

Recognised Churches Amendment Ordinance 2004

No 37, 2004

Long Title

An ordinance to amend the Recognised Churches Ordinance 2000.

The Synod of the Diocese of Sydney Ordains as follows.

1. Name

This ordinance is the Recognised Churches Amendment Ordinance 2004.

2. Amendment

The Recognised Churches Ordinance 2000 is amended as shown in the Schedule by inserting the matter shown as underlined and omitting the matter which is shown as struck through.

3. Transitional

The application of the Recognised Churches Ordinance 2000 (the "principal ordinance") as amended by clause 2 extends to any proposal to recognise a church in respect of which a declaration has not been made before the date of assent to this ordinance under clause 8(1) or 11(1) of the principal ordinance. The relevant regional bishop is to make such arrangements as are reasonably necessary to ensure that no person is adversely affected by the operation of this clause.

Schedule

Recognised Churches Ordinance 2000

An Ordinance to recognise and govern established churches in the Diocese.

Preamble

The Synod of the Diocese of Sydney Ordains as follows -

Part 1 - Preliminary

1. Name

This Ordinance is the Recognised Churches Ordinance 2000.

2. Interpretation

(1) In this Ordinance -

"1990 Ordinance" means the Church Administration Ordinance 1990.

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“administration provisions” means those provisions of the 1990 Ordinance which provide for the governance and administration of a church in a single church parish.

“church” means a group of persons who –

(a) regularly meet together within the Diocese for public worship as Christian people, and

(b) are not –

(a) recognised by any other ordinance of the Synod as a distinct body, or

(b) ~~part of the Anglican church in a parish.~~

“clause” means a clause of this Ordinance unless otherwise specified.

~~“distinctive character” in relation to a church means an identifiably distinctive character based on indigenous, socio-economic or ethnic background, occupation, age, or other bona fide ground other than a theological ground.~~

“divine service” means a service which may be lawfully used in the Diocese with such variations as are lawful for the relevant recognised church.

“eligible person” means –

(a) a person in priest’s orders; or

(b) a person whom the Archbishop is prepared to ordain as a priest for the purpose of being appointed as the minister of a church having regard to –

(i) the particular needs and circumstances of the church; and

(ii) the level of theological training and pastoral experience of that person,

and who is otherwise acceptable to the Archbishop.

“meeting place” means the building or part of the building within the Diocese used for the time being by a recognised church for its recognised meeting.

“member” means, subject to subclauses (2) and (3), –

(a) in relation to a church, a person who has usually during 3 months in the 12 months preceding the time at which the status of the person as a member is to be determined attended the regular meeting;

(b) in relation to a recognised church, a person who has usually during 3 months in the 12 months preceding the time at which the status of the person as a member is to be determined attended the recognised meeting or the regular meeting prior to recognition.

“minister” means the person licenced to a recognised church or parish as incumbent and includes, in the absence or incapacity

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of such person, the person authorised under clause 59 of the administration provisions for the time being to exercise all or any of the functions of the minister to the extent to which those functions are properly exercisable in accordance with his licence or other authority.

“parish council” includes the minister and churchwardens acting pursuant to clause 13 of the 1990 Ordinance.

“recognised church” means a church recognised under Part 3 of this Ordinance.

“recognised meeting” means the regular meeting at which a recognised church celebrates divine service.

“regular meeting” means the regular meeting of a church as a church;

“regular meeting place” means the building or part of the building within the Diocese used for the time being by a church for its regular meeting.

“representative” means the person referred to in clause 4(2)(hg).

- (2) For the purposes of this Ordinance a person may not be -
- (a) a member of more than one recognised church; or
 - (b) a member of a recognised church and a parishioner of a parish.

If, but for this subclause, a person would fall within either of the categories referred to in paragraphs (a) and (b) then the person must elect which recognised church or parish he or she considers himself or herself to be a member or parishioner and any such election, when made, cannot be varied during the 3 months next following the date on which it was made.

- (3) A question as to whether a group of persons is or is not a church (as defined in clause 2(1)) will be resolved by the Standing Committee by resolution.

- (4) For the purposes of clauses 13(1) and 14, the term “parish” does not include a provisional parish.

Part 2 - Consultation

3. Consultation

- (1) If the ~~rector, curate in charge~~ minister or parish council of a parish intends to establish a church in the Diocese that is to be recognised under Part 3 of this Ordinance, the ~~rector, curate in charge~~ minister or parish council must consult with the regional council and the Regional Bishop of the region in which the regular meeting place of such church will be situated before the church is established and the regional council and Regional Bishop must consult with the ~~rector, curate in charge~~ minister or parish council.

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(2) Before a proposal to recognise a church under Part 3 of this Ordinance is made, the persons entitled to make such a proposal must consult and work in fellowship with the ~~rector or curate in charge~~ parish council of the parish and ~~, in the case of a proposal made under clause 4(1)(a),~~ the regional council of the region in which the regular meeting place is situated and the ~~rector, curate in charge~~ parish council and the regional council must consult with those persons.

Part 3 - Recognition

4. Proposals to Recognise

- (1) A proposal to recognise a church may be made by :
- ~~(a)~~ (a) 20 persons ~~who each of whom are~~ is -
 - ~~(i)~~ (a) resident in the Diocese; and
 - ~~(ii)~~ (b) a member of the church; and
 - ~~(iii)~~ (c) at least 18 years of age; ~~or,~~
 - ~~(b)~~ (b) a regional council.
- (2) A proposal under subclause (1) must contain -
- ~~(a)~~ (a) the name of the person proposed to be appointed as the minister of the church if recognised; and
 - ~~(b)~~ (b) ~~a statement as to the distinctive character of the church;~~ and
 - ~~(c)~~ (b) a statement setting out -
 - (i) the number of members of the church at the date of the proposal; and
 - (ii) the number of members attending each regular meeting of the church during the 3 month period prior to the date of the proposal; and
 - (iii) a brief history of the church's activities during the 12 month period prior to the date of the proposal; and
 - (iv) the present constitution (if any) of the church; and
 - (v) the present statement of faith (if any) of the church; and
 - (vi) satisfactory evidence that a substantial number of the members of the church support the proposal; and
 - ~~(d)~~ (c) a summary of the financial standing of the church including -
 - (i) a statement of all money received and expended by the church during the 12 month period prior to the date of the proposal; and
 - (ii) a statement of the assets and liabilities of the church as at the date of the proposal; and

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- ~~(e)~~(d) details of the housing arrangements provided or proposed to be provided by the church for the person proposed to be appointed as the minister of the recognised church; and
- ~~(f)~~(e) the address of the regular meeting place; and
- ~~(g)~~(f) a suggested name for the church if recognised; and
- ~~(h)~~(g) details of 1 person to act as the representative who :
 - (i) ~~in the case of a proposal under subclause (1)(a),~~ is a person making the proposal; and
 - (ii) ~~in the case of a proposal under subclause (1)(b),~~ is a member of the church; and
- ~~(i)~~(h) a summary of the consultation undertaken pursuant to clause 3(2).

(2A) If a proposal under subclause (1) relates to a church which is a congregation under the pastoral leadership of a minister of a parish, the proposal should ordinarily include the consent of the minister and parish council of the parish to the proposal.

(2B) If the persons making a proposal under subclause (1) wish to request that the Archbishop assign an ecclesiastical district to the church if recognised, the proposal must include the suggested boundaries of the district and the reasons why such a district should be assigned.

- (3) A proposal under subclause (1) must be -
 - (a) made in writing and dated; and
 - (b) signed on behalf of ~~the regional council or by each~~ person making the proposal; and
 - (c) sent to the bishop of the region in which the regular meeting place is situated at the date of the proposal.
- (4) On receipt of a proposal, the ~~Regional~~ regional Bishop ~~bishop~~ must:
 - (a) notify the Archbishop, the Standing Committee and the regional council of his region of the proposal; and
 - (b) ~~except where made by the regional council,~~ provide the Archbishop and each of the members of ~~his~~ the regional council with a copy of the proposal; and
 - (c) send a copy of the proposal to the parish council of the parish in which the regular meeting place is situated and to the minister of each parish adjacent to that parish and invite each parish council and minister to provide a response to the proposal within 1 month after being provided with a copy.

5. Proposals to be Investigated

- (1) The regional council of a region must -

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- (a) investigate a proposal received from the ~~bishop for the region~~regional bishop and determine whether the church satisfies the criteria in clause 7; and
 - (b) provide the Archbishop with a copy of ~~the proposal on receiving the proposal~~any response to the proposal from a minister or parish council of a parish referred to in clause 4(4)(c) that is received within the 1 month period specified in clause 4(4)(c) by the regional bishop or regional council; and
 - (c) endeavour to conclude its investigations under paragraph (a) within 3 months of receiving the proposal.
- (2) The regional council must consult with the parish council of any parish or with any other organisation it considers may be affected by the proposal.
- ~~(3) Where the proposal is made by the regional council, the regional council must provide the Archbishop with:~~
- ~~(a) a copy of the proposal at the same time a copy is sent to the Regional Bishop pursuant to clause 4(3)(e); and~~
 - ~~(b) any response that is received pursuant to clause 4(4)(c) within 1 month of the Archbishop being provided with a copy of the proposal.~~

6. Eligible Person and Name

- (1) On receiving a copy of a proposal under clause ~~5~~4(4)(b) the Archbishop will -
- (a) determine whether the person proposed to be appointed as the minister of the church if recognised is an eligible person; and
 - (b) unless he is satisfied there is good and sufficient reason for refusing to do so, offer in writing, to appoint that person as the minister of the church if recognised.
- (2) If the eligible person is not in priest's orders, an offer under subclause (1) will include a statement to the effect that if the church is recognised the Archbishop is prepared to ordain the person as a priest for the purpose of being appointed as its minister.
- (3) The Archbishop will, in writing, notify the regional council of a refusal to make an offer under subclause (1). The Archbishop need not give reasons for his refusal.
- (4) The eligible person to whom an offer is made under subclause (1) and who does not accept the offer within 21 days of the date on which it is made is deemed to have rejected the offer.
- (5) The Archbishop will -

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- (a) forward to the regional council a copy of an offer made under subclause (1) and a copy of any acceptance or refusal given under subclause (4); and
- (b) advise the regional council in writing of the name of the church if recognised.

7. Criteria for Recognition

The criteria for recognising a church are -

- (a) the Archbishop is willing to appoint the person named in a proposal under clause 4 as the minister of the church if recognised; and
- (b) the church, if recognised, would have the ability from its own resources -
 - (i) to pay the person referred to in paragraph (a) the minimum stipend and other allowances recommended at that time by the Synod or the Standing Committee; and
 - (ii) to provide the person referred to in paragraph (a) with housing arrangements acceptable to that person and which have been certified as suitable to the Archbishop by the relevant archdeacon; and
 - (iii) to pay all amounts payable for assessments and other charges under the Assessment and Charges Ordinance 1975; and
- (c) the church has not less than 80 members as at the date of the proposal of which the number in attendance at each regular meeting during the 3 month period to the date of the proposal has been at least two-thirds or that number; and
- (d) ~~the church has a distinctive character;~~ there is satisfactory evidence that a substantial number of the members of the church support the proposal for recognition; and
- (e) if the church is a congregation which is under the pastoral leadership of a minister of a parish –
 - (i) the minister and parish council of the parish have consented to the proposal, or
 - (ii) the regional council otherwise approves the separation of the church from the parish.

8. Declaration of Recognition

- (1) If, having ÷
 - ~~(a) made a proposal; or~~

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(b) investigated a proposal received under clause 4, a regional council determines that a church satisfies the criteria in clause 7;

the regional bishop must declare that the church is a recognised church subject to the person named in the proposal:

(i)(a) receiving an offer from the Archbishop pursuant to clause 6; and

(ii)(b) accepting the responsibility of minister to that church and, if not ordained as a priest, accepting ordination on the Archbishop's offer to be so ordained.

(2) As soon as practicable after a declaration under subclause (1) is made, the regional council must -

(a) notify in writing, -

(i) the Archbishop; and

(ii) the representative; and

(iii) the Registrar; and

(iv) the Standing Committee; and

(v) the parish council of the parish within which the meeting place is situated and the minister of each parish adjacent to that parish,

of the declaration; and

(b) implement all arrangements necessary to give effect to the declaration.

9. Appointment of Minister

Upon receiving a notification under clause 8(2), the Archbishop will saving lawful objections -

(a) if the person named in the proposal is not in priest's orders, ordain that person as a priest; and

(b) appoint and, subject to clause 16(2), ~~issue a license~~ that person as the minister of the recognised church.

10. Inability to Declare Recognition

(1) If having investigated a proposal received under clause 4 the regional council concludes that the church does not satisfy the criteria for recognition in clause 7 the regional council must, in writing, notify the representative of the reason or reasons why the church does not satisfy the criteria.

(2) The representative may within 21 days of receiving the notification under subclause (1) submit, in writing, to the regional council further information addressing the matters referred to in the notification.

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(3) If the representative submits further information the regional council must as soon as practicable after receiving and considering such information determine that -

- (a) the church satisfies the criteria for recognition in clause 7 in which case clause 8 applies; or
- (b) the further information fails to rectify the deficiencies identified in the notification given under subclause (1).

11. Non-Acceptance of Proposal

(1) The regional bishop must declare that a proposal to recognise a church has not been accepted if -

- (a) the representative does not submit further information in terms of clause 10(2); or
- (b) a determination is made under clause 10(3)(b).

(2) As soon as practicable after a declaration under subclause (1) is made, the regional council must, in writing, notify the Archbishop, the representative and the Standing Committee of the declaration and provide -

- (a) the Standing Committee with -
 - (i) a copy of the notification given pursuant to clause 10(1); and
 - (ii) a copy of the further information, if any, provided pursuant to clause 10(2); and
 - (iii) the reasons for making the declaration under subclause (1); and
- (b) the representative with the reasons for making the declaration under subclause (1).

12. Appeal

(1) Any person aggrieved by a decision of a regional council or a failure of a regional council to make a decision under clause 7(e)(ii), 8, 10-~~or~~, 11 or 12B(1)(a) may appeal to the Standing Committee.

(2) On receipt of any such appeal, the Standing Committee must invite the members of the Standing Committee who represent the region concerned to make representations to the Standing Committee in relation to the appeal.

(3) After receiving any representations under subclause (2), the Standing Committee may exercise the functions of the regional council under clauses 7(e)(ii), 8, 10-~~and~~, 11 and 12B(1)(a).

(4) Any decision of the Standing Committee under subclause (3) is final.

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~~(5) Any church that does not meet all the requirements of clause 7 but that wishes to be considered as an exceptional case may appeal to the Archbishop.~~

Part 3A – Ecclesiastical districts

12A. Assigning an ecclesiastical district to a recognised church

(1) The Archbishop may create and assign a new ecclesiastical district to a recognised church if –

- (a) the proposal to recognise the church under clause 4(1) includes a request that the Archbishop assign to the church an ecclesiastical district if recognised, or
- (b) the Archbishop receives a written request to do so from the minister and a majority of the members of the parish council of the recognised church which includes the suggested boundaries of the district and the reasons why such a district should be assigned,

and the meeting place of the recognised church is situated within the boundaries of the proposed ecclesiastical district.

(2) In deciding whether to create and assign a new ecclesiastical district to a recognised church, the Archbishop is to take into account –

- (a) whether the ministry of the recognised church is undertaken or is likely to be undertaken largely within the geographical area corresponding to the proposed ecclesiastical district, and
- (b) whether the meeting place is likely to remain within the boundaries of the proposed ecclesiastical district, and
- (c) the views of the parish council of any parish whose boundaries may be altered if the proposed ecclesiastical district is created.

(3) The Archbishop may create and assign a new ecclesiastical district to a recognised church by an instrument which –

- (a) contains a description of its boundaries; and
- (b) specifies a date from which it is deemed to be created; and
- (c) is signed by him.

(4) A copy of an instrument creating an ecclesiastical district is to be sent to –

- (a) the minister of the recognised church, and
- (b) the Registrar, and
- (c) the regional council, and

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(d) the parish council of each parish whose boundaries have been altered by the creation of the ecclesiastical district.

12B. Cessation of an ecclesiastical district assigned to a recognised church

(1) An ecclesiastical district created and assigned to a recognised church under clause 12A is deemed to have been created on the date specified in the instrument and continues in existence until the earliest of –

- (a) the date being 3 years from the date the ecclesiastical district is created or such later date as the regional council may determine by resolution from time to time; and
- (b) the date on which the meeting place of the recognised church moves outside the boundaries of the ecclesiastical district; and
- (c) the date on which the recognised church ceases to be a recognised church under clause 20.

(2) Upon the ecclesiastical district ceasing to exist, the territory comprised in the district reverts to the ecclesiastical district or districts from which it was taken provided that, if the regional bishop acting on the advice of the regional council determines that any such reversion is inappropriate, the territory is to be assigned to any adjoining ecclesiastical district or districts in such manner and from such date as the regional bishop acting on the advice of the regional council may determine provided that before acting under this subclause the bishop and regional council must first consult with the parish councils of each of the effected ecclesiastical districts.

Part 4 - Governance

13. Administration Provisions

(1) ~~Subject to subclause (2) the~~ The administration provisions apply =

- (a) in relation to a recognised church which has not been assigned an ecclesiastical district under clause 12A, as if the meeting place is a church building, a parish and cure of souls within the Diocese and the minister thereof is licensed thereto as incumbent–,
- (b) in relation to a recognised church which has been assigned an ecclesiastical district under clause 12A, as if the meeting place is a church building and the ecclesiastical district so assigned is a parish and cure of souls within the Diocese and the minister thereof is licensed thereto as incumbent.

(2) ~~Membership of a recognised church shall not be restricted on the basis of distinctive character.~~

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~~(3)~~(2) The administration provisions are for the purposes of the governance and administration of a recognised church modified as follows -

- (a) the following applies in the place of the declaration in clause 7(1) -

"I am a member of (name of recognised church).

I have been baptised.

I am not less than 18 years of age.

I have usually during 3 months within the past 12 months attended regular meetings of the (name of recognised church).

I do not claim to be a member of any other church or a parishioner of any other parish of the Anglican Church of Australia.

Dated this day of 19 20
"; and

- (b) the following applies in the place of the additional subscription set out in clause 7(2) -

"I have not voted at a vestry meeting of any other recognised church or church of the Anglican Church of Australia within the past 3 months and I do not intend to vote at a vestry meeting of any other recognised church or church of the Anglican Church of Australia within the next 3 months."

~~(4)~~(3) The recognised church shall conduct services of public worship regularly.

14. Other Ordinances

All other ordinances of the Diocese apply –

(a) to a recognised church which has not been assigned an ecclesiastical district under clause 12A, as if the meeting place is a church building and the meeting place is a parish or cure of souls within the Diocese and the minister thereof is licensed thereto as incumbent, and

(b) to a recognised church which has been assigned an ecclesiastical district under clause 12A, as if the meeting place is a church building and the ecclesiastical district so assigned is a parish and cure of souls within the Diocese and the minister thereof is licensed thereto as incumbent.

and it and he are recognised as such by all relevant ordinances provided that the Archbishop-in-Council or the Synod may by

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resolution exclude or modify the application of an ordinance to a particular recognised church or to all recognised churches.

15. Resolution of Difficulties

If the application of clause 13 or 14 gives rise to uncertainty or difficulties the Standing Committee, by resolution, upon being requested so to do or of its own initiative, shall determine the rule or rules to apply in the particular circumstances and clauses 13 and 14 will apply subject to that determination.

Part 5 - Particular Attributes

16. Minister and Assistant Ministers

(1) A minister of a recognised church has the same pastoral responsibilities as a person appointed to a parish as incumbent except that, in the case of a recognised church which has not been assigned an ecclesiastical district under clause 12A, such responsibilities are limited to the members of the recognised church.

(2) The licence of -

(a) a person appointed as the minister of a recognised church; and

(b) a person appointed to assist the minister under the Assistant Ministers Ordinance 1990,

must provide that the licence lapses upon the recognised church ceasing to be recognised.

17. Meeting Places

(1) Upon a church being recognised under Part 3 of this Ordinance, the meeting place is deemed to be outside any parish.

(2) Before a meeting place is moved, the minister and churchwardens must consult with the regional council of the region and the parish council of the parish into which or in which the meeting place is being moved regarding the move. This requirement does not apply if the recognised church has been assigned an ecclesiastical district under clause 12A and the meeting place is moved within the boundaries of the ecclesiastical district.

(3) If a meeting place moves within a region the minister and churchwardens must, in writing, notify the regional council and ~~the any~~ parish council of the parish into which or in which the meeting place is moving of -

(a) the new address of the meeting place; and

(b) the date of the move.

(4) If a meeting place at any time is moved across a regional boundary the minister and churchwardens must, in writing, notify the regional councils of the region from which and to which the meeting

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place is moving and the parish council of the parish into which the recognised meeting place is moving of -

- (a) the new address of the meeting place; and
- (b) the date of the move.

(5) The regional council must forward to the Registrar a copy of a notification received under subclause (3) or (4).

18. Services

(1) A minister of a recognised church has the same obligations and discretions in respect of the forms of service used for the recognised church as a person appointed to a parish as incumbent has in respect of the forms of service used for a church in the parish.

(2) The Archbishop has the same discretions in respect of authorising deviations from the forms of service referred to in subclause (1) as he has in respect of authorising such deviations for a parish.

19. Name of Recognised Church

The name of a recognised church is the name last designated by the Archbishop. The name of a recognised church may only be changed by the Archbishop at the request of the minister and ~~church-parish~~ council of the recognised church.

Part 6 - Loss of Recognition

20. Applications for Loss of Recognition

(1) A recognised church ceases to be a recognised church if both the Archbishop and the Standing Committee (by resolution) determine, on the recommendation of the relevant regional council, that, in the circumstances, recognition should not continue.

(2) Any person may invite the Archbishop and the Standing Committee to act under subclause (1). The invitation must be written and state the grounds on which the applicant relies.

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

PG KELL
Chairman of Committees

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I Certify that this Ordinance was passed by the Synod of the Diocese of Sydney on 26 October 2004.

MA PAYNE
CJ MORONEY
Secretaries of Synod

I Assent to this Ordinance.

PETER F JENSEN
Archbishop of Sydney
28/10/2004