

Sydney Diocesan Superannuation Fund Ordinance 1961 Amendment Ordinance 1994

No, 22 1994

An ordinance to amend the Sydney Diocesan Superannuation Fund Ordinance 1961.

Whereas it is expedient to amend the Sydney Diocesan Superannuation Fund Ordinance 1961 (the Principal Ordinance).

Now the Standing Committee of the Synod of the Diocese of Sydney in the name and place of the said Synod hereby declares directs and rules as follows -

Citation

1. This Ordinance may be cited as "Sydney Diocesan Superannuation Fund Ordinance 1961 Amendment Ordinance 1994".

Amendment of the Principal Ordinance

2. The Principal Ordinance is amended as follows -
 - (a) Clause 2 is deleted and the following is inserted -
 2. The management, administration, investment and control of the Sydney Diocesan Superannuation Fund shall be in accordance with the provisions of the Schedule.
 - (b) Clauses 3 to 29 are deleted.
 - (c) After Clause 2, a schedule is inserted in the following terms -

Schedule

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Part 1 - Interpretation

Definitions

1. (1) In this Ordinance unless inconsistent with the context or subject matter -

“Archbishop” means the Archbishop of the Diocese or in his absence his commissary or if the See is vacant the administrator of the Diocese.

“Board” means the board of directors of the Fund.

“Body Corporate” means the body corporate constituted pursuant to the Anglican Church of Australia (Bodies Corporate) Act, 1938 known as “Sydney Diocesan Superannuation Fund Board”.

“Clause” means a clause of this Ordinance.

“Dependant” means -

- (a) wife, husband, widow, widower, children of a Member; and
- (b) any other person who, in the opinion of the Board, is dependent on a Member or was dependent on a Member at the time of his or her death.

“Diocese” means the Diocese of Sydney.

“Director” means a director of the Board.

“Foreign Country” means any country other than -

- (a) Australia; and
- (b) the country or countries declared by resolution by the Synod or the Standing Committee or the Board to be inappropriate for the investment of moneys pursuant to this Ordinance but only for so long as that declaration remains in force.

“Fund” means the fund hereby established.

“Inactive Member” means a person who is a member to whom clause 26 applies.

“Incapacity” means -

- (a) permanent incapacity; or
 - (b) permanent invalidity;
- being incapacity or invalidity -
- (c) in relation to which a certificate has been given under clause 23(3); and
 - (d) such as will, in the opinion of the Board, prevent the Member concerned from pursuing for reward any occupation or calling considered by the Board to be suitable for the Member.

“Member” means a member of the Fund but for the purposes of clauses 13(1) and 13(2) does not include an Inactive Member.

“Organisation”, except in Parts 3 and 4, means -

- (a) an unincorporated association constituted by ordinance of the Synod or of the Standing Committee;
- (b) a corporation constituted pursuant to the Anglican Church of Australia (Bodies Corporate) Act 1938 at the instance of the Synod or of the Standing Committee; and
- (c) any other unincorporated association or corporation which the Synod or the Standing Committee, by resolution, declares to be an organisation for the purposes of this Ordinance but only for so long as that declaration remains in force;

but does not include any unincorporated association or corporation which is conducting a kindergarten, pre-school, primary school or secondary school.

"Parish" means a parish, provisional parish, or other separate ecclesiastical district, irrespective of the description attributed thereto, situated in the Diocese.

"Standing Committee" means the Standing Committee of the Synod.

"Superannuation Authority" means any person or body appointed under any Superannuation Law who is empowered under that legislation or some other legislation to exercise any discretion, give any consent or approval or otherwise give effect to and administer Superannuation Law.

"Superannuation Law" means Superannuation Industry (Supervision) Act 1993, Occupational Superannuation Standards Act 1987, the Income Tax Assessment Act 1936 and any other Acts of Parliament which govern the operation of superannuation funds as they may be amended or re-enacted and regulations made under those Acts, all other requirements, whether legislative or otherwise and including -

- (a) any administrative guidelines issued by a Superannuation Authority; and
- (b) statements by Government advising proposed changes to Superannuation Law with which the Fund must comply (or which, in the reasonable opinion of the Board the Fund ought comply) in order to be a complying superannuation fund.

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

Words importing the singular number include the plural number and vice versa.

The headings in this Ordinance have been inserted as a matter of convenience only and shall not limit or restrict the provisions of this Ordinance in any way.

(2) Except where otherwise provided in any agreement made pursuant to Part 3, the assets of the Fund are and at all material times have been and shall remain church trust property (within the meaning of that expression in the Anglican Church of Australia Trust Property Act 1917) held upon trust for the purposes of the Diocese in accordance with the provisions of this Ordinance.

Board of Directors

2. (1) The Board shall manage, govern and control the affairs of the Body Corporate and hold, manage and deal with the real and personal property held by the Body Corporate as trustee.

(2) (a) The Board shall consist of 12 Directors until such time as the Standing Committee makes a declaration under paragraph (b) whereupon the Board shall consist of -

- (i) 6 Directors who are representatives of employers; and
 - (ii) 6 Directors who are representatives of Members.
- (b) No later than 1 July 1995 the Standing Committee must declare -
- (i) which of the Directors in office at the time of the making of the declaration are representatives of employees and which Directors are representatives of Members; and
 - (ii) which of the vacancies in the membership of the Board, if any, at the time of the making of the declaration are to be vacancies in the office of Directors who are representatives of employers and in the office of Directors who are representatives of Members.
- (c) Where a Member holds an office and is not an employee under statute or at general law then for the purposes of this clause the person who pays or is responsible for the payment of the stipend of that person is deemed to be the employer of that Member."

(2) At the first ordinary session of each Synod 3 Directors who are representatives of employers and 3 Directors who are representatives of Members shall retire from office but each such person shall be eligible for re-election as either a representative of employers or as a representative of Members. The Directors shall retire in rotation according to seniority in office provided that where two or more Directors have held office since those Directors were last elected for the same period, the Director or Directors to retire shall be determined by the Directors at a meeting of the Board provided that at least fourteen (14) days written notice has been given to the Directors intimating that such determination is to be made at such meeting and in the event of any failure to make such a determination the Director or Directors to retire shall be determined by ballot taken amongst the members present at such meeting.

(3) A person of or above the age of 72 years is not eligible to be elected or appointed to or to act as a member of the Board.

(4) The provisions of the Casual Vacancies Ordinance 1935 shall apply. A person elected to fill a casual vacancy on the Board holds office in the same capacity as the person whose retirement gave rise to the casual vacancy.

Proceedings of Directors

3. (1) The Directors may meet together for the dispatch of business and adjourn and otherwise regulate their meetings as they think fit.

(2) A Director may at any time and any secretary appointed by the Board shall on the requisition of a Director convene a meeting of the Directors.

(3) Eight (8) members of the Board shall for all purposes form a quorum.

(4) The Board shall from time to time elect from its members a chairman and deputy chairman. The chairman and deputy chairman shall respectively hold office until the first meeting of the Board in the next succeeding year and thereafter until their respective successors are elected. A retiring chairman or deputy chairman shall be eligible for re-election. If at any meeting of the Board the chairman is not present within five (5) minutes of the time appointed for holding such meeting the deputy chairman shall be the chairman of the meeting but if neither the chairman nor the deputy chairman is then present the directors then present may choose one of their number to be chairman of the meeting.

(5) Questions arising at any meeting of the Board shall be decided by a majority of at least two-thirds of the Directors with each Director present in person being entitled to one vote.

(6) Each Director may appoint in writing another Director as an alternate Director to act in his absence. Such alternate Director must provide a copy of his appointment to the Secretary before being entitled to vote.

(7) All acts done by the Board or by any committee thereof or by any person acting as 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 any member of the Board or of the committee be as valid as if the Board or committee or Director has been duly elected or appointed.

(8) A Director or officer of the Board shall be accountable only for his or her own acts negligence 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 the same happens through his or her 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.

(9) 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;
- (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.

Any such minutes purporting to have been signed by the chairman of such meeting or of the next succeeding meeting shall be prima facie evidence of the matters stated in such minutes.

(10) The common seal of the Board shall not be affixed to any instrument except in pursuance of a resolution passed at a meeting of the Board. Every instrument to which the common seal is so affixed shall be signed by two Directors.

Disqualification of Directors

4. The office of a Director shall be deemed to have been vacated if the Director -

- (a) resigns his or her seat by writing under his or her hand addressed to the Board;
- (b) dies;
- (c) becomes a bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes any assignment of his or her estates for their benefit;
- (d) loses his or her qualification for office;
- (e) is absent except with leave granted by the Board from three (3) consecutive ordinary meetings of the Board being meetings in respect of which at least seven (7) days' notice has been given;
- (f) becomes a temporary patient or a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act 1958, or a person under detention under Part VII of that Act; or

- (g) is convicted in New South Wales of a felony or of a misdemeanour punishable by imprisonment for twelve months or upwards or is convicted outside New South Wales of an offence which if committed in New South Wales would be a felony or misdemeanour so punishable;
- (h) otherwise becomes a disqualified person for the purposes of Superannuation Law.

Functions of the Body Corporate

- 5. (1) The Body Corporate shall act as trustee and manager of the Fund.
- (2) The Body Corporate may act as trustee or manager or trustee and manager of any other superannuation or provident fund.

Powers of the Body Corporate

6. The Body Corporate may, in acting as trustee of the Fund and trustee and manager or trustee and manager of any other superannuation or provident fund, do all or any of the following unless, in the case of such other superannuation or provident fund, the Board or the Body Corporate is precluded from so doing by the trust deed or other instrument which constitutes the same -

- (a) appoint employ and remove agents and servants to carry on the management and administration of the Body Corporate and determine their powers and duties and fix and pay their fees salaries or emoluments;
- (b) appoint or remove any person or corporation as investment manager of the Fund or any other superannuation or provident fund of which the Body Corporate is acting as trustee and manager or trustee or manager for such period or periods and subject to any 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 or any other superannuation or provident fund of which the Body Corporate is acting as trustee and manager or trustee or manager as the Board thinks fit and to pay out of the assets of the Fund or such other fund to any such investment manager such remuneration for his or its services as the Board considers proper;
- (c) appoint and revoke the appointment of attorneys;
- (d) establish one or more bank accounts and determine in what manner and by whom such accounts shall be operated on;
- (e) delegate any of its functions to any committee (provided at least one half of the members of the committee are Directors) comprised of persons nominated by the Board and revoke any such delegation;
- (f) 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 or any other superannuation or provident fund of which the Body Corporate is acting as trustee and manager or trustee or manager, including moneys to become owing to the Fund or such other fund, for the purposes of the Fund or of that fund;
- (g) draw, accept, endorse, discount, execute and issue promissory notes, bills of exchange and other negotiable or transferable instruments;
- (h) sell, lease, or otherwise dispose of, deal with or maintain any of the assets of the Fund or any other superannuation or provident fund of which the Body Corporate is acting as trustee and manager or trustee or manager for such consideration and subject to such terms and conditions and otherwise in such manner as the Board may deem expedient;
- (i) effect insurance in the form of term insurance or otherwise with any life insurance company or companies on the lives of Members or members of any other superannuation or provident fund of which the Body Corporate is acting as trustee and manager or trustee or manager individually or as a group upon such terms and conditions as the Board may determine;
- (j) establish special funds in the nature of reserve funds, sinking funds or otherwise;
- (k) pay all costs and expenses of and incidental to the management and control of the Fund or any other superannuation or provident fund of which the Body Corporate is acting as trustee and manager or trustee or manager;
- (l) enter into such agreements as it may deem desirable in relation to any other superannuation or provident fund;
- (m) give or procure the giving of indemnities, guarantees or undertakings;
- (n) subject to clause 3(10), determine by whom and in what manner all or any documents and instruments shall be signed and executed by for or on behalf of the Board;
- (o) take out insurance or to meet the cost of insurance taken out by the Directors in respect of any claims that may be made against the Directors, or any of them, including claims made

- by the Body Corporate, by reason or arising out of anything done or not done by a Director whilst acting in his capacity as a Director and debit the cost thereof to the Fund;
- (p) exercise and perform the powers, authorities, duties and functions delegated to the Board or to the Body Corporate from time to time by the Standing Committee or the Synod;
 - (q) have such other powers, authorities, duties and functions as it may decide to be necessary for it to discharge its duties in accordance with the requirements of Superannuation Law.

Provided that the Body Corporate shall not borrow, or maintain an existing borrowing of, money, whether by way of secured or unsecured loan, otherwise than to secure temporary finance by way of overdraft with a bank as defined in subsection 5(1) of the Banking Act 1959 or a public authority constituted by a law of a State or Territory of Australia, being a public authority that carries on banking business.

Investments

7. (1) The Board shall invest the moneys of the Fund and of any other superannuation or provident fund of which the Body Corporate is acting as trustee and manager or trustee or manager unless, in the case of such other superannuation or provident fund, the Board or the Body Corporate is precluded from so doing by the trust deed or other instrument which constitutes the same and shall do so in such manner as determined by the Board from time to time and, in addition to investments authorised by the Investment of Church Trust Property Ordinance 1990, the Board and the Body Corporate, subject to Clause 7(2), may invest moneys of the Fund and of any such fund in -

- (a) first mortgages of real property in any part of Australia;
- (b) in the case of the Fund, loans to Members to assist each Member to purchase a house or home unit secured either by first or second mortgage provided in the case of a first mortgage the loan does not exceed 90% of the value of the mortgaged property last determined by a competent valuer and in the case of a second mortgage the total amount borrowed on both the first and second mortgages does not exceed 90% of such value and that in both cases the mortgage contains a provision for repayment of any balance of the loan owing on death or retirement from the benefits payable hereunder to or in respect of the Member concerned provided also that not more than one half of the investment moneys of the Fund shall be applied in such loans;
- (c) funds stocks securities bonds debentures or Treasury Notes of or guaranteed by the government of Australia or of any State of Australia or of any Foreign Country;
- (d) any investment authorised by the Trustee Act 1925 or any act amending or replacing the same;
- (e) debentures issued by any municipal council or city in Australia or in any Foreign Country;
- (f) deposits with a bank or other financial institution approved by the Board and carrying on business in Australia;
- (g) insurance on the lives of Members or of members of any such fund effected with any life insurance society or corporation approved by the Board;
- (h) a charge or charges upon any land or future rents profits and other income thereof;
- (i) loans secured by a letter of credit issued or confirmed by a bank authorised to carry on banking business in Australia or secured by the guarantee of such a bank;
- (j) the purchase of an estate in fee simple of land, whether improved or unimproved and the construction, repair, alteration and maintenance of buildings and other improvements on such land;
- (k) debentures of or preference or ordinary shares or stock in or notes (secured or unsecured) 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 or in any Foreign Country and options over the ordinary shares or stock of any company where the shares or stock are quoted on any recognised Australian stock exchange or on any recognised stock exchange in any Foreign Country and the options are traded on any recognised Australian stock exchange or in any recognised stock exchange in any Foreign Country; 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 such options if the business, or one of the main businesses, of the relevant company or trust is any of the following -
 - (i) the manufacture sale or distribution of fermented or spirituous liquors or of tobacco or tobacco products or of gambling devices or armaments, or
 - (ii) any other purpose or object specified by the Synod or the Standing Committee thereof and approved by the Board as being undesirable; and
- (l) such other investments as may be suggested from time to time by resolution of the Standing Committee and approved by the Board.

(2) The Board shall not invest any moneys of the Fund or of any other such fund (hereinafter in this proviso called "the relevant fund") in a Foreign Country if the value of the investment proposed to be made in the Foreign Country and the value at that time of all other investments in Foreign Countries of the relevant fund exceeds fifty per cent (50%) of the value at that time of all investments of the relevant fund.

(3) The Board may from time to time vary or realise investments.

(4) All investments shall be made in the name of the Body Corporate, except that if an investment manager shall have been appointed pursuant to Clause 6(b) the investments may be held in the name of the investment manager or nominee company or custodian appointed by the Board.

Responsibilities and Duties of the Board

8. (1) The Board shall remain and continue to be solely responsible for all liabilities incurred by it or on behalf of the Body Corporate.

(2) The Board and its members and each of them shall not represent to any person or corporation that the Archbishop 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 of Sydney or any other corporate body constituted by or pursuant to the Anglican Church of Australia (Bodies Corporate) Act 1938 shall or may meet or discharge all or any part of any liability or liabilities which have been or may or will be incurred wholly or partly by the Board or on behalf of the Body Corporate.

(3) The Board shall not exercise any power to borrow moneys for the purposes of the Fund or of any other superannuation or provident fund for which the Body Corporate is acting as trustee and manager or trustee or manager -

(a) if the amount which it proposes to borrow, when added to the amount of all moneys borrowed by it prior thereto for the purposes of the Fund or the relevant fund (as the case may be) and not repaid prior thereto, exceeds an amount being five percent (5%) of the cost of the assets thereof as at the respective last preceding balance date thereof or such other amount as may have been last approved by resolution of the Standing Committee; and

(b) unless the borrowing is solely to meet a need for temporary finance; and

(c) unless the borrowing is in accordance with the requirements (if any) at the time of any relevant statute.

(4) The Board shall not execute or deliver and shall not have power to execute or deliver any mortgage, charge, debenture, guarantee, indemnity or promissory note unless the following clause is included therein -

"Notwithstanding anything contained herein to the contrary each of the parties hereto acknowledge and agree that Sydney Diocesan Superannuation Fund Board 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 Diocesan Superannuation Fund Board may be able to pay to that party in the event of Sydney Diocesan Superannuation Fund Board being wound up."

and such clause is not made subject to any qualification.

Rules and Regulations

9. (1) The Board may from time to time make rules and regulations not being inconsistent with the provisions of this Ordinance and repeal or amend such rules or regulations and substitute others in lieu thereof.

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

(3) If the Synod shall at any time pass a resolution disallowing any such rule or regulation such rule or regulation shall thereupon cease to have effect but such disallowance shall not invalidate any act or thing done thereunder prior to such disallowance.

(4) As soon as is practical (in the opinion of the Board) after any amendment of this ordinance or any rules and regulations thereunder made in accordance with this clause the Board shall give a written statement to each Member whose entitlements or rights under the ordinance are affected a written notice of the nature and purpose of the alterations and the effect (if any) on the entitlements or rights of the Members provided that the accidental failure to provide such written statement shall not invalidate such alteration or deletion.

Accounts

10. (1) The Board shall keep an account in respect of each Member and in respect of each person who is a member of every other superannuation or provident fund of which the Body Corporate is acting as trustee and manager or trustee or manager (unless the rules of that fund otherwise provide or that fund is of a type known as a "defined benefit" fund in which event the Board shall keep an account in respect of that fund) and shall credit to that account all amounts received from or in respect of or on behalf of that Member or that member or fund and debit to that account all amounts paid to or in respect of or on behalf of that Member or that member or fund. The Board shall keep a separate account in its books in respect of moneys credited to the fund for the payment of the additional benefits described in Clause 14 and moneys applied in paying those benefits shall be debited to that account.

- (2) As soon as practicable after the end of each year the Board shall determine -
- (a) in relation to the gross income derived by the Board during the year, the amounts -
 - (i) to be applied in or towards meeting expenses incurred during that year,
 - (ii) to be allocated to provisions and reserves, and
 - (iii) to be credited to accounts maintained pursuant to Clause 10(1); and
 - (b) in relation to all costs and expenses incurred by the Board during that year which are not paid from gross income pursuant to Clause 10(2)(a)(i), the amounts -
 - (i) to be met from provisions and reserves, and
 - (ii) to be debited to accounts maintained pursuant to Clause 10(1).

On a benefit becoming payable to a Member other than on the last day of a year, the Board may estimate the part of the gross income to be credited to the Member's account and the costs and expenses to be debited to the Member's account pursuant to this Clause for the period from the last day of the year for which those credits and debits have been determined as aforesaid to the date on which the benefit becomes payable. The Board may give effect to such estimate by increasing or decreasing (as appropriate) the amount standing to the credit of the account of the Member.

(3) The Board may at any time and from time to time, transfer any amount standing to the credit of a provision or reserve -

- (a) in or towards payment of benefits payable hereunder;
 - (b) in or towards meeting costs and expenses incurred by the Board; or
 - (c) for such other purposes as seem appropriate to the Board.
- (4) For the purposes of this Clause -
- (a) the cost incurred by the Board in maintaining insurance in respect of benefits payable on death or incapacity shall be treated as an expense incurred by the Board; and
 - (b) in making a determination pursuant to Clauses 10(2) and 10(3) the Board shall make its determination on a basis as, to the Board, seems fair and reasonable in the circumstances; and
 - (c) in crediting amounts costs and expenses pursuant to Clauses 10(2) and 10(3) as between different accounts maintained pursuant to Clause 10(1), the board shall make its determination on a basis as, to the Board, seems fair and reasonable in the circumstances.
- (5) In this Clause -
- "gross income" includes any gain on the realisation or revaluation of an asset of the Fund; and
- "expenses" includes any loss on the realisation or revaluation of an asset of the Fund.

(6) The provision of Clauses 10(2), 10(3), 10(4) and 10(5) shall apply in relation to the Fund and in relation to every other superannuation or provident fund of which the Body Corporate is acting as trustee and manager or trustee or manager as if, in the case of the latter, a reference to a Member were a reference to a member of such other fund.

Part 2 - Diocese of Sydney Membership

Membership

11. (1) A clergyman who is in priests orders and who is -
- (a) licensed to a Parish (including a Clergyman who holds a licence as an acting rector); or
 - (b) appointed to serve in a full-time capacity with an Organisation;
- shall be or become a Member except where otherwise determined by the Synod or the Standing Committee prior to the date on which the clergyman is so licensed or appointed.
- (2) A deacon or deaconess who is -

- (a) licensed to a Parish; or
- (b) appointed to serve in a full-time capacity with an Organisation;

shall be or become a Member.

- (3) Every other person who -
 - (a) is a person or a member of a class of persons which the Standing Committee, by resolution, declares to be a person or a class of persons (as the case may be) in relation to which this Part of this ordinance shall apply; and
 - (b) is engaged in pastoral duties or other duties or activities that are directly related to the practice or propagation of religious beliefs; and
 - (c) is so engaged on a full time basis or on such lesser basis as the Synod or the Standing Committee by resolution may determine;

shall become a Member and be a Member but only for so long as those declarations remain in force and only for so long as that person is so engaged.

- (4) Notwithstanding the provisions of Clauses 11(1), 11(2), and 11(3) -
 - (a) a clergyman who holds office as a curate and who seeks exemption from the provisions of this Part may be granted such exemption for such period that the Board may determine from time to time;
 - (b) no person who has attained the age of 65 years shall become or be entitled to become a Member; and
 - (c) the Board may exempt a person from the provision of this Part for a period not exceeding the period of two years commencing on the date on which the person concerned became obliged to be or become a Member which exemption shall be presumed to have been granted where the person concerned has not paid any contributions required by this Part.

(5) A clergyman who is serving in a full-time capacity as a missionary in the field (and not in home base administration or activities) with a missionary organisation approved by the Board for the purposes of this Clause and who immediately prior to the commencement of such service was a Member shall remain a Member during such service provided the missionary organisation agrees to pay and pays the contribution required as specified in Clause 12(2)(c) and failing such agreement and payment Clause 13(1) shall apply.

(6) Subject to this ordinance, a person who is a Member shall cease to be a Member unless that person becomes an Inactive Member if that Member ceases to be licensed or to serve, as aforesaid, or ceases to satisfy the requirements in paragraphs (a), (b) or (c) of Clause 11(3), or ceases to be a person to whom Clause 11(5) applies, as the case may be.

Contributions

12. (1) Subject to Clause 12(1A) the contribution payable in any calendar year in respect of each Member shall be the percentage last determined by the Synod or the Standing Committee by resolution of the minimum annual stipend or salary recommended by the Synod or Standing Committee in respect of the Member or the class of persons to which the Member belongs and applying on the first day of that calendar year.

(1A) If the Standing Committee determines that the contributions are to be paid in respect of any period other than a calendar year the contribution payable during that period in respect of each Member shall be the percentage last determined by the Synod or the Standing Committee by resolution of the minimum annual stipend or salary recommended by the Synod or Standing Committee in respect of the Member or the class of persons to which the Member belongs and applying on the first date of that period.

- (2) The contribution payable under Clause 12(1) or Clause 12(1A) shall be contributed -
 - (a) by the Member;
 - (b) by means of assessments imposed or sources designated by the Synod; and
 - (c) by the Parish or Organisation to or with which a Member is licensed, appointed, engaged or the missionary society which has engaged the Member;

in such proportions as between all or any one or more of such sources the Synod or the Standing Committee shall have last determined.

Contributions derived from assessments imposed by the Synod or from sources designated by the Synod pursuant to Clause 12(2)(b) shall only be applied for the benefit of members defined in Clauses 11(1)(a), 11(2)(a), 11(3) and 11(5) or such other applications as the Synod may request and the Board approve.

The Synod or the Standing Committee from time to time shall determine the proportion of contributions made pursuant to paragraphs (b) and (c) which are to be regarded for the purposes of this Ordinance as contributions of the Member in addition to all contributions made pursuant to paragraph (a).

(3) The contributions (if any) payable by a Member shall be payable in equal instalments which shall be deducted from each payment of the stipend or salary of that Member by the person responsible for the payment of such stipend or salary and that person shall remit the amount so deducted to the Board every month or as the Board otherwise requires.

(4) Any contributions payable by a Parish shall be paid by the churchwardens of the church or principal church or churches in the Parish. The contributions payable by a Parish in respect of a clergyman who is the rector or minister in charge of the Parish (except those contributions made under paragraphs (b) and (c) of Clause 12(2) which are to be regarded as contributions of the Member) shall be payable notwithstanding that no person is the rector or the minister in charge of the Parish **Provided That** in the event of such a vacancy lasting more than six consecutive months the Board in its discretion may waive the contributions payable by the Parish during the period by which such vacancy exceeds six consecutive months.

(5) The contributions payable by means of assessments imposed by the Synod and by every Organisation and missionary society shall be payable in equal instalments which shall be payable at the same time as each instalment of the Member's contributions is payable to the Board.

(6) Subject to the provisions of Clause 12(9) -

- (a) a Member with the consent of the Board may contribute an amount which is in addition to the contributions (if any) to be made by him pursuant to this Clause; and
- (b) the Board may receive (but shall not be obliged to receive) in respect of a Member any amount which is in addition to that amount or those contributions.

(7) Subject to the provisions of Clause 12(9), an Organisation or missionary society with the consent of the Board may contribute in respect of a particular Member an amount in addition to the contributions to be made by that Organisation or missionary society pursuant to this Clause.

(8) Subject to the provisions of Clause 12(9), the Synod or the Standing Committee, by means of assessments imposed or sources designated by either of them, may make contributions in respect of a particular Member in addition to the contributions to be made by the Synod pursuant to this Clause.

(9) Notwithstanding the provisions of this Clause, the Board may refuse to accept a contribution or contributions proposed to be made by or in respect of a Member if that contribution or those contributions will cause the benefit of that Member to exceed the amount last specified by the appropriate authority under any relevant provision of any relevant statute as being the maximum amount which the Member may receive from a Superannuation Fund or will prejudice the most favourable taxation treatment of the Fund under any legislation in force from time to time.

(10) The contribution to the Fund payable by or in respect of a Member who is a member of the Anglican Provident Fund (Sydney) or of any other superannuation fund of which the Member is a member may be reduced at the discretion of the Board by an amount determined by the Member not exceeding the contribution payable by the member to the Anglican Provident Fund (Sydney) or such other fund and if the contribution to the Fund is reduced as aforesaid benefits payable by the Fund to that Member shall be modified to such extent as to the Board seems fair in the circumstances.

(11) In addition to any other powers which the Board may have to accept contributions pursuant to this Ordinance the Board may accept any amount as it may agree and on such terms as it may agree in respect of any Members from -

- (a) any Member, or
- (b) any employer or former employer of a Member irrespective of whether that employee is an organisation for the purposes of this Ordinance, and
- (c) any amount paid or transferred to the Fund in respect of the Member pursuant to Superannuation Law or in accordance with any other Act of Parliament.

Benefits

13. (1) Where a person who is a Member ceases to be a Member -

- (a) (other than due to death or incapacity) before age sixty-five (65) years; or
- (b) after attaining age sixty-five (65) years,

the Board shall pay to or in respect of that Member a sum equal to the amount standing to the credit of the account maintained in respect of that Member on the date he or she ceased to be a Member as aforesaid.

(2) Where a person who is a Member ceases to be a Member before attaining the age of sixty five (65) years due to death or incapacity, the Board shall pay to that Member a sum equal to the amount standing to the credit of the account maintained in respect of that Member on the date on which he or she ceased to be a Member as aforesaid plus the insurance cover arranged by the Board for each member.

- (3) (a) Any benefit payable upon the death of a Member shall be payable to or for the benefit of such one or more of the Dependants of the Member or the legal personal representatives of the Member or the legal personal representatives of the member or any other person to whom the Board may pay a benefit under Superannuation Law to the exclusion of the other or others of them in such shares and proportions as the Board may in its absolute discretion decide.
- (b) If the Board after reasonable inquiry determines that the deceased Member left no dependants and no legal personal representative or any person who is entitled to become the legal personal representative of a member or any other person to whom the Board may pay a benefit under Superannuation Law then at the expiration of such times as the Board shall from time to time determine the Board may in its absolute discretion but subject at all times to the requirements of Superannuation Law forfeit to the Fund the benefit which would have otherwise been payable in respect of such Member.
- (c) Subject to clause 13(3)(a) a Member may by writing nominate any person to succeed to his benefits under the Fund in the event of his death occurring while he remains a Member of the Fund and may at any time revoke any such nomination. The nomination by a Member of a beneficiary shall be in such form as is approved from time to time by the Board and shall be signed by the Member and deposited with the Board **Provided That** such nomination shall in no way bind the Board in the exercise of its discretion pursuant to this clause 13(3) and such nominations shall be intended only as a guide to the Board upon it exercising its discretion under this clause 13(3).
- (4) If -
- (a) an amount becomes payable to or in respect of a Member; and
- (b) at the time the amount becomes payable the Member is a bankrupt or incapable of managing his affairs;

then, subject to clause 13(6), and subject at all times to the requirements of Superannuation Law the Board may pay the amount to such of the spouse and dependants of the Member (and to the exclusion of any one or more of them) in such proportions as the Board shall determine.

(5) A person who is entitled to a benefit under this Clause may apply to the Board for a pension in lieu of that benefit or part of that benefit and the Board may grant such a pension on such terms and conditions as it thinks fit.

(6) Any amount payable to or in respect of a Member shall be applied subject to the requirements of Superannuation Law in the first instance in or towards payment of any indebtedness to the Fund of that Member.

Additional Benefits

14. (1) An additional benefit shall be payable in respect of a Member in accordance with this Part who retires either on account of age or on account of incapacity or who dies and who on or prior to the 1st April, 1962 -

- (a) was licensed to a Parish;
- (b) served in a full-time capacity with an Organisation; or
- (c) served in a full-time capacity as a missionary in the field (not in home base administration or activities) with a Missionary society approved by the Board for the purposes of this Clause.

(2) The amount of the additional benefit shall be 4% of the minimum stipend per annum of that Member as specified in Clause 12(1) as at the date of the Member's retirement or death for each year including fractions of a year of service prior to the 1st April 1962 during which the Member satisfies any of the conditions in Clause 14(1).

(3) The period of service prior to the 1st April 1962 for the purposes of Clause 14(2) shall be determined by the Board and its decision shall be final and binding on the Member.

(4) The additional benefit shall be paid to the Member on his death or retirement after attaining the age of sixty (60) years or due to incapacity in accordance with Clause 13.

- (5) An additional benefit shall be paid to a Member -

- (a) who becomes entitled to a benefit under this Ordinance; and
 - (b) on 1st April 1962 held a licence or other authority of the Archbishop; and
 - (c) is not entitled to an additional benefit under Clause 14(1);
- equal to so much of the additional benefit as would have been payable under Clause 14(1) had -
- (i) the member been entitled to a benefit under Clause 14(1); and
 - (ii) any periods to which Clause 13(3) may apply been regarded as qualifying service under that sub-clause;

as the Standing Committee considers appropriate in the particular circumstances.

(6) The cost of the additional benefits provided under this Clause shall be paid from assessments imposed or sources designated by the Synod provided that, pending receipt of the amount thereof, the Board may provide some or all of the additional benefits specified in this Clause on such terms as it considers fit.

Part 3 - Other Persons

Eligibility for Membership

15. (1) A person employed by or the major part of whose duties is associated with an organisation engaged in ministry or other work for part of the Anglican Church of Australia shall be eligible for membership of the Fund on such terms and conditions as may be determined from time to time by the Board.

(2) The terms and conditions of membership of a person who is in the service of such an organisation having an agreement with the Body Corporate shall be in accordance with the provisions of that agreement.

(3) The terms and conditions of membership of a person who is in the service of such an organisation which does not have such an agreement with the Body Corporate shall be agreed upon between the member and the Body Corporate but shall not be inconsistent with the general provisions governing membership of the Fund.

(4) Such other clauses of this Ordinance as may be determined from time to time by the Board to be applicable shall apply mutatis mutandis to membership in accordance with this Part.

(5) In the case of a Member who is a Member pursuant to an agreement made under this Part and where there is no provision in such agreement whereby a specific benefit is stipulated on the Member's death or incapacity, the Board may in its absolute discretion decide that the provisions of clauses 26(8) and 26(9) shall apply as if such Member were an Inactive Member.

Application for Membership

16. (1) Every person seeking membership in accordance with this Part shall apply in writing to the Board in a form approved by the Board and shall submit such evidence of health or other personal information as the Board shall require. The Board may accept or reject any such application as it thinks fit. An application shall not be deemed to be accepted until it has been accepted by notice in writing sent by the Board to the applicant or in the case of a person referred to in Clause 15(2), to the relevant organisation and acceptance shall be subject to the terms and conditions specified in such notice.

(2) The benefits in respect of a member under this Part shall be as specified in the notice sent by the Board in accordance with Clause 16(1) or where an amendment of that notice is sent by the Board, as specified in that amendment.

Payment of Benefits

17. Notwithstanding the provisions of Clause 16 but subject to Clause 25 -

- (a) a benefit shall not be paid to a member under this Part whilst he remains in the service of an organisation which in the opinion of the Board is engaged in ministry or other work for part of the Anglican Church of Australia except as allowed pursuant to Superannuation Law; and
- (b) the accumulated credit in the Fund of a member under this part who has attained age 60 and who retires from the service of an organisation which in the opinion of the Board is engaged in ministry or other work for part of the Anglican Church of Australia, shall be paid to that member.

Restrictions on Contributions

18. (1) A member under this Part shall not make contributions to the Fund except while he is in the service of an organisation which in the opinion of the Board is engaged in ministry or other work for part of the Anglican Church of Australia.

(2) The Board may refuse to accept a contribution or contributions proposed to be made by or in respect of a member under this Part if that contribution or those contributions will cause the expected benefit of that member to exceed the amount last specified by the appropriate authority under any relevant provision of any relevant statute as being the maximum amount which the member may receive from a superannuation fund or will prejudice the most favourable taxation treatment of the Fund under any legislation in force from time to time.

Part 4 - Other Superannuation Funds

Board may act as Trustee of Other Funds

19. The Board, at its discretion and on such terms as it may think fit, may manage or act as trustee of or manage and act as trustee of a superannuation or provident fund established by the synod of a diocese of the Anglican Church of Australia or such other organisation associated with the Anglican Church of Australia or deemed by the Board to be associated with the Anglican Church of Australia provided that the Board shall not manage or act as trustee of any such superannuation or provident fund unless that fund satisfies all conditions applicable thereto by virtue of Superannuation Law.

Members of Other Funds Managed by the Board

20. Members of a superannuation or provident fund which is being managed by the Board pursuant to this Part shall not be Members of the Fund.

Written Agreements with Other Funds

21. The management by the Board of a superannuation or provident fund pursuant to this Part shall be subject to a written agreement between the Board and the trustees of that fund and the agreement shall specify -

- (a) the terms on which the agreement may be varied or terminated by the Board;
- (b) the terms on which the agreement may be varied or terminated by the trustees;
- (c) that, provided notice of termination has not been given, the fund to be managed under the agreement shall earn income on the same basis as the Fund;
- (d) the fees payable to the Board for the management of the fund;
- (e) the basis upon which the Board will cover death and disablement insurances upon the lives of members of the fund; and
- (f) such other matters as the Board determines.

The Board's management services may cover such of administration, investment and insurance services as the Board and the trustees shall determine provided that the Board shall not provide administration services unless the whole of the investments and insurances of the fund are managed by the Board.

Details of Other Funds to be Reported Each Year to the Sydney Synod

22. The Board shall lay on the table at each session of the Synod -

- (a) the names of all superannuation and provident funds managed by the Board pursuant to this Part at that time;
- (b) a copy of the agreement which applies at that time to the management of those funds; and
- (c) the names of all superannuation and provident funds which the Board has ceased to manage since the last session of the Synod.

Part 5 - Miscellaneous

Main Purpose of the Fund and Compliance with the Law

23. (1) The sole or primary purpose of the Fund shall at all times be the provision of old age pensions for Members in accordance with the terms of this Ordinance.

(2) Notwithstanding any other provisions of this Ordinance a benefit shall only be payable to or on behalf of a Member under this Ordinance where permitted by Superannuation Law.

(3) A Member or other person seeking payment of benefits from the Fund on his or her retirement from the workforce on the ground of incapacity must give to the Board a certificate signed by 2 registered medical practitioners certifying that, in the opinion of those medical practitioners, the

Member or other person is unlikely ever to be able to work again in a job or office for which the Member or other person is reasonably qualified by education, training or experience.

Deductions of Tax from Contributions

24. In the event that any tax or impost is required by any law of the Commonwealth of Australia or of any State or Territory of Australia to be deducted from any contributions to the Fund or any assets or earnings of the Fund the Board may arrange for the deduction of such amount as may be required under the law in such manner as it may deem necessary.

Preserved Benefits

25. Where a person who is a Member ceases to be a Member or a person who is a Member of the Fund under Part 3 ceases to be a Member, all benefits to which that person is entitled on ceasing to be a Member and that are required to be preserved shall be -

- (a) retained in the Fund; or
- (b) transferred directly to, for preservation in relation to that person in -
 - (i) another superannuation fund nominated by the person, being a superannuation fund of which that person is, or intends to become, a member and that is required to preserve any benefits so transferred in accordance with the standards required by Superannuation Law,
 - (ii) an approved deposit fund (as defined by Superannuation Law) nominated by the person being a fund that is required to preserve any benefits so transferred in accordance with the standards required by Superannuation Law, or
 - (iii) a deferred annuity that cannot be surrendered or assigned before the person attains the age of fifty five (55) years or such other age as may be prescribed by Superannuation Law and does not pay benefits except in the circumstances permitted by Superannuation Law, or

except where the person has retired from the workforce and has attained the age of not less than fifty five (55) years, or such other age as may be prescribed by Superannuation Law all the benefits become payable in one of the following circumstances -

- (i) the retirement of the person from the workforce before attaining the age of fifty five (55) years on the ground of incapacity;
- (ii) the death of the person;
- (iii) the permanent departure of the person from Australia;
- (iv) such other circumstances (if any) as the Commissioner approves;

whichever happens first.

Inactive Members

26. (1) Notwithstanding the provisions of clause 11 or Part 3 a person who -

- (a) is a Member; and
- (b) ceases to hold a licence or authority of a type referred to in clause 11(1)(a) or 11(2)(a), or ceases to be appointed pursuant to clause 11(1)(b) or clause 11(2)(b) or ceases in the opinion of the Board to be engaged in duties or activities that make him or her eligible to be a Member; and
- (c) elects to become an Inactive Member,

shall at the date he or she first ceases to hold that licence or authority, or ceases to be appointed or to be engaged in those duties or activities become an Inactive Member.

(2) A Member shall cease to be an Inactive Member upon satisfying the conditions set out in Clause 11 or in an agreement made under Part 3.

- (3) An Inactive Member ceases to be a Member upon the earliest of -
 - (a) a determination of the Board that he or she is no longer an Inactive Member;
 - (b) the request of the Inactive Member;
 - (c) the date the Inactive Member reaches age sixty five (65) years; and
 - (d) the date of the death or incapacity of the Inactive Member.
- (4) An Inactive Member shall not contribute to the Fund.

(5) For the purposes of Clauses 12(1), 12(1)(A), 12(2), 12(3), 12(4), 12(5), 12(7) and 12(8) in respect of an Inactive Member no contribution is payable unless the Synod or the Standing Committee otherwise decides.

(6) An Inactive Member is not a Member for the purposes of clauses 13(1) and 13(2) and is not entitled to any benefit under that clause.

(7) Where an Inactive Member ceases to be an Inactive Member pursuant to clause 26(3) (other than due to death or incapacity before reaching age sixty five (65) years) the Board shall, subject to Clause 26, pay to or in respect of that Inactive Member a sum equal to the amount standing to the credit of the account maintained in respect of that Inactive Member on the date on which he or she ceased to be an Inactive Member as aforesaid.

(8) Where an Inactive Member ceases to be an Inactive Member pursuant to clause 26(3) due to death or incapacity the Board shall subject to Clause 25 pay in respect of that Inactive Member a sum equal to -

- (a) the amount standing to the credit of the account maintained in respect of that Inactive Member on the date on which he or she ceased to be an Inactive Member as aforesaid, plus
- (b) the Member's Insured Benefit (if any) calculated pursuant to clause 26(9).
- (9) (a) At the date a Member becomes an Inactive Member he or she shall choose to be provided with zero (0), one (1), two (2) or three (3) Insurance Units.
- (b) In the event that he or she fails to choose, he or she shall be provided with one (1) Insurance Unit.
- (c) Once in each year on a date decided by the Board an Inactive Member may elect to reduce the number of Insurance Units to be provided for him or her. Having made such an election or having failed to have made such an election when first eligible to do so he or she may only increase his or her number of Insurance Units with the consent of the Board.
- (d) The cost of each Insurance Unit shall be calculated by the Board from time to time and be deducted from the amount standing to the credit of the amount maintained in respect of the Inactive Member.
- (e) The Insured Benefit of a Member shall be calculated by multiplying the number of his or her Insurance Units by the value of each Insurance Unit.
- (f) Unless the Board otherwise decides and advises the Inactive Member the value of each Insurance Unit shall be determined by the age of the Inactive Member at the date of his death or incapacity as follows -

Age of Member at Last Birthday	Amount Per Insurance Unit \$
39 years or less	40,000
40-44	30,000
45-49	20,000
50-54	13,000
55-59	6,000
60-64	6,000
65 or more	Nil

Transfer of Benefits

27. (1) The Board may accept from the trustees or controlling body of any other superannuation or like fund or any approved deposit or like fund and/or person who is a member or former member of such other fund by way of transfer or otherwise any moneys or other assets which the trustees or controlling body of that other fund wish to transfer to the Board in connection with a transfer of moneys or other assets made in respect of the interest of a Member or the interest of Members in that other fund.

(2) The Board may with the written consent of a Member and subject to the other provisions of the Ordinance and subject to such other conditions as the Board may decide transfer to any other superannuation or approved deposit or other fund any benefit which becomes payable to or in respect of a Member and the receipt of such other fund shall be sufficient discharge to the Board and the Board shall not be in any way responsible for the payment or disposal by the trustee of the other fund of the benefit so paid or transferred.

Relevance of Superannuation Law

28. Notwithstanding any provision in the Ordinance -

- (a) any provision of Superannuation Law that is required to be incorporated in the governing rules of a complying superannuation fund shall be deemed to be included in this Ordinance

as if every such provision were set out in this Ordinance from the date that such provision applies;

- (b) in the event of any inconsistency between any provision of this Ordinance and any provisions deemed by Clause 28(a) to be included in this Ordinance the latter shall prevail to the extent of any inconsistency;
- (c) An act or omission of the Board which contravenes the Superannuation Law and which, but for this provision, is in contravention of this Ordinance or is a breach of trust, will be deemed not to be such a contravention or breach if -
 - (i) the contravention of the Superannuation Law is approved by the Superannuation Authority; or
 - (ii) the Superannuation Authority is given full particulars of the contravention of the Superannuation Law and the Fund is thereafter treated as if that Law had not been contravened in the manner disclosed.

Pension Payments

29. (1) Any Member who is entitled to a benefit under this Ordinance may apply to the Board for a pension in lieu of that benefit or part of that benefit and the Board may grant such pension or secure a pension from such other source or sources as it may decide on such terms and conditions as it thinks fit.

(2) Where the board is required by Superannuation Law to pay any benefit as a pension it must comply with Superannuation Law but subject to Superannuation Law may arrange for the payment of such pension either from the Fund or from such other source or sources as it may decide and upon such terms and conditions as it may decide.

Observance of Directions and Discretions by Other Parties

30. Where a provision of this Ordinance -

- (a) requires the Board to act on the direction of any other person; or
- (b) permits any other person to give a direction to the Board or to exercise a discretion on behalf of the Board; or
- (c) requires the Board to seek or consider the opinion of any other person

the Board must disregard that provision to the extent which in its opinion is necessary to comply with Superannuation Law.

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

N.M. Cameron
Chairman of Committees

I Certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on 20 June 1994.

W.G.S. Gotley
Secretary

I Assent to this Ordinance.

R.H. Goodhew
Archbishop of Sydney
12/7/1994