



**Parish Governance (Transition, Consequential Amendments and Repeals) Act 2013**

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**Parish Governance (Transition, Consequential Amendments and Repeals) Act 2013**

**AN ACT**

**to make provision for the commencement and interpretation of the *Parish Governance Act 2013*, to amend the *Interpretation Act 1878*, the *Trustees Act 1910*, the *Appointments Act 1971*, the *Authorised Congregations Act 2004* and the *Professional Standards Act 2009*, to repeal the *Parishes Act 1987* and the *Representation of the Laity Act 1950*, 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:

**1. Short Title**

This Act may be cited as the Parish Governance (Transition, Consequential Amendments and Repeals) Act 2013.

**2. Commencement**

This Act commences on the commencement of the *Parish Governance Act 2013*.

**3. Interpretation**

- (1) In this Act “**Principal Act**” means the *Parish Governance Act 2013*.
- (2) Unless the contrary intention appears, words and expressions in this Act have the same meaning as those words and expressions have in the Principal Act.

**4. Powers prior to commencement of the Principal Act**

- (1) Where a provision of the Principal Act will on its coming into operation confer power, or amend another Act so as to confer power under the other Act as so amended, to—

- (a) make regulations or otherwise prescribe matters or things; or
- (b) give notices; or
- (c) make appointments; or
- (d) give delegations; or
- (e) propose, adopt and register modified parish rules for meetings and officers; or
- (f) do any other thing—

for the purposes of that provision or that other Act, unless the contrary

intention appears, the power may be exercised at any time after the passing of the Principal Act but its exercise does not confer a right or impose an obligation on a person before the coming into operation of the Principal Act or provision except insofar as is necessary or expedient for the purpose of—

- (g) bringing the Principal Act or provision into operation; or
- (h) making the Principal Act or provision or the other Act as amended fully effective at or after that coming into operation.

(2) Without limiting subsection (1), an appointee may exercise a power, and a body may meet and exercise a power, under that subsection before the coming into operation of Principal Act or that provision in the same manner and subject to the same conditions or limitations (if any) as if the Principal Act or that provision were in operation.

(3) For the purposes of any provision as to the duration of the term of office of an appointee (including a member of a body), that term does not begin until the coming into operation of the Principal Act or provision despite the exercise of any power under this section before that coming into operation.

#### **5. Transitional Provisions**

Schedule 1 applies.

#### **6. Amendment to Interpretation Act 1878**

Schedule 2 applies.

#### **7. Amendment to Trustees Act 1910**

Schedule 3 applies.

#### **8. Amendments to Appointments Act 1971**

Schedule 4 applies.

#### **9. Amendments to Authorised Anglican Congregations Act 2004**

Schedule 5 applies.

#### **10. Amendments to Professional Standards Act 2009**

Schedule 6 applies.

#### **11. Repeal of Legislation**

Schedule 7 applies.

## SCHEDULE 1 — TRANSITION AND SAVINGS

### 1. Interpretation

- 1.1 In this Schedule, “**the former Act**” means the *Parishes Act 1987*.

### 2. Continuation of Parishes and Parish Boundaries

- 2.1 On the commencement of section 6 of the Principal Act—
- (a) a parish then in existence continues to be a parish as if it had been declared under sub-section (1) of that section; and
  - (b) the description of parish preserved in the Registry of the Diocese continues to be the description for the purposes of section 6 of that Act until altered as provided for in that Act.

### 3. Continuation of Parish Electoral Rolls

- 3.1 A church electoral roll in place on the commencement of section 9 of the Principal Act remains the parish electoral roll of the parish until it is amended or revised as provided for in that section.
- 3.2 If on the commencement of section 9 of the Principal Act there are two or more churches in a parish—
- (a) the parish electoral roll is the roll formed by combining the church electoral rolls of all those churches; and
  - (b) a parishioner on the roll of a church is to be considered associated with the worship centre corresponding to that church for the purposes of section 9(5) of that Act.

### 4. Continuation of Offices and Bodies

- 4.1 On the commencement of the Principal Act and whether or not a parish has adopted modified parish rules for meetings and officers, until the end of the next parish annual meeting—
- (a) all the churchwardens in the parish continue to be churchwardens of the parish;
  - (b) all the members of the vestry or vestries in the parish continue to be members of a single parish council;
  - (c) the treasurer of the parish continues to be the treasurer of the parish or, if there are two or more treasurers, the treasurer chosen by the churchwardens becomes the treasurer for the parish;
  - (d) the members of the incumbency committee continue to be the members of the incumbency committee; and
  - (e) if there has been more than one church in the parish, the accounts of the parish are to be prepared, audited or independently examined, and presented to the parish annual meeting showing both the accounts of the separate churches and a profit and loss statement and balance sheet for the parish as a whole.

- 4.2 Despite anything in this Act, a person who is on the commencement of the Principal Act a parish officer and a disqualified person immediately ceases to be a parish officer.

#### **5. Deemed Period of service as Churchwarden or Member of a Parish Council**

- 5.1 A person who on the commencement of the Principal Act has been a churchwarden, a vestry member or at different times a churchwarden and vestry member—
- (a) for a continuous period of more than three years is to be deemed at the end of the annual meeting next following to have been a churchwarden or member of the parish council for a continuous period of three years; and
  - (b) for a continuous period of three years or less is to be considered to have been a churchwarden or member of the parish council for the period for which they have actually held that office or those offices.
- 5.2 Where—
- (a) immediately before the commencement of the Act Part III of the *Parishes Act 1987* applied to a parish; and
  - (b) on the commencement of the Principal Act a person has been a churchwarden or a vestry member of a church in that parish; and
  - (c) section 18 applies to that parish; and
  - (d) the former church is a worship centre that decides to have a vestry—  
the period of continuous service of that person as a vestry member for the purposes of the parish constitution is to be considered as at the end of the annual meeting of that local worship centre next following to be—
  - (e) if that person has been a churchwarden or a vestry member or at different times a churchwarden and vestry member in that church for a continuous period of more than three years, three years; and
  - (f) if that person has been a churchwarden or a vestry member or at different times a churchwarden and vestry member in that church for a continuous period of three years or less, the period for which he or she has actually held that office or those offices.

#### **6. Financial Year and Annual Meeting in 2014**

- 6.1 Despite any provision to the contrary in the Principal Act the accounts of the parish for the financial year ending 30 September 2014 are to be prepared, subject to audit, review or independent examination, and presented to the annual meeting of the parish as if the *Parishes Act 1987* and the regulations made under that Act continued in full force and effect.

#### **7. Appointments and Signatories**

- 7.1 On the coming into effect of the Principal Act and until otherwise determined in accordance with the Principal Act—
- (a) a person holding under the former Act any office or position referred to in section 29 of the Principal Act continues to hold that office or position;

and

- (b) a person authorized as a signatory to any bank account under the former Act continues to be so authorized.

### **8. New Act not to revive former rights or abolish existing rights**

8.1 Where by this Act an Act or a provision of the former Act or any other Act is repealed or amended the repeal or amendment shall not, unless the contrary intention expressly appears—

- (a) revive anything not in force or existing at the time at which the repeal, amendment, expiry, lapsing or ceasing to have effect becomes operative;
- (b) affect the previous operation of that Act or provision or anything duly done or suffered under that Act or provision; or
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under that Act or provision—

and insofar as any thing done under the repealed Act or provision, or having effect as if so made or done, could have been made or done under the *Parish Governance Act 2013*, it shall have effect as if made or done under that Act.

### **SCHEDULE 2 — AMENDMENTS TO INTERPRETATION ACT 1878**

#### **1. Definition of Incumbent**

- 1.1 For section 7(9) of the *Interpretation Act 1878* substitute ‘ “**Incumbent**” ’ means a Clerk instituted by the Archbishop to a parish and “**incumbency**” means holding office as an incumbent.’

#### **2. Definition of Parishioner**

- 2.1 In section 7(10) of the *Interpretation Act 1878* substitute ‘ “**Parishioner**” ’ means a person who is duly enrolled on a parish electoral roll under the provisions of the *Parish Governance Act 2013*.’

#### **3. Definition of Vicarage**

- 3.1 In section 7(11) of the *Interpretation Act 1878*, for the expression ‘The word “**Parsonage**” ’ substitute ‘The words “**Parsonage**” or “**vicarage**” ’.

### **SCHEDULE 3 — AMENDMENTS TO TRUSTEES ACT 1910**

#### **1. “Vestry” to become “Parish Council”**

- 1.1 In the *Trustees Act 1910* for the word “Vestry” in—
  - (a) the heading to section 11;
  - (b) section 12;
  - (c) section 89 (where twice appearing)—**substitute** “parish council”.

## **2. “Vestrymen” to become “Members of Parish Council”**

- 2.1 In section 11 of the *Trustees Act 1910* for the word “Vestrymen” **substitute** “members of the parish council”.

## **3. Repeal of Section 13**

- 3.1 Section 13 of the *Trustees Act 1910* is repealed.

## **4. References to Parishes Act 1987**

- 4.1 For sections 87A and 87B of the *Trustees Act 1910* **substitute**:  
*‘Act to be read with Parish Governance Act 2013*  
87A. This Act shall be read and construed as one with the *Parish Governance Act 2013.*’

### **SCHEDULE 4 — AMENDMENTS TO APPOINTMENTS ACT 1971**

#### **1. Definition of "Incumbency Committee"**

- 1.1 In section 4, **insert** the definition:  
"incumbency committee" means the incumbency committee constituted under section 21 of the *Parish Governance Act 2013*.

#### **2. Definition of "Incumbent" and "Incumbency"**

- 2.1 In section 4, the definition of "incumbent" is **repealed**.

#### **3. Part 1 (The Constitution of Parishes) Repealed**

- 3.1 Part 1 of the *Appointments Act 1971* is **repealed**.

#### **4. Sections 14 and 15 (Constitution and Election of Incumbency Committee) Repealed**

- 4.1 Sections 14 and 15 of the *Appointments Act 1971* are repealed.

### **SCHEDULE 5 — AMENDMENTS TO THE AUTHORISED ANGLICAN CONGREGATIONS ACT 2004**

#### **1. Authorised Anglican Congregations Act 2004**

For section 6(1) and (2) of the *Authorised Anglican Congregations Act 2004* substitute:

##### ***“12. Application of certain Acts of Synod***

- (1) The Parish Governance Act 2013 except for—  
(a) Parts 2, 3, 6, and 7; and  
(b) section 18—  
applies to an Authorised Anglican Congregation as if the Authorised Anglican Congregation were a parish.”

## **SCHEDULE 6 — AMENDMENTS TO THE PROFESSIONAL STANDARDS ACT 2009**

### **1. References to “Incumbent” in Professional Standards Act 2009**

In section 3 of the Professional Standards Act 2009—

- (a) in the definition of “Church body” for “an incumbent” **substitute** “a vicar”;
- (b) in the definition of “Church worker” in paragraph (c) for “the incumbent” where twice appearing **substitute** “the vicar”;
- (c) the definition of “incumbent” is **repealed**;
- (d) following the definition of “spiritual abuse” **insert** ‘ “vicar” has the same meaning as in the *Parish Governance Act 2013*.’

### **2. Other References to Expressions used in The Professional Standards Act 2009**

In section 3 of the *Professional Standards Act 2009*, after sub-section (2) insert—

“(2A) In this Act—

- (a) a reference to a vestry is to be taken as including a reference to a parish council;
- (b) a reference to a general meeting of a parish is to be taken as including a reference to a statutory parish meeting; and
- (c) a reference to a treasurer appointed by the churchwardens is to be taken as being a reference to a treasurer however elected or appointed.”

## **SCHEDULE 7 — REPEAL OF LEGISLATION**

### **1. Repeal of Parishes Act 1987**

The *Parishes Act 1987* is **repealed**.

### **2. Repeal of Representation of the Laity Act 1950**

The *Representation of the Laity Act 1950* is **repealed**.

## **NOTES**

The **Parish Governance (Transition, Consequential Amendments and Repeals) Act 2013** was assented to on 12 December 2013 and came into operation on 1 July 2014