

Anglican Provident Fund Ordinance 1990 Amendment Ordinance 2003

No 48, 2003

Long Title

An Ordinance to amend the Anglican Provident Fund Ordinance 1990.

The Synod of the Diocese of Sydney Ordains as follows.

1. Name

This Ordinance is the Anglican Provident Fund Ordinance 1990 Amendment Ordinance 2003.

2. Amendment of the Anglican Provident Fund Ordinance 1990

The Anglican Provident Fund Ordinance 1990 is amended as shown in Schedule A by deleting the matter struck through and inserting the matter which is shown in underlined lettering.

Schedule A

Anglican Provident Fund Ordinance 1990

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

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

Part 1 – Preliminary

Citation

1. This Ordinance may be cited as the “Anglican Provident Fund Ordinance 1990”.

Definitions

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

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

“The Act” includes, where appropriate, any one or more of the Superannuation Industry (Supervision) Act 1993, the 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 includes –

- (a) any administrative guidelines issued by a Responsible Authority; and
- (b) statements by Government advising proposed changes to the Act

with which the Fund must comply (or with which in the reasonable opinion of the Board the Fund ought to comply).

“Annuitant” means a Member who has been superannuated under the Old Tables.

“Annuity” means the superannuation annuity payable to the Annuitant.

“Benefit” includes Annuity, Pension or lump sum.

“Board” means the Board of Directors of the Fund.

“Body Corporate” means the body corporate constituted pursuant to the Anglican Clergy Provident Fund Act 1908 and the Anglican Clergy Provident Fund (Sydney) (Amendment Act) 1941 known as “Anglican Provident Fund”.

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

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[“Declared Interest Rate” means the rate of interest determined by the Board at the end of each year in accordance with the terms of clause 19.](#)

[“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.](#)

“Director” means a member of the Board.

“Eligible Fund” includes –

- (a) a fund which the Responsible Authority has declared eligible to receive rolled-over benefits;
- (b) a Complying Superannuation Fund (as defined by the Act);
- (c) a Complying ADF (as defined by the Act);
- (d) any other scheme or fund established or regulated by law for the maintenance or preservation of superannuation benefits arising under the Superannuation Guarantee Charge or arising from lost or unclaimed benefits or any other like fund, scheme or annuity which the Board determines to be an Eligible Fund from which the Board may accept moneys or assets or to which the Board may pay or transfer moneys or assets without (in the opinion of the Board) jeopardising the status of the Fund as a Complying Superannuation Fund.

[“Electorate” means an entitlement of a Diocese within the Anglican Church of Australia to appoint two nominees as representatives of that Diocese to the Board.](#)

“Fund” means the Anglican Provident Fund.

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

“Insurer” means any insurance company with which the Board insures all or part of any benefit payable under the Ordinance.

“Member” means a member of the Fund.

“Old Tables” means the tables under the 1944 Ordinance.

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

“Pensioner” means a person to whom or for whose benefit a Pension is payable.

“Permanent Incapacity or Permanent Invalidity” has the meaning given to those words or to the words “Total and Permanent Disablement” by the Insurer in any policy or policies of insurance which the Board secures with an Insurer. In the event that there is no policy containing that term, Permanent Incapacity or Permanent Invalidity means such mental or physical impairment as in the opinion of the Board will result in the Member being unlikely ever to be able to work again in a job for which the member is reasonably qualified by education, training or experience or such other measure of impairment as the Board shall require from time to time consistent with any preservation standard in the Statutory Requirements.

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

“Regulations” means the Regulations set out in the Schedule to this Ordinance.

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

“Statutory Requirements” means any requirements of the Act.

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“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 the Superannuation Industry (Supervision) Act 1993, the 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 to comply) in order to be a complying superannuation fund.

“Synod” means the Synod of the Diocese of Sydney.

(2) Words and phrases used in this Ordinance which are defined in the Act have the same meanings as set out in the Act.

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

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

(b) The provisions of this subclause override all other provisions of this Ordinance to the extent that where any provision of this Ordinance is inconsistent with the requirements of the Statutory Requirements then the Statutory Requirements take precedence.

~~(5) As from 1 July 1994 the primary purpose of the Fund is to provide old age pensions for Members in accordance with the Ordinance.~~

(5) As from 1 July 1994 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.

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

~~(6)(7)~~ The Board may make an irrevocable election that the Fund will become a regulated superannuation fund (as defined by the Act).

Legislation

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

Part 2 - Board of Directors

Constitution

~~4. (1) Until the 1995 session of the Synod of the Diocese of Sydney and subject to clause 11 the Directors in office at the date of assent to the Anglican Provident Fund (Sydney) Ordinance 1990 Amendment Ordinance 1994 remain in office until they are replaced under clauses 5 or 6. If they cease to hold office under clause 11 the Board may replace them.~~

~~(2) Before 1 June 1995 the Board may designate each of the Directors (including the Chairman) as either a “Member Representative” or “Employer Representative”. The number of “Member Representatives” and “Employer Representatives” must be equal but a Member Representative need not necessarily be a Member of the Fund and a person is not precluded from being an “Employer Representative” by virtue of being a Member of the Fund.~~

(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.

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

~~(3) If the Board does not make the designation permitted by subclause 4(2) by 1 June 1995, the Chairman must make those designations before 1 July 1995.~~

5. ~~At its 1995 session,~~ The Synod of the Diocese of Sydney ~~must~~shall elect to the Board –

- (a) two persons as “Member Representatives”; and
- (b) two persons as “Employer Representatives”.

6. ~~(1)~~ For the purposes of this clause 6 and in respect of any Diocese within the Anglican Church of Australia (other than the Diocese of Sydney) –

- (a) “Eligible Member” means a Member who is permanently engaged in the work of the Anglican Church in that Diocese or employed by any institution, school or organisation connected with the Anglican Church in that Diocese; and
- (b) that Diocese has one or two Electorates as follows –
 - (i) if that Diocese has twenty or more Eligible Members but not more than thirty nine Eligible Members, it has one Electorate;
 - (ii) if that Diocese has forty or more Eligible Members it has two Electorates.

~~(2) At its 1995 session the Synod of that Diocese may appoint one Member Representative and one Employer Representative from each Electorate.~~

7. If a Director appointed by a Diocese ceases to hold office the Diocese must within sixty days replace the Director, if it does not then the Bishop of that Diocese must replace the Director within a further thirty days or within such greater time as the Act allows.

8. In addition to the circumstances set out in clause 11, each Director appointed by a Diocese under clauses 5, 6 or 7 remains in office until the earlier of –

- (a) the expiry of four years from the date of his or her appointment as a Director; or
- (b) the date he or she resigns as a Director.

9. ~~(1)~~ A former Director (including a Director whose term of office has recently expired or is about to expire) is eligible for reappointment ~~unless clause 11 applies.~~

~~(2) A former Director is not eligible for reappointment if his or her office is automatically vacated under clause 11.~~

Vacancies

10. (1) The Casual Vacancies Ordinance 1935 does not apply to this Ordinance.

(2) Where a Director appointed under clause 5 ceases to hold office, the Synod or the Standing Committee of the Diocese of Sydney may, ~~subject to clause 11,~~ by resolution replace that Director with any person.

(3) Where a Director appointed under clauses 6 or 7 ceases to hold office, the Synod or the Standing Committee of the Diocese which appointed that person may, ~~subject to clause 11,~~ by resolution replace that Director with any person.

(4) Where a Synod or Standing Committee does not make an appointment permitted by clauses 10(2) or 10(3) within sixty days of the vacancy arising, the Bishop of that Diocese must replace that person within a further thirty days or such greater time as the Act allows.

Vacation of Office

11. (1) The office of a Director is vacated if –

- (a) the Director’s term of office expires under clause 4;
- (b) the Director resigns in writing addressed to the Board;
- (c) the Director dies;
- (d) the Director becomes bankrupt or executes a deed of assignment or arrangement for the benefit of creditors;
- (e) except with leave granted by the Board, the Director is absent for two consecutive ordinary meetings being meetings in respect of which at least seven days notice has been given, the Director is absent from Board meetings for six months without the leave of the Board;
- (f) the Diocese which appointed the Director declares his office vacant;

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(g) ...

(h) the Director otherwise becomes a disqualified person for the purposes of the Act.

(2) If it comes to the knowledge of the Board or the secretary or other proper officer of a Diocese which appointed a Director that the office of that Director has become vacant the Board or the secretary or other proper officer as the case may be must inform all relevant persons as soon as possible.

Proceedings of Directors

12. (1) The Directors may meet together for the despatch 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 Directors.

(3) 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 together with such number of votes as he shall be entitled to cast as an alternate Director. The Chairman of the meeting does not have a second or casting vote.

(4) 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.

Chairman and Deputy Chairman

~~(5)~~ (4) The Board shall from time to time elect from its members a Chairman and Deputy Chairman. The Chairman and Deputy Chairman shall hold office until the first meeting of the Board in the next succeeding financial year. A retiring Chairman or Deputy Chairman shall be eligible for re-election.

~~(6)~~ (2) If at any meeting the Chairman is not present within 5 minutes of the time appointed for holding the meeting the Deputy Chairman shall be the Chairman of the meeting. If neither the Chairman nor the Deputy Chairman are then present the Directors present may choose one of their number to be Chairman of the meeting.

Quorum

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

Voting

~~14. Resolutions of the Board must be passed by not less than two thirds of the appointed Directors. The Chairman of the meeting does not have a second or casting vote.~~

Validation of Acts of Board

15. All acts done by the Board or by any Committee thereof or by any person acting as a Director shall notwithstanding that there is a vacancy in the Board or that it be discovered that there was some defect in the election or appointment of the Board or Committee or Director be as valid as if such Board or Committee or Director had been duly elected or appointed.

Liability and Indemnity

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

Insurance

16A. (1) The Board may insure as it sees fit –

- (a) any liability of the Board;
- (b) any liability of Directors and Officers of the Board;
- (c) any liability of the Fund;
- (d) any liability of the Fund to indemnify or reimburse the Board; and
- (e) any liability of any Contributor to indemnify or reimburse the Board.

(2) The cost of any insurance referred to in this clause is an expense of the Fund.

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(3) This clause does not impose on the Board an obligation to take out any insurance referred to in this clause.

Part 3 - Powers and Duties of Board

Functions of the Body Corporate

16B. (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

17. (1) The Body Corporate may, in acting as trustee of the Fund and trustee and manager or trustee or 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.

(2) The Board has all powers which are necessary for it to manage and control the Fund in accordance with the Statutory Requirements.

(3) Without limiting the general nature of the powers in sub-clause (1) the Board may do any of the following things –

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

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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:-

- (h) appoint and revoke the appointment of attorneys;
- (i) effect insurance in the form of term insurance or otherwise with any life insurance ~~assurance~~ 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) have such other powers, duties and functions as it may deem necessary for it to discharge its duties in accordance with the Act.~~
- (j) 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 and matters incidental thereto including the registration of a business name.
- (k) establish special funds in the nature of reserve funds, sinking funds or otherwise.
- (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) determine by whom and in what manner all or any documents and instruments shall be signed and executed by for and on behalf of the Board;
- (o) 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;

General Duties of the Board

17A.(1) The Board has the following duties –

- (a) to act honestly in all matters concerning the Fund;
- (b) to exercise, in relation to all matters affecting the Fund, the same degree of care, skill and diligence as an ordinary prudent person would exercise in dealing with property of another for whom the person felt morally bound to provide;
- (c) to ensure that the Board's duties and powers are performed and exercised in the best interests of Members;
- (d) to keep the money and other assets of the Fund separate from any money and assets, respectively –
 - (i) that are held by the Board personally; or
 - (ii) that are money or assets, as the case may be, of any Contributor (as described in Regulation 1);
- (e) not to enter into any contract, or do anything else, that would prevent the Board from, or hinder the Board in, properly performing or exercising the Board's functions and powers;
- (f) to formulate and give effect to an investment strategy that has regard to the whole of the circumstances of the Fund including, but not limited to, the following –
 - (i) the risk involved in making, holding and realising, and the likely return from, the Fund's investments having regard to investment objectives and expected cash flow requirements;
 - (ii) the composition of the Fund's investments as a whole including the extent to which the investments are diverse or involve the entity in being exposed to risks from inadequate diversification;
 - (iii) the liquidity of the Fund's investments having regard to expected cash flow requirements;
 - (iv) the ability of the Fund to discharge its existing and prospective liabilities;

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- (g) to formulate and to give effect to a strategy for the prudential management of the reserves of the Fund, consistent with the Fund's investment strategy and its capacity to discharge its liabilities (whether actual or contingent) as and when they fall due; and
- (h) to allow a Member or other person prescribed by the Act access to any information or any documents which are prescribed by the Act for this purpose.

(2) If any provision of this clause conflicts with any other provision of this Ordinance (except the obligation to comply with the Statutory Requirements), this clause prevails.

Investments

18. (1) The Board may invest moneys of the Fund in or on –
- (a) first mortgages on real property in Australia;
 - (b) funds, stocks, securities, bonds, debentures or Treasury bills of or guaranteed by the Government of Australia or of any Australian State or Territory;
 - (c) debentures issued by any local government authority in Australia;
 - (d) deposit with an eligible bank;
 - (e) insurance on the lives of Members effected with any life assurance company or companies;
 - (f) the purchase of land in Australia;
 - (g) debentures of or preference or ordinary shares or stock in or notes of any company or units in or notes of a trust where the company or trust is carrying on business in Australia or has a share or unit register in Australia and options over the ordinary shares or stock of any company where the shares or stock are quoted on an Australian stock exchange and the options are traded on an Australian stock exchange, provided that no such investment shall be made in any debentures, shares or stock of any company or units in or notes of a trust or any options over such debentures, shares, stock, units or notes if the business or one of the main businesses of the relevant company or trust is the manufacture, sale or distribution of fermented or spirituous liquors or of tobacco or tobacco products or of gambling devices or of armaments;
 - (h) (i) debentures of or preference or ordinary shares or stock in or notes of any company or units in or notes of a trust, or
(ii) deposit with any company,
where the company or trust is listed for quotation on a recognised stock exchange outside Australia; provided that no such investment or deposit shall be made if the business or one of the main businesses of the relevant company or trust is the manufacture sale or distribution of fermented or spirituous liquors or of tobacco or tobacco products or of gambling devices or of armaments; and provided further that no such investment or deposit shall be made if the value of the investment or deposit proposed together with the value at that time of all monies, debentures, shares, stock, notes or units invested pursuant to this paragraph and held by the Fund exceeds 50% of the value at that time of all investments of the Fund;
 - (i) units or equivalent rights or interests in any arrangements, including but without limiting the generality of the foregoing, the type popularly known as a "cash management trust" or money market trust" or "mutual fund" made for the purpose or having the effect of providing for persons having funds available for investment facilities for the participation by them as beneficiaries under a trust or mutual fund in any profits or income arising from the acquisition, holding, management or disposal of investments that are principally comprised of investments authorised under another paragraph of this clause and if they are operated in Australia being arrangements authorised or permitted under a trust deed that is approved as such under the Corporations Law;
 - (j) such other investments as may be approved by resolution of the Board.
- (2) The Board may from time to time vary, replace, and otherwise deal with investments as fully and effectively and with the same unrestricted powers in all respects as a person absolutely and beneficially entitled dealing with his or her own property may so do.

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

Declared Interest Rate~~Fund Earning Rate~~

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

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

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

Minutes

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

- (a) of all appointments of office by the Board;
- (b) of the names of the Directors present at each meeting of the Board and of any Committee thereof;
 - (i) of all orders and regulations made by the Board;
 - (ii) of all resolutions and proceedings of meetings of the Board and of Committee thereof.

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

Accounts ~~and Actuarial Reports~~

21. ~~(1)~~ The Board shall comply with the Accounts, Audits and Annual Reports Ordinance 1995.

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

Rules

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

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

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

(4) Despite clause 22(1) but subject at all times to the Statutory Requirements the Synod may with the consent of the Board amend this Ordinance as it thinks fit.

(5) As soon as is practicable (in the opinion of the Board) after any amendment of this Ordinance or any rule made in accordance with this clause, the Board must give to each Member whose entitlements or rights under the Ordinance are affected, a written notice of the nature and purpose of the amendments and the effect (if any) on the entitlements or rights of the Member. The accidental failure to provide a written notice does not invalidate the alteration, addition or deletion.

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Income Tax

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

- (a) tax on contributions paid to the Fund;
- (b) tax on the earnings of the Fund;
- (c) tax on any net capital gain arising from the sale or realisation of any assets of the Fund;
- (d) any other taxes payable by the Board as may be required from time to time by the Responsible Authority or any other taxing authority empowered to levy an impost, tax or duty upon superannuation funds.

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

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

Withholding of Income Tax

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

Provision for Taxation

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

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

Part 4 – Application of Fund

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

Part 5 – Membership and Subscriptions

Membership

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

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

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

(b) supply such evidence of his age and health as the Board may require.

(3) The Board may –

- (a) unconditionally accept an application;
- (b) reject an application without stating any reason for doing so; or
- (c) accept an application on such terms and conditions as it may determine.

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(4) An applicant shall become a Member of the Fund either on his application being unconditionally accepted or upon the receipt by the Board of his acceptance in writing of the conditions determined by the Board in accordance with the provisions of subclause (3)(c) of this clause.

- (5) (a) Members who were previously subscribing for a benefit under the Old Tables and who have not transferred their entitlements under those Old Tables to the Seventh Schedule to the 1944 Ordinance, shall cease to be bound to pay any further subscriptions under those Tables. The entitlements of such Members, as at the date of assent of this Ordinance shall be listed and tabled at the meeting of the Board next following such assent and incorporated into the minutes of such meeting; such entitlements shall be determined by the Board on the advice of an actuary and shall not be reduced other than as provided for in this Ordinance.
- (b) On the advice of an actuary the Board may at its discretion increase the entitlements of Members, referred to in paragraph (a) of this subclause.
- (c) An existing Member who was subscribing for a benefit under the Old Tables may apply to become a Member under the Regulations.
- (d) The Board shall deal with an application under subclause 5(c) of this clause in such manner as it decides in its absolute discretion.

Information to New Members

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

Information to Continuing Members

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

Information to Terminating Members

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

General Information

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

Part 6 – Payment of Benefits

Benefits

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

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

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

Pensions and Annuities

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

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

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

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- (b) by reason of Permanent incapacity or Permanent invalidity.

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

Permanent Incapacity and Permanent Invalidity

34. (1) Where a Member who ceases to carry on regular and continuous duty seeks payment of benefits on the ground of "Permanent Incapacity or Permanent Invalidity" that Member must give to the Board a certificate signed by two registered medical practitioners certifying that, in the opinion of those medical practitioners, the Member is unlikely ever to be able to work again in a job for which the Member is reasonably qualified by education, training or experience or such other information as required from time to time by the Board consistent with the preservation requirement in the Statutory Requirements.

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

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

Suspension of Annuity

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

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

[35-36](#)

Preserved Benefits

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

- (a) being retired from the workforce and having attained an age of not less than 55 years or such other age as may be prescribed by the Statutory Requirements;
- (b) retirement from the workforce before attaining the age of 55 years or such other age as the Statutory Requirements may require on the ground of Permanent Incapacity or Permanent Invalidity;
- (c) the permanent departure of the Member from Australia;
- (d) the Member's death;
- (e) any other circumstances specified from time to time by the Statutory Requirements;
- (f) any other circumstances determined by the Board and approved by the Responsible Authority.

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

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- (a) another superannuation fund which is required to preserve such amounts in accordance with the Statutory Requirements;
- (b) an Approved Deposit Fund which is required to preserve such amounts in accordance with the Statutory Requirements;
- (c) one or more institutions for the purchase of a deferred annuity that cannot be surrendered or assigned before that person attains the age of 55 years and that does not pay benefits except in circumstances as specified in paragraphs (1)(a)-(f) above;
- (d) any combination of the funds or institutions referred to in paragraphs (2)(a)-(c) above.

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

Dependants Pensions

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

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

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

- (a) shall cease upon such child attaining the age of 16 years or dying under that age, and
- (b) shall be payable to the mother or other person acting as guardian of such child.

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

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

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

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

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

Members to Give Information

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

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Part 7 – Refund of Subscriptions

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

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

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

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

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

(4) Any benefit payable upon the death of a Member is payable to or for the benefit of such of the Dependants of the Member or the legal personal representatives of the Member or to other persons to whom the Board may pay the benefit in accordance with the Act to the exclusion of any other of them in such shares and proportions as the Board may in its absolute discretion decide.

(5) 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 the benefit in accordance with the Act then the Board must treat the benefit as an unclaimed benefit under Clause 50.

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

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

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

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- (c) such further amount (if any) as may be determined by the Board, on the advice of any actuary to be equitable in the circumstances and is in accordance with the Statutory Requirements.

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

Part 8 – General

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

Retention for Members Benefits ~~Forfeiture~~

46. ~~(1) The benefit of a Member (including an Annuitant or Pensioner) is immediately forfeited to the Fund where –~~

~~— (a) the Member or any Dependant of the Member or any other person with the Member's knowledge assigns, mortgages, charges, transfers or attempts to assign mortgage, charge or transfer the right or interest in the Fund of that Member or of any Dependant of that Member, or of any other Member either in whole or in part, absolutely or conditionally; or~~

~~— (b) the Member or any Dependant of the Member entitled to a benefit is declared bankrupt or becomes insolvent (in the opinion of the Board); or~~

~~— (c) an event occurs which would result in all or any part of any benefit becoming payable to or vested in any other person or persons including the Member's Dependents or any Government or other public authority as a result of the Member or the Dependents of the Member or any other person with the Member's knowledge doing, causing or allowing any act or thing to be done.~~

~~(2) For the purposes of this Clause a direction given to the Board by the Member and/or the Member's legal personal representative where a benefit is payable does not constitute an assignment, mortgage, charge or transfer by the Member or the Member's Dependents.~~

~~(3) The Board must hold any benefit forfeited under Clause 46(1) and pay it when it decides to do so for the benefit of the Member and/or any of the Dependents of the Member as if the Member's benefit had not been forfeited to the Fund.~~

~~(4) The Board may pay any forfeited benefit to the Member and/or any of the Dependents of the Member it may decide and in any manner it may decide.~~

(15) If the Member or any Dependant of the Member becomes entitled to a benefit where that Member or Dependant is in the opinion of the Board –

- (a) mentally ill or of unsound mind; or
- (b) otherwise incapable of managing his or her own affairs;

the Board must hold that benefit for the benefit of the Member or the Dependents of the Member or any of them.

(26) The Board may pay that benefit by instalments if it so decides but must ultimately pay the whole of the benefit.

Transfers

47. (1) (a) Where a Member is or was also a Member of any other Eligible Fund the Board may accept in respect of that Member from that Member and/or that Eligible Fund any money or other assets which the trustees or controlling body of that Eligible Fund wish to transfer to the Fund.
- (b) The Board may accept moneys or other assets transferred in accordance with this Clause subject to any special conditions as it may decide.
- (c) Where Clause 47(1)(a) applies to a Member the Board may grant that Member rights and benefits additional to or instead of those otherwise provided under this Ordinance as the Board may decide.

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- (2) (a) The Board may pay or transfer or cause to be paid or transferred to the trustees of any other Eligible Fund any benefit which becomes payable to or in respect of a Member –
- (i) if the Member consents in writing; and
 - (ii) on such conditions as the Board may decide.
- (b) If a Member is accepted as a member of another Eligible Fund to which a Contributor (as defined in Regulation 1) contributes for the benefit of the Member the Board may at the request of that Contributor pay or transfer to that other Eligible Fund an amount equal to an amount determined by the Board to be the value of the Member's benefit in the Fund.
- (c) The receipt of the trustees of the other Eligible Fund will be sufficient discharge to the Board and the Board shall not be responsible in any way for the payment or disposal by the trustees of the other Eligible Fund of the benefit paid or transferred.
- (d) The Board may impose any restrictions and/or conditions as it thinks fit in order to comply with the Statutory Requirements on any transfer made under this Clause.

Directions and Discretions of Third Parties Etc.

48. Where a provision of this Ordinance –

- (a) requires the Board to act on the direction of any other person (including a Contributor as described in Regulation 1) ; or
- (b) permits such other ~~other such~~ person to give a direction or to exercise a discretion; or
- (c) requires the Board to seek or consider the opinion of any such other ~~other such~~ person;

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

Inquiries and Complaints

49. (1) The Board must publish procedures to ensure that there are in place at all times arrangements under which Members have the right to make inquiries into or complaints about the operation and/or the management of the Fund so far as that operation or management affects the particular Member.

(2) The Board must ensure that the procedures established and arrangements made under clause 49(1) –

- (a) are in place by the date which the Act requires; and
- (b) require that a Member's inquiry or complaint will be properly considered and dealt with within ninety days or such greater time as may be allowed by the Act after it is made.

Unclaimed Benefits

50. (1) When a Member becomes entitled to the payment of a benefit and does not take any action which the Board reasonably requires to claim the benefit the Board must –

- (a) make inquiries that it thinks reasonable in the circumstances to locate the Member and ask the Member in writing to take the action required to claim the benefit; and
 - (b) if it locates the Member, pay the benefit to the Member;
- (2) If the Board is unable to locate the Member it must –
- (a) make inquiries that it thinks reasonable in the circumstances to locate any Dependants of the Member; and
 - (b) if it locates one or more Dependants, pay the benefit as it thinks appropriate.

(3) If any benefit remains unpaid for ninety days or any other period provided in the Statutory Requirements, the Board may transfer the benefit to another Eligible Fund.

(4) If any benefit remains unpaid and the Board is reasonably satisfied that the Member has not received two consecutive reports required by the Statutory Requirements, the Board must transfer the benefit to another Eligible Fund.

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(5) If any benefit remains unpaid until the date when the Member reaches the eligibility age for an age pension the Board must –

- (a) pay the benefit to the Responsible Authority where required to do so by the Statutory Requirements; or
- (b) forfeit the benefit to the Fund if not so required.

(6) If a Member and/or a Dependant makes any claim in respect of a benefit which has been forfeited to the Fund the Board is not under any obligation to pay that benefit. However, the Board may pay that benefit or any part of that benefit in its absolute discretion and upon terms and conditions that it considers reasonable.

Repeal of 1944 Ordinance

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

(2) The repeal of the Anglican Provident Fund (Sydney) Ordinance 1944 shall not affect or invalidate any act done or appointment or election made under the Ordinance and all persons appointed or elected under that Ordinance and holding office on the commencement of this Ordinance shall remain in office as if they had been elected or appointed under this Ordinance.

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

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

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

Relevance of Superannuation Laws

52. Nowithstanding any provision in this 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 sub-clause (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 in 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.

Observance of Directions and Discretions by Other Parties

53. 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.

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Schedule

The Regulations

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

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

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

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

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

(2) A Member's account –

(a) shall be credited with –

(i) subscriptions paid by and in respect of him;

(ii) interest, as at 30 June each year, at the [Declared Interest Rate](#) ~~Fund Earning Rate~~ determined in accordance with clause 19 on the average amount of the Member's account since the date on which such account was opened or the last preceding 30 June, whichever is the later;

(iii) amounts transferred from other funds or reserves as determined by the Board; and

(iv) proceeds of life insurance policies effected and maintained on the life of or with respect to the disablement of the Member; and

(b) shall be debited with –

(i) a charge to meet expenses;

(ii) a charge to meet the Member's insured death and disability benefit if applicable;

(iii) such amounts in respect of taxation as are determined by the Board in accordance with clause 23; and

(iv) amounts transferred to other funds.

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

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

6. The normal retiring age is 65 years.

7. A Member who has not attained the age of sixty (60) years is entitled to –

(a) the death benefit described in sub-regulation 8(3); or

(b) a Permanent incapacity or Permanent Invalidity benefit described in sub-regulation 8(4), if he satisfies the requirements of the Insurer at the time he becomes a Member and at all other times.

8. The benefits under these Regulations are as follows –

(1) Retirement

If a Member reaches the age of sixty five (65) years the Board must subject to Clause 37 and sub-regulation 8(7) pay to the Member the amount standing to the credit of his account in accordance with sub-regulation 9(1).

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(2) Early Retirement

If a Member reaches the age of fifty five (55) years, and either –

- (a) ceases to be installed or licensed or duly authorised to officiate in any Diocese of the Anglican Church; or
 - (b) ceases in the opinion of the Board to be employed in the work of the Anglican Church,
- the Board must subject to Clause 37 and sub-regulation 8(7) pay to the Member the amount standing to the credit of his account in accordance with sub-regulation 9(1).

(3) Death

- (a) On the death of a Member the Board must pay in accordance with sub-regulation 9(1) and sub-clauses 42(4) and 42(5) a benefit equal to the sum of –
 - (i) the amount standing to the credit of his account at the date of his death: and
 - (ii) the Insured Amount (as described in sub-regulation 8(3)(b)).
- (b) For the purposes of this sub-regulation 8(3) “Insured Amount” means in respect of a Member the amount (if any) which the Insurer pays to the Board in respect of that Member under the terms of any insurance policy.

Where the Insurer pays an Insured Amount the value of the amount will be –

- (i) calculated as X minus Y where –
 - X is the sum of –
 - A. the amount standing to the credit of the Member’s account at the date of the calculation;
 - B. the subscriptions payable by the Member and his contributor as if the Member remained a Member to the age of sixty (60) years assuming that the current annual rate of subscriptions remained unaltered to that date; and
 - C. interest at the rate determined by the Board from time to time; and Y is the amount standing to the credit of his account at the date of the calculation;
 - (ii) subject to any maximum amount that the Board may agree with the insurer from time to time;
 - (iii) nil where the Member reaches the age of sixty (60) years;
 - (iv) subject to any restrictions or limitations which the Insurer may impose.

(4) Permanent Incapacity or Permanent Invalidity

If a Member suffers Permanent Incapacity or Permanent Invalidity the Board must pay to or in respect of the Member the amount determined under sub-regulation 8(3) as if the Member had died on the date he became Permanently Incapacitated or Permanently Invalid.

(5) Resignation

Subject to Clause 37 where a Member reaches the age of sixty five (65) years and a benefit is not payable under any other sub-regulation, the Board must pay to the Member a lump sum credit equal to –

- (a) where the Member has a contributor paying part or all of his subscriptions –
 - (i) that part of the Member’s account representing contributions made directly by the Member; plus
 - (ii) a percentage of the balance of the account, such percentage determined by the contributor taking into account the period of membership of the Member and such other factors as the contributor in its absolute discretion shall determine; or
- (b) where the Member does not have a contributor – the Member’s Account.

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

(6) Terminal Benefit

The Board may at its discretion increase a benefit payable to a particular Member under subregulations (1) and (2) of this regulation by such amount as the Board considers fairly and equitable takes into account allowances made in previous years in determining the Fund Earning Rate.

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(7) Late Payment of Benefits

Notwithstanding any other requirement of the Regulations, but subject to the Statutory Requirements, where a Member requests in writing, the Board may in its absolute discretion –

- (a) hold the amount or any part of the amount of the payment as they may agree on trust on any terms and conditions as the Board decides for that Member, and
- (b) make payment on any later date and in any manner as the Board may agree with the Member.

9. (1) Subject to sub-regulation 9(2), any benefit payable on the retirement or resignation of a Member before age sixty years or on the Member's death or Permanent Invalidity must be paid as a lump sum.

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

9A. Any benefit payable on the retirement of a Member after reaching age sixty (60) years must be paid as a pension unless the Member requests that the benefit be paid as or commuted to a lump sum.

9B. The Board may apply the amount which would otherwise be payable to a Member to purchase a pension or annuity which at the time the pension is purchased the Board reasonably believes will be paid in accordance with the Statutory Requirements.

10. (1) The Board must pay the whole or any death benefit as a lump sum in accordance with clauses 42(4) and 42(5).

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

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

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

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

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

PG KELL
Chairman of Committees

We Certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on 20 October 2003.

CJ MORONEY
MA PAYNE
Secretaries of the Synod

I Assent to this Ordinance.

PETER F JENSEN
Archbishop of Sydney
21/10/2003