

Archbishop of Sydney's Discretionary Trust Ordinance 2012

(Reprinted under the Interpretation Ordinance 1985.)

The Archbishop of Sydney's Discretionary Trust Ordinance 2012 as amended by the Archbishop of Sydney's Discretionary Trust Vesting and Amendment Ordinance 2019.

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Long Title

An Ordinance to vary the trusts on which certain property is held and to establish the Archbishop of Sydney's Discretionary Trust.

Preamble

A. The funds administered by the Sydney Diocesan Secretariat described in a cell in column 1 of the table in the Schedule are church trust property held on the trusts described in the corresponding cell in column 2 of the Schedule.

B. By reason of circumstances which have arisen after the creation of the trusts on which these funds are held, it is inexpedient to carry out and observe those trusts.

C. On 18 March 2019, the Anglican Church Property Trust Diocese of Sydney was appointed trustee of the trust funds pursuant to section 19 of the Anglican Church of Australia Trust Property Act 1917.

The Standing Committee of the Synod of the Diocese of Sydney Ordains as follows.

1. Name of this ordinance

This Ordinance is the Archbishop of Sydney's Discretionary Trust Ordinance 2012.

2. Declaration

By reason of circumstances which have arisen after the creation of the trusts on which the existing funds are held it is inexpedient to carry out and observe those trusts.

3. Definitions

In this Ordinance –

“undistributed income” means \$500,000 of the existing funds.

“capital” means, as at the date this Ordinance commences, the total amount of existing funds, excluding the undistributed income.

“existing funds” means the funds described in a cell in column 1 of the table in the Schedule as at the date this Ordinance commences.

“trust fund” means –

- (a) the existing funds; and
- (b) any funds received or acquired from time to time as an addition to the trust fund.

4. Name of the trust fund

The trust fund is to be known as the Archbishop's Discretionary Trust.

5. New trusts

Subject to the terms of this Ordinance, the trust fund is held upon trust for the purposes of the Anglican Church of Australia in the Diocese of Sydney (the "Diocese").

6. Capital of the trust fund

- (1) The capital of the trust fund may be applied for such purposes of the Diocese as the Archbishop-in-Council may approve.
- (2) Pending application under subclause (1), the capital of the trust fund is to be invested.

7. Income of the trust fund

- (1) The undistributed income of the trust fund may be applied for such purposes of the Diocese as the Archbishop may approve.
- (2) The income of the trust fund (other than the undistributed income referred to in subclause (1)) after payment of the ACPT management fee is to be applied as follows –
 - (a) if from time to time, the trust fund –
 - (i) is predominantly invested in the ACPT's Long Term Pooling Fund – no portion is to be capitalised, or
 - (ii) is not predominantly invested in the ACPT's Long Term Pooling Fund – 30% is to be capitalised, and
 - (b) the balance is to be applied for such purposes of the Diocese as the Archbishop may approve.

8. Commencement

This Ordinance commences on the date of assent to this Ordinance.

Schedule

Column 1		Column 2
223	Estate Lucy Bray – Poor Parishes Fund	By the Will of the late Lucy Bray the gift is to be applied "for the assistance of such poor parish or parishes as the Archbishop in his uncontrolled discretion may think fit", although no copy of the Will can be found.
224	Catholic Apostolic Church	The fund comprises the residue of a gift from the Catholic Apostolic Church on 9 January 1997 to the then Archbishop, which by letter from Stuart Fowler & Associates Lawyers, is to be applied at the Archbishop's discretion for any appropriate purpose, but primarily for the maintenance and construction and furnishing of churches of the Diocese (especially any outstanding needs of the Maori congregation at the Redfern Church).
225	Lord De L'Isle Settlement	By deed of settlement dated 5 April 1965 between Lord De L'Isle, John Benecke and Thomas Cowlshaw, the gift is to the Church of England Property Trust Diocese of Sydney in New South Wales, with no statement as to the purposes for which it is to be applied.
228	Clergy Mobility Fund	The fund comprises the residue of allocations from the Synod Fund in accordance with various appropriation and allocation ordinances of the Synod, to be applied at the discretion of the Archbishop for clergy mobility assistance (eg, re-deployment, early retirement, retraining and so forth).
229	Clergy, Clergy Widows & Orphans Fund	The fund comprises the residue of amounts transferred from the Grant (Sisters) Endowment Fund (Client Fund 369) by the Archbishop-in-Council pursuant to Schedule 2 of the Church of England Property Trust Diocese of

Column 1		Column 2
		<p>Sydney (Sundry Accounts) Ordinance 1978 for distribution at the discretion of the Archbishop for any one or more of the following purposes –</p> <p>(a) to assist widows of clergymen and/or their infant children who are in need,</p> <p>(b) to assist clergymen and/or their wives and/or their infant children who are ill and/or incapacitated,</p> <p>(c) to aid in educating the children of those clergymen who are deemed to be inadequately remunerated,</p> <p>(d) to assist retired clergy, and</p> <p>(e) to augment to stipends of clergymen who are deemed not to be sufficiently remunerated.</p>
230	Pastoral Relief Fund	The fund comprises the residue of allocations from the Synod Fund in accordance with various appropriation and allocation ordinances of the Synod, to be applied “as Archbishop deems necessary for relief in needy situations for clergymen, or other fulltime church workers, trainees and/or widows and children of the same”.
267	Ordinands & Deacons Fund	The fund comprises the residue of allocations from the Synod Fund in accordance with various appropriation and allocation ordinances of the Synod, to be applied “to pay the cost of psychological assessments, pre-ordination conferences and Bibles for ordinands and general expenses therewith”.
276	Estate Wylde-Browne K	By the Will of the late K Wylde-Browne, the gift is to be applied for the purpose of augmenting or providing stipend or any other emolument for licensed clergy who (in the opinion of the Archbishop) need assistance, although no copy of the Will can be found.
284	Estate FCE Wells Estate Jean Locke	<p>By the Will of the late Frederick Charles Evelyn Wells, the gift is to be applied “for the general purposes of the Church of England in the Diocese of Sydney as the [Archbishop] may think fit”.</p> <p>By the Will of the late Jean Beryl Geraldine Locke, the gift is to “the Archbishop for the time being of the Diocese of Sydney to be applied for the general purposes of the Anglican Church absolutely”.</p>
892	Sydney Diocesan Poor Fund	<p>By the Will and Codicil of the late Thomas Moore, as amended cy pres by schemes gazetted on 18 January 2002, 16 August 2002 and 3 December 2010, the gift is to be applied “for and towards the yearly relief and support of such persons and so many pious and necessitous persons or persons being Members of and holding Communion with the United Church of England and Ireland as by law established as shall be for that purpose and so recommended to them by any Clergyman or Clergymen of the said Church in this Colony ...”.</p> <p>The cy pres gazetted on 8 December 2010 authorised the Trustees to distribute the corpus of the Estate to the dioceses within the Province of NSW to be applied in accordance with the terms of the Will and Codicil applying to income (as amended). The Fund comprises the residue of the share distributed to the Diocese of</p>

Column 1		Column 2
		Sydney.
893	Sydney Diocesan Widow's Fund	<p>By the Will and Codicil of the late Thomas Moore, as amended cy pres by schemes gazetted on 18 January 2002, 16 August 2002 and 3 December 2010, the gift is "to be applied "or towards the maintenance and support of such one or more Widow or Widows (as shall be appointed from time to time by the Bishop of Australia and in default of his appointment by my said Trustees) of any Clergyman or Clergymen of the United Church of England and Ireland who has actually officiated as such in the said Colony".</p> <p>The cy pres gazetted on 8 December 2010 authorised the Trustees to distribute the corpus of the Estate to the dioceses within the Province of NSW to be applied in accordance with the terms of the Will and Codicil applying to income (as amended). The Fund comprises the residue of the share distributed to the Diocese of Sydney.</p>

Table of Amendments

Preamble	Inserted by Ordinance No. 4, 2019
Clause 4	Amended by Ordinance No. 4, 2019
Clause 7	Amended by Ordinance No. 4, 2019

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25 March 2019