

The Baptist Union Incorporation Act 1930

Version No. 001

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Act No. 3903/1930

Version as at 13 October 1999

TABLE OF PROVISIONS

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An Act to incorporate The Baptist Union of Victoria and for other purposes.

Preamble

WHEREAS certain persons being members of the religious denomination called Baptists in the State of Victoria and holding as their general tenets the doctrines set forth in the declaration of Baptist Church Trusts 1892 which is deposited with the Registrar-General of Victoria at Melbourne and numbered 6888 (and which declaration is similar to the statement of Trusts in Schedule "B" hereto) have formed an Association called "The Baptist Union of Victoria" a copy of the constitution of which is set out in Schedule "A" hereto:

AND WHEREAS certain real and personal property is held by certain trustees upon trust for the said Association itself or for its Executive Council or for the Victorian Baptist Home Missionary Society a constituent of the said Association or for certain committees of the said Association or for purposes connected therewith:

AND WHEREAS a number of churches are constituents of the said Association (any church which is now or may hereafter become a constituent of the said Association being hereinafter called a local church) and real and personal property is now vested in various persons as trustees for and on behalf of the said respective local churches upon certain trusts and generally in accord with the general tenets above mentioned or for various purposes connected with the said churches:

AND WHEREAS certain real and personal property has been conveyed to trustees or

has been declared to be held upon trust for certain churches which churches have been dissolved or dispersed or upon trust for various purposes connected with such churches and which were prior to their dissolution or dispersion constituents of the said Association:

AND WHEREAS it is expedient that the said Association should be incorporated and should be invested with the powers and authorities hereinafter set forth and that the real and personal property so vested in various persons as trustees upon trust for the said Association or its Executive Council or the Victorian Baptist Home Missionary Society or for certain committees as aforesaid or for purposes connected therewith or for churches which have been dissolved or dispersed or for purposes connected with such churches should be vested in the said Association when incorporated and that the real and personal property so vested in various trustees for and on behalf of the said respective local churches or for purposes connected therewith should be capable of being vested in the said Association when incorporated upon the trusts hereinafter set forth:

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):

Short title

1. This Act may be cited as **The Baptist Union Incorporation Act 1930.**
2. **Incorporation and seal of the Baptist Union of Victoria**

(1) All persons who from time to time in accordance with the constitution for the time being thereof are members of the religious body or denomination called Baptists in the State of Victoria holding as their general tenets the doctrines set forth in Schedule "B" hereto and who now or hereafter constitute the Association called "The Baptist Union of Victoria" from henceforth shall be a body corporate by the name of "The Baptist Union of Victoria" and shall have perpetual succession and a common seal and under that name may sue and be sued prosecute and defend and take and suffer all other proceedings in all courts civil and criminal within the said State and it shall be lawful for the said body corporate (hereinafter referred to as "the Union") to make by-laws and such alterations in and additions to the constitution of the Union a copy of which is set out in Schedule "A" hereto as may be found from time to time necessary and it shall be further lawful for the Union to take purchase receive hold and enjoy real and

personal property of any description whatsoever and also to sell grant transfer convey exchange demise (whether by way of building lease or otherwise) give easements over or otherwise dispose of either absolutely or by way of mortgage charge lien or other encumbrance any of the property real or personal at any time belonging to the Union whether subject to trusts or not and if subject to trusts with power to the Union to carry out the provisions of such trusts and generally to exercise subject to the provisions of this Act all powers rights and privileges incident to a body corporate and the Executive Council for the time being of the said Association duly appointed under the said constitution (hereinafter called "the Executive Council") shall have the custody and use of the common seal of the Union and a majority of the members of such Council present at any meeting duly convened shall have power to use or direct the use of such seal for all purposes for which the use of such seal is required.

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

3. Vesting of property etc. in the Union

(1) All the estate and interest of the several persons named in Schedule "C" hereto in the real and personal estate therein set forth and all other the estate and interest in real and personal property (not including the Victorian Baptist Fund) within the said State held by any person or persons as trustee or trustees in trust for the said body or denomination called Baptists or for its Executive Council or for the Victorian Baptist Home Missionary Society or for any committee of the said Association whether for any special purposes or generally for such body or denomination executive council society or committee shall from and after the coming into operation of this Act vest in the Union without the necessity for any conveyance transfer or other assurance of such property.

(2) All real and personal property within the said State held by any person or persons as trustee or trustees in trust for any church or for any purpose connected therewith under the provisions of the Model Deed of Trust of the Baptist Union of Victoria deposited with the Registrar-General of Victoria at Melbourne numbered 6888 or upon and subject to the trusts set out in a prior Model Deed of Trust of the Baptist Association (now known as the Baptist Union) of Victoria deposited with the Registrar-General of Victoria at Melbourne and

numbered 5510 which church was prior to the coming into operation of this Act dissolved or dispersed and which church was prior to its dissolution or dispersion a constituent of the said Association shall from and after the coming into operation of this Act vest in the Union without the necessity of any conveyance transfer or other assurance of such property and shall cease to be held upon the express trusts to which it was heretofore subject and shall henceforth be held managed and dealt with by the Union in such manner as the Executive Council may from time to time direct subject nevertheless to all mortgages liens and other charges affecting the same immediately prior to the date of such vesting.

(3) Where any property vested in the Union under this section consists of property registered under the Transfer of Land Acts the Registrar of Titles on application made to him in that behalf and proof to his satisfaction of the facts relating thereto and on payment of the necessary fees shall give effect to such vesting by registering the said Union as proprietor.

(4) Save as herein otherwise provided all property becoming vested in the Union as hereinbefore mentioned or which shall in any manner be acquired by the Union shall so far as the same is subject to any express trust be held by the Union in conformity with such express trust and shall so far as the same is not subject to any express trust be held managed and dealt with in such manner as the Executive Council may from time to time direct.

4. Property held on trust

The trustee or trustees being entitled to any estate or interest in real or personal property in the State of Victoria under any deed instrument or will upon trust for any local church or for any purpose connected therewith may convey or transfer the same to the Union and the same shall in that case be held by it (subject and without prejudice to any mortgage charge encumbrance lien or lease affecting the same respectively) for the benefit of such local church upon the following trusts, that is to say--

(a) if such property shall be held by such trustees upon and subject to the trusts set out in the Model

Deed of Trust numbered 5510 or the Model Deed of Trust numbered 6888 referred to in sub-section (2) of section three of this Act then such property shall as from the date of such conveyance or transfer be held by the Union upon the trusts contained in Schedule "B" hereto;

(b) if such property shall not be held by such trustees upon either of the trusts referred to in the

preceding sub-section then the same shall as from the date of such conveyance or transfer be held by the Union upon any express trusts to which the same was then subject and in so far as the said property was not subject to any express trusts shall be held upon such trusts as such local church may at any time thereafter declare such declaration to be made by resolution passed by not less than two-thirds of the members of the church in trust for whom or in trust for a purpose connected wherewith such property is held who are present and vote at a special meeting convened and held in the manner provided in clause 10 of Schedule "B" hereto relating to the convening and holding of a special church meeting and in the meantime shall be held managed and dealt with in such manner as a majority of the members of such church who are present and vote at any general meeting may by resolution direct:

Provided always that a minute of a resolution contained in the minutes of the meeting and signed by the chairman thereof shall be conclusive proof for all purposes that such meeting was duly convened and that such resolution was duly passed thereat by the requisite majority.

5. Execution of conveyance or transfer

Such trustee or trustees shall not execute any such conveyance or transfer as aforesaid to the Union until he or they shall have been directed so to do by a resolution passed by not less than two-thirds of the members of the church in trust for whom or in trust for a purpose connected wherewith such real or personal property is held who are present and vote at a special meeting duly convened and held in the same manner as provided in clause 10 of Schedule "B" hereto relating to the convening and holding of a special church meeting:

Provided always that a minute of the said resolution contained in the minutes of the meeting and signed by the chairman thereof shall be conclusive proof for all purposes that such meeting was duly convened and that such resolution was duly passed thereat by the requisite majority.

6. Members voting at church meetings

Only such of the members present at any church meeting referred to in this Act as have attained the age of twenty-one years and who would be entitled to vote at a special church meeting convened and held under the provisions of clause 10 of Schedule "B" hereto for any of the purposes therein mentioned shall be allowed to vote upon any resolution hereinbefore referred to.

7. Appointment of the Union as trustee

Such conveyance or transfer of property subject as aforesaid shall be deemed to include an appointment of new trustees the Union being substituted for the individual trustees and such conveyance or transfer when completed and accepted by the Union shall from and after the date thereof operate as a discharge of all the individual trustees from any further duties under the trust.

8. Execution of conveyances or transfers in certain cases

In case in relation to any conveyance or transfer as aforesaid any trustee or trustees in whose name or names the property stands shall refuse or neglect for one month after request by his or their co-trustee or co-trustees to execute such conveyance or transfer or shall in the opinion and belief of the representative for the time being of the Baptist Union of Victoria registered under Part II of the **Religious Successory and Charitable Trusts Act 1928** be dead or unable to be found or absent from Victoria then such representative may execute such conveyance or transfer in lieu of such trustee or trustees:

Provided always that the execution by such representative of a conveyance or transfer under any of the circumstances aforesaid shall be as valid and effectual for all purposes as if the same had been executed by the trustee or trustees refusing or neglecting to execute or being dead unable to be found or absent from Victoria as aforesaid and the mere fact of execution by such representative shall be conclusive proof for all purposes that all matters and conditions preliminary to such execution by him as required by this section have duly occurred or have been duly complied with.

9. Register of successive trusts

Where under or in pursuance of any of the provisions of this Act any property becomes vested in the Union the Register of Successory Trusts shall thereupon as to such property be closed and the Registrar of Titles shall upon production to him of any document of title endorsed under section sixteen of the **Religious Successory and Charitable Trusts Act 1928** cancel such endorsement.

10. Powers of the Union as to property

Except in so far as it may be shown to be expressly prohibited from so doing by the original trusts to which such property is subject the Union may demise for any term

(whether upon building leases or other leases or tenancies) charge mortgage encumber give easements over alien exchange partition or sell any property vested in it and generally deal with the same as fully and effectually as if it were the beneficial owner thereof.

11. References to "Executive Committee" etc.

Where any property is held by any person or persons as trustee or trustees in trust for any local church or for any purpose connected therewith under the provisions of the Model Deed of Trust numbered 5510 or the Model Deed of Trust numbered 6888 referred to in sub-section (2) of section three of this Act then any reference in either of such Model Deeds to the Executive Committee of the Baptist Association of Victoria or the Executive Committee of the Baptist Union of Victoria shall in relation thereto be read and construed as from the coming into operation of this Act as the Executive Council of the Baptist Union of Victoria.

12. Alteration etc. of Schedule "B"

The provisions of the statement of trusts set out in Schedule "B" to this Act may at any time and from time to time be altered modified or amended by the Union by resolution duly passed in accordance with the constitution.

SCHEDULES

SCHEDULE "A"

Please note that Schedule A is the constitution for the time being of the Baptist Union.

SCHEDULE "B"

Sections 2, 4, 5, 6, 12.

THE UNION shall hold and stand seised and possessed of the land hereditaments and premises UPON THE TRUSTS and for the intents and purposes and with under and subject to the powers declarations and provisos hereinafter declared and contained (that is to say)--

1. To build or permit to be built upon the land a Chapel and schoolroom and residence and such other buildings as may be convenient or any of them and to permit the said land with the Chapel and other buildings erected thereon and any other buildings that may hereafter be erected thereon (all of which are hereinafter referred to as "the trust

premises") to be used occupied and enjoyed under the direction of the Church for the time being assembling for worship therein (the said Church being such as those from time to time belonging to the Baptist Union of Victoria and possessing nevertheless the powers set out in Clause 2 hereof) as a place for the public worship of God and for Sunday and daily tuition or instruction and as a residence and generally for such other purposes as the said Church shall direct and under the direction of the said Church to permit any such Chapel or other buildings to be completed repaired altered enlarged taken down and wholly or partially rebuilt.

2. The said Church shall be governed on Congregational principles that is the members of the Church for the time being shall subject to the provisions of Clause 10 hereof have full power to manage all their affairs according to their uncontrolled discretion in every respect.

3. To permit the Deacons or other persons appointed for the purpose by the said Church to receive all moneys for the use of pews and sittings or otherwise given or paid for the purposes aforesaid which moneys shall be applied and disbursed as the said Church shall from time to time direct.

4. To permit such persons only to officiate or reside in or upon any of the trust premises as Pastors as shall be Baptists and as shall have been chosen by the said Church at a Special Meeting duly convened and held for that purpose as provided in Clause 10 hereof (and shall not have been subsequently dismissed as hereinafter mentioned or shall not have resigned the said office of Pastor) and who shall moreover hold preach teach and maintain the doctrines and practices following (that is to say)--

(a) the divine inspiration and supreme authority of the Scriptures of the Old and New Testaments;

(b) the existence of One God in Three Persons--the Father, the Son, and the Holy Ghost;

(c) the Deity and Incarnation of the Lord Jesus Christ, who is the Son of God, the Second Person of the Holy Trinity;

(d) the fallen, sinful, and lost estate of all mankind;

(e) the salvation of men from the penal consequences and the power of sin through the perfect obedience of the Lord Jesus Christ, His atoning death, His resurrection from the dead, His ascension to the right hand of the Father, and His unchanging Priesthood;

(f) the immediate work of the Holy Spirit in the regeneration of men, in their sanctification, and in their preservation to the heavenly kingdom of the Lord Jesus Christ;

(g) the necessity, in order to salvation, of repentance towards God and of faith in the Lord Jesus Christ;

(h) the resurrection of the dead, and the final judgment of all men by the Lord Jesus Christ;

(i) the two ordinances of the Lord Jesus Christ, namely, Baptism and the Lord's Supper, which are of perpetual obligation: Baptism being the immersion of believers upon the profession of their faith in the Lord Jesus Christ, and a symbol of the fellowship of the regenerate in His death, burial, and resurrection; the Lord's Supper being a memorial, until He come, of the sacrifice of the body and blood of the Lord Jesus Christ--and who shall with regard to Baptism observe and practice it by immersion only.

And to remove and in all lawful ways eject from the trust premises any Pastors whom the said Church at a Special Meeting duly convened and held as provided in Clause 10 hereof shall dismiss and the Union shall not permit to officiate or reside in or upon any of the trust premises as Pastor any person who shall be known to be guilty of immoral conduct or who shall cease to be a Baptist or who shall have been dismissed as last aforesaid but shall permit such other Ministers or persons to officiate occasionally in the Chapel on the trust premises as the Pastor or Pastors or Deacons shall authorize or appoint unless the said Church shall otherwise direct.

5. To raise and borrow such sum or sums of money and upon such terms as shall be directed by the said Church at a Special Meeting duly convened and held as provided in Clause 10 hereof and as circumstances will permit upon or by mortgage or further charge or otherwise on the security of the trust premises or any part thereof and to execute all necessary or proper documents for such purpose.

6. In such manner and on such terms and subject to such conditions as the title or otherwise as shall be directed as last aforesaid to create easements or to construct roads and absolutely to sell the trust premises or any part thereof either together or in parcels and either by public auction or by private contract or to exchange the same or any part thereof for any other land or hereditaments and in the said respective cases to convey assure or transfer the same accordingly.

7. To stand possessed of the money which from time to time shall or may be borrowed raised or received by way of mortgage or upon any sale or exchange or otherwise under or in pursuance of the trusts or powers aforesaid or which may be received in respect of any Insurance Policy upon the trust premises. Upon trust to lay out and apply the same in or towards the erection of a Chapel on the said land or the enlargement rebuilding improvement or repair of the Chapel or other buildings standing on the said land or the purchase of any other land or hereditaments or otherwise for the benefit of the said Church such expenditure and application being for purposes not inconsistent with these presents and being directed by the said Church at a Special Meeting duly convened and held as provided in Clause 10 hereof. And such moneys or any part thereof until required for the purposes of this clause may be invested in such Real or Government security in the State of Victoria as to the Union shall seem fit and the annual income shall be applied in such manner as the said Church shall from time to time direct at any Church Meeting. Any lands or hereditaments, which shall be acquired by virtue of these presents, shall be held by the Union upon the trusts herein contained.

8. From time to time to demise or let the trust premises or any part or parts thereof when for such period at such rent and upon such terms and conditions as shall be directed by the said Church at a Special Meeting duly convened and held as provided in Clause 10 hereof and for such purposes to execute all necessary or proper documents. But it is expressly declared that the reversion in the premises so demised or let shall continue subject to all the powers herein contained. And that any rent received shall be applied in such manner as the said Church shall from time to time direct at any Church Meeting.

9. The receipts of the Union for any mortgage sale exchange rent or other moneys payable in respect of the trust premises shall exonerate the person paying the same from all liability to see to the application thereof and it shall not be incumbent on any mortgagee purchaser or tenant or lessee of the said premises or any part thereof or on any person taking the same on exchange to inquire into the necessity or propriety of any such mortgage sale demise letting or exchange or its due authorization.

10. The Special Meetings of the said Church referred to in Clauses 4, 5, 6, 7, 8, and 13 hereof may be convened at any time by or by the authority of the Deacons for the time being of the said Church by or by the authority of the Pastor alone if there shall be no Deacons or if there shall be no Deacons or Pastor or being such if they or he shall not duly convene such Meeting forthwith after written request to them or him to do so from any one-sixth or more of the members for the time being of the said Church or from the Union then by or by the authority of such one-sixth or more members or (as the case may be) by or by the authority of the Union. Every such Special Church Meeting as

aforsaid shall be convened by public notice specifying the time and place of holding such Meeting and the purpose thereof given in the Chapel or building for the time being upon the said land and hereditaments once at each service held on each of the two Lord's Days next preceding such Meeting at the usual time for giving notices during Divine service or by written notices affixed conspicuously to the said Chapel or the principal building (or if there be no Chapel or building then upon the land) and such meeting shall not be held earlier than the second day next following the latter of such Lord's days or the fourteenth day after the affixing of such notices. Those persons only shall be entitled to make request for such Special Meetings or to vote thereat who have been members of the said Church for the space of at least six months and have attained the age of twenty-one years and have been present at the Communion of the said Church at the Lord's table once at least during the preceding six months. The vote of two-thirds at least of such members so entitled to vote as shall be personally present and vote at such Special Meeting of the said Church duly convened and held as in this clause provided shall for the purposes hereof be deemed and taken to be the vote of and bind all the members of the said Church. At every such Special Meeting a Chairman shall be appointed before proceeding to business. The provisions in this Clause contained for calling and regulating Special Church Meetings shall not apply to the Ordinary Meetings of the said Church for the management of its internal affairs.

11. A memorandum or minute signed by the Chairman of any Church Meeting for any of the purposes aforesaid of any resolution or resolutions adopted or business transacted thereat shall for all purposes of mortgage sale demise letting exchange or any other of the purposes of these presents be deemed conclusive evidence of the due adoption of such resolution or resolutions and of the transaction of such business at a duly convened and duly held Meeting and it shall be presumed that the person subscribing such memorandum or minute as Chairman was duly appointed to that office.

12. All which has been properly done or may be properly in course of action at the date of the adoption of these presents in or relating to any of the matters herein referred to or the trust premises shall be as valid and binding as if done under these presents and in accordance with the directions herein contained.

13. In addition and without prejudice to the power hereinbefore contained in case the Union shall be required to pay any money for which it shall be liable and the same shall not be duly provided by the said Church or otherwise than by such Union it shall be lawful for it without the consent request or direction of the said Church or any member thereof after the expiration of Six calendar months' written notice from the Secretary of the Union to the Deacons or officers for the time being of the said Church if there shall be any such Deacons or officers requiring payment of such money and stating the

intention of the Union in case payment thereof be not made to it within Six calendar months of the service of such notice to mortgage or sell all or any part of the trust premises so to mortgage or sell the same when and in such manner in all respects as the Executive Council of the Union shall think proper and out of the proceeds thereof to pay all expenses of and incident to such mortgage or sale and fully to reimburse and indemnify the Union so liable and then to dispose of the net residue thereof (if any) as the said Church shall direct at a Special Meeting duly convened and held as provided in Clause 10 hereof. 14. In the event of the removal of the said Church to another locality the power hereby vested in the said Church in regard to the trust premises shall not thereby be suspended or in any manner impaired or affected.

15. Provided lastly that until a Church has been duly formed such as those from time to time belonging to the Baptist Union of Victoria or in case the Church so formed or the Church already existing shall at any time hereafter be dissolved or dispersed or the members thereof be reduced to five in number or if the stated Public Worship of God in the trust premises shall be discontinued for Six calendar months continuously (except in the case of altering or rebuilding) then and in any of such cases the Union shall stand seised and possessed of the trust premises or the proceeds to arise from all or any part of the same in trust for such purpose or purposes and to deal with and dispose of the trust premises and proceeds as and in such manner as the Executive Council of the Union if then in existence shall direct by resolution passed by a majority of two-thirds of the members of the said Council present and voting at a Special Meeting called for the purpose thereof and certified under the hand of the President for the time being of the Union or if such Union be not then in existence then as the Pastors of the five Baptist Churches connected with the Union at the date of its ceasing to exist then in existence nearest to the trust premises shall in their discretion direct or appoint by writing under their hands.

SCHEDULE "C"

REAL ESTATE

<i>Description of Land</i>	<i>Persons in Whom Vested</i>	<i>Title Reference</i>

1. Part Crown Allotments 19 and 20 Section 81 Town of North Melbourne Parish of Jika Jika County of Bourke	Joseph Hunter Goble, Edward Doery, Andrew Duncan, Arthur Parker and Abia Neville	Certificates of Title Volume 1706 Folio 341170 and Volume 2574 Folio 514741
2. Parts Crown Allotments 5 and 6 Section 30 at Carlton Parish of Jika Jika County of Bourke	George Lush, William Henry Garibaldi Ellingworth and George Henry Doery	Certificate of Title Volume 4490 Folio 897842
3. Lot 15 on Plan of Subdivision Number 5338 lodged in the Office of Titles being part of Crown Allotment 7 Section 2 Parish of Frankston County of Mornington	William Montague Cartwright, Frank Stone and George Henry Doery	Certificate of Title Volume 3983 Folio 796574
4. Part Crown Portion 71 Parish of Boroondara County of Bourke	Alfred Fairey Fullard, Frederick William Biggs, Alfred Albert Milton Spicer and Leonard Evenden Tranter	Certificate of Title Volume 3451 Folio 690021
5. Part Crown Portion 71 Parish of Boroondara County of Bourke	Leonard Evenden Tranter, Alfred Milton Spicer, Frederick William Biggs and Alfred Fairey Fullard	Certificate of Title Volume 5148 Folio 1029453
<i>Description of Land</i>	<i>Persons in Whom Vested</i>	<i>Title Reference</i>

6. Lots 1, 2, 3 and 4 Plan of Subdivision Number 10930 lodged in Office of Titles being Crown Allotment 21 and part of Crown Allotment 22 Section 81 at North Melbourne Parish of Jika Jika County of Bourke	Joseph Hunter Goble, Edward Doery, Andrew Duncan, Arthur Parker and Abia Neville	Certificate of Title Volume 5124 Folio 1024769
7. Surface and down to a depth of 50 feet below the surface of Lot 17 on Plan of Subdivision Number 8407 lodged in Office of Titles being part of Crown Allotment 6 Section F Parish of Monbulk County of Evelyn	William Henry Garibaldi Ellingworth, Edmund Henry Jenkin, Percy John King, Daniel McRorie and William John Moore	Certificate of Title Volume 5253 Folio 1050506

MORTGAGE SECURITIES

<i>Description of Land</i>	<i>Persons in Whom Vested</i>	<i>Registered Number</i>
1. Second mortgage from Francis Clemens of land comprised in Certificate of Title Volume 4045 Folio 808806	Edmund Henry Jenkin, Arthur Ernest Gordon Webb, William Henry Garibaldi Ellingworth and William Gallant	485352
2. First mortgage from Mary Sophia Thompson of land comprised in Certificate of Title Volume 3789 Folio 757604	Edmund Henry Jenkin, Arthur Ernest Gordon Webb, Daniel McRorie and Percy John King	546696

NOTES

1. General Information

The **The Baptist Union Incorporation Act 1930** was assented to on 24 December 1930 and came into operation on 24 December 1930.

Table of Amendments There are no amendments made to the **The Baptist Union Incorporation Act 1930** by Acts and subordinate instruments.

Explanatory Details No entries at date of publication.