

INVESTMENT ORDINANCE 1975

No. 14 1975

AN ORDINANCE to provide for the investment of church trust property.

WHEREAS it is expedient that further provision be made for the investment of church trust property 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:-

DEFINITIONS

1. In this Ordinance unless inconsistent with the context or repugnant thereto:-

- (a) the term "Trustee" means any person or corporation who is the trustee of church trust property,
- (b) the term "Manager" means the manager of the Fund,
- (c) the term "Board" means Glebe Administration Board,
- (d) the term "Property Trust" means Church of England Property Trust Diocese of Sydney,
- (e) the term "Fund" means:
 - (i) all moneys deposited with the Board by a Trustee (other than the Board) pursuant to this Ordinance,
 - (ii) all moneys appropriated by the Board in its accounts by way of a deposit or deposits for the purpose of acquiring one or more interests in the Fund,
 - (iii) all property representing the moneys referred to in sub-paragraphs (i) and (ii) of this definition, or the proceeds referred to in sub-paragraph (iv) of this definition, and
 - (iv) the proceeds from the realisation of any such property,
- (f) the term "financial year" means a period of twelve months ending on 31st December in any year, the first such period being that which ends on 31st December 1975.
- (g) the term "distributable income of the Fund", in relation to any financial year, means the income derived during that financial year from all investments made by the Board pursuant to this Ordinance less all losses and outgoings incurred during that financial year including (but without limiting the generality thereof) such charges as may be made by the Board for its services in connection with the management of the Fund and its investments and such amounts as, in the opinion of the Board, should be set aside for depreciation, sinking funds and other provisions,
- (h) the term "denominator" in relation to a calendar month means the aggregate number of interests in the Fund subsisting at all times during that month other than interests in the Fund which have been subsisting only during the three calendar

months which immediately precede that month or during part of those three months,

- (i) the term "total denominator" in relation to a financial year means the aggregate of the denominators for each calendar month in that financial year, and
- (j) the term "calendar month" means a period commencing on the first day of any month and ending on the last day of that month and includes the whole of the first day and the whole of the last day.

2. (1) The value of an interest in the Fund on an acquisition basis as at 31st December 1975 or on any date prior thereto shall be One thousand dollars (\$1,000).

(2) The value of an interest in the Fund on an acquisition basis as at any date after 31st December 1975 shall be

- (a) the aggregate of the most recent values of all assets which comprised the Fund on the last day of the financial year immediately preceding that date, plus
- (b) the amount last estimated by the Board to be the cost of acquiring all land which is part of those assets, less
- (c) the amount of all liabilities of the Fund as at the last day of that financial year,

divided by the number of interests in the Fund current on the last day of that financial year.

(3) The value of an interest in the Fund on a disposal basis as at any date after 31st December 1975 shall be the aggregate of the most recent values of all assets which comprised the Fund on the last day of the financial year immediately preceding that date less

- (a) the amount of the liabilities of the Fund as at the last day of that financial year, and
- (b) The amount last estimated by the Board to be the cost of disposing of all land which is part of these assets,

divided by the number of interests in the Fund current on the last day of that financial year.

(4) The term "liabilities of the Fund" where used in this clause 2 means the aggregate of

- (a) the aggregate of all moneys borrowed for the purposes of the Fund, whether secured or otherwise,
- (b) the aggregate of all moneys (not being moneys described in paragraph (a) of this definition) borrowed on the security of any assets comprised in the Fund,
- (c) any distributable income of the Fund which has not been distributed, and
- (d) all other liabilities which may have been incurred by the Board in connection with the Fund.
- (5) The amount secured by an asset which is mortgaged to the

trustee for holders of debentures issued by the Board shall be deemed to be sixty per centum (60%) of the value of that asset.

3. (1) The headings in this Ordinance have been inserted as a matter of convenience only and shall not limit or restrict the provisions of this Ordinance in any way.

(2) Where used herein, words importing the singular number or plural number shall include the plural number and singular number respectively and a reference to a person shall include a reference to a company or corporation.

(3) This Ordinance may be cited as "Investment Ordinance 1975."

ACQUISITION AND DISPOSAL OF INTERESTS

4. (1) Any Trustee who wishes to acquire one or more interests in the Fund may do so by

- (a) depositing with the Manager a sum equal to the value (or an integral multiple thereof) of an interest in the Fund on an acquisition basis as at the date on which the said sum is so deposited, and
- (b) indicating, in writing, whether the interest is to be a permanent or a temporary interest.

(2) Any Trustee who is required to acquire one or more interests in the Fund shall do so by

- (a) depositing with the Manager a sum equal to the value (or an integral multiple thereof) of an interest in the Fund on an acquisition basis as at the date on which the said sum is so deposited, and
- (b) indicating, in writing, that the interest is to be a permanent interest.

If the moneys which the Trustee is directed to apply in acquiring one or more interests in the Fund are

- (i) insufficient to acquire one interest, or
- (ii) sufficient to acquire one interest in the Fund or several interests in the Fund but, after such acquisition, of such amount there is a balance which remains to be applied,

then notwithstanding the provisions of any ordinance to the contrary the moneys (in the case described in paragraph (i)) or the balance (in the case described in paragraph (ii)) shall be invested in accordance with the Investment of Church Trust Property Ordinance 1944-1956 as amended from time to time.

5. A Trustee who desires to realise one or more interests in the Fund which he may have shall do so by giving a written notice of such desire to the Manager in which a number of interests in the Fund of the Trustee which the Trustee desires to realise is specified. Where such a notice is received by the Manager, the Manager shall pay to the Trustee at the expiration of twelve months from the date on which such written notice is received by the Manager, in respect of each interest in the Fund of the Trustee specified therein, a sum equal to the value of an interest in the Fund on a disposal basis as at the end of the last financial year preceding such payment for which completed accounts are available at

that time provided that

- (a) the Manager, in its discretion, may pay any sum (or part thereof) which is payable by the Manager to a Trustee under this clause prior to the day on which the same is payable hereunder,
- (b) if such written notice is served on the Manager on or after the 1st day of July in any year, the Manager, in its discretion, may pay to the Trustee a sum equal to the value of an interest in the Fund on a disposal basis as at the end of the financial year during which the said notice is served,
- (c) no Trustee shall be entitled to give any such written notice in respect of any interest unless not less than four (4) years have elapsed since the date on which the interest was acquired by the Trustee, and
- (d) no Trustee shall be entitled to give any such written notice in respect of a permanent interest unless the Standing Committee, by resolution thereof, gives its consent thereto.

Any such consent of the Standing Committee may be given subject to any condition or conditions including, but without limiting the generality thereof, conditions as to the investment of the amount paid to the Trustee by the Manager or as to the purposes to which the amount paid to the Trustee by the Manager may be put and all such conditions shall be as effective and binding on the Trustee as if the same were contained in this Ordinance.

6. (1) An interest in the Fund shall be deemed to have come into existence upon a Trustee depositing, pursuant to clause 4 hereof, a sum which is the value of an interest on an acquisition basis and where the sum deposited pursuant to clause 4 hereof is a multiple of that value, a number of interests - such number being equal to that multiple - shall be deemed to have come into existence on such deposit being made.

(2) An interest shall be deemed to exist until it is realised pursuant to clause 5 hereof.

7. The Board is hereby authorised and empowered to acquire one or more interests in the Fund and to realise, from time to time, any interests so acquired. The provisions of clauses 4 and 5 shall apply to the Board except that if, at the time the Board acquires such interest or interests, the Board is the Manager, then

- (a) instead of depositing any sum, it shall be sufficient for the Board to appropriate an amount in its books, and
- (b) any written notice to be given pursuant to clause 5 shall be given by the Board to the Secretary of the Standing Committee.

REGISTER

8. The Manager shall maintain a register in which is set forth

- (a) the name of all Trustees who hold an interest or interests in the Fund,
- (b) the number of interests in the Fund held by each Trustee,

- (c) the date on which each interest in the Fund was acquired,
- (d) the date on which any written notice is given to the Manager pursuant to clause 5 or to the Board's auditors pursuant to clause 7, and
- (e) the date on which each interest in the Fund is realised,

PROVIDED that, if the Trustee is not a corporation but is the holder of an office or a board of management, it shall be sufficient for the purposes of paragraph (a) if the name of the officer or the name of the board is entered in the register.

MANAGER

9. (1) The Manager shall be appointed by ordinance of the Synod or of the Standing Committee and any appointment (including the appointment hereby made) may be revoked at any time by ordinance of the Synod or of the Standing Committee.

- (2) The Board is hereby appointed the Manager.

INVESTMENT

10. (1) The Manager shall invest all moneys forming part of the Fund in such modes of investment as may be authorised by ordinance of the Synod or of the Standing Committee.

- (2) The following investments are hereby authorised:-

- (a) the acquisition of land,
- (b) all modes of investment in which Sydney Church of England Investment Trust is authorised from time to time to invest trust funds held by it.

PROVIDED that, so long as the Board is the Manager, only the following investments are authorised:-

- (a) the acquisition of land, and
- (b) deposit with or loan to any bank or other company or corporation.

(3) The Manager, in its discretion, may vary any investment from time to time.

11. (1) All land forming part of the Fund from time to time shall be acquired by and remain vested in the Board and shall be deemed to form part of "the said Glebes" as defined in Clause 13 of the Glebe Administration Ordinance 1930-1973 provided that all such land and investments shall be shown separately in the accounts of the Board as assets held pursuant to this ordinance.

(2) The Board shall have power to sell any land acquired by it pursuant to this Ordinance. The Board shall not sell or agree to sell any such land or borrow any sum or sums of money on the security thereof unless the proposed sale or borrowing has been approved by the Manager provided that, if at the time of the proposed sale the Board is the Manager, the proposed sale must be approved by the Standing Committee by resolution thereof. A certificate signed by the Archbishop or by the Secretary of the Standing Committee shall, in favour of any person dealing with the Board, be conclusive evidence that a proposed sale has been approved by the Standing Committee.

12. Where the Board holds any asset which is not part of the Fund and the trusts on which the same is held permit the same to be sold or to be dealt with in accordance with this Clause, the Board may exchange that asset for any moneys forming part of the Fund or for one or more interests in the Fund. Any such exchange shall only be effected where

- (a) the value of that asset or, if the asset is mortgaged, the amount by which the value of the asset exceeds the amount secured by the asset or is equal to the amount for which it is to be exchanged,
- (b) the proposed exchange is approved by a resolution of the Board, and
- (c) the proposed exchange is approved by the Manager provided that, if the Board is the Manager, the proposed exchange must be approved by resolution of the Standing Committee.

Any such exchange shall be deemed to take effect on the date on which the conditions in paragraphs (a) (b) and (c) are satisfied unless some other date is specified by the Board in the approval given by it to the exchange in which event the exchange shall be deemed to take effect on the date so specified.

13. No Trustee shall have any claim or entitlement to any particular land forming part of the Fund.

VALUATION

14. (1) The Manager shall cause all land comprised in the Fund to be valued once in every three consecutive years and, if the Standing Committee so requests by resolution thereof, the Manager shall cause all land comprised in the Fund which has not been valued or revalued during the six months preceding that request to be valued or revalued within three months of such request.

(2) The value of each parcel of land shall be the amount which the parcel may reasonably be expected to fetch if sold at an auction that has been adequately advertised and properly conducted.

(3) The Manager shall cause all assets comprised in the Fund, other than land, to be valued at such regular intervals as may be appropriate having regard to the nature of those assets and, if the Standing Committee so requests by resolution thereof, the Manager shall cause all assets comprised in the Fund, other than land, to be valued within one month of such request.

(4) The value of an asset comprised in the Fund, not being land, shall be the amount which the same may be reasonably expected to fetch if sold on the open market.

(5) The value of an asset in the Fund as at any date shall be deemed to be equal to the value attributed to that asset in the most recent valuation prepared pursuant to subclauses (1) to (4) hereof.

(6) Any valuation, required to be made pursuant to this clause, may be made by an officer or employee of the Board unless, in any particular case or generally, the Manager or the Standing Committee, by resolution thereof, otherwise directs.

15. (1) During each financial year the Board shall prepare, in relation to each parcel of land comprised in the Fund, an estimate of the cost of acquiring that parcel.

(2) During each financial year the Board shall prepare, in relation

to each parcel of land comprised in the Fund, an estimate of the cost of disposing of that parcel.

16. The Manager, upon being requested by a Trustee so to do, shall notify the Trustee of

- (a) the value of an interest in the Fund on an acquisition basis, and
- (b) the value of an interest in the Fund on a disposal basis, as at the last day of the financial year preceding the date on which the request is made and of the rate of interest last determined by the Manager, prior to such request, pursuant to clause 21.

INCOME

17. As soon as reasonably possible after the end of each financial year, the Manager shall determine

- (a) the distributable income of the Fund for that financial year, and
- (b) the total denominator for that financial year.

18. Each interest in the Fund which has been in existence during any calendar month in a financial year shall be entitled to a share of the distributable income of the Fund for that financial year. Such share shall be equal to

$$\$(\frac{A}{B} \times C)$$

where A is the distributable income for that financial year, B is the total denominator for that financial year and C is the number of calendar months in that financial year during which the interest has been in existence.

19. The Manager, in its absolute discretion, may make interim distributions during any financial year of the distributable income of the Fund for that financial year where the Manager is satisfied that the income will be of such magnitude that such a distribution may be made.

20. (1) The distributable income of the Fund for a financial year shall be distributed by the Manager as soon as possible after the respective entitlements thereto have been determined.

(2) Where one or more interests in the Fund are held by the Property Trust, the Manager may with the consent of the Property Trust distribute any income to the person or corporation entitled to receive the same from the Property Trust. Where the Manager makes any such distribution, it shall give notice thereof to the Property Trust.

21. Until such time as an interest in the Fund has subsisted for three consecutive calendar months, the Manager shall pay interest on the sum deposited with the Manager to acquire the interest calculated at such rate (per annum) as the Manager may have last determined for the purposes of this clause from the date on which the said sum was deposited to the last day of those three calendar months.

ACCOUNTS

22. (1) The Manager shall send to each Trustee who holds an interest or interests in the Fund a copy of each audited balance sheet and income account.

of the Fund within six months of the end of each financial year.

(2) A Trustee shall be entitled to receive from the Manager a copy of the most recent audited balance sheet and income account of the Fund within one week of a written request for the same being made by a Trustee on the Manager.

NAME

23. The Fund shall be known as "Sydney Anglican Property Fund".

INTRODUCTION

24. Notwithstanding anything herein to the contrary, until such time as the Standing Committee, by resolution thereof, determines that the restrictions imposed by this clause shall not apply, the Manager shall only accept deposits pursuant to Clause 4 to the extent permitted from time to time by the Standing Committee.

I CERTIFY that the Ordinance as printed is in accordance with the Ordinance as reported.

D. Cameron

Deputy Chairman of Committees

I CERTIFY that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on the 30th day of June 1975.

W.G.S. Gotley

Secretary

I ASSENT to this Ordinance.

M.L. Loane

Archbishop of Sydney

30/ 6/1975