
MEMORANDUM

Responses to email of 14 January 2002

Thank you for the additional questions which came to us by your email of 14 January 2002.

1. Land and Management Expertise

You are quite right to make sure that the members of the Northside Ministry Resources Inc Committee have expertise in property and land management.

At Rule 20(4) on page 21 there is a statement that the Committee of Management shall consist of persons who are qualified as good stewards of land and money. What you may actually seek however is a statement that the two ordinary members shall have knowledge of and expertise in property and land management matters. Other members of the Committee need not have such expertise. If ordinary membership has a land management qualification as a prerequisite, Rule 20(4) can then be omitted.

2. Liability of College Board in Cases of Sexual Abuse

The liability of the College Board in cases of sexual abuse is limited by express provision of section 15 of the Associations Incorporations Act, as follows:

15. *Rights and liabilities of members*

- (1) Except as otherwise provided by this Act or the rules of an incorporated association, a member of the committee, the public officer or a member of the incorporated association shall not, by reason only of his being such a member or officer, be liable to contribute towards the payment of the debts and liabilities of the incorporated association or the costs, charges and expenses of the winding up of the incorporated association.
- (2) Except where otherwise expressly provided by this Act or by its rules, membership of an incorporated association shall not be deemed to confer upon members any right, title or interest, whether legal or equitable, in the property of the incorporated association.

29A. *Duties of committee members*

- (1) A member or former member of the committee of an incorporated association must not knowingly or recklessly make improper use of information acquired by virtue of his or her position in the incorporated association so as to gain, directly or indirectly, any pecuniary benefit or material advantage for himself or herself or any other person, or so as to cause a detriment to the incorporated association.

Penalty: 60 penalty units.

- (2) A member of the committee of an incorporated association must not knowingly or recklessly make improper use of his or her position in the incorporated association so as to gain, directly or indirectly, any pecuniary benefit or material advantage for himself or herself or any other person or so as to cause detriment to the incorporated association.

Penalty: 60 penalty units.

- (3) If a person is found guilty of an offence against this section, the court, in addition to imposing any penalty, may order the person to pay a sum specified by the court to the incorporated association as compensation.
- (4) An order made under sub-section (3) must be taken to be a judgment debt due by the offender to the incorporated association and payment of any amount remaining unpaid under the order may be enforced in the court by which it was made.

29B. Disclosure of interest

- (1) A member of the committee of an incorporated association who has any direct or indirect pecuniary interest in a contract, or proposed contract, with the incorporated association--
- (a) must, as soon as he or she becomes aware of his or her interest, disclose the nature and extent of his or her interest to the committee; and
 - (b) must disclose the nature and extent of his or her interest in the contract in the statement submitted under section 30(3) by the incorporated association to its members at the next annual general meeting of the incorporated association.

Penalty: 10 penalty units.

- (2) Sub-section (1) does not apply in respect of a pecuniary interest that exists only by virtue of the fact--
- (a) that the member of the committee is an employee of the incorporated association; or
 - (b) that the member of the committee is a member of a class of persons for whose benefit the incorporated association is established; or
 - (c) that the member of the committee has the pecuniary interest in common with all or a substantial proportion of the members of the incorporated association.
- (3) If a member of the committee of an incorporated association discloses a pecuniary interest in a contract, or proposed contract, in accordance with this section, or his or her interest is not such as need be disclosed under this section--

- (a) the contract is not liable to be avoided by the incorporated association on any ground arising from the fiduciary relationship between the member and the association; and
- (b) the member is not liable to account for profits derived from the contract.

29C. *Voting on contract in which committee member has interest*

- (1) A member of the committee of an incorporated association who has any direct or indirect pecuniary interest in a contract, or proposed contract, with the incorporated association must not take part in any decision of the committee with respect to that contract but may, subject to the provisions of this Part, take part in any deliberations with respect to that contract.

Penalty: 10 penalty units.

- (2) Sub-section (1) does not apply in respect of a pecuniary interest--
 - (a) that exists only by virtue of the fact that the member of the committee is a member of a class of persons for whose benefit the incorporated association is established; or
 - (b) that the member of the committee has in common with all or a substantial proportion of the members of the incorporated association.

Application to cases of sexual abuse

The extracted provisions impose limited legal responsibilities on Committee/College Board members for matters involving improper use of information and disclosing of personal pecuniary interests financial matters only and do not impose any moral or other liability upon Committee Members. This is why incorporating an association was a recommended legal format.

It means that Committee members themselves both personally and as part of the College Board will not be liable for penalties or compensatory amounts should the College be found to have a liability for actions of staff in a matter of sexual abuse for which a legal financial penalty is imposed.

3. Manner of Passage of Resolutions

Amendments to the Statement of Purposes and Rules of an Association can only be made by special resolution. For a Special Resolution, 21 days notice must be given before the meeting at which the resolution will be put and the Special Resolution will only be passed on a vote of three-quarters of entitled members in support of the resolution. Once the resolution has been passed, the alteration of the Rules will be of no effect unless and until it has been approved by the Registrar.

After the meeting, we will arrange for documentation to be forwarded to the Registrar for approval.

Motions to be put

The Rules of Northside Christian Centre are to be amended by omitting Rule 29. In order that appointments of staff and other matters of an administrative nature which have already been made in relation to the College continue to have standing, on reflection, we now recommend that an additional resolution be put and passed by the General Meeting along these lines:

4 Any appointment made or motion passed under the former Rule 29 of Northside Christian Centre Inc, if in force at the commencement of Northside Christian College Inc, shall continue to be in force as far as practicable as if made or passed by Northside Christian College Inc.

4. All resolutions

For your assistance, we now set out below all resolutions to be passed:

SPECIAL RESOLUTION

That the Statement of Purposes and Rules of the Association be varied as follows:

- 1. In the Statement of Purposes, the following amendments:
 - (a) in item (v) omit the words "and General", and the words "establish and conduct";
- 2. in the Rules, the following amendment:
 - (a) omit Rule 29.

*or posted on the Board
in Bulletin 75% 21 days*

*copy of papers available on website
14 days.*

RESOLUTIONS TO BE PASSED BY GENERAL MEETING

- 1. That the Board be authorised to establish Northside Christian College Inc and Northside Ministry Resources Inc generally in accord with the attached proposed Statement of Purposes and Rules.
- 2. That the Board be authorised to transfer land and buildings from Northside Christian College Incorporated to Northside Ministry Resources Incorporated upon its incorporation.
- 3. That the Board be authorised to establish Northside Christian College Inc and Northside Ministry Resources Inc generally in accord with the attached proposed Statement of Purposes and Rules.

[The Chair of the meeting should mark a copy of the Rules and Purposes referred to as the Rules and Purposes of Northside Christian College Inc and Northside Ministry Resources Inc for the purpose of identification.]

*24 Feb '02 12-15pm
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