



BERMUDA

1975 : 5

CHURCH OF ENGLAND IN BERMUDA ACT 1975

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SCHEDULE

Declaration of Principles

[26 February 1975]

[preamble and words of enactment omitted]

Interpretation

1 In this Act, unless the context otherwise requires —

"the Bishop" means the Bishop for the time being of the Church and includes any guardian of the spiritualities of the Bishop;

"the Church" means the Church heretofore known as the Church of England in Bermuda and which, as from the 8th March, 1975, shall be known as the Anglican Church of Bermuda;

"ecclesiastical corporation" means the Synod, the Cathedral Vestry and the Church Vestry of each of the nine ecclesiastical parishes of the Church into which Bermuda is divided on the 8th March, 1975;

"incumbent" means the Rector of a parish of the Church and, where there is no Rector, includes the Vicar, Priest-in-Charge or other cleric charged with the cure of souls in respect of such parish;

"new parish" means an ecclesiastical parish of the Church created pursuant to section 16;

"original parish" means one of the nine ecclesiastical parishes of the Church in existence on the 8th March, 1975;

"Parish" means each original and new parish;

"parishioner" means a person entitled to vote at any meeting of parishioners of a particular parish under any canon or regulation of the Synod;

"prescribed acreage" means in relation to —

- (a) the Synod, other than when it is acting as Trustee for any new parish, a total acreage equal to the sum of the acreage of land in Bermuda held by it on the 8th March, 1975 and another five acres;
- (b) the Synod, when it is acting as Trustee for any new parish, for each new parish a total acreage equal to the sum of the acreage of land in Bermuda vested in it in trust for such new parish pursuant to section 16(4) and another two acres;

- (c) the Cathedral Vestry, a total acreage equal to the sum of the acreage of land in Bermuda held by the Cathedral Vestry on the 8th March, 1975 and another acre;
- (d) the Church Vestry of each original parish, a total acreage equal to the sum of the acreage of land in Bermuda held by such Church Vestry on the 8th March, 1975 and another two acres;

"the Synod" means the body corporate which, prior to the 8th March, 1975, was known by the name of the Synod of the Church of England in Bermuda and which, as from the 8th March, 1975, shall be known by the name of the Synod of the Anglican Church of Bermuda.

Name; power to manage own affairs

2 As from the 8th March, 1975, the Church shall be known as the Anglican Church of Bermuda and, subject to section 3, shall have full power to manage its own affairs.

Declaration of Principles

3 (1) The Declaration of Principles contained in the Schedule is hereby promulgated as the principles governing the future conduct of the Church.

(2) The Synod shall not have power to make or sanction any alteration in or variation from or addition to the Declaration of Principles as set out in the Schedule except such alterations or variations or additions amending the same as may have been adopted by the Church of England in England or by the Province of the Anglican Communion with which the Diocese of Bermuda is for the time being affiliated.

Ecclesiastical law

4 As from the 8th March, 1975 —

- (a) the ecclesiastical law of the Church of England, if and so far as it extends in Bermuda, shall in Bermuda cease to exist as law;
- (b) so much of the then existing ecclesiastical law and the then existing articles, doctrines, rites, rules, discipline, ordinances, canons and regulations of the Church of England as is on the 8th March, 1975 in fact adopted, followed or applied in Bermuda shall, with and subject to such modification or alteration if any as after that date may be duly made therein pursuant to section 8, be binding on the members for the time being of the

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Church, in the same manner as if they had mutually agreed to be so bound.

Continuance of ecclesiastical offices

5 Any person who, on the 8th March, 1975, holds an ecclesiastical office, shall continue in that office until he is appointed to another ecclesiastical office or until he retires, resigns or is removed or until he dies without having retired or resigned or having been removed.

Renaming and perpetuation of Synod

6 The Synod shall continue to be a body corporate with perpetual succession under the name of the Synod of the Anglican Church of Bermuda with power to have and use a common seal and with power to sue and liability to be sued.

Transitional provisions relating to Constitution of Synod

7 The Constitution of the Synod in effect immediately before the 8th March, 1975 shall continue to be the Constitution of the Synod until it is revoked or varied in accordance with section 8.

Powers of Synod

8 Subject to section 3, the Synod shall have power —

- (a) to affiliate the Church with any Province of the Anglican Communion;
- (b) to make and vary such provisions as it thinks fit for its Constitution;
- (c) to revoke or alter its Constitution;
- (d) to make and vary such articles rules, ordinances, canons and regulations as it thinks fit in relation to the Church —
 - (i) for the general management, discipline and good government of the Church;
 - (ii) for the appointment, retirement and removal of the Bishop, the incumbents and other clergymen;
 - (iii) for settling the rites of the Church;
 - (iv) for the establishment of ecclesiastical tribunals;
 - (v) for the appointment of such councils, committees and officers as it may think fit for any purpose connected with the work of the Church;

- (vi) for settling the composition, election and procedures of the Cathedral Vestry and the Church Vestries;
- (vii) for settling the election or appointment of Churchwardens;
- (viii) for settling the procedures for the transaction of its business and for all other matters relating to the furtherance of the Church and the interests of the Church.

Chapter of the Cathedral of Bermuda

9 (1) On the 8th March, 1975, the Chapter of the Cathedral of Bermuda shall cease to be a body corporate.

(2) The persons who immediately before the 8th March, 1975 are members of the Chapter of the Cathedral of Bermuda shall, on that date, continue to be members of the said Chapter until their successors are appointed, elected or take office in accordance with the canons and regulations for the time being in force respecting the same.

(3) All real and personal estate whatsoever which, immediately before the 8th March, 1975, is vested in the body corporate known as the Chapter of the Cathedral of Bermuda shall, on the 8th March, 1975, vest without further assurance in the Cathedral Vestry for the purposes of the Cathedral of Bermuda or subject to the trusts (if any) upon which the same were theretofore held.

Perpetuation of Cathedral Vestry

10 (1) The Cathedral Vestry shall continue to be a body corporate with perpetual succession under that name with power to have and use a common seal, with power to sue and liability to be sued.

(2) The persons who immediately before the 8th March, 1975 were the Cathedral Wardens and other members of the Cathedral Vestry shall continue to be Cathedral Wardens and the other members of the Cathedral Vestry until their successors are appointed or elected in accordance with the canons and regulations for the time being in force respecting the same.

Perpetuation of parochial bodies corporate under new names

11 (1) The Church Vestry of each of the nine ecclesiastical parishes of the Church into which Bermuda is divided on the 8th March, 1975 shall be and constitute a body corporate under the name of "The Church Vestry of..... Parish" in continuity of and in succession to the Rector and Church Vestry of such parish (constituted a body corporate by the Church Vestries Act 1899 [*repealed*]) with

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perpetual succession and under that name to have and use a common seal with power to sue and liability to be sued.

(2) All the real and personal estate whatsoever which, immediately before the 8th March, 1975, is vested in the Rector and Church Vestry of any parish shall, on the 8th March, 1975, continue to vest without further assurance in the Church Vestry of such parish subject to the trusts (if any) upon which the same were theretofore held.

(3) Any legal obligations or liabilities incurred before the 1st March, 1975 by the Rector and Church Vestry of any parish and remaining unsatisfied on the 8th March, 1975 shall continue to be legal obligations and liabilities of the Church Vestry of such parish.

(4) Subject to the provisions of subsection (1) relating to continuity and succession, the several bodies corporate constituted by the Church Vestries Act 1899 [*repealed*] shall cease to be bodies corporate under the names specified in the said Act and shall continue to be bodies corporate under the names specified in subsection (1).

(5) The persons who immediately before the 8th March, 1975 were Churchwardens or members of the Vestry of any parish shall, on that date, continue to be Churchwardens or members of such Vestry until their successors are appointed, elected or take office in accordance with the canons and regulations for the time being in force respecting the same.

Powers of ecclesiastical corporations; acquisition, holding and disposal of land

12 (1) Subject as hereinafter in this section provided and without prejudice to section 16(4), each ecclesiastical corporation shall have power —

- (a) to acquire land in Bermuda by way of purchase or exchange or by way of gift or devise to such corporation;
- (b) to take any land in Bermuda by way of lease or letting agreement; and
- (c) to hold any land so acquired or taken for the use and benefit and for the purposes of such corporation or for or in trust for the promotion of Christian knowledge or for any other lawful, religious, educational, charitable or benevolent purpose or object:

Provided that —

- (i) if at any time any land is acquired or taken as aforesaid and the land so acquired or taken, together with the land then held by such corporation (other than by way of lease or letting agreement) exceeds the prescribed acreage, then

such corporation may hold any such excess land for a period not exceeding three years computed from the date upon which such corporation became entitled for a present estate in possession in the land so acquired; and

- (ii) if at any time the area of the land held in possession by such corporation (other than by way of lease or letting agreement) exceeds the prescribed acreage such corporation shall, notwithstanding anything contained in subsection (2), within three years thereafter, sell or otherwise dispose of so much land as shall be sufficient to bring the remainder of such land within the aggregate area of the prescribed acreage.

(2) Without prejudice to anything contained in subsection (1), and subject to section 15, each ecclesiastical corporation shall have power to sell, exchange, lease, let or mortgage any land held by it, being land held by it in its corporate capacity, for such an estate as to enable an individual person to deal with such land:

Provided that no land held by the Cathedral Vestry or the Church Vestry of any original parish shall be sold, exchanged, leased for a period in excess of seven years or mortgaged without the consent in writing of the Synod:

Provided further that no ecclesiastical corporation shall have power —

- (a) to sell, exchange, lease, let or mortgage any land held by it while such land is appointed under the Public Health Act 1949 [*title 11 item 1*] to be in use as a cemetery; or
- (b) to abridge or derogate from the right of burial in any parish churchyard.

(3) The provisions contained in the proviso to subsection (1) shall have effect with respect to any land in Bermuda held by way of lease or letting agreement where such lease or letting agreement is for a period exceeding twenty-one years.

Powers of ecclesiastical corporations; acquisition, holding and disposal of personal property

13 Each ecclesiastical corporation shall have power to acquire by purchase or exchange or by gift or bequest to such ecclesiastical corporation, personal property and to hold and administer the same for the use and benefit and for the purposes of such corporation or for or in trust for the promotion of Christian knowledge or for any lawful,

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religious, educational, charitable or benevolent purpose or object and to sell, exchange, mortgage or otherwise dispose of any such property.

Powers of ecclesiastical corporations; trusts

14 (1) Notwithstanding any provision of law to the contrary, each ecclesiastical corporation shall have power in its corporate capacity from time to time and at all times hereafter to sell, exchange, mortgage or otherwise dispose of any real or personal property vested in it, freed and absolutely discharge from any trusts and conditions attaching to any such real or personal property and subject thereto each ecclesiastical corporation shall hold and use all real or personal property and all moneys obtained by means of any such sale, mortgage or other disposition of any such trust property in trust for the purposes contained in the instrument creating such trust and shall apply and appropriate such real or personal property so obtained for the purposes of the trusts contained in the instrument creating the trust:

Provided that no land held by the Cathedral Vestry or the Church Vestry of any original parish shall be so sold, exchanged, mortgaged or otherwise disposed of without the consent in writing of the Synod.

(2) Any person who pays or advances any moneys to any ecclesiastical corporation or effects any exchange with any ecclesiastical corporation shall not be bound or concerned in any way to see or enquire as to the application of such moneys or other property paid, advanced or transferred to such ecclesiastical corporation.

(3) Every deed, conveyance, mortgage, lease or other assurance of any real or personal property purporting to be the act or deed of any ecclesiastical corporation to which the common seal of such ecclesiastical corporation has been affixed shall be valid, sufficient and effectual to convey, transfer or assign to the purchaser, mortgagee, lessee or other person in favour of whom such deed, conveyance, mortgage, lease or other assurance shall be made, the property vested in such ecclesiastical corporation and described therein for such estate as shall be thereby limited or declared freed and absolutely discharged from all trusts and conditions attaching thereto which may be inconsistent with the absolute use and enjoyment of the estate purporting to be conveyed or assured by any such assurance.

Additional powers of ecclesiastical corporations

15 Each ecclesiastical corporation shall have the following additional powers —

- (a) to invest the funds of such ecclesiastical corporation in any stocks, shares, bonds, debentures or mortgages which such ecclesiastical corporation may from time to time consider sound investments or in any investments

authorised for the time being by any public Act for the investment of trust moneys;

- (b) to lend or advance moneys, either without security or upon the security of a mortgage of real or personal property, on such terms as to such ecclesiastical corporation may seem expedient;
- (c) to borrow or raise or secure the payment of money in such manner as such ecclesiastical corporation may think fit;
- (d) subject to the canons and regulations for the time being in force respecting the same, to erect, build, alter, enlarge, pull down and remove or replace any buildings on any real or leasehold property of such ecclesiastical corporation;
- (e) to make and carry out contracts incidental to the carrying out of the objects of such ecclesiastical corporation;
- (f) to do all other acts or things necessary, suitable or proper for administering the affairs of such ecclesiastical corporation or for carrying out the objects of such ecclesiastical corporation.

Parish boundaries

16 (1) The boundaries of parishes as they exist on the 8th March, 1975 shall continue until changed in the manner provided in this section.

(2) If at any time after the 8th March, 1975 the Synod considers it to be in the best interests of the Church to divide any parish or parishes and create any new or additional parish or parishes or alter or change the boundaries of any parish or parishes, it shall send to the incumbent and Churchwardens of each parish concerned a notice in writing stating the proposed alteration or change and require that a meeting or meetings be convened of the parishioners of the said parish or parishes to consider the said alteration or change.

(3) After the Synod has received a copy of the resolution certified by the relevant Church Vestry Clerk, passed by a majority of the parishioners present at a meeting convened for the purpose of considering alterations, approving the alterations, of every parish concerned, then the Synod may by instrument in writing make such alteration or change, including the creation of a new parish.

(4) The instrument in writing creating a new parish shall set forth what real and personal property of the divided parish or parishes is

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to be held in trust for the new parish, which property shall without conveyance vest in the Synod in trust for the new parish.

[Section 17 repealed by 2007:16 s.22 & Sch e]fective 22 June 2007]

Dissolution of corporations sole and vesting of properties held by them and certain other properties in various ecclesiastical corporations

18 (1) On the 8th March, 1975, the Bishop and the incumbents shall cease to be ecclesiastical corporations sole.

(2) As from the 8th March, 1975 —

- (a) all real and personal estate, with the exception of any property which is left to the Bishop upon trust for the good of the Diocese, which immediately before the 8th March, 1975 was vested in the Bishop as an ecclesiastical corporation sole shall vest on the 8th March, 1975 without further assurance in the Cathedral Vestry subject to any and all trusts affecting the same;
- (b) all real and personal estate which, immediately before the 8th March, 1975, was vested in an incumbent as an ecclesiastical corporation sole (or, where any living is vacant, would have vested in the incumbent as a corporation sole had the living been filled) shall on the 8th March, 1975 vest without further assurance in the Church Vestry of the parish in respect of which he is (or would have been) the incumbent subject to any and all trusts affecting the same;
- (c) all plate, furniture and moveable property which, immediately before the 8th March, 1975, belonged to the Cathedral or were used in connection with the celebration of the liturgy or divine worship then not being the property of a private individual shall on the 8th March, 1975 vest in the Cathedral Vestry;
- (d) all plate, furniture and moveable property which, immediately before the 8th March, 1975, belonged to any Church or Chapel in any parish or were used in connection with the celebration of the liturgy or divine worship then not being the property of a private individual shall on the 8th March, 1975 vest in the Church Vestry of such parish.

Declaration as to effect of certain gifts

19 (1) Any gift or other disposition taking effect after the 8th March, 1975 by deed, will or other instrument in favour of the Bishop or the Dean of the Chapter of the Cathedral of Bermuda, as Bishop or Dean

respectively and not as an individual, or the Chapter of the Cathedral of Bermuda or the Canon Residentiary, as Canon Residentiary and not as an individual, shall be construed and shall take effect as a gift or disposition in favour of the Cathedral Vestry.

(2) Any gift or other disposition taking effect after the 8th March, 1975 by deed, will or other instrument in favour of the incumbent of an original parish, as such incumbent and not as an individual, or the Rector and Church Vestry of such original parish or any person or body on behalf of such original parish shall be construed and shall take effect as a gift or disposition in favour of the Church Vestry of such parish.

(3) Any gift or other disposition by deed, will or other instrument, in favour of the incumbent of a new parish, as such incumbent and not as an individual, or the Rector and Church Vestry of such new parish, or the Church Vestry of such new parish or any other person or body on behalf of such new parish shall be construed and shall take effect as a gift or disposition to the Synod in trust for such new parish.

Repeals

20 [omitted]

Continuation of certain provisions of law as regulations of Synod

21 Notwithstanding section 20, the provisions of—

- (a) the Vacant Benefices Act 1882;
- (b) the Church Vestries Act 1961;
- (c) sections 1, 2(1), 4(1), 4(3) to 4(8) inclusive and 6 to 9 inclusive and the Schedules to Bermuda Cathedral Act 1966; and
- (d) sections 1 to 10 inclusive of the Church Livings and Glebe Lands Consolidation Act 1967,

existing immediately before the 8th March, 1975 shall, with and subject to such modification or alteration therein, including the total repeal thereof, as may from time to time be duly made by the Synod pursuant to section 8, be deemed to be regulations of the Synod.

Commencement

22 [omitted]

[this Act was brought into operation on 8 March 1975 by GN 104/1975]

**SCHEDULE
DECLARATION OF PRINCIPLES**

(As adopted by the Synod on the 18th day of April, 1974)

We, being by representation the Church of England in Bermuda, and having resolved that this Church shall henceforth be known as The Anglican Church of Bermuda, do declare, for the avoidance of doubt and misunderstanding, that it is our intention that the Church shall continue as heretofore to be in spiritual union and communion with the Church of England and the other Churches of the Anglican Communion. We recognise and accept the canon of Holy Scripture, received by the Church of England, as the rule and standard of our Christian faith; we acknowledge the Book of Common Prayer and Administration of the Sacraments, and other rites authorised for use in the Church of England, together with the thirty-nine Articles of Religion, as interpreted and accepted by the Church of England, to be a true and faithful declaration of Christian doctrine. We also maintain, as scriptural and apostolic, the threefold order of the Christian Ministry--Bishops, Priests and Deacons. We affirm that we will make no alterations in the doctrine, liturgy or discipline of the Church, except such as shall have been made in the Church of England or in a Church of the Anglican Communion with which we may have agreed to form a closer relationship.

[Amended by
2007 16]