

Archbishop of Sydney (Election and Retirement) Amendment Ordinance 2010

Explanatory Report

Introduction

1. By resolution 16/09, the Synod requested the Standing Committee to review the questions of principle relevant to electing a person to the office of Archbishop including –

- (a) whether a notice to summon an election Synod to fill a vacancy which the Standing Committee has resolved to be filled under clause 2(2) of the Archbishop of Sydney Appointment Ordinance 1982 should be given shortly after the Standing Committee's resolution and before the occurrence of the vacancy, and
- (b) whether the election Synod itself may be held before the occurrence of such a vacancy, and
- (c) whether a person should be elected to the office of Archbishop of Sydney for a fixed term,

and requested the Standing Committee to report to the 2010 session of Synod about this matter.

2. The bill for the Archbishop of Sydney (Election and Retirement) Amendment Ordinance 2010 is being promoted in response to the request made by Synod in resolution 16/09.

Resolution that vacancy in the office of Archbishop be filled

3. Where a vacancy in the office of Archbishop of Sydney occurs unexpectedly, for example through death, the Standing Committee is required to resolve under clause 2(1) of the Archbishop of Sydney Election Ordinance 1982 (the "Principal Ordinance") as soon as practicable after the date on which the vacancy occurs that the vacancy be filled.

4. However where the date on which the vacancy occurs is known well in advance, the Standing Committee may pass such a resolution under clause 2(2) of the Principal Ordinance at any time within 8 weeks of the vacancy occurring. This would typically be the case where the Archbishop is retiring or has given advance notice of his resignation from office.

5. Under the bill, it is proposed that a resolution to fill a vacancy under clause 2(2) may be passed by the Standing Committee at any time no sooner than 20 weeks and no later than 14 weeks before the date of the vacancy arising. In part this change is proposed to enable a notice summoning the election Synod to be sent to members at an

earlier time than the Principal Ordinance currently allows, thereby giving those responsible for administering the Synod more time to prepare for the Synod. However the change is also proposed to accommodate holding an earlier election Synod in such circumstances.

Timing of election Synod

6. In recent history, there has been a delay of several months between an Archbishop leaving office and his successor taking up office. Under the Principal Ordinance an election Synod arising upon the retirement of an Archbishop is to be held not less than 9 weeks and not more than 16 weeks after the occurrence of a vacancy.

7. Under the bill it is proposed that the period within which an election Synod should be held in such circumstances should be between 3 and 6 weeks after the vacancy occurs. This shorter timeframe would require the incumbent Archbishop to issue the summons for the election Synod.

8. In order to ensure a proper farewell to the outgoing Archbishop as well as avoiding any appearance of interference in the process of electing his successor, it remains appropriate for an election Synod to be held after rather than before the vacancy arises.

9. In the case of the present incumbent, an earlier election Synod would have the added advantage of avoiding the need to extend the Archbishop's office term beyond his 70th birthday. This would currently be necessary under the Principal Ordinance to avoid the undesirable situation of holding the election Synod and the ordinary October session of Synod in 2013 in close proximity to each other.

10. Attached are two timelines setting out a comparison between the current arrangements for convening an election Synod under clause 2(2) of the Principal Ordinance and the arrangements proposed under the bill.

Extension of Archbishop's retirement age

11. Currently, the Synod or the Standing Committee may extend the Archbishop's retirement age from 65 years to 70 years under clause 5(1)(a) of the Retirements Ordinance 1993 (the "Retirements Ordinance"). Such an extension can only occur after the Archbishop has reached the age of 60 years.

12. Previously, when the retirement age for the Archbishop was 70 years, the Standing Committee had the power to extend his term of office up to his 71st birthday. However, when the Synod amended the Retirements Ordinance, it sought to provide parity in the retirement age of parish incumbents and the Archbishop, being 65 years extendable for up to 5 years.

13. There is currently a committee working on a Synod resolution to extend the retirement age of parish incumbents beyond the age of 65

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years, given the Federal Government's intention of raising the pensionable age within the community to 67 years by 2023.

14. The bill proposes that the retirement age of the Archbishop be 68 years and that the Standing Committee be able to extend the retirement age of the Archbishop up to 70 years provided that such extension is approved by resolution of the Standing Committee passed –

- (a) by a three-quarters majority of members, and
- (b) after the Archbishop has reached the age of 65 years.

15. An extension of the Archbishop's retirement age in this way is a conservative response to the community's changing expectations of retirement ages. It allows the Standing Committee to extend the office of the Archbishop to 70 years thereby retaining parity with the possible extension of a parish incumbent up to 70 years.

16. On one view the Synod may be the proper venue for a decision to extend the tenure of the Archbishop. However the restriction of allowing an extension to be granted only after the Archbishop's 65th birthday, the limitation of up to 2 years extension and the requirement of the 75% majority resolution should alleviate any fears of favouritism without due process. It is suggested that this is a better way forward than returning to the Synod for an extension, where such an occasion would more likely become a mini-election Synod by default.

Fixed term of office for Archbishop

17. In Synod resolution 16/09, Synod requested consideration of whether a person should be elected to the office of Archbishop for a fixed term. The value of such a measure would be to ensure that there is adequate refreshment in the office of Archbishop, which a period of more than 10 years might otherwise prevent. It may also facilitate the election of a younger man for the position of Archbishop without burdening both him and possibly the Diocese with a tenure lasting until his 68th or 70th birthday.

18. Having considered this matter, the Standing Committee considers that the possibility of appointing the Archbishop for a fixed term should be seen as an alternative to a term ending at a specified retirement age.

19. On balance, the Standing Committee considers that the current mechanism for fixing the end of an Archbishop's term of office by reference to a retirement age should be continued.

Solemn promises to be given by the Archbishop

20. The Standing Committee has agreed to promote to the Synod a bill for the Solemn Promises Ordinance 2010 which provides for certain solemn promises to be given by clergy before ordination, first licensing by the Archbishop and consecration following appointment as an Assistant Bishop.

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21. The Standing Committee considers that similar promises should be given by a person who has been elected to be Archbishop before that person can become Archbishop. The bill sets out in a new Second Schedule a suitably modified form of the promises to be given by clergy (excluding the promise to obey all such directions as the Archbishop is authorised by law to give).

Recommendation

22. The Standing Committee recommends that the Synod pass the bill as an ordinance.

For and on behalf of the Standing Committee

ROBERT WICKS
Diocesan Secretary

28 July 2010

Attachment

Summons and nomination process - clause 2(2)

