

## *The Union Trusts*

### **1. Erection of Buildings:**

To permit the church, or where there is no church, such other persons as the Council approves, to erect a church building, vestry, school-house, manse, offices and other buildings, with all necessary appendages, in such form and at such period as they may think proper if -

- (a) the Council is satisfied that such work is advisable; and
- (b) The Council gives approval in writing; and
- (c) the terms and conditions, if any, prescribed by the Council, are complied with.

### **2. Uses of Church Property:**

- (1) To permit lands and premises of the church to be used, occupied and enjoyed -
  - (a) as a place for the public worship of God, according to the usages of the Baptist Church of Tasmania, under the direction of the church, or where there is no church, persons approved by the Council; and
  - (b) for the instruction of children and adults; and
  - (c) for the promotion of such other religious, educational or philanthropic purposes and other objects of the Union as may be defined by the constitution; and
  - (d) for the residence of the pastor or other persons as the Council may direct; and
  - (e) for such other purposes as the Council may approve.
- (2) With the approval in writing of the Council, to permit the premises to be repaired, altered, enlarged, taken down and wholly or partially rebuilt, or any other buildings to be erected on the ground so as to render the premises better adapted for the accomplishment of the purposes referred to in subclause (1).
- (3) With the approval in writing of the Council, to permit any portion of the lands to be used for cemetery purposes.
- (4) Where there is no church in possession of the property, the property is to be managed and disposed of by the Council in accordance with clause 18.

### **3. Collection and Appropriation of Money:**

- (1) To permit the persons appointed by the church, or where there is no church, such persons as the Council appoints, to receive any money, subscriptions and rents contributed for the purposes specified in clause 2.
- (2) The money, subscriptions and rents are to be applied -
  - (a) firstly, to discharge any -
    - ( i) interest on borrowed money; and
    - ( ii) premiums for insurance against fire; and
    - (iii) expenses of the Union as trustees; and
    - (iv) other claims properly payable; and
  - (b) secondly, as the Council directs for-
    - ( i) the maintenance of divine worship; and
    - ( ii) the propagation of Baptist faith and practices; and
    - (iii) funds established or authorized by the Assembly; and
    - ( iv) any other objects of the Union.

### **4. Pastors:**

- (1) To permit only persons to officiate in the premises of the church as regular pastors or missionaries who -
  - (a) are of the Christian people and church called Baptist; and
  - (b) hold, consent and subscribe to the doctrines; and
  - (c) have been chosen and appointed by the Assembly.
- (2) A person is not permitted to officiate in the premises of the church as a regular pastor if -
  - (a) the person has ceased to be of the Christian people and church called Baptist; and
  - (b) the person has ceased to hold, consent and subscribe to the doctrines; and
  - (c) the person has been removed from office by the Assembly.
- (3) A person is not permitted to officiate in the premises of the church if the person is -
  - (a) guilty of discreditable conduct; or
  - (b) commonly reputed to be guilty of discreditable conduct.

## **5. Occasional Preachers:**

- (1) To permit only persons of evangelical faith to officiate in the premises of the church as -
  - (a) the regular pastor may appoint; or
  - (b) if there is no such pastor, as the Council may appoint; or
  - (c) if the Council does not appoint any person, as the persons in charge of the premises may appoint.
- (2) A person is not to be permitted to promulgate or teach in the premises of the church any doctrine or practice contrary to the doctrine and laws of the Christian people called Baptists.

## **6. Mortgage of Church Property:**

Subject to the prior approval in writing of the Council, to raise for approved purposes such sums of money by mortgage on the terms and conditions as may be directed by the church and approved by the Council.

## **7. Sale of Church Property:**

As directed by the church and approved by the Council -

- (a) to sell the premises or any part of the premises of the church; or
- (b) to exchange the premises or any part of the premises for other purposes; or
- (c) to make other arrangements considered advantageous.

## **8. Application of Proceeds of Sales:**

- (1) To hold any money received on any sale or exchange of the premises on trust, after payment of any charges on the trust estate and any expenses incurred by the Union.
- (2) To invest, lay out or dispose of the proceeds, subject to the approval of the Council and as directed by the church -
  - (a) for the benefit of the church and the Christian people called Baptists;  
and
  - (b) to -
    - ( i) improve the trust property; or
    - ( ii) enlarge, repair or build on the premises of the church; or
    - (iii) purchase other properties.

## **9. Leases of Church Property:**

- (1) Subject to the approval of the Council, to lease the trust property, or any parts of it, including church pews, as directed by the church, or if there is no church, as the Council may in its discretion direct.
- (2) The money arising from any lease of the trust property shall be applied in the manner prescribed by clause 3.
- (3) The reversion of the trust estate shall be subject to all the powers of sale, exchange or arrangement considered advisable and to the directions and trusts in accordance with this Schedule.

## **10. Receipt of Union A Discharge:**

- (1) A receipt under the seal of the Union signed by 2 members of the Council for any money payable in respect of the trust premises, exonerates the persons paying the money from all liability to see to their application.
- (2) A person shall not inquire into the propriety of any mortgage, sale, letting or exchange, or its authorisation.
- (3) The usual receipt in the body of any document executed in accordance with subclause (1) has the same effect as any receipt.

## **11. Sale of Church Property on Default:**

- (1) If the Union is required to pay any money for which it is liable in relation to the trusts in these Trusts and that money is not provided by the church, the Union may, without the consent or direction of the church or any church member, after the expiration of 6 months; written notice, mortgage or sell the trust premises or any part of them.
- (2) The proceeds of any mortgage or sale under subclause (1) shall be applied -
  - (a) to pay any expenses of the mortgage or sale; and
  - (b) to reimburse the Union; and
  - (c) for the objects of the Union, as directed by the Council.
- (3) A written notice under subclause (1) relating to trust premises shall -
  - (a) be made by the Secretary of the Union; and
  - (b) state that in default of the required payment the Union intends to mortgage or sell the trust premises.
- (4) A written notice under subclause (1) shall be given -
  - (a) to the pastor of the church; or

- (b) if there is no pastor, to -
  - ( i) the deacon of the church, if there is only one deacon; or
  - ( ii) at least 2 deacons of the church, if there is more than one deacon; or
  - (iii) at least 2 members of the committee appointed to act instead of the deacon, if there is no deacon.
- (5) A written notice under subclause (1) is to be affixed to the church door on 3 successive Sundays.
- (6) Any person shall not inquire into -
  - (a) the propriety of a mortgage or sale; or
  - (b) whether notice was properly given.

## **12. Church Meetings:**

- (1) Any church meeting convened to make a direction or fulfil any of the purposes mentioned in Clauses 6 to 9 inclusive, except in the case of leases for one year or less, is to be called by a notice being posted on the church door on at least 2 successive Sundays immediately preceding the date of the meeting.
- (2) If practicable, the notice shall be read during the public services held on the same 2 Sundays on the premises.
- (3) The notice shall -
  - (a) state the object of the meeting; and
  - (b) state the date, time and place of the meeting; and
  - (c) be signed by the pastor.
- (4) The notice may be signed by 5 church members rather than the pastor if -
  - (a) the pastor neglects to sign it for 14 days; or
  - (b) the pastor refuses to sign it after a written request by 5 church members; or
  - (c) the church has no pastor.
- (5) A direction is given by a church meeting if -
  - (a) the meeting is called in accordance with this clause; and
  - (b) the majority of the church members present and voting pass a vote in favour of the proposed direction; and

- (c) a written request signed by the Chairman of the meeting is presented to the Union.

### **13. Voting:**

Members may vote at any church meeting referred to in clause 12 if they -

- (a) are aged 18 years or over; and
- (b) have been church members in good standing for 3 months immediately before the date of the meeting.

### **14. Chairman:**

- (1) The Chairman of any church meeting shall be -
  - (a) appointed by Council; or
  - (b) chosen by majority vote at that meeting, if -
    - ( i) the Council appointee refuses to act as Chairman; or
    - ( ii) the Council appointee is absent; or
    - (iii) the Council appointee is incapable of acting as Chairman; or
    - ( iv) the Council makes no appointment.
- (2) The Chairman has a casting vote only.
- (3) The Chairman may adjourn a meeting for not more than one month at a time.

### **15. Evidence:**

- (1) A statutory declaration that the required majority of the church has consented to any matter and that all formalities have been correctly observed is evidence of those matters.
- (2) A statutory declaration shall be made by -
  - (a) the Chairman of the meeting; or
  - (b) one of the deacons of the church who was present when the vote was taken, if the Chairman fails to do so for 7 days after being requested by the Secretary of the Union to make the declaration.

### **16. Ordinary Functions and Rights of the Church Preserved:**

- (1) The administration of the affairs of the church, and its property is subject to Part 4 and to the by-laws.

- (2) The direction of the church shall, notwithstanding any by-law, be absolute as to -
  - (a) the form of service and Divine Worship observed in the premises; and
  - (b) membership of and dismissal from the church; and
  - (c) the appointment of its own officers (except the pastor or person officiating as such whose appointment and removal by the Assembly shall be regulated by the by-laws and who is, if qualified, an ex-officio member of the church; and
  - (d) the administration of discipline amongst its members; and
  - (e) the management of its special local funds.
- (3) The form of service and Divine Worship shall not be inconsistent with the usages of the Christian people and church called Baptist or the doctrines.

#### **17. Absence of Church:**

- (1) The Union may do all things necessary to carry out these Trusts if
  - (a) the Council approves; and
  - (b) there is no church established on the land to be conveyed to the Union which regularly holds or conducts Divine Service.
- (2) Acts of the Union under subclause (1) have the same effect as if a church existed and-
  - (a) consented to those acts; or
  - (b) directed those acts to be done.

#### **18. Sale Where No Church:**

The Council may dispose of the premises or any part of them and deal with the proceeds of that disposal for the objects of the Union if -

- (a) no church is established on the land within one year of these Trusts being originally made; or
- (b) the church is reduced to less than 5 male members who -
  - ( i) are at least 21 years of age; and
  - ( ii) reside within 10 miles of the principal church building; or
- (c) the church is dissolved or dispersed and not reformed within 3 months; or
- (d) the church ceases to hold regular Divine Worship, at least once a month, for 3 consecutive months.

**19. Investment of Personal Property:**

- (1) To invest any personal property held on trust in securities approved by law for trust moneys, and to apply the income from that investment and from any personal estate as the Council shall direct.
- (2) Where any property exceeding \$100 is given, at any one time, to or for the benefit of any church, the Union is to hold that property in trust for the church on the same trusts and conditions upon which the property was given until the church ceases to exist, so long as the trusts are not inconsistent with Part 4 and the doctrines.

**20. Powers of The Council Controlled by By-Laws:**

Any power, authority, consent, sanction, direction or discretion exerciseable, given, withheld or reserved to the Council by or in these Trusts is to be exercised, given, withheld or reserved by the Council in accordance with the by-laws.