

Endowment of the See Funds Amendment Ordinance 2021

No 9, 2021

Long Title

An Ordinance to make certain changes with respect to the administration of the assets held in trust for certain purposes related to the Endowment of the See.

Recitals

A. The Endowment of the See Corporation is the trustee of the fund known as the Endowment of the See Trust held on the trusts set out in the *Endowment of the See Trust Ordinance 2019* (the “Endowment of the See Trust”).

B. The Endowment of the See Corporation is the trustee of the fund known as the Capital Fund held on the trusts set out in the *Endowment of the See Capital Ordinance 2012* (the “EOS Capital Fund”).

C. By reason of circumstances which have arisen after the creation of the trusts on which the Endowment of the See Trust is held, it is inexpedient to carry out or observe those trusts and it is expedient that the trusts be varied in the manner set out in this Ordinance.

The Standing Committee of the Synod of the Diocese of Sydney ordains as follows.

1. Name of Ordinance

This Ordinance is the *Endowment of the See Funds Amendment Ordinance 2021*.

2. Declarations

By reason of circumstances which have arisen after the creation of the trusts on which the Endowment of the See Trust is held, it is inexpedient to carry out or observe those trusts and it is expedient that the trusts be varied in the manner set out in clause 3.

3. Variation of Trusts

(1) The trusts of the Endowment of the See Trust are varied so that it is held on the trusts set out in the *Endowment of the See Capital Ordinance 2012* (as amended by this Ordinance) as part of the Endowment of the Capital Fund (renamed by this Ordinance as the Endowment of the See Property Fund).

(2) The assets of the Endowment of the See Trust are to be added to the Endowment of the See Capital Fund to form a single amalgamated fund known as the Endowment of the See Property Fund.

4. Amendments to the Endowment of the See Capital Ordinance 2012

The *Endowment of the See Capital Ordinance 2012* is amended as follows –

- (a) delete the Title and insert instead “Endowment of the See Property Ordinance 2021”, and
- (b) delete the Preamble, and
- (c) in clause 1 delete “Endowment of the See Capital Fund Ordinance 2012” and insert instead “Endowment of the See Property Ordinance 2021”,
- (d) delete the definition of “Capital Fund” in clause 2,
- (e) in clause 2 –
 - (i) delete the definitions for “Capital Fund”, “EOS Corporation”, “EOS Fund”, “EOS Trust Ordinance” and “Initial Sum” in clause 2,
 - (ii) insert new definitions in alphabetical order as follows –

“Endowment of the See Property Fund” or “Fund” means such of the Existing Property and EOS Trust Property as remains held by the Trustee from time to time, and such other property as may be paid to, applied or acquired by the Trustee to be held on the

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trusts set out in this Ordinance.

“EOS Trust Income” means that part of the EOS Trust Property that comprised ‘income’ under the *Endowment of the See Trust Ordinance 2019* immediately prior to the date of commencement of the *Endowment of the See Funds Amendment Ordinance 2021*.

“EOS Trust Property” means the property which is, immediately prior to the date of commencement of the *Endowment of the See Funds Amendment Ordinance 2021*, held on the trusts set out in the *Endowment of the See Trust Ordinance 2019*.’

- (iii) amend the definition of “Invested Property” by inserting the matter “the EOS Trust Income,” before the words “Real Property”,
- (iv) insert the following new definition of “LTIF Distribution” –

“LTIF Distribution” means the amount or amounts distributed to the Fund from time to time from the Long Term Investment Fund held under the Endowment of the See Long Term Investment Ordinance 2019’, and
- (v) substitute the definition of “Trustee” with the following –

“Trustee” means the Endowment of the See Corporation or such other person or corporation who or which, from time to time, is trustee of the Fund.’,
- (f) insert the words “and EOS Trust Property” in clause 3 after the words “Existing Property”,
- (g) substitute references to “Capital Fund” with “Fund” throughout the Ordinance,
- (h) delete subclause 4(a),
- (i) number the existing text in clause 6 as subclause (1) and insert the following as a new subclause (2) in that clause –

‘(2) The Trustee may invest the Fund in one or more of the investments permitted under subclause 7(2) of the *Diocesan Endowment Trust Ordinance 2016*.’,
- (j) substitute clause 8 with the following –

‘8. Application of the Fund

(1) The Trustee is to determine the amount which may be applied from the returns from the Invested Property and the LTIF Distribution each year after having taken into account –

- (a) the costs and expenses referred to in clause 4(c) in the following calendar year, and
- (b) the retention of an appropriate amount (if any) from the returns from the Invested Property, to enable the Trustee to fulfil the function under paragraph 5(1)(a), and
- (c) the retention of an appropriate amount to enable the Trustee to fulfil the function under paragraph 5(1)(b) in the following year.

(2) Any amounts arising from the LTIF Distribution and the returns from the Invested Property that are not the subject of a determination under subclause 8(1) in any year are capitalised.

(3) The amount determined under subclause 8(1) and the EOS Trust Income may be applied by the Trustee for the following purposes –

- (a) to pay the stipend of the Archbishop of Sydney, the expenses of his official residence and travelling, and the provision of other benefits and allowances,
- (b) to pay the stipends of the assistant bishops and the archdeacons, and the costs of, or associated with, the provision of their housing, travel and other benefits and

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- allowances,
- (c) to pay the salaries and provide other benefits to the staff of the Archbishop's Registry and Diocesan Archives, and other staff engaged to support or assist the Archbishop, the assistant bishops and archdeacons in undertaking their functions,
 - (d) to pay the expenses and other costs incurred to enable the Archbishop, the assistant bishops, archdeacons and the staff referred to in paragraph (c) to fulfil their functions including, without limiting the generality of the foregoing –
 - (i) office rent and occupancy costs, and
 - (ii) management fees charged by any organisation engaged to support the Archbishop, the assistant bishops, archdeacons and staff referred to in paragraph (c),
 - (e) to pay the costs and expenses incurred by the Trustee in performing its functions under this Ordinance including, without limiting the generality of the foregoing, management fees charged by an organisation engaged to support the Trustee in performing its functions, and
 - (f) to provide for the payment of such other amounts in connection with the Diocese of Sydney as may be determined by the Standing Committee and approved by the Archbishop.'
- (k) delete clause 9, and
 - (l) insert the following as a new clause 9 and renumber the existing clause 10 as clause 11 –

'9. Not-for-profit and dissolution of the Fund

(1) The property comprising the Fund is church trust property within the meaning of the *Anglican Church of Australia Trust Property Act 1917*, and therefore must not, as a matter of law, be distributed for the private benefit of individuals either during the operation of the Trust or on its winding up or dissolution.

(2) If the Fund is wound up or dissolved, the Property, after satisfaction of all its liabilities, must be applied for such purposes of the Diocese as the Synod may determine.'

5. Other amendments

- (1) The *Endowment of the See Corporation Ordinance 2019* is amended as follows –
 - (a) delete the definition of "Fund" in clause 3(1) and insert instead the following –

"Fund" means the fund held under the *Endowment of the See Property Ordinance 2021*,', and
 - (b) insert the matter "to the extent that this is permitted under the *Endowment of the See Property Ordinance 2021*" at the end of subclause 16(2) before the full stop.
- (2) The *Endowment of the See Long Term Investment Ordinance 2019* is amended as follows –
 - (a) delete the matter "payment of the amounts, expenses and costs referred to in clause 3 of the *Endowment of the See Trust Ordinance 2019*" in clause 5 and insert instead the matter "applications referred to in clause 8 of the *Endowment of the See Property Ordinance 2021*", and
 - (b) delete the matter "*Endowment of the See Trust Ordinance 2019*" in clause 8 and inserting instead the matter "*Endowment of the See Property Ordinance 2021*".
- (3) The *Bishopscourt Sale Ordinance 2012* is amended as follows –
 - (a) delete the matter "*Endowment of the See Trust Ordinance 2019* (the 'EOS Fund')" in clause 4 and insert instead the matter "*Endowment of the See Property Ordinance 2021* (the 'Fund')", and
 - (b) delete the matter "EOS" where it appears in clause 5.

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- (4) The *St Andrew's House Trust Ordinance 2015* is amended as follows –
- (a) in clause 2 –
 - (i) delete the definition of “Endowment of the See Fund”,
 - (ii) substitute the definition of “Endowment of the See Capital Fund” with the following –

“Endowment of the See Property Fund” means the property held on the trusts set out in the *Endowment of the See Property Ordinance 2021* (formerly known as the Endowment of the See Capital Fund under the *Endowment of the See Capital Ordinance 2012*)’.,
 - (b) substitute references to the “Endowment of the See Capital Fund” in clauses 4 and 5 with “Endowment of the See Property Fund”, and
 - (c) delete the words “Endowment of the See Fund” in clause 5(4) and insert instead the words “that fund”.
- (5) The *Endowment of the See Long Term Investment Fund Variation of Trusts and Application Ordinance 2020* is amended by deleting the words “Endowment of the See Capital Fund” in clause 4 and inserting instead the matter “the fund held under the *Endowment of the See Property Ordinance 2021*”.

6. Repeal

- (1) The *Endowment of the See Trust Ordinance 2019* is repealed on the date specified in clause 7(2) without affecting the validity of any act taken pursuant to that Ordinance prior to the date of its repeal.
- (2) Notwithstanding the repeal, the Endowment of the See Corporation is empowered to do and responsible for doing the following with respect to the Endowment of the See Trust –
- (a) complying with the obligations set out in the *Accounts, Audits and Annual Reports Ordinance 1995*, including the preparation of annual accounts and auditing, and
 - (b) ensuring lodgement of the annual information statement with the Australian Charities and Not-for-profits Commission,

after the commencement of this Ordinance in so far as those obligations are in respect to the Endowment of the See Capital Fund for the 12 month period to 31 December 2019.

7. Commencement

- (1) This clause 7 commences on the date of assent.
- (2) The remaining clauses of this Ordinance commence on 1 April 2021.

I Certify that the Ordinance as printed is in accordance with the Ordinance as reported.

R TONG AM
Chair of Committee

I Certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on 2021.

D GLYNN
Secretary

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I Assent to this Ordinance.

GN DAVIES
Archbishop

23/03/2021