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*The King's School Council Amendment Ordinance 1980*


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No. 30, 1980

**AN ORDINANCE to amend the constitution of The Council of  
The King's School.**
**WHEREAS:**

A. The Council of The King's School (hereinafter called "the Council") was incorporated in 1893 by "The King's School Council Act" (hereinafter called "the Principal Act").

B. The Principal Act was amended by "The King's School Council Act Amendment Act of 1894" (hereinafter called "the 1894 Act").

C. By Ordinance entitled "The King's School Council Constitution Ordinance 1922" (No. 5 of 1922) (hereinafter called "the 1922 Ordinance") provision was made (inter alia) to regulate the Constitution of the Council of The King's School.

D. The Principal Act (inter alia) was amended by "Church of England Trust Property Amendment Act, 1923" (Act No. 26 of 1923) (hereinafter called "the 1923 Act").

E. The 1922 Ordinance was amended by Ordinance entitled "The King's School Council Constitution Amendment Ordinance 1934" (No. 8 of 1934), by Ordinance entitled "Casual Vacancies Ordinance 1935" (No. 11 of 1935) and by Ordinance entitled "The King's School Council Constitution Amendment Ordinance 1948" (No. 14 of 1948).

F. The Principal Act as amended was amended further by "The King's School Council (Amendment) Act, 1963" (Act No. 24 of 1963) (hereinafter called "the 1963 Act").

G. By Section 2 of the 1963 Act it was declared that the 1922 Ordinance and all amendments thereto shall be and shall be deemed always to have been valid and that the Synod of the Diocese of Sydney or the Standing Committee thereof shall be deemed always to have had the power to make the said Ordinance and amendments thereto and it was provided that Synod may from time to time rescind, revoke, alter or vary the 1922 Ordinance and amendments thereto.

H. Synod has a continuing interest in the maintenance and conduct of The King's School (hereinafter called "the School") and deems it expedient to make the provisions hereinafter contained.

I. The Council has by recorded Minute dated the 27th day of June 1980 confirmed that it does and shall hereafter indemnify out of the property of the School every member of the Council and any future member of the Council for any liability properly incurred by the Council for which such member may become personally liable in so far as such liability was not incurred by reason of such member's misconduct or wilful default.

J. Synod at the request of the Council desires further to vary the 1922 Ordinance, as amended, in the manner hereinafter set out. NOW the Synod of the Diocese of Sydney HEREBY ORDAINS DECLARES DIRECTS AND RULES as follows:

1. This Ordinance may be cited as "The King's School Council Amendment Ordinance 1980."
2. Nothing in this Ordinance shall be construed or deemed by implication or otherwise to limit or restrict any of the powers,

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- duties, rights privileges or responsibilities which immediately before the passing of this Ordinance attached to the Council.
3. The 1922 Ordinance as amended is further amended by substituting in lieu of the preamble contained therein the words set forth in the First Schedule hereto.
  4. The clauses of the 1922 Ordinance as amended which are enumerated in the Second Schedule hereto are hereby repealed.
  5. The repeal effected by clause 4 hereof shall not invalidate or affect any act performed or any appointment election or regulation made under or by virtue of the provisions so repealed which shall be deemed to be acts performed or appointments elections or regulations made under or by virtue of the provisions of the 1922 Ordinance as amended by this Ordinance.
  6. The 1922 Ordinance as amended is amended further by substituting for the clauses repealed by clause 4 hereof the clauses set forth in the Third Schedule hereto.

**THE FIRST SCHEDULE**

WHEREAS by subsection (2)(c) of section 3 of the Church of England Trust Property Act, 1917 it was provided that that Act should be deemed not to apply to nor to affect any property real or personal held or to be held upon any trust for the purposes of The King's School or The King's School Council Act (hereinafter called "the Principal Act") or The King's School Council Act Amendment Act of 1894.

AND WHEREAS it is expedient to provide for the repeal of the said subsection and of certain sections of the Principal Act and in anticipation to regulate the Constitution of the Council of The King's School including the representation of old boys on the said Council and the substitution of retirement by rotation in the place of life tenure of membership of the said Council AND WHEREAS this Ordinance was originally entitled "The King's School Council Constitution Ordinance 1922" (No. 5 of 1922) AND WHEREAS the Principal Act (inter alia) was amended by an Act of Parliament entitled "Church of England Trust Property Amendment Act, 1923" (Act No. 26 of 1923) AND WHEREAS this Ordinance in its original form was amended by Ordinance entitled "The King's School Council Constitution Amendment Ordinance 1934" (No. 8 of 1934), by Ordinance entitled "Casual Vacancies Ordinance 1935" (No. 11 of 1935) and by Ordinance entitled "The King's School Council Constitution Amendment Ordinance 1948" (No. 14 of 1948) AND WHEREAS by an Act of Parliament entitled "The King's School Council (Amendment) Act, 1963" (No. 24 of 1963) the Principal Act as amended was further amended and this Ordinance, as amended by Ordinances of Synod Nos. 8 of 1934, 11 of 1935 and 14 of 1948, was (inter alia) validated.

AND WHEREAS by section 2 of the said Act No. 24 of 1963 it was provided that the "Synod may from time to time rescind, revoke, alter or vary" this Ordinance, as amended.

NOW the Synod of the Diocese of Sydney HEREBY ORDAINS DECLARES DIRECTS AND RULES as follows:—

**THE SECOND SCHEDULE**

Clauses 1 to 11 (both inclusive) and clause 19.

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## THE THIRD SCHEDULE

1. This Ordinance may be cited as "The King's School Council Constitution Ordinance, 1922-1980".
2. In this Ordinance unless the context otherwise requires or indicates:—
  - (a) "Archbishop" means the Archbishop of the Diocese of Sydney.
  - (b) "Council" means "The Council of The King's School" incorporated by the Principal Act as amended.
  - (c) "Old Boys' Union" means "The King's School Old Boys' Union".
  - (d) "School" means "The King's School" and shall include such other school or schools as from time to time the Council may govern.
  - (e) "Synod" means the Synod of the Diocese of Sydney.
  - (f) The singular includes the plural and the masculine includes the feminine and vice versa.
3. The School shall be governed by the Council.
4. Subject to the provisions of Clause 6 hereof the Council shall consist of the following Governors, namely:—
  - (a) The Archbishop for the time being who shall ex officio be a Governor and President of the Council provided that during a vacancy in the See the Administrator of the Diocese shall ex officio be a Governor.
  - (b) Ten (10) Governors elected by the Synod of whom five (5) shall be clergymen of the Church of England in Australia licensed in the Diocese of Sydney and five (5) shall be lay members of that Church (hereinafter called "clergy Governors" and "lay Governors" respectively).
  - (c) Five (5) Governors elected by the members of the Old Boys' Union provided that at the time the membership of the said Union exceeds two hundred and fifty (250).
  - (d) Not more than two (2) Governors (hereinafter called "Council elected Governors") who may be elected by the Governors referred to in paragraphs (a) and (b) and the Governors if any referred to in paragraph (c) of this Clause.
5. (1) The Archbishop when present shall preside at meetings of the Council.
  - (2) The Archbishop may from time to time by notice in writing addressed to the Chairman elected pursuant to sub-clause (3) hereof appoint (and change the appointment of) a Deputy who shall be entitled to attend all meetings of the Council and in the absence of both the Archbishop and the Administrator of the Diocese shall act as a Governor and shall have a deliberative vote. The Deputy shall continue in office during a vacancy in the See.
  - (3) The Council shall elect from among the Governors a Chairman who in the absence of the Archbishop shall preside at meetings; provided that in the absence of both the Archbishop and the Chairman the meeting may appoint one of the Governors then present to chair that meeting.
  - (4) The Archbishop the Chairman or the acting Chairman shall while presiding at a meeting have both a deliberative vote and except for the purposes of the election of Governors by the Council a casting vote at that meeting.

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(5) At a meeting of the Council seven (7) Governors shall be a quorum. For the purpose of this sub-clause a Deputy appointed by the Archbishop shall in the absence of both the Archbishop and the Administrator of the Diocese be reckoned as a Governor.

(6) Subject to the concurrence of the person presiding at the meeting the Council may invite any person not a Governor to be present for the whole or any part of a meeting.

6. (1) Notwithstanding the provisions of Clause 4 sub-paragraph (b) hereof each Governor elected by the Synod and holding office as such on 15th October 1980 and whether or not the total of such Governors shall exceed ten (10) in number shall continue in office until the date upon which he would have retired but for this Ordinance.

(2) Notwithstanding the provisions of Clause 10 sub-clause (1) hereof the first (if any) casual vacancy occurring among each of the clergy Governors and the lay Governors and due to retire on the first sitting day of the First Ordinary Session of the Thirty-ninth Synod shall not be filled.

(3) (a) In the event of the Old Boys' Union having duly elected five (5) representatives to the Council within a period of thirty (30) months immediately prior to 15th October 1980 when such five (5) representatives shall be deemed to have been elected as Governors in accordance with the provisions of Clause 4 sub-paragraph (c) hereof and notice thereof in writing from the Chairman to the Honorary Secretary of the said Union shall be conclusive evidence of such election.

(b) Any such representatives deemed to have been elected as Governors pursuant to sub-clause (a) hereof shall subject to this Ordinance hold office until the next election of Governors by members of the Old Boys' Union.

(4) As soon as conveniently may be after the making of the regulations pursuant to Clause 7 sub-paragraph (b) hereof the Governors elected pursuant to sub-clauses (1) and (3) of this Clause may from time to time elect the Governors referred to in Clause 4 sub-paragraph (d) hereof.

7. The Archbishop in Council from time to time may make regulations to provide for the election of Governors:—

(a) by members of the Old Boys' Union and by the Committee thereof; and

(b) by the Council

and the Governors elected by the Old Boys' Union and by the Council shall be elected in accordance with such regulations.

8. (1) On the first sitting day of the First Ordinary Session of the Thirty-ninth Synod those Governors continuing in office pursuant to Clause 6 sub-clause (1) hereof and due to retire on that day shall retire and during that Session Synod shall elect two (2) clergy and two (2) lay Governors to the Council. The remaining Governors continuing in office pursuant to Clause 6 sub-clause (1) hereof shall hold office until and retire on the first sitting day of the First Ordinary Session of the Fortieth Synod and Synod shall

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then elect three (3) clergy and three (3) lay Governors to the Council.

(2) Subject to this Ordinance of the Governors elected at the first election hereafter of Governors by members of the Old Boys' Union the three (3) Governors who receive the most votes shall hold office until the election to be held in 1987 and the two who receive the least votes shall continue in office until the election to be held in 1984.

If a ballot is not necessary, the three Governors to continue in office until the election in 1987 and the two Governors to continue in office until the election in 1984 shall be determined by agreement among such five Governors, or failing agreement by lot.

(3) Subject to the provisions of this Clause and Clause 9 the term of office of a Governor shall be six (6) years.

(4) Following upon the elections to be held pursuant to the provisions of sub-clauses (1) and (2) of this Clause triennial elections shall be held in respect of each of the two groups of Governors referred to in paragraphs (b) and (c) of Clause 4.

(5) Subject to sub-clauses (1), (2) and (6) of this Clause a Governor shall hold office until and shall retire on the first day of the first sitting of the First Ordinary Session of the Synod held next but one after his election.

(6) A retiring Governor shall, if otherwise qualified, be eligible for re-election and notwithstanding anything contained in this Ordinance shall be deemed to remain a Governor (and continue to hold any office to which he may have been elected or appointed by the Council) until the vacancy caused by his retirement has been duly filled unless the vacancy arises by death or under Clause 9 sub-paragraphs (d), (e) or (g).

9. A casual vacancy shall occur if a Governor other than the Archbishop:—

- (a) dies or attains the age of 70 years;
- (b) resigns his office by notice in writing addressed to the Chairman, and in such case shall unless the notice specifies a later date, be deemed to occur when the Chairman receives the notice or when the Council next meets and receives the resignation whichever be the sooner;
- (c) ceases to have any qualification which was necessary for his election;
- (d) becomes a bankrupt or signs any authority effective under Section 188 of the Bankruptcy Act, 1966 as amended or applies to take the benefit of any law for the relief of bankrupt or insolvent debtors or compounds with or assigns his property for the benefit of his creditors;
- (e) becomes within the meaning of the Mental Health Act, 1958 as amended an incapable person, a patient, a protected person or a voluntary patient and if the casual vacancy is so declared by resolution of the Council;
- (f) being an elected Governor shall have been absent from four (4) consecutive meetings of the Council without leave of the Council and if the casual vacancy is so declared by resolution of the Council; or
- (g) if the Council, at a meeting of the Council duly convened expressly for the purpose, passes by a majority of not less

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than two-thirds of the Governors present and including a majority of Governors elected by the Synod and voting a resolution that his office be declared vacant; provided that before that meeting:—

- (i) the Council shall have informed him of the proposed resolution and the grounds on which it will be proposed; and
- (ii) the Council shall have given him a reasonable opportunity at a meeting of the Council duly convened expressly for the purpose of showing cause why his office should not be declared vacant.

10. (1) Subject to the provisions of Clause 6 sub-clause (2) a casual vacancy in the office of a Governor elected by Synod shall be filled by the election of a new Governor by Synod, or when Synod is not in session by the election of a new Governor by the Standing Committee of Synod; provided that the Synod may by resolution determine that a casual vacancy existing during a season of Synod shall not be filled during that session and thereupon after the close of that session that vacancy shall be filled by the election of a new Governor by the Standing Committee. Any Governor elected by the Standing Committee shall remain in office until the next Ordinary Session of Synod.

(2) A casual vacancy in the office of a Governor elected by the Old Boys' Union shall be filled by the election of a new Governor by the Committee of the Union and any Governor so appointed shall remain in office only until the next triennial election of Governors by members of the Union. At such next triennial election if there be any unexpired term of the casual vacancy there shall be held an election by members of the Union to fill the vacancy for the balance of such term.

(3) A casual vacancy in the office of a Council elected Governor, unless the Council determines not to fill such vacancy, shall be filled by the election of a new Governor by the remaining Governors for the time being who are not Council elected Governors.

(4) A person who becomes a Governor pursuant to this Clause shall subject to this Ordinance hold office for the remainder of the term for which his predecessor was elected.

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

E. D. CAMERON  
Chairman of Committees

WE CERTIFY that this Ordinance was passed by the Synod of the Diocese of Sydney this 9th day of October 1980.

R. J. BOMFORD  
W. G. S. GOTLEY  
Secretaries of Synod

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I ASSENT to this Ordinance.

9/10/80

M. L. LOANE  
Archbishop of Sydney