

School Chapels and Chaplains Ordinance 1975

(Reprinted under the Interpretation Ordinance 1985.)

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Long Title

An Ordinance to make provision for the appointment of Chaplains to Schools within the Diocese of Sydney and for the licensing consecration and control of Chapels in connection with such schools.

Preamble

- 1 Whereas it is expedient to provide for the appointment and tenure of office of Chaplains and Assistant Chaplains in Schools other than parish schools and to define their duties And Whereas it is expedient to provide for the licensing consecration and use of Chapels in connection with such schools And Whereas provision was made for such matters in Ordinance No. 39, 1974 entitled "School Chapels and Chaplains Ordinance 1954" And Whereas by a judgment of the Supreme Court of New South Wales certain provisions in the said Ordinance were declared to be ultra vires the Synod and it has become expedient to revise the said Ordinance and make other provisions Now the Synod of the Diocese of Sydney in pursuance of the powers in that behalf conferred upon it by the Constitutions for the management and good government of the Anglican Church of Australia within the State of New South Wales and of all powers vested in the said Synod by the Anglican Church of Australia Trust Property Act 1917 or otherwise Ordains Declares Directs and Rules as follows -

Part I - General

Citation

1. This Ordinance may be cited as the "School Chapels and Chaplains Ordinance 1975".

Application of Parts I-IV

2. Parts I-IV inclusive of this Ordinance shall apply to all schools which are or shall be constituted established or governed by or under the authority of the Synod of the Diocese of Sydney other than parish schools.

Inconsistent Provisions of Certain Ordinances do not have application

- 2 3. Provisions of the Church Administration Ordinance 1990 and the Church Grounds and Buildings Ordinance 1990 or any ordinance amending the same to the extent that they may be inconsistent with the provisions of this Ordinance shall not apply to any Chapel licensed or consecrated under the provisions of this Ordinance.

Extra Parochial Ordinance Not to apply to Any School

4. The provisions of the Extra-Parochial Ordinance 1918 shall not apply to any school.

Repeal of School Chapels and Chaplains Ordinance 1954

5. The School Chapels and Chaplains Ordinance 1954 is hereby repealed but all acts appointments and other things made or done validly under the provisions of the said Ordinance shall remain and continue in force as if they had been made or done under the provisions of this Ordinance.

Interpretation

6. In this Ordinance unless inconsistent with the context -
- (a) "Archbishop" means the Archbishop for the time being of the Diocese of Sydney or the person for the time being entitled to exercise the powers vested in the Archbishop by the said Constitutions.
 - (b) "Archbishop-in-Council" means the Archbishop on the advice of the Standing Committee of Synod.
 - (c) "School" (except in Part V) includes a school or college constituted by or under the authority of an Ordinance of Synod.
 - (d) "School Council" means the Council or other governing body of any school.

Part II - Chaplains

School May be declared Extra Parochial

7. (1) The Archbishop in Council may declare by resolution that any school or part of a school (other than a parish school) which may be situated within any parish or provisional parish or provisional district or other ecclesiastical unit within the Diocese shall be excluded therefrom and shall be extra-parochial. Provided that no such declaration shall be made unless and until

the incumbent of the parish or the minister-in-charge of the provisional parish or provisional district or other ecclesiastical unit within the Diocese in which the chapel or if there is no chapel the principal building of such school or part lies and the churchwardens of such parish or provisional parish or provisional district or other ecclesiastical unit within the Diocese have been furnished in writing with notice of the intention to take such action and shall also have been invited to express their opinion on the proposed exclusion. Provided also that the Archbishop-in-Council may at any time declare that any such school shall cease to be extra-parochial.

(2) Any school which was extra-parochial before the passing of the Extra-Parochial Ordinance 1918 and any school which has been declared to be extra-parochial under the provisions of that Ordinance shall be deemed to have been declared extra-parochial under the provisions of this Ordinance.

(3) Any person duly licensed and holding office as Chaplain or Assistant Chaplain in any school at the time when this Ordinance shall come into operation shall continue to hold such office as if he had been appointed and licensed as such Chaplain or Assistant Chaplain under the provisions of this Ordinance.

School Council may appoint Chaplain etc

8. (1) The council of any school which is or shall be declared to be extra-parochial may with the approval of the Archbishop in writing appoint a Clerk in Holy Orders to be Chaplain or Assistant Chaplain in and for such school and unless such Clerk already holds a current general licence or authority to officiate in the Diocese the Archbishop shall thereupon grant to such Clerk a general licence or authority to officiate in the Diocese or a licence as provided in clause 9(1) of this Ordinance. Provided that if such Clerk already holds a current general licence or authority as aforesaid the Archbishop may if he thinks fit issue a new general licence or authority to officiate or a licence as provided in clause 9(1) of this Ordinance.

(2) Such appointment may be either a full-time appointment or a part-time appointment.

(3) Upon the issue of any such licence or authority such Chaplain or Assistant Chaplain so appointed shall subject to this Ordinance become a member of the staff of such school. Provided that if such Clerk already holds a current general licence or authority to officiate in the Diocese upon the issue of a certificate by the Archbishop that such Clerk holds a sufficient licence or authority to officiate in the Diocese such Chaplain or Assistant Chaplain so appointed shall subject to this Ordinance become a member of the staff of such school.

(4) If at any time such Chaplain or Assistant Chaplain shall cease to hold a licence or authority as aforesaid he shall ipso facto cease to be entitled to act as Chaplain or Assistant Chaplain of such school Provided however that this paragraph shall not of itself have the effect of removing him from being a member of the staff of such school.

(5) Any appointment made under this Ordinance may be for a limited period if the School Council so determines with the approval in writing of the Archbishop provided that such appointee shall be eligible for re-appointment as provided in paragraph (1) of this clause.

Archbishop may licence Chaplain etc

¹ 9. (1) The Archbishop may license such Clerk in the form or to the effect of the form contained in the First Schedule or the Second Schedule to this Ordinance as the case may require.

(2) Upon the issue of such licence such Chaplain shall be deemed to be a clergyman holding a distinct official position in the Diocese for the purpose of the 14th of the Constitutions contained in the Schedule to the Anglican Church of Australia Constitutions Act 1902.

(3) No clergyman shall be appointed under this Ordinance until a copy of this ordinance has been supplied to him, and he has signified in writing his acceptance of its provisions.

School Council may dismiss Chaplain etc

¹ 10. (1) The School Council may by the vote of a majority of its members after opportunity has been given to a Chaplain or Assistant Chaplain to show cause dismiss such Chaplain or Assistant Chaplain from his office and shall give written notice of such dismissal to the Archbishop.

(2) The Archbishop shall have power to revoke any licence as aforesaid at any time at the Chaplain's or Assistant Chaplain's own request or (after opportunity given to him to show cause) in any of the following cases -

- (a) On any ground for which the licence of a clergyman may be revoked or withdrawn under the Tribunal Ordinance 1904 the Incapacity and Inefficiency Ordinance 1906 the Tribunal Ordinance 1963 or any ordinance amending or replacing the same in accordance with the provisions of such ordinance or ordinances.
- (b) In any other case where such licence may be revoked in accordance with the 21st of the Constitutions contained in the Schedule to the Anglican Church of Australia Constitutions Act 1902.

Headmaster etc may suspend Chaplain etc

11. The Headmaster Headmistress or other principal teacher of any school shall have the right at his or her discretion to suspend any Chaplain or Assistant Chaplain from his duties and shall thereupon notify the Archbishop and the School Council of such action.

Directions to Chaplain etc

12. A Chaplain or Assistant Chaplain of any school shall be under the direction of the School Council and of the Headmaster Headmistress or other principal teacher of such school save that in all matters mentioned in clause 15 hereof he shall have the right to refer any direction to the Archbishop before being bound to comply with it and the decision of the Archbishop thereon shall be final.

Adequate Religious Teaching

13. (1) It shall be the province of the Headmaster Headmistress or other principal teacher of the school to satisfy the School Council and the Archbishop that an adequate amount of time is given to religious teaching in the school curriculum.

(2) In so far as religious teaching cannot be conveniently given by the Chaplain or Assistant Chaplain if any of a school such instruction as set out in sub-clause (c) of clause 15 hereof may be given with the consent of the Archbishop by the Headmaster Headmistress or other principal teacher of the school or any other person or persons approved by the Archbishop.

Acting Chaplain may be Appointed

14. In any of the following cases that is to say -

- (a) Where a school has been declared to be extra-parochial under this Ordinance but no Chaplain has been appointed and licensed or authorised in accordance with clause 8 of this Ordinance or
- (b) Where a Chaplain has been so appointed and licensed or authorised and the office of Chaplain has since become vacant and there is no Assistant Chaplain so appointed and licensed or authorised

the School Council with the approval of the Archbishop may appoint a Clerk in Holy Orders holding a licence in the Diocese as Acting Chaplain and such Acting Chaplain shall exercise the rights and duties of Chaplain of such school until such time as a Chaplain is so appointed and licensed or authorised Provided that the Archbishop may remove any such Acting Chaplain at any time.

(2) Clauses 10 (1), 11, 12 and 13 (2) of this Ordinance shall apply to an Acting Chaplain.

Rights and Duties of a Chaplain

¹ 15. The rights and duties of a Chaplain in any school shall be -

- (a) To celebrate Divine Service administer the Sacraments and perform the Rites and Ordinances of the Anglican Church in Australia in accordance with the law of the Anglican Church in Australia in any consecrated or licensed Chapel or in any other place within the school approved by the Archbishop for the purpose and to have access and admission into such Chapel or place at all proper times.
- (b) To have the charge of and be responsible for the safe custody of all Chapel registers and records other than current books of accounts and to keep the same within the Chapel or in such other place as the Archbishop shall from time to time in writing appoint and if there be no Chaplain for the time being such custody and

responsibility shall belong and attach to the Headmaster Headmistress or other principal teacher of the school.

- (c) To give religious teaching to the scholars in the school in accordance with the doctrines liturgy articles and formularies of the Anglican Church in Australia.
- (d) To exercise a general pastoral ministry within the school in relation to all persons residing there or upon properties used in connection therewith as well as to the staff and scholars.
- (e) To invite persons to preach or otherwise assist at Divine Service and administrations of the Sacraments within the school with the approval of the Headmaster Headmistress or other principal teacher of the school and the Archbishop.
- (f) To perform within the school such duties other than those aforesaid as the Headmaster Headmistress or other principal teacher of the school may reasonably require. Provided that duties under subclauses (a), (c) and (d) of this clause shall have precedence over such other duties.

Rights and Duties of an Acting Chaplain

16. The rights and duties of an Assistant Chaplain appointed and licensed under this Ordinance shall be the same as those of a Chaplain under subclauses (a), (c), (d) and (f) of clause 15 hereof.

Stipend and Allowances of Chaplain etc

17. (1) The stipend and allowances of a Chaplain Assistant Chaplain or Acting Chaplain shall be fixed and paid by the School Council with the consent of the Archbishop.

(2) The arrangements for the residence of a Chaplain or Assistant Chaplain shall be determined by the School Council with the consent of the Archbishop.

Part III - Chapels

Archbishop to approve plans and specifications

18. The approval in writing of the Archbishop shall be obtained for the position and the plans and specifications of any building intended to be built for use as a Chapel in any school.

When a building may be consecrated or licensed as a Chapel

¹ 19. (1) No building shall be consecrated or licensed as a Chapel in or for any school unless and until the site upon which it is erected has been vested in the Anglican Church Property Trust Diocese of Sydney or the School Council being a body corporate or such other trustee or trustees or body corporate as may be approved by the Archbishop-in-Council and has also been provided with such things as may be requisite for the celebration of Divine service according to the law and usage of the Anglican Church of Australia and the Archbishop shall be satisfied that proper provision is to be made for periods of Divine Worship as part of the school curriculum.

(2) A building or part of a building in such school may be consecrated or licensed as a Chapel by the Archbishop for such purposes of the Anglican Church of Australia as he may deem fit and no building or part of a building shall be used as a Chapel in a school whether an extra-parochial school or otherwise unless and until it has been consecrated or licensed as aforesaid. Provided that in any case where a school has been declared to be extra-parochial under this Ordinance adequate provision shall be made to the satisfaction of the Archbishop for the conduct of Divine Worship in some part of the School approved by him for the purpose.

Application of certain provision of the Church Grounds and Buildings Ordinance 1990

² 20. (1) The provisions of the clauses 9 and 10(3) of the Church Grounds and Buildings Ordinance 1990 shall apply to such Chapel as if they were expressly contained in this Ordinance.

Headmaster etc may give addresses etc in the Chapel

21. The Headmaster Headmistress or other principal teacher of the school with the approval of the Archbishop may give addresses or take part in the conduct of Divine Service in the Chapel and may with the knowledge of the chaplain invite any person approved by the Archbishop to preach therein or to conduct or assist in the conduct of services or give an address therein.

Purposes for which a Chapel may be Used

1 22. (1) A Chapel shall not be used for any purpose other than the celebration of Divine Service the administration of the Sacraments the performance of the Rites and Ordinances of the Anglican Church of Australia or the provision of religious teaching except with the consent in writing of the Archbishop.

(2) All fees and charges properly chargeable for or connected with any Service conducted in a Chapel and the disposition of such moneys shall be determined by the School Council with the approval of the Archbishop.

(3) The School Council shall provide for and determine the method of appointment of persons to act as wardens and such other lay officers of the Chapel as may be necessary to count the offertories and collections taken in connection with the services in the Chapel and to record the amounts of such offertories and collections in the Register of Services in the Chapel forthwith and to keep books of account of all moneys received and expended by them. Such moneys shall be used and disposed of under the direction of the School Council which shall have regard to the needs of the work of the Church at home and in mission areas and the needs of the poor.

Transitional

23. Every consecrated or licensed Chapel existing in any school at the time when this Ordinance shall come into operation shall for the purposes of this Ordinance be deemed to be a Chapel consecrated or licensed as the case may be under the provisions of this Ordinance.

Part IV - Schools Not Extra-Parochial

Schools not Extra Parochial

24. (1) A School which has not been declared to be extra-parochial under the provisions of this Ordinance or a school which has been so declared but has ceased to be extra-parochial shall be deemed to be within the parochial care of the incumbent of the parish or the minister-in-charge of the provisional parish or provisional district or other ecclesiastical unit as the case may be in which the Chapel or if there is no Chapel the principal building of the school lies and such incumbent or minister shall exercise the rights and duties of Chaplain of such school as provided in subclauses (a), (c), (d) and (e) of clause 15 of this Ordinance.

(2) Subject to the Archbishop's approval an Assistant Curate or other person or persons may at the request of such incumbent or minister in charge assist him in the performance of his duties as Chaplain of such school.

(3) The Archbishop may at his discretion license or authorise a part of a building in any school under this Part to be used for Divine Worship and may revoke any such license or authority at his discretion.

(4) The Headmaster Headmistress or other principal teacher of the school may at his or her discretion suspend any person exercising the rights and duties of a Chaplain or any of them under this section and shall thereupon notify the Archbishop and the School Council.

Part V - Chaplains and Chapels in Schools Not under the Control of Synod

Requirement to be licensed

1 25. No clergyman of the Anglican Church of Australia other than the Rector of the Parish in which the school is situated shall act as Chaplain in any school within the Diocese of Sydney which is not a school constituted by or under the authority of an Ordinance of Synod or a parish school unless he is licensed to act as Chaplain of such school by the Archbishop in the form or to the effect of the form contained in the Third Schedule to this Ordinance or otherwise authorised in writing by the Archbishop to do so. In the event of the Archbishop licensing or so authorising a Chaplain other than the Rector of the Parish in such a School the right of the Rector to be Chaplain ceases during the tenure of office of such Chaplain.

Chapel to be Licensed

1 26. No clergyman of the Anglican Church of Australia shall celebrate Divine Service administer the Sacraments perform any other Rite or Ordinance of the Anglican Church of Australia or preach any sermon in any Chapel of any such school unless such Chapel is licensed for the purpose by the Archbishop and such clergyman is licensed or otherwise authorised by the Archbishop to do so.

No Chapel to be Licensed unless School Council accepts the provisions of this Ordinance

27. Notwithstanding anything to the contrary in this Ordinance no Chapel shall be licensed or otherwise authorised and no clergyman shall be licensed as a Chaplain under this Part unless and until a copy of this Ordinance has been supplied to the School Council of the school to which such licence or authority is intended to refer and such School Council has signified in writing duly authorised its acceptance of the several provisions of this Ordinance as binding upon such school in so far as the same can apply to it.

Archbishop may licence etc Chaplain

28. The Archbishop may license or otherwise authorise the incumbent of the parish in which any such school exists or any other Clerk in Holy Orders to act as Chaplain for a specified period in any school under this Part at the request or with the approval of the School Council and any Chaplain so licensed or authorised shall during his tenure of such office have the rights and duties of a Chaplain as provided in subclauses (a), (b), (c), (d) and (e) of clause 15 of this Ordinance and may agree to perform such other duties as are referred to in subclause (f) of the said clause Provided that if any question or dispute shall arise as to the exercise by the Chaplain of his rights or duties or any of them in his spiritual ministrations such question or dispute shall be determined by the Archbishop whose decision shall be final.

Archbishop may revoke licence etc of Chaplain

29. The Archbishop shall have power to revoke such licence or authority at such clergyman's own request or (after opportunity given to him to show cause) on any ground for which the licence of a Chaplain could be revoked under clause 10 of this Ordinance.

Archbishop may licence Chapels

1 30. (1) The Archbishop may if he thinks fit at the request or with the approval of the School Council license as a Chapel any building or part of a building in any school under this Part. Provided that no such building or part of a building shall be so licensed unless and until it has been provided with such things as may be requisite for the celebration of Divine Service according to the law and usage of the Anglican Church of Australia Provided further that the Archbishop may at any time revoke such licence without being required to give his reasons for so doing.

(2) If a Chaplain is appointed and if there is no licensed Chapel adequate provision shall be made to the satisfaction of the Archbishop for the conduct of Divine Worship in some part of the school approved by him for the purpose.

Application of Clauses 20 to 23 to this Part

31. The provisions of clauses 20 to 23 inclusive of this Ordinance shall apply to a Chapel under this Part.

Definition

32. In this Part "School Council" shall be deemed to include the proprietor or proprietors of the school in any case where such school is owned by an individual proprietor or proprietors.

1 **First Schedule**

(Here insert the name of the Archbishop), by Divine Providence
Archbishop of Sydney and Metropolitan
to our beloved in Christ Clerk
Greeting, We, confident of your character, learning, sound doctrine and
diligence give and grant you our Licence and Authority to act as Chaplain at
(here insert the name of the School) at (here insert the address of the school)
within our Diocese and Jurisdiction to conduct the Services in the Chapel or
other place approved by us according to the form as required by the
Constitution of the Anglican Church of Australia and not otherwise and to teach
the Scriptures and Church doctrine and to perform other duties relating to the
office of Chaplain as required by the School Chapels and Chaplains Ordinance
1975 (you have duly made and subscribed such Declarations and taken and
subscribed such Oaths as are required by the said Constitution and by
Ordinance of the Diocese of Sydney to be subscribed made and taken) for a

period of not more than _____ years from this day.
And we require that you reside at an address approved by the Archbishop of Sydney with the consent of the Council of the said School.
Given under the Seal of the See of Sydney which in this behalf is used this
day of _____ in the year of Our Lord One thousand nine hundred and
and of our Consecration the _____ and _____ of our Translation.

Registered at Sydney the
day and year within written.

By me, _____ Registrar _____ Archbishop of Sydney

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Second Schedule

(Here insert the name of the Archbishop), by Divine Providence
Archbishop of Sydney and Metropolitan
to our beloved in Christ _____ Clerk
Greeting, We, confident of your character, learning, sound doctrine and
diligence give and grant you our Licence and Authority to act as Assistant
Chaplain at (here insert the name of the School) at (here insert the address of
the School) within our Diocese and Jurisdiction to assist the Chaplain of the
said School to teach the Scriptures and Church doctrine and conduct the
Services in the Chapel or other place approved by us as required by the
Constitution of the Anglican Church of Australia and not otherwise and perform
other duties belonging to the Office of Assistant Chaplain as required by the
School Chapels and Chaplains Ordinance 1975; (you having duly made and
subscribed such Declaration and taken and subscribed such Oaths as are
required by the said Constitution and by Ordinance of the Diocese of Sydney to
be subscribed made and taken) for a period of not more than _____ years
from this day.
And we require that you reside at an address approved by the Archbishop of
Sydney with the consent of the Council of the said School.
Given under the Seal of the See of Sydney which in this behalf is used this
day of _____ in the year of Our Lord One thousand nine hundred
and _____ and of our Consecration the _____ and _____ of our
Translation.

Registered at Sydney the
day and year within written.

By me, _____ Registrar _____ Archbishop of Sydney

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Third Schedule

(Here insert the name of the Archbishop), by Divine Providence
Archbishop of Sydney and Metropolitan
to our beloved in Christ _____ Clerk
Greeting, We at the request (or with the approval of) (here insert the name of
the School Council) the said (here insert the School Council) having first
signified to us in writing duly authorised its (or his or her or their) acceptance of
the several provisions of the said school in so far as the same can apply to it Do
by These Presents give and grant you in whose character learning sound
doctrine and diligence we are confident our Licence and Authority to act as
Chaplain at the said school within our Diocese and Jurisdiction with duties to
teach the Scriptures and Church doctrine and conduct the Services in the
Chapel or other place approved by us and perform other duties relating to the
Office of Chaplain as required by the Constitutions of the Anglican Church of
Australia and not otherwise (you having duly made and subscribed such
declarations and taken and subscribed such oaths as are required by the said
Constitutions and by Ordinance of the Diocese of Sydney to be subscribed,
made and taken) for a period of not more than _____ years from this day.

And we require that you reside at
Given under the Seal of the See of Sydney which in this behalf is used this
day of in the year of Our Lord One thousand nine
hundred and and of our Consecration the
and of our Translation.

Registered at Sydney the day
and year within written

By me,

Registrar

Archbishop of Sydney

Endnotes

- 1 Amended under the Interpretation Ordinance 1985.
- 2 Amended under the Sydney Church Ordinance Substantial Repeal Ordinance 1990.

KEN BOWDEN
Assistant Diocesan Secretary

MARK PAYNE
Diocesan Secretary

13 March 1998