



**CHURCH OF ENGLAND (RECTORY OF ST. JAMES THE APOSTLE) ACT 1980**

**No. 101 of 1980**

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**AN ACT to confer upon the Trustees of the Property of the Church of England in Australia in Tasmania, as trustees of a settlement of a certain property situated at New Town in Tasmania and known as "Hildern", created by the will of Catherine Agnes Watt, powers of sale and leasing in respect of such portion or portions of that property as for the time being remain unsold.**

**[Royal Assent 19 December 1980]**

WHEREAS by the *Church of England (Rectory of St. James the Apostle) Act 1926* the Trustees of the Property of the Church of England in Tasmania (in this preamble referred to as "the Trustees") were authorized, among other things, to sell a portion Preamble.

or portions of the property situated at New Town in Tasmania and known as “Hildern” (in this Act referred to as “the property”), the property having been transferred to the Trustees by the trustees of the will of the late Catherine Agnes Watt (in this preamble referred to as “the testatrix”) to be held by the Trustees upon the trusts declared by the testatrix in her will:

AND WHEREAS in pursuance of the powers conferred upon them by that Act the Trustees have sold portions of the property and have retained only the present rectory building (in this preamble referred to as “the rectory”) and an area of land of approximately half an acre as the site and appurtenances of the rectory:

AND WHEREAS the net proceeds of sale of those portions of the property were duly applied by the Trustees in the manner authorized by section 4 of that Act and are now entirely exhausted:

AND WHEREAS the rectory is again in need of substantial repair and renovation and insufficient funds are available for the improvement and maintenance of the property so that it must fall into dilapidation and become uninhabitable:

AND WHEREAS it is impracticable under the present altered conditions to give effect to the intentions of the testatrix and to maintain the property as the residence of the priest for the time being attached to the Church of the Parish of St. James the Apostle:

AND WHEREAS it is expedient to confer on the Trustees the powers and authorities specified in this Act:

**BE** it therefore enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

Short title.

**1**—This Act may be cited as the *Church of England (Rectory of St. James the Apostle) Act 1980*.

Interpretation.

**2**—In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

“Parish” means the Parish of St. James the Apostle, New Town, in Tasmania;

“property” means the property situated at New Town in Tasmania and known as “Hildern”;

“rectory” means the rectory building on the property;

“ remainder of the property ” means such portion or portions of the property as for the time being remain unsold;

“ testatrix ” means Catherine Agnes Watt deceased;

“ Trustees ” means the Trustees of the Property of the Church of England in Australia in Tasmania, being the persons who are, in the preamble to this Act, referred to as the Trustees.

**3**—(1) The Trustees may, with the consent of the Rector and Churchwardens for the time being of the Parish, sell, by public auction or private treaty— Power to sell.

- (a) the remainder of the property, including the rectory itself and either as one property or by lots; and
- (b) any new rectory purchased or erected pursuant to section 5.

(2) The Trustees may, in addition to all other powers vested in them by law in that behalf, exercise all the powers conferred upon trustees for sale by the *Trustee Act* 1898.

**4**—The Trustees may, with the consent of the Rector and Churchwardens for the time being of the Parish, lease all or any part of the remainder of the property, with power in such a lease to grant an option of purchase and otherwise to grant such a lease upon such terms and conditions in all respects as they think fit. Power to lease.

**5**—The Trustees shall apply the net proceeds of the sale of the remainder of the property— Appropriation of proceeds of sale.

- (a) in purchasing a suitable freehold residence as a new rectory for the priest for the time being attached to the Church of the Parish or in purchasing freehold land and erecting thereon such a residence;
- (b) in defraying the cost of re-modelling, improving, and repairing such a residence as may be found necessary, expedient, or desirable from time to time; and
- (c) subject to the foregoing provisions of this section, in investing the balance of those net proceeds of sale in the manner prescribed by section 13 of the *Church of England Constitution Act* 1973 and in paying and applying the net annual income arising from the investment or investments—

- (i) firstly, in keeping in repair and replacing the furniture bequeathed by the testatrix and held by the Trustees upon the trusts contained in her will;
- (ii) secondly, in augmentation of the income received by the Trustees from the sum of \$1 000 set aside by the direction of the testatrix for the purposes declared in her will; and
- (iii) thirdly, for such other purposes ancillary and complementary to the purposes referred to in subparagraphs (i) and (ii) as the Trustees may, in their discretion, consider expedient or necessary to give effect to the desire of the testatrix to provide a furnished house for the use and occupation of the priest in charge of that Church free of expense as far as may be.

Power of Trustees to sell surplus furniture.

**6**—(1) Notwithstanding anything contained in section 5 (c), upon the purchase or erection of a new rectory, the Trustees may, with the consent of the Rector and Churchwardens for the time being of the Parish, sell, by public auction or private treaty, such items of the furniture bequeathed by the testatrix and held by them as are, in the opinion of the Trustees, surplus to the requirements of the priest in charge of the Church of the Parish.

(2) The provisions of section 5 apply to the application of the net proceeds of a sale under subsection (1) as they apply to the net proceeds of the sale of the remainder of the property.

Powers in Act in addition to the powers vested in the Trustees by the will of Catherine Agnes Watt.

**7**—Nothing contained in this Act shall be deemed to derogate from or affect the powers conferred upon the Trustees by the will of the testatrix, but the powers and authorities conferred by this Act are in addition to the powers vested in the Trustees by that will.