

*Hon. Mr Marshall*

**PRESBYTERIAN CHURCH PROPERTY  
AMENDMENT**

[PRIVATE]

ANALYSIS

Title	}	3. Church property transactions
Preamble		4. Beneficiary Fund investments
1. Short Title	}	5A. Beneficiary Fund investments
2. Alterations and additions to Church buildings		5. Costs of Act
		6. Private Act

A BILL INTITULED

**An Act to amend the powers of the Presbyterian Church Property Trustees in relation to buildings and property of congregations, and to provide for the investment of the**  
5 **Beneficiary Fund of the Presbyterian Church of New Zealand**

WHEREAS by clause 2 of the Second Schedule to the Presbyterian Church Property Act 1885 the erection of new buildings for the congregational purposes specified in that  
10 clause is made subject to the control of the Presbytery of the bounds: And whereas it is desirable that similar control should be vested in Presbyteries in respect of all major alterations or additions to or re-erection of existing buildings: And whereas it is desirable that control of all purchases of land

for the purposes of any congregation and certain other transactions relating thereto should be vested in the Presbytery of the bounds: And whereas in pursuance of paragraph (f) of section 5 of the Presbyterian Church Property Act 1885 Amendment Act 1914 certain funds of the Presbyterian Church have been amalgamated to become the Beneficiary Fund of the Presbyterian Church of New Zealand: And whereas it is expedient that the Trustees should be granted certain powers of investment of the said Beneficiary Fund: 5

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows: 10

**1. Short Title**—This Act may be cited as the Presbyterian Church Property Amendment Act 1963, and shall be read together with and deemed part of the Presbyterian Church Property Act 1885 (hereinafter referred to as the principal Act). 15

**2. Alterations and additions to Church buildings**—Clause 2 of the Second Schedule to the principal Act is hereby amended— 20

(a) By omitting the words “or schoolhouse”, and substituting the words “schoolhouse, or building used for school purposes”:

(b) By repealing the proviso, and substituting the following proviso: 25

“Provided that no such alteration or addition or re-erection shall be commenced or made if the cost thereof is estimated to be more than £300 (or such greater sum as may from time to time be approved by resolution of the General Assembly of the Presbyterian Church of New Zealand), and no new buildings shall be so erected, until the plans of the alterations or additions, or of the building to be re-erected or erected, have been approved by the Presbytery of the bounds.” 30 35

**3. Church property transactions**—(1) The Second Schedule to the principal Act is hereby amended by repealing clause 5, and substituting the following clause:

“5. (1) The Trustees, on being so required by a meeting of the Congregation of the Church, and with the consent of the Presbytery of the bounds, may—

5 “(a) Purchase, acquire, sell, or otherwise dispose of or deal with any lands or any interest therein which are to be or have been vested in the Trustees for the purposes and on behalf of that Congregation, and any such transaction may be either by public auction or private contract, and either together

10 or in parcels, and at one time or at different times:  
“(b) Exchange any of the lands so vested in the Trustees or any part thereof, for any other lands of a like tenure in or near the place where the same are situated, and may receive any money by way of equality of exchange, and out of any money in their hands applicable for such a purpose may give any

15 money by way of equality of exchange.  
“(2) Without restricting the provisions of subclause (1) of this clause, the Trustees may, with the consent of the managers, to be signified by a resolution passed by the said managers at a meeting held according to their usages and practice, and with the consent of the Presbytery of the bounds, lease or let any land which is not immediately required for the use of the Congregation, or in the occupation of the

25 Minister thereof. Such lease shall be for such term at such rent and on such terms and conditions as the Trustees may require or approve. The Trustees shall permit the managers to receive the rents and profits of any lands so leased, and such managers may apply the same at their discretion in or

30 towards all or any of the purposes mentioned in clause 11 hereof:  
“Provided that, when any land is to be leased for a term in excess of one year, the Trustees shall also require the consent by resolution of the Congregation.  
35 “(3) The powers hereby conferred shall not be exercised in respect of any such lands or any part thereof, if the deed or instrument under which the lands or any of them were originally granted or set apart for the purposes of the Church contains an express prohibition of the sale, exchange, or lease,

40 as the case may be, or any trust inconsistent with the exercise of the aforesaid powers, unless the consent of the donor or his legal representatives is first obtained to that exercise of the powers.”

(2) The Second Schedule to the principal Act is hereby further amended—

- (a) By inserting in clause 8, following the word “acquiring”, the words “developing, or subdividing”;
- (b) By omitting from clause 8 the words “place of worship, schoolhouse, manse, or other”;
- (c) By repealing the proviso to clause 8, and substituting the following proviso:

“Provided that no such money shall be borrowed or any security given for the same, except on the request of the managers of the Congregation for the purposes of which the money to be raised is required, such request to be signified in the manner aforesaid and confirmed by resolution of a meeting of the Congregation and with the consent of the Presbytery of the bounds.”

(3) The Second Schedule to the principal Act is hereby further amended by repealing clauses 9 and 10.

**4. Beneficiary Fund investments**—The Presbyterian Church Property Act 1885 Amendment Act 1914 is hereby amended by inserting, after section 5, the following section:

“5A. **Beneficiary Fund investments**—(1) Without restricting the provisions of paragraphs (a), (c), (d), and (e) of section 5 of this Act, it is hereby declared that the Trustees shall have power to invest money held for the Beneficiary Fund of the Presbyterian Church of New Zealand in all or any of the following investments:

“(a) In investments authorised for the investment of trust funds by the provisions of Part II of the Trustee Act 1956 or any amendment thereof:

“(b) On first mortgage of the interest of the lessee under any lease in perpetuity, or lease with the right of perpetual renewal, or any other lease for an unexpired term (including any right of renewal thereof) in excess of 21 years, of any land, including in each case land of which the Trustees are the lessors, where all conditions of improvement required under the lease have been complied with, and the lease is not liable to forfeiture in respect of default in complying with the aforesaid conditions, and the lessee is entitled under his lease to compensation or adequate protection in respect of all improvements on the land which are made by him or in which he has an interest;

5 “(c) In the purchase or subscription of fully paid ordinary  
or preferred shares, stocks, bonds, or debentures,  
or notes, whether registered or unregistered, and  
whether conveying the right of conversion to shares  
or not, or of any other securities of any company  
or other incorporated body, which are at the time  
of the acquisition listed on the official list of the  
Stock Exchange in New Zealand, or in the Com-  
monwealth of Australia or any State thereof, or  
10 in the United Kingdom, or in respect of which  
application for such listing has been made, and,  
without restricting the meaning of the term “fully  
paid” it is hereby declared that for the purposes  
of this paragraph shares, stocks, bonds, debentures,  
15 notes, or other securities as aforesaid, shall be  
deemed to be fully paid if the calls on them are  
payable by instalments on such terms that all calls  
shall be paid within a period of two years from the  
date of initial allotment:

20 “Provided that nothing contained or implied in  
this paragraph shall authorise the investment of  
any part of the said Beneficiary Fund in the shares  
or other securities of any company the principal  
business or source of income of which is the business  
25 of brewers, distillers, licensed hotel proprietors, or  
wine and spirit merchants:

30 “(d) In the purchase or acquisition of any freehold or  
leasehold interest in land, including any buildings  
or other improvements on any such land, or in the  
execution of any works connected with the sub-  
division, development, improvement, or mainten-  
ance of any such property held by the Trustees  
for the said Beneficiary Fund, including (without  
35 in any way limiting the generality of the foregoing)  
the construction, alteration, repair, renovation,  
demolition, or reconstruction of, or addition to any  
buildings or other improvements erected or in-  
tended to be erected thereon:

40 “(e) On advance to any congregation, on such terms as the  
Trustees shall think fit, of moneys to be expended  
in the subdivision of any land vested in the Trustees  
for the purposes and on behalf of such congrega-  
tion:

“Provided that the amount of any advance shall not exceed two thirds of the estimated value of the land following completion of the subdivision, and also that any such advance shall be treated in all respects as a registered mortgage over the land: 5

“(f) On deposit with any of the bodies referred to in paragraphs (c), (d), (e), and (i) of subsection (1) of section 4 of the Trustee Act 1956, or any amendment thereof, or on deposit with any dealer in the short term money market who has been approved by the Reserve Bank of New Zealand, or on deposit with such further or other bodies corporate as the General Assembly of the Presbyterian Church of New Zealand may from time to time by resolution authorise: 10 15

“Provided that, in respect of investments or advances proposed to be made under the provisions of paragraphs (c), (d) and (e) of this section the Trustees shall first obtain written advice of a person or persons who are reasonably believed by the Trustees to be qualified to advise on the investment or advance.” 20

(2) The Trustees shall have power to sell, exchange, vary, or transpose, any investments from time to time held by them for the said Beneficiary Fund.

(3) The Trustees shall have power to lease or let any land or any interest therein from time to time held by them as an investment of the said Beneficiary Fund, for any period at such rent or rents and upon such terms and conditions as the Trustees shall think fit. 25

**5. Costs of Act**—All costs, charges, disbursements, and expenses of and incidental to the preparing, obtaining, and passing of this Act or otherwise in relation thereto shall be paid in equal proportion by the Beneficiary Fund and the Administration Expenses Fund of the General Assembly. 30

**6. Private Act**—This Act is hereby declared to be a private Act. 35