

**Reprint  
as at 1 January 2004**



**Auckland Baptist Tabernacle Act  
1948**

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**Contents**

	Page
Title	2
Preamble	2
1 Short Title	3
<b>Part 1</b>	
<b>Auckland Baptist Tabernacle</b>	
2 Incorporation of the Auckland Baptist Tabernacle	3
3 Adopting constitution and rules	4
4 Vesting property in Church	4
5 Registration of title to land	5
6 Qualifications of Minister	5
7 Membership roll	5

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**Note**

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

**Part 2****The Auckland Baptist Tabernacle Trust Board**

8	Incorporation of the Auckland Baptist Tabernacle Trust Board	6
9	Dissolving old board	6
10	Vesting of property	6
11	Trusts on which property to be held by the Trust Board	7
12	Nature of property as to capital or income in the hands of the Trust Board	7
13	Registration of title to property vested in the Trust Board	7
14	Receipts by secretary, etc, sufficient discharge	8
15	Protection of purchasers and others dealing with the Trust Board	8
16	Private Act	8
	<b>Schedule 1</b>	9
	<b>Schedule 2</b>	25
	<b>Schedule 3</b>	26
	<b>Schedule 4</b>	45

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**An Act to constitute and incorporate the Auckland Baptist Tabernacle and the Auckland Baptist Tabernacle Trust Board and to provide a constitution and rules for each of such bodies respectively and to declare the trusts upon which property shall hereafter be held by or on behalf of the Auckland Baptist Tabernacle and to provide for all incidental matters involved**

**Preamble**

Whereas in or about 1855 a number of persons of the religious denomination known as Baptists formed themselves into a Church, and subsequent thereto acquired a certain piece of land in Wellesley Street, Auckland, and erected thereon a chapel in which public worship was held in accordance with the usages and beliefs of the Baptist denomination:

And whereas on 7 August 1883 one Frederick Battley, in whom the said piece of land was then vested, conveyed it to 7 named persons upon certain trusts then declared:

And whereas, in consequence of the said chapel having become inadequate in course of time to the needs of its congregation, the trustees then in office sold the said piece of land and purchased a certain piece of land more particularly described in Schedule 2 upon which there was later erected the chapel known as the Auckland Baptist Tabernacle and also a certain adjoining piece of land more particularly described in Schedule 4 upon which was erected a certain commercial building known as the Tabernacle Buildings:

And whereas in or about 1935 the trustees then in office, having filed a memorial in the office of the Supreme Court at Auckland under the provisions of Part 2 of the Religious, Charitable, and Educational Trusts Act 1908, became incorporated under such Act as the Auckland Baptist Tabernacle Trust Board:

And whereas the Auckland Baptist Tabernacle in 1943 resolved to adopt a constitution and rules superseding the constitution and rules previously in force:

And whereas doubts have arisen as to the trusts upon which the said pieces of land are held and as to certain matters relating to Church membership and administration:

And whereas it is desirable that such doubts be resolved and that the Auckland Baptist Tabernacle and the Auckland Baptist Tabernacle Trust Board be incorporated by Act of Parliament.

**1 Short Title**

This Act may be cited as the Auckland Baptist Tabernacle Act 1948.

**Part 1**

**Auckland Baptist Tabernacle**

**2 Incorporation of the Auckland Baptist Tabernacle**

There is hereby established a body corporate to be called the Auckland Baptist Tabernacle (hereinafter referred to as the **Church**), which shall have perpetual succession and a common seal, and under that name may sue and be sued, prosecute, defend, and take and be represented in all proceedings in all courts and before all tribunals or authorities, and it shall further

be lawful for the Church to hold, receive, purchase, or otherwise acquire, possess, and enjoy real and personal property of any description whatsoever, and also to sell, grant, convey, demise, or otherwise dispose of, either absolutely or by way of mortgage, any property now or hereafter held by or belonging to the Church, and generally to exercise and do all the powers, privileges, matters, and things incidental or appertaining to a body corporate, and in particular, but without in any way limiting or derogating from the powers aforesaid, the Church may exercise all or any of the powers and functions mentioned in the constitution and rules set forth in Schedule 1.

### **3 Adopting constitution and rules**

The constitution set forth in Part 1 of Schedule 1 shall be the constitution of the Church. The rules set forth in Part 2 of Schedule 1, together with such amendments, modifications, and additions thereto as may at any time and from time to time be lawfully made, shall be the rules of the Church, provided always that the conditions and limitations contained in Rule 39 of such rules are complied with and observed.

### **4 Vesting property in Church**

- (1) As from the date of the passing of this Act, all real and personal property whatsoever ordinarily used for or associated with the services and religious and social activities and agencies of the Auckland Baptist Tabernacle shall be vested, without conveyance, transfer, or assignment, in the Church, subject to all liabilities, charges, and obligations (if any) affecting the same or created by this Act, and the Church shall assume and satisfy any obligations and liabilities of the Church in relation thereto existing at the date of the passing of this Act.
- (2) The real property vested in the Church by virtue of the last preceding subsection shall be held by the Church, subject to the provision that all buildings thereon shall be used for the public worship of God according to the usages of the denomination called Baptists under the direction of the members of the Church for the time being there assembling for worship and for the instruction of children and adults, and that such buildings and any other buildings from time to time erected or

being upon the said real property shall be used generally for the promotion, advancement, and support of such other Baptist religious charitable purposes as the Church may from time to time deem proper, and that any moneys received from the sale of any such land or buildings shall likewise be applied for the purposes aforesaid.

- (3) The real property intended to be vested in the Church by the provisions of this section is more particularly described in Schedule 2.

**5 Registration of title to land**

Upon the passing of this Act, all District Land Registrars shall, on written application under the seal of the Church, register the Auckland Baptist Tabernacle as proprietor of all lands registered under the Land Transfer Act 1915 and vested in the Church by virtue of this Act.

**6 Qualifications of Minister**

The Minister of the Church shall always be a baptised believer of the denomination called Baptists and shall hold, teach, maintain, and preach the doctrines set forth in Part 1 of Schedule 1.

**7 Membership roll**

In order to remove doubts now existing regarding membership, it is hereby declared that, in addition to those persons whose names appear on the roll of Church members at the date of the passing of this Act, every person whose name was on such roll on 1 August 1944, and who has not since that date died or voluntarily resigned from membership or been granted a transfer of his membership to another Baptist Church, is hereby declared to be a member of the Church and to be entitled to have his name entered on the membership roll thereof and shall be deemed to have been a member at all times since his original reception into membership of the Church, and the Church Secretary or other proper officer shall take all necessary steps forthwith upon the passing of this Act to give effect to the provisions of this section. Except in the case of manifest error, the inclusion of a name on the roll of Church mem-

bers shall be accepted for all purposes as sufficient evidence of membership.

## **Part 2**

### **The Auckland Baptist Tabernacle Trust Board**

#### **8 Incorporation of the Auckland Baptist Tabernacle Trust Board**

There is hereby established a body corporate to be called the Auckland Baptist Tabernacle Trust Board (hereinafter referred to as the **Trust Board**), which shall have perpetual succession and a common seal, and which shall have the constitution and powers and generally shall conduct its affairs in the manner set forth in Schedule 3.

#### **9 Dissolving old board**

- (1) As from the date of the passing of this Act, the body corporate called the Auckland Baptist Tabernacle Trust Board, incorporated in 1935 under the provisions of the Religious, Charitable, and Educational Trusts Act 1908 (hereinafter referred to as the **old board**), shall be dissolved.
- (2) All things which prior to the passing of this Act were done or omitted by the old board or its predecessors in office or any of its members from time to time in or about the property real and personal hitherto vested in or controlled by the old board and the trusts which hitherto affected the same are hereby ratified and for all purposes shall be deemed to have been validly done or omitted.

#### **10 Vesting of property**

As from the date of the passing of this Act, all real and personal property whatsoever held by the old board (save and except for the property described in Schedule 2) shall be vested, without conveyance, transfer, or assignment, in the Trust Board, subject to all debts, liabilities, and charges (if any) affecting the same, and the Trust Board shall take over and satisfy all debts and liabilities of the old board existing at the date of the pass-

ing of this Act, save and except such debts and liabilities (if any) as relate to the property described in Schedule 2.

**11 Trusts on which property to be held by the Trust Board**

The real and personal property vested in the Trust Board by virtue of this Act shall be held by the Trust Board free and clear of all trusts which prior to the passing of this Act affected the same in the hands of the old board, but the Trust Board shall hold the same subject to the trusts set forth in Schedule 3.

**12 Nature of property as to capital or income in the hands of the Trust Board**

- (1) All property vested in the Trust Board by virtue of this Act which according to the books and accounts of the old board has prior to the passing of this Act been treated by the old board as capital shall vest as capital in the Trust Board.
- (2) The moneys and investments shown in the books and accounts of the old board as forming a Depreciation Reserve Fund shall for the purposes of this section be deemed to have been treated by the old board in its books and accounts as capital, and such moneys and investments, together with any accrued interest thereon as at the date of the passing of this Act, shall vest as capital in the Trust Board.
- (3) All moneys, funds, and investments vested in the Trust Board by virtue of this Act which according to the books and accounts of the old board have prior to the passing of this Act been treated by the old board as income (but not including therein the moneys and investments referred to in the last preceding subsection) shall, by virtue of this Act, vest in the Trust Board as follows, namely—
  - (a) an amount thereof representing in value the sum of £10,000 shall vest in the Trust Board as capital; and
  - (b) the balance thereof shall vest in the Trust Board as income.

**13 Registration of title to property vested in the Trust Board**

- (1) Upon the passing of this Act, all District Land Registrars and all other persons having charge of any register showing the ownership of any property shall, on written application under

the seal of the Trust Board, register the Trust Board as proprietor or owner of all lands or other property vested in the Trust Board by virtue of this Act.

- (2) The lands which by virtue of this Act are vested in the Trust Board are more particularly described in Schedule 4.

**14 Receipts by secretary, etc, sufficient discharge**

The receipt in writing of any secretary, treasurer, or agent of the Trust Board duly authorised in that behalf shall be a good and effectual discharge for all money paid to him on behalf of the Trust Board and shall exonerate the person or persons paying such money from seeing to the application thereof.

**15 Protection of purchasers and others dealing with the Trust Board**

It shall not be necessary for any purchaser or any person to or with whom any sale, exchange, or lease shall be made, or other transaction entered into under the powers conferred by this Act, to inquire into the necessity therefor or the propriety thereof.

**16 Private Act**

This Act is hereby declared to be a private Act.

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## **Schedule 1**

### **Part 1 Constitution**

Accepting the Bible as the inspired word of God, this Church takes it as its rule of faith and practice (its only creed) and learning from its pages the following great fundamental Doctrines and Duties, adopts them as a basis of action and bond of union.

Firstly, Doctrines—

The doctrine of 1 God, who is a Trinity in Unity, and the only proper object of religious worship:

The doctrine of original sin and human depravity:

The doctrine of the atonement of Christ:

The doctrine of justification through faith:

The doctrine of repentance towards God:

The doctrine of regeneration and sanctification by the Holy Spirit:

The doctrine of salvation by grace through faith, not of works:

The doctrine of good works as an evidence of saving faith:

The doctrine of the resurrection of the dead:

The doctrine of future Judgment, of eternal rewards and punishments.

Secondly, Duties—

The religious observance of the first day of the week as the Lord's Day:

The profession of faith in Christ by Public Baptism by immersion:

The commemoration of the death of Christ in the observance of the Lord's Supper. The diligent use of the means of grace, and of promoting the unity of the spirit in the bond of peace.

### **Part 2 Rules**

#### **1 Name**

The Church shall be known as the Auckland Baptist Tabernacle. Every present and future member shall be deemed to

Part 2—*continued*

accept these rules as a condition of his admission to membership.

**2 Conditions of admission to membership**

There may be admitted to membership of the Church only those who have confessed their faith in the Lord Jesus Christ as Saviour and have been immersed in the Triune Name. In the case of candidates for admission to membership whose physical or medical condition makes baptism by immersion inadvisable, the Elders' Court hereinafter mentioned may, after examination of medical or other evidence, recommend admission of the particular candidate without baptism by immersion, and such recommendation shall be placed for decision before the Church business meeting at which the application for membership is considered.

**3 Procedure for admission**

A candidate for admission to membership of the Church shall in the first instance be interviewed by the Minister or, in the absence of the Minister, by an Elder, and shall be required to sign an application accepting the doctrinal beliefs and rules on which this Church is constituted. Two Church members selected for the purpose by the Church or Elders' Court shall thereafter interview the candidate and, as soon as conveniently may be following such interview, lodge with the Church Secretary a report addressed to the Elders' Court giving their views as to the suitability of the candidate for Church membership. In the event of the Elders' Court approving the application, it shall be brought before a Church business meeting at the first convenient opportunity for endorsement. Candidates may be admitted following a favourable vote on the application at a Church business meeting, but subject always to their having undergone immersion, except in those cases in which immersion is dispensed with under the terms of clause 2.

Part 2—*continued*

**4 Admission by transfer**

Baptised believers who are duly admitted members of other Baptist Churches may apply for membership of this Church by personal application to the Minister or, in the Minister's absence, to an Elder; upon receipt of a favourable report from the Minister or Elder the Church Secretary shall, with all convenient speed, forward to the applicant's previous Church a request that the member be transferred to this Church. To avoid delay, the Church Secretary shall be empowered, after consultation with the Minister, to give or request letters of transfer. Any such action shall be reported to and confirmed at the next following Church meeting.

**5 Roll revision**

No member whose name appears on the Roll of membership of the Church shall permit his or her name to remain or to be entered upon the Roll or membership of any other church, and in the event of non-compliance with the foregoing provisions his or her name shall be removed from the Roll of membership of the Church in accordance with the Rules of the Church relating to membership:

provided, however, that in the case of those persons to whom section 7 applies, this Rule 5 shall not apply to such persons until the expiration of 3 months from the date of the passing of this Act.

**6**

The Membership Roll shall be subject to constant supervision by the Elders. Members whose attendance at the Communion service and other appointed meetings has lapsed or become irregular shall, if possible, be visited or written to in order to ascertain the reason for non-attendance. Any member who shall be absent from the Communion service for a period of 12 months continuously may be called upon for a good and sufficient reason for such absence. Should no good reason be given in response the name of the member concerned may be removed from the Roll by resolution of the Church meeting.

Part 2—*continued*

The attendance card issued at Communion services if duly signed and returned by a member attending the service shall be accepted as proof of attendance. Notwithstanding anything hereinbefore contained the Church at a business meeting duly convened for the purpose may remove from the Roll of members the name of any person whom it may consider guilty of conduct of a scandalous or grossly improper nature or inconsistent with the Christian way of living. The member shall be given reasonable opportunity to attend and answer any charges made against him or her.

**7 Appeal against removal from Roll**

Any member who may be aggrieved by a decision of the Church to remove his name from the Roll of Members, whether on a roll revision or otherwise, may appeal against such removal, provided he deposits a written notice of appeal with the Minister or the Church Secretary within 1 month of his receiving notice of the Church's decision to remove his name in terms of the preceding rule; such notice of appeal shall not be required to be in any particular form, but shall specify the grounds of the appeal. Upon receipt of such notice by the Minister or Church Secretary, the appeal shall immediately be notified to the Church Officers, who shall refer it forthwith to an Appeal Committee consisting of 1 member nominated by the Church Officers, 1 member nominated by the appellant (both such persons to be members of the Auckland Baptist Tabernacle), and 1 person, not being a member of the Church, to be selected by the 2 members nominated as aforesaid; such person shall be chairman and convener of the Committee of Appeal and must be a member of a Baptist Church; the Committee of Appeal shall decide its own procedure on the appeal before it and shall decide whether the appellant and the Church or either of them shall be entitled to be represented by Counsel or by a friend. In its consideration of the case before it the Committee shall be guided by Baptist practices and principles. The Committee shall deliver to the Church and to the appellant respectively

Part 2—*continued*

its findings on the appeal within twenty-one (21) days of the hearing of the appeal being concluded; in the event of a member's appeal being allowed, the Church shall forthwith cause the name of the appellant to be restored to the Roll from which it has been removed. In any case in which it thinks fit so to do, the Church may restore a name to the roll without requiring the propriety of its removal to be determined by an Appeal Committee. In the event of undue delay in the nomination of members of the Committee of Appeal or in the selection of the chairman thereof, a Judge of the High Court, may, on summary application in that behalf, appoint any member or members of the said Committee including the Chairman thereof.

Schedule 1 Rule 7: amended, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

**8 Observance of Lord's Supper**

The Lord's Supper shall be observed at least once in each month, and may be observed on such further or other occasions as the Elders and Deacons, in consultation with the Minister, may decide from time to time. In the Church the Lord's Supper shall be open to all believers.

**9 Church business meetings**

Ordinary Church business meetings shall be held at least monthly, except in the months of December and January, at a time and place appointed by the Deacons. Notice of such meetings shall be given on the Lord's Day immediately previous to the date fixed, at both morning and evening services. At such ordinary meetings the business shall consist of the adoption of the minutes and financial statement, the consideration of reports, and questions relating to the admission of particular persons to the Roll of Church Members, and any other business required by these Rules to be dealt with at a Church business meeting or otherwise lawfully brought forward. Any other business shall be deemed special and shall not be dealt with unless at least 14 days' prior notice

Part 2—*continued*

of intention to introduce it and of its nature shall have been given to the Elders and Deacons. The Church officers may at any time direct the Secretary to convene a special meeting of Church members, and the Secretary shall thereupon convene such meeting by posting in a prominent place in the vestibule of the Church at least 14 days before the date fixed for such meeting a notice stating the time and place thereof and the nature of the business to be brought forward thereat. In addition notice of the meeting shall be given at the regular services of the Church on the 2 Lord's Days before the meeting.

**10 Regarding meetings generally**

No Church meeting shall continue after the hour of 9.30 pm, unless the meeting so decides. All questions raised shall be decided by the votes of members present. With the consent of the meeting, a member may introduce a question relative to the welfare of the Church not covered by the agenda for the meeting, but in the event of objection being taken to his doing so he may be required by the meeting to give notice to introduce the question at a subsequent Church meeting. The quorum for any Church business meeting shall be 50.

**11 Conduct of meetings**

Unless otherwise herein provided or unless otherwise decided by any meeting, the Minister when present shall preside at all meetings of Church members, except when the business before the meeting relates to him in his personal capacity or he is unwilling or unable to act or when there is no Minister of the Church for the time being. In such cases the meeting shall elect a Chairman from the Elders or Deacons present or, in the event of no Elder or Deacon being present or being willing to act, then from such members who may be willing to act. The discussion shall be conducted according to the ordinary rules of Parliamentary debate and all questions shall be decided by

Part 2—*continued*

the votes of members present, and that either on the voices or by the show of hands or by ballot as the meeting may decide: provided that a ballot shall be taken if at least 10% of the members present so desire. Voting by proxy shall not be permitted at any Church meeting.

**12 Annual meeting**

The Church shall hold a meeting annually, to be called the annual meeting, during September, or as soon thereafter as the Elders and Deacons may be able to arrange; at such meeting the Church Secretary shall present a report, previously approved by the Elders and Deacons, on the work of the Church and its agencies during the previous Church year ending on 31 July. In addition, the Church Treasurer shall submit a balance sheet and statement of the receipts and expenditure of the Church during the same period; such balance sheet and statement of receipts and expenditure shall be duly audited by a public accountant.

**13 Requisitioned meeting**

The Secretary shall, on receipt of a requisition to that effect signed by at least three one-hundredths of members on the Church Roll, provided the number of members signing the requisition shall not be less than 30 in any case and provided the nature of the business proposed to be discussed is clearly stated in the requisition, call a special meeting of Church members in manner prescribed by these rules for the purpose of discussing the business referred to in the requisition. In the event of the Secretary failing, for a period of 14 days after the receipt of such a requisition, to call a meeting in compliance with such requisition, the requisitionists may themselves call a meeting of Church members by posting in a prominent place in the vestibule of the Church at least 2 Lord's Days before the date fixed for such meeting a notice signed by all the requisitionists stating the time and place thereof and the nature of the business to be brought forward thereat.

Part 2—*continued***14 Agencies of the Church**

The activities and agencies of the Church, apart from ordinary Church services, shall be such as the Church has hitherto conducted or sponsored, with the addition of such other activities or agencies as may be approved by the Church from time to time. Unless otherwise herein provided, the Minister shall be *ex officio* President of all agencies and activities of the Church, other than any Board set up to administer any part or parts of the property of the Church. The Minister for the time being shall not be eligible for membership of any Board administering any property of a commercial character owned by the Church; each Church agency shall elect its own Chairman and, except as aforesaid, the Minister shall be eligible to act as Chairman.

**15 Minutes**

Minutes of all Church meetings shall be duly kept, and, upon being approved in the customary manner and signed by the Chairman at that or a subsequent meeting as a correct record, shall for all purposes be deemed conclusive, except in the case of manifest error.

**16 Access to records**

Every member shall have the right at any reasonable time to inspect the Church Roll and the Church Minute Book, but he shall not be entitled to make copies or extracts therefrom without the consent of the Church Officers.

**17 Election of Elders and Deacons**

The Church shall appoint Elders and Deacons, who shall exercise the functions hitherto and usually exercised by Elders and Deacons of a Church of the Baptist denomination. The Elders and Deacons in office upon the passing of the Act adopting these rules shall continue in office until the next annual meeting of the Church, when 2 Elders and 2 Deacons shall retire as hereinafter provided and an election held to fill the places of those so retiring. Until otherwise determined, the number



Part 2—*continued*

of ordinary members of each Court of Elders and Deacons respectively shall not exceed 12, and the quorum for either Court shall be 5; in addition, the Church Secretary shall be *ex officio* a member of both Courts and the Church Treasurer shall be *ex officio* a member of the Deacon's Court. No person shall be qualified to be a member either of the Elders' Court or the Deacons' Court unless he has attained the age of 25 years and has been on the Roll of Members of the Church for at least 2 years. At every annual meeting 2 Elders and 2 Deacons shall retire by rotation. The members to retire each year shall be chosen by lot from amongst those longest in office since last elected. Retiring members shall not be eligible for re-election until the next annual meeting of the Church. Each Court may fill casual vacancies occurring from time to time, but any appointment so made shall be subject to confirmation at the next Church business meeting. Every candidate for election at the annual meeting shall be nominated in writing by 2 members of the Church Roll of Membership, and the nomination paper, with the candidate's acceptance of nomination endorsed thereon, shall be lodged with the Church Secretary from at least 14 clear days before the date fixed for the annual meeting.

**18 Election of other officers**

At the annual meeting the following other officers shall be elected—namely, Church Secretary, Church Treasurer, Choirmaster, Organist, Auditor, and any other officers, not otherwise provided for herein, whom the Church may desire to appoint. All these officers shall retire annually and be eligible for re-election. For each of these offices written nominations shall be lodged with the Church Secretary at least 7 clear days prior to the date fixed for the annual meeting. Any casual vacancy occurring in any of the offices referred to in this paragraph shall be filled by the Church at a Church business meeting, and the person elected shall hold office during the unexpired portion of the term of his predecessor. All Church officers referred to in this rule who may be in office upon the passing of the Act adopting these rules shall continue in office until the

Part 2—*continued*

annual meeting following, when they may be nominated for re-election in terms hereof.

**19 House Committee**

The Deacons' Court shall annually appoint a House Committee whose duties shall include the control and care of Church buildings, furnishings, and grounds. The Church Secretary shall be entitled, subject to any directions of the Deacons' Court, to permit the use of the Church building, adjacent halls, or classrooms for any approved purpose.

**20 Deaconesses**

The Elders' Court may appoint honorary Deaconesses, to hold office during its pleasure, and their duties shall include assistance to the Minister in his spiritual oversight of members of the Church, and control of the arrangements for the baptism of female candidates.

**21 Only members to hold office**

Unless otherwise provided in these rules or directed by a Church business meeting, no person who is not a member of the Church shall be appointed to any office in the Church or any of its agencies. All appointments of officers by agencies of the Church not otherwise provided for shall be subject to the approval of the Church Officers and confirmation by the Church.

**22 Composition of Executive**

There shall be a Church Executive consisting of the Minister, the Church Secretary, the Church Treasurer, and 1 member of the Elders' Court elected by that Court, and 1 member of the Deacons' Court elected by that Court, and such Church executive may deal with all urgent and emergency matters and act between Church business meetings, but their decisions shall be subject to review at the next business meeting of the Church.

Part 2—*continued*

**23 Meetings of Deacons and Elders**

There shall be a regular meeting of each of the Elders' and Deacons' Courts at least once a month. A combined meeting of the combined Courts of Elders and Deacons shall be held on the application of either Court, provided reasonable notice is given of the time and place of such meeting. At each meeting of the Deacons' Court the Church Treasurer shall present a financial statement showing all receipts and payments for the previous month and any current undischarged liabilities of the Church.

**24 Common seal**

The Church shall have a common seal, which shall remain in the custody of the Church Secretary. It shall only be affixed to any document by authority of the Church and in the presence of 2 officers and the Church Secretary or, in his absence, the Church Treasurer.

**25 Vacancy in post of Minister**

Whenever a vacancy occurs in the post of Minister, the matter shall be brought by the Church Secretary before the Court of Officers, being the combined Court of Elders and Deacons, who shall endeavour to make a recommendation to the Church of a person qualified to fill the vacancy. The recommendation shall be laid before a meeting of the Church summoned for the purpose in writing posted to the last known place of abode of every member at least 14 days before the date fixed for the meeting at which the matter is to be considered. In addition, notice of the meeting shall be given at the regular services of the Church on the 2 Lord's Days before the meeting. Should the Court of Officers fail to make a recommendation within 6 calendar months of the vacancy occurring, a meeting of Church members may be convened under these rules for the purpose of nominating some person to fill the vacancy. No resolution of a Church meeting extending a call to the pulpit of the Church shall be deemed to be carried unless passed by the vote of at least three-quarters of members of the Church

Part 2—*continued*

present in person at a duly convened meeting called for the purpose.

**26 Removal of Minister**

The Church may at any time remove a Minister by resolution passed at a duly convened meeting of Church members called for the purpose, provided due notice of the time, place, and purpose of the meeting shall have been posted to such members at their last known place of abode at least 14 days before the date fixed for such meeting. No resolution as aforesaid shall be deemed to be carried unless passed by the votes of at least 55% in number of members of the Church present in person at such meeting.

**27 Occasional Minister**

The Minister, with the prior approval of the Elders' Court, may permit another Minister to officiate at Church services, provided that such other Minister shall not officiate for a longer period than 1 month at any 1 time without the approval of a Church meeting.

**28 Powers of Church members**

The Church shall be governed in all things according to congregational principles, so that the members of the Church for the time being shall have full and uncontrolled power to manage or arrange all their internal or Church affairs (except only in cases by these presents otherwise specially provided for) according to their own interpretation of the Holy Scriptures.

**29 Repair and erection of buildings**

Any buildings, erections, or improvements upon the land in Schedule 2 may, at the direction of the said Church, be repaired, altered, enlarged, taken down, and wholly or partially rebuilt; buildings of such character and designed for such purpose as the Church may see fit may be erected on the said land so as to render the said premises better adapted for the accomplishment of the purposes aforesaid.

Part 2—*continued*

**30 Application of moneys**

Subject to the directions of the Church, the Court of Deacons and other persons appointed for that purpose by the said Church shall receive for disbursement all moneys receivable by the Church for any purpose whatsoever, and shall discharge therefrom all costs, charges, and expenses and other claims upon the said Church and apply any balance remaining to the maintenance of Divine Worship in the Church premises and other the purposes of these presents as the said Church may from time to time direct.

**31 Power to raise money**

The Church may raise by way of mortgage on the security of its property or any part thereof such sums of money as may be directed by the vote of a majority in number of such of the members of the Church for the time being as shall be personally present at a special Church meeting duly convened and held for that purpose.

**32 Power to sell**

The Church, by a vote of members as set out in the last preceding clause, may sell, on such terms and subject to such conditions as it may specify, any of its lands, or part thereof, or exchange the same or any part thereof, and hold the proceeds of such sale or exchange for the purposes herein declared.

**33 Power to purchase**

Likewise the Church may purchase or otherwise acquire on any tenure and on such terms as it may think fit any lands, tenements, and hereditaments for the purposes of these presents to be held on such trusts, and for such purposes and objects as the Church may declare, provided that such purposes and objects are not incompatible with the general purposes and objects herein declared.

Part 2—*continued***34 Application of moneys raised by sale or mortgage**

All sums of money raised by way of sale or mortgage in terms hereof shall be laid out or expended for such purpose comprised within the provisions hereof as the members of the Church may by resolution decide:

provided, however, that all moneys raised by sale or mortgage of the land described in Schedule 2 or any part thereof shall be applied only for the purchase of additional or other land to be used for the purpose of a Baptist Church or for the erection, re-erection, renovation, or alteration of the buildings erected on the land described in Schedule 2 or on any other lands so purchased.

**35 Investment of surplus moneys**

The Church may invest in manner permitted to trustees any moneys not immediately required for the purposes of these presents on such terms and conditions as by resolution it may approve.

**36 Powers to let**

The Church shall have power from time to time to let or demise any portion of its land or buildings, for such term and on such terms and conditions as by resolution it may approve:

provided that all moneys received from such letting or demising after paying therefrom all proper charges thereon shall be applied for the purposes of these presents.

**37 Provision in case of dissolution of Church**

In case the Church be dissolved or dispersed and not again formed within 12 calendar months next thereafter, or if the public worship of God in the said premises shall be discontinued for a period of 2 years or more, then the Baptist Churches of New Zealand, in the name of the Church by resolution duly passed, may let, lease, sell, or otherwise dispose of all or any of its lands and deal with the net moneys for or in respect of the same in such manner for such religious purposes (not tending to the promulgation of doctrines inconsistent

Part 2—*continued*

with anything herein or in the constitution of the Church) as may be decided by the said Baptist Churches within the Dominion of New Zealand.

**38 Provisions to apply to land subsequently acquired**

The provisions herein contained, so far as they may be applicable, shall apply to all property hereafter acquired by the Church, either in substitution for or in addition to any property now held by the Church.

**39 Transfer of property to Church Trust Board**

The Church may from time to time and with the consent of the Trust Board established under Part 2 of this Act transfer to the said Trust Board any real or personal property vested in the Church and declared by resolution of a Church meeting not to be required for the purpose of public worship or the use of church meetings or agencies. Such property may be transferred to the Trust Board upon trust for some particular charitable purpose or purposes determined by the Church or may be transferred to the Trust Board by way of gift to be held upon the same trusts as the Trust Board holds the property vested in it by virtue of this Act.

**40 Alteration to rules**

Nothing in these rules shall be altered or repealed or added to except at a special Church meeting called for the purpose, of which at least 1 calendar month's notice shall be given by notice in a prominent position at the entrance to the Church. Such notice shall specify the nature of the proposed alteration, repeal, or addition, and the time and place at which such proposed alteration, repeal, or addition shall be considered. In addition, a copy of the notice shall be posted to the last known place of residence of each Church member at least 21 clear days before the date of the special Church meeting. At the special Church meeting the majority required to approve the proposed alteration to the constitution or rules shall be three-quarters of the members personally present and entitled to vote

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Part 2—*continued*

thereat. Any alteration to the rules shall have no effect in so far as it infringes or purports to infringe or renders possible the infringement of any of the following stipulations, namely—

- (a) The right of appeal provided for by Rule 7 shall not within a period of 5 years from the date of the passing of this Act be taken away or restricted or rendered less available:
  - (b) The right to requisition a special meeting provided for in Rule 13 shall not be taken away or restricted:
  - (c) The right of inspection of the Church Roll and Minute Book provided for in Rule 16 shall not be taken away or restricted.
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## **Schedule 2**

That parcel of land containing two roods thirty-six and six-tenths perches (2 roods 36.6 perches), more or less, comprising Allotments 23 and 24 of Section 29 of the City of Auckland, and bounded as appears on a plan deposited in the Land Registry Office at Auckland under No 4257, and being the whole of the land comprised and described in certificate of title, Volume 150, folio 129 (Auckland Registry).

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### Schedule 3

This schedule is divided into Sections, as follows:

Section I: Trusts upon which the property vested in the Trust Board shall be held by the Trust Board:

Section II: Rules governing the constitution, powers, and duties and proceedings of the Trust Board.

#### Section I

#### The trusts upon which the property vested in the Trust Board shall be held by the Trust Board

The Trust Board shall stand possessed of those portions of the Trust property from time to time representing the capital thereof upon trust to apply the income derived therefrom (including all moneys and investments which pursuant to section 12 of this Act retain the nature of income in the hands of the Trust Board) as follows:

Firstly, in defraying all proper costs, charges, and expenses of and incidental to the administration, upkeep, repair, maintenance, and management of the Trust property and the costs and disbursements in anywise relating—

- (a) to the preparation and promotion of this Act which shall also extend to and include objections to this Act before it was passed as an Act; and
- (b) to any legal proceedings relating to membership now pending incurred as between solicitor and client by past and present members of the Auckland Baptist Tabernacle Church and by the old board.

Secondly, in or towards the repayment of the whole or any part of any moneys whatsoever owing from time to time by the Trust Board if in the opinion of the Trust Board (but with the approval of a properly convened business meeting of the Church as defined by paragraph (6) of this Section I) it is expedient to make such payment out of income.

Thirdly, in setting aside such portion or portions thereof (if any) as the Trust Board (but with the approval of a properly convened business meeting of the Church as defined by paragraph (6) of this Section I)

Section I—*continued*

may from time to time see fit for all or any one of the following purposes, namely:

- (a) as a reserve to provide against depreciation of buildings or other improvements:
- (b) as a reserve to cover the cost of maintenance and repairs to buildings or other improvements:
- (c) as a reserve for the stabilisation of future income:
- (d) as a sinking fund for the discharge of any mortgage, charge, or encumbrance now or hereafter secured on or affecting any part or parts of the Trust property.

Any moneys set aside as a reserve against depreciation or as a sinking fund shall be and become part of the capital of the Trust property.

Fourthly, the balance of the said income (such balance being hereinafter referred to as **net available income**) shall be applied by the Trust Board to or in aid of any works, objects, or undertakings of a Baptist religious charitable nature (and whether or not the same are controlled by the Trust Board), including any such works, objects, or undertakings of the Church (the whole of the foregoing being herein after referred to as **the net available income objects**) in accordance with the following procedure:

- (1) within 3 months after the passing of this Act and thereafter on or before 30 June in each year, including 1949) the Trust Board shall forward to the Church a report on the Trust property, which said report shall include a properly audited cash summary, revenue account, revenue appropriation account, and balance sheet and shall show the net available income as at the date of the passing of this Act (and thereafter as at 31 March of each year, including 1949), and shall set forth the recommendations of the Trust Board as to the allocation of such net available income. Before forwarding the said report to the Church the Trust Board shall afford to the Elders and Deacons of the Church a reasonable opportunity of discussing with the Trust Board the recommendations to be made by the Trust Board as to the allocation of the net available income:
- (2) if the recommendations of the Trust Board are accepted wholly or in part by a properly convened business meeting of the Church within a period of 2 months after the report of the

Section I—*continued*

Trust Board is received by the Church, then to the extent to which such recommendations have been accepted as aforesaid the Trust Board shall with all reasonable speed apply the net available income in accordance therewith:

- (3) if within such period of 2 months after the said report of the Trust Board is received by the Church any recommendations as to the allocation of the whole or part of such net available income differing from or modifying or adding to the recommendations of the Trust Board are made by a duly convened business meeting of the Church (hereinafter referred to as **the Church's recommendations**) then to the extent to which the Church's recommendations are within the net available income objects, the Trust Board shall with all reasonable speed apply the net available income in accordance with the Church's recommendations:
- (4) provided, however, that if the Trust Board acting on the advice of a barrister considers that the Church's recommendations are as to the whole or part thereof not within the net available income objects, the matter in difference between the Trust Board and the Church shall be determined by arbitration under and in accordance with the provisions of the Arbitration Act 1908 and its amendments, or of any Act or Acts passed in substitution therefor:
- (5) the method of allocation determined in accordance with the foregoing procedure may, but need not necessarily, dispose of the entire net available income for the time being in the hands of the Trust Board:
- (6) for the purposes of paragraphs (2) and (3), **a properly convened business meeting of the Church** means a business meeting duly convened in accordance with the rules of the Church for the time being and whereof notice has in any event been given at both morning and evening services of the Church held on the 2 Sundays immediately previous to the date of such meeting. Such notice shall specify that the business of the meeting will be to consider the allocation of the net available income in the hands of the Trust Board:

Section I—*continued*

- (7) the net available income objects shall extend to and include financial provision in relation to the appointment of any Minister and in relation to superannuation or retiring allowance for any Minister.

Section II

Rules governing the constitution, powers,  
and duties and proceedings of the Trust  
Board

(a) Constitution of the Trust Board

**1 Board to comprise 8 Trustees**

The Trust Board shall have a membership of 8 persons (hereinafter referred to as **Trustees**), who shall be appointed in accordance with the provisions of these rules.

**2 First Trustees**

- (i) The first Trustees shall be the 6 persons described by name in subparagraph (ii), together with 2 further persons to be elected by the Church as soon as conveniently may be after the passing of this Act in accordance with the provisions of Rule 3.
- (ii) The 6 persons referred to in subparagraph (i) are as follows:  
William Macdonald Armour, of Auckland, retired civil servant:  
Samuel Barry, of Auckland, optician:  
Frank Christopher Brookbanks, of Auckland, warehouseman:  
Stanley Martin Conway, of Auckland, company manager:  
Ernest Arthur Eady, of Auckland, manufacturer:  
Owen Sylvanus Wiles, of Auckland, chemist,—  
such persons being the persons who immediately prior to the passing of this Act were the members of the old board.
- (iii) The 6 persons aforesaid shall take office forthwith upon the passing of this Act without further authority than this Act.

Section II—*continued***3 Election of Trustees**

All vacancies in the membership of the Trust Board shall (subject to the provisions of Rule 8) be filled from time to time by the Church by means of an election held at the annual or any business meeting of the Church. All persons qualified in accordance with Rule 9 shall be entitled to stand as candidates for the office of Trustee, provided only that a candidate for the office of Trustee shall deliver at the Church office not less than 3 clear days before the date of the election a nomination form signed by himself and at least 2 other members of the Church. Notice of any proposed election shall be given at least at both morning and evening services of the Church on the 2 consecutive Sundays immediately preceding the date of the election. At any such election all members of the Church shall be entitled to vote, and their votes shall be cast and taken in the same manner as if the election were an election of Church Officers.

**4 When elections to be held**

An election for the purpose of filling casual vacancies in the office of Trustee shall be held as soon as conveniently may be after such vacancies have occurred. Elections to fill vacancies occurring through the retirement of Trustees under Rule 6 may, in the discretion of the Church, be held either after such retirement or at any time within 3 months before such retirement is due to take place.

**5 Trust Board to be notified of results of elections**

Forthwith after the holding of any election of 1 or more Trustees, the Chairman of the Church meeting at which such election was held shall notify the Trust Board in writing of the result thereof, and any such notice purporting to be signed by the Chairman of the meeting at which the election was held shall, without further proof of such signature, be accepted by the Trust Board and by all courts as prima facie evidence of the matters stated therein.

Section II—*continued*

**6 Rotation of Trustees**

Two Trustees shall retire on 30 September 1951 and thereafter 2 Trustees shall retire every 3 years. The order of retirement as between the first Trustees shall be determined amongst themselves by agreement or by lot but otherwise and thereafter those Trustees shall retire first who have been longest in office since their last election. For the purpose of this rule any person appointed or elected under Rules 3 or 8 to fill a casual vacancy shall be subject to retirement at the same time and in the same order as the person in whose place he has been appointed or elected would have been had he continued in office. Retiring Trustees shall be eligible for re-election, provided they are otherwise qualified under the provisions of Rule 9.

**7 Minimum number of Trustees**

Notwithstanding that the number of Trustees may fall below 8, the Trustees for the time being, not being less in number than 5, may act for all purposes.

**8 Trustees may fill vacancies when number falls below 5**

Should the number of Trustees at any time fall below five, then the remaining Trustees may, and in the event of the Church failing within a reasonable time to fill vacancies shall, act for the purpose of appointing to the office of Trustee such additional person or persons qualified for appointment under the provisions of Rule 9 as may be necessary to bring the number of Trustees up to 5. As soon as conveniently may be after the making of any appointment as aforesaid, the Trustees shall cause notice thereof to be given to the Church.

**9 Qualification of Trustees**

Any person shall be eligible for appointment or election as a Trustee who has been a member of the Church for at least 2 years at the date of his appointment or election, and who has been on the Roll of Members of 1 or more Baptist Churches for a continuous period of not less than 7 years immediately preceding the date of his appointment or election. The Min-

Section II—*continued*

ister for the time being of the Church shall not be eligible for appointment or election as a Trustee. The restrictions imposed by this rule shall not apply to the appointment as first Trustees of the persons named in Rule 2(ii), but shall apply to any future appointment or election of all or any of such persons.

**10 Vacation of office of Trustee**

The office of Trustee shall become and be vacant in each or any of the following cases in addition to death, that is to say, if the Trustee—

- (a) by notice in writing to the Trust Board resigns his office:
- (b) refuses to act further:
- (c) becomes of unsound mind or becomes a protected person under the Aged and Infirm Persons Act:
- (d) ceases to be a member of the Church:
- (e) becomes bankrupt or enters into a composition or assignment for the benefit of his creditors:
- (f) is absent without leave from 3 consecutive ordinary meetings of the Trust Board:

provided, however, that the provisions of subparagraph (d) shall not be applicable to the persons named in Rule 2(ii) during their period of office as first Trustees.

**11 Notice of vacancies to be given to Church**

Upon the occurrence of a vacancy in the office of Trustee, the Trustees shall at their next ensuing meeting cause a note thereof to be entered in their Minute Book; they shall further cause notice thereof to be given as soon as conveniently may be to the Church.

**12 Acts of Trustees valid, notwithstanding defects subsequently discovered**

All acts done by any meeting of Trustees or of a Committee of Trustees or by any person acting as a Trustee shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such Trustee or person acting as aforesaid or that they or any of them were disqualified, be



Section II—*continued*

as valid as if every such person had been duly appointed and was qualified to be a Trustee.

**13 Trustee liable only for his own acts**

Every Trustee shall be chargeable only for such money as he shall actually have received, although he may have joined in any receipt for money received by any other of them, and shall not be answerable for the acts of any other Trustee, nor for any loss which may arise by reason of any Trust funds being deposited in the hands of any banker, solicitor, or agent, or for the sufficiency or insufficiency or deficiency of any security upon which any Trust money, or any part thereof, may be invested, or for any loss in the execution of any trust, unless the same shall happen through his own neglect or default.

(b) Powers and duties of the Trust Board

**14 Hereditaments defined**

For the purpose of the following rules, **hereditaments** means any land of any estate or tenure, and includes chattel interests in land; but does not include periodic tenancies or tenancies without any agreement as to duration.

**15 Power of sale**

The Trust Board may sell and dispose of any property real or personal which now is or hereafter may be vested in it either by public auction, public tender, or private contract, and any such sale may be for cash or on credit, or partly for cash and partly on credit. Such power of sale shall in the case of hereditaments be exercised only with the consent of a Judge of the High Court.

Schedule 3 Rule 15: amended, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

**16 Power to exchange hereditaments**

The Trust Board may, with the consent of a Judge of the High Court, exchange any hereditaments which now are or hereafter may be vested in it for other hereditaments in New Zealand,

Section II—*continued*

with power to pay or to receive any money for equality of exchange, and any such other hereditaments shall form part of the capital of the Trust property.

Schedule 3 Rule 16: amended, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

**17 Investment of proceeds of sale or exchange and other capital moneys**

The net proceeds of any sale of any property real or personal forming part of the capital for the time being of the Trust property and such net moneys as may be received for equality of exchange and any other moneys whatsoever now or hereafter forming part of the capital of the Trust property shall be dealt with by the Trust Board in 1 or more of the following ways:

- (a) they shall be expended in paying off any mortgage charge or encumbrance secured on or affecting any property forming part of the capital of the Trust property:
- (b) they shall be invested in any securities for the time being permitted by the law of New Zealand for the investment of trust funds:
- (c) they shall be expended in effecting permanent improvements to any hereditaments which are now or thereafter may be vested in the Trust Board and in carrying out such demolitions (if any) as may be reasonably necessary to effect such permanent improvements:
- (d) with the consent of a Judge of the High Court, they shall be laid out in the purchase of any hereditament or hereditaments in New Zealand, and such hereditament or hereditaments shall form part of the capital of the Trust property.

Schedule 3 Rule 17(d): amended, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

**18 Power to borrow on mortgage of hereditaments**

The Trust Board shall have the power to borrow money on the security of mortgage of any hereditaments, but so that all moneys borrowed shall (except with the consent of a Judge

Section II—*continued*

of the High Court) be expended only in effecting permanent improvements to the hereditaments mortgaged or to other hereditaments which now are or hereafter may be vested in the Trust Board or in paying off any mortgage theretofore effected over any such hereditaments; and any such mortgage may confer upon the mortgagee a power authorising him to sell the mortgaged hereditaments for default in the payment of principal or interest or in the observance or performance of any of the covenants contained or implied in any such mortgage.

Schedule 3 Rule 18: amended, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

**19 Buildings to be suitable for letting or leasing**

Any buildings erected by the Trust Board in exercise of the powers conferred by Rules 17 and 18 shall be of a character suitable for letting or leasing, and any alterations or enlargements of buildings made in exercise of the said powers shall not be of a nature which would render such buildings unsuitable for letting or leasing.

**20 Power to let or lease**

The Trust Board shall have power to let or lease any hereditaments for such period or periods and upon such terms and conditions as the Trust Board may think fit, but so, nevertheless, that every such letting or lease shall take effect in possession or within 6 months from the date thereof, and provided always that the Trust Board shall not, without the consent of a Judge of the High Court, lease any hereditaments for any term which, together with any right of renewal thereof, shall be more than 21 years computed from the date of such lease.

Schedule 3 Rule 20: amended, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

**21 General power to purchase hereditaments**

With the consent of a Judge of the High Court, the Trust Board shall have power to purchase any hereditament or hereditaments in New Zealand either for cash or upon such terms as to payment of purchase money as the Judge may approve, and

Section II—*continued*

for that purpose and with the consent of the Judge to borrow money upon the security of any part or parts of the Trust property. Any hereditaments so purchased shall form part of the capital of the Trust property.

Schedule 3 Rule 21: amended, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

**22 Power to accept surrender of leases**

The Trust Board may accept the surrender of any lease on such terms and conditions as it shall think fit.

**23 Power to lay off and dedicate roads**

The Trust Board shall, with the consent of a Judge of the High Court, have power in respect of any hereditaments to lay off, form, construct, and dedicate roads, and to pay the costs and expenses in connection therewith.

Schedule 3 Rule 23: amended, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

**24 Power to dedicate reserves**

The Trust Board shall, with the consent of a Judge of the High Court, have power to set apart such reserves as may be required by any legislation or the regulations thereunder for the time being in force, or by lawful authority, to be set apart in the event of any hereditaments being subdivided for sale, lease, or other disposition.

Schedule 3 Rule 24: amended, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

**25 Consent of a Judge of the High Court, how obtained**

- (1) In any case where the Trust Board desires to exercise any power which by these rules can only be exercised with the consent of a Judge of the High Court, then the Trust Board may apply by petition in a summary way to a Judge of the High Court for an order granting such consent.
- (2) An application under this rule for the consent of a Judge of the High Court may be made either in respect of some particular

Section II—*continued*

transaction or in respect of any scheme proposed by the Trust Board in relation to any particular hereditament or hereditaments and involving the exercise of 1 or more of the powers which by these rules can only be exercised by the Trust Board with the consent of a Judge. Where the consent of a Judge is given to any such scheme, then it shall not be necessary for the Trust Board to make further application in respect of any particular transaction or transactions entered into in accordance with the terms of such scheme.

- (3) Unless otherwise required by the Judge, it shall not be necessary for the Trust Board to serve notice of such application on any other person or persons, but the Judge may, if he thinks fit, require that the Church and the Baptist Union of New Zealand and any other person or persons shall be represented before him.
- (4) If the Judge is satisfied in all the circumstances of the case that it is desirable in the interests of the Trust property and the revenue derived therefrom that consent to such application be granted, then the Judge shall grant his consent to such application with or without such conditions or modifications as he shall think fit, but unless the Judge is satisfied as aforesaid he shall refuse his consent to such application.
- (5) On any such application as aforesaid the Judge shall have all such jurisdiction and authority to give effect to this Act and any order made by him as he would have in any matter within the ordinary jurisdiction of the High Court, and may order by and to whom the costs of any persons appearing on such application shall be paid, and may modify or alter any order made by him.

Schedule 3 Rule 25 heading: amended, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

Schedule 3 Rule 25(1): amended, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

Schedule 3 Rule 25(2): amended, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

Schedule 3 Rule 25(5): amended, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

Section II—*continued***26 Power to appoint officers and agents**

The Trust Board shall appoint one of the Trustees or some other fit person to be its Secretary. The Trust Board may also appoint any other necessary or proper officers or agents for its assistance in the administration and management of the Trust property. Every appointment so made shall be revocable by the Trust Board at its pleasure. The Trust Board may pay to its Secretary and to its other officers and agents not being Trustees such annual salaries or other remuneration as may from time to time be approved by the Trust Board. Subject as herein provided, the Trust Board shall from time to time prescribe and appoint the duties to be performed by the Secretary and its other officers or agents.

**27 Power to accept gifts of property on same trusts**

The Trust Board shall have power to accept any gift of property real or personal to be held by the Trust Board upon the same trusts as it holds the property vested in it by virtue of this Act: provided, however, that, except with the consent of a Judge of the High Court, the Trust Board shall not accept any gift of property which is subject to any mortgage charge or encumbrance or which consists of land of any tenure burdened with onerous covenants.

Schedule 3 Rule 27 proviso: amended, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

**28 Power to invest surplus moneys**

The Trust Board shall have full power to invest any moneys not immediately required for any of the purposes of the Trust in any securities for the time being permitted by the law of New Zealand for the investment of trust funds.

**29 General powers of Trust Board**

Subject only to the restrictions imposed upon it by this Act, the Trust Board shall have full power to hold real and personal property of whatever nature, to sue and be sued in its corporate name in all proceedings civil or criminal and in all Courts and

Section II—*continued*

before all tribunals or authorities, and to do and suffer all that corporate bodies may do and suffer

**30 Trust Board not to permit free occupation of premises**

Save in so far as may be reasonably necessary for purposes incidental to the administration or management of the Trust property, the Trust Board shall not permit any person or persons to occupy any land or buildings of which the Trust Board is the owner, lessee, or tenant except upon payment to the Trust Board of a proper rent therefor.

**31 Trust Board to keep in repair and insure**

Without in any way limiting the general duties imposed on Trustees by law the Trust Board shall take all reasonable and proper steps to keep in a state of good order and repair all buildings and other permanent improvements forming part of the Trust property, and shall take out and keep on foot such policy or policies of insurance as may be reasonable against loss or damage by fire or earthquake, and such further policy or policies of insurance as the Trust Board may from time to time deem expedient to protect the Trust Board against any other insurable liability.

(c) Proceedings of the Trust Board

**32 Quorum**

There shall be a quorum when 4 Trustees are present at any meeting.

**33 Meetings of Trustees**

The Trustees shall hold general meetings at least 4 times in each year at such times and in such places in the City of Auckland or within a convenient distance therefrom as they shall from time to time appoint.

Section II—*continued***34 Special meetings**

The Chairman or any 2 Trustees may at any time summon a special meeting for any cause that seems to him or them to be sufficient.

**35 Notice of meetings**

Notice in writing of every meeting, whether general, special, or adjourned, shall be delivered or sent through the post to each Trustee by the Secretary or by some other person acting under the directions of the Trustees, or, in the case of a special meeting, by or under the direction of the person or persons summoning the meeting, 3 clear days at least before the date of the meeting; so far as in the case of an adjourned meeting the interval between the original and adjourned meetings will permit. Every notice of meeting shall state the place, day, and hour of the meeting, and every notice of a special meeting shall further state the matter to be discussed thereat.

**36 Adjournment of meeting**

If a quorum shall not have assembled within half an hour after the time appointed for any meeting, the Trustee or Trustees present or the Secretary (if no Trustee be present) may adjourn the meeting. Any meeting may be adjourned by the Chairman upon the adoption of a resolution for its adjournment.

**37 First meeting**

The first meeting of the Trustees shall be summoned by Samuel Barry (referred to in Rule 2(ii)) upon some day to be fixed by him within 3 months from the date of the passing of this Act, or, if he shall for any reason fail to do so, by any 2 Trustees. At this meeting the Trustees shall make all necessary arrangements for the general conduct of the affairs of the Trust Board and for the appointment of officers. The Trustees shall also appropriate such funds and investments to the value of £10,000 as they think fit as representing that portion of accumulated income derived by the old board



Section II—*continued*

which, by virtue of section 12 of this Act, is to be received and dealt with by the Trust Board as capital.

**38 Chairman**

The Trustees shall from time to time appoint a Chairman, who shall preside at all meetings. In case of the absence of a Chairman from any meeting, the Trustees then present shall elect a Chairman for that meeting.

**39 Voting**

Every matter shall be determined by the majority of the Trustees present and voting on the question. The Chairman shall have a casting vote, whether or not he shall have previously voted on the same question, but no Trustee shall in any other circumstances give more than 1 vote.

**40 Rescinding resolution**

Any resolution of the Trustees may be rescinded or varied from time to time by the Trustees at a special meeting.

**41 Committees**

The Trustees may at any meeting appoint 3 or more members of their body to be a committee for making any inquiry or for superintending or transacting any business, but every act and proceeding of a committee shall, except in cases of urgency, be submitted to a meeting of Trustees for approval.

**42 Minutes**

- (1) A Minute Book shall be provided and kept by the Trustees. Minutes of the entry into office of every new Trustee and of all proceedings of the Trustees shall be entered in the Minute Book.
- (2) Any such minute if purporting to be signed by the Chairman of the meeting at which the proceedings were had, or by the Chairman of the next succeeding meeting, shall be evidence of the proceedings.

Section II—*continued*

- (3) Where minutes have been made in accordance with the provisions of this rule of the proceedings at any meeting of Trustees, then, until the contrary is proved, the meeting shall be deemed to have been duly held and convened and all proceedings had thereat to have been duly had.

**43 Accounts**

The Trustees shall keep full and accurate accounts of all the receipts, disbursements, assets, liabilities, and engagements of the Trust Board and shall in every year cause the same to be audited by a public accountant.

**44 Banking account**

One or more banking accounts in the name of the Trust Board shall be opened and kept with some fit bankers to be from time to time selected by the Trustees. All sums of money received on account of the Trust Board shall be forthwith paid into the credit of such account or accounts, unless otherwise expressly ordered by the Trustees.

**45 Common seal**

The Trustees shall have and use a common seal for the affairs and business of the Trust Board, and may from time to time change, alter, or make new such seal as they may think fit. The common seal shall not be affixed to any instrument except by the authority of a resolution of the Trustees and in the presence of any 3 Trustees.

**46 How contracts entered into**

Contracts on behalf of the Trust Board may be made, varied, or discharged as follows:

Any contract which, if made between private persons,—

Firstly, must be in writing under seal:

Secondly, must be in writing signed by the parties thereto:

Section II—*continued*

Thirdly, may be made verbally without writing,—

When made on behalf of the Trust Board,—

In the first case, shall be in writing under the common seal of the Trust Board, attested by any 3 Trustees:

In the second case, shall be in writing signed by any person in the name and on behalf of the Trust Board acting under a resolution passed at a meeting of the Trustees:

In the third case, may be made verbally without writing by any person in the name and on behalf of the Trust Board acting under a resolution passed at a meeting of the Trustees.

(d) Miscellaneous

**47 Discharge to Trust Board in respect of income**

Whenever the Trust Board, pursuant to the trusts set out in Section I, becomes under an obligation to apply the whole or any part of the net available income to or in aid of any specific work, object, or undertaking of a Baptist religious charitable nature then the Trust Board may discharge such obligation by paying such income in good faith to any person purporting to act as Secretary, Treasurer, or otherwise on behalf of such work, object, or undertaking, and the Trust Board shall not be bound to see to the further application thereof.

**48 Trust Board may accept office as Trustee under particular trusts**

The Trust Board may accept the office of Trustee in and under any charitable trust. The Trust Board shall keep the property comprised in any such trust separate and distinct from the property subject to the trusts set forth in this Act. Rules 14 to 31 (both inclusive) shall not be applicable to the Trust Board in the execution of any such trust, but the Board shall have and be subject to such powers and duties as are conferred and imposed by the instrument creating the trust and such other

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**Section II—*continued***

powers and duties not inconsistent therewith as may be conferred and imposed on trustees by law. The property vested in the Trust Board and subject to the trusts imposed by this Act shall not be available nor called upon nor in any manner applied to make good any deficiency, loss, or damage or breach of trust which may occur in or about the execution of any trust accepted by the Trust Board under the powers conferred upon it by this Rule.

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### **Schedule 4**

All that piece of land, situated on the corner of Upper Queen Street and Karangahape Road, in the City of Auckland, containing 1 rood 7.8 perches, more or less, comprising Allotment 25 and Part Allotment 26 of Section 29, in the City of Auckland, bounded as appears on a plan deposited in the Land Registry Office at Auckland under No 4257, and being the residue of the land comprised and described in certificate of title, Volume 149, folio 250 (Auckland Registry).

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**Contents**

- 1 General
  - 2 Status of reprints
  - 3 How reprints are prepared
  - 4 Changes made under section 17C of the Acts and Regulations Publication Act 1989
  - 5 List of amendments incorporated in this reprint (most recent first)
- 

**Notes****1 General**

This is a reprint of the Auckland Baptist Tabernacle Act 1948. The reprint incorporates all the amendments to the Act as at 1 January 2004, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

**2 Status of reprints**

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

**3 How reprints are prepared**

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and

provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

**4 Changes made under section 17C of the Acts and Regulations Publication Act 1989**

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
  - indentation
  - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
  - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
  - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

**5** *List of amendments incorporated in this reprint  
(most recent first)*

Supreme Court Act 2003 (2003 No 53): section 48(1)

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