

**NATAL ECCLESIASTICAL PROPERTIES AND TRUSTS AMENDMENT
(PRIVATE) ACT 60 OF 1975**

[ASSENTED TO 13 JUNE 1975]

[DATE OF COMMENCEMENT: 20 JUNE 1975]

(English text signed by the State President)

PRIVATE ACT

To amend the provisions of Act 9 of 1910 (Natal) and the Trusts applicable in terms thereof to certain properties set apart for ecclesiastical purposes and to provide for the administration thereof; and to provide for incidental matters.

Preamble

WHEREAS by Act 9 of 1910 (Natal) the Trusts applicable to certain properties in Natal set apart for ecclesiastical purposes were amended and declared and provision was made for the administration thereof;

AND WHEREAS certain properties or certain portions of properties described in Schedule A to the said Act, and the proceeds of certain such properties or portions thereof or properties purchased with such proceeds are at present administered by Trustees in terms of section 1 of the said Act;

AND WHEREAS certain properties or certain portions of properties described in Schedule B to the said Act are at present administered in terms of section 3 of the said Act for the use and benefit of the respective Churches whose names are set opposite the said properties in the said schedule and of the respective Ministers and Congregations thereof;

AND WHEREAS a certain property described in Schedule C to the said Act has not been brought within the provisions of the said Act by means of any resolution in terms of section 4 thereof;

AND WHEREAS certain properties described in Schedule D to the said Act and certain moneys are at present administered in terms of section 5 of the said Act in conformity with the particular Trusts thereby declared in reference thereto;

AND WHEREAS the moneys of the Dean and Chapter of the Cathedral Church of Saint Peter in Pietermaritzburg are at present administered in terms of section 2 of the said Act;

AND WHEREAS, for reasons of administrative convenience, it is expedient and the desire of the Trustees appointed in terms of section 1 of the said Act that certain properties or certain portions of properties described in Schedule A thereto, and the proceeds of certain such properties or portions thereof or other properties purchased with such proceeds should be administered in future by the Diocesan Trustees referred to in the said section with the powers conferred on them from time to time in terms of the Constitution and Canons of the Church of the Province of South Africa and the Acts of the said Diocese, and for the benefit of the Church of the Province of South Africa; and the said Diocesan Trustees likewise so desire;

AND WHEREAS, save for Saint Paul's Church, Durban, and Christ Church, Addington, the Ministers for the time being, the Parish Councils, the Vestries and the Habitual Worshippers of the respective Churches whose names are set opposite the said properties referred to in Schedule B to the said Act desire that such properties or certain portions thereof should be withdrawn from the said Schedules A, B and D thereto and that sections 1, 3 and 5 of the said Act should cease to apply to them, and that the said properties or certain portions thereof should be administered by the Diocesan Trustees of the said Diocese with the aforesaid powers, for the benefit of the Church of the Province

of South Africa;

AND WHEREAS the Minister for the time being, the Parish Council, the Vestry and the Habitual Worshippers of Saint Peter's Church, Pietermaritzburg, desire that certain properties described in the said Schedule A be withdrawn therefrom and be administered by the said Diocesan Trustees with the aforesaid powers, for the benefit of the Church of the Province of South Africa and that the moneys of the Dean and Chapter of the Cathedral Church of Saint Peter in Pietermaritzburg should no longer be subject to the provisions of section 2 of the said Act but should be administered by the said Diocesan Trustees with the aforesaid powers, and for the benefit of the Church of the Province of South Africa;

AND WHEREAS the Minister for the time being, the Parish Council, the Vestry and the Habitual Worshippers of Saint Paul's Church, Durban, desire that they should be empowered to secure the withdrawal of certain properties from one or more of the said Schedules A, B, C and D to the said Act, and the administration thereof, together with moneys presently held under section 5 (c) of the said Act, by the said Diocesan Trustees with the aforesaid powers, and for the benefit of the Church of the Province of South Africa;

AND WHEREAS it is expedient that effect be given to the aforesaid desires by appropriate amendments to the said Act, and to make provision for incidental matters:

BE IT THEREFORE ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:-

- 1 Substitutes section 2 of Act 9 of 1910 (Natal).
- 2 Amends Schedule A to Act 9 of 1910 (Natal), by deleting items 4, 7, 8, 10, 11, 14, 18, 19, 20, 21, 22, 23, 29, 30, 31, 34, 36 and 37, subject to the provisions of section 8 (1).
- 3 Amends Schedule B to Act 9 of 1910 (Natal), by deleting items 4, 5, 6, 7, 9, 10, 11, 13, 14 and 15.
- 4 Amends Schedule D to Act 9 of 1910 (Natal), by deleting item 6.
- 5 Diocesan Trustees appointed Trustees of certain properties, and the proceeds of certain properties

(1) Subject to the provisions of section 8 (1), the Diocesan Trustees are hereby declared to be the Trustees, with the powers possessed by them from time to time in terms of the Constitution and Canons of the Church of the Province of South Africa and the Acts of the Diocese, and for the benefit of the Church of the Province of South Africa, of each property described in the First Schedule to this Act, or of any portion of any such property, which, at the commencement of this Act, is held by the Trustees appointed in terms of the principal Act: Provided that in their administration of the aforesaid properties the Diocesan Trustees shall observe and fulfil any special conditions contained in the Deeds of Grant and Deeds of Transfer of any of the said properties in so far as the same are not in conflict with the provisions of this Act or the principal Act.

(2) The Diocesan Trustees are hereby declared to be the Trustees, with the powers contemplated in subsection (1), and for the benefit of the Church of the Province of South Africa, of the proceeds of any property, or of any portion of any property, referred to in Schedule A to the principal Act, which at the commencement of this Act, are held by the Trustees appointed in terms of the principal Act.

- 6 Diocesan Trustees appointed Trustees of certain moneys and securities

The Diocesan Trustees are hereby declared to be the Trustees, with the powers contemplated in section 5 (1) of this Act, and for the benefit of the Church of the Province of South Africa, of the moneys and securities for moneys of the Dean and Chapter of the Cathedral Church of Saint Peter in Pietermaritzburg, and they shall apply the said moneys and securities to the uses originally intended by the donors of such moneys and securities in so far as the same are not in conflict with the provisions of this Act or the principal Act.

7 Certain properties to be deemed deleted from the Schedules to the principal Act in certain circumstances

If at any time after the commencement of this Act, the Minister for the time being of Saint Paul's Church, Durban, consents thereto in writing, and the Parish Council, the Vestry and the Habitual Worshippers of the said Church pass resolutions to this effect by a two-thirds majority of those present at separate meetings thereof of which thirty days' notice shall have been given by the posting of notices on the principal door and principal notice board of the said Church, then, subject to the provisions of section 8 (2), each of the properties described in the Second Schedule to this Act or any portion of any such property which is then held by the Trustees appointed in terms of the principal Act, shall forthwith be deemed to be deleted from any and all of the Schedules to the principal Act in which reference is made thereto, and the Diocesan Trustees shall thereupon become the Trustees of each such property or portion thereof, and of any moneys administered under section 5 (c) of the principal Act, with the powers contemplated in section 5 (1) of this Act, and for the benefit of the Church of the Province of South Africa: subject to the provisions of the proviso to the said section 5 (1).

8 Rights of third parties protected

(1) Nothing contained in sections 2 and 5 shall be construed as prejudicing the rights of any third party in and to any of the properties contemplated in the items referred to in section 2 or in the First Schedule, which are in existence at the commencement of this Act.

(2) Nothing contained in section 7 shall be construed as prejudicing the rights of any third party in and to any of the properties contemplated in the items referred to in the Second Schedule, which are in existence at the date when any such property shall be deemed to have been deleted from Schedule A to the principal Act in terms of the provisions of the said section 7.

9 Definitions

In this Act, unless the context indicates otherwise:

'the Diocesan Trustees' means those persons who from time to time hold office as the Diocesan Trustees of the Diocese in terms of the Acts of the said Diocese;

'the Diocese' means the Diocese of Natal;

'the principal Act' means Act 9 of 1910 (Natal);

'third party' means any person other than-

(a) those persons who from time to time hold office as the Diocesan Trustees of the Diocese in terms of the Acts of the Diocese, in their capacity as such;

(b) those persons who from time to time hold office as the Trustees appointed in terms of section 1 of the principal Act, in their capacity as such; and

'Trustees appointed in terms of the principal Act' means those persons who

from time to time hold office as the Trustees appointed in terms of section 1 of the principal Act.

10 Central Trustees of Church of England in South Africa appointed Trustees of certain proceeds

The Central Trustees of the Church of England in South Africa are hereby declared to be the Trustees of the proceeds of Lot 80, Burger Street, situate in the City and County of Pietermaritzburg, Province of Natal, with the powers possessed by them from time to time in terms of the Constitution, Canons and Trust Deed of the Church of England in South Africa, and for the benefit of the Church of England in South Africa: Provided that in their administration thereof, the said Central Trustees shall observe and fulfil the special condition contained in Deed of Transfer 80 of 1883, dated 26th January, 1883.

11 Central Trustees of Church of England in South Africa appointed Trustees of certain property

The Central Trustees of the Church of England in South Africa are hereby declared to be the Trustees of the Remainder of Lot 26A, Block Tiles of the Town Lands of the Borough of Durban 1737, held under Deed of Transfer 2436 of 1928, dated 12th June, 1928, with the same powers in respect thereof as were conferred upon the Curators of the Church of England Properties in Natal under the Order made by the Natal Provincial Division of the Supreme Court of South Africa in Case M.436 of 1973 on 13th February, 1974.

12 Short title

This Act shall be called the Natal Ecclesiastical Properties and Trusts Amendment (Private) Act, 1975.

First Schedule

1. The property referred to in item 4 of Schedule A to the principal Act.
2. The property referred to in item 7 of Schedule A to the principal Act.
3. The property referred to in item 8 of Schedule A to the principal Act.
4. The property referred to in item 10 of Schedule A to the principal Act.
5. The property referred to in item 11 of Schedule A to the principal Act.
6. The property referred to in item 14 of Schedule A to the principal Act.
7. The property referred to in item 18 of Schedule A to the principal Act.
8. The property referred to in item 19 of Schedule A to the principal Act.
9. The property referred to in item 20 of Schedule A to the principal Act.
10. The property referred to in item 21 of Schedule A to the principal Act.
11. The property referred to in item 22 of Schedule A to the principal Act.
12. The property referred to in item 23 of Schedule A to the principal Act.
13. The property referred to in item 29 of Schedule A to the principal Act.
14. The property referred to in item 30 of Schedule A to the principal Act.
15. The property referred to in item 31 of Schedule A to the principal Act.
16. The property referred to in item 34 of Schedule A to the principal Act.
17. The property referred to in item 36 of Schedule A to the principal Act.
18. The Farm Modderspruit 1185, situate in the County of Klip River, Province of Natal, in extent 2 392,9083 hectares, held under Deed of Transfer 551 of 1911, dated 10th April, 1911.
19. Lot 5 of the Farm Sanembi Peak 6354, situate in the County of Victoria, Province of Natal, in extent 40,4686 hectares, held under Deed of Transfer 2321 of 1924, dated 18th June, 1924.
20. Sub 2 of Lot A of S4 5059, situate in the County of Pietermaritzburg, Province of Natal, in extent 2,4880 hectares, held under Deed of Transfer 1755 of 1927, dated 5th May, 1927.
21. Lot 46, Block Congella, situate in the Townlands of the Borough of Durban, Province of Natal, in extent 557 square metres, held under Deed of Transfer 2523 of 1928, dated 16th June, 1928.

Second Schedule

1. The property referred to in item 15 of Schedule A to the principal Act.
2. The property referred to in item 24 of Schedule A to the principal Act.
3. The property referred to in item 25 of Schedule A to the principal Act.
4. The property referred to in item 26 of Schedule A to the principal Act.
5. The property referred to in item 27 of Schedule A to the principal Act.
6. The Remainder of Lot 40, Bay Foreshore Lands 5350, situate in the City and County of Durban, Province of Natal, in extent 1 213 square metres, held under Deed of Transfer 2769 of 1927 dated 13th July, 1927.