

[STATE ARMS]

New South Wales

Methodist Church of Samoa in Australia Property Trust Bill 1998

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are:

- (a) to constitute a statutory corporation to hold property on behalf of the Methodist Church of Samoa in Australia, and
- (b) to specify the functions of the statutory corporation, and
- (c) to vest in the statutory corporation property held in trust for the Church.

Outline of provisions

Part 1 Preliminary

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the proposed Act to commence on a day or days to be proclaimed.

Clause 3 defines terms used in the proposed Act. Among the terms defined are *Board*, *Chairman*, *property*, *the Trust* and *trust property*.

Part 2 Constitution and functions of Trust

Clause 4 provides for the Methodist Church of Samoa in Australia Property Trust (referred to in the

proposed Act as *the Trust*) to be established as a corporation. The Trust is to consist of a Board of Trustees comprising the Chairman, the secretary, the treasurer and 4 appointed members of the Church.

Clause 5 specifies the functions of the Trust. These include:

- (a) buying, holding and selling Church property, and
- (b) acquiring property by gift or by devise or bequest, and
- (c) borrowing money for Church purposes.

Clause 6 will enable the Trust to make by-laws for certain purposes. Those purposes include the procedure by which the Board of Trustees is to conduct the business of the Trust.

Clause 7 will empower the Trust to delegate its functions to a member of the Board of Trustees or to any other person or body prescribed by the by-laws.

Clause 8 will enable the Trust to hold or acquire property alone or jointly.

Clause 9 provides for the investment of funds by the Trust and, in particular, will enable the Trust to invest, as one fund, money held for different purposes.

Clause 10 will empower the Trust to make advances from its trust funds and specifies how such advances may be made.

Clause 11 will enable the Trust to make arrangements with a church of another denomination concerning the use of trust property.

Clause 12 will enable the Trust to vary the terms of a trust if it has become impossible or inexpedient to carry out those terms.

Clause 13 will enable the Trust to be the executor or administrator of an estate in which the Church has a beneficial interest. The clause will also enable the Trust to accept appointment as trustee of property held for the Church's benefit.

Clause 14 will authorise the Trust to act on behalf of the Church in settling the compensation payable in the event that any trust property is compulsorily acquired.

Part 3 Vesting of property in Trust

Clause 15 provides for the vesting in the Trust of property currently held in trust for the Church.

Clause 16 provides for the vesting in the Trust of property given to, payable to, or receivable or recoverable by, the Church in the future.

Part 4 Miscellaneous

Clause 17 provides for the custody and use of the seal of the Trust.

Clause 18 provides for the execution, on behalf of the Trust, of deeds and instruments required by law to be in writing and for the entering into of oral contracts on its behalf.

Clause 19 will enable the Trust to appoint agents to execute documents on its behalf.

Clause 20 will enable the Trust to certify that it holds property on trust for the Church.

Clause 21 provides that, if a person obtains a receipt for money paid to the Trust, the person will not be liable if the money is lost or misapplied or is not applied.

Clause 22 is intended to remove the need for a person involved in a property dealing with the Trust to inquire whether the Trust has power to deal with property and will protect the person even if the person had notice that the Trust had no such power.

Clause 23 will entitle members of the Trust and others to be indemnified out of trust property against liability for certain things done by them in good faith concerning the property.

Clause 24 provides for the service of documents on the Trust.

Clause 25 gives effect to Schedule 1, which contains savings and transitional provisions relating to property vested in the Trust in accordance with proposed section 15.

Schedule 1 provides that, when property vests in the Trust in accordance with proposed section 15, the rights, liabilities and obligations of the former trustees in relation to the property will become the rights, liabilities and obligations of the Trust.