

Anglican Youth & Education Division Diocese of Sydney Ordinance 1919 Amendment Ordinance 2001

No 2, 2001

Long Title

An ordinance to amend the Anglican Youth & Education Division Diocese of Sydney Ordinance 1919.

Preamble

A. Anglican Youth and Education Division Diocese of Sydney (the "Division") is a body corporate incorporated under the Anglican Church of Australia's (Bodies Corporate) Act 1938.

B. By clause 19 of the Anglican Youth and Education Division Diocese of Sydney Ordinance 1919 (the "Principal Ordinance") the members of the Division are indemnified from the assets of the Division on the terms set out in that clause.

C. It is expedient to amend the terms of the indemnity contained in clause 19.

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

1. Name

This ordinance is the Anglican Youth & Education Division Diocese of Sydney Ordinance 1919 Amendment Ordinance 2001.

2. Amendment of the Principal Ordinance

Clause 19 of the Principal Ordinance is deleted and the following is inserted instead -

"19. Indemnity

- (1) The Division must indemnify each person who is, or has been, a member of the Division against any liability which results directly or indirectly from facts or circumstances relating to the person serving or having served as a member of the Division other than a liability -
 - (a) owed to the Division or a related body corporate, or
 - (b) for a pecuniary penalty order under section 1317G of the Corporations Law or a compensation order under section 1317H of the Corporations Law, or
 - (c) that is owed to someone other than the Division or a related body corporate and did not arise out of conduct in good faith.

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

- (2) The Division must indemnify each person who is, or has been, a member of the Division against legal costs incurred in defending an action for a liability which results directly or indirectly from facts or circumstances relating to the person serving or having served as a member of the Division other than costs which are incurred -
 - (a) in defending or resisting proceedings in which the person is found to have a liability for which they could not be indemnified under subclause (1), or
 - (b) in defending or resisting criminal proceedings in which the person is found guilty, or
 - (c) in defending or resisting proceedings brought by the Australian Securities and Investments Commission or a liquidator for a court order if the grounds for making the order are found by the court to have been established, or
 - (d) in connection with proceedings for relief to the person under the Corporations Law in which the court denies the relief.

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

- (3) For the purposes of subclause (2), the outcome of proceedings is the outcome of the proceedings and any appeal in relation to the proceedings.
- (4) The Division need not indemnify a person under subclause (1) and/or subclause (2) for a liability to the extent that the person is entitled to an indemnity for that liability under a contract of insurance.
- (5) The Division may pay, agree to pay, or cause to be paid a premium for a contract insuring a person who is, or has been, a member of the Division against any liability which results directly or indirectly from facts or circumstances relating to the person serving, or having served, in that capacity other than a liability arising out of -
 - (a) conduct involving a wilful breach of duty in relation to the Division, or
 - (b) the improper use of information by the person, obtained because the person is, or has been, a member of the Division to gain an advantage for that person or another person or to cause detriment to the Division; or
 - (c) the improper use of the person's position as a member of the Division to gain an advantage for himself or herself or for another person or to cause detriment to the Division.

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

- (6) The Division may pay, agree to pay, or cause to be paid a premium for a contract insuring a person who is, or has been, a member of the Division against legal costs incurred in defending an action for a liability which results directly or indirectly from facts or circumstances relating to the person serving, or having served, in that capacity.
- (7) The obligations and powers under subsections (1), (2), (5) and (6) are incurred or are to be exercised (as the case may be) only to the extent permitted by law."

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2001**

3. Transitional

Nothing in clause 2 affects the rights of a person who is or was a member of the Division, existing prior to the date of assent to this Ordinance.

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 19 February 2001.

M A PAYNE
Secretary

I Assent to this Ordinance.

R H GOODHEW
Archbishop of Sydney
17/3/2001