



Queensland

# Anglican Church of Australia (Diocese of Brisbane) Property Act 1889

Reprinted as in force on 9 February 2001

Reprint No. 2<sup>\*</sup>

This reprint is prepared by  
the Office of the Queensland Parliamentary Counsel  
Warning—This reprint is not an authorised copy

\* Minor differences in presentation between this reprint and another reprint with the same number are due to the conversion to new styles. The content has not changed.

# Information about this reprint

This Act is reprinted as at 9 February 2001. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 have also been made to use aspects of format and printing style consistent with current drafting practice (s 35).

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

## **Spelling**

The spelling of certain words or phrases may be inconsistent with other reprints because of changes made in various editions of the Macquarie Dictionary (for example, in the dictionary, ‘lodgement’ has replaced ‘lodgment’).



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# Anglican Church of Australia (Diocese of Brisbane) Property Act 1889

## Contents

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		Page
1	Interpretation . . . . .	5
3	Property vested in corporation under model trust deed to be held freed from trusts thereof . . . . .	6
4	Securities given over land held under model trust deed declared to be valid . . . . .	6
9	Provision as to the Religious Educational and Charitable Institutions Act 1861 . . . . .	6
11	How proceeds of sale to be applied . . . . .	6
12	Short title . . . . .	7

## Endnotes

1	Index to endnotes . . . . .	8
2	Date to which amendments incorporated . . . . .	8
3	Key . . . . .	9
4	Table of reprints . . . . .	9
5	Tables in earlier reprints . . . . .	10
6	List of legislation . . . . .	10
7	List of annotations . . . . .	10



## **Anglican Church of Australia (Diocese of Brisbane) Property Act 1889**

[as amended by all amendments that commenced on or before 9 February 2001]

### **An Act to define the trusts upon which certain lands of the Anglican Church in Queensland are and shall be held by the Corporation of the Synod of the Diocese of Brisbane**

WHEREAS by articles of agreement entered into by the bishop, clergy, and laity of the Church of England (then called the Church of England and Ireland), in the diocese of Brisbane, in the colony of Queensland, at an assembly or conference assembled in the City of Brisbane, on 18 June 1868, a constitution was agreed to and declared for associating together the members thereof by voluntary compact as a branch of the said Church in the said diocese, and for establishing a governing body for the ordering of the affairs and the management of the property of the Church in such diocese, to be called ‘The Synod of the Branch of the United Church of England and Ireland, in the Diocese of Brisbane, in the colony of Queensland’.

And whereas the expression ‘The branch of the United Church of England and Ireland’ is no longer applicable in Queensland, and the said governing body is now called ‘The Synod of the Branch of the Church of England, in the Diocese of Brisbane, in the colony of Queensland’.

And whereas by letters patent, dated 2 November 1870, issued under the hand of the then Governor, under the seal of the said colony, by virtue of the provisions of the *Religious Educational and Charitable Institutions Act 1861*, certain persons holding and exercising the offices of President, Chairman of Committees, and Treasurer of the Synod, and their successors, were respectively created and declared to be

a body corporate by the name and style of the Corporation of the Synod of the Diocese of Brisbane.

And whereas by virtue of the said letters patent, and of the provisions of the said Act, the said corporation acquired certain corporate rights, and became capable of receiving, purchasing, acquiring, and possessing to and for the uses and purposes of the said corporation and of the Church any messuages, lands, tenements, and hereditaments of what nature, kind, or quality soever within the said colony, and also of receiving, purchasing, acquiring, and possessing to and for the same uses and purposes any goods, chattels, gifts, or benefactions whatsoever, and of mortgaging, charging, or alienating all or any of the said messages, lands, tenements, hereditaments, gifts, chattels, gifts, or benefactions, provided such a mortgage charge or alienation were not contrary to the gift, grant, or dedication of the original donor, and that the moneys to be raised thereby should be applied to the same uses and purposes.

And whereas the said corporation has since acquired, and now holds, divers, lands upon certain trusts declared in and by an indenture hereinafter called the model trust deed.

And certain mortgage securities have been executed by the corporation over lands vested in it upon the trusts of the model trust deed to secure the repayment of moneys advanced and lent to the synod.

And whereas doubts have arisen as to the validity of the said mortgage securities, and it is expedient to remove such doubts, and to declare more particularly the trusts and purposes upon and for which lands of the Church are now held and shall hereafter be held by the said corporation.

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## 1 Interpretation

In the interpretation of this Act—

***Bishop*** means the Right Reverend William Thomas Thornhill Webber, Doctor of Divinity, the present Bishop of the Church of England, in the diocese of Brisbane, and his successors in that office, and, in his absence, the commissary appointed by him.

***Bishop in Council*** means the Bishop acting by and with the advice and consent of the diocesan council, or any other standing committee for the time being, appointed by the synod to assist the Bishop in the conduct of the business of the Church, or of the synod, at such times as the synod shall not be sitting.

***Church*** means the Church now known as and forming the branch of the Anglican Church in the diocese of Brisbane.

***corporation*** means the corporate body incorporated by the before-recited letters patent.

***diocese of Brisbane*** means the whole of Queensland situated to the south of the twenty-second parallel of north latitude, until the same shall be divided into new dioceses, and thereafter means the area to which the diocese shall be from time to time limited by the creation of such new dioceses.

***model trust deed*** means a certain indenture dated 7 March 1871, purporting to be made between the Right Reverend William Tyrrell, Doctor of Divinity, Lord Bishop of Newcastle, of the one part, and the corporation of the other part, adopted by the synod on 13 July 1870, and registered in the office of the registrar general in Brisbane as No. 225, book 6.

***property*** means and includes all property, real or personal, including money or securities for money.

***synod*** means the synod of the branch of the Anglican Church in the diocese of Brisbane, in the before-recited constitution styled the synod of the branch of the United Church of England and Ireland in the diocese of Brisbane in the colony of Queensland, or any committee to which the synod may delegate any of its functions.

*trusts of the model trust deed* means the trusts or the like trusts to those declared in and by the model trust deed.

**3 Property vested in corporation under model trust deed to be held freed from trusts thereof**

Any property which at the time of the passing of this Act shall be vested in or held by the corporation upon the trusts of the model trust deed shall thereafter be deemed to be so vested and held completely freed and discharged from the said lastmentioned trusts, but subject to the provisions of this Act.

**4 Securities given over land held under model trust deed declared to be valid**

Every bill of mortgage, indenture, or deed of mortgage or other security heretofore made, given, or executed by the corporation affecting lands vested in it upon the trusts of the model trust deed, and so made, given, or executed to secure the repayment to any person of moneys lent, advanced, or paid to the corporation or the synod, or to any person in trust for the Church, shall be and the same is hereby declared to be valid and effectual for all intents and purposes.

**9 Provision as to the Religious Educational and Charitable Institutions Act 1861**

- (1) All powers and authorities conferred by this Act shall be deemed to be in addition to and not in substitution for the powers and authorities created by the *Religious Educational and Charitable Institutions Act 1861*.
- (2) But in case of conflict between the provisions of the said Act and of this Act, the provisions of this Act shall prevail.

**11 How proceeds of sale to be applied**

The trustees for the time being of suburban allotment 249, in the parish of North Brisbane and county of Stanley, being the allotment referred to in the said lastmentioned Act, shall apply the moneys to arise from any sale made in pursuance of the

powers in that Act contained in the following order so far as the same shall extend, that is to say, in payment of—

- (a) the reasonable expenses of and attending such sale;
- (b) the cost of the erection of a parsonage on some part of the land comprised in the government portions 197, 198, and 199, in the county of Stanley, parish of North Brisbane, and colony of Queensland;
- (c) the cost of the erection of a schoolhouse on some part of the said portions;
- (d) the cost of all necessary fittings and furniture for the said schoolhouse;
- (e) if there shall thereafter be any surplus, the said trustees shall transfer the same to the corporation, and such surplus shall be applied by the said corporation to such uses and purposes, and in such manner for promoting the work of the Church within the area at present comprised in the parish of Fortitude Valley as the Bishop in Council shall direct.

## **12 Short title**

This Act shall be styled and may be cited the *Anglican Church of Australia (Diocese of Brisbane) Property Act 1889*.

## Endnotes

### 1 Index to endnotes

	Page
2 Date to which amendments incorporated . . . . .	8
3 Key . . . . .	9
4 Table of reprints . . . . .	9
5 Tables in earlier reprints . . . . .	10
6 List of legislation . . . . .	10
7 List of annotations . . . . .	10

### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 9 February 2001. Future amendments of the Anglican Church of Australia (Diocese of Brisbane) Property Act 1889 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

### 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1	Anglican Church of Australia Act 1977	24 August 1981	1 March 1996
1A	Anglican Church of Australia Act 1977	24 August 1981	1 December 2000
2	Anglican Church of Australia Act 1977	24 August 1981	9 February 2001

## 5 Tables in earlier reprints

Name of table	Reprint No.
Changed citations and remade laws	1
Changed names and titles	1
Obsolete and redundant provisions	1
Renumbered provisions	1

## 6 List of legislation

**Anglican Church of Australia (Diocese of Brisbane) Property Act 1889 53 Vic (prev Church of England (Diocese of Brisbane) Property Act 1889 53 Vic see s 6 sch 2 of the Anglican Church of Australia Act 1977)**

date of assent 5 November 1889

commenced on date of assent

amending legislation—

**Anglican Church of Australia Act 1895 59 Vic No. 15 s 18 sch 2 (prev Church of England Act 1895 see s 6 sch 2 of the Anglican Church of Australia Act 1977)**

date of assent 30 October 1895

commenced on date of assent

**Anglican Church of Australia Act 1977 s 6 sch 2**

date of assent 5 April 1977

commenced 24 August 1981 (proc pubd gaz 18 April 1981 p 1437)

## 7 List of annotations

**Preamble** amd R1 (see RA s 40)

**Corporation to be trustee for Church**

s 2 om 1895 59 Vic No. 15 s 18 sch 2

**Trustees may convey to corporation**

s 5 om 1895 59 Vic No. 15 s 18 sch 2

**In the event of death or absence of trustee Bishop may consent to transfer**

s 6 om 1895 59 Vic No. 15 s 18 sch 2

**Registrar of titles to make proper transfer in the books of the registrar's office**

s 7 om 1895 59 Vic No. 15 s 18 sch 2

**Property not held upon any express trust shall be subject to control of synod**

s 8 om 1895 59 Vic No. 15 s 18 sch 2

**Repeal of second section of "The Fortitude Valley Parsonage Land Sale Act of 1877."**

s 10 om R1 (see RA s 40)

**Short title**

**s 12** and by Anglican Church of Australia Act 1977 s 6 sch 2

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