



Baptist Union Incorporation Act 1902

An Act to consolidate and amend the law relating to the Baptist Union of Tasmania, and concerning the trusts of certain real and personal property

[Royal Assent 20 DECEMBER 1902]

Preamble

Whereas by the *Baptist Union Incorporation Act 1888* the Baptist Union of Tasmania was incorporated, and provision was made concerning the trusts of certain real and personal property: And whereas it has become desirable and expedient to consolidate and amend the law relating to the said Union, and concerning the said trusts and property:

Be it therefore enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

1. Short title

This Act may be cited as the *Baptist Union Incorporation Act 1902*.

2. Interpretation

In this Act, unless the contrary intention appears –

"Assembly" means the representative Assembly of officers and members elective or otherwise of the Union, however designated, as the same Assembly shall be from time to time constituted in accordance with the internal constitution and by-laws of the Union;

"by-law" means and includes law, rule, regulation, act, or resolution of the Assembly duly passed in accordance with the constitution thereof;

"church" means a congregation anywhere within Tasmania that –

(a) is known as, or styled as, a Baptist Church; and

(b) is admitted to the Union in accordance with the constitution;

"constitution" means the constitution specified in section 4, as amended, altered, repealed or substituted from time to time;

"Council" means the executive body of the Union as the same Council shall be from time to time constituted in accordance with the internal constitution and by-laws of the Union;

"the said Act" means the *Baptist Union Incorporation Act 1888*;

"Union" means the Baptist Union of Tasmania;

"Union Doctrines" means the doctrinal beliefs of the Union set out in the constitution;

"Union Trusts" means the trusts of the Union set out in the constitution.

3. Incorporation of the Baptist Union

(1) All persons who are or who may, in accordance with the constitution for the time being thereof, hereafter become members of the religious body or denomination in Tasmania holding as their general tenets the Union Doctrines, and who now or hereafter constitute the association called "The Baptist Union of Tasmania", shall from henceforth be a body corporate by the name of "The Baptist Union of Tasmania", and shall have perpetual succession and a common seal, and under that name may exercise all the powers, rights, and privileges possessed at law by bodies corporate, and under the same name may sue and be sued, prosecute and defend, and take all other proceedings in all courts, civil and criminal.

(2) It shall be lawful for the said body corporate (hereinafter referred to as "the Union") to take, purchase, receive, hold, and enjoy real and personal property of any description whatsoever, and either subject to trusts or absolutely; and also to sell, grant, convey, demise, or otherwise dispose of, either absolutely or by way of mortgage or in any other manner which the Council, subject to the by-laws of the Union, shall deem expedient or proper, any of the property real or personal belonging to the Union, and generally to exercise, subject to the provisions of this Act, all powers incident to a body corporate.

(3) The Council shall have the custody and use of the common seal of the Union, and a majority of the members of such Council present at any meeting shall have power, subject to the said by-laws, to use or direct the use of such seal for all purposes for which the use of such seal is required.

(4) The seal shall only be affixed by virtue of a resolution of the said majority, and in the presence of two members of the Council and the Secretary or the President for the time being of the Union, and the said two members and the Secretary or President shall sign their names to the document to which the seal has been affixed.

4. Constitution of the Union

(1) The Union is to have a constitution that sets out –

(a) the doctrinal beliefs of the Union; and

(b) the trusts of the Union; and

(c) the conditions on dealing with the Union Trusts.

(2) The Union may, from time to time, amend, alter, repeal or substitute the constitution in the manner set out in, and as allowed by, the constitution.

5. Power of trustees to convey to Union on Union Trusts

(1) All persons who now hold or in whom are vested any real or personal property as trustees in trust for the said religious body or denomination called Baptists, or for any church or association connected therewith or designated or commonly reputed a Baptist church or association by reason of its teachings and practice of believers' baptism, or otherwise, although the same may not come within the definition of "church" given in this Act, or for any persons associated for religious purposes under the name "Baptists", shall, subject to the provisos hereinafter contained, convey or transfer the same to the Union under and subject to the Union Trusts: Provided, that by agreement between the Council and the said trustees the same may be transferred to the Union, either absolutely or upon such other special trusts, subject to and not contravening the provisions of this Act as may be approved by the said trustees and by the Assembly.

(2) If any of the said trustees shall at the time of the execution of any such conveyance or transfer be absent from Tasmania, or cannot be found, or neglect, or is unable or incapable from any cause whatever to execute such conveyance or transfer, then and in every such case any of his co-trustees may act as his attorney, and sign and execute any such conveyance and any other document necessary in that behalf for every such trustee as aforesaid, and such signature and execution shall have the same effect as if the conveyance or such other document was signed and executed by such first-mentioned trustee.

(3) If any sole surviving trustee is absent from Tasmania, or cannot be found, or refuse or neglect or is unable or incapable from any cause whatever to execute such conveyance or make such transfer, or if there be no trustee, then and in every and any such case it shall be lawful for the Council, by resolution, to nominate any two members of such Council to execute a deed or transfer to convey or transfer any real or personal property to the Union; and when and so soon as the said deed or transfer shall have been executed by the said two members, then the said property shall be deemed to be vested in the Union according to the tenor thereof.

6. No conveyance to be made until consent, &c., of majority of church members obtained

(1) When there is an existing church interested in any real or personal property, then such trustees shall not make any such conveyance or transfer as aforesaid of the said real or personal property to the Union, nor shall the said deed poll be executed until there has been first obtained the consent and direction of the majority, as hereinafter defined, of the

church members in trust for whom such property is held present at a meeting duly convened, as hereinafter mentioned, for that object.

(2) The meeting referred to in subsection (1) shall be called by a notice stating the object of such meeting, together with the day, hour, and place of holding such meeting, which notice shall be signed by the pastor for the time being, or in case of his neglect for 14 days or refusal after request in writing made by 5 members of the church to sign such notice, or in case of there being no pastor, then by the same number of members, and such notice shall be posted on the door of the church building used for public worship or in connection with the said property at least two consecutive Sundays immediately preceding the day on which such meeting shall be appointed to take place, and shall, if practicable, be read during some part of each of the public services held on the same two Sundays in such church building; and no direction or consent shall be considered to have been given until such meeting shall have been called in the way prescribed, and a two-thirds majority of the church members present and voting at such meeting shall have passed a resolution directing such conveyance to be made.

(3) The said direction and consent shall be signed by the chairman of the said meeting, or by some other person deputed by the said meeting for such purpose, and when so signed shall be irrevocable.

7. Members entitled to vote

Only the members of the church present at a meeting referred to in section 6 who have attained the age of 18 years shall be allowed to vote. And no person who shall not have been a member of the church in good standing for the space of 3 months immediately prior to such meeting shall be entitled to vote or take any part in the business of such church meeting, except a duly-authorized representative of the Council, who may, by permission of the chairman or meeting, address the meeting.

8. Who to be chairman of meeting

The chairman of every such meeting as aforesaid shall be the pastor of the church, or in the case of his refusal, absence, or incapacity, or of there being no pastor, then a person chosen by the major part of the members present and voting at the meeting, and the chairman of such meeting shall have a deliberative vote, and in case of an equality of votes on any question, shall have a casting vote.

9. Procedure where no church, &c., existing

When there is any property held or vested in any trustees in trust as mentioned in section 5, and if there is no organized association of persons as aforesaid using such property for the conduct of religious services after the usages of Baptists, nor any church using it as aforesaid, or if meetings of any such association or church as aforesaid, recognized by such trustees and entitled to such property under the trusts thereof, have not been continuously held at regular periodical intervals not exceeding 3 months for religious

exercises after the usages of Baptists during a period of two years immediately preceding the notice hereinafter mentioned, then and in every such case the trustees shall, within 3 months after notice in writing from the Council, execute a conveyance of such property to the Union, and such property, when conveyed, shall be held upon the Union Trusts: Provided that in every such case that if there is any debt secured upon the said property for which the trustees are personally liable the same shall be paid off, or the trustees otherwise indemnified, or discharged in respect thereof before such conveyance is made: Provided also, that it shall be competent for the Council to apply to the Supreme Court, or to a judge thereof, by petition or summons, for an order directing the trustees of any such property as aforesaid to convey or transfer the same to the Union in accordance with the provisions of this Act; and the Supreme Court, or a judge thereof, if satisfied that such trustees have not shown sufficient cause why they should not convey or transfer such property to the Union, shall make an order directing such trustees to convey or transfer such property to the Union, and in every such case the Supreme Court, or a judge thereof, may make such order as to the payment of costs as to the Court or to a judge thereof appears just.

10. Accounting records

The Union must –

- (a)** keep such accounting records as correctly record and explain its financial position and transactions, including any transaction as trustee; and
- (b)** keep those records in a manner that allows true and fair accounts of the Union to be prepared from time to time; and
- (c)** retain those records for a period of not less than 10 years.

10A. Auditing requirements

(1) The Union is to ensure that any financial accounts of the Union, including any accounts relating to the Union Trusts, are audited at least once each calendar year in accordance with this section.

(2) The audit is to be carried out by a person who is a member of –

- (a)** the Institute of Chartered Accountants; or
- (b)** the Australian Society of Certified Practising Accountants; or
- (c)** the National Institute of Accountants.

(3) The auditor is to provide the Union with a certified copy of the audit stating whether or not the Union has –

(a) kept proper accounting records in respect of the Union Trusts; and

(b) kept such information as required to explain the financial transactions of the Union during the 12 months immediately preceding the audit.

11. Indemnity to the Union and to trustees

Neither the Union nor any trustee who shall, in accordance with the provisions of this Act, do or execute or join in doing or executing any act, deed, conveyance, transfer, or assurance, or other matter or thing necessary to vest any real or personal property in the Union, or to change the trusts thereof, and *bona fide* done in or about the premises, shall incur any liability in respect thereof, and the Union and every trustee is hereby released and discharged from all actions, suits, claims, and demands in respect thereof.

12. Power of the Assembly to make by-laws

(1) It shall be lawful for the Assembly in accordance with the provisions of the constitution thereof for the time being, to enact, amend, and repeal by-laws for the government and regulation or furtherance of –

(a) the churches admitted to the Union;

(b) the affairs and property thereof;

(c) the status and qualifications and duties of bishops or pastors, and of home and foreign missionaries, and of officers of the Union and of the churches thereof;

(d) the affairs, procedure, business, and property of the Union;

(e) the objects of the Union, or any of them, as the same may from time to time be defined by the constitution thereof.

(2) The by-laws, so far as the same shall be consistent with law and with the provisions of this Act, shall be deemed to be incorporated with this Act, and shall be of the same force and effect as if the same were expressly enacted therein: Provided always, that no by-law for the government or regulation of the church, or the affairs or property of any church the property of which church shall not be held under the Union Trusts, shall be binding thereon until a majority of the church members present, and voting thereon, shall have consented to such by-law, and upon such consent being notified by the secretary of the church to the Secretary of the Union, the said by-law shall have the same force and effect as if such property were held upon the Union Trusts, and shall continue in force until the same by-law be amended or repealed by the Assembly, and that notwithstanding that the same may be contrary to or override the existing trusts of the property of such church.

13. Power of the Assembly to raise money from churches, &c.

It shall be further lawful for the Assembly to raise money from all or any of the churches, stations, pastors, missionaries, and agents of or employed by the Union, in such manner and for such purposes as the Assembly may by by-law determine.

14. Proof of by-laws, minutes, &c.

A copy of any by-law, and of any document notifying the consent thereto of any church whose property shall not be held upon the Union Trusts, and of the minutes of the Assembly and Council and of any church, purporting to be certified by the Secretary or President of the Union to be a true copy of such by-law, minute, or document shall be received in all courts, and in all legal proceedings whatsoever as *prima facie* evidence of such by-law, minute, or document, or consent, and of the same having been duly made or given, and of the matters, acts, and proceedings of the Assembly, or Council, or church recorded therein; and the Secretary of the Union is hereby empowered, and required to supply upon demand, and upon the payment of the fee (if any) prescribed by the Council, a certified copy of any such by-law to every person who shall apply to him for it.

15. Technical informalities cured

No by-law shall be invalidated by reason of any informality in the mode of election, or the non-election, of any member of the Assembly, or the absence of members who may have been elected or summoned, or, after the lapse of one year from the passing thereof, be invalidated by reason of any irregularity or informality in the passing thereof, or in the consent (if any) given thereto.

16. Future property to be subject to this Act

All real and personal property hereafter acquired, granted, or devised, or otherwise assured or conveyed, either to trustees or otherwise, for the use or benefit of any church or mission, being a constituent of the Union or otherwise a Baptist church or mission, or for the use of or benefit of the Union, or for Baptists generally, shall (save as regards "The Baptist Union Sustentation Fund" mentioned in section 10 of the said Act) be subject to the provisions of this Act.

17. Future property acquired by the Union to be held on Union Trusts

All property hereafter acquired by the Union, shall, subject to the provisions of section 5, be held by the Union, upon the Union Trusts, unless the donor of any property shall make it a condition precedent to the acceptance or enjoyment of such property, that the same shall be otherwise held.

18. Power of Union to federate with other Australian Unions, &c.

It shall be lawful for the Assembly at any time to effect a federation, for any defined purpose or purposes, of the Union and its constituents with any one or more of the Baptist Unions in any one or more of the Australian States, or may unite in home and foreign

mission work with any other Baptist society or societies, in any place or places, or may receive as constituent members any one or more of the Baptist churches having the like restrictions and conditions of membership in any of the Australian States, upon such terms and conditions as the Assembly shall determine; and notice of the consummation of such federation, union, or reception published in the *Gazette*, and purporting to be signed by the President of the Union, shall be *prima facie* evidence of such having been effected, and of all other facts therein stated: Provided always, that all and every the real and personal property of the Union, and of each of the churches and constituents of the Union, shall continue to be held by the Union, or the person or persons in whom the same shall then, or may thereafter, be vested in trust for the said Union and the several churches and constituents thereof, upon the same trusts, and in the same manner in every respect, as if such federation, union, or reception had not been effected, and shall continue to be held subject to the provisions of this Act.

19.

19A. Continuity of incorporation

This Act, so far as it purports to incorporate the Baptist Union of Tasmania, is declaratory, and the Union so incorporated is one and the same with the Baptist Union of Tasmania, incorporated by the *Baptist Union Incorporation Act 1888*.

20. Repeal

The "**said Act**" is hereby repealed; nevertheless, the rules of the Union at the date of the passing of this Act, and the rules set out in Schedule (B) to the said Act, until repealed or superseded by by-laws passed under the provisions of this Act, shall, except so far as any of them are superseded by this Act, or repealed by necessary implication therefrom, have the same force and effect as if the same had been by-laws made under this Act, and had received the consent of the several churches as hereinbefore provided.

21. Savings and transitional provisions

(1) In this section –

"**prior Act**" means this Act as in force immediately before the commencement of the *Baptist Union Incorporation Amendment Act 2006*;

"**prior trusts**" means the Union Trusts set out in Schedule III of the prior Act.

(2) If a transaction with respect to property has been commenced under the prior trusts and has not been completed before the commencement of the *Baptist Union Incorporation Amendment Act 2006*, the transaction –

(a) is to be completed in accordance with the prior trusts; and

(b) on completion, is taken to have been completed in accordance with the constitution.

(3) Property held by the Union under the prior trusts immediately before the commencement of the *Baptist Union Incorporation Amendment Act 2006* is taken to be held by the Union in accordance with the Union Trusts.

SCHEDULE I -

PART I

PART II

PART III

PART IV

PART V

PART VI

PART VII

PART VIII

PART IX

PART X

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PART XII

SCHEDULE II

SCHEDULE III

Table Of Amendments

Provision affected	How affected
The preamble	Amended by No. 27 of 2006, s. 4
Preamble	Amended by No. 36 of 1958, s. 5
Section 1	Substituted by No. 36 of 1958, s. 4 and Sched. 3
Section 2	Amended by No. 36 of 1958, s. 4 and s. 5 and Sched. 3 and No. 27 of 2006, s. 5
Section 3	Amended by No. 36 of 1958, s. 4 and Sched. 3, No. 36 of 1958, s. 5 and No. 27 of 2006, s. 6
Section 4	Substituted by No. 27 of 2006, s. 7

Section 6	Amended by No. 36 of 1958, s. 4 and Sched. 3
Section 7	Amended by No. 27 of 2006, s. 8
Section 8	Amended by No. 36 of 1958, s. 4 and Sched. 3
Section 9	Amended by No. 36 of 1958, s. 4 and s. 5 and Sched. 3
Section 10	Amended by No. 36 of 1958, s. 4 and s. 5 and Sched. 3, No. 55 of 1965, s. 5 Substituted by No. 27 of 2006, s. 9
Section 10A	Inserted by No. 27 of 2006, s. 9
Section 12	Amended by No. 36 of 1958, s. 4 and Sched. 3, No. 36 of 1958, s. 5 and No. 27 of 2006, s. 10
Section 17	Amended by No. 36 of 1958, s. 5
Section 18	Amended by No. 36 of 1958, s. 5
Section 19	Amended by No. 36 of 1958, s. 4 and s. 5 and Sched. 3, No. 9 of 1982, s. 7 and Sched. 10 Repealed by No. 27 of 2006, s. 11
Section 19A	Inserted by No. 99 of 1982, s. 3 and Sched. 2, Pt. I
Section 21	Inserted by No. 27 of 2006, s. 12
Schedule I	Amended by No. 36 of 1958, s. 5 Repealed by No. 27 of 2006, s. 13
Part I of Schedule I	Amended by No. 27 of 2006, s. 13
Part II of Schedule I	Amended by No. 27 of 2006, s. 13
Part III of Schedule I	Amended by No. 27 of 2006, s. 13
Part IV of Schedule I	Amended by No. 27 of 2006, s. 13
Part V of Schedule I	Amended by No. 27 of 2006, s. 13
Part VI of Schedule I	Amended by No. 27 of 2006, s. 13
Part VII of Schedule I	Amended by No. 27 of 2006, s. 13
Part VIII of Schedule I	Amended by No. 27 of 2006, s. 13
Part IX of Schedule I	Amended by No. 27 of 2006, s. 13
Part X of Schedule I	Amended by No. 27 of 2006, s. 13
Part XI of Schedule I	Amended by No. 27 of 2006, s. 13
Part XII of Schedule I	Amended by No. 27 of 2006, s. 13
Schedule II	Amended by No. 36 of 1958, s. 5, No. 99 of 1982, s. 3 and Sched. 2, Pt. I Repealed by No. 27 of 2006, s. 13
Schedule III	Amended by No. 36 of 1958, s. 5, No. 55 of 1965, s. 5 Repealed by No. 27 of 2006, s. 13

Act	Number and year	Date of commencement
Baptist Union Incorporation Act 1902	No. 48 of 1902	20.12.1902
Statute Law Revision Act 1958	No. 36 of 1958	28.7.1958

Decimal Currency Act 1965	No. 55 of 1965	14.2.1966
Statute Law Revision Order (No. 7) 1977	No. 321 of 1977	30.11.1977
Companies and Securities Legislation (Miscellaneous Amendments) Act 1982	No. 9 of 1982	1.7.1982
Statute Law Revision Act 1982	No. 99 of 1982	1.2.1983
Baptist Union Incorporation Amendment Act 2006	No. 27 of 2006	18.12.2006

CURRENT VIEW: **18 Dec 2006** -
