

## Synod Elections Ordinance 2000

### Explanatory Statement

#### Introduction

1. The Synod is presently considering the bill for the Conduct of the Business of Synod Ordinance 2000 which, if passed, will update and express in contemporary language the rules for conducting the business of the Synod.
2. A significant function of the Synod is to elect people to a number of different offices and positions. The rules for conducting those elections are found mainly in the Elections Ordinance 1970. A bill, called the Synod Elections Ordinance 2000, has been prepared to update and express in contemporary language the rules for conducting Synod elections. It is intended that the Synod Elections Ordinance 2000 be a companion ordinance to the Conduct of the Business of Synod Ordinance 2000.

#### Proposals for change

3. Like the Conduct of the Business of Synod Ordinance 2000, the following principles have been adopted in preparing the bill for the Synod Elections Ordinance 2000 -
  - (a) the use of simpler language, where possible;
  - (b) setting out the rules relating to elections in a more user friendly way; and
  - (c) where appropriate, simplifying and amending those rules.
4. The proposed ordinance completely revises the Elections Ordinance 1970, and the Casual Vacancies Ordinance 1935 and clause 5 of the Miscellaneous Amendments Ordinance 1997. It is impracticable to specifically refer to each proposed change. But a table is attached which compares, in a general sense, the provisions of the current rules with the rules recommended in the bill.
5. The Elections Ordinance 1970 is printed on pages 187 to 194 inclusive of *Acts & Ordinances*. Copies of the Casual Vacancies Ordinance 1985 and the Miscellaneous Amendments Ordinance 1997 can be obtained from the Diocesan Secretary upon request.

#### *Commencement*

6. If adopted at the forthcoming session of the Synod, clause 4 of the bill makes it clear that the new rules will not apply until after the session.

#### *Election procedure*

7. The procedure for elections specified in the bill is generally the same as that in the present rules. In summary, that procedure is as follows -

*By 56 days (8 weeks) before session -*

- Returning Officer and Deputy Returning Officer appointed by the Archbishop-in-Council
- Secretaries send notice of elections to Synod members

*By 42 days (6 weeks) before session*

- Nominations for elections close

*By 35 days (5 weeks) before session*

- Secretaries send notice of pre-Synod postal ballot to members

*By 28 days (4 weeks) before session*

- Pre-Synod postal ballot closes and results declared

*By 14 days (2 weeks) before session*

- Secretaries send notices of contested elections to members

*1st day of a session*

- President declares results of uncontested elections
- First day of ballot for contested elections

*2nd day of a session*

- Second (and final) day for ballot for contested elections

*Thereafter*

- President declares results of contested elections
- Provisions for re-count

### **Changes to present rules**

8. The bill incorporates the following main changes. References to clauses in the following paragraphs (and in item 9) are references to clauses of the Elections Ordinance 1970 and references to rules are the rules set out in the schedule of the bill.

#### *Precises of Nominees*

- (a) Under the present rules, the precises for nominees in a pre-Synod election to be conducted by postal ballot are to accompany the nominations (clause 37A(1)(a)) which must be made not less than 42 days before the first appointed day of the session. In the contested elections to be conducted during the session, the precises for nominees are to be provided no later than 14 days before the first appointed day of a session (clause 14A). In the bill, it is proposed that the precises for nominees in *all* elections are to be provided with nominations (see rule 3.3) which are to be made by 6 weeks (42 days) before the first appointed day.

This change will simplify the work required to be undertaken by the Secretaries in the 2 weeks immediately preceding the first appointed day of a session. It is not thought that this change will unduly prejudice the interests of nominees in an election.

It is also proposed to change the present rules so that the document containing the precisés of nominees be sent to members with the notice of elections. This will give members more information about nominees at an earlier time than at present. Currently, the document containing the precisés of nominees for elections conducted during a session is handed out to members with the ballot papers on the first and second days of the session.

*Assistance for the Returning Officer*

- (b) Under the present rules, the Returning Officer may employ such assistants as he or she considers necessary *with the approval of the President* (clause 5). It is proposed to allow the Returning Officer to use such assistance as he or she considers necessary, but without requiring the approval of the President (see rule 2.2). The main assistance which the Returning Officer requires is typing, collating and posting, handing out ballot papers and counting votes. As such assistance is provided by staff of the Secretariat it does not seem necessary that Presidential approval be obtained. In practice, the President's approval is never asked for.

*Acknowledgement of nominations*

- (c) The current rules require that every nomination received by the Secretaries be acknowledged by receipt in a form prescribed by regulation and recorded in a book kept for that purpose (see clause 9). The bill proposes that nominations be acknowledged by the Secretary in writing (see rule 3.2(5)) but it is not intended that the form of the acknowledgement be prescribed. Further, there seems to be no good reason for requiring that nominations be recorded in a book. In practice, nominations are recorded on the computer.

*Equality of votes*

- (d) Under the existing rules, if there is an equality of votes and a determination must be made as to which of the candidates is elected, the determination is to be made by the Standing Committee (see clauses 21 and 22(c)). The bill proposes that this rule be changed so that the determination of which of the candidates is elected is made by lot in such manner as the President directs. This approach will allow the result of the election to be determined and declared at the session, rather than the result being delayed pending a meeting of the Standing Committee.

*Casual Vacancies*

- (e) The ordinances which constitute our diocesan organisations (including schools) are not consistent about the circumstances in which casual vacancies arise among the members of the board or council elected by the Synod. It is proposed to include new rule 7.1(2) to give a degree of consistency. The circumstances of when a casual vacancy will arise stated in rule 7.1(2) will be in addition to any other circumstances currently prescribed in a constituting ordinance. Rule 7.1(2) will only apply to members of a board or council elected by the Synod. The rule will not apply to members elected by another electorate (such as the Old Boys' or Old Girls' association of a school).
9. The bill also contains provisions to deal with 2 situations which are not covered by the existing rules.

*Withdrawal of a nominee*

- (a) The present rules do not cover the situation of the withdrawal of a nominee. The Legal Committee gave an opinion some time ago that a nominee could withdraw prior to the close of nominations, but not thereafter. This opinion has formed the basis of the practice concerning the withdrawal of nominations which has been adopted in recent years. The bill contains provisions which expressly allow for a nominee to withdraw from an election before nominations close (see rule 3.4) but not thereafter. These provisions will also apply to the death of a nominee prior to the close of nominations. It is considered undesirable to allow a nominee to withdraw after nominations have closed because it complicates the administration of the election procedure (particularly if a nominee seeks to withdraw after notices of nominations have been sent to members or ballot papers printed). It may also unduly prejudice nominators if their nominee can withdraw at a time when the nominators have no further right to make another nomination.

*Death of a nominee after the close of nominations*

- (b) The present rules do not cover the situation of the death of a nominee after the close of nominations but before the election is held. The bill contains provisions which deal with this situation (see rule 3.5). Under the proposed rule, the election will be held and if the deceased person is elected, a casual vacancy will arise immediately after the result of the election is declared. Casual vacancies are then filled in accordance with part 7 of the bill. It is considered that this is a fairer and administratively easier way of dealing with the election than treating the nomination as having been withdrawn, or requiring that the election be postponed.

### **Comments from members of the Synod**

10. An earlier draft of the bill was circulated to Synod members and 8 members provided comments. Many of those comments related to drafting and have been incorporated into the bill to the extent that it was appropriate to do so. Other comments suggested changes in matters of principle, some of which have been adopted. One suggestion which has not been adopted is the proposal that, in an election, members must vote for the number of persons to be elected. Currently, a member may vote for fewer than the number of persons to be elected. This proposal has not been incorporated into the bill because the change to the rules to allow a member to vote for fewer than the number of persons to be elected was made by the Synod as recently as 1996. In the absence of any general sentiment to further change the rule, it is not proposed that the matter be reconsidered by the Synod.

### **Comments from School Councils**

11. A copy of the bill was circulated to each of our school councils, and comments were received from 3 councils. Two of those councils said they did not think it was appropriate for the Synod to effectively alter the constituting ordinance of a school council in the manner proposed by rule 7.1. In particular, proposed rule 7.1(2)(b) is said to be a matter of specific concern and the Synod will need to consider whether, as a matter of policy, it, and the Standing Committee, should have the powers referred to in that rule.

12. In any event, in response to other comments made by those councils, it is proposed that certain amendments be moved in committee to other provisions of proposed rule 7.1.

13. One school council has also asked that proposed rule 3.3 be amended to require that the secretaries invite each person retiring from office who is willing to be nominated for re-election to submit a precis to accompany their willingness to stand for renomination. This amendment is not supported because the intention of rule 3.3 is to put the onus on the nominators to ensure that a precis is provided by the close of nominations. The suggested amendment, in proposing a different process for certain potential nominees, will unduly further complicate a complex election process. Another suggestion is that proposed rule 5.2 be amended to require that notice of a contested election in the office of member of a council be sent to the chairman of that council. This is not presently required.

### **Recommendation**

14. Standing Committee recommends that the Synod pass the bill as an ordinance.

For and on behalf of the Standing Committee

MARK PAYNE  
*Diocesan Secretary*

5 October 2000

**Annexure A**

**Comparison of Provisions**

<b>Elections Ordinance 1970</b>	<b>Proposed 2000 Rules of Procedure</b>
Clause 1	See clause 3 of the bill
Clause 2	Rule 2.1
Clause 3	Rules 2.2, 4.1, 5.3(6), 5.4(6)
Clause 4	Rule 2.3
Clause 5	Rules 2.2, 2.3
Clause 6	Rule 3.1
Clause 7	Rule 3.2
Clause 8	Rules 3.2(2)(e) and (f)
Clause 9	Rule 3.2(5)
Clause 10	Rule 3.2(6)
Clause 11	Rules 3.1(2)(b) and 3.2(4)
Clause 12	Rule 4.1
Clause 13	Rule 4.2
Clause 14	Rule 5.4
Clause 14A	Rule 3.3
Clause 15	Rule 5.2(1)
Clause 16	Rule 5.4(4), 5.5
Clause 17	Rule 5.4(1), (2) and (3)
Clause 18	Rule 5.6
Clause 19(a)	Rule 5.4(4)
Clause 19(b)	Rule 5.7
Clause 20	Rule 5.4(6), (7)
Clause 21	Rule 5.9

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<b>Elections Ordinance 1970</b>	<b>Proposed 2000 Rules of Procedure</b>
Clause 22	Rules 5.8, 5.9
Clause 23	Rule 5.4(6)
Clause 24	Rule 5.4(6)
Clause 25	Rule 6.1(1)
Clause 26	Rule 6.1(5)
Clause 27	Rule 6.1(4)
Clause 28	Rule 6.2(1)
Clause 28 proviso	Rule 6.1(2)
Clause 29	Rule 6.3
Clause 30	Rule 6.4
Clause 31	Rule 6.3(3)
Clause 32	Rule 6.5
Clause 33	Rule 6.5
Clause 34	Rule 6.6(1), (2)
Clause 34	Rule 6.6(3)
Clause 36	Rule 6.6(3), (4)
Clause 37	Rule 8.4
Clause 37A	Rule 3.1(1), 5.2(2), 5.3, 6.1(5), 6.6(2)
Clause 38	Rule 8.2
Clause 39	see clause 2 of bill
Clause 40	Rule 8.2
Clause 41	Rule 8.3
Clause 42	see clause 1 of bill

<b>Casual Vacancies Ordinance 1935</b>	<b>Proposed 2000 Rules of Procedure</b>
Clause 1	Rule 7.1
Clause 2	Rule 7.2
Clause 3	Rule 7.2

<b>Miscellaneous Amendments Ordinance 1995</b>	<b>Proposed 2000 Rules of Procedure</b>
Clause 5	Rule 7.3