

Retirements Ordinance 1993

(Reprinted under the Interpretation Ordinance 1985. The clause headings are not part of the Ordinance.)

The Retirements Ordinance No 49 1993.

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Long Title

An ordinance to provide for the retirement of certain persons, to establish a Diocesan Retirements Board and for purposes incidental thereto.

Preamble

Now the Synod of the Diocese of Sydney ordains as follows -

Part 1 - Citation, Definitions and Application

Citation

1. This ordinance may be cited as the "Retirements Ordinance 1993".

Definitions

2. In this ordinance unless the context otherwise requires -

"Appeal" means a requirement under clause 16(4).

"Application" means an application under clause 15(1).

"Board" means the Diocesan Retirements Board constituted by this ordinance.

"Chairman" means the chairman of the Board or the alternate chairman of the Board.

"Former Board" means the Diocesan Retirements Board constituted under the Former Ordinance.

"Former Ordinance" means the Sydney Diocesan Retirements Ordinance 1969-1985.

"Minister" means -

- (a) a Senior Minister;
- (b) a Parochial Minister;
- (c) a clerical canon of St Andrew's Cathedral or any provisional cathedral in the Diocese; and
- (d) a person licensed to officiate in the Diocese by a licence which, under its terms, is not revocable by the Archbishop at any time.

"Parochial Minister" means a person in holy orders licensed as incumbent to a Parochial Unit or licensed as curate-in-charge, curate or assistant minister of or in a Parochial Unit.

"Parochial Unit" means a parish, a provisional parish and an assisted provisional parish in the Diocese.

"Request" means a request under clause 15(2).

"Senior Minister" means -

- (a) the Archbishop;
- (b) an Assistant Bishop;
- (c) the Dean; and

- (d) an Archdeacon.

Application

- 3. (1) Except as provided in clause 3(2), this ordinance does not apply to a Minister who is an employee.
- (2) If a Minister -
 - (a) is an employee; and
 - (b) holds a licence to officiate in the Diocese which, under its terms, is not revocable by the Archbishop at any time,

clause 7 applies to that licence.

- (3) This ordinance is subject to any other ordinance which requires a Minister to retire at a time or at an age before the age specified in this ordinance.

Part 2 - Retirement Ages

Retirement Ages

- 4. It is a term of the appointment or licensing of a Minister appointed or licensed after 16 October 1969 that, subject to clauses 5 and 6, such person retires at age 65 years.

Extension of Retirement Age of a Senior Minister

- 5. The retirement age of a Senior Minister to whom clause 4 applies may be extended to an age not beyond 70 years -
 - (a) in the case of the Archbishop, by the Synod or the Standing Committee;
 - (b) in the case of an Assistant Bishop or an Archdeacon, by the Archbishop and the Standing Committee; and
 - (c) in the case of the Dean, by the Archbishop and St Andrew's Cathedral Chapter.

Extension of Retirement Ages by the Archbishop

- 6. The Archbishop may, following receipt of a recommendation of the Board, extend the retirement age of a Minister (not being a Senior Minister) to whom clause 4 applies to an age not beyond 70 years.

Revocation of licence

- 7. The licence of a Minister may be revoked by the Archbishop (after giving to that Minister opportunity to show cause) where -
 - (a) in the case of a Minister to whom clause 4 applies - the Minister has attained the age of 65 years and all extensions granted under this ordinance have expired; and
 - (b) in the case of a Minister to whom clause 4 does not apply -
 - (i) the Minister has attained 70 years; and
 - (ii) the Board is satisfied that the superannuation benefits and other payments and accommodation available to the Minister on the Minister's retirement, and for the Minister's pension, are adequate for the Minister's needs.

After Retirement

- 8. (1) A clerical canon, upon retiring, is to be given the title of "canon emeritus".
- (2) A Minister who is aged 65 years or older may be licensed to such position in the Diocese as the Archbishop may determine provided that the terms of the licence are such that it may be revoked at any time.

Part 3 - Diocesan Retirements Board

Diocesan Retirements Board

- 9. The Diocesan Retirements Board is established.

Constitution of the Board

- 10. The Board consists of -
 - (a) a chairman and an alternate chairman each of whom must be an Assistant Bishop nominated by the Archbishop;
 - (b) five Ministers, each of whom must be a member of the Synod; and
 - (c) five lay members, each of whom must be a member of the Synod.

Appointments to the Board

- 11. (1) Subject to clause 20, the Archbishop-in-Council must make appointments to the Board as soon as reasonably possible after the first ordinary session of each Synod.
- (2) Subject to clause 12, members of the Board hold office until the next succeeding appointment (under clause 11(1)).
- (3) A person of or above the age of 65 years is not eligible to be appointed a member of the Board.

Vacancies on the Board

12. A member of the Board vacates office -
- (a) upon attaining the age of 65 years;
 - (b) if such person dies, resigns, or is absent from the State for a period of three months without leave of absence;
 - (c) if the Archbishop certifies that in his opinion the member is incapable of performing that member's duties as a member of the Board;
 - (d) in the case of a clerical member, if the member ceases to be a member of the Synod or ceases to hold the Archbishop's licence; or
 - (e) in the case of a lay member, if the member ceases to be a member of Synod.

Filling of Casual Vacancies on the Board

13. A casual vacancy on the Board is to be filled by a person appointed by the Archbishop-in-Council.

Function of the Board

14. The Board may make recommendations to the Archbishop regarding extensions of service for a Minister (other than a Senior Minister) beyond the retirement age applicable to the Minister.

Application to the Board

15. (1) A Minister (other than a Senior Minister) may apply to the Board for one or more extensions of the retirement age applicable to the Minister.
- (2) The Archbishop, an Assistant Bishop or the Registrar may request that the Board consider whether the retirement age of a Minister who has not made an Application should be extended.
- (3) An Application and a Request must -
- (a) be made in writing to the Chairman by the applicant or the person making the Request; and
 - (b) be received by the Chairman no later than one calendar month before the applicant or the person the subject of the Request is due to retire provided that the Board, in its discretion may accept as adequate a period of less than one month.
- (4) A person who has made an Application or is the subject of a Request has an extension in office for a period of three months after the date on which such person is required to retire.

Application or request for extension for a period not more than 12 months

16. (1) This clause applies to an Application or a Request, in each case for an extension of the retirement age by not more than 12 months, made by or in respect of a Minister, not being a Senior Minister, whose retirement age has not been extended under this ordinance (apart from clause 15(4)).
- (2) If an Application or a Request to which this clause applies is considered by the Chairman, the Chairman must notify the person who has made the Application or who is the subject of the Request of the proposed recommendation concerning the Application or Request.
- (3) A Minister who has made an Application or is the subject of a Request to which this clause applies who is dissatisfied with a proposed recommendation of the Chairman prepared in relation to the Application or Request may, within 14 days after receiving notification of the proposed recommendation, require that the Application or Request be dealt with by the Board.
- (4) If, following notification under clause 16(3), the person who made the Application or who is the subject of the Request does not request that the Application or the Request be dealt with by the Board, the proposed recommendation of the Chairman is the recommendation of the Board.

Meetings of the Board

17. (1) Within 3 months after receipt of -
- (a) an Application for an extension of a Minister's retirement age of more than 12 months;
 - (b) a Request for an extension of a Ministers's retirement age of more than 12 months;
 - (c) an Application or Request to which clause 16 applies which is not considered by the Chairman under clause 16(2); or
 - (d) an Appeal,

the Chairman must convene a meeting of the Board for the purpose of considering the Application, Request or Appeal.

- (2) For the purpose of receiving evidence, the Chairman must invite in writing the person who made the Application, the person the subject of the Request or the person who made the Appeal (which person is entitled to be heard), and such other persons as the Board may consider necessary, to attend the meeting of the Board.

- (3) A quorum for a meeting of the Board is the Chairman, two clerical members and two lay members.

(4) The Chairman convening the meeting of the Board or, in the absence of that person, the other Chairman, is to preside at a meeting of the Board.

(5) The Chairman presiding at a meeting of the Board has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

(6) No person whose case is under consideration may act as a member of the Board.

Recommendations of the Board

18. The Chairman must deliver the recommendations of the Board to the Archbishop. The Board is not required to give reasons for any recommendation.

Procedures

19. Subject to the terms of this ordinance, the Board may determine its own procedures. The Board may by resolution make and revoke and from time to time make further regulations as it considers fit for the purpose of determining or regulating its procedures.

Part 4 - Transitional

Membership of the Board

20. The first members of the Board are those persons who were, immediately prior to the date of assent to this ordinance, members of the Former Board and eligible for appointment under clauses 10 and 11(3). A vacancy on the Board which occurs because a member of the Former Board is not eligible for appointment to the Board is taken to be a casual vacancy.

Extension of Retirement Age under Sydney Diocesan Retirements Ordinance 1969-1985

21. The extension of the retirement age of a Minister under the Former Ordinance is taken to be an extension of the retirement age under this ordinance.

Applications etc made under the Sydney Diocesan Retirements Ordinance 1969-1985

22. (1) A request for the extension of the retirement age made by a Minister under the Former Ordinance which has not been considered by the Former Board prior to the date of assent to this ordinance is taken to be an Application made under this ordinance.

(2) A request by the Archbishop or an Assistant Bishop made under clause 13(1)(b) of the Former Ordinance which has not been considered by the Former Board prior to the date of assent to this ordinance is taken to be a Request made under this ordinance.

(3) A request by a Minister made under clause 13(5) of the Former Ordinance which has not been considered by the Former Board prior to the date of assent to this ordinance is taken to be an Appeal made under this ordinance.

(4) A recommendation by the Former Board to the Archbishop delivered under clause 16 of the Former Ordinance is taken to be a recommendation made by the Board.

No application to present Archbishop

23. Nothing in this ordinance applies to the retirement age of the Archbishop in office at the date of assent to this ordinance whose retirement age (and any extensions thereto) are, notwithstanding clause 24, to be determined under the relevant provisions of the Former Ordinance.

Part 5 - General

Repeal of Sydney Diocesan Retirements Ordinance 1969-1985 etc

24. The Former Board is dissolved and the Former Ordinance repealed.

Amendment of Other Ordinances

25. A reference to the Former Ordinance in any ordinance is taken to be a reference to this ordinance.

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

K.R. HANDLEY
Chairman of Committees

We Certify that this Ordinance was passed by the Synod of the Diocese of Sydney on 13 October 1993.

W.G. GOTLEY
C.J. MORONEY
Secretaries of Synod

I Assent to this Ordinance.

R.H. GOODHEW
Archbishop of Sydney
9/11/1993