



Anglican Church of Australia Act 1895

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Reprint note—

This reprint has been reformatted to reflect current drafting styles.

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Queensland

Anglican Church of Australia Act 1895

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Anglican Church of Australia Act 1895

An Act to make better provision for the management of the property and affairs of the Anglican Church of Australia in Queensland

Preamble

WHEREAS by a consensual compact made by and between the bishop, clergy, and laity of the Anglican Church of Australia (then called the United Church of England and Ireland) in the Diocese of Brisbane, on 18 June 1868, a constitution was agreed to for the management and good government of the said church in the said diocese.

And whereas the original instrument containing the said consensual compact has been lost or destroyed.

And whereas by another consensual compact made by and between the bishop, clergy, and laity of the said church in the Diocese of Rockhampton on 29 June 1893, a constitution was agreed to for the management and good government of the said church in the said lastmentioned diocese.

And whereas by letters patent, dated 2 November 1870, and issued under the hand of the Governor for the time being and the seal of the colony of Queensland by virtue of the provisions of the *Religious Educational and Charitable Institutions Act 1861*, certain persons holding and exercising certain offices in the said church in the said Diocese of Brisbane were constituted a body corporate by the name of The Corporation of the Synod of the Diocese of Brisbane.

And whereas Acts of Parliament have from time to time been passed for the purpose of regulating the management of the property and affairs of the said church, and it is desirable to make better provision for this purpose, and to preserve records and facilitate proof in manner hereinafter provided of consensual

compacts, acts, canons, and resolutions made or passed by the bishops, clergy, and laity of the said church.

1 Interpretation

In this Act—

church means the branch of the Anglican Church of Australia in Queensland.

Diocese of Brisbane means that part of the State which is situated to the south of the southern boundaries of the central district as defined in the *Real Property (Local Registries) Act 1887*, together with such other territory as may from time to time be assigned to such diocese, or so much thereof as for the time being has not been assigned to any other diocese.

Diocese of Rockhampton means so much of the State as is situated between the twenty-second parallel of south latitude and the southern boundaries of the central district aforesaid, together with such other territory as may from time to time be assigned to such diocese, or so much thereof as for the time being has not been assigned to any other diocese.

synod means the bishop, clergy, and representatives of the laity for the time being constituting the governing body for the management of the affairs of the church in the diocese for which such governing body is constituted in pursuance of any consensual compact.

property means all property real or personal, including money or securities for money.

2 Proof of consensual compact of the church in the Diocese of Brisbane

The constitution contained in schedule 1 shall be deemed and taken to be a true copy of the consensual compact firstly hereinbefore recited, and a copy of this Act printed by the government printer shall be received as sufficient evidence of the contents of such consensual compact, and of the same having been duly made by the bishop, clergy, and laity of the church in the Diocese of Brisbane.

Editor's note—

Schedule 1 is not reprinted. The text of the constitution contained in the schedule has been amended by appropriate church authorities and is now out of date.

3 Dissolution of old corporation and incorporation of synod of Diocese of Brisbane as a new corporation

From and after the passing of this Act the corporation constituted by the letters patent hereinafter recited (the *old corporation*) shall be dissolved, and thereupon the synod of the Diocese of Brisbane (the *new corporation*) shall be constituted a corporation under the provisions of this Act by the name of The Corporation of the Synod of the Diocese of Brisbane.

4 Vesting of property in new corporation

All property which at the time of the passing of this Act was vested in the old corporation shall, from and immediately after the passing of this Act, and without any conveyance, transfer, assignment, or other assurance thereof, be vested in the new corporation, subject however to such trusts, conditions, charges and encumbrances as the same was subject to immediately before such vesting as aforesaid.

5 Substitution of name of new corporation

All mortgages, liens, securities, bonds, guarantees, agreements, contracts, wills, deeds, documents, instruments, canons, and writings whatsoever relating to any property or affecting any rights or interests therein, and giving a right to or against any person, and in which the name of the old corporation appears and which were in existence at the time of the passing of this Act shall immediately upon the passing of this Act be read and construed as if the name of the new corporation appeared therein in the place of the name of the old corporation, and shall operate and take effect accordingly, provided that any debtor of the old corporation shall be entitled to set off any debt against the new corporation which

but for the passing of this Act the debtor would have been entitled to set off against the old corporation.

6 Continuance of proceedings

All actions, demands, caveats, notices, or other proceedings commenced, made, entered, or given by to on behalf of or against the old corporation previous to the passing of this Act may be prosecuted, acted upon, or otherwise dealt with by or in the name of or against the new corporation as if such actions, caveats, notices, and other proceedings had been commenced, made, entered, or given by to on behalf of or against the new corporation and the benefit or burden of any decree, judgment order, verdict, award, demand, caveat, notice, or proceeding to which the old corporation was at the passing of this Act entitled or subject shall inure to or be binding upon the new corporation.

7 Incorporation of synod of Diocese of Rockhampton

As soon as conveniently may be after the passing of this Act the consensual compact secondly hereinbefore recited shall be recorded under the provisions of this Act, and thereupon the synod of the Diocese of Rockhampton shall be constituted a corporation under the provisions of this Act by the name of The Corporation of the Synod of the Diocese of Rockhampton.

8 Incorporation of synods generally

- (1) Any consensual compact, whether made before or after the passing of this Act, and in pursuance whereof a synod other than those hereinbefore mentioned has been or may hereafter be constituted in any diocese may at any time hereafter be recorded in manner aforesaid, and thereupon such synod shall be constituted a corporation under the provisions of this Act by the name of The Corporation of the Synod of the Diocese of [name of diocese].

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- (2) However, no such consensual compact shall be recorded under the provisions of this Act except in pursuance of a resolution passed by such synod.

9 Powers of synod constituted a corporation under the provisions of this Act

- (1) Every synod constituted a corporation under the provisions of this Act shall be a body corporate with perpetual succession and a common seal, and subject to the provisions of this Act may take, hold, lease, mortgage, charge, alienate, and otherwise deal with any property, and sue and be sued in its corporate name, and in all other respects shall have and enjoy all rights and privileges usually incidental or appertaining to a body corporate.
- (2) However, for the performance of any of its functions as such body corporate as aforesaid, the synod may act by any committee, officers, persons, or other agents duly authorised in that behalf in accordance with the provisions of the constitution, acts, canons, and resolutions of the synod for the time being in force.
- (3) Any person making or permitting to be made any transfer or payment bona fide in reliance on any instrument to which the corporate seal of the synod is affixed shall be indemnified and protected in respect of such transfer or payment notwithstanding any defect in or other circumstance affecting the execution of such instrument.

10 Power for trustees to transfer property to synod

When any property is vested in any person or persons as trustee or trustees for the church, or for the holder of any office therein in any diocese the synod whereof has been constituted a corporation under the provisions of this Act, such trustee or trustees, or a majority of them, may if they think fit transfer such property to the synod upon the trusts to which the same is subject.

11 Power of bishop to execute transfer

- (1) If any property which is by virtue of section 10 authorised to be transferred to the synod of a diocese cannot be so transferred by reason of any disability affecting any trustee thereof, or the trustee's absence from the State, or the death of a sole trustee thereof, the bishop of the diocese may give notice of the bishop's intention to join in executing, or to execute any transfer which such trustee could have executed if the trustee had been alive and present in the State and not subject to any such disability as aforesaid.
- (2) Such notice shall be published in the gazette and in some newspaper circulating in the district in which such property is situated, and if within 1 month from the publication of such notice no proceedings be taken by a majority of the persons in whom such property is vested, the bishop may join in executing, or may execute such transfer accordingly.

12 Effect of transfer

Every such transfer, as in sections 10 and 11, shall be as effectual as if the same had been duly executed by all persons in whom such property was vested immediately before the execution thereof, and shall operate as a discharge to such persons from the duties of the trust.

13 Trusts of property vested in synods

All property which is hereby or shall hereafter be vested in or in any manner acquired by any synod constituted a corporation under the provisions of this Act shall, so far as the same is subject to any express trusts created by the original donor thereof, or declared or contained in any Act of Parliament in which such property is specifically mentioned, be held, managed, and dealt with by such synod in conformity with such trusts, and shall, so far as the same is not subject to any such trusts as aforesaid, or so far as any such trusts shall not extend, be held and managed, and may be mortgaged, charged, alienated, or otherwise dealt with and disposed of in such manner as the synod or any committee to which the

synod may delegate its functions in that behalf may from time to time direct, and all property so vested in such synod shall, as to the management thereof, be subject to the acts, canons, and resolutions of the synod for the time being in force and applicable thereto, and subject as aforesaid, all moneys in respect of any sale, mortgage, or lease of such property shall be applied for such purposes and generally in such manner for the benefit of the church as the synod or any such committee as aforesaid may from time to time direct.

14 Record of acts, canons, and resolutions

No act, canon, or resolution made or passed by any synod constituted a corporation under the provisions of this Act, whether before or after its incorporation, shall be effectual unless the same or a copy thereof, certified by the bishop of the diocese to which such synod belongs, be recorded under the provisions of this Act within a period of 3 months from the date of the making or passing thereof or the incorporation of such synod, whichever date shall last happen, but when so recorded the same shall take effect from the date of the making or passing thereof.

15 Mode of recording documents

Any document recorded under the provisions of this Act shall be so recorded by filing the same at the office of the Supreme Court nearest to the see of the bishop of the diocese to which such document relates, and the registrar of the said court and other officers in charge of the records thereof are hereby authorised and required to file all such documents in accordance with the provisions of this Act.

16 Evidence of consensual compacts, acts, canons, and resolutions

A copy of the whole or any part of any consensual compact, act, canon, or resolution recorded under the provisions of this Act, certified by the registrar or other officer in charge thereof, shall be received as sufficient evidence of the contents of such

consensual compact, act, canon, or resolution and of the same having been duly made or passed, and no consensual compact, act, canon, or resolution recorded under the provisions of this Act shall be held to be invalid by reason only of any irregularity or informality in the convening of the synod by which the same purports to have been made or passed, or in the election or summoning of any member of such synod, or by reason of the absence of any member of such synod who may have been elected or summoned thereto.

17 Limitation of Act

- (1) Nothing in this Act contained shall give any validity to any consensual compact, act, canon, or resolution which contravenes any law or statute now or hereafter to be in force.
- (2) Save as herein otherwise expressly provided, nothing in this Act contained shall prejudice or affect the power or authority of the synod of any diocese to make, pass, amend, and repeal any consensual compact, act, canon, or resolution binding on the bishop, clergy, and laity of the church in such diocese for the enforcing of discipline in the church, the appointment, deposition, deprivation, or removal of any person bearing office therein, of whatever order or degree, the alteration of the boundaries of the diocese, the disposal and management of the property of the church, and the convenient and orderly regulation of the affairs and interests of the church in matters relating to and affecting only the church and the officers and members thereof.

19 Short title

This Act may be cited as the *Anglican Church of Australia Act 1895*.