

AUSTRALIAN CAPITAL TERRITORY  
No.41 of 1980  
CHURCH OF ENGLAND IN AUSTRALIA ORDINANCE 1980  
No.42 of 1980  
ANGLICAN CHURCH OF AUSTRALIA ORDINANCE 1980

EXPLANATORY STATEMENT

The Church of England in Australia Ordinance 1980 brings the legislation governing the Church of England in the Territory into line with that governing that Church in New South Wales. In addition to giving effect to amendments made in New South Wales the proposed Ordinance allows an incorporated company to be appointed sole trustee of church trust property situated in the territory and held on behalf of the Diocese of Canberra and Goulburn. It is intended to incorporate companies to manage on behalf of the Diocese, the Canberra Grammar School and the Canberra Church of England Girl's Grammar School and to vest church trust property held by the Diocese for the use of the schools in these companies as trustees for the Diocese.

The Anglican Church of Australia Ordinance 1980 gives effect to the change of name of the Church of England in Australia and makes several consequential amendments. This compliments legislation already existing in the States.

Sections 1 and 2 of the Church of England in Australia Ordinance 1980 deal with commencement and interpretation provisions.

Section 3 of the Ordinance repeals the preamble to the Constitution of the Church of England in New South Wales contained in the Schedule to the Church of England Constitutions Act Amendment Act 1902 (NSW) ("the Principal Act") in its application to the Territory.

Section 4 of the Ordinance makes the wording of Article 1 of the Schedule to the Principal Act consistent with the language used elsewhere in the Principal Act.

Section 5 of the Ordinance repeals the proviso to Article 2 of the Church's Constitution contained in the Schedule to the Principal Act.

Section 6 of the Ordinance amends Article 6 of the Schedule to the Principal Act to alter the rule of voting in the Synod of a Diocese by increasing from 5 to 8 the number of members required to call for a vote by orders.

Section 7 of the Ordinance amends Article 8 of the Schedule to the Principal Act to reduce from 21 years to 18 years the minimum age of members of the Church of England eligible to elect representatives of a Synod.

Section 8 of the Ordinance amends Article 9 of the Schedule to the Principal Act by amending the declaration which is to be taken by members of the Church before taking part in or voting at a meeting of the Synod of a Diocese. Members are now required to declare that they are not a member of any other Church.

Section 9 of the Ordinance amends Article 10 of the Principal Act to remove the requirement that elected representatives of the Synod of a Diocese must be male.

Section 10 of the Ordinance amends Article 11 of the Principal Act to remove the words 'or she' from Article 11. The Interpretation Ordinance 1967 already provides that a reference to the masculine gender shall include the feminine and accordingly, the expression is not necessary.

Section 11 of the Ordinance amends Article 14 of the Principal Act to render it mandatory rather than discretionary for the Bishop to summon the Chancellor and the Registrar of the Diocese to the Synod as members. When the Bishop summons to a Synod clergyman holding distinct office in the Diocese, the election as a representative member, of a layman for each clergyman, so summoned, is now mandatory.

Section 12 of the Ordinance amends Article 17 of the Principal Act to amend the declaration which is made by each representative member before voting at any Diocesan Synod. It provides that such a member must declare that he is a member of the Church and he is not a member of any other Church.

Section 13 of the Ordinance amends Articles 18 and 19 of the Principal Act to abolish the right of a Synod to establish a tribunal for the trial of clergymen within the Diocese for offences defined by the Provincial Synod.

Section 14 of the Ordinance amends Article 24 of the Principal Act to abolish the rule that no alterations can be made to church doctrines and liturgies except in conformity with an alteration made by a competent authority of the Church in England.

Section 15 of the Ordinance amends Article 26 of the Principal Act to effect a drafting change by substituting the expression "Province" for "State", and renders the language of the Article consistent with the NSW legislation.

Section 16 of the Ordinance repeals Article 28 of the Schedule to the Principal Act and substitutes a new Article 28 and inserts a new Article 29. These Articles provide a procedure for amending the Constitution of the Church in New South Wales otherwise than by amending the Principal Act.

Section 17 of the Ordinance deals with interpretation provisions.

Section 18 of the Ordinance amends the definition of "the Act" contained in Section 3 of the Church of England Trust Property Ordinance 1928 ("the Principal Ordinance"). The amended definition enables amendments to the Church of England Trust Property (Amendment) Act 1976 (NSW) to apply in the Territory.

Section 19 of the Ordinance enables the Synod or the Standing Committee to appoint a company incorporated in the Territory to be trustee of church property in place of the existing trustee and vests that property in the company so incorporated.

Sections 20, 21 and 22 of the Ordinance effect drafting changes to sections 13, 15 and 16 respectively of the Principal Ordinance consequent upon the principal amendments.

Sections 1, 2 and 3 of the Anglican Church of Australia Ordinance 1980 deal with commencement and interpretation provisions.

Section 4 of the Ordinance alters the name of the Church of England Trust Property Ordinance 1928 (the "Principal Ordinance") to the "Anglican Church of Australia Trust Property Ordinance 1928".

Section 5 of the Ordinance repeals section 2 of the Principal Ordinance which deals with State Acts not applying in the Territory. The operation of the repealed section is exhausted.

Sections 6, 7 and 8 of the Ordinance effect drafting changes to sections 3, 3A and 16 respectively of the Principal Ordinance consequent upon the principal amendment.

Section 9 of the Ordinance repeals section 18 of the Principal Ordinance and inserts a new section 18. The new section provides that where the expression "Church of England in Australia" occurs in any legislation applying in the Territory or in any legal document, such expression will be taken to mean "Anglican Church of Australia".

Section 10 and 11 of the Ordinance effect changes of a minor or formal nature to the Principal Ordinance consequent upon the change of name.

Sections 12 to 21 of the Ordinance make amendments to the Church of England Constitutions Act Amendment Act 1902 (NSW) in its application to the Territory consequential upon the change of name. Amendments of a minor or formal nature are made to clarify the application of the Act in the Territory and omit provisions that no longer have application.

Section 22 of the Ordinance deals with transitional provisions relating to the application of the Constitution of the Church of England in Australia and the operation of the Church of England in Australia Trust Corporation.

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