

## Anglican Provident Fund (Sydney) Ordinance 1990 Amendment Ordinance 1994

### Explanatory Statement

#### Introduction

1. This ordinance is promoted by request of the Board of the Anglican Provident Fund (Sydney) ("APF"). The explanatory statement has been prepared from information provided by APF. Copies of the Principal Ordinance are available on request.

#### Effect of the Bill

2. The Superannuation Industry (Supervision) Act ("SIS") generally applies to superannuation funds from 1 July 1994. Under SIS, each superannuation fund (including APF) must elect whether or not to become a "regulated fund" by 31 October 1994. For APF to become a regulated fund (and so preserve the tax benefits accruing to APF) -

- (a) the trustee of APF must become a "constitutional corporation"; or
- (b) the Anglican Provident Fund (Sydney) Ordinance 1990 (the "Principal Ordinance") must be amended so that the sole or primary purpose of APF is to provide old age pensions.

3. The Board has resolved to amend the Principal Ordinance so that the sole or primary purpose of APF is to provide old age pensions and so comply with 2(b) above.

4. SIS law means that the Fund may provide lump sum benefits where members die, become totally and permanently disabled, or otherwise leave service prior to retirement age. However the Fund will be required to provide pensions where the member retires from service at the prescribed retirement age and does not elect to commute his or her benefits. It is expected that all members will elect to commute their benefits.

5. The Board has taken legal advice in preparing and promoting the ordinance and is satisfied that the ordinance complies with the requirements of SIS.

6. It is proposed to change the name of APF to "Anglican Provident Fund" to reflect the true nature of the Fund which provides superannuation benefits for clergy and employees of various dioceses other than the Sydney Diocese.

7. Under SIS, future amendments to the Principal Ordinance will only be valid where the Board (which acts as trustee) consent to those amendments. The Principal Ordinance will be amended to this effect. The Synod will continue to have power to request changes to the Principal Ordinance and to the operation of APF or to disallow changes to the rules which are proposed by the Board. However the ordinance gives the Board power to ensure that there will be no changes which would be in breach of SIS.

8. To comply with SIS by 1 July 1995, one half of the directors of the Board must be "member representatives" and one half must be "employer representatives".

9. The proposed ordinance retains the existing structure of the Board until mid 1995, when the Board will designate the existing Board members as either "employer representatives" or member representatives".

10. At the 1995 session of the Sydney Synod, Synod will elect 2 member representatives and 2 employer representatives. Member representatives need not be members of APF and employer representatives will not be precluded from acting if they are also members of APF.

11. All other changes are mechanical -

- (1) to remove from the Principal Ordinance some matters which sit uneasily with SIS;
- (2) to ensure that various other powers etc of the Board are exercised in accordance with the requirements of SIS; and
- (3) to ensure that new provisions are inserted to allow compliance with SIS, including -
  - (a) the power of the Board to disregard a direction or an exercise of discretion by any third party which would not be permitted by SIS;
  - (b) to establish an internal inquiries and complaints mechanism as required by SIS;
  - (c) to set up a procedure for dealing with unclaimed benefits which complies with the requirements of SIS.

12. Due to the lateness of the time at which papers for the ordinance were lodged, the proposed has not been reviewed by or on behalf of the Standing Committee and so is not promoted at the request of the Standing Committee.

Mark Payne  
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