
ANGLICAN PROVIDENT FUND (SYDNEY) ORDINANCE 1990

No. 33, 1990

TABLE OF PROVISIONS

| | | |
|----------|--|----|
| Part 1 | — PRELIMINARY | |
| Part 2 | — BOARD OF DIRECTORS | |
| Part 3 | — POWERS AND DUTIES OF BOARD | |
| Part 4 | — APPLICATION OF FUND | 5 |
| Part 5 | — MEMBERSHIP AND SUBSCRIPTIONS | |
| Part 6 | — ANNUITIES, PENSIONS AND BENEFIT PAYMENTS | |
| Part 7 | — REFUND OF SUBSCRIPTIONS | |
| Part 8 | — GENERAL | 10 |
| SCHEDULE | — THE REGULATIONS | |

An Ordinance to replace the Anglican Provident Fund (Sydney) Ordinance 1944.

Now the Synod of the Diocese of Sydney ordains as follows —

| | |
|----------------------|----|
| Part 1 - PRELIMINARY | 15 |
|----------------------|----|

Citation

1. This Ordinance may be cited as the "Anglican Provident Fund (Sydney) Ordinance 1990".

Definitions

2. (1) In this Ordinance except in so far as the context or subject 20 matter otherwise indicates or requires —

"1944 Ordinance" means the Anglican Provident Fund (Sydney) Ordinance 1944 as in force prior to the commencement of this Ordinance.

"Act" means either or both of, as appropriate, the Occupational 25 Superannuation Standards Act 1987 and the Income Tax Assessment Act 1936 and the Regulations made under those Acts.

"Annuitant" means a Member who has been superannuated 30 under the Old Tables.

Anglican Provident Fund (Sydney) Ordinance 1990

"Annuity" means the superannuation annuity payable to an Annuitant.

"Benefit" includes Annuity, Pension or lump sum.

"Board" means the Board of Directors of the Fund.

5 "Clergyman" means any Bishop, Priest or Deacon ordained in any Diocese of the Anglican Church for so long as that person remains installed or licensed or duly authorised to officiate in any Diocese of the Anglican Church.

"Director" means a member of the Board.

10 "Fund" means the Anglican Provident Fund (Sydney).

"Fund Earning Rate" means the rate of interest determined by the Board at the end of each year in accordance with the terms of clause 19.

"Member" means a member of the Fund.

15 "Old Tables" means the tables under the 1944 Ordinance.

"Pension" means a Widows' or Orphans' pension payable to or for the benefit of the widow or children under 16 years of age of a deceased Member or Annuitant under the Old Tables.

20 "Pensioner" means a person to whom or for whose benefit a Pension is payable.

25 "Permanent Incapacity or Permanent Invalidity" means such mental or physical impairment as in the opinion of the Board will result in the Member being unlikely ever to be able to work again in a job for which the Member is reasonably qualified by education, training or experience or such other measure of impairment as the Board shall require from time to time consistent with any preservation standard in the Occupational Superannuation Standards Regulations.

30 "Preservable Amount" means any part of any benefit or amount the payment of which is required, in the opinion of the Board and in accordance with the Statutory Requirements, to be deferred until the attainment of a particular age or the occurrence of a specified event.

35 "Regulations" means the Regulations set out in the Schedule to this Ordinance.

40 "Responsible Authority" means the Insurance and Superannuation Commissioner (including any Deputy Commissioner (Superannuation)), the Commissioner of Taxation (including any Deputy Commissioner of Taxation) or any other Federal Government authority responsible for administering the laws, regulations, or any other regulations applying to the operation of superannuation or similar funds.

45 "Statutory Requirements" means any Act or regulation made under any Act which is required to be complied with in order for the Fund and the Members of the Fund to receive and continue to receive the maximum available relief from taxation.

"Synod" means the Synod of the Diocese of Sydney.

Anglican Provident Fund (Sydney) Ordinance 1990

(2) Words and phrases used in this Ordinance which are defined in the Occupational Superannuation Standards Act 1987 or in the Income Tax Assessment Act 1936 or in the regulations made under those Acts shall have the same meanings as in those Acts and Regulations. 5

(3) Words used in this Ordinance importing the singular shall include the plural and vice versa and words importing the masculine gender shall include the feminine gender and vice versa.

(4) (a) Unless the Board at any time in writing resolves otherwise having regard to such advice as it may consider appropriate, the requirements contained in the standards prescribed in the Occupational Superannuation Standards Regulations and which are applicable to the operation of a superannuation fund are deemed to be included in this Ordinance. 10 15

(b) The provisions of this subclause override all other provisions of this Ordinance to the intent that where any provision of this Ordinance is inconsistent with the requirements of the Occupational Superannuation Standards Regulations then such requirements shall take precedence. 20

Legislation

3. This Ordinance shall in all respects take effect subject to the Anglican Clergy Provident Fund Act 1908, and the Anglican Clergy Provident Fund (Sydney) (Amendment) Act 1941. 25

Part 2 — BOARD OF DIRECTORS

Constitution

4. The Board shall be constituted in the following manner —

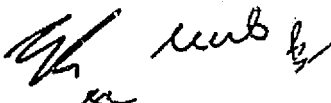
(1) Four qualified Clergymen and four laypersons shall be elected to the Board by the Synod. 30

(2) (a) The Synods of each Diocese within the Anglican Church of Australia wherein there are not less than 10 qualified Members shall be entitled to appoint or by ordinance provide for the appointment of a Director to the Board.

(b) A Director so appointed shall hold office for 4 years but shall cease to hold office if at any time the number of qualified members within that Diocese is less than 10. 35

(3) (a) Where a Diocese within the Anglican Church of Australia has more than 25 qualified Members then the Synod of such Diocese shall be entitled to appoint or by ordinance provide for the appointment of a further Director to the Board in addition to the Director referred to in subclause (2) above. 40

(b) Such further Director so appointed shall hold office for 4 years but shall cease to hold office if at any time the number of qualified Members within that Diocese is less than 26. 45



Anglican Provident Fund (Sydney) Ordinance 1990

(4) A Clergyman is a qualified Clergyman and a Member is a qualified Member if —

(a) he is making or is liable to make subscriptions to the Fund, or

5 (b) he is exempt from making subscriptions to the Fund and has not received or become entitled to receive immediately a benefit from the Fund.

Retirement

5 (1) On the first day of each ordinary session of the Synod one Clergyman and one layperson elected by the Synod who shall have been longest in office shall retire.

(2) The length of time a Director has been in office shall be computed from his last election.

15 (3) As between Clergymen or as between laypersons who have been in office an equal length of time the Directors to retire shall in default of agreement between them be determined by lot.

Re-election

20 6. A retiring Director shall be eligible for re-election. A person of or above the age of 72 years is not eligible to be elected or appointed or to act as a Director.

7. If at any session of the Synod at which any election of a Director ought to take place the place of any retiring Director be not filled up such retiring Director shall if willing to continue as a Director be deemed to be re-elected.

25 Casual Vacancies

8. The Casual Vacancies Ordinance 1935 shall not apply to this Ordinance.

30 9. (1) Any casual vacancy in the office of a Director elected by the Synod may be filled by the Standing Committee of the Synod when the Synod is not in session.

35 (2) The tenure of office of a person filling such a casual vacancy shall be until the vacancy is filled at the next ensuing ordinary session of the Synod or if the vacancy is not filled at such session of Synod until the vacancy is again filled by the Standing Committee or some subsequent ordinary session of Synod. The person appointed or elected to fill the casual vacancy shall cease to hold office at the time at which the person who filled the office immediately before the casual vacancy occurred would have ceased to have held office if the casual vacancy did not occur without prejudice however to his eligibility for re-election or re-appointment.

40 10. The appointment of a Director pursuant to subclauses 4(2) and 4(3) and the filling of any casual vacancy in respect of such Director shall be in accordance with such provisions as may be made by the Synod of the Diocese entitled to appoint such Director.

Vacation of Office

11. (1) The office of a Director shall be vacated on —
- (a) his resignation in writing addressed to the Board or to the secretary or other proper officer of the Synod of the Diocese which such Director represents; 5
 - (b) his death;
 - (c) his bankruptcy or executing a deed of assignment or arrangement for the benefit of creditors;
 - (d) his loss of qualification for the office;
 - (e) his incapacity to act or absence from meetings continued 10 for a period of 6 months without the leave of the Board;
 - (f) a resolution by the Synod which he represents or by the Standing Committee of such Synod when such Synod is not in session declaring his office vacant;
 - (g) his receiving or becoming entitled to receive immediately a 15 benefit from the Fund; or
 - (h) his attaining the age of 72 years.

(2) If it comes to the knowledge of the Board or the secretary or other proper officer of the Diocese which a Director represents that the office of such Director has become vacant the Board or the secretary or other proper officer as the case may be shall forthwith give notice thereof to the other. 20

Chairman and Deputy Chairman

12. (1) The Board shall from time to time elect from its members a Chairman and Deputy Chairman. The Chairman and Deputy Chairman shall hold office until the first meeting of the Board in the next succeeding financial year. A retiring Chairman or Deputy Chairman shall be eligible for re-election. 25

(2) If at any meeting the Chairman is not present within 5 minutes of the time appointed for holding the meeting the Deputy Chairman shall be the Chairman of the meeting. If neither the Chairman nor the Deputy Chairman are then present the Directors present may choose one of their number to be Chairman of the meeting. 30

Quorum

13. Five members of the Board shall for all purposes form a quorum. 35

Voting

14. Questions arising at any meeting of the Board shall be decided by a majority of votes, each Director present in person being entitled to one vote, but in case of equality of votes the Chairman of the meeting shall have a second or casting vote. 40

Validation of Acts of Board

15. All acts done by the Board or by any Committee thereof or by any person acting as a Director shall notwithstanding that there is a vacancy in the Board or that it be discovered that there was some defect in the



election or appointment of the Board or Committee or Director be as valid as if such Board or Committee or Director had been duly elected or appointed.

Liability and Indemnity

- 5 16. A Director or Officer of the Fund shall be accountable only for his own acts, receipts, neglects or defaults and not for those of any other Director or Officer nor for any banker, broker or any person with whom any moneys or securities of the Fund may be deposited nor for the insufficiency or deficiency of any securities nor for any other loss unless
- 10 the same happens through his own wilful neglect or default. The Directors and Officers of the Board and each of them shall be indemnified against all liabilities incurred by them in the execution of their duties hereunder and shall have a lien on the Fund for such indemnity.

15 **Part 3 — POWERS AND DUTIES OF BOARD**

Powers

17. (1) The Board shall manage and control the Fund.

(2) Without prejudice to the generality of the foregoing power the Board may do any one or more of the following things —

- 20 (a) appoint, employ and remove such agents and employees as the Board may deem necessary to carry on the management and administration of the Fund and determine their powers and duties and fix and pay their fees, salaries or emoluments;
- 25 (b) establish one or more bank accounts and determine in what manner and by whom such accounts should be operated;
- 30 (c) delegate all or any of its powers to Committees consisting of such members of the Board as it thinks fit; any Committee so formed shall in the exercise of the powers so delegated conform to any regulation or direction that may be from time to time imposed on it by the Board;
- 35 (d) borrow money (either without security or secured by legal or equitable mortgage or other security on all or any of the assets of the Fund including moneys to become owing to the Fund) for the purpose only of obtaining temporary finance, the money so borrowed to be by means of a bank overdraft with an eligible bank or by such alternative instruments and with such alternative financial institutions as are approved by the Responsible Authority;
- 40 (e) sell, lease or otherwise dispose of or deal with all or any of the assets of the Fund for such consideration and subject to such terms and conditions and otherwise in such manner as the Board may deem expedient;
- 45 (f) pay all costs and expenses of and incidental to the management and control of the Fund;

M. H. H. H.

Anglican Provident Fund (Sydney) Ordinance 1990

- (g) appoint or remove any person or corporation as investment manager of the Fund for such period or periods and subject to such conditions as the Board may from time to time determine and delegate to and confer upon such investment manager such powers discretions and authorities relating to the assets of the Fund as the Board thinks fit and to pay out of the assets of the Fund to any such investment manager such remuneration for his or its services as the Board considers proper; 5
- (h) appoint and revoke the appointment of attorneys; 10
- (i) effect insurance with any life assurance company or companies on the lives of Members or as a group upon such terms and conditions as the Board may determine.

Investments

- 18. The Board may invest moneys of the Fund in or on — 15
 - (a) first mortgages on real property in Australia;
 - (b) funds, stocks, securities, bonds, debentures or Treasury bills of or guaranteed by the Government of Australia or of any Australian State or Territory;
 - (c) debentures issued by any local government authority in Australia; 20
 - (d) deposit with an eligible bank;
 - (e) insurance on the lives of Members effected with any life assurance company or companies;
 - (f) the purchase of land in Australia; 25
 - (g) debentures of or preference or ordinary shares or stock in or notes of any company or units in or notes of a trust where the company or trust is carrying on business in Australia or has a share or unit register in Australia and options over the ordinary shares or stock of any company where the shares or stock are quoted on an Australian stock exchange and the options are traded on an Australian stock exchange; provided that no such investment shall be made in any debentures, shares or stock of any company or units in or notes of a trust or any options over such debentures, shares, stock, units or notes if the business or one of the main businesses of the relevant company or trust is the manufacture, sale or distribution of fermented or spirituous liquors or of tobacco or tobacco products or of gambling devices or of armaments; 30
 - (h) (i) debentures of or preference or ordinary shares or stock in or notes of any company or units in or notes of a trust, or 35
 - (ii) deposit with any company, and where the company or trust is listed for quotation on a recognised stock exchange outside Australia; provided that no such investment or deposit shall be made if the business or one of the main 40

so *M Herb* *fy*

Anglican Provident Fund (Sydney) Ordinance 1990

businesses of the relevant company or trust is the manufacture sale or distribution of fermented or spirituous liquors or of tobacco or tobacco products or of gambling devices or of armaments; and provided further that no such investment or deposit shall be made if the value of the investment or deposit proposed together with the value at that time of all monies, debentures, shares, stock, notes or units invested pursuant to this paragraph and held by the Fund exceeds 50% of the value at that time of all investments of the Fund;

(1) units or equivalent rights or interests in any arrangements, including but without limiting the generality of the foregoing, the type popularly known as a "cash management trust" or "money market trust" or "mutual fund" made for the purpose or having the effect of providing for persons having funds available for investment facilities for the participation by them as beneficiaries under a trust or mutual fund in any profits or income arising from the acquisition holding management or disposal of investments that are principally comprised of investments authorised under another paragraph of this clause and if they are operated in Australia being arrangements authorised or permitted under a trust deed that is approved as such under Division 6 of Part IV of the Companies (New South Wales) Code.

(2) The Board may from time to time vary, replace, encumber and otherwise deal with such investments as fully and effectively and with the same unrestricted powers in all respects as a person absolutely and beneficially entitled dealing with his own property may so do.

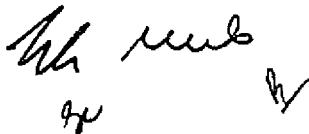
(3) All investments shall be made in the name of the Anglican Provident Fund (Sydney) except that if an investment manager shall have been appointed pursuant to clause 17(2)(g) the investments may be held in the name of the investment manager or nominee company or custodian company appointed by the Board.

Fund Earning Rate

19. (1) The Board in making its determination as to the Fund Earning Rate shall have regard to those matters it considers fair and equitable and to the Statutory Requirements and may adopt a method of calculation which allows for the averaging of the earnings of the Fund upon a basis which the Board considers fairly and equitably takes into account possible or actual periodic fluctuations in those earnings.

(2) From time to time during the year the Board may declare an interim Fund Earning Rate which shall be used to apply to any account or accumulation which forms part of a benefit payment in that year and which shall be determined in accordance with the Statutory Requirements.

(3) The Board shall apply the Fund Earning Rate by way of credit or debit to any account.



Minutes

20. (1) The Board shall cause minutes to be duly kept in books provided for the purpose —

- (a) of all appointments of officers by the Board;
- (b) of the names of the Directors present at each meeting of the Board and of any Committee thereof; 5
- (c) of all orders and regulations made by the Board;
- (d) of all resolutions and proceedings of meetings of the Board and of Committees thereof.

(2) Any such minutes purporting to be signed by the Chairman of such meeting or of the next succeeding meeting shall be receivable as prima facie evidence of the matters stated in such minutes. 10

Accounts and Actuarial Reports

21. (1) The Board shall comply with the Accounts Ordinance 1975.

(2) Once at least in every 3 years the Board shall cause the assets of the Fund to be valued and the Board shall obtain from an actuary a report containing matters required by the Statutory Requirements. 15

Rules

22. (1) For the administration of the Fund and for the giving effect to the objects of this Ordinance the Board may from time to time make rules not being inconsistent with the provisions of this Ordinance and repeal or amend such rules and substitute others in lieu thereof. 20

(2) The Board shall forward a copy of such rules to the Standing Committee of the Synod which shall lay the same on the table of the next ordinary session of the Synod. 25

(3) If the Synod shall at any time pass a resolution disallowing any such rule it shall thereupon cease to have effect but such disallowance shall not invalidate any action or proceeding which may have taken place thereunder prior to such disallowance.

(4) Where the Board repeals or amends any rule the Board shall give notice to each Member as soon as practicable after the date of such amendment and in accordance with the Statutory Requirements a written statement explaining the nature and purpose of the amendment and the effect (if any) of the amendment on the entitlement of each Member. 30 35

Income Tax

23. (1) The Board shall be entitled to make provision from the Fund and pay to the relevant parties all taxes or like charges payable by the Board in relation to or incidental to the administration, management, operation and winding-up of the Fund including, without limiting the generality thereof — 40

- (a) tax on contributions paid to the Fund;
- (b) tax on the earnings of the Fund;
- (c) tax on any net capital gain arising from the sale or realisation of any assets of the Fund; 45

Anglican Provident Fund (Sydney) Ordinance 1990

(d) any other taxes payable by the Board as may be required from time to time by the Responsible Authority or any other taxing authority empowered to levy an impost, tax or duty upon superannuation funds.

5 (2) The Board shall be entitled to make provisions for any tax liability, whether it has arisen or not, as the Board shall deem prudent or advisable and the debiting of any accounts of the Fund for such provisions in such manner as the Board considers equitable.

10 (3) In making such provisions the Board shall make allowance for any rebate, deduction or credit permitted under the terms of the Statutory Requirements.

Withholding of Income Tax

15 24. The Board may withhold from any benefit otherwise payable to or in respect of a Member amounts required to be withheld pursuant to the Act and shall forward the amounts withheld to the Responsible Authority in accordance with the Act and shall give an accounting of it to the Member.

Provision for Taxation

20 25. (1) The Board may establish in connection with the Fund an account and may credit to such account the provisions made with respect to the taxes and like charges referred to in clauses 23 and 24.

25 (2) The account shall be used exclusively for the purposes of clauses 23 and 24 and shall not be used for other purposes unless the Board is satisfied that any part or portion of the account is available for the general purposes of the Fund following the discharge of the Board's liability to pay the taxes.

Part 4 — APPLICATION OF FUND

30 25. The Fund shall be applied towards the payment of benefits provided by this Ordinance, but nothing in this clause shall affect any rights of creditors of the Board against the Fund.

Part 5 — MEMBERSHIP AND SUBSCRIPTIONS

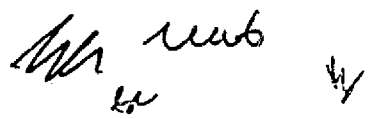
Membership

35 27. (1) Any Clergyman, and any lay person who is permanently engaged in the work of the Anglican Church or employed by any institution, school or organisation connected with the Anglican Church shall be eligible and may in the discretion of the Board be admitted to membership of the Fund.

(2) Any person desiring to become a Member or to vary any term of his membership shall —

40 (a) apply for membership or for variation in such form as shall be required by the Board and shall agree and shall be deemed to have agreed that if and as from the date on which he is accepted as a Member until he receives a benefit or otherwise ceases to be a Member he will observe, perform and be bound by the provisions of this Ordinance or rules made hereunder; and

45



Anglican Provident Fund (Sydney) Ordinance 1990

- (b) supply such evidence of his age and health as the Board may require.
- (3) The Board may —
- (a) unconditionally accept an application;
 - (b) reject an application without stating any reason for doing so; 5
 - (c) accept an application on such terms and conditions as it may determine.
- (4) An applicant shall become a Member of the Fund either on his application being unconditionally accepted or upon the receipt by the Board of his acceptance in writing of the conditions determined by the Board in accordance with the provisions of subclause (3)(c) of this clause. 10
- (5) (a) Members who were previously subscribing for a benefit under the Old Tables and who have not transferred their entitlements under those Old Tables to the Seventh Schedule to the 1944 Ordinance, shall cease to be bound to pay any further subscriptions under those Tables. The entitlements of such Members, as at the date of assent of this Ordinance shall be listed and tabled at the meeting of the Board next following such assent and incorporated into the minutes of such meeting; such entitlements shall be determined by the Board on the advice of an actuary and shall not be reduced other than as provided for in this Ordinance. 15 20 25
- (b) On the advice of an actuary the Board may at its discretion increase the entitlements of Members, referred to in paragraph (a) of this subclause.
 - (c) An existing Member who was subscribing for a benefit under the Old Tables may apply to become a Member under the Regulations. 30
 - (d) The Board shall deal with an application under subclause 5(c) of this clause in such manner as it decides in its absolute discretion.

Information to New Members


35

28. Where a person becomes a Member of the Fund, the Board shall give to the person as soon as practicable thereafter a written statement setting out such details relating to the benefits and entitlements of the Fund as is required by the Statutory Requirements.

information to Continuing Members

40

29. The Board shall give to each Member as soon as practicable after the end of each year of income of the Fund (but in any event within 6 months after the end of each such year or such other time as the Responsible Authority shall allow) a written statement setting out such details relating to the benefits and entitlements of that Member as is required by the Statutory Requirements. 45

 *Handwritten signature*
by

Information to Terminating Members

30. Where a person ceases to be a Member of the Fund the Board shall give or arrange to be given to the person or to that person's legal personal representative as soon as practicable thereafter a written statement setting out such information regarding the benefits and entitlements of that person as is required by the Statutory Requirements.

General Information

31. The Board shall give to each Member such other information in relation to the Fund as is required by the Statutory Requirements.

Part 6 — PAYMENT OF BENEFITS

Benefits

32. (1) Persons who are on the commencement of this Ordinance entitled (or contingently entitled) to a benefit under the Old Tables shall continue to be entitled to the benefits set out in the Old Tables.

(2) Persons who are on the commencement of this Ordinance entitled (or contingently entitled) to a benefit under the Seventh Schedule to the 1944 Ordinance shall be entitled to a benefit under the Regulations.

(3) All other Members shall be entitled to the benefits set out in the Regulations.

Pensions and Annuities

33. (1) A person entitled to a Pension or Annuity shall not also be entitled to a lump sum benefit pursuant to the provisions of the Regulations.

(2) A Member contingently entitled to an Annuity pursuant to the Old Tables shall be entitled to be superannuated and receive an Annuity as from the date he retires or otherwise ceases to carry on regular and continuous duty —

(a) on or after attaining the age of sixty years;

(b) by reason of Permanent Incapacity or Permanent Invalidity.

PROVIDED THAT, if a Member ceases to carry on regular and continuous duty as aforesaid, on or after attaining the age of 60 years but before attaining the age of 65 years other than due to Permanent Incapacity or Permanent Invalidity, the Annuity to which the Member is entitled shall be reduced to $(100-X)\%$ of the Annuity to which, but for this proviso, that Member would have been entitled. For the purposes of this proviso, X is 4 times the number of years and fractions thereof in the period commencing on the date on which the Member ceases to carry on regular and continuous duty, as aforesaid, and ending on the day on which that Member attains 65 years.

Permanent Incapacity and Permanent Invalidity

34. (1) Where a Member who ceases to carry on regular and continuous duty is seeking payment of benefits on the ground of

Handwritten signatures and initials:
M. M. M. H. H.

"Permanent Incapacity or Permanent Invalidity" that Member will be required to give to the Board a certificate signed by 2 registered medical practitioners certifying that, in the opinion of those medical practitioners, the Member is unlikely ever to be able to work again in a job for which the Member is reasonably qualified by education, training or experience or such other information as required from time to time by the Board consistent with the preservation requirement in the Occupational Superannuation Standards Regulations. 5

(2) In reaching its opinion as to whether the Member ceases to carry on regular and continuous duty on the ground of Permanent Incapacity or Permanent Invalidity, the Board may have regard to or rely on without in either case being bound to do so — 10

- (a) the opinion of the Bishop of the Diocese in which that Member resides;
- (b) the opinion of a medical practitioner or medical practitioners nominated by the Board; 15
- (c) the opinions of the medical practitioners referred to in subclause (1) of this clause.

Suspension of Annuity

35. The Board may at any time call upon any Annuitant who has been superannuated on account of Permanent Incapacity or Permanent Invalidity and who shall have not attained the age of 60 years to submit himself for examination to two or more medical practitioners approved by the Board who will report to the Board as to the health of the Annuitant. If the Board is of the opinion that the Annuitant has without good reason failed to submit himself to such examination or after considering such report that the Annuitant is fit for duty it shall notify the Annuitant accordingly. On the expiration of 6 months from the date of such notification the Board may in its discretion suspend or reduce the Annuity of such Annuitant. 20 25 30

sub h 36. If the Annuity of an Annuitant has been suspended under clause 35 the period of such suspension shall not be taken into consideration in arriving at the amount of any Annuity which may subsequently become payable in respect of such Annuitant.

Preserved Benefits

37. (1) Where a Preservable Amount forms part or all of a benefit that Preservable Amount shall not be paid to or in respect of a Member until the satisfaction by the Member of one of the following conditions — 35

- (a) being retired from the workforce and having attained an age of not less than 55 years; 40
- (b) retirement from the workforce before attaining the age of 55 years on the ground of permanent incapacity or permanent invalidity;
- (c) the permanent departure of the Member from Australia;
- (d) the Member's death; 45
- (e) such other circumstances as specified from time to time by the Statutory Requirements;

(f) such other circumstances as determined by the Board and approved by the Responsible Authority.

(2) Where membership ceases in circumstances other than those specified in paragraphs (1)(a)-(f) above, the Preservable Amount shall, in accordance with the nomination of the Member, be transferred directly to—

(a) another superannuation fund which is required to preserve such amounts in accordance with the Statutory Requirements;

(b) an Approved Deposit Fund which is required to preserve such amounts in accordance with the Statutory Requirements;

(c) one or more institutions for the purchase of a deferred annuity that cannot be surrendered or assigned before the person attains the age of 55 years and that does not pay benefits except in circumstances as specified in paragraphs (1)(a)-(f) above;

(d) any combination of the funds or institutions referred to in paragraphs (2)(a)-(c) above.

(3) Where the Board notifies the Member about the right to nominate such a fund or institution into which the Preservable Amount should be transferred which notification is considered by the Responsible Authority to comply with the Statutory Requirements and where that Member fails within such period as the Board may determine to make that nomination, then the Board shall at its option either retain the Preservable Amount in the Fund or transfer it to such other fund as the Trustee shall determine and advise the Member in writing.

Dependants Pensions

38. (1) A Pension shall be payable out of the Fund to or in respect of the widow and children under 16 years of age of a deceased Member or Annuitant who was previously subscribing for a benefit pursuant to the Old Tables and whose name is listed in the Board minutes pursuant to subclause 27(5).

(2) An application for such Pension shall be accompanied by such evidence of the ages of the children in respect of whom the Pension is claimed and of such other circumstances as the Board may require.

(3) The Pension payable in respect of any child of a deceased Member

(a) shall cease upon such child attaining the age of 16 years or dying under that age, and

(b) shall be payable to the mother or other person acting as guardian of such child.

39. Annuities and Pensions shall be payable by such instalments as the Board may determine but not less frequently than once a quarter.

40. (1) (a) A Member at any time prior to or after the date on which he becomes entitled to an Annuity may request the Board in writing to commute the Annuity or any portion thereof into a lump sum.

MS *sub*
to *W*

(b) The widow of a Member at any time after the date on which she becomes entitled to a Pension may request the Board in writing to commute the Pension or any portion thereof into a lump sum.

(2) The Board may in its absolute discretion determine or refuse to grant any applicant a lump sum in place of an Annuity or Pension or any portion thereof. If the Board exercises its discretion in favour of the applicant the lump sum will be calculated by an actuary having regard to the capital value of the Annuity or Pension or any portion thereof which the applicant requests to be commuted and the Board shall notify the applicant of the amount.

(3) If the applicant notifies the Board in writing that the applicant is willing to accept such lump sum in commutation of the Annuity or Pension or any portion thereof, the Board shall pay such lump sum to the applicant within 30 days of such notification in satisfaction of the applicant's rights to the Annuity or Pension or any portion thereof.

(4) This clause does not apply to a Member entitled to a benefit under the Regulations.

Members to Give Information

41. A Member desiring to be superannuated shall apply to the Board and shall furnish such evidence of his age or incapacity and that he has ceased or intends to cease to carry on regular and continuous duty as the Board may require. The Board may call upon any Member applying to be superannuated by reason of incapacity to submit himself for examination by two medical practitioners approved by the Board who shall report to the Board as to the health of the Member.

Part 7 — REFUND OF SUBSCRIPTIONS

Annuitants

42. (1) This clause shall apply to Members entitled to an Annuity and who were previously subscribing for a benefit pursuant to the Old Tables and whose names are listed in the Board minutes pursuant to subclause 27(5).

(2) If an Annuitant who retired on or after attaining the age of 60 years dies before attaining the age of 75 years, the Annuity will continue to be paid to the nominated dependant or estate of that Annuitant until the 75th anniversary of the birth of that Annuitant.

(3) If a Member dies before that Member retires, and if all moneys owing to the Fund in respect of his membership are paid before or within 6 months after his death, a sum equal to the aggregate of —

- (a) all subscriptions and amounts paid by the Member to the Fund in respect of his Annuity;
- (b) compound interest on the amounts described in paragraph (i) at the Fund Earning Rate; and
- (c) such further amount (if any) as may be determined by the Board, on the advice of an actuary, to be equitable in the circumstances and in accordance with the Statutory Requirements;

W. New
for *for*

shall be paid to the nominated dependant or estate of the deceased Member.

Widows' and Orphans' Benefits

43. If the wife of a Member entitled to Widows' and Orphans' benefits and who was previously subscribing for a benefit pursuant to the Old Tables and whose name is listed in the Board minutes pursuant to subclause 27(5) dies prior to the Member becoming entitled to an Annuity or prior to the death of a Member receiving an Annuity then the amount contributed by the Member to the Fund in respect of Widows' and Orphans' benefits together with interest at the Fund Earning Rate shall be refunded to the Member. In addition, the Board may pay to the Member such further sum which, in the opinion of the Board, after consulting with an actuary, is fair and reasonable in the circumstances.

15 Members under old Tables

44. (1) If a Member who was previously subscribing for a benefit pursuant to the Old Tables and whose name is listed in the Board minutes pursuant to subclause 27(5) and who has not become entitled to an Annuity shall satisfy the Board that he has retired or otherwise ceased to carry on and does not intend to resume regular and continuous duty as a Clergyman he shall be entitled either to continue or to resign his membership. In the event of his resignation and if all moneys owing to the Fund in respect of his membership shall have been paid or shall be paid before the expiration of 6 months after he ceases to carry on regular and continuous duty as a Clergyman or such further period as the Board shall allow —

- (a) all subscriptions and amounts paid by him personally in respect of his membership (both for an Annuity and Pension) shall be paid to him;
- (b) if the whole or part of the subscriptions or amounts paid in respect of the Member has been paid out of any fund of or under the control of the Synod of any Diocese such whole or part as the case may be shall be paid in such manner and to such persons as the Synod or Standing Committee of such Diocese shall direct the Board either before or within 6 months after such Member ceases to carry on regular and continuous duty as a Clergyman and in default of such direction or in so far as the same does not extend shall be paid to him unless he has been deprived of his licence in consequence of the sentence of any ecclesiastical tribunal in which event it shall remain in the Fund;
- (c) such further amount (if any) as may be determined by the Board, on the advice of an actuary to be equitable in the circumstances and is in accordance with the Statutory Requirements.

(2) A Member who has been deprived of his licence in consequence of the sentence of any ecclesiastical tribunal shall be deemed to have resigned his membership as at the date of the sentence and shall not be entitled to continue his membership.

Part 8 — GENERAL

Amalgamation

45. Nothing herein contained shall prevent the amalgamation of the Fund with any similar fund in any Diocese of the Anglican Church of Australia, provided that the Synod shall by ordinance approve of such amalgamation. 5

Forfeiture

46. (1) If any Annuitant or Pensioner or person entitled to receive money under clauses 42 and 44 or under the Regulations becomes bankrupt or is declared a mentally incapacitated person or does or attempts to do or suffers any other thing or if any event happens whereby the Annuity, Pension or money were payable to him absolutely he would be deprived of the right to receive the same or any part thereof such Annuitant, Pensioner or person shall cease to be presently or contingently entitled to any such Annuity, Pension or money and the Board may in its discretion pay or apply such Annuity, Pension or money in accordance with subclause (3) of this clause. 10 15

(2) If any such Annuitant, Pensioner or person is suffering from any physical or other disability which in the opinion of the Board renders him unable to manage his own affairs the Board may during such disability in its discretion pay or apply the Annuity, Pension or money which but for this subclause would be payable to him in accordance with subclause (3) of this clause. 20

(3) Any Annuity, Pension or money mentioned in subclauses (1) or (2) may in the absolute discretion of the Board be applied for the maintenance support or otherwise for the benefit of such Annuitant, Pensioner or Member or of such one or more of his dependants as the Board may in its absolute discretion determine and the payment or application of moneys in pursuance of this subclause shall be a complete discharge to the Board in respect thereof. 25 30

Transfers

47. Subject to the Statutory Requirements, the Board may in its discretion arrange either generally or in any particular case for the payment or receipt, as the case may be, by the Fund of such amount as the Board, on the advice of an actuary, may determine, in respect of — 35

- (a) the transfer from the Fund of the amount standing to the credit of any Member's account to any other superannuation fund with the Member's consent;
- (b) the transfer to the Fund from any other provident or superannuation fund of the entitlements of any Member. 40

Repeal of 1944 Ordinance

48. (1) The Anglican Provident Fund (Sydney) Ordinance 1944 is repealed.

(2) The repeal of the Anglican Provident Fund (Sydney) Ordinance 1944 shall not affect or invalidate any act done or appointment or election made under that Ordinance and all persons appointed or elected under that Ordinance and holding office on the commencement 45

Anglican Provident Fund (Sydney) Ordinance 1990

of this Ordinance shall remain in office as if they had been elected or appointed under this Ordinance.

(3) Anything commenced to be done under the Anglican Provident Fund (Sydney) Ordinance 1944 may be continued under this Ordinance as if it had been commenced under this Ordinance.

(4) All Members of the Fund on the commencement of this Ordinance shall continue to be Members subject to the provisions of this Ordinance and this Ordinance shall apply to them accordingly.

(5) A reference in any ordinance to the 1944 Ordinance shall be a reference to this Ordinance and a reference in any ordinance to a provision of the 1944 Ordinance shall be a referral to the corresponding provision of this Ordinance.

SCHEDULE

THE REGULATIONS

1. The Board may arrange with the Synod of any Diocese or administrative authority thereof, or school, institution or organisation connected with the Anglican Church of Australia whether situated in Australia or elsewhere (herein called "the contributor") that the contributor will pay the whole or part of a Member's subscriptions and will observe such other conditions as the Board may arrange with the contributor.

2. The rate of subscription in respect of a Member shall be agreed by the Board and his contributor.

3. Where part of the subscription of a Member is paid by his contributor, the balance is payable by the Member.

4. In circumstances other than those covered by Regulation 1, a Member may subscribe to the Fund.

5. (1) The Board shall keep a separate account in respect of each Member and shall determine the amount standing to the credit of a Member's account as at 30 June in each year, and shall notify the Member and any contributor thereof.

(2) A Member's account —

(a) shall be credited with —

- (i) subscriptions paid by and in respect of him; and
- (ii) interest at the Fund Earning Rate on the average amount of his account during the year, or part thereof, since the date on which such account was opened or the last preceding as at 30 June, whichever is the later; and

(b) shall be debited with —

- (i) a charge to meet expenses; and
- (ii) a charge to meet the Member's insured death and disability benefit, if applicable.

(3) Any distribution or deduction under clause 19 or Regulation 11 shall be credited or debited to the Member's account.

Handwritten signatures and initials:
A large signature, possibly "M. H. ...", and other initials including "H. V." are present at the bottom of the page.

Anglican Provident Fund (Sydney) Ordinance 1990

(4) When a Member's benefit accrues the Board shall calculate the amount to the credit of his account on the date on which his benefit accrues.

6. The normal retiring age is 65 years.

7. A Member is entitled to the death benefit mentioned in sub-regulation 8(3) if at the time he becomes a Member, and to an increase of such death benefit if at the date on which the subscriptions by and in respect of him are increased —

- (a) he is under the age of 55 years;
- (b) he satisfies the Board that he is in good health; and 10
- (c) he has been accepted for such death benefit by the Board.

8. The benefits under these Regulations are as follows —

(1) Retirement

On the retirement of a Member —

- (a) on or after attaining the normal retiring age; 15
- (b) before attaining the normal retiring age on account of Permanent Incapacity or Permanent Invalidity;

the amount to the credit of his account at the date of his retirement shall be applied in accordance with sub-regulation 9(1). 20

(2) Early Retirement

On the retirement of the Member —

- (a) prior to normal retiring age; and
- (b) with the consent of the Board after attaining the age of 60 years; 25

the amount to the credit of his account at the date of his retirement shall be applied in accordance with sub-regulation 9(1).

(3) Death

(a) On the death of a Member, the death benefit shall subject to 30 sub-regulation 8(3)(c) and 8(3)(d) be equal to —

- (i) the amount standing to the credit of his account at the date of his death; and
- (ii) the insured amount.

(b) For the purposes of this sub-regulation 8(3), "insured amount" shall mean an amount represented by (i) minus (ii) where —

(i) is the amount calculated as if the Member had continued in Employment to age 60 assuming —

(A) that the current annual rate of subscriptions paid 40 by both the Member and his contributor had remained unaltered to age 60, and

(B) interest had been applied to that time on the amount standing to the credit of the Member's

W. m. b. k.

Account at the date of his death and the subscriptions referred to in sub-regulation 8(3)(b)(i)(A) at a Fund Earning Rate determined by the Board on the advice of an actuary, from time to time; and

5

(ii) is the amount referred to in sub-regulation 8(3)(a)(i).

(c) The insured amount shall be subject to a maximum amount which maximum amount shall be determined by the Board on the advice of an actuary, from time to time.

10

(d) The insured amount shall be nil where the Member's age exceeds 60 years.

(4) Resignation

Subject to clause 36, on the resignation of a Member the benefit payable to the Member shall be a lump sum equal to —

15

(a) where the Member has a contributor paying part or all of his subscriptions —

(i) that part of the Member's account representing contributions made directly by the Member; plus

20

(ii) a percentage of the balance of the account, such percentage determined by the contributor taking into account the period of membership of the Member and such other factors as the contributor in its absolute discretion shall determine; or

25

(b) where the Member does not have a contributor — the Member's Account.

Where after making the payment pursuant to paragraph (a) an amount remains in the Member's account then that remaining amount shall be payable to the contributor.

30

9. (1) The retirement and death benefits shall be paid, subject to sub-regulation 9(2), in the form of a lump sum.

(2) The Board may, in its discretion but only in special circumstances, substitute for a lump sum benefit referred to in sub-regulation 9(1) a pension or annuity subject to such terms and conditions as it may determine after considering the advice of an actuary to be equivalent in value to the benefit being substituted.

35

10. (1) The Board may in its discretion pay the whole of the death benefit as a lump sum to the spouse or such other dependants as the Board in its discretion determines.

40

(2) A Member may at any time and from time to time inform the Board of his dependants and of any other circumstances which would assist the Board in the exercise of its discretion under this regulation and in particular of any reason why such discretion should not be exercised in favour of the deceased Member's Spouse.

45

11. The Board shall apply the charge made under sub-regulation 5(2)(b)(ii) and such other amounts as it determines towards effecting and maintaining insurance policies on the lives of or with respect to the disablement of such Members.

Anglican Provident Fund (Sydney) Ordinance 1990

12. (1) A person in receipt of a benefit under these Regulations may accept clerical or other duty or any office of profit of any character.

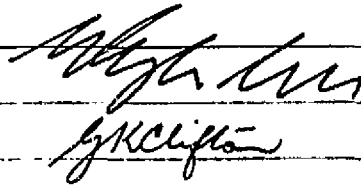
(2) The Board may re-admit to membership under these Regulations any person who has ceased to be a Member and is qualified to become a Member on such terms as it, with the approval in writing of an actuary, may determine. 5

I CERTIFY that the Ordinance as printed is in accordance with the Ordinance as reported.



Chairman of Committees

WE CERTIFY that this Ordinance was passed by the Synod of the 10
Diocese of Sydney on this 11th day of October 1990.



Secretaries of Synod

I ASSENT to this Ordinance.



Archbishop of Sydney

11 /10/1990