

St James' Sydney Phillip Street Property Ordinance 1962 Further Amendment Ordinance 2011

No 46, 2011

Long Title

An Ordinance to amend the St James' Sydney Phillip Street Property Ordinance 1962.

Preamble

A. The St James' Sydney Phillip Street Property Ordinance 1962 (the "Principal Ordinance") provides for the leasing of the property known as 169 Phillip Street Sydney, and the distribution of the income earned therefrom.

B. It is expedient to amend the Principal Ordinance with respect to the trusteeship and management of the Building and Land and matters incidental thereto.

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

1. Name

This Ordinance is the St James' Sydney Phillip Street Property Ordinance 1962 Further Amendment Ordinance 2011.

2. Definitions

Terms used in this Ordinance which are defined in the Principal Ordinance have the same meaning in this Ordinance as they do in the Principal Ordinance, unless the contrary intention is stated.

3. Amendments relating to the Trustee

The Principal Ordinance is amended as follows –

- (a) in clause 1(1) –
 - (i) the definition of "GAB" is deleted, and
 - (ii) after the definition of "Refurbishment Fund" the following definition is inserted –

"Trustee" means the trustee from time to time of the Building and the Land."
- (b) in clause 2 –
 - (i) the matter "GAB" where first appearing is deleted and the matter "the Trustee" is inserted instead, and
 - (ii) the matter "by GAB from time to time" is deleted, and
 - (iii) the proviso at the end of the clause is deleted and the matter "provided that no such power is to be exercised without the written consent of the Churchwardens" is inserted instead.
- (c) in clause 3 –
 - (i) the matter "GAB" where first appearing is deleted and the matter "The Trustee" is inserted instead, and
 - (ii) the matter after the words "terms and conditions" is deleted and the matter "as the Trustee considers fit with the written consent of the Churchwardens" is inserted instead.
- (d) in clause 4 –
 - (i) the matter "shall permit GAB" is deleted and the matter "must permit the Trustee" is inserted instead, and
 - (ii) the matter "GAB" where secondly appearing is deleted and the matter "the Trustee" is inserted instead.
- (e) in clause 5 –
 - (i) the matter "GAB" is deleted and the matter "Trustee" is inserted instead; and
 - (ii) after paragraph (c) the following new paragraphs are inserted –

St James' Sydney Phillip Street Property Ordinance 1962 Further Amendment Ordinance 2011

- “(d) in paying a trustee management fee in accordance with the following provisions –
 - (i) the fee for 2012 and each year thereafter is to be calculated at the rate of 1.1% (or such other rate as the Standing Committee may agree by resolution from time to time) of the gross income of the Building and Land as disclosed in the budget for that year, and
 - (ii) the fee for a year is to be paid, in advance, by 14 January of that year provided that if by that date the budget for that year has not been finalised, the fee to be paid is the fee payable in the immediately preceding year and an appropriate adjustment is to be made within 14 days of the budget being determined;
- (e) in paying the reasonable management fees and other costs incurred by the Churchwardens in administering the Building and Land;” and
- (iii) existing paragraphs (d) and (e) are relettered as paragraphs (f) and (g) respectively.
- (f) in clause 6 –
 - (i) the matter “GAB” where first appearing is deleted and the matter “The Trustee, with the written consent of the Churchwardens,” is inserted instead, and
 - (ii) the matter “GAB” where secondly appearing is deleted and the matter “the Trustee” is inserted instead, and
 - (iii) the matter “GAB considers appropriate from time to time” is deleted and the matter “the Trustee considers appropriate from time to time with the written consent of the Churchwardens” is inserted instead.

4. Management of the Building and Land

After clause 3 of the Principal Ordinance, the following new clause is inserted –

“3A. Management of the Building and Land

- (1) Subject to the terms of this Ordinance, the Churchwardens are responsible for the proper management, security and administration of the Building and the Land in accordance with Parish Administration Ordinance 2008.
- (2) The Churchwardens are to establish a committee of management, on terms agreed in writing between the Churchwardens and Trustee from time to time, to provide advice and otherwise assist the Churchwardens fulfil the responsibilities referred to in subclause (1).
- (3) In undertaking the proper management and administration of the Building and Land the Churchwardens will –
 - (a) maintain proper financial accounts, which are to be separate from the other accounts of the Churchwardens maintained under the Parish Administration Ordinance 2008, and
 - (b) ensure that such financial accounts are audited annually by an auditor approved by the Trustee, and
 - (c) ensure that the income from the Building and Land is applied in accordance with this Ordinance.”

5. Debt incurred by GAB as trustee

- (1) If Glebe Administration Board (“GAB”) ceases to be trustee of the property (including the Building and Land) described in the Principal Ordinance, each subsequent trustee will assume any debts or other liabilities properly incurred by GAB as trustee of the Building and the Land for

St James' Sydney Phillip Street Property Ordinance 1962 Further Amendment Ordinance 2011

a purpose or purposes authorised by the Principal Ordinance, in accordance with the terms upon which those debts or other liabilities were incurred.

(2) The obligation of each subsequent trustee under clause 5(1) is limited to the Trustee's right of indemnity under clause 6.

6. Indemnity

The Trustee from time to time and whether before or after the passing of this Ordinance, is entitled to be indemnified from the property comprising the Building and Land, and the income therefrom, for costs, expenses, charges, liabilities or other claims properly incurred by the Trustee (whether before or after the passing of this Ordinance) in the course of undertaking its duties as trustee.

7. Costs

The reasonable costs (including legal costs and expenses) of the Parish of St James' King Street, GAB and Anglican Church Property Trust Diocese of Sydney of and incidental to this Ordinance and the change in trustee of the Building and Land are to be paid from the income of the Building under clause 5(a) of the Principal Ordinance.

8. Commencement

Clauses 3 and 4 of this Ordinance commence on the date specified by the Standing Committee by resolution whether such resolution is passed before or after the date of assent to this Ordinance. This clause, and clauses 1, 2, 5, 6 and 7 commence on the date of assent to this Ordinance.

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

PG KELL
Chairman of Committees

I Certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on 5 December 2011.

R WICKS
Secretary

I Assent to this Ordinance.

PETER F JENSEN
Archbishop of Sydney
20/12/2011