

DIOCESE OF WAIKATO

STATUTE NO. 20

THE DECLARATION OF TRUST BOARDS' POWERS STATUTE 1994

WHEREAS the Waikato Diocesan Trust Board was established by resolution of the First Session of the First Synod of this Diocese on 28 April 1926 with the Venerable Archdeacon Cowie, Reverends C. Mortimer-Jones, E.H. Strong, F.G. Harvie and J.A. Kempthorne and Messrs D. Hay, O.R. Farrier, E.G. Rutherford, F. Harris, Corbett, Stead and L. Gilfillan as the twelve trustees;

AND WHEREAS the Waikato Diocesan Trust Board was authorised by a Special Session of the First Synod of the Diocese on 13 December 1926 to incorporate under the provisions of the Religious Charitable and Educational Trusts Act 1908 and in accordance with (the then) Title F Canon II Clauses 1,2 and 3;

AND WHEREAS there is no Trust Deed for the Waikato Diocesan Trust Board;

AND WHEREAS the Taranaki Church of England Trust Board [now known as the Taranaki Anglican Trust Board] was established prior to the formation of this Diocese in 1926 within the then Diocese of Auckland to administer "The Taranaki Trust" established by Bishop Selwyn;

AND WHEREAS there is no Trust Deed for the Taranaki Anglican Trust Board;

AND WHEREAS these two Trust Boards are the General Trust Boards for this Diocese;

AND WHEREAS under the Anglican Church Trusts Act 1981 provision is made for Diocesan Trust Boards to be "Authorised Trust Boards" and the powers authorised are established by Act of Parliament;

AND WHEREAS the Waikato Diocesan Trust Board is an Authorised Trust Board and the Taranaki Anglican Trust Board is to be gazetted as an Authorised Trust Board;

AND WHEREAS under Title F Canon II Trustees can be Incorporated where the Synod has consented;

AND WHEREAS there are other Incorporated Trust Boards in Parishes and in the Diocese;

AND WHEREAS for clarification within this Diocese it is desired to declare what powers exist for the Waikato Diocesan Trust Board, the Taranaki Anglican Trust Board and other Trust Boards;

BE IT ENACTED by the Bishop Clergy and Laity of the Diocese of Waikato in Synod assembled as follows:

1. **SHORT TITLE**

The Short Title of this Statute shall be "The Declaration of Trust Boards' Powers Statute 1994".

2. **INTERPRETATION**

In this Statute "Canon I" means Title F Canon I;

"Authorised Trust Board" means a Trust Board within the Diocese Gazetted as an Authorised Trust Board pursuant to the Anglican Church Trusts Act 1981.

"Canon III" means Title F Canon III; and

"the Act" means the Anglican Church Trusts Act 1981 and any amendments.

"the Trusts Board" means the Bishops and the Standing Committee meeting as the Diocesan Trusts Board, under Canon I Clause 1.2.

PART ONE

3. NUMBER OF TRUSTEES

- (1) Acting under Canon I Clause 2.2 Synod declares that there shall be not less than four trustees of the Waikato Diocesan Trust Board.
- (2) Acting under Canon I Clause 2.2 Synod declares that there shall be not less than four trustees of the Taranaki Anglican Trust Board.
- (3) The Trusts Board has power under Section 20 of the Act and Canon I to Appoint and to Remove Trustees of property held for the Church.
- (4) In this Diocese land is held by either the Waikato Diocesan Trust Board or the Taranaki Anglican Trust Board unless there is a specifically and properly established other Trust Board.
- (5) All lands held in trust for the use of the Waikato Diocese shall be held by either the Waikato Diocesan Trust Board or the Taranaki Anglican Trust Board, under Canon III Clause 1 except if there shall be another Incorporated Trust Board with powers to hold trust land under Title F Canon II.
- (6) Trust Boards in the Diocese may hold land in the Diocese on behalf of the General Synod/te Hīnota Whānui, the Diocese, a Bishopric, or Parish or for other 'local' purposes.

PART TWO

4. INTERPRETATION

- (1) This Part Two of this Statute does not add any further or new Powers nor further the exercise of Powers of Trustees in this Diocese enabled and authorised under Canon Law of the General Synod/te Hīnota Whānui and any Act of Parliament.
- (2) The description of Powers contained herein is in no way a definition of the actual Powers but is indicative of the type and area of Power by way of a short title for identification purposes only.
- (3) In order to ascertain the actual Power in full the Canon of General Synod/te Hīnota Whānui or the Act of Parliament should be read in the original.

5. APPOINTMENT OF DIOCESAN TRUSTEES

- (1) Under Canon Law: Trust Boards in the Diocese are constituted under and appointments are made by the Trusts Board under Canon I.
- (2) Under Parliamentary Law: The General Synod/te Hīnota Whānui or its Standing Committee when Synod is not in session, when they are not in session the Diocesan Synod or when the Diocesan Synod is not in session the Trusts Board has power to appoint and to remove Trustees from the Trust Board under section 20 of the Act and Title F Canon VI Clauses 1 and 2.

- (3) Every Trustee must sign the Declaration in the Schedule required by the Constitution/Te Pouhere and Canon I Clause 2.8.1 within a time to be fixed by the Trusts Board before taking office; and becomes a Trustee thereafter when that person first takes their seat at a Trust Board meeting.

6. CEASING TO BE A TRUSTEE

- (1) Any Diocesan Trustee may resign in writing addressed to the Chairperson of the Trusts Board and upon receipt of such resignation the office of that Trustee shall become vacant under Canon I Clause 2.4.
- (2) The office of any Trustee who becomes bankrupt, a protected patient under a Mental Health (Compulsory Assessment and Treatment) Act 1992 or has a manager appointed under the Protection of Personal and Property Rights Act 1988 or is convicted of an indictable offence or is absent from the Diocese for 6 months without leave or dies shall be declared vacant by the Trusts Board under Canon I Clause 2.5.

7. RETIREMENT

- (1) One third of the Trustees shall retire under Canon I Clause 2.6 each year but Trustees remain in office until re-appointed or a successor is appointed.
- (2) Retiring Trustees may be re-appointed under Canon I Clause 2.6. If re-appointed after retirement by rotation that is deemed a new appointment under Canon I Clause 2.8.2
- (3) A Deed of Appointment shall be executed by the Trusts Board for each new appointment of a Trustee and a certified copy sent to the Chairman of the Trust Board under Canon I Clause 2.9.

8. CHURCH TRUSTEE POWERS UNDER ACT OF PARLIAMENT

- (1) Powers of Authorised Trust Boards: An Authorised Trust Board under the First Schedule of the Act has in addition to any powers in any other Act of Parliament or Deed creating or relating to the trust:
- (2) The powers set out in the Second Schedule to the Act -
 - (a) powers of sale and the methods of sale;
 - (b) powers of exchange;
 - (c) powers of lending;
 - (d) powers to lease;
 - (e) powers to accept surrender of leases and purchase improvements;
 - (f) powers to invest;
 - (g) powers to borrow;
 - (h) powers to combine and intermingle trust funds;
 - (i) powers to lend to itself;
 - (j) powers to lease or license to itself;
 - (k) powers to enter bailments;
 - (l) powers to purchase property and shares;
 - (m) powers to join with others in purchasing buildings or developing;
 - (n) powers to build or develop;
 - (o) powers to receive investment;

- (p) powers to farm;
 - (q) powers to enter contracts;
 - (r) powers to act as advisory Trustee.
- (3) The Powers under the Second Schedule of the Act may be exercised notwithstanding anything to the contrary in any Act of Parliament or instrument creating or relating to the trust, under Section 3 of the Act.
 - (4) The Board may join with, enter into joint ventures, or act in combination with others to benefit an administered trust, under Section 4 of the Act.
 - (5) The Board may receive from any trustee a trust held for religious educational or other charitable purposes, under Section 6 of the Act.
 - (6) The Board is a "leasing authority" within the law under Section 7 of the Act.
 - (7) No land on which there is, or which is held for a future church, church hall, school, hostel or other school building, memorial building or structure or burial ground can be sold, exchanged, mortgaged, leased for more than 21 years, except with prior authority of the Synod under Section 3(2) of the Act.
 - (8) Trusts may be varied by the processes authorised by Part III of the Act.

9. **POWERS OF OTHER TRUST BOARDS**

- (1) For other Trust Boards within the Diocese and Trust Boards within the Parishes of the Diocese the Act provides different and limited powers in the Third Schedule to the Act.
- (2) Under the Third Schedule to the Act other Trust Boards have -
 - (a) limited powers of sale and the methods of sale subject to express terms of any trust and net moneys must be reinvested in other land, spent on capital improvements or invested in trust funds;
 - (b) limited powers of exchange with same restrictions as in 9(2)(a);
 - (c) limited powers to mortgage;
 - (d) limited powers to lease if trust allows;
 - (e) limited powers to purchase furnishings or improve property;
 - (f) limited powers to lend on 1st mortgage if not forbidden by trust;
 - (g) powers to exercise any of those powers listed under Clause 8(2) hereof that the General Synod/te Hīnota Whānui may specifically authorise in each case.

10. **CHURCH TRUSTEES AND POWERS UNDER GENERAL SYNOD**

Continuing trusts on property: Property originally subject to special covenants and declarations of trust imposed by any founder, donor, testator or other benefactor transferred to or accepted by the Trust Board from other trustees continues to be subject to those trusts, under Canon I Clause 2.10.

11. **MAORI INTERESTS**

Where Maori land was given for any purpose associated with the church and is of special significance to Maori or any section of Maori Part IV of the Act limits how that land may be dealt with.

12. CANON LAW DUTIES OF TRUSTEES

- (1) Where Land is held by a Trust Board for "religious and charitable purposes in general" the specific application may be determined by the Synod, under Canon III Clause 2.
- (2) Diocesan Trustees shall carry out the objects of each trust in such manner not inconsistent with terms of trust as the Diocesan Synod shall from time to time direct, under Canon III Clause 10.
- (3) Questions between the Trustees and Ministers or Officers of a Parish shall be decided by the Bishops and the Standing Committee, under Canon III Clause 17.
- (4) No sale or exchange of land may be made without the permission of Synod or when not in session the Standing Committee: Synod's power is limited by proviso, under Canon III Clause 3.
- (5) A Trust Board has power to enter into contracts with any public company or body corporate notwithstanding members of the Board may be members of that company or body provided the Trustee declares their interest and does not vote, under Canon I Clause 2.11.

13. REPORTS

- (1) All Trustees of property within the Diocese shall give to Synod a yearly Report of trust property, investments, and an audited statement of assets and liabilities, under Canon III 4.1.
- (2) All Trustees shall have attached to the annual Report a complete terrier of land giving particulars [a] to [j] of Canon III Clause 4.2.
- (3) Trust Boards shall also report to the General Synod/te Hīnota Whānui under Canon III Clauses 6 and 9 in connection with any property held for General Synod/te Hīnota Whānui.

14. BUILDINGS

- (1) No building shall be erected on any church site, under Canon III Clause 13, nor on any vicarage land, under Canon III Clause 19, until plans have been submitted to the Bishops for a Bishops' faculty and the Trustees who shall declare if the proposal is contrary to any trust imposed on the land.
- (2) All buildings and contents shall be adequately insured under Diocesan regulations, under Canon III Clause 14.
- (3) No significant alteration to the interior of the building can take place without the declaration of Trustees, that the proposal is not contrary to any trust imposed on the building, and the consent of the Trustees, the churchwardens and the Minister, under Canon III Clause 15, and without the Bishops' faculty being issued, under Canon III Clause 16.
- (4) Issues between Trustees and the Parish shall be decided by the Bishops, under Canon III Clause 17.

15. VICARAGES

- (1) The Vicarage is for the use of the minister of the Parish without cost; Trustees having a right to inspect, under Canon III Clause 20.
- (2) Trustees shall report to Synod on Vicarages not in a state of good repair, under Canon III Clause 21.

- (3) Synod shall determine who pays for repairs, under Canon III Clause 22.
- (4) The surviving spouse of a deceased Minister shall be allowed to continue use of the parish house for 3 months following the decease of the Minister, under Canon III Clause 23.

16. INCORPORATION OF OTHER TRUST BOARDS

Synod may consent to the incorporation under any Act of Parliament of any body of Trustees, under Title F Canon II.

17. APPOINTMENT OF PARISH AND OTHER TRUSTEES

Trustees to be appointed by the Diocesan Trusts Board for Parish or Other Trust Boards in this Diocese acting under Title F Canon VI Clause 2 and Section 20 of the Anglican Church Trusts Act 1981 will be on the nomination of that Parish under the Trust Deed for that Parish's Trust Board or according to the Statute governing any Other Trust Board.

SCHEDULE:

**DECLARATION OF ACKNOWLEDGEMENT OF THE AUTHORITY OF THE
GENERAL SYNOD/TE HINOTA WHANUI.**

I being about to be appointed to the office of
..... DO ACKNOWLEDGE AND DECLARE

- 1. That I accept the authority of the General Synod/te Hīnota Whānui of the Anglican Church in Aotearoa, New Zealand and Polynesia in relation to the office of
- 2. That I will obey all the applicable laws and regulations and the provisions of the Constitution/Te Pouhere of the said Church in so far as they relate to the above described office.
- 3. That I will well and faithfully carry out the duties and responsibilities relating to the above described office, and if called upon by the General Synod/te Hīnota Whānui of the said Church, or by any person or body lawfully acting under its authority, I will immediately resign the office and any benefits that relate to it.

Signed by the above named Declarant this day of in the presence of -

signature of witness:
occupation:
address: