

## AUSTRALIAN CAPITAL TERRITORY

No. 41 of 1980

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### An Ordinance relating to the Church of England in Australia

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated this nineteenth day of November 1980.

ZELMAN COWEN  
Governor-General

By His Excellency's Command,

MICHAEL HODGMAN  
Minister of State for the Capital Territory

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### CHURCH OF ENGLAND IN AUSTRALIA ORDINANCE 1980

#### PART I—PRELIMINARY

##### Short title

1. This Ordinance may be cited as the *Church of England in Australia Ordinance 1980*.<sup>1</sup>

#### PART II—AMENDMENTS OF THE CHURCH OF ENGLAND CONSTITUTIONS ACT AMENDMENT ACT OF 1902 OF THE STATE OF NEW SOUTH WALES IN ITS APPLICATION IN THE TERRITORY

##### Principal Act

2. In this Part, "Principal Act" means the Church of England Constitutions Act Amendment Act of 1902 of the State of New South Wales, in its application in the Territory.

##### Preamble

3. The Schedule to the Principal Act is amended by omitting all words from and including "WHEREAS it is expedient" to and including "management and good government of the said Church".

#### **Article 1**

4. Article 1 of the Schedule to the Principal Act is amended by omitting “said Church of England in any Diocese now existing, or at any time hereafter to be constituted,” and substituting “Church of England in Australia in any Diocese”.

#### **Article 2**

5. Article 2 of the Schedule to the Principal Act is amended by omitting the Proviso.

#### **Article 6**

6. Article 6 of the Schedule to the Principal Act is amended—

- (a) by inserting “present and” after “members” (second occurring);
- (b) by omitting “five members” and substituting “eight members of one order”; and
- (c) by inserting “and, if a vote be taken by orders, a majority of members of each order present and voting shall be required” after “orders”.

#### **Article 8**

7. Article 8 of the Schedule to the Principal Act is amended—

- (a) by omitting “twenty-one years, being occupiers of seats in his church or residents within his parish,” and substituting “eighteen years or over who are occupiers of seats in any church within his cure of souls or declare that they usually attend the regular church services in such a church”; and
- (b) by inserting “and attending the meeting” after “summoned”.

#### **Article 9**

8. Article 9 of the Schedule to the Principal Act is amended by inserting “and not a member of any other Church” after “England”.

#### **Article 10**

9. Article 10 of the Schedule to the Principal Act is amended by omitting “choose as representatives two male persons of the age of twenty-one years” and substituting “elect as representatives two persons of the age of eighteen years or over”.

#### **Article 11**

10. Article 11 of the Schedule to the Principal Act is amended by omitting “or she”.

#### **Article 14**

11. Article 14 of the Schedule to the Principal Act is amended by omitting “may” (first and fourth occurring) and substituting “shall”.

**Article 17**

12. Article 17 of the Schedule to the Principal Act is amended—

- (a) by inserting “member” after “communicant”; and
- (b) by inserting “and not a member of any other Church” after “England”.

**Articles 18 and 19**

13. Articles 18 and 19 of the Schedule to the Principal Act, and the headings immediately preceding each of those Articles, are repealed.

**Article 24**

14. Article 24 of the Schedule to the Principal Act, and the heading immediately preceding that Article, are repealed.

**Article 26**

15. Article 26 of the Schedule to the Principal Act is amended—

- (a) by omitting “State” and substituting “Province”; and
- (b) by omitting “for the purpose by an ordinance of Synod, or in default of such an ordinance” and substituting “to administer the Diocese under the provisions of an ordinance of Synod or if no such appointment has been made”.

**Articles 28 and 29**

16. Article 28 of the Schedule to the Principal Act is repealed and the following Articles are substituted:

“28. Two copies of ordinances passed by the Synod of each Diocese shall be sent by the Bishop thereof to the Metropolitan, who shall send one copy, together with all ordinances passed by the Synod of his own Diocese and the ordinances and determinations passed by any Provincial Synod, to the Primate of the Church.

“29. These articles and provisions may be amended by an ordinance passed by the Provincial Synod of the Church in the Province of New South Wales and adopted by the Synod of each Diocese in that Province if the amendment is ratified by, or made in accordance with, a canon of the General Synod of the Church.”.

### **PART III—AMENDMENTS OF THE CHURCH OF ENGLAND TRUST PROPERTY ORDINANCE 1928**

**Principal Ordinance**

17. In this Part, “Principal Ordinance” means the *Church of England Trust Property Ordinance 1928*.<sup>2</sup>

### **Interpretation**

**18.** Section 3 of the Principal Ordinance is amended by omitting “and the Church of England Trust Property (Amendment) Act (No. 2), 1923,” from the definition of “the Act” and substituting “the Church of England Trust Property (Amendment) Act (No. 2), 1923, and the Church of England Trust Property (Amendment) Act, 1976.”

### **Property vested in separate trustees**

**19.** Section 8 of the Principal Ordinance is amended by adding at the end thereof the following sub-sections:

“(2) Upon the appointment of an incorporated company as the separate trustee of any church trust property, that property shall, by virtue of the appointment and without other assurance in the law, become vested in the separate trustee in the place of the trustees thereof for the time being, and the separate trustee shall, with respect to that property, have the same powers, authorities and discretions, and shall in all respects act, as if it had been originally made trustee on the creation of the trust.

“(3) In the application of the provisions of this Ordinance in relation to church trust property vested in an incorporated company by virtue of sub-section (2), references to the trustees of church trust property shall be read as references to the separate trustee of that property.”

### **Making of Ordinances**

**20.** Section 13 of the Principal Ordinance is amended—

- (a) by inserting “or resolution” after “ordinance” (first occurring);
- (b) by inserting “or that a resolution in those terms was duly passed,” after “assented to,”;
- (c) by inserting “or resolution” after “ordinance” (third occurring); and
- (d) by inserting “or resolutions, as the case may be,” after “ordinances”.

### **Record of Ordinances**

**21.** Section 15 of the Principal Ordinance is amended—

- (a) by inserting “or resolution” after “ordinance” (first occurring);
- (b) by omitting “twenty-seven,” and substituting “twenty-six A, twenty-seven, twenty-seven A,”; and
- (c) by inserting “or of the resolution certified as provided in sub-section (5) of section twenty-seven A” after “Diocese”.

### **Application of certain provisions of the Act**

**22.** Section 16 of the Principal Ordinance is amended—

- (a) by inserting in sub-section (1) “thirty-two A,” after “thirty-two,”; and

(b) by adding at the end thereof the following sub-section:

“(3) Section 16 of the Act applies in the Territory in accordance with this section as if the following sub-sections were added at the end thereof:

‘(2) Without limiting the application of sub-section (1), the synod of the Diocese of Canberra and Goulburn may appoint, by Ordinance, an incorporated trustee company to be the sole trustee, or one of the trustees, of any church trust property held for that diocese.

‘(3) In sub-section (2), “incorporated trustee company” means an incorporated company the objects of which include the object of acting as trustee of church trust property held for the Diocese of Canberra and Goulburn in pursuance of an appointment made by Ordinance of the synod of that diocese.’”.

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#### NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 27 November 1980.
2. Ordinance No. 19, 1928 as amended by No. 10, 1941; No. 8, 1967.