
Moorebank Estate Ordinance 1977

(Reprinted under the Interpretation Ordinance 1985.)

The Moorebank Estate Ordinance 1977 as amended by Standing Committee resolution on 18 December 1989.

Long Title

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

Preamble

Whereas

A. By an indenture bearing date the 2nd January 1839 made between Thomas Moore of the one part and The Right Reverend William Grant Broughton Bishop of Australia of the other part an area of 4315 acres or thereabouts was released unto the said William Grant Broughton to be held upon the special trusts that the said William Grant Broughton Lord Bishop of Australia and his successor and successors, such Bishops of Australia, shall from time to time and at all times hereafter yearly and every year expend apply and dispose of the rents issues and profits of the said land towards the increasing of the salaries or allowances of such clergymen of the United Church of England and Ireland as by law established as shall be from time to time duly licensed by the said William Grant Broughton Lord Bishop of Australia and his successor and successors such Bishops of Australia as aforesaid to discharge the parochial duties of clergymen as aforesaid in the different parishes and places appointed for the celebration of religious worship within the said Colony of New South Wales and in such proportion and proportions as the said William Grant Broughton Lord Bishop of Australia and his successor and successors such Bishops of Australia as aforesaid may deem fit and necessary provided that no more than the sum of fifty pounds yearly shall be so applied to the augmentation of the salary of any one such clergyman and so that no salary of any one such clergyman shall be augmented beyond the sum of four hundred pounds yearly so long as there shall be any such clergyman enjoying a less yearly salary than four hundred pounds.

B. The Supreme Court of New South Wales in its equity division held (inter alia) that the reference in the said indenture to the Bishop of Australia was a reference to the Archbishop of Sydney and the reference to clergymen in the said indenture was a reference to clergymen licensed by the Archbishop of Sydney.

C. In 1906, or thereabouts, the said land was resumed and the compensation received has been invested.

D. The said trusts have been varied by numerous ordinances and there is uncertainty as to the trusts upon which part of the said investments are held.

E. Church of England Property Trust Diocese of Sydney, the trustees of the said investments, has in its records three accounts and, as at the 31st of July 1977, was holding capital and income as follows -

Moorebank Account (Clergy Portion)

Capital	\$128,827.06
Income	\$ 65,487.37

Moorebank Account (Holsworthy Glebe Portion)

Capital	\$361.94
Income	\$1,200.31

Moorebank Account Interest Fund

Capital	\$8,794.86
Income	\$227.25

F. It is believed that the capital held in the said accounts represents the said compensation and investments.

G. It is expedient that the trusts upon which the capital and income held in the said accounts is held be further 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 -

1. By reason of circumstances which have arisen since the creation of the trust on which the capital and income held in the said accounts is held it is inexpedient to carry out and observe the same to the extent that the same are hereby varied.

¹ 2. (1) In this clause, the term "credit balance" means the amount (if any) standing, as at the 31st December 1977, to the credit of the account kept by Sydney Anglican Home Mission Society in respect of contributions made by that society towards the removal expenses of clergy and the term "debit balance" means the amount (if any) to which that account is in debit as at that date.

(2) The capital and income held in the said account styled "Moorebank Account (Clergy Portion)" and any credit balance shall be held upon trust to permit all income derived therefrom to be applied in accordance with this clause.

(3) If there is a debit balance, a further payment shall be made to the said Society from the income held in the said account of the amount equal to the amount of the debit balance.

(4) Subject to subclause (3), the said capital and the accumulated income as at the 31st December 1977 and any credit balance shall be held upon trust to apply the income derived therefrom after that date during each calendar year as follows:-

(a) as to the first one thousand five hundred dollars (\$1,500) thereof or such other sum as Standing Committee may have last determined by resolution thereof - to be paid to Sydney Anglican Home Mission Society for distribution by way of grants to parishes and other ecclesiastical districts as determined by the said Society to be applied towards the stipends of licensed clergy or other persons ministering in those parishes or districts;

(b) next, in and towards meeting the cost of removal expenses incurred by clergy and their families in accordance with the provisions set forth in the schedule hereto as varied from time to time pursuant to subclause (5); and

(c) lastly, any balance shall be applied for the purposes determined by the Synod by ordinance from time to time.

(5) The Standing Committee, by resolution thereof, may repeal or amend or add to any of the provisions set forth in the schedule hereto.

3. The capital and income held in the said account styled "Moorebank Account (Holsworthy Glebe Portion)" shall be held upon trust to permit the same (or the amount received on the realisation of any investments representing the same) to be paid to the churchwardens of the parish of Moorebank and applied for the purposes thereof.

4. This Ordinance may be cited as "Moorebank Estate Ordinance 1977".

²

Schedule

1. In these regulations:-

(1) The term "removal expenses" means:-

(a) the cost incurred by a clergyman in moving his furniture and furnishings and those of his wife from the place at which he was residing prior to his appointment to a new position to the place at which he will be residing whilst occupying such new position, and

(b) the cost incurred by the widow of a clergyman in moving her furniture and furnishings

from the place at which that clergyman was residing prior to his death to the place at which she proposes to reside, and

- (c) the cost incurred by a clergyman in moving his furniture and furnishings and those of his wife on his retirement from the place at which he was residing prior to his retirement to the place at which he will be residing after his retirement.
- (2) The word “clergyman” means a person:-
- (a) who is a priest or deacon whether male or female, and
 - (b) who holds or will hold, on being appointed to any such new position or immediately prior to his death held (as the case may be) a licence issued by the Archbishop of Sydney other than a licence commonly known as a “general licence”.
- (3) The word “cost” shall be taken as being the proper and reasonable costs (and not necessarily the actual cost) and shall not include any expenditure of an unusual nature.
- (4) The word “Secretariat” means the Sydney Diocesan Secretariat or the party last appointed by the Standing Committee to administer these regulations.
- (5) The words “retirement” means retirement from full-time work or service in consequence of age or ill-health or physical disability.
2. One quarter of the removal expenses of a clergyman shall be paid from the said income provided that:-
- (a) in the case of a move to a house appurtenant to a provisional parish or assisted provisional parish the whole of such costs or such part thereof as determined by the Secretariat shall be paid from the said income,
 - (b) in the case of a clergyman who is appointed to a position which carries with it a salary greater than that which is then commonly paid to rectors of parishes in the Diocese of Sydney, a lesser or no part of the removal expenses (as determined by the Secretariat) shall be paid from the said income, and
 - (c) in the case of a move from a place in the Diocese of Sydney to a place outside the Diocese of Sydney or from a place outside the Diocese of Sydney to a place in the Diocese of Sydney, one half of the current average removal cost within the Diocese (as determined by the Secretariat) may be paid from the said income.
3. The Archbishop may direct that the cost of any removal expenses beyond that met under regulation 2 shall be paid from the said income.
4. These provisions shall apply in relation to removal expenses incurred on or after the 1st of January 1978.

Endnotes

- 1. The Standing Committee by resolution on 18 December 1989 determined that the first \$100 only be for grants to parishes, operative from 1 January 1990.
- 2. Amended by Standing Committee resolutions on 18 December 1989 and 27 May 1991.

K.R. BOWDEN
Assistant Diocesan Secretary

W.G.S. GOTLEY
Diocesan Secretary

5 June 1991