

**Reprint
as at 21 October 1972**



**Anglican Trustees Investment
(Auckland) Act 1972**

Private Act 1972 No 8
Date of assent 20 October 1972
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Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

**An Act to facilitate the investment of trust funds held upon
charitable and religious trusts in divers and sundry trusts
throughout the Anglican Diocese of Auckland**

Preamble

Whereas there are now divers and sundry trust funds throughout the Anglican Diocese of Auckland held by divers individual trustees and by the General Trust Board of the Diocese of Auckland upon sundry trusts for special purposes in connection with parishes and churches throughout the Auckland Diocese for religious, educational, or other charitable purposes:

And whereas the various trustees thereof are restricted by the instruments creating such trusts or otherwise howsoever by law in investing the trust funds:

And whereas it is considered expedient and desirable that the capital of such trust funds shall be invested in investments on a wider basis than heretofor:

And whereas many of the separate trust funds aforesaid comprise small amounts of capital which if amalgamated with other trust funds of a like nature could be more readily invested:

And whereas within the said Diocese an investment trust board has been set up with wider powers of investment than those conferred upon trustees under and by virtue of the Trustee Act 1956, for the sole purpose of being a trustee to hold and invest in its own name trust funds transferred to it pursuant to the provisions of this Act, and to account for and pay the net income arising from such investments and on request to repay capital to the trustees of the respective funds for administration thereof by such trustees in accordance with the provisions of their respective trust instruments:

And whereas the trustees of the various said trusts would be in breach of trust if they were to transfer their trust funds to the said investment trust board for investment unless authorised so to do by this Act.

1 Short Title

This Act may be cited as the Anglican Trustees Investment (Auckland) Act 1972.

2 Interpretation

In this Act, unless the context otherwise requires,—

Anglican or **Anglican Church** means the Church of the Province of New Zealand commonly called the Church of England or the Anglican Church

Board means the trustees for the time being of the trust deed

trust deed means the deed of trust bearing date 25 July 1972, a copy of which is set forth in the Schedule

trustee means any person or persons, whether incorporated or not, now or hereafter holding trust funds upon trust for any Anglican religious, educational, or other charitable purpose of the Anglican Diocese of Auckland or any part thereof, and, without derogating from the generality of the foregoing, in particular means trustees of such trusts the objects of which are limited to a particular Anglican Parish or to a particular Anglican Church or the members of a particular Anglican congregation.

3 Transfer of trust funds

Subject to any direction to the contrary contained in the instrument creating the trust, any trustee may transfer the whole or any part or parts of any trust fund held by the trustee upon trust for any Anglican religious, educational, or other charitable purpose to the Board to be held by it as trustee thereof with the powers and subject to the terms and conditions conferred and imposed upon the Board under and by virtue of the trust deed, notwithstanding that the powers of investment conferred upon the Board by the trust deed are wider than the powers conferred upon the trustee by the instrument creating such trust.

4 Advice on investments

Notwithstanding the provisions of the trust deed, the Board, before making any investment pursuant to paragraph (b) of

clause III of the trust deed, shall first obtain and consider proper advice in writing as to the suitability of the proposed investment from a person—

- (a) who is reasonably believed by the Board to be qualified by his ability in and practical experience of financial matters; and
- (b) who is not a member of the Board, or an officer or employee of the Board or of the company in which it is proposed to make such investment.

5 Investments

Notwithstanding the provisions of the trust deed, the Board shall not invest any part of any trust fund in the manner set out in paragraph (a) of clause III of the trust deed.

6 Trustees to remain liable for proper application of funds

Any trustee so transferring the whole or any part or parts of a trust fund to the Board shall be and remain liable for the proper application of the capital and the income of such fund in accordance with the instrument creating such trust, but such trustee shall not be liable for any loss of capital occurring by reason of any fall in the capital value of any investment made or retained by the Board as trustee or for any reduction of income expended by the Board in administration in accordance with the provisions of the trust deed.

7 Private Act

This Act is hereby declared a private Act.

Schedule

This deed is made the 25th day of July 1972 by Douglas Lenard Hazard, chartered accountant, Wilfred Allen Subritzky, solicitor, Michael Pierce Hay, sharebroker, and Anthony Owen Ferrers, company manager, all of Auckland (hereinafter together called “the Board” which expression shall mean and include the persons who from time to time shall be the trustees of this deed whether the same shall be incorporated or not)

WHEREAS:

- (1) There exist throughout the Diocese of Auckland divers trusts for Anglican religious, educational, or other charitable purposes wherein the trustees thereof have limited powers of investment of the trust funds and by reason thereof and of the continuous depreciation of the purchasing power of money the capital of such funds in terms of purchasing power has been and still is being seriously eroded.
- (2) The Synod of the Anglican Diocese of Auckland is desirous of creating a common fund under the control of a board of trustees in which the capital of divers and sundry trust funds now existing in or which may be hereafter created in the said Diocese and held upon trust for religious, educational, or other charitable trusts may be invested; such board of trustees having power to invest such capital in accordance with the provisions hereinafter contained in these presents to the intent that the erosion hereinbefore mentioned in recital (1) hereof may be stopped or checked by selecting investments which have a potential capital growth.
- (3) It is intended that the above-mentioned Board should make application to be incorporated under the provisions of the Charitable Trusts Act 1957.
- (4) It is intended to promote an Act of the General Assembly of New Zealand in Parliament authorising trustees of any Anglican trust within the said Diocese holding funds upon trust for any religious, educational, or other charitable purpose to transfer such funds to the Board for the purposes hereinbefore set forth in recital (2).
- (5) The above-named persons (herein called “the Board”) have jointly and severally agreed to act as trustees of this deed.

Now this deed witnesseth as follows: