

Version No. 001
Coptic Orthodox Church (Victoria) Property
Trust Act 2006

Act No. 58/2006

Version as at 30 August 2006

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Preamble

- (1) The Coptic Orthodox Church's Diocese of Melbourne and Affiliated Regions encompasses Victoria, South Australia, Western Australia, Tasmania, the Australian Capital Territory, New Zealand and certain Pacific island nations.
- (2) The property of the Church within the Diocese is currently held by the Bishop of the Church and by certain incorporated associations.
- (3) It is expedient that a body corporate be established to hold trust property on behalf of the Church within the Diocese, that trust property be transferred to that body corporate, and that the incorporation of the associations that formerly held the trust property be cancelled.

The Parliament of Victoria therefore enacts as follows:

PART 1—PRELIMINARY

1. Purpose

The purpose of this Act is to establish a corporate trustee for the Coptic Orthodox Church within the Diocese of Melbourne and Affiliated Regions to hold property for the benefit of the Coptic

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Part 1—Preliminary

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Orthodox Church in that Diocese, to provide for the vesting of certain property in the corporate trustee and to cancel the incorporation of certain associations.

2. Commencement

This Act comes into operation on the day after the day on which it receives the Royal Assent.

3. Definitions

In this Act—

"appointed day" means the beginning of the day appointed under section 4;

"appointed member" of the Trust means a member of the Trust appointed under section 7(3).

"Bishop" means the Bishop of the Church or, if the Bishop of the Church is absent from Victoria or otherwise unable to perform the functions of office, or there is a vacancy in the See, the person for the time being entitled to perform the functions of Bishop according to the rules and customs of the Church;

"Church" means the Coptic Orthodox Church, Diocese of Melbourne and Affiliated Regions, an indivisible part of the Coptic Orthodox Church of Alexandria and the See of St Mark, a hierarchical Christian body whose leader, overseer and shepherd is the Pope of Alexandria and Patriarch of the See of St Mark;

"Church association" means a body specified in Schedule 1, being an association incorporated under the **Associations Incorporation Act 1981**;

"function" includes power, duty and authority;

"perform" a function includes exercise a power;

"Trust" means the Coptic Orthodox Church
(Victoria) Property Trust established by this
Act;

"trust property" means property acquired by or
vested in the Trust.

4. Appointed day

- (1) The Bishop must cause a notice to be published in the Government Gazette appointing a day as the day on which the Trust is established, and, in accordance with this Act, property is transferred to the Trust and the incorporation of the Church associations is cancelled.
- (2) The notice must include—
 - (a) the names of the first appointed members of the Trust; and
 - (b) the name and registration number of each Church association.

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**PART 2—COPTIC ORTHODOX CHURCH (VICTORIA)
PROPERTY TRUST**

Division 1—General

5. Establishment

- (1) On the appointed day, the Coptic Orthodox Church (Victoria) Property Trust is established.
- (2) The Trust—
 - (a) is a body corporate with perpetual succession;
 - (b) must have an official seal;
 - (c) may sue and be sued;
 - (d) may acquire, hold and dispose of real and personal property;
 - (e) may do and suffer all acts and things that a body corporate may by law do and suffer.
- (3) The official seal of the Trust must be kept as directed by the Trust and may only be used as authorised by the Trust.
- (4) All courts must take judicial notice of the official seal on a document and, until the contrary is proved, must presume that the document was properly sealed.
- (5) Every instrument to which the official seal of the Trust is affixed must be signed by not less than 2 members of the Trust.

6. Functions and powers

- (1) The functions of the Trust are—
 - (a) to acquire, hold, deal with and dispose of real and personal property as trustee for, or for the purposes of, the Church;
 - (b) to act as trustee under express trusts for the purposes of the Church created by gift or will;
 - (c) any other functions conferred on the Trust by this Act.
- (2) The Trust has power to do all things necessary or convenient to be done for, or in connection with, the performance of its functions.

7. Membership

- (1) The Trust consists of not less than 3 members.
- (2) One member must be the Bishop.
- (3) The other members must be people appointed by the Bishop.
- (4) A member appointed by the Bishop holds office for the period specified by the Bishop when the appointment is made.

8. Vacation of office

The office of an appointed member of the Trust becomes vacant if the member—

- (a) dies; or
 - (b) resigns his or her office by notice in writing to the Trust; or
 - (c) becomes insolvent; or
 - (d) becomes a represented person within the meaning of the **Guardianship and Administration Act 1986**.
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9. Alternative members

- (1) The Bishop may appoint an alternative member to act in the place of an appointed member who is absent or who, for any other reason, is unable to perform the duties of office.
- (2) An alternative member may be appointed for a term or to hold office for the period of absence or inability of the member for whom he or she is to act.
- (3) An alternative member has all the powers, and must perform all the duties, of the member for whom the alternative member is acting.

10. Meetings

- (1) The following person is to preside at a meeting of the Trust—
 - (a) the Bishop; or
 - (b) a member appointed by the members present if the Bishop is absent.
 - (2) The quorum of the Trust is a majority for the time being of the members of the Trust.
 - (3) A question arising at a meeting is determined by a majority of votes and the person presiding has a deliberative vote and, in the case of an equality of votes, a second or casting vote.
 - (4) The Trust must ensure that accurate minutes are kept of its meetings.
 - (5) The Trust may permit members to participate in a particular meeting, or all meetings, by telephone, video conference or any other means of communication that does not require the physical presence of each member in the same place.
 - (6) Subject to this section, the Trust may regulate its own procedure.
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Division 2—Further Powers of the Trust

11. Further general powers

Without limiting the generality of section 5(2), the Trust may—

- (a) acquire or hold property in its own right, as joint tenant or as tenant in common;
- (b) enter into a scheme of co-operation with another denomination;
- (c) mortgage, charge or otherwise encumber trust property;
- (d) invest or lend any trust funds held by it in accordance with the terms of any trust to which the funds are subject;
- (e) accept appointment, and act, as an administrator, executor or trustee;
- (f) give guarantees and indemnities.

12. Pooling of trust funds

- (1) The Trust may invest trust funds held by it for different purposes, or any part of those funds, as one or more common funds.
 - (2) Any income arising from the investment of a common fund may be distributed rateably for the benefit of carrying out the several purposes for which the money invested is held on trust.
 - (3) Any loss arising from the investment of a common fund is to be distributed rateably to the detriment of carrying out the several purposes for which the money invested is held on trust.
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**PART 3—THE TRUST AS TRUSTEE FOR THE CHURCH
AND SUCCESSOR OF THE CHURCH ASSOCIATIONS**

13. Transfer from the Bishop

- (1) On the appointed day—
 - (a) all property and rights vested in or held by the Bishop on trust for the Church or the purposes of the Church vest in the Trust;
 - (b) all liabilities of the Bishop as trustee for the Church or the purposes of the Church become liabilities of the Trust.
- (2) Without limiting sub-section (1), on the appointed day—
 - (a) the land described in the folios of the Register that are set out in Part 1 of Schedule 2 vests in the Trust; and
 - (b) any liability of the Bishop under a mortgage of land described in a folio of the Register set out in Part 2 of Schedule 2 becomes a liability of the Trust.

**14. Transfer from the Church associations and
cancellation of their incorporation**

- (1) On the appointed day—
 - (a) all property and rights of the Church associations or of any of them vest in the Trust;
 - (b) all liabilities of the Church associations or of any of them become liabilities of the Trust;
 - (c) without limiting paragraph (a) or (b), the Trust is substituted as a party to any arrangement or contract entered into by or on behalf of the Church associations or of any of them as a party;

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Associations

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- (d) the Trust is the successor in law of each Church association;
 - (e) the incorporation of each of the Church associations is cancelled.
- (2) Any reference to a Church association in any document must be construed as a reference to the Trust, so far as it relates to any period on or after the appointed day and if not inconsistent with the context or subject-matter.

15. Effect of gifts etc.

- (1) A gift, disposition or trust of property that, before the appointed day, has been or is taken to have been made or declared (whether by deed, will or otherwise) to, in favour of, or for a purpose of, the Bishop (on behalf of the Church), the Church or a Church association—
- (a) does not fail only because of the provisions of this Act; and
 - (b) if it is capable of taking effect to any extent on or after the appointed day, takes effect to that extent as if it were made or declared—
 - (i) to or in favour of the Trust; and
 - (ii) for a purpose of the Trust corresponding with, or similar to, the purpose for which it was, or was taken to be, made or declared.
- (2) A gift, disposition or trust of property that, on or after the appointed day, is or is taken to be made or declared (whether by deed, will or otherwise) to, in favour of, or for a purpose of, the Bishop (on behalf of the Church), the Church or a Church association takes effect when it is, or is taken to be, made or declared—
- (a) to or in favour of the Trust; and

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Associations

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- (b) for a purpose of the Trust corresponding with, or similar to, the purpose for which it was, or was taken to be, made or declared.

16. Application of trust funds

- (1) A trust fund that, before the appointed day, has been created (whether by deed, will or otherwise) in favour of, or for a purpose of, the Bishop (on behalf of the Church), the Church or a Church association—
 - (a) does not fail only because of the provisions of this Act; and
 - (b) if it is capable of being applied to any extent on or after the appointed day, may be applied to that extent as if it were created—
 - (i) in favour of the Trust; and
 - (ii) for a purpose of the Trust corresponding with, or similar to, the purpose for which it was created.
- (2) A trust fund that, on or after the appointed day, is created (whether by deed, will or otherwise) in favour of, or for a purpose of, the Bishop (on behalf of the Church), the Church or a Church association may be applied as if it were created—
 - (a) in favour of the Trust; and
 - (b) for a purpose of the Trust corresponding with, or similar to, the purpose for which it was created.

17. Exemption from duty and other taxes

No duty or other tax is chargeable under any other Act in respect of the operation of this Part or anything done under this Part or in respect of any act or transaction connected with or necessary to be done by reason of this Part.

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18. Amendment of Register

The Registrar of Titles, on being requested to do so and on delivery of any relevant certificate of title or instrument, must make any amendments in the Register under the **Transfer of Land Act 1958** that are necessary because of the operation of this Part.

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SCHEDULES

SCHEDULE 1

CHURCH ASSOCIATIONS

<i>Name of association</i>	<i>Registration number</i>
Coptic Orthodox Church Diocese of Melbourne Inc.	A0040124U
Coptic Orthodox Patriarchate Anba Bishoy and Anba Shenouda Church Inc.	A0024366D
Coptic Orthodox Patriarchate Archangel Mikhail & St Anthony Church Inc.	A0026737H
Coptic Orthodox Patriarchate St. George Church Inc.	A0015982E
Coptic Orthodox Patriarchate St. Mina and St. Marina's Church Inc.	A0026767T
Coptic Orthodox Patriarchate (Parish of Victoria) "St Mary's Church" Inc.	A0017126R
Coptic Orthodox Church St Mark's Inc.	A0015603P

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Sch. 2

SCHEDULE 2

PROPERTY AND LIABILITIES OF BISHOP TO VEST IN TRUST

PART 1—LAND TO BE VESTED

Volume 2302	Folio 371	Volume 9801	Folio 903
Volume 2888	Folio 426	Volume 05566	Folio 119
Volume 3277	Folio 261	Volume 08150	Folio 180
Volume 3536	Folio 161	Volume 08196	Folio 285
Volume 3536	Folio 172	Volume 08232	Folio 104
Volume 3733	Folio 600	Volume 08877	Folio 772
Volume 4686	Folio 121	Volume 08877	Folio 773
Volume 4725	Folio 992	Volume 08877	Folio 774
Volume 7565	Folio 032	Volume 08877	Folio 775
Volume 8102	Folio 393	Volume 10044	Folio 534
Volume 8212	Folio 329	Volume 10129	Folio 527
Volume 8435	Folio 638	Volume 10129	Folio 528
Volume 8435	Folio 656	Volume 10129	Folio 529
Volume 8435	Folio 657	Volume 10129	Folio 530
Volume 8737	Folio 615	Volume 10156	Folio 863
Volume 8737	Folio 616	Volume 10352	Folio 150
Volume 8776	Folio 541	Volume 10352	Folio 155
Volume 8988	Folio 307	Volume 10352	Folio 156
Volume 9058	Folio 418	Volume 10689	Folio 638
Volume 9292	Folio 538		

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PART 2—LAND SUBJECT TO MORTGAGE

Volume 2302	Folio 371	Volume 8737	Folio 616
Volume 3277	Folio 261	Volume 8776	Folio 541
Volume 3536	Folio 161	Volume 8988	Folio 307
Volume 3536	Folio 172	Volume 9058	Folio 418
Volume 4686	Folio 121	Volume 9801	Folio 903
Volume 4725	Folio 992	Volume 08877	Folio 772
Volume 7565	Folio 032	Volume 10044	Folio 534
Volume 8102	Folio 393	Volume 10129	Folio 528
Volume 8435	Folio 638	Volume 10129	Folio 529
Volume 8435	Folio 656	Volume 10156	Folio 863
Volume 8435	Folio 657	Volume 10689	Folio 638
Volume 8737	Folio 615		

ENDNOTES

1. General Information

Minister's second reading speech—

Legislative Assembly: 19 July 2006

Legislative Council: 22 August 2006

The long title for the Bill for this Act was "to establish a corporate trustee for the Coptic Orthodox Church within the Diocese of Melbourne and Affiliated Regions to hold property for the benefit of the Coptic Orthodox Church in that Diocese, to provide for the vesting of certain property in the trustee, to cancel the incorporation of certain associations and for other purposes."

The **Coptic Orthodox Church (Victoria) Property Trust Act 2006** was assented to on 29 August 2006 and came into operation on 30 August 2006: section 2.

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Endnotes

2. Table of Amendments

There are no amendments made to the **Coptic Orthodox Church (Victoria) Property Trust Act 2006** by Acts and subordinate instruments.

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Endnotes

3. Explanatory Details

No entries at date of publication.