
Estate F.P.C. Morris Ordinance 1985

(Reprinted under the Interpretation Ordinance 1985.)

The Estate F.P.C. Morris Ordinance 1985 as amended by the Estate F.P.C. Morris Ordinance 1985 Amending Ordinance 1988, the Estate F.P.C. Morris Ordinance 1985 Amending Ordinance 1989, the Estate F.P.C. Morris Ordinance 1985 Amending Ordinance (No 2) 1989 and the Estate Late F.P.C. Morris Ordinance 1985 Amendment Ordinance 1992.

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Long Title

An Ordinance to vary the trusts on which certain property is held.

Preamble

Whereas

A. Anglican Church Property Trust Diocese of Sydney (hereinafter called the "Property Trust") is the trustee of the proceeds (hereinafter called "the said proceeds") from the sale of land described in the Schedule to the St Thomas' North Sydney Ordinance 1984 (which ordinance is hereinafter called "the 1984 Ordinance").

B. Prior to the making of the 1984 ordinance, the land was held upon the trusts set forth in the Will of the late Francis Paul Couch Morris, namely to pay from time to time the whole of the net income from the land to the rector for the time being of St Thomas' Church North Sydney for or towards his living and support.

C. The said Will further provided (inter alia) that if for any reason the trustees shall at any time be unable lawfully to apply the land and the income therefrom for the said purpose then the land should be dealt with and applied for the use and benefit of the Anglican Church of Australia as shall be declared by the Ordinance of the Synod of the Diocese of Sydney under the Anglican Church of Australia Trust Property Act 1917 or any statutory amendment or enactment thereof.

D. By the said Will, the deceased declared (inter alia) that the land should be deemed to be church trust property within the meaning of Sections 26 and 32 of the Anglican Church of Australia Trust Property Act 1917.

E. The 1984 Ordinance varied (or purported to vary) the said trusts.

F. By reason of circumstance subsequent to the creation of trusts on which the said proceeds are held, it is inexpedient to carry out and observe the same to the extent that the same are hereby varied.

Now the Standing Committee of the Synod of the Diocese of Sydney in the name and place of the said Synod Hereby Ordains Declares Directs and Rules as follows -

Citation

1. This ordinance may be cited as the "Estate F.P.C. Morris Ordinance 1985".

Declaration of Inexpediency

2. By reason of the circumstances which have arisen subsequent to the creation of the trusts on which the said proceeds are held it is inexpedient to carry out and observe the same to the extent that the same are hereby varied.

Application of Income

¹ 3. Subject to the following clauses of this ordinance, the income from the said proceeds shall be applied by the Property Trust as follows -

- (a) firstly, in or towards meeting the stipend of the clergyman who holds office as rector from time to time of St Thomas' Church North Sydney;
- (b) secondly, in or towards meeting the salary and allowances payable to or in respect of a clerical or lay assistant or assistants engaged by the said rector to assist him in his ministry to young people in or in connection with the Parish of North Sydney;
- (c) thirdly, as to one half of so much of the income as is not distributed under paragraphs (a) and (b) in any calendar year and is not required for distributions under paragraphs (a) and (b) in the four month period immediately following such calendar year shall be applied in or towards the restoration and repair of St Thomas' Church, the rectory adjacent thereto and the building known as the old school house also adjacent thereto; and
- (d) lastly, the balance of so much of the income in respect of any calendar year as is not distributed or set aside pursuant to paragraphs (a), (b) and (c) shall be capitalised.

Limitations on Distribution of Income

² 4. The following limitations shall apply in relation to the said income and distribution thereof -

- (a) where the Synod or the Standing Committee has recommended or determined the rate of any stipend, salary or allowance, the stipend, salary or allowance to be paid, as aforesaid, shall be at the rate last recommended or determined, but where there is no such recommendation or determination the stipend, salary or allowance to be paid shall be determined by the rector and churchwardens of St Thomas' Church;
- (b) any stipend, salary or allowance shall be paid by monthly instalments;
- (c) no income shall be applied pursuant to clause 3(c) unless and until the Property Trust is satisfied that all claims in relation to the said land, the said proceeds or income therefrom of any former rector of the parish have been resolved or withdrawn and the Property Trust may apply any income which, but for this paragraph would have been applied pursuant to clause 3(c) in or towards meeting or rescinding any such claims or costs incurred by the Property Trust in meeting or resolving any such claim;
- (d) the Property Trust shall distribute the income in accordance with the order of priority laid down in clause 3 as and when it receives the same;
- (e) all income to be applied pursuant to clause 3(c), until applied, shall be held by the Property Trust and invested;
- (f) the appropriateness of the provisions of subclauses 3(b) and 3(c) shall be reviewed during the period commencing on 1 October 1997 and ending on 31 December 1997 and no further distribution shall be made pursuant to those clauses after 31 December 1997 until that review is completed.

Application

5. The provisions of this Ordinance shall apply to all income derived after completion of the sale of the land described in the Schedule to the St Thomas' North Sydney Ordinance 1984.

Endnotes

1. Amended by Ordinances Nos 11, 1988 and 51, 1989.
2. Amended by Ordinances Nos 11, 1988; 3, 1989; 51, 1989 and 49, 1992.

M.A. PAYNE
Legal Officer

16 December 1992

W.G.S. GOTLEY
Diocesan Secretary