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*Delegation of Powers and Ordinance Procedure  
Ordinance 1973*

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No. 35, 1973

AN ORDINANCE to repeal the Land Ordinance Procedure and Delegation of Powers Ordinance 1926-1971 and certain other ordinances; to confirm the delegation of certain powers and functions in pursuance of the provisions of the Church of England Trust Property Act 1917 and the Church of England (Bodies Corporate) Act 1938; to regulate the procedure in relation to ordinances proposed to be made under such delegated powers; and for other matters incidental thereto.

WHEREAS it is expedient that the procedure in the initiation of ordinances under the Church of England Trust Property Act 1917 as amended and under the Church of England (Bodies Corporate) Act 1938 be revised NOW the Synod of the Diocese of Sydney HEREBY DECLARES RULES ORDAINS AND DIRECTS as follows:

**TITLE**

1. This Ordinance may be cited as "Delegation of Powers and Ordinance Procedure Ordinance 1973".

**REPEAL**

2. (1) The Ordinances listed in the First Schedule are hereby repealed.

(2) Such repeal shall not affect or invalidate any ordinance passed or any act done under such repealed Ordinances and all such ordinances and acts shall respectively have the same effect as if this Ordinance had been in force and they had been respectively passed and done under this Ordinance.

(3) All ordinances initiated under the provisions of the Ordinances hereby repealed and not passed at the time this Ordinance is assented to may be dealt with under the provisions of this Ordinance or the repealed Ordinance, at the option of the petitioners therefor.

**DEFINITIONS**

3. In this Ordinance, unless the context or subject matter otherwise indicates or requires:

"1917 Act" means the Church of England Trust Property Act 1917 as amended.

"1938 Act" means the Church of England (Bodies Corporate) Act 1938.

"Ordinance" means an ordinance duly passed under the provisions of the 1917 Act or the 1938 Act.

"Parish" includes also every ecclesiastical district now or hereafter to be formed and situated in the Diocese of Sydney but does not include St. Andrew's Cathedral.

"Proposed Ordinance" means the draft of an ordinance which in accordance with this Ordinance is proposed to be passed under the provisions of the 1917 Act or the 1938 Act.

"Schedule" means a schedule to this Ordinance.

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"Secretary" means the person for the time being acting as Secretary of the Standing Committee.

"Standing Committee" means the Committee for the time being holding office under the provisions of the Standing Committee Ordinance 1895-1948 or of any ordinance amending or taking the place of the same.

#### DELEGATION OF POWERS

4. The Standing Committee is hereby appointed for the purpose of exercising and accordingly during the recess of the Synod of the Diocese may exercise in the place of the Synod all or any of the powers and functions and do and make all or any of the things referred to in the sections of the 1917 Act listed in the Second Schedule and the section of the 1938 Act specified in the Third Schedule PROVIDED that any ordinance proposed to be made by the Standing Committee partly or wholly under the powers conferred by section 32 of the 1917 Act at any stage before assent thereto:—

- (a) may be referred to the Synod by the person for the time being authorised to assent to an ordinance of the Synod;
- (b) shall be referred to the Synod by such person upon the request in writing of any three members of the Standing Committee and the assent shall be withheld.

#### STANDING ORDERS AND REGULATIONS, ETC.

5. The Standing Committee may determine the procedure it shall follow in acting under clause 4 but in the absence of any such determination that procedure shall be in accordance with the standing orders of Synod for the time being *mutatis mutandis*.

6. The Standing Committee shall present to the Synod at each ordinary session a list of the ordinances it has passed since the last report.

7. While the Synod is in recess the Standing Committee shall have power to enquire into any ordinance proposed to be made by Synod or Standing Committee notwithstanding that leave to bring in such proposed ordinance has not been obtained from the Synod.

8. Subject to this Ordinance the Standing Committee may by resolution prescribe requirements of procedure in relation to proposed ordinances.

9. The Standing Committee may by resolution declare any proposed ordinance to be one of special urgency and may suspend any part of the regulations in clauses 11 to 17 hereof in relation to the matter in question and the matter may thereupon proceed accordingly PROVIDED that such resolution shall record the reasons why the matter is declared to be of special urgency.

#### PREAMBLE TO AN ORDINANCE

10. Every proposed ordinance shall contain a preamble bringing the matter within the provisions of the 1917 Act or the 1938 Act as the case may be.

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**APPLICATION FOR AN ORDINANCE**

11. An application may be made for an ordinance by lodging with the Secretary:
- (a) a petition or other written application addressed to the Synod containing the names and addresses of the petitioners or applicants and signed by them; and
  - (b) copies of the proposed ordinance printed typed or otherwise produced in such quantities as he shall require.
12. The petitioners as and when required by the Standing Committee shall:
- (a) pay such sum as the Standing Committee may have last decided by resolution towards the costs attendant on an ordinance; and
  - (b) at their own expense provide:
    - (i) copies of a statement of evidence approved as adequate by the Secretary and in such quantities as he may require; and/or
    - (ii) a shorthand writer to be approved of by the Secretary for the purpose of recording the proceedings of any enquiry pursuant to this Ordinance; and
    - (iii) such copies of the record of such proceedings as the Secretary may require.

**NOTICE**

13. (1) In the case of a proposed ordinance which relates to church trust property held or which will be held (if the proposed ordinance is enacted) in either case partly or wholly for the benefit of one or more parishes, a notice shall be posted and continuously remain posted in the main entrance of the principal church of each of such parishes and of each other church therein which may be affected thereby for two Sundays being Sundays on which one or more services are held in such church or churches PROVIDED that if services are held in any church less frequently than once each fortnight such notice need only be posted for seven (7) consecutive days one of which shall be a Sunday on which a service is held in that church.

(2) The attention of the congregation shall be drawn to the said notice at all services held in such church or churches on such Sunday or Sundays.

(3) (a) Every such notice shall:

- (i) state the intention of the petitioners or applicants to apply to the Synod or to the Standing Committee for the proposed ordinance;
  - (ii) list the general objects thereof;
  - (iii) contain or be accompanied by a sketch plan of any land affected by the proposed ordinance; and
  - (iv) contain a notification that objections to the proposed ordinance may be made in accordance with the provisions of this Ordinance.
- (b) Such sketch plan need not be drawn to scale but shall adequately identify the land affected by the proposed ordinance.

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(4) Where, under this clause, a notice is required to be posted in the main entrance of a church and attention drawn thereto the minister licensed to the parish concerned and the churchwardens and all other officers thereof shall give effect to such requirements upon being requested so to do by the petitioners or applicants.

(5) If it shall appear to the Standing Committee that notice has not been given in conformity with this clause or that the circumstances call for another or further notice the Standing Committee if it thinks fit may require such other or further notice to be given as the justice of the case, in the opinion of the Standing Committee, may require.

(6) Where in the opinion of the Standing Committee the requirements of sub-clause (1) of this clause are impossible or unduly onerous to implement or satisfy the Standing Committee may give directions upon application therefor by the petitioners or applicants as to what notice of the proposed ordinance is proper and reasonable in the particular circumstances and which if followed will or ought, in the opinion of the Standing Committee to be sufficient to ensure that all persons who are or may be interested in the proposed ordinance will receive notice of the same. All such directions shall be given to the petitioners or applicants in writing by the Secretary, and shall be deemed to be in substitution for the requirements of sub-clause (1). The Standing Committee may delegate its powers under this sub-clause to a committee appointed pursuant to clause 18.

14. In the case of a proposed ordinance which relates to church trust property other than that referred to in clause 13 it shall not be necessary for notice to be given.

15. Notwithstanding anything contained in clause 13 it shall not be necessary for notice of any proposed ordinance to be given where:

- (a) the ordinance is solely to authorise the sale of church trust property or to authorise the granting of an easement or right of way or like right over any church trust property;
- (b) the sale or grant is bona fide and for value and the consideration therefor is less than five thousand dollars (\$5,000); and
- (c) the sale or grant is to the Crown or to any minister thereof or to any public or statutory authority.

#### OBJECTIONS

16. (1) Objections may be made to any proposed ordinance by lodging the same with the Secretary any time before the expiration of three weeks from the date when the said notice is posted as aforesaid.

(2) Every objection shall be addressed in writing to the Secretary and shall distinctly specify the grounds of opposition, and may be received and dealt with by the Standing Committee or a committee appointed under clause 18 hereof.

(3) Every such objection shall state the name and address of some person upon whom any notice relating to the matter may be served and in default thereof such objection shall not be considered.

#### ENQUIRY AND REPORT

17. Before the first reading of any proposed ordinance the Standing

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Committee or a committee appointed under clause 18 hereof shall hear the parties in person or by counsel or solicitor if it be desired and may take such oral or other evidence as may be considered requisite, and shall report:

- (a) whether the preamble has been proved and if not in what respects;
- (b) what amendments (if any) it considers are required in the proposed ordinance;
- (c) what matters are at issue between the petitioners and any person or persons who have lodged an objection or objections as aforesaid;
- (d) whether all procedural requirements hereunder and those prescribed by the Standing Committee have been complied with and if not in what respects; and
- (e) its findings and recommendations if any.

PROVIDED that in cases where no notice is required by virtue of clauses 14 or 15 the Standing Committee may dispense with any such hearing generally or in any particular case if in its opinion the circumstances do not require the same.

**APPOINTMENT OF COMMITTEES**

18. For the purpose of this Ordinance the Standing Committee may from time to time appoint a committee or committees to act on its behalf under clause 17 and may appoint other committees to make other investigations as required.

19. (1) The Parramatta Anglican Regional Council as constituted by the Parramatta Anglican Regional Council Constitution Ordinance 1971 as amended from time to time is deemed thereby to have been appointed under clause 18 hereof as a committee of the Standing Committee and shall act on its behalf under clause 17 hereof with regard to church trust property situated within the region in which the Bishop in Parramatta exercises episcopal oversight.

(2) For the purposes of this Ordinance only —

- (a) The Parramatta Anglican Regional Council is hereby empowered to appoint a committee from amongst its members to exercise the powers and functions conferred on the Parramatta Anglican Regional Council under this Ordinance; and
- (b) such exercise of any power or function by any such duly appointed committee shall be deemed to be an exercise thereof by the Parramatta Anglican Regional Council.

20. The Wollongong Zone Council as constituted by the Wollongong Zone Council Ordinance 1972 as amended from time to time is deemed hereby to have been appointed under clause 18 hereof as a committee of the Standing Committee and shall act on its behalf under clause 17 hereof with regard to church trust property situated within the region in which the Bishop in Wollongong exercises episcopal oversight other than the Rural Deanery of Sutherland.

**FIRST SCHEDULE**

Land Ordinance Procedure and Delegation of Powers Ordinance  
1926-1971

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Church of England Property Trust Diocese of Sydney Ordinance 1932

Church of England Trust Property Act Further Delegation Ordinance 1943

Church of England Trust Property Act 1917 Further Delegation Ordinance 1944

Church of England (Bodies Corporate) Act 1938 Delegation of Powers Ordinance 1961

Church of England Trust Property Act 1917 Further Delegation Ordinance 1962.

**SECOND SCHEDULE**

Sections 11-12, 14-16, 19, 24-32 and 37 of Church of England Trust Property Act 1917 as amended.

**THIRD SCHEDULE**

Section 4 of Church of England (Bodies Corporate) Act 1938 and without limiting the generality of that section to make ordinances for or with respect to all or any of the following matters or things arising under the said Act:

- (a) The constitution of a body corporate in pursuance of the provisions of Section 4 of the said Act.
- (b) To confer and impose such powers authorities duties and functions upon a body corporate whether constituted before or after the passing of this Ordinance as may be determined.
- (c) To determine the quorum at meetings of a body corporate.
- (d) To provide for the management government or control of the institution or organisation of which the body corporate has been constituted or for or with respect to any church trust property vested in the body corporate and without prejudice to the generality of the preceding powers from time to time by ordinance:
  - (i) Change the name of such body corporate.
  - (ii) Fix the number of members of such body corporate, prescribe the method of election or appointment and of retirement of such members and prescribe the circumstances in which a vacancy in the office of any such member shall occur.

I certify that the Ordinance as printed is in accordance with the Ordinance as reported.

ATHOL RICHARDSON,  
Chairman of Committees.

We certify that this Ordinance was passed by the Synod of the Diocese of Sydney this 16th day of October, 1973.

R. J. BOMFORD,  
W. G. S. GOTLEY,  
Secretaries of Synod.

I assent to this Ordinance.

16/10/1973.

MARCUS LOANE,  
Archbishop of Sydney.