

No. 27 of 1993.

Anglican Church of Papua New Guinea Property Trust Act 1993.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Anglican Church of Papua New Guinea Property Trust Act 1993,

Being an Act to incorporate the Provincial Board of Trustees of the Anglican Church of Papua New Guinea, and to repeal the *Anglican Diocese of Papua New Guinea Property Trust Act 1973*, and for related purposes.

1. INTERPRETATION.

In this Act, unless the contrary intention appears—

“**Archbishop**” means the Archbishop of the Anglican Church of Papua New Guinea;

“**Board**” means the Provincial Board of Trustees of the Anglican Church of Papua New Guinea established by Section 2;

“**Church**” means the Anglican Church of Papua New Guinea;

“**Church property**” includes—

- (a) all property vested immediately before the commencement of this Act under the *Anglican Diocese of Papua New Guinea Property Trust Act 1973* in the corporation established by that Act; and
- (b) all churches, dwellings and other buildings, freehold and leasehold lands and premises and all personal property in Papua New Guinea belonging to the Church and now or at any time hereafter vested in any person as trustee and all real and personal property acquired by the Board by virtue of the powers contained in this Act;

“**member**” means a member of the Board;

“**Provincial Constitution and Canons**” means the Constitution of the Province of the Church dated 27 February 1977 as amended from time

to time together with the Canons made by the Provincial Council in accordance with the said Constitution;

“Provincial Council” means the Provincial Council provided for in the Provincial Constitution;

“Provincial Secretary” means the official appointed to discharge the responsibilities of Provincial Secretary under the Constitution.

2. PROVINCIAL BOARD OF TRUSTEES.

(1) There is hereby established a Provincial Board of Trustees of the Anglican Church of Papua New Guinea comprising—

- (a) the Archbishop; and
- (b) the Provincial Secretary; and
- (c) members elected in accordance with the provisions of the Provincial Constitution and Canons.

(2) Election, tenure and vacation of office of a member shall be regulated by the provisions of the Provincial Constitution and Canons.

(3) The proceedings of the Board shall be conducted in accordance with the provisions of the Provincial Constitution and Canons.

3. INCORPORATION.

(1) The Board is a corporation by the name of the “Provincial Board of Trustees of the Anglican Church of Papua New Guinea”.

(2) The Board—

- (a) has perpetual succession; and
- (b) shall have a seal; and
- (c) may sue and be sued in its corporate name; and
- (d) may do and suffer all acts and things as corporations may by law do and suffer.

4. POWERS OF THE BOARD.

(1) Subject to this Act and to the approval of the Provincial Council, the Board has power—

- (a) from time to time to purchase, take on lease or acquire by gift, devise, exchange or otherwise real and personal property; and
- (b) to sell Church property or an interest in Church property by public auction or private contract for cash or on credit on such terms and subject to such conditions as the Board thinks fit; and

- (c) to exchange Church property or an interest in Church property for other property; and
- (d) to transfer, grant, assure or otherwise dispose of property or an interest in property when sold or exchanged to the purchaser or to the person taking such exchange freed and discharged from the trust affecting it; and
- (e) to raise sums of money when and on such terms as the Board thinks fit by mortgage of Church property whether by deposit of deeds or otherwise and with or without power of sale; and
- (f) to demise and lease Church property for such periods at such rents and on such terms and conditions as the Board thinks fit; and
- (g) to create or reserve easements in or over or to enter into restrictive covenants affecting any real or leasehold property forming part of Church property; and
- (h) to improve, manage and develop Church property; and
- (i) to appoint officers and to engage persons as employees on such terms and conditions as are determined by the Board; and
- (j) for all or any of the purposes referred to in the preceding paragraphs to sign, seal and execute all such contracts, transfers and other deeds, documents and instruments as may be necessary; and
- (k) to appoint by written instrument under seal a person or persons to be the Attorney of the Board either generally or in respect of specified matters and to act in any place wheresoever, and all deeds signed by the Attorney on behalf of the Board and under his seal are binding on the Board and have the same effect as if they were under the seal of the Board.

(2) A power exercisable under Subsection (1) in respect of Church property is exercisable in respect of any part or parts of the property of the Church.

5. SEAL OF THE BOARD.

(1) The Board shall provide for the form of its seal.

(2) The seal shall be affixed to documents in accordance with the provisions of the Provincial Constitution and Canons.

(3) All courts, Judges and persons acting judicially shall take judicial notice of the seal of the corporation affixed to a document and shall presume that it was duly affixed.

6. DEALING WITH THE BOARD.

(1) On the sale, mortgage or other dealing by the Board of or with any real or personal property a purchaser, mortgagee, lessee or other person dealing with the Board is not bound in any way to inquire into the necessity or propriety of the sale,

mortgage, lease or other dealing or the purposes for or the circumstances in which the Board proposes to enter into, make or execute a sale, mortgage, lease or other dealing.

(2) A purchaser, mortgagee, lessee or other person dealing with the Board is not bound in any way to inquire into the regularity of the sale, mortgage, lease or other dealing or to see to the application of any payment made to the Board, and the receipt of the Board is a sufficient discharge.

(3) Notwithstanding any irregularity or impropriety in a sale, mortgage, lease or other dealing, a sale, mortgage, lease or other dealing purporting to be made by the Board shall, as regards the purchaser, mortgagee, lessee or other person dealing with the Board, be deemed to be within the powers of the Board and is valid accordingly.

7. CONSTRUCTION OF WILLS, ETC.

Where by any will, deed or other instrument any real or personal property is devised, bequeathed or given either before or after the commencement of this Act to or on trust for the benefit of—

- (a) the Archbishop; or
- (b) the Bishop of New Guinea; or
- (c) the Bishop of Papua New Guinea; or
- (d) the Church;

whether or not described as such, then—

- (e) the will, deed or other instrument shall be construed and take effect as if the Board was named in the will, deed or other instrument; and
- (f) the receipt of the Board, or of any person authorized by it for the purpose, is a sufficient discharge to the person liable to transfer or deliver the property; and
- (g) subject to the trusts and provisions contained in the will, deed or other instrument, the property is under the direction and control of the Board which may call for the transfer and delivery of the property.

8. CONDITIONS OF GRANT, ETC.

Nothing contained in this Act affects or shall be deemed to affect the trusts, conditions or restrictions declared or imposed by the original grant, dedication or gift of any Church property or the provisions of any Act under which land forming part of the Church property has been granted or leased.

9. VESTING OF PROPERTY GIVEN FOR THE BENEFIT OF THE CHURCH.

(1) Subject to Subsections (2) and (3), any real or personal property given, devised or bequeathed by any will, deed or other instrument, either before or after the commencement of this Act to or on trust for the benefit of—

- (a) the Archbishop; or
- (b) the Bishop of New Guinea; or
- (c) the Bishop of Papua New Guinea; or
- (d) the Church,

whether or not described as such, is by virtue of this Act vested in the Board.

(2) Subsection (1) does not apply to real or personal property devised or bequeathed to specific trustees on trust for the objects referred to in that subsection.

(3) The Board shall hold any real or personal property referred to in Subsection (1) on the trusts (if any) declared in respect of the property, or if no trusts have been declared—

- (a) shall hold and deal with the property and the proceeds of the sale of any part of the property for such purposes as it thinks expedient; or
- (b) may transfer or deliver the property or any part of the property to such persons and on such trusts as it thinks fit and any person to whom the property is so transferred or delivered may sell, lease, mortgage or otherwise deal with the property, or that part of the property, as the case may be, for the benefit of the Church.

10. HOLDING OF CHURCH PROPERTY.

Subject to Section 7, the Board shall hold all Church property on trust to use and appropriate or permit its use and appropriation for the purposes of the erection and maintenance of Church buildings, schools, hospitals, rectories, resthouses and other buildings and for other purposes in connection with or for the benefit or maintenance of the Church or members of the Church.

11. VESTING OF CHURCH PROPERTY.

(1) All the estate, rights, title and interest both legal and equitable in and to any property of the Church now vested in the Diocesan Board of Trustees of the Anglican Diocese of Papua New Guinea incorporated under the *Anglican Diocese of Papua New Guinea Property Trust Act 1973* is by virtue of this Act divested from the Diocesan Board of Trustees and vested in the Board and shall be held on trust and dealt with for the purpose of carrying on, benefitting, advancing, extending or making more effectual the working and objects of the Church.

(2) Where any property vested in the Board by virtue of this section is land registered under the *Land Registration Act 1981* the Registrar of Titles shall without formal transfer and without fee, on application in that behalf by the Board, enter or

register the Board in the Register Book or in the Register of State leases kept under that Act as the case requires and on the registration or entry grant certificate of title, lease or other instrument evidencing title of the land as the owner of the land within the meaning of that Act.

12. EVIDENCE OF CERTAIN MATTERS.

A certificate purporting to be signed by the Provincial Secretary—

- (a) that the persons named in the certificate are members for the time being; or
- (b) that purports to set out the terms of a resolution of the Board; or
- (c) that purports to set out the terms of the Provincial Constitution or a Provincial Canon of the Church,

is *prima facie* evidence of that matter.

13. REPEAL.

The *Anglican Diocese of Papua New Guinea Property Trust Act 1973* is repealed.

14. TRANSITIONAL.

(1) The trustees holding office under the repealed Act immediately before the commencement of this Act shall be members of the Board for the balance of the term of their respective appointments.

(2) In this section “**the repealed Act**” means the *Anglican Diocese of Papua New Guinea Property Trust Act 1973*.

Office of Legislative Counsel, PNG