

No. 6 of 1980.

Serial No. 107

Reprinted as at 1 May 2019 incorporating amendments up to No.1/2018²

Melbourne Archbishopric Act 1980

AN ACT

to provide for the appointment of Archbishops of the Metropolitan Diocese of Melbourne and for the performance of certain duties of an Archbishop during vacancies of the See, and to provide for Archbishops who shall be superannuated and for those purposes to amend and re-enact the **Melbourne Archbishopric Act 1906-1962** and the **Archbishops' Superannuation Act 1972**.

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

Short title

1 This Act may be cited as the **Melbourne Archbishopric Act 1980**.

ss 2 – 4 repealed by No.2/1988

* * *

Vacancy of See of Archbishop at age 70

s 5 am 2/2015

5 The See of the Archbishop becomes vacant on the earlier of—

- (a) the date on which the Archbishop attains the age of 70 years; and

Melbourne Archbishopric Act 1980

- (b) the date on which the Archbishop resigns as a director of the Diocesan Corporation.

Resignation of Archbishop

- 6 Where the Archbishop desires to resign his See forthwith or on a date within the next following six months he shall –
- (a) give to the Senior Bishop of the Province notice in writing of his desire and of the date upon which he desires his resignation to take effect; and
- (b) give a copy of that notice to the Registrar of the Diocese— and the See of the Archbishop becomes vacant on the date specified in that notice.

ss 7 – 9 repealed by No.2/1988

* * *

Steps required to give effect to election

- 10 Upon receiving the report of the Board of an election having been made, the Chancellor, the Vicar General or Administrator, as the case may be, shall forthwith take the necessary steps for the purpose of giving effect to the election in accordance with the rules for the election of a Metropolitan of the Province of Victoria for the time being in force in the Diocese of Melbourne and in accordance with the rules for the consecration of Bishops made by the General Synod for the time being in force in that Diocese.

ss 11 – 14 repealed by No.2/1988

* * *

Melbourne Archbishopric Act 1980

Powers of the Archbishop

s 15 am 2/2015

- 15 (1) When an Archbishop of Melbourne shall have been installed he shall subject to all Acts of this Synod be a Bishop within the meaning of **The Church Constitution Act** and of **The Church Constitution Amendment Act** and of **The Church of England in Australia Constitution** and shall have and may exercise all powers and authorities which a Bishop of the Church of England may lawfully exercise within his Diocese and shall be for all purposes the successor of the last preceding Archbishop.
- (2) The powers and authorities of the Archbishop include the power and authority to license a clerk to any role, office or position in the Diocese and, subject to any Act of this Synod in relation to any such role, role or position, to appoint and remove that clerk and to direct the manner in which the functions and responsibilities of that role, office or position are to be discharged.

Powers of Commissary, &c., during the absence of the Archbishop

s 16 am No. 5/2016

- 16 During the absence of the Archbishop from his See or during any period which may be proposed by the Archbishop and agreed to by the Council of the Diocese:
- (a) Every person appointed Vicar-General or Commissary by the Archbishop by writing under his hand and seal registered in the Registry of the Diocese shall and may until such appointment shall be revoked and its revocation registered as aforesaid use exercise do and perform from time to time all such authorities powers and acts as are hereinafter described as belonging to the office of Administrator except as may be otherwise provided in his appointment.

Melbourne Archbishopric Act 1980

- (b) If no Vicar-General or Commissary shall have been appointed as aforesaid or in the event of his having been so appointed and of his dying resigning or becoming incapable or unwilling to act then the said authorities power and acts shall and may be used exercised done or performed during such absence by the senior Assistant Bishop of the Diocese of Melbourne able and willing to act.

Administration during vacancy of See

s 17 am No. 5/2016

- 17 During the vacancy of the See the said Vicar-General or Commissary appointed as aforesaid (if any) or if there be no such person holding a commission as aforesaid then living and capable and willing to act as aforesaid the senior Assistant Bishop of the Diocese of Melbourne able and willing to act shall be the Administrator of the Diocese within the meaning of this Act until a new Archbishop of the See shall have been installed.

s 18 rep by 1/2018

* * *

Rights, powers, &c., of Administrator

- 19 Subject to Act No. 45 of 1854 of the Parliament of the State of Victoria known as the Church Constitution Act 1854 during the vacancy of the See the Administrator shall administer the affairs of the Diocese in accordance with the Acts Resolutions and Regulations of Synod and shall and may use exercise do and perform from time to time *MUTATIS MUTANDIS* all and every the authorities powers acts matters and things whatsoever which the Archbishop is or may be empowered or required to use exercise do or perform by virtue of any Act or Acts of Synod heretofore or hereafter to be passed and every authority power matter or thing so used exercised done or performed by such Administrator shall be as good and effectual to all intents and

purposes as if the same had been used exercised done or performed by the Archbishop.

Further powers, &c.

20 During the vacancy of the See the Administrator shall do and perform (subject to the Acts Resolutions and Regulations of Synod in force for the time being) all such acts matters and things not provided for by such Acts Resolutions and Regulations as may be necessary in the opinion of the Council of the Diocese for the efficient management of the affairs of the said Diocese. Any person holding at the time of the occurrence of such vacancy any office terminable upon the happening of such event may unless removed by competent authority hold the same and continue to perform duties thereof until a new Archbishop shall have been installed.

Disability of Archbishop

s 21 am No. 5/2016

21 (1) Where it shall be established to the satisfaction of the majority of the members of the Council of the Diocese assembled at a meeting specially summoned by the Secretary to the Council on the requisition of nine members of the said Council to be held not less than seven days after the posting of the notice calling the meeting that there is *PRIMA FACIE* reason to believe that the Archbishop is for any reason incapable of discharging the duties of his office the opinion of three duly qualified medical practitioners two of whom shall be appointed by the Council of the Diocese one of whom shall be appointed by the Archbishop or in default of such an appointment shall be appointed by the Council of the Diocese to represent the Archbishop evidenced by a certificate or certificates in writing under their hand to that effect having been placed before the said Council at such meeting then if the Archbishop and a majority of the

Melbourne Archbishopric Act 1980

members of the said Council are in agreement that the Archbishop is incapable of discharging the duties of his office the members of the Council may pass a resolution to that effect.

- (2) If the Archbishop and a majority of the members of the Council are not in agreement as aforesaid then the Secretary shall cause the said certificate or certificates to be forwarded to the senior Bishop of the Province able and willing to act with a request that he together with the two next senior Bishops of the Province excluding the Archbishop of Melbourne with all convenient speed determine after hearing such evidence as they may require whether the Archbishop is incapable as aforesaid and forward their opinion to the said Secretary.
- (3) On a resolution being passed as aforesaid by agreement with the Archbishop or if no such agreement is reached then if in the opinion of the said three Bishops the Archbishop is incapable as aforesaid the Vicar-General or Commissary (if any) appointed under Section 16 of this Act shall have and may exercise the powers contained in the said Section 16 until the Archbishop shall in his own opinion and the opinion of a majority of the members of the said Council or in the opinion of three senior Bishops of the Province able and willing to act for the time being have ceased to be incapable as aforesaid and such opinion shall have been communicated to the said Secretary or until the Archbishop shall have died or his See becomes vacant by any other means.
- (4) If no Vicar-General or Commissary shall have been appointed as provided by Section 16 or in the event of his dying or becoming incapable of acting or unwilling to act

Melbourne Archbishopric Act 1980

then the said authorities powers and acts shall and may be used exercised done or performed by the senior Assistant Bishop of the Diocese of Melbourne able and willing to act.

Provision for Archbishop to be superannuated

22 (1) An Archbishop who attains the age of 70 years shall be deemed to have been declared superannuated.

(2) Where an Archbishop –

- (a) having attained the age of 65, resigns his See; or
- (b) before attaining the age of 65 years, produces to the Council of the Diocese a certificate of two legally qualified Medical Practitioners approved by the Council of the Diocese that he is permanently incapacitated for duty –

the Council of the Diocese shall declare the Archbishop to be superannuated.

Superannuation entitlements

S. 23 substituted by No. 7/1992³

23 (1) The **Superannuation of Clergy Act 1980** applies to an Archbishop elected after the commencement of the **Melbourne Archbishopric (Superannuation) Act 1992** as if a reference in the **Superannuation of Clergy Act 1980** to a Clerk licensed in the Diocese included a reference to the Archbishop.

(2) The Diocese is liable to pay the amount referred to in section 6 of the **Superannuation of Clergy Act 1980**, as applied by this Act, or, if the Archbishop in Council so resolves at any time, a greater amount.

ss 24 – 26 repealed by No.7/1992

Melbourne Archbishopric Act 1980

* * *

Interpretation

- 27 (1) In this Act, ***Bishop of the Province*** means Diocesan Bishop of the Province of Victoria.
- (2) For the purposes of this Act, the seniority of Bishops of the Province or of Coadjutor Bishops shall be determined by the date of consecration.

Melbourne Archbishopric Act 1980

NOTES

1 The **Melbourne Archbishopric Act 1980** was assented to on 9 October 1980 and came into operation on 9 October 1980.

2 This reprint incorporates the amendments made to the **Melbourne Archbishopric Act 1980** by the following Acts:

Name	No.	Date of assent	Date of commencement
<i>Archbishop Election Act 1988</i>	2/1988	7 October 1988	7 October 1988
<i>Melbourne Archbishopric (Superannuation) Act 1992</i>	7/1992	15 October 1992	15 October 1992
<i>Melbourne Anglican Diocesan Corporation (Transition and Consequential Amendments) Act 2015</i>	2/2015	23 July 2015	On the date when ss 9 and 10 of the Melbourne Anglican Diocesan Corporation Act 2015 came into force
<i>Diocesan Legislation (Revision and Repeals) Act 2016</i>	5/2018	15 December 2016	16 December 2016
<i>Financial Governance Act 2018</i>	1/2018	24 October 2018	1 January 2019 (except s 16)

3 Section 4 of the *Melbourne Archbishopric (Superannuation) Act 1992* provided as follows:

Transitional provision

4. Sections 23, 24, 25 and 26 of the **Melbourne Archbishopric Act 1980** continue to apply in respect of the Archbishop holding office at the commencement of this Act, despite the amendment of that Act by section 3 of this Act, but subject to and in accordance with the arrangement reported to the Division of Administrative Services of the Diocese on 12 December 1991.