

NORFOLK



ISLAND

CHURCH OF ENGLAND LAND ACT 1937

[Consolidated as at 26 February 2013
on the authority of the Administrator
and in accordance with
the *Enactments Reprinting Act 1980*]

TABLE OF PROVISIONS

PART 1 - PRELIMINARY

1. Short title
- 1A. Definitions
- 1B. Constitution of Trust
- 1C. Proceedings of Trust
2. Vesting of lands in Commonwealth
3. Land to vest for the use of Church of England
4. Trusts upon which lands are held
 - First Schedule
 - Second Schedule
 - Third Schedule
 - Fourth Schedule
 - Fifth Schedule



Church of England Land Act 1937

An Act to vest in the Commonwealth certain Lands in Norfolk Island granted as a site for a Church of England, and for other purposes

Short title

1. This Act may be cited as the *Church of England Land Act 1937*.

Definitions

- 1A. In this Act, unless the contrary intention appears —

“member” means a member of the Trust other than the Archbishop;

“the Archbishop” means the Archbishop of Sydney or the person for the time being holding the office of Archbishop of the Diocese in which the Church or Churches in which religious services according to the doctrines, rites and ceremonies of the Church of England are performed in Norfolk Island are for the time being placed.

“the Trust” means the Trust constituted by section 1B of this Act.

Constitution of Trust

1B. (1) Notwithstanding the repeal of section 1B of the *Church of England Land Act 1937-1942* effected by section 4 of the *Church of England Land Act 1970*, the body corporate established by section 1B of the *Church of England Land Act 1937-1942* under the name Church of England Property Trust —

- (a) is preserved and continues in existence as a body corporate with perpetual succession under and subject to the provisions of this Act under that name but so that the corporate identity of the body corporate shall not be affected;
- (b) shall have a seal;
- (c) is capable of suing and being sued; and
- (d) shall be constituted as provided in the next succeeding subsection.

- (2) The Trust consists of —

- (a) The Archbishop;
- (b) one member, being a male person who —
 - (i) is, when appointed, a person ordinarily resident in Norfolk Island; and
 - (ii) is a lineal descendant of a person who was an original settler in Norfolk Island, being a settler generally referred to as a Pitcairner,

appointed for the purpose of this paragraph;

- (c) one member, being a person who is, when appointed, a person ordinarily resident in Norfolk Island, appointed for the purpose of this paragraph; and
- (d) one other member.

(3) The members of the Trust shall be appointed by the Archbishop.

(4) A member may resign his office by writing under his hand delivered to the Archbishop.

(5) A resignation under the last preceding subsection does not have effect until accepted by the Archbishop.

(6) Where a member appointed for the purpose of paragraph (b) or (c) of subsection (2) of this section is absent from Norfolk Island for a continuous period of more than six months, the Archbishop may, by writing under his hand delivered to the member, remove the member from office.

(7) The Archbishop may, by writing under his hand delivered to a member, remove the member from office if the Archbishop is of the opinion that the member is unfit to remain a member by reason of misconduct or negligence in the discharge of his duties as a member or because of his incapacity.

(8) Where the Archbishop appoints a person to be a member, accepts the resignation of a member or removes a member from office, the Archbishop shall forthwith notify the Administrator accordingly.

(9) Where the office of a member becomes vacant, the Archbishop shall, as soon as practicable after the office becomes vacant, appoint a person to be a member in place of that first-mentioned member.

(10) The exercise of a power or the performance of a function by the Trust is not invalidated —

- (a) by reason only of there being a vacancy or vacancies in the membership of the Trust; or
- (b) by reason only of a defect or irregularity in connection with the appointment of a member.

Proceedings of Trust

1C. (1) Except when otherwise directed by the Archbishop, a meeting of the Trust is not required to decide a question before the Trust, and the members may separately consider, and make their respective decisions on, the question.

(2) The decision of a majority of the members shall be taken to be the decision of the Trust.

(3) If the members are equally divided on a question, the decision of the Archbishop shall be taken to be the decision of the Trust.

(4) In this section, 'member' includes the Archbishop.

Vesting of lands in Commonwealth

2. The land described in the First and Fifth Schedules to this Act is hereby vested in the Commonwealth and freed and discharged from all trusts and encumbrances.

Land to vest for the use of Church of England

3. (1) The land described in the Second Schedule to this Act is hereby vested in the Trust for an estate in fee simple upon the trusts set out in this Act.

(2) The Trust shall not, without the consent of the Governor-General, alienate the whole or any part of the land described in the Second Schedule to this Act.

(3) The land described in the Third and Fourth Schedules to this Act is hereby vested in the Archbishop for an estate in fee simple upon the trusts set out in this Act.

Trusts upon which lands are held

4. The trusts upon which the lands referred to in the last preceding section shall be held shall be upon trust generally for the use and benefit of the Church of England in Norfolk Island for such purposes as may be approved by the Archbishop in accordance with the Acts and Rules made for the order and good government of the Church of England from time to time in force in Norfolk Island, and more particularly —

(a) as to the land described in the Third Schedule to this Act, upon trust —

- (i) to repair, and maintain in good repair, the chapel erected on the land and known as the Chapel of St. Barnabas;
- (ii) to indemnify and keep indemnified the Melanesian Mission Trust Board of Auckland in the Dominion of New Zealand against all liability for the repair and maintenance of the chapel;
- (iii) to permit the removal from the chapel by the Bishop of Melanesia of such ornaments, fixtures or other articles in the chapel as are memorials of the late Bishop Patteson and other missionaries or are bequests specifically made for the use, benefit or purposes of the Melanesian Mission;
- (iv) to insure, and keep insured, with a reputable insurance company, the chapel and its furnishings against damage or destruction by fire, storm and tempest and to apply any insurance moneys received for and in respect of the damage or destruction of the chapel towards its repair and reconstruction;
- (v) to make any contributions required or permitted to be made by the National Security (War Damage to Property) Regulations in respect of the chapel and its furnishings, and to apply any moneys received for and in respect of any war damage to or destruction of the chapel or its furnishings by war damage towards the repair, reconstruction and replacement of the chapel and its furnishings;
- (vi) to erect any building on the land:

Provided that no such building shall be erected unless a plan showing the location and type of the building has first been submitted to the Commonwealth Minister, and the Commonwealth Minister has approved of the plan; and

- (vii) to keep and maintain the land, including the cemetery on the land and all paths and fences made or erected on the land, in a good, cleanly and orderly condition:

Provided that nothing in the foregoing provisions of this section shall be deemed to authorise the alienation in whole or in part of the land described in the Third Schedule; and

- (b) as to the land described in the Fourth Schedule —
 - (i) to lease or sell the whole or any portion of the said land as the Archbishop, in his discretion, from time to time determines;
 - (ii) to pay into a fund, for investment, the proceeds derived from any sale, or the compensation moneys received in respect of any resumption by the Commonwealth Government, of the land or any part of it; and
 - (iii) to apply the income derived from any lease of the whole or any part of the land and from the investment of the moneys of the fund referred to in the last preceding sub-paragraph, in the first place, towards the maintenance and repair of the chapel and of the cemetery mentioned in paragraph (a) of this section, and, in the second place, towards the stipend of the person holding, for the time being, the office of Chaplain of Norfolk Island during such period as he conducts religious services in the chapel and has a duty imposed upon him to supervise the maintenance of the chapel in good repair.

THE FIRST SCHEDULE

All that piece or parcel of land at Norfolk Island in the Government Reserve-Commencing on the western side of a road at its intersection with the westerly prolongation of the southern boundary line of portion sixty-seven "a", of forty-nine acres thirty-seven perches and bounded thence on the east by that road dividing it partly from a portion of land for Military Barracks bearing southerly about five chains and thirty links to another road on the south by that road bearing westerly about six chains and eighty links on the west by the eastern boundary of another portion of land for Military Barracks and its northerly continuation being in all a line bearing northerly about six chains and on the north by the southern boundary line of portion eighty-one, containing sixty-two acres, three roods and thirty-eight perches bearing easterly about six chains and ninety links to the point of commencement.

THE SECOND SCHEDULE

All that piece of land at Norfolk Island containing an area of one acre three roods twenty-two and eight tenths perches more or less: - Commencing at a point being the intersection of a north-eastern side of Middlegate-road with a north-western side of Quality Row and bounded thence by part of the north-eastern side of Middlegate-road aforesaid bearing three hundred and forty degrees thirty minutes, three hundred and seventy-nine and four tenths links to the southernmost corner of portion 81e, thence by part of the south-eastern boundary of that portion bearing seventy-five degrees, five hundred and nine and two tenths links, thence by a line bearing one hundred and seventy-four degrees eight minutes thirty seconds, four hundred and fifty and seven tenths links to the north western side of Quality Row aforesaid, thence by part of that side of that Row, bearing two hundred and sixty-four degrees nineteen minutes, four hundred and thirteen links to the point of commencement.

THIRD SCHEDULE

All those pieces or parcels of land in the Territory of Norfolk Island being Portion 146a, a path and cemetery containing a total area of seventeen acres three roods seventeen perches more or less.

Firstly: All that piece or parcel of land containing an area of 17 acres 1 rood 35 perches more or less being portion 146a (parts of original portions 146 and 147): Commencing at a point on a north-eastern side of Anson Bay Road being a south-western corner of portion 146b and bounded thence by north-eastern north-western and north-eastern sides and part of another north-eastern side of Anson Bay Road bearing 283 degrees 3 minutes 348.3 links 277 degrees 4 minutes 333.3 links 260 degrees 20 minutes 273.7 links 278 degrees 35 minutes 120.5 links 315 degrees 57 minutes 268.8 links and 298 degrees 7 minutes 537.2 links to the southernmost corner of Stock Reserve thence by the south-eastern boundary of that reserve and part of a south-eastern boundary of portion 145c bearing in all 32 degrees 14 minutes 930 links to the Centre of Mission Creek thence by the centre of that creek upstream to its

intersection with a north-western boundary of portion 146b (which intersection bears 25 degrees 44 minutes 836 links from the commencing point) thence by that north-western boundary bearing 205 degrees 44 minutes 836 links to the point of commencement.

Secondly: All those pieces or parcels of land containing a total area of 1 rood 22 perches more or less being a cemetery and a path (parts of original portion 146): Commencing at a point in the centre of Mission Creek and on the south-eastern side of a path which point bears 25 degrees 44 minutes 740 links 295 degrees 28 minutes 622 links and 14 degrees 120 links from a south-western corner of portion 146b on a north-eastern side of Anson Bay Road and bounded thence by north-western and south-western boundaries of portion 146b bearing 14 degrees 84.5 links and 324 degrees 237 links to the south-eastern boundary of a cemetery thence by part of that boundary south-western south-eastern and north-eastern boundaries of portion 146b and part of the south-eastern boundary beforementioned of the cemetery bearing 69 degrees 15 minutes 110 links 339 degrees 15 minutes 181 links 249 degrees 15 minutes 194 links 159 degrees 15 minutes 181 links and 69 degrees 15 minutes 71.6 links to the south-western side of a path 12 links wide thence by north-eastern and south-eastern boundaries of portion 146b bearing 144 degrees 234.7 links and 194 degrees to the centre of Mission Creek thence by the centre of that creek upstream to the point of commencement.

FOURTH SCHEDULE

All those pieces or parcels of land in the Territory of Norfolk Island being Portions 72, 144 and 146b containing a total area of One hundred and seventy four acres two roods thirty-four perches more or less.

Firstly: All that piece or parcel of land containing an area of 52 acres 2 roods 38 perches more or less being portion 72: Commencing at a point on a south-western side of Anson Bay Road being the northernmost corner of portion 73 and bounded thence by the north-western boundary of that portion bearing 205 degrees 50 minutes 15 seconds 2629.4 links to the easternmost corner of portion 82 thence by the north-eastern boundary of that portion bearing 295 degrees 21 minutes 15 seconds 2463 links to a south-eastern side of Headstone Road thence by part of that side and another south-eastern side of that road bearing 45 degrees 19 minutes 30 seconds 2206.7 links and 11 degrees 10 minutes 30 seconds 415.7 links to a south-western side of Anson Bay Road beforementioned thence by part of that side a south-western side and part of another south-western side of that road bearing 97 degrees 4 minutes 143.4 links 103 degrees 3 minutes 333.6 links and 113 degrees 52 minutes 1370.4 links to the point of commencement.

Secondly: All that piece or parcel of land containing an area of 44 acres 2 roods 10 perches more or less being portion 144: Commencing at a point on a north-western side of Headstone Road being the easternmost corner of portion 143 and bounded thence by a north-eastern boundary of that portion bearing 315 degrees 19 minutes 30 seconds 2260 links to the right bank of Mission Creek thence by that bank of that creek downstream to its intersection with the south-eastern boundary of portion 142

thence by that boundary bearing 48 degrees 51 minutes 2080 links to a south-western side of Anson Bay Road thence by part of that side south-western and south-eastern sides and part of another south-western side of that road bearing 149 degrees 18 minutes 533.2 links 164 degrees 11 minutes 706.5 links 118 degrees 7 minutes 713 links 135 degrees 57 minutes 286.9 links 98 degrees 35 minutes 170.4 links 80 degrees 20 minutes 275.1 links and 97 degrees 4 minutes 109.9 links to a north-western side of Headstone Road aforesaid thence by that side and part of another north-western side of that road bearing 191 degrees 10 minutes 30 seconds 393 links and 225 degrees 19 minutes 30 seconds 1580.9 links to the point of commencement.

Thirdly: All that piece or parcel of land containing an area of 77 acres 1 rood 26 perches more or less being portion 146b (parts of original portions 146 and 147): Commencing at a point on a north-eastern side of Anson-Bay Road being the westernmost corner of portion 68d and bounded thence by a north-eastern side of Anson Bay Road bearing 293 degrees 52 minutes 1902.6 links to a south-eastern corner of portion 146a thence by a south-eastern boundary of that portion bearing 25 degrees 44 minutes 836 links to the center of Mission Creek, thence by the centre of that creek downstream to its intersection with the south-eastern side of a path 12 links wide which intersection bears 25 degrees 44 minutes 740 links 295 degrees 28 minutes 622 links and 14 degrees 120 links from the south-eastern corner of portion 146a beforementioned thence by that side and a north-eastern side of that path bearing 14 degrees 84.5 links and 324 degrees 237 links to the south-eastern boundary of a Cemetery thence by part of that boundary the north-eastern north-western and south-western boundaries and again part of the south-eastern boundary of the Cemetery beforementioned bearing 69 degrees 15 minutes 110 links 339 degrees 15 minutes 181 links 249 degrees 15 minutes 194 links 159 degrees 15 minutes 181 links and 69 degrees 15 minutes 71.6 links to a south-western side of the path 12 links wide beforementioned thence by that side and a north-western side of that path bearing 144 degrees 234.7 links and 194 degrees to the centre of Mission Creek thence by the centre of that creek downstream to its intersection with a south-eastern boundary of portion 145c thence by part of that boundary bearing 32 degrees 14 minutes 1525.8 links to a south-eastern side of Mission Road thence by part of that side a south-eastern side and part of another south-eastern side of that road bearing 78 degrees 44 minutes 562.8 links 89 degrees 8 minutes 486.9 links and 71 degrees 58 minutes 27.1 links to the westernmost corner of portion 149i thence by south-western boundaries of that portion and portion 149j and part of the south-western boundary of portion 150a bearing 124 degrees 59 minutes 575.3 links 115 degrees 44 minutes 1548 links and 115 degrees 51 minutes 386.1 links to the northernmost corner of portion 68a thence by the north-western boundaries of that portion and portion 68d bearing in all 205 degrees 44 minutes 2599 links to the point of commencement.

FIFTH SCHEDULE

All those pieces or parcels of land containing an area of 4 acres, 3 roods, 27 perches representing the difference between the land surveyed and described in the Fourth Schedule to the *Melanesian Mission Lands Ordinance* 1923-1924 and the land described in the Third and Fourth Schedules to this Act.

NOTES

The *Church of England Land Act 1937* as shown in this consolidation comprises Act No. 8 of 1937 and amendments as indicated in the Tables below.

Enactment	Number and year	Date of commencement	Application saving or transitional provision
<i>Church of England Land Act 1937</i>	8, 1937	3.9.1937	
<i>Church of England Land Act 1942</i>	1, 1942	18.8.1942	
<i>[previously consolidated as at 1 January 1965]</i>			
<i>Church of England Land Act 1970</i>	5, 1970	8.10.1970 – Gaz No. 44, 8.10.70	5

Note 1 – Section 2 of the *Church of England Land Ordinance 1942* reads as follows – “The *Melanesian Mission Lands Ordinance 1923*, the *Melanesian Mission Lands Ordinance 1923 (No. 2)* and the *Melanesian Mission Lands Ordinance 1924* are hereby repealed.”.

Note 2 – Section 3 of the *Church of England Land Ordinance 1942* reads as follows – “3. The first and second paragraphs of the Preamble to the Principal Ordinance are repealed.”.

*[Previously consolidated as at 25 February 2008 and re-issued 2 June 2010 to amend an
editing ref in the notes table]*

<i>Interpretation (Amendment) Act 2012</i>	14, 2012	28.12.12
--	----------	----------

*[to substitute throughout —
Commonwealth Minister for Minister;
and to substitute Minister for executive
member]*

Table of Amendments

ad = added or am = amended rep = repealed rs = repealed and
inserted substituted

Provisions affected	How affected	
1	am	2, 1963
1A	ad	1, 1942
1B	ad	1, 1942
	rs	5, 1970
1C	ad	5, 1970
2	am	1, 1942
3(1)	am	1, 1942
3(2)	am	1, 1942
3(3)	am	1, 1942
4	rs	1, 1942
Schedule 3	ad	1, 1942
Schedule 4	ad	1, 1942
Schedule 5	ad	1, 1942

© Norfolk Island Government 2013

The *Copyright Act 1968* of the Commonwealth of Australia permits certain reproduction and publication of this legislation. For reproduction or publication beyond that permitted by the Act, written permission must be sought from the Legislative Counsel, Administration of Norfolk Island, Norfolk Island, South Pacific 2899.