

Nomination Ordinance 2006 Amendment Ordinance 2023

No 1, 2023

Long Title

An Ordinance to amend the *Nomination Ordinance 2006*.

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

1. Name of ordinance

This Ordinance is the Nomination Ordinance 2006 Amendment Ordinance 2023.

2. Amendment

The *Nomination Ordinance 2006* is amended as follows –

- (a) in the Diagrammatic Summary of Provisions, insert as follows –
 - (i) in the box on the first row, after the matter “Vacancy in parish occurs”, insert the matter “and required information is gathered” and delete the numbers “3-4” and insert instead the numbers “4-5”, and
 - (ii) in the boxes on the second row, delete the number “5”, and insert instead the number “6”, and
 - (iii) in the boxes on the third and fourth row, delete the number “6”, and insert instead the number “7”, and
 - (iv) in the left-hand box on the fifth row, delete the number “9”, and insert instead the number “10”, and
 - (v) in the right-hand box on the fifth row, delete the number “6”, and insert instead the number “7”, and
 - (vi) in the box on the sixth row, delete the numbers “10-20”, and insert instead the numbers “11-21”, and
 - (vii) delete the matter “Nomination within initial 6 or subsequent 3 month period (cls 24, 25(2))”, and
 - (viii) delete the matter “Nomination not within initial 6 or subsequent 3 month period (cls 24, 25(2))”, and
 - (ix) in the matter “Further nominations (cls 25(2), 27(1))”, delete the matter “25(2)”, and insert instead the matter “25(3)”, and
 - (x) delete the right-hand box on the seventh row, including the matter “Archbishop has unqualified right of appointment (cl 27(3))”, and
 - (xi) in the left-hand box on the seventh row, delete the numbers “21-23”, and insert instead the numbers “22-24”, and
- (b) in Part 1, before clause 1, insert the following matter –

“Note: Part 1 provides definitions for key terms that are used in the Ordinance, and sets out the roles and expectations applicable to those involved in the process. Terms are also defined in or by reference to the Interpretation Ordinance 1985. These terms include: ‘communicant member’, ‘lay person’ and ‘parishioner’.”
- (c) in subclause 2(1) –
 - (i) delete the words ‘**parish nominator**’ and insert instead ‘**parish-elected nominator**’, and replace all subsequent references throughout the Ordinance, and
 - (ii) delete the words ‘**diocesan-elected nominator**’ and insert instead ‘**Synod-elected nominator**’, and replace all subsequent references throughout the Ordinance, and
 - (iii) insert the following new definition –

‘Nominator Training Workshop means the training course for parish-elected nominators as developed by the Centre for Ministry Development’
 - (iv) insert the following new definition -

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'Synod Governance Policy' means the Governance policy for Diocesan Organisations made by the Synod on 20 October 2014, as amended from time to time.', and

- (v) relocate the definitions of **'wardens'** and **'Synod-elected nominator'** so they appear in alphabetic order in the list of definitions, and
- (d) insert a new clause 3 as follows (and consequentially renumber all following clauses) –
 - "3. Interests of parties involved in the nomination process**
 - (1) All members of the Nomination Board are to act in the interests of the parish by considering a range of clergymen in seeking to nominate one or two of them to fill a vacancy in its office of rector, in line with all applicable ordinances and policies of the Synod.
 - (2) In seeking this end, and within the fellowship of all parishes in the Diocese, it is expected –
 - (a) each parish-elected nominator will reflect their understanding of the needs and aspirations of their local parish,
 - (b) each synod-elected nominator will reflect the convictions, character and culture of the Synod, and
 - (c) the Regional Bishop or Archdeacon, as non-voting Chair, will bring a unique combination of pastoral wisdom together with local and diocesan knowledge.
 - (3) Each parish-elected nominator is encouraged to engage with the Nominator Training Workshop within three months of their first appointment as a Nominator.", and
- (e) in Part 2, before the renumbered clause 4, insert the following –

"Note: Part 2 sets out when the nomination process is to be activated in a parish, and what actions are to be taken upon a vacancy occurring in a parish.", and
- (f) delete the text in the renumbered clause 5 and insert instead the following –

"On a vacancy occurring in the office of rector of a parish –

 - (a) the Registrar is to notify the wardens and parish-elected nominators that a vacancy has occurred and advise the date of the vacancy, and
 - (b) the Archdeacon and/or Bishop of the Region in which the parish is situated is to obtain a certificate from the Director of Safe Ministry indicating whether there are any past or current issues involving the parish on record with the Office of the Director of Safe Ministry, and
 - (c) the wardens are to complete and send to the Archbishop an information sheet in such form as the Archbishop determines from time to time, and
 - (d) the parish-elected nominators are to provide the synod-elected nominators a precis of their parish in the same or similar form as that provided to prospective candidates before it is provided to prospective candidates, and
 - (e) the Archdeacon of the Region in which the parish is situated is to obtain from the wardens such information concerning the parish as the Archbishop determines from time to time, which may include, but is not limited to information about reasonably foreseeable issues within the parish involving relationships, property and/or finances.", and
- (g) in the renumbered subclause 7(1), after the word Registrar, insert the word "either", and
- (h) in the renumbered subclause 13(1)(c), delete the matter "or more", and

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- (i) in Part 3, before the renumbered clause 6, insert the following –

Note: *Part 3 sets out criteria for determining whether a parish is entitled to nomination benefits under this Ordinance. It also regulates when the process may be suspended and how the first meeting of the Nomination Board is to be convened.*”, and
- (j) in Part 4, before the renumbered clause 11, insert the following –

Note: *Part 4 sets out the function of the Nomination Board, how meetings of the Board are to be conducted and how decisions of the Board are to be made.*”, and
- (k) in the renumbered subclause 11(2)(c), delete the words “or more”, and
- (l) in the heading to renumbered clause 15, delete the number “2”, and
- (m) in the renumbered clause 16, delete the words “or more”, and
- (n) in the renumbered clause 19 –
 - (i) in subclause 19(1), delete the matter “If,” at the beginning of the subclause,
 - (ii) in subclause 19(1), in the matter “not more than 3 clergymen to be considered for nomination”, delete the number “3”, and insert instead the number “2”, and
 - (iii) in the subclause 19(2)(b), in the matter “not more than 3 names”, delete the number “3”, and insert instead the number “2”, and
- (o) in Part 5, before the renumbered clause 22, insert the following –

Note: *Part 5 sets out the process that is followed after a nomination is made, and the right of the Archbishop to offer the nominated clergyman the office of rector, or decline the nomination. It also sets out the timing and next steps if a nomination is unsuccessful.*”, and
- (p) in the renumbered clause 22 –
 - (i) in subclause 22(2), delete the matter “may”, and insert instead “(unless he is satisfied that there is good and sufficient reason for refusing to accept the nomination) is to”, and
 - (ii) in subclause 22(3), in the matter “the names of 2 or more clergymen”, delete the words “or more”, and delete the matter “refusing to accept any one or more”, and insert instead “refusing to accept both”, and
 - (iii) in subclause 22(4), delete the matter “may offer to appoint any other clergyman on the list to the office of rector of the parish.”, and insert instead the following –

“is to offer to appoint the other clergyman on the list to the office of rector of the parish, unless he is satisfied that there is good and sufficient reason for not making the offer of appointment.”, and
 - (iv) insert a new subclause 22(5) as follows (and consequentially renumber the existing subclauses (5) to (7) as subclauses (6) to (8)) -

“(5) The Archbishop is to obtain a certificate from the Director of Safe Ministry in relation to any clergyman to whom he proposes to make an offer to be appointed to the office of rector of the parish. The certificate is to indicate whether there are any current or past matters concerning the clergyman on record with the Office of the Director of Safe Ministry.”, and
- (q) delete the renumbered clause 25, and consequentially renumber the remaining clauses, and
- (r) in clause 25, insert a new subclause 25(2) as follows (and consequentially renumber the existing subclause (2) to (4) as subclause (3) to (5)) –

“(2) Where a clergyman declines or neglects to accept appointment under subclause (1)(b), the Archbishop is to consult with the regional bishop or archdeacon before making a further offer of appointment.”, and
- (s) in the renumbered subclause 25(4), in the matter “names of 2 or more clergymen”, delete the matter “or more”, and

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- (t) in subclause 27(2), after the full-stop, insert the following –

“The Nomination Board is to communicate its prior work to the Archbishop if the right of nomination lapses.”, and
- (u) in Part 6, before clause 28, insert the following –

“**Note:** Part 6 set out the process for the election of the Nomination Board, including the eligibility criteria, the term of office and the grounds for disqualification that would give rise to a casual vacancy.”, and
- (v) in clause 29 –
 - (i) delete subclause 29(2) and insert instead the following –

“(2) A person is not eligible for election –

 - (a) unless the person is a member of Synod and resident in the Diocese, and
 - (b) if the person is a clergyman, if he is an assistant bishop or an archdeacon of a region.”, and
 - (ii) insert a new subclause 29(3) as follows –

“(3) Upon being appointed or elected as, or otherwise becoming, a synod-elected member, a person must sign the “Statement of Personal Faith” set out in the Synod Governance Policy, and deliver it to the Diocesan Secretary within 28 days of the date of that person becoming a member.”, and
- (w) in clause 31, delete the subclause 31(1)(f) and insert instead the following –
 - (f) becomes an insolvent under administration, or
 - (g) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the laws relating to mental health or is otherwise incapable of acting, or
 - (h) is disqualified from managing a corporation within the meaning of the *Corporations Act 2001*, or
 - (i) is disqualified from being a responsible entity of a registered entity by the Commissioner of the Australian Charities and Not-for-profits Commission, or
 - (j) is convicted of –
 - (i) an offence punishable by imprisonment for 12 months or longer, or
 - (ii) a disqualifying offence listed in Schedule 2 of the *Child Protection (Working with Children) Act 2012*, or
 - (k) becomes subject to a subsisting recommendation under *Ministry Standards Ordinance 2017* or the *Diocesan Tribunal Ordinance 2017* (or under equivalent legislation in this diocese or another diocese or church) the effect of which includes that he or she not hold, or is prohibited from holding, the office of nominator, or
 - (l) has not signed the Statement of Faith set out in the Synod Governance Policy in accordance with the requirements in clause 29(3) or is no longer able to in good conscience continue to assent to it.
 - (m) in the case of a clergyman, is appointed as a Regional Bishop or an Archdeacon of a region.”, and
- (x) in clause 31, insert a new subclause 31(2) as follows (and consequentially renumber the existing subclauses (2) and (3) as subclauses (3) and (4) –

“(2) If a disqualifying circumstance referred to in subclause (1) applies to a person holding office at the time of his or her election and notice of such disqualifying circumstance is received by the Diocesan Secretary, the person is taken to cease holding a qualification necessary for election to the office.”, and
- (y) in subclause 32(1), delete the number “21” and insert instead the number “18”, and

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- (z) delete subclause 32(2) and insert instead the following –
- “(2) A person is not eligible for election if the person –
 - (a) is employed to perform work in the Parish or is otherwise contracted as a staff member of the parish, or
 - (b) is an immediate family member of a person who satisfies subclause (a), or
 - (c) is the spouse of a person -
 - (i) in Holy Orders licensed to the parish, or
 - (ii) who is a member of the Nomination Board or of a person who has consented to being elected as a member of the Nomination Board, or
 - (d) is of unsound mind or a person whose person or estate is liable to be dealt with in any way under the laws relating to mental health or is otherwise incapable of acting, or
 - (e) is disqualified from managing a corporation within the meaning of the *Corporations Act 2001*, or
 - (f) is disqualified from being a responsible entity of a registered entity by the Commissioner of the Australian Charities and Not-for-profits Commission, or
 - (g) is convicted of –
 - (i) an offence punishable by imprisonment for 12 months or longer, or
 - (ii) a disqualifying offence listed in Schedule 2 of the *Child Protection (Working with Children Act 2012)*, or
 - (h) is subject to a subsisting recommendation under the *Ministry Standards Ordinance 2017* (or equivalent legislation in this diocese or another diocese or church) the effect of which includes that he or she not hold, or is prohibited from holding, the office of nominator.”, and
 - (aa) in clause 32, insert a new subclause (3) as follows –

“(3) If a disqualifying circumstance referred to in subclause (2) applies to a person holding office at the time of his or her election and notice of such disqualifying circumstance is received by the Diocesan Secretary, the person is taken to cease holding a qualification necessary for election to the office”, and
 - (bb) in subclause 37(1), delete subclauses (e) and (f) and insert instead the following -

“(e) if one or more of the disqualifying circumstances listed in clause 32 that render a person ineligible for election arises in respect to the person.”, and
 - (cc) after subclause 37(1), delete the Note with the matter “See the note at the end of clause 32 for a summary of the disqualifying offences listed in Schedule 2 of the Child Protection (Working with Children) Act 2012.”, and
 - (dd) in Part 7, before clause 41, insert the following –

“**Note:** *Part 7 sets out miscellaneous provisions not covered elsewhere in the Ordinance.*”, and
 - (ee) insert a new clause 41, as follows (and consequentially renumber the remaining clauses) –

41. Certificates from the Director of Safe Ministry

If the Director of Safe Ministry is requested or required to provide a certificate under this Ordinance, the Director is empowered to do so and may, on request, explain the basis for the certificate to the person to whom the certificate was provided or to any other person on whose behalf the person received the certificate. Any such disclosure by the Director constitutes a duty of the office of Director for the purposes of clause 104 of the *Ministry Standards Ordinance 2017*.”, and

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- (ff) in the renumbered clause 44, after the matter “delegate any or all of his”, insert the matter “or her”, and
- (gg) cross-references to clauses, subclauses and paragraphs are to be updated consequent upon any change to the numbering of the relevant clause, subclause or paragraph as a result of the amendments in this Ordinance.

3. Transitional

- (1) The amendments in this Ordinance do not apply in the case of a vacancy in the office of rector of a parish that occurred before the date of assent of this Ordinance.
- (2) The amendments in clause 2(v) to 2(bb) in this Ordinance do not apply to a person who holds office as a parish nominator or Synod-elected nominator/Diocesan nominator (as the case may be) at the date of assent of this Ordinance until the end of their current term of office.

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 27 March 2023.

B BOUNDS
Secretary

I Assent to this Ordinance.

KANISHKA RAFFEL
Archbishop of Sydney

27/03/2023