

# ANGLICAN CHURCH OF AUSTRALIA - DIOCESE OF TASMANIA

## CHURCH ORDINANCES INTERPRETATION ORDINANCE 1947

(Amended 1956, 1974, 1985 and 1991)

AN ORDINANCE to provide rules for the Interpretation of Ordinances of the Synod; to define certain terms commonly used therein; and to facilitate the shortening of their phraseology.

BE IT ENACTED by the Bishop, Clergy and Laity of the Anglican Church in Tasmania in Synod assembled as follows:-

1. This Ordinance may be cited as the Church Ordinances Interpretation Ordinance, 1947.
2. The Act No. 1 of 1859 is hereby repealed.
3. This Ordinance where applicable, shall apply to all Ordinances passed by the Synod whether before or after the commencement of this Ordinance and to all rules, regulations, and by-laws made under any such Ordinance.
4.
  - [1] In any Ordinance including this Ordinance the word "Ordinance" used in relation to a legislative enactment shall, unless the contrary intention appears, mean an Ordinance passed by the Bishop Clergy and Laity of the Anglican Church in Tasmania in Synod assembled and also an Ordinance duly made by the Bishop, Clergy and Laity of the Diocese of Tasmania in Synod assembled, and in any Ordinance the word "Ordinance" shall also include in its meaning an Ordinance which remains in force as an Ordinance by virtue of Section 2 of the Anglican Church Constitution Act 1973, an Act of the Parliament of Tasmania.
  - [2] Any reference to an Ordinance where the context admits and unless the contrary intention appears shall include a reference to any rules, regulations, or by-laws made thereunder.
  - [3] A description or citation in any Ordinance of a portion of another Ordinance shall be construed as including the words, sections, or other parts mentioned or referred to as forming the beginning and the end respectively of the portion comprised in the description or citation.
  - [4] In any Ordinance any reference to or citation of an Ordinance shall be deemed to include a reference to or citation of all subsequent enactments passed in amendment or substitution of the Ordinance so referred to or cited.
5.
  - [1] Every section of an Ordinance shall have effect as a substantive enactment without introductory words.
  - [2] The headings of the parts, divisions, and sub-divisions, into which any Ordinance is divided shall be deemed to be part of the Ordinance.
  - [3] Every schedule and appendix to an Ordinance shall be deemed to be part thereof.
  - [4] No marginal note or footnote to any Ordinance shall be deemed to be part thereof.
  - [5] An Ordinance may be altered, amended, or repealed in the same session of Synod as that in which it was passes, but no Ordinance shall be altered, amended, or repealed otherwise than by an Ordinance of Synod or Act of Parliament.
  - [6] Ordinances shall be numbered in each year in the order in which they are passed by Synod.

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6. In any Ordinance
  - [1] The terms "Part", "Section", "Schedule", and "Appendix" respectively, when used in relation to any legislative enactment, shall mean respectively such one of the parts or sections into which the Ordinance in or in respect of which the term in used is divided, or such one of the schedules of appendices thereto respectively as is indicated by the context, and where any such part is set out in divisions the term "division" shall mean such one of the divisions of the part referred to as is indicated by the context;
  - [2] The expression "this Ordinance" shall include all regulations, rules and by-laws made under the Ordinance in which the expression is used; and
  - [3] The term "prescribed" shall mean prescribed by the Ordinance in which the term is used or by any regulation, rule, or by-law made thereunder; or, where reference is made to anything prescribed by an Ordinance other than the Ordinance in which the term is used, it shall include anything prescribed by any regulation, rule or by-law made under such other Ordinance.
7.
  - [1] Every Ordinance passed for the purpose and with the object of amending a previous Ordinance shall be read and construed with, and subject to the provisions of, the amended Ordinance, as modified by the amending Ordinance, and shall be deemed to be incorporated therewith, and with every Ordinance amending the same, unless the contrary is expressly provided therein.
  - [2] Where any Ordinance is amended as aforesaid, the expression "the Principal Ordinance" in any such amending Ordinance, unless the contrary is expressly provided, shall mean the Ordinance so amended, and shall be deemed to apply to the earliest of the series of Ordinances upon the same subject, even though the amendment consists only of some alteration in, or modification of, a previous amending Ordinance.
8. An Ordinance may be cited by its short title, if any, or by the year in which it was passed and its number.
9.
  - [1] Where an Ordinance repeals an enactment by which any former enactment was repealed, it shall not have the effect of reviving such former enactment unless express words for that purpose are included in such repealing Ordinance.
  - [2] Where an enactment is expressed to expire, or to cease to operate, on a specified day, or to remain in force until a specified day, the operation thereof shall continue until the last moment of the day so specified.
  - [3] The repeal of an amending Ordinance by which any words or provisions were inserted in, or expunged from the Ordinance thereby amended, shall not prejudice or affect the operation of the amendments so made unless the contrary is expressly provided by the repealing Ordinance.
10.
  - [1] Where an Ordinance repeals, wholly or in part, a former Ordinance and substitutes provisions in lieu thereof, the repealed provisions shall remain in force until the substituted provisions come into operation.
  - [2] Where the repealing Ordinance contains power to make any regulations, rules, or by-laws, all regulations, rules, or by-laws made under the repealed Ordinance, so far as the same are not inconsistent with the repealing Ordinance, shall remain in force until rescinded under the repealing Ordinance, and shall be deemed to have been made for the purposes of the repealing Ordinance and may be altered, amended, or rescinded under that Ordinance.

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- [4] Where regulations, rules, or by-laws made under a repealing Ordinance have remained in force after the repeal of such Ordinance, any general regulations, rules, or by-laws made under any Ordinance which has been substituted for the repealed Ordinance shall supersede and have the effect of rescinding those made under the repealed Ordinance, unless the contrary is expressly provided.
11. [1] Where an Ordinance repeals any other enactment, then, unless the contrary is expressly provided, such repeal shall not -
- i. Revive anything not in force or existing at the time such repeal took, or shall take, effect;
  - ii. Affect the previous operation of any enactment so repealed or anything duly done or suffered under any enactment so repealed;
  - iii. Affect any right, privilege, obligation, or liability acquired, accrued, or incurred under any enactment so repealed;
  - iv. Affect any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment so repealed; or
  - v. Affect any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid -
- and any such investigation, legal proceeding, or remedy may be instituted, continued, or enforced, and any such penalty, forfeiture, or punishment may be imposed as if the repealing Ordinance had not been passed.
- [2] The provisions of subsection [1] or this section shall apply in respect of any regulations which are rescinded or of which the operation ceases owing to the repeal of the enactment in pursuance of which they were made.
12. Where an Ordinance repeals and re-enacts, with or without modification, any provisions of a former Ordinance, references in any other Ordinance to the provisions so repealed shall be construed as references to the provisions so re-enacted.
13. Where an Ordinance repeals and consolidates, with or without amendment, enactments relating to any subject and enacts provisions substantially corresponding to those so repealed for -
- i. The constitution or setting up of -
    - [a] Any districts, areas or local divisions;
    - [b] Boards, trusts, or other executive bodies; or
    - [c] Any office;
  - ii. The appointment of officers or the appointment or election of members of any body constituted as aforesaid; or
  - iii. The making or issuing of certificates, or other documents of authority -
- everything done under such repealed provisions, and existing or in force at the time of such repeal, shall continue in force, so far as is not inconsistent with the repealing Ordinance, and all such districts, areas, divisions, bodies, offices, officers, and documents in existence, in office, or in force shall be deemed to have been constituted, elected, appointed, made, or issued respectively under and for the purposes of the repealing Ordinance.
14. Where an Ordinance confers power to make, grant, or issue any regulation or other instrument, all expressions used in any such instrument shall have the same respective meanings as in the Ordinance conferring the power.

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15. Where an Ordinance confers a power or imposes a duty, the power may be exercised and the duty shall be performed -
  - i. From time to time as occasion may require; and
  - ii. If conferred or imposed on the holder of any office as such, by the holder for the time being of such office.
16. [1] Where an Ordinance confers a power to make any appointment to an office or place the power shall be construed, as including a power -
  - i. To remove or suspend any person so appointed;
  - ii. To appoint another person temporarily in the place of any person so removed or suspended or in the place of any sick or absent holder of such office or place; or
  - iii. To appoint permanently, or for any specified time, some person to perform the duties of such office or place during any temporary vacancy therein or during any sickness or absence of the holder thereof -

but no clerk in holy orders shall be removed from office under this section except in accordance with the law of the Church; and where the power to make any such appointment is exercisable only upon the recommendation, or with the approval or consent, of some other person or authority, the powers conferred by this section shall be exercisable only upon the like recommendation or with the like approval or consent.
- [2] Any person appointed under any such power as aforesaid, by writing under his hand, addressed to the person who appointed him, may resign the office or place to which he was so appointed, and on acceptance of such resignation by the appointing person such office or place shall be vacated.
- [3] Where any person is appointed under any such power as aforesaid, for a fixed period, such person, unless the contrary is expressly provided, may be reappointed at the expiration of such period if still qualified as prescribed by the Ordinance conferring such power.
17. Where an Ordinance confers a power to make any rules, orders, regulations, or other instrument of a like nature, the power shall be construed as including a power exercisable in the like manner and subject to the like consent and conditions, if any, to rescind, revoke, amend, or vary any such instrument.
18. Where in any Ordinance reference is made in general terms to any person holding a particular office or position, such reference shall be deemed to include all persons who at any time occupy for the time being such office or position, or who during the absence or incapacity of the holder perform the duties of such office or position.
19. In any Ordinance unless the contrary intention appears -
  - [1] Expressions referring to writing shall be construed as including references to any mode of representing or reproducing words in a visible form:
  - [2] Words importing the masculine gender shall include females: and
  - [3] Words in the singular shall include the plural and words in the plural shall include the singular.

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20. In any Ordinance unless the contrary intention appears -

"Clerk" means a Clerk in Holy Orders and includes the Bishop and Assistant Bishop:

"Financial Year" shall mean the period from the first day of July in any year to the thirtieth day of June in the next year:

"Land" shall include messuages, tenements, houses, and buildings, of any tenure, and any estate or interest therein:

"Month" shall mean a calendar month:

"Parish" shall mean a parish defined in accordance with the provisions of the Anglican Church Constitution Ordinance, 1947:

"Regulations" includes rules and by-laws:

"Year" shall mean a Calendar Year:

"The Assistant Bishop" means the Assistant Bishop of Tasmania appointed under the Assistant Bishop Ordinance, 1956:

"The Bishop" shall include-

- i. The vicar-general acting during an absence of the Bishop of the Diocese; and
- ii. The administrator of the Diocese during a vacancy in the office of the Bishop:

"The Church" shall mean the Anglican Church in Tasmania:

"The Diocese" shall mean the Diocese of Tasmania:

"The Church Trustees" shall mean the trustees of the property of the Church appointed by Synod.

21. Where forms are prescribed by or under any Ordinance, it shall be intended that any document in the prescribed form or to the like effect shall be a sufficient compliance with such Ordinance, provided that any deviation therein from the prescribed form shall not be calculated to mislead or prejudice any person concerned.

22. [1] Where in any Ordinance it is provided that any specified authority may make regulations for the purposes thereof, such regulations may prescribe -

- i. Any matter or thing not inconsistent with the provisions of such Ordinance and not repugnant to any express enactment in force, which -
  - (a) Such Ordinance empowers or directs to be prescribed: or
  - (b) Is necessary or convenient for giving effect to the provisions or objects of such Ordinance:
- ii. Any forms to be used for the purpose of such Ordinance: or
- iii. The duties of any officers appointed by or under such Ordinance and directions for the administration of the provisions thereof:

- [2] All regulations made under any Ordinance shall be laid on the table of Synod at its first sitting after they are made and shall be effective unless and until disallowed or altered by Synod.