

Sydney Diocesan Superannuation Fund Ordinance 1961 Amendment Ordinance 2004

No 41, 2004

Long Title

An Ordinance to enable the transfer of members and assets of the Sydney Diocesan Superannuation Fund to a successor fund.

The Standing Committee of the Synod of the Diocese of Sydney Ordains as follows.

1. Name

This Ordinance is the Sydney Diocesan Superannuation Fund Ordinance 1961 Amendment Ordinance 2004.

2. Amendment

The Schedule to the Sydney Diocesan Superannuation Fund Ordinance 1961 is amended as follows –

- (a) delete the definition of “Clause” in Clause 1(1) and insert instead the following –
“Clause” means, unless it is referred to as a clause in the Ordinance, a clause in this Schedule.”, and
- (b) insert in alphabetical order in clause 1(1) the following new definitions–
“Complying Superannuation Fund” has the meaning given to that term in section 42 of the Superannuation Industry (Supervision) Act 1993.
“Participation Agreement” means any agreement entered into between the Body Corporate (on behalf of bodies making contributions under clause 12) and the Transferee Trustee in respect of participation in the Transferee Fund in accordance with the applicable provisions of the Superannuation Industry (Supervision) Act 1993 concerning successor fund transfers as described in Regulation 6.29(c) of the SIS Regulations.
“Policy Committee” has the meaning given to that term in section 10 of the Superannuation Industry (Supervision) Act 1993.
“SIS Regulations” means the Superannuation Industry (Supervision) Regulations.
“Transferee Trustee” means the trustee of any Complying Superannuation Fund other than the Body Corporate.
“Transfer Date” means the date agreed between the Board and the Transferee Trustee in respect of any successor fund transfer from the Fund to the Transferee Fund in relation to a successor fund transfer and subsequent successor fund transfer to a subsequent Transferee Trustee.
“Transfer Deed” means any deed or agreement entered into by the Body Corporate and the Transferee Trustee in relation to the transfer of members and assets of the Fund from members and assets of the Fund to the Transferee Fund required in accordance with Regulation 6.29(c) of the SIS Regulations concerning any successor fund transfer.
“Transferee Fund” means the subplan of the fund of which the Transferee Trustee referred to in Clause 27(3) is the trustee.”, and
- (c) delete the matter “;” in clause 6(l) and insert instead the following matter –
“including any Participation Agreement and/or Transfer Deed including but not limited to executing any documents on behalf of the Body Corporate in relation to the termination of the Participation Agreement;”, and

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- (d) insert new clauses 6(q) and (r) as follows (with consequential relettering of existing clause 6(q)) –
- “(q) on and from the Transfer Date appoint members of the Board as representatives on any Policy Committee for the purposes of management of any plan established in the Transferee Fund for the benefit of former Members of the Fund and agree the number the representatives and the manner in which this number may change and the terms of appointment of representatives on any Policy Committee and the appointment of any replacement representatives following retirement or other termination of representatives on any Policy Committee; and
 - (r) in the event that the Participation Agreement is terminated by either party for any reason to continue as trustee of the assets held in the plan constituted pursuant to the Participation Agreement on and from the date of termination and in conjunction with the Board to have the same powers in relation to dealing with the members and assets of the plan as applied to the Body Corporate pursuant to this Ordinance prior to the Transfer Date;”, and
- (e) insert a new clause 7(5) as follows –
- “(5) The Board shall ensure that on and from the Transfer Date any Participation Agreement or other documents in relation to the investment or assets of the Fund by the Transferee Trustee shall be subject to the same or similar limitations in relation to investments as contained in Clauses 7(1)(k) of this Ordinance”, and
- (f) insert a new clause 8(5) as follows –
- “(5) The Board shall, in addition to the powers granted to it pursuant to this Clause 8, be authorised on and from the Transfer Date to grant approval or otherwise to amendments to the Participation Agreement (including any Plan rules) and/or be involved in the appointment of any consultants and investment managers pursuant to the terms of any Participation Agreement and generally carry out any other duties as are required on behalf of the Body Corporate in its capacity as a party to a Participation Agreement including but not limited to executing any documents on behalf of the Body Corporate in relation to the termination of the Participation Agreement provided that if the Participation Agreement is terminated by either party for any reason the Board shall continue in respect of the members and assets in the plan constituted pursuant to the Participation Agreement on and from the date of termination in conjunction with the Body Corporate to have the same powers dealing with the members and assets of the plan as applied to the Board pursuant to this Ordinance prior to the Transfer Date”; and
- (g) insert a new clause 12(12) as follows –
- “(12) For the purposes of this Clause, a reference to a Member shall include a member of the Fund or any Transferee Fund.”, and
- (h) insert a new clause 27(3) as follows –
- “(3) Notwithstanding the preceding provisions of this Clause 27, the Board may, without the consent of a Member and on such conditions as the Board may determine and which are consistent with the requirements of Regulation 6.29(l) of the SIS Regulations, agree with the Transferee Trustee on behalf of the Body Corporate to pay or transfer to the Transferee Fund all of the assets of the Fund but not more than the value of the aggregate amount of –
- (a) the total amount of each Member’s account maintained by the Board pursuant to Clause 10 of this Ordinance as

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at the Transfer Date to be credited to the member in the Transferee Fund; and

- (b) any other amount in addition to the total amount referred to in paragraph (a) which is not allocated to a Member's account as at the Transfer Date to be applied in such manner which is not inconsistent with the terms of the Ordinance as the Board shall agree with the Transferee Trustee.

The receipt of the Transferee Trustee given in respect to the total amount so paid or transferred from the Fund to the Transferee Fund is a sufficient discharge to the Board of its liability in respect of all of the Members of the Fund in respect of that amount. Neither the Board nor any organisation contributing to the Fund is in any way responsible or liable for the payment or disposal by the Transferee Trustee or any other person of the benefit of the Member or any other amount so paid or transferred."

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

PG KELL
Chairman of Committees

I Certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on 15 November 2004.

MA PAYNE
Secretary

I Assent to this Ordinance.

PETER F JENSEN
Archbishop of Sydney
16/11/2004