

No. 2 of 1972

Serial No. 87

Reprinted as at 1 December 2021 incorporating amendments up to No. 2/2021²

Synod Act 1972

AN ACT

to amend and re-enact the Synod Act 1878

Short Title

1 This Act may be cited as the **Synod Act 1972**.

Operation

2 This Act shall come into operation on the dissolution of this present Synod.

Repeal

3 The Synod Act 1878-1959 shall be repealed except as to every operation already effected by or act done under any enactment therein comprised or as to any right title obligation or liability already acquired or accrued under any such enactment.

Incumbent

4 For the purposes of this Act except where the context otherwise requires ***clerk in charge*** and ***clerk*** mean where there is no other clerk in charge of the parish “Archdeacon of the archdeaconry in which the Parish lies” as the case requires.

Lay representatives of parishes

5 Every parish may as hereinafter provided elect two lay representatives to be members of Synod and one alternate lay representative to be a member of Synod in the circumstances prescribed by this Act.

Parish with additional stipendiary clerk may elect 3 lay representatives

s.5AA amended by No. 9/1993

- 5AA (1) If a parish pays a full time stipend for a clerk assisting the incumbent and pays its parochial assessment in full, the parish may apply in writing to the Archbishop for authority to elect an additional lay representative.
- (2) If the Archbishop in Council approves an application under sub-section (1), a reference in this Act to two lay representatives or to two candidates has effect as a reference to three lay representatives or three candidates, as the case requires.
- (3) An approval under this section has effect for the purposes of the next following general election of lay representatives but has no effect if, on the date the mandate is issued for that election, the parish is not qualified to make the application under sub-section (1).

Other lay representatives

s. 5A inserted by No. 5/1986 and amended by Nos. 9/1993, 1/2004, 1/2008, 2/2011, 3/2015, 7/2015, 3/2016, 6/2016 and 2/2021

- 5A (1) A lay person who is the Chancellor, a Deputy Chancellor, the Advocate or the Registrar of the Diocese is ex officio a lay member of Synod.
- (1A) A lay person who is –
- (a) a lay representative of the Diocese of Melbourne in General Synod; or
 - (b) a lay representative of the Diocese of Melbourne in the Provincial Council of the Province of Victoria; or
 - (c) a lay member of the Archbishop in Council of the Diocese of Melbourne; or

* * *

- (e) the head of an Anglican school –
and is not otherwise a lay member of Synod, shall, on making an application in writing to the Archbishop, become an ex officio lay member of Synod.
- (2) The electoral roll members of St Paul’s Cathedral Melbourne may in accordance with the **Cathedral Act 2016** and this Act, elect two lay representatives to be members of Synod and one alternate lay representative to be a member of Synod in the circumstances prescribed by this Act.
- (3) The Canterbury Fellowship may, in a manner approved by the Archbishop in Council and in accordance with this Act, elect or appoint one lay representative to be a member of Synod and one alternate lay representative to be a member of Synod in the circumstances prescribed by this Act.
- (4) Each religious community approved for the purposes of this Act by the Archbishop in Council may, in a manner approved by the Archbishop in Council and in accordance with this Act, elect or appoint one of its lay members to be a member of Synod and one of its lay members to be an alternate member of Synod in the circumstances prescribed by this Act.
- (5) Sub-section (4) does not apply if a member of the religious community is a clerical member of Synod.
- (6) Each congregation designated for the purposes of this Act by the Archbishop in Council as a non-parochial congregation may, in a manner approved by the Archbishop in Council and in accordance with this Act, elect or appoint one lay representative to be a member of

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Synod and one alternate lay representative to be a member of Synod in the circumstances prescribed by this Act.

- (7) Each Authorised Anglican Congregation may, as if it were a parish, elect one lay representative to be a member of Synod and one alternate lay representative to be a member of Synod in the circumstances prescribed by this Act.
- (8) For the purposes of this section, a person is the head of an Anglican school if the person –
- (a) holds a current appointment as the principal (however so designated) of a school listed as an Anglican school in the current Yearbook of the Diocese of Melbourne, and
 - (b) is a communicant member of the Anglican Church of Australia and belongs to no other religious denomination.

s. 5B rep 7/2015

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Eligibility

s. 6 amended by Nos. 5/1986, 7/1991, 4/2000, 1/2004 and 6/2016

- 6 Every person resident within the Diocese of Melbourne if he or she have attained the age of eighteen years and if he or she be a communicant member of the Anglican Church of Australia and in the case of parish representatives if he or she be nominated in the manner hereinafter directed shall be capable of being elected or appointed as a lay representative or alternate lay representative.

Persons on an electoral roll may vote

- 7 Every person whose name is on any church electoral roll of any church in a parish may vote at any election in that parish for the purposes of this Act.

List of parishes

- 8 Previous to a general election of lay representatives an alternate lay representatives the Archbishop shall cause to be prepared a list of parishes in the diocese and such list shall be settled by him in Council and upon the settlement thereof the same shall be signed by him and such list shall be laid upon the table of the Synod and may be varied from time to time by the Archbishop in Council on being moved to do so by the Synod or for the purpose of adding new parishes thereto or removing parishes therefrom and such list shall be the standing list of parishes.

Mandate

s. 9 substituted by No. 5/1986 and amended by No. 1/2004

- 9 For obtaining a general election or appointment of lay representatives and alternate lay representatives, the Archbishop –
- (a) by the mandate under his hand addressed to each clerk in charge of a parish shall require such clerk to invite electors to proceed to the election of lay representatives and an alternate lay representative in manner hereinafter mentioned and within a period to be specified in such mandate which period the Archbishop may if he think fit by instrument under his hand extend; and
 - (b) by mandate under his hand addressed to the Dean of Melbourne, the chaplain of the Canterbury Fellowship, the Superior of each approved religious community and the chaplain or other person having the care of each designated non-parochial congregation or Authorised Anglican Congregation, shall require the election or appointment in accordance with section 5A of lay representatives and alternate lay representatives within the period mentioned in the mandate or any longer period approved by the Archbishop.

New parishes

- 10 When a new parish is constituted or the boundaries of a parish are altered after a general election of lay representatives and alternate lay representatives has taken place the Archbishop shall issue his mandate for the election of lay representatives and an alternate lay representative for that parish and such election shall be held as nearly as may be *mutatis mutandis* provided herein for by-elections.

Notice for nominations

- 11 (1) Every such clerk upon receipt of such a mandate shall give or cause to be given in every building within such parish which has been duly consecrated or licensed for Divine service notice during the time of holding service therein specifying a period within which nomination papers may be sent to him.
- (2) Such period shall not be less than fifteen days from the day of the notice and shall expire immediately before the hour of the first service at the principal church of the parish on the Sunday immediately preceding the first day which may be appointed in accordance with this Act for the holding of the election.
- (3) Every such clerk as soon as conveniently may be after the receipt of a nomination paper shall cause the name of every person duly nominated with the office to which he is nominated and the names of his nominators to be affixed to or be displayed in a position adjacent to the principal door of every such building PROVIDED that any person who has been nominated may at any time by writing under his hand addressed to such clerk withdraw his name as a candidate for election as a lay representative or alternate lay representative as the case may be.

Nomination papers

- 12 Every nomination paper shall be in one or other of the forms contained in the Schedule hereto marked A or to the like effect and shall be signed by not less than five electors.

Nominations

- 13 (1) If no more than two candidates be nominated for election as lay representatives the person or persons nominated shall be deemed to have been duly elected.
- (2) If only one candidate (excluding any person deemed to be elected as lay representative) be nominated for election as alternate lay representative that person shall be deemed to have been duly elected.
- (3) Where any person or persons is or are deemed to be duly elected pursuant to this section such clerk shall forthwith certify the same to the Archbishop.

Election

- 14 If—
- (a) more than two candidates be nominated for election as lay representatives; or
- (b) more than one candidate (excluding any person deemed to be elected as a lay representative) be nominated for election as alternative representative —

such clerk shall forthwith give or cause to be given in every such building notice appointing a place or places and for each place the day and the hour for proceeding to an election and of the time or times during which the poll shall on each day and at each such place be kept open and shall cause a copy of such notice to be posted on or be displayed in a position adjacent to the principal door of every such building.

Elections at annual meetings and other times

s. 15 amended by No. 2/1987

- 15 (1) Where the Archbishop's mandate for a general election or by-election is given on or after 15 July and before 15 September the election shall be held on the day or days and at the place of, and during hours which shall be or include a reasonable part of the time of the annual meeting of each church in the parish PROVIDED that the Archbishop may where he deems the election to be urgent direct in his mandate that the election be held on or before some date specified therein which shall not be less than thirty nor more than sixty days after the date on which the mandate is given and the election shall be held accordingly.
- (2) Where the Archbishop's mandate is given at any time not during the period referred to in sub-section (1) the Archbishop shall specify some date not less than thirty nor more than sixty days after the date of the giving of the mandate on or before which the election shall be held.

Voting papers

- 16 Such clerk or his deputy shall attend at each polling place during the hours appointed for the poll to be kept open at that place and having first initialled the same shall issue voting papers to qualified electors and shall keep a record of the name of every person to whom a voting paper is issued.

Declaration by elector

- 17 Every elector before exercising his right to vote shall in the presence of such clerk or his deputy make the declaration in Schedule B hereto.

Voting

- 18 (1) Every voter having received a voting paper as aforesaid shall forthwith and without leaving the polling place fill in

the same and shall deposit the voting paper in a ballot box provided by the clerk or his deputy.

- (2) No ballot box shall be opened nor any voting paper scrutinised until after the close of the voting at every polling place in the parish but as soon as convenient after the close of the poll the clerk or his deputy shall proceed to record the votes and sign the record thereof and in the case of deputies forward the voting papers and the record to the clerk who shall determine upon whom the election has fallen and in the event of an equality of votes the clerk due notice having been given to the candidates shall determine by lot upon whom the election has fallen and shall certify the result to the Archbishop PROVIDED always that where there has been a ballot both for lay representatives and for alternate lay representative the clerk shall determine the result of the election of lay representatives first and a person elected as a lay representative shall be deemed to be not eligible for election as an alternate lay representative.

Certification of election

- 19 Such clerk shall cause to be delivered to each person elected a certificate of his election and shall countersign and forward to the Archbishop all nominations subscriptions and records of votes.

Report of election of other representatives

s. 19A inserted by No. 5/1986 and amended by No. 1/2004

- 19A The Dean of Melbourne, the chaplain of the Canterbury Fellowship, the superior of each approved religious community and the chaplain or person having the care of a designated non-parochial congregation or Authorised Anglican Congregation shall forward to the Archbishop the

names of the lay representative or lay representatives elected or appointed in response to the mandate.

s. 19B rep 7/2015

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Declaration by lay representatives

s. 20 amended by Nos. 5/1986, 7/1991, 9/1993, 2/2011 and 2/2021

20 Each lay person elected or appointed or holding office as a lay member of Synod ex officio as aforesaid shall before taking part or voting at Synod sign and deliver to the President thereof a declaration in the form following:-

“I whose name is hereto subscribed do declare that I am communicant member of the Anglican Church of Australia and belong to no other religious denomination”.

Duration of Synod

s. 21 amended by No. 2/1987

21 Every future Synod that may be constituted shall continue as a Synod until a date fixed by the Archbishop in Council being a date not less than 30 months and not more than 42 months after the date on which the Archbishop last issued a mandate for a general election; but liable in each case to dissolution in the meantime by the Archbishop who shall have the right to dissolve every Synod subject to the provisions hereinafter contained.

Dissolution

s. 22 amended by No. 5/1986

22 Within six months after every dissolution of the Synod by effluxion of time or otherwise a general election or appointment of lay representatives and alternate lay representatives shall take place.

Mandate for general election

s. 23 amended by No. 5/1986

- 23 The Archbishop may issue his mandate for a general election or appointment at any time within the two months next preceding the due date for dissolution of Synod by effluxion of time and where his mandate has not been so issued he shall issue it within four months next following the dissolution of Synod.

Convening of Synod

s. 24 amended by Nos. 5/1986 and 9/1993

- 24 Once at least in every year the Archbishop shall convene the Synod by summoning thereto all clerks duly licensed and the lay representatives of all parishes and the lay representatives of all congregations and bodies referred to in section 5A and the lay representatives of the regions referred to in section 5B at such time and place as the Archbishop may fix or direct so that a period of eighteen calendar months shall not intervene between the last sitting of the Synod in one session and the first sitting of the Synod in the next session or between the last session of one Synod and the first session of the next Synod and every Synod shall have power to adjourn from time to time as may be agreed upon by a majority of the members thereof present and voting and shall not be subject to prorogued or dissolved without its own consent until it shall have sat on seven several days.

Notification in Government Gazette

s. 25 amended by No. 5/1986

- 25 The notification in the Government Gazette of the time and place appointed for the first meeting of any new Synod or of the first meeting after any prorogation thereof and the holding of a meeting in pursuance of such notification shall be sufficient legal evidence of the convening thereof and of compliance with the provisions or requirements of this Act as to the convening

of any Synod and as to the election or appointment and summoning of representatives.

Special session

26 When it shall have been deemed expedient by the Archbishop to convene the Synod for a special purpose and in the mandate convening the Synod or by notice given to the members of the Synod in any other manner shall have stated the special purpose for which the Synod has been convened, the session held in pursuance of that mandate shall be deemed a special session.

Business at special session

27 Unless the Synod by a majority of two-thirds of the clergy and of the laity then present and with the consent of the Archbishop shall otherwise determine no business shall be transacted at a special session other than that which the Synod shall have been specially convened to consider.

No other business

28 No business required by an Act or resolution of the Synod to be done at an ordinary session shall be done at a special session unless with the consent of a majority of two-thirds of the clergy and of the laity then present and with the consent of the Archbishop.

Term of office not affected

s 29 am by No. 2/2021

29 The term of the office powers and duties of members of the Archbishop in Council and of Boards and Committees appointed at an ordinary session of Synod shall not be limited or otherwise affected by a special session of the Synod anything contained in any Act of the Synod to the contrary notwithstanding.

Alternate lay representatives

s. 30 amended by Nos. 5/1986, 9/1993, 7/1999, 1/2004, 3/2015 and 5/2016

30 Where –

- (1) a lay representative gives notice in writing to the clerk in charge of his parish or to the Dean of Melbourne, chaplain of the Canterbury Fellowship, superior of the religious community or chaplain or other person having the care of the non-parochial congregation or Authorised Anglican Congregation, as the case may be, that he will be absent from Synod for an entire session; or
- (2) the clerk, Dean, chaplain, superior or person as the case may be, has definite knowledge of facts by reason of which he believes –
 - (a) that a lay representative will be absent from Synod for an entire session; or
 - (b) that the seat of a lay representative will be vacant for an entire session –

the clerk, Dean, chaplain, superior or person, as the case may be, shall certify in writing to –

- (i) the alternate lay representative; and
- (ii) the Archbishop –

that he has received such notice or has such knowledge and belief and provided such certificate is so given to the Archbishop not less than one nor more than thirty days before the commencement of that session the alternate lay representative shall be a member of Synod for the duration of that session in the place and to the exclusion of that lay representative.

Resignation

31 Any lay representative may resign his seat in the Synod by writing under his hand addressed to the President and from the time when such resignation shall have been received by him the seat of such member shall be vacant.

Seat declared vacant for absence

32 The seat of any lay representative who shall have been absent from the Synod for an entire ordinary session of the Synod without leave of the Synod and without having given notice under Section 30 of this Act shall be thereby vacated.

Seat vacant where member no longer on electoral roll

s. 32A inserted by No. 3/1980

32A Where lay representative or alternate lay representative of a parish who at the time of election was on the church electoral roll of the parish, ceases to be on that roll, the incumbent and the churchwardens of the parish may petition the Archbishop to declare the seat of the lay representative or alternate lay representative, as the case may be, vacant and upon the Archbishop making such a declaration, the seat shall be vacant.

Attendance at Synod

33 Every lay representative and every alternate lay representative being a member of Synod shall on some day in each session enter his name in a book kept for that purpose and if the name of any lay representative or alternate lay representative being a member of Synod be not so entered it shall be prima-facie evidence of his absence during the whole of such session.

Forfeiture

s. 34 amended by No. 7/1991

34 If any lay representative cease to be a member of the Anglican Church of Australia he shall be deemed to have forfeited his seat and such seat may be declared vacant by a resolution of the Synod.

Election to fill vacancy

s. 35 amended by No. 5/1986 and 1/2004

35 (1) (a) If a lay representative die or resign his seat or if his seat be vacated or declared vacant; or

- (b) If there be no lay representative or only one lay representative for a parish or St Paul's Cathedral; or
- (ba) If there be no lay representative for the Canterbury Fellowship, an approved religious community or a designated nonparochial congregation or Authorised Anglican Congregation; or
- (c) If an alternate lay representative die or resign his office or if being a member of Synod for the duration of a session of Synod pursuant to Section 30 of this Act he do not attend Synod during that session; or
- (d) If there be no alternate lay representative for a parish—

the President may issue his mandate for an election or appointment to be made of a lay representative or of an alternate lay representative as the case requires.

- (2) Every election held to fill a vacancy however occasioned shall be conducted in the manner herein provided for general elections and every appointment made shall be made in accordance with section 5A.

Election Committee

s. 36 amended by No. 5/1986

36 Within two days of the opening of the first session of each Synod the President shall lay upon the table of the Synod for the consideration thereof a list of names not exceeding five members chosen by him as a Committee to which all questions shall be referred as to the validity of any disputed election or appointment and if such list be not objected to within two days after it has been laid on the table the members mentioned therein shall form and be an Election Committee for the purpose of deciding all cases of disputed elections or appointments but if the same be objected to by the Synod the Committee shall be chosen by ballot and the President shall have power to fill up any vacancies in the Committee as the same may occur.

Quorum

- 37 The president or his Commissary shall appoint the time and place of the first meeting of the Election Committee and the said Committee shall not be competent to transact any business unless at the least three members thereof shall be present.

Determination final

- 38 Every Election Committee shall determine finally on all questions referred to it.

Report to Synod

s. 39 amended by No. 5/1986

- 39 If any such Committee determine and report to the Synod that a person was not duly elected or appointed who was returned as elected or appointed any person so declared not to be duly elected or appointed shall cease to be a member of the said Synod.

Person declared elected or appointed

s. 40 amended by No. 5/1986

- 40 If such Committee determine and report any person to have been duly elected or appointed who was not returned the person so declared
- (a) shall be admitted a member of the said Synod upon making the declaration required as to his qualification and may take his seat accordingly; or
 - (b) shall be admitted an alternate lay representative with the rights and duties pertaining to that office –
- as the case requires.

Election declared void

s. 41 amended by No. 5/1986, 9/1993, 7/1999, 3/2015 and 5/2016

- 41 If any such Committee declare any election or appointment to be wholly void or declare any lay representative or alternate lay representative to be unqualified the Archbishop shall issue a

new mandate for the holding of another election or the making of another appointment and the person or persons thereafter elected or appointed and duly returned shall be the lay representative, lay representatives or alternate lay representative as the case requires for the parish or congregation or body for which such mandate shall have been issued.

Committee may refer resolution to Synod

42 If any such Committee come to any resolution other than the Determination above mentioned such Committee shall report the same to the Synod for its opinion and decision and the Synod may confirm or rescind any such resolution and may make such order thereon as to the Synod shall seem proper.

Regulations

s. 42A ins No. 9/1993 and am by No. 7/1999 and 7/2015

42A (1) The Archbishop in Council may make regulations for the purpose of this Act.

(2) The regulations, in making provision for elections under section 5B⁻

- (a) may provide for the election to be by postal ballot;
- (b) may confer a discretionary authority or impose a duty on the Registrar;
- (c) may make such other provision as is necessary or convenient to be made.

ss. 43 and 44 repealed by No. 7/1999

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Schedule A amended by No. 7/1991

SCHEDULE A

FORM 1

Election of Lay Representatives

We the undersigned do hereby nominate as a fit and duly-qualified person who is willing to serve as lay representative of the parish of in the Synod of the Diocese of Melbourne and each of the undersigned hereby declares himself or herself to be a member of the Anglican Church of Australia belonging to no other religious denomination enrolled on the electoral roll of a church within the said parish.

Signature of five or more electors enrolled on the electoral roll of the parish

FORM 2

Election of Alternate Lay Representatives

We the undersigned do hereby nominate as a fit and duly-qualified person who is willing to serve as alternate lay representative of the parish of in the Synod of the Diocese of Melbourne and each of the undersigned hereby declares himself or herself to be a member of the Anglican Church of Australia belonging to no other religious denomination enrolled on the electoral roll of a church within the said parish.

Signature of five or more electors enrolled on the electoral roll of the parish

Schedule B amended by No. 7/1991

SCHEDULE B

I declare that I am duly enrolled as an elector of church in the parish of and

- 1. I have been baptised.
2. I am 18 years or more of age.
3. I am a member of the Anglican Church of Australia and do not belong to any religious body which is not in communion with the Anglican Church of Australia.

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4. I have habitually attended public worship in such parish during the three months immediately prior to my enrolment as an elector.
5. I have not already voted at this election or at any other similar election this year in any other parish.

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NOTES

¹The **Synod Act 1972** was assented to on 6 November 1972 and came into operation on the dissolution of the (then) present Synod.

²This reprint incorporates the amendments made to the **Synod Act 1972** by the following Acts:

<i>Name</i>	<i>No.</i>	<i>Date of Assent</i>	<i>Date of Commencement</i>
<i>Synod (Amendment) Act 1980</i>	3/1980	9 October 1980	9 October 1980
<i>Synod (Lay Representatives) Act 1986</i>	5/1986	1 October 1986	3 October 1986
<i>Parishes Act 1987</i>	2/1987	16 October 1987	1 October 1988
<i>Synod (Correction of Name of Church) Act 1991</i>	7/1991	30 May 1991	30 May 1991
<i>Synod (Amendment) Act 1993</i>	9/1993	15 October 1993	18 November 1993
<i>Regions of the Diocese and other Acts (Amendment) Act 1999</i>	7/1999	18 October 1999	18 October 1999
<i>Synod (Amendment) Act 2000</i>	4/2000	23 October 2000	Section 3 on 1 May 2003. Remainder on 23 October 2000
<i>Authorised Anglican Congregations Act 2004</i>	1/2004	2 September 2004	2 September 2004
<i>Synod (Deputy Chancellor) Act 2008</i>	1/2008	10 October 2008	10 October 2008
<i>Synod (Heads of Anglican Schools) Act 2011</i>	2/2011	20 October 2011	20 October 2011
<i>Parish Governance (Authorised Anglican</i>	3/2015	20 October 2015	20 October 2015

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Congregations)

Amendment Act 2015

*Regions of the Diocese
(Repeal) Act 2015* 7/2015 20 October 2015 20 October 2015

*Cathedral (Transition,
Consequential*

*Amendments and Repeal)
Act 2016*

3/2016 15 December 2016

6 December 2016

*Diocesan Acts (Revisions
and Repeals) Act 2016*

5/2016 15 December 2016

16 December 2016

*Age Qualification for
Election Repeal Act 2016*

6/2016 15 December 2016

15 December 2016

*Diocesan Legislation
(Revisions and Repeals)
Act 2021*

2/2021 4 November 2021

4 November 2021