



New South Wales

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.



New South Wales

Macedonian Orthodox Church Property Trust Bill 2010

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New South Wales

Macedonian Orthodox Church Property Trust Bill 2010

No. , 2010

A Bill for

An Act to constitute as a corporation the Macedonian Orthodox Church Property Trust, to specify the Trust's functions, to provide for the vesting of certain property in the Trust; and for other purposes.

The Legislature of New South Wales enacts: 1

Part 1 Preliminary 2

1 Name of Act 3

This Act is the *Macedonian Orthodox Church Property Trust Act 2010*. 4

2 Commencement 5

This Act commences on a day to be appointed by proclamation. 6

3 Definitions 7

In this Act: 8

by-laws means the by-laws of the Trust. 9

Church means 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. 10
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conveyance includes transfer, assignment and assurance. 15

date of commencement means the date on which this Act commences. 16

Deputy Bishop means the Deputy Bishop of the Church, who is appointed by the Metropolitan. 17
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Diocesan Assembly means the Diocesan Assembly of the Church, constituted under the Diocesan Statute. 19
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Diocesan Ruling Committee means the Diocesan Ruling Committee, constituted under the Diocesan Statute. 21
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Diocesan Secretary means the person from time to time occupying the office of Secretary of the Church, who is appointed by the Metropolitan. 23
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Diocesan Statute means the statute of the Church passed by the Diocesan Assembly, and authorised and certified by the Archbishopric Church and Lay Assembly of the Macedonian Orthodox Church on 24 February 1996, as in force from time to time. 25
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exercise a function includes perform a duty. 29

function includes a power, authority or duty. 30

Metropolitan means the Bishop of the Macedonian Orthodox Church, Diocese of Australia and New Zealand, appointed by the Holy Bishops' Synod of the Macedonian Orthodox Church or, if there is a vacancy in the See, the person for the time being exercising the authority of the Bishop who has been appointed by the Holy Bishops' Synod of the Macedonian Orthodox Church. 31
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<i>relevant transfer date</i> means:	1
(a) in relation to land transferred by the operation of section 17—the date of commencement, and	2 3
(b) in relation to land transferred by the operation of section 19 or 20—the date of consent of the Metropolitan under either of those sections.	4 5 6
<i>Trust</i> means the Macedonian Orthodox Church Property Trust constituted by this Act.	7 8
<i>trust property</i> means property held by the Trust.	9
<i>trustee</i> means a member of the Trust.	10
4 Extraterritorial operation of Act	11
(1) It is the intention of the Parliament of New South Wales that the operation of this Act should, as far as possible, include operation in relation to the following:	12 13 14
(a) land situated in or outside the territorial limits of the State,	15
(b) things situated in or outside the territorial limits of the State,	16
(c) acts, transactions and matters done, entered into or occurring in or outside the territorial limits of the State,	17 18
(d) things, acts, transactions and matters (wherever situated, done, entered into or occurring) that would, apart from this Act, be governed or otherwise affected by the law of another State or Territory.	19 20 21 22
(2) Without limiting subsection (1), it is the intention of the Parliament of New South Wales that the provisions of this Act have an operation in relation to the things, acts, transactions and matters referred to in that subsection even if the rules of private international law (whether at general law or as provided by legislation) would require the application of a law other than this Act instead of the provisions of this Act.	23 24 25 26 27 28
(3) To the extent that the vesting of any property by this Act is beyond the legislative competence of the Parliament of New South Wales, and this Act does not vest any of the property in the Trust without the need for conveyance, then each person who holds that property on trust for the Church is, to the extent that the person is amenable to the law of New South Wales, required to do all that is necessary to actually transfer it.	29 30 31 32 33 34

Part 2	Constitution and functions of Trust	1
5	Constitution of Trust	2
(1)	There is constituted by this Act a corporation under the corporate name of the Macedonian Orthodox Church Property Trust.	3 4
(2)	The Trust is to consist of the following members:	5
(a)	the Metropolitan,	6
(b)	the Deputy Bishop,	7
(c)	a representative from the monasteries of the Church, who is appointed by the Metropolitan,	8 9
(d)	the Diocesan Secretary,	10
(e)	2 clerics of the Church, being current members of the Diocesan Ruling Committee, who are appointed by the Metropolitan,	11 12
(f)	the deputy president of the Diocesan Assembly,	13
(g)	3 lay persons, being current members of the Diocesan Ruling Committee, who are appointed by the Metropolitan.	14 15
6	Procedure of Trust	16
(1)	Subject to this section, the trustees are to conduct the business of the Trust in accordance with the by-laws.	17 18
(2)	The Metropolitan is to preside at a meeting of the Trust.	19
(3)	The quorum for a meeting of the Trust is a majority for the time being of the members (one of whom must be the Metropolitan).	20 21
(4)	Every meeting of the Trust at which a quorum is present is competent to transact any business of the Trust.	22 23
(5)	A question arising at a meeting is determined by a majority of votes and, in the case of equality of votes, the Metropolitan has a casting vote.	24 25
(6)	The Trust may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, video conference, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.	26 27 28 29 30
7	Functions of Trust	31
(1)	The functions of the Trust are as follows:	32
(a)	to purchase, exchange, take on lease, hold, dispose of and otherwise deal with property as trustee for, or for the purposes of, the Church,	33 34 35

(b)	to acquire property by gift, devise or bequest and to agree to and carry out the conditions of the gift, devise or bequest,	1 2
(c)	to borrow or lend money for the purposes of the Church,	3
(d)	to mortgage, charge or otherwise encumber trust property,	4
(e)	to make gifts and donations of property held by it for religious and charitable purposes,	5 6
(f)	to enter into any guarantee or indemnity that may assist the Trust or the Church in the exercise of its functions,	7 8
(g)	to do and suffer all other things (whether or not of the kind referred to in this section) that the Metropolitan considers to be necessary, appropriate or desirable,	9 10 11
(h)	to do and suffer all other things that bodies corporate may, by law, do and suffer and that are necessary for or incidental to the exercise of its functions under this Act.	12 13 14
(2)	The Trust has such other functions as are conferred or imposed on it by this Act.	15 16
(3)	This section does not limit section 50 of the <i>Interpretation Act 1987</i> .	17
8	Trust may make by-laws	18
(1)	The Trust may make by-laws, not inconsistent with this Act:	19
(a)	for the control and management of, and dealings with, trust property, and	20 21
(b)	with respect to the procedure for conducting the business of the Trust.	22 23
(2)	A certificate under the seal of the Trust to the effect that a by-law specified in the certificate, or in an annexure to the certificate, was in force on a day specified in the certificate is, until the contrary is proved, evidence that the by-law was in force on that day.	24 25 26 27
(3)	A by-law may be amended or repealed by a subsequent by-law made under this section.	28 29
9	Trust may hold property jointly	30
	The Trust may hold or acquire property either alone or jointly as a joint tenant or tenant-in-common.	31 32
10	Trust may invest trust funds	33
	The Trust:	34
(a)	may invest or lend any funds that it holds on trust in accordance with the terms of any trust to which the funds are subject, and	35 36

(b)	may also invest or lend any such funds in accordance with the <i>Trustee Act 1925</i> , unless the investment or loan is expressly forbidden by the instrument (if any) creating the trust to which the funds are subject.	1 2 3 4
11	Blending of trust funds	5
(1)	The Trust may invest trust funds held by it on trust for different purposes or activities, or any part of those funds, as one fund (<i>the fund</i>).	6 7
(2)	Income arising from an investment of funds in accordance with subsection (1) is to be apportioned ratably among the several purposes or activities for which the funds are held on trust.	8 9 10
(3)	Any loss arising from an investment of funds in accordance with subsection (1) is to be apportioned ratably among the several purposes or activities for which the funds are held on trust.	11 12 13
12	Trust may make advances	14
(1)	The Trust may make advances out of its trust funds for any activity, service, institution or interest of the Church.	15 16
(2)	Any sum so advanced is taken to be an investment of the money and bears interest at a rate fixed by the Trust.	17 18
(3)	If the terms of any such advance so provide, the sum advanced and any interest on that sum is taken to be a charge on those assets (if any) that the Trust holds for the activity, service, institution or interest of the Church for which the advance was made.	19 20 21 22
13	Arrangements for other churches to use trust property	23
(1)	In this section, <i>scheme of co-operation</i> means a scheme entered into by the Trust:	24 25
(a)	with or involving a church of another denomination or any congregation or activity of such a church, and	26 27
(b)	concerning the use of trust property.	28
(2)	The Trust may permit trust property to be used and managed for the purposes of a scheme of co-operation on such terms and conditions as the Trust determines.	29 30 31
(3)	Any proceeds derived by the Trust from a scheme of co-operation are to be applied in the manner decided by the Trust.	32 33
(4)	Conditions that the Trust may determine under this section include:	34
(a)	conditions with respect to the making of monetary contributions towards the acquisition, construction, alteration, maintenance or	35 36

repair of property vested in or held on behalf of a co-operating church or congregation, and	1
(b) the giving or taking of a security or charge over any property.	2
(5) Trust property may be used in accordance with a scheme of co-operation except to the extent that the property is subject to an express trust expressly forbidding its use in that manner.	3
(6) Trust property is not to be regarded as property that is subject to an express trust expressly forbidding its use under a scheme of co-operation merely because it is directed to be held on trust for worship within, or for the purposes of, the Church.	4
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14 Trusts may be varied	11
(1) The Trust may by resolution declare that, in its opinion, it has become impossible or inexpedient to carry out or observe the terms of a trust of property vested in it, whether as to its purpose or any other of its terms.	12
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	14
(2) The Trust may, by the same or a later resolution, declare that the property is subject to another trust and, on the making of such a declaration:	15
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	17
(a) the trust that is to be replaced ceases, and	18
(b) the property is to be held subject to the other trust.	19
(3) In making such a declaration, the Trust must ensure that the property is dealt with as nearly as is possible for the purposes for which the property was held immediately before the resolution.	20
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	22
(4) However, the Trust may by resolution declare that, in its opinion, it is impossible or inexpedient to deal with the property in accordance with subsection (3) because of circumstances arising after the creation of the trust that is to be replaced.	23
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(5) On making a resolution under subsection (4), the Trust may hold, dispose of or otherwise deal with and apply the property for such purposes for the use and benefit of the Church as the Trust declares by resolution.	27
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15 Trust may act as executor, administrator or trustee	31
If authorised by the Trust to do so, a trustee or a person employed by the Trust may, on behalf of the Trust:	32
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(a) swear an affidavit, or	34
(b) make a declaration or statement, or	35
(c) give security and do any other act or thing,	36

Clause 16 Macedonian Orthodox Church Property Trust Bill 2010

Part 2 Constitution and functions of Trust

that is, by any charter, enactment or rule of court, required to be done 1
by a person who is applying for or granted probate or letters of 2
administration, or who is administering a trust. 3

16 Trust may make claims for compensation on compulsory acquisition etc 4

In relation to the exchange, dedication or compulsory acquisition of any 5
trust property, the Trust may: 6

(a) act on behalf of the Church and make claims for compensation, 7
and 8

(b) agree to and settle any such claims for such amount, and on such 9
terms and conditions, as it thinks fit. 10

Part 3	Vesting of property in Trust	1
Division 1	Vesting of property in Trust	2
17	Vesting of certain property in Trust on the date of commencement	3
(1)	On the date of commencement, all property and rights vested in or held by Bishop Petar Karevski, Father Jovica Šimonovski and Father Tone Gulev on trust for the Church are divested from those persons and are, to the extent that they were so held, vested in the Trust (without the need for any further conveyance).	4 5 6 7 8
(2)	Without limiting subsection (1), on the date of commencement, the following land vests in the Trust (without the need for any further conveyance):	9 10 11
(a)	The Macedonian Orthodox Church “Holy Mother of God”, situated at and known as 37–39 Atkinson Street, Liverpool, New South Wales and being the land more particularly described in Certificate of Title Volume 10673 Folio 236 of the Register kept under the <i>Real Property Act 1900</i> of New South Wales,	12 13 14 15 16
(b)	The Macedonian Orthodox Church “Nativity of Holy Mother of God” Cathedral Chapel, situated at and known as 1–3 Pecks Road, Sydenham, Victoria and being the land more particularly described in Certificate of Title Volume 9361 Folio 679 of the Register kept under the <i>Transfer of Land Act 1958</i> of Victoria,	17 18 19 20 21
(c)	The Macedonian Orthodox Church “Saint Prohor Pchinski” Monastery, situated at and known as 130 Spring Road, Donnybrook, Victoria and being the land more particularly described in Certificate of Title Volume 10689 Folios 945, 946, 947 and 948 of the Register kept under the <i>Transfer of Land Act 1958</i> of Victoria,	22 23 24 25 26 27
(d)	The Macedonian Orthodox Church “Holy Mother of God”, situated at and known as Lots 4 and 5 Curtis Street, Woodville South, South Australia, and being the land more particularly described in Certificate of Title Volume 5477 Folio 51 of the Register Book kept under the <i>Real Property Act 1886</i> of South Australia.	28 29 30 31 32 33
(3)	On and from the date of commencement, the Trust is taken to be the successor in law of Bishop Petar Karevski, Father Jovica Šimonovski and Father Tone Gulev for all purposes, including private international law.	34 35 36 37

18	Operation of a gift, disposition or trust after date of commencement	1
(1)	This section applies to a gift, disposition or trust of property that, on or after the date of commencement, is made or declared (whether by deed, will or otherwise) to, in favour of, or for the purpose of:	2
		3
		4
	(a) the Bishop (on behalf of the Church), or	5
	(b) any other person (on behalf of the Church), or	6
	(c) the Church.	7
(2)	Such a gift, disposition or trust of property takes effect when it is made or declared:	8
		9
	(a) to or in favour of the Trust, and	10
	(b) for a purpose of the Trust corresponding with, or similar to, the purpose for which it was, or was taken to be, made or declared.	11
		12
(3)	Such a gift, disposition or trust:	13
		14
	(a) does not fail only because of the provisions of this Act, and	15
	(b) if it is capable of taking effect to any extent, takes effect to that extent as if it were made or declared:	16
		17
	(i) to or in favour of the Trust, and	18
	(ii) for a purpose of the Trust corresponding with, or similar to, the purpose for which it was, or was taken to be, made or declared.	19
		20
19	Vesting of other property held on trust if current trustees consent	21
(1)	This section applies if:	22
		23
	(a) property (<i>the relevant property</i>) is held on trust for the Church on or after the date of commencement by any person or persons (<i>the current trustees</i>), and	24
		25
	(b) each of the current trustees consents in writing to a transfer of the relevant property to the Trust.	26
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(2)	The Metropolitan may, by writing under his hand, consent to the transfer of the relevant property to the Trust.	28
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(3)	If the Metropolitan consents to the transfer, the relevant property is, on the date of consent of the Metropolitan, divested from the current trustees and is, to the extent that it was held on trust for the Church, vested (without the need for any further conveyance) in the Trust.	30
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(4)	If such a transfer is registered in accordance with section 21, the registration operates as a discharge of all such current trustees from the duties of the trust.	34
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20	The Metropolitan may consent to transfer of other property held on trust, on behalf of absent or disabled trustees	1 2
(1)	This section applies if:	3
(a)	property (<i>the relevant property</i>) is held on trust for the Church on or after the date of commencement by any person or persons (<i>the current trustees</i>), and	4 5 6
(b)	the Metropolitan has sought the consent of each current trustee to the transfer of the relevant property, and	7 8
(c)	the consent of any current trustee cannot be obtained because that person has died, is absent or is under any other disability, but the consent of the remaining trustees has been obtained, and	9 10 11
(d)	the Metropolitan has given notice of his intention to consent to the transfer of the relevant property in a newspaper circulating generally in the place where the relevant property is located, and	12 13 14
(e)	no proceedings have been taken by any current trustee within 30 days after the publication of that notice or, if such proceedings have commenced, those proceedings have been finally determined in favour of the Metropolitan.	15 16 17 18
(2)	The Metropolitan may, by writing under his hand, consent to the transfer of the relevant property to the Trust.	19 20
(3)	If the Metropolitan consents to the transfer, the relevant property is, on the date of consent of the Metropolitan, divested from current trustees and is, to the extent that it was held on trust for the Church, vested (without the need for any further conveyance) in the Trust.	21 22 23 24
(4)	If such a transfer is registered in accordance with section 21, the registration operates as a discharge of all current trustees from the duties of the trust.	25 26 27
Division 2	Provisions relating to vesting of property	28
21	Registration authorities required to record conveyances of land	29
(1)	The appropriate registration authority, on being requested to do so and on delivery of any relevant instrument, must issue all necessary certificates of registration or title and make any recordings on the relevant Register that are necessary because of the operation of section 17, 19 or 20.	30 31 32 33 34
(2)	In this section:	35
	<i>appropriate registration authority:</i>	36
(a)	in relation to land in New South Wales—means the Registrar-General of this State, and	37 38

(b)	in relation to land in the Australian Capital Territory—means the registrar-general referred to in the <i>Land Titles Act 1925</i> of the Australian Capital Territory, and	1 2 3
(c)	in relation to land in the Northern Territory—means the Registrar-General referred to in the <i>Land Title Act</i> of the Northern Territory, and	4 5 6
(d)	in relation to land in Queensland—means the chief executive referred to in the <i>Land Act 1994</i> of Queensland, and	7 8
(e)	in relation to land in South Australia—means the Registrar-General appointed under the <i>Real Property Act 1886</i> of South Australia, and	9 10 11
(f)	in relation to land in Tasmania—means the Recorder referred to in the <i>Land Titles Act 1980</i> of Tasmania, and	12 13
(g)	in relation to land in Victoria—means the Registrar of Titles appointed under the <i>Transfer of Land Act 1958</i> of Victoria, and	14 15
(h)	in relation to land in Western Australia—means the Registrar referred to in the <i>Transfer of Land Act 1893</i> of Western Australia.	16 17
	relevant Register:	18
(a)	in relation to land in New South Wales—means the Register required to be kept under the <i>Real Property Act 1900</i> of New South Wales, and	19 20 21
(b)	in relation to land in the Australian Capital Territory—means the register required to be kept under the <i>Land Titles Act 1925</i> of the Australian Capital Territory, and	22 23 24
(c)	in relation to land in the Northern Territory—means the land register required to be kept under the <i>Land Title Act</i> of the Northern Territory, and	25 26 27
(d)	in relation to land in Queensland—means the land registry required to be kept under the <i>Land Act 1994</i> of Queensland, and	28 29
(e)	in relation to land in South Australia—means the Register Book required to be kept under the <i>Real Property Act 1886</i> of South Australia, and	30 31 32
(f)	in relation to land in Tasmania—means the Register required to be kept under the <i>Land Titles Act 1980</i> of Tasmania, and	33 34
(g)	in relation to land in Victoria—means the Register of land required to be kept under the <i>Transfer of Land Act 1958</i> of Victoria, and	35 36 37
(h)	in relation to land in Western Australia—means the Register required to be kept under the <i>Transfer of Land Act 1893</i> of Western Australia.	38 39 40

22	Provisions relating to vesting of property	1
(1)	The vesting of the property in the Trust by this Part does not affect:	2
(a)	any reservation, mortgage, charge, encumbrance, lien or lease that affected the property, or	3
		4
(b)	any trust on which the property was held, immediately before the vesting of the property.	5
		6
(2)	No attornment to the Trust by a lessee of land vested in the Trust by this Part is necessary.	7
		8
(3)	The vesting of property by this Part is not a dutiable transaction for the purposes of the <i>Duties Act 1997</i> .	9
		10
(4)	A dutiable transaction within the meaning of the <i>Duties Act 1997</i> , or an instrument that effects or evidences a dutiable transaction and that occurs or is executed or registered only for:	11
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(a)	a purpose ancillary to, or consequential on, the operation of this Part, or	14
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(b)	the purpose of giving effect to this Part, is not chargeable with duty under the <i>Duties Act 1997</i> .	16
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23	Claims and liabilities in relation to Trust	18
(1)	On and from the relevant transfer date, the following provisions have effect in relation to property vested in the Trust in accordance with section 17, 19 or 20:	19
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(a)	the rights and liabilities of a former trustee become rights and liabilities of the Trust to be exercised and discharged in accordance with this Act,	22
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(b)	the obligations of a former trustee become obligations of the Trust to be performed in accordance with this Act,	25
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(c)	proceedings before a court or tribunal by or against a former trustee that, immediately before the relevant transfer date, were pending or in the course of being heard become proceedings by or against the Trust,	27
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(d)	to the extent to which an act, matter or thing done or omitted to be done on behalf of a former trustee had any force or effect immediately before the relevant transfer date, it becomes an act, matter or thing done or omitted to be done by the Trust,	31
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(e)	a reference in any document to a former trustee is to be read as a reference to the Trust,	35
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(f)	time that had commenced to run in relation to a former trustee is taken to be time that had commenced to run in relation to the Trust.	1 2 3
(2)	In this section: <i>former trustee</i> means a person in whom, immediately before the relevant transfer date, property was held on trust for the Church.	4 5 6
24	Operation of gifts, dispositions or trusts of property	7
(1)	A gift, disposition or trust of property transferred by section 17 that, before the relevant transfer date, has been or is taken to have been made or declared (whether by deed, will or otherwise) to, in favour of, or for the purpose of Bishop Petar Karevski, Father Jovica Simonovski or Father Tone Gulev (on behalf of the Church):	8 9 10 11 12
(a)	does not fail only because of the provisions of this Act, and	13
(b)	if it is capable of taking effect to any extent on or after the date of commencement, takes effect to that extent as if it were made or declared:	14 15 16
(i)	to or in favour of the Trust, and	17
(ii)	for a purpose of the Trust corresponding with, or similar to, the purpose for which it was, or was taken to be, made or declared.	18 19 20
(2)	A gift, disposition or trust of property transferred by section 19 or 20 that, before the relevant transfer date, has been or is taken to have been made or declared (whether by deed, will or otherwise) to, in favour of, or for the purpose of the Bishop (on behalf of the Church) or any other person (on behalf of the Church) or the Church:	21 22 23 24 25
(a)	does not fail only because of the provisions of this Act, and	26
(b)	if it is capable of taking effect to any extent on or after the date of commencement, takes effect to that extent as if it were made or declared:	27 28 29
(i)	to or in favour of the Trust, and	30
(ii)	for a purpose of the Trust corresponding with, or similar to, the purpose for which it was, or was taken to be, made or declared.	31 32 33

Division 3 Payment of duty not required

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25 Payment of duty not required in certain cases

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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 who holds that property for or on behalf of any parish or community of the Church.

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Part 4	Miscellaneous	1
26	Custody and use of seal of Trust	2
(1)	The seal of the Trust is kept by the Secretary of the Trust and may be affixed to a document only:	3
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(a)	in accordance with a resolution of the Trust, and	5
(b)	in the presence of the Metropolitan, or in the absence of the Metropolitan, a person appointed by the Metropolitan for the purpose of signing the document, and not fewer than 2 other trustees, and	6
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(c)	with an attestation by the signatures of those members of the fact of the affixing of the seal.	10
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(2)	An instrument purporting to have been sealed with the seal of the Trust and to have been signed by the Metropolitan, or in his absence, by the appointed person, and not fewer than 2 other trustees is taken to have been executed in accordance with this section.	12
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27	How Trust may execute certain documents	16
(1)	Any instrument relating to any property or matter that, if made or executed by an individual, would by law be required to be in writing under seal may be made on behalf of the Trust in writing under the seal of the Trust.	17
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(2)	Any instrument relating to any property or matter that, if made by or between individuals, would by law be required to be in writing signed by the parties to be bound by it may be made on behalf of the Trust in writing by any person acting under its authority, express or implied.	21
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(3)	Any contract relating to any property or matter that, if made between individuals, would by law be valid although made orally only (and not reduced to writing) may be made on behalf of the Trust by any person acting under its authority, express or implied.	25
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28	Trust may appoint agents	29
(1)	The Trust may, by writing under its seal, expressly empower any person, in respect of any specific matter, to execute any deed or other document on its behalf as its agent or attorney.	30
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(2)	Any deed signed by such an agent or attorney on behalf of the Trust binds the Trust and has the same effect as if it were under the seal of the Trust.	33
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29	Evidence of certain matters relating to Trust	1
(1)	A certificate under the seal of the Trust to the effect that property specified in the certificate is held by it on trust for the Church is, in any legal proceedings, evidence that the property is so held.	2 3 4
(2)	A certificate under the seal of the Trust to the effect that the estate or interest of a person specified in the certificate in land so specified is an estate or interest vested in the Trust by this Act is, for the purposes of any application by the Trust to be registered under the <i>Real Property Act 1900</i> as the proprietor of that estate or interest, evidence of its contents.	5 6 7 8 9
30	Persons exonerated from liability on receiving receipt for money paid to Trust	10 11
	A receipt for money paid to the Trust that:	12
(a)	is executed under the seal of the Trust, or	13
(b)	is in writing signed by not fewer than 2 trustees, or	14
(c)	is in writing signed by a person or persons purporting to be duly authorised for the purpose by the Trust,	15 16
	exonerates the person by whom or on whose behalf the money is paid from any liability for the loss, misapplication or non-application of the money.	17 18 19
31	Inquiries relating to dealings with trust property unnecessary in certain cases	20 21
	Whenever the Trust acquires, disposes of or otherwise deals with property, it is not necessary for:	22 23
(a)	the other party or parties to the transaction, or	24
(b)	the Registrar-General or any other person registering or certifying title to the property,	25 26
	to inquire whether the Trust has power to acquire, dispose of or otherwise deal with the property and none of those persons is affected by notice that the Trust has no such power.	27 28 29
32	Certain persons to be indemnified out of trust property	30
	A trustee, and any other person, exercising in good faith a function in relation to trust property in accordance with this Act or any by-law of the Trust, and the executor or administrator of any such trustee or person, are entitled to be indemnified out of trust property against all expenses and liabilities that they have incurred in connection with the exercise of the function.	31 32 33 34 35 36

Clause 33 Macedonian Orthodox Church Property Trust Bill 2010

Part 4 Miscellaneous

33 How documents may be served on Trust

Any document may be served on the Trust by delivering it to, or sending it by post to, the Diocesan Secretary or any person apparently authorised by the Trust to accept service.

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