

FIRST PRINT

**ROMAN CATHOLIC CHURCH TRUST PROPERTY
(AMENDMENT) BILL 1986**

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The Roman Catholic Church Communities' Lands (Amendment) Bill 1986 is cognate with this Bill.

The object of this Bill is to amend the Roman Catholic Church Trust Property Act 1936—

- (a) to make it clear that bodies corporate created by that Act for the purpose of holding, managing and dealing with property held on trust for the Church may also engage in other activities (such as those relating to education, health and welfare) conducted for and on behalf of the Church;
- (b) where it has become impossible or impracticable to carry out trusts on which property is held for the Church, to enable those bodies corporate to alter the trusts without making application to a Court for approval of a cy-pres scheme in respect of the trusts; and
- (c) to exempt from stamp duty instruments relating to certain dealings with property conducted between those bodies corporate and between any such body corporate and a body corporate created under the Roman Catholic Church Communities' Lands Act 1942.

Clause 1 specifies the short title of the proposed Act.

Clause 2 is a formal provision which gives effect to the Schedule of amendments.

Schedule 1 (1) and (3) make it clear that, in addition to its objects relating to holding, managing and dealing with trust property, a body corporate has objects relating to the conduct of other Church activities.

Schedule 1 (2) amends the definition of "Diocesan Consultors" to include within the meaning of that definition the members of a College of Consultors for a diocese.

Schedule 1 (4) makes it clear that, when a new diocese is created, any property situated in the new diocese, being property which was formerly vested in the body corporate for another diocese, vests in the body corporate for the new diocese.

Schedule 1 (5) makes it clear that a body corporate has power to operate and conduct various educational, welfare and health institutions, organisations and other bodies and to act generally for its benefit and the benefit of the Church as if the body corporate were a natural person.

Schedule 1 (6) contains a consequential amendment.

Schedule 1 (7)—

- (a) empowers a body corporate to alter the trusts on which trust property is held by it, if the body corporate is satisfied that it is impossible or impracticable to observe the trusts (proposed section 9C); and
- (b) authorises the blending of trust funds (proposed section 9D).

Schedule 1 (8) exempts from stamp duty certain instruments relating to the vesting of Church property under section 8 of the Principal Act or giving effect to dealings with property conducted between bodies corporate established under the Principal Act or between any such body corporate and a body corporate established under the Roman Catholic Church Communities' Lands Act 1942 (proposed section 16).

ROMAN CATHOLIC CHURCH TRUST PROPERTY (AMENDMENT) BILL 1986

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Amendment of Act No. 24, 1936

SCHEDULE 1—AMENDMENTS TO THE ROMAN CATHOLIC CHURCH TRUST
PROPERTY ACT 1936.



**ROMAN CATHOLIC CHURCH TRUST PROPERTY
(AMENDMENT) BILL 1986**

NEW SOUTH WALES



No. , 1986

A BILL FOR

An Act to amend the Roman Catholic Church Trust Property Act 1936 in relation to the management and transfer of Church trust property and the powers of bodies corporate created by that Act.

See also Roman Catholic Church Communities' Lands (Amendment) Bill 1986.

Roman Catholic Church Trust Property (Amendment) 1986

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

5 Short title

1. This Act may be cited as the "Roman Catholic Church Trust Property (Amendment) Act 1986".

Amendment of Act No. 24, 1936

2. The Roman Catholic Church Trust Property Act 1936 is amended in 10 the manner set forth in Schedule 1.

SCHEDULE 1

(Sec. 2)

AMENDMENTS TO THE ROMAN CATHOLIC CHURCH TRUST
PROPERTY ACT 1936

15 (1) Preamble—

(a) Omit "held, and", insert instead "held,".

(b) After "expensive", insert "and also that other activities which are or may be for the benefit of the Roman Catholic Church may be conducted by those bodies corporate".

20 (2) Section 2 (**Definitions**)—

Definition of "Diocesan Consultors"—

Omit the definition, insert instead:

"Diocesan Consultors" means—

- 25 (a) the Diocesan Consultors for the time being of a diocese;
- (b) in relation to a diocese in which a Cathedral Chapter exists, the members for the time being of that Cathedral Chapter; or
- 30 (c) in relation to a diocese in which a College of Consultors exists, the members for the time being of that College of Consultors.

SCHEDULE 1—*continued*AMENDMENTS TO THE ROMAN CATHOLIC CHURCH TRUST
PROPERTY ACT 1936—*continued*(3) Section 4 (**Trustees to be bodies corporate**)—

Section 4 (3)—

After section 4 (2), insert:

5 (3) The objects of a body corporate created by this Act include—

- (a) the operation and conduct of educational, welfare and health institutions, organisations or other bodies; and
- 10 (b) the performance of all such acts, matters and things of any nature (which may include, without limiting the scope of this paragraph, borrowing money) as, in its opinion, are or may be for its benefit or for the benefit of the Church.

(4) Section 8 (**Vesting of Church trust property**)—

Section 8 (3)—

After section 8 (2), insert:

15 (3) The reference in subsection (1) (b) to the person in whom Church trust property was vested before the creation of a body corporate includes, and shall be deemed to have always included, a reference to a body corporate created under section 4 in which that property was formerly vested.

20 (5) Section 9 (**Powers of bodies corporate**)—

(a) Section 9—

25 Omit “Every body corporate created by this Act shall have power, from time to time”, insert instead “A body corporate created by this Act has all of the powers of a natural person, including (without limiting the scope of those powers) the power”.

(b) Section 9 (a)—

Omit “and”.

Roman Catholic Church Trust Property (Amendment) 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE ROMAN CATHOLIC CHURCH TRUST
PROPERTY ACT 1936—*continued*

(c) Section 9 (c)—

Omit the paragraph, insert instead:

(c) to execute any document and to do any other thing the
execution or doing of which, in its opinion, is necessary or
convenient to achieve its objects.

(6) Section 9B (**Delegation of powers, etc., of bodies corporate**)—

Section 9B (1)—

After “section”, insert “or section 9C”.

(7) Sections 9C, 9D—

After section 9B, insert:

Variation of trusts

9C. (1) If, after the creation of the trusts to which any real or
personal property vested in or held by a body corporate
constituted by this Act is for the time being subject, it has, in the
opinion of the body corporate, become impossible or inexpedient
to carry out or observe those trusts, the body corporate may by
resolution declare that opinion, and by the same or a later
resolution declare other trusts subject to which such property may
be held, being trusts for the use, benefit or purposes of the Church.

(2) A resolution declaring other trusts causes the replaced trusts
to cease and determine and the property which was subject to
those trusts shall be held subject to the other trusts.

(3) The property shall be dealt with as nearly as may be
possible for the purposes for which the property was, immediately
before the resolution, held unless the body corporate by resolution
declares that by reason of circumstances arising after the creation
of the replaced trusts it is, in the opinion of the body corporate,
impossible or inexpedient to deal with or apply the property or
some part of the property for the same or like purposes.

SCHEDULE 1—*continued*AMENDMENTS TO THE ROMAN CATHOLIC CHURCH TRUST
PROPERTY ACT 1936—*continued*

(4) If a resolution is passed under subsection (3) in relation to property or some part of property, the property or part may be dealt with and applied for the use, benefit or purposes of the Church subject to the trusts declared by resolution of the body corporate.

(5) This section applies to trusts created before or after the commencement of the Roman Catholic Church Trust Property (Amendment) Act 1986.

(6) In subsection (1), the reference to trusts which have been created includes a reference to trusts declared by a resolution passed under this section.

Blending of trust funds

9D. (1) Where a body corporate holds money on trust for different purposes or activities it shall be lawful for the body corporate from time to time—

- (a) to invest the money or any part or parts of the money as one fund; and
- (b) to distribute income arising from the investment of the fund rateably for the benefit of carrying out the several purposes or activities for which the money invested is held on trust.

(2) Any loss arising from an investment in accordance with this section shall be distributed rateably to the detriment of carrying out the several purposes or activities for which the money invested is held on trust.

(8) Section 16—

After section 15, insert:

Exemption from stamp duty

16. (1) An instrument executed only for—

- (a) a purpose ancillary to, or consequential on, the operation of section 8; or

Roman Catholic Church Trust Property (Amendment) 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE ROMAN CATHOLIC CHURCH TRUST
PROPERTY ACT 1936—*continued*

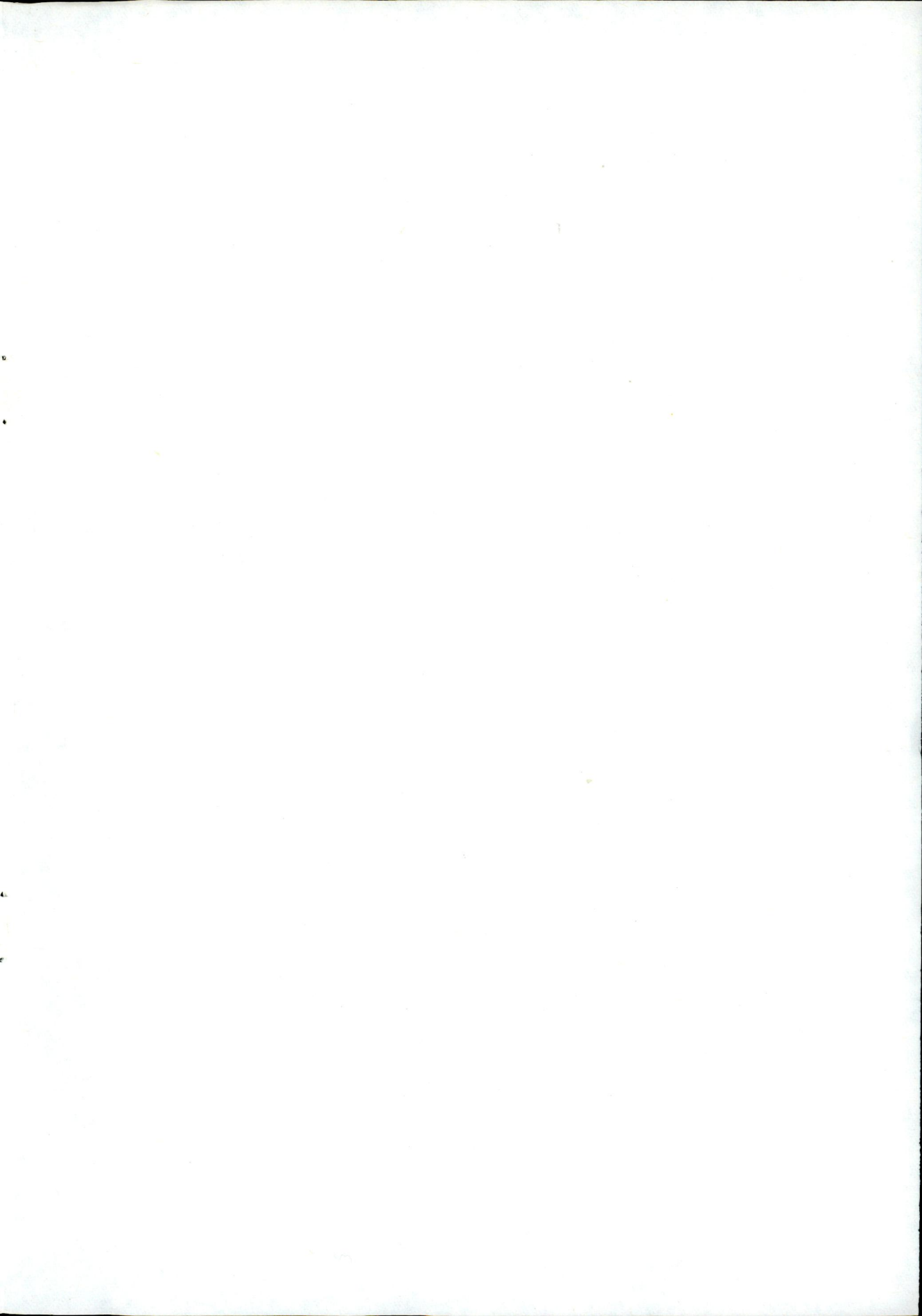
(b) the purpose of giving effect to that section,
shall be exempt from stamp duty.

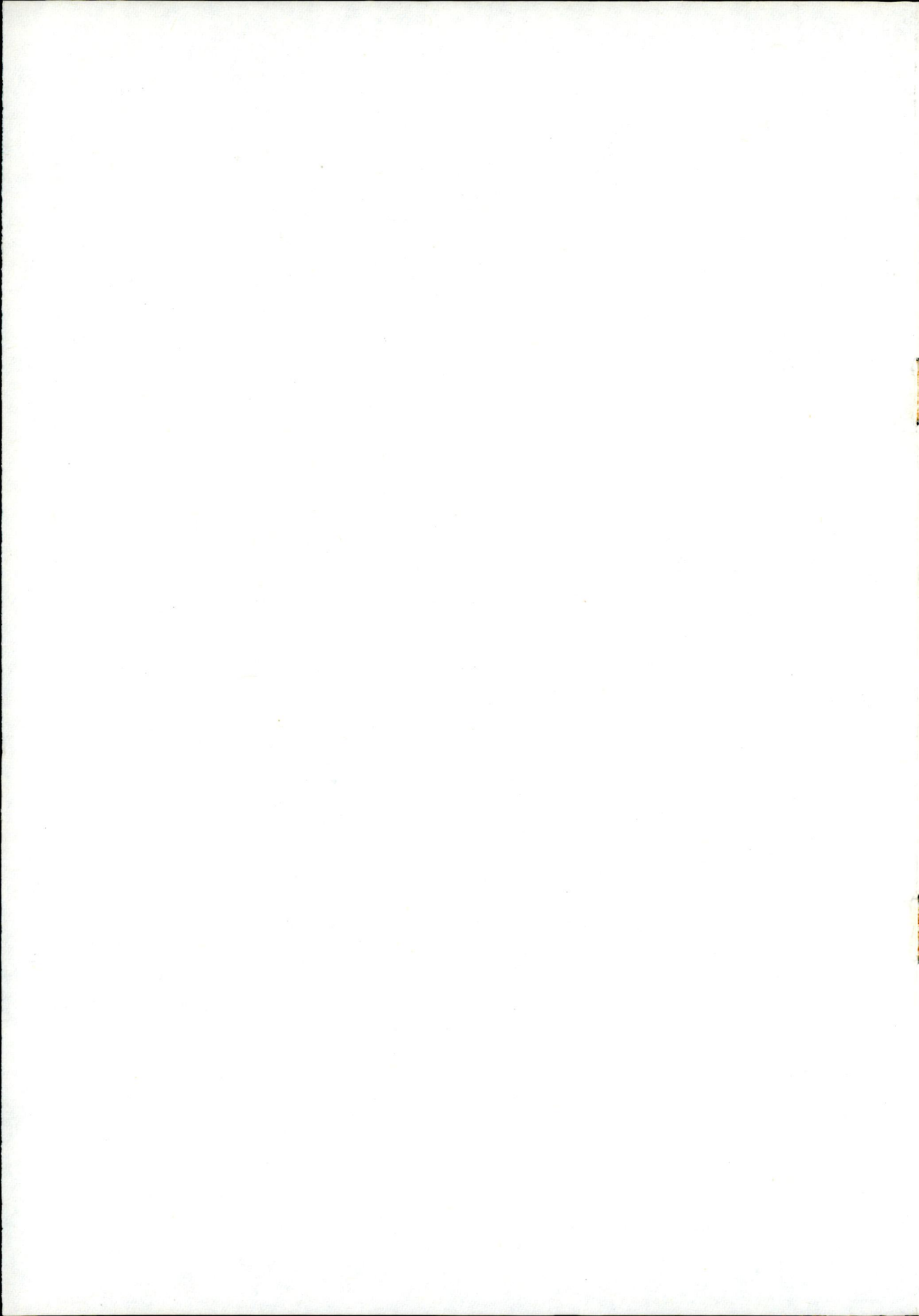
(2) An instrument, being an agreement for the sale, conveyance
or demise of any property—

5 (a) from a body corporate created by this Act to another body
corporate so created or to a body corporate created by the
Roman Catholic Church Communities' Lands Act 1942; or

10 (b) from a body corporate created by the Roman Catholic
Church Communities' Lands Act 1942 to a body corporate
created by this Act,

shall be exempt from stamp duty.





**ROMAN CATHOLIC CHURCH TRUST PROPERTY
(AMENDMENT) ACT 1986 No. 190**

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Amendment of Act No. 24, 1936

SCHEDULE 1—AMENDMENTS TO THE ROMAN CATHOLIC CHURCH TRUST
PROPERTY ACT 1936.



**ROMAN CATHOLIC CHURCH TRUST PROPERTY (AMENDMENT)
ACT 1986 No. 190**

NEW SOUTH WALES



Act No. 190, 1986

An Act to amend the Roman Catholic Church Trust Property Act 1936 in relation to the management and transfer of Church trust property and the powers of bodies corporate created by that Act. [Assented to 18 December 1986]

See also Roman Catholic Church Communities' Lands (Amendment) Act 1986.

Roman Catholic Church Trust Property (Amendment) 1986

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

Short title

1. This Act may be cited as the "Roman Catholic Church Trust Property (Amendment) Act 1986".

Amendment of Act No. 24, 1936

2. The Roman Catholic Church Trust Property Act 1936 is amended in the manner set forth in Schedule 1.

SCHEDULE 1

(Sec. 2)

AMENDMENTS TO THE ROMAN CATHOLIC CHURCH TRUST
PROPERTY ACT 1936

(1) Preamble—

- (a) Omit "held, and", insert instead "held,".
- (b) After "expensive", insert "and also that other activities which are or may be for the benefit of the Roman Catholic Church may be conducted by those bodies corporate".

(2) Section 2 (**Definitions**)—

Definition of "Diocesan Consultors"—

Omit the definition, insert instead:

"Diocesan Consultors" means—

- (a) the Diocesan Consultors for the time being of a diocese;
- (b) in relation to a diocese in which a Cathedral Chapter exists, the members for the time being of that Cathedral Chapter; or
- (c) in relation to a diocese in which a College of Consultors exists, the members for the time being of that College of Consultors.

Roman Catholic Church Trust Property (Amendment) 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE ROMAN CATHOLIC CHURCH TRUST
PROPERTY ACT 1936—*continued*

(3) Section 4 (**Trustees to be bodies corporate**)—

Section 4 (3)—

After section 4 (2), insert:

(3) The objects of a body corporate created by this Act include—

- (a) the operation and conduct of educational, welfare and health institutions, organisations or other bodies; and
- (b) the performance of all such acts, matters and things of any nature (which may include, without limiting the scope of this paragraph, borrowing money) as, in its opinion, are or may be for its benefit or for the benefit of the Church.

(4) Section 8 (**Vesting of Church trust property**)—

Section 8 (3)—

After section 8 (2), insert:

(3) The reference in subsection (1) (b) to the person in whom Church trust property was vested before the creation of a body corporate includes, and shall be deemed to have always included, a reference to a body corporate created under section 4 in which that property was formerly vested.

(5) Section 9 (**Powers of bodies corporate**)—

(a) Section 9—

Omit “Every body corporate created by this Act shall have power, from time to time”, insert instead “A body corporate created by this Act has all of the powers of a natural person, including (without limiting the scope of those powers) the power”.

(b) Section 9 (a)—

Omit “and”.

Roman Catholic Church Trust Property (Amendment) 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE ROMAN CATHOLIC CHURCH TRUST
PROPERTY ACT 1936—*continued*

(c) Section 9 (c)—

Omit the paragraph, insert instead:

- (c) to execute any document and to do any other thing the execution or doing of which, in its opinion, is necessary or convenient to achieve its objects.

(6) Section 9B (**Delegation of powers, etc., of bodies corporate**)—

Section 9B (1)—

After “section”, insert “or section 9C”.

(7) Sections 9C, 9D—

After section 9B, insert:

Variation of trusts

9C. (1) If, after the creation of the trusts to which any real or personal property vested in or held by a body corporate constituted by this Act is for the time being subject, it has, in the opinion of the body corporate, become impossible or inexpedient to carry out or observe those trusts, the body corporate may by resolution declare that opinion, and by the same or a later resolution declare other trusts subject to which such property may be held, being trusts for the use, benefit or purposes of the Church.

(2) A resolution declaring other trusts causes the replaced trusts to cease and determine and the property which was subject to those trusts shall be held subject to the other trusts.

(3) The property shall be dealt with as nearly as may be possible for the purposes for which the property was, immediately before the resolution, held unless the body corporate by resolution declares that by reason of circumstances arising after the creation of the replaced trusts it is, in the opinion of the body corporate, impossible or inexpedient to deal with or apply the property or some part of the property for the same or like purposes.

Roman Catholic Church Trust Property (Amendment) 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE ROMAN CATHOLIC CHURCH TRUST
PROPERTY ACT 1936—*continued*

(4) If a resolution is passed under subsection (3) in relation to property or some part of property, the property or part may be dealt with and applied for the use, benefit or purposes of the Church subject to the trusts declared by resolution of the body corporate.

(5) This section applies to trusts created before or after the commencement of the Roman Catholic Church Trust Property (Amendment) Act 1986.

(6) In subsection (1), the reference to trusts which have been created includes a reference to trusts declared by a resolution passed under this section.

Blending of trust funds

9D. (1) Where a body corporate holds money on trust for different purposes or activities it shall be lawful for the body corporate from time to time—

- (a) to invest the money or any part or parts of the money as one fund; and
- (b) to distribute income arising from the investment of the fund rateably for the benefit of carrying out the several purposes or activities for which the money invested is held on trust.

(2) Any loss arising from an investment in accordance with this section shall be distributed rateably to the detriment of carrying out the several purposes or activities for which the money invested is held on trust.

(8) Section 16—

After section 15, insert:

Exemption from stamp duty

16. (1) An instrument executed only for—

- (a) a purpose ancillary to, or consequential on, the operation of section 8; or

SCHEDULE 1—*continued*

AMENDMENTS TO THE ROMAN CATHOLIC CHURCH TRUST
PROPERTY ACT 1936—*continued*

(b) the purpose of giving effect to that section,
shall be exempt from stamp duty.

(2) An instrument, being an agreement for the sale, conveyance
or demise of any property—

(a) from a body corporate created by this Act to another body
corporate so created or to a body corporate created by the
Roman Catholic Church Communities' Lands Act 1942; or

(b) from a body corporate created by the Roman Catholic
Church Communities' Lands Act 1942 to a body corporate
created by this Act,

shall be exempt from stamp duty.