

# Parishes Ordinance 1979

(Reprinted under the Interpretation Ordinance 1985.)

The Parishes Ordinance 1979 as amended by the Anglican Church Property Trust (Change of Name) Ordinance 1982, Wollongong Anglican Regional Council Amendment Ordinance 1983, Area Deanery Ordinance 1985, the Parishes Ordinance Amendment Ordinance 1985, the Assisted Provisional Parishes Ordinance 1988, the Miscellaneous Amendments Ordinance (No 1) 1991, the Parishes Ordinance and Presentation and Exchange Ordinance Amendment Ordinance 1991, the Regions (Transitional Provisions and Miscellaneous Amendments) Ordinance 1995, the Miscellaneous Amendments Ordinance 1996, the Assisted Provisional Parishes (Reclassification) Ordinance 1997, the Miscellaneous Amendments Ordinance 1999, the Local Revenues Amendment Ordinance 2001, the Nomination (Transitional Provisions) Ordinance 2006, the Parish Administration (Transitional Provisions) Ordinance 2008, the Cost Recoveries (Parochial Network) Amendment Ordinance 2011, the Miscellaneous Amendments Ordinance 2012 and the Local Revenues Amendment Ordinance 2015.

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## Long Title

An Ordinance to govern the creation and revocation of ecclesiastical districts in the Diocese of Sydney.

## Preamble

Whereas it is expedient for the provisions relating to the creation and revocation of ecclesiastical districts in the Diocese of Sydney to be simplified and amended Now the Synod of the Diocese of Sydney Hereby Ordains Declares Directs and Rules as follows.

## Interpretation and Citation

1. (1) For the purposes of this ordinance –
  - (a) “Archbishop” means the Archbishop of Sydney for the time being, any Commissary duly appointed by him or any Administrator of the Diocese;
  - (b) except where otherwise provided by subclauses (2) and (3) of this clause “Archbishop-in-Council” means the Archbishop acting on the advice of Standing Committee;
  - (c) except where otherwise provided by subclauses (2) and (3) of this clause “Standing Committee” means the committee constituted under that name by the Standing Committee Ordinance 1897;
  - (d) “former ordinance” means the Parishes and Provisional Districts Ordinance 1961;

- (e) "ecclesiastical district" means a parish or provisional parish constituted under or recognised as such for the purposes of this ordinance;
- (f) "parish council" means the body of persons, who are or exercise the powers of a parish council under the provisions of the Church Administration Ordinance 1990;
- (g) "financial year" means a period of twelve calendar months beginning on the 1st of January – the first such period being that beginning on the 1st January 1980;
- (h) "local revenues" means all congregational offerings and donation income of an ecclesiastical district but does not include –
  - (i) money given to the ecclesiastical district by any body corporate or organisation created or regulated by an ordinance of the Synod or the Standing Committee, or
  - (ii) money given to the ecclesiastical district for a specified purpose, other than a purpose for or in relation to the minister's stipend, allowances, benefits, travelling expenses, superannuation or long service leave.
- (i) . . . . .
- (j) . . . . .

(2) Subject to subclauses (3) and (4), in all matters affecting an ecclesiastical district within a Region, 'Archbishop-in-Council' means the Regional Bishop of that Region acting on the advice of the Regional Council and 'Standing Committee' means the Regional Council of that Region.

(3) Where, but for this subclause, this ordinance in relation to a matter, confers any jurisdiction or imposes any obligation on –

- (a) the Archbishop and any one or more of the Regional Bishops; or
- (b) any 2 or more of the Regional Bishops,

then the jurisdiction must be exercised or those obligations performed by the Archbishop or by whichever of those Regional Bishops the Archbishop may nominate.

(4) Where, but for this subclause, this ordinance, in relation to any matter confers any jurisdiction or imposes any obligation on any 2 or more of –

- (a) the Standing Committee and any one or more of the Regional Councils; or
- (b) any 2 or more of the Regional Councils,

then that jurisdiction may be exercised or those obligations performed by the Standing Committee or by whichever of those Regional Councils the Standing Committee may nominate.

(5) The headings in this ordinance have been inserted as a matter of convenience only and shall not limit or restrict the provisions of this ordinance in any way.

(6) This Ordinance is the Parishes Ordinance 1979.

**Commencement**

2. (1) The provisions of this ordinance shall take effect on and from 1st December 1979.

(2) On the date of commencement of this ordinance the provision of the former ordinance shall cease to have any effect.

3. . . . .

**Proposal to Form a New Ecclesiastical District or to Change Classification etc**

4. (1) A proposal –

- (a) to form a new ecclesiastical district;
- (b) to change a provisional parish to a parish;
- (c) to change a parish to a provisional parish other than pursuant to subclause (1) of clause 8 of this ordinance; or
- (d) to revoke an ecclesiastical district;

may be made –

- (i) by the Archbishop;

- (ii) by the Minister (if any) licensed to the ecclesiastical district to which such proposal relates;
  - (iii) by the churchwardens (if any) of any church within the ecclesiastical district to which such proposal relates; or
  - (iv) by 20 persons resident in the ecclesiastical district to which the proposal relates being persons of at least 18 years of age, members of the Anglican Church of Australia (in the case of a proposal under paragraph (a) of this subclause) or (in any other case) 20 persons being persons entitled to take part in a vestry meeting held in the ecclesiastical district to which the proposal relates.
- (2) Every proposal under subclause (1) of this clause shall be in writing.
- (3) Every proposal under paragraph (a) of subclause (1) of this clause shall contain –
- (a) a description of the boundaries of the proposed ecclesiastical district and a plan on which the boundaries of the proposed ecclesiastical district are shown;
  - (b) a plan indicating the boundaries of all ecclesiastical districts from which territory shall be taken to form the proposed ecclesiastical district;
  - (c) particulars of all church trust property then or which will be held in trust for the proposed ecclesiastical district, an estimate of value of the items thereof and particulars of all moneys owing on or in connection with the acquisition of the same;
  - (d) an estimate of the number of families and single persons residing within the boundaries of the proposed ecclesiastical district claiming adherence to the Anglican Church of Australia;
  - (e) where possible, an estimate of the number of persons residing within the boundaries of the proposed ecclesiastical district who may be expected to become members of any congregation established within the proposed ecclesiastical district; and
  - (f) a name for such proposed ecclesiastical district;

and shall be signed by the person or persons making the same and, except where made by the Archbishop, shall be presented to the Archbishop by the person or persons making the same.

- (4) Every proposal under paragraphs (b) or (d) of subclause (1) of this clause shall contain –
- (a) particulars of all church trust property held in trust for the ecclesiastical district to which such proposal relates;
  - (b) an estimate of the number of families and single persons residing within such ecclesiastical district claiming adherence to the Anglican Church of Australia;
  - (c) an estimate of the number of persons who are members of the congregation or congregations within such ecclesiastical district and who regularly meet for worship within the boundaries of such ecclesiastical district; and
  - (d) a summary of the financial standing of such ecclesiastical district;

and shall be signed by the person or persons making the same and, except where made by the Archbishop, shall be presented to the Archbishop by the person or persons making the same.

(5) Every proposal under paragraph (d) of subclause (1) of this clause shall also indicate by means of a plan and a description the ecclesiastical district or districts to which the territory comprised in the ecclesiastical district proposed to be revoked shall be assigned upon such revocation.

- (6) The Archbishop shall send or cause to be sent a copy of every proposal under paragraph (a) of subclause (1) of this clause to –
- (a) the Minister licensed to each ecclesiastical district from which territory shall be taken to form the proposed ecclesiastical district;
  - (b) the Minister licensed to each ecclesiastical district which will adjoin the proposed ecclesiastical district but from which territory shall not be taken to form the proposed ecclesiastical district;

- (c) the Regional Bishop and Archdeacon within whose region the ecclesiastical district lies.

(7) Every Minister to whom such a proposal is referred pursuant to paragraph (a) or (b) of subclause (6), within 1 month after receiving the copy of the proposal or within such further time as the Archbishop may authorise in writing sent to the Minister, shall consult –

- (a) with the churchwardens (if any) of every church building in the ecclesiastical district to which he is licensed or of which he is in charge; and
- (b) in the case of a Minister to whom the proposal is referred pursuant to paragraph (a) of subclause (6), with those persons present at a vestry meeting convened by him and the said churchwardens for that purpose in accordance with the Church Administration Ordinance 1990;

and shall send to the Archbishop a written report as to the reasons for or against such proposal offered by the said churchwardens, by the said vestry meeting (in the case of a proposal referred pursuant to paragraph (a) of subclause (6)) and by him. Any such report received after 3 months of the date on which a copy of the proposal is sent to such Minister may be disregarded and shall not prevent effect being given under this ordinance, to any proposal.

(8) In subclauses (6) and (7), the word “Minister” includes any person appointed pursuant to clause 59 of the Church Administration Ordinance 1990.

(8A) . . . . .

(9) The Archbishop shall send to the Secretary of the Standing Committee a copy of every proposal under subclause (1) of this clause and such report (if any) made pursuant to subclause (7) of this clause.

#### **Proposals to be Investigated and Reported to Synod**

5. (1) The Standing Committee shall investigate every proposal and consider the terms of any report and representations sent to its Secretary pursuant to clause 4.

(2) Subject to clause 6, every proposal, report and representation sent to the Standing Committee pursuant to clause 4 shall be laid before the Synod at its next ordinary session together with –

- (a) particulars of any amendments or modifications recommended by the Standing Committee; and
- (b) a report by the Standing Committee as to the desirability or otherwise of giving effect to such a proposal;

provided that, where such proposal is received by the Standing Committee less than 3 months prior to the first day of an ordinary session of a Synod, such proposal, if the Standing Committee so resolves, may be laid instead before the next ordinary session of that Synod or, if there is no further ordinary session of that Synod, then before the first ordinary session of the next Synod.

(3) The Synod shall consider any such proposal laid before it. Upon the assent of the Synod being given by resolution to such proposal (with or without amendments) such proposal, as amended (if at all), shall be deemed to have been effected on the date on which such assent is given or on such other date (if any) as may be specified in the resolution.

(4) After such a proposal has been effected, the Standing Committee shall consider and may give directions as to the arrangements to be made in relation to all church trust property affected by such change.

#### **Criteria for Parish Status**

6. No proposal to change an ecclesiastical district to a parish shall be laid before the Synod by the Standing Committee unless the Standing Committee is satisfied that –

- (a) during the financial year before the date on which the proposal is received by the Standing Committee the local revenues of the ecclesiastical district were not less than the sum of the following amounts for that financial year –
  - (i) the minimum stipend for a minister recommended by the Standing Committee, and
  - (ii) the fixed component of the travel allowance for a minister recommended by the Standing Committee, and

- (iii) the fixed component of the cost recoveries charge payable by a parish under the Cost Recoveries Framework Ordinance 2008, and
- (b) during the financial year before the date on which the proposal is received by the Standing Committee, or such part of that financial year as a member of the clergy was licensed as minister, the minister was –
  - (i) paid or provided with a stipend or benefits in lieu of stipend the amount or value of which, in total, was not less than that part of the minimum stipend referred to in clause 6(a)(i) which was required to be paid or provided to the minister, and
  - (ii) paid or provided with a travel allowance or travel benefit not less than that part of the fixed component of the travel allowance referred to in clause 6(a)(ii) which was required to be paid or provided to the minister, and
  - (iii) provided with the free use of a residence or otherwise housed in accommodation approved as suitable by the Archbishop.
- (c) all costs recoveries charges (including any arrears) due and payable by the parish under the Cost Recoveries Framework Ordinance 2008 have been paid.
- (d) a residence approved as suitable by the Archbishop is available for the Minister;
- (e) a building is or buildings are available in the ecclesiastical district for use by a congregation meeting for worship and other purposes;
- (f) such residence and building or buildings are in good condition and state of repair, are suitable for the purposes to which they are to be put and the freehold thereof or a leasehold thereof is vested in Anglican Church Property Trust Diocese of Sydney or in trustees in trust for the ecclesiastical district;
- (g) the ecclesiastical district is able to service all its debts; and
- (h) the ecclesiastical district is in a sound financial condition.

#### **Power of the Archbishop to Create a Provisional Parish**

7. (1) Notwithstanding the provisions of clauses 4 and 5 of this ordinance, the Archbishop may create a new ecclesiastical district, being a provisional parish, by an instrument which –
- (a) contains a description of the boundaries of the proposed ecclesiastical district;
  - (b) specifies a date from which such new ecclesiastical district shall be deemed to have been created; and
  - (c) is signed by him.

A copy of every such instrument shall be sent to the Secretary of the Standing Committee as soon as reasonably possible after it has been signed.

(2) Each such new ecclesiastical district shall be deemed to have been created on the date specified in such instrument and, shall continue in existence for such period as the Synod or the Standing Committee shall determine by resolution from time to time but, failing any such determination, shall continue for 3 years from the date specified in such instrument. Upon any such new ecclesiastical district ceasing to exist the territory comprised therein shall revert to the ecclesiastical districts from which it was taken provided that, if the Archbishop-in-Council determines that any such reversion is inappropriate, the said territory shall be assigned to any adjoining ecclesiastical district or ecclesiastical districts in such manner as the Archbishop-in-Council may Determine.

#### **Reclassification of a Parish as a Provisional Parish**

8. (1) If, for each of 3 consecutive financial years, the local revenues of a parish during a financial year were less than the sum of the following amounts for that financial year –
- (a) the minimum stipend for a minister recommended by the Standing Committee, and
  - (b) the fixed component of the travel allowance for a minister recommended by the Standing Committee, and
  - (c) the fixed component of the cost recoveries charge payable by a parish under the Cost Recoveries Framework Ordinance 2008,

then, subject to subclause (1A), the parish ceases to be a parish and becomes a provisional parish on –

- (d) the last day of the financial year which immediately follows the 3rd of those consecutive financial years, or
- (e) such later date as is determined by the Standing Committee by resolution.

(1A) The Synod or the Standing Committee, by resolution, may determine during the financial year which follows the 3rd of the consecutive financial years referred to in subclause (1) that subclause (1) does not apply to a parish specified in the resolution for such period as the Synod or the Standing Committee determines.

(2) Where a proposal has been made under paragraph (c) of subclause (1) of clause 4 of this Ordinance to change a parish to a provisional parish, the Standing Committee may, with the consent of the parish council, by resolution provisionally change the status of that parish to a provisional parish.

(3) Any provisional change of status shall remain in force until the Synod has considered the report made pursuant to subclause (2) of this clause concerning the proposal for that parish to become a provisional parish.

(4) Where any parish becomes or provisionally becomes a provisional parish pursuant to this clause the licence of the Minister licensed thereto shall remain in full force and effect subject to the same qualifications (if any) to which the licence was subject prior to such change and the Minister licensed thereto at the time of such change shall continue, so long as he remains licensed thereto, to be regarded, for the purposes of any recommendation made by the Synod or its Standing Committee concerning the stipends and allowances paid to or in respect of clergymen, to be a rector of a parish.

#### **Alteration or Definition of Boundaries**

9. (1) The Standing Committee, by resolution, may alter, clarify or define the boundaries of any one or more ecclesiastical districts without forming an additional ecclesiastical district if a majority of the members of the parish council (if any) of each ecclesiastical district, the boundaries of which will be altered, clarified or defined thereby, consent thereto.

(2) If any person requests the Standing Committee to alter, clarify or define the boundaries of any one or more ecclesiastical districts without forming an additional ecclesiastical district and –

- (a) the Standing Committee declines to do so; or
- (b) a majority of the members of the parish council of an ecclesiastical district the boundaries of which will be altered, clarified or defined thereby fails to give its consent within a period of 2 months of being requested by the Standing Committee or such person so to do;

the Registrar, the Minister or a parishioner of any ecclesiastical district which would be effected by such a request may request the Standing Committee to refer the matter to the Synod. Upon such request being made, the Standing Committee shall (unless the Standing Committee considers the proposal to be frivolous or vexatious) refer the matter to the next ordinary session of Synod together with its report thereon provided that, if such request is made within 3 months prior to the commencement of the first day of the ordinary session of a Synod, the Standing Committee may instead refer such request to the next ordinary session of that Synod or, if there is no further ordinary session of that Synod, then to the first ordinary session of the next Synod. The Synod, by resolution, shall grant (with or without modifications) or reject every such request referred to it.

(3) Upon a resolution of the Standing Committee being passed pursuant to subclause (1) of this clause and upon the Synod granting (with or without modifications) a request pursuant to subclause (2) of this clause, the alteration clarification or definition dealt with therein shall be effected upon the date specified in such resolution of the Standing Committee or Synod as the case may be.

#### **Amalgamation of Ecclesiastical Districts**

10. (1) The Standing Committee, by resolution, may amalgamate two or more ecclesiastical districts to form a parish or a provisional parish provided that no such resolution shall be passed unless –

- (a) the Minister licensed to one of the ecclesiastical districts the subject of the proposed resolution has consented in writing to the proposal embodied in the proposed resolution;

- (b) there is no Minister licensed to any other of the ecclesiastical districts the subject of the resolution; and
- (c) by resolution, the parish councils (if any) of the ecclesiastical districts the subject of the proposed resolution have approved of such amalgamation.

(1A) If the ecclesiastical districts proposed to be amalgamated by resolution under subclause (1) are administered under a combination of the rules in Schedule 1 and Schedule 2 of the Parish Administration Ordinance 2008, the Standing Committee shall specify in the proposed resolution the Schedule which will apply to the parish or provisional parish formed as a result of the amalgamation and such specification shall, upon the formation of the parish or provisional parish, take effect accordingly.

- (2) For the purposes of subclause (1) –
  - (a) an amalgamation shall be effected on the date on which the resolution effecting the same is passed unless some other date is specified in the resolution in which event the amalgamation shall be or be deemed to have been effected on that other date; and
  - (b) a person or a parish council shall be deemed to have consented to or approved of an amalgamation unless that person or parish council records its reasons for opposing the amalgamation and gives written notice thereof to the Secretary of the Standing Committee within 3 months of being invited so to do.

### **Responsibilities of Ministers**

11. After the provisions of this Ordinance take effect –
- (a) the Minister officiating in a parish shall be subject to the same responsibilities as a Minister officiating in a parish was subject to prior to this Ordinance taking effect; and
  - (b) except as provided in subclause (2) of clause 8 the Minister officiating in a provisional parish shall be subject to the same responsibilities as a Minister officiating in a provisional parish or provisional district was subject to prior to this Ordinance taking effect.

### **References in Other Ordinances**

12. On the date of commencement of this ordinance, a reference in any other ordinance or any other document to a provisional parish, a provisional district or district shall be deemed to be a reference to a provisional parish constituted under or recognised as such for the purposes of this ordinance.

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### **Note**

The amendments made by Ordinance No 1, 2001 do not apply to a financial year or any other period of time specified in the Parishes Ordinance 1979 which commences on or before 31 December 2001. For such financial year, or other period of time, the provisions of the Parishes Ordinance 1979 continue to apply as if Ordinance No 1, 2001 had not been made.

### **Table of Amendments**

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| Clause 1 | Amended by Ordinances Nos 36, 1983; 27, 1985; 30, 1988; 37, 1991; 32, 1995; 35, 1997; 27, 1999; 1, 2001 and 43, 2015 and under the Interpretation Ordinance 1985.      |
| Clause 2 | Amended by Ordinance No 37, 1991.  |
| Clause 3 | Repealed by Ordinance No 37, 1991.   |
| Clause 4 | Amended by Ordinances Nos 24, 1985; 30, 1988; 32, 1995; 30, 1996; 35, 1997 and 27, 1999 and under the Interpretation Ordinance 1985. Amended by Ordinance No 37, 2012. |
| Clause 6 | Amended by Ordinances Nos 14, 1982; 37, 1991; 41, 1991; 1, 2001; 34, 2006 and 22, 2011.  |

Clause 7 Amended by Ordinances Nos 30, 1988 and 35, 1997.  
Clause 8 Amended by Ordinances Nos 27, 1985; 41, 1991; 1, 2001 and 22, 2011.  
Clause 10 Amended by Ordinance No 28, 2008.  
Clause 12 Clauses 12 to 14 omitted and clause 15 renumbered as 12 pursuant to Ordinance No 27, 1985.

STEVE LUCAS  
**Legal Counsel**  
25 November 2015

ROBERT WICKS  
**Diocesan Secretary**