

CHURCH OF ENGLAND (DIOCESAN TRUSTEES).

No. 55 of 1973.

AN ACT to amend the Church of England (Diocesan Trustees) Act, 1888.

[Assented to 19th November, 1973.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Church of England (Diocesan Trustees) Act Amendment Act, 1973*.

Short title
and citation.

(2) In this Act the Church of England (Diocesan Trustees) Act, 1888 as amended by Acts Nos. 34 of 1918, 81 of 1966, and 66 of 1969, is referred to as the principal Act.

Act No. 52
Vict. No. 2
as amended
by Acts Nos.
34 of 1918,
81 of 1966,
and 66 of
1969.

(3) The principal Act as amended by this Act may be cited as the Church of England (Diocesan Trustees) Act, 1888-1973.

Amendment
to long title.

2. The long title of the principal Act is amended by adding after the word "Australia" in line three, the passage " , to make provision in respect of the Trusts on which certain land is held by the Trustees".

Addition of
ss. 3A, 3B,
and 3C.

3. The principal Act is amended by adding after section 3 sections as follows—

Variation of
trusts on
land in
Cathedral
Square.

3A. (1) The provisions of this section apply notwithstanding any other provision of this Act, any provision of any other Act, or any provision of a trust upon which any land in Cathedral Square may have been acquired or held before the coming into operation of this section, and any such trust is, to the necessary extent, hereby varied accordingly.

(2) All land in Cathedral Square shall be held on trust for the ecclesiastical purposes of the Cathedral, the Diocese, and the Province in accordance with this section.

(3) The rents issues and profits derived by the Trustees from Cathedral Square and all moneys raised on mortgage thereof or any part thereof and the proceeds of sale (if any) and any other capital proceeds thereof or any part thereof and interest thereon and any accumulation of any such rents issues profits money proceeds and interest shall be applied by the Trustees—

(a) firstly to—

(i) all rates and taxes (if any) payable in respect thereof;

- (ii) all costs and expenses of and incidental to the maintenance and repair and insurance of all the buildings and all other improvements on or forming portion of Cathedral Square and the Deanery and other usual property outgoings;
 - (iii) interest payable on any mortgages on all or any part of Cathedral Square or the Deanery;
 - (iv) commitments on any mortgage on all or any part of Cathedral Square or the Deanery including the payment of such amount of principal on any such mortgage as the Trustees may decide to pay from time to time in reduction thereof;
 - (v) such annual amounts as are agreed between the Cathedral Chapter and the Trustees in or towards a sinking fund to provide for the amortisation of the costs of the improvements erected on Cathedral Square and any plant, floor coverings, furnishings, or any property of whatever kind contained within such improvements; and
 - (vi) the cost of the provision and maintenance of a Deanery whenever and wherever required; and
- (b) as to the balance thereof after those applications, in distributions towards the needs of any one or more of the Cathedral, the Diocese, and the

Province in accordance with the determinations and directions of the Foundation under paragraph (b) of subsection (11) of section 3B of this Act.

(4) A distribution to a parish or to the Cathedral Chapter pursuant to paragraph (b) of subsection (3) of this section shall not be subject to assessment by any Synod of the Church in the Province as income of the parish or the Cathedral Chapter, as the case may be.

(5) Any act, matter, or thing, for or with respect to which provision is made in this section, made, done, or executed before the coming into operation of this section which would have been lawful if this section had been in force at the time such act, matter, or thing was made, done, or executed is hereby validated.

The
Cathedral
Square
Foundation.

3B. (1) There shall be a standing committee representing the Cathedral Chapter and the Diocesan Council to be known as "The Cathedral Square Foundation".

(2) The Foundation shall consist of—

- (a) the Archbishop or his commissary appointed pursuant to the Perth Archbishopric Statute of the Church as amended from time to time or pursuant to any Church statutory replacement therefor;
- (b) the Dean for the time being or the person for the time being fulfilling the office of the Dean; and
- (c) four Laymen, two appointed by the Cathedral Chapter and two appointed by the Diocesan Council.

(3) The Cathedral Chapter and the Diocesan Council shall respectively appoint a deputy for each of the Laymen appointed by them to the Foundation, to act at a meeting in the place of the Layman for whom he is a deputy if for any reason the Layman is absent therefrom.

(4) The first appointment of Laymen and their deputies shall be made not more than two months after the coming into operation of this section.

(5) The Laymen and their deputies shall be appointed for a term of three years and shall be eligible for re-appointment.

(6) If a Layman or a deputy dies or resigns his office as member or deputy of a member of the Foundation, the vacancy shall be filled by appointment by the same body as appointed the Layman or deputy and the person filling the vacancy shall hold office for the remainder of his predecessor's term.

(7) The Foundation shall hold such meetings as are necessary for the exercise of its functions and duties.

(8) At a meeting of the Foundation—

- (a) not less than five members thereof, including, where the case requires, deputies, forms a quorum;
- (b) a question arising at the meeting shall be determined by a majority of the valid votes of the members, including, where the case requires, deputies, present; and
- (c) the Archbishop or his commissary shall have a deliberative and a casting vote.

(9) No act or thing done by the Foundation is invalidated, prejudiced, or affected by reason of any vacancy in the membership thereof as long as a quorum remains.

(10) Subject to this section, the Foundation may regulate its procedure in such manner as it thinks fit.

(11) The functions and duties of the Foundation shall be—

- (a) to give advice to the Trustees on the matters referred to in paragraph (a) of subsection (3) of section 3A of this Act;
- (b) to make such determinations as the Foundation thinks fit of the distributions to be made by the Trustees under paragraph (b) of subsection (3) of section 3A of this Act towards the needs of any one or more of the Cathedral, the Diocese, and the Province, and to direct the Trustees to make the distributions accordingly;
- (c) to make recommendations to the Trustees with respect to the development of Cathedral Square; and
- (d) to report half-yearly to the Cathedral Chapter and the Diocesan Council in relation thereto.

(12) Determinations and directions of the Foundation under paragraph (b) of subsection (11) of this section are binding on the Trustees but advice and recommendations of the Foundation under paragraphs (a) and (c) thereof are not so binding.

Interpre-
tation of
ss. 3A and 3B.

3C. Wherever occurring in section 3A or 3B of this Act—

“Archbishop” means the Archbishop of the Perth Diocese of the Church of England in Australia;

“Cathedral” means the Cathedral Church of the Perth Diocese of the Church of England in Australia;

“Cathedral Chapter” means the Chapter of the Cathedral Church of the Perth Diocese of the Church of England in Australia;

“Cathedral Square” means all those pieces of land described in the Schedule to this Act;

“Church” means the Church of England in Australia;

“Dean” means the Dean of the Cathedral Church of the Perth Diocese of the Church of England in Australia;

“Deanery” means the residence from time to time of the Dean of the Cathedral Church of the Perth Diocese of the Church of England in Australia;

“Diocese” means the Perth Diocese of the Church of England in Australia;

“Diocesan Council” means the Council of the Perth Diocese of the Church of England in Australia;

“Foundation” means The Cathedral Square Foundation established under section 3B of this Act;

“Province” means the Province of Western Australia of the Church of England in Australia; and

“Trustees” means The Perth Diocesan Trustees.

Addition of
Schedule.

4. The principal Act is amended by adding at the end thereof a Schedule as follows—

SCHEDULE.

Description of Cathedral Square.

All those pieces of land being—

- (a) Perth Town Lot B8 and portion of Perth Town Lot B14 together being Lot 25 the subject of Diagram 39056 and being the whole of the land comprised in Certificate of Title Volume 377 Folio 116A;
 - (b) Portion of each of Perth Town Lots B4, B9 and B9½ and being Lot 23 the subject of Diagram 39050 and being the whole of the land comprised in Certificate of Title Volume 377 Folio 117A;
 - (c) Portion of Perth Town Lot B2 and being Lot 26 the subject of Diagram 39057 and being the whole of the land comprised in Certificate of Title Volume 377 Folio 118A;
 - (d) Perth Town Lot B1 and portion of Perth Town Lot B9 together being Lot 24 the subject of Diagram 39055 and being the whole of the land comprised in Certificate of Title Volume 377 Folio 119A;
 - (e) Portion of each of Perth Town Lots B2, B9 and B14 and being Lot 21 the subject of Diagram 39051 and being the whole of the land comprised in Certificate of Title Volume 377 Folio 120A. .
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