
DIOCESE OF THE MURRAY

SALE OF LAND

(INCLUDING ANY BUILDING THEREON)

The Parish Council of any parish contemplating the sale of any Parish Trust Property is directed to peruse the provisions of Sections 76 and 77 of the Parochial Administration Ordinance.

The procedure set out below must be followed prior to the entering into of any contract of sale or transfer.

The Parish Council must consider the matter at two meetings. The second meeting may not be less than three weeks after the first meeting.

At the first meeting the Parish Council must pass a resolution that the Synod be requested to sell or transfer the property (see below for acceptable form of resolution).

1. The resolution and notice of meeting of the Parish Council to confirm or rescind the resolution must be read at all Sunday services after the first meeting.
2. Objections must be submitted in writing to the Parish Priest or the Parish Secretary before the second meeting.
3. At the second meeting the Parish Council must consider all objections and either confirm or rescind the resolution.
4. The confirmed resolution remains effective for 12 months from the date of the first meeting (this may be extended for a further 12 months).
5. The following must be submitted to the Diocesan Council:-
 - a) A certified copy of the resolution (see below for acceptable form)

NOTE: - the certified copy must be signed by either

- (i) the Parish Priest (normally), or
- (ii) the person(s) presiding at the meetings of the Parish Council at which the resolution was passed and confirmed

AND

countersigned by not less than two members of the Parish Council who were at those meetings

- b) Copies of any objections to the resolution

These should reach the Registrar not less than 14 days before the date of the next meeting of the Diocesan Council.

6. Parish Trust Property may only be sold on the approval of the Synod or the Diocesan Council (see below for terms and conditions).

7. Where it is approved that parish trust property will be sold an amount equal to 25% of the net proceeds of the sale shall be retained by the Synod for the purposes of the See Fund unless Diocesan Council approves that in a particular case this shall not apply.

NOTES:

A. FORM OF RESOLUTION (to be passed and confirmed by the Parish Council)

“that this Parish Council request the Synod to sell (or transfer) the land situated (sufficient detail must be given here to positively identify the piece of land) being Parish Trust Property and contained in the Certificate of Title Book Volume Folio, that the purchase money used for (here insert the proposal/s) and (here specify any terms and conditions of the proposed sale or transfer, if desired).

B. FORM OF CERTIFICATE (to be submitted to the Diocesan Council)

We, the undersigned certify that

a) the following resolution was passed at a meeting of the Parish Council of the Parish of held on And confirmed at a meeting of the same Council held on

(here insert the text of the resolution)

b) the provisions of Section 76 of the Parochial Administration Ordinance 1973-1977 have been complied with, and

c) * there were no objections to the resolutions

* objections to the resolutions were received from (here list the names of the objectors) and copies of the same enclosed. (* delete whichever does not apply)

C. MINIMUM PRICE

Section 76(a) of the Parochial Administration Ordinance requires in part “...if the resolution does not specify any minimum price or by whom the minimum price shall be determined the Parish Council shall have power to determine the same at a subsequent time”.

It should be noted however that the Diocesan Council normally requires that a minimum sale price be specified. The Parish Council may wish not to disclose it in the main resolution in order to retain confidentiality.

In this case a resolution re the minimum sale price should be passed at the second meeting at which the main resolution is confirmed. A certified copy of this resolution must be submitted to the diocesan Council together with the certified copy of the main resolution.

D. TERMS AND CONDITIONS OF SALE

76(a) of the Parochial Administration Ordinance requires that in part "...Such resolution may specify any terms and conditions of the proposed sale or transfer "

Whether or not any terms and conditions are specified in the resolution of the Parish Council " ... the Synod may in its discretion sell or transfer any Parish Trust Property for such amount and such terms and conditions as shall seem fit to Synod". In those cases it considers fit the Diocesan Council will approve the terms and conditions of sale as specified in the resolution but in other cases it may vary any or all of amounts, terms and conditions". (Section 77(1)).

E. APPLICATION OF THE PURCHASE MONEY

Section 76(a) of the Parochial Administration Ordinance requires that in part ".... Such resolutions shall specify the purpose or purposes (not being a purpose or purposes inconsistent with the Declaration of the Trust pursuant to which the property is vested in the Synod) for which the purchase money shall be applied " and Section 77(1) requires in part ".... The purchase money shall be applied for the purpose or purposes stated in the resolution and approved by Synod".

Thus the purchase money may be used only for the purpose(s) specified in the resolution and which have been approved also by the Diocesan council.

F. DIFFICULTIES

In the event of the diocesan Council not approving of the sale of any Parish Trust Property by reason of any one or more of the following it will be necessary for the parish to recommence the procedures taking into account such recommendations and requirements of the Diocesan Council:

- (a) minimum sale price (if specified in the main resolution)
- (b) terms and conditions of sale (if specified in the resolution)
- (c) purpose(s) for which the purchase money is to be applied.