

## PLAIN ENGLISH SUMMARY OF SCHEDULE B

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### Plain English Summary of *The Baptist Union Incorporation Act 1930*

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# The Baptist Union of Victoria Incorporation Act 1930

## PLAIN ENGLISH SUMMARY

### Key terms and concepts

*Before reading this Summary, please familiarise yourself with the meaning of some common legal terms and some important historical background information, set out below.*

#### Meaning of “trust”

*A trust is an obligation to deal with property in a certain way.*

*When a person is a “trustee” of property, they are obligated to deal with that property according to the terms of the trust.*

*For every trust, there must be a clear beneficiary or trust “object”. That is, there must be an obligation on the trustee to use the property for the benefit of specifically identified persons or purposes.*

*The terms of a trust can be found in many sources, including a trust deed and various laws.*

#### Historical note:

*A number of Christian Churches (and other Christian ministries) of various denominations are now separately incorporated as incorporated associations or companies. Incorporation means that there is a legal organisation brought into existence that has a legal identity in the same way that individuals do.*

*Historically, those forms of legal structure were not readily available to Christian Churches. So, Christian Churches, which were really just groups of people, had to find ways to own property. If an organisation did not have its own legal identity as an incorporated body, it could not be registered as the owner of land.*

*To overcome this problem, individuals within a Christian Church would frequently act as trustees. They would register themselves as the owners of land, but they would acknowledge (through a formal declaration of trust or trust deed) that they held it on trust for use by the Church, or for other religious purposes.*

*However, this approach meant that the legal ownership of the property needed to change when trustees changed. This was a cumbersome process which presented some practical difficulties such as when a trustee died.*

*There were also other challenges relating to the use of property for ministry purposes. These include ensuring that property is used for the purposes that it is given, and that people who hold property act properly and do not misuse it or do things with it that they are not lawfully entitled to do.*

*As a result, various pieces of legislation were passed by State and Territory Parliaments around Australia to establish legislative schemes for dealing with property within a denomination. The Baptist Union of Victoria Act 1930 is one example of this and it still provides the framework that governs the use of property by Baptists in Victoria today.*

Date of document: 21 October 2022

This is a plain English summary only to assist general understanding within the Baptist Union. For any legal purposes, regard must be had to the actual terms of the legislation and trust terms.

## PREAMBLE:

- A. The Baptist Union of Victoria is an association of people (members) who hold the principles, beliefs and doctrines set out in The Declaration of Baptist Church Trusts 1892<sup>1</sup>, and who are governed by the Constitution of the Baptist Union of Victoria (“**Constitution**”).
- B. In 1930, the Parliament of Victoria passed legislation (*The Baptist Union Incorporation Act 1930* (“**Act**”)) that set out a general framework for how property would be dealt with by Baptists in Victoria, and created the Baptist Union of Victoria.
- C. The Preamble to the Act paints a picture of the circumstances of the time when the Act was passed (1930), which gave rise to the need to pass the Act. They relate to how Baptists in Victoria dealt with property at the time:
  - I. There were individuals who held property on trust for the benefit of various Baptist purposes and organisations, namely:
    - a. The BUV itself.
    - b. The “Executive Council” (that is, the Council).
    - c. The Victorian Baptist Home Missionary Society.
    - d. Committees of the BUV.
    - e. Constituents of the BUV.
    - f. Purposes connected with the BUV.
  - II. A number of local Churches were (and continued to become) “constituents” of the BUV. There were individuals who held property on trust for specific local Churches (Constituents), or various purposes connected with such local Churches, but always in accordance with the general principles, beliefs and doctrines set out in The Declaration of Baptist Church Trusts 1892.
  - III. There were individuals who held property as trustees for Constituent Churches that no longer existed (or various purposes connected with those Churches).
- D. In these circumstances, it was thought expedient to create the Baptist Union of Victoria as a body corporate so that:
  - I. It could have specific powers and authorities invested in it, as set out in the Act.
  - II. It could automatically become the owner of property held by trustees on trust for the purposes listed in paragraphs C.I and C.III above.

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<sup>1</sup> Deposited with the Registrar-General of Victoria at Melbourne and numbered 6888, and which statement of trusts is similar to the statement of trusts in Schedule B.

- III. It could be capable of becoming the owner of property held by trustees on trust for the purposes in paragraph C.II above.
- IV. Any property that it became the owner of would be subject to the trusts set out in the Act.

## **OPERATIVE PROVISIONS IN THE ACT:**

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### **1. Title**

The name of the Act is *The Baptist Union Incorporation Act 1930*.

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### **2. Incorporation of the Baptist Union of Victoria**

- 2.1 The Baptist Union of Victoria (“**BUV**”) is comprised of all the persons who are members of the BUV (under the terms of the BUV Constitution), who hold as their general tenets the doctrines set out in Schedule B.
- 2.2 The BUV is an incorporated body. It can:
  - 2.2.1 Make by-laws.
  - 2.2.2 Alter or add to its Constitution.
  - 2.2.3 Purchase, receive, hold and use property and any other assets.
  - 2.2.4 Sell, give away, mortgage, lease, loan, transfer, grant certain rights over or otherwise dispose of its property or other assets.
  - 2.2.5 Act as trustee and carry out the terms of the trust.
  - 2.2.6 Exercise all the powers, rights and privileges of an incorporated body, subject to this Act.
- 2.3 The Council can authorise the execution of documents on behalf of the BUV.

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### 3. Vesting of property in the BUV

#### Outline

*This section deals with property that was automatically transferred to the BUV at the time the BUV was created.*

*It also creates the following general rules:*

- If the BUV acquires property at any time that is subject to a trust, it must comply with the terms of the trust (unless an exception applies).*
- If the BUV acquires property that is not expressly subject to a trust, then the Council can decide how to manage and deal with any such property. But note – Constituent Churches can declare trusts over property at any time in section 4 (if the property was transferred from an individual trustee to the BUV). The law may also operate to deem trusts to exist even if the formal paperwork has not been put in place.*

3.1 From the time that the Act comes into effect, the following property is automatically vested (transferred) to the BUV:

3.1.1 Any property or other assets in Victoria held by any person/s as trustee in trust for:

3.1.1.1 The body or denomination called Baptists.

3.1.1.2 The Council.

3.1.1.3 The Victorian Baptist Home Missionary Society.

3.1.1.4 Any committee of the BUV.

But: it does not include the Victorian Baptist Fund.

3.1.2 The property listed in Schedule C to the Act.

3.1.3 Property held on trust for any Constituent Churches that dissolved prior to the Act coming into effect (or any purposes connected with those Churches).

3.1.3.1 In this case, the BUV does not need to comply with any existing trusts; it can be managed and dealt with by the BUV in the manner that the Council determines.

3.1.3.2 Note: This only applies where the property was held on trust under the provisions of the Model Trust Deed<sup>2</sup> (or a specific, named, earlier version).<sup>3</sup>

- 3.2 If the BUV acquires property (at any time), and it is subject to a trust, then the BUV must comply with the terms of that trust (except in the situation set out above regarding a Constituent Church that had dissolved prior to the coming into effect of the Act).
- 3.3 If the BUV acquires property that is not expressly subject to a trust, then the Council can decide how to manage and deal with any such property.

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## 4. Property held on trust

### Outline

*This section enables any person that is trustee of property for a local Church to transfer it to the BUV, and requires the BUV to deal with the property according to trusts or directions by the local Church. It also enables a local Church to declare a trust over property. Note: sections 5 and 6 also have some requirements that must be met before a trustee can transfer property under this section 4, and sections 7 and 8 set out some procedural and administrative provisions.*

- 4.1 A person (trustee) who holds property on trust for a local Church, or any purpose connected to a local Church, may transfer trusteeship to the BUV. In those circumstances, the BUV will hold the property for the benefit of the local Church (subject to any mortgage or lease or other obligation already attached to the property) and subject to the following:
- 4.1.1 The trusts set out in Schedule B - if the property was held by the trustee subject to either of the Model Trust Deeds named in the Act<sup>4</sup>.
- 4.1.2 Any trusts to which the property was subject at the time of the transfer.
- 4.1.3 Any trusts that the local Church declares after the time of transfer, if it was not held subject to any trusts at the time of transfer.

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<sup>2</sup> The Declaration of Baptist Church Trusts 1892 deposited with the Registrar-General of Victoria at Melbourne and numbered 6888, and which statement of trusts is similar to the statement of trusts in Schedule B.

<sup>3</sup> Model Deed of Trust of the Baptist Association deposited with the Registrar-General of Victoria at Melbourne and numbered 5510.

<sup>4</sup> See footnotes above for their full names.

- 4.1.3.1 A local Church may make a declaration of trust by passing a resolution. The resolution must be passed at a Special Meeting convened and held in the manner provided in clause 10 of Schedule B. At the meeting, at least two-thirds of votes cast by members of the local Church who are present must be in favour of the resolution for it to pass.
- 4.1.3.2 The local Church may make a declaration of trust at any time after the property has been transferred to the BUV.
- 4.1.4 Any direction given by the local Church by resolution passed by majority at any general meeting of the local Church– if the local Church has not yet passed a declaration of trust as described above (in paragraph 4.1.3), and there were no trusts applying at the time the property was transferred.
  - 4.1.4.1 The Act only requires the resolution to be passed by a majority of the members of the local Church who are present and vote at any general meeting.<sup>5</sup>
  - 4.1.4.2 The resolution must be set out in the minutes of meeting, which must be signed by the chairperson. If this has occurred, then that is conclusive proof that the meeting was duly convened and the resolution was duly passed by the requisite majority.

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## 5. Execution of conveyance or transfer

### Outline

*This section sets out some procedural requirements for transferring a property to the BUV under section 4.*

In section 4, a trustee is permitted to transfer property to the BUV. However, section 5 of the Act states that they cannot do so unless the following has happened first:

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<sup>5</sup> It does not need to be a Special Meeting, and there is no quorum stipulated – presumably the Church's constitution governs this.

The trustees in section 4 must only transfer property to the BUV if they have been directed to do so by a resolution.

The resolution must be passed at a Special Meeting duly convened and held in the same manner as provided in clause 10 of Schedule B. It must be passed with at least two-thirds of the members of the relevant local Church who are present and voting at the meeting.

The resolution must be set out in the minutes of meeting, which must be signed by the chairperson. If this has occurred, then that is conclusive proof that the meeting was duly convened and the resolution was duly passed by the requisite majority.

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## 6. Members voting at Church meetings

### Outline

*This section sets out some procedural requirements for transferring a property to the BUV under section 4.*

A member of a local Church may only vote on a resolution for the purposes of sections 4 and 5 if the member is at least 21 years old, and is entitled to vote at a Special Meeting convened and held under the provisions of clause 10 of Schedule B.

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## 7. Appointment of the BUV as Trustee

If property is transferred to the BUV under sections 4 and 5, then the individual trustees cease to be trustees and are discharged from their duties. This will occur when the transfer is complete, and the BUV has accepted it. The BUV will be the new trustee in place of all of the existing individual trustees.

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## 8. Execution of conveyances or transfers in certain cases

- 8.1 There is a person appointed as a representative of the Baptist Union of Victoria under the *Religious Successory and Charitable Trusts Act 1928*.<sup>6</sup>
- 8.2 That representative has a specific role in certain circumstances where there are problems with transferring property to the BUV under sections 4 and 5. If there are any trustees who:

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<sup>6</sup> This Act has now been repealed, though see the subsequent *Religious and Successory Trusts Act 1958* (Vic).



8.2.1 are dead, unable to be found, or absent from Victoria, in the opinion of that representative, or

8.2.2 who refuse or neglect for one month to execute the documents necessary to transfer property to the BUV, then:

the representative may execute the documents necessary to transfer the property to the BUV. The execution of such documents by the representative will be valid.

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## 9. Register of Successory Trusts

Transfer of property to the BUV under the Act shall bring to an end any registration of such under the *Religious Successory and Charitable Trusts Act 1928*.

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## 10. Powers of the BUV relating to property

### Outline

*In order to be able to act as a trustee, an individual or body corporate must be given “powers” over the property. For example, the ability to invest funds or obtain a mortgage over land. Those powers are typically conferred on a trustee by:*

- *Specific provisions in trust instruments (i.e. trust deeds, wills)*
- *Acts of Parliament*
- *Courts*

*Section 10 of the Act confers powers on the BUV in relation to property that it is trustee for. They are effectively administrative powers (e.g. ability to lease, mortgage, sell property) so that the BUV is able to act as trustee. The powers granted to the BUV in this section of the Act are subject to the provisions of the trust instruments; that is, section 10 does not override the terms of a trust.*

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## 11. References to Executive Committee

### 11.1 Where:

- 11.1.1 property is held by any person/s as trustee for any local Church or purposes connected with any local church under the Model Trust Deeds<sup>7</sup>, and
- 11.1.2 there are references to the “Executive Committee of the Baptist Association of Victoria” or the “Executive Committee of the Baptist Union of Victoria” in the Model Trust Deeds<sup>8</sup>; then
- 11.1.3 references in the Model Trust Deeds should be read as meaning the Council.

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## 12. Alteration of Schedule B

The provisions of the statement of trusts set out in Schedule B can be modified by the BUV by resolution passed in accordance with the Constitution of the BUV.

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<sup>7</sup> See above footnotes for their full names.

<sup>8</sup> See above footnotes for their full names.

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# Schedule A

Schedule A of the Act sets out the Constitution of the BUV at the time of its adoption. That document has been updated and amended (as is permitted by clause 12).

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# Schedule B

*Taking into account amendments made in October 1968, September 1975, October 1984, March 1994 and October 2022*

## Outline

*Schedule B is a Schedule to the Act. It only applies in certain circumstances set out in the Act. They are as follows:*

- It sets out the doctrines and beliefs that all Baptists within the BUV must hold to (Preamble and Section 2 of the Act).*
- It sets out procedures for convening and holding certain types of meetings. They are meetings where a local Church authorises the transfer of property to the BUV, or issues directions to the BUV in relation to property that the BUV holds on trust, or declares a trust over property held by the BUV, under sections 4, 5, and 6 of the Act.*
- It sets out the terms of trust that the BUV must comply with for any property that it holds as trustee under the Model Trust Deeds (section 4 of the Act).*

*Also, in many cases, Schedule B says that the BUV “may” do or “may permit” certain things. Remember: as a general rule, a trustee can only do things that it is permitted to do, so Schedule B provides some helpful authorisations for the BUV as trustee.*

## 1. Trust premises

1.1 The BUV may build, or permit to be built on the land, the following buildings:

1.1.1 A Chapel

1.1.2 A school room

1.1.3 Residence

- 1.1.4 Such other buildings as may be convenient
- 1.1.5 Any of the above
- 1.2 The land and any such buildings will be referred to as the **“Trust Premises”**.
- 1.3 The **“local Church”** may give directions to the BUV about the Trust Premises. The “local Church” is defined in clause 2.
- 1.4 The BUV as trustee may permit the Trust Premises to be used, occupied and enjoyed as directed by the local Church.
- 1.5 The said Church may direct that the Trust Premises be used as a place for the public worship of God, for Sunday and daily tuition and instruction, as a residence, and “generally for such other purposes as the Church directs.”
- 1.6 The BUV as trustee may permit such buildings to be completed, repaired, altered, enlarged, taken down and wholly or partially rebuilt as directed by the local Church.

## **2. Local Church**

- 2.1 The **“local Church”** is the Church that:
- 2.2 assembles for worship on the Trust Premises; and
- 2.3 is a Constituent of the BUV; and
- 2.4 is governed according to Congregational principles. ‘Congregational principles’ for these purposes means that the members of the Church for the time being have full power to manage all the Church’s affairs according to their uncontrolled discretion in every respect.

### **3. Leadership**

- 3.1 The BUV as trustee may permit the following persons to receive money for purposes directed by the local Church: Deacons or other persons appointed for the purpose of receiving money by the local Church.
- 3.2 The money received must be applied and disbursed according to directions from the local Church.

### **4. Who can officiate or reside in Trust Premises**

- 4.1 This section sets out who can officiate in or on Trust Premises, and who can reside in or on Trust premises.
- 4.2 The BUV may only permit certain people to officiate or reside in or upon Trust Premises as Pastors. To be permitted to officiate or reside in or upon Trust Premises as a Pastor, a person must:
  - 4.3 Be Baptist; and
  - 4.4 Hold, preach, teach and maintain the following doctrines and practices:
    - 4.5 the divine inspiration and supreme authority of the Scriptures of the Old and New Testaments;
    - 4.6 the existence of One God in Three Persons--the Father, the Son, and the Holy Ghost;
    - 4.7 the Deity and Incarnation of the Lord Jesus Christ, who is the Son of God, the Second Person of the Holy Trinity;
    - 4.8 the fallen, sinful, and lost estate of all mankind;
    - 4.9 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;

- 4.10 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;
- 4.11 the necessity, in order to salvation, of repentance towards God and of faith in the Lord Jesus Christ;
- 4.12 the resurrection of the dead, and the final judgment of all men by the Lord Jesus Christ;
- 4.13 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
- 4.14 In the case of the position of senior, lead or sole Pastor, a person must be chosen by the local Church at a Special Meeting convened and held in accordance with clause 10 of Schedule B, and not have subsequently been dismissed or resigned; and
- 4.15 In the case of the position of Pastor or Minister other than senior, lead or sole Pastor, be authorized or appointed by the senior, lead or sole Pastor or Deacons (unless the Church issues directions otherwise to the BUV at a Special Meeting held in accordance with clause 10 of Schedule B).
- 4.16 The BUV must remove from Trust Premises:
- 4.17 Any senior, lead or sole Pastors whom the local Church has dismissed at a Special Meeting convened and held in accordance with clause 10 of Schedule B.
- 4.18 The BUV must not permit any person to officiate or reside in Trust Premises as Pastor any person who:
- 4.19 Is known to be guilty of immoral conduct.

4.20 Ceases to be a Baptist.

4.21 Has been dismissed as senior, lead or sole Pastor at a Special Meeting convened and held in accordance with clause 10 of Schedule B.

4.22 The Pastor/s or Deacons of a local Church may authorise or appoint other Ministers or people to officiate in the Chapel (place of worship) occasionally, and the BUV may permit such persons to do so. The local Church may override such a decision of the Pastors or Deacons.

## **5. Borrowing money**

5.1 The BUV may as trustee borrow money on terms directed by the local Church at a Special Meeting convened and held in accordance with clause 10 of Schedule B.

5.2 The Trust Premises may be mortgaged or offered as security for the borrowing, and the BUV may execute all necessary and proper documents to do this.

## **6. Dealing with Trust Premises**

The BUV may as trustee sell the Trust Premises, or exchange them, or create easements or construct roads on the Trust Premises. In doing so, the BUV is subject to any directions given by the local Church. However, unless Union Council agrees otherwise, the value to be obtained from any sale or exchange cannot be substantially less than value of the Trust Premises.

## **7. Proceeds of sale or investment**

7.1 The BUV must hold on trust any money received from selling, mortgaging or otherwise dealing with the Trust Premises. The BUV must also hold on trust any money received under an insurance policy for the Trust Premises.

7.2 The BUV may spend such money:

7.3 to erect a Chapel on the land, or rebuild, enlarge, improve or repair the Chapel or other buildings; or

7.4 purchase other property; or

7.5 for the benefit of the local Church,

provided it is not for purposes that are inconsistent with other provisions of Schedule B, and provided that the local Church directs it at a Special Meeting duly convened and held as provided in clause 10 of Schedule B.

7.6 The BUV may invest any money until it is required to be used under this clause. It can be invested in authorised trustee securities. Income from any investment shall be applied according to directions given by the local Church at any Church meeting (it does not have to be a Special Meeting convened under clause 10). Any investments in real property will themselves be held on trust.

## **8. Leasing Trust Premises**

8.1 The BUV may lease Trust Premises (or any part of them) on conditions (period of time, amount of money and other conditions) directed by the local Church at a Special Meeting duly convened and held as provided in Clause 10. The BUV may execute all necessary or proper documents to effect the lease.

8.2 At the end of the lease, the Trust Premises will continue to be held according to the trust terms set out in Schedule B.

8.3 Any rent received must be applied in such manner as the local Church directs at any Church meeting (it does not have to be a Special Meeting held under clause 10 of Schedule B).

## **9. Receipt of payment**

9.1 Once the BUV has received payment for any mortgage, sale or rent of Trust Premises, it is not necessary for the mortgagee, purchaser, tenant or lessee to check that the BUV is acting in accordance with the terms of the trust.

## **10. Special Meetings**

10.1 The Special Meetings referred to in sections 4, 5, 6, 7, 8 and 13 of the Act may be convened at any time by any of the following:



- 10.2 Deacons.
- 10.3 Pastors, if there are no Deacons.
- 10.4 At least one sixth of the members of the local Church, if the Pastor or Deacons do not convene the meeting after receiving a written request to do so by one sixth of the members. To request a meeting under this clause, a member of the local Church must be 18 years of age, have been a member for at least 6 months, have been present for Communion at least twice in the previous 6 months and must not have ceased to be an active member of the local Church.
- 10.5 The BUV, if the Pastor or Deacons do not convene the meeting after receiving a written request to do so by the BUV.
- 10.6 At least 14 clear days' public notice must be given of each Special Meeting. The notice must set out the time and place of the meeting, and the purpose of the meeting.
- 10.7 The notice must be given by:
  - 10.8 Informing the members during the usual time of giving notices in each church service on the two Sundays that precede the meeting; or
  - 10.9 By posting an obvious written notice on or inside the Church building (or other principal building or on the land if no building).
- 10.10 At a Special Meeting the persons voting must be 18 years of age, must have been members of the local Church for at least 6 months, and must have been present at Church for communion at least twice in the preceding 6 months and must not have ceased to be an active member of the local Church.
- 10.11 The quorum for a Special Meeting is 90 members of the local Church, or the number that is the nearest whole number above forty percent of the total number of members of the local Church, whichever is lower. No business may be conducted at a Special Meeting, other than the election of a Chairperson or adjournment of the meeting, unless a quorum is present at the time the meeting proceeds to business – except as follows :

- 10.12 If there is no quorum present 30 minutes after the starting time, the meeting can pass resolutions but they will not take effect unless and until approved by the Council. In the case of any meeting where a quorum was not present, the minutes of the meeting must record the fact that there was no quorum present.
- 10.13 At a Special Meeting, a two-thirds majority vote is required. That is – two thirds of the members who attend in person and who cast a valid vote.
- 10.14 At the meeting, a Chairperson shall be appointed before proceeding to business.
- 10.15 The provisions in this clause do not apply to the ordinary meetings of the local Church for the management of its internal affairs.

## **11. Proof of resolutions passed at Special Meetings**

- 11.1 If a Chairperson of any Church Meeting signs a minute or memorandum to say that a direction has been given by the local Church at a Special Meeting, then that is conclusive evidence of the adoption of the resolutions or transaction of business at a duly convened and held meeting. It will be presumed that the Chairperson was duly appointed.
- 11.2 In the case of a Special Meeting that did not have a quorum present, the Chairperson must not sign minutes of that meeting unless the minutes record (make note) that a quorum was not present.

## **12. Things done before Schedule B was passed**

- 12.1 Anything done before the date that the provisions of Schedule B come into effect will be valid and binding as if done in accordance with the provisions of Schedule B.

## **13. Money owed by the local Church to the BUV**

- 13.1 If the BUV is liable to pay any money, and the money is not provided by the local Church or otherwise by the BUV, the BUV may mortgage or sell the Trust Premises (without the local Church's consent) after the BUV Secretary has given 6 months written notice to the Deacons or officers of the local Church (if any). The written notice must state that payment is required within 6 calendar

months of the service of the notice, and that if payment is not received, the BUV intends to mortgage or sell the Trust Premises.

- 13.2 The proceeds of sale or mortgage may be applied to pay all expenses associated with the sale or mortgage, and reimburse or indemnify the BUV fully, and then the BUV may dispose of the remaining proceeds in accordance with any direction given by the local Church in accordance with a Special Meeting convened and held as required by clause 10. However, the proceeds can only be disposed for purposes that are consistent with Schedule B.

#### **14. Local Church changing location**

- 14.1 If the local Church moves to another location, the local Church's powers in relation to the Trust Premises do not change.

#### **14A Local Churches authorising the Council to act in their place**

- 14A.1. There are various provisions in Schedule B that give power to the local Church to give directions to the BUV (clauses 4, 5, 7, 8 and 13).
- 14A.2. The local Church can authorise the Council to stand in its shoes and exercise those powers in its place. To do so, the local Church must pass a resolution at a meeting convened and held as required by clause 10 of Schedule B.
- 14A.3. If the Council agrees, then the Council may exercise those powers until the Council and the local Church (by majority decision of its members who are over 18) both decide that the powers should be handed back to the local Church.
- 14A.4. If the local Church resolves for the powers to be handed back to it, but the Council does not pass a resolution within one month to do so, then the Assembly can make the Council do so.

#### **15. Churches reduced to less than 13 members, new Churches, and Churches that have ceased to use their building for public worship**

- 15.1 If:

- 15.2 a local church has not yet been formally established and accepted as a Constituent within the BUV; or
- 15.3 a local Church has dissolved or dispersed, or the members have been reduced to 12 or less; or
- 15.4 the Public Worship of God in the Trust Premises has discontinued for 6 calendar months continuously (except in the case of building works happening and except in the case where worship in the Trust Premises is prohibited by government for public health or other emergency reasons)

Then the BUV may take control of any Trust Premises and deal with it any matter that the Council sees fit. However:

- 15.5 The Council must follow certain procedures in determining how to deal with the property. A decision must be made by resolution passed by a majority of two-thirds of the members of the Council present and voting at a special meeting called for the purpose. The Chair of the Council must certify the decision.
- 15.6 The Council must hold the Trust Premises, and proceeds arising from it (e.g. by sale or investment), on trust.

## **15B Churches reduced to 29 members or less**

- 15B.1 If at any time the number of members of a local Church reduces to 29 or less (but more than 12), then the powers that the local Church has with clauses 4, 5, 6, 7, 8 and 13, may be exercised exclusively by the Council. However:
  - 15B.1.1 the Council must make a decision to exercise the power conferred on it by a resolution of a majority of at least two-thirds of members present and voting at a special meeting for that purpose; and
  - 15B.1.2 the BUV Secretary must have given six months' written notice of the intention of the BUV Council to act to the Deacons or officers of the local Church, and to the Assembly; and
  - 15B.1.3 provided that, if the local Church has appealed to the Assembly, the Assembly has endorsed Council's decision.

15B.2 A local Church may appeal any decision made by Council to exercise powers under this clause 15B by giving notice to the Secretary, within three months of the Secretary notifying the local Church of Council's intention to act. If a local Church appeals to Assembly, then:

15B.2.1 the local Church must be given a reasonable opportunity at an Assembly meeting to be heard; and

15B.2.2 Assembly may pass a resolution to endorse Council's decision, or it may refuse to endorse Council's decision.

15B.3 The powers exercised by Council under this clause will not be handed back to the local Church unless and until the Council and the local Church separately resolve that the powers will go back to the local Church.

15B.3.1 The local Church must decide by majority decision of its members who are 18 years or older.

15B.4 If the local Church passes a resolution but the Council refuses to do so, then the Assembly may require the Council to do so.

## **15C Churches reduced to 29 members or less: powers exercisable jointly by Council and the local Church**

If at any time the number of members of a local Church reduces to 29 or less (but more than 12), and after considering the reduced numbers the Council passes a resolution to decide that it is necessary or advisable that directions given to the BUV by the local Church regarding the Trust Premises should be subject to oversight, then any directions issued by a local Church in respect of clause 6 (sale of Trust Premises), clause 7 (proceeds of sale), clause 5 (borrowing), clause 4 (appointments), clause 8 (leasing) and clause 13 (proceeds of sale) shall only be effective if approved by Council.

## **16. Leases**

16.1 If a Church changes location and leases the Trust Premises, then until the end of the lease, the provisions of clause 15 relating to the discontinuance of the Public Worship of God in the Trust Premises for 6 calendar months

continuously (except in the case of building works happening and except in cases where worship in the Trust Premises is prohibited by Government for public health reasons or other emergency reasons) will not apply.

## **17. Purposes**

A Church cannot issue a direction to the BUV regarding Trust Premises for improper purposes (being purposes other than the purposes of the Church and the Union).