

Financial Governance Act 2018

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No. of 2018 Serial No.

Financial Governance Act 2018

An Act

to reform the Diocesan accounts, abolish certain statutory and other funds, provide for uniform standards of management and accounting practice, and for other purposes

BE IT ENACTED by the Archbishop, the Clergy and the Laity of the Anglican Church of Australia within the Diocese of Melbourne in Victoria duly met in Synod according to law as follows:

Part 1 – Preliminary

1 Short title

This Act may be cited as the *Financial Governance Act 2018*.

2 Commencement

- (1) This Act other than section 16 comes into operation 1 January 2019.
- (2) Section 16 comes into operation on the first day after 31 December 2018 on which the Clergy Widows and Orphans Fund Act of the Diocese of Ballarat is repealed by that Diocese.

3 Interpretation

In this Act, unless the context otherwise requires—

accounts means a combination of—

- (a) an account recording the total receipts and payments; and
- (b) a statement of assets and liabilities—

together with any statements, reports and notes, other than the reports of an auditor or independent examiner, that are attached to and intended to be read with the account, statement or balance sheet, as the case may be;

Diocese means the Diocese of Melbourne;

Australian Accounting Standards means the Accounting Standards (including Australian Accounting Interpretations) promulgated by the Australian Accounting Standards Board established under section 226 of the *Australian Securities and Investments Commission Act 1989* (Cth) and continued in by section 261 of the *Australian Securities and Investments Commission Act 2001* (Cth) as those standards are from time to time in force.

4 Delegation

The Archbishop in Council may delegate to any person or body any of its powers under this Act, other than this power of delegation.

Part 2 —Diocesan General Revenue

5 Funds to be held in Diocesan General Revenue

Subject to this Act, all the funds of the Diocese are to be held in a single account known as the Diocesan General Revenue.

6 Archbishop in Council responsible for Diocesan General Revenue

The Archbishop in Council is in all respects responsible for the oversight, management and control of the Diocesan General Revenue.

7 Special accounts within the Diocesan General Revenue

- (1) The Archbishop in Council may establish, alter and abolish special accounts within the Diocesan General Revenue.
- (2) The Archbishop in Council may determine in relation to a special account that—
 - (a) moneys are to be paid into the account from a particular source or activity;
 - (b) moneys in the account are to be held, managed or invested in particular ways;
 - (c) moneys in the account are to be applied, or not applied, for particular purposes, or to particular persons or entities;
 - (d) any of the matters in paragraphs (a), (b) and (c) are to be performed by or under the direction of or as determined by a particular person or body;
 - (e) the account is to have a particular name; or
 - (f) the account is to continue for a stipulated time.
- (3) Subject to this section, the annual accounts of the Diocese must include, in respect of each special account established under this section, a note stating at least the purpose of the special account, the balance of the account, and the amounts credited to and applied from that account during the reporting period.
- (4) The Archbishop in Council may adopt requirements additional to (but not in place of) those in sub-section (3) regarding what is to be shown in the annual accounts of the Diocese in relation to special accounts generally or a particular special account.
- (5) The Motor Vehicle Replacement special account is to operate in the manner set out in Schedule 1 and be reported in the Diocesan accounts as a special account.

Part 3 — Management of Diocesan finances

8. Budgeting and authorization

- (1) There must be in respect of each year a budget in respect of all funds and assets properly considered as being controlled by or available to the Diocese, approved by the Archbishop in Council and received by the Synod.
- (2) The Archbishop in Council may alter a budget approved and received under sub-section (1) to respond to unforeseen increases or decreases in income, expenditure, assets or liabilities.
- (3) Money may be applied from the Diocesan General Revenue only with the prior authorization of the Archbishop in Council, which may be given through—
 - (a) an allowance for the application of that amount in the budget;
 - (b) a standing allowance for the application of that amount or such amounts as are necessary for the relevant purpose by legislation of the Synod or by the Archbishop in Council; or
 - (c) the specific approval of the Archbishop in Council.

9. Purposes with priority

- (1) In any budget or in the provision or application of any moneys from the Diocesan General Revenue, the following purposes have priority:
 - (a) satisfying obligations referred to in or arising under a provision in Part 5;
 - (b) the official stipend, emoluments and expenses of office of the Archbishop, as determined from time to time by the Archbishop in Council;
 - (c) subject to sub-section (2), the maintenance, repairs, operating costs, expenses and insurance of the

- Archbishop's official residence and its staff;
- (d) the official travel of the Archbishop;
 - (e) the payment of stipends or allowances as the case may be of the assistant bishops and archdeacons of the Diocese and of the chaplains of public institutions;
 - (f) the payment of any superannuation or other allowance payable under the *Archbishops' Superannuation Act 1913-1955* not otherwise provided for; and
 - (g) satisfying any obligation or commitment in an agreement or similar written arrangement with the Melbourne Anglican Diocesan Corporation.
- (2) The budget in respect of sub-section (1)(c) must take account of any funds and assets available for the same purposes that are held by the Trusts Corporation.
- (3) During the vacancy of the See the income appertaining to the Archbishopric shall be applied as determined by the Archbishop in Council duly constituted at that time.

10. Permitted investments

- (1) A person, body or the holder of an office established by the Synod or recognized by the Synod for the purposes of managing Diocesan moneys, must in managing those moneys exercise the care, diligence and skill that a prudent person would exercise in managing the affairs of other persons.
- (2) A person, body or the holder of an office established by the Synod or recognized by the Synod with the power to invest moneys, must invest the moneys held as if it or they were a trustee for the purposes of the *Trustee Act 1958* of the State of Victoria.

- (3)¹ Notwithstanding anything contained in any Act of Synod it shall not be lawful for any council, committee, board of management or other governing body of any institution, organization, society or association or any corporate body set up established or constituted under any Act of Synod or under the control of Synod or of the Archbishop in Council to sell, purchase, take on lease, let, on lease, mortgage or charge any land without the consent of the Archbishop in Council.

11. Accounting standards

The Archbishop in Council and the Diocese and a person, body or the holder of an office established by the Synod or recognized by the Synod for any purpose in connexion with Diocesan moneys must apply the Australian Accounting Standards then in force.

12. Audit and reporting

- (1) Unless otherwise provided by an Act of the Synod that refers to this section, the accounts of—
- (a) the Diocese;
 - (b) any body under the direct or indirect control of the Synod or the Archbishop in Council; and
 - (c) any body established by an Act of the Synod—
- must be audited annually by the Diocesan auditor and those accounts as audited and the auditor's report provided to the Archbishop in Council and provided by the Archbishop in Council to the Synod.
- (2) The Archbishop in Council must appoint annually a qualified person to be the Diocesan auditor and determine their remuneration.

¹ Sub-section 10(3) does not apply to parish property, regarding which see *Trustee Act 1910* section 7.

- (3) The Archbishop in Council in relation to a body referred to in sub-section (1)(b) or (c) may approve an auditor other than the Diocesan auditor.

Part 4 — Anglican Development Fund

13. Anglican Development Fund

The Anglican Development Fund, established by the Trusts Corporation by deed made 20 September 1967 as from time to time amended or remade, is recognized.

Part 5 — Repeals and preservation of obligations

14. Church Funds Act 1878 repealed

- (1) The *Church Funds Act 1878* is repealed.
- (2) The Bishop of Melbourne Fund and the Consolidated Fund are discontinued and moneys in those funds form part of the Diocesan General Revenue.

15. Bishopric Endowment Fund Act repealed

- (1) The Bishopric Endowment Fund Act 1878-1965 is repealed.
- (2) The Bishopric Endowment Fund is discontinued and moneys in that fund forms part of the Diocesan General Revenue.
- (3) All the real estate and all the securities belonging to the Bishopric Endowment Fund are transferred to and vested in Trust Corporation for the purposes of the Diocese.

16. Clergy Widows and Orphan Fund 1956 Act repealed

- (1) The *Clergy Widows and Orphan Fund Act 1956* is repealed and the Board of Directors established by

section 6 of that Act go out of office.

- (2) The Clergy Widows and Orphan Fund is discontinued and moneys in that fund form part of the Diocesan General Revenue.
- (3) Despite the repeal of the *Clergy Widows and Orphan Fund Act 1956* the Diocese continues to be liable to meet—
 - (a) any obligation existing by virtue of that Act at the time of its repeal, and
 - (b) any obligation that, but for the repeal of the Act, would have come into existence under that Act—as if the Act had not been repealed.

17. Clergy Pensions Augmentation Fund Act 1934-1965 repealed

- (1) The *Clergy Pensions Augmentation Fund Act 1934-1965* is repealed and any bylaws or regulations made under that Act are revoked.
- (2) The Clergy Pensions Augmentation Fund is discontinued and moneys in that fund forms part of the Diocesan General Revenue.
- (3) The repeal of the *Clergy Pensions Augmentation Fund Act 1934-1965* does not affect any power referred to in section 6 of that Act that the Archbishop-in-Council might otherwise have.

18. Women Workers Provident Fund Act repealed

- (1) The Women Workers Provident Fund Act is repealed.
- (2) The Provident Fund for Women Workers is discontinued and moneys in that fund form part of the Diocesan General Revenue.
- (3) Despite the repeal of *The Women Workers Provident*

Fund Act the Diocese continues to be liable to meet—

- (a) any obligation existing by virtue of that Act at the time of its repeal, and
- (b) any obligation that, but for the repeal of the Act, would have come into existence under that Act—
as if the Act had not been repealed.

19. Home Missions Act 1962 repealed

The *Home Mission Act 1962* is repealed and—

- (a) the Home Mission Board is abolished and its members go out of office;
- (b) the Home Mission Departments established by section 6 of that Act are abolished;
- (c) any regulations or bylaws made by the Home Mission Board are revoked; and
- (d) any funds under the control of the Home Mission Board (other than any funds forming part of the Anglican Inner City Ministry) are transferred to and form part of the Diocesan General Revenue.

20. The Melbourne Diocesan Centre Act 1962 repealed

(1) *The Melbourne Diocesan Centre Act 1962* is repealed and—

- (a) the Board of Management for the Centre is abolished;
- (b) any regulations or by-laws made by the Board are revoked;
- (c) any funds under its control (other than funds forming part of the Anglican Inner City Ministry) are transferred to and form part of Diocesan General Revenue; and
- (d) the funds of the Centre are transferred to and

become a special account within the Diocesan General Revenue with the name "AICM Distribution Special Account".

(2) As soon as possible after the Archbishop in Council has agreed with the Centre parishes how the funds of the Centre and property of the Centre are to be distributed—

(a) it must—

(i) pay from the AICM Distribution Special Account to each Centre parish the amount that it has been agreed be paid to that Centre parish;

(ii) transfer the balance of that Special Account to the Diocesan General Revenue; and

(iii) dissolve that special account; and

(b) it must provide to the Trusts Corporation and to each Centre parish a statement of the real and leasehold property and securities that were on 31 December 2018 under the control of the Board by virtue of section 12(4) of *The Melbourne Diocesan Centre Act 1962* and regarding which the churchwardens of a Centre parish are to have the rights, duties and obligations of ownership.

(3) In this section—

Centre parish means a parish included in the Melbourne Diocesan Centre on 31 December 2018;

funds of the Centre means the funds referred to in section 12(1) of *The Melbourne Diocesan Centre Act 1962*; and

property of the Centre means real or leasehold

property and securities under the control of the Board by virtue of section 12(4) of *The Melbourne Diocesan Centre Act 1962*.

21. Acts relating to new dioceses repealed

- (1) The *New Dioceses Act 1901* and the *New Dioceses Amendment Act 1905* are repealed.
- (2) Despite the repeal of the *New Dioceses Act 1901* and the *New Dioceses Amendment Act 1905* the Diocese continues to be liable to meet—
 - (a) any obligation existing by virtue of those Acts at the time of their repeal, and
 - (b) any obligation that, but for the repeal of those Acts, would have come into existence under or by virtue of those Acts—as if those Acts had not been repealed.

22. Historic legislation repealed

All legislation or resolutions of the Diocesan Synod or the Church Assembly enacted or made before 1878 which established or continued funds of the Diocese are repealed or rescinded and any moneys in those funds form part of the Diocesan General Revenue.

23. Other funds abolished

- (1) Subject to this section, these funds are abolished, and the moneys in each fund forms part of the Diocesan General Revenue:
 - (a) Church Expenses Management Fund;
 - (b) Church Extension and Development Fund;
 - (c) Motor Vehicle Replacement Fund;
 - (d) St James' Schools Land Trust;

- (e) St Matthew's Church Lands.
- (2) If before this Act comes into force the Archbishop in Council has decided to establish a special account within the Diocesan General Revenue that relates to the same or similar functions as any of these funds, the moneys in the fund that is abolished are to be credited to that special account.

Part 6 — Consequential Amendment

25. Definition of "Diocesan auditor" amended

For the definition of “Diocesan auditor” in section 27 of the **Interpretation of Diocesan Legislation Act 2016** substitute:

“*Diocesan Auditor* means a person appointed to be the Diocesan auditor under section 12(2) of the *Financial Governance Act 2018*.”

25. Miscellaneous amendments

There are repealed:

- (a) section 16 of the *Social Responsibilities Committee Act 1985*;
- (b) section 18 of the *Melbourne Archbishopric Act 1980*;
- (c) the *Bishop Endowment Fund Amendment Act 1967*;
- (d) Acts Nos. 1/1894, 3/1901, 3/1910, 1/1920, 2/1920, 3/1939, 1/1944, 4/1947, 2/1948, 2/1954, 2/1955, 9/1956, 6/1958, 1/1963, 8.1980; 4/1988.

26. Repeal of this Part

This Part is repealed on 1 January 2020.

Schedule 1 —Motor Vehicle Replacement Special Account

1. The Motor Vehicle Replacement Special Account is established for the purposes of the Motor Vehicle Replacement Policies and Procedures that have been adopted by the Archbishop in Council, and as amended from time to time.
2. In this schedule—
 - MVR member* means a cleric who has entitlements arising from the MVR Policy;
 - MVR Policy* means the Motor Vehicle Replacement Policies and Procedures as amended by the Archbishop in Council from time to time; and
 - MVR Special Account* means the special account established by this Schedule.
3. All moneys received by the Diocese from clergy under the MVR Policy must be credited to the MVR Special Account.
4. In respect of each MVR member—
 - a. a statement account is to be maintained by the Diocese;
 - b. their contributions are to be invested with Anglican Funds, and distributions from those investments credited to their account in accordance with balances held; and
 - c. a statement of transactions and the current balance is to be provided every six months.
5. Moneys in the MVR Special Account may only be disbursed—
 - a. to a MVR member in respect of moneys held on their account; and
 - b. in accordance with the MVR Policy.

(Passed 18 October 2019, assented to 24 October 2019)