



New South Wales

Baptist Churches of New South Wales Property Trust Amendment Bill 2013

Explanatory note

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

Overview of Bill

The object of this Bill is to change the way in which the Baptist Churches of New South Wales Property Trust (the *Trust*) deals with property that it holds on trust for congregations, including as follows:

- (a) by allowing the secretary of a congregation to give the Trust directions on behalf of the congregation in relation to certain minor matters relating to the repair or alteration of buildings, rather than going through the formal procedure of holding a meeting of the congregation,
- (b) by expanding the qualifications of directors or officers of certain corporations that will allow those corporations to qualify to benefit from Trust decisions,
- (c) by requiring small congregations to be consulted when the Baptist Union temporarily exercises functions relating to trust property held on trust for them,
- (d) by permitting a degree of Baptist Union oversight of small congregations when such congregations give directions to the Trust about trust property,

- (e) by requiring that when a congregation votes to give a direction to the Trust, as well as the current requirement that at least a 75% majority vote in favour of the direction, at least 10 persons must vote in favour of it.

Outline of provisions

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 the date of assent to the proposed Act.

Schedule 1 Amendment of Baptist Churches of New South Wales Property Trust Act 1984 No 4

Qualifications of directors and officers of corporations that can benefit from dealings with trust property

Schedule 1 [5] replaces a provision which currently requires that directors or officers of a corporation that benefits from the use of trust property as security for a loan must be members of the congregation for which the Trust holds the property on trust. The amendment provides that any “qualifying corporation” may benefit from the loan. *Qualifying corporation* is defined by the amendment made by **Schedule 1 [8]** so as to include corporations whose directors or officers are not members of the congregation that gives the direction but are members of another congregation affiliated with the Baptist Union or are committed evangelicals.

Schedule 1 [6] replaces a provision which limits the corporations that can benefit from the Trust investing in or dealing with trust property that is not land, so as to extend it to “qualifying corporations”. The effect of the amendment and the new definition will be to allow trust property that is not land to be invested, disposed of or otherwise dealt with for purposes that are for the benefit of a corporation that has directors or officers who are either members of the congregation giving the direction to the Trust to invest in or deal with property or who are not members of that congregation, but are members of another congregation affiliated with the Baptist Union or are committed evangelicals.

Directions on minor building matters can be given to Trust on behalf of a congregation

Schedule 1 [7] simplifies the administrative arrangements involved in a congregation directing the Trust in relation to certain minor matters about the repair or alteration of church buildings, schools or manses on property held on trust for a congregation. The amendment provides that, in relation to those minor matters, the secretary of the relevant congregation can give a direction on behalf of the congregation without the need for the formal procedure of holding a meeting of the congregation.

Schedule 1 [9] makes a consequential amendment to reflect the fact that some directions may be given on behalf of a congregation.

Baptist Union's dealings with trust property held for dissolved congregations or congregations with less than 10 members

Schedule 1 [11] sets out the powers that the Baptist Union has if, while any trust property situated in a district is vested in the Trust, a congregation in the district is dissolved or consists of less than 10 members.

The proposed new section 29 restates, without any change in substance, what happens when the congregation is dissolved or dispersed.

However, proposed section 29AA includes an additional requirement that the Baptist Union, in exercising all of the functions with respect to trust property that the Act gives it when the remaining membership of a congregation falls below 10 members, must consult the congregation's members, if any remain, before giving any direction to the Trust concerning property held on trust for the congregation.

Directions of small congregations require Executive Committee consent

Schedule 1 [12] provides that, where a congregation's membership is between 10 and 20 members, a resolution in favour of giving a direction to the Trust has effect only if the Executive Committee of the Baptist Union has consented to the direction being given.

Majority vote required at meeting for purpose of giving directions

Schedule 1 [13] amends a provision about voting at meetings of congregations for the purposes of giving directions to the Trust. As well as requiring a majority of not less than 75% of the votes of members over 18 who are present, a vote will only be passed if it is passed by at least 10 persons.

Minor amendments

Schedule 1 [1], [3], [4] and [10] clarify those provisions in which the term "church" is intended to refer to a church building and not a congregation.

Schedule 1 [2] inserts definitions of *deacon* and *secretary* of a congregation, so as to clarify that they include references to persons holding substantially similar positions, but with a different title. A definition of *district* is also inserted. (Section 35 (3) (b) of the Act provides for the Executive Committee of the Baptist Union to determine the boundaries of a district.)

Schedule 1 [15] omits a provision that refers to a repealed provision about voting and **Schedule 1 [14]** omits a cross-reference to the provision being omitted.