

Delegation of Powers and Ordinance Procedure Ordinance 1973 Amendment Ordinance 1993

Explanatory Statement

Introduction

1. The Delegation of Powers and Ordinance Procedure Ordinance 1973 (the "Ordinance") specifies, among other things, the procedure to be adopted in relation to the promotion of an ordinance under the Anglican Church of Australia Trust Property Act 1917 and the Anglican Church of Australia (Bodies Corporate) Act 1938. The Ordinance is set out on pages 258 to 265 inclusive of The Sixth Handbook.

2. In 1992 the Standing Committee appointed a committee to consider lands committee procedures and to report on how (if at all) lands committee procedures could be streamlined. The committee has subsequently reported to Standing Committee. The recommendations of the committee are encompassed in the bill to amend the Ordinance.

Proposed Amendments to the 1973 Ordinance

3. Clauses 11 and 12 of the Ordinance specify what must accompany an application for a proposed ordinance. It is proposed that clauses 11 and 12 be deleted and that a new clause 11 be inserted. The new clause 11 will list all the documents which must be lodged with an application for an ordinance. It has been found that delay often results when an application is lodged for a proposed ordinance because the accompanying documentation is not in order. Often this is because the documentation is not complete by reason of there being no comprehensive "checklist" in the Ordinance of the documentation which must be submitted. New clause 11 will remedy this.

4. Objections may be lodged to a proposed ordinance under clause 16 of the Ordinance. New clause 16(1) will make it clear that any person may object to a proposed ordinance in accordance with the procedure specified in that clause.

5. Clauses 17, 18, 19 and 20 of the Ordinance specifically deal with lands committee procedures. Presently clause 17 requires the Standing Committee, or a committee appointed by Standing Committee, to hear the promoters of an ordinance and to take such oral and other evidence as may be considered requisite and to report on the matters referred to in paragraphs (a) to (e) of the clause 17. Under clause 18 the Standing Committee may appoint other committees to examine certain matters. Under clauses 19 and 20 PARC and WARC are deemed to have been appointed as committees of Standing Committee to make inquiry and report in respect of ordinances which relate to property situated in those respective regions.

6. Where an ordinance involves receipts which exceed \$300,000 it is the practice of the Standing Committee to refer the bill to a "Large Receipts Committee" appointed by Standing Committee under clause 18. The function of this committee is to specifically consider the application of the receipts.

7. The Committee perceived a number of disadvantages with the present lands committee procedures. These include -

(a) Clause 17 requires that the lands committee hear the parties in person in all circumstances. Often an ordinance is routine and on the written material submitted, Standing Committee is able to, determine whether it should or should not pass the ordinance. It is considered that a formal lands committee meeting in those circumstances is not necessary.

(b) The Ordinance requires PARC or WARC to review a routine ordinance if the ordinance relates to property held for a parochial unit in the area over which the relevant assistant bishop has episcopal oversight. Where the ordinance is routine, formal review by those committees is not necessary.

(c) Under the Inner City Committee Ordinance 1972 and the Marrickville Area Deanery Committee 1984 an ordinance which relates to property in the inner city area or the Marrickville area must be referred to the Inner City Committee or the Marrickville Area Deanery Committee for the comments of the relevant committee. This means that those committees are, in effect, a further review committee for the ordinance. For example, if an ordinance is promoted by a parochial unit in the inner city area and the ordinance deals with receipts in excess of \$300,000 there are, under present procedures, 3 committees which have the opportunity to review the ordinance: the Inner City Committee, the lands committee and the large receipts committee.

(d) At large receipts committee meetings the same matters are discussed as at the earlier lands committee. This is not the fault of either committee - in order that each committee can fulfil its functions, it is often necessary to duplicate the investigation taken by the other.

8. The committee recommended to the Standing Committee that a new procedure be adopted which will enable ordinances to be considered expeditiously while ensuring that consideration of all matters relevant to the ordinance are dealt with.

9. It is proposed that if an ordinance is routine, the ordinance papers will be referred to a reviewer who has the necessary experience to consider the papers and prepare a report for Standing Committee in terms required by clause 17 of the Ordinance. If the proposed ordinance involves large receipts or by reason of any other matter or thing it is considered appropriate that a regional council consider the ordinance, then the bill will be referred to the regional council for consideration. It is proposed that the regional council will consider all matters relating to the bill and that a separate large receipts committee meeting would not be required.

10. The identity of the regional council will depend upon the location of the parochial unit which is promoting the ordinance or on whose behalf the relevant property is held. For example the Standing Committee envisages -

(a) if the parochial unit is in the area in which the Bishop of Parramatta exercises episcopal control, the review committee will be PARC;

(b) if the parochial unit is in the area in which the Bishop of Wollongong exercises episcopal control, the review committee will be WARC;

(c) if the parochial unit is in the inner city area, the review committee will be the ICC;

(d) if the parochial unit is in the Marrickville area, the review committee will be MADCOM; and

(e) in all other cases the review committee will be a Sydney review committee.

11. The bill has been drafted to permit the procedure referred to in 9. and 10. while retaining flexibility so that moves towards further regionalisation can be accommodated without the need to amend the ordinance.

12. The amendments to the Inner City Committee Ordinance 1972 and the Marrickville Area Deanery Committee Ordinance 1984 are to reflect the abovementioned procedure. Presently the Standing Committee cannot consider an ordinance unless it has been referred to the appropriate committee. These amendments will remove this requirement.

Recommendation

13. Standing Committee recommends that the bill be passed by the Synod.

For and on behalf of the Standing Committee

MARK PAYNE
Legal Officer

1 September 1993