



Western Australia

## **Anglican Church of Australia Diocesan Trustees and Lands Act 1918**

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As at 01 Jan 2007

Version 01-c0-09

Extract from [www.slp.wa.gov.au](http://www.slp.wa.gov.au), see that website for further information



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## Anglican Church of Australia Diocesan Trustees and Lands Act 1918

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## **Anglican Church of Australia Diocesan Trustees and Lands Act 1918**

**An Act to amend the Act of the Legislative Council 52 Victoria, No. 2<sup>2</sup>, and the *Church of England Lands Act 1914*<sup>3</sup>, and to incorporate the Trustees of the Bunbury, Kalgoorlie, and Northern Dioceses of the Church of England in Western Australia<sup>4</sup>, and for other purposes.**

### **Preamble**

Whereas at the time of the passing of the Act of the Legislative Council 52 Victoria, No. 2<sup>2</sup>, there was but one Diocese of the Church of England in Western Australia<sup>4</sup> embracing the whole of the State: And whereas the State is now divided into 4 Dioceses, namely, the Dioceses of Perth, Bunbury, and Kalgoorlie, and the Northern Diocese: And whereas, by the several Statutes of the Synod of the Diocese of Perth providing for the constitution of the Dioceses of Bunbury and Kalgoorlie, and the Northern Diocese respectively, it was resolved and agreed that certain lands within the boundaries of the Dioceses of Bunbury and Kalgoorlie respectively should, in certain events, which have happened, be vested in the Trustees to be appointed for those Dioceses, and that certain lands within the boundaries of the Northern Diocese should be held by the Diocesan Trustees of the Diocese of Perth in trust for the Northern Diocese until such time as Diocesan Trustees for the Northern Diocese should have been elected and incorporated: And whereas trustees have been duly appointed for the Dioceses of Bunbury and Kalgoorlie respectively, and incorporated under the provisions of the *Associations Incorporation Act 1895*<sup>5</sup>, but no trustees have been yet appointed or elected for the Northern Diocese: And whereas doubts have arisen as to the legality of the incorporation of such trustees under the said Act, and the respective Synods of the said Dioceses of Bunbury and Kalgoorlie are desirous of obtaining a dissolution of the incorporation of their respective

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Trustees under the said *Associations Incorporations Act 1895*<sup>5</sup>, and to have such Trustee incorporated under this Act:

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 present Parliament assembled, and by the authority of the same, as follows: —

**1. Short title**

This Act may be cited as the *Anglican Church of Australia Diocesan Trustees and Lands Act 1918*<sup>1</sup>.

*[Section 1 amended by No. 121 of 1976 s. 7.]*

**2. Dissolution of incorporation of Bunbury and Kalgoorlie Trustees under 1895 Act**

The incorporation of the Bunbury Diocesan Trustees and the Kalgoorlie Diocesan Trustees effected under the *Associations Incorporation Act 1895*<sup>5</sup>, is hereby dissolved: Provided that any and every deed, contract, agreement, act, matter, or thing heretofore executed or done by such trustees as a corporation under the said Act shall have and take effect as if such corporation had been regular and in accordance with the said Act.

**3. Incorporation of Bunbury Diocesan Trustees**

The trustees appointed by the Synod of the Diocese of Bunbury and their successors in office to be appointed from time to time in accordance with the provisions of any Statute of the Synod of the said Diocese shall be and are hereby constituted a Corporation by the name and style of "The Bunbury Diocesan Trustees".

**4. Incorporation of Kalgoorlie Diocesan Trustees**

The trustees appointed by the Synod of the Diocese of Kalgoorlie and their successors in office to be appointed from

time to time in accordance with the provisions of any Statute of the Synod of the said Diocese shall be and are hereby constituted a Corporation by the name and style of “The Kalgoorlie Diocesan Trustees”.

**5. Incorporation of Northern Diocese Trustees**

The trustees to be elected by the Synod of the Northern Diocese, when such Diocese is organised with a Synod, and their successors in office to be appointed from time to time in accordance with the provisions of any Statute of the Synod of the said Diocese shall be and are hereby constituted a Corporation by the name and style of “The Trustees of the Northern Diocese”<sup>6</sup>.

**6. Common seals**

Every body of trustees incorporated by this Act shall, by its corporate name, have perpetual succession and a common seal to be by them from time to time altered as they may think fit, and by that name may sue and be sued.

**7. Perth Diocesan Trustees’ powers as to lands extended**

- (a) Section 2 of the Act 52 Victoria, No. 2<sup>2</sup>, is hereby amended by inserting in the 26th line thereof, after the word “property”, the words following “or for the purpose of redeeming any mortgage or other security or charge or any part thereof respectively upon any lands or other property vested in the said trustees”.
- (b) The power of demising lands vested in the Diocesan Trustees of the Church of England in Western Australia<sup>7</sup> by the said Act shall include the power to grant building or repairing leases in possession or reversion for any term and upon and subject to such stipulations covenants and conditions as they may think fit, and with or without an option of purchase, but subject to any trust affecting the land, and subject in all respects to the Statutes, orders, directions, and regulations of Synod.

**8. *Anglican Church of Australia (Diocesan Trustees) Act 1888 to apply to new dioceses***

Every body of trustees incorporated by this Act shall have and enjoy and may exercise all the like powers and authorities as are conferred by the said Act, 52 Victoria, No. 2<sup>2</sup>, as amended by this Act upon the Diocesan Trustees of the Church of England in Western Australia<sup>7</sup>, but subject in all respects to all and every liability, trust, and obligation affecting any real and personal estate vested in the said trustees, and subject also to the Statutes, orders, directions, and regulations of the Synod of the Diocese.

[9. *Omitted under the Reprints Act 1984 s. 7(4)(e).*]

**10. *Anglican Church of Australia Lands Act 1914 to apply to new dioceses***

Subject to any Statutes of the Synod of the Diocese the trustees thereof hereby incorporated shall have and may exercise in respect of lands granted by the Crown and vested in them the powers conferred by the *Anglican Church of Australia Lands Act 1914*<sup>8</sup>, on the Diocesan Trustees of the Church of England in Western Australia<sup>7</sup>, and all other the provisions of the said Act as amended by this Act shall apply to such lands.

[Section 10 amended by No. 121 of 1976 s. 7.]

**11. *Change of name of “The Diocesan Trustees of the Church of England in Western Australia”***

The name and style of the corporation constituted by the said Act, 52 Victoria, No. 2<sup>2</sup>, namely, “The Diocesan Trustees of the Church of England in Western Australia”, shall henceforth be “The Perth Diocesan Trustees”, and all references in any Act of Parliament, Statute of Synod, deed, document, or writing of any kind to “The Diocesan Trustees of the Church of England in Western Australia”, shall be deemed and construed to be to “The Perth Diocesan Trustees”. And such change of name shall be registered and noted under the *Transfer of Land Act 1893* and the *Registration of Deeds Act 1856*, as the case



may require, and on every certificate of title and other registered document affecting land in the name of the corporation free of charge.

*[Section 11 amended by No. 60 of 2006 s. 123.]*

**12. Transfer of property to Bunbury and Kalgoorlie Trustees authorised and confirmed**

The Perth Diocesan Trustees may transfer and assure to the trustees of the respective Dioceses of Bunbury and Kalgoorlie, in their corporate name, all such real and personal estate as may have been or may hereafter be directed to be transferred to them respectively by any Statute of the Perth Diocesan Synod, and all conveyances, transfers, assignments, or other assurances of real or personal property already made and executed in pursuance of any Statute of the Perth Diocesan Synod by the Diocesan Trustees of the Church of England in Western Australia<sup>7</sup>, to or for the use or benefit of the Bunbury Diocesan Trustees or the Kalgoorlie Diocesan Trustees, are hereby validated and confirmed, and shall vest in and be held by such trustees respectively in their corporate names as constituted by this Act, and “The Perth Diocesan Trustees” are hereby empowered to convey, transfer, assign, or otherwise assure to the trustees of the Northern Diocese in their corporate name, all such real and personal property as by virtue of any Statute of the Synod of the Diocese of Perth is to be transferred to the said Northern Diocese.

**13. Bunbury Trustees may sell etc. certain lands free from trusts**

- (1) The Bunbury Diocesan Trustees are hereby authorised and empowered, with the consent and subject to any statute of the Synod, to exercise any of the following powers in relation to the lands known as “Bunbury Building Lots, Nos. 221 and 298”, situate in the local government district of Bunbury.
  - (a) To sell the said lands or any portion thereof with the buildings thereon, and to transfer or otherwise assure the

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same to a purchaser or purchasers freed and absolutely discharged from any trusts to which the said lands or any portion thereof may be subject whether declared by deed or otherwise.

- (b) To mortgage such lands or any portion thereof, and for the purpose of any security to assure the same to the mortgagee, freed and discharged from any such trusts as aforesaid.
  - (c) To lease such lands or any portion thereof, notwithstanding such trusts for any term with or without a right of renewal or option of purchase and by way of building or improvement lease or otherwise, and subject to such covenants, conditions, and agreements as they may think fit.
- (2) The net moneys raised on the security, or by the sale of the said lands or any part thereof, shall be applied for or towards the building of a church in Bunbury, and a minister's residence and other buildings in connection with such church or residence or for or towards the maintenance and repair of any such buildings or for or towards the endowment of the Cathedral as the Bunbury Diocesan Trustees may approve and direct.

*[Section 13 amended by No. 56 of 1956 s. 2; No. 14 of 1996 s. 4.]*

**14. Protection of purchasers and others**

No purchaser, mortgagee, or lessee of any such lands shall be bound or concerned 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 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 irregular, unnecessary, or improper.

### Notes

- <sup>1</sup> This is a compilation of the *Anglican Church of Australia Diocesan Trustees and Lands Act 1918* and includes the amendments made by the other written laws referred to in the following table<sup>12</sup>.

### Compilation table

Short title	Number and year	Assent	Commencement
<i>Church of England Diocesan Trustees and Lands Act 1918</i> <sup>10</sup>	34 of 1918	24 Dec 1918	24 Dec 1918
<i>Church of England Diocesan Trustees and Lands Act Amendment Act 1956</i>	56 of 1956	27 Dec 1956	27 Dec 1956
<i>Anglican Church of Australia Act 1976 s. 7</i> <sup>11</sup>	121 of 1976	1 Dec 1976	24 Aug 1981 (see s. 2(2) and <i>Gazette</i> 30 Jan 1981 p. 441)
<i>Local Government (Consequential Amendments) Act 1996 s. 4</i>	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
<b>Reprint of the <i>Anglican Church of Australia Diocesan Trustees and Lands Act 1918</i> as at 3 May 2002</b> (includes amendments listed above)			
<i>Land Information Authority Act 2006 s. 123</i>	60 of 2006	16 Nov 2006	1 Jan 2007 (see s. 2(1) and <i>Gazette</i> 8 Dec 2006 p. 5369)

- <sup>2</sup> 52 Vict. No. 2 (1888). Now cited as the *Anglican Church of Australia (Diocesan Trustees) Act 1888*.
- <sup>3</sup> Now cited as the *Anglican Church of Australia Lands Act 1914*. The short title of the *Church of England Lands Act 1914* was amended by No. 121 of 1976 s. 7.
- <sup>4</sup> Under the *Anglican Church of Australia Constitution Act 1960* s. 5 a reference to “the Church of England in Western Australia” shall be construed as a reference to the Church of England in Australia so far as it is in the State. The name of the “Church of England” was changed to the “Anglican Church of Australia” by No. 121 of 1976 s. 7. This reference to the former name has not been changed due to its context.
- <sup>5</sup> Repealed by the *Associations Incorporation Act 1987* s. 47.

- <sup>6</sup> Under the *Anglican Church of Australia (Diocese of North West Australia) Act 1961* s. 5(2) a reference to The Trustees of the Northern Diocese shall be read as a reference to The Trustees of the Diocese of North West Australia.
- <sup>7</sup> The name of this body is changed to “The Perth Diocesan Trustees” by s. 11 of this Act. This reference has not been amended due to the context.
- <sup>8</sup> Formerly referred to the *Church of England Lands Act 1914* the short title of which was changed to *Anglican Church of Australia Lands Act 1914* by No. 121 of 1976 s. 7. Reference changed under *Reprints Act 1984* s. 7(3)(gb).
- <sup>9</sup> Footnote no longer applicable.
- <sup>10</sup> The short title of the *Church of England Diocesan Trustees and Lands Act 1918* was amended to the *Anglican Church of Australia Diocesan Trustees and Lands Act 1918* by No. 121 of 1976 s. 7.
- <sup>11</sup> The *Anglican Church of Australia Act 1976* s. 5 was a savings provision that is of no further effect.
- <sup>12</sup> Other relevant Acts are:  
*Hale School Act 1876*  
*Perth Anglican Church of Australia Collegiate School Act 1885*  
*Anglican Church of Australia (Diocesan Trustees) Act 1888*  
*Anglican Church of Australia Lands Vesting Act 1892*  
*Anglican Church of Australia School Lands Act 1896*  
*Anglican Church of Australia Lands Act 1914*  
*Anglican Church of Australia (Diocese of North West Australia) Act 1961*  
*Anglican Church of Australia (Swanleigh land and endowments) Act 1979*