

Ordinance Procedure Ordinance 1973

(Reprinted under the Interpretation Ordinance 1985.)

The Delegation of Powers and Ordinance Procedure Ordinance 1973 as amended by the Delegation of Powers and Ordinance Procedure Ordinance and Wollongong Zone Council Ordinance Amendment Ordinance 1976, Delegation of Powers and Ordinance Procedure Amendment Ordinance 1977, Wollongong Zone Council Ordinance Amendment Ordinance 1983, the Delegation of Powers and Ordinance Procedure Ordinance Amendment Ordinance 1990, the Miscellaneous Amendments Ordinance (No 1) 1991, the Delegation of Powers and Ordinance Procedure Ordinance 1973 Amendment Ordinance 1993, the Delegation of Powers and Ordinance Procedure Ordinance 1973 Amendment Ordinance 1995, the Delegation of Powers Ordinance 1998 and the Miscellaneous Amendments Ordinance 2019.

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Long Title

An Ordinance to repeal the Land Ordinance Procedure and Delegation of Powers Ordinance 1926 and certain other ordinances; to confirm the delegation of certain powers and functions in pursuance of the provisions of the Anglican Church of Australia Trust Property Act 1917 and the Anglican Church of Australia (Bodies Corporate) Act 1938; to regulate the procedure in relation to ordinances proposed to be made under such delegated powers; and for other matters incidental thereto.

Preamble

Whereas it is expedient that the procedure in the initiation of ordinances under the Anglican Church of Australia Trust Property Act 1917 and under the Anglican Church of Australia (Bodies Corporate) Act 1938 be revised. Now the Synod of the Diocese of Sydney Hereby Declares Rules Ordains and Directs as follows.

1. Citation

This Ordinance is the Ordinance Procedure Ordinance 1973.

2. Repeal

- (1) The Ordinances listed in the First Schedule are hereby repealed.
- (2) Such repeal shall not affect or invalidate any ordinance passed or any act done under such repealed Ordinances and all such ordinances and acts shall respectively have the same effect as if this Ordinance had been in force and they had been respectively passed and done under this Ordinance.
- (3) All ordinances initiated under the provisions of the Ordinances hereby repealed and not passed at the time this Ordinance is assented to may be dealt with under the provisions of this Ordinance or the repealed Ordinance, at the option of the petitioners therefor.

3. Interpretation

In this Ordinance Ordinance, unless the context or subject matter otherwise indicates or requires –

“1917 Act” means the Anglican Church of Australia Trust Property Act 1917.

“1938 Act” means the Anglican Church of Australia (Bodies Corporate) Act 1938.

“ordinance” means an ordinance duly passed under the provisions of the 1917 Act or the 1938 Act.

“parish” includes also every ecclesiastical district now or hereafter to be formed and situated in the Diocese of Sydney but does not include St. Andrew’s Cathedral.

“proposed mortgaging resolution” means the draft of a resolution which proposes a direction for or in respect of a mortgage by resolution in pursuance of the provisions of the 1917 Act.

“proposed ordinance” means the draft of an ordinance which in accordance with this Ordinance is proposed to be passed under the provisions of the 1917 Act or the 1938 Act.

“Schedule” means a schedule to this Ordinance.

“Secretary” means the person for the time being acting as Secretary of the Standing Committee.

“Standing Committee” means the committee for the time being holding office under the provisions of the Standing Committee Ordinance 1897 or of any ordinance amending or taking the place of same.

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8. Prescription of Standing Committee Procedures

Subject to this Ordinance the Standing Committee may by resolution prescribe requirements of procedure in relation to proposed ordinances and proposed mortgaging resolutions.

9. Special Urgency Procedures

The Standing Committee may by resolution declare any proposed ordinance or proposed mortgaging resolution to be one of special urgency and may suspend any part of the regulations in clauses 11 to 17 hereof in relation to the matter in question and the matter may thereupon proceed accordingly Provided that such resolution shall record the reasons why the matter is declared to be of special urgency.

10. Preamble to an Ordinance

Every proposed ordinance or proposed mortgaging resolution shall contain a preamble bringing the matter within the provisions of the 1917 Act or the 1938 Act as the case may be.

11. Application for an Ordinance

An application for an ordinance may be made for an ordinance by lodging with the Secretary –

- (a) a written application containing the names and addresses of the applicants and signed by them or on their behalf;
- (b) a copy of the proposed ordinance;
- (c) the consent of the majority of the Parish Council and/or the consent of the donor of the property if such consent is required by section 26 of the 1917 Act;
- (d) if notice of the ordinance is required to be posted by any other provision of this

ordinance, satisfactory evidence of the posting of the notice of the ordinance in accordance with those requirements;

- (e) an adequate written statement of evidence in support of the application;
- (f) if the ordinance is promoted for or on behalf of a parochial unit or relates to church trust property held for the purposes of a parochial unit, the written comments of the Archdeacon of the area in which the parochial unit is situated; and
- (g) payment of such sum as the Standing Committee may have last decided by resolution towards the costs attendant on an ordinance.

12.

13. Notice to be given in Church

(1) In the case of a proposed ordinance which relates to church trust property held or which will be held (if the proposed ordinance is enacted) in either case partly or wholly for the benefit of one or more parishes, a notice shall be posted and continuously remain posted in the main entrance of the principal church of each of such parishes and of each other church therein which may be affected thereby for 2 Sundays being Sundays on which 1 or more services are held in such church or churches Provided that if services are held in any church less frequently than once each fortnight such notice need only be posted for 7 consecutive days one of which shall be a Sunday on which a service is held in that church.

(2) The attention of the congregation shall be drawn to the said notice at all services held in such church or churches on such Sunday or Sundays.

(3) Every notice shall -

- (a) state the intention of the petitioners or applicants to apply to the Synod or to the Standing Committee for the proposed ordinance;
- (b) list the general objects thereof;
- (c) contain a notification that objections to the proposed ordinance may be made in accordance with the provisions of this Ordinance; and
- (d) contain details of the postal address and email address specified by the Diocesan Secretary for the receipt of objections.

(4) Where, under this clause, a notice is required to be posted in the main entrance of a church and attention drawn thereto the minister licensed to the parish concerned and the churchwardens and all other officers thereof shall give effect to such requirements upon being requested so to do by the petitioners or applicants.

(5) If it shall appear to the Standing Committee that notice has not been given in conformity with this clause or that the circumstances call for another or further notice the Standing Committee if it thinks fit may require such other or further notice to be given as the justice of the case, in the opinion of the Standing Committee, may require.

(6) Where in the opinion of the Standing Committee the requirements of subclause (1) of this clause are impossible or unduly onerous to implement or satisfy the Standing Committee may give directions upon application therefor by the petitioners or applicants as to what notice of the proposed ordinance is proper and reasonable in the particular circumstances and which if followed will or ought in the opinion of the Standing Committee to be sufficient to ensure that all persons who are or may be interested in the proposed ordinance will receive notice of the same. All such directions shall be given to the petitioners or applicants in writing by the Secretary and shall be deemed to be in substitution for the requirements of subclause (1). The Standing Committee may delegate its powers under this subclause to a committee appointed pursuant to clause 18.

14. Notice not Required for Non-parish Property

In the case of a proposed ordinance which relates to church trust property other than that referred to in clause 13 it shall not be necessary for notice to be given.

15. Notice not Required for Small Sales to Public Authorities

Notwithstanding anything contained in clause 13 it shall not be necessary for notice of any proposed ordinance to be given where -

- (a) The ordinance is solely to authorise the sale of church trust property or to authorise

the granting of an easement or right of way or like right over any church trust property;

- (b) The sale or grant is bona fide and for value and the consideration therefor is less than \$15,000 or other limit set by the Standing Committee from time to time; and
- (c) The sale or grant is to the Crown or to any minister thereof or to any public or statutory authority.

16. Objections

- (1) Any person may object to a proposed ordinance by lodging a notice of objection with the Secretary at any time within 3 weeks after the date when notice in respect of an ordinance is first posted.
- (2) Every objection shall be addressed in writing to the Secretary via the postal address or email address specified in the notice posted under clause 13 and shall distinctly specify the grounds of opposition, and may be received and dealt with by the Standing Committee or a committee appointed under clause 18 hereof.
- (3) Every objection shall state the name and address of some person upon whom any notice relating to the matter may be served and in default thereof such objection shall not be considered.

17. Enquiry and Report

Before the first reading of any proposed ordinance the Standing Committee or a person or committee appointed under clause 18 or a regional council (or subcommittee thereof) to which a proposed ordinance is referred under clause 19 shall hear the parties in person or by counsel or solicitor if it be desired and may take such oral or other evidence as may be considered requisite, and shall report –

- (a) Whether the preamble has been proved and if not in what respects;
- (b) what amendments (if any) it considers are required in the proposed ordinance;
- (c) what matters are at issue between the petitioners and any person or persons who have lodged an objection or objections as aforesaid;
- (d) whether all procedural requirements hereunder and those prescribed by the Standing Committee have been complied with and if not in what respects; and
- (e) its findings and recommendations if any.

Provided that where -

- (f) no notice is required by clause 14 or 15; or
- (g) no objections have been lodged and a person appointed under clause 18 is able to report on the matters in paragraphs (a), (b), (d) and (e); or
- (h) the Standing Committee determines in any particular case that the circumstances do not require such a hearing,

the Standing Committee may consider and pass the ordinance without any such hearing.

18. Appointment of Committees

For the purpose of this Ordinance the Standing Committee may from time to time appoint a committee or committees to act on its behalf under clause 17 and may appoint other committees to make other investigations as required.

19. Regional Delegations

If a proposed ordinance relates to church trust property and by reason of –

- (a) money which may be received if the course of action authorised by the proposed ordinance is implemented; or
- (b) any other matter or thing,

Standing Committee considers it appropriate (either generally or in any particular case) that the regional council (or a subcommittee of the regional council) of the region in which the property is situated consider and advise the Standing Committee as to the proposed ordinance, the first reading of the proposed ordinance is to be postponed until the Standing Committee receives that advice.

20.

21. Requirements for Parish Consents

Notwithstanding the power of delegation under clause 4 of this ordinance, Standing Committee may not exercise any of the powers and functions in section 26 or section 27A of the 1917 Act in respect of church trust property held for the sole benefit of a parish unless the majority of the parish council (if any) for the time being of that parish consents in writing to the exercise of that power or function.

22. Dispensing with Parish Consents

If –

- (a) an application is made for an ordinance to direct the sale or other dealing with church trust property pursuant to section 26 of the 1917 Act;
- (b) the church trust property is held for the sole benefit of a particular parish; and
- (c) the written consent to the passing of the ordinance by the majority of the parish council (if any) for the time being of the parish for whose benefit the church trust property is held has not been given,

then after the procedures set out in this ordinance for the consideration of the proposed ordinance have been followed, Standing Committee, if it considers that it is in the best interests of ministry in the Diocese that the ordinance be passed, shall refer the matter to Synod together with a report giving its reasons why it considers that the proposed ordinance should be passed by Synod.

23. Voting

Any ordinance made under clause 22 must be passed at the third reading by a majority of at least two thirds of the members of the Synod present and voting.

First Schedule

Land Ordinance Procedure and Delegation of Powers
Ordinance 1926 Church of England Property Trust
Diocese Sydney Ordinance 1932. Church of England
Trust Property Act Further Delegation Ordinance 1943
Church of England Trust Property Act 1917 Further Delegation
Ordinance 1944. Church of England (Bodies Corporate) Act 1938
Delegation of Powers Ordinance 1961. Church of England Trust
Property Act 1917 Further Delegation Ordinance 1962

Second Schedule

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Third Schedule

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Table of Amendments

Long Title	Amended under the Interpretation Ordinance 1985.
Preamble	Amended under the Interpretation Ordinance 1985.
Clause 1	Original clause amended by Ordinances Nos 35, 1976; 37, 1977, and 27, 1990. Original clause deleted and new clause inserted by Ordinance No 57, 1998.
Clause 8	Amended by Ordinances No 37, 1977.
Clause 9	Amended by Ordinance No 27, 1990 and under the Interpretation Ordinance 1985.
Clause 10	Amended by Ordinance No 27, 1990 and under the Interpretation Ordinance 1985.
Clause 11	Amended by Ordinance No 37, 1993.
Clause 12	Deleted by Ordinance No 37, 1993.

Clause 13	Amended by Ordinance No 9, 2019.
Clause 15	Amended by Ordinance No 37, 1991.
Clause 16	Amended by Ordinance Nos 37, 1993, and 9, 2019.
Clause 17	Amended by Ordinance No 37, 1993.
Clause 19	Amended by Ordinance No 37, 1993.
Clause 20	Deleted by Ordinance No 37, 1993.
Clause 21	Inserted by Ordinance No 30, 1995.
Clause 22	Inserted by Ordinance No 30, 1995.
Clause 23	Inserted by Ordinance No 30, 1995.
Second Schedule	Amended by Ordinance Nos 37, 1977; 27, 1990 and under the Interpretation Ordinance 1985. Deleted by Ordinance No 57, 1998.
Third Schedule	Amended under the Interpretation Ordinance 1985. Deleted by Ordinance No 57, 1998.

STEVE LUCAS

Legal Counsel & Corporate Secretary

28 May 2019

DANIEL GLYNN

Diocesan Secretary