



Australian Capital Territory

Anglican Church of Australia Constitutions Act 1902

Republication No 1

Republication date: 6 May 2002

Last amendment made by Act 2001 No 56

Amendments incorporated to 12 September 2001

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Anglican Church of Australia Constitutions Act 1902* as in force on 6 May 2002. It includes any amendment, repeal or expiry affecting the republished law to 12 September 2001 and any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes).

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.

Amendments incorporated to
12 September 2001



Australian Capital Territory

Anglican Church of Australia Constitutions Act 1902

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Amendments incorporated to
12 September 2001



Australian Capital Territory

Anglican Church of Australia Constitutions Act 1902

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

1 Name of Act

This Act is the *Anglican Church of Australia Constitutions Act 1902*.

2 Application of Legislation Act

The *Legislation Act 2001* does not apply to instruments made under this Act.

4 Constitutions to be binding

The several articles and provisions of the constitutions contained in schedule 1, and any ordinances and rules to be made under or by virtue or in pursuance thereof, are and shall be for all purposes connected with or in any way relating to the property of the Anglican Church of Australia within the Australian Capital Territory binding upon the members of the said Church.

5 Church property to be held subject to constitutions

All persons now or at any time hereafter holding any real or personal estate in trust for or in any way on behalf or for the use of the Anglican Church of Australia, except in so far as such real or personal estate may be the subject of any express trust, and then so far as such express trust shall not extend, and except lands, the management of which may be already specially provided for by ordinance of Synod or by a law of the Australian Capital Territory, shall hold the said real and personal estate subject to the provisions of the said constitutions and of any ordinances or rules made thereunder, and shall be bound thereby as fully in all respects as if the said constitutions, ordinances, and rules were contained in a deed of conveyance and trust of the said real and personal estate.

6 No ordinance or rule to be in contravention of law

No ordinance or rule to be made under or by virtue or in pursuance of the said constitutions shall be in contravention of any law or

statute in force for the time being in The Australian Capital Territory.

7 Not to affect other Church Acts

This Act shall not repeal or in any way cut down or abridge the provisions of the *Anglican Church of Australia Trust Property Act 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 the *Anglican Church of Australia Trust Property Act 1928*, sections 16 and 3A, respectively.

Schedule 1 Constitutions for the management and good government of the Church of England within the State of New South Wales

1 Diocesan Synod to be held

The members of the Anglican Church of Australia in any Diocese within the State shall meet in Synod as hereinafter provided.

2 President and time of holding

The Synod in each Diocese shall be convened in the manner herein provided, save in so far as the same may be altered by a Synod acting under the provisions hereinafter contained. And such Synod shall be convened and holden once in every year by summons of the Bishop of the Diocese, stating the time and place of meeting. And the Bishop of the Diocese, or in his absence a commissary appointed by him in writing, shall be president of the Synod, and may adjourn, prorogue, and dissolve the same with the concurrence of the Synod. And a new Synod shall be elected and convened at least once in every three years. And it shall not be lawful for the president to vote on any question or matter arising in the Synod. And the provisions hereinbefore contained shall be applicable to any Diocese which may be hereafter constituted within the State.

3 Power of Synod generally

The Synod of each Diocese may make ordinances upon and in respect of all matters and things concerning the order and good government of the Anglican Church of Australia and the regulation of its affairs within the Diocese, including the management and disposal of all Church property, moneys, and revenues (not diverting any specifically appropriated, or the subject of any specific trust, nor

interfering with any vested rights), except in accordance with the provisions of any Act of Parliament, and for the election or appointment of churchwardens and trustees of churches, burial grounds, church lands, and parsonages. And all ordinances of the Synod shall be binding upon the Bishop and his successors, and all other members of the Church within the Diocese, but only so far as the same may concern their respective rights, duties, and liabilities as holding any office in the said Church within the Diocese.

4 Rules for conduct of business

The Synod of each Diocese may make rules for the conduct of all business coming before it, and for trying the validity of the election of any representative, and for supplying any vacancy in the Synod which may be occasioned by death, resignation, or any other cause, and for determining for what reason any representative shall be disqualified from sitting and voting in the Synod.

5 Rules for future Synods

The Synod of each Diocese may make rules for altering the periods within which and the manner in which subsequent Synods shall be convened, and the mode of electing representative members, and for regulating the number of the clergy and representative members to be respectively summoned to any future Synod, and as to the manner in which such regulation shall be effected, and as to the number necessary to constitute a quorum: Provided that the declarations hereinafter imposed and no other shall be required either from members of the Church voting at the election of representatives or from such representatives when elected.

6 Mode of voting and quorum

At the first meeting of a Synod in any Diocese the presence of not less than one-fourth of the members of each order shall be necessary to constitute a quorum. And every rule or ordinance of a Synod shall be made by a majority of the clergy and representative members present and voting collectively: Provided that in any Synod if any eight members of one order shall so desire the votes

shall be taken by orders and, if a vote be taken by orders, a majority of members of each order present and voting shall be required: Provided that no such rule or ordinance shall take effect or have any validity unless within one month after the passing of the same the Bishop shall signify his assent thereto in writing: Provided also that any such rule or ordinance to which the Bishop shall not assent may be the subject of reference to and determination by any Provincial Synod composed of the representatives of the Diocesan Synods of the State of New South Wales.

7 Synod may call for accounts

The Synod of each Diocese may call upon any person holding property belonging to the Church in the Diocese or in any parish thereof, or in which the Church or any such parish is in any manner interested, to render a full account of all such property, and of the manner in which the same and every part thereof is applied and disposed of.

8 Mode of convening Synod

Subject to any other provision to be made by the Synod of a Diocese, the Bishop shall summon to the Synod of his Diocese each clergyman licensed to a separate cure of souls therein and representatives as hereinafter provided. And for electing such representatives the Bishop of the Diocese shall require each clergyman licensed to a separate cure of souls to summon a meeting of the members of the Church of the age of 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, at such time within limits which may be prescribed by the Bishop in such manner and at such place within the parish as to such clergyman may seem convenient; and every member so summoned and attending the meeting shall be entitled to vote at such election, but the clergyman summoning the meeting shall not be entitled to vote at such election save to give a casting-vote.

9 Conduct of meeting

The clergyman, if present, shall act as chairman of the said meeting, and so soon as six persons in addition to the chairman are assembled, the meeting may proceed to business, and the chairman shall cause a list to be made of those who are present, and add thereto the names of any who subsequently attend before the proceedings are closed, and the chairman shall cause minutes to be taken of the proceedings. And every lay member of the Church shall, before taking part in or voting at such meeting, subscribe the following declaration:

‘I, the undersigned A.B., do declare that I am a member of the Anglican Church of Australia and not a member of any other Church.’

10 Representatives to be elected

Every such meeting shall, subject to any other provision to be made by the Synod of the Diocese, elect as representatives two persons of the age of eighteen years or over, each such person being a communicant of the Church.

11 Mode of election

In case at any such meeting the persons proposed for election exceed the number which the meeting is authorised to elect, the chairman shall take in writing the votes of the qualified persons present, each of whom may give one vote for such persons proposed as he may think fit, but not exceeding the number to be elected, and where the votes for two or more are equal, the chairman, who shall have no other vote, shall give a casting-vote in favour of either one or more of such persons as the case may require, and the chairman shall declare to the meeting the names of the persons elected.

12 Certificate of election

The chairman shall cause to be delivered to each person elected a certificate of his election, and shall sign the minutes of the meeting in token of their correctness, and shall forward them to the Bishop of

the Diocese, together with the subscribed declarations, the lists which have been laid before the said meeting, and a certificate of the names, callings, and addresses of the persons elected to be laid before the Synod at its opening.

13 Vacancy in cure or absence of clergyman

If the cure be vacant, or the clergyman be absent or unable from any other cause to act, the Bishop of the Diocese shall appoint a person to perform all the functions devolving on such clergyman under any of the five preceding sections of these constitutions.

14 Summoning of Chancellor and Registrar

The Bishop shall summon to the Synod as members thereof the Chancellor and the Registrar of the Diocese, who shall have the same rights, powers, and privileges as representative members, and may, also, summon such clergymen holding distinct official positions in the Diocese as the Bishop may determine: Provided that for every clergyman so summoned, a layman shall be elected as a representative member under regulations of the Synod made for the purpose.

15 Representation of St. Paul's College

The Warden of St. Paul's College, within the University of Sydney, shall always be summoned to the Synod of that Diocese as a clerical member thereof, and two lay members of the Church, to be elected by the council of the said College from amongst themselves, shall likewise always be summoned to such Synod as representative members thereof, and the said Warden shall cause to be delivered to each member of the said council so elected and shall also forward to the Bishop a certificate of such election.

16 Electing representatives for districts

When a clergyman has several districts having separate churches under his parochial charge, the Bishop may require such clergyman to summon a meeting in connection with each of such churches in

accordance with the provisions of clause eight to elect one representative for each such district: Provided that no parochial district shall elect more than three representatives in the aggregate.

17 Declaration to be made

Each representative shall, before taking part in or voting at any Diocesan Synod, sign and deliver to the president the following declaration:

‘I, the undersigned A.B., do declare that I am a communicant member of the Anglican Church of Australia and not a member of any other Church.’

20 Provision for incapacity

The Synod of each Diocese may also by ordinance make provision for dealing with cases of incapacity for, or inefficiency in, the discharge of ministerial duty by clergymen licensed by the Bishop within the Diocese, and may also make provision for the apportionment of any emoluments appertaining to the office of any such clergyman between the clergyman found incapable or inefficient and his successor.

21 Clergyman’s license when to be withdrawn

The Synod of each Diocese shall have power to determine by ordinance in what cases the license of a clergyman licensed within the Diocese may be suspended or revoked. Such license may be suspended or revoked by the Bishop of the Diocese at a clergyman’s own request, or (after opportunity given to him to show cause) in such of the said cases as the Synod shall by ordinance determine. Save as aforesaid, the license shall not be suspended or revoked, except as a consequence of a judgment or finding of the tribunal or of some other court of competent jurisdiction.

22 Provision as to new Dioceses

The provisions of these constitutions shall, save as hereinbefore provided, be held to be binding upon any new Diocese which shall be hereafter constituted in the State.

23 Provincial Synod may be held

The Bishops and clerical and lay representatives of the Church in the several dioceses in the State of New South Wales shall meet in Provincial Synod under such articles and provisions as may have been, or may be from time to time, passed by the Provincial Synod, and assented to by all the said Dioceses. And, for the purpose of holding any session of the Provincial Synod the Bishop of Sydney as the Metropolitan Bishop shall, by writing under his hand and seal, summon the Bishop of each of the said Dioceses, and also require such Bishop to convene representatives of the Church in his Diocese at such time and place as the Metropolitan may deem fit.

25 Defects and errors as to elections etc not to vitiate proceedings

No rule, ordinance, or determination of any Diocesan Synod, or of any Provincial Synod, shall be vitiated by reason of the non-election, or non-appointment, or non-summoning of any person necessary to be elected, or appointed, or summoned thereto, respectively, or of any informality in or respecting any such election, appointment, or summoning.

26 Absence etc of Bishop

In case of the absence from the Province of the Bishop of any Diocese, the powers by these constitutions vested in him shall be exercised by a commissary appointed by him, and in case no such commissary shall have been appointed, or the See be vacant, such powers shall be exercised by the person who shall have been appointed to administer the Diocese under the provisions of an ordinance of Synod or if no such appointment has been made by the person who shall then be the next in ecclesiastical rank or degree in

the diocese, and resident therein, until the return of the Bishop or the assumption of office by his successor.

27 Nothing in contravention of law

Provided always that no rule, ordinance, or determination of any Diocesan or Provincial Synod shall be made in contravention of any law or statute in force for the time being in the State.

28 Ordinances to be transmitted to the Archbishop of Canterbury

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.

Endnotes

1 About the endnotes

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

If the republished law includes penalties, current information about penalty unit values appears on the republication inside front cover.

2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	p = page
cl = clause	par = paragraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	prov = provision
exp = expires/expired	pt = part
Gaz = Gazette	r = rule/subrule
hdg = heading	reg = regulation/subregulation
ins = inserted/added	renum = renumbered
LA = Legislation Act 2001	reloc = relocated
LR = legislation register	R[X] = Republication No
LRA = Legislation (Republication) Act 1996	s = section/subsection
mod = modified / modification	sch = schedule
No = number	sdiv = subdivision
num = numbered	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

3 Legislation history

This Act was originally a NSW Act—the *Church of England Constitutions Act Amendment Act 1902* (NSW), a private Act assented to on 24 December 1902.

The Act was in force in NSW immediately before 1 January 1911 (the date of establishment of the ACT) and was continued in force by the *Seat of Government Acceptance Act 1909* (Cwlth), s 6.

Under the *Seat of Government (Administration) Act 1910* (Cwlth), s 4 the Act had effect in the ACT as if it were an ACT law (subject to ordinances made under the *Seat of Government (Administration) Act 1910*).

It was renamed the *Anglican Church of Australia Constitutions Act 1902* by the *Anglican Church of Australia Ordinance 1980 No 42* (Cwlth).

The *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 34 (4) converted most former NSW laws in force in the ACT into ACT enactments. This allowed the ACT Legislative Assembly to amend and repeal the laws. This Act was converted into an ACT enactment on self-government (11 May 1989).

Under the *Interpretation Act 1967*, s 65 (now expired) all former NSW Acts in force in the ACT immediately before 10 November 1999 became, for all purposes, laws made by the ACT Legislative Assembly. This completed the process of making former NSW Acts fully into ACT laws.

Before 11 May 1989, ordinances commenced on their notification day unless otherwise stated (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12).

3 Legislation history

NSW legislation

Anglican Church of Australia Constitutions Act 1902

assented to 24 December 1902

commenced 24 December 1902

as amended by

Commonwealth legislation

Church of England in Australia Ordinance 1980 No 41

notified 27 November 1980

commenced 27 November 1980

Endnotes

4 Amendment history

Anglican Church of Australia Ordinance 1980 No 42

notified 27 November 1980

commenced 27 November 1980

Legislation after becoming Territory enactment

Legislation (Consequential Amendments) Act 2001 No 44 pt 11

notified 26 July 2001 (Gaz 2001 No 30)

s 1, s 2 commenced 26 July 2001 (IA s 10B)

pt 11 commenced 12 September 2001 (s 2 and Gaz 2001 No S65)

Statute Law Amendment Act 2001 (No 2) 2001 No 56 pt 3.2

notified 5 September 2001 (Gaz 2001 No S65)

commenced 5 September 2001 (s 2 (1))

4 Amendment history

Title

title sub 1980 No 42 s 13

Preamble

preamble am 1980 No 41 s 3
om 1980 No 42 s 14

Name of Act

s 1 am 1980 No 42 s 15
sub 2001 No 44 amdt 3.2

Application of Legislation Act

s 2 sub 2001 No 56 amdt 1.123

Name of Church

s 3 om 1980 No 42 s 16

Constitutions to be binding

s 4 am 1980 No 42 s 17

Church property to be held subject to constitutions

s 5 am 1980 No 42 s 18

No ordinance or rule to be in contravention of law

s 6 am 1980 No 42 s 19

Not to affect other Church Acts

s 7 am 1980 No 42 s 20

Constitution for the management and good government of the Church of England within the State of New South Wales

sch 1 hdg (prev sch hdg) renum R1 LA

sch 1 am 1980 No 41 ss 4-16; 1980 No 42 sch 2

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