

12.2 PERMANENT AND TEMPORARY TRUSTS

There are two types of trust which are relevant to Parishes. These are Permanent Trusts and Temporary Trusts.

PERMANENT TRUSTS

These are the type of Trusts in respect of which only the interest is available to the Parish. In other words the investment of the money becomes a permanent endowment for the Parish.

Permanent Trusts are created in a number of ways. For example a person may leave a sum of money to be invested and provide that the interest may be used for parish purposes. A parish may set aside a sum of money as a permanent trust on the understanding that in the future they will receive the interest and not have access to the capital.

Each time a Parish receives an interest cheque, information will be provided outlining the Permanent Trust or Permanent Trusts to which this cheque relates and the amounts of interest in relation to each specific Trust.

It should be noted that Permanent Trusts are Trusts designed to preserve the capital of the fund and to provide interest as income to the Parish. While the money is invested with the trustees, the money remains the restricted property of the Parish and in most cases, will do so in perpetuity. Permanent Trusts are not intended to be available to the Parish to meet expenses which are unforeseen. These Trusts are investments of the Parish and as such should be treated with care so that future generations of the Parish may continue to enjoy the fruits of passed prudential acts of others.

In very rare circumstances, the Diocesan Council may authorise the breaking of the Permanent Trust and, normally, this process will require the passing of the appropriate Variation of Trust Ordinance.

However, because this involves the substitution of one Trust for another, the Diocesan Council is required to treat the matter with great care and consideration of all the circumstances. The Church has the privilege of being able to deal with Trusts in this way through a provision of the NSW Parliament in the Anglican Church of Australia Trust Property Act 1917. The Church must act with prudence and diligence when exercising this power.

Permanent Trust Interest Rates

A Permanent Trust enables only the interest to be available to the Parish. In all cases this interest is for a quite specific purpose as specified by the trust. The interest can be used only for that purpose. The interest rate on permanent trusts is higher than Temporary Trust interest rates.

Parishes should note that in all cases, Permanent Trust funds received either through the Diocesan office or directly through the Parish must be deposited with the Trustees of Church Property for the Diocese of Newcastle. The Trustees are the only body in the Diocese which can invest the proceeds on behalf of the Parish. If a Parish receives Permanent Trust funds direct from a solicitor, it should inform the Diocesan Business Manager immediately so that appropriate action regarding the creation of the Permanent Trust can be taken in conjunction with the Parish.

TEMPORARY TRUSTS

Temporary Trusts are established for a specific purpose and both the capital and interest can be returned to the Parish for the purposes for which they were given, subscribed or raised upon the Diocesan Council being satisfied that they will forthwith be applied for such purpose.

A good example of a Temporary Trust is one in which the proceeds of a land sale in a Parish has been deposited into the Temporary Trust for a specific building purpose.

On many occasions this Temporary Trust is overlooked with the passing of successive Parish Councils and the original intention is forgotten. Because of this, and for good management purposes, all funds which may be held under Temporary Trust need to be subject to periodic review and Parishes will be required to make a final decision on the dispersal of the funds within a specific time period. Parishes should aim to review their Temporary Trusts on an annual basis.

In all cases of Temporary Trust, the trust should be established by resolution of the Parish Council and that resolution should be conveyed to the Diocesan Business Manager at the time the trust is being created.

Parishes should note that land sale proceeds cannot be deposited in the Anglican Savings and Development Fund.

GENERAL INFORMATION REGARDING INTEREST

Parishes should realise and allow for the fact that it is prudent to direct a proportion of the annual interest to be reinvested with the capital for the long term benefit of the Parish. To do otherwise, while in the short term providing needed income to the Parish, reduces the value of the capital originally invested and represents poor management of Parish funds.

General Information regarding payment of interest for both permanent and Temporary Trusts

Permanent Trust interest is paid once per year, in July and this is for the calendar year. Six months interest is paid in arrears and six months interest is paid in advance.

Temporary Trust interest on land sale proceeds will be capitalised generally where the money is held for a period of to 18 months. After this period, permanent decisions about the use of the money should have been made by the Parish council and approved by Diocesan Council. Temporary Trust interest derived from other than land sale proceeds is paid twice a year at 30 June and at 31 December.

GENERAL INFORMATION REGARDING EXISTENCE OF PERMANENT AND TEMPORARY TRUSTS IN A PARISH

As mentioned above it is important that successive Parish Councils are aware of the existence of Permanent Trusts (and any other trust for that matter) as they relate to the Parish. It is difficult with changing personnel in a Parish to have any continuity of memory regarding such things. It is therefore important that the Parish Council Secretary bring before the Parish Council the details of all Trusts relating to the Parish at least once in every year. The Parish Council Minute should record the existence of these Trusts which apply to the Parish as an informational and reminder to successive Parish councils that the Parish has the benefit of these Trusts.