3]

Part I

Certificates of Title

<i>Volume</i>	<i>Folio</i>
320	168
320	169

Part II

Certificates of Title

<i>Volume</i>	<i>Folio</i>
34	31
34	32
34	33
179	125

Part III

Certificates of Title

<i>Volume</i>	<i>Folio</i>
226	63
516	82
1063	363
1114	468

Second Schedule

[S. 5]

An Ordinance for vesting Roman Catholic Church Lands in Western Australia
in the Roman Catholic Bishop Administrator and his Successors
(22 Vict., No. 4)⁵.

Roman Catholic Church Lands Act 1895
(59 Vict., — Private).

Roman Catholic Church Lands Amendment Act 1902
(1 and 2 Edw. VII. — Private).

Roman Catholic Church Property Act 1911 (No. 36 of 1911).

Roman Catholic Church Property Act Amendment Act 1912 (No. 32 of 1912).

Roman Catholic Church Property Acts Amendment Act 1916 (No. 4 of 1916).

Roman Catholic Geraldton Church Property Act 1925 (No. 9 of 1925).

[*Second Schedule amended by No. 74 of 2003 s. 149(2).*]

Notes

¹ This is a compilation of the *Roman Catholic Bishop of Broome Property Act 1957* and includes the amendments made by the other written laws referred to in the following table⁷.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Roman Catholic Vicariate of the Kimberleys Property Act 1957</i> ⁶	32 of 1957	5 Nov 1957	5 Nov 1957
<i>Roman Catholic Vicariate of the Kimberleys Property Act Amendment Act 1970</i>	41 of 1970	23 Sep 1970	23 Sep 1970
Reprint 1: The Roman Catholic Bishop of Broome Property Act 1957 as at 7 Feb 2003 (includes amendments listed above)			
<i>Statutes (Repeals and Minor Amendments) Act 2003 s. 149(2)</i>	74 of 2003	15 Dec 2003	15 Dec 2003 (see s. 2)

² Now known as the Roman Catholic Diocese of Broome: see s. 9.

³ Now known as the Roman Catholic Bishop of Broome: see s. 9.

⁴ 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.

⁵ Now cited as the *Roman Catholic Church Lands Ordinance 1858*.

⁶ Now cited as the *Roman Catholic Bishop of Broome Property Act 1957*; short title changed (see note under s. 1).

⁷ Other relevant Act:

The Roman Catholic Church Lands Act 1895.