

## THE DIOCESAN SYNOD PROPERTY ACT 1938 ANALYSIS

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AN ACT TO REGULATE THE MANAGEMENT AND CONTROL OF PROPERTY HELD FOR THE NELSON DIOCESAN SYNOD.

BE IT ENACTED by the Bishop, Clergy and Laity of the Diocese of Nelson, in Synod assembled, and by the authority of the same as follows:-

1. The Short Title of this Act shall be "The Diocesan Synod Property Act 1938".

2. In this Act if not inconsistent with the context:-

"Synod" means the Nelson Diocesan Synod.

"Board" means the Nelson Diocesan Trust Board (Incorporated).

1995 "Member" means a member of the Nelson Diocesan Trust Board (Incorporated).

## PART I

## THE DIOCESAN TRUSTS BOARD/APPOINTING BODY

- 2005            3. The Diocesan Trusts Board/Appointing Body established and constituted as provided in Title F Canon I of the Canons of the Anglican Church in Aotearoa, New Zealand and Polynesia commonly called the Anglican Church shall have for and on behalf of the Synod of the Diocese of Nelson all and several such powers as are given to it for and on behalf of the General Synod by the aforementioned Canon.

## PART II

## APPOINTMENTS AND REMOVAL OF MEMBERS OF THE NELSON DIOCESAN TRUST BOARD (INCORPORATED)

- 1991            4. The Board shall be comprised of eight members of which at least four shall be laypersons provided that it shall be competent for Synod by resolution to increase or reduce such number. No business shall be transacted at a meeting of the Board unless at least one half of the members are present.
- 2005            5. Any member may in writing under his/her hand addressed to the Chairperson of the Diocesan Trusts Board/Appointing Body resign their office, and upon the receipt of such resignation by such Chairperson the office of such member shall become vacant.
- 2005            6. If any member shall be absent from the Diocese without leave for a period exceeding six months the Diocesan Trusts Board/Appointing Body may declare the office of such member to be vacant.
7. The names of members shall be numbered and at the end of each financial year the number of members nearest to one third of the Board shall be deemed to have retired but shall remain in office until their successors are appointed. The rotation of retirement shall be in accordance with the numbers attached to the names on the list.

- 2005 8. The Nelson Diocesan Trusts Board/Appointing Body is hereby authorised subject to the conditions hereinafter appearing to appoint and remove members from time to time.
- 2005 9. No person shall be appointed a member until a declaration in the form set out in Schedule B hereto annexed signed by him/her shall have been received by the Nelson Diocesan Trusts Board/Appointing Body.
- 2005 10. Without in any manner limiting the absolute discretion vested in Synod by The Anglican Church Trusts Act 1981, and in the Nelson Diocesan Trusts Board/Appointing Body by this Act, it is hereby declared that all or such members of the Board as the Synod or the Nelson Diocesan Trusts Board/Appointing Body shall determine shall be liable to be removed if they shall fail to perform the duties prescribed in Part III of this Act.
- 1991 11. The Board shall elect from amongst its members a chairperson who shall hold office for one year but be eligible for re-election on retirement from office.

### PART III

#### DUTIES OF THE BOARD

- 2005 12. The Board shall lodge for safe custody all documents relating to Trust Property in the Diocesan strong-room, and such documents shall be deemed to be in the custody of the Board
- 2005 13. All net income accruing from Church properties shall be paid to the Diocesan Secretary except where otherwise directed by any Trust affecting that income.
- 2005 14. Deleted
- 2005 15. Deleted
16. The Board shall submit annually to Synod a report of the Trust Property under its care showing the investments of capital and the changes that have been made therein during the last twelve months and also all receipts and payments on account of income during such period in such form and

specifying such particulars as Synod shall from time to time prescribe such yearly accounts to be duly audited before submission by some person appointed or approved by Synod.

2005 17. The Board will apply any funds received subject to a trust in accordance with the terms of that trust. Where the terms of the trust are unclear the fund shall be applied as directed by Standing Committee with the concurrence of the Board or other trustees and if a consensus is not possible, by the Synod.

1984 18. The Board shall invest the Trust Funds and deal with the Trusts under its care in accordance with the Anglican Church Trusts Act 1981.

19. The Board shall allow the Primate, the Bishop of the Diocese, or other Bishop lawfully acting in his/her stead, the Archdeacon, the Minister of the Parish, or other Minister acting in his/her stead, the Churchwardens and other officers of the Parish or District to perform from time to time in the Church erected on any Church site vested in the Board all lawful acts appertaining to their several offices respectively.

2005 20. The Board shall not permit any building to be erected on any Church site or on any ministry house site until plans and specifications thereof have been submitted to and approved in writing by the Bishop of the Diocese or the Commissary authorised to preside at the meetings of the Standing Committee or a Commissary specially authorised for the purpose, and by the Board.

2005 21. The Board shall not permit any substantial alteration affecting the stability and plan of any Church without the written consent of the Board and the Minister and the Churchwardens of such Church.

22. The Board shall consent to all questions which may arise between the Board and the Minister or the officers of any Parish or District being decided by the Bishop and the Standing Committee of the Diocese.

2005 23. The Board shall allow the free use of the allocated ministry house to the Minister and shall not in any way interfere with his/her right of occupation

PROVIDED that the Board shall have the right of entry at all reasonable times to inspect the ministry house and premises to see that they are in a proper state of repair.

- 2005            24. The Board shall submit to the Annual Meeting of Synod a report of all ministry houses which are not in a good and substantial state of repair.
- 2005            25. The Board shall permit the widow/er of a Minister to continue in the use and occupation of the ministry house for such time as s/he shall desire after the decease of the spouse but not exceeding a term of three months.1995
26. The accounts to be presented to Synod by the Nelson Diocesan Trust Board shall be made up to the last day of December in each year.

#### PART IV

##### PERSONAL TRUSTEES

- 2005            27. In the event of the Nelson Diocesan Trusts Board/Appointing Body vesting property in personal trustees the following provisions shall apply:
- (a) No person shall be appointed a trustee until a declaration in the form set out in Schedule B hereto annexed signed by him/her shall have been received by the Nelson Diocesan Trusts Board/ Appointing Body.
  - (b) Trustees accepting any such trust shall accept the same subject to undertaking the several duties as are imposed upon the Board by Part III of this Act.
  - (c) The first appointment of trustees to hold any property in the Diocese on behalf of Diocesan Synod shall be made in writing under the hand of the Chairperson of the Diocesan Trusts Board/Appointing Body in the form of Schedule A hereto annexed or to the effect thereof.
  - (d) (In the event of the Diocesan Trusts Board/Appointing Body appointing as Trustees of property on behalf of the Diocesan Synod persons who have been nominated trustees of other property on behalf of the Synod and such persons are then still exercising such last mentioned trust then no further formal appointment as required by Sub-section (c) of this Section shall be necessary.
  - (e) Any trustee may in writing under his/her hand addressed to the Chairperson of the Diocesan Trusts Board/Appointing Body resign office and upon the receipt

of such resignation by such Chairperson the Diocesan Trusts Board/Appointing Body shall forthwith with all reasonable expedition take such steps as shall be necessary according to law to divest such trustee and appoint a person or persons in his/her stead.

- (f) In case any trustee shall be absent from the Diocese for a continuous period of over six months the Diocesan Trusts Board/Appointing Body is hereby empowered and directed to call on such trustee to forthwith resign their office.

## PART V

### DESTINATION OF TRUST PROPERTY

2005            28. Whenever property shall be devised, bequeathed or given to Synod on its own behalf or on behalf of General Synod for religious or charitable purposes without any specific purpose being declared by the donor, the specific objects to which such properties shall be applied shall be determined in the first instance by Standing Committee with the concurrence of the Board or other trustees and if a consensus is not possible, by the Synod.

2005            29. All moneys received by the Diocesan Treasurer upon trust for any Diocesan or Parochial purpose shall be forthwith lodged by him/her to the credit of the Trust Account of the Board pending their being invested, applied, appropriated or otherwise dealt with pursuant to the purposes for which they are so paid

PROVIDED that that Board shall hold such moneys provisionally only until the Chairperson of the Standing Committee has assented to the same being accepted for the prescribed purpose.

## PART VI

1995            30. Deleted

SCHEDULE A

Form the First Appointment of a Body of Trustees.

Diocese of

..... Trust

To all whom these presents shall come.

I, ..... send

Greetings:

Whereas it is provided that the first appointment of any body of Trustees to hold any property in the Diocese of ..... on behalf of the Synod of the Diocese, shall be made in writing under the hand of the Chairperson of the Diocesan Trusts Board of the said Diocese;

And whereas by a resolution of the Diocesan Trusts Board of the said Diocese passed at ..... on ..... the ..... hundred and ..... the following persons, that is to say ..... were chosen as Trustees for the allotment or parcel of land particularly described in the Schedule hereto annexed:

Now know ye that the said Diocesan Synod doth hereby appoint the said ..... to be Trustees for the allotment or parcel of land accordingly.

In witness whereof I have hereunto set my hand this ..... day of ..... in the year of our Lord one thousand nine hundred and .....,

Chairperson of the Diocesan Trusts Board of the Diocese of

.....

Signed by the above-named

.....

Chairperson of the Diocesan Trusts Board of the Diocese of

..... in the presence of Us.

(To be signed by two witnesses)

SCHEDULE B

I, ..... do declare my submission to the authority of the Synod of the Diocese of Nelson, and I further consent to be bound by all the regulations which may from time to time be issued by the authority of the said Diocesan Synod, and I hereby undertake in consideration of being appointed ..... immediately to resign by appointment together with all the rights and emoluments appertaining thereto, whenever I shall be called upon so to do by the Diocesan Synod or by any person or persons lawfully acting under the authority of the said Diocesan Synod.

