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Anglican Church Trusts Act 1981

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

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An Act to widen the powers of trustees under trusts in connection with the Church of the Province of New Zealand and the Church of the Province of Melanesia and to provide for the administration of such trusts; and to consolidate and amend the Church of England Trusts Act 1913 and its amendments

Preamble

Whereas there is real and personal property in New Zealand held on trusts for and in connection with the Anglican Churches in New Zealand and Melanesia:

And whereas the powers of the trustees in relation to the investment of the trust assets are limited by the instruments creating the trusts:

And whereas it is desirable to consolidate and extend the powers conferred on trustees by the Church of England Trusts Act 1913 and its amendments and to give greater powers of investment to the major Trust Boards holding property for the said Churches:

And whereas there are trusts held for religious or charitable purposes in connection with the Anglican Church where it has become impossible or impracticable or inexpedient to carry out the trust objects or purposes, and by reason of the limited assets of the particular trusts or for reasons of expense it is desirable to provide a means for varying the trusts in addition to the means provided by the Charitable Trusts Act 1957.

1 Short Title

This Act may be cited as the Anglican Church Trusts Act 1981.

2 Interpretation

In this Act, unless the context otherwise requires,—

Anglican Church, or **Church**, means the Church of the Province of New Zealand; and includes the Church of the Province of Melanesia (in this Act separately referred to as the Anglican Church of Melanesia)

Aotearoa Council means the Aotearoa Council constituted under the canons of the Anglican Church

authorised Trust Board, or **Board**, means any Board or Trust for the time being specified in Schedule 1

General Synod means the General Synod of the Anglican Church

New Zealand Advisory Council has the same meaning as in section 2 of the Melanesian Trusts Act 1974.

Part 1
Authorised Trust Boards

3 Powers of authorised Trust Boards

(1) Notwithstanding anything to the contrary in any other Act, but subject to this section and to section 18, where any real or personal property is held by an authorised Trust Board for any religious, charitable, educational, or other purpose in connection with the Anglican Church or any part of it, whether the property was conveyed or given to or vested in the Board before or after the commencement of this Act, the Board shall have the powers set out in Schedule 2, and may exercise those powers in such manner as it thinks fit. Those powers are in addition to any powers in, and may be exercised notwithstanding anything to the contrary in, any Act or instrument creating or relating to the trust; and any such Act or instrument shall be read subject to this subsection.

(2) No land on which there is, or which is held as a future site for, a church, a church hall, a school, a hostel or other building associated with a school, a memorial building or structure, or a burial ground shall by virtue of subsection (1) be sold, exchanged, or mortgaged, or leased for a term (including renewals) of more than 21 years, except with the prior authority in each case of—

(a) the General Synod if the land is held on its behalf; or

(b) the Aotearoa Council if the land is held on behalf of the Bishopric of Aotearoa; or

(c) the New Zealand Advisory Council if the land is held on behalf of the Anglican Church of Melanesia; or

(d) the Synod of the diocese in which the land is situated, if it is not held on behalf of the General Synod or of the Bishopric of Aotearoa or of the Anglican Church of Melanesia.

4 Power of Board to act together with other persons

(1) In the exercise of its powers an authorised Trust Board may join with, enter into joint ventures with (whether by way of separate incorporation or otherwise), or act in combination or association with any other person, company, corporation, or body of persons in doing any act or thing which it could by itself lawfully do and which in the Board's opinion will be for the benefit of any trust administered by it.

(2) This section shall apply notwithstanding that the title to the trust property, or to any property in respect of which trust funds are used pursuant to this section, may not be vested in the Board, and notwithstanding any rule of law or practice to the contrary.

5 Transfer of trust property to authorised Trust Board

(1) Notwithstanding anything to the contrary in any other Act or in any rule of law or practice or in any instrument creating the trust, any trustee (including any authorised Trust Board) may transfer the whole or any part of any trust funds or real or personal property held by the trustee for any religious, educational, or other charitable purpose of or in connection with the Anglican Church or any part of the Church to any authorised Trust Board, to be held by that Board either—

(a) as trustee in substitution for the then existing trustee, with the powers set out in Schedule 2; or

(b) as custodian trustee on the terms of and with the functions and powers set out in section 67 of the Trusts Act 2019 in addition to the powers set out in Schedule 2.

(2) In any case to which subsection (1)(b) applies, the original trustee or his or its successor may at any time by notice in writing revoke the appointment of the custodian trustee.

(3) On receipt of a notice of revocation under subsection (2) the custodian trustee shall forthwith do all such things as are necessary to transfer or revest the trust property into the name of the original trustee or his or its successor.

Section 5(1)(b): amended, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

6 Liabilities of trustee on transfer of property

(1) Where any funds or property are transferred to an authorised Trust Board under section 5(1)(a),—

(a) the trustee so transferring shall not be liable for the proper application of the capital and income of the funds or property in accordance with the trust:

(b) the authorised Trust Board shall be liable for the proper application and administration of the funds or property.

(2) Where any funds or property are transferred to an authorised Trust Board as custodian trustee under section 5(1)(b), the trustee so transferring—

(a) shall remain liable for the proper application of the capital and income of the funds or property in accordance with the trust; but

(b) shall not be liable for any loss of capital or diminution of income in respect of any investment made or retained by the authorised Trust Board.

7 Boards to be leasing authorities

(1) Every authorised Trust Board is hereby declared to be a leasing authority for the purposes of the Public Bodies Leases Act 1969.

(2) Without prejudice to section 4 of the Public Bodies Leases Act 1969, that Act shall, in its application to a Board, be read subject to section 3(2), so far as it is applicable.

8 Alterations to list of authorised Trust Boards

(1) The Governor-General may from time to time by Order in Council, on the advice of the Minister of Justice given at the request of the General Synod, amend Schedule 1 by adding or omitting the name of any Trust Board, or by altering the name of any Board or Trust for the time being specified in that schedule.

(2) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 8(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Part 2
Powers of trustees (other than authorised Trust Boards) in respect of land

9 Powers of trustees of land

(1) Notwithstanding anything to the contrary in any other Act, but subject to this section and to section 18, where any land, whether freehold or leasehold, is held by a trustee, not being an authorised Trust Board, for any religious, charitable, educational, or other purpose in connection with the Anglican Church or any part of it, whether the land was conveyed to or vested in the trustee before or after the commencement of this Act, the trustee shall have in respect of the land the powers set out in Schedule 3. Those powers are in addition to any powers in, and may be exercised notwithstanding anything to the contrary in, any Act or instrument creating or relating to the trust; and any such Act or instrument shall be read subject to this subsection.

(2) No such land shall by virtue of subsection (1) be sold, exchanged, or mortgaged, or leased for a term (including renewals) of more than 21 years, except with the prior authority in each case of—

(a) the General Synod if the land is held on its behalf; or

(b) the Aotearoa Council if the land is held on behalf of the Bishopric of Aotearoa; or

(c) the New Zealand Advisory Council if the land is held on behalf of the Anglican Church of Melanesia; or

(d) the Synod of the diocese in which the land is situated, if it is not held on behalf of the General Synod or of the Bishopric of Aotearoa or of the Anglican Church of Melanesia.

(3) Where the trustee is a leasing authority for the purposes of the Public Bodies Leases Act 1969, that Act shall, without prejudice to section 4 of that Act, be read subject to subsection (2), so far as it is applicable.

Part 3
Variation of Church trusts

10 Application of this Part

(1) This Part shall not apply to any trust property in respect of which, before or after the passing of this Act, a scheme has been approved by the High Court or the Attorney-General under Part 3 or Part 4 of the Charitable Trusts Act 1957 or an application has been made for such approval and not withdrawn.

(2) Except as provided in subsection (1), the provisions of this Part are in addition to the provisions of the Charitable Trusts Act 1957, to the intent that a trust may be varied either under this Part or under that Act.

(3) Except as allowed by the provisions of section 16A, if any trust property is held for a charitable purpose within the meaning of Part 3 of the Charitable Trusts Act 1957, a scheme prepared under this Part shall provide for the application or disposal of that trust property for a purpose of a kind specified in section 11 which is also a charitable purpose, and the trustee in preparing the scheme, and the Chancellor or legal adviser in considering and reporting on it, and the Synod or Council to which it is submitted, shall act in accordance with the rules of law that would be applied by the High Court on an application made to it under Part 3 of the Charitable Trusts Act 1957 if the scheme were submitted to it under that Act.

Section 10(3): amended, on 31 July 1989, by section 2 of the Anglican Church Trusts Amendment Act 1989 (1989 No 3 (P)).

11 Meaning of trust property

In this Part, the expression **trust property** means any money raised or given, or any real or personal property devised, bequeathed, or given or in respect of which a trust is created, whether before or after the commencement of this Act, and held on behalf of the Anglican Church or any part of it by a trustee for any object or purpose—

(a) directly or indirectly associated with or relating to the Anglican Church or the whole or any part of any diocese, parish, parochial district, mission district, or Maori pastorate of the Church; or

(b) of furthering social services, hospital or residential care, or educational needs directly or indirectly associated with or relating to the Church—

whether or not any such trust property has been invested in real or personal property pending its application for that object or purpose.

12 Scheme for variation of trust

(1) If in respect of any trust property it becomes or has become impossible or impracticable or inexpedient to carry out the object or purpose of the trust, or the amount available is inadequate to carry it out, or the object or purpose has been effected already, the trustee may by writing prepare or cause to be pre-

pared a scheme for the application or disposal of the trust property for some other object or purpose of a kind specified in section 11.

(2) The scheme shall be submitted—

(a) to the Chancellor of the diocese in which the object or purpose of the trust was to have been carried out; or

(b) if the object or purpose of the trust relates to the Bishopric of Aotearoa, to the Legal Adviser to that Bishopric; or

(c) if the trust property is held on behalf of the Anglican Church of Melanesia, to the Chancellor of the Province of Melanesia; or

(d) if any such Chancellor or Legal Adviser declines to act, or if the object or purpose of the trust was to have been carried out in more than 1 diocese, or if the trust property is held on behalf of the General Synod, to a Chancellor or legal adviser designated from time to time for the purposes of this section by the Primate and Archbishop of New Zealand.

(3) Every scheme so submitted shall be accompanied by a statement giving full information about the reasons for the proposed application or disposal of the trust property, together with a copy of the trust instrument (if any).

13 Notice of scheme

(1) Subject to section 18, on receipt of the scheme the Chancellor or legal adviser to whom it is submitted shall direct the trustee as to the person or persons (if any) who shall be served with notice of the scheme and in what manner (if any) public notice of it shall be given.

(2) Any notice so served or given shall state that any person may, in writing, object to or make representations concerning the scheme to the Chancellor or legal adviser within 60 days after the receipt or publication of the notice, and shall specify an address to which any such objection or representation may be sent.

14 Powers and duties of Chancellor or legal adviser

(1) After considering the scheme and any objections or representations made in respect of it the Chancellor or legal adviser may if he thinks fit remit it to the trustee for consideration of any amendments he may suggest.

(2) Subject to section 15 and section 18, the Chancellor or legal adviser shall report on the scheme with such amendments (if any) as the trustee may accept, and shall submit the report with the scheme and any objections or representations made in respect of it—

(a) to the Synod of the diocese in which the object or purpose of the trust was to have been carried out; or

(b) to the General Synod if the object or purpose of the trust was to have been carried out in more than 1 diocese or if the trust property is held on behalf of the General Synod; or

(c) to the Aotearoa Council if the trust property is held on behalf of the Bishopric of Aotearoa; or

(d) to the New Zealand Advisory Council if the trust property is held on behalf of the Anglican Church of Melanesia.

15 Notice to Attorney-General where trust is for charitable purpose

(1) Where the scheme relates to trust property that is held for a charitable purpose within the meaning of Part 3 of the Charitable Trusts Act 1957, the Chancellor or legal adviser shall, before reporting on the scheme, send to the Attorney-General written notice of the scheme, together with copies of the statement and trust instrument referred to in section 12(3).

(2) In making his report the Chancellor or legal adviser shall have regard to any objections that are made by the Attorney-General within 90 days after the receipt of the notice.

(3) If the Attorney-General objects on the ground that the scheme is not one that should be approved by the court under Part 3 of the Charitable Trusts Act 1957, the scheme shall not be approved under this Part.

16 Approval of scheme

Subject to section 15(3), if the scheme is approved by the Synod to which it is submitted or, as the case may require, by the Aotearoa Council or the New Zealand Advisory Council, it shall have effect according to its tenor, notwithstanding the terms of any instrument by which the trust was created.

16A Additional powers of variation of trusts

(1) This section is in addition to and not in substitution for the powers of variation contained elsewhere in this Part, or in Part 3 of the Charitable Trusts Act 1957.

(2) This section applies to land which is trust property and which has been established by General Synod, or by some tribunal authorised by General Synod in that behalf, after due inquiry to have been acquired from Maori for a purpose or purposes narrower or more restrictive than the trusts imposed on that land by Crown Grant or otherwise when the land was vested in the Church or any person on behalf of the Church.

(3) If in respect of any land to which this section applies it becomes or has become impossible or impracticable or inexpedient to carry out the object or purpose of the trust upon that land or by using that land (other than by leasing it), or the amount of land available is inadequate to carry it out, or the object or purpose has been effected already, the trustee may, in accordance with the succeeding provisions of this section, prepare or cause to be prepared a scheme for the application or disposal of the land for some other object or purpose of a kind specified in section 11(b), but not necessarily directly or indirectly associated with or relating to the Church.

(4) Such other object or purpose, if not directly or indirectly associated with or relating to the Church, shall be directly or indirectly associated with or relating to the descendants of the original Maori alienors or the members of the whanau, hapu, or iwi that the original alienors represented, or to those with Maori ancestry from time to time residing on or near the land, or both of those groups.

(5) Such a scheme may provide that section 20 is no longer to apply to the trustee of the land, and may make other provisions for the selection, appointment, and removal of the trustee of the land.

(6) No scheme prepared under this section shall have any effect unless and until it is approved by—

(a) the High Court; or

(b) the appropriate Synod or (as the case may require) the Aotearoa Council or the New Zealand Advisory Council.

(7) If a scheme is prepared for the approval of the High Court, the following provisions shall apply:

(a) the provisions of sections 35 to 37, and Part 5 of the Charitable Trusts Act 1957 shall apply as if the scheme were prepared pursuant to section 34 of that Act:

(b) if the court is satisfied that the scheme is one properly authorised by this section, it may approve the scheme notwithstanding anything to the contrary in the Charitable Trusts Act 1957 or any other enactment or in any rule of law or in the trust instrument.

(8) If a scheme is prepared for the approval of the appropriate Synod or (as the case may require) the Aotearoa Council or the New Zealand Advisory Council, the following provisions shall apply:

(a) the provisions of subsections (2) and (3) of section 12, and sections 13, 14, and 15(1) shall apply as if the scheme were prepared pursuant to section 12(1):

(b) in any case to which section 15(1) applies, the Chancellor or legal adviser shall, before reporting on the scheme, send to the Attorney-General written notice of the scheme, together with copies of the statement and trust instrument referred to in section 12(3):

(c) in reporting on the scheme the Chancellor or legal adviser shall have regard to any objections that are made by the Attorney-General within 90 days after the receipt of the notice, or, if the Attorney-General within that period notifies the Chancellor or legal adviser of the need for more time, within such further period not exceeding 90 days as the Attorney-General may specify in the notice:

(d) if the Attorney-General objects on the ground that the scheme is not one that should be approved by the High Court pursuant to subsection (7), the scheme shall not be approved under this subsection:

(e) section 16 shall apply as if for the reference to section 15(3) there were substituted a reference to paragraph (d) of this subsection.

(9) The trustee of any land to which this section may apply may in its discretion use any part of the trust property held by it on the same trusts as the land in question, or may charge that land as a contribution in whole or in part to the costs of any inquiry made under subsection (2), including the costs of research or otherwise of the trustee and of any other persons reasonably made a party to the inquiry irrespective of the outcome of such inquiry, and to the reasonable costs of the preparation, consideration, and approval of the scheme.

(10) Every trust varied in accordance with the preceding provisions of this section shall be deemed to be a charitable trust for all purposes notwithstanding any other enactment or rule of law to the contrary.

Section 16A: inserted, on 31 July 1989, by section 3 of the Anglican Church Trusts Amendment Act 1989 (1989 No 3 (P)).

17 Trusts for benefit of clergy

Notwithstanding anything in the foregoing provisions of this Part, or in the terms of any trust, any real or personal property held on trust for the benefit or use of any clergy for the time being of any parish or area may, at the direction of the Synod of the diocese of which that parish or area forms part, be held for the benefit of that parish or area, or transferred or paid to trustees for the benefit of that parish or area.

Part 4
Miscellaneous provisions

18 Consultation with Aotearoa Council in certain cases

(1) This section applies to any land that—

(a) was Maori land given for any purpose associated with the Church; and

(b) is of special significance to Maoris or any section of Maoris.

(2) Where under this Act the authority of a Synod is required to deal with any such land in a manner to which section 3(2) or section 9(2) applies, no Synod or body authorised by it shall give that authority except after consultation by it with the Aotearoa Council or its Executive Committee or such other body of persons as the Aotearoa Council may authorise, either generally or in any particular case, to act for the purposes of this section.

(3) Where a scheme for a variation of trust is submitted to a Chancellor or designated person under section 12(2), and the scheme affects any land to which this section applies, the Chancellor or designated person—

(a) shall consult with the Legal Adviser to the Bishopric of Aotearoa, and for that purpose shall send to him particulars of the scheme and its accompanying documents; and

(b) shall not give any directions as to the giving of notice under section 13 except after consultation with that Legal Adviser; and

(c) shall submit with his report under section 14(2) any representations made by that Legal Adviser on behalf of the Bishopric of Aotearoa.

(4) If in any case there is doubt whether any land is of special significance for the purposes of this section, that question shall be determined by the Synod of the diocese in which the land or, as the case may require, the greater part of the land is situated, or by the Standing Committee of that Synod.

(5) This section shall be read subject to the express terms of the trust.

(6) This section shall not apply to any sale of the freehold reversion in any land to any lessee of that land holding under a perpetually renewable lease.

19 Authority of General and Diocesan Synods and of Aotearoa Council

(1) Any authority required to be given by the General Synod for the purposes of Part 1 or Part 2 may be given either by the General Synod itself or by any body authorised by it in that behalf.

(2) Any authority required to be given by a Diocesan Synod for the purposes of Part 1 or Part 2 may be given either by the Diocesan Synod itself or by its Standing Committee.

(3) Any authority required to be given by the Aotearoa Council for the purposes of Part 1 or Part 2 may be given either by the Council itself or by its Executive Committee.

20 Appointment and removal of trustees

The General Synod or any board or persons authorised by it under the constitution, canons, or statutes for the time being of the Church shall have the power to appoint and remove trustees of all property held for any religious, charitable, educational, or other purposes in connection with the Anglican Church of New Zealand.

21 Protection of purchasers, etc

It shall not be incumbent on any purchaser, vendor, mortgagee, lessee, or other person to or with whom any sale, exchange, mortgage, or lease is made under this Act to inquire whether any trustee or authorised Trust Board has authority or power to enter into the transaction, or whether the transaction is consistent with the trusts on which the property is held, or whether any authority required by this Act to be given has been duly given, or otherwise as to the propriety or regularity of the transaction or as to the application of any money received by the trustee or authorised Trust Board on the transaction.

22 Saving as to Diocese of Christchurch

(1) This Act is in addition to and shall be read subject in all respects to any legislation regulating or relating to the trusts of Church lands in the Diocese of

Christchurch, or affecting any lands, trusts, or powers heretofore or now vested or hereafter to be vested in the Church Property Trustees of the Diocese of Christchurch.

(2) Nothing in this Act shall in any way make any land or trustee of land in that diocese subject to the control of the General Synod.

23 Repeals, amendments, and saving

(1) The enactments specified in Schedule 4 are hereby repealed.

(2) Without prejudice to the Legislation Act 2019, every reference in any trust instrument or in any other document to the Church of England Trusts Act 1913 shall, unless the context otherwise requires, be read as a reference to this Act.

(3) Notwithstanding the repeal by this section of the Church of England Trusts Act 1913, every body of trustees, and every incorporated Board, referred to in section 9 of that Act shall continue to be a leasing authority for the purposes of the Public Bodies Leases Act 1969.

Section 23(2): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

24 Private Act

This Act is hereby declared to be a private Act.

Schedule 1
Authorised Trust Boards

ss 2, 8

The General Trust Board of the Diocese of Auckland

The Waikato Diocesan Trust Board

The Waiapu Board of Diocesan Trustees

The Wellington Diocesan Board of Trustees

The Nelson Diocesan Trust Board

The Dunedin Diocesan Trust Board

The New Zealand Mission Trust Board

The New Zealand Anglican Church Pension Board

The Anglican Investment Trust Board

The Waiapu Bishopric Endowment Trust

The Melanesian Mission Trust Board

The St John's College Trust Board

The Hereworth School Trust Board

The King's College Trustees

The Te Aute Trust Board

The Whanganui College Board of Trustees

Te Pihopatanga O Aotearoa Trust Board

The Social Service Council of the Diocese of Christchurch

The Church Property Trustees

The St Stephen's and Queen Victoria Schools Trust Board

Aotearoa ki te Upoko o te Ika Trust Board

Waiapu Anglican Social Services Trust Board

Te Hui Amorangi ki te Tai Tokerau Trust Board

Te Hui Amorangi ki te Manawa o te Wheke Trust Board

Te Hui Amorangi ki te Tai Rāwhiti Trust Board

Te Hui Amorangi ki te Waipounamu Trust Board

Te Pīhopatanga o Aotearoa Awhiwhānau Trust Board

Te Whare Wānanga o Te Waipounamu Trust Board

The Taranaki Church of England Trust Board—also known as the Taranaki Anglican Trust Board

The General Church Trust Board

The Anglican Missions Board of the Church in Aotearoa, New Zealand and Polynesia

Te Whare Wananga o Te Pihopatanga o Aotearoa Charitable Trust

The Bishop's Action Foundation

Schedule 1: amended, on 16 November 2006, by clause 3 of the Anglican Church Trust Boards Order 2006 (SR 2006/328).

Schedule 1: amended, on 17 October 2002, by clause 3 of the Anglican Church Trust Boards Order 2002 (SR 2002/258).

Schedule 1: amended, on 1 November 1998, by clause 2 of the Anglican Church Trust Boards Order 1998 (SR 1998/282).

Schedule 1: amended, on 1 November 1996, by clause 2 of the Anglican Church Trust Boards Order 1996 (SR 1996/310).

Schedule 1: amended, on 7 October 1994, by clause 2 of the Anglican Church Trust Boards Order 1994 (SR 1994/218).

Schedule 1: amended, on 7 August 1992, by clause 2 of the Anglican Church Trust Boards Order 1992 (SR 1992/219).

Schedule 1: amended, on 19 October 1990, by clause 2 of the Anglican Church Trust Boards Order 1990 (SR 1990/299).

Schedule 1: amended, on 10 June 1985, by clause 2 of the Anglican Church Trust Boards Order 1985 (SR 1985/110).

Schedule 1: amended, on 20 December 1982, by clause 2 of the Anglican Church Trust Boards Order 1982 (SR 1982/274).

Schedule 2
Powers of authorised Trust Boards

ss 3, 5(1)

1 Power of sale by public auction, tender, or private contract, except where a sale is expressly forbidden by the terms of the trust; but subject to the express terms (if any) of the trust in respect of the exercise of a power of sale.

2 Power of exchange for any other property, whether real or personal, with power to pay or to receive any money for equality of exchange.

3 Power to lend money with or without security, and without limitation whatsoever, and in whatever manner the Board thinks fit; including power to lend without limitation, whether by contributory mortgage or not, on freehold or leasehold land or land held under the Unit Titles Act 2010, notwithstanding any enactment to the contrary.

Schedule 2 clause 3: amended, on 20 June 2011, by section 233(1) of the Unit Titles Act 2010 (2010 No 22).

4 Power to lease in such manner and on such terms or conditions as the Board thinks fit.

5 Power to accept, on such terms and conditions as the Board thinks fit, a surrender of any lease, whether with respect to the whole or to any part of the land comprised in the lease; with power if it thinks fit to expend trust funds in the purchase of any improvements on any such land.

6 Power to invest any money, at the discretion of the Board, in or upon the security of any property of any kind, whether real or personal, and whether or not being investments or property authorised by the general law for the investment of trust funds.

7 Power to borrow, with or without security, and without limitation whatsoever, and in whatever manner the Board thinks fit.

8 Power to combine or intermingle trust funds, including power to form common funds or unit trusts, notwithstanding any rule of law or practice to the contrary.

9 Power to lend money to itself on mortgage, in its capacity as trustee of any other trust property.

10 Power to lease, grant licences over, or let any land vested in it to itself, in its capacity as trustee of any other trust property.

11 Power to enter into bailments.

12 Power to purchase or acquire any real or personal property whatsoever; including power to take up and hold, subscribe for, or acquire shares either with or without liability for uncalled capital.

13 Power to join with any other person, company, corporation, or body of persons in purchasing, acquiring, or erecting buildings or other improvements on or developing any real or personal property whatsoever.

14 Power to build on or develop any property whatsoever.

15 Power in its absolute discretion to receive from any person who is a trustee any money or investment held by that person on trust for any Anglican religious, educational, or other charitable trust.

16 Power to carry on farming, agriculture, horticulture, or silviculture in all or any of their aspects.

17 Power to enter into such contracts and do or perform such things as in the opinion of the Board will be for the benefit of any trust administered by it.

18 Power to act as a special trust adviser in accordance with section 74 of the Trusts Act 2019.

Schedule 2 clause 18: amended, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

Schedule 3
Powers of trustees (other than authorised Trust Boards) in respect of land

s 9

1 Power of sale by public auction, tender, or private contract, except where a sale is expressly forbidden by the terms of the trust; but subject to—

(a) the express terms (if any) of the trust in respect of the exercise of a power of sale; and

(b) the proviso to clause 2.

2 Power of exchange for freehold land, or land held under the Unit Titles Act 2010, in New Zealand, with power to pay, out of money applicable for that purpose, or to receive, any money for equality of exchange:

provided that the net sale money received under clause 1, and the net money received for equality of exchange under this clause, shall be laid out in the purchase of other freehold land, or land held under the Unit Titles Act 2010, in New Zealand, or in effecting permanent improvements to any other land held on the same trusts as affected the land sold or given in exchange, or shall be invested in any securities for the time being permitted by the law of New Zealand for the investment of trust funds; and all land purchased or received in exchange shall be held on the trusts that affected the land sold or given in exchange.

Schedule 3 clause 2: amended, on 20 June 2011, by section 233(1) of the Unit Titles Act 2010 (2010 No 22).

Schedule 3 clause 2 proviso: amended, on 20 June 2011, by section 233(1) of the Unit Titles Act 2010 (2010 No 22).

3 Power to mortgage, but so that all money borrowed shall be expended only in effecting permanent improvements to the property mortgaged, or to other property held on the same trusts as that mortgaged, or in paying off any mortgage previously effected over any such property.

4 Power, where not inconsistent with the trust, to lease any land for terms not exceeding 21 years or, if leased for building purposes, not exceeding 60 years. Every such lease shall take effect in possession or within 6 calendar months from its date, and shall reserve such rent and contain such covenants and provisions as the trustee thinks reasonable.

5 Power to use trust funds in the purchase of partitions, carpeting, and other chattels and equipment required for the completion, improvement, or furnishing of a building owned by the trustee and to be leased by him or it.

6 Power, where not expressly forbidden by the trust, to lend any part of the funds of the trustee on first mortgage of any leasehold granted by the trustee, in any case where the following conditions are complied with, namely:

(a) that the tenancy is for a term not exceeding 21 years, with successive rights of renewal for the same or any shorter term or terms either in perpetuity or for a period or periods ending not earlier than 40 years from the date of the loan, at a rent or rents to be determined by valuation in accordance with Schedule 1 of the Public Bodies Leases Act 1969:

(b) that the money so lent shall be used in erecting buildings or other permanent improvements on the land so leased:

(c) that the amount to be lent on the security of each such leasehold and permitted by the terms of the mortgage to remain owing at any time during the currency of the mortgage shall not exceed two-thirds of the value of the lessee's interest in the land and buildings and improvements.

7 Power to exercise, for any specified purpose, such 1 or more of the powers set out in Schedule 2 as the General Synod in each case may authorise the trustee to exercise.

Schedule 4
Enactments repealed

s 23

Church of England Trusts Act 1913 (1913 No 6 (P))

Church of England Trusts Amendment Act 1937 (1937 No 3 (P))

Church of England Trusts Amendment Act 1945 (1945 No 2 (P))

Church of England Trusts Amendment Act 1960 (1960 No 2 (P))

Whanganui College Board of Trustees Empowering Act 1952 (1952 No 37)
Amendment(s) incorporated in the Act(s).

Notes

1 General

This is a consolidation of the Anglican Church Trusts Act 1981 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 Legal status

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 Editorial and format changes

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 Amendments incorporated in this consolidation

Secondary Legislation Act 2021 (2021 No 7): section 3

Trusts Act 2019 (2019 No 38): section 161

Unit Titles Act 2010 (2010 No 22): section 233(1)

Anglican Church Trust Boards Order 2006 (SR 2006/328)

Anglican Church Trust Boards Order 2002 (SR 2002/258)

Anglican Church Trust Boards Order 1998 (SR 1998/282)

Anglican Church Trust Boards Order 1996 (SR 1996/310)

Anglican Church Trust Boards Order 1994 (SR 1994/218)

Anglican Church Trust Boards Order 1992 (SR 1992/219)

Anglican Church Trust Boards Order 1990 (SR 1990/299)

Anglican Church Trusts Amendment Act 1989 (1989 No 3 (P))

Anglican Church Trust Boards Order 1985 (SR 1985/110)

Anglican Church Trust Boards Order 1982 (SR 1982/274)

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