

DIOCESAN PROPERTIES AND FACULTIES STATUTE 2006

Analysis

- 1 Title**
- 2 Purposes of this Statute**
- 3 Interpretation**

PART I – Properties

- 4 Acquisition of Site or erection of building requires the prior approval of Standing Committee in compliance with the Canons where applicable**

PART II – Liabilities

- 5 No financial liability to be incurred without resolution of Vestry**
- 6 Limitations on borrowing**
- 7 Limitations on giving security**
- 8 Standing Committee may grant relaxation of provisions of sections 6 and 7**
- 9 Application for authority for certain dealings with parochial property**
- 10 Report from Diocesan Finance Team**
- 11 Appeal process**

PART II – Faculties

- 12 Diocesan Secretary as applicant**
- 13 When faculty required**
- 14 Application**
- 15 Determination of the application**
- 16 Other faculties to be dealt with under this Part**

PART III – Miscellaneous Provisions

- 17 Diocesan Trustees to consult Standing Committee before entering into certain dealings**
- 18 Standing Committee may make rules**
- 19 Standing Committee to inspect parish property every three years**
- 20 Protection of other parties**
- 21 Relationship with Anglican Church Trusts Act 1981 and the Canons**

A Statute to make better provision relating to diocesan properties and liabilities, and the issuing of faculties

1 Title

This Statute is the Diocesan Properties and Faculties Statute 2006.

2 Purposes of this Statute

The purposes of this Act are:

- (a) to ensure accountability and define responsibility for property developments in this Diocese.
- (b) to ensure that approval steps are clearly defined and understood, ensuring that the aspirations of Parishes are met as well as the requirements of the Diocese.
- (c) to maintain the minimum level of control to ensure that these goals are met.
- (d) to ensure property developments support the mission objectives of the Diocese.

3 Interpretation

Assessable Income shall mean the income of a parish received by that parish during that financial year, -

(a) Including -

- (i) gifts (other than gifts in memoriam) for specific parish purposes:
- (ii) the net proceeds of the sale of any asset less than \$5,000:
- (iii) the net proceeds of any fund-raising activity, except those excluded under paragraph (b) below:
- (iv) all other income, such as rent, interest, fees, direct giving, and donations; but

(b) Excluding -

- (i) money received by the parish on trust for any other body or person:
- (ii) bequests and gifts in memoriam, whether for specific parish purposes or general parish purposes:
- (iii) any money raised or received for specific capital works or maintenance projects of \$5,000 or more:
- (v) refunds:
- (vi) funds transferred within the parish accounts:
- (vii) the proceeds of sale of any asset of \$5,000 or more:
- (viii) grants-for-mission.

Bishop includes the Vicar-General

Canons means the Canons of the Constitution of the Church in Aotearoa, New Zealand and Polynesia

Church includes any parochial building used exclusively for divine service

Church Building is any church, vicarage, parish hall or school

Diocesan Trustees are the Nelson Diocesan Board of Trustees

Diocesan Finance Team is the Diocesan body established under the Diocesan Structures Statute 2005

Standing Committee is the Diocesan body established under the Diocesan Structures Statute 2005

Site includes so much of the land surrounding a Church Building necessary for the proper and convenient use of that building; and includes land intended to be the site of any such building

Trustees of Parochial Property are any trustees, whether or not incorporated, of land situated in any parish or held in trust for any parish, other than the Diocesan Trustees

The Anglican Church Trusts Act 1981 is the Act of that name enacted by the New Zealand Parliament.

PART I

PROPERTIES

4 Acquisition of Site or erection of building requires the prior approval of Standing Committee in compliance with the Canons where applicable

- (1) A Site for any Church Building may be purchased, accepted or otherwise acquired only with the prior approval of Standing Committee and the Diocesan Trustees where appropriate.
- (2) A Church Building shall be erected and alteration made by way of addition, diminution, or otherwise to any Church Building that may affect the stability or general plan of the building only with the prior

approval of the plans and specifications by Standing Committee and the Diocesan Trustees.

- (3) Where the approval of Standing Committee is sought for any proposal under subsection (1) or subsection (2), the proposal must be forwarded to the Diocesan Secretary who must forward it to Standing Committee as soon as possible after obtaining the approval of both a Diocesan Property Consultant and the Chaplain for Church Development (or like position) together with any comments the Diocesan Secretary considers relevant to the proposal.
- (4) The Bishop may waive the requirements of subsection (2) in respect of any alteration that, in the opinion of the Bishop, is of minor importance.

PART II

LIABILITIES

5 No financial liability to be incurred without resolution of Vestry

- (1) Any contract, work or project that involves any financial liability must be undertaken in any parish as part of the activities of that parish, whether by the Vicar, the Churchwardens, or any association of parishioners, only if the contract or work has been first authorised by a resolution of the Vestry.
- (2) The maximum amount a Vestry can spend on any contract, work or project without authorisation from a general meeting of parishioners is \$20,000 or 20% of Assessable Income in the previous year, whichever is the lesser.
- (3) The maximum amount established in subsection (2) must be reviewed annually by Standing Committee which may make an amendment in accordance with any movements in the Consumer Price Index.
- (4) Where the agreement of parishioners is to be sought under subsection (2), the estimated amount of the liability to be incurred must be given in the notice convening the meeting and in the resolution moved at the meeting.

6 Limitations on borrowing

- (1) No vestry or other parochial body wishing to authorise or enter into any contract for the acquisition of land, or for the acquisition, erection, renovation, or improvement of any building, must have available, without borrowing, not less than 60% of the total liability involved in the contract.
- (2) In respect of each such contract, in addition to making provision for the interest on the balance of the total liability, the Vestry or other parochial body must make provision to reduce the balance annually such that the total liability is extinguished within 20 years.

7 Limitations on giving security

Trustees of Parochial Property shall not -

- (a) mortgage the Site of any Church Building for the purpose of meeting ordinary expenditure of the parish; or
- (b) mortgage the Site of any Church Building except for purposes connected with that building or its Site or with the provision of a new Church Building or Site in place of the present one.

8 Standing Committee may grant relaxation of provisions of sections 6 and 7

- (1) In particular cases, Standing Committee may relax on special grounds the provisions of sections 6 and 7.
- (2) Every application for such relaxation must be made to Standing Committee in writing, setting out the grounds on which it is made.

9 Applications for authority for certain dealings with parochial property

- (1) No Trustees of Parochial Property shall sell, exchange, mortgage, otherwise dispose of, or lease for a term (including renewals) of more than 21 years any of that property unless they have the authority required by section 3(2)(d) or section 9(2)(d) of The Anglican Church Trusts Act 1981.
- (2) An application for such authority must be made to Standing Committee, stating the reason for the proposed dealing and the purpose to which it is intended to apply the proceeds arising from the dealing.

10 Reports from Diocesan Finance Team

Before making its decision on any matter arising under sections 5, 8 and 9, Standing Committee may seek a report from the Diocesan Finance Team.

11 Appeal process

Where an application is declined, there is a right of appeal to the Bishop who would then make a determination.

PART III

FACULTIES

12 Diocesan Secretary as applicant

In this Part, where the Diocesan Secretary is one of the applicants, the Bishop or the Bishop's nominee carries out the Diocesan Secretary's functions.

13 When faculty required

- (1) A faculty must be issued under this Part of this Act before any of the following occurs:
 - (a) any alteration by way of addition, diminution or otherwise in or to the fabric, furniture, lighting installation, monuments or ornaments of any church; or
 - (b) the erection or placing in any church of any article that is required or ought to be dedicated or consecrated.
- (2) The work contemplated must not be commenced until the faculty has been issued, unless the Diocesan Secretary waives the provisions (1).
- (3) In any new church, a faculty must be obtained for all furnishings, installations, monuments and ornaments that are to be placed in it, whether new or transferred from a building previously in use.

14 Application

- (1) The Vicar and Churchwardens of the parish concerned must apply in writing to the Diocesan Secretary for the issue of a faculty.
- (2) The application must include
 - (a) a full description and plan or sketch of the work or article;
and

- (b) a copy of the resolution, certified by the Vicar, of the Vestry approving the proposals
- (c) a statement showing how the cost has been, or will be met

15 Determination of the application

- (1) The Diocesan Secretary may refer an application to advisors recommended by Standing Committee.
- (2) On receipt of an application, the Diocesan Secretary may ask the applicants for such further information as the Diocesan Secretary considers necessary.
- (3) The Diocesan Secretary may issue or decline a faculty.
- (4) The Diocesan Secretary must give reasons if the application is declined.
- (5) If the Diocesan Secretary declines to issue a faculty, there is a right of appeal to the Bishop who would then make a determination.

16 Other faculties to be dealt with under this Part

All faculties required under any of the Canons or under any other Statute must be applied for and dealt with under this Part of this Statute.

PART IV

MISCELLANEOUS PROVISIONS

17 Diocesan Trustees to consult Standing Committee before entering into certain dealings

Before selling, exchanging, mortgaging, otherwise disposing of, or leasing a parochial property vested in the Diocesan Trustees, and before applying for an authority required by law for selling, mortgaging, exchanging or leasing any parochial property so vested, the Diocesan Trustees must refer the proposed dealing to Standing Committee and must consider any recommendation made by the Committee.

18 Standing Committee may make rules

Standing Committee may make rules which must not be inconsistent with the provisions of this Act or of The Anglican Church Trusts Act 1981 or of the Canons governing the procedure to be followed by vestries and Trustees of Parochial Property in respect of applications under section 9 or section 14.

19 Standing Committee to inspect parish property every three years

Standing Committee must, either through the Diocesan Secretary or otherwise, inspect all the land and buildings of each parish at least once every three years.

20 Protection of other parties

A person proposing to give credit to any vestry or other parochial body or any trustee or Trustees of Parochial Property, or to purchase or exchange or otherwise acquire, or take a mortgage or other charge over the Site of a Church Building

- (a) may not be concerned to inquire about the power of the vestry, body, trustee or trustees to incur the liability, or about the purposes for which any money or property to be derived from the sale, exchange, acquisition, or to secure the mortgage or charge, has been or is intended to be employed; or
- (b) may not be concerned to see to the application of any such money; nor
- (c) be affected by notice, expressed or implied, of any matter that would cause the incurring of the liability, or the sale, exchange, acquisition, or giving of the mortgage or charge, to constitute a breach of this Act or of any other Act.

21 Relationship with Anglican Church Trusts Act 1981 and the Canons

The powers and duties conferred and imposed by this Act are in addition to any powers and duties conferred and imposed by The Anglican Church Trusts Act 1981 and the Canons.