
Sydney Diocesan Superannuation Fund Ordinance, 1961

No. 40, 1961.

AN ORDINANCE to establish a Fund for the superannuation of Clergy and certain other persons in the Diocese of Sydney to provide for the management administration and control of the Fund and purposes connected therewith.

WHEREAS it is desirable to establish a Fund to be known as Sydney Diocesan Superannuation Fund for the superannuation of Clergy and certain other persons in the Diocese of Sydney to provide for annuities and other benefits of members and to provide for the management administration and control of the fund the Synod of the Diocese of Sydney in pursuance of the powers in that behalf contained in the Constitutions for the management and good government of the Church of England within the State of New South Wales and of all other powers vested in it ORDAINS AND RULES as follows:-

PART I — PRELIMINARY

1. (1) This Ordinance may be cited as "Sydney Diocesan Superannuation Fund Ordinance 1961."
- (2) This Ordinance shall come into force on the first day of April 1962.
- (3) The Ordinance is divided into Parts as follows:-

PART I — PRELIMINARY. Clauses 1-2.

PART II — BOARD OF DIRECTORS. Clauses 3-11.

PART III — POWERS AND DUTIES OF BOARD. Clauses 12-17.

PART IV — APPLICATION OF FUND. Clause 18.

PART V — MEMBERSHIP, CONTRIBUTIONS AND REFUNDS. Clauses 19-23.

PART VI — GENERAL. Clause 24.

2. In this Ordinance unless inconsistent with the context or subject matter:-

"Annuitant" means a member who has been superannuated.

"Annuity" means an annuity payable to an Annuitant.

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"Archbishop" means the Archbishop of the Diocese of Sydney or in his absence his Commissary or, if the See be vacant the Administrator of the Diocese.

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

"Clergyman" means a Clerk in Holy Orders licensed to a Parish in the Diocese or licensed to officiate as a Chaplain in a school under the control of Synod or in the service of any Organisation or body under the control of Synod but does not include the Archbishop, Bishops Co-adjutor or Archdeacons whose stipends are provided by the Diocese.

"Dependant" means (1) wife, husband, widow, widower, children or grandchildren of a member or other person related to him or her by blood or marriage.

(2) 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.

"Fund" means the Sydney Diocesan Superannuation Fund.

"Member" means a member of the Fund.

"Parish" includes Provisional Parish and Provisional District.

"Presentation Board" means the Presentation Board constituted in accordance with the Presentation and Exchange Ordinance 1933-1959 or any amendment thereof.

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

Words importing the masculine gender include the feminine gender.

PART II — BOARD OF DIRECTORS

3. The Board shall be constituted in manner following:-

- (a) The Board shall consist of twelve directors being members of and elected by the Synod of whom four shall be Clerks in Holy Orders and eight shall be laymen.

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- (b) The first Directors of the Board shall be the following:-
The Rt. Rev. R. C. Kerle, The Ven. Archdeacon G. R. Delbridge, The Rev. J. A. Dahl, The Rev. C. H. Sherlock and Messrs. Stacy Atkin, R. H. Boyt, H. M. Bragg, P. Donnan, W. R. Linfoot, L. A. Langsworth, A. L. Short and K. Smithers.

4. At the first ordinary session of each Synod six Directors (two Clerks in Holy Orders and four laymen) shall retire from office but shall be eligible for re-election. Such Directors shall retire in rotation according to the length of their time of office provided that where Directors have held office for an equal duration of time the Directors to retire shall be determined amongst themselves at a meeting of which notice has been given in writing intimating that such determination is to be made and in the event of failure to arrive at a determination the names of the Directors to retire shall be determined by ballot taken amongst the members present at such meeting.

5. The provisions of the Casual Vacancies Ordinance 1935 shall apply to this Ordinance.

6. (1) The Board shall from time to time elect from its members a Chairman and Deputy Chairman. The Chairman and Deputy Chairman shall hold office until the first meeting of the Board in the next succeeding year and thereafter until their respective successors are elected. A retiring Chairman or Deputy Chairman shall be eligible for re-election.

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

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

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

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

10. 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.

11. The office of a Director shall ipso facto be vacated on:-
- (a) his resignation in writing addressed to the Board;
 - (b) his death, or ceasing from any other cause to be a member of Synod;
 - (c) his bankruptcy or executing a deed of assignment or arrangement for the benefit of creditors;
 - (d) his loss of qualification for the office;
 - (e) his incapacity to act or absence from meetings continued for a period of three months without the leave of the Board, or
 - (f) a resolution by the Synod or by the Standing Committee of such Synod when such Synod is not in session declaring his office vacant.

PART III — POWERS AND DUTIES OF BOARD

12. (1) The Board shall manage administer and control the Fund.
- (2) Without prejudice to the generality of the foregoing power the Board may do all or any of the following things:-
- (a) appoint employ and remove such agents and servants 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;

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- (b) establish one or more bank accounts and determine in what manner and by whom such accounts should be operated on;
- (c) delegate all or any of its powers to committees consisting of such member or 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;
- (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;
- (f) effect life assurance in the form of term assurance or otherwise with any life assurance Company or Companies on the lives of members individually or as a group upon such terms and conditions as the Board may determine;
- (g) grant benefits payable in the event of the death of members upon such terms and conditions as the Board may determine.
- (h) grant or purchase annuities for any member or members or their dependants;
- (i) set aside and establish contingency and reserve funds,
- (j) pay all costs and expenses of and incidental to the management and control of the Fund.
- (k) the Board shall keep with respect to each member a contribution account.

13. (1) The Board may invest moneys of the Fund in:-

- (a) first mortgages of real property in any part of the Commonwealth of Australia;

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- (b) loans to members secured by first mortgages to assist in the purchase of homes provided a loan does not exceed 90% of the valuation of the security by a competent Valuer and that the mortgage contains a provision for repayment of any balance owing on death or retirement from the capital benefits payable to the member concerned. Provided also that not more than one half of investment moneys of the Fund be applied in loans hereby authorised;
- (c) funds stocks securities bonds debentures or Treasury bills of or guaranteed by the Government of the Commonwealth of Australia or any State in the Commonwealth;
- (d) any of the stocks funds or securities of or upon which by any general order cash under the control of the Supreme Court of New South Wales in Equity may from time to time be invested;
- (e) debentures issued by the Municipal Council of any city in the Commonwealth;
- (f) deposits in a savings bank or trading bank or other institution approved by the Board carrying on business in Sydney;
- (g) assurances on the lives of members effected with any Life Assurance Society approved by the Board;
- (h) a charge or charges upon any glebe lands or future rents profits and other income thereof;
- (i) loans guaranteed under the provisions of the Sydney Church of England Finance and Loans Board Ordinance 1957 or any amendment or amendments thereof;
- (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) any debentures of or preference or ordinary shares or stock in or registered notes (secured or unsecured) and including investment trust units issued by any company (not being a no-liability mining company) having a share register in Australia; provided that no

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such investment shall be made in any company carrying on the business of the manufacture or sale of fermented or spirituous liquors.

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

(3) All investments shall be made in the name of the Board.

14. 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 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.

15. The Board shall lay upon the table of the Synod at each ordinary session a duly audited statement of the receipts and expenditure on account of the Fund during its preceding financial year and a duly audited balance sheet.

16. In the year 1965 and once at least in every three years thereafter the Board shall cause the assets of the Fund to be valued and the position of the Fund shall be submitted to and investigated by an Actuary. The Actuary shall report to the Board in writing on the financial position of the Fund and shall in his report recommend how any deficiency shall be made up and how any surplus shall be dealt with. The Board shall forward a copy of such report to all members of the Fund and to the Standing Committee of the Synod which shall lay the same on the table of the next ordinary session of the Synod.

17. (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 and regulations not being

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inconsistent with the provisions of this Ordinance and repeal or amend such rules and regulations and substitute others in lieu thereof.

- (2) The Board shall forward a copy of such rules and regulations 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 said 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 action or proceeding which may have taken place thereunder prior to such disallowance.

PART IV — APPLICATION OF FUND

18. The Fund shall be applied firstly in payment of the expenses of management and secondly in payment of premiums upon any temporary life assurances effected upon the lives of members the amounts of which are arranged to provide the benefit set forth in sub-clause (a) (i) of this clause. The balance of the fund, after making these provisions shall be invested by the Board and after making such further provision for contingencies and/or reserves as is deemed necessary by the Board shall be credited to the Contribution Accounts of members as soon as practicable after the end of each financial year after making due allowance for the contributions paid by them or on their behalf, to the expenses incurred, and to the cost of life assurances arranged on their respective lives,

- (a) (i) In the event of the death of a member, who has not attained the age of 65 years, there shall be payable to such member's dependants or to such one or more of them to the exclusion of the other or others as the Board may in its discretion determine, the amount held in the Fund for the credit of that member, provided that the amount payable shall be not less than £100 (65-x) where x is the age next birthday on admission to membership.

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- (ii) In the event of the death of a member who has attained the age of 65 years, the amount held in the Fund for the credit of that member, shall be payable to such member's dependants or to such one or more of them to the exclusion of the other or others as the Board may in its discretion determine.
- (b) In the event of the attainment of age 65 by a member, and upon his effective retirement the amount held in the Fund for the credit of that member, shall be payable as retiring allowances and/or annuities, as the Board shall determine after consultation with the member or shall be held for a further period or periods at interest at the conclusion of which it shall be payable as retiring allowances and/or annuities, as the Board shall determine after consultation with the member.
- (c) If upon attainment of the age of 65 years the member does not effectively retire the amount held to his credit in the fund shall be held by the Board at interest until his effective retirement does take place and shall then become payable as set out in Clause 18 (b) hereof.
- (d) In the event of a member effectively retiring prior to the attainment of age 65 the amount held in the Fund for the credit of that member shall be payable in such manner as the Board may determine after consultation with the member or shall be retained in the fund at interest until such time as the member attains the age of 65 years when clause 18 (b) hereof shall become effective.
- (e) Any contingency or reserve funds set aside shall be applied and administered by the Board for such purposes as it may determine or as Synod may direct.
- (f) Notwithstanding the provisions of sub-clauses (a), (b), (c) and (d) of this clause, any amounts payable from the Fund in respect of any member shall be applied to discharge, or towards the discharge of, any indebtedness to the Fund of that member.

PART V — MEMBERSHIP, CONTRIBUTIONS AND REFUNDS

19. (1) All clergymen who will attain the age of 25 years next birthday or who having attained that age shall be under the age of 65 years next birthday and at the time this Ordinance comes into force are:-

- (a) licensed to a Parish or
- (b) appointed to serve in a full-time capacity in the Diocese in any department or organisation under the control of Synod other than schools

shall become members within three months of such time. Provided that any such clergyman may in such special circumstances as the Board may deem adequate be exempted from the provisions of this sub-clause wholly or partly at the discretion of the Board.

(2) All clergymen under the age of 65 years next birthday and who after the date upon which this Ordinance comes into force are

- (a) at least of the age of 25 years next birthday and
- (b) licensed to a Parish, or
- (c) appointed to serve in a full-time capacity in the Diocese in any department or organisation under the control of Synod other than schools

shall immediately upon being so licensed appointed or employed become members.

(3) Curates, Deaconesses, Parish assistants and lay employees of the Standing Committee of Synod or of any school or organisation under the control of Synod and Clerks in Holy Orders not included in sub-clauses (1) and (2) of this clause may be admitted as members from time to time on such terms as the Board may determine.

(4) The Archbishop, Bishops Co-adjutor and Archdeacons whose stipends are provided by the Diocese shall not for the purposes of this clause be deemed to be in the service of the Diocese or employed by Standing Committee but may be admitted as members from time to time on such terms as the Board shall determine.

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- (5) The provisions of Ordinance No. 18, 1950 entitled "Clergy Provident Fund (Sydney) Membership Ordinance 1950" shall not apply after the date upon which this ordinance comes into force.
20. (1) The annual contribution payable in respect of each member other than those becoming members under the provisions of Sub-clauses (3) and (4) of the preceding clause shall be a sum equivalent to nine per cent. of the minimum stipend for a Rector as determined by resolution of Synod and effective for the financial year ending on 31st March preceding the year for which such contribution is payable and subject to the provisions of Clause 21 hereof shall be contributed in equal proportions by
- (a) the member and
 - (b) the Diocese and
 - (c) the Parish to which the member is licensed or Department or Organisation to which the member is appointed.

Provided that when a member is in the service of the Diocese the Diocese shall pay two-thirds of such contribution.

- (2) Contributions shall be payable by the member until such time as he shall reach the age of 65 years of prior retirement and shall be deducted from his stipend by the Churchwardens of a Parish in the case of a member licensed to a Parish and from his salary in the case of a member otherwise engaged in the service of the Diocese or of a School or other Organisation under the control of Synod by the person or persons having the control thereof and shall be remitted together with the contribution of such Parish Diocese or other Organisation or School as aforesaid to the Board.
- (3) The proportion of contributions payable by a Parish shall continue to be paid notwithstanding that the Incumbency or office may be vacant pending the licensing or appointment of a successor in office.

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- (4) In the event of the retirement of a clergyman not becoming effective upon attainment of age 65 the Parish and the Diocese shall continue payment to the Board of that proportion of his total contribution for which they are responsible respectively and the Board shall credit all such amounts to its contingency fund.
- (5) In the case of a member being a clergyman ceasing to be licensed to a Parish and becoming licensed as a curate or assistant minister of a Parish contributions to the fund shall as from the time when he shall cease to be so licensed to the Parish be payable only by that member and the Diocese in the proportion of one third each of the total normal contribution each but the Parish in which he may subsequently serve as aforesaid may but without being under any obligation so to do contribute a sum in respect of such member and in the event of the Parish not so paying the benefit of such member in the fund shall be adjusted accordingly.
- (6) Any member or Parish or the Diocese notwithstanding the provisions herein contained shall be entitled to pay such increased contribution in respect of his it or its proportion as may be arranged with the Directors and benefits payable by the Fund in respect of that member shall be adjusted accordingly.
- (7) The provisions of sub-clause (5) to Clause 51 of the "Sydney Church Ordinance 1912" as amended shall no longer apply from the date when this ordinance shall come into force.

21. The contribution to the Fund payable by a member of the Church of England Provident Fund (Sydney) may be reduced at the discretion of the member by such amount as is payable to the Church of England Provident Fund (Sydney) up to a maximum of his total contribution and his benefits in the Sydney Diocesan Superannuation Fund shall be modified accordingly.

22. In the event of a member admitted under clause 19 sub-clauses (1) and (2) hereof moving to another Diocese or taking an appointment in an organisation within the Church of England not under the control of Synod contributions shall cease to be

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payable by such member and the accumulated balance standing to the credit of that member with the Fund shall be retained and held by the Fund at interest until he attains the age of 65 years or such prior age as the Board in its discretion may determine, when the said balance and accrued interest shall be used for the member's benefit in such manner as the Board in its absolute discretion shall determine or alternatively the amount may at the request of the member with the approval of the Board be transferred to the Superannuation Fund of that Diocese or Organisation but should he die before attaining that age then the amount standing to his credit with the Fund shall be paid to his legal personal representative but no death benefit as provided in Clause 18 (a) (i) shall apply.

23. In the event of a member being a Clerk in Holy Orders resigning from the Ministry or being a Deaconess or lay person resigning office before attaining the age of 65 years he shall be entitled to a return of not less than his own proportion of contributions with interest less costs of insurance and proportion of expenses.

PART VI — GENERAL

24. (1) If any annuitant or person entitled to receive payment of any benefit payable in pursuance of the provisions of this Ordinance becomes bankrupt or is declared insane or incapable of managing his affairs or does or attempts to do or suffers any other thing or if any event happens whereby he would be deprived of the right to receive the same or any part thereof then such annuitant or person shall cease to be presently or presumptively entitled to any such benefit and the Board may in its discretion pay or apply such benefit or any part thereof in accordance with sub-clause (3) of this clause.
- (2) If any annuitant or person entitled to receive any benefit as aforesaid is suffering from any physical or other disability which in the opinion of the Board renders him unable to manage his own affairs the Board may during such disability in its discretion pay and apply such benefit or any part thereof which but for this sub-clause would be payable to him in accordance with sub-clause (3) of this clause.

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- (3) Any benefit mentioned in sub-clauses (1) and (2) may in the absolute discretion of the Board be applied for the maintenance support and otherwise for the benefit of such annuitant or person or of such one or more of his dependants as it may determine and the payment or application of any moneys in pursuance of this sub-clause shall be a complete discharge to the Board in respect thereof.

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

ATHOL R. RICHARDSON,

Chairman of Committees.

We certify that this Ordinance was passed by the Synod of the Diocese of Sydney this 20th day of October, 1961.

K. N. SHELLEY
W. L. J. HUTCHISON }
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Secretaries of Synod.

I assent to this Ordinance.

HUGH SYDNEY,
Archbishop of Sydney.

20/10/1961.
