

Long Term Pooling Fund Ordinance 2012 Amendment Ordinance 2022

No 53, 2022

Long Title

An Ordinance to amend the *Long Term Pooling Fund Ordinance 2012*.

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

1. Name of ordinance

This Ordinance is the *Long Term Pooling Fund Ordinance 2012 Amendment Ordinance 2022*.

2. Amendment to the Long Term Pooling Fund Ordinance 2012

The *Long Term Pooling Fund Ordinance 2012* is amended by omitting all of the matter after the Long Title and inserting instead the matter in the Schedule.

3. Amendment to the Glebe Administration Board Ordinance 1930

The *Glebe Administration Board Ordinance 1930* is amended by inserting the following as a new subclause 18(4) -

“(4) The Board may, with respect to any and all moneys held by it for investment, for the purpose of investment, pool the same though subject to separate trusts and in respect of such pooled moneys may average gains, losses and interests and deal with all matters and do all things incidental to such pooling.”

4. Amendment to the Investment of Church Trust Property Ordinance 1990

The *Investment of Church Trust Property Ordinance 1990* is amended by substituting clause 5(b) with the following –

“(b) investment with Glebe Administration Board as trustee of –
(i) the Diocesan Cash Investment Fund,
(ii) the Long Term Pooling Fund, or
(iii) the Diocesan Endowment Trust.

5. Transitional

(1) The rules, policies and procedures made under clause 8 of the *Long Term Pooling Fund Ordinance 2012* that were in force immediately prior to the commencement of this Ordinance are, to the extent applicable, deemed to have been made under clause 10 of the *Long Term Pooling Fund Ordinance 2012* as amended by this Ordinance.

(2) Any approval or endorsement of an ethical investment policy last given by the Synod or the Standing Committee in relation to the Fund prior to the date of commencement of this clause is taken to be an approval of such a policy from that date for the purpose of clause 6(2) of the *Long Term Pooling Fund Ordinance 1990*, as amended by this Ordinance.

6. Commencement

(1) This clause 6 commences on the date of assent.

(2) The remaining clauses of the Ordinance (including the Schedule) commence on a date certified by the Archbishop on the advice on the Chief Executive Officer of Sydney Diocesan Services.

Schedule

Preamble

A. The Glebe Administration Board is the trustee of the property known as the Long Term Pooling Fund (ABN 40 383 894 774) (the **Fund**).

B. The Fund comprises church trust property held by trustees for one purpose or another of the Anglican Church of Australia in the Diocese of Sydney which has been pooled for investment purposes.

C. By reason of circumstances which have arisen after the creation of the trusts on which the Fund is held it is inexpedient to carry out and observe those trusts.

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

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Part 1 - Introduction

1. Name

This Ordinance is the *Long Term Pooling Fund Ordinance 2012*.

2. Definitions

In this Ordinance –

“Board” means the Glebe Administration Board, being the body corporate incorporated under section 3(1) of the *Anglican Church of Australia (Bodies Corporate) Act 1938*.

“church trust property” is property held for the use, benefit or purposes of the Diocese as described in the *Anglican Church of Australia Trust Property Act 1917*.

“Diocese” means the Diocese of Sydney.

“Fund” means the Long Term Pooling Fund constituted by this Ordinance.

“Property” means the property of the Fund from time to time.

“Standing Committee” means the Standing Committee of the Synod.

“Synod” means the Synod of the Diocese.

“Trustee” means the Board or such other person or body corporate who or which, from time to time, is the trustee of the Fund.

“trustee of church trust property” includes organisations constituted by or under the authority of the Synod or the Standing Committee and organisations in relation to which the Synod or the Standing Committee is empowered to make ordinances or other binding rules.

“unitholder” means a trustee of church trust property that has invested in the Fund.

3. Declaration of inexpediency

By reason of circumstances which have arisen after the creation of the trusts on which the Fund is held it is inexpedient to carry out and observe those trusts and it is expedient that the trusts be varied.

Part 2 - Trusts

4. Trusts

The Fund is held by the Trustee on trust for the purposes of the Anglican Church of Australia in the Diocese of Sydney to enable the pooled long term investment of church trust property in a manner aligned to the ethical investment policy of the Diocese.

Part 3 – Functions and Powers

5. Functions

(1) The Trustee is to -

- (a) invest, manage and administer the Fund and, in connection therewith is to maintain the real value of the Fund, and
- (b) subject to paragraph (a), the Trustee is to provide for distributions from the Fund in accordance with subclauses (2) and (3).

(2) The Trustee is to determine before 31 March, 30 June, 30 September and 31 December each year amounts which are to be distributed from the Fund to the unitholders after having taken into account –

- (a) the costs and expenses referred to in clause 7, and
- (b) the retention of an appropriate amount, if any, from the returns from the investment of the Fund, to enable the Trustee to fulfil the function under subclause 5(1)(a).

(3) The amounts determined by the Trustee are to be paid by the Trustee to the invested trustees of church trust property as soon as possible after 31 March, 30 June, 30 September and 31 December each year.

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6. Powers

(1) Subject to this Ordinance, the Trustee has such powers as are necessary or desirable to enable it to fulfil its functions and duties as trustee of the Fund, including those powers set out in the *Glebe Administration Board Ordinance 1930*.

(2) The Trustee is to invest the Property in accordance with the *Trustee Act 1925* (NSW) provided that the Trustee must do so in accordance with any ethical investment policy approved by the Synod or the Standing Committee for the purposes of the investment of the Property.

7. Costs and expenses

The costs and expenses of the Trustee in performing its functions and exercising its powers under this Ordinance are to be paid from the Fund.

Part 4 – General

8. Liabilities

If a person or corporation ceases to be Trustee of the Fund each subsequent Trustee will assume any debts or other liabilities properly incurred by the person or corporation as trustee of the Fund in accordance with the terms upon which those debts or other liabilities were incurred.

9. Indemnity

(1) In this clause, “Indemnified Party” means each of –

- (a) a person or corporation who is, or has been, the Trustee or a Trustee, and
- (b) where a corporation is the Trustee or a Trustee, or has been the Trustee or a Trustee – each person who is, or has been, a member of that corporation.

(2) Each Indemnified Party is entitled, to the extent permitted by law, to be indemnified against any liability which results directly or indirectly from facts or circumstances relating to the Indemnified Party serving or having served as Trustee or as a Trustee, or serving or having served as a member of a corporation which is the Trustee or a Trustee, or has been the Trustee of a Trustee –

- (a) to another person, corporation or entity which does not arise out of conduct involving a lack of good faith on the part of the Indemnified Party, or
- (b) for costs and expenses incurred by that Indemnified Party –
 - (i) in defending proceedings, whether civil or criminal, in which judgement is given in favour of that Indemnified Party or in which that Indemnified Party is acquitted, or
 - (ii) in connection with an application, in relation to such proceedings, in which the court grants relief to that Indemnified Party under the *Corporations Act 2001*.

10. Further regulation

The Trustee may, from time to time, make provision for such further rules, policies and procedures consistent with this Ordinance as are necessary or desirable for the proper performance of its functions and the exercise of its powers under this Ordinance including, without limitation, in relation to the investment and maintenance of the real value of the Fund, distributions from the Fund and the issuing of units in and the redemption of units from the Fund.

11. Accounts and reports

The Trustee, as trustee of the Fund, is to comply with the *Accounts, Audits and Annual Reports Ordinance 1995* as if it was an organisation for the purposes of that Ordinance.

12. Not-for-profit and dissolution

(1) The Property 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 Fund 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 or the Standing Committee of the Synod may determine.

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

R TONG
Chair of Committee

I Certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on 5 December 2022.

B BOUNDS
Secretary

I Assent to this Ordinance.

KANISHKA RAFFEL
Archbishop of Sydney

05/12/2022