

GERMAN MISSIONS ORDINANCE 1926.⁽¹⁾

No. 6 of 1926.

An Ordinance to make provision for giving effect to Article 438 of the Treaty of Peace with Germany as to the Property of Christian Religious Missions formerly maintained by German Societies or Persons in the Territory.

WHEREAS by Article four hundred and thirty-eight of the Treaty of Peace between the Allied and Associated Powers and Germany signed at Versailles on the twenty-eighth day of June, 1919, the Allied and Associated Powers agreed that, where Christian religious missions were being maintained by German societies or persons in territory belonging to them, or of which the government is entrusted to them in accordance with the said Treaty, the property which such missions or missionary societies possessed, including that of trading societies whose profits were devoted to the support of missions, should continue to be devoted to missionary purposes;

And whereas by the said Article it was further agreed that in order to ensure the due execution of that undertaking the Allied and Associated Governments would hand over such property to boards of trustees appointed by or approved by the Governments and composed of persons holding the faith of the mission whose property is involved;

Be it therefore ordained by the Governor-General of the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *New Guinea Act 1920*, as follows:—

1. This Ordinance may be cited as the *German Missions Ordinance 1926*.⁽¹⁾ Short title.

(1) Particulars of this Ordinance are as follows:—

Date on which made by Governor-General in Council.	Date on which notified in <i>Commonwealth Gazette</i> .	Date on which took effect.
25.2.1926	25.2.1926	25.2.1926 (<i>Cwlth. Gaz. of 25.2.1926</i>)

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Definitions.

2. In this Ordinance, unless the contrary intention appears—

“German National” means a subject of Germany and includes any company or corporation incorporated according to the law of Germany;

“Mission” includes a missionary society and a trading society whose profits are devoted to the support of any mission;

“The Apostolic Delegate” means the Apostolic Delegate for Australasia and the Pacific Islands.

Vesting in Administrator of German Mission property.

3. Where a Christian religious mission was, before or during the war between His Majesty the King and the German Emperor which commenced on the fourth day of August, One thousand nine hundred and fourteen, maintained in the Territory by a German national, all property, real or personal, which on the tenth day of January, One thousand nine hundred and twenty, belonged to or was held or managed for or on behalf of that Mission (in this Ordinance referred to as “German Mission property”) is hereby vested in the Administrator for the time being of the Territory, and any right, title or interest of the mission in or to the property is hereby extinguished.

Administrator to vest property in trustees.

4.—(1.) The Administrator shall, by order,⁽²⁾ vest all German Mission property in boards of trustees appointed or approved by the Governor-General and composed of persons holding the faith of the Mission whose property is involved, to be held, in respect of any particular property, upon such trusts as are specified in the order appointing or approving the first board of trustees in respect of that property:

Provided that in the case of the property of any Roman Catholic Mission the board of trustees shall consist of the Ecclesiastical Head of the Mission and such mission priests as the Governor-General thinks fit who shall be nominated by the Apostolic Delegate and approved by the Governor-General.

(2.) A vesting order under this section with respect to German Mission property of any description shall be sufficient to vest the property in the board of trustees without the necessity of any further conveyance, assurance, or document.

(2) By Order dated 9th March, 1926, and published in *Commonwealth Gazette* of 18th March, 1926, the Governor-General appointed a Board of Trustees in respect of the German mission property of the Catholic Mission of the Holy Ghost Limited and declared the trusts upon which the Board should hold that property (see, now, the *Roman Catholic (Mission of the Holy Ghost) Property Trust Ordinance 1937*, which vests that property in the Mission of the Holy Ghost (New Guinea) Property Trust). By further Order dated 9th March, 1926, and published in *Commonwealth Gazette* of 18th March, 1926, the Governor-General appointed a Board of Trustees in respect of the German mission property of the Marist Mission Society Limited, and declared the trusts upon which the Board should hold that property (see, now, the *Roman Catholic (Marist Mission) Property Trust Ordinance 1937*, which vests that property in the Marist Mission (Kieta) Property Trust). By further Order dated 9th March, 1926, and published in *Commonwealth Gazette* of 18th March, 1926, the Governor-General appointed a Board of Trustees in respect of the German mission property of the Catholic Mission Society of the Sacred Heart of Jesus Limited, and declared the trusts upon which the Board should hold that property (see, now, the *Roman Catholic (Sacred Heart Mission) Property Trust Ordinance 1937*, which vests that property in the Sacred Heart Mission (New Britain) Property Trust).

(3.) Where the property vested in the board of trustees consists of land or any estate or interest in land, a copy of the vesting order, certified under the hand of a member of the board of trustees, shall, on the application of the board of trustees or any member thereof be registered, under any law for the time being in force in the Territory relating to the registration of dealings with land, in the manner as nearly as may be in which dealings with land are registered and the registration shall be dealt with and given effect to as if it were a grant or conveyance or memorandum or instrument of transfer of the land or estate or interest therein to the board of trustees duly executed under the laws in force in the Territory.

5.—(1.) Where a trustee, either original or substituted, is dead, or remains out of the Commonwealth and any Territory under the authority of the Commonwealth for more than two years or desires to be discharged from all or any of the trusts or powers reposed in or conferred on him or refuses or is unfit to act therein, or is incapable of acting therein, the Governor-General may declare the office of the trustee to be vacated and may appoint another person to be a trustee in the place of that trustee:

Vacancy in board of trustees.

Provided that in the case of any Board of Trustees of any Roman Catholic Mission all new trustees appointed under this Ordinance shall be nominated by the Apostolic Delegate and the Governor-General may at any time on the request of the Apostolic Delegate declare the office of any trustee to be vacated and may appoint some other person to be a trustee in the place of that trustee.

(2.) Every new trustee appointed under this Ordinance as well before as after all the trust property becomes by law or by assurance or otherwise vested in him shall have the same powers, authorities, and discretions and may in all respects act as if he had been originally appointed to the first board of trustees.

(3.) Upon the appointment of a new trustee being duly registered in the Office of Titles at Rabaul the trust property shall without any conveyance or assignment vest as from the date of the registration in the continuing trustees and the new trustee jointly for the purposes of the trust to the extent to which the trust is still subsisting and subject to the trust at the date of the registration.

(4.) Where a vacancy occurs in a board of trustees the remaining trustees may exercise all the powers and functions of the board as fully and effectually as if no vacancy had occurred.

6. Upon any sale, mortgage, lease or other dealing by any board of trustees appointed under this Ordinance of or with any mission property—

Protection of persons dealing with Board of Trustees.

(a) no purchaser, mortgagee, lessee or any other person whosoever dealing with the board of trustees shall

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be in any way whatsoever bound or concerned to inquire into the necessity or propriety of the sale, mortgage, lease or other dealing or the purposes for or the circumstances under which the board of trustees propose to enter into, make, give or execute any such sale, mortgage, lease or other dealing;

- (b) no purchaser, mortgagee, lessee or other person dealing with the board of trustees shall be concerned, to inquire into any matter or thing concerning the propriety or regularity of any such purchase, mortgage, lease or other dealing;
- (c) notwithstanding any irregularity or impropriety in any such sale, mortgage, lease or other dealing every sale mortgage, lease or other dealing purporting to be made by the board of trustees shall, as regards the purchaser, mortgagee, lessee or such other person, be deemed to be within the powers of the board of trustees and shall be valid accordingly; and
- (d) all persons paying money to trustees entitled to receive the money shall be exonerated from liability in respect of any non-application or misapplication of the money by the trustees.

Vesting, &c.,
not a breach
of prohibition
of assignment,
&c.

7. A vesting of German Mission property ordered under this Ordinance, or a declaration of trust made for the purposes of this Ordinance, and a transfer or letting made in exercise of any power contained in any order made under section four of this Ordinance, or in any such declaration of trust shall not be deemed to be a breach of any provision prohibiting or restricting assignment, sub-letting, or parting with possession, which is contained in any grant, lease agreement or other instrument under which any German Mission property is held, or give to a German national, whose right, title or interest is extinguished, any claim against the board of trustees in or in favour of whom the property is vested or the declaration of the trust is made.