

*Interpretation of Diocesan Legislation Act 2016*

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CONSOLIDATED ACTS OF THE SYNOD OF THE ANGLICAN DIOCESE OF MELBOURNE

*Interpretation of Diocesan Legislation Act 2016*

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No 1 of 2016

Serial No 230

Reprinted as at 1 December 2021 with amendments to Act No. 2/2021<sup>2</sup>

## **Interpretation of Diocesan Legislation Act 2016**

### AN ACT

to make fresh provision with respect to the construction and operation of, and the shortening of the language used in, Acts of Synod and subordinate legislation, to repeal the **Interpretation Act 1878** and the **Amendments Incorporation Act 1913**, to amend the **Parish Governance Act 2013**, the **Diocese of Melbourne Insurance Act 1986**, the **Regulation of Elections Act 1980**, the **Shared Use of Church Property Act 2002**, and the **Diocesan Building and Historic Property Committee Act 1985**, 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 **Interpretation of Diocesan Legislation Act 2016**.

#### **2 Purpose**

The purpose of this Act is to provide definitions used in Acts of Synod and subordinate legislation of the Diocese, and to provide aids in the interpretation and application of the legislation of the Diocese.

### **3 Commencement**

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

### **4 Definitions**

In this Act, unless inconsistent with the context or subject-matter—

*Act* means any regulation, act or resolution of this Synod made with the concurrence of a majority both of the clergy and of the laity, the votes of the clergy and those of the laity being separately taken, that has received the assent of the Archbishop

*amended*, in relation to subordinate legislation, includes altered or varied

*Diocesan legislation* means any Act or subordinate legislation

*made*, in relation to subordinate legislation, includes issued or granted

*repealed*, in relation to subordinate legislation, includes revoked or rescinded

*reprint* includes a version of legislation made publicly available in an electronic format

*subordinate legislation* means any regulation or rule that is made under an Act and that is of a legislative character.

### **5 Application, construction and repeal provisions**

The provisions of this Act—

- (a) unless a contrary intention appears in this Act or in the Diocesan legislation concerned, extend and apply to all Acts, whether passed before or after the commencement of this Act, and to all subordinate legislation, whether made before or after that commencement; and

(b) apply to the interpretation of this Act.

## **Part 2—The mechanics of Diocesan legislation**

### **Division 1—Acts**

#### **6 Sections to be substantive enactments**

Every section of an Act has effect as a substantive enactment without introductory words.

#### **7 Amendment or repeal in same session**

An Act may be amended or repealed in the session of Synod in which it is passed.

#### **8 Numbering of Acts**

The Acts passed in each calendar year shall be numbered in regular arithmetical series, beginning with the number 1, in the order in which they receive the assent of the Archbishop in that calendar year.

#### **9 Citation of Acts**

An Act may be cited by—

- (a) the short title authorized by that Act whether or not that Act or the provision of that Act authorizing that form of citation has come into operation or has been repealed; or
- (b) if there is no short title authorized by that Act, the title appearing before the enacting words (or, if there is a preamble, before the preamble) whether or not that Act has come into operation or has been repealed.

#### **10 Construction of power to fix commencement of Act**

- (1) If an Act provides for the Act or a provision of the Act to come into operation on a day to be fixed, the Act confers power on the Archbishop in Council to fix a day for the

Act or provision to come into operation.

- (2) If an Act provides for the Act or provisions of the Act to come into operation on a day or days to be fixed, the Act confers power on the Archbishop in Council to fix—
  - (a) a day for the Act or provisions to come into operation;  
or
  - (b) different days for different provisions of the Act to come into operation.
- (3) If an Act makes no provision for the commencement of the Act or of a provision of the Act, the Act or the provision must be taken to provide for the Act or those provisions to come into operation on the day following the day on which the Act receives the assent of the Archbishop.
- (4) For the purposes of this section, provision includes a Chapter, Part, Division, Sub-division, section or Schedule of an Act, but does not include part only of a section or a Schedule.

## **11 Repeal and re-enactment**

Where an Act or a provision of an Act is repealed and re-enacted (with or without modification) then, unless the contrary intention expressly appears—

- (a) any reference in any Act or subordinate legislation to the repealed Act or provision shall be construed as a reference to the re-enacted Act or provision; and
- (b) insofar as any subordinate legislation made or other 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 re-enacted Act or provision, it shall have effect as if made or done under the re-enacted Act or provision.

## **12 Construction of references in Acts to other enactments**

- (1) A reference in an Act to that Act or to any provision of that Act or to any other Act or to any provision of any other Act or to any subordinate legislation or provision of subordinate legislation shall, unless the contrary intention appears, be construed—
  - (a) if the Act, subordinate legislation or provision in question has been amended, as a reference to the Act, subordinate legislation or provision as amended and in force for the time being;
  - (b) if the Act, subordinate legislation or provision in question has been re-enacted or re-made (with or without modification), as a reference to the Act, subordinate legislation or provision as re-enacted or re-made and in force for the time being;
  - (c) if the Act, subordinate legislation or provision in question has been re-enacted or re-made (with or without modification) and subsequently amended, as a reference to the Act, subordinate legislation or provision as re-enacted or re-made and as subsequently amended and in force for the time being; and
  - (d) if the Act, subordinate legislation or provision in question has been repealed and not re-enacted or re-made, as a reference to the Act, subordinate legislation or provision as in force immediately before its repeal.
- (2) A reference in an Act to any provision of that or any other Act or to any provision of subordinate legislation must, if the provision in question has been renumbered or relocated, be construed as a reference to the provision as renumbered or relocated and in force for the time being, unless the contrary intention appears.



### **13 Incorporation of amendments**

- (1) If an Act has been amended then in any reprinting of the Act the Registrar must reprint the Act as so amended.
- (2) There must be printed in a reprint of an Act—
  - (a) a reference to each Act or subordinate legislation by which the reprinted Act is amended; and
  - (b) a reference (whether in a sidenote, footnote or endnote) to each provision of the reprinted Act that is amended and the provision of the Act or subordinate legislation by which the amendment is made.
- (3) If an Act has been amended then in any reprinting of the Act the Registrar must reprint the Act as so amended..

## **Division 2—Subordinate legislation**

### **14 Construction of subordinate legislation**

Where an Act confers power to make subordinate legislation, expressions used in subordinate legislation made in the exercise of that power shall, unless the contrary intention appears, have the same respective meanings as they have in the Act conferring the power as amended and in force for the time being.

### **15 Implied power to repeal or amend subordinate legislations**

Where an Act confers power to make subordinate legislation the power shall, unless the contrary intention expressly appears, be construed as including a power, exercisable in the same manner and subject to the same conditions or limitations (if any), to repeal or amend subordinate legislation made in the exercise of that power.

### **Division 3—Diocesan legislation generally**

#### **16 Time of commencement of Acts**

An Act has effect from the beginning of the day on which it comes into operation.

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#### **17 Exercise of powers between passing and commencement of Diocesan legislation**

(1) This section applies where Diocesan legislation or a provision in Diocesan legislation does not come into operation immediately on the passing or making of the Diocesan legislation and will, on its coming into operation, confer power or amend Diocesan legislation so as to confer power under the other Diocesan legislation as so amended to—

- (a) make subordinate legislation; or
- (b) give notices; or
- (c) make appointments; or
- (d) establish a body; or
- (e) prescribe forms; or
- (f) do any other thing—

for the purposes of that Diocesan legislation or provision or that other Diocesan legislation.

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

- (a) bringing the Diocesan legislation or provision into

- operation; or
- (b) making the Diocesan legislation or provision or the Diocesan legislation as amended fully effective at or after that coming into operation.
- (3) Without limiting subsection (2), an appointee may exercise a power, and a body may meet and exercise a power, under that subsection before the coming into operation of the Diocesan legislation or provision in the same manner and subject to the same conditions or limitations (if any) and with an entitlement to payment of the same remuneration or allowances (if any) as if the Diocesan legislation or provision were in operation.
- (4) 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 Act or provision despite the exercise of any power under this section before that coming into operation.

### **18 Provision as to effect of repeal etc of Diocesan legislation**

- (1) Where any Diocesan legislation or any provision in Diocesan legislation—
- (a) is repealed; or
- (b) expires, lapses or otherwise ceases to have effect—
- any Diocesan legislation or provision of Diocesan legislation that had been repealed by the first-mentioned Diocesan legislation or provision shall not, unless the contrary intention expressly appears, be construed as having been revived in consequence of the repeal, expiry, lapsing or ceasing to have effect of the first-mentioned Diocesan legislation or provision.
- (2) Where any Diocesan legislation or any provision in

Diocesan legislation —

- (a) is repealed or amended; or
  - (b) expires, lapses or otherwise ceases to have effect—  
the repeal, amendment, expiry, lapsing or ceasing to have effect does not, unless the contrary intention expressly appears—
  - (c) revive anything not in force or existing at the time at which the repeal, amendment, expiry, lapsing or ceasing to have effect becomes operative;
  - (d) affect the previous operation of that Act or provision or anything duly done or suffered under that Act or provision;
  - (e) affect any right, privilege, obligation or liability acquired, accrued or incurred under that Act or provision;
  - (f) affect any immunity or indemnity conferred or given by or under that Act or provision.
- (3) Without limiting subsection (2), if a provision of an Act that is of a savings or transitional nature (whether or not the Act describes it as such) or that validates anything that is or may otherwise be invalid—
- (a) is repealed; or
  - (b) expires, lapses or otherwise ceases to have effect—  
the repeal, expiry, lapsing or ceasing to have effect of that provision does not, unless the contrary intention expressly appears, affect the operation of the savings or transitional provision or end the validating effect of the provision, as the case requires.
- (4) References in subsections (1), (2) and (3) to the repeal of an Act or of a provision of an Act shall be construed as including references to—

- (a) a repeal effected by implication; and
- (b) a repeal effected by abrogating or limiting the effect of the Act or provision or excluding the application of the Act or provision to any person, subject-matter or circumstance.

### **19 Effect of repeal etc of amending Diocesan legislation**

Where any Diocesan legislation or any provision in Diocesan legislation that directly amended some other Diocesan legislation—

(a) is repealed; or

(b) expires, lapses or otherwise ceases to have effect—

the repeal, expiry, lapsing or ceasing to have effect of that Act or provision shall not, unless the contrary intention expressly appears, affect in any way the direct amendments made in the other Diocesan legislation or the operation or effect of those amendments.

### **20 Definitions inserted by amending Diocesan legislation**

If Diocesan legislation amends a provision of another Act or another subordinate legislation that contains definitions by inserting another definition in that provision but does not specify where in that provision the definition is to be inserted, it must be taken to be inserted in the appropriate alphabetical position.

### **21 Numbering consequential on insertion of new provisions**

If a section that is not divided into subsections is amended by the insertion of one or more subsections, the words of the section (other than the heading, if any) as in force immediately before the commencement of the amendment must be taken to be subsection (1) of that section and to be amended, by force of the amending provision, by the insertion of the expression

"(1)" before those words.

## **22 Style changes**

- (1) The Registrar, in preparing any Diocesan legislation for reprinting or other publication, must give effect to the styles and style changes set out in Schedule 1.
- (2) A style change made under subsection (1) has effect for all purposes as if it had been made by an Act.

## **Part 3—Interpreting Diocesan legislation**

### **23 Principles of and aids to interpretation**

In the interpretation of a provision in Diocesan legislation—

- (a) a construction that would promote the purpose or object underlying the Diocesan legislation (whether or not that purpose or object is expressly stated in the legislation) shall be preferred to a construction that would not promote that purpose or object; and
- (b) consideration may be given to any matter or document that is relevant including but not limited to—
  - (i) all indications provided by the Act or subordinate legislation, including punctuation;
  - (ii) reports of proceedings in the Synod; and
  - (iii) explanatory memoranda or other documents laid before or otherwise presented to the Synod.

### **24 Headings, Schedules, marginal notes and footnotes**

- (1) The following form part of all Diocesan legislation:
  - (a) Chapters, Parts, Divisions or Subdivisions into which Diocesan legislation is divided; or
  - (b) Schedules to Diocesan legislation;
  - (c) headings to—
    - (i) sections, clauses, regulations, rules or items into which Diocesan legislation, or a Schedule to Diocesan legislation, is divided; or
    - (ii) tables, columns, examples, diagrams, notes (being notes at the foot of provisions and not marginal notes, footnotes or endnotes) or forms in Diocesan legislation;

- (d) an example (being an example at the foot of a provision under the heading "Example" or "Examples"), diagram or note (being a note at the foot of a provision and not a marginal note, footnote or endnote);
  - (e) punctuation;
  - (f) a provision number;
  - (g) the title of an Act appearing before the enacting words (or, before any preamble), if there is no short title authorized by the Act.
- (2) The following do not form part of Diocesan legislation:
- (a) a marginal note, footnote or endnote;
  - (b) an explanatory memorandum or table of provisions;
  - (c) an index or other material printed after the endnotes;

## **25 Examples**

If Diocesan legislation includes at the foot of a provision under the heading "Example" or "Examples" an example of the operation of the provision, the example—

- (a) is not exhaustive; and
- (b) may extend, but does not limit, the meaning of the provision.

## **26 Gender and number**

In Diocesan legislation, unless the contrary intention appears—

- (a) words importing a gender include every other gender; and
- (b) words in the singular include the plural; and
- (c) words in the plural include the singular.



s 27 am by Nos. 1/2018, 3/2018, 5/2018 and 2/2021

## **27 Definitions**

In all Diocesan legislations, unless the contrary intention appears—

*Act* means an Act passed by the Synod of the Diocese of Melbourne;

*Advocate* means the Advocate of the Diocese appointed under the **Diocesan Tribunal Act 2021**;

*Archbishop* means the Archbishop of Melbourne;

*Archbishop in Council* means the Archbishop in Council constituted under the **Archbishop in Council Act 2018**

*Assistant Bishop* means a person holding the office of Assistant Bishop under the **Assistant Bishops Act 1985**

*Authorised Anglican Congregation* means a congregation declared to be an Authorised Anglican Congregation under section 8B of the **Parish Governance Act 2013**

*Chancellor* means the Chancellor of the Diocese holding office under the Chancellors Canon 2001 of this Church;

*church* when applied to a building means a building of which the whole or some part is set apart and consecrated or intended to be set apart and consecrated exclusively for the worship of Almighty God according to the doctrine rites and usages of the Anglican Church of Australia

*clergy* means collectively all clerks resident in the Diocese or licensed by the Archbishop

*clergy authorization* means a licence or other written instrument by which a person in Holy Orders is appointed, authorized, permitted or sanctioned by the Archbishop to exercise ministry as a person in Holy Orders;

***clerk*** means a person who, in accordance with the Canons of the General Synod or the law of this Church applying at the relevant time has been—

- (a) consecrated or ordained to that office by bishops, or a bishop, of this Church, or by bishops, or a bishop, of a Church in communion with this Church; or
- (b) received into the ministry of this Church by a bishop of a diocese of this Church in accordance with the Holy Orders (Reception and Ministry) Canon 2004—

and who has not relinquished or been deposed from all of the orders to which that person has been consecrated or ordained

***clerk in full orders*** means a clerk who is a priest or a bishop;

***Coadjutor Bishop*** includes an Assistant Bishop

***Constitution*** means the Constitution of this Church;

***Constitution of the Diocese*** means the Act of the Parliament of Victoria number 45 of 1854 as amended by the Act of the Parliament of Victoria number 454 of 1873;

***Council of the Diocese*** means the Archbishop in Council constituted under the **Archbishop in Council Act 2018**;

***Deputy Chancellor*** means the Deputy Chancellor of the diocese holding office under the Chancellors Canon 2001 of this Church;

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

***Diocesan Corporation*** means the Melbourne Anglican Diocesan Corporation Ltd incorporated pursuant to the **Melbourne Anglican Diocesan Corporation Act 2015**;

***General Synod*** means the General Synod of this Church;

***incumbent*** means a clerk instituted by the Archbishop to a parish and incumbency means holding office as an incumbent;

***lay authorization*** means a licence or other written instrument by which a person who is not a person in Holy Orders is appointed, authorized, permitted or sanctioned by the Archbishop to exercise ministry;

***member of the immediate family*** in relation to an individual means a person who is—

- (a) a parent, child or sibling of the individual;
- (b) a spouse or domestic partner of the individual; or
- (c) a relative of the individual who is a member of the individual's household;

***Members of this Church*** means members of this Church in the Diocese of Melbourne;

***month*** means calendar month;

***parishioner*** means a person who is duly enrolled on a parish electoral roll under the provisions of the **Parish Governance Act 2013**;

***parish*** means a portion of the Diocese declared to be a parish under section 6 of the **Parish Governance Act 2013**;

***Parochial District*** means any portion of the Diocese which is under the charge of a Clerk duly licensed by the Archbishop and is not within the boundaries of any parish;

***parsonage*** means vicarage;

***land*** includes buildings and other structures permanently affixed to land, land covered with water, and any estate, interest, easement, servitude, privilege or right in or over land;

***prescribed*** means prescribed by the Act in which the word is used or by subordinate legislation made under or pursuant to that Act;

***principal door*** in relation to a church or other building consecrated or licensed for Divine Service shall mean that door through which the greater part of the congregation commonly enters and leaves the church or other building provided that in any case of doubt or difference of opinion the Archdeacon of the Archdeaconry in which the church or other building stands may at the request of the Incumbent designate one door as the principal door and the door so designated shall be deemed to be the principal door;

***Regional bishop*** means an Assistant Bishop performing a function or doing something by virtue of a determination of the Archbishop under section 6A of the **Assistant Bishops Act 1985**;

***Registrar*** and ***Registrar of the Diocese*** mean the person who, for the purposes of the **Anglican Trusts Corporation Act 1884**, is the current holder of the office of registrar of the Diocese of Melbourne and is so registered in the Register of Successory Trusts of the State of Victoria;

***Secretary to the Council*** means a person appointed by the Archbishop in Council to be the Secretary of that body and, in the absence of a such an appointment, the Registrar;

***this Church*** means the Anglican Church of Australia constituted by the constitution in Schedule A of the **Anglican Church of Australia Constitution Act 1960** of the Victorian Parliament;

***this Synod*** means the Synod constituted by the Constitution of the Diocese;

***Trust Corporation*** means the Melbourne Anglican Trusts Corporation a body corporate established under the **Anglican Trusts Corporation Act 1884** (Act No. 797) of the State of Victoria;

***vicarage*** means the dwelling-house in any parish provided for the permanent use of the incumbent thereof and the land connected and occupied therewith.

## **28 Parts of speech and grammatical forms**

Where a word or phrase is given a particular meaning in Diocesan legislation, other parts of speech and grammatical forms of that word or phrase have, unless the contrary intention appears, corresponding meanings.

## **29 Time**

- (1) Where in Diocesan legislation a period of time is expressed to begin on, or to be reckoned from, a particular day, that day shall not be included in the period.
- (2) Where in Diocesan legislation a period of time is expressed to end on, or to be reckoned to, a particular day, that day shall be included in the period.
- (3) Where the time limited by Diocesan legislation for the doing of any act or thing expires or falls on a day that is a holiday, the time so limited shall extend to, and the act or thing may be done on, the day next following that is not a holiday.
- (4) In subsection (3) holiday means—
  - (a) a Saturday or Sunday;
  - (b) a day appointed under the **Public Holidays Act 1993** of the State of Victoria as a public holiday in the place in which the act or thing is to be or may be done.
- (5) In Diocesan legislation, unless the contrary intention

expressly appears—

- (a) a reference to midnight, in relation to a particular day, shall be construed as a reference to the point of time at which that day ends;
  - (b) a reference, without qualification, to a year shall be construed as a reference to a period of twelve months;
  - (c) a reference to a financial year shall be construed as a reference to the period of twelve months ending at midnight on 30 June; and
  - (d) a reference to a calendar year shall be construed as a reference to the period of twelve months ending at midnight on 31 December.
- (6) In a provision of Diocesan legislation the expression "now", "heretofore" or "hereafter" shall be construed as referring to the time when the provision in which the expression occurs came into operation.

### **30 Construction of "may" and "shall"**

- (1) Where in any Diocesan legislation passed or made after the commencement of this Act the word "may" is used in conferring a power, that word must be construed as meaning that the power so conferred may be exercised, or not, at discretion.
- (2) Where any Diocesan legislation passed or made after the commencement of this Act the word "shall" is used in conferring a power, that word shall be construed as meaning that the power so conferred must be exercised.

### **31 Adoption of Interpretation of Legislation Act 1984 (Victoria) in other cases**

In any matter of interpretation of Diocesan legislation not provided for in this Act the **Interpretation of Legislation Act 1984** of the State of Victoria is to apply.

## **Part 4—Exercise of powers given by Diocesan legislation**

### **32 Exercise of powers and performance of duties**

Unless the contrary intention appears, where Diocesan legislation confers a power or imposes a duty, the power may be exercised and the duty shall be performed—

- (a) from time to time as occasion requires; and
- (b) if conferred or imposed on the holder of an office or position as such, by the person for the time being holding, acting in or performing the duties of the office or position.

### **33 Power to appoint**

- (1) If Diocesan legislation confers on a person or body (the appointer) a power to appoint a person to an office, the power, unless the contrary intention appears, includes a power—
  - (a) to appoint a person to act in the office—
    - (i) until a person is appointed to the office; or
    - (ii) during a vacancy in the office;
  - (b) to remove a person appointed to the office;
  - (c) to suspend a person appointed to the office and to appoint another person temporarily in the place of the person so suspended;
  - (d) if the holder of the office is absent or, for any other reason, unable to perform the functions and duties of the office, to appoint a person to act in place of the holder;
  - (e) if the holder of the office is, for any reason, unable to perform a particular function or duty on a particular occasion or in relation to a particular matter, to

appoint a person to perform that function or duty on that occasion or in relation to that matter.

- (2) The following paragraphs apply in relation to an appointment of a person (the appointee) made under subsection (1)—
- (a) the appointer—
    - (i) may determine the terms and conditions of the appointment;
    - (ii) may terminate the appointment at any time;
  - (b) the appointment ceases to have effect if the appointee resigns in writing delivered to the appointer;
  - (c) while the appointee is acting in the office under subsection (1) (except paragraph (e)), then, subject to the terms and conditions of the appointment—
    - (i) the appointee has and may exercise all the powers, and shall perform all the functions and duties, of the holder of the office; and
    - (ii) this or any other Act applies in relation to the appointment as if the appointee were the holder of the office;
  - (d) while the appointee is appointed to perform a function or duty on a particular occasion or in relation to a particular matter, then, subject to the terms and conditions of the appointment—
    - (i) the appointee has and may exercise all the powers of the holder of the office necessary for performing that function or duty; and
    - (ii) this or any other Act applies in relation to the appointment as if the appointee were the holder of the office.
- (3) If the power of a person or body to make an appointment



to an office is exercisable only on the recommendation, or subject to the approval or consent, of some other person or body, the power to make an appointment to act in the office, or to remove or suspend, is only exercisable on the recommendation, or subject to the approval or consent, of that other person or body, unless the contrary intention appears.

### **34 Acting appointments**

If a provision of an Act (other than section 41 of this Act) or of subordinate legislation confers on a person or body (the appointer) a power to appoint a person (the appointee) to act in a particular office, then, except so far as the Act or subordinate legislation otherwise provides—

- (a) the appointment may be expressed to have effect only in the circumstances specified in the instrument of appointment or in relation to a particular function or duty or on a particular occasion or in relation to a particular matter;
- (b) the appointer—
  - (i) may determine the terms and conditions of the appointment, including remuneration and allowances (if any);
  - (ii) may terminate the appointment at any time;
- (c) if the office is, or becomes, vacant while the appointee is acting, the appointee may, subject to paragraph (a), continue to act until—
  - (i) the appointer otherwise directs; or
  - (ii) a person is appointed to the office or the vacancy is filled—whichever first occurs;
- (e) the appointment ceases to have effect if the appointee resigns in writing delivered to the appointer;

- (f) while the appointee is acting in the office, then, subject to the terms and conditions of the appointment—
  - (i) the appointee has and may exercise—
    - (A) all the powers, and shall perform all the functions and duties, of the holder of the office;  
or
    - (B) all the powers of the holder of the office necessary for performing the particular function or duty for which the appointment is made—  
as the case requires; and
  - (ii) this or any other Act applies in relation to the appointment as if the appointee were the holder of the office.

### **35 Power to make instrument includes power to revoke or amend**

If Diocesan legislation confers power to make, issue or grant an instrument (not being subordinate legislation) the power shall, unless the contrary intention appears, be construed as including a power, exercisable in the same manner and subject to the same conditions or limitations (if any), to repeal, revoke, rescind, amend, alter or vary an instrument made in the exercise of that power.

### **36 Exercise of delegated powers**

- (1) Where the discharge, exercise or performance by a person of a responsibility, power, authority, duty or function under Diocesan legislation is dependent upon the opinion, belief or state of mind of that person in relation to a matter and the responsibility, power, authority, duty or function is, in accordance with the Act or subordinate legislation, delegated, the delegate may, unless the contrary intention appears, discharge, exercise or perform the responsibility,

power, authority, duty or function upon the delegate's own opinion, belief or state of mind (as the case requires) in relation to that matter.

- (2) Subsection (1) applies in relation to a delegation made under Diocesan legislation, whether the delegation was made before or after the commencement of this Act.

### **37 Construction of power to delegate**

- (1) If Diocesan legislation confers on a person or body a power to delegate the discharge, exercise or performance of a responsibility, power, authority, duty or function under that or any other Act or subordinate legislation, then, unless the contrary intention appears—
- (a) the power to delegate does not include the power to delegate that power of delegation;
  - (b) the delegation does not prevent the discharge, exercise or performance of the responsibility, power, authority, duty or function by the person or body;
  - (c) the delegation may be made subject to such conditions or limitations as the person or body may specify; and
  - (d) a responsibility, power, authority, duty or function so delegated, when discharged, exercised or performed by the delegate, shall, for the purposes of the Act or subordinate legislation, be taken to have been discharged, exercised or performed by the person or body.
- (2) If Diocesan legislation confers power to delegate to the holder of an office or position then, unless the contrary intention appears, a delegation may be made to any person for the time being acting in or performing the duties of that office or position.

**38 Strict compliance with prescribed forms not necessary**

Where a form is prescribed by Diocesan legislation for any purpose, any form in or to the like effect of the prescribed form shall, unless the contrary intention appears, be sufficient.

*Part 5 has been repealed.*

## **Schedule 1—Styles and style changes**

### Section 22

- 1 For a Part, Division or Subdivision heading that is not formatted using a style under which only the first letter of the initial word and of any proper noun is capitalised substitute that heading formatted using that style.
- 2 In the case of a Schedule that has a heading designating the number of that Schedule and a title of that Schedule, for that heading and title substitute a heading combining that heading and title, separated by an em rule, and formatted using a style under which only the first letter of the initial word and of any proper noun is capitalised.
- 3 For a Schedule heading (other than a Schedule heading to which clause 2 applies), or a Part heading within a Schedule, that is not formatted using a style under which only the first letter of the initial word and of any proper noun is capitalised substitute that heading formatted using that style.
- 4 Omit any double quotation marks around a defined word or defined expression.
- 5 Print defined words and expression in bold italics.
- 6 At the beginning of each provision—
  - (a) omit the full stop immediately following the provision number; and
  - (b) in the case of any Diocesan legislation enacted or made—
    - (i) after 12 October 2016, or

- (ii) enacted or made before 12 October 2016 with a heading to the provision forming part of the Diocesan legislation so enacted or made—

print the provision number and heading to the provision on a single line and in bold and not italics.

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*Interpretation of Diocesan Legislation Act 2016*

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NOTES

1. The *Interpretation of Diocesan Legislation Act 2016* was assented to on 15 December 2016 and commenced on 15 December 2016

2. The *Interpretation of Diocesan Legislation Act 2016* has been amended by the following Acts.

<b>Name</b>	<b>No</b>	<b>Date of Assent</b>	<b>Date of Commencement</b>
<i>Financial Governance Act 2018</i>	1/2018	24 October 2018	1 January 2019
<i>Melbourne Anglican Trust Corporation (Transitional Provisions and Consequential Amendments) Act 2018</i>	3/2018	24 October 2018	24 October 2018
<i>Archbishop in Council (Transitional Provisions, Consequential Amendments and Repeal) Act 2018</i>	5/2018	24 October 2018	24 October 2018
<i>Diocesan Legislation (Revisions and Repeals) Act 2021</i>	2/2021	4 November 2021	4 November 2021