

## **Trusts Corporation Act 2015**

### **An Act relating to the Bendigo Diocesan Trusts Corporation**

BE IT ENACTED by: the Bishop, Clergy and Laity of the Anglican Church of Australia within the Diocese of Bendigo duly met in Synod according to law as follows:

#### **Preliminary**

1. This act may be cited as the Trusts Corporation Act 2015.
2. The Trusts Corporation Act 1998 is hereby repealed but that repeal does not affect any operation already effected by or any act done under the repealed enactment nor any right, title, obligation or liability already acquired or accrued under the repealed Act.

#### **The Corporation**

3. The corporate body of trustees incorporated as the Church of England Trusts Corporation for the Diocese of Bendigo on 10 June 1903 pursuant to the Anglican Trusts Corporations Act 1884 (Vic) by a notification published in the Victoria Government Gazette, which by a notification published in the Victoria Government Gazette on 5 July 1989 pursuant to section 4A of the Anglican Trusts Corporations Act 1884 changed its name to The Bendigo Diocesan Trusts Corporation, is in this Act referred to as the Trusts Corporation.
4.
  - (a) The Trusts Corporation is and remains a corporate body for the purpose of holding real and personal property in trust for the purposes of the Anglican Church of Australia within the Diocese of Bendigo;
  - (b) the word "property" where used in this Act includes both real and personal property; and
  - (c) the word "Diocese" means the Diocese of Bendigo.

#### **The Corporation Members**

5. The members of the Trusts Corporation are to be known and designated as the Corporation Members.
6.
  - (a) The Corporation Members are:
    - (1) the Bishop, the Chancellor and the Registrar, who hold office ex officio; and
    - (2) two other members appointed by resolution of the Synod, upon the nomination of the Council of the Diocese.
  - (b) The Corporation Members, other than ex-officio Corporation Members hold office until:
    - (1) death;
    - (2) resignation; or
    - (3) removal from office by resolution of the Synodwhichever first occurs.

- (c) When any vacancy occurs in the number of appointed Corporation Members it must be reported by the Registrar to the next session of Synod and the vacancy is filled by resolution of the Synod, upon the nomination of the Council of the Diocese.
  - (d) The provisions of the Elections Act 1997 do not apply to the filling of any vacancy in the office of a Corporation Member.
  - (e) The successor to an ex officio Corporation Member is his or her successor in office.
7. (a) At any meeting of the Corporation Members any three of them form a quorum and questions arising are decided by a majority of the Corporation Members present.
- (b) No proceeding of the Corporation Members is invalidated or illegal in consequence of there being any vacancy in the number of Corporation Members at the time of that proceeding.

#### **The Execution of Documents**

8. (a) The common seal of the Trusts Corporation must be kept in safe custody by the Registrar of the Diocese and must be affixed to documents needing to be impressed with it, in the presence of not less than two Corporation Members who so verify by their signatures.
- (b) Contracts entered into by the Trusts Corporation may be executed, without the common seal being affixed, by being signed by one or more Corporation Members authorised specifically or generally for that purpose by a resolution of the Corporation Members, unless to do so is contrary to any law of the state of Victoria.

#### **Dealings With Property**

9. All property acquired for and incidental to Church purposes within the Diocese must be vested in the Trusts Corporation unless:
- (a) to so vest it is contrary to the conditions under which the property is acquired, or
  - (b) it is vested in Bendigo Anglican Diocesan Corporation Limited.
10. Where property is held for the purposes of the Anglican Church of Australia within the Diocese in connection with a parish:
- (a) the Trusts Corporation must not transfer, convey, assign, lease or in any other way dispose of the property without the prior consent of the vestry, parish council or committee of management of that parish; and
  - (b) the Trusts Corporation must not refuse to transfer, convey, assign, lease or in any other way dispose of any real or personal property vested in it or under its control if:
    - (1) that may lawfully be done under the trust or trusts under which it is held and the laws of the state of Victoria;

- (2) so requested by the Vestry, Parish Council or Committee of Management as the case may be; and
- (3) so directed by the Bishop acting with the advice of the Diocese, or the directors of Bendigo Anglican Diocesan Corporation.

11. Subject to:

- (a) the terms of any express trust affecting the property;
- (b) any acts, rules or regulations; and
- (c) section 10

the Corporation Members must deal with property vested in the Trust Corporation as the Bishop acting with the advice of the Council of the Diocese, or the directors of Bendigo Anglican Diocesan Corporation, direct.

### **Responsibilities**

12. (a) The Trusts Corporation must hold the legal estate of all property vested in it and preserve the same for the purposes for which that property is so vested in it, but the care of any church or rectory or other property held for the purposes of the Anglican Church of Australia within the Diocese in connection with a parish and the management of the affairs of that property must be exercised by the churchwardens of the parish subject to any express trust affecting that property for the time being, and the trusteeship of that property does not confer or impose any right, duty or obligation upon the Corporation Members, and subject to section 10 all other rights, duties and obligations of ownership belong to and rest upon the churchwardens for the time being.
- (b) The furniture of every Church, all other parochial furniture and the registers, records and other books and documents of each parish is vested in the Trusts Corporation but the maintenance, custody, care and control of such furniture, registers, records, books and documents remains with the appropriate vestry or parish council.

### **Investment of Money**

13. The Trusts Corporation must invest any money held by it for the Diocese or a parish or for any other purpose either:
- (a) on the separate account of the entity for whose purposes it is held; or
  - (b) as part of any Common Fund established and kept in the books of the Trusts Corporation.

### **Common Fund**

14. (a) The Trusts Corporation may invest money forming part of a Common Fund in any manner in which trust moneys may be invested by a trustee pursuant to the laws of the state of Victoria, subject to the direction of Synod.

- (b) The Trusts Corporation may with the approval of the Bishop acting with the advice of Council of the Diocese or the directors of Bendigo Anglican Diocesan Corporation make loans of money forming part of a Common Fund for any purpose of or relating to a parish or the Diocese.
  - (c) An advance of money made under subsection (b) shall be deemed to be an investment of moneys forming part of the Common Funds and shall bear interest at a rate fixed by the Trusts Corporation.
  - (d) Money advanced under subsection (b) and the interest owing from time to time is a charge on the assets of the Diocese.
15. Investments made from money forming part of a Common Fund shall not be made on account of or belong to any particular account holder but the Trusts Corporation shall cause to be kept in the books of the Diocese an account showing at all time the current amount at credit in a Common Fund on account of each account holder.
16. The Trusts Corporation may sell investments belonging to a Common Fund and may withdraw any of the money belonging to a Common Fund for any purpose of or relating to the exercise and discharge of its powers, authorities, duties and functions.
17. (a) The Trusts Corporation may at any time withdraw from a Common Fund any amount at credit in a Common Fund on the account of any account holder and invest each amount on the separate account of that account holder.
- (b) Amounts do withdrawn from a Common Fund cease as from the date of such withdrawal to have any claim for interest or otherwise from a Common Fund.
18. Any profits or losses upon realisation of any investment in a Common Fund must be credited or debited (as the case requires) to the Common Fund and be received or borne proportionately by the several amounts invested in the Common Fund at the time of such realisation.
19. The Trust Corporation must present audited financial statements to each ordinary session of Synod.<sup>1</sup>
20. The Trusts Corporation must pay or allocate the income arising from a Common Fund proportionately to or among the account holders entitled to the income arising from the capital sums invested in the Common Fund according to the several sums so invested and the periods for which they remain so invested.

### **Security for Re-payment**

21. In any mortgage or other instrument given by the Trusts Corporation to secure repayment of the money advanced there must be included provisions limiting the security for the repayment of such money to the land or other premises included in that mortgage or

---

<sup>1</sup> Section 19 amended according to Section 26.2 of the Council of the Diocese Act 2016

other instrument and providing that the Corporation Members are not under any personal or corporate liability for the repayment thereof.

**Rules**

22. For the effective and proper discharge of their respective duties the Trusts Corporation and the Finance & Investments Committee may at their respective discretions make such rules and regulation and agree upon such policies relating to the investments of trust funds as are consistent with the Anglican Trusts Corporations Act 1884 and with the Acts, regulations and resolutions of the Diocese.
23. This Act shall come into operation upon being enacted.