

No. 4 of 1962

Serial No. 73

Reprinted 1 May 2019 incorporating amendments up to No. 5/2016²

Anglican Council for Early Childhood Services Act 1962

AN ACT

to repeal the Free Kindergartens Act 1943 and to provide for a Free
Kindergarten Council.

Title

s. 1 amended by No. 12/1992

- 1 This Act may be cited as the **Anglican Council for Early Childhood Services Act 1962**.

Commencement

- 2 This Act shall come into operation on the first day of November 1962, except section 23 which shall come into operation on the first day of January 1963.

Repeal

- 3 The Free Kindergartens Act 1943 is hereby repealed provided that all persons things and circumstances appointed or created by or under the repealed Act or existing or continuing under the repealed Act immediately before the commencement of this Act shall under and subject to this Act continue to have the same status operation and effect as they respectively would have had if—
 - (a) the repealed Act had not been repealed and
 - (b) the Church of England Free Kindergarten Council constituted under this Act were one and the same with the Church of England Free Kindergarten Council constituted under the Repealed Act.

Anglican Council for Early Childhood Services Act 1962

Definitions

s. 3A inserted by No. 4/1967, amended by Nos. 5/1973 and 2/1982 and substituted by No. 12/1992 am by 5/2016.

3A In this Act –

Kindergarten includes children’s services centre within the meaning of section 3(1) of the **Public Health and Wellbeing Act 2008** of the State of Victoria as in force for the time being, day nursery and free kindergarten.

Constitution of Council

s. 4 substituted by No. 4/1967 and amended by Nos. 9/1985, 12/1992 and 8/1993

4 (1) There shall be a Council to be called the Anglican Council for Early Childhood Services (hereinafter referred to as ‘the Council’) consisting of

- (a) The person nominated from time to time by the Archbishop as President of the Council.
- (b) * * *
- (c) Three persons to be appointed by the Archbishop.
- (d) Two clerks and four lay persons to be appointed by the Archbishop-in-Council (of which lay persons at least three shall be appointed as representatives of affiliated kindergartens and of which clerks at least one shall be a Minister of a Parish in which there is a kindergarten under the control of the Council).
- (e) No more than two persons co-opted by the Council.

(2) All nominated or appointed members of the Council shall be communicant members of the Anglican Church of Australia and all appointed members shall hold office for a term of three years and shall be eligible for re-appointment.

Anglican Council for Early Childhood Services Act 1962

- (3) In the case of a casual vacancy in the Council the Archbishop or the Archbishop-in-Council, as the case may require, may appoint a qualified person to fill the vacancy for the remainder of the term of the person whose seat shall become vacant.
- (4) Co-opted members shall hold office until the expiration of the term of the persons who are appointed members at the date of their cooption and they shall be eligible for further co-option.

Seat of member to become vacant by absence

- 5 The seat of any member of the Council who is absent from two consecutive meetings of the Council without leave of absence shall become vacant.

Council may act during vacancy

- 6 During any vacancy in the Council the continuing members subject to their being not less than a quorum may act as if no vacancy existed.

Quorum

s. 7 amended by No. 9/1985

- 7 A quorum of the Council at any meeting shall consist of six members.

Annual meeting

s. 8 amended by No. 9/1985

- 8 The Annual Meeting of the Council shall until the Archbishop-in-Council otherwise determines be held during the month of May in each year and there shall be not less than five other ordinary meetings of the Council at times to be fixed by the Council.

Special meeting

s. 9 amended by No. 4/1967

- 9 A special meeting of the Council may be convened at any time by the President of the Council at his discretion and shall be convened whenever seven or more members of the Council shall request him to do so provided that notice shall be given seven clear days before the holding of any special meeting and that no business be transacted thereat other than the matters set forth in the notice of such meeting.

President to appoint

s. 10 substituted by No. 4/1967

- 10 The President of the Council shall appoint from among the members of the Council a Chairman of the Council (hereinafter referred to as ‘the Chairman’) who in the absence of the President shall preside at meetings of the Council. In the absence of the President and the Chairman from any meeting the members shall appoint one of their number to be the chairman of the meeting.

Officers

s. 11 amended by No. 4/1967

- 11 The Council shall at each Annual Meeting appoint from among its members—
- (a) an Honorary Secretary,
 - (b) an Honorary Treasurer,
 - (c) such number of members of the Executive Committee being not less than three as the Council may from time to time determine—

each of whom shall hold office until the appointment of his successor but shall be eligible for re-appointment.

s. 12 amended by No. 4/1967 and repealed by No. 9/1985

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Anglican Council for Early Childhood Services Act 1962

ss 13 and 14 repealed by No. 9/1985

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Committees may be appointed.

s. 15 amended by No. 9/1985

- 15 The Council may delegate any portion of the functions and powers of the Council to a committee or committees composed of not less than three members of the Council and may define and revoke at pleasure the powers and functions so delegated.

Appointment of Director

s. 16 amended by Nos. 4/1967 and 12/1992

- 16 (1) The Council shall appoint a person approved by the Archbishop to be Director of Pre-School Education. The Director shall be the chief executive officer of the Council and
- (a) may subject to the direction of the Council attend and speak at meetings of the Council but shall not vote thereat.
 - (b) may subject to the direction of the Executive Committee attend and speak at meetings of the Executive Committee but shall not vote thereat.
- (2) Subject to any direction of the Council the Director shall be responsible to the Council for
- (a) determining the qualifications and conditions of employment; and
 - (b) the appointment and dismissal of all members of the staff of kindergartens under the direct control of the Council.

Property vested in Trust Corporation

s. 17 amended by No. 12/1992

17 The whole of the property of the Council shall be vested in the Melbourne Anglican Trust Corporation.

Functions and powers of Council

s. 18 substituted by No. 4/1967 and amended by Nos. 2/1982 and 12/1992

18 The functions and powers of the Council shall be:-

- (1) (a) To establish maintain and control kindergartens;
- (b) To prescribe the terms and conditions upon which kindergartens may be affiliated with the Council and to admit kindergartens to such affiliation.
- (2) In respect of kindergartens under the direct control of the Council:-
 - (a) To appoint such salaried and other staff of the kindergartens as it may deem expedient;
 - (b) To determine the qualifications, rate of remuneration and other conditions of employment of all members of the staff of kindergartens.
- (3) In respect of kindergartens affiliated with the Council:-
 - (a) To prescribe regulations for the control and management of kindergartens;
 - (b) To make grants and advances to the kindergartens on such terms and conditions as the Council determines;
 - (c) To advise the kindergartens on their programme of educational work and buildings;
 - (d) To determine minimum qualifications, minimum rates of remuneration and minimum conditions of employment of all members of the staffs of the kindergartens provided that no such staff other than

cleaners and voluntary helpers shall be appointed except after prior consultation with and approval of the Director or the Council;

- (e) To consult with and advise the kindergartens as to
 - (i) qualifications conditions and appointment of staff;
 - (ii) the remuneration and conditions of employment of staff;
 - (iii) dismissal of staff;
 - (iv) programme of activities of the kindergarten.

(4) Generally

- (a) Subject to sub-section (1) of Section 16 to appoint such salaried and other officers of the Council as it may deem expedient and to determine the terms and conditions of their respective appointments.
- (b) To acquire any real and personal property and in particular to receive donations towards its work and to raise money on mortgage of any land and to raise money on overdraft with the consent of the Archbishop-in-Council.
- (c) To appoint the terms and conditions on which the term “Anglican” may be used as part of or in conjunction with the name of any kindergarten.
- (d) Generally to co-ordinate, advise on and direct the work and activities of the kindergartens.
- (e) To do all such other things as are incidental or conducive to the exercise or performance of any of the abovementioned powers and functions.

Audit.

s. 19 substituted by No. 5/1974

19 A Diocesan Auditor shall be the Council’s Auditor.

Accounts.

- 20 A Balance Sheet as at and Statement of Income and Expenditure to the 31st day of December prior to the Annual Meeting of the Council shall be prepared by the Honorary Treasurer, approved by the Council and presented through the Registrar of the Diocese to the Council of the Diocese.

Archbishop to be Visitor.

s. 21 amended by No. 4/1967

- 21 The Archbishop of Melbourne shall be *ex-officio* Visitor of every Free Kindergarten maintained or controlled by or affiliated with the Council.

Archbishop-in-Council to approve buildings

- 22 No building shall be erected altered or added to by the Council until the plans and specifications thereof shall have been approved by the Archbishop-in-Council.

Limitation on establishment of kindergartens

s. 23 amended by No. 5/2000 and 5/2016

- 23 Except with the consent of the Archbishop-in-Council no kindergarten shall be established or maintained on any Church property which is subject to the **Trustees Act 1910** or the **Parishes Governance Act 1913** unless it is under the control of or affiliated to the Council and complies with any regulations for the time being prescribed by the Council under this Act.

Anglican Council for Early Childhood Services Act 1962

NOTES

¹The **Free Kindergarten Council Act 1962** was assented to on 26 November 1962 and came into operation on 1 November 1962, except section 23 which came into operation on 1 January 1963 (see section 2).

²This reprint incorporates the amendments made by the following Acts:

| Name | No. | Date of assent | Date of commencement |
|--|------------|-----------------------|---|
| <i>Free Kindergarten Council (Amendment) Act 1967</i> | 4/1967 | 17 October 1967 | 17 October 1967 |
| <i>Free Kindergarten Council (Amendment) Act 1973</i> | 5/1973 | 12 November 1973 | 12 November 1973 |
| <i>Diocesan Audit Act 1974</i> | 5/1974 | 4 November 1974 | 1 January 1974 |
| <i>Anglican Organisations (Change of Name) Act 1982</i> | 2/1982 | 30 September 1982 | 1 November 1982 |
| <i>Free Kindergarten Council (Amendment) Act 1985</i> | 9/1985 | 3 October 1985 | 3 October 1985 |
| <i>Free Kindergarten Council (Amendment) Act 1992</i> | 12/1992 | 15 October 1992 | 15 October 1992 (see Act No.8/1993, s. 5) |
| <i>Anglican Council for Early Childhood Services (Amendment) Act 1993</i> | 8/1993 | 15 October 1993 | Section 5: 15 October 1992 Remaining provisions: 1 November 1993 |

Anglican Council for Early Childhood Services Act 1962

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| <i>Parishes (Amendment) Act 2000</i> | 5/2000 | 23 October 2000 | 1 January 2001 |
| <i>Diocesan Acts (Revision and Repeals) Act 2016</i> | 5/2016 | 15 December 2016 | 16 December 2016 |

³Section 9 of the Free Kindergarten Council (Amendment) Act 1992 provided as follows:

“Transitional

9. Despite the change of name effected by this Act, the Anglican Council for Early Childhood Services is the same body as the Anglican Free Kindergarten Council existing under the Principal Act as in force before the commencement of this Act.”