

Diocesan Meetings (Temporary Arrangements) Act 2021

AN ACT

to provide for temporary arrangements for the holding and conduct of the 53rd Synod, parish statutory meetings and other Diocesan meetings, for the validation of certain actions and decisions in 2020, 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 — Introductory

1 Short title

This Act may be cited as the **Diocesan Meetings (Temporary Arrangements) Act 2021**.

2 Commencement

This Act comes into operation on the date on which it receives the assent of the Archbishop.

3 Period of operation and repeal

- (1) This Act ceases to operate on 1 January 2023 and is repealed on that date.
- (2) Despite sub-section (1), an act or thing, including any decision, action, election, or appointment, validated by this Act, or validly done or made under or in reliance on this Act, or on regulations, sessional orders or other instruments made under this Act before it is repealed, continues to be validated or to have been validly done or made notwithstanding that repeal.

4 Interpretation and operation

- (1) In this Act—

teleconference means a form of electronic communication that enables contemporaneous audio communication between persons physically located at different places; and

videoconference means a form of electronic communication that enables contemporaneous audio and visual communication between persons physically located at different places.

- (2) Subject to this section, the provisions of this Act and any regulations, sessional orders or other instruments made under this Act operate despite—
- (a) any provisions of the **Synod Act 1972** and the Standing Orders made by the Synod;
 - (b) the **Parish Governance Act 2013** and the Parish Governance Rules in operation under that Act; and
 - (c) the provisions of any other Act insofar as they are inconsistent with regulations made under Part 4.
- (3) Despite sub-section (2)—
- (a) the **Synod Act 1972** and the Standing Orders made by the Synod;
 - (b) the **Parish Governance Act 2013** and the Parish Governance Rules in operation under that Act; and
 - (c) any other Act the operation of which is affected by regulations made under Part 4—
- operate except as otherwise provided in this Act.

Part 2 — Synod

5 Mandates for subsequent ordinary sessions

- (1) Despite section 24 of the **Synod Act 1972** the Archbishop may convene the second ordinary session of the Synod at any date in 2021.

- (2) Despite section 21 of the **Synod Act 1972**, the 53rd Synod must continue and not be dissolved until it has met for at least three ordinary sessions.

6 Place of Synod where restrictions on gatherings

- (1) Where the Archbishop convenes a meeting of the Synod to be held at a place and it is not possible by law for it to be held at that place the meeting is valid if held at some other place that is permitted by law and notified to all members of Synod not less than 4 days before the meeting.

- (2) The Archbishop may convene a meeting of the Synod to be held partly or wholly by teleconference or videoconference or at a number of places linked by videoconference facilities.

Note: Sub-section (1) applies in relation to any place referred to in sub-section (2).

- (3) Where a meeting of the Synod is convened under sub-section (2) every member of Synod must be allowed to participate as fully as if present at the place at which the President is present when chairing the meeting.

- (4) Where the Archbishop convenes a meeting of the Synod to be held in a manner referred to in sub-section (2)—
- (a) he or she may appoint such persons as he or she considers necessary to assist in the chairing and orderly conduct of the meeting and the equal and full participation of members of Synod; and
- (b) an electronic system approved by the Synod Business Committee may be used for any purpose for which the Standing Orders make provision for those present at a meeting of the Synod to vote, rise in their places, or otherwise communicate a position in relation to the business before the meeting.

Note: Paragraph (b) does not extend to elections. There is no provision for elections in the Standing Orders. Section 31 of the **Regulation of Elections Act 1980** allows for the conduct of elections by postal ballot.

- (5) For the purpose of determining the number of members present at any time during a meeting of the Synod convened under subsection (2), the number of members present is the total number present in person, by teleconference or by videoconference.

7 Modifications to Standing Orders

- (1) The Archbishop in Council, acting on the advice of the Synod Business Committee, may adopt sessional orders to apply to any session of the 53rd Synod.
- (2) The Archbishop in Council may not delegate the power in subsection (1).
- (3) Sessional orders adopted under this section operate until disallowed by the Synod.

Part 3 — Statutory Parish Meetings and Elections

8 Validation of parish meeting and elections in 2020

An annual meeting or an election that was conducted in 2020 in conformity with the decision of the Archbishop in Council of 13 August 2020 and set out in Schedule 1 is to be treated for all purposes as having been validly held or conducted and the decisions of that meeting to have been validly made.

9 Special rules relating to parish statutory meetings

- (1) The Archbishop in Council may make regulations to operate until 1 January 2023 for—
- (a) giving notice of statutory parish meetings to be held in person, by teleconference or by videoconference;
- (b) conducting statutory parish meetings wholly or in part by teleconference or videoconference, whether or not other people are participating in person;
- (c) providing papers for statutory parish meetings;
- (d) the conduct of elections required to be conducted at or at the time of annual meetings; and

- (e) any other matter or thing necessary to be prescribed for the effective operation of these regulations.
- (2) A requirement or process contained in regulations made under sub-section (1) is a requirement or process in the **Parish Governance Act 2013** or a parish's parish rules for meetings and officers for the purposes of section 81 of that Act.

Part 4 — Meetings under other Synod legislation

10 Special rules relating to meetings of other Diocesan entities

- (1) In this section, *statutory committee* means a council, board, committee, tribunal, panel or other group established by an Act of the Synod other than—
 - (a) a legal person established under the laws of the Commonwealth of Australia or the State of Victoria; or
 - (b) a statutory committee in respect of which provision has been made for meeting or operating by teleconference or videoconference in the Act of Synod by which it is constituted.
- (2) The Archbishop in Council may make regulations to operate until 1 January 2023 either generally or in relation to a particular statutory committee for—
 - (a) attendance at and participation in meetings of a statutory committee in person, or by teleconference or videoconference;
 - (b) conducting proceedings in person, by teleconference or videoconference by or before statutory committees that require or involve the participation of other persons; and
 - (c) any other matter or thing necessary to be prescribed for the effective operation of these regulations.

SCHEDULE 1

Statutory Parish Meetings in 2020

GUIDELINES

These guidelines have been approved by the Archbishop in Council.

Introduction

These guidelines have been prepared in recognition of the fact that the laws of the Commonwealth of Australia or the State of Victoria may prevent statutory parish meetings being conducted during 2020 in accordance with Synod legislation.

While there is no provision in Synod legislation to cover such a situation, at the next meeting of the Diocesan Synod legislation will be introduced to confirm the validity of any statutory parish meeting, any decision taken, and any election conducted in conformity with these guidelines.

The Archbishop in Council will not treat anything done in conformity with these guidelines as a failure to follow a requirement or process in the *Parish Governance Act 2013* or a parish's parish rules for the purposes of section 81 of the Parish Governance Act.

1. Period of operation

These guidelines apply to any statutory parish meeting held before the next session of Synod.

2. Overarching principles

These guidelines are to be followed in accordance with these principles:

- (a) all parishioners are equally entitled to participate in the governance of the parish, and the conduct of meetings and elections must take into account and respect that entitlement;
- (b) the entitlement of parishioners to participate in meetings and elections is not dependent on their access to or willingness to use the internet or related technologies;
- (c) parishioners should be allowed to participate in meetings and elections even though they are unwilling to meet in person because of the risks to their health from social interaction;

- (d) not everyone who is entitled to participate in meetings and elections will be able to do so;

Note: for example, through travel, work commitments, or frailty.

- (e) no-one, including the vicar, the churchwardens and other parish officeholders and staff is to be subject to material additional risk to their health or well-being.

3. Convening and notice of statutory parish meetings

- (1) Subject to this clause, the parish council of a parish may determine that a statutory parish meeting is to be conducted—

- (a) only in person;
- (b) only by videoconference and teleconference; or
- (c) both in person and by videoconference and teleconference.

- (2) The parish council must not determine that a statutory parish meeting is to be only in person if at the time of the meeting it is not legally permitted for every parishioner to be present in person at the place where the meeting is to be held.

For example, if a parish has 100 parishioners on the voting roll and the law permits a gathering of no more than 50 people, the meeting cannot be only in person because it would be illegal for more than half the parishioners to be present. However, a parish with 48 parishioners could be held only in person, as every parishioner and the vicar could be present.

- (3) In addition to any requirements in the parish rules for meetings and officers operating in a parish, if the parish council determines that a statutory parish meeting is to be conducted partly or wholly by videoconference and teleconference,—

- (a) the notice of the meeting must be given by email to each parishioner whose email address is held by the parish secretary;
- (b) the notice of the meeting must be posted on any website of the parish; and
- (c) each parishioner must be given by email details of how to participate in the meeting by videoconference and teleconference at least 5 days before the meeting.

4. Participating in a statutory parish meeting

- (1) A meeting conducted partly or wholly by videoconference and teleconference will be deemed to be validly conducted if each parishioner present by videoconference and teleconference is able and allowed to participate in the proceedings of the meeting.
- (2) Anyone chairing or organizing the meeting must take all reasonable steps to ensure that parishioners participating by videoconference and teleconference can indicate a wish to move or second motions, to speak and to vote.
- (3) In the case of a motion that is not part of the business of the meeting by virtue of rule 3.4 of the parish's rules (other than paragraph (1) of that rule), the parish council may before the meeting, and the parish meeting may during the meeting, decide that the debate and voting on the motion is to take place by one or more of the following (in any combination):
 - (a) debate and decision in the meeting;
 - (b) debate both in the meeting and by circulation of written arguments to parishioners;
 - (c) debate only by circulation of written arguments to parishioners;
 - (d) the development and circulation of different forms of the motion incorporating proposed amendments following discussion between the mover and seconder of the motion and those wishing to propose amendments;
 - (e) voting by mail;
 - (f) voting by email;
 - (g) voting by other internet systems;
 - (h) voting by text message.

Note: this paragraph relates to motions arising under "other business". Such a motion may be complex or controversial, or may be made so through an amendment proposed to an initially straightforward motion. It allows the parish council ahead of a meeting, or the meeting itself, to have the motion considered, or further considered, and resolved in one of the ways listed.

- (4) The vicar, after consulting with the churchwardens, may appoint one or more persons, whether parishioners or other persons associated with

the parish, to assist in relation to any of the processes permitted by these guidelines.

- (5) A person attending a parish statutory meeting by videoconference or teleconference is to be considered to be present at the meeting.

5. Papers and reports for statutory parish meeting

Where a statutory parish meeting is conducted partly or wholly by videoconference and teleconference, every paper and report required to be tabled or by motion received by that meeting must at least 5 days before the meeting—

- (a) be sent by email to every parishioner whose email address is held by the parish secretary; and
- (b) be available in hard copy to any parishioner who has requested them.

6. Elections at the time of a statutory parish meeting

- (1) This clause applies where—
- (a) it is not permitted by the laws of the Commonwealth of Australia or the State of Victoria to have a statutory parish meeting with all the parishioners physically present who wish to be physically present;
- (b) an election is or may be required; and
- (c) it is determined by—
- (i) the parish council at the time of fixing the date for the meeting; or
- (ii) by the meeting itself—
- that the election is to be by secret ballot.
- (2) Where this clause applies apply by virtue of a determination by the parish council, the parish must also determine that any election is to be conducted—
- (a) wholly by postal ballot; or
- (b) by a ballot that is partly postal and partly electronic.
- (3) When there is a determination under sub-clause (2), notice of the meeting must include details of—
- (a) the date by which nominations are to be received by the vicar;
- (b) how nominations can be made, seconded and agreed to by the

- candidate;
- (c) the means by which nominations may be given to the vicar, including—
 - (i) if in person, at what places and times the vicar will be personally present;
 - (ii) if by post, to what postal address; and
 - (iii) if electronically, to what email address; and
 - (d) the dates on which voting will open and close.

Note: the *Electronic Transactions Act 2000* (Vic) permits information to be conveyed by electronic means.

- (4) Where this clause applies by virtue of a determination by the statutory parish meeting itself, the meeting must determine the dates on which voting will open and close.

Note: The other matters referred to in sub-section (3) will already have been addressed by the usual procedures under the parish's rules.

- (5) A postal or electronic ballot must adhere to the overarching principles and be conducted so far as practicable—
 - (a) by a returning officer who is not a parishioner;
 - (b) in a manner that—
 - (i) allows each parishioner a secret ballot;
 - (ii) does not allow a parishioner to vote more than once; and
 - (iii) keeps an auditable record of each vote.

I certify that the above guidelines
were approved by the Archbishop in Council
on 13 August 2020.

Malcolm Tadgell
Registrar

14 August 2020

NOTES

1. The **Diocesan Meetings (Temporary Arrangements) Act 2021** was passed on 16 April 2021 and assented to on 16 April 2021 and came into operation on that date.