

AUSTRALIAN CAPITAL TERRITORY

No. 42 of 1980

An Ordinance relating to the Anglican Church of 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

ANGLICAN CHURCH OF AUSTRALIA ORDINANCE 1980

PART I—PRELIMINARY

Short title

1. This Ordinance may be cited as the *Anglican Church of Australia Ordinance 1980*.¹

Commencement

2. This Ordinance shall come into operation on such date as is fixed by the Minister of State for the Capital Territory by notice in the *Gazette*.

PART II—AMENDMENTS OF THE CHURCH OF ENGLAND TRUST PROPERTY ORDINANCE 1928

Principal Ordinance

3. In this Part, "Principal Ordinance" means the *Church of England Trust Property Ordinance 1928*.²

Short title

4. Section 1 of the Principal Ordinance is amended by omitting "*Church of England*" and substituting "*Anglican Church of Australia*".

Repeal

5. Section 2 of the Principal Ordinance is repealed.

Interpretation**6. Section 3 of the Principal Ordinance is amended—**

- (a) by omitting “Church of England in Australia” from the definition of “church trust property” and substituting “Anglican Church of Australia”;
- (b) by omitting the definition of “the Act” and substituting the following definition:
 - “ ‘the Act’ means the Anglican Church of Australia Trust Property Act, 1917, of the State of New South Wales, as amended by the Church of England Trust Property (Amendment) Act, 1923, the Anglican Church of Australia Trust Property (Amendment) Act (No. 2), 1923 and the Church of England in Australia Trust Property (Amendment) Act, 1976, of that State;”;
- (c) by omitting the definition of “the Constitution” and substituting the following definition:
 - “ ‘the Constitution’ means the Constitution of the Anglican Church of Australia, a copy of which is set forth in Schedule 3;”;
- (d) by omitting the definition of “the corporation” and substituting the following definition:
 - “ ‘the corporation’ means the corporation which was incorporated in the State of New South Wales by virtue of section 7 of the Church of England in Australia Constitution Act, 1961, of that State under the name ‘The Church of England in Australia Trust Corporation’ and the name of which was changed to ‘Anglican Church of Australia Trust Corporation’ by sub-section (2) of section 3 of the Anglican Church of Australia Act, 1976, of that State;”;
- (e) by omitting “Church of England in Australia” from the definition of the “Diocese” and substituting “Anglican Church of Australia”.

Adoption of Anglican Church of Australia Constitution Act, 1961, of New South Wales**7. Section 3A of the Principal Ordinance is amended—**

- (a) by omitting from sub-section (1) “Church of England in Australia Constitution Act, 1961, of the State of New South Wales,” and substituting “Anglican Church of Australia Constitution Act, 1961, of the State of New South Wales, as amended as set out in Schedule 1 to this Ordinance,”;
- (b) by omitting paragraph (b) of sub-section (2) and substituting the following paragraph:
 - “(b) the reference in section two of those provisions to the Bishops, clergy and laity being members of the Anglican Church of Australia in the several Dioceses of the Anglican Church of Australia within the State of New South Wales shall be read

as a reference to the Bishops, clergy and laity, being members of the Anglican Church of Australia in the Diocese within the Territory; and”.

Application of certain provisions of the Act

8. Section 16 of the Principal Ordinance is amended by inserting in sub-section (1) “as amended as set out in Schedule 2 to this Ordinance,” after “Act,”.

References to Church of England and Church of England in Australia

9. Section 18 of the Principal Ordinance is repealed and the following sections substituted:

“18. After the commencement of this section, any reference in—

- (a) an Ordinance;
- (b) an Act of the State of New South Wales applying in the Territory;
- (c) regulations, rules or instruments made under such an Ordinance or under such an Act in its application in the Territory; or
- (d) a grant, deed, will or other instrument,

to the Church of England or the Church of England in Australia shall, unless the contrary intention appears, be read as a reference to the Anglican Church of Australia.”.

First Schedule

10. The First Schedule to the Principal Ordinance is repealed and the following Schedules are substituted:

SCHEDULE 1

Section 3A

AMENDMENTS OF CERTAIN PROVISIONS OF THE ANGLICAN CHURCH OF AUSTRALIA CONSTITUTION ACT, 1961, OF THE STATE OF NEW SOUTH WALES

Provision amended	Amendment
Section 2	(a) Omit “Church of England in Australia” (wherever occurring), substitute “Anglican Church of Australia”; (b) Omit “Church of England within the State”, substitute “Anglican Church of Australia within the State”.
Section 8	Omit “Church of England in Australia”, substitute “Anglican Church of Australia”.

SCHEDULE 2

Section 16

AMENDMENTS OF CERTAIN PROVISIONS OF THE ANGLICAN CHURCH OF AUSTRALIA TRUST PROPERTY ACT, 1917, OF THE STATE OF NEW SOUTH WALES AS AMENDED

Provision amended	Amendment
Section 18	Insert “, the Church of England in Australia or the Anglican Church of Australia” after “Church of England”.
Section 26	(a) Omit “Goulburn”, substitute “Canberra and Goulburn”. (b) Omit “Church of England Constitutions Act Amendment Act of 1902 or any Act amending or taking the place of the same”, substitute “Anglican Church of Australia Constitutions Act, 1902, in its application in the Australian Capital Territory”.
Sub-section 32A (4)	Omit “Church of England in Australia”, substitute “Anglican Church of Australia”.
Section 40	Omit “Church of England Constitutions Act Amendment Act of 1902, or some Act amending or taking the place of the same”, substitute “Anglican Church of Australia Constitutions Act, 1902, in its application in the Australian Capital Territory”.
Sub-section 45 (1)	Omit “Church of England Constitutions Act Amendment Act of 1902, or any Act amending or taking the place of the same”, substitute “Anglican Church of Australia Constitutions Act, 1902, in its application in the Australian Capital Territory”.

Further amendments

11. The Principal Ordinance is further amended as set out in Schedule 1.

**PART III—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

12. 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.

Title

13. The Title of the Principal Act is omitted and the following title substituted:

“An Act to give legal force and effect to the constitution for the management and good government of the Anglican Church of Australia.”.

Preamble

14. The Preamble to the Principal Act is repealed.

Short title

15. Section 1 of the Principal Act is amended by omitting “Church of England Constitutions Act Amendment Act of 1902” and substituting “Anglican Church of Australia Constitutions Act, 1902”.

Name of Church

16. (1) Section 3 of the Principal Act is repealed.

(2) The repeal of section 3 of the Principal Act does not affect the operation of that section in relation to any law of the Territory, grant, deed, ordinance, rules of Synod or other instrument in force before the commencement of this Ordinance.

Constitutions to be binding

17. Section 4 of the Principal Act is amended by omitting “Church of England within the State of New South Wales” and substituting “Anglican Church of Australia within the Australian Capital Territory”.

Church property to be held subject to constitutions

18. Section 5 of the Principal Act is amended—

- (a) by omitting “Church of England” and substituting “Anglican Church of Australia”; and
- (b) by omitting “Act of Parliament” and substituting “a law of the Australian Capital Territory.”.

No ordinance or rule to be in contravention of law

19. Section 6 of the Principal Act is amended by omitting “this State” and substituting “The Australian Capital Territory”.

Not to affect other Church Acts

20. Section 7 of the Principal Act is amended by omitting “the Church of England Trust Property Incorporation Act, 1881, the Sydney Bishopric and Church Property Act, 1887, the Church of England Property Act of 1889, or the Church Acts Repealing Act of 1897” and substituting “the *Anglican Church of Australia Trust Property Ordinance* 1928 as amended and in force from time to time or the provisions of the Anglican Church of Australia Trust Property Act, 1917 of the State of New South Wales, as amended, and of the Anglican Church of Australia Constitution Act, 1961, of the State of New South Wales, as amended, applying in the Australian Capital Territory by virtue of sections 16 and 3A, respectively, of the *Anglican Church of Australia Trust Property Ordinance* 1928”.

Schedule

21. The Schedule to the Principal Act is amended as set out in Schedule 2.

PART IV—TRANSITIONAL

Transitional

22. (1) Nothing in this Ordinance affects the continuity of the Church the Constitution of which is set out in Schedule 3 to the *Church of England Trust Property Ordinance* 1928, as in force immediately before the commencement of this Ordinance, notwithstanding the change of the name of that Church.

(2) Notwithstanding the alteration of the name of the Corporation referred to in section 64 of the Constitution of the Anglican Church of Australia set out in Schedule 3 to the *Church of England Trust Property Ordinance* 1928, as in force immediately before the commencement of this Ordinance, effected by section 3 of the Anglican Church of Australia Act, 1976 of the State of New South Wales—

- (a) any property, rights, authorities, powers, functions, obligations or duties of that Corporation in the Territory are not affected; and
- (b) any legal proceedings instituted in the Territory by or against that Corporation before the commencement of this Ordinance may be continued by or against the Corporation under the name Anglican Church of Australia Trust Corporation.

SCHEDULE 1

Section 11

FURTHER AMENDMENTS OF THE CHURCH OF ENGLAND TRUST PROPERTY ORDINANCE 1928

Provision amended	Amendment
Sub-section 7 (1)	Omit "Church of England", substitute "Anglican Church of Australia".
Paragraph 8A (1) (a)	Omit "Church of England in Australia", substitute "Anglican Church of Australia".
Paragraph 8A (1) (c)	Omit "Church of England in Australia", substitute "Anglican Church of Australia".
Sub-section 8A (2)	Omit "Church of England in Australia" (wherever occurring), substitute "Anglican Church of Australia".
Sub-section 8A (3)	Omit "Church of England in Australia" (wherever occurring), substitute "Anglican Church of Australia".
Sub-section 8A (4)	Omit "Church of England in Australia", substitute "Anglican Church of Australia".
Sub-section 8A (5)	Omit "Church of England in Australia", substitute "Anglican Church of Australia".
Sub-section 8A (7)	Omit "Church of England in Australia", substitute "Anglican Church of Australia".
Sub-section 16 (2)	Omit " <i>Church of England Trust Property Ordinance</i> 1928-1941", substitute " <i>Anglican Church of Australia Trust Property Ordinance</i> 1928".
Sub-section 17 (1)	Omit "Church of England in Australia", substitute "Anglican Church of Australia".
Sub-section 17 (2)	Omit "Church of England in Australia", substitute "Anglican Church of Australia".
Sub-section 19 (1)	Omit "Church of England in Australia Constitution Act, 1961", substitute "Anglican Church of Australia Constitution Act, 1961".

SCHEDULE 1 continued

Provision amended	Amendment
Paragraph 19 (4) (b)	Omit, substitute the following paragraph: “(b) the reference to the Bishops, clergy and laity being members of the Anglican Church of Australia in the several Dioceses of the Anglican Church of Australia within the State of New South Wales were a reference to the Bishops, clergy and laity, being members of the Anglican Church of Australia in the Diocese of Sydney within the Jervis Bay Territory; and”.
Second Schedule - Heading	Omit the heading “SECOND SCHEDULE” and the next succeeding heading, substitute the following headings: “SCHEDULE 3 THE CONSTITUTION OF THE ANGLICAN CHURCH OF AUSTRALIA”
Section 1	Omit “Church of England in Australia”, substitute “Anglican Church of Australia”.
Sub-section 64 (1)	Omit “The Church of England in Australia Trust Corporation,”, substitute “the ‘Anglican Church of Australia Trust Corporation,’ ”.
Sub-section 74 (1)	Omit the definition of “This Church”, substitute the following definition: “ ‘This Church’ means the Anglican Church of Australia.”.

SCHEDULE 2

Section 21

FURTHER 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

Provision amended	Amendment
Schedule— Article 1	Omit “Church of England in Australia”, substitute “Anglican Church of Australia”.
Article 3	Omit “Church of England”, substitute “Anglican Church of Australia”.
Article 9	Omit “Church of England”, substitute “Anglican Church of Australia”.
Article 17	Omit “Church of England”, substitute “Anglican Church of Australia”.

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.