

# **PARISH APPOINTMENTS ACT 1998<sup>1</sup>**

**BE IT ENACTED** by the Bishop the Clergy and the Laity of the Anglican Church of Australia within the Diocese of Bendigo duly met in Synod according to law as follows:

1. This Act may be cited as the "Parish Appointments (Amendment) Act 2005". In this Act the Parish Appointments Act shall be referred to as the Principal Act.
2. The Act set forth in the First Schedule hereto is hereby repealed provided that such repeal shall not affect any appointment made thereunder nor any right, title, obligation or liability acquired or accrued thereunder.
3. For the purposes of this Act :

"Bishop" shall mean the Bishop of Bendigo.

"Vicar-General" means the person appointed to or otherwise holding that office pursuant to the provisions of The Bishop's Appointment Act 1998.

"Rural Dean" shall mean the Rural Dean of the Rural Deanery in which the vacant parish is situated.

"the Board" shall mean the Appointments Board as is hereafter created and constituted.

"vacancy consultation" shall mean the meeting of parishioners referred to in section 20 herein.

4. The provision of ministry within each parish of the Diocese is the responsibility of the Bishop.

## **APPOINTMENTS BOARD**

5. At the first session of each Synod there shall be elected by and from the members of Synod the following persons as Diocesan members of the Appointments Board -
  - (a) two clerks who are not Archdeacons or Rural Deans; and
  - (b) two lay members.
6. Any vacancy in the number of Diocesan members of the Board howsoever arising, and including the appointment of a clerical member as an archdeacon or rural dean, shall be filled by the Council of the Diocese.

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<sup>1</sup> As amended at Synod in 2004 and 2005

7. Unless he or she shall otherwise cease to be a member of the Board, every person elected or appointed pursuant to the provisions of the preceding section as a Diocesan member of the Board shall continue as a member of the Board until the first session of the next Synod. Every person so elected or appointed is so elected or appointed on behalf of the Bendigo Anglican Diocesan Corporation incorporated under the Bendigo Anglican Diocesan Corporation Act 2014.<sup>2</sup>
8. Notwithstanding the provisions of section (7) hereof, if at the first session of any Synod the Board has been convened by the Bishop in respect of a vacant parish and its functions pursuant to the provisions of this Act have not been surrendered to the Bishop or concluded, all persons who are members of the Board shall continue as members until the functions of the Board are surrendered to the Bishop or are concluded.
9.
  1. An annual parish meeting shall elect:
    - (a) three parochial members; and
    - (b) two supplementary parochial memberswho shall be at least 18 years of age and shall be communicant parishioners of the parish.
  2. The term of a person appointed according to section 9(1) is for three years, ending at the third annual parish meeting after their election.<sup>3</sup>
10. The preferential order in which the supplementary parochial members are elected shall be recorded in the minutes of the annual parish meeting.
11. Any vacancy in the number of parochial members shall be filled from the supplementary parochial members in the order in which they were elected.
12. When a parish has become vacant if there is a vacancy in the number of parochial members of the Board which cannot be filled pursuant to the provisions of section 12 hereof, the same shall be filled by election by those parishioners attending the vacancy consultation.

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<sup>2</sup> Section 7 amended in 2014 according to Schedule 2 of the Bendigo Diocesan Corporation Act 2014.

<sup>3</sup> Section 9 amended according to the Miscellaneous Amendments Act 2017

13. The secretary of the Parish Council shall notify the Registrar -
- (a) within thirty days of the annual parish meeting -
    - (i) the names and addresses of the parochial members;
    - (ii) the names and addresses of the supplementary parochial members;
    - (iii) the order in which the supplementary parochial members were elected;
  - (b) when necessary, forthwith after the vacancy consultation -
    - (i) the names and addresses of the persons elected as parochial members;
    - (ii) the names of those persons who since the previous annual parish meeting have ceased to be parochial members or supplementary parochial members as the case may be.

#### **PARISH VACANCY**

14. A parish shall become vacant -
- (a) upon the death, resignation or retirement of the incumbent;
  - (b) upon the institution of the incumbent into any office which is inconsistent with being the incumbent of the parish;
  - (c) upon the lawful removal of the incumbent from the Parish; or
  - (d) upon the incumbent becoming permanently incapacitated for duty as the incumbent of the parish.
  - (e) upon the term of the incumbent expiring in accordance with Section 14A
- 14A. (1) This section shall take effect on 1 January 2007.
- (2) The term of office of an incumbent shall be 10 years from the date of the institution of the incumbent (“the initial term of office”), subject to extension in accordance with this section or for such further period as the Bishop shall determine.
  - (3) Upon the initial term of office of an incumbent expiring, the incumbent shall be deemed to be a priest who might be nominated by the

Appointments Board to the Bishop for appointment as incumbent of the parish in accordance with section 19(1).

- (4) In the event that an incumbent is re-appointed after the initial term of office has expired, the re-appointment shall operate as an extension of the incumbent's term of office for five years, or for such further period as the Bishop may determine.
  - (5) The initial term of office of an incumbent may be extended once only unless the Bishop determines other wise.
  - (6) This section applies to all incumbents holding office on 1 September 2004, and to all incumbents appointed after that date."
15. The resignation of an incumbent shall become effective upon the date specified in the notice of resignation or upon the expiration of three months from the date on which the resignation is accepted by the Bishop whichever shall first occur.
16. (1) An incumbent shall retire from a parish on attaining the age of sixty-five years. The retirement shall become effective on a date to be determined by the Bishop which shall be no later than six months after the incumbent attains the age of sixty-five years.
- (2) In the event that an incumbent wishes to extend the date for retirement beyond the age of sixty-five years, the incumbent shall make written application to the Bishop no later than twelve (12) months prior to turning sixty-five.
- (3) Upon receiving an application for an extension, the Bishop shall, after consulting with the parochial members of the Appointments Board and with the incumbent, determine whether to extend the date of the incumbent's retirement.
- (4) The Bishop may extend the date of the incumbent's retirement for any period but not beyond the age of seventy years.
- (5) An incumbent whose date for retirement is extended to a date prior to their seventieth birthday may make further applications for extension to the Bishop within six months of the extended date of retirement. Any further applications shall be dealt with in accordance with subsection (3) hereof.
- (6) The Bishop may, after consultation with the incumbent and the parochial members of the Appointments Board, cancel any extension of the date of retirement, and the parish shall immediately become vacant.

- (7) When an incumbent who is to retire proposes to take accumulated leave entitlements immediately prior to the date of his or her retirement, the parish shall become vacant on the day following the conclusion of such leave.
  
17.
  - (1) In the event of there being any dispute between the Bishop and an incumbent as to whether the incumbent is permanently incapacitated for duty as an incumbent the Bishop shall refer the dispute to the Vicar-General, the Chancellor and the Advocate.
  
  - (2) Upon reference to them of a dispute the Vicar-General, the Chancellor and the Advocate shall make such inquiries as they shall think fit and shall advise the Bishop and the incumbent whether the incumbent, in their opinion, is permanently incapacitated.
  
  - (3) If at least two of the Vicar-General, the Chancellor and the Advocate are of opinion that the incumbent is permanently incapacitated for duty as an incumbent such opinion shall be binding upon the Bishop and the incumbent concerned.

#### **APPOINTMENT TO A PARISH**

18. Upon a parish becoming vacant the Bishop shall convene an Appointments Board consisting of the following persons :
  - (a) the Bishop;
  - (b) the Archdeacon in whose archdeaconry the parish is situated;
  - (c) the Rural Dean in whose deanery the parish is situated;
  - (d) three parochial members elected pursuant to the provisions of section 9 above; and
  - (e) one Diocesan member chosen by the Bishop from those persons elected pursuant to Section 5.
  
19.
  - (1) The purpose of the Board is to make a nomination or nominations to the Bishop for appointment as incumbent of the parish.
  
  - (2) If more than one nomination is submitted to the Bishop the Board may indicate its order of preference among such names.
  
20.
  - (1) Upon a parish becoming vacant the Bishop shall convene a meeting of the parishioners.

- (2) The Bishop may invite such persons other than parishioners whom he shall think fit to attend the said meeting.
  - (3) The Bishop or his nominee shall be the chairman of the said meeting.
  - (4) The purposes of such meeting shall be -
    - (a) to fulfil the provisions of section 15 above, if necessary;
    - (b) to hear from the chairman an explanation of the appointment procedures;
    - (c) to assist the chairman to prepare a profile of the parish;
    - (d) so far as may be possible, to assist the chairman to prepare a specification of the type of person desired as an incumbent;
    - (e) to discuss any other matter which is relevant to the appointment of an incumbent.
21. After consultation with the elected members of the Board, the Bishop shall convene the first meeting of the Board to be held not later than sixty days from the date of the notice of intended resignation or retirement or of the parish otherwise becoming vacant.
22. (1) The Bishop or his nominee shall be the chairman of the meetings of the Board.
- (2) The chairman shall not have a deliberative vote at any meeting of the Board.
- (3) A quorum for a meeting of the Board shall be two parochial members and two other members.
23. (1) At the first meeting the Board shall -
- (a)
    - (i) consider the report and recommendations, if any, of the Bishop and the Registrar;
    - (ii) consider the report of the chairman of the vacancy consultation.
  - (b) consider each clerk within the Diocese for appointment to the parish.
  - (c) make such other arrangements for future meetings and procedures as it shall deem suitable.

- (2) Without limiting the generality of paragraph (c) of sub-section (1), the Board may appoint from among its members a panel of two parochial representatives and two other members to interview those persons who are being considered for nomination to the Bishop for appointment as incumbent of the parish and such panel shall report to the Board at the next meeting after any interview.
  
24. At the request of the Board or of the parochial members of the Board or at his own instigation the Bishop may advertise the vacancy of the parish and seek expressions of interest from suitable clerks.
  
25.
  - (1) Subject to the provisions of this Act the Board shall do all things reasonable and necessary in order to submit to the Bishop the name of one or more persons as suitable for appointment as the incumbent of the parish.
  - (2) Before any name is submitted to the Bishop at least two parochial members and at least one other members shall approve of such submission.
  
26. The Bishop may refuse to accept any nomination without being required to give reasons for such refusal.
  
27. If the nomination is acceptable to him the Bishop shall offer the incumbency of the parish to the nominee and upon receipt of a written acceptance of the offer shall cause to be carried out all things usual and necessary to effect the institution of the nominee to the parish.
  
28. The proceedings of the Board shall be confidential and if the Bishop is satisfied that any person has wilfully and without authority disclosed any of the proceedings of the Board the Bishop may disqualify such person from membership of the Board for such time as the Bishop in his absolute discretion shall think fit.

## **BISHOP'S RIGHTS OF APPOINTMENT**

29.
  - (1) During the vacancy consultation those parishioners present may resolve by a simple majority that the rights of appointment be surrendered to the Bishop.
  - (2) When the meeting of parishioners has so resolved, the provisions of this Act relating to the proceedings of the Board shall cease to be applicable and all rights relating to the appointment of an incumbent shall vest in the Bishop alone.

30. In the event of the Board failing to make any nomination to the Bishop within a period of two months of its first meeting all rights relating to the appointment of an incumbent shall thereupon be surrendered to the Bishop.
31. Unless the Council of the Diocese otherwise decides, in the event of a parish being at least three months in arrears in the payment in whole or in part of any monies due to the Diocese, when a vacancy in such parish occurs the rights of appointment shall vest in the Bishop alone.
32. Notwithstanding anything to the contrary contained in this Act, upon every third occasion on which each parish becomes vacant the Bishop shall hold the vacancy consultation and the rights of appointment shall vest in the Bishop alone.

## **GENERAL**

33. The provisions of this Act apply to the Cathedral Parish with the addition that whenever the Cathedral Parish shall become vacant one clerical member and one lay member of the Cathedral Chapter shall be members of the Board but with no rights of voting.
34. Upon a vacancy occurring in any united or co-operating parish a vacancy consultation shall be held but otherwise the provisions of this Act shall not be applicable and the rights of appointment, insofar as the Anglican Church is concerned, shall vest in the Bishop alone.

## **TRANSITIONAL**

35. Subject to section 36 herein, upon the coming into operation of this Act -
  - (a) those persons who are members and supplementary members of the Board and who are not archdeacons or rural deans, shall be deemed to be members of the Board pursuant to the provisions of this Act;
  - (b) those persons who are members or supplementary members of the Board and who are archdeacons or rural deans shall cease to be members of the Board and any vacancy so caused shall be treated as a casual vacancy.
36. Nothing in this Act shall affect or restrict the proceedings and responsibilities of any Board which has been convened prior to the date on which this Act comes into operation.

## **SCHEDULE**

The Patronage Act 1934.