

# Long Service Leave Ordinance 1973

(Reprinted under the Interpretation Ordinance 1985.)

The Long Service Leave Ordinance 1973 as amended by or in accordance with the Anglican Church of Australia Act 1976, the Anglican Church Property Trust Diocese of Sydney (Change of Name) Ordinance 1982, The Council for the Promotion of Sydney Church of England (Diocesan) Schools (Change of Name) Ordinance 1982, the Arden Church of England School Council (Change of Name) Ordinance 1982, the Sydney Anglican Schools Corporation Ordinance 1990, the Miscellaneous Amendments Ordinance 1992, the General Synod – Long Service Leave Canon 1992 Adopting Ordinance 1992, the Miscellaneous Amendments Ordinance 1995, the Long Service Leave Amendment Ordinance 1998 and the General Synod – Long Service Leave Canon 2010 Assenting Ordinance 2010.

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## Long Title

An Ordinance to supplement the Long Service Leave Canon 2010 and to more effectively secure the entitlement of persons engaged in the work of the Diocese of Sydney to long service leave under the Long Service Leave Act 1955.

## Preamble

Whereas the Anglican Church of Australia in the Diocese of Sydney remains a voluntary association And Whereas in the opinion of the Synod of the Diocese of Sydney every person, whether the holder of an office or a “worker” (as defined in s.4 of the Long Service Leave Act 1955) engaged in the work of the Anglican Church of Australia in the Diocese of Sydney should be entitled to long service leave either under the Long Service Leave Canon 2010, where applicable or under the said Act And Whereas in the opinion of the said Synod for the purpose of determining an entitlement to long service leave, continuous employment with any body or organisation under the control of the said Synod and the holding of office in the said Diocese should be regarded as a single continuous period of employment or holding of office And Whereas it is expedient that effect be given to these principles Now the Synod of the Diocese of Sydney Hereby Ordains Declares Directs and Rules as follows –

## Interpretation

- (1) In this Ordinance, unless the context otherwise requires –
  - “Act” means the Long Service Leave Act 1955;
  - “Archbishop” means –
    - the Archbishop of Sydney; or
    - if the Archbishop is absent - his Commissary; or
    - if the See is vacant - the Administrator of the Diocese;
  - “Canon” means the Long Service Leave Canon 2010;
  - “Diocese” means the Diocese of Sydney;
  - “financial year” means a period of 12 months beginning on 1 January in any year;
  - “Fund” means the fund established by this Ordinance;

“member of the clergy” means a person who –

- (a) is a member of the clergy as defined in section 4 of the Canon; and
- (b) is licensed by the Archbishop.

“Other Service” means service in the Diocese by a member of the clergy who is licensed by the Archbishop to an office in a parish which is not –

- (a) Service; or
- (b) service as a worker.

“organisation” means –

- (a) Anglican Church Property Trust Diocese of Sydney; and
- (b) each body corporate constituted by or under the Anglican Church of Australia (Bodies Corporate) Act 1938 at the instance of the Synod or the Standing Committee; and
- (c) each organisation or association regulated by ordinance of the Synod or the Standing Committee; and
- (d) each organisation or association regulated by resolution of the Synod; and
- (e) every organisation which is declared by resolution of the Standing Committee to be an organisation to which this Ordinance applies,

whether in existence on or at any time after the date on which this Ordinance comes into effect.

“parish” means a parish, provisional parish or other ecclesiastical district existing from time to time in the Diocese.

“Service” has the same meaning as in section 4 of the Canon.

“worker” means a person who is a worker as defined in section 3(1) of the Act.

(2) A worker shall be deemed to be employed in a Parish if he is engaged by the rector, minister, churchwardens, parish council or other responsible body thereof and is paid from moneys which are church trust property as defined in Section 4 of the Anglican Church of Australia Trust Property Act 1917.

(3) The headings contained in this Ordinance have been inserted as a matter of convenience only and shall not limit or restrict the provisions of this Ordinance in any way.

(4) This Ordinance may be cited as “Long Service Leave Ordinance 1973”.

### **Application**

2. (1) This Ordinance shall apply to every Parish.

(2) Subject to subclauses (3), (4) and (5) of this clause this Ordinance shall apply to every organisation.

(3) This Ordinance shall not apply to any of the organisations listed in the Schedule hereto unless –

- (a) a majority of the members or other governing council of such organisation give their written consent to this Ordinance applying to such organisation, and
- (b) the Standing Committee declares, by resolution, that this Ordinance shall apply to such organisation.

(4) This Ordinance shall cease to apply to an organisation if –

- (a) a majority of the members or other governing council of such organisation request the Standing Committee to pass the resolution referred to in paragraph (b) of this subclause, and
- (b) the Standing Committee declares, by resolution, that this Ordinance shall cease to apply to such organisation.

(5) Where –

- (a) this Ordinance has ceased to apply to an organisation by virtue of a resolution passed pursuant to subclause (4) of this clause, and

(b) a majority of the governing council or where there is no governing council a majority of the members of such organisation request the Standing Committee to pass the resolution hereinafter (in this subclause) referred to, the Standing Committee may declare, by resolution, that this Ordinance shall apply to such organisation.

(6) If the Standing Committee passes a resolution pursuant to subclauses (3) or (5) of this clause, this Ordinance shall apply to the organisation named or referred to in that resolution on and from the date on which the Standing Committee passes such resolution.

(7) If the Standing Committee passes a resolution pursuant to subclause (4) of this clause, this Ordinance shall cease to apply to the organisation named or referred to in that resolution on the day following the date on which the Standing Committee passes such resolution.

(8) The Standing Committee may include any terms or conditions that it may consider just and equitable in the circumstances in any resolution passed by it pursuant to subclauses (3),(4) or (5) of this clause (being terms or conditions relating to long service leave or to contribution or moneys collected therefor) and all such terms and conditions shall be binding on the organisation concerned.

### **Fund**

3. There shall be a Fund called the Sydney Diocesan Long Service Leave Fund which shall be managed by the Standing Committee.

4. (1) The Churchwardens of the principal or only church in every Parish shall supply to the Standing Committee, in such form as the Standing Committee may require, by the 15th April in 1974 and every year thereafter –

- (a) the name of every member of the clergy who was licensed to or who regularly officiated in such Parish at any time during the previous financial year,
- (b) the name of every worker employed at any time during that financial year in such Parish,
- (c) the amount of the stipend, salary and other remuneration paid to such persons during that financial year, and
- (d) such other information that the Standing Committee may require for the purposes of the Fund.

(2) Every organisation to which this Ordinance applies shall supply to the Standing Committee, in such form as the Standing Committee may require by the 15th April, in 1974 and every year thereafter –

- (a) the name of every member of the clergy holding an office within such organisation at any time during that financial year,
- (b) the name of every worker employed at any time during that financial year by that organisation,
- (c) the amount of the stipend, salary and other remuneration paid by such organisation to such persons during that financial year, and
- (d) such other information that the Standing Committee may require for the purposes of the Fund.

5. (1) In addition to any contributions payable by each Parish and each organisation to which this Ordinance applies under the Canon or the General Synod – Long Service Leave Canon 2010 Assenting Ordinance 2010, each Parish and each organisation to which this Ordinance applies shall pay to the Standing Committee a percentage of the aggregate of all moneys paid by way of salary and other remuneration to all workers thereof or employed therein during each financial year.

(2) The percentage referred to in subclause (1) shall be such percentage as the Standing Committee may determine by resolution provided that such percentage shall not exceed six percentum (6%) without the approval of the Synod given in a resolution thereof.

(3) Such payment shall be made within one month of written demand being made therefor by or on behalf of the Standing Committee.

6. Any Parish or organisation to which this Ordinance applies shall pay to the Standing Committee an amount equal to the sum of –

- (a) the amount standing in any reserve in its books for long service leave as at the 1st day of January 1973, and
- (b) the amount added thereto since that date,

less any amount paid by it by way of long service leave since that date. Such payment shall be made in such instalments and at such times as the Standing Committee, after consulting with that Parish or organisation, by resolution, may approve.

7. The Standing Committee, from time to time, by resolution, may exempt any Parish or organisation from all or any one or more of the obligations imposed upon that Parish or organisation by clauses 4, 5 and 6. Any such exemption may be granted upon such terms and conditions that the Standing Committee may consider to be just and equitable in the circumstances (being terms and conditions relating to long service leave or to contributions or moneys collected therefor) and all such terms and conditions shall be binding on the Parish or organisation concerned. The Standing Committee, from time to time, by resolution, may revoke any such exemption in whole or in part and vary or revoke any such terms and conditions or impose further such terms and conditions.

#### **Administration**

8. The Standing Committee shall administer the Fund in accordance with this Ordinance.

9. The Standing Committee shall report to each ordinary session of the Synod on its administration of the Fund.

10. The Standing Committee may delegate all or any of its powers and duties hereunder to such person or persons as it may think fit and may revoke any such delegation. Any such delegation or revocation may be by resolution of the Standing Committee.

11. The Standing Committee may borrow any sums necessary to provide for applications to be made pursuant to clause 16 hereof.

12. The Standing Committee may make such arrangements with the Long Service Leave Board constituted by the Canon to give effect to this Ordinance that it may consider fit.

13. The Standing Committee may make such arrangements that it may think fit with any person, persons or corporation (not being a Parish or organisation) whether part of the Anglican Church of Australia or otherwise or with any government or statutory authority upon any person (hereinafter called the “ex-employee”) employed by such person, persons, corporation, government or authority whether in the Commonwealth of Australia or otherwise, becoming a clergyman or worker and alternatively with the ex-employee concerned so as to enable any period of service of the ex-employee whilst employed by such person, persons, corporation, government or authority to be taken into account in determining an entitlement to long service leave.

14. . . . .

#### **Governing Principles**

15. (1) Each member of the clergy who renders Service in the Diocese is entitled to long service leave in accordance with the Canon.

(2) Each member of the clergy who renders Other Service in the Diocese is entitled to long service leave under this Ordinance.

(3) Each worker engaged in the work of the Church in the Diocese is entitled to long service leave under the Act.

(4) For the purposes of determining an entitlement –

- (a) Service in the Diocese; and
- (b) the continuous provision of Other Service in the Diocese; and
- (c) the continuous employment with any parish, parishes, organisation or organisations in the Diocese (being organisations to which this Ordinance applies),

shall, to the extent permitted by the Canon, this Ordinance and the Act, be regarded as a single whole period of Service, Other Service or employment, as the case may be.

### **Leave Entitlements for Members of the Clergy who render Other Service**

15A. (1) The amount of long service leave to which a member of the clergy who renders Other Service in the Diocese shall be entitled is –

- (a) on completion of the first 10 years of continuous Other Service – a period of 10 weeks leave; and
- (b) on completion of each subsequent 5 years of continuous Other Service – a period of 5 weeks leave.

(2) Leave may be granted and taken in 1 continuous period or, if the member of the clergy and the parish or organisation to which the Other Service is being provided so agree, in separate periods as follows –

- (a) where the amount of the leave exceed 5 weeks but does not exceed 10 weeks, in 2 separate periods; or
- (b) where the amount of the leave exceeds 10 weeks, in 2 or 3 separate periods.

(3) Long service leave taken under this clause is exclusive of –

- (a) annual holidays; and
- (b) public holidays observed generally throughout New South Wales.

(4) Where a member of the clergy becomes entitled to long service leave under this clause the leave must be given and taken as soon as practicable.

(5) Payment for long service leave under this clause shall be calculated by reference to the ordinary pay of the member of the clergy at the date immediately preceeding the date on which the long service leave is taken or is deemed to be taken under subclause (6) or (7). For the purposes of this subclause, 'ordinary pay' means the amount of the average weekly stipend or salary earned by the member of the clergy for rendering Other Service during –

- (a) the period of 12 months; or
- (b) the period of 5 years,

ending on the date immediately proceeding the date on which the long service leave is taken or is deemed to be taken under subclause (6) or (7), whichever is the greater.

(6) Where the continuous Other Service of a member of the clergy is terminated, other than by reason of the death of that person and any long service leave to which the person was entitled has not been taken, the person shall be taken to have entered upon the leave from the date of such termination.

(7) Where the Other Service of a member of the clergy terminates by reason of that person's death and any long service leave to which the person was entitled had not been taken, the person's personal representative shall be paid in full the amount that would have been payable to the person in respect of that person's long service leave entitlement.

(8) Except as permitted by this clause, payments must not be made to a person in lieu of any long service leave to which that person is entitled.

### **Application of the Fund**

16. The Fund shall be applied by the Standing Committee in the following ways –

- (a) in procuring long service leave benefits under the Canon for persons to whom the Canon applies;
- (b) in reimbursing any Parish or organisation to which this Ordinance applies for any amount incurred by it in meeting an entitlement for long service leave under the Act; and
- (c) in giving effect to the principles in clause 15 in such manner as, in the opinion of the Standing Committee, is appropriate in the particular circumstances.

17. Upon this Ordinance ceasing to apply to any organisation, the Standing Committee may refund to such organisation any part of the contributions made by it hereunder or make such other arrangements as in the opinion of the Standing Committee are proper in the circumstances.

## Schedule

Abbotsleigh  
Arden Anglican School  
Barker College  
St Catherine's School Waverley  
Sydney Church of England Girls' Grammar School  
Tara Anglican Girls' School  
The Illawarra Grammar School  
The King's School  
Sydney Church of England Grammar School  
Trinity Grammar School  
Blue Mountains Church of England Grammar School for Boys  
Sydney Anglican Schools Corporation  
Council of Macarthur Region Anglican Church School  
Campbelltown Anglican Schools Council  
St Andrew's Cathedral School Council  
William Branwhite Clarke College Council  
Any Organisation as defined in subclause 1(1)(f)(v) of this Ordinance.

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### Table of Amendments

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| Long Title | Amended by Ordinances Nos 37, 1992; 38, 1992 and 28, 2010.  |
| Preamble   | Amended under the Anglican Church of Australia Act 1976 and by Ordinances Nos 37, 1992; 38, 1992 and 28, 2010.  |
| Clause 1   | Amended under the Anglican Church of Australia Act 1976 and by Ordinances Nos 36, 1982; 37, 1992; 38, 1992; 24, 1995; 33, 1998 and 28, 2010.  |
| Clause 4   | Amended by Ordinance No 33, 1998.   |
| Clause 5   | Amended by Ordinances Nos 38, 1992 and 28, 2010.  |
| Clause 7   | At its meeting on 29 July 1974 Standing Committee resolved in effect that all parishes and diocesan organisations are exempted from the provisions of clauses 4, 5 and 6 of the Ordinance provided that –<br><ul style="list-style-type: none"><li>(a) in the case of parishes, the churchwardens certify on the annual return of income, and in the case of organisations the council or other governing body certify each year, that adequate provision has been made to cover the liability (if any) of the parish or organisation in respect of long service leave; and</li><li>(b) in the event of any employee transferring to another parish or organisation under the control of Synod, the parish or organisation as the case may be, makes a payment to the parish or organisation to which the employee is transferring being 2% of the product of the salary (per annum) of the former employee at the time of the transfer and the period of his or her continuous service in parishes and/or organisations in the Diocese expressed in years and fractions thereof.</li></ul> |
| Clause 13  | Amended under the Anglican Church of Australia Act 1976 and by Ordinance No 33, 1998.   |
| Clause 14  | Omitted by Ordinance No 38, 1992.   |
| Clause 15  | Original clause amended by Ordinance No 37, 1992. Original clause repealed and new clause inserted by Ordinance No 33, 1998.  |
| Clause 15A | Clause inserted by Ordinance No 33, 1998.   |

Schedule Amended by Ordinances Nos 42, 1982; 50, 1982; 15, 1990 and 37, 1992. Under clause 4 of Ordinance No 37, 1992 the inclusion of Council of Macarthur Regional Anglican Church School, Campbelltown Anglican Schools Council and St Andrew's Cathedral School Council in the Schedule is deemed to have effect on and from 8 April 1992 but does not have effect in relation to the employment of a person with those organisations which commenced prior to that date. Under clause 4 of Ordinance No 37, 1992, the inclusion of William Branwhite Clarke College Council in the Schedule is deemed to have effect on and from 12 August 1992 but does not have effect in relation to the employment of a person with that organisation which commenced prior to that date.

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