

William Branwhite Clarke College Ordinance 1987 Amendment Ordinance 2007

No 48, 2007

Long Title

An Ordinance to amend the William Branwhite Clarke College Ordinance 1987.

Preamble

A. The William Branwhite Clarke College Council (“the Council”) is constituted a body corporate and is regulated by the provisions of the William Branwhite Clarke College Ordinance 1987 (“the 1987 Ordinance”) and the William Branwhite Clarke College Incorporation Ordinance 1983.

B. The Council wishes to amend the 1987 Ordinance.

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

1. Name

This Ordinance is the William Branwhite Clarke College Amendment Ordinance 2007.

2. Amendment of the 1987 Ordinance

The 1987 Ordinance is amended as follows –

- (a) The heading “Citation” before clause 1 is deleted.
- (b) Clause 1 is deleted and the following is inserted instead –
 - “1. **Name of ordinance**
This ordinance is the William Branwhite Clarke College Ordinance 1987.”
- (c) The heading “Preliminary” before clause 2 is deleted.
- (d) In clause 2 –
 - (i) the heading “2. **Definitions and Interpretation**” is inserted, and
 - (ii) the definition of “Archbishop” is deleted and the following is inserted instead –

“Archbishop” means the Archbishop of Sydney or, if the See is vacant, the Administrator of the Diocese of Sydney, and
 - (iii) the definition of “Council” is deleted and the following is inserted instead –

“Council” means the Council of the William Branwhite Clarke College constituted from time to time under this Ordinance;” and
 - (iv) the definition of “Regional Council” is deleted, and
 - (v) the definition of “School” is deleted and the following is inserted instead –

“College” means the William Branwhite Clarke College;” and
 - (vi) the definition of “Synod Members” is deleted.
- (e) The heading “Council and Members” before clause 3 is deleted.
- (f) Clause 3 is deleted and the following is inserted instead –
 - “3. **Primary aim of the Council**
The primary aim of the Council is to educate young people in ways consistent with the teaching of the Bible and gospel of Jesus Christ and to maintain and uphold the Christian faith in teaching and practice”.
- (g) Clause 4 is deleted and the following is inserted instead –
 - “4. **Membership of the Council**
The members of the Council are –
 - (a) the Archbishop;
 - (b) three persons appointed by the Archbishop;
 - (c) six persons elected by the Synod, three of whom shall be

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members of the Clergy and three of whom shall be lay persons.

(d) three persons elected by the members of the Council.”

(h) Clause 5 is deleted and the following new clause is inserted as clause 5 –

“5. Qualification or restrictions on membership of the Council

(1) A person is not eligible to be appointed or elected as a member of the Council if the person –

- (a) is an employee of the Council, or
- (b) is the spouse of an employee of the Council.

(2) A person is not to be appointed or elected as a member of the Council unless the person has first lodged with the Council –

- (a) a signed declaration in which he or she agrees to abide by the ‘Basis and Statement of Faith’, and
- (b) a signed copy of the Schedule.

(i) Clauses 6 and 7 are deleted and the following new clause is inserted –

“6. Term of office of Members

(1) Subject to clauses 6(3), 7 and 8, two members of the Council elected by the Synod are to retire on the first day of each ordinary session of the Synod.

(2) The members of the Council to retire under sub-clause 6(1) are those who have held office the longest since last being elected but, in the case of competition, is to be determined by the members concerned. If those members cannot agree, the order of retirement is to be determined by lot.

(3) Subject to clause 7, all members of the Council hold office for a term of three years but are eligible for re-appointment or re-election.

(j) Clause 8(1) – (3) is deleted and the following new clause is inserted instead –

“7. Casual vacancies

(1) A casual vacancy in the office of a member of the Council arises –

- (a) if the person resigns by notice in writing to the Chairman of the Council;
- (b) if a circumstance set out in Rule 7.1(2)(a) (except Rule 7.1(2)(a)(i)) of the Schedule to the Synod Elections Ordinance 2000 occurs in respect of that person;
- (c) if the Council, at a meeting of the Council duly convened expressly for the purpose, passes, by majority of not less than two thirds of the appointed and elected members of the Council, a resolution that the office of a member of the Council appointed or elected pursuant to clause 4 be declared vacant provided that before that meeting the Council shall have –
 - (i) informed the member of the proposed resolution and the grounds on which it will be proposed; and
 - (ii) given the member a reasonable opportunity at a meeting
 - (iii) of the Council duly convened expressly for the purpose of showing cause why his office should not be declared vacant; or
- (d) if the spouse of that member becomes an employee of the Council.

(k) Clause 8(4) is deleted and the following is inserted instead –

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“8. Filling of casual vacancies

(1) A casual vacancy in the office of a member of the Council elected by the Synod is to be filled by the Synod, or by the Standing Committee if the Synod is not in session.

(2) A person elected to fill a casual vacancy in the office of a member of the Council elected by the Synod holds office until the day on which the person whose vacancy he or she fills would have retired had the vacancy not occurred.”

(l) Clause 9 is deleted and the following is inserted instead –

“9. President

The Archbishop is the President of the Council.”

(m) Clause 10 is deleted and the following is inserted instead –

“10. Chairman of the Council

(1) The members of the Council are to appoint one of their number to be the Chairman of the Council.

(2) The Chairman of the Council is to be the Chairman of meetings of the Council.

(3) In the absence of the Chairman of the Council, the meeting is to appoint one of its number to be Chairman of the meeting.”

(n) Clauses 11 and 12 are deleted and the following new clauses are inserted (with the subsequent existing clauses renumbered as a consequence) –

“11. Meetings of the Council

(1) The Council is to meet at such times as it may determine, and is to meet at a specific place at least once in any 3 month period.

(2) A meeting of the Council may be convened by –

- (a) the President, or
- (b) the Chairman of the Council, or
- (c) any 4 members of the Council.

(3) A quorum for a meeting of the Council is 7 members.

12. Meetings by way of an approved communications link

(1) If, through an approved communications link, one or more members of the Council absent from the place of meeting can hear and be heard by not only one another (if more than one) but also the other members present at the place of meeting, such of those absent members and the other members present at the place of meeting who are able to hear and be heard by one another are to be taken to be assembled together at a meeting held at that place. All proceedings conducted with the aid of the approved communications link are to be as valid and effectual as if they had been conducted at a meeting at which all of those members were present.

(2) In sub-clause 12(1), “approved communications link” means a link established by means of any system of telephone, audio or audio-visual communication approved by the members of the Council and made known to each member for the purpose of any meeting of the members.

13. Circular Resolutions

(1) In extraordinary circumstances if a document containing a statement that the signatories to it are in favour of a resolution in the terms set out or otherwise identified in the document has been signed by all the members of the Council, a resolution in those terms shall be taken to have been passed at a meeting of the members of the Council held on the day on which and at the time at which the

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document was last signed by a member.

- (2) For the purposes of sub-clause 13(1) –
 - (a) 2 or more separate documents containing statements in identical terms each of which is signed by 1 or more members together are to be taken to be 1 document containing a statement in those terms signed by those members on the respective days on which they signed the separate document; and
 - (b) a facsimile message which is received by the Secretary of the Council and is expressed to have been sent by a member shall be taken to be a document signed by that member at the time of the receipt of the facsimile message by the Secretary of the Council.

14. Attendance of other persons at meetings of the Council

(1) The President may attend any meeting of the members of the Council and may –

- (a) put before the members any question or proposal for their consideration, or
- (b) express his views on any question or proposal being considered by the members of the Council.

(2) The Council may invite any person who is not a member of the Council to be present for the whole or part of any meeting of the Council.”

- (o) The heading “Duties and Powers of Council” before existing Clause 13 (renumbered as clause 15) is deleted.
- (p) In existing clause 13 (renumbered as clause 15) –
 - (i) the following is inserted as the heading –

“15. Duties of the Council.”
 - (ii) in sub-clause (1) the matter “School” is deleted and “College” is inserted instead and
 - (iii) in sub-clause (2) the matter “School” is deleted and “College” is inserted instead and
 - (iv) existing clause 13(3) is deleted.
- (q) Existing clause 14 is deleted and the following new clauses are inserted instead –

“16. Seal of the Council

The common seal of the Council is not to be affixed to any instrument except in accordance with the resolution of the Council. Every instrument to which the common seal is so affixed is to be signed by 2 members of the Council.

17. Appointment of the Principal

(1) In appointing a person to be the Principal, the Council will (in addition to the other requirements of the position) appoint a person of Christian faith and character who is committed to furthering allegiance to Christ as Lord and the cause of Christian education in the College.

(2) A person is not to be considered as Principal if the person has not first produced to the Council –

- (a) a signed declaration in which he or she agrees to abide by the ‘Basis and Statement of Faith’, and
- (b) a signed copy of the Schedule

(3) The Council is to observe the following protocol in selecting and appointing a person as Principal –

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- (a) prior to the beginning of the selection process, the Chairman of the Council is to brief the President on the proposed process and the composition of any selection committee and seek the President's views on the principles of selection and the process involved, and
- (b) the President is to be invited to be involved in the final interview process, and
- (c) the President is to be consulted if any significant issue arises during the final interview process of which he should be aware, and
- (d) the President is to be immediately notified upon acceptance of any offer for the position of Principal.

18. Advertising for Staff

No position for teaching in the College is to be advertised without the Council stating in the advertisement its commitment to being a Christian College and to furthering Christianity through the College and inviting applications from those who will be committed to the Christian aims of the College.

19. Reporting requirement of the Principal

The Principal is to provide an annual report for the Council at a regular business meeting as to the Christian involvement of the staff members of the College as a whole."

- (r) In existing clause 15 (renumbered as clause 20) –
 - (i) The following is inserted as the heading –

“20. Application of the School Chapels and Chaplains Ordinance 1975”, and
 - (ii) The matter “school” is deleted and “college” is inserted instead.
- (s) In existing clause 16 (renumbered as clause 21) –
 - (i) the following is inserted as the heading –

“21. Powers of the Council”, and
 - (ii) In paragraph (a) the matter “School” is deleted and “College” is inserted instead, and
 - (iii) in paragraph (b) the matter “School referred to in the preamble hereto” is deleted and “Council referred to in the preamble hereto and the primary aim stated in clause 3” is inserted instead, and
 - (iv) in paragraph (c) the matter “School” is deleted and “College” is inserted instead, and
 - (v) in paragraph (j) the matter “School” is deleted and “College” is inserted instead, and
 - (vi) in paragraph (j) “One million Five hundred thousand dollars (\$1,500,000)” is deleted and “Fifteen million dollars (\$15,000,000)” is inserted, and
 - (vii) at the end of paragraph (j) the matter “.” is deleted and the matter “, and” is inserted instead, and
 - (viii) the following new paragraph (k) is inserted at the end –

“(k) may reimburse any member of the Council for any out of pocket expenses incurred in attending meetings of the Council or otherwise serving as a member of the Council”.
- (t) In existing clause 17 (renumbered as clause 22) –
 - (i) the following is inserted as the heading –

“22. Liabilities of the Council”, and

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- (ii) in sub-clause (2) the matter “the Council and its members and each of them shall not” is deleted and the following matter is inserted instead –

“Neither the Council nor any member of the Council shall.”.

- (u) Clause 18 is deleted and the following is inserted instead –

“23. Indemnity

(1) The Council must indemnify each person who is, or has been, a member of the Council 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 Council other than a liability –

- (a) owed to the Council or a related body corporate, and
- (b) for a pecuniary penalty order under Section 1317G or the Corporations Law or a Compensation Order under Section 1317H of the Corporations Law, or
- (c) that is owed to somebody other than the Council or a related body corporate and did not arise out of conduct in good faith.

This sub-clause 23(1) does not apply to a liability for legal costs.

(2) The Council must indemnify each person who is, or has been, a member of the Council 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 Council 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 sub clause 23(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 purpose of sub clause 23(2), the outcome of proceedings is the outcome of the proceedings and any appeal in relation to the proceedings.

(4) The Council need not indemnify a person under sub clause 23(1) and/or sub clause 23(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 Council may pay, agree to pay, or cause to be paid a premium for a contract insuring the person who is, or has been, a member of the Council 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 Council, or
- (b) the improper use of information by the person, obtained

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because the person is, or has been, a member of the Council to gain an advantage for that person or another person or to cause detriment to the Council; or

- (c) the improper use of the person's position as a member of the Council to gain an advantage for himself or herself or for another person or to cause detriment to the Council.

This sub clause 23(5) does not apply to a liability for legal costs.

(6) The Council 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 Council 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 sub clauses 23(1), 23(2), 23(5) and 23(6) are incurred or are to be exercised (as the case may be) only to the extent permitted by law."

- (v) In existing clause 19 (renumbered as clause 24) –
 - (i) the following is inserted as a heading –

“24. Reporting by the Council”, and
 - (ii) the matter “School” is deleted and “College” is inserted instead, and
 - (iii) the matter “and to the Regional Council” is deleted, and
 - (iv) the matter “or the Regional Council” is deleted.
- (w) The following is inserted as the heading to existing clause 20 (renumbered as clause 25) –

“25. Compliance with the Accounts, Audits and Annual Reports Ordinance 1995”
- (x) After existing clause 20 the following new Schedule is inserted –

“Schedule
Statement of personal faith and support for the Christian ethos and charter of the College

 - 1. I believe and hold to the truth of the Christian faith as set forth in the Apostles' Creed.
I believe in God, the Father Almighty,
maker of heaven and earth;
and in Jesus Christ, his only Son our Lord,
who was conceived by the Holy Spirit,
born of the virgin Mary, suffered under Pontius Pilate,
was crucified, dead and buried.
He descended into hell.
The third day he rose again from the dead.
He ascended into heaven,
and is seated at the right hand of God the Father almighty;
from there he shall come to judge the living and the dead.
I believe in the Holy Spirit;
the holy catholic church;
the communion of saints;
the forgiveness of sins;
the resurrection of the body,
and the life everlasting.
 - 2. In particular I believe –
 - (a) there is only one way to be reconciled to God which is through his Son, Jesus Christ, who died for our sins and was raised for our justification; and

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- (b) that God's word written, the Bible, is the supreme authority in all matters of faith and conduct.
- 3. I shall endeavour to fulfil my duties as a member or as the Principal of the William Branwhite Clarke College Council (as the case may be) in accordance with its Christian ethos and the charter of the organisation.
- 4. I agree that my continuance as a Council member or as the Principal (as the case may be) is dependent upon my continuing agreement with this statement and I undertake to resign if this ceases to be the case."

Confirmed.....
(signature)

3. Transitional provisions concerning membership of the Council

(1) A member of the Council who, prior to the date of assent to this Ordinance was a member of the Council elected or appointed by the Synod, the Archbishop, the Regional Council or the College Council, continues in office, on and from that date, as a member of the Council elected or appointed by the Synod, the Archbishop, the Regional Council or the College Council as the case may be.

(2) A member of the council, whose spouse, prior to the date of assent to this Ordinance, was an employee of the Council, continues in office, on and from that date, as a member of the Council for the period of that member's current appoint.

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

R TONG
Chairman of Committees

I Certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on 10 December 2007.

R WICKS
Secretary

I Assent to this Ordinance.

PETER F JENSEN
Archbishop of Sydney
30/12/2007