

Anglican Church of Australia Constitutions Act 1902

Church of England Constitutions Act Amendment Act of 1902, as amended by Act No. 12, 1976 and Act No. 21, 1976.

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Long Title

An Act to repeal the Act 30 Victoria, intituled An Act to enable the members of the United Church of England and Ireland in New South Wales to manage the property of the said Church; to authorise the substitution of the name Church of England for the name hitherto used of United Church of England and Ireland; to give legal force and effect to the constitutions for the management and good government of the Church of England within the State of New South Wales contained in the Schedule to this Bill; and for other purposes connected with or incidental to the above objects.

Preamble

Whereas by an ordinance duly passed by the Church of England Provincial Synod of the Province of New South Wales, intituled the Amendment of Constitutions Application Ordinance of 1895, it was ordained and ruled that application should be made to Parliament to pass an Act to repeal the Act thirty Victoria, intituled An Act to enable the members of the United Church of England and Ireland in New South Wales to manage the property of the said Church, assented to on the fourth day of October, in the year one thousand eight hundred and sixty-six, but without prejudice to anything done under the said Act before the repeal thereof, and to authorise the substitution in all statutes, acts, grants, deeds, and other instruments of the name Church of England for the name hitherto used of United Church of England and Ireland, and to give legal force and effect to certain constitutions contained in the Schedule to the said ordinance now in recital: And whereas the executive committee of the said Synod were, by the said ordinance now in recital, authorised and empowered to carry into effect the provisions of the same so soon as the Metropolitan should have reported to them that every diocese in the said Province had accepted the same: And whereas every diocese in the said Province has accepted the said ordinance, and the Metropolitan has so reported to the said executive committee: And whereas legal force and effect cannot be given to the said constitutions so far as regards the management of the property of the Church of England without the aid of the Legislature in the manner hereinafter provided: And whereas the constitutions contained in the Schedule to the said ordinance are embodied and contained in the Schedule to this Act: Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows -

Short Title

1. This Act may be cited as the Anglican Church of Australia Constitutions Act 1902.

Repeal

2. The Act thirty Victoria, intituled An Act to enable the members of the United Church of England and Ireland in New South Wales to manage the property of the said Church, is hereby repealed, but such repeal shall not prejudice or affect the previous operation of the said Act, or any proceeding, matter, or thing lawfully done or contracted to be done under the said Act before the commencement of this Act.

Name of Church

3. The name Church of England shall be substituted and read in all statutes, acts, grants, deeds, ordinances, and rules of Synod and other instruments now in force or in existence for and instead of the name United Church of England and Ireland whenever occurring in any such statute, act, grant, deed, ordinance, rule, or other instrument.

Constitutions to be binding

4. The several articles and provisions of the constitutions contained in the Schedule to this Act, and any ordinances and rules to be made under or by virtue or in pursuance thereof, are and shall be for all purposes connected with or in any way relating to the property of the Church of England within the State of New South Wales binding upon the members of said Church.

Church property to be held subject to constitutions

5. All persons now or at any time hereafter holding any real or personal estate in trust for or in any way on behalf or for the use of the Church of England, except in so far as such real or personal estate may be the subject of any express trust, and then so far as such express trust shall not extend, and except lands, the management of which may be already specially provided for by ordinance of Synod or by Act of Parliament, shall hold the said real and personal estate subject to the provisions of the said constitutions and of any ordinances or rules made thereunder, and shall be bound thereby as fully in all respects as if the said constitutions, ordinances, and rules were contained in a deed of conveyance and trust of the said real and personal estate.

No ordinance or rule to be in contravention of law

6. No ordinance or rule to be made under or by virtue or in pursuance of the said constitutions shall be in contravention of any law or statute in force for the time being in this State.

Not to affect other Church Acts

7. This Act shall not repeal or in any way cut down or abridge the provisions of the Church of England Trust Property Incorporation Act, 1881, the Sydney Bishopric and Church Property Act, 1887, the Church of England Property Act of 1889, or the Church Acts Repealing Act of 1897.

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Schedule

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Constitutions for the Management and Good Government of the Anglican Church of Australia within the State of New South Wales

Diocesan Synod to be held

1. (1) The members of the Anglican Church of Australia in each Diocese within the State shall meet in Synod as hereinafter provided.

(2) The Synod in each Diocese shall be convened at least once in every year by summons of the Bishop of the Diocese, stating the time and place of meeting.

(3) The Synod of the Diocese of Canberra and Goulburn may include persons elected or appointed as members of that Synod in accordance with the laws of the Australian Capital Territory.

(4) The Synod of that Diocese as so constituted is to be the Synod of the Diocese for the purposes of these Constitutions.

Power of Synod Generally

2. (1) The Synod of each Diocese may make ordinances upon and in respect of all matters and things concerning the order and good government of the Anglican Church of Australia and the regulation of its affairs within the Diocese, subject only to the Anglican Church of Australia Constitution Act 1961 and any other Act in force in this State.

(2) All ordinances of the Synod shall be binding upon the Bishop and the Bishop's successors and all other members of the Church within the Diocese, but only so far as the same may concern their respective rights, duties, and liabilities as holders of any office in the Church within the Diocese.

Specific Powers

3. (1) Nothing in this Section shall limit the power conferred on the Synod of a diocese under clause 2.

(2) The Synod of each Diocese may call upon any person holding property belonging to or held in trust for the Church in the Diocese or any part thereof, or in which the Church or any part thereof is in any manner interested, to render a full account of all such property, and of the manner in which the same and every part thereof is applied and disposed of.

(3) The Synod of each Diocese by ordinance may make provision for dealing with cases of incapacity for, or inefficiency in, the discharge of ministerial duty by members of clergy licensed by the Bishop of the Diocese.

(4) The Synod of each Diocese shall have power to determine by ordinance in what cases the licence of a member of clergy licensed by the Bishop of the Diocese may be suspended or revoked. Any such licence may be suspended or revoked by the Bishop of the Diocese at the request of the member of the clergy, or (after opportunity given to that member of the clergy to show cause) in such of the said cases as the Synod shall by ordinance determine, save as aforesaid, the licence shall not be suspended or revoked, except as a consequence of a judgment or finding of the tribunal or of some other court of competent jurisdiction.

Rules for conduct of business

4. (1) The Synod of each Diocese may make rules for -

- (a) the conduct of all business coming before it;
- (b) trying the validity of the election of any representative;
- (c) supplying any vacancy in the Synod which may be occasioned by death, resignation, or any other cause; and
- (d) determining for what reason any representative shall be disqualified from sitting and voting in the Synod.

(2) The Synod of each Diocese may make rules for -

- (a) subject to clause 1(2), altering the periods within which and the manner in which subsequent Synods shall be convened;
- (b) the mode of electing representative members;
- (c) regulating the number of the clergy and representative members to be respectively summoned to any future Synod; and
- (d) as to the manner in which such regulation shall be effected, and as to the number necessary to constitute a quorum.

(3) The rules in force when this clause takes effect shall continue to apply until varied pursuant to this clause.

5. Notwithstanding anything in clause 4 or any rule made thereunder -

- (a) every ordinance, rule or resolution of a Synod shall be made by a majority of the clergy and other members present and voting collectively, provided that a synod may determine that a special majority be required for any particular matter or class of matter before it;
- (b) if any eight members of one order shall so desire, votes on any ordinance, rule or resolution shall be taken by orders and on such vote a majority of members of each order present and voting shall be required;
- (c) no ordinance shall take effect or have any validity unless within one month after the passing of the same the Bishop shall signify assent thereto in writing provided that any ordinance to which the Bishop shall not assent may be referred by resolution of the Synod, to the Provincial Synod and if the Provincial Synod shall assent to the ordinance, the ordinance shall take effect on the Provincial Synod giving its assent.
- (d) the Bishop of the Diocese, or in the absence of the bishop a commissary appointed by such Bishop in writing, or, in the absence of the Bishop and of such commissary, a person selected by the Synod shall be president of the Synod, and

may adjourn, prorogue, and dissolve the same with the concurrence of the Synod; and

- (e) it shall not be lawful for the president to vote on any question or matter arising in the Synod.

Membership of Synod

6. (1) The Synod of a diocese, shall determine by ordinance the classes of persons who shall be summoned to any future synods and the rules which shall apply regarding any necessary qualifications or conduct of elections or other means of determining the membership of such classes.

(2) The rules in force when this provision takes effect shall continue to apply until varied pursuant to this clause.

Delegation

7. (1) The Synod may confer by ordinance upon a body of persons constituted or appointed by it the specific powers to make ordinances under section 2(1) and to make demands under section 3(2).

(2) The power to make ordinances conferred by section 7(1) shall not extend to ordinances referred to in section 3(3), 3(4) or 6 or confer power to vary rules made under section 4.

(3) The provision of section 5 shall apply to that body of persons as if that body were the Synod except that any three persons may make a request under section 5(b).

(4) The Synod may prescribe the procedure to be followed by that body of persons.

Provincial Synod

8. (1) The Bishops and clerical and lay representatives of the Church in the several dioceses in the State of New South Wales shall meet in Provincial Synod under such articles and provisions as may have been, or may be from time to time, passed by the Provincial Synod, and assented to by all the said Dioceses.

(2) For the purpose of holding any session of the Provincial Synod, the Bishop of Sydney as the Metropolitan Bishop shall, by writing under such hand and seal, summon the Bishop of each of the said Dioceses, and require such Bishop to convene representatives of the Church in such Diocese at such time and place as the Metropolitan may deem fit.

Provision as to new dioceses

9. The provisions of these constitutions shall, save as hereinbefore provided, be held to be binding upon any new Diocese which shall be hereafter constituted in the State.

Defects and errors as to elections, etc.

10. No rule, ordinance, or determination of any Diocesan Synod, or of any Provincial Synod, shall be vitiated by reason of the non-election, or non-appointment, or non-summoning of any person necessary to be elected, or appointed, or summoned thereto, respectively, or of any informality in or respecting any such election, appointment, or summoning.

Absence, etc. of Bishop

11. In case of the absence from the Province of the Bishop of any Diocese, such Bishop may appoint a commissary who may exercise the powers vested in such Bishop by these Constitutions and in case no such commissary shall have been appointed, or the See be vacant, such powers shall be exercised by the person who shall have been appointed to administer the Diocese under the provisions of an ordinance of Synod or if no such appointment has been made by the person who shall then be the next in ecclesiastical rank or degree in the Diocese, and resident therein, until the return of the Bishop or the assumption of office by such Bishop's successor.

Registration of Ordinances

12. (1) The Registrar of each Diocese shall keep a full and complete set of all the Ordinances passed by the Synod of such diocese and shall make available a copy of any Ordinance requested by a member of this Church upon payment of a reasonable charge for copying and transmitting such copy.

(2) The Registrar of each diocese shall at least once in each year send to both the Provincial Registrar and the General Synod Office a copy of each Ordinance of the Diocese passed during the preceding twelve months.

Amendment of these Constitutions

13. These articles and provisions may be amended by an ordinance passed by the Provincial Synod of the Church in the Province of New South Wales and adopted by the Synod of each Diocese in that Province if the amendment is ratified by, or made in accordance with, a canon of the General Synod of the Church.

Endnotes

1. New section inserted by Act No 21, 1976.
2. New Articles inserted into the Schedule by General Synod Canon No 12, 1998.
3. Amended by Act No 21, 1976.