

SYDNEY DIOCESAN SUPERANNUATION FUND ORDINANCE 1961 AMENDING ORDINANCE 1990

No 20, 1990

AN ORDINANCE to amend the Sydney Diocesan Superannuation Fund Ordinance 1961.

WHEREAS it is expedient that the Sydney Diocesan Superannuation Fund Ordinance 1961 be further amended.

NOW the Standing Committee of the Synod of the Diocese of Sydney in the name and place of the said Synod HEREBY ORDAINS DECLARES DIRECTS AND RULES as follows:

1. (1) This Ordinance may be cited as "Sydney Diocesan Superannuation Fund Ordinance 1961 Amending Ordinance 1990".

(2) The Sydney Diocesan Superannuation Fund Ordinance 1961 is hereinafter called the "Principal Ordinance".

2. (1) Except as provided in clause 2(2), this Ordinance and the amendments made by this Ordinance to the Principal Ordinance take effect on the day on which assent is given to this Ordinance pursuant to the 1902 Constitutions.

(2) Clause 3(2) and the amendment made by that clause to the Principal Ordinance took effect on 25 May 1987.

3. The Principal Ordinance is amended as follows:

(1) by the omission of "-1987" from clause 1;

(2) by the substitution of "Clause" for "Clauses 13(2)(b) and" in clause 12(5);

(3) by the substitution of "day" for "date" where lastly appearing in clause 14(2) and by the substitution of "date" for "day" in that clause; and

(4) by the substitution of "three" for "five" in sub-paragraph 14(3)(d)(ii)(B) and by the substitution of "10%" for "5%" in that sub-paragraph.

4. The Principal Ordinance as so amended is further amended as follows:

(1) by the substitution of the following for paragraph (a) of the definition of "Dependant" in clause 2(1):

"(a) wife, husband, widow, widower or children of a Member, and";

(2) by the substitution of the following for the definition of "incapacity" in clause 2(1);

""incapacity" means:

(a) permanent incapacity, or

(b) permanent invalidity,

being incapacity or invalidity:

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- (c) in relation to which a certificate has been given under clause 24(3); and
- (d) such as will, in the opinion of the Board, prevent the Member concerned from pursuing for reward any occupation or calling considered by the Board to be suitable for the Member;"
- (3) by the insertion of the following definitions after the definition of "Organisation" in clause 2(1):
- "OSS Act" means the Occupational Superannuation Standards Act, 1987 as amended from time to time.
- "OSS Regulations" means the Occupational Superannuation Standards Regulations in force from time to time."
- (4) by the insertion of the following at the end of clause 7 after (but not as part of) paragraph (p):
- "Provided that the Body Corporate shall not borrow, or maintain an existing borrowing of, money, whether by way of secured or unsecured loan, otherwise than to secure temporary finance by way of overdraft with a savings bank or trading bank as defined in subsection 5(1) of the Banking Act 1959 or a public authority constituted by a law of a State or Territory of Australia, being a public authority that carries on banking business.";
- (5) by the insertion of the following after clause 10(3):
- "(4) As soon as is practical (in the opinion of the Board) after any amendment of this Ordinance or any rules and regulations thereunder made in accordance with this clause, the Board shall give a written statement to each Member affected by such amendment of the nature and purpose of the alterations and the effect (if any) on the entitlements of the Member.";
- (6) by the insertion of the following words at the end of clause 12(1):
- "except where otherwise determined by the Synod or the Standing Committee prior to the date on which the clergyman is so licensed or appointed.";
- (7) by the omission of "due to death or incapacity" from clause 14(1)(b);
- (8) by the omission of paragraph (a) from clause 14(3);
- (9) by re-lettering paragraph (b) of clause 14(3) as paragraph (a) of that clause and by the omission of "of which the Board is the trustee and manager of the trustee or the manager" from that paragraph;
- (10) by re-lettering paragraph (c) of clause 14(3) as paragraph (b) and by substituting "paragraph (a) does" for "paragraphs (a) and (b) do" in that paragraph;
- (11) by re-lettering paragraph (d) of clause 14(3) as paragraph (c) of that clause and by substituting "paragraphs (a) and (b)" for "paragraphs (a), (b) and (c)" in that paragraph;

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- (12) by the insertion of the following at the end of clause 14(3) after (but not as part of) paragraph (d):

"in this subclause, a reference to a superannuation or provident fund does not include a reference to a fund of the kind commonly called an Approved Deposit Fund or to a deferred annuity."

- (13) by the substitution of the following for clause 14(4):

"(4) (a) Any benefit payable upon the death of a Member shall be payable to or for the benefit of such one or more Dependants of the Member or if there are no Dependants to the legal personal representatives of the Member to the exclusion of the other or others of them in such shares and proportions as the Board may in its absolute discretion decide.

(b) If the Board after reasonable enquiry determines that the deceased Member left no Dependants and if after reasonable further enquiry the Board is unable to locate any legal personal representative of the Member or any person who is entitled to become the legal personal representative of the Member then at the expiration of such time as the Board shall from time to time determine the Board may in its absolute discretion forfeit to the Fund the benefit which would otherwise have been payable in respect of such Member.

(c) Subject to clause 14(4)(a) a Member may by writing nominate any person to succeed to his benefits under the Fund in the event of his death occurring while he remains a Member of the Fund and may at any time revoke any such nomination. The nomination by a Member of a beneficiary shall be in such form as is approved from time to time by the Board and shall be signed by the Member and deposited with the Board PROVIDED THAT such nomination shall in no way bind the Board in the exercise of its discretion pursuant to this clause 14(4) and such nominations shall be intended only as a guide to the Board upon it exercising its discretion under this clause 14(4).";

- (14) by the omission from clause 20 the following:

"has been approved by the appropriate authority under any relevant provision of any relevant statute";

and the insertion of the following in its place:

"satisfies all conditions applicable thereto by virtue of the OSS Act and all OSS Regulations";

- (15) by the insertion of the following after clause 23:

"PART FIVE - MISCELLANEOUS

24. (1) Notwithstanding any other provision of this Ordinance a benefit shall only be payable to or on behalf of the Member under this Ordinance where permitted by the OSS Act and the OSS Regulations.

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- (2) To the extent that any benefit otherwise payable pursuant to this Ordinance is required to be preserved in accordance with the OSS Act and the OSS Regulations (including any benefit arising from any amount held by the Board which has been transferred to the Fund in respect of a Member from any other superannuation or like fund) such benefit shall be payable in accordance with the OSS Act and the OSS Regulations.
- (3) A Member or other person seeking payment of benefits from the Fund on his or her retirement from the workforce on the ground of incapacity must give to the Board a certificate signed by 2 registered medical practitioners certifying that, in the opinion of those medical practitioners, the Member or other person is unlikely ever to be able to work again in a job or office for which the Member or other person is reasonably qualified by education, training or experience.
25. In the event that any tax or impost is required by any law of the Commonwealth of Australia or of any State or Territory of Australia to be deducted from any contributions to the Fund or any assets or earnings of the Fund the Board may arrange for the deduction of such amount as may be required under the law in such manner as it may deem necessary.
26. Where a person who is a Member ceases to be a Member or a person who is a Member of the Fund under Part 3 ceases to be a Member, all benefits to which that person is entitled on ceasing to be a Member and that are required to be preserved shall be:
- (1) retained in the Fund; or
 - (2) transferred directly to, for preservation in relation to that person in:
 - (a) another superannuation fund nominated by the person, being a superannuation fund of which that person is, or intends to become, a member and that is required to preserve any benefits so transferred in accordance with the standards set out in the OSS Regulations;
 - (b) an approved deposit fund nominated by the person being a fund that is required to preserve any benefits so transferred in accordance with the standards set out in the OSS Regulations; or
 - (c) a deferred annuity that cannot be surrendered or assigned before the person attains the age of 55 years and that does not pay benefits except in the circumstances set out in the OSS Regulations;

except where the person has retired from the workforce and has attained an age of not less than 55 years, or the benefits become payable in one of the following circumstances -

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

whichever happens first.

27. (1) The clauses of this Ordinance shall be read and construed on the basis that the provisions of the OSS Act and the OSS Regulations are to the extent that they are relevant incorporated in this Ordinance.
- (2) In the event of any inconsistency between a provision of the Ordinance and a provision of the OSS Act or the OSS Regulations the provision of the OSS Act or the OSS Regulations shall prevail.

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

N.M. CAMERON
Deputy Chairman of Committees

I CERTIFY that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on the 25th day of June 1990.

W.G.S. GOTLEY
Secretary

I ASSENT to this Ordinance.

DONALD ROBINSON
Archbishop of Sydney
25 / 6 / 1990