

Macedonian Orthodox Church Property Trust Bill 2010

Explanatory note

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

Overview of Bill

The objects of this Bill are as follows:

- (a) to constitute a statutory corporation to hold property on behalf of the Macedonian Orthodox Church,
- (b) to specify the functions of the statutory corporation,
- (c) to provide for certain property held in trust for the Church to vest in the statutory corporation on the date it is established,
- (d) to provide for the vesting in the statutory corporation of property given to, or receivable or recoverable by, the Church in the future,
- (e) to provide for other property held in trust for the Church to be transferred and vest in the statutory corporation, if the current trustees and the Metropolitan consent or if the current trustees are deceased, absent or under a legal disability and the Metropolitan consents on their behalf.

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day to be appointed by proclamation.

Clause 3 defines terms used in the proposed Act. Among the terms defined are **Church**, **Trust** and **trust property**. **Church** is defined as the Macedonian Orthodox Church, Diocese of Australia and New Zealand with its seat in Melbourne, being an integral part of the Macedonian Orthodox Church with its seat in Skopje, Macedonia, a hierarchical religious body whose leader, overseer and shepherd is the Archbishop of Ohrid and Macedonia.

Clause 4 makes it clear that it is the intention of the Parliament that the operation of the Act should, as far as possible, include operation in relation to property and things situated outside the territorial limits of the State.

Part 2 Constitution and functions of Trust

Clause 5 provides for the Macedonian Orthodox Church Property Trust (referred to in the proposed Act as the **Trust**) to be established as a corporation. The Trust is to consist of trustees comprising the Metropolitan (who presides over meetings of the Trust), the Deputy Bishop, a representative from the monasteries of the Church who is appointed by the Metropolitan, the Diocesan Secretary, the deputy president of the Diocesan Assembly and 3 lay persons and 2 clerics of the Church, each being current members of the Diocesan Ruling Committee, who are appointed by the Metropolitan.

Clause 6 specifies the procedure of the Trust.

Clause 7 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 8 empowers the Trust to make by-laws.

Clause 9 enables the Trust to hold or acquire property alone or jointly.

Clause 10 provides for the investment of funds by the Trust.

Clause 11 enables the Trust to invest, as one fund, money held for different purposes.

Clause 12 empowers the Trust to make advances from its trust funds, and specifies how such advances may be made.

Clause 13 enables the Trust to make arrangements with a church of another denomination concerning the use of trust property.

Clause 14 enables the Trust to vary the terms of a trust if it has become impossible or inexpedient to carry out those terms.

Clause 15 enables 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 16 authorises 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

Division 1 Vesting of property in Trust

Clause 17 provides for the vesting in the Trust, on the date of commencement, of all property and rights held on trust for the Church by Bishop Petar Karevski, Father Jovica Simonovski and Father Tone Gulev, including the property listed in the clause.

Clause 18 provides for the vesting in the Trust of property acquired after the date of commencement.

Clause 19 provides for the later vesting of other property, if the current trustees and the Metropolitan consent.

Clause 20 provides for the later vesting of other property that is held on trust, if the Metropolitan is unable to obtain the consent of all current trustees and consents on their behalf.

Division 2 Provisions relating to vesting of property

Clause 21 requires registration authorities to record the transfer of interests in land that are necessary as a result of the operation of the proposed Part.

Clause 22 provides that the vesting of property in the Trust by the proposed Part does not affect any reservation, mortgage, charge, encumbrance, lien or lease that affected the property or any trust on which the property was held, immediately before the vesting of the property.

Clause 23 provides that, when property vests in the Trust in accordance with proposed section 17, 19 or 20 the rights, liabilities and obligations of the former trustees in relation to the property will become the rights, liabilities and obligations of the Trust.

Clause 24 provides that certain gifts, dispositions and trusts of property do not fail but take effect on or after the date of commencement, as gifts, dispositions and trusts in favour of the Trust.

Division 3 Payment of duty not required

Clause 25 provides that duty under the *Duties Act 1997* is not chargeable in respect of, or in connection with, a conveyance to the Trust of property from a person or body that holds that property for or on behalf of any parish or community of the Church.

Part 4 Miscellaneous

Clause 26 provides for the custody and use of the seal of the Trust.

Clause 27 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 28 enables the Trust to appoint agents to execute documents on its behalf.

Clause 29 enables the Trust to certify that it holds property on trust for the Church.

Clause 30 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 31 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 32 entitles 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 33 provides for the service of documents on the Trust.