

# Sydney Anglican Schools Corporation Ordinance 1947 Amendment Ordinance 2013

No 51, 2013

## Long Title

An Ordinance to amend the Sydney Anglican Schools Corporation Ordinance 1947.

The Standing Committee of the Synod of the Diocese of Sydney Ordains as follows.

### 1. Name

This Ordinance is the Sydney Anglican Schools Corporation Ordinance 1947 Amendment Ordinance 2013.

### 2. Amendment

(1) The Sydney Anglican Schools Corporation Ordinance 1947 (the "Principal Ordinance") is amended by the substitution of the Long Title and clauses 1 to 36 in the Schedule to this Ordinance for the Long Title and clauses 1 to 15 of the Principal Ordinance.

(2) The Principal Ordinance is further amended by the deletion of the Schedule to the Principal Ordinance.

### 3. Transitional Provision

(1) Subject to sub-clause (2), all Directors appointed and holding office under clause 14 of the Principal Ordinance immediately before the commencement of this Ordinance are taken to have been appointed as the Members under the Principal Ordinance as amended by this Ordinance.

(2) For the purposes of clauses 6 and 7 of the Principal Ordinance, as amended by this Ordinance, the following persons are taken to have been appointed as Members of the Corporation on the following dates –

	First Appointed	Last Appointed
(a) <i>up to two persons appointed by the Archbishop –</i>		
Anthony Willis	18 November 2008	15 November 2011
Bryan Cowling	20 November 2007	15 November 2013
(b) <i>nine persons elected by the Synod –</i>		
Jennifer Everist	15 November 2011	15 November 2011
William Shields	18 November 2008	15 November 2011
Ron Webb	17 November 2009	15 November 2011
Gregory Catto	26 May 2012	15 November 2012
Vanda Gould	1 November 1982	15 November 2012
Julie Pearson	17 November 2009	15 November 2012
Andrew Cox	24 May 2008	15 November 2013
John Hibberd	29 May 2004	15 November 2013
David Minty	15 February 2003	15 November 2013
(c) <i>two persons appointed by the Board –</i>		
William Nicholson	21 November 1996	15 November 2011
Vacancy		

## Schedule

### Long Title

An Ordinance to provide a constitution for the body known as Sydney Anglican Schools Corporation and for related purposes.

The Standing Committee of the Synod of the Diocese of Sydney in the name and place of the Synod ordains as follows.

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### **1. Definitions and Interpretation**

- (1) In this Ordinance, unless the context otherwise requires –
- “Archbishop” means the Archbishop of Sydney for the time being.
- “Board” means the Members acting collectively as the governors of the Corporation.
- “Chairman” means the person who holds the office of Chairman of the Corporation.
- “Chair” means the person who holds the office of Chair of a committee of the Board, including a School Council.
- “Chief Executive Officer” means the chief executive officer of the Corporation.
- “clause” means a clause of this Ordinance.
- “Company” means a company which is controlled by the Corporation.
- “Corporation” means the Sydney Anglican Schools Corporation.
- “Diocese” means the Diocese of Sydney in the Anglican Church of Australia.
- “Mediation Rules” means the rules adopted by the Board from time to time for the purposes of the Dispute Resolution procedure in clause 31.
- “Member” means a member of the Corporation.
- “Other Division” means a division of the Corporation that is not a School.
- “Other Executive Officer” means the chief executive officer of an Other Division.
- “Principal” means the chief executive officer of a School whether known as the Principal or by some other title.
- “School” means a school, college or other educational institution conducted by or on behalf of the Corporation.
- “School Council” means the governing body of a School constituted by the Board pursuant to this Ordinance.
- “Synod” means the Synod of the Diocese and includes, when the Synod is in recess, the Standing Committee of the Synod.

In this Ordinance, headings are for convenience only and do not affect interpretation.

- (2) The Interpretation Ordinance 1985 applies.
- (3) This Ordinance may be cited as Sydney Anglican Schools Corporation Ordinance 1947.

### **2. Constitution**

- (1) The Corporation is constituted with the powers and functions in this Ordinance.

### **3. Objects**

- (1) The Objects of the Corporation are to serve Christ by equipping students for his world through efficiently operating strategically placed Anglican educational establishments that –
- (a) offer high quality education within a Christian worldview shaped by the Bible, and
  - (b) communicate in word and deed the gospel of Jesus Christ to students, staff, parents and the wider community, and
  - (c) are financially accessible to local communities.

### **4. Powers**

- (1) Subject only to any limitations in this Ordinance, the Corporation has the legal capacity and powers of an individual.

### **5. Archbishop**

- (1) The Archbishop is entitled to –
- (a) receive a copy of papers sent to Members in connection with meetings of the Board, and
  - (b) attend meetings of the Board, and
  - (c) address the Board on any pastoral or policy issue concerning the Anglican Church of Australia as it applies to the Corporation including in connection with the appointment of the Chief Executive Officer and the Principals.

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(2) The Archbishop may, from time to time, by notice in writing to the Board, nominate another person to receive the papers and exercise the other entitlements on his behalf under clause 5(1) and clause 15(4)(a) and may, at any time, by notice in writing to the Board, revoke such a nomination.

### 6. Membership

(1) The Members of the Corporation are –

- (a) up to two persons appointed by the Archbishop;
- (b) nine persons elected by the Synod; and
- (c) up to two persons appointed by the Board.

(2) At least two of the Members are to be ordained clergy licensed in the Diocese of Sydney with at least a three year theological degree from Moore Theological College or another college that is endorsed by the Archbishop for the purposes of this clause.

(3) To be eligible for appointment or election as a Member, a person must –

- (a) be of Christian faith and character;
- (b) attend regularly and be actively involved in a Bible-based Christian Church;
- (c) have signed a “Statement of Personal Faith” in the form last approved by the Synod; and
- (d) have signed a statement in the form last approved by the Board that indicates that he or she is willing to promote the Objects of the Corporation.

(4) A person is disqualified from being elected or appointed or remaining as a Member and a casual vacancy will arise if the person –

- (a) dies;
- (b) resigns in writing to the Chairman or to the Diocesan Secretary;
- (c) is an insolvent under administration;
- (d) is of unsound mind or is a person whose person or estate is liable to be dealt with in any way under the laws relating to mental health or is otherwise incapable of acting;
- (e) is disqualified from managing a corporation within the meaning of the Corporations Act 2001;
- (f) has at any time during the preceding 12 months been disqualified from being a responsible entity of a registered entity by the Commissioner of the Australian Charities and Not-for-profits Commission;
- (g) is convicted of an offence punishable by imprisonment for 12 months or longer;
- (h) is subject to a recommendation from the Diocesan or Disciplinary Tribunal of the Diocese (or from a comparable tribunal or body in any other diocese or church) that he or she be prohibited from being, or should be removed as, a Member;
- (i) is absent without leave from three consecutive meetings of the Board and the Board resolves by at least three-quarters of its Members that the person’s membership should cease;
- (j) fails to sign the “Statement of Personal Faith” referred to in clause 6(3)(c) or declares that he or she is no longer able to subscribe to that Statement;
- (k) fails to sign the statement referred to in clause 6(3)(d) or declares that he or she is no longer able to subscribe to that statement; or
- (l) is in breach of clause 19(1) and the Board resolves by at least three-quarters of its Members that the person’s membership should cease.

(5) Before resolving that a person’s membership should cease, the Board must give the Member –

- (a) at least one week’s notice of the Board meeting at which the resolution is to be put and of the terms of the intended resolution; and
- (b) an opportunity of attending the meeting and of giving at it orally or in writing any explanation or defence which the Member may desire to offer.

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### **7. Membership Term**

- (1) The term of membership for each Member appointed or elected under clause 6(1) is not to exceed three years.
- (2) Subject to this Ordinance, a retiring Member is eligible for re-appointment or re-election provided that such re-appointment or re-election would not result in that Member being a Member for more than 14 consecutive years.
- (3) For the purpose of clause 7(2), years are consecutive unless they are broken by a period of at least 12 months.
- (4) This clause does not apply to the Archbishop if the Archbishop is a Member appointed under clause 6(1)(a).

### **8. Revocation of Appointment**

- (1) The Archbishop may revoke at any time the appointment of any of the Members he has appointed.
- (2) The Synod, by resolution, may revoke at any time the appointment of any of the Members elected by the Synod.
- (3) The Board, by resolution, may revoke at any time the appointment of a Member appointed by the Board.

### **9. Casual Vacancies**

- (1) Casual vacancies arising for Members appointed by the Archbishop may be filled by the Archbishop.
- (2) Casual vacancies arising for Members elected by the Synod may be filled by the Synod.
- (3) Casual vacancies arising for Members appointed by the Board may be filled by the Board.
- (4) A person filling a casual vacancy for a Member does so for the remainder of the term of the previous occupant.

### **10. Defect in Appointment**

If it is discovered that –

- (a) there was a defect in the appointment of a person as a Member or as a member of a Board committee; or
- (b) a person appointed to one of those positions was disqualified;

all acts of the Board or the Board committee before the discovery was made are as valid as if the person had been duly appointed and was not disqualified.

### **11. Chairman and Deputy Chairman**

- (1) The Members must elect a Member as Chairman and a Member as Deputy Chairman. If the Chairman or Deputy Chairman ceases to be a Member, that person is taken to have vacated the office of Chairman or Deputy Chairman as the case may be.
- (2) The term of office of the Chairman and the Deputy Chairman is not to exceed three years. However, a Member retiring as the Chairman or Deputy Chairman is eligible for re-election to that office.

### **12. Responsibilities of the Board**

- (1) The responsibilities of the Board include –
  - (a) to promote the Objects of the Corporation by ensuring that it and every School and Other Division of the Corporation operates in a manner that –
    - (i) upholds the Corporation's Objects, and
    - (ii) supports the Corporation's Philosophy of Education, and
    - (iii) implements the Corporation's Strategic Plan and Policies; and
  - (b) to encourage every School Council and Principal to develop the individual character of their School in the context of its local environment and in a relationship of interdependence with the Corporation; and

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- (c) to be satisfied that any person appointed by it as the Chief Executive Officer or as a Principal or as an Other Executive Officer is suitably qualified and experienced for the position and is a person of Christian faith and character who attends regularly and is actively involved in a Bible-based Christian Church and who is committed to and capable of furthering allegiance to Jesus Christ as Lord and Saviour

### **13. Employment**

- (1) To be eligible for appointment as the Chief Executive Officer or as a Principal or as an Other Executive Officer, a person must –
  - (a) be of Christian faith and character;
  - (b) attend regularly and be actively involved in a Bible-based Christian Church;
  - (c) have signed a “Statement of Personal Faith” in the form last approved by the Synod; and
  - (d) have signed a statement in the form last approved by the Board that indicates that he or she is willing to promote the Objects of the Corporation.
- (2) Preference for appointment of all other employees is to be given to those of Christian faith and character and regular church attendance provided that they are suitably qualified and experienced for the position.
- (3) All other employees must support the Objects of the Corporation.
- (4) Subject to the terms of the relevant employment contract, any employee may have his or her employment terminated for incompetence or misconduct or if his or her conduct or statements are, in the reasonable opinion of the Board or those appointed by the Board to appoint other employees, inconsistent with Christian faith or character or the fundamental declarations and ruling principles of the Anglican Church of Australia as adopted in the Diocese.

### **14. Chief Executive Officer**

- (1) The Board may appoint a Chief Executive Officer of the Corporation (who is to report directly to the Board) for such period, for such remuneration and on such terms as the Board may resolve and, subject to those terms and the law, may revoke such appointment.
- (2) Prior to the beginning of the selection process for a new Chief Executive Officer, the Chairman is to inform the Archbishop of the process and the Archbishop, or a Regional Bishop nominated by him, is to be invited to be a part of the interview process, and the Archbishop is to be informed of the names on the final list prior to any offer being made for the position.
- (3) In leading the Corporation, the Chief Executive Officer is to demonstrate Christian principles through a living faith.
- (4) The Chief Executive Officer is responsible to the Board for driving the implementation of the Corporation’s Strategic Plan, for the implementation of the policies and decisions of the Board and for the general administration and daily operation of the Corporation.
- (5) The Board may –
  - (a) give the Chief Executive Officer powers, discretions and duties;
  - (b) withdraw, suspend or vary any of the powers, discretions and duties given to the Chief Executive Officer; and
  - (c) authorise the Chief Executive Officer to delegate any of the powers, discretions and duties given to the Chief Executive Officer.
- (6) The Chief Executive Officer may, within Board policy, employ such people as he or she deems necessary, for such period, for such remuneration and on such terms as the Chief Executive Officer may determine and, subject to those terms and the law, may terminate such employment.
- (7) The Chief Executive Officer is the formal channel of communication between the Board and these employees.

### **15. Proceedings of the Board**

- (1) The Board may meet for the dispatch of business, adjourn or otherwise regulate its meetings and proceedings as it may resolve.

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- (2) The Board may act even if there are vacancies on the Board or if it has had less than the specified number of persons with theological qualifications identified in clause 6(2) appointed to it.
- (3) The Board must meet at least six times each calendar year.
- (4) A meeting of the Board may be convened by –
  - (a) the Archbishop; or
  - (b) the Chairman; or
  - (c) any four Members.
- (5) The person or persons convening a meeting of the Board must set out or cause to be set out in the notice of meeting the purposes for which the meeting is required.
- (6) A Board meeting may be held by the Members communicating with each other by any technological means by which they are able simultaneously to hear each other and to participate in discussion.
- (7) The Members need not all be physically present in the same place for a Board meeting to be held.
- (8) A Member who participates in a meeting held in accordance with this clause is taken to be present and entitled to vote at the meeting.
- (9) The Chief Executive Officer may attend and participate in all meetings of the Board but may not vote. The Chief Executive Officer may be excluded by resolution of the Board.

### **16. Board Quorum**

- (1) The quorum necessary for the transaction of the business of the Board is more than 50% of the number of Members (excluding any Member who, at the time the transaction of the business, is on leave of absence formally approved by the Board).

### **17. Voting at Meetings of the Board**

- (1) Questions arising at a Board meeting are decided by a majority of the votes of the Members present and voting.

### **18. Board Resolutions without a Meeting**

- (1) If three-quarters of the Members who are eligible to vote on a resolution (excluding any Member who, at the time the statement is provided or sent, is on leave of absence formally approved by the Board) have signed a document containing a statement that they are in favour of a resolution in terms set out in the document, then a resolution in those terms is taken to have been passed at a Board meeting held on the day on which the document was last signed by a Member.
- (2) For the purposes of clause 18(1) –
  - (a) two or more identical documents, each of which is signed by one or more Members, together constitute one document signed by those Members on the days on which they signed the separate documents; and
  - (b) an electronic message, whether a facsimile, email or otherwise, which is received by the Chief Executive Officer on behalf of the Board and is expressed to have been sent by a Member is to be taken to be a document signed by that Member at the time of its receipt by the Chief Executive Officer.
- (3) The minutes of Board meetings must record that a resolution was passed in accordance with this clause.
- (4) This clause applies to resolutions without a meeting of Board committees as if all voting members of the committee were Members.

### **19. Material Conflict of Interest**

- (1) A Member who has a perceived or actual material conflict of interest in a matter that is to be considered by the Board –
  - (a) must disclose that interest to the Board before it is considered by the Board;

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- (b) must not vote on the matter or be present while the matter is being considered by the Board; and
  - (c) must not be counted in a quorum in relation to that matter.
- (2) Clause 19(1) does not apply to an interest that the Member has as a Member in common with the other Members.
- (3) Without limiting the situations in which a Member could have a material conflict of interest, a Member has a material conflict of interest in any transaction or proposed transaction under which the Corporation provides or could provide a material financial benefit to the Member or to a related person (being the Member's spouse, children, grandchildren, parents, siblings or spouse of any of them) or to any entity in which the Member or a related person has an interest.
- (4) The obligations under this clause do not limit in any way the obligations on Members under the law.
- (5) Subject to Clause 16(1) the minimum quorum for consideration at a Board meeting of a matter in which one or more Members have a material conflict of interest is three Members who are entitled to vote on any motion that may be moved at the meeting in relation to that matter.

### **20. Minutes**

- (1) The Board must cause minutes to be made of –
- (a) the names of the persons present at all Board meetings and meetings of Board committees;
  - (b) all disclosures of material conflicts of interest made pursuant to clause 19;
  - (c) all proceedings of Board meetings and meetings of Board committees;
  - (d) all resolutions made by the Board and Board committees; and
  - (e) all appointments of officers.
- (2) Minutes must, upon a resolution of the Board, be signed by the Chairman or Chair of the meeting and if so signed are conclusive evidence of the matters stated in such minutes.

### **21. Common Seal**

- (1) The Board by resolution may authorise any person or persons to do any act or sign or execute any document on behalf of the Corporation.
- (2) For the purpose of affixing the common seal of the Corporation, the provisions of Section 7 of the Anglican Church of Australia (Bodies Corporate) Act 1938 apply.
- (3) The Board must provide for the safe custody of the Common Seal. Subject to the next paragraph, the Seal must not be used without the authority of the Board and in the presence of at least two Members who must sign every document to which the Common Seal is affixed.
- (4) Where as a matter of urgency a document is required to be under the Common Seal, the Chairman or Deputy Chairman may affix the Seal to that document and at the first opportunity he or she must report to the Board the action taken.

### **22. Report and Accounts**

- (1) The Corporation must –
- (a) at least once in every year report to the Synod as to its affairs and operations during the year which immediately precedes that year, and
  - (b) provide such other information as to its affairs and operations as the Synod may from time to time request.
- (2) The Corporation must comply with the Accounts, Audits and Annual Reports Ordinance 1995.

### **23. Committees**

- (1) The Board may establish committees and may appoint persons who are Members and persons who are not Members as members of the committee. The Board may also at any time abolish a committee that it has previously established.

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(2) The Board may delegate any of its powers to committees and may revoke such delegation.

(3) In making appointments to a committee, the Board must be satisfied that all persons appointed meet the criteria for appointment as Members found in clause 6(3) and are not disqualified by the application to them of any of the criteria in clause 6(4).

(4) The Board, by resolution, may revoke at any time the appointment of a person to a committee.

(5) A person also ceases to be a member of a committee if the person would have been disqualified under clause 6(4) had the person been a Member.

(6) The meetings and proceedings of any such committee consisting of two or more members are governed by the clauses of this Ordinance for regulating meetings and proceedings so far as the same are applicable. Any committee must also conform to any rules imposed upon it by the Board that are compatible with the relevant clauses in this Ordinance.

### **24. Schools**

(1) The Corporation may conduct, establish, purchase or otherwise acquire Schools either within the Diocese or elsewhere.

(2) Normally, a School Council is to govern a School.

(3) A School may be operated by a Company. Where this happens, the provisions of this Ordinance dealing with School Councils apply, so far as the same are applicable, to the board of the Company.

### **25. School Councils**

(1) The Board may establish a School Council to govern the operation of one or more Schools. The Board may also at any time abolish a School Council that it has previously established. A School Council is a committee of the Board.

(2) The Board must notify the Standing Committee –

- (a) whenever it establishes or abolishes a School Council, of that fact; and
- (b) at least once in each calendar year, of the names of the members of each School Council.

(3) Each School Council must report to the Board in such manner and frequency as the Board may resolve.

(4) Each School Council comprises –

- (a) the Chair, who is appointed by the Board for a term of up to three years and whose term of office expires on 15 December of the appropriate year;
- (b) at least four and up to nine additional persons, who are appointed by the Board each for a term of up to three years and whose term of office expires on 15 December of the appropriate year; and
- (c) the Chairman and Deputy Chairman of the Corporation (or another Member as the alternate for either, as determined and appointed by the Chairman and Deputy Chairman respectively for a period with agreed terms and conditions).

(5) At least two of the members of each School Council appointed under clauses 25(4)(a) and (b) should be persons with at least a three year theological degree from Moore Theological College or another college that is endorsed by the Archbishop for the purposes of clause 6(2).

(6) A person may not be appointed a member of a School Council if that person is a spouse, parent, sibling or child of a permanent employee of a School for which that School Council is responsible unless that relationship has been disclosed to the Board before it makes the appointment.

(7) Where the spouse, parent, sibling or child of a member of a School Council becomes a permanent employee of a School for which that School Council is responsible, the member of the School Council must inform the Board which must either confirm the position of that person as a member of that School Council or remove that person from being a member of that School Council.



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(8) When the Board abolishes a School Council, all members of that School Council cease to hold office and all property under the control of the School Council is at once subject to the control of the Board.

(9) The School Council may act even if there are vacancies on the School Council or if it has had less than the specified number of persons with theological qualifications identified in clause 25(5) appointed to it.

### **26. Responsibilities of a School Council**

- (1) The responsibilities of a School Council include –
- (a) to promote the Objects of the Corporation by ensuring that each School for which it has governance responsibility operates in a manner that –
    - (i) upholds the Corporation's Objects,
    - (ii) supports the Corporation's Philosophy of Education, and
    - (iii) implements the School's strategic plan and policies that are consistent with the Corporation's Strategic Plan and Policies; and
  - (b) to develop the individual character of each School for which it has governance responsibility in the context of its local environment and in a relationship of interdependence with the Corporation; and
  - (c) to be satisfied before giving its consent that any person proposed to be appointed by the Board as the Principal of a School for which the School Council has governance responsibility is suitably qualified and experienced for the position and is a person of Christian faith and character who attends regularly and is actively involved in a Bible-based Christian Church and who is committed to and capable of furthering allegiance to Jesus Christ as Lord and Saviour.

### **27. Principals**

- (1) The Board may appoint for each School a Principal for such period, for such remuneration and on such terms as the Board may resolve and, subject to those terms and the law, may revoke such appointment.
- (2) Prior to the beginning of the selection process for a new Principal, the Chairman is to inform the Archbishop of the process and the Archbishop, or a Regional Bishop nominated by him, is to be invited to be a part of the interview process, and the Archbishop is to be informed of the names on the final list prior to any offer being made for the position.
- (3) Each appointment of a Principal requires the consent of the relevant School Council (if one exists) which also has the right of representation on any interview panel.
- (4) In leading the School the Principal is to demonstrate Christian principles through a living faith.
- (5) The Principal is responsible to the Board through the School Council for the implementation of the School's strategic plan, the implementation of the Board's and the School Council's policies and decisions, and the general administration and daily operation of the School.
- (6) The School Council may, within Board policy –
- (a) give the Principal powers, discretions and duties;
  - (b) withdraw, suspend or vary any of the powers, discretions and duties given to the Principal; and
  - (c) authorise the Principal to delegate any of the powers, discretions and duties given to the Principal.
- (7) The Principal may, within Board and School Council policy, employ people at the School for such period, for such remuneration and on such terms as the Principal may determine and, subject to those terms and the law, may terminate such employment.
- (8) The Principal is the formal channel of communication between the School Council and the School's employees.

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### **28. Proceedings of School Councils**

- (1) Subject to this Ordinance and any policy of the Board, each School Council may meet together for the dispatch of business, adjourn or otherwise regulate its meetings and proceedings as it may resolve.
- (2) The School Council itself may elect a Deputy Chair from among the members of the School Council.
- (3) Each School Council must meet at least twice each school term.
- (4) A meeting of a School Council may be convened by –
  - (a) the Chairman of the Corporation; or
  - (b) the Chair of the School Council; or
  - (c) any four members of the School Council.
- (5) The person or persons convening a meeting of a School Council must set out or cause to be set out in the notice of meeting the purposes for which the meeting is required.
- (6) The quorum necessary for the transaction of the business of a School Council is more than 50% of the number of members of the School Council appointed under clauses 25(4)(a) and (b) (excluding any member who, at the time of the transaction of the business, is on leave of absence formally approved by the School Council).
- (7) The Principal and the Chief Executive Officer may attend and participate in all meetings of a School Council but may not vote. The Chief Executive Officer may appoint a representative to attend on his or her behalf. The Principal or the Chief Executive Officer's representative may be excluded by resolution of the School Council.

### **29. Other Divisions**

- (1) The Board may establish one or more Other Divisions of the Corporation, the operation of which may be overseen by a committee of the Board. The Board may also at any time abolish such a committee. When the Board abolishes such a committee, all members of that committee cease to hold office and all property under the control of the committee is at once subject to the control of the Board.
- (2) Each committee that oversees an Other Division must report to the Board in such manner and frequency as the Board may resolve.
- (3) The primary responsibility of an Other Division is to assist in the promotion of the Objects of the Corporation.
- (4) Subject to this Ordinance and any policy of the Board, each committee overseeing an Other Division may meet together for the dispatch of business, adjourn or otherwise regulate its meetings and proceedings as it may resolve.
- (5) An Other Division may be operated by a Company. Where this happens, the provisions of this Ordinance dealing with committees of the Board apply, so far as the same are applicable, to the board of the Company.

### **30. Other Executive Officers**

- (1) The Board may appoint for each Other Division an Other Executive Officer for such period, for such remuneration and on such terms as the Board may resolve and, subject to those terms and the law, may revoke such appointment.
- (2) In leading the Other Division an Other Executive Officer is to demonstrate Christian principles through a living faith.
- (3) The Other Executive Officer is responsible to the Board through the committee overseeing the Other Division for the implementation of the Other Division's strategic plan, the implementation of the Board's and the committee's policies and decisions and for the general administration and daily operation of the Other Division.
- (4) An Other Executive Officer may, within Board policy, employ such people as he or she deems necessary in the Other Division on such terms as the Other Executive Officer may determine and, subject to those terms and the law, may terminate such employment.

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(5) The Other Executive Officer and the Chief Executive Officer may attend and participate in all meetings of the committee overseeing an Other Division but may not vote. The Chief Executive Officer may appoint a representative to attend on his or her behalf. The Other Executive Officer or the Chief Executive Officer's representative may be excluded by resolution of the committee overseeing the Other Division.

### **31. Dispute Resolution**

*This Ordinance provides for a biblically based dispute resolution procedure which is aimed at achieving reconciliation between people in dispute and which is to be used to resolve a dispute (Dispute) between Members, members of School Councils, Principals, the Chief Executive Officer and Other Executive Officers or any of them. It is based on the belief that the Bible commands Christians to make every effort to live at peace and to resolve disputes with each other in private or within the Christian community (see Matthew 18:15-20; 1 Corinthians 6:1-8), conscious of the impact that conflict between Members, members of School Councils, Principals, the Chief Executive Officer and Executive Officers or any of them may have upon the Corporation and the community of its Schools.*

(1) The Dispute Resolution procedure is as follows –

- (a) The parties to the dispute must promptly attempt a resolution of the Dispute by discussing the Dispute and seeking to reach a resolution by negotiation that seeks to address both the substantive issues and relational elements of the Dispute. This process may involve one or more meetings. With the consent of the parties to the Dispute, the Chairman or the Chair of a School Council or the Chief Executive Officer may be asked by one of the parties to facilitate those discussions.
- (b) If in the opinion of any party to the Dispute, the Dispute cannot be resolved by negotiation, the dispute must be promptly submitted to mediation. This means that the party forming the opinion that the Dispute cannot be resolved by negotiation must within 24 hours of forming that opinion initiate the procedure by giving the other party or parties written notice stating that the Mediation Rules now apply. The notice must also state that a Dispute has arisen and identify what is disputed.
- (c) All parties must participate in the mediation process in good faith, in the sense of genuinely seeking to constructively address the various dimensions of the Dispute. Where mediation is initiated by a party, the parties must seek to agree between them a suitable mediator to use a biblically based Christian mediation process. If within 48 hours of the notice in the previous paragraph being given the parties cannot agree on the selection of a mediator to be used, the parties must accept the nomination of the Archbishop or his nominee. Any party may ask the Archbishop to nominate a mediator.
- (d) All parties must observe the instructions of the mediator about the conduct of the mediation and must sign a Mediation Agreement with the mediator.
- (e) A party to the Dispute must not commence any form of legal proceedings unless this dispute resolution procedure has been followed without a mutually satisfactory conclusion having been reached.

### **32. Liabilities**

(1) The Corporation is solely responsible for all liabilities incurred by it or on its behalf.

(2) The Corporation, its Members, a School Council and the members of a School Council must not represent to any person or corporation that the Archbishop of Sydney or the Synod or the Standing Committee or any person or persons or any other corporate body or corporation holding Church Trust property for the Anglican Church of Australia in the Diocese or any other corporate body constituted by or pursuant to the Anglican Church of Australia (Bodies Corporate) Act 1938 will or may meet or discharge all or any part of the liability or liabilities which have been or may or will be incurred wholly or partly by or on behalf of the Corporation.

(3) The Corporation is not to exercise any power to borrow money or any power to guarantee the borrowings of any other person if the amount which it proposes to borrow or to guarantee, when added to the amount of all money borrowed or guaranteed by it previously and not repaid, exceeds the amount that may have been last approved by resolution of the Standing Committee.

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(4) The Corporation must not execute or deliver and does not have power to execute or deliver any mortgage, charge, debenture, guarantee, indemnity or promissory note unless the following clause is included in it –

*Notwithstanding anything contained herein to the contrary, each of the parties hereto acknowledges and agrees that Sydney Anglican Schools Corporation shall not be liable to any other party hereto for any amount whatsoever (whether by virtue of any express or implied obligation) beyond such amount (if any) as Sydney Anglican Schools Corporation may be able to pay that party in the event of Sydney Anglican Schools Corporation being wound up.*

and such clause is not made subject to qualification.

### 33. Confidentiality Obligations

(1) Every Member, every School Council member, every member of a Board or School Council committee, the Chief Executive Officer, every Principal and every Other Executive Officer must keep confidential all aspects of all transactions of the Corporation, except –

- (a) to the extent necessary to enable the person to perform his or her duties to the Corporation, School, committee or other entity;
- (b) as required by law;
- (c) when requested to disclose information by the Board to the Board, the Auditor or the Synod;
- (d) as otherwise permitted by the Board.

### 34. Indemnity

(1) Each Member is, to the maximum extent permitted by law, indemnified out of the property of the Corporation against any liability the Member may incur to another person as such a Member, except to the extent the liability is either of the following –

- (a) a liability owed to the Corporation or a Company;
- (b) a liability that is owed to someone other than the Corporation or a Company and did not arise out of conduct in good faith.

This clause does not apply to a liability for legal costs.

(2) Each Member is, to the maximum extent permitted by law, indemnified out of the property of the Corporation against any liability for legal costs the Member may incur as such a Member, except to the extent the liability is a liability for legal costs incurred in defending an action for a liability incurred as such a Member and the costs are incurred –

- (a) in defending or resisting proceedings in which the person is found to have a liability for which he or she could not be indemnified under clause 34(1);
- (b) in defending or resisting criminal proceedings in which the Member is found guilty;
- (c) in defending or resisting proceedings brought by a liquidator for a court order if the grounds for making the order are found by the court to have been established; or
- (d) in connection with proceedings for relief to the Member in which the court denies the relief.

Paragraph (c) does not apply to costs incurred in responding to actions taken by a liquidator as part of an investigation before commencing proceedings for the court order.

(3) For the purposes of the previous clause, the outcome of proceedings is the outcome of the proceedings and any appeal in relation to the proceedings.

(4) Clause 34(1) and clause 34(2) are separate and independent indemnities and one is not to be read down by reference to the other.

(5) The Corporation may pay a premium in respect of a contract insuring a person who is or has been a Member against a liability incurred by the person as a Member provided the premium is not for a contract insuring the Member against a liability (other than one for legal costs) arising out of –

- (a) conduct by the Member involving a wilful breach of duty in relation to the Corporation; or

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- (b) the Member improperly using his or her position or improperly using information obtained as a Member to –
  - (i) gain an advantage for himself or herself or someone else; or
  - (ii) cause detriment to the Corporation.
- (6) In this clause –
  - (a) Member includes a Member of the Corporation, a member of any Board committee, a director of a Company, a member of a School Council and a member of a School Council committee;
  - (b) Corporation includes the Board, a Board committee, a Company, a School Council and School Council committee.

### **35. Income and Property**

- (1) The Corporation's income and property is to be applied solely towards the promotion of the Corporation's Objects. No part of the Corporation's income and property may be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit to the Members. However, this clause does not prevent –
- (a) the payment in good faith of remuneration to any employee of the Corporation or to any Member or other person in return for any services actually rendered to the Corporation;
  - (b) the payment to a Member of out-of-pocket expenses incurred in carrying out the duties of a Member where the payments do not exceed an amount previously approved by the Board;
  - (c) the payment to a Member for any service rendered to the Corporation in a professional or technical capacity where –
    - (i) the provision of that service has the prior approval of the Board; and
    - (ii) the amount payable is approved by a resolution of the Board and is on reasonable commercial terms;
  - (d) the payment to a Member as an employee of the Corporation where the terms of employment have been approved by a resolution of the Board;
  - (e) the payment to Members of interest on any money borrowed from such Members for the purpose of the Corporation at a rate not exceeding the lowest rate paid for the time being by the Corporation's principal bank in New South Wales in respect of term deposits of \$50,000.00 for six months;
  - (f) the payment to Members of reasonable market rent for premises leased by any Member to the Corporation.

### **36. Winding Up**

- (1) If, on the Corporation's winding up or dissolution, there remains after satisfaction of all its liabilities any property, such property must not be distributed among the Members but must be given to the Anglican Church Property Trust Diocese of Sydney to be held on trust for the educational purposes of the Diocese of Sydney in the Anglican Church of Australia but, if the Diocese does not exist at that time, to some other similar institution or institutions, provided such other institution or institutions –
- (a) have objects similar to the Corporation's objects; and
  - (b) prohibit the distribution of income and property among its or their members to an extent at least as great as is imposed on the Corporation; and
  - (c) have been endorsed by the Australian Commissioner of Taxation as exempt from income tax.
- (2) Such institution or institutions are to be determined by the members of the Corporation at or before the time of dissolution and, in default, by the Chief Judge in Equity of the Supreme Court of New South Wales or such other Judge of that Court or any other Court as may have or acquire jurisdiction in the matter.
- (3) If effect cannot be given to this provision, then such property must be given to some charitable object which prohibits the payment of any income or property to its members.

**Sydney Anglican Schools Corporation Ordinance 1947 Amendment Ordinance 2013**

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

R TONG  
Chairman of Committees

I Certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on 9 December 2013.

S LUCAS  
Acting Secretary

I Assent to this Ordinance.

GN DAVIES  
Archbishop of Sydney  
10/12/2013