
COUNCIL OF THE DIOCESE

(Replacing the Acts referred to in Section 2 of this Act)

No. 2, 1916

AN ACT

TO CONSOLIDATE AND AMEND THE LAW RELATING TO THE
COUNCIL OF THE DIOCESE

Amendments: No. 3, 1970; No. 1, 1982; No 11,1993; No. 2, 1994; No. 8, 1995
No. 7, 2003; No. 3, 2009; No. 2, 2012; No. 4, 2015; No 1, 2021

BE it enacted by the Bishop the Clergy and the Laity of the Anglican Church of Australia within the Diocese of Wangaratta duly met in Synod according to law as follows:-

Short Title
Amendments:
No. 3, 1972
No. 1, 1982
No.11, 1993
No. 8, 1995
No. 7, 2003
No .2, 2012

Acts Repealed

In temporal
affairs, Bishop to
act with Advice of
Council
Amendment:
Act No 4, 2015

Constitution of
council
amendments:
No. 3, 1970
No. 1, 1982
No. 2, 1994
No. 8, 1995
No. 7, 2003
No. 3, 2009
No 1, 2021

Bishop's
nominations
Amendments:
No. 11, 1993
No. 8, 1995

Wangaratta
Anglican Diocesan
Corporation
Amendment:
Act No 4, 2015

1. This Act may be cited as "The Council of the Diocese Act 1916-2012".
2. The Acts No. 4, 1877, No. 6, 1887, No. 2, 1889, and No. 4, 1896 of the Church Assembly of the Diocese of Melbourne and the Act No. 1, 1902, of the Church Assembly of this Diocese shall be and the same are hereby repealed except as to every operation already affected by or act done under any enactment therein comprised or as to any right title obligation or liability already acquired or accrued under any such enactment.
3. In matters pertaining to the temporal affairs of the Church the Bishop shall be assisted by a Council to be constituted as hereinafter mentioned and in all such matters, unless an Act of the Synod otherwise provides, the Bishop shall act with the consent of the Council or as a director of the Board of the Wangaratta Anglican Diocesan Corporation.
4. The Council shall consist of the following members:
The Dean of Holy Trinity Cathedral.
The Archdeacons of the Diocese.
The Chancellor of the Diocese.
The Deputy Chancellor of the Diocese
The Advocate of the Diocese.
The Chairman of Committees of the Synod of the Diocese
The Registrar of the Diocese.
The Diocesan Treasurer
Two Clerical and Two Lay Members to be nominated by the Bishop: and
Two Clerical Members and two Lay Members to be elected by Synod".
5. On the first day of every session of the Synod the Bishop shall lay on the table of Synod the names of those who have been nominated by him since the previous session of the Synod to be members of the Council.
6. No person shall be elected a member of the said Council who is not qualified to be a member of Synod.
- 6A. A member of the Council, whether appointed by the Bishop or elected by the Synod ceases to be a member of the Council if the member –
 - (a) has not signed a consent to act as a Director of the Wangaratta Anglican Corporation prior to being appointed or elected; or
 - (b) resigns as a director of the Wangaratta Anglican Diocesan Corporation by writing given to the Corporation: or

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- (c) ceases to be a director of the Wangaratta Anglican Diocesan Corporation
- Term limits of elected and appointed members
No 1, 2021
7. A person appointed by the Bishop or elected by the Synod to be a member of the Council of the Diocese -
- (a) holds office for a term not exceeding three years and expiring on the first day of the first ordinary session of the next Synod following their appointment or election;
 - (b) is not eligible to be appointed or elected for a further term at the first session of that next Synod;
 - (c) is eligible to be appointed or elected to a further term at any later Synod.
- Date back on extra-ordinary vacancy
Amendment:
No. 8, 1995
8. The nomination or election of a member to fill an extra-ordinary vacancy shall be deemed to date back to the time at which the ordinary vacancy was filled.
9. The election of the clerical and lay members of the Council of the Diocese for the purposes of section 4 -
- (a) will take place during the first session of each Synod and at such time and place as the Bishop shall specify in the Synod Mandate;
 - (b) will take place in such manner as may be required by the Regulation of Elections Act 1911; and
 - (c) will elect two clerical and two lay members to hold office for a term expiring on the first day of the first ordinary session of the next Synod.
- Day and manner of election
Amendment:
No. 1, 2021
10. The Bishop at pleasure may remove as a member of the Council any member nominated by him and, but subject always to the provisions of section 8 hereof, may fill the extra-ordinary vacancy so created. The name of the member so nominated shall be laid on the table of the Synod by the Bishop as provided in Section 5 hereof.
- Bishop's nominees removable at pleasure
Amendment:
No. 8, 1995
11. Any elective member of the Council may be removed by vote of the Synod.
- Elective Members removable
12. An extra-ordinary vacancy in the number of elective members shall be filled at the next session of Synod at which an election can be held in manner aforesaid and the person elected for such vacancy shall hold office as a member of the Council subject to the provisions of Section 8 hereof provided that the Bishop in Council shall have the power to fill temporarily any vacancy in the number of elective members which may occur and any member of the Council so appointed shall hold office until the first day of the next session of the Synod and no longer.
- Extra-ordinary vacancy of elective member
Amendment:
No. 8, 1995
13. No vacancy or vacancies in the Council by reason of failure to nominate elect or appoint or for any other reason shall affect the validity or the proceedings of the members of the Council for the time being who shall nevertheless be deemed to form a properly constituted Council under this Act.
- Council may act notwithstanding vacancies
Amendment:
No. 8, 1995
14. The Council may be convened by the Bishop from time to time at his discretion.
- Bishop may convene Council

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Episcopal Standards
Inserted No1, 2012

14A. If pursuant of the Episcopal Standards Act 2012 the Council is required to meet in the absence of the Bishop the Council shall be convened by the person appointed as the Administrator of the Diocese in order to fulfil the requirements of that Act and for no other purpose

Quorum
Amendment:
No. 8, 1995

15. One third of the members shall form a quorum.

Council may make rules etc.
Amendment:
No. 8, 1995

16. The Council shall have the power to make Rules and By-laws for the regulation and conduct of its business not inconsistent with this Act and from time to time to repeal alter and amend the same.

Council may delegate to Committees

17. The Council may delegate any portion of its powers to Committees either with or without an obligation to report to the Council but the powers so delegated shall be strictly defined and shall be revocable by the Council at pleasure.

Returns to be laid before Synod
Amendment:
Act No. 8, 1995
Act No 4, 2015

18. The Bishop shall in every session of Synod lay a statement before it for the past year of all moneys appropriated or expended and of all moneys recommended to be appropriated and expended and of all acts done by him during the year in Council and in the Wangaratta Anglican Diocesan Corporation.

Members interested not to take part

19. No member of Council or of a Committee of the Council shall take part in the discussion or decision of any question in which he or his parish or parochial district is interested unless he be specially requested to do so by the Council.

Inserted:
Act No 4, 2015

20. In this Act, the Wangaratta Anglican Diocesan Corporation means the company limited by guarantee under the Corporations Act 2001 of the Commonwealth in accordance with the Wangaratta Anglican Diocesan Corporation Act 2014

Transitional Provisions
No 1, 2021

21. For the purposes of giving effect to the amendments contained in the *Council of the Diocese (Composition) Amendment Act 2021* -
(a) any person holding office as an appointed or elected member of the Council of the Diocese prior to the passage of the *Council of the Diocese (Composition) Amendment Act 2021 (amending Act)* shall hold that office as if they were elected or appointed under the Act as amended by the amending Act;
(b) any election required under section 9 of this Act as amended may take place in a second or subsequent session of the Synod at which the amending Act is passed and comes into effect and may be for the purposes of electing a lower number of members than is provided for by section 9; and
(c) all members of the Council of the Diocese holding office by reason of section 21(a) of this Act or by reason of their election at the session of Synod at which the *Council of the Diocese (Composition) Amendment Act 2021* was passed shall hold office until the first day of the first session of the next Synod

Passed: 23rd August 1916
Assented to: 23rd August 1916

Amended by Act No. 3, 1970

Passed: 17th August 1970
Assented to: 26th August 1972

Amended by Act No. 1, 1982

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Passed: 17th September 1982
Assented to: 17th September 1982

Amended by Act No.11, 1993

Passed: 27th August 1993
Assented to: 15th September 1993

Amended by Act No.2, 1994

Passed: 27th May 1994
Assented to: 7th June 1994

Amended by Act No. 8, 1995

Passed: 1st September 1995
Assented to: 10th October 1995

Amended by Act No. 7, 2003

Passed: 31st May 2003
Assented to: 13th June 2003

Amended by Act No. 3, 2009

Passed: 23rd May 2009
Assented to: 23rd May 2009

Amended by Act No 4, 2015

Passed and Assented to 30/5/2015

Amended by Act No 1, 2021

Passed and assented to 21/5/2021

POSITION AND FUNCTIONS OF THE COUNCIL OF THE DIOCESE

MEMO FROM BISHOP PERRY TO THE REGISTRAR

7th November, 1864

MINUTE RE COUNCIL OF THE DIOCESE

There appears to prevail in the Diocese (not unnaturally) great misapprehension as to the position and functions of the Council of the Diocese, which it is very desirable, as far as possible, to correct; and with this view I would request that no communication be ever made to the Council, except through the bishop; and no communication from the Council; but all from the Bishop with the advice of the Council. I should wish the rules of Practice, etc, in respect of council to be entered at the beginning of Book of Minutes.

C. MELBOURNE
7th November, 1864

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RULES FOR CONDUCT OF BUSINESS

1. That all matters brought before the Council shall be submitted to it by the Bishop.
2. That at the request of any Member of the Council, a division shall take place to ascertain the opinions of the Members on any matter submitted to them.
3. That on a similar request the list of such members shall be entered on the Minutes.
4. That any Member of the Council shall be at liberty to suggest any proposition to the Bishop for the purpose of having it submitted to the consideration of the Council, and should the Bishop decline to do so, such member shall be entitled to have the proposition entered on the Minutes, with a notice that it had not been submitted.
5. That the Bishop shall be at liberty to enter on the Minutes his reasons for refusing to submit any such proposition to the consideration of the Council.
6. That any Member of the Council dissenting from the views of the majority shall be entitled to have reasons for such dissent entered upon the minutes.

OPINION OF THE CHANCELLOR OF THE DIOCESE OF MELBOURNE

I can see nothing in these proposed Rules inconsistent with the provisions of the Council of Diocese Act of the Church Assembly, Melbourne (No. 4, 1877).

The first rule, in my opinion, merely states in express terms what would be the legal position without it. the Bishop (or, rather, as things now exist, the Archbishop) is, I think, alone entitled to bring matters before the Council. Clause 2 of the Act No. 4, 1877, makes it necessary that, in all matters relating to the temporal affairs of the Church, the Bishop shall not act without the consent of the Council; but the Act does not anywhere provide or suggest that the Council can initiate matters relating to the temporal affairs of the Church, and so put the Bishop in motion as to any matter which he does not desire to move in. In other words, the Council is there as an advisory body as to all matters which the Bishop, in the administration of the Diocese, brings before it; and as the Bishop must bring all matters which he wishes to act in relating to the temporal affairs of the Diocese before it, and cannot act in the matters he brings before it without the consent of the Council, it has in effect a power of "veto"; but the Council cannot bring forward some matter which the Bishop has not brought before it, carry it by a majority, or even unanimously, against the wish of the Bishop, and so in effect direct him to do something he does not wish to do in the administration of the temporal affairs of the Diocese.

Apart from Rule 1, the other proposed Rules appear to me to be matters connected with the internal regulation and conduct of the business of the Council, which are not, so far as I can see, in any way inconsistent with the provisions of the Act No. 4, 1877.

(Signed) E.F. MITCHELL
463 Chancery-Lane, 1st October, 1911