

Trustees Act 1910

No. 4 of 1910

Serial No. 27

Reprinted as at 1 May 2019 incorporating amendments up to No. 3/2018

Trustees Act 1910

AN ACT

relating to the Corporation Trustees and for other purposes.

Short title

1 This Act may be cited as the **Trustees Act 1910**.

ss. 2 and 3 repealed by No. 5/2000

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Part 1 – Rules relating to Trustees

Melbourne Anglican Trust Corporation

s 4 amended by No 3/2018

4 In pursuance of the Act of the Parliament of Victoria numbered DCCXCVIL-

Constitution of Trust Corporation

- (1) The corporate body of Trustees known as *The Church of England Trustees Corporation for the Diocese of Melbourne*³, and constituted by resolution of the Church Assembly in accordance with the above-mentioned Act of Parliament and with “The Trustees and Vestries Act 1885” shall be and remain a Corporate Body of Trustees for the purpose of holding property in trust for the benefit of the Church of England within the Diocese of Melbourne.

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Trustees Act 1910

Designation of members

- (2) The said Trustees shall be known and designated as the *Corporation Trustees* of the Diocese.

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Corporation Trustees to succeed existing Trustees

- 5 When any Trustee not being a Corporation Trustee of any existing site for Church Parsonage or School purposes dies or vacates his office one of the Corporation Trustees in such order as the said Corporation Trustees shall determine shall except as hereinafter provided become a Trustee in the place of such former Trustee and when Corporation Trustees only are Trustees of any such site no other Trustees thereof shall afterwards be appointed and such steps shall be taken as may be necessary to vest such site in the said Corporation the cost thereof to be defrayed out of funds at the disposal of the Archbishop in Council.

Trustees may convey to Corporation

- 6 The present Trustees of any Church property may if they think fit convey such property to the said Corporation upon the original trusts and such conveyance when it has been accepted by the said Corporation shall discharge such conveying Trustees from all subsequent duties in respect of such trust.

Corporation to hold legal estate but management to be by Churchwardens

- 7 The said Corporation shall hold the legal estate of such property as shall be vested in it and preserve the same for the purposes set forth in the respective instruments of trust but the care of any Church or Parsonage or Schoolhouse thereon or other parochial property and the management of the affairs

Trustees Act 1910

thereof shall be exercised by Churchwardens as hereinafter provided subject nevertheless to the observance of any special trusts affecting such management which shall be in force for the time being and the Trusteeship of such sites shall not confer or impose upon any Corporation Trustee any right duty or obligation other than School or Parsonage erected or which shall be erected thereon but all other rights duties and obligations of ownership shall belong to and rest upon the Churchwardens for the time being.

Part 2 – Rules relating to New Churches

Proceedings when new Church to be erected

- 8 When it is proposed to acquire a site for the erection thereon of a Church or other building intended to be used as a place of worship a meeting of the promoters shall be called by the Incumbent or if there be none such by the Archdeacon and at such meeting the Incumbent or the Archdeacon shall preside and a Provisional Committee with a Secretary and Treasurer shall be appointed and shall take the necessary steps subject to the approval of the Archbishop in Council to acquire a site and raise money for the purchase thereof and the erection of the proposed building and the furnishing thereof and shall take steps to have such site vested in the Church of England Trusts Corporation for the Diocese of Melbourne and shall transmit details of the nature of the intended building to the Archbishop in Council.

Consent of Archbishop in Council required

- 9 The erection of any such building shall not be commenced nor shall any debt be incurred in respect of Church property without the consent of the Archbishop in Council and without such consent and until such site be vested in the said

Trustees Act 1910

Corporation no grant or loan from Diocesan Funds in aid thereof shall be made.

Duties of Provisional Committee

- 10 The said Committee shall expend the moneys raised for the purposes for which they were received and shall as the case may then require apply to the Archbishop for the consecration of the said Church or for his licence for the celebration of Divine Service and the administration of the Sacraments therein and no such building shall be opened for such purposes (save for consecration) unless it shall have been duly licensed by the Archbishop.

Provisional Committee to be an Interim Parish Council

s.11 amended by No. 2/2013

- 11 The said Committee shall have and exercise with reference to the property in respect of which they were elected all the rights powers and duties of Churchwardens and members of the parish council until such have been appointed.

Committee to submit accounts

s.12 amended by No. 2/2013

- 12 Upon the appointment of a Parish Council the said Committee shall submit accounts of all moneys received and expended by them to a meeting of the contributors thereof called by the Incumbent for the purpose and shall hand over to the Churchwardens all moneys remaining in hand and all vouchers books and accounts connected therewith and thereupon the duties of such Committee shall cease and determine.

Trustees Act 1910

s.13 repealed by 2/2013

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Lands to be vested in Corporation

13 All lands acquired for Church purposes after the passing of this Act shall be vested in the Church of England Trusts Corporation for the Diocese of Melbourne unless such vesting be contrary to the conditions under which they are acquired.

Parts III and IV (ss. 15-50) repealed by No. 2/1987

Part V (ss. 50A-87) repealed by No. 5/2000

Part 6 – Miscellaneous Provisions

*Act to be read with **Parish Governance Act 2013***

s.87A inserted by No. 2/1987 and substituted by No. 2/2013

87A This Act shall be read and construed as one with the **Parish Governance Act 2013**.

S.87B inserted by No. 2/1987 and repealed by No. 2/2013

S. 88 repealed by No. 5/2000

* * *

“Churchwardens” &c., to mean majority of Churchwardens &c.

s.89 amended by No. 2/2013

89 The words “Churchwardens” or “Parish Council” wherever the same occur in this Act shall unless the contrary as to number be expressed be understood respectively to mean the majority of such Churchwardens or Parish Council as the case may be.

State Aid Abolition Act

90 Nothing in this Act shall prevent the bringing under the operation of the State Aid Abolition Act any land of the character therein described of which Trustees shall have been

Trustees Act 1910

appointed under the provisions of any Act hereby repealed or of this Act or of which there shall be persons entitled to be regarded as Trustees thereof under the provisions of the State Aid Abolition Act and any vacancy in the Trusteeship of land which has already been brought under the provisions of such Acts shall be filled up in accordance with the provisions for that purpose contained in the Declaration of Trusts affecting the same but the care control and management of any Church Parsonage or School or other parochial buildings erected on such land shall and may be exercised in accordance with the provisions herein contained.

Act not to apply to Cathedral

91 Nothing herein contained shall apply to St. Paul's Cathedral Melbourne or the site thereof.

When Act to come into operation

92 This Act shall come into operation on the first day of January 1911 and thereupon all Vestries Churchwardens and Boards of Guardians elected under the provisions of "The Trustees and Vestries Act 1885" shall be deemed to be Vestries and Churchwardens under this Act so far as shall be necessary for the carrying out of the provisions hereof. Provided that at all Annual Meetings held during the year 1911 all those persons shall be entitled to vote who would have been entitled to vote at such Annual Meeting under the provisions of "The Trustees and Vestries Act 1885".

Schedule A repealed by No. 5/2000

Schedules B-D repealed by No. 2/1987

Trustees Act 1910

NOTES

¹ The **Trustees Act 1910** (until 1 January 2001 known as the **Trustees and Vestries Act 1910**) was assented to on 3 November 1910 and came into operation on 1 January 1911.

² This reprint incorporates the amendments made to the **Trustees and Vestries Act 1910** by Acts Nos. 3/1913, 1/1915, 3/1930, 2/1932, 1/1941, 1/1943, 2/1950, 1/1954, 4/1956, 8/1956, 1/1958, 2/1958, 3/1958, 4/1961, 3/1966, 1/1967, 1/1969, 2/1971, 5/1971, 3/1972, 6/1973, 1/1979, 2/1979, 5/1980 and the following Acts:

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| Name | No | Date of Assent | Date of Commencement |
|--|-----------|-----------------------|-----------------------------|
| <i>Superannuation of Clergy Act 1980</i> | 7/1980 | 9 October 1980 | 9 October 1980 |
| <i>Parishes Act 1987</i> | 2/1987 | 16 October 1987 | 1 October 1988 |
| <i>Trustees and Vestries (Amendment) Act 1992</i> | 16/1992 | 15 October 1992 | 15 October 1992 |
| <i>Trustees and Vestries and Representation of the Laity Act 1997</i> | 3/1997 | 27 October 1997 | 27 October 1997 |
| <i>Regions of the Diocese and other Acts (Amendment) Act 1999</i> | 7/1999 | 18 October 1999 | 18 October 1999 |
| <i>Parishes (Amendment) Act 2000</i> | 5/2000 | 23 October 2000 | 1 January 2001 |
| <i>Trustees (Amendment) Act 2001</i> | 8/2001 | 8 October 2001 | 8 October 2001 |
| <i>Parish Governance (Transition, Consequential Amendments and Repeals) Act 2013</i> | 2/2013 | 12 December 2013 | 1 July 2014 |
| <i>Melbourne Anglican Trust Corporation (Transitional Provisions and Consequential Amendments)</i> | 3/2018 | 14 October 2018 | 14 October 2018 |

³ The name of the Corporate Body was changed to “Melbourne Anglican Trust Corporation” by resolution of Synod, September 1986.