

# **2019 Session of Synod**

# **Book 2**

(Pages 201 to 397)

**Bills for Ordinances,  
Accompanying Reports  
and  
Principal Legislation**

**Standing Committee of the Synod  
Anglican Church Diocese of Sydney**

# 2019 Bills for Ordinances, Accompanying Reports and Principal Legislation

*The principal legislation is listed in italics.*

## Contents

Page

### Bills for Ordinances

|   |     |
|---|-----|
| Archbishop Election Amendment Ordinance 2019  |     |
| The role of the Archbishop of Sydney (14/18).....   | 203 |
| Bill.....   | 211 |
| <i>Retirements Ordinance 1993</i> .....   | 219 |
| <i>Archbishop of Sydney Election Ordinance 1982</i> .....                                       | 225 |
| Assistant Ministers Ordinance 2017 Amendment Ordinance 2019                                     |     |
| Explanatory Report.....   | 239 |
| Bill.....   | 248 |
| <i>Assistant Ministers Ordinance 2017</i> .....   | 251 |
| Conduct of the Business of Synod Ordinance 2000 Amendment Ordinance 2019                        |     |
| Synod Standing Orders / Synod business rules (40/18) .....                                      | 254 |
| <i>(including Principal Ordinance marked to show proposed amendments)</i>                       |     |
| Bill.....   | 284 |
| General Synod – Lay Assistants at Holy Communion Canon 1973 Repeal and Exclusion Ordinance 2019 |     |
| Explanatory Report.....   | 290 |
| Bill.....   | 293 |
| <i>GS – Lay Assistants at Holy Communion Canon 1973 Adopting Ordinance 1973</i> .....           | 295 |
| <i>Authorisation of Lay Ministry Ordinance 2015</i> .....                                       | 296 |
| Ministry Standards Ordinance 2017 Amendment Ordinance 2019                                      |     |
| Explanatory Report.....   | 299 |
| Bill.....   | 304 |
| <i>Ministry Standards Ordinance 2017</i> .....  | 307 |
| Provincial Synod – Provincial Tribunal Ordinance 2018 Accepting Ordinance 2019                  |     |
| Explanatory Report.....   | 341 |
| Bill.....   | 343 |
| Standing Committee Ordinance 1897 Amendment Ordinance 2019                                      |     |
| Explanatory Report.....   | 345 |
| Bill.....   | 347 |
| <i>Standing Committee Ordinance 1897</i> .....  | 349 |
| Synod Membership Ordinance 1995 Amendment Ordinance 2019  |     |
| Explanatory Report.....   | 355 |
| Bill.....   | 357 |
| <i>Synod Membership Ordinance 1995</i> .....  | 359 |

### Policies proposed to be amended

|   |     |
|---|-----|
| Property Use Policy (47/18) / Statement of Anglican Doctrine of Marriage (8/17) |     |
| Report.....   | 376 |
| <i>Property Use Policy</i> .....  | 383 |
| <i>Governance Policy for Diocesan Organisations</i> .....                       | 387 |

# Archbishop Election Amendment Ordinance 2019

## 14/18 The role of the Archbishop of Sydney

(A report from the Standing Committee.)

### Key Points

- By resolution 14/18, the Synod requested the Standing Committee to bring a Bill to the 2019 session of Synod to amend the *Archbishop of Sydney Election Ordinance 1982* which incorporates the characteristics of the Archbishop of Sydney as expressed in the Doctrine Commission report, 'An Evangelical Episcopate'.
- While reviewing the ordinance, a number of anomalies regarding the timeline of Standing Committee resolving 'that a vacancy be filled' and the date for the first day of Synod were identified. The Bill proposes amendments to address these.
- A number of further changes are proposed in the Bill, notably –
  - Requiring the administration of a Safe Ministry Check to nominees
  - Guiding the tone of speeches on the first day of an election Synod
  - Providing additional flexibility in the retirement date for an Archbishop, allowing up to six months (by special majority resolution of the Standing Committee)
  - Re-ordering of clauses and cleaning up of terminology.

### Purpose

1. The purpose of this report is to address the request of Synod resolution 14/18, while also explaining proposed amendments to the *Archbishop of Sydney Election Ordinance 1982* and the *Retirements Ordinance 1993* proposed in the Bill for the Archbishop Election Amendment Ordinance 2019.

### Recommendations

2. Synod receive this report.
3. Synod pass the Bill for the Archbishop Election Amendment Ordinance 2019.

### Background

4. At its ordinary session in 2018, the Synod noted a report from the Doctrine Commission, 'An Evangelical Episcopate', and passed resolution 14/18 in the following terms –

'Synod expresses its sincere thanks to the Doctrine Commission for preparing the report entitled 'An Evangelical Episcopate' in response to the request made by Synod Resolution 6/15. Synod further agrees to adopt paragraphs 44-50 of the report as the Diocese's definitive statement on the role of the Archbishop of Sydney, as a key reference point for archiepiscopal elections, and requests the Standing Committee to prepare, for consideration at the next session of Synod, a Bill to amend the *Archbishop of Sydney Election Ordinance 1982* which incorporates the characteristics of the Archbishop of Sydney as expressed in paragraphs 44-50 of the report.'

5. At its meeting on 12 November 2018, the Standing Committee noted the terms of the resolution and resolved as follows –

'Standing Committee –

- (a) establishes a committee of 7 members to consider Synod Resolution 14/18 and any other matters relevant to the election of an Archbishop and report to Standing Committee with any recommendations, and
- (b) appoints as members of the committee Dr Robert Tong AM (Chair), Bishop Peter Hayward, Mr Doug Marr, Dr Laurie Scandrett, Dr Claire Smith, the Rev Caitlin Orr and the Rev Gavin Poole.'

## **Discussion**

6. The Committee met twice to consider this matter, and supports the passing of the Bill for the Archbishop Election Amendment Ordinance 2019 (the **Bill**).
7. A number of specific matters related to the consideration of the Bill are addressed below, and attached as Attachment 1 is a clause by clause comparison of the first 8 clauses of the current form of the *Archbishop of Sydney Election Ordinance 1982* (the **Ordinance**), and the form of the Ordinance incorporating the changes proposed in the Bill.

## **Amendment to the *Retirements Ordinance 1993***

8. According to clause 4 of the *Retirements Ordinance 1993*, it is a term of appointment of a person elected as the Archbishop that, subject to clause 5 of that ordinance, such person retires at age 68 years. Clause 5 goes on to provide that such retirement date may be extended to an age not beyond 70 years, by resolution of the Standing Committee passed by a three-quarters majority of members present and entitled to vote in each house of clergy and laity at the relevant meeting (after the Archbishop has reached the age of 65 years).
9. The Bill amends the *Retirements Ordinance 1993* to provide a further extension up to six months to the retirement date of the Archbishop, to allow the Standing Committee more flexibility in establishing the retirement date of an Archbishop. This is desirable so as to more readily allow for an election Synod to be held in the first half of the year, without requiring the Archbishop to resign. Such an extension would require a resolution of the Standing Committee passed by a three-quarters majority of members present and entitled to vote in each house of clergy and laity at the relevant meeting.

## **Amendments to the Preamble and clauses 1-8 of the *Archbishop of Sydney Election Ordinance 1982***

10. The comparison table accompanying this report sets out the amendments proposed in the Bill to clauses 1-8, in comparison with the current form of the Principal Ordinance. The following paragraphs provide context to those changes.

### **Adopting the Statement on the role of the Archbishop**

11. In accordance with the request of the Synod resolution, the Bill incorporates the characteristics of the Archbishop of Sydney as expressed in paragraphs 44-50 of the Doctrine Commission report, 'An Evangelical Episcopate' into the Ordinance. This is accomplished by providing the full text of the paragraphs as a schedule to the Ordinance, and replacing the preamble of the Ordinance with a summary of the paragraphs. The inclusion of these characteristics in the preamble and schedule of the Ordinance, does not have any impact on the requirements in the Ordinal and the service of Consecration of a Bishop.

### **Resignation of an Archbishop and timing of Synod**

12. As a part of the review of the Ordinance, a number of opportunities for improvement were found. These are each discussed briefly below, and addressed in the Bill.

*Declaring the vacancy*

13. Currently, the Ordinance (at clause 2) requires the Standing Committee to ‘resolve that the vacancy be filled in accordance with this Ordinance’ in order to commence the process to elect a new Archbishop. The Bill substitutes this requirement with a declaration of vacancy.

*Resignation with less than three months’ notice*

14. Subclause 2(2) of the Ordinance provides for the circumstance where an Archbishop resigns with notice of more than 14 and less than 20 weeks’ notice. Subclause 2(1) provides for circumstances where there is an existing vacancy in the See of Sydney (presumably upon immediate resignation or incapacity). Whether the resolution is made in accordance with subclause 2(1) or 2(2) impacts the timing of the summons to Synod, the nomination period and the date of the first day of the session of Synod, as set out in clause 5 of the Ordinance.
15. The current provisions of the Ordinance do not contemplate an Archbishop providing less notice than 14 weeks prior to his resignation. In such a circumstance under the current provisions, the Standing Committee would not be able to make a resolution under clause 2 (that the vacancy be filled) until after the resignation had occurred – potentially three months later than the notice given, delaying the summons and the first day of the session of Synod. The current provisions also do not allow the Standing Committee to make a resolution under clause 2 prior to 20 weeks prior to a known resignation or retirement.
16. The Bill contains an amendment to clauses 2 and 5 of the Ordinance to ensure that a declaration of vacancy may be made any time up to a year prior to an expected vacancy, allowing the date of Synod to be set at a suitable time following.

*Appointment of Returning Officers*

17. Currently, the Ordinance requires the Returning Officers to be appointed at least 7 days prior to any resolution made by the Standing Committee in accordance with clause 2 that a vacancy in the office of the Archbishop be filled. Returning Officers are appointed by the Standing Committee, so if this requirement were observed, it may result in delaying the resolution in clause 2 for a month for the sake of appointing Returning Officers. There doesn’t appear to be a reason for this requirement. Accordingly, the Bill proposes that Standing Committee ‘appoint returning officers as soon as practicable’.

*Timeline to the first day of Synod*

18. The amendments proposed to address the notice period issue described above require significant amendment in clause 5 of the Ordinance in order to set suitable boundaries for key dates in the timeline leading to the first day of a session to elect an Archbishop. Additionally, the Ordinance at present allows under one scenario to validly hold an election Synod where there had been less than 1 week of a nomination period. Accordingly, clause 5 has been significantly reworked in order to address these issues.
19. Key considerations in setting dates in the timeline for an election Synod are as follows –
- (a) Notice of a declared vacancy should be sent to Synod members as soon as possible, and a summons should be sent as soon as practicable.
  - (b) The first day of the session should not be held earlier than 14 weeks from the summons. This provides a minimum of an 8 week period in which nominations may be made (the nomination period closes 6 weeks prior to the first day of the session).
  - (c) If there has been a ‘sudden’ vacancy in the See of Sydney (e.g., through immediate resignation or incapacity) a lengthier nomination period may be desired than the circumstance where the date of retirement of an Archbishop has been known for years.
  - (d) The Ordinance needs to provide a suitable range of dates for the first day of the session so as to –
    - (i) accommodate impractical times of year (e.g., Christmas and Easter, and the ordinary session of Synod) and venue availability,
    - (ii) ensure that there is at least three weeks and not more than 20 weeks between the resignation or retirement of an Archbishop and the commencement of a Synod to elect a new Archbishop,

without being so broad as to allow an unhelpfully extended period of time between Archbishops.

- (e) Given the number of factors involved and the complexity of adequately providing for them, the Standing Committee should by overwhelming majority (75% of both houses present and voting) be able to set a date outside of the ranges prescribed in the Ordinance.

20. The Bill contains amendments to clause 5 of the Ordinance addressing each of these issues.

### **Making of nominations**

21. Currently, the Ordinance –

- (a) requires a nomination (form) to be submitted by at least any two members of Synod (current clause 7(1)) (although a person is not deemed to have been nominated “unless one or more nominations signed by not less than 20 members of Synod are received” [clause 7(3)]),
- (b) requires that upon receipt of a nomination (signed by at least two members) the National Register is consulted by the Director of Professional Standards, and
- (c) provides that a notice is not made to Synod members regarding a suitably nominated person until after the close of nominations (current clause 8), being 6 weeks prior to the commencement of the session.

22. The amendments proposed in the Bill provide that –

- (a) any one (rather than two) or more members may make a nomination,
- (b) following the receipt of nominations by ten (rather than two) members, the National Register is to be consulted and also the Safe Ministry Check administered, and
- (c) a notice is made available to Synod members listing the name of a suitably nominated (by 20 members) person, 7 days after a determination is provided to the nominee by the Director of Professional Standards following a National Register and Safe Ministry checks.

### **Suitability of nominees**

23. The Bill includes the requirement that any nominee, having been nominated by 10 nominators must –

- (a) make a declaration of the solemn promises contained in the Second Schedule of this Ordinance, and
- (b) consent to a search being undertaken for information in the National Register in relation to the nominee, and
- (c) complete Safe Ministry Check for the purpose of this nomination.

24. On the basis of the search of the National Register and the results of the Safe Ministry Check, the Director of Professional Standards makes a determination regarding fitness for episcopal ministry which is advised to the nominee. Presuming the nominee does not withdraw, that determination is made available as part of the notification of valid nominees under clause 8, at the close of the nomination period.

### **Ordering of clauses**

25. Some effort has been made to ensure that clauses 1-7 provide a logical sequence, and where possible, existing clause references are retained while eliminating ‘inserted’ subclauses (where for example a clause has subclauses: (1),(2),(2A),(3),(3A), these have been renumbered to remove the ‘A’s).

## **Amendments to clauses 9-45 of the *Archbishop of Sydney Election Ordinance 1982***

### **Order of Business – petitions and tabling of minutes**

26. The Bill, at paragraph 2(2)(f), proposes removing the requirement to table the Minute Book of the Standing Committee, and removing opportunity for petitions to be made on the first day of proceedings. At paragraph 2(2)(g), the Bill proposes removing opportunity for petitions and notices of questions on day two and following. Both proposals are made noting that an election Synod is a

special session of the Synod, having the purpose of electing an Archbishop, rather than dealing with business considered at an ordinary session.

### Announcement as to voting

27. The Bill proposes amendment to clause 14 of the Ordinance, intended to simplify the language used.

### Purpose of the proposer and seconder's speeches

28. The Bill provides a further amendment designed to guide the tone of speeches on the first day of an election Synod. Clause 15 is proposed to be amended to include –

“The purpose of the proposer and seconder's speeches is to promote the characteristics of their candidate.”

### Ballot Procedure

29. The Bill provides a number of amendments to clauses 15A, 16A, 17 and 18, 27 simplifying the language and requirements of the procedure.

### Definitions and terminology

30. The Ordinance repeats several expressions throughout, for which the Bill provides definitions –

- (a) “the person who, on the occurrence of a vacancy in the See of Sydney, is entitled under the Constitutions to exercise the powers vested in the Archbishop” is defined as the “Administrator”,
- (b) “the Archbishop of the See of Sydney” is defined as “the Archbishop”,
- (c) “the specified person referred to in paragraph (d) of clause 5(3)” is defined as the “Nomination Officer”,
- (d) “that date determined in accordance with clause 7(2)(d)” is defined as the “Nomination closing date”,

and the Interpretations clause is moved from the end of the Ordinance to become a new clause 1A.

31. Throughout the Ordinance, subclauses and paragraphs have been referred to in the manner, “paragraph (a) of subclause (2) of clause 3”, rather than the more efficient, “paragraph 3(2)(a)”. The Bill, at paragraphs 2(2)(d) and (e) updates each of these references.

For and on behalf of the Standing Committee.

Daniel Glynn  
**Diocesan Secretary**

29 August 2019

## Archbishop Election Amendment Ordinance 2019 – Comparison table (clauses 1-8)

The following table sets out the material amendments to clauses 1-8 of the *Archbishop of Sydney Election Ordinance 1982* (the **Principal Ordinance**), which would result from passing the Bill for the Archbishop Election Amendment Ordinance 2019 (the **Bill**). The table compares the proposed clause with the equivalent in the Principal Ordinance.

As well as the specific amendments listed in the table, a number of terms are defined in the interpretations clause (new 1A). References within the Principal Ordinance to other subclauses and paragraphs have been updated to the shortened form of reference (e.g., rather than “paragraph (c) of subclause (2)”, it will now read ‘paragraph 2(c)’ etc).

| Proposed clause | Ref. in Principal Ordinance | Comment  |
|-----------------|-----------------------------|--|
| Preamble        | Preamble                    | The former preamble is replaced by a summary reference to an excerpt from the Diocesan Doctrine Commission Report, ‘An Evangelical Episcopate’, with the full excerpt attached as a schedule to the Ordinance. The addition of these paragraphs was the specific request of the Synod.   |
| Clause 1A       | 44                          | Interpretation clause moved from end of ordinance to the beginning, with additional defined terms.   |
| Clause 2        | Clause 2                    | <ul style="list-style-type: none"> <li>In the Principal Ordinance, subclause 1 provides for the situation where the vacancy has occurred without notice (e.g. in the case of a death); subclause 2 provides that the Standing Committee may act within the period 20-14 weeks prior to the vacancy. There is no provision for the Standing Committee to resolve the vacancy be filled between 14 weeks prior to the vacancy, and the vacancy.</li> <li>In the proposed amendments, subclause 2 provides that the Standing Committee will make a ‘declaration of vacancy’, and more flexibility is given as to the timing of this declaration.</li> </ul> |
| 3(1)(a)         | 3(a)                        | The principal ordinance required the Returning Officer and Deputy to be appointed not less than 28 days prior to the date of the summons in cl.5. Clause 5 in turn required the summons to be given within 21 days of the resolution of Synod. This resulted in the Returning Officer and Deputy needing to be appointed at least 7 days prior to the resolution in clause 2; which seemed unnecessary. The proposed amendment simply requires Returning Officer and Deputy to be appointed as soon as practicable following the resolution of the Standing Committee in clause 2.   |
| 3(1)(b)         | –                           | <ul style="list-style-type: none"> <li>The current ordinance at 5(2)(d) required a person to identified “to whom nominations shall be given” and referred to that person by reference to the paragraph and clause throughout. In practice, this person is appointed by the Standing Committee (in 2013, the Diocesan Secretary at the time was appointed).</li> <li>To aid comprehension, the person is assigned a title for the purposes of this election (the “Nomination Officer”)</li> </ul>   |
| -               | 3(1)(b)                     | The Secretary of the Synod will no doubt be informed of the appointment as a matter of course. However, if the notice is required by ordinance, the requirement is likely to be formally overlooked when the Secretary of the Synod is also the Secretary of the Standing Committee (our standard practice) due to its inherent redundancy. So, the Bill removes the formal requirement that the Standing Committee inform the Secretary of Synod (noting that typically, the Secretary of Standing Committee is also the Secretary of the Synod).   |

| <b>Proposed clause</b> | <b>Ref. in Principal Ordinance</b> | <b>Comment</b>  |
|------------------------|------------------------------------|---|
| 3(2)-(4)               | 4                                  | The subclauses defining the functions of the returning officers are moved to be listed under the clause providing their appointment. The terms remain unchanged.  |
| 4                      | 6                                  | Since the Administrative committee would be appointed prior to the summons, it seems best to move it prior to the summons in the ordinance. The terms of the clause remain unchanged.   |
| 5(1)                   | 5(1), 5(1A) and 5(3)               | <p>The only difference between 5(1) and 5(1A) in the Principal Ordinance is that in one circumstance the Archbishop summons, in the other the Administrator summons. The proposed amendment deals with both scenarios in one clause.</p> <p>The proposed amendments also require a notice to be given to members of Synod of a declaration of vacancy within 7 days, and a summons to be sent as soon as practicable.</p> <p>The specifics of the session of Synod are listed at 5(1) rather than 5(3), since 5(1) includes the requirement to issue the summons.</p>   |
| 5(2)                   | 5(2) and 5(2A)                     | <ul style="list-style-type: none"> <li>• The Principal Ordinance allows the Standing Committee to make a resolution under clause 2 prior to a vacancy only if the Archbishop gives 14 weeks' notice. (If the Archbishop decides to resign with 13 weeks' notice, the Standing Committee would need to wait until the vacancy occurred before making a resolution under clause 2).</li> <li>• The Principal Ordinance allows Synod to commence 9 weeks following an 'unplanned' occurrence of vacancy, which may in one scenario allow a Synod to commence having had only a 1 week nomination period. The proposed amendment inserts a clear requirement that the Synod is at least 14 weeks following the date of the summons, which ensures that there are 8 weeks for nominations to be received.</li> <li>• The proposed date range avoids entirely the current confusion of different time periods for different types of resolution made under clause 2 of the Principal Ordinance. Rather, the proposed amendments accommodate the eventualities of an Archbishop giving up to a year's notice of resignation, or immediately vacating his office, and everything in between; allows reasonable time for the Standing Committee to declare a vacancy under clause 2 and the Archbishop or Administrator to issue a Summons; ensuring – <ul style="list-style-type: none"> <li>○ There is always at least 14 weeks between the summons and the 1<sup>st</sup> day of Synod (allowing 8 weeks nomination period)</li> <li>○ There is always at least 3 weeks from the occurrence of the vacancy before the Synod</li> <li>○ The Synod must occur within 20 weeks of the latter of the vacancy or the summons.</li> <li>○ There is always at least a six week range in which Synod may commence (to accommodate holidays, availability of venues, etc)</li> </ul> </li> </ul> |
| 5(3)                   | –                                  | Given that in some circumstances it is reasonable to assume that the ordained period of dates is unsuitable to hold an election Synod (for example, occurring over the Christmas or Easter period, too close to an ordinary session of Synod, no venues available, or other unforeseen circumstance), this suggested clause would allow Standing Committee with an overwhelming majority of both houses to set the commencement of the special session on any date beyond the range specified.  |
| 6                      | 6A                                 | No substantial changes, short of the change of clause number and defined terms.   |
| 7                      | -                                  | Throughout clause 7 & 7A, subheadings are proposed to help understand the flow of nominations.  |

| Proposed clause | Ref. in Principal Ordinance | Comment   |
|-----------------|-----------------------------|---|
| 7(1)            | 7(1)                        | The proposed amendment would allow a valid nomination form to be submitted by one or more members of Synod (rather than two or more, as previous); and the form need not certify the willingness of the nominee to undertake anything (see 7A(1)).  |
| 7A              | -                           | Insertion of clause to more helpfully describe the flow of nomination process – in this clause, describes the work carried out by the Nomination officer and the Director of PSU to administer a nomination.  |
| 7A(1)           | 7(2)(b)                     | The proposed amendments require the Nomination Officer, upon ten or more members having nominated the nominee, to seek confirmations from the nominee directly that he is willing to make declaration, consents to search on National Register, willing to undertake Safe Ministry Check.                   |
| 7A(2)           | 7(2A)                       | The proposed amendment includes current requirement to request the Director of Professional Standards to access the National Register, and adds requirement for –<br>(a) the Director to administer the Safe Ministry Check;<br>(b) the nominee to provide birth, baptism and ordination certificates, etc. |
| 7A(3)           | -                           | The Director of Professional Standards makes a determination regarding fitness for episcopal ministry.  |
| 7A(4)           | 7(4)                        | Renumbering of subclauses.  |
| 7A(5)           | 7(4A)                       | Renumbering of subclauses.  |
| 7A(6)           | -                           | Where a nominee has not withdrawn their name, one week after the result of the Safe Ministry Check, the name of the nominee is added to a public list of nominees, but the Nomination Officer need not alert all Synod members to each addition.  |
| 7B(1)           | 7(5)                        | Renumbering of clauses  |
| 7B(2)           | -                           | Where the nominee has not confirmed willingness for a National Register and Safe Ministry check, they shall be deemed not to have been nominated.   |
| 8               | 8                           | Inserts the requirement (in paragraph 8(c)) that the Administrator of the Diocese forward to each member of the Synod, the determination of the Director of Professional Standards.   |

# Archbishop Election Amendment Ordinance 2019

No , 2019

## Long Title

An Ordinance to amend the *Retirements Ordinance 1993* and the *Archbishop of Sydney Election Ordinance 1982*.

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

### 1. Name

This Ordinance is the Archbishop Election Amendment Ordinance 2019.

### 2. Amendment

(1) The *Retirements Ordinance 1993* is amended by inserting the following new subclause 5(3) –

5           ‘(3) Notwithstanding subclause (1), since it is desirable to hold an election Synod in the first half of the year, a further extension up to six months may be given to the Archbishop, by resolution of the Standing Committee passed by a three-quarters majority of members present and entitled to vote in each house of clergy and laity at the relevant meeting.’, and

10 (2) The *Archbishop of Sydney Election Ordinance 1982* is amended as follows –

(a) delete the matter “Archbishops” in the Long Title and insert instead “an Archbishop”.

(b) delete all the matter contained in the Preamble and insert instead the following –

‘Whereas

15           A. The Diocesan Doctrine Commission presented a report to the 2nd Ordinary Session of the 51st Synod of the Diocese of Sydney entitled ‘An Evangelical Episcopate’ (the Report) in response to the request made by the sixth resolution of the Synod in 2015.

20           B. The Synod of the Diocese of Sydney, by resolution 14 of 2018, adopted paragraphs 44-50 of the Report as the Diocese’s definitive statement on the role of the Archbishop of Sydney, as a key reference point for the election of an Archbishop.

25           C. The Report specifies that the Christian character of the Archbishop is critical to the faithful and effective discharge of this responsibility (appendix, paragraph 7). The report also lists five priorities of the Archbishop, which are set out in full in the appendix –

1. To be a guardian of ‘the faith that was once for all delivered to the saints’.

2. To order the ministry of the Diocese to the gospel of Christ and his mission.

30           3. To exercise pastoral concern and insight as he provides advice and direction for gospel ministry in the Diocese.

4. To represent the Diocese, in various national and international bodies, to the government, and generally to the community.

35           5. To attend diligently to the administration of the Diocese in line with its mission.’

(c) delete all the matter contained in clauses 1 to 8 and insert instead the matter contained in the First Schedule,

(d) in all instances throughout the Ordinance where a subclause is referenced with the format ‘subclause (α) of clause β’ substitute the following format instead – ‘subclause β(α)’,

40 (e) in all instances throughout the Ordinance where a subclause is referenced with the format ‘subclause (α) of this clause’ substitute the following format instead – ‘subclause (α)’,

- (f) delete subclauses 11(1)(f) and (g) (and renumber the existing clauses (h) – (l) as (f) – (j),
- (g) delete subclauses 13(c) and (d) (and renumber the existing clauses (e) – (g) as (c) – (e),
- (h) in the renumbered clause 13(d) delete the words ‘of the See of Sydney’,
- (i) amend clause 14 as follows –
  - 5 (i) delete the words ‘and the number of members of the Synod (being, where applicable, the numbers of the members of each order) who have voted against the motion’ in subclause 14(1) and insert instead the words ‘and against the motion’, and
  - (ii) delete the word ‘analysis’ in subclause 14(2) and insert instead the word ‘result’,
- (j) amend clause 15 as follows –
  - 10 (i) delete the matter ‘(a)-(k) of clause 11(1)’ in subclause 15(1) and insert instead the matter ‘11(1)(a)-(k),’
  - (ii) insert the matter ‘The purpose of the proposer and seconder’s speeches is to promote the characteristics of their candidate.’ after the full stop, and
  - 15 (iii) delete the words ‘order in which the’ and ‘shall be determined by the President by lot’ in subclause (7), and insert the words ‘in alphabetical order’ before the full stop,
- (k) in subclause 15A(1) delete the words ‘as the colour to be used by the order to which that member belongs’ and insert instead ‘members of each order’,
- (l) in clause 16A delete the words ‘as the colour to be used by the order to which that member belongs’ and insert instead the words ‘as the colour to be used by the members of each order’,
- 20 (m) insert the words ‘on the Final List’ in the heading of clause 17 after the word ‘Nominees’,
- (n) insert the words ‘on the Final List’ in the heading of clause 18 after the word ‘Nominees’,
- (o) in subclause 27(1) delete the words ‘of a colour specified by the President as the colour to be used by the order to which that member belongs’ and insert instead the words ‘of a colour specified by the President to be used by the members of each order’,
- 25 (p) delete the words ‘person who is entitled under the Constitutions to exercise the powers vested in the Archbishop’ in subclause 33A(b) and insert instead the word ‘Administrator’,
- (q) delete the words ‘of the See of Sydney’ in subclause 35,
- (r) delete the words ‘of the See of Sydney’ in subclause 37,
- (s) amend clause 40 as follows –
  - 30 (i) delete the words “of Sydney” where they first appear,
  - (ii) delete the words ‘publicly made’ and insert instead the words ‘published on the SDS website, and announced’,
  - (iii) delete the words “Divine Service” and insert instead the words “Public Worship”,
  - (iv) delete the word ‘of’ before ‘has been duly elected’,
  - 35 (v) delete the words ‘this diocese’ and insert instead the word ‘Sydney’, and
  - (vi) delete the words ‘as Archbishop he is also’ and insert instead the word ‘consequently’,
- (t) amend clause 41 as follows –
  - (i) delete the words ‘President, or if the Synod is not then in Session, the Standing Committee’ and insert instead the word ‘Administrator’, and
  - 40 (ii) delete the words ‘give effect to the election as the Synod may direct’ and insert instead the words ‘arrange for the consecration, if applicable, and inauguration of the Archbishop-elect’,
- (u) delete clause 44,
- (v) insert the words ‘on the Final List’ in the First Schedule after the words ‘3 nominees’, and after the words ‘2 nominees’, and
- 45 (w) insert an appendix with the matter found in the Second Schedule of this Ordinance.

## The First Schedule

### Preliminary/Vacancy

#### 1. Citation

This Ordinance may be cited as the “Archbishop of Sydney Election Ordinance 1982”.

#### 1A. Interpretation

In this Ordinance –

“Administrative Committee” means the committee constituted under subclause (1) of clause 6;

“Administrator” means the person who, on the occurrence of a vacancy in the See of Sydney, is entitled under the Constitutions to exercise the powers vested in the Archbishop.

“Archbishop” means the Archbishop of the See of Sydney;

“Constitutions” means the Anglican Church of Australia Constitutions Act, 1902, and the Anglican Church of Australia Constitution Act, 1961;

“Director of Professional Standards” means the person appointed for the time being under clause 101 of the Discipline Ordinance 2006;

“Safe Ministry Check” means the check for clergy prescribed by the Standing Committee under the *Safe Ministry to Children Ordinance 2018*.

“National Register” means the national register within the meaning of the General Synod – National Register Canon 2007 Adopting Ordinance 2008;

“Nomination Officer” means the person appointed by the Standing Committee pursuant to clause 3(b);

“Nomination closing date” means that date determined in accordance with clause 7(2)(d);

“nominee” means a person nominated under clause 7;

“President”, in relation to a meeting of the Synod, means the person presiding at that meeting;

“Standing Committee” means the Standing Committee of the Synod;

“Synod” means the Synod of the Diocese of Sydney.

#### 2. Declaration of Vacancy

(1) Except where the Standing Committee has passed a resolution under subclause (2), the Standing Committee shall, as soon as practicable after the date on which a vacancy occurs in the See of Sydney, declare by resolution that the See is vacant.

(2) The Standing Committee may, at any time within the period of 12 months before the date on which a vacancy shall occur in the See of Sydney, declare by resolution that the See will be vacant from that date.

#### 3. Appointment and Functions of Returning Officers

(1) Where the Standing Committee has passed a resolution under clause 2, it shall as soon as practicable –

(a) appoint a Returning Officer and a Deputy Returning Officer for the purposes of the meeting of the Synod summoned in accordance to clause 5; and

(b) appoint a Nomination Officer to receive nominations for the purposes of filling the vacancy referred to in clause 2.

(2) The Returning Officer appointed under subclause (1) shall exercise and perform all the powers, authorities, duties and functions conferred or imposed on the Returning Officer under this Ordinance.

(3) Where the Returning Officer appointed under subclause (1) is, for any reason, unable to act, the Deputy Returning Officer shall have and shall exercise and perform all the powers, authorities, duties and functions conferred or imposed on the Returning Officer under this Ordinance.

(4) In the exercise and performance of their powers, authorities, duties and functions under this Ordinance, the Returning Officer may, with the approval of the Administrator, have and use the assistance of such persons as the Returning Officer considers necessary.

**4. Administrative Committee**

(1) The Administrator may appoint such members of the Standing Committee as he determines to constitute, under his chairmanship, an Administrative Committee for the purpose of determining and giving effect to administrative matters relating to –

- (a) the convening of the meeting of the Synod; and
- (b) the conduct of the proceedings of the Synod at that meeting.

(2) The Administrative Committee shall not make or give effect to any decision or determination which is inconsistent with the terms of this Ordinance.

**5. Summoning of Synod**

(1) Where a vacancy has been declared under clause 2, the Archbishop, or where a vacancy has occurred, the Administrator, shall, within 7 days after the declaration has been made, inform each member of the Synod of the declaration, and shall as soon as practicable, summon, each member of the Synod to a meeting of the Synod specifying –

- (a) the day and the time on that day on which the meeting of the Synod shall commence;
- (b) the place at which the meeting shall be held;
- (c) instructions for the making of nominations;
- (d) the day, determined in accordance with clause 7, on which nominations of duly qualified persons for the office of Archbishop shall close;
- (e) the name of the Nomination Officer and the place, postal address and email address at which nominations can be delivered for this purpose; and
- (f) such other matters as the person giving the notice thinks fit.

(2) A meeting of the Synod –

- (a) shall be held within the period being –
  - (i) not less than 14 weeks from the date on which the summons is sent, and
  - (ii) not less than 3 weeks and not more than 20 weeks after the latter of –
    - (A) the occurrence of the vacancy; and
    - (B) the date on which the summons is sent;
- (b) may commence on any day of the week; and
- (c) shall be held at a place within the Diocese of Sydney.

(3) Notwithstanding subclause (2) the Standing Committee by 75% majority of both houses present and voting may by resolution determine a date to commence the meeting of Synod that is beyond the ranges specified in paragraph (2)(a).

**6. Report concerning finances of the See**

(1) The Administrator shall, not later than 42 days before the day on which the meeting of the Synod shall commence, cause a report to be prepared concerning the finances of the See and arrange for that report to be sent to the Nomination Officer.

(2) Such report shall include –

- (a) a balance sheet which sets out in detail the assets and liabilities of the Endowment of the See fund together with income and expenditure accounts of the fund for each of the three years immediately preceding such vacancy, and such balance sheet and accounts shall be certified as correct by a duly qualified auditor; and
- (b) a description of the condition of any property to be provided for the residence of the Archbishop.

(3) The Nomination Officer is to send a copy of the report to each person nominated for the office of Archbishop under subclause 7(2).

Nominations

**7. Nominations**

*Making a nomination*

- 5 (1) One or more members of the Synod may, in accordance with subclause (2), nominate any duly qualified person for the office of Archbishop.
- (2) A nomination under subclause (1) must –
- (a) be in writing;
  - (b) be signed by the nominator(s);
  - 10 (c) specify an email address for service of notices on the nominator(s) and a postal and email address for service of notices on the nominee; and
  - (d) be given to the Nomination Officer at the specified place, postal address or email address referred to in clause 5(4)(e) not later than 5.00 pm on the day which is 42 days before the day on which the meeting of the Synod shall commence.

*Nominee to have been nominated by at least 20 members*

- 15 (3) A duly qualified person shall be deemed not to have been nominated to the office of the Archbishop unless one or more nominations signed by not less than twenty members of Synod are received under subclause (2).

**7A. Administering a Nomination**

*Actions upon nomination by ten or more members*

- 20 (1) Upon receiving nominations in accordance with 7(2) from ten or more members of Synod, the Nomination Officer shall forthwith request confirmation in writing from the nominee that he –
- (a) is willing to make a declaration of the solemn promises contained in the Second Schedule of this Ordinance, and
  - 25 (b) consents to a search being undertaken for information in the National Register in relation to the nominee, and
  - (c) is willing to complete a Safe Ministry Check and interview for the purpose of this nomination.
- (2) Upon receiving confirmation in accordance with subclause (1), the Nomination Officer shall forthwith –
- 30 (a) direct the Director of Professional Standards –
    - (i) to access and report to the Nomination Officer any information in the National Register relating to the nominee, and
    - (ii) to arrange to administer a Safe Ministry Check to the nominee, and
  - (b) request copies of the following documents from the nominee –
    - 35 (i) the nominee’s letters of Orders for Deacon, Presbyter, and Bishop as applicable, and
    - (ii) where the nominee is not in episcopal orders, his Birth Certificate and Baptismal Certificate..
- (3) On the basis of the information gathered from the Safe Ministry Check and the National Register, the Director of Professional Standards shall, acting as delegate of the Synod –
- 40 (a) determine whether the nominee is fit for archiepiscopal ministry; and
  - (b) advise the nominee and the Nomination Officer of the determination.

*Actions upon nomination by twenty members*

- 45 (4) Upon a person being nominated to the office of the Archbishop in accordance with subclause 7(3), the Nomination Officer must give the nominee notice in writing –
- (a) of any information in the National Register in relation to the nominee;

- (b) of the determination of the Director of Professional Standards referred to in subclause 7A(3); and
- (c) of the need to disclose this information to the meeting of the Synod, unless the nominee gives notice under subclause 7B(1) that he does not wish to be a nominee for the office of the Archbishop.

(5) A notice under subclause (4) is deemed to have been sufficiently given if sent to the postal or email address for the nominee specified in a nomination under paragraph 7(2)(c).

(6) Seven days following the notice referred to in subclause (4), or as soon as practicable following the Nomination closing date, whichever is sooner, the Nomination Officer shall publish the name of the nominee on the SDS website.

#### **7B. Withdrawing a Nomination**

(1) The nominee may, at any time up to 21 days before the day on which the meeting of the Synod shall commence, give notice in writing to the Nomination Officer that he does not wish to be a nominee for the office of Archbishop; whereupon that person shall be deemed, for the purposes of the remaining clauses of this Ordinance, not to have been nominated for that office.

(2) Where a nominee does not, within seven days of the nomination closing date comply with the commitments made in accordance with 7A(1), that person shall be deemed, for the purposes of the remaining clauses of this Ordinance, not to have been nominated for the office of the Archbishop.

#### **8. List of Nominations**

The Administrator shall, as soon as practicable following the Nomination closing date and not less than 10 days before the day on which the meeting of the Synod shall commence, forward to each member of the Synod –

- (a) a list, in alphabetical order, of the persons nominated showing, in relation to each nominee, the names of all members of the Synod who have nominated that person;
- (b) any information in the National Register relating to each nominee; and
- (c) the determination of the Director of Professional Standards referred to in clause 7A(3)(a).

### **The Second Schedule**

#### **Appendix**

#### **The Contemporary Role of the Archbishop of Sydney**

*The following paragraphs are an extract (originally paragraphs 44-50) from 'An Evangelical Episcopate', a report of the Sydney Diocesan Doctrine Commission, received by the Synod in October 2018.*

1. The biblical principles of oversight or *episkopē*, refracted through this history, have shaped the contemporary role and function of the Archbishop of Sydney. Sydney's episcopate is resolutely evangelical, in keeping with the Diocese it serves, and its archbishops have very largely been pastors and teachers, guardians and representatives of the Protestant faith, and able administrators. However, as Sydney has grown and as the structures of the Diocese and the denomination have developed, legal and institutional responsibilities have become more prominent. Nevertheless, the leadership of the Diocese of Sydney by its Archbishop, though very much personal and so influenced by the personality, gifts and special interests of each incumbent, has developed a discernible character. Our evangelical conviction demands that we ensure that the character of the archiepiscopal office, and by extension the regional bishops who assist him, faithfully reflects the biblical functions and priorities of oversight.

2. The first priority of the Archbishop of Sydney is to be a **guardian** of 'the faith that was once for all delivered to the saints' (Jude 3). This is the priority found in the New Testament and in the Anglican Ordinal. Through public proclamation and defence of the apostolic gospel, by his personal example and in all his pastoral and administrative activity, he is to do all in his power to ensure that the teaching of Scripture shapes and directs the life, ministry and mission of the Diocese. This requires the courage to speak the truth taught in Scripture when it is not popular, but equally to oppose deviation from that truth where it arises. It requires both teaching and the exercise of discipline. It requires making decisions on the basis of theological principles shaped by the biblical gospel. In this way the Archbishop of Sydney will, as Sir Marcus Loane once put it, 'share the heritage and tradition of this diocese, and will interpret it to others, and transmit it to posterity' (*Synod Presidential Address, 1966*).

3. A second priority of the Archbishop of Sydney is to **order the ministry** of the Diocese to the gospel of Christ and his mission. In many ways this is merely an extension of the first priority. Principally this involves the selection and authorisation of appropriate men and women for various ministries within the Diocese. Appointing people of godly character with theological clarity, pastoral sensitivity, and demonstrably in possession of the gifts and skills appropriate for the ministry under consideration, is a prime way the Archbishop can foster the health and gospel-mindedness of the Diocese. However, once again this must extend to dealing appropriately with those whose discharge of the responsibilities entrusted to them has been negligent in some fashion or contrary to the teaching of Scripture. Furthermore, the ordering of ministry to the gospel of Christ also involves encouraging and facilitating the reform of ministries where, for one reason or another, they no longer serve the mission of reaching the lost and building up believers.

4. A third priority is to exercise **pastoral concern and insight** as he provides advice and direction for gospel ministry in the Diocese. This has been the self-understanding of bishops throughout the twentieth century and this expression has been a regular feature in presidential addresses to election synods in the Diocese (Gunther 1909; Kirkby 1933; Barnett 2001; Forsyth 2013). This has not meant the Archbishop is expected to act as pastor to every Anglican in the Diocese, nor even to be the principal 'pastor to the pastors'. Rather, the Archbishop models pastoral care in all his interactions and so helps to encourage throughout the Diocese a commitment to thoughtful, caring relationships in which the spiritual welfare of the other person is of paramount concern.

5. A fourth priority is to **represent the Diocese**, in various national and international bodies, to the government, and generally to the community. As we have seen, this role arises from history rather than directly from the biblical text or the Ordinal. Nevertheless, it is another significant way in which the guardianship of gospel truth and mission is exercised by the Archbishop of Sydney and has been a feature of the office from its inception. This public role requires a humble confidence in the theological convictions and character of the Diocese of Sydney, since *this* is the Diocese that is being represented. In the denominational context, the Archbishop of Sydney ought to be a clear voice for an unambiguously biblical, evangelical Anglicanism, willing to stand alongside all who seek to live and serve in a way that is directed and disciplined by the word of God. In the rapidly changing context of Christian witness in this city and nation it requires a degree of mental agility and apologetic skill to handle opposition and even hostility with grace and humility and yet with the courage to present the truth of Scripture as it bears on the subject at hand.

6. A fifth priority is the **administration** of the Diocese in line with its mission. The diligent attention to administration is not to be seen as a distraction from ministry but rather serving the interests of ministry. The governance, policies and processes of the Diocese ought to facilitate its mission and a proper administration of them will direct them to this end. In a diocese with five assistant bishops, the administrative burden need not fall on the Archbishop alone, or perhaps even principally. One or more of the assistant bishops may be more able in this area and so able to shoulder much of the load. Yet faithful administration is itself a form of guardianship and the reason why bishops and the Archbishop play a key role on boards and committees of the Diocese is to ensure that all its organisations order themselves and their activities by the gospel and the commission we have received from Christ, reflecting the theological ethos and the priorities of the Diocese.

7. Ultimately, what will shape the Archbishop of Sydney more than any other single factor is his personal walk with Christ. His Christian character, his prayerfulness, his faithful obedience to the word of God, his loving care for both the lost and the redeemed, his courageous determination to proclaim the truth and to refute error, and possessing a keen sense of his accountability to the Chief Shepherd (1 Pet 5:4) are critical to the faithful and effective discharge of this responsibility. Under God's good hand, the history of this Diocese is full of bishops and archbishops who were exactly like this and whose ministry has furthered the mission of the gospel, brought blessing to God's people, and honoured the name of Christ.

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

Chair of Committees

I Certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney  
on 2019.

Secretary

I Assent to this Ordinance.

Archbishop of Sydney

/ /2019

# Retirements Ordinance 1993

(Reprinted under the Interpretation Ordinance 1985.)

The Retirements Ordinance 1993 as amended by the Miscellaneous Amendments Ordinance 1995, the Archbishop of Sydney Amendment Ordinance 1997, the Retirements Ordinance 1993 Amendment Ordinance 1999, the Archbishop of Sydney Election Amendment Ordinance 2009, the Archbishop of Sydney (Election and Retirement) Amendment Ordinance 2010, the Clergy Retirements Amendment Ordinance 2010 and the Retirements Ordinance 1993 Amendment Ordinance 2015.

## Table of Provisions

|  |   |
|--|---|
| Clause   |   |
| Part 1 – Citation, Definitions and Application |   |
| 1  | Citation  |
| 2  | Definitions   |
| 3  | Application   |
| Part 2 – Retirement Ages                       |   |
| 4  | Retirement Ages   |
| 5  | Extension of Retirement Age of a Senior Minister                              |
| 6  | Extension of Retirement Ages by the Archbishop                                |
| 7  | Revocation of licence   |
| 8  | After Retirement  |
| Part 3 – Diocesan Retirements Board            |   |
| 9  | Diocesan Retirements Board  |
| 10   | Constitution of the Board   |
| 11   | Appointments to the Board   |
| 12   | Vacancies on the Board  |
| 13   | Filling of Casual Vacancies on the Board                                      |
| 14   | Function of the Board   |
| 15   | Application to the Board  |
| 16   | Application or request for extension for a period not more than 12 months     |
| 17   | Meetings of the Board   |
| 18   | Recommendations of the Board  |
| 19   | Procedures  |
| Part 4 – Transitional                          |   |
| 20   | Membership of the Board   |
| 21   | Extension of Retirement Ages under Sydney Diocesan Retirements Ordinance 1969 |
| 22   | Applications etc made under the Sydney Diocesan Retirements Ordinance 1969    |
| 23   | No application to present Archbishop  |
| Part 5 – General                               |   |
| 24   | Repeal of Sydney Diocesan Retirements Ordinance 1969 etc                      |
| 25   | Amendment of Other Ordinances   |

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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****1. Citation**

This ordinance may be cited as the “Retirements Ordinance 1993”.

**2. Definitions**

In this ordinance unless the context otherwise requires –

“Appeal” means a requirement under clause 16(3).

“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 or provisional parish in the Diocese.

“Request” means a request under clause 15(2).

“Retirement Age” means the age that the person in question must reach in order to qualify for the aged pension under the Social Security Act 1947 or any legislation succeeding that Act.

*Note: By 1 July 2013 the qualifying age for the aged pension for women will have progressively risen from 60 to 65. The qualifying age for both men and women will be increased by 6 months every 2 years starting from 1 July 2017 up to 1 July 2023, when the qualifying age for both men and women will reach 67.*

“Senior Minister” means –

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

**3. Application**

(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,

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****4. Retirement Ages**

(1) It is a term of the appointment or licensing of a Minister (other than the Archbishop) appointed or licensed after 16 October 1969 that, subject to clauses 5 and 6, such person retires at the Retirement Age.

(2) It is a term of appointment of a person elected as the Archbishop that, subject to clause 5, such person retires at age 68 years.

**5. Extension of Retirement Age of a Senior Minister**

(1) The age at which a Senior Minister to whom clause 4 applies retires may be extended to an age not beyond 70 years –

- (a) in the case of the Archbishop, by resolution of the Standing Committee passed –

- (i) by a three-quarters majority of members present and entitled to vote in each house of clergy and laity at the relevant meeting; and
  - (ii) after the Archbishop has reached the age of 65 years;
  - (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.
- (2) If the Archbishop is appointed Primate of the Anglican Church of Australia the age at which that Archbishop retires is extended until age 70 years.

#### **6. Extension of Retirement Ages by the Archbishop**

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

#### **7. Revocation of licence**

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 Retirement Age 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.

#### **8. After Retirement**

A Minister who has reached the Retirement Age may be licensed to such position in the Diocese as the Archbishop may determine provided that the terms of the licence are such that, after giving the Minister opportunity to show cause, it may be revoked upon not less than 30 days notice being given to the Minister.

### Part 3 – Diocesan Retirements Board

#### **9. Diocesan Retirements Board**

The Diocesan Retirements Board is established.

#### **10. Constitution of the Board**

The Board consists of –

- (a) a chairman and a deputy chairman each of whom must be an Assistant Bishop nominated by the Archbishop;
- (b) five Ministers; and
- (c) five lay members, each of whom must be a communicant member of the Anglican Church of Australia.

#### **11. Appointments to the Board**

(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 Retirement Age is not eligible to be appointed a member of the Board.

(4) A person who is proposed or nominated to be appointed as a lay member of the Board must prior to the person's appointment make the following declaration –

“I declare that I am a communicant member of the Anglican Church of Australia.”.

#### **12. Vacancies on the Board**

A member of the Board vacates office –

- (a) upon attaining the Retirement Age;
- (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 hold the Archbishop's licence; or
- (e) in the case of a lay member, if the member ceases to be a communicant member of the Anglican Church of Australia.

### **13. Filling of Casual Vacancies on the Board**

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

### **14. Function of the Board**

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.

### **15. Application to the Board**

- (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.

### **16. Application or request for extension for a period not more than 12 months**

- (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.

### **17. Meetings of the Board**

- (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 Minister'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.

#### **18. Recommendations of the Board**

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

#### **19. Procedures**

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

#### **20. Membership of the Board**

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.

#### **21. Extension of Retirement Age under Sydney Diocesan Retirements Ordinance 1969-1985**

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.

#### **22. Applications etc made under the Sydney Diocesan Retirements Ordinance 1969-1985**

- (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.

#### **23. No application to present Archbishop**

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

#### **24. Repeal of Sydney Diocesan Retirements Ordinance 1969-1985 etc**

The Former Board is dissolved and the Former Ordinance repealed.

#### **25. Amendment of Other Ordinances**

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

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#### **Table of Amendments**

|          |  |
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| Clause 2 | Amended by Ordinances Nos 24, 1995; 41, 1999 and 26, 2010.           |
| Clause 4 | Amended by Ordinances Nos 25, 2010 and 26, 2010.                     |
| Clause 3 | Amended by Ordinance No 32, 2015.                                    |
| Clause 5 | Amended by Ordinances Nos 41, 1997; 26, 2009; 25, 2010 and 26, 2010. |

- Clause 6 Amended by Ordinance No 26, 2010.
- Clause 7 Amended by Ordinance No 26, 2010.
- Clause 8 Amended by Ordinances Nos 26, 2010 and 32, 2015.
- Clause 10 Amended by Ordinances Nos 41, 1999 and 26, 2010.
- Clause 11 Amended by Ordinances Nos 41, 1999 and 26, 2010.
- Clause 12 Amended by Ordinances Nos 41, 1999 and 26, 2010.



# Archbishop of Sydney Election Ordinance 1982

(Reprinted under the Interpretation Ordinance 1985.)

The Archbishop of Sydney Appointment Ordinance 1982 as amended by and in accordance with the Archbishop of Sydney Appointment Ordinance 1982 Amendment Ordinance 1993, the Archbishop of Sydney Appointment Ordinance 1997, the Miscellaneous Amendments Ordinance 1999, the Archbishop of Sydney Appointment Ordinance 1982 Amendment Ordinance 2001, the Archbishop of Sydney Appointment Ordinance 1982 Further Amendment Ordinance 2001, the Archbishop of Sydney Election Amendment Ordinance 2009, the Archbishop of Sydney (Election and Retirement) Amendment Ordinance 2010, the Archbishop of Sydney (Solemn Promises) Amendment Ordinance 2011, the Solemn Promises Ordinance 2011 Amending Ordinance 2013, the Archbishop of Sydney Election Ordinance 1982 Amendment Ordinance 2013, the Synod (Electronic Communications) Amendment Ordinance 2013 and the Conduct of the Business of Synod Ordinance 2000 Amendment Ordinance 2014.

## Table of Provisions

|                              |  |
|------------------------------|--|
| Clause                       |  |
| Preliminary/Vacancy          |  |
| 1                            | Citation   |
| 2                            | Resolution that Vacancy be filled  |
| 3                            | Appointment of Returning Officers  |
| 4                            | Functions of Returning Officers  |
| 5                            | Summoning of Synod   |
| 6                            | Administrative Committee   |
| 6A                           | Report concerning finances of the See                                      |
| Nominations                  |  |
| 7                            | Nominations  |
| 8                            | List of Nominations  |
| 9                            | Determination of Proposer and Seconder                                     |
| Proceedings of Synod         |  |
| 10                           | Right of Reply   |
| 11                           | Order of Business – First Day  |
| 12                           | Proceedings held in private  |
| 13                           | Order of Business – Second Day and Subsequent Days                         |
| 14                           | Announcement as to Voting  |
| Select List                  |  |
| 15                           | Reduction of List of Nominations and Compilation of Select List            |
| 15A                          | Ballot Procedure   |
| Final List                   |  |
| 16                           | Reduction of Select List and Compilation of Final List                     |
| 16A                          | Ballot Procedure   |
| 17                           | Where Motion carried in respect of less than 3 Nominees                    |
| 18                           | Where Motion carried in respect of more than 3 Nominees                    |
| 19                           | More than 5 Nominees   |
| 20                           | 5 Nominees   |
| 21                           | 4 Nominees   |
| 22                           | Procedures in event of equality of votes                                   |
| 23                           | Order of Placement of Names on Final List                                  |
| Final Selection of a Nominee |  |
| 24                           | One Nominee on Final List  |
| 25                           | Final List of 2 or 3 Nominees  |
| 26                           | Limitation of Speeches   |
| 27                           | Printing and Distribution of Ballot Papers                                 |
| 28                           | Voting   |
| 29                           | Method of Counting Votes   |
| 30                           | Failure of Either of 2 Nominees to Obtain Absolute Majority on First Count |
| 31                           | Failure of Any of 3 Nominees to Obtain Absolute Majority on First Count    |
| 32                           | Consequences of Certain Ballots  |

|   |   |
|---|---|
| 33  | Proceedings on Resumption After Adjournment             |
| 33A   | Starting the Nomination Process again after Adjournment |
| Offer, Acceptance, Confirmation etc           |   |
| 34  | Confirmation of Election                                |
| 35  | Commencement in Office                                  |
| 36  | Refusal of or Delay in Confirmation                     |
| 37  | Provision Against Deadlock                              |
| 38  | Failure of Nominee to Accept Election, etc              |
| 39  | Failure to Fill Vacancy for Other Cause                 |
| 40  | Declaration of Election                                 |
| 41  | Proceedings after Declaration of Election               |
| Interpretation, Repeals, Saving Provision etc |   |
| 42  | Application of Other Ordinances                         |
| 43  | Manner of Dealing with Certain Circumstances            |
| 44  | Interpretation  |
| 45  | Repeals   |
| The First Schedule                            |   |
| The Second Schedule                           |   |

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**Long Title**

An Ordinance to provide for the election of Archbishops to the Metropolitan See of Sydney.

**Preamble**

Whereas

A. By resolution No 7 of 1982, the Synod of the Diocese of Sydney expressed its belief that the Archbishop of Sydney Appointment Ordinance 1962 was unnecessarily obscure and was understood to contain many deficiencies and the Synod requested the Standing Committee of the Synod, among other things, to bring, if appropriate, amending legislation to the next session of Synod.

B. The Standing Committee has complied with the request.

Now the Standing Committee of the Synod of the Diocese of Sydney in the name and place of the said Synod Hereby Ordains Declares Directs and Rules as follows.

**Preliminary/Vacancy**

**1. Citation**

This Ordinance may be cited as the “Archbishop of Sydney Election Ordinance 1982”.

**2. Resolution that Vacancy be filled**

(1) Except where the Standing Committee has passed a resolution under subclause (2) of this clause, the Standing Committee shall, as soon as practicable after the date on which a vacancy occurs in the See of Sydney, resolve that the vacancy be filled in accordance with this Ordinance.

(2) The Standing Committee may, at any time within the period no sooner than 20 weeks and no later than 14 weeks before the date on which a vacancy shall occur in the See of Sydney, resolve that the vacancy be filled in accordance with this Ordinance.

**3. Appointment of Returning Officers**

Where the Standing Committee has passed a resolution under subclause (1) or (2) of clause 2, it shall –

- (a) not less than 28 days prior to the date upon which a meeting of the Synod is summoned under clause 5, appoint a Returning Officer and a Deputy Returning Officer for the purposes of that meeting; and
- (b) inform the Secretary of Synod of the appointments.

**4. Functions of Returning Officers**

(1) The Returning Officer appointed under clause 3 shall exercise and perform all the powers, authorities, duties and functions conferred or imposed on the Returning Officer under this Ordinance.

(2) Where the Returning Officer appointed under clause 3 is, for any reason, unable to act, the Deputy Returning Officer shall have and shall exercise and perform all the powers, authorities, duties and functions conferred or imposed on the Returning Officer under this Ordinance.

(3) In the exercise and performance of his powers, authorities, duties and functions under this Ordinance, the Returning Officer may, with the approval of the President, have and use the assistance of such persons as the Returning Officer considers necessary.

#### **5. Summoning of Synod**

(1) Where the Standing Committee has passed a resolution under subclause (1) of clause 2, the person who, on the occurrence of a vacancy in the See of Sydney, is entitled under the Constitutions to exercise the powers vested in the Archbishop shall, within 21 days after the passing of the resolution, summon, by notice in writing given, so far as is possible, to each member of the Synod, a meeting of the Synod in order to fill the vacancy.

(1A) Where the Standing Committee has passed a resolution under subclause (2) of clause 2, the Archbishop shall, within 21 days after the passing of the resolution, summon, by notice in writing given, so far as is possible, to each member of the Synod, a meeting of the Synod in order to fill the vacancy.

(2) A meeting of the Synod summoned under subclause (1) of this clause –

- (a) shall be held within the period being not less than 9 weeks and not more than 16 weeks after the occurrence of the vacancy;
- (b) may commence on any day of the week; and
- (c) shall be held at a place within the Diocese of Sydney.

(2A) A meeting of the Synod summoned under subclause (1A) of this clause –

- (a) shall be held within the period being not less than 3 weeks and not more than 6 weeks after the occurrence of the vacancy;
- (b) may commence on any day of the week; and
- (c) shall be held at a place within the Diocese of Sydney.

(3) The notice referred to in subclause (1) or (1A) of this clause shall specify –

- (a) the day and the time on that day on which the meeting of the Synod shall commence;
- (b) the place at which the meeting shall be held;
- (c) the day, determined in accordance with clause 7, on which nominations of duly qualified persons for the office of Archbishop of the See of Sydney shall close;
- (d) the person to whom nominations shall be given and the place, postal address or email address at which nominations can be delivered for this purpose; and
- (e) such other matters as the person giving the notice thinks fit.

#### **6. Administrative Committee**

(1) The person who, on the occurrence of a vacancy in the See of Sydney, is entitled under the Constitutions to exercise the powers vested in the Archbishop may appoint such members of the Standing Committee as he determines to constitute, under his chairmanship, an Administrative Committee for the purpose of determining and giving effect to administrative matters relating to –

- (a) the convening of the meeting of the Synod; and
- (b) the conduct of the proceedings of the Synod at that meeting.

(2) The Administrative Committee shall not make or give effect to any decision or determination which is inconsistent with the terms of this Ordinance.

#### **6A. Report concerning finances of the See**

(1) The person who, on the occurrence of a vacancy in the See of Sydney, is entitled under the Constitutions to exercise the powers vested in the Archbishop shall, not later than 42 days before the day on which the meeting of the Synod shall commence, cause a report to be prepared concerning the finances of the See and arrange for that report to be sent to the specified person referred to in paragraph (d) of clause 5(3).

(2) Such report shall include –

- (a) a balance sheet which sets out in detail the assets and liabilities of the Endowment of the See fund together with income and expenditure accounts of the fund for each of the three years immediately preceding such vacancy, and such balance sheet and accounts shall be certified as correct by a duly qualified auditor; and
- (b) a description of the condition of any property to be provided for the residence of the Archbishop.

(3) The specified person referred to in paragraph (d) of clause 5(3) is to send a copy of the report to each person nominated for the office of Archbishop of the See of Sydney under clause 7.

### Nominations

#### **7. Nominations**

(1) Any 2 or more members of the Synod may, in accordance with subclause (2) of this clause, nominate any duly qualified person for the office of Archbishop of the See of Sydney.

(2) A nomination under subclause (1) of this clause must –

- (a) be in writing;
- (b) be signed by the nominators;
- (c) contain a certification from at least one of the nominators that the nominee would be willing to make a declaration of the solemn promises contained in the Second Schedule of this Ordinance; and
- (d) contain a certification from at least one of the nominators that the nominee has consented to a search being undertaken for information in the National Register in relation to the nominee;
- (e) specify an email address for service of notices on the nominators and a postal and email address for service of notices on the nominee; and
- (f) be given to the specified person at the specified place, postal address or email address referred to in paragraph (d) of clause 5(3) not later than 5.00 pm on the day which is 42 days before the day on which the meeting of the Synod shall commence.

(2A) Upon being given a nomination, the specified person referred to in paragraph (d) of clause 5(3) is to forthwith direct the Director of Professional Standards to access any information in the National Register relating to the nominee.

(3) A duly qualified person shall be deemed not to have been nominated to the office of the Archbishop of the See of Sydney unless one or more nominations signed by not less than 20 members of Synod are received under subclause (2).

(4) Upon a person being nominated to the office of the Archbishop of the See of Sydney, the specified person referred to in paragraph (d) of clause 5(3) must give the nominee notice in writing that he is a nominee for that office. The notice must also inform the nominee –

- (a) whether there is any information in the National Register in relation to the nominee, and, if so, what information; and
- (b) that unless the nominee gives notice under subclause (5) that he does not wish to be a nominee for the office of the Archbishop of the See of Sydney, any such information will be disclosed to the meeting of the Synod.

(4A) A notice under subclause (4) is deemed to have been sufficiently given if sent to the postal or email address for the nominee specified in a nomination under subclause (2) and if there are one or more different addresses so specified, notice shall be sufficiently given if sent to one of those addresses.

(5) The nominee may, at any time up to 21 days before the day on which the meeting of the Synod shall commence give notice in writing to the specified person at the specified place, postal address or email address referred to in paragraph (d) of clause 5(3) that he does not wish to be a nominee for the office of Archbishop of the See of Sydney whereupon that person shall be deemed, for the purposes of the remaining clauses of this Ordinance, not to have been nominated for that office.

#### **8. List of Nominations**

The person who, on the occurrence of a vacancy in the See of Sydney, is entitled under the Constitutions to exercise the powers vested in the Archbishop shall, after the close of nominations and not less than 10 days before the day on which the meeting of the Synod shall commence, forward, so far as is possible, to each member of the Synod –

- (a) a list, in alphabetical order, of the persons nominated showing, in relation to each such person, the names of all members of the Synod who have nominated that person, and
- (b) any information in the National Register relating to each nominee.

#### **9. Determination of Proposer and Seconder**

(1) The nominators of a nominee must –

- (a) determine, among themselves if need be, by a majority, in relation to each stage in the proceedings under this Ordinance, who shall propose and second the nomination at that stage; and
  - (b) notify the Secretary of the Synod of their determination within sufficient time to enable the name of the proposer and seconder to be included in the appropriate day's business paper.
- (2) Where the nominators of a nominee are unable to make a determination referred to in subclause (1) of this clause in respect of any stage, the President shall select, from among those nominators, the proposer and seconder of the nomination in respect of that stage.
- (3) Nothing in this clause prevents the Synod from granting leave to any member of the Synod to propose or second the nomination of a nominee at any stage in the proceedings under this Ordinance, notwithstanding that –
- (a) the member did not nominate the nominee under clause 7; or
  - (b) the member is not a member notified under paragraph (b) of subclause (1) of this clause or selected under subclause (2) of this clause.

### Proceedings of Synod

#### **10. Right of Reply**

Where a motion is proposed under this Ordinance and any other member of the Synod (not being the seconder of the motion) speaks in respect of the motion, the proposer shall, after all speeches have been made in respect of that motion, have the right of reply.

#### **11. Order of Business – First Day**

- (1) The order of business for the first day of the meeting of the Synod shall be as follows –
- (a) The List of Clergy summoned to the Synod shall be laid upon the table by the President.
  - (b) The List of Representatives shall be laid upon the table by the President, and those who have not presented their Certificates of Election, and signed the Declaration shall then do so.
  - (c) The President shall, subject to subclause (2), deliver his address.
  - (d) The President may lay upon the table a document appointing a Commissary.
  - (e) Motions for the election of –
    - (i) A Chairman of Committees.
    - (ii) A Deputy Chairman of Committees.
    - (iii) A Committee of Elections and Qualifications.
    - (iv) A Committee for the purpose of checking and, if agreed, certifying the minutes of each meeting other than a meeting of the Committee of the Whole Synod.
  - (f) The Minute Book of the Standing Committee shall be laid upon the table.
  - (g) Petitions.
  - (h) Notices of Questions.
  - (i) Notices of Motions.
  - (j) Motions in connection with the formal reception and printing of Reports, Accounts and other documents.
  - (k) Motions by request of the Standing Committee with respect to the proceedings under this Ordinance.
  - (l) The Synod shall then proceed in accordance with clause 15.
- (2) If the President is a nominee, the person who is next entitled to preside at the meeting and who –
- (a) is present at the meeting of the Synod, and
  - (b) is not a nominee,

shall deliver the President's address instead of the President.

- (3) The person who is required under this Ordinance to deliver the President's address may not invite or request another person to give the President's address.

#### **12. Proceedings held in private**

At the conclusion of the President's address, the public shall be excluded and shall continue to be excluded until the meeting of the Synod ends.

**13. Order of Business – Second and Subsequent Days**

The order of business for the second and subsequent days of the meeting of the Synod shall be as follows –

- (a) The Minutes of the previous day's proceedings shall be read and signed as a correct record or otherwise dealt with in accordance with any resolution passed at the meeting of the Synod.
- (b) Questions.
- (c) Petitions.
- (d) Notices of Questions.
- (e) Notices of Motions.
- (f) The continuation of the procedure determined in accordance with this Ordinance for the election of a person to the office of Archbishop of the See of Sydney.
- (g) Motions according to the order of notice or in the order determined by the Administrative Committee.

**14. Announcement as to Voting**

(1) Immediately after each vote on a motion by show of hands is taken under this Ordinance, the President shall announce the result of the vote together with the number of members of the Synod (being, where applicable, the numbers of members of each order) who have voted for and the number of members of the Synod (being, where applicable, the numbers of the members of each order) who have voted against the motion.

(2) After each ballot is taken under this Ordinance, the Returning Officer shall hand to the President his record of the counting in respect of the ballot and the President shall announce the analysis appearing in the record.

Select List

**15. Reduction of List of Nominations and Compilation of Select List**

(1) After the items of business referred to in paragraphs (a)-(k) of clause 11(1) have been dealt with, each nominee shall be proposed and seconded in the order in which his name appears on the list of nominations referred to in clause 8.

(2) After a nominee has been proposed and seconded, the President shall ask whether any member of the Synod wishes to speak against the nomination and each member of the Synod who wishes so to speak may, unless the Synod otherwise determines, address the Synod accordingly.

(3) Where a member of the Synod speaks against a nomination, the President shall ask whether any member of the Synod wishes to speak in respect of that nomination and each member of the Synod who wishes so to speak may, unless the Synod otherwise determines, address the Synod accordingly.

(4) Where –

- (a) speeches in respect of the nominee whose name last appears on the list of nominations referred to in clause 8 have concluded; or
- (b) no member of the Synod wishes to speak against that nomination,

the President shall, unless the Synod otherwise determines, put the following motion to the Synod in respect of each nominee whose name appears on that list of nominations –

“That the name of (A.B.) be placed upon the Select List.”.

(5) A vote on each of the motions put to the Synod under subclause (4) shall be taken simultaneously by a secret ballot in each order of the members of the Synod then present, the lay members of the Synod voting first, in accordance with clause 15A.

(6) If a majority of either order of the members of the Synod then present and voting vote in favour of the motion in respect of a nominee, the name of that nominee shall be placed on the Select List.

(7) The order in which the names of the nominees shall be placed upon the Select List shall be determined by the President by lot.

(8) The President shall announce to the Synod the names which have been placed upon the Select List and the order in which they have been so placed.

(9) If no nominee receives a majority of votes in either order of the members of the Synod then present and voting, the Synod shall adjourn and the nomination process shall start again pursuant to clause 33A.

**15A. Ballot Procedure**

- (1) Each member of the Synod then present shall be given a separate ballot paper for each motion referred to in subclause (4) of clause 15 of a colour specified by the President as the colour to be used by the order to which that member belongs.
- (2) A ballot paper referred to in subclause (1) shall be –
  - (a) printed with the name of the nominee referred to in the motion; and
  - (b) printed with two squares opposite the name of the nominee with the word “Yes” above one square and the word “No” above the other.
- (3) On receipt of a ballot paper, a member of the Synod shall record his or her vote by marking the box under the word “Yes” if the member wants the name of the nominee to be placed on the Select List or by marking the box under the word “No” if the member does not want the name of the nominee to be placed on the Select List.

Final List

**16. Reduction of Select List and Compilation of Final List**

- (1) After compilation of the Select List in accordance with clause 15, each nominee whose name appears on the Select List shall be proposed and seconded in the order in which his name appears upon that List.
- (2) After a nominee has been proposed and seconded, the President shall ask whether any member of the Synod wishes to speak in respect of the nomination and each member of the Synod who wishes so to speak may, unless the Synod otherwise determines, address the Synod accordingly.
- (3) Where –
  - (a) speeches in respect of the nominee whose name last appears on the Select List have concluded; or
  - (b) no member of the Synod wishes to speak against that nomination,the President shall, unless the Synod otherwise determines, put the following motion to the Synod in respect of each nominee whose name appears on the Select List –

“That the name of (A.B.) be placed upon the Final List.”.
- (4) A vote on each of the motions put to the Synod under subclause (3) shall be taken simultaneously by a secret ballot in each order of the members of the Synod then present, the lay members of the Synod voting first, in accordance with clause 16A.
- (5) If a majority of each order of the members of the Synod then present and voting vote in favour of the motion in respect of a nominee, the name of that nominee shall be placed on the Final List.

**16A. Ballot Procedure**

- (1) Each member of the Synod then present shall be given a separate ballot paper for each motion referred to in subclause (3) of clause 16 of a colour specified by the President as the colour to be used by the order to which that member belongs.
- (2) A ballot paper referred to in subclause (1) shall be –
  - (a) printed with the name of the nominee referred to in the motion; and
  - (b) printed with two squares opposite the name of the nominee with the word “Yes” above one square and the word “No” above the other.
- (3) On receipt of a ballot paper, a member of the Synod shall record his or her vote by marking the box under the word “Yes” if the member wants the name of the nominee to be placed on the Final List or by marking the box under the word “No” if the member does not want the name of the nominee to be placed on the Final List.

**17. Where Motion carried in respect of less than 3 Nominees**

- (1) Where –
  - (a) there were 3 or more nominees on the Select List; and
  - (b) the motion put under subclause (3) of clause 16 is carried with respect to less than 3 nominees,the President shall, without further debate, again put the motion under subclause (3) of clause 16 to the Synod in respect of each nominee whose name was on the Select List but was not placed upon the Final List.

(2) A vote on a motion put as referred to in subclause (1) shall be taken by a secret ballot and the provisions of subclauses (4) and (5) of clause 16 and clause 16A apply to that ballot.

(3) If a majority of both orders of the members of the Synod then present and voting vote in favour of the motion in respect of a nominee, the name of that nominee shall be placed upon the Final List.

(4) Where there were 1 or 2 nominees on the Select List, the name of a nominee shall be placed on the Final List if a majority of both orders of the members of the Synod then present and voting vote in favour of the motion in respect of the nominee put under subclause (3) of clause 16.

(5) If no nominee on the Select List receives a majority of votes in both orders of the members of the Synod then present and voting, for the purpose of determining the course of action the Synod shall pursue, the President shall forthwith and without debate, put the following motions in the following order –

(a) That a further vote on the motion under clause 16(3) be taken by secret ballot in respect of each nominee on the Select List using the procedure under clause 16A.

(b) That the Synod adjourn and that the nomination process start again pursuant to clause 33A.

### **18. Where Motion carried in respect of more than 3 Nominees**

Where –

(a) the motion put under subclause (3) of clause 16 is carried with respect of more than 3 nominees; or

(b) pursuant to clause 17, there are more than 3 nominees on the Final List,

a ballot or series of ballots shall without further debate be taken in accordance with clause 19, 20 or 21, as the case may require, so as to reduce the nominees on the Final List to 3.

### **19. More than 5 Nominees**

(1) Where –

(a) the motion put under subclause (3) of clause 16 is carried with respect to more than 5 nominees; or

(b) pursuant to clause 17, there are more than 5 nominees on the Final List,

each member of the Synod then present shall be given 3 ballot papers, each of which is distinguishable from the others.

(2) On the first ballot, each member of the Synod then present and voting shall write on the ballot paper nominated by the President, in the order in which they appear on the Select List, the names of the 5 nominees whom he or she wishes to remain upon the Final List.

(3) The nominees in excess of 5 who receive the lowest number of votes after the votes of both orders of the members of the Synod have been added together shall be excluded.

(4) On the second ballot, each member of the Synod then present and voting shall write on the ballot paper nominated by the President, in the order in which they appear on the Select List, the names of the 4 nominees whom he or she wishes to remain upon the Final List.

(5) The nominee who receives the lowest number of votes after the votes of both orders of the members of the Synod have been added together shall be excluded.

(6) On the third ballot, each member of the Synod then present and voting shall write on the remaining ballot paper, in the order in which they appear on the Select List, the names of the 3 nominees whom he or she wishes to remain upon the Final List.

(7) The nominee who receives the lowest number of votes after the votes of both orders of the members of the Synod have been added together shall be excluded.

### **20. 5 Nominees**

(1) Where –

(a) the motion put under subclause (3) of clause 16 is carried with respect of 5 nominees; or

(b) pursuant to clause 17, there are 5 nominees on the Final List,

each member of the Synod then present shall be given two ballot papers, each of which is distinguishable from the other.

(2) On the first ballot, each member of the Synod then present and voting shall write, on the ballot paper nominated by the President, in the order in which they appear upon the Select List, the names of the 4 nominees whom he or she wishes to remain upon the Final List.

- (3) The nominee who receives the lowest number of votes after the votes of both orders of the members of the Synod have been added together shall be excluded.
- (4) On the second ballot, each member of the Synod then present and voting shall write, on the remaining ballot paper, in the order in which they appear upon the Select List, the names of the 3 nominees whom he or she wishes to remain upon the Final List.
- (5) The nominee who receives the lowest number of votes after the votes of both orders of the members of the Synod have been added together shall be excluded.

**21. 4 Nominees**

- (1) Where –
- (a) the motion put under subclause (3) of clause 16 is carried with respect of 4 nominees; or
  - (b) pursuant to clause 17, there are 4 nominees on the Final List,
- each member of the Synod then present shall be given a ballot paper.
- (2) On the ballot, each member of the Synod then present and voting shall write, in the order in which they appear upon the Select List, the names of the 3 nominees whom he or she wishes to remain upon the Final List.
- (3) The nominee who receives the lowest number of votes after the votes of both orders of the members of the Synod have been added together shall be excluded.

**22. Procedure in event of equality of votes**

- (1) Where, pursuant to a ballot under clause 19, 20 or 21, 2 or more nominees receive an equal number of votes and one or more of them is to be excluded, the President shall, without debate, call on each member of the Synod then present to express his or her preference among those nominees who have received an equal number of votes by voting for only 1 of those nominees, being the nominee whose name he or she wishes to remain upon the Final List. This clause shall not apply where the number of nominees who receive an equal number of votes is fewer than the number of nominees to be excluded.
- (2) A vote in respect of each nominee to whom subclause (1) of this clause applies by show of hands shall be taken of the members of the Synod then present and voting as a whole.
- (3) The nominee or nominees, as the case may require, who receives or receive the lowest number of votes after a vote is taken under subclause (2) of this clause shall be excluded.
- (4) If two or more nominees again receive an equal number of votes those nominees shall be excluded.

**23. Order of Placement of Names on Final List**

- (1) Where, pursuant to clause 16, 17, 18, 19, 20, 21 or 22, a nominee is placed upon or remains upon the Final List, the order in which his name shall be placed upon the Final List shall be determined by the President by lot.
- (2) The President shall announce to the Synod the names which have been placed upon the Final List and the order in which they have been so placed.

Final Selection of a Nominee

**24. One Nominee on Final List**

- (1) Where the name of only 1 nominee has, in accordance with this Ordinance, been placed upon the Final List, the President shall put the following motion to the Synod –
- “That (A.B.) be invited to be Archbishop of Sydney.”
- (2) A vote on the motion by show of hands shall be taken in each order of the members of the Synod then present, the lay members of the Synod voting first.
- (3) If a majority of both orders of the members of the Synod then present and voting vote in favour of the motion, the President shall declare (A.B.) duly elected to the office of Archbishop of Sydney.
- (4) If a majority of both orders of the members of the Synod then present and voting do not vote in favour of the motion, for the purpose of determining the course of action the Synod shall pursue, the President shall, forthwith and without debate, put the following motions in the following order –
- (a) That a further vote on the motion be taken by secret ballot using the procedure under clause 16A.
  - (b) That the Synod adjourn and that the nomination process start again pursuant to clause 33A.

**25. Final List of 2 or 3 Nominees**

- (1) Where, pursuant to clause 16, 17, 18, 19, 20, 21 or 22, the names of 2 or 3 nominees have been placed upon or remain upon the Final List, each nominee shall be proposed and seconded in the order in which his name appears upon the Final List.
- (2) After all nominees have been proposed and seconded, the President shall ask whether any member of the Synod wishes to speak in respect of any nomination and each member of the Synod who wishes so to speak may, unless the Synod otherwise determines, address the Synod accordingly.
- (3) When speeches in respect of the nominations have concluded, the Synod shall adjourn to the following day or a later day determined by the Synod.

**26. Limitation of Speeches**

- (1) The duration of speeches pursuant to this Ordinance shall be –
  - (a) in the case of a person proposing that the name of a nominee be placed upon the Select List – 15 minutes;
  - (b) in the case of a person proposing that the name of a nominee be placed upon the Final List - 10 minutes;
  - (c) in any other case - 5 minutes.
- (2) Nothing in subclause (1) of this clause prevents the Synod from granting leave to any member of the Synod to speak for such length of time as is specified in the grant of leave.

**27. Printing and Distribution of Ballot Papers**

- (1) When the Synod meets on the day to which the Synod is adjourned pursuant to subclause (3) of clause 25, each member of the Synod then present shall be given a ballot paper of a colour specified by the President as the colour to be used by the order to which that member belongs.
- (2) A ballot paper referred to in subclause (1) shall be –
  - (a) in a form as prescribed in the First Schedule to this Ordinance appropriate to the number of nominees whose names appear upon the Final List;
  - (b) printed with the names of the nominees upon the Final List in the order in which they were placed upon the Final List;
  - (c) printed with a square opposite the name of each nominee; and
  - (d) one of either of two colours, one colour being for use by the lay members of the Synod and the other colour being for use by the clerical members of the Synod.

**28. Voting**

On receipt of a ballot paper, a member of the Synod shall record his or her vote by placing the number “1” in the square opposite the name of the nominee for whom he or she desires to give his or her first preference and the number “2” or the numbers “2” and “3”, as the case may require, in the square opposite the name or names of the other nominees so as to indicate by numerical sequence the order of his or her preference.

**29. Method of Counting Votes**

- (1) The Returning Officer shall count the total number of first preferences given by the members of the respective orders for each nominee.
- (2) If one of the 2 or 3 nominees, as the case may be, has received an absolute majority of the first preferences of the members of the Synod in each order present and voting he shall be declared by the President to be elected.

**30. Failure of Either of 2 Nominees to Obtain Absolute Majority on First Count**

- (1) Where there are 2 nominees on the Final List and neither nominee receives an absolute majority as referred to in subclause (2) of clause 29, after the President has announced the analysis appearing in the Returning Officer's record of the ballot, a further ballot shall be taken.
- (2) Clauses 27, 28 and 29 apply to and in respect of a ballot under subclause (1) of this clause in the same way as they apply to and in respect of a ballot under those clauses.

**31. Failure of Any of 3 Nominees to Obtain Absolute Majority on First Count**

- (1) Where there are 3 nominees on the Final List and no nominee receives an absolute majority as referred to in subclause (2) of clause 29, the nominee who has received the fewest first preferences after the first preferences of both orders of the members of the Synod have been added together shall be excluded and each ballot paper counted to him shall be counted to the nominee next in the order of the voter's preference.

(2) Where there are 3 nominees on the Final List and 2 or more nominees have an equal number of first preferences after the first preferences of both orders of the members of the Synod have been added together and one of them is to be excluded, a further ballot shall be taken in respect only of those nominees who have received such equal number of first preferences.

(3) Clauses 27, 28 and subclause (1) of clause 29 apply to and in respect of a ballot under subclause (2) of this clause in the same way as they apply to and in respect of a ballot under those clauses.

(4) The nominee who, on a ballot under subclause (2) of this clause, receives the lowest number of votes after the votes of both orders of the members of the Synod have been added together shall be excluded.

(5) If, after counting to a nominee the preferences of a nominee excluded under subclause (1) or subclause (4) of this clause, one of the nominees receives an absolute majority of the votes of the members of the Synod in each order present and voting he shall be declared by the President to be elected.

(6) Where no nominee receives an absolute majority as referred to in subclause (5) of this clause, a further ballot shall be taken in respect of the nominees who have not been excluded.

(7) Clauses 27, 28 and 29 apply to and in respect of a ballot under subclause (6) of this clause in the same way as they apply to and in respect of a ballot under those clauses.

### **32. Consequences of Certain Ballots**

(1) If, after making a count in respect of a ballot taken under subclause (2) of clause 30 or subclause (7) of clause 31, one of the nominees receives an absolute majority of the first preferences of the members of the Synod in each order present and voting he shall be declared by the President to be elected.

(2) If, after making a count referred to in subclause (1) of this clause, no nominee receives an absolute majority as so referred to, the Synod shall adjourn to the following day or a later day determined by the Synod.

### **33. Proceedings on Resumption After Adjournment**

(1) When the Synod meets on the day to which the Synod is adjourned pursuant to subclause (2) of clause 32, for the purpose of determining the course of action the Synod shall pursue, the President shall, without debate, put the following motions in the following order –

- (a) That a further ballot be taken in respect of the nominees not excluded from the Final List.
- (b) That the Synod reconsider the nominees on the Final List by reverting to the procedure specified in clause 27 and the following clauses of this Ordinance.
- (c) That the Synod reconsider the nominees on the Select List by reverting to the procedure specified in clause 16 and the following clauses of this Ordinance.
- (d) That the Synod adjourn and that the nomination process start again pursuant to clause 33A.

(2) Where a motion put under subclause (1) of this clause is carried, the President shall not be required to put any subsequent motion under that subclause.

(3) The provisions of this Ordinance shall apply, in so far as they are applicable, to and in respect of a motion carried under subclause (1) of this clause.

### **33A. Starting the Nomination Process again after Adjournment**

If the Synod is adjourned pursuant to clause 15(9), 17(5), 24(4)(b) or 33(1)(d) –

- (a) the Standing Committee is to declare within a period of 5 weeks from the adjournment the date on which the vacancy in the See of Sydney is deemed to have occurred for the purposes of starting the nomination process again under this Ordinance, and
- (b) the person who is entitled under the Constitutions to exercise the powers vested in the Archbishop shall, within 21 days after the date of the deemed vacancy, issue a notice reconvening the Synod as if the notice were a notice to summon the members of the Synod under clause 5(1).

Offer, Acceptance, Confirmation etc

### **34. Confirmation of Election**

The Provincial Synod Ordinance for the Confirmation of Bishops' Elections (N.S.W.) Assenting Ordinance 1965 applies to and in respect of the confirmation of a person elected in accordance with this Ordinance.

### **35. Commencement in Office**

Where the election of a nominee under this Ordinance –

- (a) is not required to be confirmed under the Provincial Synod Ordinance for the Confirmation of Bishops' Elections (N.S.W.) Assenting Ordinance 1965; or
- (b) is required to be confirmed under that Ordinance and the election of the nominee is certified pursuant to that Ordinance,

the nominee elected shall become the Archbishop of the See of Sydney upon acceptance by him, his consecration (if not then consecrated) and the taking of his seat in the Cathedral Church of the Diocese having made the solemn promises contained in the Second Schedule to this Ordinance and handed a written copy of the declaration to the Registrar.

### **36. Refusal of or Delay in Confirmation**

Where the confirmation of the nominee elected under this Ordinance is required under the Provincial Synod Ordinance for the Confirmation of Bishops' Elections (N.S.W.) Assenting Ordinance 1965 and the election of the nominee is not certified pursuant to that Ordinance, the election of the nominee shall be null and void and proceedings shall be taken under this Ordinance as if the vacancy in the See had occurred at the time of the election becoming null and void.

### **37. Provision Against Deadlock**

Where –

- (a) the election of the nominee has become null and void pursuant to clause 36; and
- (b) the nominee is again elected under the provisions of this Ordinance,

then subject to the election of the nominee being certified pursuant to the Provincial Synod Ordinance for the Confirmation of Bishops' Elections (N.S.W.) Assenting Ordinance 1965, the nominee shall become Archbishop of the See of Sydney upon acceptance by him, consecration (if not then consecrated) and the taking of his seat in the Cathedral Church of the Diocese.

### **38. Failure of Nominee to Accept Election, etc**

If a nominee elected under this Ordinance does not accept the election or is not consecrated or does not take his seat in the Cathedral Church of the Diocese within a reasonable time after the election, as the case may be, then, upon a resolution in that behalf being made by the Synod, or if the Synod is not then in Session, by the Standing Committee, the election shall be null and void and proceedings shall be taken under this Ordinance as if the vacancy in the See had occurred at the time of the election becoming null and void.

### **39. Failure to Fill Vacancy for Other Cause**

Where the vacancy in the See is not filled as a consequence of a cause not provided for in this Ordinance, then, upon a resolution declaring the failure being made by the Synod, or if the Synod is not then in Session, by the Standing Committee, the proceedings under this Ordinance shall be repeated until the vacancy is filled as if the vacancy had occurred immediately before the passing of the resolution.

### **40. Declaration of Election**

When a person has been elected Archbishop of Sydney in accordance with this Ordinance, the President shall cause a declaration of the election to be publicly made in the Cathedral Church of the Diocese during the time of Divine Service on the next Sunday, the terms of the declaration being as follows –

(Title and name of the person elected)

of

has been duly elected Archbishop of this Diocese

and as Archbishop he is also Metropolitan

of the Province of New South Wales.

### **41. Proceedings after Declaration of Election**

As soon as a person is publicly declared to be elected Archbishop in accordance with clause 40, the President, or if the Synod is not then in Session, the Standing Committee, shall take such steps to give effect to the election as the Synod may direct.

Interpretation, Repeals, Saving Provision etc

### **42. Application of Other Ordinances**

(1) The Conduct of the Business of Synod Ordinance 2000, shall, except to the extent of any inconsistency with the provisions of this Ordinance, apply to a meeting of the Synod summoned in accordance with this Ordinance.

(2) To the extent of any inconsistency between the provisions of this Ordinance and the Standing Committee Ordinance 1897, as subsequently amended, with respect to a meeting of the Synod summoned in accordance with this Ordinance, the provisions of this Ordinance shall prevail.

**43. Manner of Dealing with Certain Circumstances**

Where any circumstance arises in relation to a meeting of the Synod summoned in accordance with this Ordinance for which no provision is made in this Ordinance, that circumstance shall be dealt with in such manner as may be determined by resolution of the Synod, or if the Synod is not then in session, of the Standing Committee.

**44. Interpretation**

In this Ordinance –

“Administrative Committee” means the committee constituted under subclause (1) of clause 6;

“Constitutions” means the Anglican Church of Australia Constitutions Act, 1902, and the Anglican Church of Australia Constitution Act, 1961;

“Director of Professional Standards” means the person appointed for the time being under clause 101 of the Discipline Ordinance 2006;

“National Register” means the national register within the meaning of the General Synod – National Register Canon 2007 Adopting Ordinance 2008;

“nominee” means a person nominated under clause 7;

“President”, in relation to a meeting of the Synod, means the person presiding at that meeting;

“Standing Committee” means the Standing Committee of the Synod;

“Synod” means the Synod of the Diocese of Sydney.

**45. Repeals**

(1) The Archbishop of Sydney Appointment Ordinance 1962, the Elections Amendment Ordinance 1981 and clauses 5A, 5B, and 5C of the Election Ordinance 1970 are repealed.

(2) A repeal under subclause (1) of this clause shall not affect or invalidate any act, matter or thing done or suffered to be done or any election or appointment made under or by virtue of an Ordinance or provision repealed by subclause (1) of this clause.

**The First Schedule**

(To be used in the case of 3 nominees)

Archbishop of Sydney Election Ordinance 1982

Ballot Paper

Place the number “1” in the square opposite the name of the nominee for whom you desire to give your first preference and the numbers “2” and “3” in the squares opposite the names of the other nominees in the order of your preference.

(To be used in the case of 2 nominees)

Archbishop of Sydney Election Ordinance 1982

Ballot Paper

Place the number “1” in the square opposite the name of the nominee for whom you desire to give your first preference and the number “2” in the square opposite the name of the other nominee.

**The Second Schedule**

I ..... firmly and sincerely believe the Holy Scripture to be the Word of God, and assent to the doctrine of the Anglican Church of Australia, an expression of the Catholic and Apostolic Faith which is determined by the teaching of Scripture, confessed in the 39 Articles and given liturgical form in the Book of Common Prayer and in the Ordering of Bishops, Priests and Deacons, and I solemnly promise to teach and uphold the Word of God.

I ..... solemnly promise to conduct only services in the Book of Common Prayer or –

(a) services authorised by ordinance of the Synod for use in the Diocese, or

(b) other services of public worship which are agreeable to the Word of God and consistent with the doctrine of the Anglican Church of Australia,

pursuant to the General Synod – Canon Concerning Services 1992 Adopting Ordinance 1998.

I ..... solemnly promise that so long as I hold and perform the office of Archbishop of the See of Sydney, I will neither by myself nor by others permit the use of the chasuble or other eucharistic vestment in any church or chapel or other place in the Diocese in which I officiate.

I ..... solemnly promise that so long as I hold and perform the office of Archbishop of the See of Sydney, I will administer and distribute the elements of bread and wine separately in the Holy Communion.

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### **Table of Amendments**

|                 |  |
|-----------------|--|
| Title           | Amended by Ordinance No 26, 2009.  |
| Long Title      | Amended by Ordinance No 26, 2009.  |
| Clause 1        | Amended by Ordinance No 26, 2009.  |
| Clause 2        | Amended by Ordinance No 25, 2010.  |
| Clause 3        | Amended by Ordinance No 38, 2014.  |
| Clause 5        | Amended by Ordinances Nos 26, 2009, 25, 2010 and 41, 2013.                     |
| Clause 6A       | Inserted by Ordinance No 26, 2009 and amended by Ordinance No 25, 2010.        |
| Clause 7        | Amended by Ordinances Nos 41, 1997; 26, 2009; 25, 2010, 35, 2011 and 41, 2013. |
| Clause 8        | Amended by Ordinances Nos 41, 1997 and 26, 2009.                               |
| Clause 9        | Amended by Ordinance Nos 41, 1997, 14, 2001 and 38, 2014.                      |
| Clause 10       | Amended by Ordinance No 41, 1997.  |
| Clause 11       | Amended by Ordinances Nos 41, 1997 and 26, 2009.                               |
| Clause 15       | Amended by Ordinances Nos 4, 1993; 41, 1997; 27, 1999 and 26, 2009.            |
| Clause 15A      | New clause inserted by Ordinance No 41, 1997.                                  |
| Clause 16       | Amended by Ordinance No 41, 1997.  |
| Clause 16A      | New clause inserted by Ordinance No 41, 1997.                                  |
| Clause 17       | Amended by Ordinances Nos 41, 1997, 26, 2009 and 21, 2013.                     |
| Clause 22       | Amended by Ordinance No 41, 1997.  |
| Clause 23       | Amended by Ordinance No 41, 1997.  |
| Clause 24       | Amended by Ordinance No 26, 2009.  |
| Clause 25       | Amended by Ordinance No 41, 1997.  |
| Clause 27       | Amended by Ordinance No 35, 2011.  |
| Clause 31       | Amended by Ordinance No 4, 1993.   |
| Clause 33       | Amended by Ordinance No 26, 2009.  |
| Clause 33A      | Inserted by Ordinance No 26, 2009 and amended by Ordinance No 25, 2010.        |
| Clause 35       | Amended by Ordinances Nos 5, 2001 and 35, 2011.                                |
| Clause 36       | Amended by Ordinance No 5, 2001.   |
| Clause 37       | Amended by Ordinance No 5, 2001.   |
| Clause 42       | Amended by Ordinance No 5, 2001.   |
| Clause 44       | Amended by Ordinance No 26, 2009.  |
| First Schedule  | Amended by Ordinances Nos 26, 2009 and 35, 2011.                               |
| Second Schedule | Inserted by Ordinance No 35, 2011 and amended by Ordinance No 19, 2013.        |



## Assistant Ministers Ordinance 2017 Amendment Ordinance 2019 45/18 Appointment of assistant ministers and employment of stipendiary lay workers

## 46/18 Committee to review the Ministry Standards Ordinance 2017 and the Assistant Ministers Ordinance 2017

(A report from the Standing Committee.)

### Key Points

- Synod resolutions 45/18(c) and 46/18 request consideration for mechanisms to address failures to comply with the processes in the *Assistant Minister's Ordinance 2017* and to follow proper practices regarding staff management.
- The Standing Committee appointed a subcommittee to consider and bring recommendations in relation to these resolutions.
- The Committee recognises that failures to follow the processes in the AMO and failures in staff management can have significant adverse impacts. There are few existing options to address or remedy such failures, and limited consequences for non-compliant rectors and wardens.
- The Committee proposes the establishment of a Review Panel to consider instances of alleged non-compliance with the processes under the AMO. The Panel for each application will comprise three members drawn from the Synod Pool established by the *Parish Disputes Ordinance 1999*.
- The Panel will produce a report, in respect of an application, which sets out its view on whether there has been any non-compliance with the AMO process, and may make non-binding recommendations.
- The report will be issued to the applicant, the rector and wardens, the regional bishop and the Archbishop. The Archbishop will have the discretion to release the report to other parties, such as the Parish Council.
- The Committee also recommends that all rectors be encouraged to participate in staff management training, that Safe Ministry and Ministry Training & Development provide training on staff management and the ordinances, that consideration be given to providing an option for time-limited licences for assistant ministers, and for the further review of the *Ministry Standards Ordinance 2017*.

### Purpose

1. The purpose of this report is to respond to –
  - (a) paragraph (c) of resolution 45/18 regarding appropriate measures for dealing with failures to comply with due process under the *Assistant Ministers Ordinance 2017* (the **AMO**); and
  - (b) Synod resolution 46/18 regarding failures to follow proper practices in respect of staff management more generally.

### Introduction

2. The committee appointed by Standing Committee to respond to the above Synod resolutions (the **Committee**) acknowledges that the expectation in paragraph (c) of resolution 45/18 was for Standing Committee to enact any changes required to the AMO to deal with non-compliance with due process. However, the view of both the Committee and Standing Committee is that the proposed changes to the AMO are sufficiently significant as to require consideration and approval by Synod.

3. To avoid confusion and to appropriately distinguish between types of assistant minister, this report will use the term 'Assistant Minister' (**AM**) to refer to a member of the clergy licensed to the office of Assistant Minister or Senior Assistant Minister. The terms and conditions of the AMO do not apply to a 'Lay Minister' employed as a member of staff in a parish and holding an authority under the *Authorisation of Lay Ministry Ordinance 2015*. Lay Ministers are employees under the *Fair Work Act 2009* (Cth) (the **FWA**).

## **Recommendations**

4. Synod receive this report.
5. Synod pass the Bill for the Assistant Ministers Ordinance 2017 Amendment Ordinance 2019.
6. Synod consider the following motion to be moved at the forthcoming session of Synod, "by request of the Standing Committee" –

'Synod –

- (a) notes that while many rectors have participated in staff management training, the majority have not;
- (b) encourages rectors who have not already done so, to participate in staff management training as a matter of urgency;
- (c) requests the Safe Ministry Board, regularly include items relating to staff management in the content for the mandated triennial Faithfulness in Ministry training, noting that the 2020 Faithfulness in Ministry training will focus on staff management, and bullying in particular;
- (d) requests Ministry Training and Development to include appropriate training on the Ordinances relevant to Assistant Ministers as part of the post-ordination Ministry Development program for deacons;
- (e) recommends to the Archbishop that licences for Assistant Ministers, issued at the request of a rector, have an option for a specified term, with the minimum term being two years; and
- (f) requests the Ministry Standards Ordinance Review Committee to further review the Ministry Standards Ordinance 2017, particularly as it pertains to accusations of bullying, to ensure that rector development or other measures are recommended prior to more serious action.'

## **Background**

7. At its 2<sup>nd</sup> Ordinary Session on 23 October 2018, Synod passed resolution 45/18. The resolution addressed specific concerns as to the processes for the appointment, management and termination of church ministry staff, particularly AMs.
8. Relevantly, paragraph (c) of resolution 45/18 requested that Standing Committee –  

"give further consideration regarding options for mechanisms for appropriate consequences when there is a failure in the termination of an Assistant Minister to follow due process specified under the Assistant Ministers Ordinance 2017, to enact such changes by amending the ordinance if thought appropriate, and to report back to the next session of Synod."
9. The same session of Synod also passed resolution 46/18 in the following terms –  

"Synod, in light of the recommendation at point 4 of the Explanatory Report on the Ministry Standards Ordinance 2017 Amendment Ordinance 2018, requests the Standing Committee to appoint a committee to consider if further mechanisms are required to deal with issues of failure to follow proper practices with regard to staff management, and make any appropriate recommendations."

10. At its meeting on 12 November 2018, the Standing Committee appointed the Committee to address paragraph (c) of resolution 45/18 and the request of resolution 46/18. The Committee comprises Bishop Chris Edwards (Chair), the Rev Anthony Douglas, the Rev Dr Raj Gupta, Ms Yvette McDonald, Mr Mark Streeter, the Rev Malcolm York, the Rev Susan An (as the representative appointed by Archdeacon Kara Hartley) and Ms Susan Duc (Diocesan Legal Counsel).
11. Another committee was appointed to assist the Standing Committee to consider paragraph (f) of resolution 45/18, regarding the provision of appropriate human resources expertise to support bishops, rectors, wardens and church staff.
12. The Committee met five times, on 16 April 2019, 7 May 2019, 11 June 2019, 9 July 2019, and 2 August 2019.

## Context

13. Synod passed resolution 45/18 following its consideration of 'Supplementary Report 22/17 Appointment of Assistant Ministers and Stipendiary Lay Workers'. The report outlined a range of matters pertaining to the appointment of AMs and stipendiary lay workers, including recruitment, appointment, performance management, dispute resolution and termination.
14. The subsequent passing of resolution 46/18 reflects Synod's broader concern to address failures of proper practice in staff management within parishes, which occur not just in relation to termination but also during the course of ministry relationships.
15. As a starting point, the Committee considered the complexity of ministry relationships, including –
  - (a) the power imbalances that exist, most relevantly between rectors and AMs which give rise to certain vulnerabilities for AMs in their role;<sup>1</sup>
  - (b) the non-intuitive lines of authority in AM positions, which see such ministers paid by wardens but managed by rectors;
  - (c) the difficulties that can arise when there are differing expectations around roles and the length of the appointment of an AM;
  - (d) the difficulties that can arise as the needs of a parish change, combined with the reality of limited resources;
  - (e) the need to constantly develop ministry staff, rectors and AMs;
  - (f) the reality that many rectors lack training in staff management skills;
  - (g) the existence of a range of different ordinances, policies and guidelines, as well as the received wisdom that relate to ministry staffing within the Diocese; and
  - (h) the challenge of applying biblical ethics evenly across hundreds of parochial units, each with its particular needs and unique characteristics.
16. The challenges associated with ministry relationships, particularly in relation to rectors and their AMs, are becoming more well-known. For example, the Committee has received correspondence from the Gospel Workers' Advocacy Group (**GWAG**), a voluntary association that represents a group of AMs and other gospel workers. In its letter to the Committee, the GWAG expressed concerns regarding what it perceived to be the lack of options and support available to AMs who have been allegedly mistreated by rectors.

## Scope of work

17. Resolution 45.18(c) explicitly relates to the termination process under the AMO, which applies only to AMs.
18. This report primarily considers options to deal with failures by a rector and/or wardens to comply with the due process requirements of the AMO in implementing the termination of the appointment of an AM.

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<sup>1</sup> See paragraphs 19-22 of Supplementary Report 22/17.

19. The classification of AMs as officeholders means that the protections afforded to Lay Ministers, who are employees under the FWA, regarding any termination of their employment, do not also apply to AMs.<sup>2</sup> This report seeks to consider avenues of recourse for an AM where the termination of their appointment has not been properly effected under the AMO.
20. As noted above, resolution 46/18 has a broad scope. There is a range of people who may be adversely impacted when the appointment of an AM is terminated, such as the family of the AM, other members of the relevant parish ministry team, the wardens and the congregation(s) of the parish. The Committee envisages that its recommendations will provide benefits, not only to AMs, but also to this wider range of people.

## **Due process requirements for termination under the AMO**

21. The AMO sets out the process which must be undertaken in order to terminate the appointment of an AM. Specifically, the AMO requires that –
  - (a) the AM be given notice of termination, paid their stipend and provided with any other benefit or allowance to which they are entitled (clause 3(1)(b)); and
  - (b) the period of notice be no less than 3 months unless otherwise agreed between the AM, rector and wardens (clauses 3(2), 3(2A)).<sup>3</sup>
22. The AMO stipulates that certain steps must be taken prior to issuing the notice of termination to the AM –
  - (a) the regional bishop must be notified of the proposal to issue the notice (clause 3(3)(a));
  - (b) the notice must be given for a prescribed reason, being unsatisfactory performance or capacity, lack of funding (as determined by the parish council), or other reasons determined by the rector due to the parish's ministry needs (clause 3(3)(b));
  - (c) the AM has been given a written statement of the particulars of the prescribed reason, and has had a reasonable period to respond in writing to the statement (clauses (3)(3)(c)-(d));
  - (d) the rector and wardens have considered any response given by the AM within the period (clause 3(3)(e)); and
  - (e) the rector and warden have given due regard to any guidelines issued by the Archbishop-in-Council in relation to the AMO (clause (3)(3)(f)).
23. Both the written statement issued to the AM setting out the particulars of the reason for termination (see paragraph 22(c)) and the record of the rector and wardens' consideration of the AM's response to the written statement (see paragraph 22(d)) must be lodged by the rector with the Registrar (clause 5).
24. Further, the rector must consult the regional bishop regarding any public announcements or the communication of any termination of the AM before making any communication to the parish about the termination (clause 4).
25. Anecdotally, failures to follow the set procedures of the AMO occur for a variety of reasons, including a lack of awareness of the requirements stipulated by the relevant diocesan ordinances, policies and guidelines, a lack of the necessary skills, a lack of will, or even ungodliness. Examples include failure to give the requisite period of notice, or to provide reasons for the termination. In other cases, the AM has had no opportunity to provide a response to the reasons for termination, or to discuss any performance issues prior to receiving the termination notice.
26. While the Committee recognises that a failure by any party to adhere to the requirements of an ordinance means the ordinance has not been effected, it does little to change the personal circumstances of someone who has been told they have lost their ministry position.
27. The Committee understands that there have been occasions where regional bishops have not been engaged by rectors in the termination process, notwithstanding the AMO's requirement that the bishop be notified prior to the issuance of the notice and prior to any communication of the termination to the parish (clauses 3(3)(a), 4). Again, if a bishop only becomes aware of the termination after the fact, it is difficult to provide assistance or help to resolve the underlying issues.

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<sup>2</sup> See paragraph 17 of Supplementary Report 22/17.

<sup>3</sup> Clauses 2(b)(ii) and (iii) of the AMO provide that a senior assistant minister may have a notice period of up to 9 months, or such other period of notice if agreed between the senior assistant minister, and the Archbishop, the rector and the parish council.

## Consequences for failure to comply with due process requirements

### Current environment

28. A failure to follow the procedures in the AMO can cause significant pain for all the parties involved, especially to the AM and their family.
29. Currently, there are few options that would remedy a failure to comply with the AMO. Relatedly, there are few consequences for rectors and wardens who have failed to comply with the AMO procedures.
30. In certain circumstances, an AM can make a complaint against the rector and/or warden(s) under the *Ministry Standards Ordinance 2017* (the **MSO**). The possible outcomes, however, can be severe.
31. Further, in making a complaint against a rector or warden, the AM could risk damaging not only their own reputation, but that of the rector, the wardens, or the parish in relation to the wider diocese and the local community. The desire of any of the parties involved to maintain confidentiality in relation to the termination of the AM's appointment can increase this risk when silence gives rise to gossip and speculative or presumed imputations, compounding the adverse impacts on the AM.
32. The Committee received testimony that the "high stakes" nature of making a complaint under the MSO was itself a barrier to complaints being made, which further limits the AM's options for recourse. In the event that a complaint is made, the lodging of the complaint itself prevents the kind of reconciliation that is desired.
33. Likewise, some rectors have reported that the MSO process can prevent them from pursuing reconciliation, particularly when the process itself prohibits conversations with the AM about the matters at hand. Whilst the MSO process is appropriate for serious offences, it would be prudent to develop alternatives that assist in resolving cases where there has not been wilful or deliberate disregard of process, but which has arisen from a lack of awareness or the appropriate skills, with a view to encouraging development, reconciliation and vindication.
34. A systematic approach could deal with these issues effectively. As such, this report contains a range of recommendations which provide for intervention at different points in the termination process. The aim is to avert the breakdown of staff relationships, to prevent the escalation of tensions, and to work towards a just resolution. It is hoped they will also address perceived inadequacies in the current system. However, the Committee acknowledges that no set of procedures can ever fully deal with the diversity of cases that may arise.

### Ministry Standards Ordinance and reconciliation of relationships

35. In 2017, the MSO was introduced to establish a complaints process that examined the fitness of church workers, including rectors and wardens, for their office. The MSO is understood to be the only option available to deal with alleged non-compliance with the AMO process when the Grievance Policy<sup>4</sup> does not assist to resolve disputes or to deliver satisfactory outcomes. This can occur when one or more of the participants do not engage with the processes available under the Grievance Policy.
36. Following the Grievance Policy can be helpful in circumstances where participants engage in good faith and are committed to the restoration of their relationship. Reconciliation is a gospel imperative that ought to be encouraged. Indeed, in a number of cases considered, the desire of the parties was for reconciliation. This should be encouraged and pursued, even if it is difficult.
37. The MSO option is appropriate when there are repeated, serious failures of process or where there is evidence of behaviour by a rector or warden that appears inconsistent with their holding office or carrying out the responsibilities attached to their office. However, it is important that these circumstances are distinguished from those arising from a lack of awareness, or where training and development is likely to prevent a recurrence. Occasions where the requirements of the AMO are not met due to a lack of awareness should not be overlooked but would not, in the Committee's view, constitute the kind of misconduct addressed under the MSO.

<sup>4</sup> Otherwise known as the 'Diocesan policy for dealing with allegations of unacceptable behaviour'.

38. The existing definition of 'misconduct' in the MSO can accommodate serious or repeated failures to comply with the requirements of the AMO.<sup>5</sup> This means that if an AM's complaint against a rector or warden is substantiated, the Professional Standards Committee may make recommendations which could include, for example, an apology, and instruction to undertake training, and, potentially, a recommendation for the removal of the rector's licence.
39. In addition, the Committee notes that wardens can have a significant impact on the experience of an AM in a parish, and particularly when serious difficulties arise. This is reflected in the wardens' role in the AMO, whose concurrence is required for the rector's decision to terminate the appointment of an AM to take effect.<sup>6</sup>
40. The Committee is aware that there are wardens, as well as rectors, who fail to comply with the AMO's due process requirements and proper staff management practices in dealing with AMs (although such cases are less common). The Committee considers that the proper mechanism for dealing with serious cases of warden misconduct is to seek the warden's removal from office, and if necessary, through the MSO. The Committee notes the honorary nature and limited term of the warden's office, as well as the rector's primary responsibility in any staff management process.

## **Other measures to address due process failures and poor management practices**

### **Training for Assistant Ministers**

41. As noted above, there are cultural and reputational factors which may influence an AM's decision not to utilise the MSO mechanism. Lack of awareness regarding the availability and purpose of the MSO may also be a factor, as AMs are provided little training on ordinances, including the AMO and MSO.
42. Given this, the Committee considers that more work is required to educate AMs regarding the policies and ordinances of the Diocese, their processes, as well as their mechanisms and especially the Grievance Policy, the AMO and the MSO as these have significant relevance to their roles and may be possible avenues of recourse against rectors and wardens for failures of process or staff management practice.
43. It should also be understood that, in our church polity, AMs are not tenured in the same way as rectors. However, the Committee recognises that the right of a rector and the wardens in a parish to terminate the appointment of an AM must be balanced with:
- (a) the reality of the significant commitment that an AM is expected to make in accepting an appointment, including relocating their home and family to be part of the local parish community; and
  - (b) the AM's particular interest in having fair access to reasonable timeframes with regard to the circumstances to seek out a new appointment and relocate in the event of the termination of their appointment.
- Other important considerations include the changing and emerging development needs, parish needs and family needs.
44. The Committee considers that AMs should be provided with training to understand staff management practices and their own development, to equip them with skills in "managing up", and to navigate the ordinance framework and administration of the Diocese. Such training will facilitate more informed interactions with rectors and wardens in all matters, including the difficult termination process (if necessary).
45. Accordingly, Ministry Training & Development (**MT&D**) should be requested to provide such training as part of the Ministry Development program, which is compulsory for all new AMs in the first three

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<sup>5</sup> This will depend on the circumstances of each case. In addition, the Committee considered whether the definition of 'misconduct' in the MSO should be amended to explicitly identify non-compliance with the AMO as grounds for misconduct. However, the Committee's view was that this specific identification of the AMO may have the serious but unintended consequence of creating ambiguity as to the application of the MSO in relation to non-compliance with other ordinances.

<sup>6</sup> See clause 3(1)(b) of the AMO.

years following completion of their studies at Moore College. It may also be possible to invite the Centre for Ministry Development (**CMD**) to provide workshops for AMs.

### Guidelines for development and training of rectors

46. As both the MSO and AMO were introduced in 2017, the requirements of the AMO and MSO are relatively new and potentially unfamiliar. In addition, with the relatively recent move from more traditional parish structures to staff teams with specialisation, leaders may not necessarily be equipped with the proper skills in staff leadership and management to respond to the changes introduced with the two ordinances.
47. It is likely that a reasonable portion of the occurrences of non-compliance with the AMO's due process requirements may be attributed to a lack of awareness by rectors and wardens of those requirements. This can be compounded by a lack of management experience in dealing with both ordinary and more challenging staff issues. These issues can include the stresses associated with recruitment, the ongoing development of staff, and the very significant burdens and time pressures on rectors for general ministry and strategic leadership. Such demands are in addition to a range of compliance issues which go well beyond matters associated with conflict or issues around termination. Proper management practices are likely to create aligned expectations, and identify and resolve many of the issues which arise in ministry relationships before they become more serious.
48. At the same time, the Committee is aware that there is a spectrum of reasons for non-compliance with the due process requirements of the AMO and proper staff management practices. These range from lacking knowledge or skills and inadvertent breaches, through to a lack of will or desire to comply with the prescribed obligations, or with appropriate management practices. The issues are complex, and often underlying them are differing expectations.
49. There are training programs which could be used to improve staff management practice within ministry staff teams, such as the CMD's two-day "Leading Staff" workshop. In addition, MT&D runs a more abbreviated half day workshop for conducting staff reviews. It is estimated that, by the end of 2019, 66 rectors will have completed the CMD workshop, and 14 rectors will have completed the MT&D workshop. Given the significance of the issues in this area the Committee recommends that all rectors who have not participated in these courses (or an equivalent) do so as a matter of urgency.

### Guidelines for development and training of rectors

50. Rectors and AMs (and Lay Ministers for that matter) can avoid much of the difficulty in this key area by adopting a mindset of continuous development. The Committee recommends ministry staff teams supplement the formal diocesan staff management training (such as those mentioned above) with less formal ongoing development aids such as regular team discussions on the topic, having team discussions with the regional bishop, arranging coaching and mentoring for the ministry staff, reading relevant books and guides, and taking up other training opportunities.
51. To increase the current level of awareness and implementation around best practice staffing practices, as well as awareness of the current ordinance framework, the Committee requests that Safe Ministry incorporate a component on staff management training into the mandated Faithfulness in Ministry training that occurs every three years. This may be supplemented with brochures and instructional videos to train rectors and wardens regarding the AMO procedures.
52. The Committee notes with thanks that Safe Ministry is currently planning for the Faithfulness in Ministry training for 2020 to focus on bullying and staff management (including staff review processes).

### Review of AMO termination process

53. The MSO could be described as a "blunt instrument" which reflects the fact that it exists to deal with matters which go to the fitness of church workers to hold office or responsibilities attached to that office. It responds to serious allegations and envisages serious consequences, such as the removal of a church worker from their office.

54. However, the MSO was not written to address instances of non-compliance which happen because of a lack of awareness or skill. In addition, to date the MSO has been relatively ineffective in facilitating the reconciliation of aggrieved parties.
55. Therefore a review mechanism should be established to deal with instances of alleged non-compliance with the process requirements of the AMO, along with a Review Panel for this purpose.
56. It is proposed that the review mechanism will operate as follows –
- (a) once notice has been given to the AM which purports to terminate their appointment (including a written notice of termination under clause 3(1)(b) of the AMO), an application may be made by the AM for a review of the process of termination under the AMO;
  - (b) the review will be undertaken by a Review Panel (**Panel**) comprising three members chosen from the Synod Pool (as established by the *Parish Disputes Ordinance 1999*), by each of the AM, rector and regional bishop;
  - (c) an application for review must be made within 6 months after issuance of the termination notice referred to in paragraph 56(a), although the Panel may accept an application made outside this period in exceptional circumstances;
  - (d) the application must be made in the prescribed form, and the rector and/or wardens must respond to the application in the prescribed form no more than 3 weeks after receipt of the application for review (the standard form of application and response to be completed by the parties);
  - (e) the Panel will investigate the termination for compliance with the process mandated in the AMO, for example, if there was a failure to notify the regional bishop about the proposal to issue the termination notice (as required under clause 3(3)(a));
  - (f) the Panel will, in general, decide the application on the papers, but will have the power to inform itself of the relevant facts in whatever way it considers appropriate, will not be bound by legal formalities and the parties will not be represented by lawyers or any other persons (subject to the Panel's discretion otherwise);
  - (g) the Panel cannot consider the substantive reasons for the particular termination (for example, if the reason given for termination was "unsatisfactory conduct" under clause (3)(b)(i) of the AMO, the Panel cannot consider whether there was any unsatisfactory conduct and if such conduct warranted termination);
  - (h) the Panel's consideration will be limited to forming a view regarding compliance or non-compliance with the due process requirements of the AMO, and the nature of any non-compliance;
  - (i) the Panel will set out in a report, its view on whether there has been any non-compliance with such due process, and may make non-binding recommendations in relation to the matter, including any appropriate compensation or recourse; and
  - (j) the Panel will issue the report to the applicant, the rector and the wardens, regional bishop and Archbishop; while it will be in the Archbishop's discretion to release the report to other parties, for example, the Parish Council or the AM's prospective or current rector (not being the rector who is the other party to the application).
57. There would be merit in notices of termination referring to the availability of this review mechanism so AMs are informed of their right of a review under the AMO.
58. Statutory periods of notice for termination, as well as the 21-day window for unfair dismissal claims under the FWA, were taken into consideration in recommending a time limit of 6 months for the making of an application for review. Given reinstatement is unlikely in a parish context, a longer timeframe for applications is appropriate. Typical a three-month notice period is given to AMs, during which they are normally expected to work, and potentially relocate their home and family. An additional three-month window is appropriate, as it would provide time for prayer and reflection following termination, while not being unduly onerous so that the parties could be satisfied that the matter was at an end.
59. In relation to remedies, reinstatement is unlikely to be a workable or desirable remedy in the event of the termination of an AM, given the nature of ministry work and the typically small size of ministry teams.

60. The Panel process has the advantage of providing development opportunities for all parties, and introduces the possibility of compensation, vindication, discipline and even reconciliation without the “blunt instrument” of the MSO mechanism.

### Misalignment of expectations regarding length of appointment

61. Anecdotal evidence suggests that one contributing factor to relationship breakdowns between rectors and AMs is the misalignment of expectations between them regarding the “permanence” of the AM’s appointment to a parish.
62. AMs are not tenured in the same way as rectors. This fact is reflected in the AMO, which sets out the mechanism to be followed for the rector (with the wardens’ concurrence) to terminate an AM’s appointment. Nonetheless, there have been instances where an AM has been surprised by a rector’s decision to terminate their appointment, because, they have assumed a longer period of appointment.
63. Historically, it was once the practice of Archbishops to license AMs to appointments (curacies) for a period of two years. Licences were issued to that effect. More recently, with the move to team ministry, the introduction of the permanent diaconate, and the whole-of-life nature of Christian ministry, AM appointments have become more open-ended.
64. The Committee has formed the view that these developments have contributed to a mismatch of expectations which have likely added to some of the difficulties that have arisen in ministry relationships between rectors and AMs, and in the termination process.
65. While recruitment training (such as that provided in some of the courses referred to above) will assist, the Committee also recommends for new appointments of an AM, that a rector consider making a request that the licence for the AM be time-limited, for a minimum of two years. Licences can be renewed and extended if mutually agreed. However, the mechanism itself introduces a healthy discussion of such a review. This rightly assumes a higher level of trust and maturity within the relational dynamic between the rector and AM, which is essential in the increasingly challenging work of parish ministry.
66. If the option was taken to specify an expiry date of a licence, the Registrar would advise the AM and the rector of the impending expiry date at least six months before the expiry of the licence, with the request that the rector indicate whether he will seek a renewal at least three months before the expiry of the licence.

### Bullying and rector development

67. The Committee understands that bullying accusations against rectors have become more common and notes the significant overlap between bullying concerns with the issues addressed in this report – namely, the lack of relevant and current staff management skills.
68. The “blunt instrument” of the MSO is currently the only mechanism to deal with such issues. In the same way that the recommendations contained in this report seek to increase the opportunities for the development of rectors in staff management, the Committee believes that the same approach should be adopted with regard to allegations of bullying against rectors. It is important to distinguish between a “lack of skill” and a “lack of will”, particularly when generations can have such varied expectation and work ethics.
69. Accordingly, the Committee recommends that the MSO should be reviewed, particularly as it pertains to accusations of bullying, to ensure that rector development or other measures are recommended prior to more serious action.

For and on behalf of the Standing Committee.

DANIEL GLYNN  
**Diocesan Secretary**

29 August 2019

## Assistant Ministers Ordinance 2017 Amendment Ordinance 2019

No. \_\_\_\_\_, 2019

### Long Title

An Ordinance to amend the *Assistant Ministers Ordinance 2017* to provide for review of the process undertaken to terminate the appointment of an assistant minister or a senior assistant minister.

The Synod of the Diocese of Sydney Ordains as follows.

### 1. Name

This Ordinance is the Assistant Ministers Ordinance 2017 Amendment Ordinance 2019.

### 2. Amendments

5 The *Assistant Ministers Ordinance 2017* is amended by –

(a) inserting the following new definitions in clause 2(1) in alphabetical order –

“Review Panel” or “Panel” means the body of that name constituted under clause 3B; and

10 “Synod Pool” means the group of twelve clergy, at least nine of whom are to be incumbents (elected by the clerical members of Synod), and twelve laypersons (elected by the lay members of Synod), as provided for in clause 3 of the *Parish Disputes Ordinance 1999*.’

(b) substituting the words “the minister” in paragraph (b) of the definition of “senior assistant minister” in clause 2(1) with the words “the rector”;

15 (c) removing the matter “clause 7” in clause 3(3)(f) and inserting instead the matter “clause 9”;

(d) inserting the following new clauses after clause 3 –

#### “3A. Application for review

20 (1) After receiving a notice under clause 3(1)(b), an assistant minister or senior assistant minister may apply to the Review Panel for a review of the termination for compliance with the procedural requirements of the Ordinance.

(2) The application must be made:

(a) within 6 months after receiving the notice; or

25 (b) within such further period as the Panel allows in exceptional circumstances, having regard to any reasons for the delay and any other matter as the Panel sees fit.

(3) The application must be made in the approved form prescribed by the Standing Committee from time to time.

(4) The Panel must, as soon as reasonably practicable, provide a copy of the application to the rector and wardens.

30 (5) The rector and/or wardens may provide a response to the application:

(a) no more than 3 weeks after receipt of the application; or

(b) within such further period as the Panel allows in exceptional circumstances, having regard to any reasons for the delay and any other matter as a Panel sees fit.

35 (6) The response must be made in the approved form prescribed by the Standing Committee from time to time.

#### 3B. Review Panel

(1) There shall be a Review Panel comprising three persons constituted and appointed in accordance with this clause 3B.

40 (2) The function of the Panel is to enquire into and determine applications made under clause 3A regarding compliance by the rector and/or wardens with the procedural requirements of this Ordinance for the termination of an assistant minister or senior assistant minister.

(3) The Panel cannot consider the substantive reasons for the termination.

(4) Subject to this Ordinance and the relevant rules, the Panel may exercise any powers necessary for its function in clause 3B(2).

(5) The members of the Panel in relation to a particular application shall be appointed from the Synod Pool, with one person nominated by each of the regional bishop, the applicant and the rector (after he has consulted the wardens).

(6) The member of the Panel nominated by the regional bishop is the convenor of the meetings of the Panel.

(7) If –

(a) the rector fails to nominate a member from the Synod Pool within 7 days of being asked by the regional bishop to do so (or such further time period allowed by the regional bishop); or

(b) the applicant fails to nominate a member from the Synod Pool within 14 days of being asked by the regional bishop to do so (or such further time period allowed by the regional bishop),

then the person's right of nomination shall lapse and the regional bishop is to appoint a member or members from the Synod Pool to achieve the quorum of three persons.

(8) A parishioner of a church in the parish to which the application relates is not eligible to be a member of the Panel.

### 3C. Process review

(1) In undertaking its function pursuant to clause 3B(2), the Review Panel –

(a) must, to the extent possible, consider the application on the papers;

(b) may convene meetings with any or all parties, and invite witnesses;

(c) is not required to keep minutes, but may keep a record of meetings held and outcomes of those meetings;

(d) has a quorum comprising three members of the Synod Pool, one of whom is the convenor;

(e) may make orders as to the conduct of any meeting as it deems appropriate;

(f) makes its decisions by simple majority;

(g) must observe the rules of procedural fairness;

(h) may seek such advice as it sees fit and may invite any persons to meet with the Panel; and

(i) may use parish property, other than the rectory, for meetings as required.

(2) Once it has completed its review of the application, the Panel shall produce a written report which sets out –

(a) its view regarding compliance by the rector and wardens with the procedural requirements of the Ordinance for the termination of the appointment of the applicant, including any particulars of the nature and extent of any non-compliance;

(b) any non-binding recommendations it has regarding the application.

(3) The report referred to in clause 3C(2) must be provided to the applicant, the rector and wardens of the relevant parish, the regional bishop, and the Archbishop.

### 3D. Outcomes

(1) The Review Panel may make any or all of the following recommendations –

(a) to the rector, that he take certain actions;

(b) to any member of the parish, including the wardens, the parish council, or certain members of the parish council or congregation, that they take certain actions;

- (c) to the regional bishop, that the rector or the warden(s) or the applicant should be provided with certain training, leave or respite, and at whose cost; and
- (d) any other corrections, actions, rebuke, decisions or directions deemed appropriate.

(2) The Panel shall not make any recommendation under clause 3D(1)(d) unless it has –

- (a) given any person who will be required to act under the recommendation at least 14 days' written notice of the proposed recommendation and the reason(s) for the recommendation; and
- (b) given due consideration to any response provided by that person.

**3E. Miscellaneous**

(1) A person who voluntarily participates in proceedings with the Review Panel under this Ordinance agrees that he or she will not sue in defamation in respect of anything said or done in such proceedings.

(2) The Anglican Church Property Trust Diocese of Sydney must use its best endeavours to insure members of the Panel against liability for anything reasonably done in the carrying out of this Ordinance. The cost of such insurance is to be borne by the parishes generally.

(3) The members of the Panel who act reasonably in the discharge of their responsibility under this Ordinance are entitled to be indemnified against all liability they may have incurred whilst so acting to the extent that indemnity is not covered under a policy of insurance. The cost of such indemnity including the reasonable legal costs of such member is to be borne by the parishes generally.

(4) Subject to this Ordinance, any report of the Panel, and all communications whether written or oral that occur during the procedures under this ordinance must be treated as confidential by all persons involved, except to the extent that disclosure is consistent with the purposes for which the Panel has provided the report or is required by law.”

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

Chair of Committees

I Certify that this Ordinance was passed by the Synod of the Diocese of Sydney on 2019.

Secretary

I Assent to this Ordinance.

Archbishop of Sydney

/ /2019

# Assistant Ministers Ordinance 2017

(Reprinted under the Interpretation Ordinance 1985.)

The Assistant Ministers Ordinance 2017 as amended by the Assistant Ministers Ordinance 2017 Amendment Ordinance 2018.

## Table of Provisions

|        |  |
|--------|--|
| Clause |  |
| 1      | ..... Name   |
| 2      | ..... Definition of terms  |
| 3      | ..... Term of Appointment  |
| 4      | ..... Lodgement of material with the Registrar                     |
| 5      | ..... Undertaking by rector  |
| 6      | ..... Vacancy in office of rector and<br>appointment of new rector |
| 7      | ..... Guidelines   |
| 8      | ..... Commencement, repeal and transitional                        |

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## Long Title

An Ordinance to provide terms for the appointment of deacons and presbyters to assist rectors of parishes.

## Preamble

Whereas it is expedient to make further provision for the terms of appointment of deacons and presbyters appointed to assist rectors of parishes.

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

### 1. Name

This Ordinance is the Assistant Ministers Ordinance 2017.

### 2. Definition of terms

(1) In this Ordinance -

“assistant minister” means a deacon or presbyter licensed by the Archbishop to the office of assistant minister in a parish and does not include a senior assistant minister;

“senior assistant minister” means:

(a) a deacon or presbyter who has served:

(i) as an assistant minister in the Diocese; or

(ii) in an equivalent office in another Diocese,

for a period of at least 4 years or periods, which in aggregate total at least 4 years, and who is licensed by the Archbishop, at the request of the rector and the parish council of the parish, to the office of senior assistant minister in the parish; or

(b) a presbyter who has served:

(i) as a rector in the Diocese; or

(ii) in an equivalent office in another Diocese,

who is licensed by the Archbishop, at the request of the minister and the parish council of the parish, to the office of senior assistant minister in the parish.

(2) Any terms appearing in the Schedule to the Interpretation Ordinance 1985 are defined by reference to the meaning set out in that Ordinance.

### 3. Term of Appointment

(1) An assistant minister or a senior assistant minister holds office subject to:

(a) the terms of his or her licence; and

- (b) where the assistant minister or the senior assistant minister is paid a stipend or is entitled to any other benefit or allowance, written notice of the termination of the appointment and the payment of such stipend and provision of such entitlement given by the rector with the concurrence of the wardens of the principal or only church of the parish in which the assistant minister or senior assistant minister holds office.
- (2) For the purposes of clause 3(1)(b), notice is due notice if:
- (a) in the case of an assistant minister, the period of notice is at least 3 months; and
  - (b) in the case of a senior assistant minister, the period of notice is the longest of:
    - (i) 3 months; or
    - (ii) the period of notice, to a maximum period of 9 months, calculated at the rate of one month's notice for each year (or part thereof) of continuous service as assistant minister or senior assistant minister, or both, in that parish; or
    - (iii) such other period of notice, if any, which, at the time the senior assistant minister was licensed as senior assistant minister, was agreed for the purposes of this clause between the senior assistant minister and -
      - (A) the Archbishop; and
      - (B) the rector of the parish; and
      - (C) the parish council.
- (2A) Notwithstanding subclause (2), the assistant minister or senior assistant minister may choose to waive some of the period of notice and leave their office earlier, provided that they give written notice to the rector and wardens, and the rector and wardens agree to the earlier date in writing.
- (3) Notice must not be given under clause 3(1)(b), unless:
- (a) the regional bishop of the region within which the parish is situated has been notified of the proposal to issue the notice; and
  - (b) the notice is proposed to be given due to -
    - (i) unsatisfactory conduct, performance or capacity on the part of the assistant minister or senior assistant minister;
    - (ii) the parish council determining that the office held by the assistant minister or senior assistant minister will no longer be funded; or
    - (iii) other reasons determined by the rector having regard to the ministry needs of the parish; and
  - (c) the assistant minister or senior assistant minister has been given a written statement containing -
    - (i) particulars of the grounds or reasons under clause 3(3)(b), and
    - (ii) in the case of unsatisfactory conduct, performance or capacity that is not serious misconduct: a warning that a notice may be issued under clause 3(1)(b) if the relevant conduct is not addressed; and
  - (d) the assistant minister or senior assistant minister has been given a reasonable period in which to provide a written response to the statement of particulars; and
  - (e) the rector and wardens have considered any response given by or on behalf of the assistant minister or senior assistant minister within the period; and
  - (f) the rector and wardens have given due regard to any guidelines issued by the Archbishop-in-Council under clause 7.

#### **4. Notification to Parish**

If the appointment of an assistant minister or a senior assistant minister of a Parish has been terminated in accordance with clause 3, the Rector of the Parish must consult the Regional Bishop of the region within which the Parish is situated about the communication of the termination before making any communication to the Parish about the said termination.

#### **5. Lodgement of material with the Registrar**

Any written statement issued under clause 3(3)(c), any response given under clause 3(3)(d) and any record of the consideration specified in clause 3(3)(e) must be lodged with the Registrar of the Diocese.

#### **6. Undertaking by rector**

Nothing in this Ordinance prevents the Archbishop from requiring an undertaking of the rector whom the assistant minister or senior assistant minister will assist concerning the work to be undertaken by the

assistant minister or the senior assistant minister, as the case may be, or any other matter relating to the office to be exercised by the assistant minister or the senior assistant minister, as the case may be.

#### **7. Vacancy in office of rector and appointment of new rector**

Subject to clause 3, the term of office of an assistant minister or a senior assistant minister does not cease by reason of a vacancy occurring in the office of rector of the parish or upon a new rector being appointed to the parish and, in accepting an appointment to the parish, the new rector is taken to have:

- (a) adopted any obligation on the part of a former rector of the parish expressed in the assistant minister's or senior assistant minister's licence as if the new rector was named in the licence as the person subject to that obligation; and
- (b) adopted any agreement in relation to the office of the assistant minister or senior assistant minister made between the former rector and the assistant minister or senior assistant minister with the approval of:
  - (i) the Archbishop; and
  - (ii) the parish council.

#### **8. Housing Arrangements**

If the Parish requires an assistant minister or a senior assistant minister to live in a certain location, the housing arrangements must be approved as suitable by the Archbishop.

#### **9. Guidelines**

The Archbishop-in-Council may issue guidelines with respect to the termination of appointments under this Ordinance.

#### **10. Commencement, repeal and transitional**

- (1) Except for this clause, this Ordinance commences on 1 January 2018.
- (2) The *Assistant Ministers Ordinance 1990* is repealed on 1 January 2018.
- (3) Notwithstanding subclause (2) and subject to subclause (4), an assistant minister or a senior assistant minister will cease to hold office in accordance with the provisions of the *Assistant Ministers Ordinance 1990* as if that Ordinance had not been repealed if, before 1 January 2018:
  - (a) a valid notice was issued under clause 3(1) of the *Assistant Ministers Ordinance 1990*, or
  - (b) a new rector was licensed to the same parish to which the assistant minister was also licensed at the time and 90 days have not elapsed since the licence was issued to the rector.
- (4) For the purposes of subclause (3), "office" means the office of assistant minister or senior assistant minister in a parish that was held by the member of clergy on 1 January 2018.

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#### **Table of Amendments**

|          |                                   |
|----------|-----------------------------------|
| Clause 3 | Amended by Ordinance No 42, 2018. |
| Clause 4 | Amended by Ordinance No 42, 2018. |
| Clause 8 | Amended by Ordinance No 42, 2018. |



## Synod Standing Orders

### Conduct of the Business of Synod Ordinance 2000 Amendment Ordinance 2019

#### 40/18 Synod business rules concerning moving amendments to motions

(A report of the Standing Committee.)

##### Key Points

- A number of substantial changes are proposed to the Synod business rules to increase the efficient use of Synod time. Notably –
  - Allowing procedural motions to be taken on the callover
  - Requiring questions on day 1 to be submitted 7 days prior to Synod, allowing them to be tabled on day 1 (rather than notice being given of each individually)
  - Providing rules for presentations, requiring that usually they be less than ten minutes and held prior to the dinner break
  - Introducing standard expedited timing and processes which Synod may adopt to speed up consideration of matters, in order to allow more time for core Synod business
  - Removal of the 'introduction' stage when considering ordinances.
- A number of confusing or previously controversial rules are addressed –
  - Alternative approaches to the procedural motion "that the motion not be put"
  - Allowing a member to speak in the debate on a principal motion and move amendments in the same matter.

##### Purpose

1. The purpose of this report is to provide recommendations in response to Synod resolution 40/18 regarding changes to Synod business rules.

##### Recommendations

2. Synod receive this report.
3. Synod pass the Bill for the Conduct of the Business of Synod Ordinance 2000 Amendment Ordinance 2019 as an ordinance of the Synod.
4. Synod consider the following motion to be moved at the forthcoming session of Synod, "by request of the Standing Committee" –

'Synod, noting the report "Synod Standing Orders" –

- (a) agrees to adopt as a trial for this session the amendments to the business rules proposed in the Bill for the Conduct of the Business of Synod Ordinance 2000 Amendment Ordinance 2019 (the Bill), as shown in the marked form of the *Conduct of the Business of Synod Ordinance 2000* (included as an attachment to the report "Synod Standing Orders"),
- (b) agrees to consider the Bill on day 4 of this session, and
- (c) suspends so many of the business rules as would prevent these arrangements.'

## Background

5. At its ordinary session in 2018 the Synod resolved as follows –
  - 40/18 Synod business rules concerning moving amendments to motions**
  - ‘Synod –
    - (a) encourages Members to provide comments regarding the trial arrangements concerning moving amendments to motions, and any other matters concerning the conduct of Synod business, to the Diocesan Secretary by 30 November 2018, and
    - (b) requests the Standing Committee, in light of comments received from Synod Members, to consider bringing a Bill to amend the *Conduct of the Business of Synod Ordinance 2000* to the next ordinary session of Synod, and requests the Standing Committee to identify training needs and provide resources to further equip members in their understanding of, and engagement with, the business of Synod.’
6. This report addresses the request of paragraph (b) of the resolution, regarding amendments to the *Conduct of the Business of Synod Ordinance 2000* (the **Principal Ordinance**). The request of the rider of the resolution, regarding training needs and resources to equip members in their understanding of, and engagement with, the business of Synod, is addressed in a separate report, “40/18 Enhancing engagement of Synod members”.
7. At its meeting on 10 December 2018, the Standing Committee constituted a committee (the **Committee**) comprising the Chancellor (chair), Dr Laurie Scandrett, the Rev Anthony Douglas, the Registrar, and the Diocesan Secretary, to consult with the Archbishop and address the request of paragraph (b) of the resolution.
8. In February 2019 the Diocesan Secretary administered a survey (the **Survey**) to Synod members regarding engagement as to the business of Synod seeking both rating scale and open-ended comments from Synod members. The survey results provided a broad range of feedback (from 309 Synod members) which is referred to throughout the report. A summary of the results of the Survey are provided as an attachment to the report, “Enhancing engagement of Synod members / 40/18 Synod business rules”.

## Proposed amendments

9. The Committee reviewed the comments of Synod members, Standing Committee members and the survey of Synod members conducted in February 2019, and identified several key issues to address in the Rules. Each is discussed briefly below, with the recommendation implemented in the accompanying Bill for the Conduct of the Business of Synod 2000 Amendment Ordinance 2019 (the **Bill**). A form of the Principal Ordinance showing all proposed changes in marked form is also provided as an attachment to this report. The clause number from that marked ordinance is (where possible) referenced in square brackets in the following headings, for ease of reference.

### Synod Standing Orders (Business Rules) [1]

10. One prominent but immaterial change is the amendment of the name of the Rules, from “Synod business rules” to “Synod Standing Orders”. This change reverts to the historical term and is consistent with most other Anglican dioceses.

### Priority amendments

11. The trial of ‘priority amendments’ at previous sessions of Synod received written comments from four members, as well as feedback noted during the session of Synod. The overwhelming response was that the trial was worthwhile in some regard, but ultimately should not be pursued. A recurring comment was that, while the trial intended to promote the use of the amendment sheet, it also had the effect of stifling debate. Implementing the priority amendments is not recommended.

**Election of officials on the calling of motions [3.2(e & g)]**

12. At the first session of each Synod, but also upon any casual vacancies at other sessions, elections to all the Synod offices (Secretary of Synod, Chair of Committee, Deputy Chairs of Committee) and Synod Committees (Committee of Elections and Qualifications, Committee for the Order of Business, Minute Reading Committee) takes place. Typically, a group of Synod members stand to move motions appointing individuals to positions. These motions are usually unopposed, and the person being nominated does not have opportunity to leave the theatre.
13. It is recommended that the Rules be amended to allow the election of Synod officials and Synod committees to be taken on the calling of motions, each election having its own motion as per the current practice. This will likely have little effect on most elections, as typically the same statement "I move the motion standing in my name" is made for calling of motions and the current practice for the appointment of Synod officials. However, holding this during the calling of motions allows any opposed nomination (should this ever occur) to be flagged during the callover, giving the mover opportunity to make a suitable introductory speech, and the person nominated the time to exit the theatre.

**Questions [3.2(k) and 6.3]**

14. It is helpful to recall the current practice regarding questions –
  - (a) Members may ask questions in accordance with Rule 6.3 on days 1-3, by lining up and stating their name and the topic about which they are asking the question (they do not read the text of the question).
  - (b) Once the text of the question is submitted to Synod staff, the question is typed up (during the session) and emailed to a person judged best able to answer the question, typically staff or representatives of Diocesan organisations, boards or committees.
  - (c) The text of the questions (not answers) are added to the business paper for the next day.
  - (d) The person answering the question researches in whatever time is available in order to have the text of a draft answer by the next morning.
  - (e) Answers are checked and reviewed, compiled into a document and printed for the Archbishop to read aloud as one of the first items in the afternoon session.
  - (f) Once the Archbishop has read aloud the answers to questions, a copy is attached to the noticeboard in the foyer of Synod.
15. Feedback on the value and desired format of questions varied, from strong suggestions to reduce the number of days on which questions may be asked, or not requiring the answers to be read aloud (a practice that currently consumes almost approximately 1.5 hours per Synod); to requests not to amend the format of questions, noting that questions allow members, who may otherwise not do so, to engage in the process of Synod.
16. However, noting that –
  - (a) the process of asking (or submitting) questions occupies significant time and detracts from time otherwise available for debate,
  - (b) the current practice places burdens on staff and other Synod members to research and answer questions overnight for publication early the next afternoon,
  - (c) if questions for the first day were submitted 7 days prior to the session and tabled on the first day, it would free time for debate and ease burdens on those responding to questions,the following approach is recommended –
  - (i) Require questions for day 1 to be submitted to the Secretary of the Synod 7 days prior to day 1, and tabled on day 1 (forgoing entirely on day 1 the practice of standing to submit the question).
  - (ii) Instruct the Secretary to print copies of any questions received for day 1 on the noticeboard in the foyer and on website prior to commencement of business on day 1.
  - (iii) Permit the tabling of answers, unless questioners 'opt in' expressing a desire that the Archbishop read aloud the answer to the question.

17. In this manner, some of the pressure is relieved on those preparing answers to questions; time is saved on day 1 by tabling the questions already received, and the Archbishop need not read aloud the answers to all questions (at the discretion of the questioner).

### Procedural motions on the calling of motions [3.2(m) and 3.3(f)-(h)]

18. Many of the Survey responses drew attention to the length of time spent considering procedural motions. Procedural motions on the business paper are usually self-explanatory, but since movers of procedural motions are not entitled to a right of reply, movers often feel compelled to promote and explain the motion for fear it is misunderstood. A simple and recommended solution is to amend the Rules to allow procedural motions on the business paper to be taken on the callover. This allows desirable and self-explanatory procedural motions to pass without a speech, focusing procedural discussion on contentious or misunderstood matters.

### Presentations [3.6]

19. The survey to Synod members and feedback provided by the Standing Committee contained frequent suggestion that presentations at Synod were given too much prominence and occupied too much time. Presentations are either included by the Standing Committee on the business paper for day 1, or are approved by the Synod itself following a procedural motion moved by a member of Synod.
20. The Standing Committee has adopted the following principles for the approval of a presentation at Synod –
- (a) Presentations should be ordinarily scheduled before 4:30pm, but not before the time for petitions, questions and answers, and notices of motion has concluded.
  - (b) Presentations should not be considered for scheduling unless the intending presenter has indicated to the Secretary of Synod prior the August meeting of Standing Committee –
    - (i) what the missional importance of the presentation is,
    - (ii) what the proposed time limit is,
    - (iii) what action is desired from Synod members, and
    - (iv) why it is that Synod members need to receive the information this way, and not by some other means (for example, by regular notice of motion, or by SDS website access available to Synod members).
  - (c) Presentations should be limited in time (including any prayers or ancillary comments) to no more than ten minutes and preferably to five or less.
  - (d) No organisation should ordinarily expect to present to Synod two years in a row.

(Per resolution of Standing Committee 27 August 2018)

21. It appears that the larger problem expressed is in relation to those presentations approved by procedural motion by the Synod itself. Typically, such motions will seek for a presentation of a certain length, at a certain time, possibly with presenters who are not members of Synod, and usually involving audio visuals. In such circumstances, the procedural motion will also seek 'to suspend so many of the business rules as would prevent these arrangements'. Typically, Synod will pass these procedural motions, and not object to the suspension of business rules.
22. The frequent need to suspend business rules suggests that a solution may be found by including *reasonable* rules for the arrangement of presentations. In determining reasonable rules, there are a number of considerations –
- (a) Any two members of Synod who want to give a presentation on any matter could simply give notice of a motion and use the time for speeches moving the motion to instead make a presentation. In this circumstance, the mover and seconder of 'an innocuous motion moved as a front for a presentation' would be entitled to 15 minutes. So, if rules for presentations were adopted that are overly restrictive (e.g., limiting presentations to 5 minutes), they would likely be ineffective.
  - (b) However, Synod is principally a forum for debate of matters as distinct from receipt of information. If Synod is presented with an uncontentious motion, it would usually pass the

motion on the callover in order to save Synod's time. Therefore as a guide, proportionally less time should be allocated to a presentation than a substantive motion.

- (c) The evening session typically receives higher turnout than the afternoon sessions, and significant matters of debate are accordingly scheduled for the evenings. The substantial presentations will tend to be matters that have been determined with the Standing Committee in advance, and may be scheduled for the evening. The Committee for the Order of Business may also act to allow certain presentations for an evening session. Presentations that arise on the floor of Synod, approved by procedural motion of the member, should normally be considered during the afternoon session.

- 23. These considerations suggest that an appropriate length of time for presentations should be shorter than speeches in support of a motion, and should be held during the afternoon session.
- 24. Accordingly, it is proposed that the Synod adopt new rules to regulate the scheduling of Presentations, providing a clear pathway for presentations up to ten minutes to be held prior to the dinner break. The proposed rules should still require Synod's approval, so that Synod can oppose (by simple majority) such presentations. The real benefit of these rules is that any member wishing to make a presentation longer than 10 minutes, or held following the dinner break, will necessarily require the suspension of business rules and therefore may be more readily identified and blocked. The proposed rules for presentations would form a new clause 3.6.

#### Notice of motions required [4.3]

- 25. At Rule 4.3, we have –

##### **'4.3 Notice of motions required**

- (1) The Synod is not to consider a motion unless
  - (a) notice of the motion was given on a previous day, or
  - (b) the Synod agrees to consider the motion.'

- 26. A plain-text reading of this Rule suggests that a member could move a motion without notice, and so long as a simple majority of Synod agrees to consider the motion anyway, proceed to consider the motion immediately. Our practice, notwithstanding the Rule, has been that moving a motion without notice may be blocked by any 8 members standing to indicate their objection. Presumably, this flows from Rule 6.5 where 'Any rule of procedure may be suspended by motion... without notice unless 8 members object'.
- 27. It appears that the wording of Rule 4.3 is an oversight, and the Rule should be amended to remove paragraph (b). This will have the effect, when read alongside Rule 6.5, of not allowing a motion to be moved without notice if 8 members object (as is the current practice).

#### Amendments and speaking more than once to a motion [4.7]

- 28. Many Synod members will recall from the ordinary session in 2018 the matter of 'speaking twice in a debate'. At issue is Rule 4.7 which currently reads –

##### **'4.7 Number of speeches**

- (1) No member may speak more than once on the same motion except
  - (a) during a meeting of the Synod in Committee, or
  - (b) when invited to give an explanation, or
  - (c) when exercising a right of reply under rule 4.11.
- (2) A member who formally seconds a motion is not regarded as having spoken to the motion.'

- 29. This Rule prevents a member from speaking to the principle of the motion and also moving an amendment to the motion.

30. It is recommended to insert a new Rule establishing that once a motion to amend a motion (the **principal motion**) has been moved, it is a separate motion. In this way, if a member has already spoken on the principal motion, they may not move a motion to amend the principal motion; but they may speak on any amendment to the principal motion.
31. This should remove ambiguity while clarifying that, if called to do so, a member can speak on the principal motion and *speak on* an amendment to that motion – but cannot speak on a motion and also *move* an amendment to that motion. The proposed Rule is inserted at subclause 4.7(3).

#### Order of debate on a motion [4.8]

32. When a motion has been moved and seconded, the current Rules allow speeches for or against the motion, or amendments to the motion to be considered. Perhaps in part due to the priority amendment trial or due to the presence of proposed amendments on the business paper, our recent practice has been to immediately consider amendments to the principal motion.
33. Many of the comments received from Synod and Standing Committee members suggested that some time should be given debating the motion in principle prior to considering amendments, in order to best frame the debate. However, there is little appetite to *enforce* a particular approach to a debate: in some circumstances it is most helpful to commence with consideration of amendments, and the President should be given flexibility to determine the best approach. The Bill includes an amendment to Rule 4.8(3) to give effect to this sentiment.

#### Moving that a motion ‘not be voted on’ [4.14]

34. The Rule at 4.14 allows a member who ‘desires to avoid or postpone a vote on a motion’ to move without notice: ‘That the motion not be voted on’. This Rule provides Synod the opportunity to, among other things, neither vote for nor against a motion.

#### *Background to this rule*

35. Many parliamentary systems have rules directed to avoiding or postponing indefinitely debate on motions. In some systems the rules are referred to as moving ‘the previous question’. Regrettably, many of the rules regarding disposing of a motion in this way in various parliamentary systems and the commentary about them are complicated.
36. It is said that objectives in moving such a motion vary according to circumstances. Practical reasons include –
  - (a) if the body considers that it is not adequately informed to express a view on the motion before it,
  - (b) preventing the feeling of a meeting being tested (e.g., because it has been raised at an inopportune time),
  - (c) enabling the motion to be shelved without its opponents needing to disclose who they are,
  - (d) that it is inexpedient or not in the best interests of the body for any decision at all to be made,
  - (e) that discussion may be embarrassing to certain members or become acrimonious with little chance of a compromise decision being achieved, and
  - (f) that the majority may prefer to dispose of a motion without the harshness of its overwhelming defeat where the mover declines to agree to a generally expressed wish that the motion be withdrawn.<sup>1</sup>
37. The effect of the motion if acceded to is to dispose of a motion being debated without it being voted on and recorded as having been passed or defeated.

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<sup>1</sup> See e.g. A.D. Lang ‘Horsley’s Meetings Procedure, Law and Practice’ 6<sup>th</sup> Ed (2010) at [12.11].

38. The use of this procedure (as distinct from debate and voting on other principal motions) allows a means of forcing of a determination on the form of the principal motion so as to preclude 'compromise' amendments. In some systems the motion may not be moved while an amendment is being debated, however if moved after an amendment is debated the effect of the mechanism is to allow opportunity for that amendment to be disposed of but to force a vote before any further amendments are considered.
39. Commentary indicates that the 'not voted on' question itself may be debated and the discussion may deal with a subject matter of the main motion. The mover of the 'not voted on' motion does not have a right of reply.<sup>2</sup>

*Our current practice*

40. When this procedural motion is moved, according to the current Rules the President is to immediately ask the Synod whether debate on the principal motion should continue before the procedural motion is put. From this point on, the Rules indicate that –
- (a) If Synod answers "Aye" to the question, debate continues on the principal motion including amendments and the right of reply; but before the motion is put to the vote, the procedural motion ('that this motion not be voted on') is put to the vote.
    - (i) If the procedural motion is carried, the principal motion is not put to the vote.
    - (ii) If the procedural motion is not carried, the principal motion (along with any amendments to that point, but no further amendments) are voted on.
  - (b) If members answer "No" to the question, the procedural motion ('that this motion not be voted on') is immediately put to the vote without any debate.
    - (i) If the procedural motion is carried, the principal motion is not put to the vote.
    - (ii) If the procedural motion is not carried, the Rules do not specify what action to take.
41. There are a number of problems with this Rule.
- (i) First, as experienced in 2018, the Rule does not give specific guidance on the action to take if Synod has agreed to cease debate on the principal motion but does not carry the procedural motion. (Should debate on the principal motion recommence? Should amendments be considered?)
  - (ii) Second, it is apt to confuse: the moving of a motion results in the asking of a question; it is also a confusing mix of terms – 'principal motion', 'procedural motion', 'the question asked by the President in rule 4.14(2)', etc.
  - (iii) Third, the one Rule is the only mechanism to both end debate on a motion and to agree not to vote on a motion. These are two separate matters. Quite apart from whether a Synod member might wish to avoid a vote on an issue, a Synod member may wish to test the mood of the meeting as to whether a motion has been sufficiently debated (in the same way as the President may do pursuant to Rule 4.10).
42. The Bill includes a proposed new Rule at 4.14 to replace the current, which provides that when the procedural motion, "That this motion not be voted on", is moved, debate on the principal motion is suspended (without asking the question whether to do so or not) and the Synod immediately considers speeches for and against the procedural motion. From that point, either the procedural motion is carried and debate ceases on the principal motion; or the procedural motion is not carried and debate on the principal motion continues.
43. The Bill also includes a new Rule 4.14A, dealing with the ending of debate issue. By this rule, a Synod member may move that the debate cease and the motion be immediately put to the vote.

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<sup>2</sup> Horsley's at [12.11].

### Use of expedited timing and procedures [4.19]

44. A feature of most sessions of Synod is a proposal on about the 4<sup>th</sup> day to change the time limits for speeches, or shorten the dinner break, etc in an effort to save time. By review of the minutes of Synod, these proposals are often not carried; but can attract significant debate, thereby having the opposite effect of that desired. There are a few key issues which dominate the debate and perhaps lead to these motions failing (and taking up the time of Synod in the process) –
- (a) When these measures are introduced from the floor, there is the question of how well thought-through the solution is – are proposed changes the result of a considered reflection upon what is suitable, or is it the mover’s instinct at the time?
  - (b) Similarly, when these measures are introduced from the floor, often the proposed rules have consequential effects that need to be considered through further procedural amendments. For example if dinner is to finish 15 minutes early, how will members who are only arriving for the evening session be informed? Or, if the Archbishop is not required to read aloud the answers to questions; how will members be informed of the answers without undue impact on Synod staff?
  - (c) It may also be that a well-intentioned proposal relies too heavily on the officers or staff of the Synod.
  - (d) In certain circumstances, a motion may also fail due to a perception that changing the rules in a particular way may unduly advantage one side in an upcoming debate.
45. The Bill includes a set of standard expedited timings for speeches and standard expedited processes, which can be adopted in whole or in part, by the Synod for the remainder of a session by procedural motion. Incorporating these standards into the Rules removes many of the problems outlined in the paragraphs above, meaning that even if the procedural motion is not carried, less time is spent proposing alternatives and improvements. The suggested Rules propose –
- (a) shorter times for some speeches (these are intended to provide an appropriate balance between shortened timing and still allowing enough time for robust debate),
  - (b) the possibility that the Archbishop may not read aloud all answers to questions (even if members requested him to do so),
  - (c) the extension of afternoon sessions by 15 minutes, shortening the dinner break (by starting the break later).
46. It is intended that Synod members may invoke any of all paragraphs of the proposed options. The President is also provided the option to apply any or all of the expedited time limits proposed for any particular matter before the Synod.

### Introduction of proposed ordinances [5.3]

47. The Rules currently require the Synod to ‘permit the introduction’ of a proposed ordinance. A member moves, “Synod permits the introduction of the [name of the proposed ordinance]” before then specifying the manner in which it is proposed that Synod consider the Bill. For our purposes this motion is a redundant step, merely adding confusion; and should be removed.
48. The proposed amendment removing the introduction stage also seeks to give greater clarity to the options for consideration of an ordinance, clearly setting out two possibilities of considering the Bill ‘formally’ or ‘in-principle’ and the steps to take to do so.

### Objections to considering an ordinance formally [5.4]

49. The Rules contain the option for a Bill for an ordinance to be considered one of two ways –
- (a) ‘in principle’ – where the mover seeks to convince the Synod that the principle of the ordinance is worthy of consideration, and Synod may hear speeches for or against the motion, and may amend the text of the ordinance in committee (Rules 5.5-5.8), or
  - (b) ‘formally’ – where, following Synod’s agreement to consider the ordinance formally, members may ask questions but may not speak for or against the ordinance, or make amendments to the text of the ordinance before ultimately voting on whether to pass the ordinance (Rule 5.4).

50. Rule 5.4(9) may be enlivened when an ordinance is being considered formally and provides –

‘(9) If –

- (a) prior to the motion in rule 5.4(7) [that the ordinance pass formally as an ordinance of the Synod] being voted on, 8 members stand in their place to object to the proposed ordinance being passed formally, or
- (b) the motion in rule 5.4(7) is not passed,

the mover is to immediately move a motion to the effect

“That Synod agrees to consider [forthwith or at a specified time] a motion that the [name of proposed ordinance] be approved in principle.”

51. The Rule 5.4(9) gives the impression that objecting to the formal passing of the ordinance may only occur *immediately* prior to voting on the passing of the ordinance; and is also unclear whether the mover is given the opportunity to move that the ordinance be considered in principle (including the full amount of time to make the speech in support of that motion).

52. Amendments are proposed to clause 5.4(9) that –

- (a) clarify that an objection may be made by 8 members at any time after the motion in 5.3(2) (that the Synod agree to consider passing the ordinance formally) is passed, and
- (b) specify that if an objection by 8 members is made under 5.4(9), the mover is to move the ordinance in principle ‘in accordance with clause 4.6(1)(a)’.

## Press coverage

53. Unless the Synod otherwise determines as a result of a motion with or without notice passed by the Synod, the proceedings of the Synod are to be open to the media (clause 6.6(1)). With the permission of the President, the proceedings, or parts of the proceedings, may be televised, broadcast or photographed (clause 6.6(2)). Therefore while there is a policy of open proceedings, there is no standard or criteria which determines or gives guidance regarding when any part of the proceedings should be held in camera or otherwise kept confidential. Any restrictions in that regard are left to the opinion of the Synod. Typically, special sessions of Synod to elect an Archbishop are held in camera, as was the special session in 2016 to consider the merger of Anglicare and Anglican Retirement Villages.

54. In the process of review of matters concerning the conduct of Synod business, several Synod and Standing Committee members provided thoughtful feedback on matters relating to the public nature of Synod information and press coverage. Interestingly, some argued that the press should be restricted and Synod should be open to Synod members only; while others argued for the necessity of keeping ordinary sessions of Synod open to the public (and press). Neither the Review Committee nor Standing Committee recommend any changes to the provisions as appearing in clause 6.6.

55. While there are specific rules relating to the open forum of Synod, there are no specific provisions regarding public accessibility of materials to be used at Synod. There is no provision which requires Synod materials to be publicly accessible. However, there has nonetheless been a longstanding practice of public accessibility to Synod materials (no doubt reinforced by the presumption embodied in clause 6.6 that Synod proceedings are open to the public and media).

56. There was feedback suggesting that materials should if possible not be made available on the public website. While this is a technical possibility, Standing Committee does not recommend any deviation from the current practice that Synod materials be publicly accessible. This recommendation is made noting the desirability of transparency, in particular to members of parishes who are not Synod members.

57. If the question regarding review of the policy of open proceedings and public access to Synod materials is to be considered in the future, questions may arise as to whether the questions of open forum and access to materials should be –

- (a) determined by reference to any specific standard or criteria,

- (b) left to the broad discretionary opinion of the Synod, without any specific guidance provisions, or
- (c) left in a discretionary form for the opinion of Synod but with reference to specific provisions, to guide the exercise of Synod's discretion.

### Miscellaneous matters

- 58. There are a number of other matters which have been identified for correction or improvement. These are included below.
- 59. **Chair of Committee:** The Rules currently refer throughout to the Chair or Deputy Chairs of Committees. However, "Committee" in this setting is "a Committee of the Whole Synod", of which there is only ever one; hence the titles are correctly 'Chair of Committee' and 'Deputy Chairs of Committee'. Accordingly, it is recommended to remove the "s" wherever it occurs.
- 60. **Presidential Address:** Currently Rule 3.2(c) suggests that the Presidential Address is to occur at a certain place in a sequence of events on the first day of each session. Each session typically has a corresponding procedural motion allowing the President to make his Address at a certain time. It is recommended that the Rules be amended to allow the Presidential Address to commence at a time of the President's choosing.
- 61. **Declaration of vacancies on the Anglican Church Property Trust:** Under section 12 of the *Anglican Church of Australia Trust Property Act 1917*, the Synod declares vacancies in the offices of members of the Anglican Church Property Trust Diocese of Sydney by resolution. This is another matter which requires a motion on the first day of each session. It is recommended that the motion is allowed to be taken on the callover.
- 62. **Notice of motion on the first day:** Currently, Rule 4.3(4) provides "If notice in writing is given to a Secretary of the Synod by 7.00 pm on the first day of a session then notice of the motion will be regarded as having been given on a previous day for the purposes of rule 4.3(1)." It seems that this is intended to allow motions that are given notice on first day in the afternoon to be considered that night. It is recommended to remove this subclause.

For and on behalf of the Standing Committee.

DANIEL GLYNN  
**Diocesan Secretary**

29 August 2019

## Conduct of the Business of Synod Ordinance 2000 Standing Orders Ordinance 2019

(Reprinted under the Interpretation Ordinance 1985.)

The Conduct of the Business of Synod Ordinance 2000 as amended by the Conduct of the Business of Synod Amendment Ordinance 2002, the Conduct of the Business of Synod Amendment Ordinance 2005, the Archbishop of Sydney Election Amendment Ordinance 2009, the Conduct of the Business of Synod Ordinance 2000 Amendment Ordinance 2014, the Conduct of the Business of Synod Ordinance 2000 Amendment Ordinance 2016, ~~and the Miscellaneous Amendments Ordinance 2019,~~ and the Conduct of the Business of Synod Ordinance 2000 Amendment Ordinance 2019.-

### Table of Provisions

#### Clause

|   |       |   |
|---|-------|---|
| 1 | ..... | Name  |
| 2 | ..... | Adoption of new rules of procedure  |
| 3 | ..... | Repeal of previous rules  |
| 4 | ..... | Commencement  |
|   |       | Schedule  |
|   |       | Part 1 – Meeting Time, President, Houses of the Synod and Quorum              |
|   | 1.1   | ..... Meeting time  |
|   | 1.2   | ..... President   |
|   | 1.3   | ..... Houses of the Synod   |
|   | 1.4   | ..... Quorum  |
|   |       | Part 2 – Officers and Committees of the Synod                                 |
|   | 2.1   | ..... Introduction  |
|   | 2.2   | ..... The Secretary of the Synod  |
|   | 2.3   | ..... The <del>Chair of Committees</del> Chair of Committee                   |
|   | 2.4   | ..... The Deputy Chair or <del>Chairs of Committees</del> Chairs of Committee |
|   | 2.5   | ..... The Committee of Elections and Qualifications                           |
|   | 2.6   | ..... The Committee for the Order of Business                                 |
|   | 2.7   | ..... The Minute Reading Committee  |
|   | 2.8   | ..... Casual Vacancies  |
|   |       | Part 3 – The Order of Business of the Synod                                   |
|   | 3.1   | ..... Introduction  |
|   | 3.2   | ..... Order of business for the first day of a session                        |
|   | 3.3   | ..... Order of business for the second and third days of a session            |
|   | 3.4   | ..... Order of business for the fourth and subsequent days of a session       |
|   | 3.5   | ..... Order of motions  |
|   | 3.6   | ..... <u>Presentations to Synod</u>   |
|   |       | Part 4 – Resolutions  |
|   | 4.1   | ..... Introduction  |
|   | 4.2   | ..... General rules   |
|   | 4.3   | ..... Notice of motions required  |
|   | 4.4   | ..... Motions to be seconded  |
|   | 4.5   | ..... Calling the motions on the business paper                               |
|   | 4.5A  | ..... Incorporation of amendments in principal motion                         |
|   | 4.6   | ..... Time limits for speeches  |
|   | 4.7   | ..... Number of speeches  |
|   | 4.8   | ..... After a motion has been seconded  |
|   | 4.9   | ..... Amendments to motions   |
|   | 4.10  | ..... Putting a motion to the vote  |
|   | 4.11  | ..... Right of reply  |
|   | 4.12  | ..... Voting on a motion  |
|   | 4.13  | ..... Adjournment of debate   |

4.14 .....Not voting on a motion

4.14A .....Ending debate on a motion

4.15 .....Withdrawal of a motion

4.16 .....Motions previously voted on

4.17 .....Synod in Committee

4.18 .....Proposed policies of the Synod

4.19 .....Expedited time limits and procedures

Part 5 – Making of Ordinances by the Synod

5.1 .....Introduction

5.2 .....Notice of the proposed ordinance is to be given

5.3 .....~~Consideration~~Introduction of the proposed ordinance

5.4 .....Passing the proposed ordinance formally

5.5 .....Approving the proposed ordinance in principle

5.6 .....Considering the text of the proposed ordinance

5.7 .....Passing the proposed ordinance

5.8 .....Further consideration of the text of the proposed ordinance

5.9 .....Reconsideration of the text of the proposed ordinance if assent is withheld

5.10 .....Proposed ordinances referred from the Standing Committee

5.11 .....Referral of ordinances by the Synod

Part 6 – Other Matters

6.1 .....Questions about the election or qualification of a member

6.2 .....Petitions to Synod

6.3 .....Questions

6.4 .....Personal explanations

6.5 .....Suspension of these rules

6.6 .....Media

6.7 .....Rules

6.8 .....Application of business rules

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An Ordinance to make rules for the conduct of the business of the Synod of the Diocese of Sydney.

The Synod of the Diocese of Sydney ordains.

**1. Name**

This Ordinance is the ~~Conduct of the Business of Synod Ordinance 2000~~Synod Standing Orders Ordinance 2019.

**2. Adoption of new rules of procedure**

The rules for the conduct of the business of the Synod of the Diocese of Sydney are in the Schedule to this Ordinance.

**3. Repeal of previous rules**

- (1) The Standing Orders Ordinance 1968 is repealed.
- (2) Each reference in an ordinance (other than this Ordinance) to the Standing Orders Ordinance 1968 and the ~~Conduct of the Business of Synod Ordinance 2000~~ is changed to the ~~Conduct of the Business of Synod Ordinance 2000~~Synod Standing Orders Ordinance 2019.

**4. Commencement**

Clauses 2 and 3 of this Ordinance commence on the day next following the last day of the second session of the 45th Synod or on the day on which assent is given to this Ordinance, whichever is later.

## Schedule

### Synod of the Diocese of Sydney

#### Rules for Conducting the Business of the Synod

##### Part 1 Meeting Time, President, Houses of the Synod and Quorum

###### 1.1 Meeting time

- (1) The Synod is to meet at 3.15 pm on each appointed day unless it decides to meet at another time.
- (2) No motion about a proposed ordinance may be considered before 4.30 pm apart from the unopposed introduction of a proposed ordinance.

###### 1.2 President

- (1) The Archbishop is the President.
- (2) In the absence of the Archbishop, the President is the person appointed by the Archbishop as his commissary under section 11 of the Constitutions in the Schedule to the 1902 Constitutions.
- (3) In the absence of the Archbishop and the commissary, the President is the person next in ecclesiastical rank who is licensed in the Diocese and is present at the meeting of the Synod.
- (4) If the person who is the President of the Synod is, for any reason, unwilling or unable (otherwise than by absence) to preside in respect of any business of the Synod, the President is the person next in ecclesiastical rank after that person who is licensed in the Diocese and is present at the meeting of the Synod.
- (5) Nothing in this rule amends the provisions of the Constitutions in the Schedule to the 1902 Constitutions concerning the giving of assent to an ordinance of the Synod. Accordingly, a person who is President of the Synod under rule 1.2(2) or (3) or (4) may not assent to an ordinance unless that person is authorised to do so under those Constitutions.
- (6) In this rule 1.2, the word "Archbishop" means, if the See is vacant, the person appointed under an ordinance of the Synod to administer the Diocese.

###### 1.3 Houses of the Synod

- (1) Each member of the Synod (other than the President) is a member of a House of the Synod.
- (2) A member who is ordained is a member of the House of Clergy.
- (3) A member of the Synod who is not ordained is a member of the House of Laity.

###### 1.4 Quorum

- (1) When a motion about a proposed ordinance is being considered, one fourth of the members of each House is a quorum.
- (2) Otherwise, 50 members of the House of Clergy and 100 members of the House of Laity is a quorum.
- (3) If at the time fixed for a meeting of the Synod or during a meeting of the Synod, a quorum is not present the President is to adjourn the Synod to a time determined by him. If a debate is interrupted as a consequence then, subject to rules 3.3, 3.4 and 3.5, the debate is to resume at the point where it was interrupted.

##### Part 2 Officers and Committees of the Synod

###### 2.1 Introduction

The Synod elects several officers and committees to assist it in conducting its business. Those officers and committees are

- (a) the Secretary of the Synod
- (b) the ~~Chair of Committees~~ Chair of Committee
- (c) the Deputy Chair or ~~Chairs of Committees~~ Chairs of Committee
- (d) the Committee of Elections and Qualifications
- (e) the Committee for the Order of Business
- (f) the Minute Reading Committee.

This Part sets out the functions of the officers and committees of the Synod.

## 2.2 The Secretary of the Synod

- (1) One member is to be elected as Secretary of the Synod on the first day of the first session of each Synod and, subject to rule 2.8, is to hold office until the first day of the first session of the next Synod.
- (2) The Secretary of the Synod is to
  - (a) prepare the business paper for each day after the first day of each session of a Synod, and
  - (b) take minutes of the meetings of the session, and maintain the minute book, and
  - (c) record the ordinances passed by the Synod, and
  - (d) prepare and publish the report of the session of the Synod.
- (3) With the permission of the President, the Secretary of the Synod may give notices to the Synod about any matter concerning the business of the Synod.
- (4) The Secretary of the Synod may approve any report or other material from a Diocesan Body or Organisation being made available to members.

## 2.3 ~~The Chair of Committees~~Chair of Committee

- (1) One member is to be elected as the ~~Chair of Committees~~Chair of Committee on the first day of the first session of each Synod and, subject to rule 2.8, is to hold office until the first day of the first session of the next Synod.
- (2) The ~~Chair of Committees~~Chair of Committee presides during meetings of the Synod in Committee and, when presiding, has the same authority as the President.

## 2.4 The Deputy Chair or ~~Chairs of Committees~~Chairs of Committee

- (1) One or more members is to be elected as the Deputy Chair or Deputy ~~Chairs of Committees~~Chairs of Committee on the first day of the first session of each Synod and, subject to rule 2.8, is to hold office until the first day of the first session of the next Synod.
- (2) The Deputy ~~Chair of Committees~~Chair of Committee presides during meetings of the Synod in Committee if the ~~Chair of Committees~~Chair of Committee is unable or unwilling to act, or if the ~~Chair of Committees~~Chair of Committee requests that a Deputy ~~Chair of Committees~~Chair of Committee act. When presiding, the Deputy Chair has the same authority as the President.
- (3) If more than one Deputy ~~Chair of Committees~~Chair of Committee is elected, the person to preside in the place of the ~~Chair of Committees~~Chair of Committee is to be determined by the persons who have been elected as Deputy ~~Chairs of Committees~~Chairs of Committee or, if they are unable to agree, by the President.
- (4) If
  - (a) the ~~Chair of Committees~~Chair of Committee, and
  - (b) the Deputy ~~Chair of Committees~~Chair of Committee or each of the Deputy ~~Chairs of Committees~~Chairs of Committee,

are unable or are unwilling to preside during a meeting of the Synod in Committee, the person to preside during that meeting is to be a member appointed by the Synod as a result of a motion without notice passed by the Synod. When presiding, that person has the same authority as the President.

## 2.5 The Committee of Elections and Qualifications

- (1) The Committee of Elections and Qualifications is to consist of not more than 5 members elected on the first day of the first session of each Synod and who, subject to rule 2.8, are to hold office until the first day of the first session of the next Synod.
- (2) The Committee of Elections and Qualifications is to investigate and report when required by rule 6.1.
- (3) A person may not act as a member of the Committee of Elections and Qualifications in relation to a question referred by the Synod about
  - (a) the validity of the election or appointment of that person as a member of the Synod, or
  - (b) that qualification of that person to be a member of the Synod.

## 2.6 The Committee for the Order of Business

- (1) The Committee for the Order of Business is to consist of
  - (a) the Secretary of the Synod, and

- (b) not more than 5 members elected by the Synod on the first day of the first session of each Synod and who, subject to rule 2.8, are to hold office until the first day of the first session of the next Synod

(2) The Committee for the Order of Business is to review the business paper for each day of a session, other than the first day, and settle the order and scheduling of motions and presentations of motions appearing on the business paper.

### **2.7 The Minute Reading Committee**

(1) The Minute Reading Committee is to consist of not more than 8 members elected on the first day of the first session of each Synod and who, subject to rule 2.8, are to hold office until the first day of the first session of the next Synod.

(2) Any 2 members of the Minute Reading Committee are to review the minutes of the proceedings of each day and certify their correctness, or otherwise, to the President.

### **2.8 Casual vacancies**

(1) A casual vacancy in any office or in the membership of any committee elected under this Part 2 arises if the person holding the office or membership –

- (a) dies,
- (b) resigns by written notice given to the President, or
- (c) ceases to be a member of the Synod.

(2) A casual vacancy in any office or in the membership of any committee held by a person elected under this Part 2 also arises if the Synod declares, as a result of a motion with or without notice passed by the Synod, the office or membership to be vacant.

(3) A casual vacancy arising under rule 2.8(1) or (2) may be filled by the Synod or, if the Synod is not in session, by the Standing Committee. A person who is elected by the Standing Committee to fill a casual vacancy holds office or remains a member of the committee until the next session of the Synod.

## **Part 3 The Order of Business of the Synod**

### **3.1 Introduction**

This Part sets out the order in which the business of the Synod is to be conducted on each day of a session.

### **3.2 Order of business for the first day of a session**

The order of business for the first day of a session of is as follows.

- (a) The President, or a person appointed by him, is to read prayers.
- (b) The President is to table a list of the members of the Synod.
- (c) The President may make a speech to the Synod at a time of his choosing.
- (d) The President is to table a document appointing a commissary.
- (e) The President is to call the motions on the business paper appearing in relation to paragraphs (f) and (g) of this clause.
- (f) The Synod is to consider any motion to declare a vacancy or vacancies among the membership of the Property Trust in accordance with the Anglican Church Property Trust Diocese of Sydney Ordinance 1965.
- (g) Where required under Part 2, the Synod is to consider motions for the election of -
  - (i) the Secretary of Synod,
  - (ii) the Chair of Committee,
  - (iii) the Deputy Chair or Chairs of Committee,
  - (iv) the Committee of Elections and Qualifications,
  - (v) the Committee for the Order of Business, and
  - (vi) the Minute Reading Committee.
- (h) The President is to table a list of the results of uncontested elections and declare the persons concerned elected.
- (i) The minute book of the Standing Committee is to be tabled.

- (j) The President is to allow members to present petitions.
- (k) The President is to table a list of questions asked by members in accordance with 6.3(2)(a).
- (l) The President is to invite members to give notice of motions.
- (m) The President is to call the motions, including procedural motions, in the order in which they appear on the business paper in accordance with rule 4.5.
- (n) The President is to allow members to move procedural motions.
- (o) The Synod is to consider motions for the formal reception and printing of reports, accounts and other documents in the order in which they appear on the business paper.
- (p) The Synod is to consider motions for proposed ordinances which have been referred from a previous session of the Synod, or from a previous Synod, in the order in which they appear on the business paper, unless the Synod determines, by motion without notice, that those motions should be considered on a subsequent day.
- (q) The Synod is to consider motions to be moved at the request of the Synod or the Standing Committee in the order in which they appear on the business paper.
- (r) The Synod is to consider motions to be moved at the request of a regional council in the order in which they appear on the business paper.
- ~~(a) The Synod is to consider motions received by the Standing Committee from members in accordance with rule 4.3(3) in the order in which they were received. The President, or a person appointed by him, is to read prayers.~~
- ~~(b) The President is to table a list of the members of the Synod.~~
- ~~(c) The President may make a speech to the Synod.~~
- ~~(d) The President is to table a document appointing a commissary.~~
- ~~(e) The Synod is to consider any motion to declare a vacancy or vacancies among the membership of the Property Trust in accordance with the Anglican Church Property Trust Diocese of Sydney Ordinance 1965.~~
- ~~(f) The President is to table a list of the results of uncontested elections and declare the persons concerned elected.~~
- ~~(g) Where required under Part 2, the Synod is to consider motions for the election of~~
- ~~(h) the Secretary of Synod~~
- ~~(i) the Chair of Committees~~
- ~~(j) the Deputy Chair or Chairs of Committees~~
- ~~(k) the Committee of Elections and Qualifications~~
- ~~(l) the Committee for the Order of Business~~
- ~~(m) the Minute Reading Committee.~~
- ~~(n) The minute book of the Standing Committee is to be tabled.~~
- ~~(o) The President is to allow members to present petitions.~~
- ~~(p) The President is to allow members to ask questions in accordance with rule 6.3.~~
- ~~(q) The President is to allow members to move or give notice of procedural motions and is to invite members to give notice of other motions.~~
- ~~(r) The President is to call the motions in the order in which they appear on the business paper in accordance with rule 4.5.~~
- ~~(s) The Synod is to consider motions for the formal reception and printing of reports, accounts and other documents in the order in which they appear on the business paper.~~
- ~~(t) The Synod is to consider motions for proposed ordinances which have been referred from a previous session of the Synod, or from a previous Synod, in the order in which they appear on the business paper, unless the Synod determines, by motion without notice, that those motions should be considered on a subsequent day.~~

- ~~(u) The Synod is to consider motions to be moved at the request of the Synod or the Standing Committee in the order in which they appear on the business paper.~~
- ~~(v) The Synod is to consider motions to be moved at the request of a regional council in the order in which they appear on the business paper.~~
- ~~(w)(s) The Synod is to consider motions received by the Standing Committee from members in accordance with rule 4.3(3) in the order in which they were received.~~

### **3.3 Order of business for the second and third days of a session**

The order of business for the second and third days of a session is as follows.

- (a) The President, or a person appointed by him, is to read prayers.
- (b) The President, or a person appointed by him, is to read a passage from the Bible and apply it.
- (c) The minutes of the proceedings of the previous day are to be signed by the President as a correct record, or be otherwise dealt with.
- (d) Subject to rules 6.3(2)(d) and rule 6.3(5), answers to questions asked on ~~the previous day~~previous days are to be given.
- (e) The President is to allow members to ask questions in accordance with rule 6.3(2)(c)~~rule 6.3~~.
- (f) ~~The President is to allow members to move or give notice of procedural motions and is to invite members to give notice of other motions.~~The President is to invite members to give notice of motions.
- (g) The President is to call the motions, including procedural motions, in the order in which they appear on the business paper in accordance with rule 4.5.
- ~~(g)(h)~~(h) The President is to allow members to move procedural motions.
- ~~(h)(i)~~(i) The Synod is to consider motions about proposed ordinances in the order in which they appear on the business paper.
- ~~(i)(j)~~(j) The Synod is to consider other motions in the order in which they appear on the business paper.

### **3.4 Order of business for the fourth and subsequent days of a session**

The order of business for the fourth and subsequent days of a session of the Synod is the order specified in rule 3.3 except that no member may

- (a) ask a question, or
- (b) give notice of a motion,

except with the permission of the majority of the members then present.

### **3.5 Order of motions**

Motions are to be considered in the order in which they appear on the business paper. The Synod may determine, as a result of a procedural motion passed by the Synod,

- (a) to vary the order in which motions are considered, or
- (b) to fix a time for when a motion is to be considered.

### **3.6 Presentations to Synod**

- (1) The President may invite persons at his discretion to address the Synod.
- (2) Presentations approved by the Standing Committee will appear on the business paper for day 1.
- (3) Presentations scheduled by the Committee for the Order of Business will appear on business papers for subsequent days.
- (4) The Synod may, as a result of a procedural motion, allow other presentations to be made to the Synod on any subject related to the Synod. Such presentations –
  - (a) must be no longer than ten minutes, and
  - (b) may not be scheduled to a time following the dinner break.
- (5) Synod members, or individuals who are not members of Synod but who are named as intended presenters in a procedural motion, may combine for a presentation (including visuals) in accordance with this clause.

## Part 4 Resolutions

### 4.1 Introduction

The main way in which the Synod expresses a view on a matter is by the making of a resolution. Generally, a resolution is made in the following way.

- (a) A member of the Synod (referred to in these rules as the “mover”) moves a motion (referred to in these rules as the “principal motion”). Usually, the mover will have given notice of the principal motion on a previous day.
- (b) Except during a meeting of the Synod in Committee, a motion is to be seconded.
- (c) When called by the President, the mover will speak in support of the principal motion and the seconder may also speak in support of the motion.
- (d) Instead of making separate speeches in support of the principal motion, the mover and seconder may, by notice to the Synod, elect to make a joint presentation in support of the principal motion for up to the combined length of time the mover and seconder would otherwise be permitted to speak.
- (e) A speech or presentation referred to in paragraph (c) or (d) may, by arrangement with the Secretary of the Synod, be accompanied by overhead visual material.
- (f) If any member wishes to speak against the principal motion, or move a proposed amendment, debate will proceed.
- (g) If no member wishes to speak against the principal motion or move an amendment, the President is to ask the Synod to vote on the principal motion.
- (h) After debate has concluded, the President is to ask the Synod to vote on any amendments. After any amendments have been agreed to or rejected, the President is to ask the Synod to vote on the principal motion, as amended by any amendments which have been agreed.
- (i) If the principal motion, with or without amendments, is passed, it becomes a resolution of the Synod.

The remaining rules in this Part contain the details of this procedure, and the details of the special situations in which the general procedure is modified.

### 4.2 General rules

- (1) A member may only address the Synod when called by the President to do so.
- (1A) A member who wishes to be called by the President to address the Synod is to stand in his or her place, or if directed by the President, to stand near a microphone. The President is to call from among those standing the member who may address the Synod.
- (2) The President may take part in debate.
- (3) If the President stands, all other members are to sit and remain seated until the President sits down.
- (4) Any member may speak to a question about procedure. A question about procedure is to be decided by the President whose decision is final unless immediately altered as a result of a motion without notice passed by the Synod.
- (5) The President is to confine each speaker to the subject matter being debated. A member may not interrupt a speaker, except with the permission of the President, or as a result of a motion without notice passed by the Synod.
- (6) A speaker may not make a remark which reflects adversely on the personality of any member or imputes an improper or questionable motive to any member. If a speaker makes such a remark, the President is to
  - (a) ask the speaker to withdraw the remarks and apologise and,
  - (b) warn the speaker against making such remarks in future.

If, having been asked, the speaker refuses to withdraw the remark and apologise, the member may be suspended from the Synod as a result of a motion with or without notice passed by the Synod, for the time specified in the motion.

- (7) A member may not act in a disorderly way. If a member acts in a disorderly way, he or she may be suspended from the Synod as a result of a motion with or without notice passed by the Synod, for the time specified in the motion.

**4.3 Notice of motions required**

~~(1) The Synod is not to consider a motion unless~~

~~(a) notice of the motion was given on a previous day, or~~

~~(b) the Synod agrees to consider the motion.~~

(1) The Synod is not to consider a motion unless notice of the motion was given on a previous day.

(2) Motions intended to facilitate the consideration of business are known as 'procedural motions'. Rule 4.3(1) does not apply to procedural motions and those other motions for which notice is not required by Parts 4 and 5.

(2A) Rule 4.3(1) does not apply to motions to amend a motion.

(3) A member may send notice of a motion to the Standing Committee to be received at least 1 month before the first day of the session. Notice of such motion is to be printed on the business paper for the first day of the session. A member may not send notice of more than 2 motions.

~~(4) If notice in writing is given to a Secretary of the Synod by 7.00 pm on the first day of a session then notice of the motion will be regarded as having been given on a previous day for the purposes of rule 4.3(1).~~

**4.4 Motions to be seconded**

(1) No motion, or motion to amend a motion, is to be considered unless it is seconded.

(2) Rule 4.4(1) does not apply to a motion moved in a meeting of the Synod in Committee.

**4.5 Calling the motions on the business paper**

(1) At the time required by rule 3.2, 3.3 or 3.4, the President is to call the motions in the order in which they appear on the business paper, except those motions about a proposed ordinance or policy or those motions to be considered at a time fixed by the Synod.

(2) When a motion is called, the President is to ask for the motion to be formally moved and seconded unless 8 or more members ~~call "object" or 1 or more members stand to object or any member~~ calls "amendment". If the motion is formally moved and seconded, the Synod is to vote on the motion without any speeches or debate.

(3) If 8 or more members ~~call "object" or 1 or more members stand to object or any member~~ calls "amendment"

(a) the President is to immediately call the next motion on the business paper to be called under this rule or, if there is no such motion, proceed to the next item of business, and

(b) any member who calls "amendment" is to

- deliver a written copy of the proposed amendment to the Secretary of the Synod, and
- make himself or herself available to discuss the proposed amendment with the mover of the motion on the day on which the call is made.

**4.5A Incorporation of amendments in principal motion**

If the mover of a principal motion (the 'Mover') notifies the Secretary of the Synod that –

(a) having discussed a proposed amendment with the mover of the amendment, the Mover agrees to include the proposed amendment in the principal motion, or

(b) the Mover wishes to move the principal motion in an amended form,

the motion in the amended form becomes the principal motion and is to be printed in a suitably marked form on the next day's business paper.

**4.6 Time limits for speeches**

(1) The following time limits for speeches apply.

(a) For a motion that a proposed ordinance be approved in principle –

- the mover may speak for up to 15 minutes, and up to 5 minutes in reply
- other members may speak for up to 5 minutes.

(b) For a speech following the Synod's approval to consider a proposed ordinance formally, the mover may speak for up to 3 minutes.

~~(b)(c)~~ (c) For other motions, except the motions referred to in paragraphs ~~(c)(d)~~ and ~~(d)(e)~~ –

- the mover may speak for up to 10 minutes, and up to 5 minutes in reply
- other members may speak for up to 5 minutes.

~~(e)~~(d) For procedural motions and for motions to amend a motion, a member may speak for up to 5 minutes.

~~(d)~~(e) For motions moved in a meeting of the Synod in Committee, a member may speak for up to 3 minutes.

(2) A member, not being the speaker at the time, may, without making a speech, move a procedural motion for the speaker to continue for a nominated number of minutes.

#### 4.7 Number of speeches

(1) No member may speak more than once on the same motion except

- (a) during a meeting of the Synod in Committee, or
- (b) when invited to give an explanation, or
- (c) when exercising a right of reply under rule 4.11.

(2) A member who formally seconds a motion is not regarded as having spoken to the motion.

(3) Once a motion to amend a motion (the principal motion) has been moved, it is a separate motion for the purpose of this clause. Accordingly, if a member has already spoken on the principal motion, they may not move a motion to amend the principal motion, but they may speak on any amendment to the principal motion.

#### 4.8 After a motion has been seconded

(1) After a motion has been moved and seconded, the President is to ask a question to the effect "Does any member wish to speak against the motion or move an amendment?"

(2) If no member indicates a wish to speak against the motion or move an amendment, the Synod is to vote on the motion without further any debate.

(3) If a member indicates a wish to speak against the motion or move an amendment, debate on the motion is to proceed, commencing with speeches for and against the motion before considering amendments to the motion, unless the President determines otherwise.

#### 4.9 Amendments to motions

(1) A member may move a motion to amend a principal motion at any time before the close of debate. The motion to amend must be in writing and a copy handed to the President.

(2) A member may move a motion to amend a motion to amend a principal motion. The motion to amend must be in writing and a copy handed to the President.

(2A) A motion to amend is not to be irrelevant to the principal motion or give rise to an entirely different subject matter from or a direct negative of the principal motion.

(3) A member may, with the permission of the Synod, withdraw their own motion to amend at any time before the close of debate.

(4) If motions to amend have been moved, but not passed by the Synod, the motion to be put to the vote is the principal motion.

(5) If motions to amend have been moved and passed by the Synod, the motion to be put to the vote is the amended principal motion.

(6) If a member has moved a motion to amend and another member moves a motion for a different amendment or indicates an intention to move a motion for a different amendment, the President may

- (a) put to the Synod questions about the principal motion and the proposed amendment to establish the mind of the Synod on the principle or principles of the motions, or
- (b) nominate a person or persons to
  - prepare a suitable form of words which expresses the mind of the Synod
  - report to the Synod,and adjourn the debate on the principal motion and the proposed amendments until the report has been received.

(7) If debate on a motion is adjourned under rule 4.9(6)(b), the Synod is to proceed to the next item of business.

(8) If the President considers that the strict application of rule 4.9 may cause confusion or prevent the Synod from expressing its mind, he may waive the application of this rule, or so much of it as he thinks fit.

**4.10 Putting a motion to the vote**

(1) If, during the time for debate on a motion, no further member indicates a wish to speak to the motion, the President may declare that the debate has ended, subject to the mover of the motion exercising or declining to exercise a right of reply under rule 4.11.

(2) If the President thinks that sufficient time has been allowed for debate on a motion but there remains one or more members indicating a wish to speak to the motion, the President is to ask the Synod a question to the effect

“Does the Synod consider that the motion has been sufficiently debated and should now be voted on?”

If the majority of the members present answer “Aye”, the debate on the motion will be regarded as having ended, subject to the mover of the motion exercising or declining to exercise a right of reply under rule 4.11. If the majority of members present answer “No” the President is to allow the debate to continue. Rule 4.10(1) and rule 4.10(2) apply until debate has ended.

**4.11 Right of reply**

(1) The mover of a motion has a right of reply after debate on a motion has ended unless the motion is

- (a) a procedural motion, or
- (b) a motion for an amendment, or
- (c) a motion moved in a meeting of the Synod in Committee.

(2) After the mover has exercised or declined to exercise their right of reply, the motion is to be voted on.

**4.12 Voting on a motion**

(1) A vote on a motion is taken by the President asking members present who are in favour of the motion to say “Aye” and then to ask those members who are against the motion to say “No”. Voting may also take place by a show of hands at the option of the President or if requested by a member. A motion is passed only if a majority of the persons present and voting vote in favour of the motion.

(2) If requested by 8 or more members, voting on a motion is to be conducted by ballot. If a ballot is requested, the Synod shall vote in accordance with the directions of the Secretary of the Synod.

(3) The members of the Synod are to vote collectively unless 8 members request that the vote be taken by Houses.

(4) If a vote is required to be taken by Houses, each House is to vote separately in accordance with the directions of the Secretary of the Synod, provided that the House of Laity is to vote first. The motion is passed only if a majority of persons present and voting in each House vote in favour of the motion. If a majority of the persons present and voting in the House of Laity do not vote in favour of the motion, the House of Clergy is not required to vote.

**4.13 Adjournment of debate**

(1) A procedural motion for the adjournment of either the Synod or a debate may be moved without notice at any time between speeches.

(2) If debate on a motion is adjourned, that debate takes precedence over all other business, unless these rules provide otherwise, or the Synod decides otherwise as a result of a motion without notice passed by the Synod.

**4.14 Not voting on a motion**

~~—— (1) If it is desired to avoid or postpone a vote on a motion, a member may move without notice the procedural motion~~

~~—— “That the motion not be voted on.”~~

~~—— (2) When this procedural motion is moved, the President is to immediately ask the Synod a question to the effect~~

~~—— “Does the Synod wish the debate on the principal motion to continue before the procedural motion is put to the Synod?”~~

~~—— (3) The question asked by the President in rule 4.14(2) may be debated but the debate is to be limited to that question until it is disposed of by vote of the Synod.~~

~~—— (4) If the majority of members present and answering answer “Aye” to the question asked by the President in rule 4.14(2), debate on the principal motion is to continue and the mover of that motion has a~~

~~right of reply before the procedural motion is voted on. If the procedural motion is not passed, the principal motion, and any amendments, are to be voted on immediately without further debate.~~

~~(5) If the majority of members present and answering answer “No” to the question asked by the President in rule 4.14(2), the President is to immediately put the procedural motion without debate and without any right of reply.~~

~~(6) The procedural motion in rule 4.14(1) is not to be moved in a meeting of the Synod in Committee.~~

(1) If it is desired not to vote on a motion, at any time following the speeches of the mover and seconder and prior to the motion being put to a vote, a member may move without notice the procedural motion –

“That the motion not be voted on.”

(2) When this procedural motion is moved, debate on the principal motion shall be suspended and the Synod shall immediately consider speeches for and against the procedural motion.

(3) If –

(a) the procedural motion is carried, debate on the Principal motion ceases and it is not put to the vote,

(b) the procedural motion is not passed, debate on the Principal motion continues from that point where the procedural motion was moved.

(4) The procedural motion in rule 4.14(1) may not be amended and is not to be moved in a meeting of the Synod in Committee.

#### **4.14A Ending debate on a motion**

(1) If it is desired to end debate on a motion, a member may move without notice the procedural motion –

“That debate cease and the motion be immediately put to the vote.”

(2) When this procedural motion is moved, debate on the principal motion shall be suspended and the Synod is to vote immediately on the procedural motion subject to the mover of the principal motion exercising or declining to exercise a right of reply under rule 4.11.

(3) If –

(a) the procedural motion is carried, the principal motion, and any amendments that have been moved, are to be voted on immediately without further debate, and

(b) the procedural motion is not carried, debate on the principal motion continues.

(4) The procedural motion in rule 4.14A(1) may not be amended and is not to be moved in a meeting of the Synod in Committee.

#### **4.15 Withdrawal of a motion**

A motion may be withdrawn at any time by its mover with the permission of the Synod.

#### **4.16 Motions previously voted on**

(1) No motion which has been considered by the Synod and voted on is to be debated again during the same session of the Synod.

(2) No motion which is substantially the same as one which has been voted on during the same session is to be considered. However a motion is not to be regarded as substantially the same as one which has been voted on during the same session if –

(a) the motion is a direct negative of the one voted on, and

(b) the one voted on was not passed.

(3) Any question about whether a motion is substantially the same as one which has been voted on during the same session is to be decided by the President whose decision is final unless immediately altered as a result of a motion without notice agreed to by the Synod.

#### **4.17 Synod in Committee**

(1) The Synod may, as a result of a procedural motion passed by the Synod, resolve itself into the Synod in Committee to consider any matter. A motion for the Synod to resolve itself into the Synod in Committee to consider the text of a proposed ordinance (see rule 5.6) is

“That Synod resolves itself into the Synod in Committee to consider [further] the text of the [name of proposed ordinance].”

(2) During a meeting of the Synod in Committee, the ~~Chair of Committees~~Chair of Committee or the Deputy ~~Chair of Committees~~Chair of Committee has the functions set out in rules 2.3 and 2.4.

(3) The Synod in Committee may, as a result of a procedural motion passed by the Committee, resolve to adjourn its meeting. A motion to adjourn a meeting of the Synod in Committee is

“That the ~~Chair of Committees~~Chair of Committee leaves the chair and reports progress.”

(4) On a motion to adjourn a meeting of the Synod in Committee being passed, the ~~Chair of Committees~~Chair of Committee is to report progress to the Synod.

(5) When the Synod in Committee has concluded consideration of the matter before it, the ~~Chair of Committees~~Chair of Committee is to report to Synod. Where the matter being considered was the text of a proposed ordinance, the ~~Chair of Committees~~Chair of Committee is to report in the manner referred to in rule 5.6(3).

(6) The rules of procedure in this Part 4, so far as applicable, apply to a meeting of the Synod in Committee.

(7) In a meeting of the Synod in Committee the same number of members constitutes a quorum as in the Synod itself. If a quorum is not present, the ~~Chair of Committees~~Chair of Committee is to leave the chair and report progress.

#### **4.18 Proposed policies of the Synod**

(1) The Standing Committee or the Synod may designate a written statement as a proposed policy of the Synod. A statement designated by the Standing Committee as a proposed policy of the Synod must be clearly marked as such.

(2) The Synod may consider a proposed policy of the Synod only if a copy has been circulated to members present before consideration of the proposed policy commences in accordance with rule 4.18(3).

(3) For the purposes of considering a proposed policy of the Synod, the procedures for the making of ordinances under Part 5 (from and including rule 5.5 but excluding rules 5.7(3)(b), 5.9 and 5.10) apply as if the proposed policy were a proposed ordinance.

#### **4.19 Expedited time limits and procedures**

(1) Notwithstanding clause 4.6, the Synod may as a result of a procedural motion passed by the Synod to “adopt the expedited time limits”, adopt any or all of the following time limits for speeches for the remainder of a session –

(a) for a motion that a proposed ordinance be approved in principle –

(i) the mover may speak for up to 12 minutes, and up to 5 minutes in reply, and

(ii) other members may speak for up to 3 minutes,

(b) for a speech following the Synod’s approval to consider a proposed ordinance formally, the mover may speak for up to 3 minutes,

(c) for other motions, except the motions referred to in paragraphs (d) and (e) –

(i) the mover may speak for up to 8 minutes, and up to 4 minutes in reply,

(ii) a member moving a motion to amend a motion may speak for up to 4 minutes, and

(iii) other members may speak for up to 4 minutes,

(d) for procedural motions, a member may speak for up to 3 minutes, and

(e) for motions moved in a meeting of the Synod in Committee, a member may speak for up to 3 minutes.

(2) The Synod may, as a result of a procedural motion passed by the Synod to “adopt the expedited procedural rules”, adopt any or all of the following rules for the remainder of a session –

(a) Notwithstanding clause 6.3(5), the Archbishop is not required to read aloud the answers to questions.

(b) The afternoon session shall be extended 15 minutes, resulting in a correlating reduction in the length of the dinner break.

(3) The Synod having passed a procedural motion or motions in this clause, notwithstanding clause 4.16, may on a subsequent day of the same session –

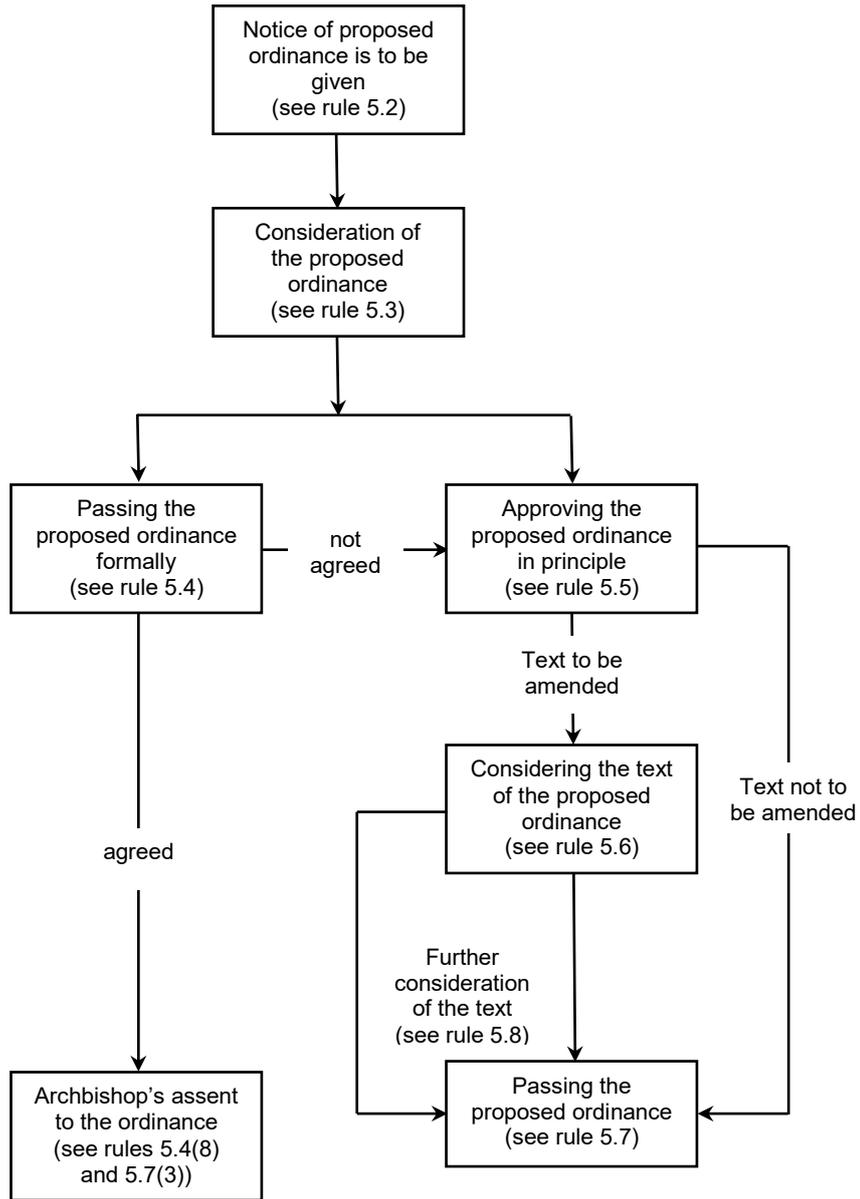
- (a) return to ordinary time limits and procedures prior to the end of a session by moving a procedural motion to that effect, or
- (b) consider a procedural motion under this clause to vary the expedited time limits and procedures adopted for that session.

(4) The President may, by indicating his decision, apply any or all of the expedited time limits specified in paragraphs (a) – (e) of subclause (1) for any particular matter before Synod.

**Part 5 Making of Ordinances by the Synod**

**5.1 Introduction**

The general procedure for the making of an ordinance by the Synod is summarised in the following diagram.



The remaining rules in this Part contain the detail of this procedure, and the details of the special situations where the general procedure is modified.

**5.2 Notice of the proposed ordinance is to be given**

(1) Notice of a proposed ordinance is to be given to members before the Synod may consider the proposed ordinance.

(2) Except as provided by rule 5.2(3), notice will be regarded as having been given only if a copy of the proposed ordinance has been circulated to members present before a motion to introduce the proposed ordinance is moved.

(3) If a proposed ordinance seeks

(a) to assent to a canon of the General Synod of the Anglican Church of Australia to amend the Constitution in the Schedule to the Anglican Church of Australian Constitution Act 1961, or

(b) to amend rule 5.2,

notice will be regarded as having been given only if

(c) a copy of the proposed ordinance was sent to each member at least 3 months before the first day of the session at which the proposed ordinance is to be considered, or

(d) 75% of the members present and voting permit the proposed ordinance to be introduced without notice, other than the notice provided for in rule 5.2(2).

### **5.3 Consideration of the proposed ordinance**

(1) At the time permitted by these rules, a member may move that the Synod agree to consider a proposed ordinance by moving a motion as provided in subclause (2) or as provided in rule 5.5(1).

(2) A member desiring to move a proposed ordinance formally may move a motion to the effect –

“That Synod agrees to consider passing the proposed ordinance formally.”

(3) If the motion to consider passing the proposed ordinance formally is passed, the procedure in rule 5.4 applies. Otherwise the mover may immediately move the motion in rule 5.5(1). If the mover does not immediately move that motion, the mover is to move a motion to the effect –

“That Synod agrees to consider [at a specified time] a motion that the [name of the proposed ordinance] be approved in principle.”

### **5.3 Introduction of the proposed ordinance**

~~(1) A proposed ordinance is introduced by a member moving a motion to the effect~~

~~“That Synod permits the introduction of the [name of the proposed ordinance].”~~

~~(2) If the motion to introduce the proposed ordinance is passed, the mover may immediately move a motion to the effect –~~

~~“That Synod agrees to consider passing the proposed ordinance formally.”~~

~~(3) If the motion to consider passing the proposed ordinance formally is passed, the procedure in rule 5.4 applies.~~

~~(4) If~~

~~(a) the mover does not move a motion to the effect that the Synod agrees to consider passing the proposed ordinance formally, or~~

~~(b) such a motion is moved but is not passed,~~

~~the mover may immediately move the motion in rule 5.5(1). If the mover does not immediately move that motion, the mover is to move a motion to the effect –~~

~~“That Synod agrees to consider [at a specified time] a motion that the [name of the proposed ordinance] be approved in principle.”~~

### **5.4 Passing the proposed ordinance formally**

(1) If the Synod agrees to consider passing a proposed ordinance formally, the mover may immediately make a speech in accordance with clause 4.6(1)(b) for not longer than 3 minutes about the proposed ordinance.

(2) At the end of the speech, the President is to ask a question of the Synod to the effect

“Does any member have a question about the proposed ordinance?”

(3) If a member indicates that he or she has a question, the President is to allow the question to be asked and rules 5.4(4), 5.4(5) and 5.4(6) apply. If no member indicates that he or she has a question, the time for questions will be regarded as having ended.

(4) A question is to be answered by the mover or seconder unless the President allows another person to answer the question.

(5) If, during the time for questions, no further member indicates that he or she has a question, the President may declare that the time for questions has ended.

(6) If the President thinks that sufficient time has been allowed for questions but there remains one or more members indicating a wish to ask a question, the President is to ask the Synod a question to the effect

“Does the Synod consider that sufficient time has been allowed for questions?”

If the majority of members present answer “Aye”, the time for questions will be regarded as having ended. If the majority of members present answer “No”, the President is to allow the time for questions to continue. Rules 5.4(5) and 5.4(6) apply until the time for questions has ended.

(7) Subject to rule 5.4(9), after the time for questions has ended, the mover is to immediately move a motion to the effect

“That the [name of the proposed ordinance] pass formally as an ordinance of the Synod.”

(8) If the Synod passes the proposed ordinance formally as an ordinance of the Synod, as soon as possible the Secretary of the Synod is to send to the Archbishop for his assent, the original copy of the ordinance upon which

- (a) the ~~Chair of Committees~~ Chair of Committee has certified the text of the ordinance, and
- (b) the Secretary of the Synod has certified that the ordinance has passed as an ordinance of the Synod.

(9) If

- (a) at any time after the motion in 5.3(2) is passed and prior to the motion in rule 5.4(7) being voted on, 8 members stand in their place to object to the proposed ordinance being passed formally, or
- (b) the motion in rule 5.4(7) is not passed,

the mover is to immediately move in accordance with clause 4.6(1)(a) a motion to the effect

“That Synod agrees to consider [forthwith or at a specified time] a motion that the [name of proposed ordinance] be approved in principle.”

### 5.5 Approving the proposed ordinance in principle

(1) ~~At the time permitted by these rules, the mover of a proposed ordinance~~ A member desiring to move a proposed ordinance in principal may move a motion to the effect

“That the [name of the proposed ordinance] be approved in principle.”

(2) After this motion has been moved and seconded, and the mover and seconder have spoken, the President is to ask the Synod a question to the effect

“Does any member have a question about the proposed ordinance?”

(3) If a member indicates that he or she has a question, the President is to allow the question to be asked and rules 5.5(4), 5.5(5) and 5.5(6) apply. If no member indicates that he or she has a question, the time for questions will be regarded as having ended.

(4) A question is to be answered by the mover or seconder unless the President allows another person to answer the question. If, during the time for questions, no further member indicates that he or she has a question, the President may declare that the time for questions has ended.

(5) If the President thinks that sufficient time has been allowed for questions but there remains one or more members indicating a wish to ask a question, the President is to ask the Synod a question to the effect –

“Does the Synod consider that sufficient time has been allowed for questions?”

(6) If the majority of members present answer “Aye”, the time for questions will be regarded as having ended. If the majority of members present answer “No”, the President is to allow the time for questions to continue. Rules 5.5(5) and 5.5(6) apply until the time for questions has ended.

(7) After the time for questions has ended, the President is to immediately ask the Synod a question to the effect

“Does any member wish to speak for, or against the motion, or to move an amendment to it?”

(8) If a member indicates that he or she wishes to speak for, or against the motion, or to move an amendment, the President is to allow debate on the motion to proceed.

(9) Upon a proposed ordinance being approved in principle, the President is to immediately ask the Synod a question to the effect

“Does any member wish to move an amendment to the text of the proposed ordinance?”

(10) If a member indicates to the President that he or she wishes to move an amendment to the text of the proposed ordinance, rule 5.6 applies.

(11) If no member indicates to the President that he or she wishes to move an amendment, rule 5.7 applies and the mover is to immediately move the motion in rule 5.7(1).

### **5.6 Considering the text of the proposed ordinance**

(1) If upon the President asking the question under rule 5.5(9) a member indicates that he or she wishes to move an amendment to the text of the proposed ordinance, the Synod is to

- (a) immediately consider the text of the proposed ordinance in a meeting of the Synod in Committee, or
- (b) determine another time for such consideration.

(2) When considering the text of a proposed ordinance in a meeting of the Synod in Committee, the ~~Chair of Committees~~Chair of Committee is to put each clause of the proposed ordinance separately in the order in which the clauses occur in the proposed ordinance, leaving the title and the preamble to be considered last, unless, in the opinion of the ~~Chair of Committees~~Chair of Committee, it is expedient to put 2 or more consecutive clauses together.

(3) When consideration of the text of the proposed ordinance has been completed by the Synod in Committee, the ~~Chair of Committees~~Chair of Committee is to report the proposed ordinance to the Synod, with or without amendments as the case may be.

(4) Upon the report of an ordinance with amendments being adopted by the Synod as a result of a motion without notice passed by the Synod, the mover of the proposed ordinance is to immediately move a motion to the effect

“That Synod agrees to consider [on a specified future day/on a specified future day and at a specified time] a motion that the [name of the proposed ordinance] pass as an ordinance of the Synod.”

(5) Upon the report of an ordinance without amendments being adopted by the Synod as a result of a motion without notice passed by the Synod, the mover of the proposed ordinance may move the motion under rule 5.7(1) unless 8 members object, in which case the mover is to immediately move the motion under rule 5.6(4).

### **5.7 Passing the proposed ordinance**

(1) When permitted by these rules, the mover may move a motion to the effect

“That the [name of proposed ordinance] pass as an ordinance of the Synod.”

(2) A motion that a proposed ordinance pass as an ordinance of the Synod is not to be moved until the ~~Chair of Committees~~Chair of Committee has certified the text on the original copy of the proposed ordinance.

(3) If the Synod passes a motion that a proposed ordinance pass as an ordinance of the Synod, the Secretary of the Synod is to

- (a) certify on the original copy of the ordinance that the ordinance has passed as an ordinance of the Synod, and
- (b) as soon as possible, send the original copy of the ordinance to the Archbishop to enable him to consider his assent.

### **5.8 Further consideration of the text of the proposed ordinance**

At any time before the Synod passes a motion that a proposed ordinance pass as an ordinance of the Synod, the Synod may, as a result of a motion with or without notice passed by the Synod, refer the proposed ordinance, or any clause of the proposed ordinance, or any amendment, to the Synod in Committee for consideration. Rules 5.6, 5.7 and 5.8 then apply, so far as they are relevant.

### **5.9 Reconsideration of the text of the proposed ordinance if assent is withheld**

If the Archbishop withholds assent to an ordinance then, ignoring rules 5.3, 5.4 and 5.5, the Synod may, as a result of a motion with notice passed by the Synod, refer the proposed ordinance, or any clause of the

proposed ordinance, or any amendment, to the Synod in Committee for consideration. Rules 5.6, 5.7 and 5.8 then apply, so far as they are relevant.

#### **5.10 Proposed ordinances referred from the Standing Committee**

If an ordinance proposed to be made by the Standing Committee is referred to the Synod then, subject to notice of the proposed ordinance being given in accordance with rule 5.2, consideration of the proposed ordinance by the Synod is to commence with a member moving the motion in rule 5.3(1).

#### **5.11 Referral of ordinances by the Synod**

- (1) The Synod may, as a result of a motion with or without notice passed by the Synod, refer a proposed ordinance at any point in the procedure concerning it
  - (a) to the next session of the same Synod, or
  - (b) to a session of the next Synod.
- (2) Consideration of the proposed ordinance at the next session of the Synod or at a session of the next Synod, as the case may be, resumes at the point in the procedure reached when it was referred.

### **Part 6 Other Matters**

#### **6.1 Questions about the election or qualification of a member**

- (1) A question about
  - (a) the validity of the election or appointment of a member, or
  - (b) the qualification of any person to be a member,may be referred by the Synod to the Committee of Elections and Qualifications for investigation.
- (2) The Committee of Elections and Qualifications
  - (a) may meet during a session of the Synod, and
  - (b) when investigating a question referred to it, may receive such evidence as is available, whether that evidence would be admissible in legal proceedings or not.
- (3) After completing its investigation, the Committee of Elections and Qualifications is to report to the Synod its findings about
  - (a) whether the relevant member was validly elected or appointed, or
  - (b) whether the person is qualified to be a member.
- (4) A member of the Synod may move, with or without notice, that the report of the Committee of Elections and Qualifications be adopted. The motion is to state whether the member who is the subject of the report has been validly elected or appointed or not, or whether the person is qualified to be a member.
- (5) If the Synod passes a motion to the effect that a person has not been validly elected or appointed, or that the person is not qualified to be a member, that person is not to thereafter take part in the proceedings of the Synod unless and until that person becomes duly elected, appointed or qualified, as the case may be.

#### **6.2 Petitions to Synod**

- (1) This rule 6.2 applies to the petitions referred to in rule 3.2(ji).
- (2) Petitions must be in writing and conclude with the signatures of the petitioners.
- (3) No petition is to
  - (a) be expressed in language which, in the opinion of the President, is disrespectful or offensive, or
  - (b) have been altered by erasure or interlineation.
- (4) A member presenting a petition is to
  - (a) be acquainted with the contents of the petition, and
  - (b) affix his or her name at the beginning of the petition, and
  - (c) state from whom it comes and its contents.
- (5) On the presentation of a petition, the only motion the Synod is to consider is a motion to the effect  
"That Synod receives the petition."

#### **6.3 Questions**

- (1) This rule 6.3 applies to the questions referred to in ~~rule 3.3(e)~~ rules 3.2(k) and 3.3(e).
- (2) A question may be asked by any member using the following procedure –

- (a) A member seeking to include a question to be tabled on the first day of a session of Synod, must submit the full text of the question to the Secretary of the Synod no later than 7 days prior to the first day of the session and indicate if they desire the answer to be read orally to the Synod.
- (b) The Secretary is to make the full text of each question submitted in accordance with paragraph (a) available on the website and the noticeboard in the foyer of Synod, prior to the commencement of the first day of the session.
- (c) On the other days provided for asking questions, a member called on by the President to do so is to make a brief statement informing the Synod of the subject matter of the question and –
  - (i) hand the full text of the question to the Secretary of the Synod to be printed in the business paper for the next day of the session, and
  - (ii) indicate if they desire the answer to be read orally to the Synod.
- (d) If a member asking a question does not indicate in writing their desire that the answer be read orally to the Synod, it will be taken that the answer need not be read orally by the President to the Synod.

~~— (2) A question may be asked by any member. A member called on by the President to do so is to make a brief statement informing the Synod of the subject matter of the question and hand the full text of the question to the Secretary of the Synod to be printed in the business paper for the next day of the session.~~

- (3) A question is to relate to a matter connected with the business of
  - (a) the Synod, or
  - (b) any committee, board or commission of the Synod, or established by or under an ordinance, or by resolution of the Synod or the Standing Committee.
- (4) No question is to
  - (a) contain an assertion, or
  - (b) express an opinion, or
  - (c) offer an argument, or
  - (d) make any inference or imputation, or
  - (e) be expressed in language which, in the opinion of the President, is disrespectful or offensive, or
  - (f) seek a legal opinion.
- (5) Except as provided in paragraphs 6.3(2)(d) and 4.19(2)(a), an answer to a question is to be read orally to the Synod by the President on the next day or as soon as convenient after the next day without the question being asked again. As soon as possible a written copy of the question and answer is to be posted on a notice board in a prominent position in or near the building in which the Synod is meeting. A written copy is also to be handed to the member asking the question upon request made to the Secretary of the Synod.
- (6) If the answer includes statistics or other detailed material, the answer may be supplemented with data projected on a screen or a document which need not be read orally.
- (7) Each question and reply is to be recorded in the minutes of the Synod.

#### **6.4 Personal explanations**

With the permission of the President, a member may explain matters of a personal nature. These matters are not to be debated.

#### **6.5 Suspension of these rules**

Any rule of procedure may be suspended by motion

- (a) with notice, or
- (b) without notice unless 8 members object.

#### **6.6 Media**

- (1) Unless the Synod otherwise determines as a result of a motion with or without notice passed by the Synod, the proceedings of the Synod are to be open to the media.
- (2) With the permission of the President, the proceedings, or parts of the proceedings, may be televised, broadcast or photographed.

## 6.7 Rules

A rule which the Synod is authorised to make by the Constitutions set out in the Schedule to the Anglican Church of Australia Constitutions Act 1902 may be made by resolution, unless those Constitutions require the rule to be made by ordinance. No rule made by resolution is to be contrary to the terms of an ordinance.

## 6.8 Application of business rules

(1) Any question about the application of these rules, the form of motions and ordinances and the voting on motions and ordinances during a session of the Synod is to be decided by the President. The President's decision on all such questions is final unless immediately altered as a result of a motion without notice agreed to by the Synod.

(2) In making a decision under rule 6.8(1), the President may have recourse to the rules, forms and practice of the Legislative Assembly of New South Wales.

## Table of Amendments

|             |  |
|-------------|--|
| Rule 1.1(2) | Amended by Ordinance No 9, 2019.                           |
| Rule 1.2    | Amended by Ordinance No 34, 2005.                          |
| Rule 2.1    | Amended by Ordinance No 38, 2014.                          |
| Rule 2.2    | Amended by Ordinance No 38, 2014.                          |
| Rule 2.3    | Amended by Ordinance No 38, 2014.                          |
| Rule 2.4    | Amended by Ordinance No 38, 2014.                          |
| Rule 2.5    | Amended by Ordinance No 38, 2014.                          |
| Rule 2.6    | Amended by Ordinance No 38, 2014.                          |
| Rule 2.7    | Amended by Ordinance No 38, 2014.                          |
| Rule 2.8    | New rule inserted by Ordinance No 38, 2014.                |
| Rule 3.2    | Amended by Ordinances Nos 61, 2002 and 38, 2014.           |
| Rule 3.3    | Amended by Ordinances Nos 61, 2002 and 38, 2014.           |
| Rule 3.5    | Amended by Ordinance No 38, 2014.                          |
| Rule 4.1    | Amended by Ordinance No 44, 2016.                          |
| Rule 4.2    | Amended by Ordinances Nos 26, 2009 and 38, 2014.           |
| Rule 4.3    | Amended by Ordinance No 38, 2014.                          |
| Rule 4.5    | Amended by Ordinance No 38, 2014.                          |
| Rule 4.5A   | New rule inserted by Ordinance No 38, 2014.                |
| Rule 4.6    | Amended by Ordinances Nos 61, 2002 and 38, 2014.           |
| Rule 4.9    | Amended by Ordinance No 38, 2014.                          |
| Rule 4.10   | Amended by Ordinance No 61, 2002.                          |
| Rule 4.11   | Amended by Ordinance No 38, 2014.                          |
| Rule 4.12   | Amended by Ordinances Nos 61, 2002 and 38, 2014.           |
| Rule 4.14   | Amended by Ordinance No 61, 2002.                          |
| Rule 4.16   | Amended by Ordinance No 38, 2014.                          |
| Rule 4.17   | Amended by Ordinance No 38, 2014.                          |
| Rule 4.18   | New rule inserted by Ordinance No 38, 2014.                |
| Rule 5.3    | Amended by Ordinance No 61, 2002.                          |
| Rule 5.4    | Amended by Ordinances Nos 61, 2002; 38, 2014 and 44, 2016. |
| Rule 5.5    | Amended by Ordinances Nos 61, 2002 and 44, 2016.           |
| Rule 5.6    | Amended by Ordinance No 38, 2014.                          |
| Rule 5.7    | Amended by Ordinance No 38, 2014.                          |
| Rule 6.1    | Amended by Ordinance No 38, 2014.                          |
| Rule 6.2    | Amended by Ordinance No 38, 2014.                          |
| Rule 6.3    | Amended by Ordinance No 38, 2014.                          |
| Rule 6.8    | New rule inserted by Ordinance No 38, 2014.                |



# Conduct of the Business of Synod Ordinance 2000 Amendment Ordinance 2019

No. \_\_\_\_\_, 2019

## Long Title

An Ordinance to amend the *Conduct of the Business of Synod Ordinance 2000*.

The Synod of the Diocese of Sydney Ordains as follows.

### 1. Name

This Ordinance is the Conduct of the Business of Synod Ordinance 2000 Amendment Ordinance 2019.

### 2. Amendment

The *Conduct of the Business of Synod Ordinance 2000* is amended as follows –

- 5 (a) all the matter in the Title is deleted and the matter “Synod Standing Orders Ordinance 2019” is inserted instead,
- (b) substitute every reference to ‘Chair of Committees’ wherever they appear with the words ‘Chair of Committee’,
- (c) substitute every reference to ‘Chairs of Committees’ wherever they appear with the words  
10 ‘Chairs of Committee’,
- (d) delete the matter ‘Conduct of the Business of Synod Ordinance 2000’ in clause 1 and insert instead the matter ‘Synod Standing Orders Ordinance 2019’,
- (e) delete all the matter in clause 3(2) and insert instead the following –  
15 ‘(2) Each reference in an ordinance (other than this Ordinance) to the Standing Orders Ordinance 1968 and the Conduct of the Business of Synod Ordinance 2000 is changed to the Synod Standing Orders Ordinance 2019.’,
- (f) delete the words ‘of motions,’ in rule 2.6(2) in the Schedule and insert instead the words ‘and scheduling of motions and presentations’,
- (g) delete all the matter in rule 3.2 in the Schedule and insert instead the following (and re-letter  
20 the relevant cross references throughout the Ordinance) –

#### ‘3.2 Order of business for the first day of a session

The order of business for the first day of a session of is as follows.

- (a) The President, or a person appointed by him, is to read prayers.
- (b) The President is to table a list of the members of the Synod.
- 25 (c) The President may make a speech to the Synod at a time of his choosing.
- (d) The President is to table a document appointing a commissary.
- (e) The President is to call the motions on the business paper appearing in relation to paragraphs (f) and (g) of this clause.
- 30 (f) The Synod is to consider any motion to declare a vacancy or vacancies among the membership of the Property Trust in accordance with the Anglican Church Property Trust Diocese of Sydney Ordinance 1965.
- 35 (g) Where required under Part 2, the Synod is to consider motions for the election of –
  - (i) the Secretary of Synod,
  - (ii) the Chair of Committee,
  - (iii) the Deputy Chair or Chairs of Committee,
  - (iv) the Committee of Elections and Qualifications,
  - 40 (v) the Committee for the Order of Business, and
  - (vi) the Minute Reading Committee.
- (h) The President is to table a list of the results of uncontested elections and declare the persons concerned elected.

- (i) The minute book of the Standing Committee is to be tabled.
- (j) The President is to allow members to present petitions.
- (k) The President is to table a list of questions asked by members in accordance with 6.3(2)(a).
- 5 (l) The President is to invite members to give notice of motions.
- (m) The President is to call the motions, including procedural motions, in the order in which they appear on the business paper in accordance with rule 4.5.
- (n) The President is to allow members to move procedural motions.
- 10 (o) The Synod is to consider motions for the formal reception and printing of reports, accounts and other documents in the order in which they appear on the business paper.
- (p) The Synod is to consider motions for proposed ordinances which have been referred from a previous session of the Synod, or from a previous Synod, in the order in which they appear on the business paper, unless the Synod determines, by motion without notice, that those motions should be considered on a subsequent day.
- 15 (q) The Synod is to consider motions to be moved at the request of the Synod or the Standing Committee in the order in which they appear on the business paper.
- 20 (r) The Synod is to consider motions to be moved at the request of a regional council in the order in which they appear on the business paper.
- (s) The Synod is to consider motions received by the Standing Committee from members in accordance with rule 4.3(3) in the order in which they were received.’,
- 25 (h) amend rule 3.3 in the Schedule as follows –
- (i) delete the word ‘rule’ in paragraph (d) and insert instead the matter ‘rules 6.3(2)(d) and’,
- (ii) delete the words ‘the previous day’ in paragraph (d) and insert instead the words ‘previous days’,
- 30 (iii) delete the reference ‘rule 6.3’ in paragraph (e) and insert instead the reference ‘rule 6.3(2)(c)’,
- (iv) delete all the matter in paragraph (f) and insert the following –
- ‘The President is to invite members to give notice of motions.’
- 35 (v) after the matter ‘The President is to call the motions’ in paragraph (g), insert the matter ‘, including procedural motions.’,
- (vi) insert a new paragraph (h) (and consequentially re-letter the remaining paragraphs) as follows –
- ‘(h) The President is to allow members to move procedural motions.’,
- 40 (i) insert a new rule 3.6 in the Schedule as follows –
- ‘3.6 Presentations to Synod**
- (1) The President may invite persons at his discretion to address the Synod.
- (2) Presentations approved by the Standing Committee will appear on the business paper for day 1.
- 45 (3) Presentations scheduled by the Committee for the Order of Business will appear on business papers for subsequent days.
- (4) The Synod may, as a result of a procedural motion, allow other presentations to be made to the Synod on any subject related to the Synod. Such presentations –
- 50 (a) must be no longer than ten minutes, and
- (b) may not be scheduled to a time following the dinner break.
- (5) Synod members, or individuals who are not members of Synod but who are named as intended presenters in a procedural motion, may combine for a presentation (including visuals) in accordance with this clause.’,

- (j) delete all the matter in rule 4.3(1) in the Schedule and insert instead the following –  
 ‘(1) The Synod is not to consider a motion unless notice of the motion was given on a previous day.’,
- (k) delete rule 4.3(4),
- (l) amend rule 4.5 in the Schedule as follows –
- (i) insert the words ‘or policy’ in sub-rule (1) after the words ‘about a proposed ordinance’,
  - (ii) delete the matter ‘call “object” or 1 or more members’ in sub-rule (2) and insert instead the matter ‘stand to object or any member’,
  - (iii) delete the matter ‘call “object” or 1 or more members’ in sub-rule (3) and insert instead the matter ‘stand to object or any member’,
- (m) insert a new paragraph (b) (and consequentially re-letter the remaining paragraphs and the relevant cross references throughout the Ordinance) in rule 4.6(1) in the Schedule as follows –
- ‘(b) For a speech following the Synod’s approval to consider a proposed ordinance formally, the mover may speak for up to 3 minutes.’,
- (n) insert a new sub-rule (3) in rule 4.7 in the Schedule as follows –
- ‘(3) Once a motion to amend a motion (the principal motion) has been moved, it is a separate motion for the purpose of this clause. Accordingly, if a member has already spoken on the principal motion, they may not move a motion to amend the principal motion, but they may speak on any amendment to the principal motion.’,
- (o) amend rule 4.8 in the Schedule as follows –
- (i) substitute the word ‘any’ in sub-rule (2) with the word ‘further’,
  - (ii) after the word ‘proceed’ in sub-rule (3) insert the matter ‘, commencing with speeches for and against the motion before considering amendments to the motion, unless the President determines otherwise’,
- (p) delete sub-rules (1) – (6) in rule 4.14 in the Schedule and insert instead the following –
- ‘(1) If it is desired not to vote on a motion, at any time following the speeches of the mover and seconder and prior to the motion being put to a vote, a member may move without notice the procedural motion –
- “That the motion not be voted on.”
- (2) When this procedural motion is moved, debate on the principal motion shall be suspended and the Synod shall immediately consider speeches for and against the procedural motion.
- (3) If –
- (a) the procedural motion is carried, debate on the Principal motion ceases and it is not put to the vote,
  - (b) the procedural motion is not carried, debate on the Principal motion continues from that point where the procedural motion was moved.
- (4) The procedural motion in rule 4.14(1) may not be amended and is not to be moved in a meeting of the Synod in Committee.’,
- (q) insert a new rule 4.14A in the Schedule as follows –
- 4.14A Ending debate on a motion**
- (1) If it is desired to end debate on a motion, a member may move without notice the procedural motion –
- “That debate cease and the motion be immediately put to the vote.”
- (2) When this procedural motion is moved, debate on the principal motion shall be suspended and the Synod is to vote immediately on the procedural motion subject to the mover of the principal motion exercising or declining to exercise a right of reply under rule 4.11.
- (3) If –

- (a) the procedural motion is carried, the principal motion, and any amendments that have been moved, are to be voted on immediately without further debate, and
- (b) the procedural motion is not carried, debate on the principal motion continues.

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(4) The procedural motion in rule 4.14A(1) may not be amended and is not to be moved in a meeting of the Synod in Committee.’,

(r) insert a new rule 4.19 in the Schedule as follows –

**‘4.19 Expedited time limits and procedures**

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(1) Notwithstanding clause 4.6, the Synod may as a result of a procedural motion passed by the Synod to “adopt the expedited time limits”, adopt any or all of the following time limits for speeches for the remainder of a session –

- (a) for a motion that a proposed ordinance be approved in principle –
  - (i) the mover may speak for up to 12 minutes, and up to 5 minutes in reply, and
  - (ii) other members may speak for up to 3 minutes,
- (b) for a speech following the Synod’s approval to consider a proposed ordinance formally, the mover may speak for up to 3 minutes,
- (c) for other motions, except the motions referred to in paragraphs (d) and (e) –
  - (i) the mover may speak for up to 8 minutes, and up to 4 minutes in reply,
  - (ii) a member moving a motion to amend a motion may speak for up to 4 minutes, and
  - (iii) other members may speak for up to 4 minutes,
- (d) for procedural motions, a member may speak for up to 3 minutes, and
- (e) for motions moved in a meeting of the Synod in Committee, a member may speak for up to 3 minutes.

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(2) The Synod may, as a result of a procedural motion passed by the Synod to “adopt the expedited procedural rules”, adopt any or all of the following rules for the remainder of a session –

- (a) Notwithstanding clause 6.3(5), the Archbishop is not required to read aloud the answers to questions.
- (b) The afternoon session shall be extended 15 minutes, resulting in a correlating reduction in the length of the dinner break.

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(3) The Synod having passed a procedural motion or motions in this clause, notwithstanding clause 4.16, may on a subsequent day of the same session –

- (a) return to ordinary time limits and procedures prior to the end of a session by moving a procedural motion to that effect, or
- (b) consider a procedural motion under this clause to vary the expedited time limits and procedures adopted for that session.

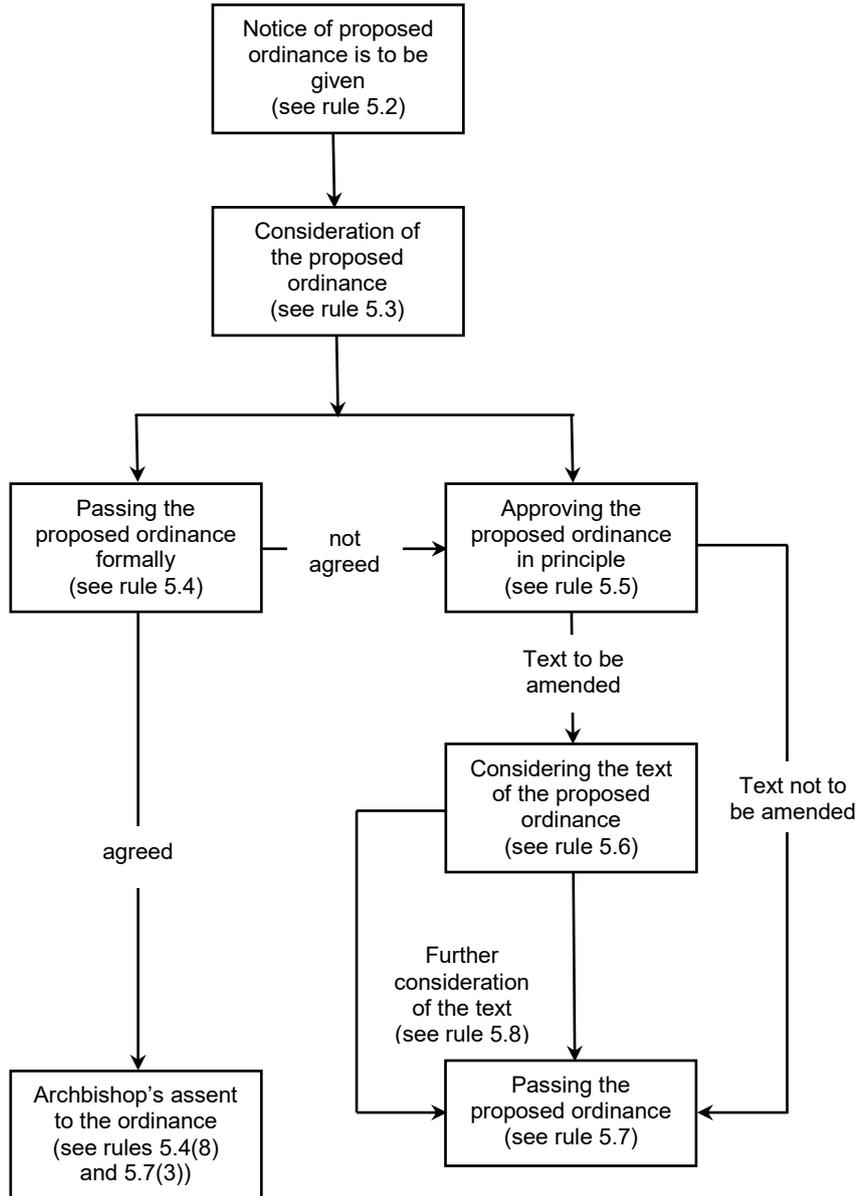
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(4) The President may, by indicating his decision, apply any or all of the expedited time limits specified in paragraphs (a) – (e) of subclause (1) for any particular matter before Synod.’,

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(s) delete the diagram in rule 5.1 and insert instead the following diagram –

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(t) delete all the matter in rule 5.3 in the Schedule and insert instead the following –

**‘5.3 Consideration of the proposed ordinance**

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(1) At the time permitted by these rules, a member may move that the Synod agree to consider a proposed ordinance by moving a motion as provided in subclause (2) or as provided in rule 5.5(1).

(2) A member desiring to move a proposed ordinance formally may move a motion to the effect –

“That Synod agrees to consider passing the proposed ordinance formally.”

(3) If the motion to consider passing the proposed ordinance formally is passed, the procedure in rule 5.4 applies. Otherwise the mover may immediately move the motion in rule 5.5(1). If the mover does not immediately move that motion, the mover is to move a motion to the effect –

“That Synod agrees to consider [at a specified time] a motion that the [name of the proposed ordinance] be approved in principle.”,

(u) amend rule 5.4 in the Schedule as follows –

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(i) delete the words ‘for not longer than 3 minutes’ from sub-rule (1) in the Schedule and insert instead the words ‘in accordance with clause 4.6(b)’,

- (ii) insert the words 'at any time after the motion in 5.3(2) is passed and' in sub-rule (9) at the beginning of paragraph (a),
- (iii) insert the words 'in accordance with clause 4.6(1)(a)' in sub-rule (9) after the words 'the mover is to immediately move',
- 5 (v) delete the words 'At the time permitted by these rules, the mover of a proposed ordinance' in rule 5.5(1) and insert instead the words 'A member desiring to move a proposed ordinance in principal',
- (w) amend rule 6.3 in the Schedule as follows –
- (i) delete the words 'rule 3.3(e)' in sub-rule (1) and insert instead the matter 'rules 3.2(k) and 3.3(e)',
- 10 (ii) delete all the matter in sub-rule (2) and insert instead the following –
- '(2) A question may be asked by any member using the following procedure –
- (a) A member seeking to include a question to be tabled on the first day of a session of Synod, must submit the full text of the question to the Secretary of the Synod no later than 7 days prior to the first day of the session and indicate if they desire the answer to be read orally to the Synod.
- (b) The Secretary is to make the full text of each question submitted in accordance with paragraph (a) available on the website and the noticeboard in the foyer of Synod, prior to the commencement of the first day of the session.
- (c) On the other days provided for asking questions, a member called on by the President to do so is to make a brief statement informing the Synod of the subject matter of the question and –
- (i) hand the full text of the question to the Secretary of the Synod to be printed in the business paper for the next day of the session, and
- (ii) indicate if they desire the answer to be read orally to the Synod.
- (d) If a member asking a question does not indicate in writing their desire that the answer be read orally to the Synod, it will be taken that the answer need not be read orally by the President to the Synod.',
- 35 (iii) delete the word "An" at the beginning of sub-rule (5) and insert the matter 'Except as provided in paragraphs 6.3(2)(d) and 4.19(2)(a), an', and
- (iv) insert the words 'of the question and answer' in sub-rule (5) after the words 'As soon as possible a written copy'.

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

Chair of Committees

I Certify that this Ordinance was passed by the Synod of the Diocese of Sydney on 2019.

Secretary of Synod

I Assent to this Ordinance.

Archbishop of Sydney

/ /2019

# General Synod – Lay Assistants at Holy Communion Canon 1973 Repeal and Exclusion Ordinance 2019

## Explanatory Report

### Purpose of the Bill

1. The purpose of the Bill for the *General Synod – Lay Assistants at Holy Communion Canon 1973 Repeal and Exclusion Ordinance 2019* (the “Bill”) is to exclude the Lay Assistants at Holy Communion Canon 1973 (the “Canon”) and amend the *Authorisation of Lay Ministry Ordinance 2015* to authorise lay persons to assist the presbyter in the distribution of the elements of the Holy Communion on certain terms.

### Recommendations

2. That Synod receive this report.
3. That Synod pass the Bill as an ordinance of the Synod.

### Evidence Given

4. The Synod of the Diocese of Sydney has adopted the *Lay Assistants at Holy Communion Canon 1973*.
5. The Canon provides for lay persons to be authorised by the bishop to assist in the ministering and distribution of Holy Communion.
6. On 17 December 2002, Archbishop Peter Jensen issued a general authorisation for lay people to assist in the ministering and distribution of Holy Communion, subject to certain requirements being satisfied. This authorisation is still in force. A copy is attached.
7. It is unnecessary for the authorisation of a lay person to assist in the ministering and distribution of Holy Communion to be authorised pursuant to a Canon of the General Synod. Furthermore, since it involves an authorisation for a lay person to perform a function in the Church the provisions should be consolidated into the *Authorisation of Lay Ministry Ordinance 2015* so that the regulation of lay ministry is contained within the one ordinance.
8. Clause 2 of the Bill will repeal the *General Synod – Lay Assistants at Holy Communion Canon 1973 Adopting Ordinance 1973* and exclude the Canon pursuant to section 30(d) of the Schedule to the Anglican Church of Australia Constitution Act 1961.
9. Clause 3 of the Bill will insert a new clause 9 in the *Authorisation of Lay Ministry Ordinance 2015* to authorise a lay person to assist the presbyter in the distribution of the elements of the Holy Communion where the following requirements are met –
  - (a) the lay person has attained the age of 18 years,
  - (b) the lay person has been invited by the presbyter to provide such assistance,
  - (c) the lay person is a communicant member of the Anglican Church of Australia,
  - (d) the presbyter is satisfied concerning the doctrine held by and the character of the lay person,
  - (e) the lay person is not the subject of a request by the parish council of the parish in which the service of Holy Communion takes place that the lay person not provide such assistance,
  - (f) the lay person is not the subject of a direction of the Archbishop or an Assistant Bishop that the lay person not provide such assistance, and
  - (g) the lay person is not the subject of an undertaking given under or a suspension or prohibition order issued pursuant to the *Ministry Standards Ordinance 2017* or an equivalent ordinance.

10. The phrase “in the distribution of the elements of the Holy Communion” is used instead of the phrase “assist in the ministering and distribution of Holy Communion” in order to be more specific about what is being authorised by Ordinance.
11. The requirements to be met are the same as those in the authorisation issued by Archbishop Jensen, except –
  - (a) a person must have attained the age of 18 years rather than 21 years,
  - (b) the term “Priest” has been replaced with “presbyter”, and
  - (c) paragraph (g) has been updated to reflect changes to the professional standards regime in force in the Diocese.

For and on behalf of the Standing Committee

DANIEL GLYNN  
**Diocesan Secretary**

29 August 2019

## Authority for Lay Persons to Assist in the Service of Holy Communion

I, Peter Frederick Jensen, Archbishop of Sydney pursuant to section 1 of the Lay Assistants at Holy Communion Canon 1973 hereby authorise every lay person to assist the priest in the ministering and distribution of the Holy Communion where the following requirements are satisfied –

- (a) the lay person has attained the age of 21 years, and
- (b) the lay person has been invited by the priest to provide such assistance, and
- (c) the lay person is a communicant member of the Anglican Church of Australia, and
- (d) the minister is satisfied concerning the doctrine held by and the character of the lay person, and
- (e) the lay person is not the subject of a request by the parish council of the parish in which the service of Holy Communion takes place that the lay person not provide such assistance, and
- (f) the lay person is not the subject of a direction of the Archbishop or an Assistant Bishop that the lay person not provide such assistance, and
- (g) the lay person is not the subject of a prohibition made by the Archbishop under the Church Discipline Ordinance 1996.

In this Authority –

"minister" means –

- (a) as applied to a parish, the minister duly licensed thereto as the incumbent thereof or the person (if any) appointed thereto pursuant to clause 59 of the Church Administration Ordinance 1990,
- (b) as applied to a provisional parish, the minister duly licensed thereto as curate-in-charge or the person (if any) appointed thereto pursuant to clause 59 of the Church Administration Ordinance 1990,
- (c) as applied to St Andrew's Cathedral, the Dean thereof, and
- (d) as applied to a church situated within the Diocese but not situated in any parish, the minister licensed to officiate thereat.

"parish" means a parish and a provisional parish in the Diocese constituted or recognised under the Parishes Ordinance 1979 or a church recognised under the Recognised Churches Ordinance 2000.

"Parish council" as applied to St Andrew's Cathedral means the Chapter thereof.

PETER F JENSEN

**Archbishop**

17 December 2002

# General Synod – Lay Assistants at Holy Communion Canon 1973 Repeal and Exclusion Ordinance 2019

No \_\_\_\_\_, 2019

## Long Title

An Ordinance to repeal the *General Synod – Lay Assistants at Holy Communion Canon 1973 Adopting Ordinance 1973* and to exclude the Canon from having force in this Diocese.

The Synod of the Diocese of Sydney Ordains as follows.

### 1. Name

This Ordinance is the General Synod – Lay Assistants at Holy Communion Canon 1973 Repeal and Exclusion Ordinance 2019.

### 5 2. Repeal and Exclusion

The *General Synod – Lay Assistants at Holy Communion Canon 1973 Adopting Ordinance 1973* is repealed and the Canon is excluded pursuant to section 30(d) of the Schedule to the *Anglican Church of Australia Constitution Act 1961*.

### 10 3. Amendments

The *Authorisation of Lay Ministry Ordinance 2015* is amended by –

- (a) inserting a new clause 9 as follows (and consequentially renumbering the remaining clauses) –

#### “9. Authority for lay persons to assist in the service of Holy Communion

(1) A lay person is authorised to assist the presbyter in the distribution of the elements of the Holy Communion where the following requirements are satisfied –

- (a) the lay person has attained the age of 18 years,  
(b) the lay person has been invited by the presbyter to provide such assistance,  
(c) the lay person is a communicant member of the Anglican Church of Australia,  
(d) the presbyter is satisfied concerning the doctrine held by and the character of the lay person,  
(e) the lay person is not the subject of a request by the parish council of the parish in which the service of Holy Communion takes place that the lay person not provide such assistance,  
(f) the lay person is not the subject of a direction of the Archbishop or an Assistant Bishop that the lay person not provide such assistance, and  
(g) the lay person is not the subject of an undertaking given under or a suspension or prohibition order issued pursuant to the Ministry Standards Ordinance 2017 or an equivalent ordinance.

(2) For the purposes of this clause, “parish council” when applied to St Andrew’s Cathedral means the Chapter thereof.”, and

- (b) deleting the following matter in the renumbered subclause 10(1) –

“–

- (a) authority issued pursuant to the *General Synod – Lay Assistants at Holy Communion Canon 1973 Adopting Ordinance 1973*, or  
(b)”

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

Chair of Committees

I Certify that this Ordinance was passed by the Synod of the Diocese of Sydney  
on 2019.

Secretary

I Assent to this Ordinance.

Archbishop of Sydney

/ /2019

## **General Synod - Lay Assistants at Holy Communion Canon 1973 Adopting Ordinance 1973**

(Reprinted under the Interpretation Ordinance 1985.)

The General Synod - Lay Assistants at Holy Communion Canon 1973 Adopting Ordinance 1973 as amended in accordance with the Anglican Church of Australia Act 1976.

### **Long Title**

AN ORDINANCE for adopting a certain canon of the Anglican Church of Australia entitled "Lay Assistants at Holy Communion Canon 1973".

### **Preamble**

WHEREAS a certain canon entitled "Lay Assistants at Holy Communion Canon 1973" (No 12 of 1973) was passed by the General Synod of the Anglican Church of Australia during the session of the said Synod held in May 1973 AND WHEREAS a copy of the said Canon is contained in the Schedule hereto AND WHEREAS it is expedient that the said Canon be adopted by the Synod of this Diocese NOW the Synod of the Diocese of Sydney HEREBY ORDAINS DECLARES DIRECTS AND RULES as follows:

### **Adoption of Canon**

1. The said Canon is hereby adopted and shall so far as the same is applicable be applied to the order and good government of the Church in this Diocese.

### **Citation**

2. This Ordinance may be cited as "General Synod - Lay Assistants at Holy Communion Canon 1973 Adopting Ordinance 1973".

### **SCHEDULE**

#### **GENERAL SYNOD SESSION 1973 CANON NO 12**

A CANON to provide for Lay Assistants at Holy Communion.

The General Synod prescribes as follows:

1. Lay persons being communicants may be authorised by the bishop to assist the priest in the ministering and distribution of the Holy Communion.
2. The Synod of any diocese may by ordinance set further limitations to the doing of any act referred to in this Canon by any lay person.
3. The bishop of any diocese may make regulations which specify the qualifications to be required of such persons before any such authority is conferred upon them, the person or persons who may authorise such lay persons to assist as aforesaid, the form of authority to be issued to them and the vesture to be worn by such persons while assisting at Holy Communion as aforesaid.
4. This Canon affects the order and good government of the Church of England in Australia and shall not come into force in any diocese unless and until the diocese by ordinance adopts the said Canon.
5. This Canon may be cited as "Lay Assistants at Holy Communion Canon 1973".

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### **Table of Amendments**

|            |  |
|------------|--|
| Long Title | Amended in accordance with Act No. 21, 1976. |
| Preamble   | Amended in accordance with Act No. 21, 1976. |



# Authorisation of Lay Ministry Ordinance 2015

(Reprinted under the Interpretation Ordinance 1985.)

## Table of Provisions

|        |  |
|--------|--|
| Clause |  |
| 1      | .....Name  |
| 2      | .....Interpretation  |
| 3      | .....Authority required for certain lay ministry             |
| 4      | .....Authorisation of lay ministry                           |
| 5      | .....Authority may be limited                                |
| 6      | .....Authority may be revoked                                |
| 7      | .....Exercise of certain functions by an<br>Assistant Bishop |
| 8      | .....Regulations   |
| 9      | .....Other authorities and requirements                      |
| 10     | .....Transition and repeal                                   |

+ + + + + + + + + +

### Long Title

An Ordinance to provide for the authorisation of certain lay ministry in the Diocese and for related matters.  
The Synod of the Diocese of Sydney Ordains as follows.

#### 1. Name

This Ordinance is the *Authorisation of Lay Ministry Ordinance 2015*.

#### 2. Interpretation

In this Ordinance –

“church” means –

- (a) a building or part of a building duly consecrated or licensed for the celebration of divine service,
- (b) an associated congregation of a church within the meaning of Schedule 1 of the *Parish Administration Ordinance 2008*, and
- (c) a congregation of a parish within the meaning of Schedule 2 of the *Parish Administration Ordinance 2008*.

“deaconess” means a person who has been admitted to the order of Deaconess described in the *General Synod – Order of Deaconesses Canon 1969 Adopting Ordinance 1970*.

“lay minister” means a lay person appointed as a staff member to assist a minister undertake ministry in a parish or church, whether full-time or part-time or as an employee or volunteer.

“minister” means –

- (a) in relation to a parish or a church of a parish, the rector of the parish,
- (b) in relation to the Cathedral Church of St Andrew, the Dean, and
- (c) in relation to a church which is not a church of a parish, the person licensed to officiate at the church.

“parish” means a parish or provisional parish recognised under the *Parishes Ordinance 1979* or a recognised church or provisional recognised church under the *Recognised Churches Ordinance 2000*.

#### 3. Authority required for certain lay ministry

- (1) The minister of a church or parish must not permit a lay person to exercise the office of lay minister or deaconess in the church or parish unless the lay person has been authorised to do so pursuant to this Ordinance.
- (2) The minister of a church must not permit a lay person (including a lay minister or deaconess) to –
  - (a) deliver sermons on a regular basis in the church,

- (b) administer baptisms in the church, or
- (c) conduct funerals in the church,

unless the lay person has been authorised to do so pursuant to this Ordinance.

#### **4. Authorisation of lay ministry**

(1) The Archbishop may, by authority issued to a lay person, authorise the lay person to exercise the office of lay minister or deaconess in any church or parish.

(2) The Archbishop may authorise a lay person (including a lay minister or deaconess) –

- (a) to undertake, at the request of the minister, one or more of the following ministries in any church –
  - (i) conduct services of public worship,
  - (ii) administer baptisms,
  - (iii) conduct funerals,
  - (iv) deliver sermons, and
  - (v) give expositions on the aims, functions and needs of an organisation, and
- (b) to perform, under the oversight of the minister, pastoral duties in any parish,

as specified in an authority issued to the lay person.

#### **5. Authority may be limited**

An authority issued pursuant to this Ordinance –

- (a) may be limited to a church or to the churches named in the authority or to the parish or parishes named in the authority or may apply to the whole of the Diocese or to any part of the Diocese specified in the authority, and
- (b) may be issued subject to any conditions which are specified in the authority.

#### **6. Authority may be revoked**

An authority issued pursuant to this Ordinance may be revoked at any time by the Archbishop.

#### **7. Exercise of certain functions by an Assistant Bishop**

The functions under clauses 4 and 5 may be exercised by an Assistant Bishop on behalf of the Archbishop.

#### **8. Regulations**

The Archbishop-in-Council may make regulations from time to time concerning –

- (a) the qualifications which a person must possess and the conditions which a person must satisfy before an authority may be issued to that person pursuant to this Ordinance, or
- (b) the manner in which any authority issued pursuant to this Ordinance is to be given and exercised.

#### **9. Other authorities and requirements**

(1) Nothing in this Ordinance affects any –

- (a) authority issued pursuant to the *General Synod – Lay Assistants at Holy Communion Canon 1973 Adopting Ordinance 1973*, or
- (b) requirement in relation to the licensing of deaconesses under the *General Synod – Order of Deaconesses Canon 1969 Adopting Ordinance 1970*.

(2) This Ordinance does not apply to the ministry exercised by a lay person as a Chaplain or Assistant Chaplain of a school.

#### **10. Transition and repeal**

(1) A lay person who, immediately before the commencement of this Ordinance, holds an authority issued under the *Deaconesses, Readers and Other Lay Persons Ordinance 1981* continues to hold that authority subject to the terms and conditions on which it was issued and may continue to do any of the things which the person has been authorised to do in that authority. Such an authority is taken to have been issued pursuant to this Ordinance.

(2) Subject to subclause (1), the *Deaconesses, Readers and Other Lay Persons Ordinance 1981* is repealed.

(3) A lay minister who, immediately before the commencement of this Ordinance, does not hold an authority required by this Ordinance under the *Deaconesses, Readers and Other Lay Persons Ordinance*

1981 to exercise the office of lay minister or undertake any of the ministries of that office, may continue to exercise such office and undertake such ministries without an authority under this Ordinance until –

- (a) in the case of a lay minister appointed as an employee, the end of his or her appointment, and
- (b) in any other case, 31 December 2016.

(4) A reference in an ordinance (other than this Ordinance) to the Deaconesses, Readers and Other Lay Persons Ordinance 1981 or any provision of that ordinance is taken to be a reference to the Authorisation of Lay Ministry Ordinance 2015 or the corresponding provision of that ordinance as applicable.

(5) Schedule 1 of the Parish Administration Ordinance 2008 is amended by omitting rule 5.3(c) and inserting instead –

- “(c) in the case of a lay person, he or she –
  - (i) has been requested to do so by or on behalf of the minister, and
  - (ii) holds a relevant authority issued pursuant to the Authorisation of Lay Ministry Ordinance 2015 if required.”



# Ministry Standards Ordinance 2017 Amendment Ordinance 2019

## Explanatory Report

### Key Points

In summary, the Bill will amend the *Ministry Standards Ordinance 2017* to –

- make provision for conciliation on the recommendation of the Director of Professional Standards if the Director considers it will assist the parties
- implement recommendations of the Royal Commission with respect to complaints' processes –
  - requiring an initial risk assessment on receipt of a complaint alleging child abuse (recommendation 16.51)
  - making suspension mandatory where complaint involves allegations of serious child-related conduct (recommendation 16.52)
  - introducing mechanisms to deal with actual or perceived conflicts of interest in relation to all individuals who have a role in the complaints' process (recommendation 16.39),
  - applying the same standard for investigating all complaints of child sexual abuse (recommendation 16.54)
  - making clear that the standard of proof is to be applied having regard to the principles in *Briginshaw v Briginshaw* (recommendation 16.53), and
- make the provisions for the reimbursement of stipend and benefits paid during the period that an interim prohibition order is in force consistent with the equivalent provisions for suspension.

### Purpose of the bill

1. The purpose of the bill is to amend the *Ministry Standards Ordinance 2017*.

### Recommendations

2. Synod receive this report.
3. Synod pass the Bill for the Ministry Standards Ordinance 2017 Amendment Ordinance 2019 as an ordinance of the Synod.

### Background

4. At its session in 2017, the Synod passed a bill for the *Ministry Standards Ordinance 2017* (the **MSO**) to replace the *Discipline Ordinance 2006*.
5. The MSO provides an administrative process for the resolution of complaints concerning the fitness of church workers to hold an office or position, to remain in Holy Orders, to exercise ministry or perform any duties or functions, whether or not subject to any conditions or restrictions.
6. By resolution 11.1 of 2017, Synod requested the Standing Committee to undertake a review of the operation of the MSO prior to the 2018 session of the Synod. This resulted in certain amendments to the MSO at the 2018 session. The explanatory report identified the following matters requiring further work for consideration at the 2019 session of Synod –
  - (a) the processes under the MSO for resolving bullying and other complaints within a parish staff team, and

- (b) implementing the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse (the **Royal Commission**) which relate to the complaints process.
7. The Standing Committee appointed a subcommittee to further consider these matters and make recommendations (the **Committee**). The members of this committee were Mr Michael Easton (Chair), Mr Garth Blake AM SC AO, Mr Lachlan Bryant, the Rev Mark Charleston, the Rev Tom Hargraves, the Rev Mamie Long, Mr Doug Marr and the Rev Craig Schafer. Mr Blake was unable to attend any of the meetings of the Committee.

### **Amendments to introduce the option of a conciliation process**

8. The Committee considers that there would be merit in the Director having the capacity to formally recommend that a complainant and respondent engage in conciliation. Any conciliation would likely occur early in the complaints process, though would be possible at any time prior to the complaint being finalised. Participation would be optional.
9. The Committee recognises that the MSO is not a mechanism for resolving disputes. It sets out an administrative process to determine if a church worker is fit to hold office or undertake ministry functions.
10. The Ordinance will insert a new clause 18A to provide for a complainant and a respondent to engage in conciliation on the recommendation of the Director of Professional Standards.
11. The Director must consider whether conciliation may assist the parties in order to make a recommendation that the parties engage in conciliation (clause 18(1)). The Director will also be required to consider any power imbalance between the parties in deciding whether to recommend conciliation (clause 18(2)). The Director will not have power to recommend conciliation if the complaint alleges serious child-related conduct (clause 18A(1)(b)).
12. The Director may recommend a conciliator to the parties and otherwise facilitate the conciliation occurring (clause 19A(3)).
13. If the parties agree to engage in conciliation (Clause 18A(4)) –
- (a) the Director is not prevented from undertaking any of the other courses of action available under the MSO during the period of conciliation;
  - (b) the conciliation is to be undertaken expeditiously;
  - (c) the attendees for any conferences must be agreed upon by all parties in advance of the conciliation; and
  - (d) the costs of the conciliator are to be met from funds under the control of the Synod, subject to the Director approving those costs before they are incurred.

### **Amendments to implement recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse**

#### **Risk Assessment (recommendation 16.51)**

14. Recommendation 16.51 of the Royal Commission is as follows –
- All religious institutions' complaint handling policies should require that, upon receiving a complaint of child sexual abuse, an initial risk assessment is conducted to identify and minimise any risks to children.
15. Presently, there is no formal requirement in the MSO to conduct a risk assessment on receipt of a complaint. The Director does, in effect, undertake a form of risk assessment when deciding whether to recommend a suspension or an interim prohibition order under clause 19 of the MSO, however the Royal Commission has recommended that a number of other matters be formally considered in a risk assessment apart from standing the person down.

16. The amendment set out in clause 3(a) of the Ordinance will require the Director to promptly carry out a risk assessment following receipt of a complaint alleging child abuse. The matters that the Director is required to consider in undertaking the risk assessment reflect the elements recommended by the Royal Commission.

#### Mandatory suspension where complaint involves allegations of serious child-related conduct (recommendation 16.52)

17. Recommendation 16.52 of the Royal Commission is as follows:
- All religious institutions' complaint handling policies should require that, if a complaint of child sexual abuse against a person in religious ministry is plausible, and there is a risk that person may come into contact with children in the course of their ministry, the person be stood down from ministry while the complaint is investigated.
18. Presently, the Director has discretion about whether to recommend suspension in relation to a respondent who is the subject of a complaint of child abuse.
19. The amendment in clause 3(b) of the Ordinance will make it mandatory for the Director to recommend suspension if, after giving the respondent the opportunity to be heard, the Director is satisfied that –
- the complaint or the substance of the complaint involves allegations of serious child-related conduct (as defined in the MSO),
  - the complaint is not false, vexatious or misconceived, and
  - there is a risk that the respondent may come into contact with children in the course of their functions as a church worker.

#### Conflicts of interest (recommendation 16.39)

20. Recommendation 16.39 of the Royal Commission is as follows:
- Consistent with Child Safe Standard 1, each religious institution should have a policy relating to the management of actual or perceived conflicts of interest that may arise in relation to allegations of child sexual abuse. The policy should cover all individuals who have a role in responding to complaints of child sexual abuse.
21. Presently, under the MSO, members of the Professional Standards Commission (the **PSC**) and Professional Standards Board (the **PSB**) are subject to clause 70 'Disqualification where personal interest', which states that –
- Where a member of the PSC or the Board has a personal interest in a matter before it the member shall be disqualified from participating in the matter.
  - The opinion of the chair of the PSC or the presiding member of the Board, as the case may be, shall be conclusive as to whether any other member of the PSC or the Board has a personal interest in a matter.
22. The gaps in the MSO are as follows –
- There is no formal conflict of interest provision in relation to the Director. There is, however, general provision for the Archbishop to appoint someone other than the Director to handle a complaint.
  - There is no formal conflict of interest provision in relation to Adjudicators.
  - There is no specific duty for members of the PSC or PSB or an Adjudicator to declare a conflict of interest, or a mechanism for determining if the Chair or presiding member has a conflict of interest.
23. The amendments set out in clauses 3(c), (g) and (h) of the Ordinance resolve these gaps.

#### Applying the same standard for investigating all complaints of child sexual abuse (recommendation 16.54)

24. Recommendation 16.54 of the Royal Commission is as follows –
- Religious institutions should apply the same standards for investigating complaints of child sexual abuse whether or not the subject of the complaint is a person in religious ministry.

25. Part 3H of the MSO sets out a truncated complaints process in relation to unpaid lay workers. However while Part 3H operates to the exclusion of Parts 4A to 4D in resolving complaints, the requirements in Chapter 3 in relation to the investigation of complaints apply to all complaints. The standards for the investigation of complaints are therefore already the same.
26. That said, the complaints process could meet the recommendation more fully by including –
  - (a) a description of the role, powers and duties of the Adjudicator in Chapter 5, and
  - (b) similar procedural fairness provisions and standards of proof as in Part 4D.
27. The amendments set out in clauses 3(d) of the Ordinance address these matters.

#### The standard of proof (recommendation 16.53)

28. Recommendation 16.53 of the Royal Commission is as follows –

The standard of proof that a religious institution should apply when deciding whether a complaint of child sexual abuse has been substantiated is the balance of probabilities, having regard to the principles in *Briginshaw v Briginshaw*.
29. In *Briginshaw v Briginshaw* [1938] HCA 34, the High Court cautioned against a “mechanical comparison of probabilities” in determining whether it is more likely than not that alleged events occurred. The High Court stated that the “nature and consequence of the fact or facts to be proved” must be considered. In short, the principle is that the more serious the allegation, the more probative or stronger the evidence needs to be to satisfy the standard of proof.
30. Although the MSO does not expressly refer to the principles in *Briginshaw v Briginshaw* those principles are reflected in the MSO, for instance clause 35(2)(a), which provides –

In deciding upon a course of action the PSC is to take the following matters into consideration - the nature of the complaint and the seriousness of the conduct the subject of the complaint, in particular, whether that conduct comprises child abuse, grooming, inappropriate pastoral conduct involving a child or possession, production or distribution of child exploitation material.
31. The Committee does not recommend referring to *Briginshaw v Briginshaw* in the text of the Ordinance given the reference will not be understood by the ordinary reader. It is preferable to reference *Briginshaw v Briginshaw* in footnotes to clauses 29 and 68 of the MSO.
32. The amendments set out in clause 3(f) of the Ordinance address these matters.

#### Mandatory removal from ministry, preventing a person from holding himself or herself out as having religious authority and deposition from holy orders (recommendations 16.55 and 16.56)

33. Recommendation 16.55 of the Royal Commission is as follows –

Any person in religious ministry who is the subject of a complaint of child sexual abuse which is substantiated on the balance of probabilities, having regard to the principles in *Briginshaw v Briginshaw*, or who is convicted of an offence relating to child sexual abuse, should be permanently removed from ministry. Religious institutions should also take all necessary steps to effectively prohibit the person from in any way holding himself or herself out as being a person with religious authority.
34. Recommendation 16.56 of the Royal Commission is as follows –

Any person in religious ministry who is convicted of an offence relating to child sexual abuse should:

...

  - b. in the case of Anglican clergy, be deposed from holy orders
35. Both of these recommendations are being examined by the Professional Standards Commission and Church Law Commission of the General Synod.

36. The Committee considers it prudent to wait for the recommendations from these bodies before making changes to implement these recommendations of the Royal Commission.

## Other amendments

Reimbursement of stipend and benefits paid during the period that an interim prohibition order is in force

37. In 2018, the MSO was amended in relation to periods of suspension by providing that –
- (a) a respondent is not entitled to continue to receive entitlements during suspension that are provided on account of expenses incurred in undertaking their duties or functions, and
  - (b) a parish is only entitled to be reimbursed from Synod funds for the reasonable additional costs incurred by the parish for the engagement of any temporary personnel to undertake the duties of the respondent during the period of suspension.
38. These amendments prevent situations arising where there is a financial gain for the respondent or parish during the period of suspension.
39. Due to an oversight, these same limitations were not included in amendments to the interim prohibition provisions in the MSO.
40. The amendments in clause 4 of the Ordinance will bring about consistency between the reimbursement provisions applicable to suspension and interim prohibitions orders.

For and on behalf of the Standing Committee.

DANIEL GLYNN  
**Diocesan Secretary**

29 August 2019

# Ministry Standards Ordinance 2017 Amendment Ordinance 2019

No. \_\_\_\_\_, 2019

## Long Title

An Ordinance to amend the *Ministry Standards Ordinance 2017*.

The Synod of the Diocese of Sydney Ordains as follows.

### 1. Name

This Ordinance is the Ministry Standards Ordinance 2017 Amendment Ordinance 2019.

### 2. Amendments to introduce a conciliation process

The *Ministry Standards Ordinance 2017* is amended as follows –

- 5 (a) insert a new paragraph 14(a) as follows (and consequentially reletter the existing paragraphs) –
- “(a) recommend that the parties engage in conciliation under clause 18A,” and
- (b) insert a new clause 18A as follows –
- “**18A Director may recommend conciliation**
- 10 (1) At any time after a complaint is made, the Director may recommend to the parties that they engage in conciliation if –
- (a) the Director considers that conciliation may assist the parties, and
- (b) the complaint does not allege serious child-related conduct.
- (2) In considering whether to make a recommendation under subclause 18A(1), the Director is to consider any power imbalance between the parties.
- 15 (3) The Director may recommend a conciliator to the parties and otherwise facilitate the conciliation occurring.
- (4) If the parties agree to engage in conciliation on the basis of a recommendation under subclause 18A(1) –
- 20 (a) the Director is not prevented from undertaking any of the other courses of action listed in clause 14 during the period of conciliation,
- (b) the mediation is to be undertaken expeditiously,
- (c) the attendees for any conferences must be agreed upon by all parties in advance of the conciliation, and
- 25 (d) the costs of the conciliator are to be met from funds under the control of the Synod, subject to the Director approving those costs before they are incurred.”.

### 3. Amendments to implement recommendations of the Royal Commission into institutional responses to child sexual abuse

30 The *Ministry Standards Ordinance 2017* is further amended as follows –

- (a) insert a new clause 12A as follows –
- “**12A Risk Assessment by Director**
- (1) If the Director receives a complaint alleging child abuse, the Director must promptly undertake a risk assessment to identify any risks to children.
- 35 (2) The risk assessment must include, but is not limited to, consideration of the following –
- (a) any immediate and ongoing risks associated with the complaint, including the safety of the complainant and any children,
- (b) whether preliminary action could and should be taken concerning the respondent including supervision, removal of contact with children or suspension,
- 40 (c) the available expertise to assess the risk and whether expert advice should be obtained,

- (d) the need for cultural and linguistic interpreters to be involved in the complaint process,
- (e) whether it is necessary to report the complaint to an external authority,
- 5 (f) who should be informed about the complaint, and whether there are restrictions on the information they can be given (for example, due to privacy laws and other confidentiality obligations), and
- (g) how to implement the decisions made as a result of the risk assessment.
- 10 (3) The Director must review the risk assessment during the complaints process in response to any changes in the risk profile and make modifications where necessary.”, and
- (b) insert a new subclause 19(c) as follows –
- 15 “(c) the Director must recommend that the respondent is suspended if, after giving the respondent the opportunity to be heard under paragraph (a), the Director is satisfied that –
- (i) the complaint or the substance of the complaint involves allegations of serious child-related conduct,
- (ii) the complaint is not false, vexatious or misconceived, and
- 20 (iii) there is a risk that the respondent may come into contact with children in the course of their functions as a church worker.”, and
- (c) insert a new subclause 28(3) as follows (and renumber the existing subclause 28(3) as subclause 28(4)) –
- 25 “(3) If the Adjudicator has any actual or perceived conflict of interest in the exercise or performance of their functions under this Ordinance in relation to a complaint, the Adjudicator must disclose this to the Registrar and the Registrar is to appoint another experienced lawyer to be the Adjudicator for the complaint.”, and
- (d) substitute subclause 29(3) with the following –
- 30 “(3) If the complaint or the substance of the complaint has not been admitted by the respondent, the Adjudicator –
- (a) must act with fairness and according to equity, good conscience, procedural fairness and the substantial merits of the case without regard to technicalities or legal forms in resolving the complaint,
- 35 (b) is not bound by the rules of evidence but may inform himself or herself on any matter in such manner as her or she thinks fit,
- (c) must give written reasons for any findings and recommendations, unless the findings and recommendations are made by consent of the respondent, and
- 40 (d) must deal with the complaint as expeditiously as possible.”, and
- (e) insert a new subclause 29(4) as follows –
- “4) The standard of proof for the Adjudicator to establish an allegation is that of reasonable satisfaction on the balance of probabilities.”,
- (f) insert a footnote in respect to clause 29(4) and clause 68 as follows –
- 45 “The standard of proof is to be applied with regard to the principles in *Briginshaw v Briginshaw* [1938] HCA 34.”,
- (g) substitute clause 70 as follows –
- 70. Disqualification where conflict of interest**
- (1) A member of the PSC or the Board must promptly disclose to the other members any actual conflict of interest they have as a member and any circumstances which might reasonably be perceived as a conflict of interest, including the reason(s) why such a conflict of interest might exist.
- 50 (2) Where a member of the PSC or the Board has an actual or perceived conflict of interest in a matter, the member shall be disqualified from participating in the matter.
- 55

(3) The opinion of a majority of the other members of the PSC or Board, as the case may be, shall be conclusive as to whether the member has an actual or perceived conflict of interest in a matter”, and

(h) insert a new clause 82A as follows –

**“82A. Conflict of Interest**

If the Director has any actual or perceived conflict of interest in the exercise or performance of any power, authority, duty or function under this Ordinance in relation to a matter, the Director must declare to the Archbishop that he is unable or unwilling to exercise or perform that power, authority, duty or function in relation to the matter.”

**4. Other amendments**

The *Ministry Standards Ordinance 2017* is further amended by substituting paragraph 21(2)(d) with the following –

“(d) the person against whom the complaint is made is entitled to continue to receive their ordinary stipend, salary, allowances and other benefits in connection with the position, except to the extent that these are provided on account of expenses incurred in undertaking their duties or functions; and

(e) in the case of a respondent who is licensed or authorised for ministry in a parish – the parish concerned is entitled to reimbursement from funds under the control of the Synod for the reasonable additional costs incurred by the parish for the engagement of any temporary personnel to undertake the duties of the person against whom the complaint is made during the period of the order.”

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

Chair of Committees

I Certify that this Ordinance was passed by the Synod of the Diocese of Sydney on 2019.

Secretary

I Assent to this Ordinance.

Archbishop of Sydney

/ /2019

# Ministry Standards Ordinance 2017

(Reprinted under the Interpretation Ordinance 1985.)

The Ministry Standards Ordinance 2017 as amended by the Ministry Standards Ordinance 2017 Amendment Ordinance 2018.

## Table of Provisions

### Diagrammatic Summary of the Complaints

#### Process Long Title

#### Chapter 1 Preliminary

Part 1A – Purpose and Application Part 1B – Interpretation

#### Chapter 2 Scope of the Ordinance

Part 2A – Church workers and Misconduct Part 2B – Exempt Conduct

#### Chapter 3 Processing of Complaints

Part 3A – Making Complaints

Part 3B – Handling of Complaints by the Director

Part 3C – Declining, Deferring or Referring Complaints

Part 3D – Suspension and Interim Prohibition Orders

Part 3E – Complaints involving serious criminal convictions

Part 3F – Investigation of Complaints

Part 3G – Notification of and Response to the Complaint

Part 3H – Special procedure for unpaid lay church workers (Adjudicators)

#### Chapter 4 Resolving Complaints

Part 4A – Consideration by the PSC

Part 4B – Determination of Complaints by the Board

Part 4C – Review of Board Determinations

Part 4D – Procedural matters for the PSC and the Board

Part 4E – Church Authorities and Compliance

#### Chapter 5 Persons or Bodies performing Functions under this Ordinance

Part 5A – The Director

Part 5B – The Professional Standard Committee

Part 5C – The Professional Standards Board

#### Chapter 6 Miscellaneous

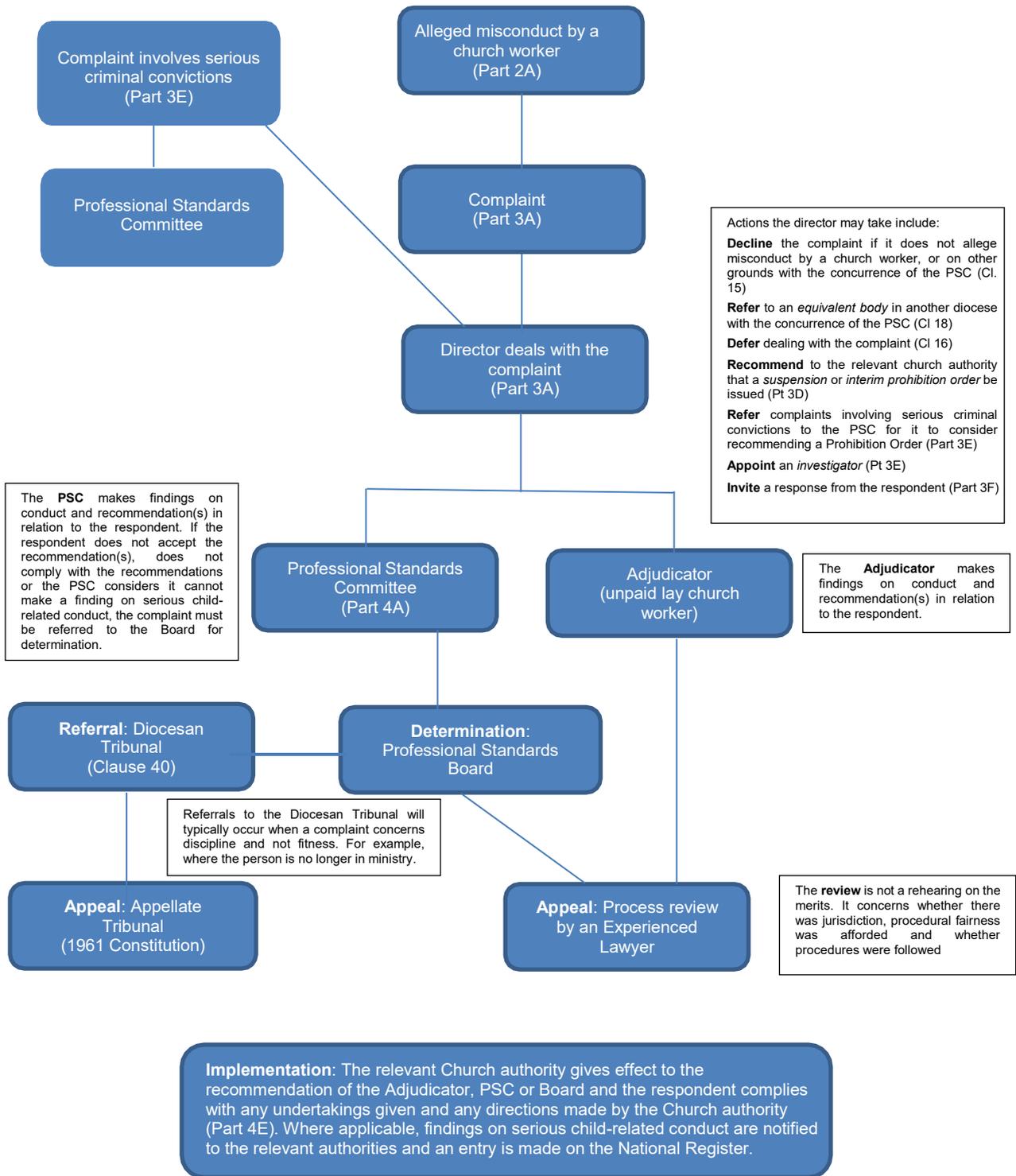
Part 6A – Confidentiality and Publication

Part 6B – Indemnity

Part 6C – Regulations

Part 6D – Other

Diagrammatic Summary of the Complaints Process



**Please note:** This diagram is indicative only and does not set out all possible actions or steps that may be taken under the Ordinance.

**Long Title**

An Ordinance to make provision with respect to resolving complaints concerning the fitness of church workers.

The Synod of the Diocese of Sydney ordains as follows.

**CHAPTER 1 – PRELIMINARY****1. Name**

This Ordinance is the *Ministry Standards Ordinance 2017*.

**PART 1A – PURPOSE AND APPLICATION****2. Overriding purpose**

- (1) The overriding purposes of this Ordinance are:
- (a) to uphold the standards of conduct expected of church workers in the Diocese;
  - (b) to protect the community;
  - (c) to provide a mechanism whereby complaints that church workers are not fit to hold office or ministry can be resolved; and
  - (d) to facilitate the just, expedient and efficient resolution of complaints.
- (2) The Director, the PSC, Adjudicators and the Board must each seek to give effect to these overriding purposes when exercising any power given by this Ordinance and when interpreting any provision of this Ordinance.

**3. Application**

- (1) This Ordinance applies only in respect of alleged misconduct by church workers:
- (a) resident, licensed or authorised in the Diocese, or engaged by a Church authority; or
  - (b) not resident, licensed or authorised in the Diocese nor engaged by a Church authority but whose misconduct is alleged to have occurred in the Diocese or when the church worker was resident, licensed or authorised in the Diocese or was engaged by a Church authority.
- (2) This Ordinance applies to misconduct wherever and whenever it is alleged to have been engaged in by a church worker, including misconduct that is alleged to have occurred before or after the commencement of this Ordinance.

**PART 1B - INTERPRETATION****4. Interpretation**

- (1) For the purposes of this Ordinance:
- “Adjudicator”** means a person appointed under subclause 28(2);
- “Appellate Tribunal”** means the Appellate Tribunal constituted by and under Chapter IX of the Constitution;
- “Board”** means the Professional Standards Board established under Part 5C;
- “ceremonial”** has the same meaning as that expression has in the Constitution;
- “Chancellor”** means the person holding office from time to time as Chancellor of the Diocese;
- “child”** means a person under the age of 18 years;
- “child exploitation material”** means material that describes or depicts a person who is or who appears to be a child –
- (i) engaged in sexual activity; or
  - (ii) in a sexual context; or
  - (iii) as the subject of torture, cruelty or abuse (whether or not in a sexual context) in a way that a reasonable person would regard as being, in all the circumstances, offensive;

“**child-related work**” has the same meaning as in the *Child Protection (Working with Children) Act 2012 (NSW)*;

“**Church**” means the Anglican Church of Australia;

“**Church authority**” means the Archbishop or a person or body having administrative authority of or in a Church body to license, appoint, authorise, dismiss or suspend a church worker;

“**Church body**” means –

- (i) a parish, and
- (ii) any school, body corporate, organisation or association that exercises ministry within, or on behalf of, this Church in this Diocese –
  - (A) which is constituted by ordinance or resolution of the Synod,
  - (B) in respect of whose organisation or property the Synod may make ordinances, or
  - (C) in relation to which the Synod, the Standing Committee, the Archbishop or a body referred to in paragraphs (i) or (ii) elects or appoints a majority of the members of the governing body;

“**church worker**” has the meaning given in Part 2A; “**Clergy**” means a person in holy orders;

“**Code of Conduct**” means *Faithfulness in Service* and any other code of conduct approved from time to time by the Synod or which operates in the Diocese pursuant to an ordinance of the Synod;

“**complainant**” means a person who makes a complaint;

“**complaint**” means a complaint made in accordance with Part 3A of this Ordinance; “**Constitution**” means the Constitution of the Anglican Church of Australia; “**Diocese**” means the Anglican Church of Australia in the Diocese of Sydney;

“**Diocesan policy for dealing with allegations of unacceptable behaviour**” means the policy of that name adopted by the Synod on 10 October 2015, as amended from time to time;

“**Diocesan Tribunal**” means the Diocesan Tribunal constituted for the Diocese in accordance with Chapter IX of the 1961 Constitution;

“**Director**” means the Director of Professional Standards appointed under Part 5A;

“**disqualifying offence**” means a criminal offence listed in Schedule 2 of the *Child Protection (Working with Children) Act 2012*;

“**doctrine**” has the same meaning as in the Constitution;

“**equivalent body**” means a body of another diocese exercising powers, duties or functions equivalent to those of the Director, the PSC the Board as the case may be, or where there is no such body, the bishop of the diocese;

“**experienced lawyer**” means a person who is or has been a judge or justice of an Australian, State or Territorial court or tribunal, or who has been admitted as an Australian legal practitioner for not less than 10 years;

“**faith**” has the same meaning as that expression has in the Constitution;

“**Faithfulness in Service**” means the code for personal behaviour and the practice of pastoral ministry by clergy and church workers adopted by the Synod in October 2004, as amended from time to time pursuant to an ordinance or resolution of the Synod;

“**information**” means information of whatever nature and from whatever source relating to alleged misconduct on the part of a church worker;

“**investigator**” means a person appointed by the Director to investigate a complaint;

“**member of the clergy**” means a person in Holy Orders; “**misconduct**” has the meaning given in Part 2A;

“**national register**” means any national register established pursuant to a Canon of General Synod for the purpose of recording determinations of the Board and other equivalent bodies;

**"Professional Standards Committee" or "PSC"** means the Professional Standards Committee established under Part 5B;

**"Professional Standards Unit"** means the Professional Standards Unit of the Diocese;

**"prohibition order"** means an order prohibiting a church worker from holding a specified position or office in or being employed by a Church body or Church authority or from carrying out any specified functions in relation to any office or position in the diocese or in relation to employment by a Church body, and includes a variation of a prohibition order;

**"Registrar"** means the person appointed by the Archbishop under his hand and seal to be Registrar of the Diocese or in his absence the person appointed by the Archbishop to perform the duties of the Registrar either in his absence or as his deputy;

**"respondent"** means a church worker whose alleged conduct is the subject of a complaint;

**"ritual"** has the same meaning as that expression has in the Constitution;

**"Safe Ministry Board"** means the body of that name constituted under the *Safe Ministry Ordinance 2005*;

**"safety plan"** means the form of agreement developed by the Professional Standards Unit to regulate a person's participation in the ministry activities of a church of the Diocese;

**"serious child-related conduct"** has the meaning given in clause 7;

**"suspension order"** has the meaning in clause 19;

**"under legal incapacity"** has the same meaning as in the *Civil Procedure Act 2005 (NSW)*; and

**"unpaid lay church worker"** means a lay church worker who does not hold a paid role, office or position in the Diocese at the time a complaint is made against them under this Ordinance.

(2) For the purposes of complaints dealt with by an Adjudicator under Part 3H, references to the PSC and the Board in Chapters 1 to 3 of this Ordinance are taken to be references to the Adjudicator unless the context or subject matter otherwise requires.

(3) The diagram appearing before the Long Title and the notes in the footnotes of this Ordinance are for explanatory purposes only and do not form part of this Ordinance. The Diocesan Secretary is authorised to update the diagram and the notes when reprinting this Ordinance under clause 8 of the *Interpretation Ordinance 1985*.

## CHAPTER 2 – SCOPE OF THE ORDINANCE

## PART 2A – CHURCH WORKERS AND MISCONDUCT

**5. Who is a church worker?**

This Ordinance applies to fitness for office of church workers. Subject to clause 3, **church worker** means a person who:

- (a) is or has been a member of the clergy; or
- (b) holds or has held a position of leadership within the Diocese and without limiting the generality of the foregoing a position of leadership includes -
  - (i) an office, or
  - (ii) membership of a body incorporated by or under the *Anglican Church of Australia Bodies Corporate Act 1938*, or
  - (iii) membership of a body corporate following election or appointment by the Synod, Standing Committee, the Archbishop or a Church body, or
  - (iv) a warden, or
  - (v) membership of a parish council, or
  - (vi) membership of any other board, council or committee established by the Synod, the Standing Committee, a regional council or a parish council, or
  - (vii) a chief executive officer of an organisation constituted by an ordinance of the Synod or the Standing Committee, meaning the person who is responsible to the governing body of the organisation for the work of the organisation; or
  - (viii) an officer of a kind specified in the Parish Administration Ordinance 2008, or
  - (ix) an appointment or authorisation by a rector, warden or parish council or by any delegate or agent of such a person or body of persons,

but excludes a bishop who is subject to the jurisdiction of the Special Tribunal.

**6. What conduct is misconduct by a church worker?**

(1) **Misconduct** by a church worker means conduct which, if established, would call into question:

- (a) the fitness of the person to hold a role, office or position, or to be or remain in Holy Orders;
- (b) the fitness of the person, whether temporarily or permanently, to exercise ministry or perform any duty or function of the role, office or position; or
- (c) whether, in the exercise of ministry or in the performance of any duty or function, the person should be subject to any condition or restriction,

but does not mean –

- (d) any breach of faith, ritual or ceremonial,
  - (e) any act or omission that involves:
    - (i) refusing to appoint, correcting, disciplining, counselling, admonishing, transferring, demoting, suspending, retrenching or dismissing a person if done –
      - (A) in good faith;
      - (B) reasonably; and
      - (C) in the normal and lawful discharge of the duties and functions; or
    - (ii) respectfully disagreeing with or criticising someone's beliefs or opinions or actions, except in the case of conduct which, if established, would constitute serious child-related conduct, or
  - (f) public statements, acts or practices made or done in good faith for a proper purpose that are within the standards and doctrines of the Church in the Diocese, or
  - (g) exempt conduct to which Part 2B applies.
- (2) Misconduct may include but is not limited to the following:

- (a) acts or omissions that would constitute the commission of an offence under the *Offences Ordinance 1962*, as amended from time to time,<sup>1</sup>
- (b) **abuse**, which means:
- (i) **bullying** (as defined below);
  - (ii) **child abuse**, which means bullying, emotional abuse, harassment, neglect, physical abuse, sexual abuse or spiritual abuse in relation to a child, and includes possessing, producing or distributing child exploitation material;
  - (iii) **emotional abuse**, which means acts or omissions that have caused, or could cause significant harm to the wellbeing or development of another person, which may include but is not limited to:
    - subjecting a person to excessive and repeated personal criticism;
    - ridiculing a person, including the use of insulting or derogatory terms to refer to them;
    - threatening or intimidating a person;
    - ignoring a person openly and pointedly; and
    - behaving in a hostile manner or in any way that could reasonably result in another person feeling isolated or rejected;
  - (iv) **harassment**, which means unwelcome conduct, whether intended or not, in relation to another person where the person feels with good reason in all the circumstances offended, belittled or threatened;
  - (v) **neglect**, which means the failure to provide the basic necessities of life where a child's health and development are placed at risk of harm, which may include but is not limited to being deprived of food, clothing, shelter, hygiene, education, supervision and safety, attachment to and affection from adults and medical care;
  - (vi) **physical abuse**, which means any intentional or reckless act, use of force or threat to use force causing injury to, or involving unwelcome physical contact with, another person, but does not include lawful discipline by a parent or guardian;
  - (vii) **sexual abuse**, which has the same meaning set out in *Faithfulness in Service*;
  - (viii) **spiritual abuse**, which means the mistreatment of a person by actions or threats when justified by appeal to God, faith or religion;
- (c) **bullying** which means behaviour directed to a person or persons which:
- (i) is repeated;
  - (ii) is unreasonable (being behaviour that a reasonable person, having considered the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening); and
  - (iii) creates a risk to their health and safety.

Bullying can include:

- (i) making derogatory, demeaning or belittling comments or jokes about someone's appearance, lifestyle, background or capability;

<sup>1</sup> *Offences under the Offences Ordinance 1962 include:*

- (i) *unchastity;*
- (ii) *drunkenness;*
- (iii) *habitual and wilful neglect of ministerial duty after written admonition in respect thereof by the Bishop of the Diocese;*
- (iv) *wilful failure to pay just debts;*
- (v) *conduct, whenever occurring –*
  - (a) *which would be disgraceful if committed by a member of the clergy; and*
  - (b) *which at the time the charge is preferred is productive, or if known publicly would be productive, of scandal or evil report;*
- (vi) *sexual abuse;*
- (vii) *child abuse; or*
- (viii) *conviction in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or upwards or the conviction outside New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable; or*
- (ix) *grooming;*
- (x) *inappropriate pastoral conduct involving a child, and*
- (xi) *possession, production or distribution of child exploitation material.*

- (ii) communicating in an abusive manner;
- (iii) spreading rumours or innuendo about someone or undermining in other ways their performance or reputation;
- (iv) dismissing or minimising someone's legitimate concerns or needs;
- (v) inappropriately ignoring, or excluding someone from information or activities;
- (vi) touching someone threateningly or inappropriately;
- (vii) invading someone's personal space or interfering with their personal property;
- (viii) teasing someone, or playing pranks or practical jokes on someone;
- (ix) displaying or distributing written or visual material that degrades or offends;
- (x) cyberbullying which is a form of bullying that involves the use of information and communication technologies.

Bullying does not include lawful conduct of clergy or church workers carried out in a reasonable manner, such as:

- (i) disagreeing with or criticising someone's belief or opinions or actions in an honest and respectful way;
  - (ii) giving information about inappropriate behaviour in an objective way to the person or persons concerned and to any other person with a proper reason for having that information;
  - (iii) setting reasonable performance goals, standards or deadlines;
  - (iv) giving information about unsatisfactory performance in an honest and constructive way;
  - (v) taking legitimate disciplinary action;
- (d) **grooming** which means actions deliberately undertaken with the aim of engaging and influencing an adult or a child for the purpose of sexual activity; in the case of sexual abuse of a child, an offender may groom not only the child, but also those close to the child, including the child's parents or guardians, other family members, clergy and church workers; grooming can include providing gifts or favours to the child or their family. In the case of sexual abuse of an adult, an offender may groom not only the adult, but also those close to them, including their children, clergy and church workers;
- (e) **inappropriate pastoral conduct involving a child** which means engaging in a pattern of conduct involving a child or a group of children that is inconsistent with the standards and guidelines of *Faithfulness in Service*;
- (f) **process failure**, which means any of the following:
- (i) failure without reasonable excuse to comply with the laws of the Commonwealth or a State or Territory requiring the reporting of child abuse to the police or other authority;
  - (ii) a failure by a person licensed by the Archbishop, a person in holy orders resident in the Diocese or a person who holds an authority under the *Authorisation of Lay Ministry Ordinance 2015* for the purposes of paid work, without reasonable excuse, to make a report under clause 12 or a failure by that person to cooperate with an investigation of that conduct;
  - (iii) failure without reasonable excuse by a Church authority to deal with or to investigate in a reasonable or timely manner matters involving:
    - (A) abuse; or
    - (B) alleged inappropriate or unreasonable conduct of a church worker who had knowledge of conduct of another church worker constituting sexual abuse or child abuse;in circumstances where the Church authority has an obligation by law or under this Ordinance to deal with or investigate such conduct;
- (g) **safe ministry training failure**, which means a failure without a reasonable excuse to satisfactorily complete mandatory training approved by the Safe Ministry Board for the purpose of Chapter 7 of Schedule 1 and Schedule 2 of the *Parish Administration Ordinance 2008*;
- (h) **sexual misconduct** which has the same meaning as in the *Child Protection (Working with Children) Act 2012 (NSW)*;
- (i) threatening or taking, or attempting to take, action against a person because they have made, or have been involved in, a complaint under this Ordinance;
- (j) attempts, by threat, intimidation or inducement to –

- (i) dissuade a person from making a complaint,
- (ii) persuade a person to withdraw a complaint, or
- (iii) persuade a person to consent to the withdrawal of a complaint;
- (k) failure without reasonable excuse by a respondent to cooperate with the investigation of a complaint under the Ordinance;
- (l) failure without reasonable excuse to comply with a condition imposed by a Church authority under this Ordinance;
- (m) failure without reasonable excuse to comply with an undertaking given to or a direction or order given by an Adjudicator, the PSC, Board or a Church authority; or
- (n) conduct that would constitute a breach of section 316 of the *Crimes Act 1900 (NSW)* with respect to the reporting of serious indictable offences.

#### 7. What is serious child-related conduct?

Serious child-related conduct means conduct that is sexual misconduct committed against, with or in the presence of a child, including grooming of a child, or any serious physical assault of a child by a person:

- (a) when engaged in child-related work in the Diocese; or
- (b) who –
  - (i) is in child-related work in the Diocese at the time a complaint concerning their conduct is made, or
  - (ii) has performed child-related work in the Diocese at any time in the two years prior to the date that a complaint concerning their conduct is made.

### PART 2B – EXEMPT CONDUCT

#### 8. Declaration of exemption following disclosure of past conduct

(1) If a person makes a full disclosure to the Archbishop in writing that the person has engaged in conduct that may be the subject of a complaint under this Ordinance in the following circumstances:

- (a) by a person prior to ordination by or on behalf of the Archbishop as a deacon; or
- (b) by a person who is not ordained prior to being issued with an authority under the *Deaconess, Readers and Other Lay Persons Ordinance 1981* or the *Authorisation of Lay Ministry Ordinance 2015* for the purpose of undertaking paid work; or
- (c) by a person who has been ordained, otherwise than by or on behalf of the Archbishop prior to being first licensed by the Archbishop where conduct was committed prior to ordination as a deacon;

the Archbishop, with the concurrence of the PSC, may declare that the conduct cannot be the subject of a complaint under this Ordinance.

(2) The Archbishop must not make a declaration under this Part:

- (a) in respect of a person who has been convicted of a disqualifying offence listed in Schedule 2 of the *Child Protection (Working with Children) Act 2012*.<sup>2</sup>; or
- (b) if the person has been refused a declaration in relation to the same or similar conduct in the previous 5 years.

(3) The Archbishop must not make a declaration under this Part in respect of the conduct of a person unless the Archbishop and the PSC consider that the person:

- (a) has made appropriate reparation for the conduct; and
- (b) is fit to be ordained, to be issued with an authority or to be licensed by the Archbishop, as the case may be; and
- (c) does not pose a risk to the safety of any person taking into account the following matters:
  - (i) the circumstances in which the conduct occurred;
  - (ii) the seriousness of the conduct;
  - (iii) the age of the person at the time of the conduct;
  - (iv) the age of the victim(s) at the time;

<sup>2</sup> Note: Disqualifying offences in Schedule 2 of the *Child Protection (Working with Children) Act 2012* include the murder or manslaughter of a child, intentional wounding or committing grievous bodily harm to a child, abandonment of a child, serious sex offences, incest, bestiality and offences related to child pornography/child abuse material. In general, these are sex offences or offences involving children which are punishable by imprisonment of 12 months or more.

- (v) the difference in ages between the person and the victim(s);
  - (vi) the person's criminal record, if any;
  - (vii) such other matters as are considered relevant.
- (4) If the Archbishop makes a declaration under this Part in respect of the conduct of a person:
- (a) the declaration has effect for the purposes of this Ordinance according to its terms; and
  - (b) no action is to be taken or continued under this Ordinance in respect of a complaint if the Director, with the concurrence of the PSC, determines that the whole of the conduct that is the subject of the complaint is exempt conduct.

## CHAPTER 3 – PROCESSING OF COMPLAINTS

### PART 3A – MAKING COMPLAINTS

#### 9. Who may make a complaint?

Any person, including the Director, may make a complaint of misconduct in relation to a church worker.

#### 10. How to make a complaint

- (1) All complaints must be made to the Director.
- (2) A complaint may be in any form, oral or in writing, whether by electronic means or otherwise.
- (3) Where a complaint is oral, the Director must make a written record of the complaint as soon as practicable after receiving it.
- (4) A complaint must include details of the misconduct complained about.
- (5) The Director must not make a complaint based only on information provided anonymously.
- (6) Non-compliance with this clause does not invalidate a complaint unless the Board determines otherwise.

#### 11. Director to explain the complaints process

The Director must use reasonable endeavours to explain the processes set out in this Ordinance to the complainant prior to any investigation of the complaint.

#### 12. Obligation to report knowledge or reasonable belief of certain matters

A church worker who knows or has reason to believe that another church worker has engaged in conduct which constitutes child abuse, grooming, inappropriate pastoral conduct involving a child or possession, production or distribution of child exploitation material must report to the Director, as soon as practicable, the name or a description of the other church worker and the grounds for believing that the other church worker has engaged in such conduct.

#### 13. Withdrawal of complaint

- (1) Subject to subclause (2), a complaint is taken to have been withdrawn if the complaint does not allege serious child-related conduct and:
  - (a) the complainant gives written notice of the withdrawal of the complaint to the Director; or
  - (b) the complainant gives oral notice of the withdrawal of the complaint to the Director, and the Director provides the complainant with written confirmation of the withdrawal.
- (2) If the complaint has already been referred to the PSC at the time the notice of withdrawal is received by the Director, the complaint will only be taken to be withdrawn if the PSC consents to the withdrawal.

### PART 3B - HANDLING OF COMPLAINTS BY THE DIRECTOR

#### 14. What can the Director do when dealing with a complaint?

The Director must deal with the complaint as expeditiously as possible and must take at least one or more of the following courses of action:

- (a) decline to deal with the complaint under clause 15;
- (b) refer to the matter directly to the PSC and seek the concurrence of the PSC that the complaint be declined or deferred under clause 16;
- (c) ask the complainant to verify the complaint by statutory declaration;
- (d) ask the complainant to provide further details of the conduct that is the subject of the complaint;
- (e) recommend to the relevant Church authority that the respondent should be suspended from exercising the functions of office or employment by one or more Church bodies or that an interim prohibition order be made against the respondent under Part 3D;
- (f) if the respondent is an unpaid lay church worker, refer the matter to an Adjudicator under Part 3H;
- (g) investigate, or appoint a person to investigate the complaint under Part 3F;
- (h) invite a response from the respondent under Part 3G.

**PART 3C – DECLINING, DEFERRING OR REFERRING COMPLAINTS****15. When must the Director decline a complaint?**

The Director must decline a complaint if the complaint does not allege any misconduct which may be the subject of a complaint under this Ordinance.

**16. When may the Director decline or defer a complaint with the concurrence of the PSC?**

(1) The Director may at any time, with the concurrence of the PSC, decline to deal with a complaint, or defer dealing with a complaint if:

- (a) the complainant has not provided further details or a verifying statutory declaration after being asked to do so and it is reasonable in the circumstances to conclude that the complainant will not do so; or
- (b) the complaint is false, vexatious or misconceived or the subject-matter of the complaint is trivial; or
- (c) there is insufficient reliable evidence to warrant an investigation or further investigation; or
- (d) the conduct that is the subject matter of the complaint can properly be dealt with by other means, unless the conduct is serious child-related conduct;
- (e) the conduct which is the subject of the complaint is under investigation by some other competent person or body or is the subject of legal proceedings, or
- (f) there would be no utility in dealing with the complaint under this Ordinance having regard to:
  - (i) whether the respondent currently holds any position of leadership within the Diocese,
  - (ii) the length of time since the respondent has held any position of leadership within the Diocese,
  - (iii) the age of the respondent,
  - (iv) the health of the respondent, and
  - (v) any other relevant circumstance.

(2) The Director, with the concurrence of the PSC, must decline to deal with a complaint if the misconduct the subject of the complaint is not materially different from conduct already dealt with under:

- (a) this Ordinance, or
- (b) the Discipline Ordinance 2006, or
- (c) the Church Discipline Ordinance 1996, or
- (d) the Church Discipline Ordinance 2002, or
- (e) the Tribunal Ordinance 1962, or
- (f) a formal investigation or inquiry with the authority of the Archbishop which was commenced prior to the date of assent to the Church Discipline Ordinance 2002,

unless,

- (g) in the opinion of the Director, the complaint is supported by apparently credible evidence of fresh facts likely to lead to a different result; or
- (h) the complaint has only been dealt with under Part 3E, or;
- (i) the complaint alleges serious child-related conduct and the Director decides to deal with the complaint under this Ordinance in order to make a finding that the respondent has or has not engaged in the alleged serious child-related conduct in connection with:
  - (i) any requirement by law to notify a person or authority that a finding has been made that the respondent engaged in conduct the subject of any such requirement to notify; and
  - (ii) entering on the National Register the details of information required by the provisions of the National Register Canon 2007.

(3) In dealing with a complaint for the purposes of clause 2(h) above, any prior findings of fact made by a body exercising functions under any of the ordinances (or a formal investigation or inquiry with the authority of the Archbishop) listed in subclause (2) are conclusive.

**17. Notification of a decision to decline to deal with or defer a complaint**

(1) Subject to subclause (2), if the Director declines to deal with or defer a complaint under this Part, the Director must give the complainant and the respondent written notice of this decision, including reasons for the decision.

(2) The Director may, but is not required to, provide written notice to the respondent under this clause if the Director believes on reasonable grounds that the respondent is not aware of the existence of the complaint.

**18. When may a complaint be referred to an equivalent body?**

(1) The Director may, with the concurrence of the PSC, if they think it appropriate to do so, refer a complaint, or the investigation of a complaint, to an equivalent body or bodies.

(2) Without limiting the discretion of the PSC under subclause (1), it is appropriate to refer a complaint, or the investigation of a complaint, to an equivalent body or bodies if when the complaint is made the respondent:

- (a) resides in another diocese or holds a licence or from a Church authority in another diocese; and
- (b) neither resides in the Diocese nor holds a licence or permission to officiate or other authority from a Church authority in the Diocese.

(3) When the PSC and an equivalent body or bodies have the power and duty to investigate information concerning the alleged misconduct of the respondent and the respective bodies cannot agree on:

- (a) which body shall carry out the investigation or any parts of such investigation; or
- (b) whether a complaint should be referred to the Board or to an equivalent body which has jurisdiction,

the PSC must refer the disagreement for decision by an independent person agreed upon by the PSC and the equivalent body or bodies who is to reach a decision within a reasonable time.

(4) In all matters affecting the operation of this Ordinance the PSC and the Director must co-operate with and assist an equivalent body and a person acting in the corresponding capacity of the Director in another diocese.

(5) In making a decision under subsection (3) the independent person will not be bound by the views or instruction of the PSC but shall take into account the most convenient course for all concerned and the proper and expeditious conduct of the investigation or referral as the case may be.

**PART 3D - SUSPENSION AND INTERIM PROHIBITION ORDERS**

**19. What can the Director recommend?**

At any time after a complaint is made the Director may recommend to the relevant Church authority that the respondent is suspended from being a church worker or may recommend that an interim prohibition order be made against the respondent, subject to the following:

- (a) the Director must give the respondent the opportunity to be heard in relation to the proposed recommendation or order; and
- (b) in deciding whether to make the recommendation or order the Director must take the following matters into account:
  - (i) the seriousness of the conduct alleged in the complaint;
  - (ii) the nature of the material to support or negate the complaint;
  - (iii) whether any person is at risk of harm; and
  - (iv) the likely effect on the respondent and on the relevant Church body.

**20. What is the effect of the Director recommending a suspension order?**

If the Director recommends that the respondent be suspended from being a church worker:

- (a) the relevant Church authority is authorised to do all such things as may be necessary to give effect to the recommendation;
- (b) during any period of suspension by the Church Authority, or during a period when a person voluntarily stands down from a position:
  - (i) the respondent is ineligible for appointment to any position or function covered by the suspension;
  - (ii) the relevant Church authority may fill the vacancy during the term of any suspension; and
  - (iii) the person against whom the complaint is made is entitled to continue to receive their ordinary stipend, salary, allowances and other benefits in connection with the position, except to the extent that these are provided on account of expenses incurred in undertaking their duties or functions; and

- (iv) in the case of a respondent who is licensed or authorised for ministry in a parish - the parish concerned is entitled to reimbursement from funds under the control of the Synod for the reasonable additional costs incurred by the parish for the engagement of any temporary personnel to undertake the duties of the person against whom the complaint is made during the period of suspension;
- (c) the respondent must comply with the terms of recommendation; and
- (d) the suspension ceases to have any effect:
  - (i) if the Director terminates the investigation without referring the matter to the PSC, or
  - (ii) upon any direction to that effect given by the PSC, or
  - (iii) upon the Church authority or the respondent (as the case may be) giving effect to the recommendation(s) of the Adjudicator, PSC or the Board.

**21. What is the effect of the Director recommending an interim prohibition order?**

- (1) If the Director recommends that an interim prohibition order be made the Archbishop must give prompt consideration to the Director's recommendation and may make an Interim Prohibition Order.
- (2) If the Archbishop makes an Interim Prohibition Order:
  - (a) the respondent and any relevant Church authority must comply with the Interim Prohibition Order;
  - (b) the respondent is ineligible for appointment to any position or function covered by the order;
  - (c) the relevant Church authority may fill the vacancy caused by the order;
  - (d) the person against whom the complaint is made is entitled to whatever stipend, salary, allowances and other benefits that he or she would otherwise have received and which are to be met or reimbursed from funds under the control of the Synod.
- (3) An Interim Prohibition Order ceases to have effect:
  - (a) if the Director terminates the investigation without referring the matter to the PSC, or
  - (b) upon any direction to that effect given by the PSC, or
  - (c) upon –
    - (i) the respondent complying with all recommendation(s) (if any) of the PSC accepted by the respondent, subject to the respondent continuing to comply with the recommendation(s) within any period set out in the notice; and
    - (ii) the Church authority giving effect to the recommendation(s) (if any) of the Adjudicator, PSC or the Board.
  - (d) if the Archbishop suspends the respondent under section 61 of the 1961 Constitution.

**PART 3E – COMPLAINTS INVOLVING SERIOUS CRIMINAL CONVICTIONS****21A. Application of this Part**

This Part 3E applies to complaints concerning respondents who have been convicted of a disqualifying offence, being an offence listed in Schedule 2 of the *Child Protection (Working with Children) Act 2012*, and the conviction is not subject to a stay or an appeal against the conviction.

**21B. Notification to respondent**

- (1) If the Director is in possession of the reasons for judgment or other record from a court, a police history check, or a notification from a statutory authority, which indicates that the respondent has been convicted of a disqualifying offence, the Director may:
  - (a) notify the substance of the complaint to the respondent,
  - (b) provide the respondent with a copy of the judgment, record or notification evidencing the conviction,
  - (c) inform the respondent that it is the intention of the Director to refer the complaint to the PSC for a recommendation to the Archbishop that a prohibition order be issued, and
  - (d) invite a response to the complaint within a period of not less than 21 days or such longer period specified by the Director.
- (2) Following expiration of the period within which the respondent may provide a response under clause 21B(1)(d), the Director must refer the complaint to the PSC, including a copy of all the material provided to the respondent and any response from the respondent.

**21C. Recommendations of the PSC**

If the PSC is satisfied that the respondent has been convicted of a disqualifying offence, the PSC may recommend to the Archbishop that a prohibition order be made against a respondent in terms recommended by the PSC. If the PSC is not satisfied that the respondent has been convicted of the relevant offence, this Part 3E ceases to apply to the complaint and the Director is to deal with the complaint in accordance with the other provisions of this Ordinance.

**PART 3F - INVESTIGATION OF COMPLAINTS****22. Conduct of Investigation**

(1) Subject to Part 3C, the Director may appoint a person to investigate a complaint, and such investigations are to be conducted as promptly as reasonably possible.

(2) The Director may, by notice in writing, revoke the appointment of an investigator if the investigator fails or refuses to comply with the requirements of this Ordinance or any other reasonable requirements of the Director.

**23. Powers of the investigator**

(1) For the purposes of an investigation:

- (a) the investigator may obtain such statutory declarations, written statements, recorded conversations, reports, documents and other material as the investigator considers necessary or advisable;
- (b) the investigator may require the person making the complaint to verify the complaint by statutory declaration if this has not already been done;
- (c) if the investigator interviews a person, the investigator must:
  - (i) record the interview, subject to the interviewee giving their consent, and
  - (ii) allow the person to have another person present with them, being a person who is not a witness to the matters which are the subject of the complaint;
- (d) the investigator may, by notice in writing, require the respondent –
  - (i) to respond to a question or series of questions within the time specified in the notice in relation to any matter relevant to the investigation, and
  - (ii) to otherwise assist in, or cooperate with the investigation of the complaint in a specified manner.

(2) A person must answer truthfully any question put by or on behalf of the investigator in exercising the powers conferred by this Ordinance, and must not mislead or obstruct the investigator in the exercise of powers conferred by this Ordinance.<sup>3</sup>

**24. Outcome of the investigation**

The investigator is to make and forward to the Director, without unnecessary delay, a report setting out the results of the investigation together with a copy of all records made in the course of the investigation.

**PART 3G - NOTIFICATION OF AND RESPONSE TO THE COMPLAINT****25. What notification must the Director provide to the respondent?<sup>4</sup>**

After receiving the investigator's report or if, after receiving a complaint, the Director decides not to appoint a person at that particular time to investigate the complaint, the Director is –

- (a) to notify the substance of the complaint to the respondent, and
- (b) to request the respondent to provide a response to the complaint within a period of not less than 21 days or such longer period specified by the Director, and
- (c) to inform the respondent generally of the processes under this Ordinance (which may be done by providing a copy of this Ordinance), and
- (d) to advise the respondent of the possible outcomes if the allegations in the complaint are upheld, and
- (e) to caution the respondent not to make any admissions without the benefit of legal advice.

<sup>3</sup> *Misconduct for the purposes of this Ordinance includes failure without reasonable excuse by a respondent to cooperate with the investigation of a complaint.*

<sup>4</sup> *Upon notifying the substance of the complaint to the person against whom the complaint is made, the complaint may become a notifiable complaint for the purposes of the National Register Canon 2007. In this case, section 8 of the Canon requires the Director to notify the General Secretary of certain information about the complaint for inclusion on the National Register within 1 month of having access to that information.*

**26. What responses may be given by a respondent?**

- (1) A respondent may respond by admitting or denying the complaint in whole or in part.
- (2) A response must be in writing signed by the respondent or, in the case of a respondent under legal incapacity, by –
  - (a) a parent or guardian, or
  - (b) a person responsible for the welfare of the respondent under legal incapacity or acting on his or her behalf.
- (3) If the complaint has not been investigated and the respondent denies the complaint, or does not admit the complaint or the substance of the complaint, the Director may appoint a person to investigate the complaint in the manner set out in Part 3F.

**PART 3H – SPECIAL PROCEDURE FOR UNPAID LAY CHURCH WORKERS (ADJUDICATORS)****27. Application of this Part**

- (1) Subject to subclause (2), this Part applies to complaints made against unpaid lay church workers to the exclusion of Parts 4A to 4D.
- (2) If the Director considers that a complaint against an unpaid lay church worker raises substantially the same circumstances as another complaint that has been or will be referred to the PSC, the Director may instead refer the complaint to the PSC to be dealt with under Chapter 4.

**28. Action on receipt of an admission or the investigator's report**

- (1) On receipt of an admission under clause 26 or the investigator's report, the Director must:
  - (a) request the Registrar to appoint an experienced lawyer to be the Adjudicator for a complaint to which this Part applies;
  - (b) notify the Adjudicator of the identity of the respondent; and
  - (c) furnish the Adjudicator with a copy of all material in the Director's possession relevant to the complaint, including a copy of any investigator's report.
- (2) The Registrar must promptly appoint an experienced lawyer following a request from the Director under subclause (1)(a).
- (3) The Director must also:
  - (a) notify the respondent that the complaint has been referred to the Adjudicator; and
  - (b) furnish the respondent with a copy of all material in the Director's possession relevant to the complaint, including a copy of any investigator's report; and
  - (c) invite the respondent to provide any further information or material, and to make written representations to the Adjudicator relating to the complaint within 28 days or such longer period as may be agreed to by the Director.

**29. Review of material by the Adjudicator**

- (1) The Adjudicator is to review the material provided by the Director and any further information or material provided by the respondent.
- (2) If the complaint or the substance of the complaint has been admitted by the respondent, the Adjudicator may proceed to make recommendations under clause 30.
- (3) If the complaint or the substance of the complaint has not been admitted by the respondent, the Adjudicator must apply the rules of procedural fairness and otherwise determine a procedure for resolution of the complaint before proceeding to make recommendations under clause 30 or findings under clause 31.

**30. Powers and Recommendations by the Adjudicator**

- (1) If the Adjudicator is satisfied that the church worker:
  - (a) is not fit to hold a role office or position; or
  - (b) is not fit, whether temporarily or permanently, to exercise ministry or perform any duty or function of the role or position; or
  - (c) should be subject to any condition or restriction in the exercise of ministry or in the performance of any duty or function;

the Adjudicator must find accordingly in writing and make recommendations to the relevant Church Authority, including but not limited to any one or more of the following:

- (d) that the church worker be counselled;
- (e) that the church worker be suspended from performing function(s) for such period determined by the Adjudicator;
- (f) that the authority of the church worker be revoked;
- (g) that any agreement for the church worker's engagement (if any) be terminated;
- (h) that the church worker's performance of function(s) be made subject to such conditions or restrictions as the Adjudicator may specify;
- (i) that the church worker be directed to do or to refrain from doing a specified act;
- (j) that a prohibition order be made in terms specified by the Adjudicator.

(2) Prior to making any recommendations under subclause (1), the Adjudicator may inform the Archbishop, the relevant Church authority and the respondent of the proposed recommendations and provide a reasonable opportunity for each to make written submissions.

### **31. Making findings on serious child-related conduct**

If the complaint alleges that the respondent has committed serious child-related conduct, the Adjudicator must make a finding on whether the respondent engaged in any or all of the conduct so alleged, and these findings shall constitute findings for the purpose of –

- (a) any requirement by law to notify a person or authority that a finding has been made that the respondent engaged in conduct which is the subject of any such requirement to notify; and
- (b) entering on the National register the details of information required by the provisions of the *National Register Canon 2007*.

### **32. Costs of responding to a complaint**

The Adjudicator has no power to award costs. The respondent is responsible for meeting their own costs of responding to the complaint.

### **33. Review**

The decisions and recommendations of the Adjudicator are not appellable or subject to review, except that a respondent may make an application for review under Part 4C and for this purpose references to the Board and PSC in Part 4C are taken to be references to the Adjudicator.

**CHAPTER 4 – RESOLVING COMPLAINTS****PART 4A – CONSIDERATION BY THE PSC****34. Referral to the PSC**

On receipt of any report from the Investigator in relation to a complaint made against a person who is not an unpaid lay church worker and any response from the respondent, the Director must –

- (a) notify the PSC of the identity of the person against whom the complaint is made, and
- (b) furnish the PSC with a copy of all material in the Director's possession relevant to the complaint, including a copy of any investigator's report,

and must also -

- (c) notify the respondent that the complaint has been referred to the PSC, and
- (d) furnish the respondent with a copy of all material in the Director's possession relevant to the complaint, including a copy of any investigator's report, and
- (e) invite the respondent to provide any further information or material, and to make written representations to the PSC, relating to the complaint, within 28 days or such longer period as may be agreed to by the Director.

**35. What can the PSC do when dealing with the complaint?**

(1) The PSC is to review the material furnished to it by the Director and any further information or material provided to it by the respondent and may take at least one or more of the following courses of action:

- (a) request the Director to appoint an Investigator to further investigate the whole or any aspect of the complaint; or
- (b) take no further action in relation to the Complaint under clause 36; or
- (c) make findings on the conduct and dismiss the complaint under clause 37; or
- (d) terminate suspension and prohibition orders under clause 38; or
- (e) refer the matter to the Board under clause 39; or
- (f) recommend that the complaint be referred to the Diocesan Tribunal under clause 40; or
- (g) make one or more recommendations under clause 41.

(2) In deciding upon a course of action the PSC is to take the following matters into consideration:

- (a) the nature of the complaint and the seriousness of the conduct the subject of the complaint, in particular, whether that conduct comprises child abuse, grooming, inappropriate pastoral conduct involving a child or possession, production or distribution of child exploitation material;
- (b) whether there is more than one complaint;
- (c) whether the complaint alleges more than one incident, or only a single incident;
- (d) when the conduct is alleged to have occurred;
- (e) the circumstances in which the conduct is alleged to have occurred;
- (f) the ages of the complainant and the person against whom the complaint is made at the time the conduct is alleged to have occurred;
- (g) if the person against whom the complaint is made:
  - (i) is a member of the clergy – whether the person was a member of the clergy at the time the conduct is alleged to have occurred; or
  - (ii) is not a member of the clergy – the position held or function performed by the person at the time the conduct is alleged to have occurred;
- (h) whether the evidence of the complainant is corroborated;
- (i) any views expressed by the complainant as to the desired outcome of the complaint;
- (j) whether the person against whom the complaint is made has made any reparation for the conduct the subject of the complaint and, if so, the nature and extent of the reparation;
- (k) any other misconduct committed by the person against whom the complaint has been made;
- (l) whether any part of the conduct which is the subject of the complaint is exempt conduct;
- (m) the practicability and likely effectiveness of the recommendation; and
- (n) such other matters as the PSC considers relevant.

**36. No further action**

If the PSC considers –

- (a) that the material furnished to it by the Director does not disclose any misconduct which may be the subject of a complaint under this Ordinance, or
- (b) that the complaint is false, vexatious or misconceived, or
- (c) that it is more likely than not that the subject-matter of the complaint did not occur, or
- (d) that the subject-matter of the complaint is trivial,

the PSC is to recommend that no further action be taken with respect to the complaint.<sup>6</sup>

**37. Findings on conduct**

If the PSC is satisfied on the material before it that the respondent did not engage in any of the misconduct which is the subject of the complaint, it must dismiss the complaint and recommend that no further action be taken with respect to the complaint, other than action which is incidental to dismissal.

**38. Termination of suspension and prohibition orders**

The PSC may direct that a suspension or prohibition order made by a Church authority pursuant to a recommendation under Part 3D must be terminated by the Church authority.

**39. Reference to the Board**

(1) The PSC must refer to the complaint to the Board if:

- (a) the complaint alleges serious child-related conduct, and the PSC considers that it is unable to make a finding on the material before it that the respondent has or has not engaged in any or all of such misconduct which is the subject of the complaint; or
- (b) the PSC makes a recommendation under clause 41 and the respondent does not accept the recommendation of the PSC by notice in writing to the Director within 14 days after the date of the notice of the recommendation or such longer period as the Director may determine under clause 42(3)(b); or
- (c) the respondent fails to substantially comply with a recommendation made under clause 40 to the satisfaction of the PSC, including within or throughout any period that the notice issued under clause 42(1) states that the action required by the recommendation is to be undertaken.

(2) The PSC must refer the complaint to the Board by delivering to the secretary of the Board a written report of its assessment and opinion on the complaint signed by a member of the PSC and:

- (a) within 14 days of the date of the reference of the complaint to the Board or within 14 days of the date of the document or material coming into existence, whichever is the later, the PSC must cause to be delivered to the secretary of the Board any documents and material relevant to the reference; and
- (b) the PSC, as soon as practicable after delivering the report referred to in paragraph (a) to the secretary of the Board, shall, if they have not already been delivered to the respondent, cause to be delivered to the respondent:
  - (i) a copy of the report and opinion; and
  - (ii) a notice that the respondent may send any submissions in advance to the Board if he or she wishes to do so.

**40. Recommendation that a complaint be dealt with by the Diocesan Tribunal**

(1) The PSC may also recommend that the Archbishop appoint a person to promote a charge against the respondent before the Diocesan Tribunal, or that the complaint be referred to a body in another diocese with equivalent jurisdiction, if:

- (a) the person is subject to the jurisdiction of the Tribunal;<sup>7</sup>

<sup>6</sup> *If the PSC considers that the complaint is false, vexatious or misconceived or that it is more likely than not that the subject-matter of the complaint did not occur, any information about the complaint which has been included on the National Register may be removed from the Register under section 10(1) of the National Register Canon 2007 on the basis that it relates to a notifiable complaint which has been exhausted.*

<sup>7</sup> **Note:** Section 54(2) of the Anglican Church of Australia Constitution Act 1961 provides that the Diocesan Tribunal has jurisdiction to hear and determine charges of breaches of faith, ritual, ceremonial or discipline and of such offences as may be specified by canon, ordinance or rule in respect of –

- a person licensed by the Archbishop, or
- any other person in holy orders resident in the diocese.

- (b) the PSC is of the opinion that there is a reasonable likelihood that the complaint, if sustained, will result in the Tribunal making a recommendation for the respondent's deposition from orders, prohibition from functioning or removal from office; and
- (c) the PSC is of the opinion that there is a reasonable likelihood that the complaint will be sustained before the relevant Tribunal.

(2) If the PSC makes a recommendation to the Archbishop under this clause, the Archbishop must comply with the recommendation. The complaint is then to be dealt with in accordance with the Diocesan Tribunal Ordinance 2017 and no further action is to be taken in respect to the complaint under this Ordinance.

#### **41. What recommendations can the PSC make?**

The PSC may make one or more of the following recommendations in relation to the respondent:

- (a) that the respondent make an apology of a kind specified by the PSC;
- (b) that the respondent make reparation as specified by the PSC for the conduct the subject of the complaint;
- (c) that the respondent undertake training, or retraining, of a nature specified by the PSC;
- (d) that the respondent receive counselling of a nature specified by the PSC;
- (e) that the respondent undertake to the Director, in such terms as are specified by the PSC, any one or more of the following:
  - (i) that they will resign from any specified position or office in the Diocese or any specified employment by a Church body or Church authority; or
  - (ii) that they will not, either indefinitely or for a period of time, accept nomination for or appointment to any specified position or office in the Diocese or any specified employment by a Church body or Church authority; or
  - (iii) that they will not, either indefinitely or for a period of time, exercise any specified function or will meet any specified condition or restriction, in relation to any office or position in the Diocese, or in relation to employment by any Church body or Church authority;
- (f) that the respondent resign from office or employment, request relinquishment of holy orders or request voluntary deposition from holy orders, with such admissions and other conditions as the PSC considers appropriate in all the circumstances;
- (g) that the respondent consent to the relevant Church authority issuing a prohibition order;
- (h) that the respondent enter into a safety plan with the relevant Church authority;
- (i) that the respondent be excluded from entry or access to specified Church premises or activities;
- (j) that no further action be taken with respect to the complaint.

#### **42. Notice of the recommendations**

(1) The PSC must give notice of its recommendation(s) to the complainant, the respondent, the Director, the Archbishop and the relevant church authority as soon as practicable after being made.

(2) If the PSC makes a recommendation under paragraph 41(e), (f) or (g), the PSC must include a statement of the reasons for the recommendation(s).

(3) In respect of any other recommendation(s) made by the PSC (except a recommendation that no further action be taken with respect to the complaint), the notice must include a statement that:

- (a) if the respondent does not accept the PSC's recommendation(s) within 14 days after the date of the notice and subsequently comply with the recommendation to the satisfaction of the Director, the complaint will be referred to the Board, and
- (b) the respondent may request the Director to allow a longer period for the recommendation to be accepted by the respondent.

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*Section 54(2A) of the 1961 Constitution provides that the Diocesan Tribunal also has jurisdiction to hear a charge relating to an offence of unchastity, an offence involving sexual misconduct or an offence relating to a conviction for a criminal offence that is punishable by imprisonment for 12 months or more in respect of a member of the clergy if –*

- *the act of the member of the clergy which gave rise to the charge occurred in the Diocese, or*
- *the member of the clergy was licensed by the Archbishop or was resident in the Diocese within 2 years before the charge was laid, or*
- *the member of the clergy is in prison as a convicted person at the time the charge was laid, but within 2 years before imprisonment was licensed by the Archbishop or was ordinarily resident in the Diocese.*

(4) If any information about the complaint has been included on the National Register, the notice must indicate whether acceptance of and compliance with the PSC's recommendation(s) will result in the information being removed from or retained on the National Register.

#### **43. Response to the recommendation**

(1) If the respondent, by notice in writing to the Director:

- (a) accepts the recommendation(s) of the PSC within 14 days after the date of the notice of the recommendation(s) or within such longer period as the Director determines under subclause 42(3)(b), and
- (b) complies with any recommendation to the satisfaction of the Director, and continues to do so within or throughout any period that the notice issued under subclause 42(1) states that the action required by the recommendation is to be undertaken,

no further action is to be taken against the respondent under this Ordinance in relation to the complaint, except as provided by this clause.

(2) If the complaint alleges serious child-related conduct and the person against whom the complaint is made:

- (a) admits the complaint or the substance of the complaint; or
- (b) accepts the recommendation or recommendations of the PSC;

and the PSC is satisfied that the respondent has engaged in any or all of the conduct which is the subject of the complaint, the PSC must make a finding that the respondent engaged in that conduct.

### **PART 4B – DETERMINATION OF COMPLAINTS BY THE BOARD**

#### **44. Application of this Part**

This Part applies to complaints that are referred to the Board by the PSC under clause 39.

#### **45. Convening of the Board**

(1) Upon a complaint being referred to the Board, the President or Deputy President as the case may be shall as soon as possible determine the membership of the Board for the purpose of the reference.

(2) The President or Deputy President as the case may require must convene the Board for the purpose of giving directions.

#### **46. Powers of the Board**

(1) Upon the referral of a complaint to the Board, the Board may take at least one or more of the following courses of action:

- (a) make findings on serious child-related conduct under clause 47;
- (b) dismiss the matter or take no further action under clause 48;
- (c) make a recommendation under clause 49.

#### **47. Making findings on serious child-related conduct**

(1) If the complaint alleges that the respondent has committed serious child-related conduct, the Board must make a finding on whether the respondent engaged in any or all of the conduct so alleged, and these findings shall constitute findings for the purpose of –

- (a) any requirement by law to notify a person or authority that a finding has been made that the respondent engaged in conduct which is the subject of any such requirement to notify; and
- (b) entering on the National register the details of information required by the provisions of the *National Register Canon 2007*.

#### **48. Power to dismiss or take no further action**

(1) If the Board is not satisfied that the church worker committed any misconduct, or is satisfied that the complaint is false, vexatious or misconceived, the Board may determine accordingly and must dismiss the complaint.

(2) If the Board is satisfied that the church worker did commit misconduct but is not satisfied as to any of the matters in clause 49(1), the Board may determine accordingly and must take no further action in relation to the complaint. The Board may nonetheless recommend under clause 49 that the respondent be counselled.

#### **49. Recommendations and Orders by the Board**

(1) If the Board is satisfied that the church worker:

- (a) is not fit to hold a role office or position, or to be or remain in Holy Orders; or

- (b) is not fit, whether temporarily or permanently, to exercise ministry or perform any duty or function of the role office or position; or
- (c) should be subject to any condition or restriction in the exercise of ministry or in the performance of any duty or function;

the Board must determine in writing accordingly and make recommendations to the Archbishop or relevant Church authority, including but not limited to any one or more of the following:

- (d) that the church worker be counselled;
- (e) that the church worker be suspended from office or employment or from performing the function as the case may be for such period determined by the Board;
- (f) that the licence or authority of the church worker be revoked;
- (g) that the church worker's contract of employment (if any) be terminated;
- (h) that the church worker cease to hold any office then held;
- (i) that the church worker's holding of office or employment or performance of the function, as the case may be, be made subject to such conditions or restrictions as the Board may specify;
- (j) that the church worker be directed to do or to refrain from doing a specified act;
- (k) that a charge be promoted against the respondent before the Diocesan Tribunal;
- (l) that the operation of a determination shall be suspended for such period and upon such conditions as the Board shall specify;
- (m) that the church worker should be deposed from Holy Orders; and
- (n) that a prohibition order be made in terms specified by the Board.

**50. Provision of copies of determination and recommendation**

(1) The Board must cause a copy of the determination and recommendations, together with reasons, to be provided to –

- (a) the relevant Church authority;
- (b) the complainant;
- (c) the respondent;
- (d) the PSC; and
- (e) the Director or

(2) The Director must cause to be entered in the national register all details of information required by the provisions of the *National Register Canon 2007*.

**51. Power to defer final recommendation**

(1) The Board may defer making any final recommendation on a complaint and may for that purpose adjourn any hearing from time to time for a period or periods not exceeding in aggregate, 12 months, on terms that the church worker undertake for a specified period and in a form approved by the Board to do one or more of the following acts or omissions:

- (a) stand down from the office or employment or from performing specified duties of office or employment;
- (b) undertake counselling from a person approved by the Board;
- (c) submit to periodic medical examination by a person approved by the Board;
- (d) undertake a specified program of medical treatment or rehabilitation whether as an outpatient or inpatient;
- (e) provide medical or other evidence requested by the Board to assist it in deciding on any final recommendation; or
- (f) perform or refrain from performing some other specified act.

(2) If at the time of deferring a final recommendation in accordance with this clause the Board is satisfied that the church worker is at that time either unfit to hold office or to exercise ministry or to perform any duty or function of the office or employment, any undertaking given by the church worker must include an undertaking under clause 51(1)(a) in such form as the circumstances may require and as the Board may approve.

(3) If within a period specified by the Board the church worker declines to give an undertaking in accordance with clause 51(1), the Board must proceed to make a determination and recommendation.

(4) The Board may take into account the failure of the church worker to comply with his or her undertaking under clause 51(1) in deciding on any final recommendation on a complaint.

## **52. Effect of Prohibition Orders**

A person who is subject to a prohibition order is, despite the provisions of any other ordinance, ineligible for election or appointment to any position or office to which the order applies, and any such office or position that the person is or was elected or appointed to becomes vacant.

### **PART 4C – REVIEW OF BOARD DETERMINATIONS**

## **53. Application for review**

(1) If the respondent is aggrieved by a decision of the Board, the respondent may apply to the Registrar for a review of the decision.

(2) If the PSC is aggrieved by a decision of the Board, the PSC may apply to the Registrar for a review of the decision.

(3) The application must be made within 21 days after the applicant is provided with a copy of the Board's report under clause 50 or such longer period as the Registrar may by notice in writing to the aggrieved person determine.

(4) The application must be in writing and set out the grounds for the review.

## **54. Grounds for review**

The grounds on which an application for a review of a decision of the Board may be made are any one or more of the following –

- (a) that a breach of the rules of procedural fairness occurred in relation to making the decision which materially affected the decision,
- (b) that procedures required to be observed by this Ordinance in relation to the making of the decision were not observed and the non-observance materially affected the decision,
- (c) that the Board did not have jurisdiction to make the decision,
- (d) that the decision was so devoid of any plausible justification that no reasonable Board could have made it.

## **55. Stay of proceedings**

An application for a review of a decision of the Board acts as a stay of the decision pending the determination of the review.

## **56. Appointment of Reviewer**

(1) As soon as practicable after receiving an application for review, the Registrar must notify the Chancellor.

(2) The Chancellor is to appoint an experienced lawyer to undertake the review and notify the Registrar of the appointment.

(3) Upon the appointment of an experienced lawyer, the Registrar is to obtain an estimate of the fee to be charged by the experienced lawyer in making a determination under this Part.

(4) On receipt of the estimate, the Registrar is to notify the applicant for the review of the amount of the estimate and is to request the applicant to pay half of the estimated fee to the Registrar or a person nominated by the Registrar.

(5) If the applicant does not pay half of the estimated fee within 21 days after receipt of the Registrar's request, the application for the review lapses.

## **57. Conduct of review**

(1) A review by an experienced lawyer of the determination of the Board is to be conducted in the manner determined by the experienced lawyer, subject to the process allowing the experienced lawyer to make a determination on the review within a reasonable period after the date that the Registrar receives payment from the applicant for half of the estimated fee.

(2) A review is not to be a re-hearing of the merits, or a new hearing.

(3) The experienced lawyer may make such order as to costs of the review as he or she thinks fit.

**58. Determination on review**

The experienced lawyer who reviews a determination of the Board may do any one or more of the following –

- (a) quash or set aside the determination,
- (b) refer the determination to the Board for further consideration in accordance with such terms and conditions as the experienced lawyer directs,
- (c) declare the rights of the applicant for the review in relation to any matter to which the determination of the Board relates,
- (d) direct the applicant or the Board to do, or to refrain from doing, anything that the experienced lawyer considers necessary to achieve justice between the parties.

**PART 4D – PROCEDURAL MATTERS FOR THE PSC AND THE BOARD****59. Conduct of proceedings**

Subject to the provisions of this Ordinance each of the PSC and the Board—

- (a) must act with fairness and according to equity, good conscience, procedural fairness and the substantial merits of the case without regard to technicalities or legal forms; and
- (b) is not bound by the rules of evidence but may inform itself on any matter in such manner as it thinks fit; and
- (c) must deal with each matter as expeditiously as possible.

**60. Failure to appear**

(1) The PSC may make findings or recommendations in any proceedings in the absence of additional material from the respondent if satisfied that reasonable efforts were made to give the respondent an opportunity to provide that material.

(2) The Board may make a determination in any proceedings in the absence of a person affected by the determination if satisfied that reasonable efforts were made to give that person an opportunity to appear.

**61. Powers and duties**

(1) Subject to this Ordinance, the Board:

- (a) may regulate the proceedings of its meetings as it sees fit;
- (b) may inform itself from the record of or transcript of proceedings in any court or tribunal and may adopt any findings in, and accept as its own, the record of or transcript of proceedings of any court or tribunal;
- (c) may conduct its business and any proceedings by video link, conference telephone or by any electronic means of communication; and
- (d) must give written reasons for any determination and recommendation, other than by way of directions in the course of an application, unless the determination is made by consent of the respondent and the PSC.

(2) The Board must give the PSC and the respondent a reasonable opportunity to adduce evidence, to examine and cross-examine witnesses and to make submissions to the Board.

**62. Legal representation**

The PSC may and the respondent may each appoint a legal representative to assist in the process.

**63. Directions**

The Board may at any time give directions:

- (a) as to the inspection by and supply of copies to the respondent or any other person of the documents or material relevant to the reference; and
- (b) as to the conduct of its inquiry into the reference or review;

and for that purpose the Board may be constituted by the presiding member or by a member appointed for the purpose by the presiding member.

**64. Appointment of a person to assist**

The Board may, for the purpose of any particular reference, appoint such person or persons to assist it in inquiring into (but not determining) a reference as the Board thinks fit.

**65. Directions to Director or the PSC**

The Board may at any time, and from time to time, give directions to the Director or the PSC as to any further inquiries or investigation it requires to be carried out for the purposes of the reference and the Director or the PSC, as the case may be, must to the best of its ability cause such directions to be carried out.

**66. Written evidence**

Without limiting the meaning and effect of clause 61, The Board may receive a statutory declaration or a signed statement without the need for the personal attendance of the maker of the statutory declaration or statement and may also in its discretion use electronic means such as video link or conference telephone to receive evidence and submissions.

**67. Decisions of other bodies**

- (1) In any proceedings before it, where the PSC or the Board is satisfied that the respondent:
- (a) has been convicted by a court within Australia of an offence involving misconduct;
  - (b) has been found guilty (without conviction) by a court within Australia of an offence involving misconduct;
  - (c) has admitted in proceedings before a court, tribunal or commission of inquiry within Australia having engaged in conduct involving misconduct;
  - (d) has been found by a court, tribunal or commission of inquiry within Australia to have engaged in conduct involving misconduct; or
  - (e) has been disqualified by a court, tribunal or commission of inquiry within Australia from professional practice on account of conduct involving misconduct;

then:

- (f) a certificate, reasons for judgment or other record from the court, tribunal or commission (as the case may be) shall be conclusive evidence that the respondent engaged in the misconduct concerned; and
- (g) neither the respondent nor any other party shall be at liberty to call or give evidence or make submissions for the purpose of calling into question the conviction or finding of guilt of the respondent or denying that the respondent engaged in the misconduct concerned.

**68. Standard of proof**

The standard of proof to establish an allegation is that of reasonable satisfaction on the balance of probabilities.

**69. Members of Board not to meet with parties**

No member of the PSC or the Board shall individually meet with in relation to the complaint either the complainant or the respondent or anyone acting on their behalf while the matter is in progress.

**70. Disqualification where personal interest**

- (1) Where a member of the PSC or the Board has a personal interest in a matter before it the member shall be disqualified from participating in the matter.
- (2) The opinion of the chair of the PSC or the presiding member of the Board, as the case may be, shall be conclusive as to whether any other member of the PSC or the Board has a personal interest in a matter.

**71. Medical examination**

- (1) The PSC or the Board may require the respondent to submit within a specified time to a medical, psychiatric or psychological examination by a person approved by the PSC or the Board (as the case may be) the cost of which shall be met from funds under the control of the Synod.
- (2) A copy of the report of an examination under subclause (1) shall be provided to the respondent, the Director, the PSC and the Board.

**72. Duties of the respondent**

- (1) The respondent must, subject to subclause (2), truthfully answer any question put by or on behalf of the Board in the exercise of powers conferred by this Ordinance.
- (2) If the respondent declines to answer a question on the ground that the answer might tend to incriminate the respondent, a written record shall be made of the question and of the ground of refusal.

- (3) The respondent must not:
- (a) mislead the Board or a member of the Board; or
  - (b) unreasonably delay or obstruct the Board in the exercise of powers conferred by this Ordinance.

### **73. Limitation on promotion of a charge in the Diocesan Tribunal**

If the PSC or the Board is satisfied that there is no reasonable likelihood that the Diocesan Tribunal would find the respondent guilty of any offence, the PSC or the Board shall not recommend that a charge be promoted against the respondent in the Diocesan Tribunal.

### **74. Costs**

- (1) Neither the PSC nor the Board has the power to award costs of any complaint or matter before it.
- (2) A respondent who is not an unpaid lay church worker may apply to the Standing Committee for reimbursement of their reasonable costs of obtaining advice and assistance from a legal practitioner for the purposes of a process under this Ordinance.
- (3) The Standing Committee may grant legal assistance to a church worker on such terms and subject to such conditions as it shall determine.
- (4) For the purposes of subclause (3), the Standing Committee may approve a scale of costs on the recommendation of the Director.

### **75. Making of rules**

- (1) The President of the Board may make or approve rules of the Board reasonably required in relation to the practice and procedure.
- (2) The rules of the Board made under this clause may provide that, in relation to the exercise of specified functions, or in relation to matters of a specified class, other than the determination of an application including the making of a recommendation, the Board may, at the direction of the presiding member, be constituted by a single member sitting alone.

### **76. Practice and procedure**

Subject to this Ordinance and the relevant rules, the practice and procedure of the Board will be as directed by the presiding member of the Board.

### **77. Determination of questions**

- (1) In any proceedings of the Board:
- (a) any question of law or procedure shall be determined by the presiding member; and
  - (b) any other question will be determined by majority decision of the members, and in the case of an equality of votes the opinion of the presiding member shall prevail.
- (2) Where the Board is constituted by a member sitting alone who is not the President or the Deputy President, any question of law that arises must be referred to the President or Deputy President for decision and any decision made on such a reference is a decision of the Board, as the case may be.

### **78. Public Hearings**

- (1) Subject to subclauses (2) and (3), any hearing of the Board must be held in public.
- (2) The Board may direct:
- (a) that the whole or part of a proceeding be held in private; or
  - (b) that only persons or classes of persons specified by it may be present during the whole or any part of a proceeding.
- (3) The Board may only make a direction under the preceding subclause if satisfied that the direction is necessary on or more of the following grounds:
- (a) to comply with applicable legislation of the State or a Territory or the Commonwealth;
  - (b) to prevent a real and substantial risk to the proper administration of justice that cannot be prevented by other reasonably available means;
  - (c) to protect the safety of any person;
  - (d) to avoid causing undue distress or embarrassment to a complainant (other than the Director) or a witness (other than the respondent) in a proceeding that relates in whole or part to a complaint;

- (e) to avoid the disclosure of confidential information; and
- (f) for any other reason in the interests of justice.

**79. Suppression of names**

- (1) The Board may order that the name of, or other information that could lead to the identification of the respondent, or a person who appears, or is reasonably likely to appear, before the Board is not to be published or broadcast, except in such circumstances as the Board may authorise.
- (2) An order of the Board under this clause does not apply to the publication of a report authorised or required under this Ordinance.

**79A. Non-publication orders**

- (1) The Board may, on the application of a party or the Director, order that a party by himself or herself or through his or her agents and associates not publish verbally, in writing or by electronic means:
  - (a) any matter relevant to a fact or circumstance likely to be considered when the Director or Board is dealing with the complaint; or
  - (b) any aspersion on the character of a person who may be a material witness to such fact or circumstance.
- (2) Such an order may be made ex parte, but may be discharged on the application of the person against whom it is made on at least five days' notice to the person on whose application it was made.

**PART 4E – CHURCH AUTHORITIES AND COMPLIANCE****80. Church authority to give effect**

- (1) Subject to subclause (2), the Church authority to whom a recommendation under this Ordinance is made must and is empowered to do any acts to give effect to a recommendation of the Director, an Adjudicator, PSC or the Board.
- (2) The Church authority referred to in subclause (1) may vary, modify or temporarily suspend the implementation of a recommendation consistent with any facts found by the body making the recommendation provided that the body making the recommendation agrees that the substance of the recommendation is preserved.

**81. Compliance by church worker**

A church worker must:

- (a) comply with any undertaking given to an Adjudicator, PSC or the Board or the relevant Church authority; and
- (b) comply with a direction made by the relevant Church authority to give effect to a recommendation of the Adjudicator, PSC or the Board, as the case may be, or any permitted variation or modification that recommendation.

**CHAPTER 5 - PERSONS OR BODIES PERFORMING FUNCTIONS UNDER THIS ORDINANCE**

**PART 5A – THE DIRECTOR**

**82. Appointment**

- (1) There shall be a Director of Professional Standards.
- (2) The Director shall be appointed by the Archbishop.
- (3) The Director shall hold office on such terms and conditions as may be determined from time to time by the Archbishop.
- (4) If, for any reason, the Director is unable or unwilling to exercise or perform any power, authority, duty or function of the Director under this Ordinance, the Archbishop may appoint another suitably qualified person to exercise or perform the power, authority, duty or function.

**83. Functions of the Director**

- (1) The Director's functions include:
  - (a) to receive complaints;
  - (b) to make a complaint against a church worker;
  - (c) to appoint investigators to investigate complaints in a timely and appropriate manner;
  - (d) to be the executive officer of the PSC;
  - (e) to attend meetings of the PSC except for any part of a meeting which deals with the conditions of employment, remuneration or performance of the Director;
  - (f) to provide advice about the code of conduct and procedures under this Ordinance;
  - (g) to provide or arrange care for or treatment of the complainant and respondent;
  - (h) to provide input into education and vocational training programs for church workers;
  - (i) to keep proper records of complaints, decisions, meetings, employment screening details, police checks and people affected by any allegation of misconduct;
  - (j) to consult and co-operate with other persons and bodies in the Church with responsibility for professional standards;
  - (k) to support complainants in making a report to police or child protection authorities;
  - (l) to report to the PSC on any recommended changes to processes, structures and education programs that would reduce the risk of misconduct; and
  - (m) such specific functions and duties, consistent with this Ordinance, as may be determined from time to time by the PSC.
- (2) The Director must act in all things as expeditiously as possible.

**84. Relationship between the Director and the Archbishop**

- (1) The Director is to inform the Archbishop of –
  - (a) any information known to the Director, or any reasonable belief held by the Director, that a church worker has engaged in conduct which may be the subject of a complaint, and
  - (b) any response made by a church worker to an allegation that is, or could be, the subject of a complaint.
- (2) The Director is to provide the Archbishop with such further information as the Archbishop may reasonably require.
- (3) The Archbishop is to provide the Director with such information as the Director may reasonably require.

**85. The Director's entitlement to information held by certain persons**

A Church authority, Church body or relevant person that appointed a church worker to an office or position must provide the Director with such information as the Director may reasonably require.

**86. The Director to report annually to the Standing Committee**

Before 1 August each year, the Director is to make a report to the Standing Committee as to the actions taken under this Ordinance during the period of 12 months ending on the preceding 30 June and provide a copy of the report to the Safe Ministry Board.

## PART 5B – THE PROFESSIONAL STANDARDS COMMITTEE

### 87. Establishment of the PSC

There shall be a Professional Standards Committee for the diocese constituted in accordance with the provisions of this Part.

### 88. Functions of the PSC

The PSC has the following functions:

- (a) to act on a complaint in accordance with this Ordinance and, where appropriate, to obtain independent legal advice for that purpose;
- (b) to recommend to the Standing Committee any changes to Church processes, structures and education programs, where appropriate, that would reduce the risk of misconduct;
- (c) to authorise such expenditure as may be necessary or appropriate to implement, in a particular case, the provisions of this Ordinance subject to any limit imposed by the Standing Committee;
- (d) to advise relevant Church bodies as to the financial, pastoral or other needs of a person affected by misconduct which is the subject of a complaint and to advise relevant Church bodies in connection with any legal proceedings, anticipated or existing, against such Church bodies arising out of that alleged misconduct;
- (e) to refer any information in its possession to a law enforcement, prosecution or child protection authority of a State or Territory or of the Commonwealth of Australia for which the information is or may be relevant;
- (f) to maintain proper records of all information and complaints received and of action taken in relation to each of them; and
- (g) to exercise such other powers and functions as are conferred on it by this or any other Ordinance.

### 89. Membership of the PSC

- (1) The members of the PSC shall be appointed by the Archbishop-in-Council.
- (2) The members of the PSC shall hold office on such terms and conditions as may be determined from time to time by the Archbishop-in-Council.
- (3) The PSC must have at least three members including the chair.
- (4) The persons appointed as members of the PSC are to include –
  - (a) an experienced lawyer, and
  - (b) a person who has been a member of the clergy for not less than 10 years, and
  - (c) a person who is certified by the Safe Ministry Board as having other qualifications or experience appropriate to the discharge of the office of a member of the PSC, such as child protection, social work or psychiatry.
- (5) The PSC must so far as is reasonably practicable:
  - (a) include at least one person who is not a member of the Church;
  - (b) have at least one man and one woman.
- (6) The chair of the PSC must be appointed by the Archbishop.
- (7) A member of the PSC must not act unless the member has agreed in writing to abide by this Ordinance.

### 90. Term of office

Subject to clause 89, a member of the PSC holds office until the first meeting of the Standing Committee which next follows the first day of the first ordinary session of the next Synod provided that the member continues to hold office until his or her successor is appointed.

### 91. Casual vacancies

- (1) The office of a member of the PSC is vacated if –
  - (a) the member –
    - (i) dies, or
    - (ii) resigns by notice in writing to the Diocesan Secretary, or

- (iii) becomes mentally incapacitated, or
- (iv) becomes an insolvent under administration, or
- (v) ceases to reside permanently in the Diocese, or
- (b) the Archbishop-in-Council revokes the appointment.

(2) The Archbishop-in-Council may fill a casual vacancy in the office of a member of the PSC.

#### **92. Conduct of business**

(1) The PSC may meet from time to time as determined by the chair or a majority of its members and may conduct its business by telephone or electronic communication.

(2) The chair must convene a meeting of the PSC at the request of the Director.

(3) The procedures of the PSC shall be determined by the PSC.

(4) A majority of the members shall constitute a quorum.

(5) A decision taken other than at a meeting of the PSC, if supported by a majority of members of the PSC, constitutes a decision of the PSC.

(6) The PSC must act in all things as expeditiously as possible.

#### **93. Validity of proceedings**

An act or proceeding of the PSC is not invalid by reason only of a vacancy in its membership and, notwithstanding the subsequent discovery of a defect in the nomination or appointment of a member, any such act or proceeding is as valid and effectual as if the member had been duly nominated or appointed.

#### **94. Delegation of functions**

(1) Subject to subclause (2), the PSC may delegate, upon such terms and conditions as the PSC may approve, any of its functions under this Ordinance to any person.

(2) The PSC cannot delegate:

- (a) its functions under subclause (1); or
- (b) its functions under Part 4A.

(3) A delegation under this clause must be made by an instrument in writing signed by a member of the PSC pursuant to a resolution of the PSC.

### **PART 5C – THE PROFESSIONAL STANDARDS BOARD**

#### **95. Establishment of the Board**

There shall be a Professional Standards Board comprising three persons constituted and appointed in accordance with the provisions of this Part.

#### **96. Functions of the Board**

The function of the Board is to enquire into and determine complaints referred to it by the PSC under this Ordinance.

#### **97. Panel**

(1) The members of the Board in a particular case shall be appointed from a panel comprising:

- (a) a President and a Deputy President, both of whom shall be experienced lawyers;
- (b) three members of the clergy of at least seven years' standing; and
- (c) three laypersons who may or may not be members of the Church and at least two of whom are persons who are considered by the Archbishop-in-Council as having professional experience, training or skills in a field that is relevant to addressing the needs of persons who are subjected to misconduct.

(2) As far as reasonably practicable the members of the panel should comprise an equal number of men and women.

#### **98. Appointment of the Panel**

(1) The members of the panel shall be appointed by the Archbishop-in-Council and shall hold office on such terms and conditions as may be determined from time to time by the Archbishop-in-Council.

(2) Any vacancy in the membership of the panel shall be filled by the Archbishop-in-Council.

**99. Appointment of the Board**

- (1) The members of the panel to be convened for a complaint referred to the Board shall be determined by the President or, if there is a vacancy in the office of President or if the President is unable to act, by the Deputy President.
- (2) For the purpose of any reference to the Board, the Board shall consist of the President or Deputy President, who shall be the presiding member, and one clerical and one lay member of the panel.
- (3) The Board must, so far as reasonably practicable, have at least one man and at least one woman.
- (4) A member of the Board must not act in a matter unless the member has agreed in writing to abide by this Ordinance.

**100. Vacancies on the Board**

- (1) If a member of the Board, other than the presiding member, dies or is for any other reason unable to continue with any matter referred to the Board –
  - (a) the Board constituted of the presiding member and the other member may, if the presiding member so determines, continue and complete the reference; or
  - (b) if the presiding member so determines, a substitute member may be appointed to fill the vacancy.
- (2) If the presiding member dies or is for any reason unable to continue with any matter referred to the Board, the Deputy President becomes the presiding member for that matter.

**101. Secretary**

There shall be a secretary to the Board who shall be appointed by or in accordance with a resolution of the Archbishop-in-Council, and whose duties shall be defined by the President.

**102. Quorum**

The quorum for a meeting of the Board shall be all the members of the Board except where the Board by its presiding member makes directions under clause 63 of this Ordinance.

**103. Validity of proceedings**

An act or proceeding of the Board is not invalid by reason only of a vacancy in its membership or of the membership of the panel and, notwithstanding the subsequent discovery of a defect in the nomination or appointment of members of the panel or the Board, any such act or proceeding is as valid and effectual as if the member had been duly nominated or appointed.

**CHAPTER 6 - MISCELLANEOUS**

**PART 6A – CONFIDENTIALITY AND PUBLICATION**

**104. Duty of confidentiality**

(1) Subject to the provisions of this Ordinance, the Director, an Adjudicator, a member of the PSC, a member of the Board and a person employed or engaged on work related to the affairs of the PSC, must not divulge information that comes to his or her knowledge by virtue of that office or position except:

- (a) in the course of carrying out the duties of that office or position;
- (b) as may be authorised by or under this Ordinance;
- (c) as may be authorised or required by or under the *National Register Canon 2007* or any canon prescribed by General Synod in substitution for that canon;
- (d) in any proceedings before a Diocesan Tribunal, a Provincial Tribunal, the Special Tribunal or the Appellate Tribunal;
- (e) as may be required by law; or
- (f) to any insurer or insurance broker of a Church body where the information may give rise to or be relevant to a claim for indemnity by the Church body is against the insurer or is relevant to obtaining or continuing insurance cover.

(2) The PSC may release to any person, including a Church authority, such material as it may determine with respect to any information or complaint.

**105. Release of information by PSC**

(1) The PSC must disclose to an equivalent body information in its possession concerning the alleged misconduct of a church worker:

- (a) which is information relevant to, or arising during the course of, an investigation being undertaken by the PSC where the PSC knows that the church worker is residing in the diocese of the equivalent body; or
- (b) which is information concerning misconduct alleged to have occurred in the diocese of the equivalent body;

and must co-operate with any equivalent body.

(2) The PSC may disclose to a person or body of another church or Christian denomination exercising powers, duties or functions similar to those of the PSC, details of information in its possession concerning the alleged misconduct of a church worker and the PSC must co-operate with such person or body to whom the information is disclosed.

**106. Church authority may release information**

The Archbishop or the relevant Church authority may, following consultation with the Director, release to any person such material as the Church authority may determine with respect to any information, complaint or finding.

**107. PSC reports**

(1) Without disclosing the identity of any complainant or the details of any complaint, the PSC must report annually to the Synod on the operation this Ordinance and its activities for that calendar year.

(2) Notwithstanding subclause (1), the report of the PSC pursuant to that subclause may identify a church worker who has been exonerated from an allegation which is the subject of the complaint or who has been the subject of a determination or recommendation by the Board favourable to the church worker.

(3) The PSC must, in respect of every complaint with which it is dealing under this Ordinance, report either orally or in writing to the Archbishop with such frequency and as fully as the Archbishop may reasonably require.

**PART 6B – INDEMNITY**

**108. Obligation to indemnify**

The Standing Committee must and is hereby authorised out of funds under the control of the Synod to indemnify –

- (a) the Director and any delegate of the Director;
- (b) each member of the PSC;
- (c) any delegate of the PSC;

- (d) an Adjudicator;
- (e) each member of the Board;
- (f) the secretary of the Board;
- (g) any person appointed by the Board pursuant to this Ordinance; and
- (h) the Archbishop;

in respect of any act or omission respectively by them in good faith and in the exercise or purported exercise of powers or functions, or in the discharge or purported discharge of duties, under this Ordinance in relation to a church worker.

## **PART 6C – REGULATIONS**

### **109. Regulation making power**

The Archbishop-in-Council may from time to time make, amend or repeal regulations not inconsistent with the provisions of this Ordinance providing for records arising out of or incidental to the operation of this Ordinance and for all or any of the purposes, whether general or to meet particular cases, which may be convenient for the administration of this Ordinance or which may be necessary or expedient to carry out the overriding purposes of this Ordinance.

## **PART 6D – OTHER**

### **110. Rights of employers**

Nothing in this Ordinance affects any right of an employer to terminate the employment of an employee.

### **111. Findings of certain other bodies may be treated as conclusive**

Any findings made by an equivalent body or a court, tribunal or commission of inquiry, that have not been overturned on appeal, may be treated as conclusive by a person performing functions under this Ordinance.

### **112. Service of documents**

- (1) A document required to be served under this Ordinance on a person may be served –
  - (a) personally, or
  - (b) by posting a copy of the document by pre-paid post to the person at the person's proper address.
- (2) The proper address of a person is the address for service of the person but, if the person has no address for service, the person's last known residential address.
- (3) Service of a document that is posted by pre-paid post is taken to be effected 7 days after posting.
- (4) In this clause, service of a document includes the giving of a notice.

### **113. Commencement**

Except for this clause, this Ordinance commences on the date determined by the Archbishop on the advice of the Chancellor.

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### **Notes**

In accordance with Clause 113, the Archbishop determined the commencement date of the original form of this Ordinance to be 1 November 2017 on the advice of the Chancellor.

### **Table of Amendments**

|           |                                    |
|-----------|------------------------------------|
| Diagram   | Amended by Ordinance No. 35, 2018. |
| Clause 4  | Amended by Ordinance No 35, 2018.  |
| Clause 6  | Amended by Ordinance No 35, 2018.  |
| Clause 7  | Amended by Ordinance No 35, 2018.  |
| Clause 13 | Amended by Ordinance No 35, 2018.  |
| Clause 16 | Amended by Ordinance No 35, 2018.  |
| Clause 20 | Amended by Ordinance No 35, 2018.  |

|            |                                       |
|------------|---------------------------------------|
| Clause 21A | Inserted by Ordinance No 35, 2018.    |
| Clause 21B | Inserted by Ordinance No 35, 2018.    |
| Clause 21C | Inserted by Ordinance No 35, 2018.    |
| Clause 30  | Substituted by Ordinance No 35, 2018. |
| Clause 31  | Amended by Ordinance No 35, 2018.     |
| Clause 35  | Amended by Ordinance No 35, 2018.     |
| Clause 39  | Amended by Ordinance No 35, 2018.     |
| Clause 43  | Amended by Ordinance No 35, 2018.     |
| Clause 46  | Amended by Ordinance No 35, 2018.     |
| Clause 47  | Amended by Ordinance No 35, 2018.     |
| Clause 49  | Amended by Ordinance No 35, 2018.     |
| Clause 51  | Amended by Ordinance No 35, 2018.     |
| Clause 59  | Amended by Ordinance No 35, 2018.     |
| Clause 106 | Amended by Ordinance No 35, 2018.     |
| Clause 107 | Amended by Ordinance No 35, 2018.     |



# Provincial Synod – Provincial Tribunal Ordinance 2018 Accepting Ordinance 2019

## Explanatory Report

### Key Points

- The Provincial Synod held in November 2018 passed the *Provincial Tribunal Ordinance 2018* which repeals and replaces the *Tribunal Ordinance 1892*.
- The constitution of the Provincial Synod specifies that an ordinance does not operate in a diocese unless it is 'accepted' by the Synod of the Diocese by Ordinance.
- If the Synod accepts the *Provincial Tribunal Ordinance 2018*, the Provincial Tribunal will have no jurisdiction in the Diocese of Sydney, except in accordance with an Ordinance of our Diocese.

### Purpose

1. The purpose of this report is to provide the context of, and rationale for, accepting the *Provincial Tribunal Ordinance 2018* in the Diocese of Sydney.

### Recommendation

2. That the Synod pass the Bill for the Provincial Synod – Provincial Tribunal Ordinance 2018 Accepting Ordinance 2019.

### Background

3. Chapter IX of the Anglican Church of Australia Constitution Act 1961 concerns Tribunals.
4. Section 53 states: "There shall be a diocesan tribunal of each diocese, the Special Tribunal and the Appellate Tribunal, and there may be a provincial tribunal of any province."
5. Section 55 (1) states: "*A provincial tribunal shall consist of a president who shall be the metropolitan, or a deputy president appointed by him, and not less than two other members as may be prescribed by ordinance of the synod of the province.*"

### Discussion

6. It appears that until late 2018, the current legislation for the NSW Provincial Tribunal was *the Tribunal Ordinance 1892* and that this ordinance had not been used for many years, if ever.
7. A number of years ago there was a matter concerning a member of the clergy in another diocese in NSW. In accordance with the procedures of that diocese, the matter was referred to the NSW Provincial Tribunal but there were no known members of the Provincial Tribunal because no members had been elected by the Provincial Synod in living memory.
8. In November 2018 the NSW Provincial Synod passed the *Provincial Tribunal Ordinance 2018*. The ordinance provides for members to be elected by the Standing Committee of the Diocese of Sydney (2 members) and the Diocesan Council of each of the other seven NSW dioceses (1 member per diocese).

9. It is recommended that the Synod accept the ordinance and that the Standing Committee elect two members. If the Synod accepts the ordinance, the Provincial Tribunal will have no jurisdiction in the Diocese of Sydney except in accordance with an ordinance of our Diocese.

For and on behalf of the Standing Committee.

DANIEL GLYNN  
**Diocesan Secretary**

29 August 2019

# Provincial Synod – Provincial Tribunal Ordinance 2018 Accepting Ordinance 2019

No \_\_\_\_\_, 2019

## Long Title

An Ordinance to accept the *Provincial Tribunal Ordinance 2018*.

The Synod of the Diocese of Sydney Ordains as follows.

### 1. Name

This Ordinance is the Provincial Synod – Provincial Tribunal Ordinance 2018 Accepting Ordinance 2019.

### 2. Acceptance of the Provincial Tribunal Ordinance 2018

5 The Synod accepts the *Provincial Tribunal Ordinance 2018*, the text of which is set out in the Schedule.

## Schedule

### Provincial Tribunal Ordinance 2018

AN ORDINANCE to provide for the Provincial Tribunal of New South Wales.

WHEREAS Section 55 of the Constitution of this Church makes provision for a Provincial Tribunal to consist of the Metropolitan as President or a Deputy President appointed by him and at least two other members as may be prescribed by Ordinance of Provincial Synod to be elected in accordance with such Ordinance.

NOW the Provincial Synod Ordains as follows to implement such constitutional provisions.

1. This Ordinance may be cited as the Provincial Tribunal Ordinance 2018.
2. The Provincial Tribunal shall consist of the Metropolitan as President, a Deputy President appointed by the Metropolitan either for a fixed term or otherwise and a panel of eight qualified persons.
3. The eight qualified persons shall be elected as follows:
  - (a) Two by the Standing Committee of the Diocese of Sydney; and
  - (b) One each by the Diocesan Council of each other diocese;

Such appointment should be made for four years, provided that a person sitting in a part heard case may continue to conclude such a case.
4. The Tribunal shall normally convene as a group consisting of the Deputy President and two members of the panel, who have been elected by different dioceses, nominated by the President.
5. No person who is an officer or member of a diocese shall sit on an Appellate reference involving a person resident or licensed in such diocese.
6. A qualified person is a lay person eligible to be appointed as a member of the Appellate Tribunal or a person in priest's orders for at least seven years.
7. No member of the Appellate Tribunal or Special Tribunal may sit on the Provincial Tribunal. No diocesan bishop may sit on the Provincial Tribunal.
8. A quorum of any sitting of the Provincial Tribunal shall be two persons.
9. Decisions of the Provincial Tribunal shall be by a majority. In the case of an equality of differing opinions, the view of the Deputy President shall prevail.
10. A casual vacancy in the panel shall be filled by those with authority to appoint or elect.

11. The Provincial Tribunal shall have jurisdiction in accordance with Section 55(2) and (3) of the Constitution of the Anglican Church of Australia provided that jurisdiction under Section 55(3) shall not be exercised except as prescribed by ordinance of the synod of the relevant diocese.
12. The Provincial Tribunal may make any order that the tribunal from which any appeal is brought was competent to make
13. The Provincial Tribunal may make any order for costs as may be appropriate.
14. The President shall convey any determination of the Provincial Tribunal to the relevant Diocesan Bishop.
15. The Standing Committee of Provincial Synod may make such regulations to implement this Ordinance.
16. The Deputy President and not less than three members of the panel may make rules of procedure, not inconsistent with the Ordinance or any regulations, for the efficient conduct of its business.
17. The Tribunal Ordinance 1892 is repealed.

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

Chair of Committees

I Certify that this Ordinance was passed by the Synod of the Diocese of Sydney  
on 2019.

Secretary

I Assent to this Ordinance.

Archbishop of Sydney

/ /2019

# Standing Committee Ordinance 1897 Amendment Ordinance 2019

## Explanatory Report

### Key Points

- The Standing Committee Ordinance 1897 Amendment Ordinance 2019 –
  - clarifies the role of the Archbishop as President but not a member of Standing Committee
  - establishes that at least one third of the members of subcommittees of Standing Committee must be Standing Committee members
  - establishes that a quorum for a meeting of a subcommittee must include at least one member who is also a member of Standing Committee
- Various other administrative changes are also made.

### Purpose of the Bill

1. The purpose of the bill is to amend the *Standing Committee Ordinance 1897* (the **Principal Ordinance**) to –
  - (a) remove the Archbishop from being a member of the Standing Committee,
  - (b) outline the role of the Archbishop as the President of the Standing Committee, and
  - (c) make other administrative changes to the Principal Ordinance.

### Recommendations

2. Synod receive this report.
3. Synod pass the bill as an ordinance of the Synod.

### Background

#### Delegation and Quorum Requirements of Subcommittees

4. At its meeting on 18 February 2019, the Standing Committee received a report from the Finance Committee regarding desired changes to the delegation and quorum arrangements. These changes would permit the minimum proportion of Standing Committee members on Finance Committee to be reduced below 50%.
5. At that same meeting, the Standing Committee appointed a committee consisting of Ms Nicola Warwick-Mayo, Mr Michael Easton and Mr Doug Marr (the **Committee**) to prepare a report for a future meeting with any recommendations of the committee regarding quorum, delegation and other membership arrangements of subcommittees.
6. At its meeting on 17 June, the Standing Committee received a report from the Committee. The report noted that while 50% of the members of a subcommittees must be from Standing Committee, the subcommittee would be able to exercise its delegated powers at a meeting at which only one third of the total members of the subcommittee, and potentially none of the Standing Committee members, are present. This scenario would seem to defeat the purpose of requiring at least half of the members of the subcommittee to be members of the Standing Committee.
7. The Standing Committee Ordinance 1897 Amendment Ordinance 2019 amends clause 4(5)(c) of the Principal Ordinance to rectify the issue above.

## Archbishop as President but not a member of the Standing Committee

8. Further, at its meeting on 17 June, the Standing Committee received the following report from the Diocesan Registrar –

“The *Standing Committee Ordinance 1897* (at paragraph 1A(1)(a)) provides that the Archbishop is a member of the Standing Committee, and the *Conduct of the Business of Synod Ordinance 2000* (at subclause 1.2 of the Schedule) provides that the Archbishop is the President of the Synod. However, the *Synod Membership Ordinance 1995*, does not contain a provision that the Archbishop is a member of the Synod. At the request of the Archbishop, with the rationale that members of the Standing Committee of the Synod should be members of Synod, I recommend that the *Standing Committee Ordinance 1897* be amended so that the Archbishop is President but not a member of the Standing Committee.”

9. At that same meeting the Standing Committee asked the Senior Legal Counsel to include in the Bill for an ordinance to be promoted by Standing Committee at the forthcoming ordinary session of Synod, a suitable amendment to the *Standing Committee Ordinance 1897*, so that the Archbishop is the President, but not a member, of the Standing Committee.
10. The Bill for Standing Committee Ordinance 1897 Amendment Ordinance 2019 (the ‘Amendment Ordinance’) gives effect to the recommendations of the Standing Committee on these issues.

### Effect of the Amendments – clauses 2(e)-(f)

11. Clause 2(e) amends the requirements for subcommittees so that at least one third of the members must be Standing Committee members.
12. Clause 2(f) amends clause 6 of the Principal Ordinance so that a quorum for a meeting of a subcommittee includes at least one member who is also a member of Standing Committee. It also allows a Standing Committee member of a subcommittee to refer any matter back to the Standing Committee before the exercise of the subcommittee’s delegated authority.

### Effect of the Amendments – clauses 2(a)-(b) and (d)

13. The amendments in clauses 2(a)-(b), and (d) of the Amendment Ordinance clarify the role of the Archbishop as President but not a member of Standing Committee.
14. The amendment in clause 2(a) inserts a new definition in clause 1 of the Principal Ordinance referring to the Constitutions in force pursuant to the *Anglican Church of Australia Constitutions Act 1902* (NSW).
15. Subclause 1A(1)(a) of the Principal Ordinance outlines the membership of Standing Committee. Clause 2(b) removes the reference to the Archbishop from that clause.
16. Clause 2(d) of the Amendment Ordinance inserts a new clause 1AA in the Principal Ordinance. The clause outlines the role of the Archbishop at the Standing Committee. Clause 1AA(3) of the Principal Ordinance identifies the person who will be President if the Archbishop is absent or unable or unwilling to preside in respect of any business of the Standing Committee.
17. Clause 1AA(3) determines the person who will be President in the absence of the Archbishop by referencing the mechanism in clause 11 of the Constitutions that determines who exercises the powers vested in the Archbishop if the Archbishop is absent from the Province. However clause 2(d) adds the requirement that, the President will be the person who is next in rank, who is also present at the Standing Committee meeting. If the person who is next in rank is also not present, the presidency would be exercised by the next person and so on.

For and on behalf of the Standing Committee

# Standing Committee Ordinance 1897 Amendment Ordinance 2019

No , 2019

## Long Title

An Ordinance to amend the *Standing Committee Ordinance 1897*.

The Synod of the Diocese of Sydney Ordains as follows.

### 1. Name

This Ordinance is the Standing Committee Ordinance 1897 Amendment Ordinance 2019.

### 2. Amendment

The *Standing Committee Ordinance 1897* is amended as follows –

- 5 (a) insert a new definition in clause 1 as follows –  
 “Constitutions” means the Constitutions in force pursuant to the *Anglican Church of Australia Constitutions Act 1902 (NSW)*.’
- (b) delete the matter ‘Archbishop, the’ in subclause 1A(1)(a),
- (c) delete the word ‘Secretariat’ in subclause 1A(1)(a) and insert instead the word ‘Services’,
- 10 (d) insert a new clause 1AA prior to clause 1A as follows –  
 ‘1AA (1) The Archbishop is President of the Standing Committee.  
 (2) The President may take part in debate.  
 (3) If the Archbishop is absent or unable or unwilling to preside in respect of any business of the Standing Committee, the President is the  
 15 next person present at the meeting of the Standing Committee who would at that time exercise the powers vested in the Archbishop under the Constitutions if the Archbishop was absent from the Province.’,  
 (4) A person acting as President under subclause (3) may not vote on any item of business while he is President.
- 20 (e) delete the word ‘half’ in subclause 4(5)(c) and insert instead the words ‘one third’, and  
 (f) delete all the matter in subclause 4(6) and insert instead the following –  
 ‘(6) Where the Standing Committee resolves or has resolved under subclause (5) that certain of its business be determined by a Regional Council or a committee or committees –  
 25 (a) in the case of a committee –  
 (i) the quorum for a meeting includes at least one member who is a member of the Standing Committee, and  
 (ii) a member of the committee who is a member of the Standing Committee may require any matter to be referred back to Standing Committee before the exercise of the subcommittee’s delegated authority, and  
 30 (b) such Regional Council, committee or committees may, with the approval of the Standing Committee and subject to such conditions as the Standing Committee may impose, resolve that such business or any part of such business be determined by another person or  
 35 body.’

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

Chair of Committees

I Certify that this Ordinance was passed by the Synod of the Diocese of Sydney on  
2019.

Secretary of Synod

I Assent to this Ordinance.

Archbishop of Sydney

/ /2019

# Standing Committee Ordinance 1897

(Reprinted under the Interpretation Ordinance 1985.)

The Standing Committee Ordinance of 1897 as amended by the Standing Committee Ordinance Amending Ordinance of 1915, Standing Committee (Amending) Ordinance 1930, Standing Committee Ordinance of 1897 Further Amending Ordinance 1932, Casual Vacancies Ordinance 1935, Bishops Coadjutor ex Officio Ordinance 1940, Standing Committee Ordinance of 1897 Further Amending Ordinance 1948, Assistant Bishops (Bishops Coadjutor) Ordinance 1971, Standing Committee Amendment Ordinance 1978, Standing Committee Ordinance 1897-1978 Amending Ordinance 1984, the Diocesan Officers (Retirement) Ordinance 1987, the Miscellaneous Amendments Ordinance (No 1) 1991, the Standing Committee Amendment Ordinance 1991, the Committee Membership Amendment Ordinance 1995, the Standing Committee Ordinance 1897 Amending Ordinance 1995, the Regions (Transitional Provisions and Miscellaneous Amendments) Ordinance 1995, the Regional Electors Amendment Ordinance 1997, the Standing Committee (Elections) Amendment Ordinance 1998, the Miscellaneous Amendments Ordinance 2001, the Diocesan Officers (Retirement) Repeal Ordinance 2001, the Synod and Standing Committee (Membership) Amendment Ordinance 2003, the Regions Amendment Ordinance 2006, the Standing Committee Ordinance 1897 Amendment Ordinance 2010, the Synod Elections (Efficiency and Transparency) Amendment Ordinance 2013, the Standing Committee Amendment Ordinance 2014, the Synod (Governance of Diocesan Organisations) Amendment Ordinance 2015, the Synod and Standing Committee (Membership) Amendment Ordinance 2015, the Sydney Anglican Home Mission Society Council (Merger with Anglican Retirement Villages Diocese of Sydney) Ordinance 2016 and the Standing Committee Ordinance 1897 and Regions Ordinance 1995 Amendment Ordinance 2018.

## Table of Provisions

|        |  |
|--------|--|
| Clause |  |
| 1      | Definitions                            |
| 1A-1B  | Constitution of the Standing Committee |
| 2      | Casual Vacancies                       |
| 3      | Filling of Casual Vacancies            |
| 4      | Duties and Powers                      |
| 5      | Custody of Property                    |
| 6      | Conduct of Business, Quorum, etc       |
| 7      | Minutes to be Kept                     |
| 8      | Report of Proceedings                  |
| 9      | Date of Coming into Force              |
| 10     | Ordinance Repealed                     |
| 11     | Name of Ordinance                      |

† † † † † † † † † † †

### Long Title

An Ordinance to provide for the Constitution of a Standing Committee of the Synod of the Diocese of Sydney and to define their powers and duties.

### Preamble

Whereas it is expedient to provide for the constitution of a Standing Committee of the Synod of the Diocese of Sydney and to define their powers and duties, the said Synod in pursuance of the powers conferred upon it by the Constitutions for the management and good government of the United Church of England and Ireland within the Colony of New South Wales, and of all other powers, vested in the said Synod, ordains and rules as follows.

### Definitions

- (1) In this Ordinance –  
 “Elected Member” means a member of the Standing Committee referred to in paragraph (b), (c), (d) or (e) of subclause 1A(1).

“parochial unit” means a parish, provisional parish, assisted provisional parish or other ecclesiastical district recognised under the Parishes Ordinance 1979.

“Qualified Minister” means a person in Holy Orders who is a member of the Synod and is not an ex-officio member of the Standing Committee.

“Qualified Lay Person” means a lay person who is a member of the Synod.

“Regional Elected Member” means a member of the Standing Committee referred to in paragraph (d) or (e) of subclause 1A(1).

“Regional Electors” means, in relation to a Region, the following persons –

- (a) the Regional Bishop and the Regional Archdeacon;
- (b) each Qualified Minister licensed to a parochial unit in the Region;
- (c) each Qualified Lay Person who is a member of the Synod as a representative of a parochial unit in the Region; and
- (d) each other member of the Synod who is a parishioner of a church in the Region and is not a Regional Elector for another Region.

“Synod Elected Member” means a member of the Standing Committee referred to in paragraph (b) or (c) of subclause 1A(1).

(2) In this Ordinance a person is from a Region if –

- (a) in the case of a Qualified Minister that person is licensed to a parochial unit in that Region; and
- (b) in the case of a Qualified Lay Person that person is a parishioner of a church in that Region.

(3) In this Ordinance the previous form of the Synod Elections Ordinance 2000 is the form of that Ordinance immediately before the Synod Elections (Efficiency and Transparency) Amendment Ordinance 2013 came into force.

#### **Constitution of the Standing Committee**

1A. (1) The Standing Committee is constituted with the following members –

- (a) The Archbishop, the Regional Bishops, the Archdeacon for Women’s Ministry, the Chancellor, the Registrar, the Dean, the Diocesan Secretary, the Chief Executive Officer of Sydney Diocesan Secretariat and the Principal of Moore Theological College, ex-officio.
- (b) 4 Qualified Ministers elected by the members of Synod.
- (c) 8 Qualified Lay Persons elected by the members of Synod.
- (d) 2 Qualified Ministers from each Region elected by the Regional Electors of that Region.
- (e) 4 Qualified Lay Persons from each Region elected by the Regional Electors of that Region.
- (f) The Regional Archdeacons.

(2) A Regional Archdeacon who is a member of the Standing Committee under paragraph (1)(f) does not have the right to vote. In the absence of a Regional Bishop the Regional Archdeacon has a right to vote.

(3) The election of the Elected Members is to be held during the first session of each Synod and, subject to this Ordinance, such persons hold office until the first day of the first session of the next Synod.

(4) The following rules apply to the election of the Elected Members –

- (a) A person who has the necessary qualifications may be nominated for election as either –
  - (i) a Synod Elected Member, or
  - (ii) a Regional Elected Member.
- (b) If a person is nominated for election as a Synod Elected Member and a Regional Elected Member, the nomination for election as a Regional Elected Member is invalid.
- (c) Each election shall otherwise be conducted in accordance with the Synod Elections Ordinance 2000.

1B. (1) If a new Region is created, the Regional Electors of the Region are to elect the Regional Elected Members for that Region –

- (a) during the next ordinary session of the Synod, or
- (b) by postal ballot conducted under the previous form of the Synod Elections Ordinance 2000 provided that –

- (i) a notice of the election under rule 3.1 of the Schedule to the previous form of the Synod Elections Ordinance 2000 is to be sent as soon as practicable after the creation of that Region, and
- (ii) the subsequent time frames for the election are to correspond to those that apply to a ballot held before the first appointed day of a session of the Synod.

(1A) A postal ballot to fill a vacancy in the membership of the Standing Committee under clause 1B(1) may, with the approval of the Standing Committee given by resolution, be conducted by electronic means.

(2) Subject to this Ordinance the persons elected under subclause (1) hold office until the first day of the first session of the next Synod.

(3) If a Region is abolished, the Regional Elected Members cease to be members of the Standing Committee on and from the date of abolition of the Region.

### **Casual Vacancies**

2. (1) A casual vacancy in the office of an Elected Member occurs on –
- (a) resignation in writing addressed to the Diocesan Secretary;
  - (b) death;
  - (c) insolvency under administration;
  - (d) loss of membership of the Synod;
  - (e) incapacity to act or absence from 3 consecutive meetings of the Standing Committee without leave;
  - (f) becoming an ex-officio member;
  - (g) becoming an Elected Member in another capacity;
  - (h) in the case of a Regional Elected Member, ceasing to be from the Region for which that person was elected as a member of the Standing Committee;
  - (i) a resolution by the Synod, or by the Standing Committee when the Synod is not in session, declaring a vacancy and specifying the person, this ordinance, and the reason therefore.

(2) A vacancy in the office of an Elected member which is not filled at an election referred to in clause 1A or a ballot referred to in clause 1B, for the purposes of this Ordinance, is taken to be a casual vacancy.

### **Filling of Casual Vacancies**

3. (1) A casual vacancy among the Synod Elected Members may be filled by the Synod by an election conducted during the next ordinary session of the Synod. When the Synod is not in session the casual vacancy may be filled by the Standing Committee.

(2) Subject to clause 2, the term of office of a person filling a casual vacancy under subclause (1) expires –

- (a) if the casual vacancy is filled by the Synod – on the first day of the first session of the next Synod; and
- (b) if the casual vacancy is filled by the Standing Committee – on the first day of the next session of the Synod.

(3) A casual vacancy in the office of a Regional Elected Member may be filled by the Regional Electors of the Region by an election conducted –

- (a) during the next ordinary session of the Synod, or
- (b) by postal ballot conducted under the previous form of the Synod Elections Ordinance 2000 provided that –
  - (i) a notice of the election under rule 3.1 of the Schedule to the previous form of the Synod Elections Ordinance 2000 is to be sent as soon as practicable after the casual vacancy occurs, and
  - (ii) the subsequent time frames for the election are to correspond to those that apply to a ballot held before the first appointed day of a session of the Synod.

(3A) A postal ballot to fill a vacancy in the membership of the Standing Committee under clause 3(3) may, with the approval of the Standing Committee given by resolution, be conducted by electronic means.

(4) Subject to clause 2, the term of office of a person filling a casual vacancy under subclause (3) expires on the first day of the first session of the next Synod.

#### **Duties and Powers**

4. (1) It shall be the duty of the Standing Committee to make arrangements for the sessions of the Synod, and to prepare the business to be brought before the Synod, with power to propose such business as may appear to the Committee to be necessary or desirable to be brought before the Synod, in addition to that arising out of matters which have been referred to them, and to print a Report of the proceedings of the Synod from time to time, and all documents ordered by the Synod to be printed.

(2) The Standing Committee are empowered to defray the necessary working expenses of the Synod and of the Standing Committee, and to pay such further sums as may from time to time be authorised by the Synod.

(3) The Standing Committee shall be a Council of Advice to the Bishop in any matter in which he may desire their advice. The Standing Committee shall consider and report upon any matter which the Synod may from time to time refer to them, and shall carry out or assist in carrying out the resolutions from time to time passed by the Synod and entrusted to them, or not otherwise provided for. The Standing Committee may deliberate and confer upon all matters affecting the interest of the Church and cognisable by the Synod, may make such enquiries as they shall deem to be requisite, and may communicate with the Government and all such bodies and persons as they shall consider necessary, and may present petitions and addresses to all such bodies and persons. PROVIDED that any action taken by the Committee not already sanctioned by the Synod shall have full force unless disallowed by the Synod at its next session.

(4) The Standing Committee shall discharge such other duties and exercise such other powers as the Synod shall from time to time prescribe.

(5) The Standing Committee may from time to time resolve that any of its business (other than the making of ordinances, the making of appointments or the filling of casual vacancies) be determined by a Regional Council or a committee or committees having members –

- (a) who are appointed from time to time by the Standing Committee;
- (b) who hold office for such terms and in accordance with such conditions as the Standing Committee may specify; and
- (c) at least half of whom are Standing Committee members.

(6) Where the Standing Committee resolves or has resolved under subclause (5) that certain of its business be determined by a Regional Council or a committee or committees, such Regional Council, committee or committees may, with the approval of the Standing Committee and subject to such conditions as the Standing Committee may impose, resolve that such business or any part of such business be determined by another person or body.

(7) A person who is an insolvent under administration is not eligible to be appointed to a committee referred to in subclause (5). A person appointed to such a committee ceases to be a member of that committee if that person becomes an insolvent under administration.

#### **Custody of Property**

5. The Standing Committee shall have the custody of all books, documents or other property belonging to the Synod, and all other property belonging to the Church in the Diocese of Sydney not vested in any other body or person.

#### **Conduct of Business, Quorum, etc**

6. (1) A notice of a meeting of the Standing Committee may be given to a member verbally or by serving it on the member personally or by sending it to the postal or email address supplied by the member for the giving of notices to the member but, if no address has been supplied by a member to the secretary or acting secretary of the Standing Committee, then to the address which is believed by the person giving the notice to be the place of business or of work or of residence of that member or an email address held by the Registrar for the member.

(2) Where a notice is sent by post, service shall be deemed to be effected by properly addressing prepaying (in the case of a notice sent by post) and posting or otherwise appropriately dispatching the notice and to have been effected on the day next following the day (neither day being a Saturday, Sunday or public holiday) after the date of its posting or dispatch.

(3) The Standing Committee may meet and exercise all powers conferred upon it notwithstanding that notice of the meeting may not have been given to all members of the Standing Committee in accordance with subclauses (1) and (2) of this clause if the notice has not been given –

- (a) due to inadvertence or an accidental omission, or
- (b) by reason of insufficient time;

Provided, in the case referred to in paragraph (b), by resolution supported by two-thirds of all members of the Standing Committee, the Standing Committee resolves that the nature of the business to be discussed and the powers to be exercised are such that delay is likely to prejudice the order and good government of the Anglican Church of Australia in the Diocese or a part thereof.

(4) No business shall be transacted at any meeting of the Standing Committee if a quorum is not present at the time when the business is to be transacted. If a quorum is not present within half an hour from the time appointed for a meeting of the Standing Committee, the meeting shall be dissolved. A quorum shall be not less than one-half of all members of the Standing Committee.

(4A) The members of the Standing Committee may pass a resolution without a meeting of the members being held if –

- (a) the secretary or acting secretary of the Standing Committee sends a copy of the proposed resolution to all members of the Standing Committee and specifies a reasonable timeframe within which members may indicate their support for or objection to the proposed resolution being passed, and
- (b) at least 75% of members indicate within the specified timeframe that they support the proposed resolution being passed, and
- (c) no more than 2 members object within the specified timeframe either to the proposed resolution being passed or the proposed resolution being passed without a meeting.

The secretary or acting secretary shall notify the Standing Committee of any resolution passed without a meeting at its next meeting and shall record in the minutes kept for that meeting the resolution together with any supporting attachments. A resolution so recorded shall be treated as a minute of the proceedings of the Standing Committee for the purposes of clause 7(1).

(5) Subject to this Ordinance and any other relevant ordinance, the Standing Committee from time to time may frame, alter, and repeal rules and regulations for the conduct of all business coming before it.

**Minutes to be Kept**

7. (1) Minutes of the proceedings of the Standing Committee shall be entered in a book kept for that purpose and, subject to subclause (2), the Committee shall cause such minute book to be laid before the Synod at the commencement of every session.

(2) The secretary or acting secretary of the Standing Committee is authorised to omit from the Minute Book laid before the Synod any minute and any attachment to a minute which contains details of –

- (a) current legal proceedings or claims which may become the subject of legal proceedings,
- (b) the terms of any settlement of legal proceedings which require confidentiality,
- (c) any matter which the Archbishop acting on the advice of the Chancellor considers is properly treated as commercial-in-confidence, or
- (d) any other matter the Standing Committee declares by resolution to be confidential for the purposes of this subclause.

**Report of Proceedings**

8. The Standing Committee shall present an Annual Report of their proceedings to the Synod, which shall include a statement of their receipts and expenditure during the year, audited by the auditors appointed by the Synod.

**Date of Coming into Force**

9. This Ordinance shall come into force upon the first day of the first session of the next Synod.

**Ordinance Repealed**

10. The Ordinance intituled the “Standing Committee Ordinance of 1895” is hereby repealed.

**Name of Ordinance**

11. This ordinance is the Standing Committee Ordinance 1897.

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**Notes**

This Ordinance came into effect on 20 September 1898.

Clause 5 of the Miscellaneous Amendments Ordinance 1997 provides as follows –

“Notwithstanding clauses 1A and 3(1) of the Standing Committee Ordinance 1897, an election by the Synod to fill a casual vacancy in the office of member of the Standing Committee referred to in paragraphs 1A(1)(b) and (c) of the Standing Committee Ordinance 1897 shall be conducted in accordance with the provisions of the Elections Ordinance 1970, other than clause 37A.”

The amendments made by Ordinance No 34, 2015 commence on the day immediately following the last day of the 2nd session of the 50th Synod.

**Table of Amendments**

|           |   |
|-----------|---|
| Clause 1  | Original clause amended by Ordinances Nos 1, 1915; 11, 1930; 9, 1932; 9, 1948; 27, 1971; 29, 1978; 28, 1987; 37, 1991 and 23, 1995. New clause inserted by Ordinance No 33, 1995 and amended by Ordinances Nos 31, 1997, 36, 2006 and 42, 2013. Amended by Ordinance No 27, 2018. |
| Clause 1A | New clause inserted by Ordinance No 33, 1995 and amended by Ordinances Nos 31, 1998; 32, 2001; 47, 2003; 6, 2010; 42, 2013; 34, 2015 and 9, 2016.   |
| Clause 1B | Inserted by Ordinance No 33, 1995 and amended by Ordinance No 32, 2001. New clause inserted by Ordinance No 42, 2013. New clause inserted by Ordinance No 27, 2018.   |
| Clause 2  | Original clause amended by Ordinances Nos 11, 1935 and 28, 1987. New clause inserted by Ordinance No 33, 1995 and amended by Ordinances Nos 59, 2001; 47, 2003; 36, 2006 and 42, 2013.  |
| Clause 3  | Original clause amended by Ordinances Nos 11, 1935 and 28, 1987. New clause inserted by Ordinance No 33, 1995 and amended by Ordinances Nos 36, 2006; 42, 2013; 9, 2015 and 27, 2018.   |
| Clause 4  | Amended by Ordinances Nos 44, 1991; 23, 1995 and 9, 2014.   |
| Clause 6  | Amended by Ordinances Nos 26, 1984 and 9, 2014.   |
| Clause 7  | Amended by Ordinance No 9, 2014.  |
| Clause 11 | Amended by various ordinances including Ordinance No 32, 2001 and the Interpretation Ordinance 1985.  |



# Synod Membership Ordinance 1995 Amendment Ordinance 2019

## Explanatory Report

### Key Points

- The Declaration to be made by all sitting members should be expanded to incorporate a Statement of Faith to be consistent with what is required of members of governing bodies of Diocesan Organisations administered by the Synod
- Given the reach of the gospel through Anglican Schools, it is appropriate that a small number of heads of Diocesan Schools be included as members of Synod
- The Purpose of the Bill for the Synod Membership Ordinance 1995 Amendment Ordinance 2019 (the **Bill**) is to make changes to the membership of the Synod and expand the Declaration to be made by members of Synod

### Recommendations

1. Synod receive this report.
2. Synod pass the Bill as an Ordinance of the Synod.

### Background

3. At its meeting on 7 August 2019, the Council of the Northern Region (the **Council**) resolved to promote a Bill to Synod to amend the *Synod Membership Ordinance 1995*.
4. After a meeting between some members of the Council and some members of the committee set up to look at the "Composition, purpose and role of Synod" pursuant to the request of Synod under resolution 43/17 (the Committee), a number of suggested changes were agreed between the two parties.
5. At the August meeting of Standing Committee a report from the Council detailing the Council's changes was noted. At the same meeting a report from the Committee was also presented. The Standing Committee deferred the Committee's recommendations to a future meeting so further thought could be given to changes they were proposing.

### General Discussion

6. Within the Northern Region there are a number of Anglican Schools which are constituted by an Ordinance of the Synod and are subject to the Ordinances, Policies and Rules made by the Synod as the governing body of the Diocese.
7. Anglican Schools within the Diocese have the privilege of forming large communities of people, many of whom are not otherwise connected to the Diocese. This provides a large range of opportunities for students, as well as their parents and siblings, to hear the gospel through the work of each school.
8. It seemed anomalous to the Council that this was not acknowledged and reflected in some way in the composition of the Synod.

9. The Council considered various alternative approaches such as specifying in clause 5 "Heads of Nominated Diocesan Schools" with the Standing Committee then nominating three schools. However, it was felt that it would be better for the Heads, in consultation with the Archbishop, to recommend three individual Heads to the Standing Committee for election under Part 8.
10. Problems could arise if three schools were the permanent nominees of the Standing Committee or schools were nominated but the relevant Heads were unwilling to be active members of the Synod. Some schools might feel that they were being unfairly treated if their school was never nominated by the Standing Committee.

### **Statement of Faith**

11. The current Synod Membership Ordinance simply requires lay members in clause 6 to declare that each is a communicant member of the Anglican Church of Australia and not a member of any other Church. Members of governing bodies of Diocesan Organisations are now required to make a declaration of belief in the form of the Statement of Faith. It was considered by the Council to be anomalous that members of organisations which were governed by Synod had to make such a declaration but members of Synod themselves were not required to do so.

For and on behalf of Northern Region Council.

CHRISTOPHER EDWARDS  
**Bishop**

27 August 2019

# Synod Membership Ordinance 1995 Amendment Ordinance 2019

No , 2019

## Long Title

An Ordinance to make a change to the membership of the Synod to include some heads of Diocesan Schools and to amend the Declaration by members to include a Statement of Faith to bring it into conformity with declarations by members of the Governing Boards or Councils of Diocesan Organisations.

The Synod of the Diocese of Sydney Ordains as follows.

### 1. Name

This Ordinance is the *Synod Membership Ordinance 1995 Amendment Ordinance 2019*.

### 2. Amendment of the Synod Membership Ordinance 1995

The *Synod Membership Ordinance 1995* is amended as follows –

- 5 (a) delete the existing 6(1) and insert the following as a new 6(1) –

‘(1) Each lay person, prior to notice of his or her election being given under this Ordinance to the Registrar, or if ex-officio, as soon as practicable after appointment to the relevant office, must sign the following declaration –

10 “I, the undersigned A.B., do declare that I am a communicant member of the Anglican Church of Australia and not a member of any other Church.

I believe and hold to the truth of the Christian faith as set forth in the Nicene Creed, as well as the Apostles' Creed as set out below –

15 *I believe in God, the Father Almighty,  
maker of heaven and earth;  
and in Jesus Christ, his only Son our Lord,  
who was conceived by the Holy Spirit,  
born of the virgin Mary, suffered under Pontius Pilate,  
was crucified, dead, and buried.*

20 *He descended into hell.  
The third day he rose again from the dead  
He ascended into heaven,  
and is seated at the right hand of God the Father almighty;  
from there he shall come to judge the living and the dead.*

25 *I believe in the Holy Spirit;  
the holy catholic church;  
the communion of saints;  
the forgiveness of sins;  
the resurrection of the body,  
30 and the life everlasting.*

In particular I believe –

- 35 (a) that God's word written, the canonical Scriptures of the Old and New Testaments, is the supreme authority in all matters of faith and conduct;
- (b) that there is only one way to be reconciled to God which is through his Son, Jesus Christ, who died for our sins and was raised for our justification; and
- (c) that we are justified before God by faith only.”, and

- 40 (b) renumber the text of clause 18 as subclause 18(2) and insert a new subclause 18(1) as follows –

‘(1) A Parochial Representative continues to be a member of the Synod until the day before the first day of the first ordinary session of the next Synod.’, and

(c) after clause 42, insert the following new clause –

**‘42A. Heads of Diocesan Schools**

The persons elected by Standing Committee under clause 42 must include at least three heads of Diocesan Schools. In determining candidates, the Standing Committee must consider any names that have been recommended by heads of the Diocesan Schools in consultation with the Archbishop.’, and

(d) renumber the text of clause 46 as subclause 46(2) and insert a new subclause 46(1) as follows –

‘(1) A Nominated Layperson continues to be a member of the Synod until the day before the first day of the first ordinary session of the next Synod.’, and

(e) insert the following new definition in the Dictionary –

“Diocesan School” means any school that is constituted by or under an ordinance of the Synod of the Diocese or in relation to which the Synod is empowered to make ordinances, and includes schools of the Anglican Schools Corporation.’

**3. Commencement**

The amendments in clause 2 of this Ordinance will commence on 1 January 2020.

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

Chair of Committees

I Certify that this Ordinance was passed by the Synod of the Diocese of Sydney on 2019.

Secretary of Synod

I Assent to this Ordinance

Archbishop of Sydney

/ / 2019

# Synod Membership Ordinance 1995

(Reprinted under the Interpretation Ordinance 1985.)

The Synod Membership Ordinance 1995 as amended by the Miscellaneous Amendments Ordinance 1997, the Assisted Provisional Parishes (Reclassification) Ordinance 1997, the Conduct of the Business of Synod Ordinance 2000, the Synod Membership Ordinance 1995 Amendment Ordinance 2003, the Synod and Standing Committee (Membership) Amendment Ordinance 2003, the Synod Membership (Election of Parochial Representatives) Amendment Ordinance 2004, the Synod Membership (Indigenous Representation) Amendment Ordinance 2006, the Synod Membership (Nominated Indigenous Representatives) Ordinance 2009, the Synod (Electronic Communications) Amendment Ordinance 2013, the Conduct of the Business of Synod Ordinance 2000 Amendment Ordinance 2014, the Synod and Standing Committee (Membership) Amendment Ordinance 2015, the Synod Membership Ordinance 1995 Amendment Ordinance 2016 and the Synod Membership Amendment Ordinance 2017.

## Table of Provisions

Clause

### Part 1 – Preliminary

- 1 ..... Citation
- 2 ..... Definitions

### Part 2 – Frequency and Proceedings of Synod

- 3 ..... Frequency
- 4 ..... Rules for Conduct of Business of Synod

### Part 3 – Membership of Synod

- 5 ..... Membership
- 5A ..... Consent to use of personal information by Registrar
- 6 ..... Declaration

### Part 3A – Synod Communications

- 6A ..... Members of Synod to ensure Registrar holds current postal and email addresses
- 6B ..... Synod communications may be sent by email
- 6C ..... Notifying information about members of the Synod to the Registrar

### Part 4 – Parochial Ministers

#### *Division 1 – Parochial Ministers*

- 7 ..... Each Parochial Minister must be summoned to Synod
- 8 ..... What if a person ceases to be a Parochial Minister after a summons has issued?

#### *Division 2 – Alternate for a Parochial Minister*

- 8A ..... Parochial Minister may appoint an alternate
- 8B ..... Alternate to attend in place of the Parochial Minister
- 8C ..... When does an appointment of an alternate end?

### Part 5 – Parochial Representatives

#### *Division 1 – Parochial Representatives*

- 9 ..... Who is a Parochial Representative?

#### *Division 2 – Election of Parochial Representatives*

- 10 ..... How many Parochial Representatives can a Parish elect?
- 11 ..... How many Parochial Representatives can a Provisional Parish elect?
- 12 ..... What if a Parish is reclassified as a Provisional Parish?
- 13 ..... What if a Provisional Parish is reclassified as a Parish?
- 14 ..... What if 2 or more Parochial Units amalgamate?
- 15 ..... When may persons be elected to be Parochial Representatives?

- 16 ..... How are elections to be conducted?
- 17 ..... Notice to be given to the Registrar when a person is elected to be a Parochial Representative

*Division 3 – Retirement of Parochial Representatives*

- 18 ..... When does a person retire as a Parochial Representative?
- 19 ..... Notice to be given to the Registrar when a person retires as a Parochial Representative
- 20 ..... A vacancy in the office of Parochial Representative may be filled

*Division 4 – Summoning of Parochial Representatives to Synod*

- 21 ..... Parochial Representatives must be summoned to Synod
- 22 ..... What if a person retires as a Parochial Representative after a summons has issued?

*Division 5 – Alternate for a Parochial Representative*

- 22A ..... Parochial Representative may appoint an alternate
- 22B ..... Alternate to attend in place of the Parochial Representative
- 22C ..... When does an appointment of an alternate end?

**Part 6 – Chief Executive Officers of Nominated Organisations**

*Division 1 – Nominated Organisations*

- 23 ..... What is a Nominated Organisation?

*Division 2 – Declaration of Organisations etc to be Nominated Organisations*

- 24 ..... How does an organisation etc become a Nominated Organisation?
- 25 ..... How many Nominated Organisations may exist at one time?
- 26 ..... Notice must be given to the Registrar when an organisation etc is declared to be a Nominated Organisation

*Division 3 – Chief Executive Officers of Nominated Organisations*

- 27 ..... Nominated Organisation to give notice re Chief Executive Officer
- 28 ..... Notice must be given to the Registrar when a person ceases to be Chief Executive Officer

*Division 4 – Summoning of Chief Executive Officers to Synod*

- 29 ..... Chief Executive Officers must be summoned to Synod
- 30 ..... What if a person ceases to be a Chief Executive Officer of a Nominated Organisation after a summons has issued?

**Part 7 – Nominated Ministers**

*Division 1 – Nominated Ministers*

- 31 ..... Who is a Nominated Minister?
- 32 ..... Number of Nominated Ministers

*Division 2 – Appointment of persons to be Nominated Ministers*

- 33 ..... Who may be appointed to be a Nominated Minister?
- 34 ..... Notice must be given on the appointment of a person to be a Nominated Minister

*Division 3 – Retirement of Nominated Ministers*

- 35 ..... When does a person retire as a Nominated Minister?
- 36 ..... Notice must be given when a person retires as a Nominated Minister
- 37 ..... Filling of Casual Vacancies

*Division 4 – Summoning of Nominated Ministers to Synod*

- 38 ..... Nominated Ministers must be summoned to Synod
- 39 ..... What if a person ceases to be a Nominated Minister after a summons has issued?

**Part 8 – Nominated Laypersons**

*Division 1 – Nominated Laypersons*

- 40 ..... Who is a Nominated Layperson?
- 41 ..... Number of Nominated Laypersons

*Division 2 – Election of Nominated Laypersons*

- 42 ..... Who elects persons to be Nominated Laypersons?
- 43 ..... Who may be elected to be a Nominated Layperson
- 44 ..... When may persons be elected to be Nominated Laypersons?
- 45 ..... Notice must be given on the election of a Nominated Layperson

*Division 3 – Retirement of Nominated Laypersons*

- 46 ..... When does a person retire as a Nominated Layperson?
- 47 ..... Notice must be given when a person ceases to be a Nominated Layperson
- 48 ..... A new Nominated Layperson may be elected to fill a vacancy

*Division 4 – Summoning of Nominated Laypersons to Synod*

- 49 ..... Nominated Laypersons must be summoned to Synod
- 50 ..... What if a person retires as a Nominated Layperson after a summons has issued?

**Part 8A – Nominated Indigenous Representatives**

*Division 1 – Election of Nominated Indigenous Representatives*

- 50A ..... Who is a Nominated Indigenous Representative?
- 50B ..... Election of Nominated Indigenous Representatives
- 50C ..... Notice must be given on the election of a Nominated Indigenous Representative

*Division 2 – Retirement of Nominated Indigenous Representatives*

- 50D ..... When does a person retire as a Nominated Indigenous Representative?
- 50E ..... Notice must be given when the person retires as a Nominated Indigenous Representative
- 50F ..... A new Nominated Indigenous Representative may be elected to fill a vacancy

*Division 3 – Summoning of Nominated Indigenous Representative to Synod*

- 50G ..... Nominated Indigenous Representatives must be summoned to Synod
- 50H ..... What if a person retires as a Nominated Indigenous Representative after a summons has issued?

**Part 9 – Other Members of Synod**

- 51 ..... The Chancellor
- 52 ..... The Registrar
- 52A ..... Diocesan Secretary
- 52B ..... Regional Bishops
- 52C ..... Archdeacon for Women’s Ministry
- 52D ..... Principal of Moore Theological College
- 53 ..... Warden of St Paul’s College and College Representatives

**Part 10 – Transitional**

- 54 ..... Commencement and Transitional
- 55 ..... Repeal of Former Legislation

Dictionary

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**Long Title**

An Ordinance to provide for the election, appointment and summoning of Synod members and for matters incidental thereto.

Now the Synod of the Diocese of Sydney Ordains as follows –

**Part 1 – Preliminary**

**1. Citation**

This Ordinance may be cited as the “Synod Membership Ordinance 1995”.

**2. Definitions**

A word or expression used in this Ordinance and which is defined in the Dictionary at the end of this Ordinance has the meaning set out in the Dictionary.

**Part 2 – Frequency and Proceedings of Synod**

**3. Frequency**

A new Synod must be elected and convened at least once in every 3 years.

**4. Rules for Conduct of Business of Synod**

The rules for the conduct of all business coming before the Synod shall be those set out in the Schedule to the Conduct of the Business of Synod Ordinance 2000.

**Part 3 – Membership of Synod**

**5. Membership**

Subject to this Ordinance, the members of a Synod comprise –

- (a) Parochial Ministers (see Part 4);
- (b) Parochial Representatives for that Synod (see Part 5);
- (c) Chief Executive Officers of Nominated Organisations for that Synod (see Part 6);
- (d) Nominated Ministers for that Synod (see Part 7);
- (e) Nominated Laypersons for that Synod (see Part 8); and
- (f) Nominated Indigenous Representatives for that Synod (see Part 8A); and
- (g) Other members (see Part 9).

**5A. Consent to use of personal information by Registrar**

(1) Each person elected or appointed as a Parochial Representative, alternate for a Parochial Representative, Nominated Layperson or lay Nominated Indigenous Representative must give the following consent prior to notice of his or her election or appointment being given under this Ordinance to the Registrar –

“I consent to my name, contact details and any other personal information that is reasonably necessary for the proper administration of the Synod and the Diocese being collected, used and disclosed by the Registrar for these purposes.”

(2) The person who or the body which is required to give the Registrar notice of an election or appointment referred to in subclause (1) must retain, or cause to be retained, a written record of the consent.

(3) For the purposes of subclause (1), the proper administration of the Diocese includes any act or practice which is –

- (a) performed pursuant to or under an ordinance or resolution of the Synod or the Standing Committee, or
- (b) reasonably necessary to give effect to an ordinance or resolution of the Synod or the Standing Committee, or
- (c) a discharge of the duties or exercise of the powers and authorities of the Archbishop however arising,

and the proper administration of the Synod includes any act or practice which is undertaken by the Diocesan Secretary or the Secretary of the Synod in the course of administering the Synod.

**6. Declaration**

(1) Each Parochial Representative, alternate for a Parochial Representative, Nominated Layperson and lay Nominated Indigenous Representative must sign the following declaration prior to notice of his or her election or appointment being given under this Ordinance to the Registrar –

“I, the undersigned A.B., do declare that I am a communicant member of the Anglican Church of Australia and not a member of any other Church.”

(2) The person or body which is required to give the Registrar notice of an election or appointment referred to in subclause (1) must retain, or cause to be retained, the signed declaration.

### Part 3A – Synod Communications

#### **6A. Members of Synod to ensure Registrar holds current postal and email addresses**

(1) Each person who holds office as a member of the Synod *ex officio* must ensure that the Registrar holds a current postal and email address for that person.

(2) Each member of the Synod must ensure that each postal and email address held by the Registrar for the member remains current.

#### **6B. Synod communications may be sent by email**

(1) Subject to subclauses (2), (3) and (4), a Synod Communication may be sent to a member of the Synod at any email address held by the Registrar for the member instead of the member's postal address.

(2) If the Registrar does not hold an email address for a member of the Synod, any Synod Communication which would otherwise have been sent to the member by email is taken to have been duly sent to and received by the member.

(3) If an email address held by the Registrar for a member of the Synod is not current and a Synod Communication is sent to the member at that email address, the Synod Communication is taken to have been duly sent to and received by the member.

(4) The Standing Committee may make regulations from time to time prescribing –

- (a) the manner in which Synod Communications are to be sent to members of the Synod by email, and
- (b) any type of Synod Communication which must also be sent to members by post.

#### **6C. Notifying information about members of the Synod to the Registrar**

(1) The Registrar may make provision for –

- (a) any notice required by ordinance to be given to the Registrar about a member of the Synod, and
- (b) any other information which is or may be held by the Registrar about a member of the Synod,

to be directly provided to or updated on a secure on-line database held by the Registrar.

(2) To the extent the Registrar makes the provision referred to in subclause (1) –

- (a) any notice required by ordinance to be given to the Registrar about a member of the Synod is taken to have been given to the Registrar, and
- (b) any other information about a Synod member is taken to be held by the Registrar,

if the notice or information is duly provided to or updated on the secure on-line database.

(3) In making the provision referred to in subclause (1), the Registrar must take reasonable steps to ensure that –

- (a) the information held by the Registrar on the database is secure, and
- (b) a person who provides a notice to or updates information on the secure on-line database is a person entitled to do so.

### Part 4 – Parochial Ministers

#### ***Division 1 – Parochial Ministers***

#### **7. Each Parochial Minister must be summoned to Synod**

Each Parochial Minister is a member of the Synod and must be summoned to each session of the Synod convened after that person becomes a Parochial Minister.

#### **8. What if a person ceases to be a Parochial Minister after a summons has issued?**

If a person is summoned to a session of Synod as a Parochial Minister and before the first day of that session the person ceases to be a Parochial Minister, the person ceases to be a member of the Synod and the summons is void.

**Division 2 – Alternate for a Parochial Minister****8A. Parochial Minister may appoint an alternate**

- (1) A Parochial Minister may appoint an Associate Minister licensed to the same Parochial Unit to be the alternate for the Parochial Minister for a session of the Synod if the Parochial Minister expects that during all or part of that session –
- (a) the Parochial Minister will be outside the Diocese; or
  - (b) the Parochial Minister will be on annual leave or long service leave; or
  - (c) the Parochial Minister will be unable to perform normal ministry duties due to sickness or accident for which the Parochial Unit will be in receipt of benefits from the Sydney Diocesan Sickness and Accident Fund; or
  - (d) the Parochial Minister, with the consent of the Archbishop, will for any other reason be unable to attend all or part of that session.
- (2) The appointment of an alternate can only be made by the Parochial Minister giving to the Registrar, at least 14 days prior to the first day of the session, a written notice –
- (a) certifying that the Parochial Minister expects that during all or part of that session the Parochial Minister will be outside the Diocese or will be on annual leave or long service leave or will be unable to perform normal ministry duties in terms of subclause (1)(c) or, with the consent of the Archbishop, will for another reason be unable to attend all or part of that session; and
  - (b) specifying the name of, and a postal and email address for, the Associate Minister appointed as the alternate and the session of the Synod for which the alternate has been appointed.
- (3) An appointment made under this clause may only be revoked –
- (a) by the Parochial Minister; and
  - (b) if written notice of the revocation is given to the Registrar at least 14 days prior to the first day of the session.

**8B. Alternate to attend in place of the Parochial Minister**

- (1) At the session of the Synod for which an Associate Minister is appointed as the alternate for a Parochial Minister, the alternate –
- (a) may exercise all the rights which a Parochial Minister may exercise as a member of the Synod; and
  - (b) shall be taken to be a Parochial Minister in determining any quorum at the session,
- but is not entitled to be elected to any office or committee of the Synod for which membership of the Synod is a qualification.
- (2) If –
- (a) a Parochial Minister has appointed an alternate under clause 8A; and
  - (b) the appointment has not ended under clause 8C,

the Parochial Minister is not to attend the session of the Synod for which the alternate has been appointed.

**8C. When does an appointment of an alternate end?**

The appointment of an Associate Minister as the alternate for a Parochial Minister under clause 8A ends on the first to occur of –

- (a) the person making the appointment ceasing to be the Parochial Minister of the Parochial Unit to which the person was licensed at the time the appointment was made; or
- (b) the person appointed as alternate ceasing to be an Associate Minister licensed to the Parochial Unit to which the person was licensed at the time the appointment was made; or
- (c) the Parochial Minister revoking the appointment under clause 8A(3); or
- (d) the end of the last day of the session of the Synod for which that person was appointed as an alternate.

**Part 5 – Parochial Representatives****Division 1 – Parochial Representatives****9. Who is a Parochial Representative?**

A person is a Parochial Representative for a Synod if –

- (a) that person has been elected to be a Parochial Representative for that Synod; and

- (b) notice of the election has been given to the Registrar under clause 17; and
- (c) that person has not retired as a Parochial Representative under clause 18.

### ***Division 2 – Election of Parochial Representatives***

#### **10. How many Parochial Representatives can a Parish elect?**

A Parish may elect 1 or 2 Qualified Persons to be Parochial Representatives.

#### **11. How many Parochial Representatives can a Provisional Parish elect?**

A Provisional Parish may elect 1 Qualified Person to be a Parochial Representative.

#### **12. What if a Parish is reclassified as a Provisional Parish?**

(1) If a Parish is reclassified as a Provisional Parish, the persons elected (if any) to be Parochial Representatives for that Parish retire as Parochial Representatives on the date the reclassification takes effect.

(2) A Parochial Representative for the Provisional Parish may be elected at a General Meeting held at any time after the date of reclassification.

(3) For the purposes of this clause –

- (a) “reclassified” does not include provisionally reclassified; and
- (b) where the date of reclassification occurs within 2 months before the first day of a session of Synod or occurs during a session of Synod, the date of reclassification is taken to be the day after the last day of that session of Synod.

#### **13. What if a Provisional Parish is reclassified as a Parish?**

(1) If a Provisional Parish is reclassified as a Parish an additional Parochial Representative for that Parochial Unit may be elected at a General Meeting held at any time after the date of reclassification.

(2) If a Provisional Parish is reclassified as a Parish within 2 months before the first day of a session of Synod or during a session of Synod, the date of reclassification is taken to be, for the purpose of this clause, the day after the last day of that session of Synod.

#### **14. What if 2 or more Parochial Units Amalgamate?**

(1) Where 2 or more Parochial Units are amalgamated, the persons elected (if any) to be Parochial Representatives for each of those Parochial Units retire as Parish Representatives on the date of amalgamation.

(2) A Parish Representative or Representatives for the new Parochial Unit may be elected at a General Meeting held at any time after the date of amalgamation.

(3) If 2 or more Parochial Units are amalgamated within 2 months before the first day of a session of Synod or during a session of Synod the date of amalgamation is taken to be, for the purposes of this clause, the day after the last day of that session of Synod.

#### **15. When may persons be elected to be Parochial Representatives?**

A person may be elected to be a Parochial Representative of a Parochial Unit for a Synod at a General Meeting held at any time during the calendar year in which the first ordinary session of that Synod is to be convened or at any time thereafter.

#### **16. How are elections to be conducted?**

The provisions which apply to the nomination of persons and the conduct of contested elections at a General Meeting apply in relation to the nomination of a person as a Parochial Representative and to the conduct of contested elections as if those provisions were set out in full in this ordinance.

#### **17. Notice to be given to the Registrar when a person is elected to be a Parochial Representative**

Upon the election of a person to be a Parochial Representative, the chairman of the General Meeting at which the election took place must give, or cause to be given, to the Registrar a written notice –

- (a) specifying the name and date of election of the person elected to be a Parochial Representative; and
- (b) specifying a postal and email address for the person; and
- (c) specifying the Synod for which the person has been elected to be a Parochial Representative; and
- (d) certifying that the person has given the consent required by clause 5A and that a written record of the consent has been retained; and

- (e) certifying that the person has signed the declaration required by clause 6(1) and that the signed declaration has been retained.

***Division 3 – Retirement of Parochial Representatives***

**18. When does a person retire as a Parochial Representative?**

A person retires as a Parochial Representative if –

- (a) a Disqualifying Event occurs in respect of that person;
- (aa) the person ceases to be a Qualified Person;
- (b) the person resigns by written notice given to the Parochial Minister or, if there is no Parochial Minister, to the Wardens;
- (c) the person retires as a Parochial Representative by reason of clause 12 or 14; or
- (d) a General Meeting of the Parochial Unit resolves to revoke the person's entitlement to hold office as a Parochial Representative in circumstances where the person has ceased being a parishioner of the Parochial Unit and the Parochial Minister certifies that, having made reasonable efforts to contact the person –
  - (i) no contact has been made, or
  - (ii) contact has been made but the person did not indicate a wish to remain as a Parochial Representative.

**19. Notice to be given to the Registrar when a person retires as a Parochial Representative**

If a person retires as a Parochial Representative otherwise than by reason of clause 12 or 14, the Parochial Minister or, if there is no Parochial Minister, the Wardens must give, or cause to be given, to the Registrar a written notice specifying –

- (a) the name of the person and the date on which the person retired as a Parochial Representative; and
- (b) the Synod for which the person had been a Parochial Representative.

**20. A vacancy in the office of a Parochial Representative may be filled**

A person may be elected to fill a vacancy in the office of a Parochial Representative at a General Meeting of the Parochial Unit.

***Division 4 – Summoning of Parochial Representatives to Synod***

**21. Parochial Representatives must be summoned to Synod**

Each person who is a Parochial Representative for a Synod is a member of that Synod and must be summoned to each session of that Synod convened after that person becomes a Parochial Representative.

**22. What if a person retires as a Parochial Representative after a summons has issued?**

If a person is summoned to a session of Synod as a Parochial Representative and before the first day of that session that person retires as a Parochial Representative, the summons is void.

***Division 5 – Alternate for a Parochial Representative***

**22A. Parochial Representative may appoint an alternate**

(1) With the consent of the Wardens, a Parochial Representative may appoint a Qualified Person to be the alternate for the Parochial Representative for a session of the Synod if the Parochial Representative expects that during all or part of the session –

- (a) the Parochial Representative will be outside the Diocese; or
- (b) the Parochial Representative will be on annual leave or long service leave or sick leave; or
- (c) the Parochial Representative will be for any other reason unable to attend all or part of that session.

(2) The appointment of an alternate can only be made by the Parochial Representative giving to the Registrar, at least 14 days prior to the first day of the session, a written notice –

- (a) certifying that the Parochial Representative expects that during all or part of that session the Parochial Representative will be outside the Diocese or will be on annual leave or long service leave or sick leave or for another specified reason will be unable to attend all or part of that session; and
- (b) specifying the name of the Qualified Person appointed as the alternate and the session of the Synod for which the alternate has been appointed; and

- (c) specifying a postal and email address for the Qualified Person appointed as the alternate; and
- (d) certifying that the Wardens have consented to the appointment of the Qualified Person as the alternate; and
- (e) certifying that the Qualified Person appointed as the alternate has given the consent required by clause 5A and that a written record of the consent has been retained; and
- (f) certifying that the Qualified Person appointed as the alternate has signed the declaration required by clause 6(1) and that the signed declaration has been retained.

(3) An appointment made under this clause may be revoked if written notice of the revocation is given to the Registrar at least 14 days prior to the first day of the session –

- (a) by the parish council; or
- (b) by the Parochial Representative if he or she has become available to attend the session of Synod.

**22B. Alternate to attend in place of the Parochial Representative**

(1) At the session of the Synod for which a Qualified Person is appointed as the alternate for a Parochial Representative, the alternate –

- (a) may exercise all the rights which a Parochial Representative may exercise as a member of the Synod; and
- (b) shall be taken to be a Parish Representative in determining any quorum at the session,

but is not entitled to be elected to any office or committee of the Synod for which membership of the Synod is a qualification.

(2) If –

- (a) a Parochial Representative has appointed an alternate under clause 22A; and
- (b) the appointment has not ended under clause 22C,

the Parochial Representative is not to attend the session of the Synod for which the alternate has been appointed.

**22C. When does an appointment of an alternate end?**

The appointment of a Qualified Person as the alternate for a Parochial Representative under clause 22A ends on the first to occur of –

- (a) the retirement of the Parochial Representative under clause 18; or
- (b) the person appointed as the alternate ceasing to be a Qualified Person; or
- (c) the revocation of the appointment under clause 22A(3); or
- (d) the end of the last day of the session of the Synod for which that person was appointed as an alternate.

Part 6 – Chief Executive Officers of Nominated Organisations

***Division 1 – Nominated Organisations***

**23. What is a Nominated Organisation?**

Subject to clause 25, a diocesan organisation established by ordinance is a Nominated Organisation for a Synod if –

- (a) the organisation has been declared by the Standing Committee under clause 24 to be a Nominated Organisation for that Synod; and
- (b) notice of the declaration has been given to the Registrar under clause 26.

***Division 2 – Declaration of organisations etc to be Nominated Organisations***

**24. How does a organisation etc become a Nominated Organisation?**

The Standing Committee may, by resolution, declare a diocesan organisation to be a Nominated Organisation for a Synod.

**25. How many Nominated Organisations may exist at one time?**

(1) Standing Committee may only make a declaration under clause 24 for up to 7 diocesan organisations for the same Synod in respect of which the Standing Committee proposes making the declaration.

(2) A declaration made in breach of subclause 25(1) is void.

**26. Notice must be given to the Registrar when a organisation etc is declared to be a Nominated Organisation**

Upon the making of a declaration under clause 24, the Standing Committee must give, or cause to be given, to the Registrar and to the governing body of the relevant organisation a written notice specifying –

- (a) the name of the organisation and the date on which the declaration was made; and
- (b) the Synod for which the organisation has been declared to be a Nominated Organisation.

***Division 3 – Chief Executive Officers of Nominated Organisations*****27. Nominated Organisation to give notice re Chief Executive Officer**

At any time after receiving notice under clause 26, the governing body of a Nominated Organisation may give to the Registrar written notice of the name of, and a postal and email address for, its Chief Executive Officer.

**28. Notice must be given to the Registrar when a person ceases to be Chief Executive Officer**

(1) If –

- (a) the governing body of a Nominated Organisation has given a notice under clause 27; and
- (b) the person referred to in that notice ceases to be the Chief Executive Officer,

the governing body of the Nominated Organisation must give to the Registrar written notice specifying the name of that person and the date on which that person ceased to be the Chief Executive Officer.

(2) The governing body of the Nominated Organisation may then give a notice under clause 27 in respect of its new Chief Executive Officer.

***Division 4 – Summoning of Chief Executive Officers to Synod*****29. Chief Executive Officers of Nominated Organisations must be summoned to Synod**

If –

- (a) a diocesan organisation is a Nominated Organisation; and
- (b) a notice has been given under clause 27; and
- (c) the person referred to in that notice has not ceased to be Chief Executive Officer; and
- (d) that person is not entitled to be summoned to the Synod under Part 4, 5 or 9 of this ordinance,

that person is a member of the Synod and must be summoned to each session of the Synod held after the date on which the person became the Chief Executive Officer.

**30. What if a person ceases to be Chief Executive Officer of a Nominated Organisation after a summons has issued?**

If a person is summoned to a session of Synod as the Chief Executive Officer of a Nominated Organisation, and before the first day of that session that person ceases to be the Chief Executive Officer of a Nominated Organisation, the summons is void.

**Part 7 – Nominated Ministers*****Division 1 – Nominated Ministers*****31. Who is a Nominated Minister?**

A person is a Nominated Minister for a Synod if –

- (a) that person has been appointed by the Archbishop to be a Nominated Minister for that Synod;
- (b) notice of the appointment has been given to the Registrar and to the Standing Committee under clause 34; and
- (c) that person has not retired as a Nominated Minister under clause 35.

**32. Number of Nominated Ministers**

(1) As soon as is practicable in the calendar year in which the first ordinary session of a Synod is to be convened, and in any event not less than 2 months before the first day of that session, the Archbishop shall advise the Standing Committee of the number of persons the Archbishop intends to appoint as Nominated Ministers for that Synod.

(2) The number of Nominated Ministers for a Synod must not, at any time, exceed that number which is equal to 10% of the total number of Parochial Ministers determined on 1 January in the calendar year in which the first session of that Synod is to be or was held.

(3) The Archbishop may, at any time, by advice to the Standing Committee increase the number of persons to be appointed as Nominated Ministers for a Synod provided that the total number of Nominated Ministers for that Synod must not exceed the number calculated in accordance with subclause (2).

(4) If the Archbishop increases the number of Nominated Ministers under subclause (3) within 2 months before the first day of a session of Synod, such increase does not take effect until the day after the last day of that session.

***Division 2 – Appointment of persons to be Nominated Ministers***

**33. Who may be appointed to be a Nominated Minister?**

The Archbishop may only appoint a person to be a Nominated Minister if –

- (a) that person is a Qualified Minister; and
- (b) that person is not entitled to be summoned to a session of Synod under Part 4, 6 or 9 of this ordinance.

**34. Notice must be given on the appointment of a person to be a Nominated Minister**

(1) The Archbishop must give written notice to the Registrar and the Standing Committee of the name of each person appointed by the Archbishop to be a Nominated Minister for a Synod and a postal and email address for such persons.

(2) The Archbishop must not appoint a person to be a Nominated Minister for a Synod if such appointment would result in the number of Nominated Ministers for that Synod exceeding the number advised by the Archbishop to the Standing Committee under subclauses 32(1) or (3).

***Division 3 – Retirement of Nominated Ministers***

**35. When does a person retire as a Nominated Minister?**

A person retires as a Nominated Minister if –

- (a) a Disqualifying Event occurs in respect of that person; or
- (b) the person resigns by written notice given to the Archbishop; or
- (c) the person ceases to be a Qualified Minister; or
- (d) the Archbishop, by written notice to the person, revokes the person’s appointment as a Nominated Minister; or
- (e) the person becomes entitled to be summoned to a session of Synod under Part 4, 6 or 9 of this ordinance.

**36. Notice must be given when a person retires as a Nominated Minister**

Upon a person retiring as a Nominated Minister the Archbishop must give, or cause to be given, to the Registrar a written notice specifying –

- (a) the name of the person and the date on which the person retired as a Nominated Minister; and
- (b) the Synod for which that person had been a Nominated Minister.

**37. Filling of Casual Vacancies**

The Archbishop may appoint a person to fill a vacancy in the office of a Nominated Minister.

***Division 4 – Summoning of Nominated Ministers to Synod***

**38. Nominated Ministers must be summoned to Synod**

Each Nominated Minister is a member of the Synod for which that person has been appointed and must be summoned to each session of that Synod convened after that person becomes a Nominated Minister.

**39. What if a person retires as a Nominated Minister after a summons has issued?**

If a person is summoned to a session of Synod as a Nominated Minister and before the first day of that session the person retires as a Nominated Minister, the summons is void.

Part 8 – Nominated Laypersons

***Division 1 – Nominated Laypersons***

**40. Who is a Nominated Layperson?**

A person is a Nominated Layperson for a Synod if –

- (a) that person has been elected to be a Nominated Layperson for that Synod; and
- (b) notice of the election has been given to the Registrar under clause 45; and

- (c) the person has not retired as a Nominated Layperson under clause 46.

**41. Number of Nominated Laypersons**

- (1) The number of Nominated Laypersons for a Synod is the same as the number of Nominated Ministers for that Synod which the Archbishop has advised the Standing Committee under subclause 32(1) or (3).
- (2) The retirement of a Nominated Minister under clause 35 does not reduce the number of Nominated Laypersons for a Synod.

***Division 2 – Election of Nominated Laypersons***

**42. Who elects persons to be Nominated Laypersons?**

The Standing Committee may elect persons to be Nominated Laypersons.

**43. Who may be elected to be a Nominated Layperson**

The Standing Committee may only elect a person to be a Nominated Layperson if –

- (a) that person is a Qualified Person; and
- (b) that person is not entitled to be summoned to a session of Synod under Part 5, 6 or 9 of this ordinance.

**44. When may persons be elected to be Nominated Laypersons?**

On receipt of advice from the Archbishop under clause 32 or at any time thereafter, the Standing Committee may, by resolution, elect Qualified Persons to be Nominated Laypersons.

**45. Notice must be given on the election of a Nominated Layperson**

Upon the election of a person to be a Nominated Layperson, the Standing Committee must give, or cause to be given, to the Registrar written notice –

- (a) specifying the name of that person and the date of election; and
- (b) specifying a postal and email address for that person; and
- (c) specifying the Synod for which that person has been elected to be a Nominated Lay Person; and
- (d) certifying that the person elected to be a Nominated Lay Person has given the consent required by clause 5A and that a written record of the consent has been retained.
- (e) certifying that the person elected to be a Nominated Lay Person had signed the declaration required by clause 6(1) and that the signed declaration has been retained.

***Division 3 – Retirement of Nominated Laypersons***

**46. When does a person retire as a Nominated Layperson?**

A person retires as a Nominated Layperson if –

- (a) a Disqualifying Event occurs in respect of that person; or
- (b) that person resigns by written notice given to the Diocesan Secretary; or
- (c) the Standing Committee, by resolution, revokes the person's entitlement to hold office as a Nominated Layperson; or
- (d) the person becomes entitled to be summoned to Synod under Part 5, 6 or 9 of this ordinance.

**47. Notice must be given when a person retires as a Nominated Layperson**

When a person retires as a Nominated Layperson, the Standing Committee must give, or cause to be given, to the Registrar written notice specifying the name of that person and the date on which that person retired as a Nominated Layperson.

**48. A new Nominated Layperson may be elected to fill a vacancy**

A person may be elected by the Standing Committee to fill a vacancy in the office of a Nominated Layperson.

***Division 4 – Summoning of Nominated Laypersons to Synod***

**49. Nominated Laypersons must be summoned to Synod**

Each Nominated Layperson is a member of the Synod for which that person has been elected and must be summoned to each session of that Synod convened after the date on which that person becomes a Nominated Layperson.

**50. What if a person retires as a Nominated Layperson after a summons has issued?**

If a person is summoned to a session of Synod as a Nominated Layperson and before the first day of that session the person retires as a Nominated Layperson, the summons is void.

## Part 8A – Nominated Indigenous Representatives

***Division 1 – Election of Nominated Indigenous Representatives*****50A. Who is a Nominated Indigenous Representative?**

A person is a Nominated Indigenous Representative for a Synod if –

- (a) that person has been elected to be a Nominated Indigenous Representative for that Synod; and
- (b) notice of the election has been given to the Registrar under clause 50C; and
- (c) the person has not retired as a Nominated Indigenous Representative under clause 50D.

**50B. Election of Nominated Indigenous Representatives**

(1) The Sydney Anglican Indigenous Peoples' Ministry Committee may elect up to 2 persons to be Nominated Indigenous Representatives.

(2) A person may be elected to be a Nominated Indigenous Representative if the person is –

- (a) an Indigenous Person,
- (b) a Qualified Person or Qualified Minister, and
- (c) not entitled to be summoned to a session of the Synod under any Part of this Ordinance other than Part 8A.

**50C. Notice must be given on the election of a Nominated Indigenous Representative**

Upon the election of a person to be a Nominated Indigenous Representative, the Sydney Anglican Indigenous Peoples' Ministry Committee must give, or cause to be given, to the Registrar written notice –

- (a) specifying the name of that person and the date of election; and
- (b) specifying a postal and email address for that person; and
- (c) specifying the Synod for which that person has been elected to be a Nominated Indigenous Representative; and
- (d) if the person elected to be a Nominated Indigenous Representative is a Qualified Person, certifying that the person has given the consent required by clause 5A and that the person has signed the declaration required by clause 6(1), and that a written record of the consent and the signed declaration have been retained.

***Division 2 – Retirement of Nominated Indigenous Representatives*****50D. When does a person retire as a Nominated Indigenous Representative?**

A person retires as a Nominated Indigenous Representative if –

- (a) a Disqualifying Event occurs in respect of that person, or
- (b) that person resigns by written notice given to the Chairman of the Sydney Anglican Indigenous Peoples' Ministry Committee, or
- (c) the person becomes entitled to be summoned to Synod under any Part of this Ordinance other than Part 8A.

**50E. Notice must be given when the person retires as a Nominated Indigenous Representative**

When a person retires as a Nominated Indigenous Representative, the Sydney Anglican Indigenous Peoples' Ministry Committee must give, or cause to be given, to the Registrar written notice specifying the name of that person and the date on which that person retired as a Nominated Indigenous Representative.

**50F. A new Nominated Indigenous Representative may be elected to fill a vacancy**

A person may be elected by the Sydney Anglican Indigenous Peoples' Ministry Committee to fill a vacancy in the office of a Nominated Indigenous Representative.

***Division 3 – Summoning of Nominated Indigenous Representative to Synod***

**50G. Nominated Indigenous Representatives must be summoned to the Synod**

Each Nominated Indigenous Representative is a member of the Synod for which that person has been elected and must be summoned to each session of that Synod convened after the date on which that person becomes a Nominated Indigenous Representative.

**50H. What if a person retires as a Nominated Indigenous Representative after a summons has issued?**

If a person is summoned to a session of Synod as a Nominated Indigenous Representative and before the first day of that session the person retires as a Nominated Indigenous Representative, the summons is void.

**Part 9 – Other Members of Synod**

**51. The Chancellor**

The Chancellor is a member of the Synod and must be summoned to each session of the Synod.

**52. The Registrar**

The Registrar is a member of the Synod and must be summoned to each session of the Synod.

**52A. Diocesan Secretary**

The Diocesan Secretary is a member of the Synod and must be summoned to each session of the Synod.

**52B. Regional Bishops**

The Regional Bishops are members of the Synod and must be summoned to each session of the Synod.

**52C. Archdeacon for Women's Ministry**

The Archdeacon for Women's Ministry is a member of the Synod and must be summoned to each session of the Synod.

**52D. Principal of Moore Theological College**

The Principal of Moore Theological College is a member of the Synod and must be summoned to each session of the Synod.

**53. Warden of St Paul's College and College Representatives**

(1) The Warden of St Paul's College is a member of the Synod and must be summoned to each session of the Synod.

(2) Two Qualified Persons, elected by the council of St Paul's College from among themselves, must, subject to the giving of the notice under subclause (3), be summoned to the Synod.

(3) The Warden must cause a certificate of election to be delivered to each member of the council so elected and must give, or cause to be given, to the Registrar written notice –

- (a) specifying the names of the persons elected and the date of election; and
- (b) specifying postal and email addresses for those persons; and
- (c) certifying that those persons have given the consent required by clause 5A and that a written record of such consents has been retained.

**Part 10 – Transitional**

**54. Commencement and Transitional**

(1) Parts 2 to 8 inclusive and Part 9 and clause 55 commence on the last to occur of –

- (a) the date on which the Constitution Ordinance 1994 of the Provincial Synod is adopted by the Synod of each diocese in the Province of New South Wales; and
- (b) the passing of a canon of the General Synod ratifying the Constitution Ordinance 1994 of the Provincial Synod.

(2) With effect on and from the date of commencement of Parts 2 to 8 inclusive and Part 9 –

- (a) persons who, immediately before that date, were representatives of a Parochial Unit elected for a Synod under the Former Legislation are taken to be Parochial Representatives duly elected for that Synod under Part 5;
- (b) persons who, immediately before that date, were nominated chief executive officers for a Synod under clause 2A of the Synod Representative and Membership Ordinance 1945 are

- taken to be duly appointed Chief Executive Officers of a Nominated Organisation for that Synod under Part 6;
- (c) clergymen who, immediately before that date, were eligible to be summoned to a session of Synod under the 14th Constitution Ordinance 1988 are taken to be duly appointed Nominated Ministers for that Synod under Part 7; and
  - (d) laypersons who, immediately before that date, were eligible to be summoned to a session of Synod under the Regulations made by the Synod on 23 September 1903 under the 14th Constitution in the Schedule to the Anglican Church of Australia Constitutions Act 1902 are taken to be duly appointed Nominated Laypersons for that Synod under Part 8.
- (3) A declaration made by a person under the 17th Constitution in the Schedule to the Anglican Church of Australia Constitutions Act 1902 for the purposes of the Synod which is current on the date on which 2 to 8 inclusive and Part 9 commence are taken to have been made under clause 6.

### 55. Repeal of Former Legislation

The Former Legislation is repealed but without invalidating anything done under or pursuant to it before the commencement of this clause.

### Dictionary

In this ordinance unless the context otherwise requires –

“Associate Minister” means an assistant minister or a senior assistant minister within the meaning of the Assistant Ministers Ordinance 1990.

“Chief Executive Officer” of a diocesan organisation means the person who is responsible to the governing body of the organisation for the work of the organisation.

“Disqualifying Event” in relation to a person means any of the following –

- (a) the death of that person;
- (b) becoming an insolvent under administration;
- (c) becoming a mentally incapacitated person;

“Former Legislation” means each of the following (as amended) –

- (a) Synod Representative and Membership Ordinance 1945;
- (b) 14th Constitution Ordinance 1988; and
- (c) regulations made by the Synod on 23 September 1903 under the 14th of the Constitutions contained in the Schedule to the Anglican Church Constitutions Act Amendment Act of 1902.

“General Meeting” means –

- (a) in relation to a Parochial Unit having only one church to which the rules in Schedule 1 of the Parish Administration Ordinance 2008 apply – a general meeting of the parishioners of the church of the Parochial Unit, and
- (b) in relation to a Parochial Unit having more than one church to which the rules in Schedule 1 of the Parish Administration Ordinance 2008 apply or in relation to a Parochial Unit to which the rules in Schedule 2 of that ordinance apply – a general meeting of the parishioners of the Parochial Unit, and
- (c) in relation to St Andrew’s Cathedral – the Annual Meeting of the Cathedral Congregations under the Cathedral Ordinance 1969.

“Indigenous Person” means a person of the Aboriginal race of Australia or who is a descendant of the Indigenous inhabitants of the Torres Strait Islands.

“Minister” means a person in holy orders.

“Nominated Indigenous Representative” for a Synod means a person to whom clause 50A applies.

“Nominated Layperson” for a Synod means a person to whom clause 40 applies.

“Nominated Minister” for a synod means a person to whom clause 31 applies.

“Nominated Organisation” for a Synod means a diocesan organisation that, in accordance with clause 23, is a nominated organisation for the Synod.

“Parish” means a parish constituted under or recognised as such under the Parishes Ordinance 1979 or a recognised church under the Recognised Churches Ordinance 2000.

“Parochial Minister” means a Minister who is licensed as the rector or acting rector of a Parochial Unit.

“Parochial Representative” for a Synod means a person to whom clause 9 applies.

“Parochial Unit” means a Parish and a Provisional Parish.

“Provisional Parish” means a provisional parish constituted under or recognised as such under the Parishes Ordinance 1979 or a provisional recognised church under the Recognised Churches Ordinance 2000.

“Qualified Minister” means a Minister who is authorised or licensed to officiate by the Archbishop.

“Qualified Person” means a layperson who –

- (a) is 18 years of age or older; and
- (b) is a communicant member of the Anglican Church of Australia.

“session of the Synod” means all meetings of the Synod to which a summons issued to members of the Synod applies.

“Synod Communication” means a summons, notice, document or other communication that is –

- (a) required by ordinance or resolutions of the Synod or the Standing Committee to be sent or provided to one or more members of the Synod; or
- (b) sent or provided to all members of the Synod or a class of members of the Synod by the Diocesan Secretary or the Secretary of the Synod in the course of administering the Synod.

“Wardens” means –

- (a) in relation to a Parochial Unit to which the rules in Schedule 1 of the Parish Administration Ordinance 2008 apply – the wardens of the principal or only church of the Parochial Unit, and
- (b) in relation to a Parochial Unit to which the rules in Schedule 2 of the Parish Administration Ordinance 2008 apply – the wardens of the Parochial Unit, and
- (c) in relation to St Andrew’s Cathedral – the Cathedral Chapter.

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### **Note**

The amendments made by Ordinance No 34, 2015 commence on the day immediately following the last day of the 2nd session of the 50<sup>th</sup> Synod.

### **Table of Amendments**

|            |  |
|------------|--|
| Clause 4   | Amended by Ordinance No 29, 2000.  |
| Clause 5   | Amended by Ordinance No 26, 2006.  |
| Clause 5A  | Inserted by Ordinance No 41, 2013 and amended by Ordinance No 38, 2014.                          |
| Clause 6   | Amended by Ordinances Nos 46, 2003; 26, 2006; 32, 2009 and 34, 2015.                             |
| Clause 6A  | Inserted by Ordinance No 41, 2013.   |
| Clause 6B  | Inserted by Ordinance No 41, 2013.   |
| Clause 6C  | Inserted by Ordinance No 41, 2013.   |
| Clause 8A  | Inserted by Ordinance No 46, 2003 and amended by Ordinance No 41, 2013.                          |
| Clause 8B  | Inserted by Ordinance No 46, 2003.   |
| Clause 8C  | Inserted by Ordinance No 46, 2003.   |
| Clause 11  | Amended by Ordinance No 35, 1997.  |
| Clause 12  | Amended by Ordinance No 34, 2015.  |
| Clause 13  | Amended by Ordinance No 34, 2015.  |
| Clause 14  | Amended by Ordinance No 34, 2015.  |
| Clause 15  | Amended by Ordinance No 34, 2015.  |
| Clause 16  | Amended by Ordinance No 34, 2015.  |
| Clause 17  | Amended by Ordinances Nos 41, 2013 and 34, 2015.   |
| Clause 18  | Amended by Ordinances Nos 29, 1997; 34, 2015 and 42, 2016.                                       |
| Clause 19  | Amended by Ordinance No 34, 2015.  |
| Clause 20  | Amended by Ordinance No 34, 2015.  |
| Clause 22A | Inserted by Ordinance No 46, 2003 and amended by Ordinances Nos 41, 2013; 34, 2015 and 42, 2016. |

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|------------|--|
| Clause 22B | Inserted by Ordinance No 46, 2003.   |
| Clause 22C | Inserted by Ordinance No 46, 2003.   |
| Clause 23  | Amended by Ordinance No 40, 2017.  |
| Clause 24  | Amended by Ordinance No 40, 2017.  |
| Clause 25  | Amended by Ordinances Nos 47, 2003, 42, 2016 and 40, 2017.   |
| Clause 26  | Amended by Ordinance No 40, 2017.  |
| Clause 27  | Amended by Ordinance No 41, 2013.  |
| Clause 28  | Amended by Ordinance No 41, 2013.  |
| Clause 29  | Amended by Ordinances Nos 41, 2013 and 40, 2017.   |
| Clause 34  | Amended by Ordinance No 41, 2013.  |
| Clause 35  | Amended by Ordinance No 42, 2016.  |
| Clause 36  | Amended by Ordinance No 41, 2013.  |
| Clause 45  | Amended by Ordinances Nos 41, 2013 and 34, 2015.   |
| Clause 46  | Amended by Ordinance No 42, 2016.  |
| Clause 50A | Inserted by Ordinance 26, 2006 and amended by Ordinance No 32, 2009.   |
| Clause 50B | Inserted by Ordinance 26, 2006. Omitted and new clause inserted by Ordinance No 32, 2009.                              |
| Clause 50C | Inserted by Ordinance 26, 2006 and amended by Ordinances Nos 41, 2013 and 34, 2015.                                    |
| Clause 50D | Inserted by Ordinance 26, 2006 and amended by Ordinance No 32, 2009.   |
| Clause 50E | Inserted by Ordinance 26, 2006.  |
| Clause 50F | Inserted by Ordinance 26, 2006.  |
| Clause 50G | Inserted by Ordinance 26, 2006.  |
| Clause 50H | Inserted by Ordinance 26, 2006.  |
| Clause 52A | Inserted by Ordinance No 47, 2003.   |
| Clause 52B | New clause inserted by Ordinance No 42, 2016.  |
| Clause 52C | New clause inserted by Ordinance No 42, 2016.  |
| Clause 52D | New clause inserted by Ordinance No 42, 2016.  |
| Clause 53  | Amended by Ordinance No 41, 2013.  |
| Clause 54  | Amended by Ordinance No 26, 2006.  |
| Dictionary | Amended by Ordinances Nos 35, 1997; 46, 2003; 39, 2004; 26, 2006; 32, 2009; 41, 2013; 38, 2014, 34, 2015 and 40, 2017. |



## 47/18 Property Use Policy

### 8/17 Statement of Anglican Doctrine of Marriage

(A report of the Standing Committee.)

#### Key Points

- A policy of the Synod, including the Property Use Policy, has a similar status to a resolution of the Synod insofar as it represents the views of a majority of the members of the Synod at the time the policy was agreed. However ordinances bind diocesan bodies according to the terms of the relevant power or powers relied on. While the terms of the Property Use Policy are not of themselves binding on diocesan bodies, clause 4 of the *Sydney Anglican Use of Church Property Ordinance 2018* gives the terms of the Policy particular importance as part of a binding ordinance of the Synod.
- The inclusion of the doctrine of marriage in the Statement of Faith set out in Appendix 3 of the Governance Policy for Diocesan Organisations, without the inclusion of a range of currently contested doctrines on other matters, would have the effect of fixing the statement as an expression of concern in relation to one doctrine at a particular point in time. It is undesirable and impractical to attempt to itemise in the Statement of Faith a list of all other doctrinal matters currently relevant and contested in our society. Furthermore, the primary purpose of the Statement of Personal Faith is to require that those who serve in key roles in our organisations are Christians, and including specific Anglican doctrines in the Statement would preclude members of other denominations.
- The Statement of Faith should be amended so that a person also affirms that they will endeavour to fulfil their duties in accordance with the “other applicable ordinances and policies of the Synod”. A corresponding change is proposed to the Statement of Support for Christian Ethos.
- The Committee also proposes certain amendments to the Property Use Policy to make clear that the Policy does not require disengagement and distancing from the community around us.

#### Purpose

1. The purpose of this report is to respond to requests made by the Synod in relation to its Property Use Policy under Resolution 47/18 and in relation to the statement of our Anglican Doctrine of Marriage under Resolution 8/17.

#### Recommendations

2. Synod note this report.
3. Synod consider the following motion to be moved at the forthcoming session of the Synod “by request of the Standing Committee” –

‘Synod agrees to amend its Property Use Policy by inserting the following as a new paragraph 10(a) –

“This policy is not intended to require a withdrawal from, or the exclusion of, those who do not share our doctrines, tenets and beliefs. Rather, we should welcome to our properties those who do not share our doctrines, tenets and beliefs, to the fullest extent possible, yet in a way that does not cause our doctrines, tenets and beliefs to be contravened or compromised. The mere presence of those who do not share our beliefs or the mere expression of beliefs we do not share, will not contravene this policy. However allowing our property to be used for the promotion or propagation of such beliefs does. For example, it does not contravene our doctrines, tenets and beliefs for a resident of an Anglican retirement village who is an adherent of another faith to practise their faith in the privacy of their own residence, but it would be a contravention if the retirement village were to allow a service of public worship for those of that faith to be held.”

4. Synod consider the following motion be to moved at the forthcoming session of the Synod “by request of the Standing Committee” –
- ‘Synod agrees –
- (a) to amend the Statement of Personal Faith set out in Appendix 3 of the Governance Policy for Diocesan Organisations by amending paragraph 3 of that statement as follows -
 

“I shall endeavour to fulfil my duties as a member/the Chief Executive Officer [delete whichever is not applicable] of the [insert name of board] in accordance with its Christian ethos, ~~and~~ its constituting ordinance, and other applicable ordinances and policies of the Synod.”, and
  - (b) to amend the Statement of Support for Christian Ethos set out in Appendix 4 of the Governance Policy for Diocesan Organisations by amending paragraph 2 of that statement as follows –
 

“I shall endeavour to fulfil my duties as a member of the School Council to which I am elected in accordance with its Christian ethos, ~~and~~ its constituting ordinance, and other applicable ordinances and policies of the Synod.”
5. If amendments in or to the effect of the above are made to one or both of the Property Use Policy and the Governance Policy for Diocesan Organisations, Synod consider a suitable form of the following motion at the forthcoming session of Synod “by request of the Standing Committee” –
- ‘Synod –
- (a) requests that the amended Property Use Policy be circulated to all applicable diocesan bodies together with the amended Statements of Personal Faith and Support for Christian Ethos under the Governance Policy for Diocesan Organisations,
  - (b) requests that diocesan bodies ensure they continue to comply with the requirements of applicable ordinances and policies of the Synod, including the Property Use Policy, and
  - (c) requests that, where applicable, the form of the Statement of Personal Faith required to be signed by those to be elected or appointed as members of the boards or councils of diocesan bodies or as the Chief Executive Officer of such bodies be updated to the amended form in their constituting ordinances,
  - (d) in other cases, notes its expectation under the Governance Policy for Diocesan Organisations that those to be elected or appointed as members of the boards or councils of diocesan bodies or as the Chief Executive Officer of such bodies will sign the Statement of Personal Faith or, if applicable until 1 July 2020, the Statement of Support for Christian Ethos in the amended form, and
  - (e) requests further feedback from diocesan bodies to ensure the Property Use Policy remains an effective tool for ensuring our doctrines, tenets and beliefs are consistently upheld across the whole of the undertaking of the Diocese.’

## Background

6. In 2018, the Synod passed the *Sydney Anglican Use of Church Property Ordinance 2018* and the related Property Use Policy. The resolution to pass the policy included a request for feedback and review during the first year of operation of this new policy –

### **47/18 Property Use Policy**

Synod passes the *Property Use Policy* as a Policy of the Synod, and requests –

- (a) Synod members to provide feedback on the policy to the Diocesan Secretary by 28 February 2019, and
  - (b) Standing Committee to review the policy, including with reference to Resolution 8/17, and bring recommendations to the next ordinary session of the Synod.
7. As specified in clause (b) of resolution 47/18, the review of the policy was to include further consideration of resolution 8/17 from the previous year –

**8/17 Statement of Anglican doctrine of marriage**

Synod –

- (a) requests that Standing Committee appoint a committee of suitably qualified persons to consider whether the Diocesan Education Policy, the Corporate Governance Policy Statement of Faith, or any other relevant diocesan policies, statements or ordinances should be amended to state formally our Anglican doctrine that marriage is the union of a man and a woman for life to the exclusion of all others, so as to assist the ability of our Anglican schools and other organisations to maintain that it is a genuine, legitimate and justified occupational requirement for their board members, principals, executive officers and other relevant staff and office holders to hold to this traditional Christian belief about marriage, in order to maintain the Christian religious ethos of our institutions,
  - (b) affirms that such a committee could also consider any other core doctrinal matters currently relevant and contested in our society,
  - (c) encourages Standing Committee to consider making any amendments suggested by the committee, and
  - (d) asks that this be treated as a matter of urgency.
8. The Standing Committee resolved in November 2018 that the committee that had prepared the Property Use Policy in 2018 be reconvened to conduct the review and bring a report to the Standing Committee. The Committee that met to conduct this review comprised the following -
- |                                       |                              |
|---------------------------------------|------------------------------|
| Bishop Michael Stead (Chair)          | Mr Stephen Kinsella (EdComm) |
| Mr Robert Wicks                       | Mr Grant Millard (Anglicare) |
| Assoc Professor Neil Foster           | The Rev Michael Kellahan     |
| Mr Max Caddy (for the CEO of the ASC) | Dr Mark Thompson             |
| Dr Ed Loane                           |                              |
9. At its meeting in June 2019, the Standing Committee requested that a committee appointed by the Chancellor bring a report to the next meeting clarifying the extent to which the requirements of the *Sydney Anglican Use of Church Property Ordinance 2018* and the policy made under that ordinance are applicable to or binding on churches, schools and organisations. This work was also referred to the Committee reviewing the Property Use Policy.

**Extent to which the Property Use Policy and Ordinance are applicable or binding**

10. The Committee considered it is appropriate to consider first the extent to which the requirements of the *Sydney Anglican Use of Church Property Ordinance 2018* and the Property Use Policy referred to in that ordinance are applicable to or binding on churches, schools and organisations.
11. The application of the Ordinance and Policy and their capacity to bind are separate but related questions.

**Application of ordinance and policy**

12. The *Sydney Anglican Use of Church Property Ordinance 2018* applies to Diocesan bodies.
13. The Property Use Policy applies more broadly to Diocesan bodies and Anglican bodies.
14. A Diocesan body means any parish of the Diocese and any body corporate, organisation, school or association that exercises ministry within or on behalf of the Diocese –
  - (i) which is constituted by ordinance or resolution of the Synod,
  - (ii) in respect of whose organisation or property the Synod may make ordinances, or
  - (iii) which is a trustee of Church trust property.
15. An Anglican body means any body which has charitable purposes that include purposes for or in relation to the Anglican Church of Australia, which is not a Diocesan body, but is situated in the Diocese and the

governing body of the body has resolved to adopt this policy as amended from time to time as a policy of the body.

16. It is important to note that the application of the Policy to a (non-diocesan) Anglican body requires the agreement of the governing board or council of that body.

### Extent to which the policy and ordinance are binding

17. A policy of the Synod, including the Property Use Policy, has a similar status to a resolution of the Synod insofar as it represents the views of a majority of the members of the Synod at the time the policy was agreed. While there is an expectation that bodies which are constituted by the Synod or in respect of whose property the Synod may make ordinances (ie. diocesan bodies) will follow the policies of the Synod, a policy of the Synod is not, of itself, binding on such bodies. An example of such a policy is the Synod's Governance Policy for Diocesan Organisations.
18. The Synod does however have certain powers to make ordinances which are binding on diocesan bodies (eg. s.4 Anglican Church of Australia Constitutions Act 1902; s.24 Anglican Church of Australia Trust Property Act 1917; ss.6(2) and 10(1) Anglican Church of Australia (Bodies Corporate) Act 1938).
19. The extent to which these ordinances bind diocesan bodies varies according to the terms of the relevant power or powers relied on.
20. In contrast to its policies (which the Synod expects will be followed by those to whom the policies apply), the Synod reserves its ordinance making powers for matters which are sufficiently important to require compliance. Examples of ordinances that make provision for matters of importance for diocesan bodies, in addition to their respective constituting ordinances, include the *Accounts, Audits and Annual Reports Ordinance 1995*, the *Anglican Schools Ministry Ordinance 2016* and the *Sydney Anglican Use of Church Property Ordinance 2018*.

### Interaction between the Property Use Policy and Ordinance

21. The key provision of the *Sydney Anglican Use of Church Property Ordinance 2018* is clause 4 which is as follows –
- (1) A Diocesan body must only use or allow the use of Church property for acts or practices which conform to the doctrines, tenets and beliefs of the Diocese.
  - (2) A Diocesan body conforms to the doctrines, tenets and beliefs of the Diocese if it undertakes or authorises acts or practices which –
    - (a) are consistent with the [Property Use] Policy, or
    - (b) involve not allowing Church property to be used for an activity that is inconsistent with the Policy.
  - (3) Any dispute about whether a use or proposed use of Church property conforms to the doctrines, tenets and beliefs of the Diocese is to be determined by the Archbishop.
22. It follows that while the terms of the Property Use Policy are not of themselves binding on diocesan bodies, clause 4 of the Ordinance gives the terms of the Policy particular importance as part of a binding ordinance of the Synod.
23. The reason for giving the terms of the Property Use Policy particular importance are set out in full in the Committee's previous report to the Synod in 2018 entitled *8/17 Statement of Anglican doctrine of marriage*. In summary, it was considered that the most appropriate way to address a number of threats to maintaining the Christian ethos of our Anglican institutions was through the implementation of a Property Use Policy, which would (at the same time) –
- (a) articulate certain "doctrines, beliefs and tenets" to facilitate reliance on the balancing clauses in anti-discrimination legislation, and
  - (b) provide clear guidance for ministers, wardens and board members as to the appropriate and inappropriate uses of church property, and
  - (c) be binding on members of boards in their decisions about church property.

24. In view of the above, the Committee wishes to draw attention to the significance of the consultation that has been undertaken with diocesan bodies to ensure the Property Use Policy is an effective tool for upholding our doctrines, tenets and beliefs across the whole of the undertaking of the Diocese. The Committee is grateful to those diocesan bodies which have contributed feedback as part of this consultation process, and encourages those bodies yet to consider the Policy to engage in any further consultation on its terms.
25. The remainder of this report outlines the Committee's finding and recommendations in relation to the latest consultation process arising from Synod resolution 47/18.

## Expanding the Statement of Faith

26. Feedback received by the Committee argued that the diocesan Statement of Personal Faith should be expanded to include explicit reference to our Anglican doctrine that marriage is the union of a man and a woman for life to the exclusion of all others. The Statement of Personal Faith is a part of the Governance Policy for Diocesan Organisations. Key office holders are required to affirm commitment to the Statement of Personal Faith prior to commencing in a governance role. The purpose of the expansion would be to enable Anglican schools and other organisations to require that board members, principals and executive officers hold this traditional Christian belief.
27. As discussed above, the Property Use Policy applies to all Sydney Diocesan bodies. It is likely that the obligation under clause 4 of the *Sydney Anglican Use of Church Property Ordinance 2018* requiring the use of church property to conform to the doctrine, tenets and beliefs of the Diocese, including the traditional Christian view of marriage, is binding in certain circumstances on diocesan bodies and those that govern or otherwise lead such bodies. However, it was argued, this does not go far enough, because it would still allow (for example) a school principal to promote a personal belief about marriage that was opposed to the doctrine of the diocese, provided this did not involve the use of school property.

28. It was suggested that paragraph 2 of the statement of faith be modified as follows –

2. In particular I believe –
- (a) that God's word written, the canonical Scriptures of the Old and New Testaments, is the supreme authority in all matters of faith and conduct;
  - (b) that there is only one way to be reconciled to God which is through his Son, Jesus Christ, who died for our sins and was raised for our justification;
  - (c) that we are justified before God by faith only; and
  - (d) that marriage is the union of a man and a woman for life, to the exclusion of all others.

29. The Committee recognised that it is important to ensure that those who lead our organisations personally hold our doctrines, tenets and beliefs (and not merely that they are willing to use Church property in accordance with a diocesan policy). However, the committee concluded that adding a statement about marriage to section 2 of the Statement of Personal Faith was not the appropriate way to do this. Paragraph 1 of the Statement of Personal Faith defines the Christian faith with reference to the Nicene Creed and Apostles' Creed, and paragraph 2 adds three further (protestant and evangelical) core beliefs that are not sufficiently articulated in the creeds - the authority of the scriptures, the atonement and justification by faith only. As important as the doctrine of marriage is, it is not in the same category as these core beliefs.
30. The Committee considered that the inclusion of the doctrine of marriage in the Statement of Faith, without the inclusion of a range of currently contested doctrines on other matters, for example on the human person (which touches on the on-going debates in relation to abortion, euthanasia and gender), would have the effect of fixing the statement as an expression of concern in relation to one doctrine at a particular point in time. The Committee considered this would be undesirable and over time potentially problematic. For similar reasons, the Committee considered it undesirable and impractical to attempt to itemise in the Statement of Faith a list of all other doctrinal matters currently relevant and contested in our society.
31. In an attempt to avoid these difficulties, the Committee considered the following amendment to paragraph 3 of the Statement of Faith as an alternative means of achieving a similar end–

3. I affirm the doctrines, tenets and beliefs of the Anglican Church of Australia in the Diocese of Sydney and acknowledge the requirement of the diocesan Property Use Policy that church property is not to be used for purposes which contravene the doctrines, tenets and beliefs expressed in that policy. I shall endeavour to fulfil my duties as a member/the Chief Executive Officer [delete whichever is not applicable] of the [insert name of board] in accordance with its ~~Christian~~ Anglican ethos and its constituting ordinance.

32. Currently paragraph 3 is a commitment to act in accordance with the “Christian ethos and constituting ordinance” of the diocesan body. Modifying paragraph 3 in this way would not only draw attention to the requirements of the Property Use Policy, but would also require a signatory to affirm that they hold the doctrines, tenets and beliefs of the Anglican Church of Australia in the Diocese of Sydney. There would also be a consequential change from “Christian ethos” to “Anglican ethos” in the existing wording of paragraph 3.
33. The doctrines, tenets and beliefs expressed in the Property Use Policy include the following –
- We believe in one God, who is Father, Son and Spirit. Our triune God alone is to be worshipped, in the way he requires. There is only one way of salvation, which comes through faith in the atoning work of Jesus Christ. The gospel calls us to turn from sin and abandon our idolatrous or syncretistic worship, and to worship the true God, through Jesus Christ, by the Holy Spirit. (Paragraph 11)
  - We believe that all human beings are uniquely created in the image of God, loved by God and precious to him. We believe that God created humanity with two complementary sexes – male and female – and that both male and female are equally made in God’s image. We believe that God made people of all races and abilities as equal in his sight, and offers salvation through faith in the atoning work of Jesus Christ to all people without distinction. We believe that God alone determines the beginning and end of life. (Paragraph 15)
  - We believe that there are only two expressions of faithful sexuality: marriage between a man and a woman or abstinence in singleness. (Paragraph 18)
  - We believe that the gospel of salvation brings freedom from our captivity to sin. Christian freedom is not a freedom to indulge the sinful nature. Rather, Christians should seek to throw off everything that hinders and the sin that so easily entangles and should seek not to cause others to sin by leading them into temptation. (Paragraph 21)
34. However the Archbishop has expressed the view that it is not appropriate to amend the Statement of Personal Faith in this way because this misunderstands the purpose of this statement. In the Archbishop’s view, the purpose of the Statement of Personal Faith is to require that those who serve in key roles in our organisations are Christians. They may be Anglican Christians, but the Statement of Personal Faith currently does not require this. Sections 1 and 2 are a statement of reformed protestant Christian faith, which could be signed (for example) by Presbyterians and Baptists.
35. The Archbishop has drawn attention to the fact that a requirement that all board members etc. “affirm the doctrines, tenets and beliefs of the Anglican Church of Australia in the Diocese of Sydney” would preclude Baptists (who reject infant baptism) and Presbyterians (who do not recognise bishops as an order of ministry) from serving on our boards or as heads of our schools and diocesan organisations. Furthermore, requiring lay board members and heads to affirm Anglican doctrine would be a significant departure from Anglican practice. In contrast to ordained Anglican ministers, who are required to subscribe to the doctrines of the church, lay people have never been required to subscribe or otherwise affirm the doctrines of the church in order to qualify for membership in the church.
36. In the view of the Archbishop, a better way to ensure that board/council members are aware of their obligations to comply with the obligations to comply with the Property Use Policy is to make this explicit in the constituting ordinance of each organisation, using a variation on the form of words in the Arden Anglican School Ordinance recently passed by the Standing Committee.

The Council shall comply with all ordinances and policies of the Synod applying to the Council (as amended from time to time), including –

- (a) the *Accounts, Audits and Annual Reports Ordinance 1995*,
- (b) the *Anglican Schools Ministry Ordinance 2016*, and
- (c) the *Sydney Anglican Use of Property Ordinance 2018*

37. In view of the matters outlined above, the Committee has concluded that the following modest change should be made to the wording of paragraph 3 of the Statement of Faith in Appendix 3 of the Synod's Governance Policy –

"I shall endeavour to fulfil my duties as a member/the Chief Executive Officer [delete whichever is not applicable] of the [insert name of board] in accordance with its Christian ethos, ~~and its constituting ordinance,~~ and other applicable ordinances and policies of the Synod."

38. There would also be the following corresponding change to paragraph 2 of the Statement of Support for the Christian Ethos in Appendix 4 of the Governance Policy (notwithstanding the use of this statement will be discontinued under the Policy from 1 July 2020) –

"I shall endeavour to fulfil my duties as a member of the School Council to which I am elected in accordance with its Christian ethos, ~~and its constituting ordinance,~~ and other applicable ordinances and policies of the Synod."

39. In making these recommendations, the Committee is aware that this would still allow (for example) a school principal to promote a personal belief about marriage that was opposed to the doctrine of the Diocese, provided this did not involve the use of school property. However the Committee believes that the most appropriate way of addressing this possibility is through a careful selection process of those to be appointed or elected to leadership positions in diocesan bodies and, in the case of executive positions, a careful framing of the terms upon which they are appointed.

## **Modifying the Property Use Policy**

40. Other feedback received by the Committee noted that the Property Use Policy was framed negatively – for example in the phrase "not allowing Church property to be used for an activity that is inconsistent with the Policy." The unintended impact of this framing is that the policy could be read as requiring a disengagement and distancing from the community around us.
41. In response to this feedback, the committee recommends inserting a new paragraph 10(a) in the Property Use Policy. Paragraph 10 has several provisions which are headed by the statement "For the avoidance of doubt". The new paragraph 10(a) proposal is as follows.

|  |
|--|
| <p>10. For the avoidance of doubt –</p> <p>(a) This policy is not intended to require a withdrawal from, or the exclusion of, those who do not share our doctrines, tenets and beliefs. Rather, we should welcome to our properties those who do not share our doctrines, tenets and beliefs, to the fullest extent possible, yet in a way that does not cause our doctrines, tenets and beliefs to be contravened or compromised. The mere presence of those who do not share our beliefs or the mere expression of beliefs we do not share, will not contravene this policy. However allowing our property to be used for the promotion or propagation of such beliefs does. For example, it does not contravene our doctrines, tenets and beliefs for a resident of an Anglican retirement village who is an adherent of another faith to practise their faith in the privacy of their own residence, but it would be a contravention if the retirement village were to allow a service of public worship for those of that faith to be held.</p> |
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42. The other provisions of the Property Use Policy are unchanged.

For and on behalf of the Standing Committee.

DANIEL GLYNN  
**Diocesan Secretary**

29 August 2019

# Property Use Policy

## A Policy of the Synod of the Diocese of Sydney

### Introduction

1. The Synod has from time to time passed ordinances and resolutions to articulate the kinds of uses of church property that are (and are not) consistent with the purposes of the Anglican Church of Australia in the Diocese of Sydney.<sup>1</sup> These ordinances and resolutions seek to ensure that church property is not used for inappropriate purposes.
2. The purpose of this policy is to bring these various policy resolutions into a single document, and to clarify the theological rationale.
3. The doctrines, tenets and beliefs of the Diocese include, but are not limited to, the doctrines, tenets and beliefs set out in this policy. A Church body conforms to the doctrines, tenets and beliefs of the Diocese if it undertakes or authorises an act or practice which –
  - (a) is consistent with this policy, or
  - (b) involves not allowing church property to be used for an activity that is inconsistent with this policy.

From time to time there are certain actions and practices that a Church body will need to undertake in order to avoid injury to the religious susceptibilities of a significant proportion of Anglicans in the Diocese. However the Synod, as the governing body representing Anglicans in the Diocese, considers that, as a minimum, these include any act or practice undertaken to conform to the doctrines, tenets and beliefs set out in this policy.

4. On 23 October 2018, the Synod approved this policy in respect to Diocesan bodies under the *Sydney Anglican Use of Church Property Ordinance 2018*. The policy also applies to an Anglican body that chooses to adopt it as a policy of the body.

### Interpretation

5. In this Policy –

“Anglican body” means a body which has charitable purposes that include purposes for or in relation to the Anglican Church of Australia, which is not a Diocesan body, but is situated in the Diocese and the governing body of the body has resolved to adopt this policy as amended from time to time as a policy of the body.

“Diocese” means the Anglican Church of Australia in the Diocese of Sydney.

“Diocesan body” means –

- (a) a parish,
- (b) any body corporate, organisation, school or association that exercises ministry within or on behalf of the Anglican Church of Australia in the Diocese –
  - (i) which is constituted by ordinance or resolution of the Synod,
  - (ii) in respect of whose organisation or property the Synod may make ordinances, or
  - (iii) which is a trustee of Church trust property.

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<sup>1</sup> Examples include:

- (a) The *Anglican Church Property Trust Diocese of Sydney Ordinance 1965* prohibits the corporate trustee of the Diocese from licensing or allowing property to be used for purposes the Synod and Standing Committee may be resolution disapprove (clause 10(1). The disapproved purposes are set out in the Social Covenants Policy - section 11.2  
[https://www.sds.asn.au/sites/default/files/ACPT%20User%20guide\\_Leasing\\_and\\_Licensing\\_Church\\_Trust\\_Property\\_Current\\_1.pdf](https://www.sds.asn.au/sites/default/files/ACPT%20User%20guide_Leasing_and_Licensing_Church_Trust_Property_Current_1.pdf)
- (b) Use of churches by non-Anglican congregations - see s5.6 of the *Parish Administration Ordinance 2008* - only if "the profession of faith of the non-Anglican congregation is Bible-based"
- (c) The Ethical Investment Policy of the ACPT, defines “prohibited activities” as
  - (i) The manufacture or sale of Abortifacient or abortifacient-like contraceptives, or Alcohol, or Armaments, or Pornography, or Tobacco.
  - (ii) Undertaking medical and/or surgical elective abortions.
  - (iii) Undertaking stem cell research involving the destruction of embryos.
  - (iv) Gambling.

The Glebe Administration Board, the trustee of the Diocesan Endowment, is subject to similar ethical investment requirements.
- (d) Yoga and other such activities: <https://www.sds.asn.au/sites/default/files/reports/Y/Yoga.OtherSuchActivities.Rep2015.pdf>

“Church body” means a body that is an Anglican body or a Diocesan body.

“Church property” means –

- (a) Church trust property, and
- (b) the property of an Anglican body.

“Church trust property” has the same meaning as in section 4 of *Anglican Church of Australia Trust Property Act 1917*, being property that is held “for the use, benefit, or purposes” of the Anglican Church of Australia in a particular diocese.

“Synod” includes the Standing Committee of the Synod.

### **Policy Principles**

6. The priority use of church property is for Christian ministry conducted in accordance with the doctrines, tenets and beliefs of the Diocese.
7. Where church property is not suitable for ministry, is temporarily not required for current ministry purposes, or there are periods of time during the week in which a ministry property is not required for ministry purposes, it may be good stewardship of these resources to employ them for the general benefit of the community or for income-producing purposes, provided that all such income is used for the “use, benefit or purposes” of some part of the Diocese.
8. However, it is inappropriate for church property to be used to facilitate, or generate income from, activities which are inconsistent with the doctrines, tenets or beliefs of the Diocese. As a matter of policy, therefore, ***church property must not be used for purposes which contravene the doctrines, tenets and beliefs of the Diocese***. Without limiting the generality of this principle, the following sections provide a theologically grounded application of this policy to specific examples, in order to provide guidance for wardens, ministers, members of governing boards and others involved in decisions involving the use of church property.
9. The application of this policy is intended to be informed by other policies and guidelines endorsed by the Synod, including
  - Sydney Anglican Policy on Responding to Domestic Abuse
  - Ethical Investment Policy
  - Gender Identity Initial Principles of Engagement
10. For the avoidance of doubt,
  - (a) This policy does not prevent discussion and debate about contentious issues on church property, including dissent from the doctrinal statements in this policy. As Articles 20 and 21 remind us, Christians have erred in the past “in things pertaining to God”, and therefore as a church we must always be open to reform our doctrine, if that doctrine is contrary to God’s Word written.
  - (b) This policy does not override the terms of residential tenancy or occupancy agreements, commercial leases and contractual and statutory requirements for retirement living or residential aged care. The conformity with the doctrines, tenets and beliefs of the Diocese in relation to leased and licensed property is administered through the inclusion of the relevant “social covenants” in the lease or licence document pursuant to the *Church Trust Property (Declaration of Certain Purposes and Objects) Ordinance 1979*. In relation to the investment of church property, such conformity is administered through the *Investment of Church Trust Property Ordinance 1990*.
  - (c) This policy does not prevent an act or practice on Church property that is necessary for a body or person to comply with the law.

## The Application of this Policy

### Doctrine of Salvation

11. We believe in one God, who is Father, Son and Spirit. Our triune God alone is to be worshipped, in the way he requires. There is only one way of salvation, which comes through faith in the atoning work of Jesus Christ. The gospel calls us to turn from sin and abandon our idolatrous or syncretistic worship, and to worship the true God, through Jesus Christ, by the Holy Spirit.
12. Church property must therefore not be used for the worship of other gods, or to profess and promote a different doctrine of salvation.
13. The use of a church building by another Christian congregation for the purposes of worship is only allowed if “the profession of faith of the non-Anglican congregation is Bible-based” (section 5.6 of the *Parish Administration Ordinance 2008*). This “Bible-based” profession of faith must (at least) conform to the 4 core principles articulated in the statement of faith required of those who serve on the boards of our diocesan organisations - that is:
  - (a) The Christian faith as set forth in the Apostles’ and Nicene Creeds;
  - (b) That God's word written, the canonical Scriptures of the Old and New Testaments, is the supreme authority in all matters of faith and conduct;
  - (c) That there is only one way to be reconciled to God which is through his Son, Jesus Christ, who died for our sins and was raised for our justification; and
  - (d) That we are justified before God by faith only.
14. Some examples of property use which would be inconsistent with the doctrines, tenets and beliefs of the Diocese:
  - (a) Use of church property for the promotion of non-Christian religions such as Hinduism, Buddhism and Islam, or for events the purpose of which is to attack, denigrate or undermine Christian beliefs;
  - (b) Use of church property by other (Christian) groups, whose basis of faith differs from the four principles articulated above;
  - (c) Use of church property for activities which promote a spirituality that is in conflict with true Christian Spirituality. For example, those yoga classes which go beyond mere “positional yoga” and involve spiritual practices such as meditative practices and chants derived from Hinduism.

### Doctrine of the Human Person

15. We believe that all human beings are uniquely created in the image of God, loved by God and precious to him. We believe that God created humanity with two complementary sexes – male and female – and that both male and female are equally made in God’s image. We believe that God made people of all races and abilities as equal in his sight, and offers salvation through faith in the atoning work of Jesus Christ to all people without distinction. We believe that God alone determines the beginning and end of life.
16. Church property must therefore not be used for purposes which destroy human life or devalue the inherent worth of human beings in the image of God.
17. Some examples of property use which would be inconsistent with the doctrines, tenets and beliefs of the Diocese:
  - (a) Abortion advocacy;
  - (b) Undertaking or making referrals for medical and/or surgical elective abortions;
  - (c) Production of abortifacient or abortifacient-like contraceptives;
  - (d) Undertaking any activity that involves or leads to the destruction of human embryos;
  - (e) Advocacy for, or assistance with, euthanasia;
  - (f) Manufacture of armaments or other weapons of war;
  - (g) Activities that incite racial hatred;
  - (h) Advocacy of or activities that incite discrimination against people with disabilities.

### Doctrine of Marriage and Human Sexuality

18. We believe that there are only two expressions of faithful sexuality: marriage between a man and a woman or abstinence in singleness.
19. Church property must therefore not be used for activities which promote sexual intimacy outside of marriage, or which promote a version of marriage that is inconsistent with God’s plan for marriage.

The use of an Anglican Church building for a wedding by those from another denomination is only appropriate where the marriage rites to be used are consistent with authorised Anglican marriage services.

20. Some examples of property use which would be inconsistent with the doctrines, tenets and beliefs of the Diocese:
- (a) Production or distribution of pornography;
  - (b) Commercialisation of sexual services (e.g., a brothel);
  - (c) Solemnisation or blessing of a same-sex wedding;
  - (d) A reception venue for a same-sex wedding;
  - (e) Events for the purpose of advocacy for expressions of human sexuality contrary to our doctrine of marriage.

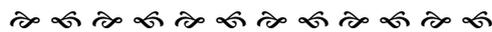
**Doctrine of Christian Freedom**

21. We believe that the gospel of salvation brings freedom from our captivity to sin. Christian freedom is not a freedom to indulge the sinful nature. Rather, Christians should seek to throw off everything that hinders and the sin that so easily entangles and should seek not to cause others to sin by leading them into temptation.
22. Church property must therefore not be used for activities which profit from addictive desires, or which will cause others to become entrapped by addictive desires.
23. Some examples of property use which would be inconsistent with the doctrines, tenets and beliefs of the Diocese:
- (a) The production, promotion or sale by wholesale of tobacco;
  - (b) The commercial manufacture, distribution or sale of liquor (other than the sale and consumption of liquor on premises where the liquor is intended to be consumed with food sold on those premises for consumption on those premises);
  - (c) Any use in connection with narcotic drugs (including any prohibited drug, prohibited plant or drug of addiction) except as part of the normal trading practices of a registered medical practitioner, accredited residential aged care facility, pharmacist, chemist, dental or veterinary surgeon;
  - (d) For the purposes of gambling or betting.



# Governance Policy for Diocesan Organisations

| Contents   | Paragraph |
|--|-----------|
| Background   | 1-4       |
| Purpose of this document                             | 5-7       |
| The nature of Christian leadership                   | 8-11      |
| Application of this Policy                           | 12-16     |
| Appendix 1: Governance Standards                     |           |
| Appendix 2: Policy Guidelines                        |           |
| Appendix 3: Statement of Personal Faith              |           |
| Appendix 4: Statement of Support for Christian Ethos |           |



## Background

1. Representative members of the Anglican Church of Australia in New South Wales meet in synods to attend to governance needs arising from membership in the unincorporated association known as The Anglican Church of Australia. The New South Wales Parliament has provided a legislative framework for the seven New South Wales Anglican Diocesan Synods to carry out responsible and effective governance. The *Anglican Church of Australia Constitutions Act 1902* empowers each Anglican synod in New South Wales to make ordinances for the order and good government of the Anglican Church of Australia within that diocese. The *Anglican Church of Australia Trust Property Act 1917* gives a synod the power –

- (a) to vary the trusts on which church trust property is held,
- (b) to appoint and remove trustees of such property, and
- (c) to constitute councils and committees to govern and control the management and use of such property.

In addition the *Anglican Church of Australia (Bodies Corporate) Act 1938* gives an extraordinary power to a Synod in New South Wales to constitute such councils and committees as bodies corporate for the management and governance of an organisation of the Anglican Church or for holding, managing or dealing with church trust property.

2. In the context of the Diocese of Sydney, there are currently about 60 diocesan organisations constituted by the Synod. There are also a number of bodies not constituted by the Synod in respect of whose organisation or property the Synod is nonetheless empowered to make ordinances. These organisations pursue diocesan purposes through a wide range of activities, including welfare, aged care, schooling, youth work, theological education, and administrative, secretarial and investment services. About 20 of these are incorporated by or under legislation including the *Anglican Church of Australia Trust Property Act 1917* or the *Anglican Church of Australia (Bodies Corporate) Act 1938*.
3. The Synod acknowledges that diocesan organisations have taken steps on their own boards to ensure proper and effective board governance. Nevertheless, the Synod as the ‘parliament of the diocese’ also has a responsibility to the wider community to facilitate proper and effective governance as part of its oversight of all diocesan organisations.
4. Currently, the Synod seeks to discharge this responsibility by electing a majority of the board members of diocesan organisations and requiring diocesan organisations which manage church trust property to provide an annual report to the Synod including its financial statements and auditor’s report.

## Purpose of this document

5. The adoption of a Synod Policy on the governance of diocesan organisations will enable the Synod to articulate more clearly how it intends exercising its powers to better achieve two broad expectations in the area of governance.
6. The first expectation is that those responsible for governing diocesan organisations will seek the highest standards of governance appropriate to the size and nature of each organisation.

7. The second expectation addresses the reason for pursuing the highest standards of governance, namely, to maximise the extent to which a diocesan organisation meets the object for which it is constituted. The object of any diocesan organisation is to advance one purpose or another of the Diocese. Ultimately such purposes seek to promote the kingdom of Christ and give glory to God.

### The nature of Christian leadership

8. Leadership is a gift of God for the purposes of order and good government. Among the people of God, church leaders are gifted by God for the teaching, discipline and modelling of godliness to those under their care. Secular leaders are likewise accountable to God for their governance, which is for the good of the community they serve, since they also act as “God’s servants” (Rom 13:4). Boards of Christian organisations should therefore have similar standards of integrity, truth and commitment with respect to their governance responsibilities. In particular, Jesus’ use of the imagery of both shepherd and servant for his own ministry, as well as that of his apostles, ought to characterise those who would govern Christian organisations.
9. Scripture states: “We aim at what is honourable not only in the Lord’s sight but also in the sight of others” (2 Cor. 8:21). In light of this, it is appropriate that Christian organisations take pains to ensure the appearance (as well as the substance) of propriety and accountability. This includes abiding by the highest governance standards observed by secular organisations, e.g. corporations, where they are applicable.
10. The Synod acknowledges and gives thanks for the board members of diocesan organisations who give generously of their time, energy and skills to exercise the governance responsibilities with which they have been entrusted.
11. The Synod encourages board members of diocesan organisations to work in partnership with the Synod in seeking the highest standards of governance. Such standards are to be underpinned by prayer, sacrificial service, a dependence upon God for wisdom and a proper regard to best practice so that decisions made will enhance the organisation’s effectiveness to promote the kingdom of Christ and give glory to God.

### Application of this Policy

12. In this Policy –
  - “board” means the body of persons responsible for governing a diocesan organisation.
  - “chief executive officer” means the person who is responsible to the board for the leadership and management of the diocesan organisation.
  - “Diocese” means the Anglican Church of Australia in the Diocese of Sydney.
  - “diocesan organisation” means a body –
    - (a) constituted by ordinance or resolution of the Synod, or
    - (b) in respect of whose organisation or property the Synod may make ordinances,but excludes the Synod, the Standing Committee and any of their subcommittees.
  - “Governance Standards” means the standards referred to in Appendix 1.
  - “Policy Guidelines” means the guidelines referred to in Appendix 2.
  - “Synod” means the Synod of the Diocese and includes, when the Synod is not in session, the Standing Committee of the Synod.
13. In support of the mission of the Diocese, this policy sets out the Governance Standards and Policy Guidelines that the Synod considers should apply to diocesan organisations.
14. The Synod will use these Governance Standards and Policy Guidelines as the basis for assessing and, as appropriate, changing (or seeking changes to) the ordinances, policies and procedures that apply to diocesan organisations.
15. The Governance Standards and Policy Guidelines are also intended to align with and give appropriate expression to the governance standards for registered entities made under the *Australian Charities and Not-for-profits Commission Act 2012*.
16. The Synod anticipates that it will amend this policy from time to time in order to better align the Governance Standards and Policy Guidelines with the purposes of the Diocese and to reflect any changes to the ACNC governance standards. For this purpose the Synod encourages on-going input from boards.

## Appendix 1: Governance Standards

The Synod regards the following Governance Standards as applicable to all diocesan organisations and expects diocesan organisations to implement each of the Governance Standards in an appropriate and demonstrable way.

### A. Christian leadership shaped by the Bible

- (a) The board members of a diocesan organisation elected by the Synod, the chair of the board and the chief executive officer must profess a personal Christian faith shaped by the Bible.
- (b) Other board members should profess a personal Christian faith shaped by the Bible.
- (c) The Archbishop must be able to address the board of a diocesan organisation on any pastoral or policy issue concerning the Anglican Church of Australia as it applies to the diocesan organisation, including the appointment of a chief executive officer for the organisation.
- (d) The board of a diocesan organisation should include members with formal theological training.

### B. Mission clarity

*(cf. ACNC governance standard 1 – purposes and not-for-profit nature of a registered entity)*

- (a) The purpose of a diocesan organisation must be clearly expressed in its constituting ordinance, must align with the religious, educational or other charitable purposes of the Diocese whether such purposes are within or beyond the Diocese or the State and must ultimately promote the kingdom of Christ and give glory to God.
- (b) Information about the purpose of a diocesan organisation must be made available to the public, including any members, donors, employees and volunteers, as well as those that benefit from its activities.
- (c) A diocesan organisation must comply with its purpose and ensure that all its activities are demonstrably linked either directly or incidentally to the pursuit of its purpose.

### C. Not-for-profit character

*(cf. ACNC governance standard 1 – purposes and not-for-profit nature of a registered entity)*

- (a) The property of a diocesan organisation must not be distributed for the private benefit of individuals either during the operation of the organisation or on its winding-up.
- (b) A diocesan organisation must comply with its not-for-profit character and take reasonable steps to ensure compliance.

### D. Accountability and transparency

*(cf. ACNC governance standard 2 – accountability to members)*

- (a) A diocesan organisation must maintain an adequate level of accountability and transparency to the Synod and its members.
- (b) A majority of the board members of a diocesan organisation must be elected by the Synod.
- (c) A diocesan organisation which manages church trust property must submit to the Synod for tabling an annual report and such other reports as Synod requires and must take reasonable steps to ensure such reports are accurate, complete and provided on a timely basis.
- (d) Members of the Synod must have reasonable access to the annual reports of diocesan organisations tabled at the Synod and must have an adequate opportunity to ask and have answered questions about the governance of diocesan organisations.
- (e) A diocesan organisation which has a class of members which is distinct from the members of its governing board must maintain similar levels of accountability and transparency for such members.

### E. Corporate responsibility

*(cf. ACNC governance standard 3 – compliance with Australian laws)*

- (a) A diocesan organisation must ensure its on-going operations, the safety of people in its care and the safety of its assets through compliance with applicable Australian laws and ordinances of the Synod.

- (b) A diocesan organisation must maintain as a reference for its board members a record, preferably in the form of a handbook, of the ordinances by which it is constituted or regulated and any other documents or policies by which it is governed.

**F. Suitability of board members**

*(cf. ACNC governance standard 4 – suitability of responsible entities)*

- (a) The board of a diocesan organisation must develop effective processes to ensure –
  - (i) the collective qualifications, skills, experience and gender balance of its members are adequate having regard to its purpose and the activities it undertakes in pursuit of its purpose, and
  - (ii) the induction of new members and the ongoing training and development of existing members, and
  - (iii) board renewal under the direction of the chair.
- (b) A person who is –
  - (i) disqualified from managing a corporation within the meaning of the *Corporations Act 2001*, or
  - (ii) disqualified by the ACNC Commissioner, at any time during the preceding 12 months, from being a responsible entity of a registered entity under the *Australian Charities and Not-for-profits Commission Act 2012*,is not eligible to be a board member of a diocesan organisation.

**G. Board member responsibility**

*(cf. ACNC governance standard 5 – duties of responsible entities)*

- (a) A diocesan organisation must take reasonable steps to ensure that its board members are subject to and comply with the following duties –
  - (i) to exercise the powers and discharge the duties of the diocesan organisation with the degree of care and diligence that a reasonable individual would exercise as a board member of a diocesan organisation, and
  - (ii) to act in good faith in the best interests of the diocesan organisation and to further the purposes of the diocesan organisation, and
  - (iii) not to misuse their position as a board member, and
  - (iv) not to misuse information obtained in the performance of their duties as a board member of a diocesan organisation, and
  - (v) to disclose perceived or actual material conflicts of interest of the board member, and
  - (vi) to ensure that the financial affairs of the diocesan organisation are managed in a responsible manner, and
  - (vii) not to allow the diocesan organisation to operate while insolvent.
- (b) A diocesan organisation must take reasonable steps to ensure compliance with these duties and to remedy any non-compliance.

## Appendix 2: Policy Guidelines

The Synod considers that the constituting ordinances of diocesan organisations which are bodies corporate should usually conform to the following Policy Guidelines. However the Synod recognises that for some diocesan organisations it may not be appropriate to conform to all these Policy Guidelines. This will be the case particularly for those Policy Guidelines which go beyond the Governance Standards. Where it is proposed to amend the constituting ordinance of a diocesan organisation to conform with the Policy Guidelines, a full consultation process will be undertaken with the board of the organisation before any such amendments are made. Where a board of a diocesan organisation believes that a particular Policy Guideline should not apply, it would usually be appropriate for the board to provide a brief explanation of its position as part of the consultation process.

### *Purpose*

1. The purpose of the diocesan organisation should be clearly expressed. Such purpose must align with the religious, educational or other charitable purposes of the Diocese whether such purposes are within or beyond the Diocese or the State and must ultimately promote the kingdom of Christ and give glory to God.

### *Board size and composition*

2. The total number of board members should be no less than 9 and no more than 14.
3. A majority of board members must be elected by the Synod.
4. The membership of the board should not include the Chief Executive Officer.
5. The membership of the board should include at least two clergy or other members with formal theological training.
6. The membership of the board may include no more than two persons appointed by the board.
7. Where a significant majority of members are elected by the Synod, the membership of the board may include persons appointed by any representative alumni association.

### *Role of the Archbishop*

8. If the Archbishop is a board member he should be entitled to chair meetings of the board when present.
9. If the Archbishop is not a board member he should be entitled –
  - (a) to receive board papers at his request, and
  - (b) to attend board meetings, and
  - (c) to address the board on any pastoral or policy issue concerning the Anglican Church of Australia as it applies to the diocesan organisation including the appointment of a chief executive officer for the organisation.

The Archbishop should be able to appoint a nominee to exercise these entitlements on his behalf.

### *Election, appointment and term of office of board members*

10. A board member should be elected or appointed for a term not exceeding 3 years. One third of Synod elected members should therefore retire at each ordinary session of the Synod or, in the case of members elected by the Standing Committee, at the first meeting of the Standing Committee following each ordinary session.
11. Any person who wishes to be elected, appointed or to remain as a board member must sign a statement of personal faith in a form determined by the Synod except that a person who is elected or appointed as an alumni representative on a school board before 1 July 2020 may sign a statement of support for the Christian ethos and charter of the school as an alternative to signing a statement of personal faith. The initial forms of such statements are set out in Appendices 3 and 4.
12. A casual vacancy should arise in the office of a board member if the member –
  - (a) dies,
  - (b) resigns in writing to the chairman of the board or to the Diocesan Secretary,
  - (c) is an insolvent under administration,
  - (d) is of unsound mind or whose person or estate is liable to be dealt with in any way under the laws relating to mental health or is otherwise incapable of acting,
  - (e) is disqualified from managing a corporation within the meaning of the *Corporations Act 2001*;

- (f) has at any time during the preceding 12 months been disqualified from being a responsible entity of a registered entity by the Commissioner of the Australian Charities and Not-for-profits Commission;
- (g) is convicted of an offence punishable by imprisonment for 12 months or longer,
- (h) is subject to a recommendation from a tribunal or body under the Discipline Ordinance 2006 (or from a comparable tribunal or body in any other diocese or church) that he or she be prohibited from holding office or should be removed from office as a board member,
- (i) is absent without leave for 3 consecutive meetings of the board and the board resolves that the person's membership should cease,
- (j) fails to sign the statement of personal faith or statement of support for the Christian ethos and charter of the school, as applicable, or declares that he or she is no longer able to subscribe to the applicable statement, or
- (k) fails to disclose his or her actual material conflict of interest in any matter brought for the consideration of the board which, in the opinion of the board, resulted in a resolution of the board which would not have been made if the actual material conflict of interest had been disclosed, and the board resolves by at least a three-quarters majority that the person's membership should cease as a result of this failure,

and a person should be disqualified from being elected or appointed as a board member if any of the circumstances referred to in paragraphs (c) to (h) and (j) apply to the person.

- 13. Casual vacancies arising for Synod elected members should be filled by the Standing Committee. The person who fills the casual vacancy should hold office until the day on which the person whose vacancy he or she has filled would have retired had the vacancy not occurred.
- 14. In the absence of an alternative methodology in the constituting ordinance of a diocesan organisation which achieves effective board renewal in the context of that organisation under the direction of the chair, a retiring board member should only be eligible for re-appointment or re-election where such re-appointment or re-election would not in the normal course result in that member being a board member for more than 14 consecutive years. For this purpose, years are consecutive unless they are broken by a period of at least 12 months.
- 15. Board members should not to be remunerated for their service as board members except by way of reimbursement for reasonable out-of-pocket expenses.

#### *Chair and other office holders*

- 16. The chair and any other officer of the board should be elected by board members for a term not exceeding 3 years. Such persons are eligible to stand for re-election but should not serve in the same office for more than 9 consecutive years.
- 17. A person is not eligible to be appointed or elected as the chair of a board unless he or she has first signed a statement of personal faith in a form determined by the Synod. The initial form of such a statement is set out in the Appendix 3.
- 18. A person should not be the chair of the board of a diocesan organisation if a member of the person's immediate family is employed by the diocesan organisation, unless the board has considered the circumstances and unanimously agreed to it by secret ballot.

#### *The Chief Executive Officer*

- 19. The board should have the power to appoint and remove the Chief Executive Officer.
- 20. The Chief Executive Officer is responsible to the board for the leadership and management of the diocesan organisation.
- 21. A person is not eligible to be appointed as the Chief Executive Officer unless he or she has first signed a statement of personal faith in a form determined by the Synod. The initial form of such a statement is set out in the Appendix 3.

#### *Board meetings*

- 22. Meetings of the board may be convened by the chair or a specified number of board members.
- 23. Board members should be able to attend meetings either personally or by suitable electronic means.
- 24. A quorum for meetings of the board should be no less than one half of its members.

25. The board should be able to pass resolutions without a meeting if –
  - (a) a copy of the proposed resolution is sent to all board members and a reasonable timeframe within which members may indicate their support for or objection to the proposed resolution being passed is specified, and
  - (b) at least 75% of board members indicate within the specified timeframe that they support the proposed resolution being passed, and
  - (c) no board member objects within the specified timeframe either to the proposed resolution being passed or the proposed resolution being passed without a meeting.
26. The Chief Executive Officer should have the right to attend and speak at board meetings unless the board determines that he or she should not be present for a particular meeting, or part thereof.
27. The board must cause minutes to be made of –
  - (a) the names of the persons present at all board meetings and meetings of board committees;
  - (b) all disclosures of perceived or actual material conflicts of interest; and
  - (c) all resolutions made by the board and board committees.
28. Minutes must be signed by the chair of the meeting or by the chair of the next meeting of the relevant body following an agreed resolution to do so. If so signed the minutes are conclusive evidence of the matters as between the members stated in such minutes.

*Duties, powers and limitations*

29. The diocesan organisation should have such powers as are necessary for the diocesan organisation to fulfil its purpose.
30. The board should, in governing the diocesan organisation, exercise all the powers of the diocesan organisation.
31. Board members are subject to and must comply with the following duties –
  - (a) to exercise the powers and discharge the duties of the diocesan organisation with the degree of care and diligence that a reasonable individual would exercise if they were a board member of a diocesan organisation, and
  - (b) to act in good faith in the best interests of the diocesan organisation and to further the purposes of the diocesan organisation, and
  - (c) not to misuse their position as a board member, and
  - (d) not to misuse information obtained in the performance of their duties as a board member of a diocesan organisation, and
  - (e) to disclose perceived or actual material conflicts of interest of the board member, and
  - (f) to ensure that the financial affairs of the diocesan organisation are managed in a responsible manner, and
  - (g) not to allow the diocesan organisation to operate while insolvent.
32. A board member who has an actual or perceived material conflict of interest in a matter that relates to the affairs of the board must disclose that interest to the board and should not participate in any consideration of that matter by the board unless the board, by resolution, notes the interest and permits the member to participate.
33. The board should maintain records of applicable eligibility criteria for board membership and conflicts of interest disclosed by board members.
34. The board should have the power to delegate the performance of any of its functions to one or more committees provided any such committee is chaired by a board member and reports the exercise of its delegated functions to the next board meeting.
35. The diocesan organisation should not offer its property as security for any liability other than a liability of the diocesan organisation or a body controlled by the diocesan organisation.
36. Any mortgage, charge, debenture or other negotiable instrument given by the diocesan organisation over its property (other than a cheque drawn on a bank account held by the diocesan organisation) should include a provision limiting the liability of the diocesan organisation to the amount available to be paid in the event it is wound up.
37. The authority of the diocesan organisation to invest should be restricted in a manner consistent with any restrictions determined by the Synod from time to time.

*Not-for-profit*

38. There should be a provision which affirms that because the property of the diocesan organisation is church trust property within the meaning of the *Anglican Church of Australia Trust Property Act 1917*, it must not as a matter of law be distributed for the private benefit of individuals, either during the operation of the organisation or on its winding-up.

*Winding up*

39. There should be a provision which affirms that if, on the diocesan organisation's winding up or dissolution, there remains after satisfaction of all its liabilities any property, such property must be applied for such purposes of the Diocese as the Synod may determine or, where appropriate, such purposes of the Diocese as the Synod may determine which are similar to the organisation's purposes. Where the diocesan organisation has been endorsed as a deductible gift recipient, there should be a provision which affirms that on the winding-up or dissolution of the organisation, the Synod must transfer the remaining property of the organisation to one or more deductible gift recipients which, in any case, is either a fund which comprises church trust property or another diocesan organisation.

**Appendix 3: Statement of Personal Faith**

**Statement of personal faith**

1. I believe and hold to the truth of the Christian faith as set forth in the Nicene Creed, as well as the Apostles' Creed as set out below –

*I believe in God, the Father Almighty,  
maker of heaven and earth;  
and in Jesus Christ, his only Son our Lord,  
who was conceived by the Holy Spirit,  
born of the virgin Mary, suffered under Pontius Pilate,  
was crucified, dead, and buried.*

*He descended into hell.  
The third day he rose again from the dead  
He ascended into heaven,  
and is seated at the right hand of God the Father almighty;  
from there he shall come to judge the living and the dead.*

*I believe in the Holy Spirit;  
the holy catholic church;  
the communion of saints;  
the forgiveness of sins;  
the resurrection of the body,  
and the life everlasting.*

2. In particular I believe –
- (a) that God's word written, the canonical Scriptures of the Old and New Testaments, is the supreme authority in all matters of faith and conduct;
  - (b) that there is only one way to be reconciled to God which is through his Son, Jesus Christ, who died for our sins and was raised for our justification; and
  - (c) that we are justified before God by faith only.
3. I shall endeavour to fulfil my duties as a member/the Chief Executive Officer [*delete whichever is not applicable*] of the [*insert name of board*] in accordance with its Christian ethos and its constituting ordinance.
4. I agree that my continuance as a member/the Chief Executive Officer [*delete whichever is not applicable*] of the [*insert name of board*] is dependent upon my continuing agreement with this statement and I undertake to resign if this ceases to be the case.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Full name (in block letters)

Date:

### Appendix 4: Statement of Support for Christian Ethos

**Statement of support for the Christian ethos and charter of the School**

1. I acknowledge that the School to whose Council I am elected aims to educate young people in ways consistent with the teaching of the Bible and the gospel of Jesus Christ, and to this end I support the Council's commitment to maintain and uphold the Christian faith in teaching and practice.
2. I shall endeavour to fulfil my duties as a member of the School Council to which I am elected in accordance with its Christian ethos and its constituting ordinance.
3. I agree that my continuance as a Council member is dependent upon my continuing agreement with this statement and I undertake to resign if this ceases to be the case.

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Signature

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Full name (in block letters)

Date:

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**Notes**

The policy was amended by resolution of the Standing Committee on 14 September 2015 and 1 May 2017.



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