THE PAROCHIAL ADMINISTRATION ORDINANCE 1985

AN ORDINANCE for the management and regulation of the property and affairs of parishes and matters incidental thereto.

WHEREAS certain church trust property is or is to become vested in the Synod AND WHEREAS the Synod holds or is to hold such trust property for and on behalf of the respective parishes mentioned in the respective trust deeds relating to such trust property
AND WHEREAS it is expedient to provide for the several trusts conditions and purposes upon which the Synod holds such trust property and to provide for the administration and good government of the parishes for and on behalf of which the Synod holds such trust property NOW THE SYNOD HEREBY DETERMINES:

PART l - PRELIMINARY

Title

1. This Ordinance may be cited as "The Parochial Administration Ordinance 1985".

Arrangement

2. This Ordinance is divided into parts as follows:

PART l - PRELIMINARY (Sections 1-4)

PART II - VESTRIES
- Division l - Parishes comprising one congregation (Sections 5-7)
- Division II - Parishes comprising more than one congregation (Sections 8-11)
- Division III - Optional Parish Vestries (Sections 12-16)
- Division IV - Provisions applicable to all vestries (Sections 17-27)

PART III - PARISH COUNCILS
- Division l - Provisions applicable to all parishes (Sections 28-40)
- Division II - Parishes with one Vestry (Sections 41-43)
- Division III - Parishes with more than one Vestry (Sections 44-46)

PART IV - CHURCHWARDENS AND OTHER OFFICERS(Sections 47-52)

PART V - THE PARISH PRIEST (Sections 53-63)

PART VI - APPROPRIATION OF PROPERTY (Sections 64-67)

PART VII - LICENSING OF CHURCH BUILDINGS (Sections 68-69)

PART VIII - THE USE OF CHURCHES AND OTHER BUILDINGS (Sections 70-75)

PART IX - MANAGEMENT OF PROPERTY (Sections 76-86)

PART IXA- PARISH REVIEW (Sections 86A – 86E)

PART X - MISCELLANEOUS (Sections 87 - 88)

Operation

3. This Ordinance applies to any parish on whose behalf the Synod holds any Parish Trust Property and insofar as the provisions of this Ordinance affect the management and user of trust property generally shall only affect Parish Trust Property so held for or on behalf of such parish.

Definition

4. In this Ordinance wherever the context so permits-

"licence" means a licence under the seal of the Bishop and "licensed" has a corresponding meaning;

"parish in need of support" means –

(a) a parish which in the preceding two consecutive years has failed to pay the whole of any of the following:
   (i) the minimum stipend of the Parish Priest determined pursuant to any Ordinance;
   (ii) the assessment determined in accordance with The Assessment Ordinance 1985; or
   (iii) any instalment of principal or interest due by the parish pursuant to any agreement or loan between the parish and the Synod ;

(b) a parish which in the preceding twelve months has received a grant from the Synod towards the stipend of the Parish Priest; or

(c) a parish which within one month of the commencement of a vacancy in the office of the Parish Priest advises the Archdeacon of the area in which the parish is situated or the Synod that in the ensuing twelve months it will be unable to pay the whole of the following:
   (i) the minimum stipend of the Parish Priest determined pursuant to any Ordinance;
   (ii) the assessment determined in accordance with the Assessment Ordinance 1985; and
   (iii) any instalment of principal or interest due by the parish pursuant to any agreement for loan between the parish and the Synod;

"Parish Priest" means the member of the clergy for the time being holding the licence of the Bishop for the cure of souls in the parish;

"Parish Trust Property" means property or any estate or interest therein vested in the Synod and held by the Synod for or on behalf of any parish upon the terms of any trust deed by which it is declared that the Synod holds such property for the several trusts conditions and purposes set forth and described in this Ordinance;

"The Model Trust Deed of 1969" means the Model Trust Deed and its amendments the whole of which were revoked by The Model Declaration of Trust Ordinance 1985.

PART II - VESTRIES

Division 1 - Parishes comprising one congregation

Application of Division 1

5. This Division applies only to a parish comprising one congregation.

Composition of Vestry

6. (1) There shall be a Vestry consisting of the Parish Priest, any assistant member of the clergy, the churchwardens and all members of the parish qualified at the time of any meeting thereof to elect lay members of the Synod in accordance with the Constitution.

(2) A quorum of the Vestry shall be 15 or such lesser number as may be approved by the Bishop on application by the Parish Priest.

Powers and Functions of Vestry

7. The Vestry shall under the leadership of and with the Parish Priest be responsible for the pastoral, educational, evangelistic and missionary work of the parish and shall have and may exercise such powers and duties as are prescribed by this Ordinance.

Division II - Parishes comprising more than one congregation

Application of Division II

8. This Division applies only to a parish comprising more than one congregation and to which Division III of this Part does not apply.

Composition of Vestry

9. (1) For each congregation in the parish there shall be a Vestry consisting of the Parish Priest, any assistant member of the clergy and all members of the

congregation qualified at the time of any meeting thereof to elect lay members of the Synod in accordance with the provisions of the Constitution.

(2) A quorum of a Vestry shall be 5.

Powers and Functions of Vestry

10. The Vestry shall under the leadership of and with the Parish Priest be responsible for the pastoral, educational, evangelistic and missionary work of the congregation and shall have and may exercise such powers and duties as are prescribed by this Ordinance or as may be delegated to it pursuant to the provisions of section 46 of this Ordinance or with respect to the welfare and work of the congregation as distinct from the parish as a whole.

Combined Vestry Meetings

11. (1) Subject to the provisions of subsection (4) any two or more Vestry meetings of congregations in the parish may be convened at the same time and place and if a majority of the members of each Vestry present and voting shall separately resolve that the meeting proceed as a combined Vestry Meeting the provisions of subsection (2) shall apply for the duration of the meeting and any adjournment thereof.

(2) A combined Vestry Meeting shall comprise the members of each of the Vestries which have passed the resolution referred to in subsection (1) and shall have and may exercise in relation to each congregation so represented such powers and functions of the Vestry of that congregation as are conferred on such Vestry by the provisions of this or any other Ordinance as if it were the Vestry of that congregation.

(3) A combined Vestry Meeting shall continue to act only so long as there is present a quorum of each Vestry concerned.

(4) This section shall not apply to any congregation on whose behalf there is held any property other than Parish Trust Property.

Division III - Optional Parish Vestries

Parish Vestry

12. In any parish comprising more than one congregation and on behalf of which or on behalf of any congregation therein there is held no property other than Parish Trust Property the Vestry of any congregation of such parish may at any time by resolution duly passed declare that the provisions of this Division shall apply to such parish. Upon all the Vestries of such parish passing such resolution (none of such resolutions in the meantime having been rescinded) the provisions of this Division shall apply to such parish.

Composition of Parish Vestry

13. (1) For every parish to which this Division applies there shall be a Parish Vestry consisting of the Parish Priest, any assistant member of the clergy and all members of the parish qualified at the time of any meeting thereof to elect lay members of the Synod in accordance with the provisions of the Constitution.

(2) A quorum of a Parish Vestry shall be 15.

Powers and functions of Parish Vestry

14. A Parish Vestry constituted in accordance with this Division shall under the leadership of and with the Parish Priest undertake responsibility for the pastoral, educational, evangelistic and missionary work of the Parish and shall have and may exercise all the powers and duties conferred on Vestries by virtue of the provisions of this Ordinance in respect of each of the congregations in the parish, as if such Vestry were the Vestry for that congregation and shall have and may exercise any powers and duties with respect to the welfare and work of any congregation in the parish and of the parish as a whole.

Churchwardens and Nomination Committee

15. In any parish to which this Division applies -

(a) Churchwardens shall pursuant to Part IV of this Ordinance be elected or appointed as the case may be in respect of every congregation in the parish and shall be elected or appointed from the lay members of the congregation in respect of which they are elected or appointed;

(b) Subject to section 53(2a), members of the Nomination Commitee to be elected by the Vestry pursuant to section 53 of this Ordinance may be any members of the Vestry.

Cessation of Operation of this Division

16. Upon receiving a petition to that effect signed by not less than ten members of any congregation in a parish to which this Division applies the Bishop may after making such enquiries as the Bishop thinks fit and in the Bishop's discretion determine that the provisions of this Division shall no longer apply to such parish and thereafter the provisions of this Division shall no longer apply to such parish, unless and until the provisions of section 12 of this Ordinance are again fulfilled.

Division IV - Provisions applicable to All Vestries

Annual Vestry Meeting

17. (1) Subject to section 20, a Vestry shall meet each year before the 31st day of March. Such meeting shall be called the Annual Vestry Meeting and shall be convened by the Parish Priest.

(2) At every Annual Vestry Meeting the business to be transacted after prayers shall be:

(a) Confirmation of the minutes of the preceding Annual Vestry Meeting and of every other meeting of the Vestry which may have been held since the preceding Annual Vestry Meeting, unless all such minutes shall have been confirmed by the Parish Council;

(b) The presentation of reports by the Parish Priest and the Churchwardens, and of any reports by members of the Synod and others;

(c) The reception of a reviewed or audited statement of accounts of the parish and of any organisation connected with the parish;

(d) The appointment or election of such of the following officers as shall be requisite-

(i) Churchwardens
(ii) A representative or representatives on the Parish Council
(iii) Representatives on the Nomination Committee
(iv) Such other officers as the Vestry may be authorised to appoint;

(e) Consideration of recommendations (if any) from the Parish Council;

(f) Consideration of a budget of income and expenditure for the parish submitted by the Parish Council;

(g) Such other business as shall have been specified in the notice convening the meeting;

(h) Any other business which the Chairperson in his or her discretion shall permit to be discussed.

(3) At every Annual Vestry Meeting in a parish to which Division II of this Part applies the business to be transacted shall also include:

(a) The presentation of a reviewed or audited statement or statements of the financial affairs of the congregation and of any organisations connected with the congregation; and
(b) Adoption of a budget of income and expenditure for the congregation.

Special Vestry Meetings

18. (1) The Parish Priest shall have power to convene a Special Vestry Meeting at any time and shall convene a Special Vestry Meeting whenever requested to do so by the churchwardens or by any five members of the Vestry. If having been so requested the Parish Priest shall fail to convene a Special Vestry Meeting within one calendar month of the receipt of such request the churchwardens or the five members as the case may be shall have power to convene such meeting. Where there is no Parish Priest the churchwardens shall have power to convene the Annual Vestry Meeting or a Special Vestry Meeting. The Bishop shall be given prior notice of any Vestry Meeting convened by the churchwardens or five members of the Vestry.

(2) The only business to be transacted at a Special Vestry Meeting shall be that specified in the notice convening the meeting.

Synod Election Meeting

18A (1) In every parish to which Division l or Division III of Part II of the Parochial Administration Ordinance 1985 applies, if the election of lay members of the Synod does not occur at the parish's Annual Vestry Meeting in an election year referred to in section 14 of the Constitution, a Special Vestry Meeting must be convened on or before 30 June in that election year (and any such meeting will be called the Synod Election Meeting and will be convened by the parish priest).

(2) At every Synod Election Meeting the business to be transacted after prayers shall be the election of lay members of the Synod and such other business of which proper notice shall have been given.

(3) In every parish to which Division II of Part II of this Ordinance applies, the provisions of section 8 of the Election of Members of Synod Ordinance 1985 will apply to the election of lay members of Synod.

Notice of Meetings

19. A notice convening an Annual Vestry Meeting or a Special Vestry Meeting (as the case may be) shall be given at all services on the two Sundays next before the day upon which the meeting is to be held. Such notice shall specify the time and place of the meeting and the general nature of the business to be transacted thereat and may be given orally or in writing.

Adjournments

20. If at any Annual Vestry Meeting or at any adjournment thereof a quorum shall not be present the meeting shall stand adjourned to a day and time being not later than fourteen days thereafter as the Parish Priest or in his or her absence such churchwardens as may be present or if no churchwardens shall be present then the majority of the members of the Vestry present shall decide. A Vestry Meeting other than an Annual Vestry Meeting at which a quorum shall not be present shall

lapse. Any Vestry Meeting at which a quorum is present may by resolution of a majority of members of the Vestry present be adjourned to such time and place as such majority may decide. It shall not be requisite to give any notice of an adjourned Vestry Meeting.

Voting

21. At every meeting of a Vestry the votes of a majority of the persons present and voting shall decide every question. In the case of an equality of votes the chairperson shall be entitled to a casting vote.

Attendance by Bishop

22. (1) The Bishop or the Bishop's nominee shall be entitled to attend any meeting of a Vestry.

(2) The Bishop may at any time by notice in writing addressed to the Parish Priest, a churchwarden or the secretary of the Parish Council require to be notified of all meetings of a Vestry for such period as the notice shall specify or until further notice and the Bishop shall be given notices of such meetings accordingly.

Chairperson

23. At all meetings of a Vestry the Parish Priest shall preside as chairperson provided however that if the Bishop or the Bishop's nominee is present he or she may preside as chairperson. If there shall be no person present entitled to preside as chairperson or if being present he or she shall decline to act (either during the whole or any portion of the meeting) the Vestry shall elect one of its members to preside.

Minutes

24. Minutes shall be kept of all the proceedings of all Vestries and such minutes shall be open at all reasonable times to the inspection of any member of the Vestry.

Regulation of Business

25. Subject to the express provisions of this Ordinance a Vestry may from time to time adjourn and may regulate the conduct of its business as it shall see fit.

Power to Act in Vacancy

26. A Vestry may act notwithstanding any vacancy in the office of Parish Priest or Churchwardens.

Interpretation

27. Any reference in section 18 to churchwardens shall for the purposes of a parish to which Division III of this Part applies mean any two churchwardens in this parish.

PART III - PARISH COUNCILS

Division 1 - Provisions applicable to all parishes

Parish Councils

28. For each parish for or on behalf of which the Synod holds Parish Trust Property there shall be a Parish Council for the management of such property and the affairs of the parish.

Eligibility

28A. A person is eligible to be elected as a member of Parish Council provided that:

(a) the person is a lay person: and

(b) the person has attained the age of 16 years.

Powers and Functions

29. The Parish Council together with the Parish Priest is responsible for the worship, ministry and mission of the parish under the leadership of the Parish Priest. The Parish Council will work to fund and fulfil these responsibilities and, subject to the provisions of this Ordinance, shall have the following powers and duties:-

(a) The insurance, maintenance (including in that expression all repairs), rental (where applicable) of and the payment of rates taxes and other outgoings and so much of the telephone and other charges (if any) as is not attributable to private use in respect of the rectory or other dwelling house for the time being occupied by the Parish Priest or any assistant member of the clergy;

(b) The insurance, maintenance (including in that expression all repairs), rental (where applicable) of and the payment of rates taxes and other outgoings in respect of all churches, halls, schools and other buildings (except the rectory) erected on Parish Trust Property;

(c) The payment of all amounts owing and payable in respect of amounts borrowed by the parish (whether for capital or interest and whether secured upon Parish Trust Property or not);

(d) In all cases not specifically provided for in any Ordinance of the Synod, the maintenance and control of all Parish Trust Property;

(e) The preservation and safe custody of all registers, records, documents, plate and other valuables of the parish;

(f) Subject to the provisions of any Ordinance of the Synod, the determination of the amount of the stipends and other allowances of the Parish Priest and all assisting members of the clergy;

(g) The payment of stipends, travelling and other allowances to the Parish Priest and assistant members of the clergy;

(h) The payment of diocesan assessments and all other expenses payable by the parish;

(i) The determination of the amount to be provided by each congregation in the parish to meet the expenses of the parish;

(j) The management of the financial affairs of the parish and in particular (but without limiting the generality of the foregoing expression) the appropriation and application of all voluntary contributions (other than Baptismal offerings) and of any moneys raised or held by any organisation connected with the parish;

(k) The provision of all things necessary for the decent performance of divine service and the administration of the sacraments;

(l) The payment of fees and travelling expenses of any member of the clergy relieving the Parish Priest during such annual or other leave as the Parish Priest may be entitled to take;

(m) Confirmation of the minutes of any meeting of a vestry within the Parish;

(n) Such other powers and duties as may be specifically provided for in this or in any other Ordinance or as may be referred to it by a Vestry or by the Synod.

External Oversight of Accounts and Audit

30(1) The Parish Council must cause proper accounts to be kept of all moneys received and disbursed by it for each year ending 31 December and must cause those accounts and the accounts of all moneys received and disbursed by the Vestry or other governing body of any congregation or organisation within the parish for the same period to be reviewed or audited by a person who is authorised by the Australian Charities and Not-for-Profits Commission to conduct reviews or audits of charity accounts as the case may be, and must furnish a copy of the duly reviewed or audited accounts to each Vestry or other governing body of the congregations represented on the Parish Council.

30(2) A Parish Council may determine to have its accounts reviewed rather than audited if its annual revenue does not exceed the amount allowed for financial reports submitted to the Australian and Charities and Not-for-Profits Commission to be reviewed rather than audited.

Compliance with Legislative Requirements

30A The Parish Council shall ensure that all financial records are kept and all payments are made in accordance with the requirements from time to time of the Australian Taxation Office or other lawful authority.

Agent of the Synod

31. Except as in this Ordinance expressly or impliedly otherwise provided the Parish Council shall be the agent of the Synod to execute carry out and perform all matters connected with the administration of Parish Trust Property held by the Synod for or on behalf of the parish, and shall fulfil and give effect to all the duties powers and trusts undertaken by entrusted to or conferred upon the Synod, provided that if and so often as the Parish Council shall neglect or refuse to carry out exercise and fulfil the duties powers and trusts undertaken by entrusted to or conferred upon the Synod, then the Synod may appoint some other person to be its agent to execute carry out or perform any or all of such duties powers and trusts.

Parish Officers

32. (1) The Parish Council (not necessarily from among its own number) shall appoint a parish secretary who shall be the liaison officer to whom diocesan notices and correspondence may be sent and who shall perform such other functions as the Parish Council shall determine.

(2) The Parish Council (from among its own number) shall appoint a treasurer to maintain or cause to be maintained accurate financial records and to report as required to the Synod, the Vestry, the Parish Council, and the Australian Taxation Office.

(2A) The Parish Council (not necessarily from among its own number) shall appoint a safe ministry co-ordinator to assess and advise the Synod as to the activities of the parish concerning children and vulnerable persons, and to maintain accurate records of parish safe ministry clearances.

(3) The Parish Council (not necessarily from among its own number) may appoint such other officers to perform such functions as it may determine.

Meetings of Parish Council

33. The Parish Priest shall convene meetings of the Parish Council at such intervals as the Parish Council shall from time to time determine but in any event not less frequently than once in every four months. The Parish Priest shall also convene a meeting of the Parish Council whenever requested in writing to do so by not less than one third of its members. Where there is no Parish Priest any two churchwardens may convene meetings of the Parish Council.

Quorum

34. One half of the members of the Parish Council shall constitute a quorum unless, at its first meeting after the Annual Vestry Meeting of the parish or of each congregation of the parish as the case may be, the Council shall determine otherwise, provided that the quorum so determined shall be not less than one third of the members of the Parish Council or five, whichever shall be the greater. The Council may act notwithstanding any vacancy in its membership or any failure on the part of the Parish Priest or any Vestry to appoint or elect members.

Vacancies

35. In the event of a casual vacancy occurring in the members of the Parish Council appointed by the Parish Priest the same shall be filled by the Parish Priest. In the event of a casual vacancy occurring in the members elected by a Vestry the same shall be filled by that Vestry.

Voting

36. At every meeting of the Parish Council the votes of a majority of the persons present and qualified to vote shall decide every question. In the case of an equality of votes the chairperson shall be entitled to a casting vote.

Attendance by Bishop

37. (1) The Bishop or the Bishop's nominee shall be entitled to attend any meeting of the Parish Council.

(2) The Bishop may at any time by notice in writing addressed to the Parish Priest, a churchwarden or the secretary of the Parish Council require to be notified of all meetings of the Parish Council for such period as the notice shall specify or until further notice and shall be given notices of such meetings accordingly.

Chairperson

38. At all meetings of the Parish Council the Parish Priest shall preside as chairperson provided however that if the Bishop or the Bishop's nominee is present he or she may preside as chairperson. If there shall be no person present entitled to preside as chairperson or if being present shall decline to act (either during the whole or any portion of the meeting) the Parish Council shall elect one of its members to preside.

Minutes

39. Minutes shall be kept of all the proceedings of the Parish Council and such minutes shall be open at all reasonable times to the inspection of any member of the Parish Council.

Regulation of Business

40. Subject to the express provisions of this Ordinance the Parish Council may from time to time adjourn and may regulate the conduct of its business as it shall see fit.

Division II - Parishes with One Vestry

Application of this Division

41. This Division applies only to a parish comprising one congregation and a parish to which the provisions of Division III of Part II apply.

Composition of Parish Council

42. (1) The Parish Council shall consist of –

(a) The Parish Priest;

(b) Any full-time assistant member of the clergy of the parish and any permanent part-time assistant member of the clergy in receipt of not less than one-third of the minimum stipend paid by the parish;

(c) The churchwardens of every congregation within the parish;

(d) Such other members of the Vestry as may be elected by the Vestry in accordance with subsection (2); and

(e) For every three members elected pursuant to paragraph (d) of this subsection, one member of the Vestry appointed by the Parish Priest if he or she so desires.

(2) The number of members of the Vestry to be elected to the Parish Council shall be determined by the Vestry and such members shall be elected at the Annual Vestry Meeting and at such other times as a vacancy shall occur. Members so elected to the Parish Council may be appointed for one or two years as determined from time to time by the Annual Vestry Meeting.

(3) Any determination made pursuant to subsection (2) shall remain in force until any further determination is made.

Exercise of Powers

43. The Parish Council shall exercise its powers subject to any directions or recommendations of the Vestry.

Division III - Parishes with more than One Vestry

Application of this Division

44. This Division applies only to a parish to which the provisions of Division II of Part II apply.

Composition of Parish Council

45. (1) The Parish Council shall consist of -

(a) The Parish Priest,

(b) Any full-time assistant member of the clergy of the parish and any permanent part-time assistant member of the clergy in receipt of not less than one-third of the minimum stipend paid by the parish,

(c) The churchwardens of every congregation within the parish (whether the land on which the congregation meets is Parish Trust Property or not),

(d) Such other eligible members of Vestries within the Parish as may be elected in accordance with the provisions of subsection (2),

and

(e) For every three members elected pursuant to paragraph (d) of this subsection, one communicant appointed by the Parish Priest, if he or she so desires.

(2) The number (if any) of members of Vestries within the Parish to be elected to the Parish Council and the Vestry or Vestries by which they shall be elected shall be determined by a majority of the Parish Priest and all the churchwardens as aforesaid and such member or members shall be elected at the Annual Vestry Meeting of the Vestry or Vestries concerned and at such other time as a vacancy shall occur. Members so elected to the Parish Council may be elected for one or two years as determined from time to time by a majority of the Parish Priest and all the churchwardens as aforesaid.

(3) Any determination made pursuant to subsection (2) shall remain in force until any further determination is made.

Delegation of Powers

46. Subject to the over-riding powers of the Parish Council in respect of other paragraphs of section 29 of this Ordinance the Parish Council may from time to time delegate to the Vestries or other governing bodies of any congregations or organisations within the parish all or any of the powers and duties specified in

paragraphs (b), (d), (j), (k) and (m) of section 29 of this Ordinance insofar as they affect the congregation or organisation concerned.

PART IV - CHURCHWARDENS AND OTHER OFFICERS

Initial Appointment

47. In any case, where no churchwardens have already been appointed to a congregation, churchwardens being communicant members of the Church shall be appointed in the first instance by the Bishop. Until there shall be a Vestry the churchwardens so appointed shall have power to act in all matters as fully and effectually as if they constituted a Vestry.

Qualifications

48. After there shall be a Vestry, churchwardens shall be lay persons who are qualified to elect lay members of the Synod for the Parish in accordance with the Constitution of the Diocese and shall be not less than eighteen years of age.

Election

49. At each Annual Vestry Meeting the Vestry shall elect one churchwarden and at or within seven days after each Annual Vestry Meeting the Parish Priest shall appoint a churchwarden. If at any Vestry Meeting at which a churchwarden should be elected the Vestry shall neglect or refuse to appoint a churchwarden then the Parish Priest shall be at liberty to appoint a churchwarden on behalf of the Vestry but such appointment shall not take effect until ratified by the Bishop. If at any time the Parish Priest shall neglect or refuse to appoint a churchwarden as aforesaid then the Bishop shall make the appointment on his or her behalf.

Vacancies

50. (1) In the event of a casual vacancy in the office of churchwarden occasioned by death or resignation or in the event of the Bishop certifying that a churchwarden is unable or refuses to act in accordance with the lawful instructions of the Vestry, the Parish Priest shall appoint a qualified person to fill such vacancy if the churchwarden whose place is to be supplied was appointed by the Parish Priest; if the churchwarden whose place is to be supplied was appointed by the Vestry then a Special Vestry Meeting shall be held to fill the vacancy. It shall be lawful for the Bishop to appoint a person to fill any extraordinary vacancy which shall remain unfilled at the expiration of two calendar months after the happening of the contingency giving rise to such vacancy.

(2) If on any occasion when a churchwarden should be appointed by the Parish Priest there is a vacancy in the office of Parish Priest the appointment shall be made by the Vestry but the appointment shall not take effect until ratified by the Bishop.

Duties

51. (1) In addition to those duties prescribed in the Book of Common Prayer the duties of churchwardens shall include the following -

(a) To co-operate with the Parish Priest in the initiation conduct and development of the work of God and the Church within the parish;

(b) To be the executive officers of the Vestry and of the Parish Council in respect of matters pertaining to the congregation to which they are appointed;

(c) To maintain order in the church and church grounds;

(d) To ensure that all things pertaining to the celebration of divine service are provided and to see that everything is fit and proper for the due performance thereof;

(e) To make available all books muniments and records for the inspection of the Bishop or the Archdeacon of the district in which the parish is situated and to supply them with any information or explanations when requested to do so.

(f) To report to the Bishop any serious neglect or failure on the part of the Parish Priest in the fulfilment of his or her pastoral duties;

(g) To perform such duties as are prescribed by this or any other Ordinance;

(h) Subject to any direction of the Parish Council or the Vestry as the case may be to receive bank and disburse moneys on behalf of the parish or congregations as the case may be.

(2) The Parish Council may determine that any of the functions referred to in subsection (1) shall be carried out by the parish secretary.

Other Officers

52. The Parish Priest shall have the right to appoint organists, vergers, servers of the sanctuary, superintendents and other officers of any Sunday School and any other officers he or she may deem advisable, and he or she shall have the right to dismiss any such officers, but the salaries or allowances of such officers shall be determined by the Parish Council or a Vestry as the case may be.

PART V - THE PARISH PRIEST

Nomination Committee

53. (1) When a vacancy occurs in the office of Parish Priest a Nomination Committee constituted as hereinafter provided shall nominate to the Bishop a suitable person being a Clerk in Holy Orders to be licensed to the parish.

(2) Subject to subsections (2a), (3) and (5), the Nomination Committee will be constituted by—

(a) the Bishop; and

(b) the Archdeacon of the district in which the parish is situated; and

(c) the churchwardens; and

(d) one clerical Diocesan Nominator selected by the Bishop; and

(e) one lay Diocesan Nominator selected by the Bishop; and

(f) —

(i) in the case of a parish comprising only one congregation which is subject to Part II Division 1 of this Ordinance—up to three eligible lay persons appointed by the Vestry to be representatives on the Nomination Committee;

(ii) in the case of a parish comprising two or more congregations which is subject to Part II Division 2 of this Ordinance —one eligible lay person for each congregation, with each Vestry making an appointment of an eligible lay person to be a representative on the Nomination Committee;

(iii) in the case of a parish comprising two or more congregations which is subject to Part II Division 3 of this Ordinance — one eligible lay person for each congregation, appointed by the Vestry to be representatives on the Nomination Committee.

(2a) For the purposes of subsection (2)(f), a member of the Vestry is eligible to be a representative on the Nomination Committee if —

(a) the person is not an employee of the parish; and

(b) no other member of the same family household is a member of the Nomination Committee at the same time.

(3) When a parish includes a congregation on behalf of which the Synod holds no Parish Trust Property and which is governed by an instrument of trust which makes provision for the appointment of a member of the clergy to the congregation, the Nomination Committee shall not (unless they are otherwise appointed pursuant to such instrument of trust) include the churchwardens of

that congregation or any person appointed by the Vestry of that congregation, but shall include the persons appointed pursuant to such instrument of trust to nominate a Clerk in Holy Orders for appointment as the member of the clergy to that congregation.

(4) For the purposes of subsection (2)(d) and (e), the Synod is to elect—

(a) four members of the clergy to be clerical Diocesan Nominators; and

(b) four lay members of the Synod to be lay Diocesan Nominators.

(5) A Vestry is not required to make an appointment under subsection (2)(f).

Meetings of Nomination Committee

54. (1) When a vacancy in the office of Parish Priest shall have occurred or when the Bishop shall have received notice that such a vacancy will occur, the Bishop shall convene a meeting of the Nomination Committee. Such meeting and any subsequent meeting of the Nomination Committee, other than an adjournment of a meeting, shall be convened by giving not less than fourteen days' notice in writing to the Archdeacon of the district in which the parish is situated, the Diocesan Nominators and the churchwardens. The churchwardens shall give not less than 7 days' notice to the persons (if any) appointed to the Nomination Committee by the Vestry or Vestries.

(2) Notwithstanding the provisions of section 17 (2)(d), a Nomination Committee which has once met, shall remain in office until a person nominated in accordance with this Part and whom the Bishop is willing to license to the office accepts the office.

Information to the Bishop

55. Before the meeting of the Nomination Committee the Parish Council and Churchwardens shall furnish to the Bishop in writing such financial and other information regarding the parish as the Bishop may require.

Chairperson of Nomination Committee

56. At all meetings of the Nomination Committee the Bishop if present and willing to act shall preside. In the absence of the Bishop or if the Bishop being present shall decline to act the Archdeacon of the district shall preside.

Quorum

57. The proceedings of the Nomination Committee shall not be invalidated by reason of the absence or unwillingness to act of any of its members. One half of the members of the Nomination Committee shall constitute a quorum provided that either the Bishop or the Archdeacon of the district in which the parish is situated is present.

Nomination

58. The nomination of a person to be licensed to be the parish priest shall be in writing in a form prescribed by the Bishop.

Admission of Nominee

59. Subject to the person nominated accepting the office and to the Bishop granting him or her a licence in respect thereof, the Synod shall admit the person so nominated to exercise the office of Parish Priest in the parish, and the Synod shall give effect to every sentence of suspension or withdrawal of licence by the Bishop which shall or may at any time be pronounced in accordance with the terms of the licence given to the Parish Priest by the Bishop or pursuant to any Ordinance.

Power of Bishop to Appoint

60. Notwithstanding anything hereinbefore contained the Bishop shall have the power to appoint a member of the clergy to fill a vacancy in the office of Parish Priest (and the Synod shall admit a Parish Priest so appointed):

(a) if within six calendar months of the date of any notice given by the Bishop pursuant to section 54 convening a meeting of the Nomination Committee such Committee shall not have nominated to the Bishop a duly qualified person to be licensed to the parish;

or

(b) if the parish at the time of commencement of the vacancy is a parish in need of support.

Exchange of Offices

61. The Bishop may at any time and at the request of the members of the clergy concerned shall propose an exchange of offices between that of the Parish Priest and that of some other member of the clergy and may give effect thereto with consent of the members of the clergy concerned, the Nomination Committee and the person or body entitled to appoint a member of the clergy to that other office. The provisions of section 59 shall apply mutatis mutandis to any person so appointed as the Parish Priest as if such person had been nominated by the Nomination Committee to exercise the office of Parish Priest in the parish.

Declaration of Vacancy

62. (1) If in the opinion of the Bishop the Parish Priest (except in the case of sickness or injury) has absented himself or herself from his or her cure for more than four weeks in any one calendar year over and above any annual or long service leave to which he or she may be entitled without having first obtained the consent of the Bishop the Bishop may notify the Parish Priest by notice in writing posted to the last known address of the Parish Priest and in such case shall notify the parish secretary that the Bishop intends to declare that a

vacancy in the office of Parish Priest exists. Subject to the provisions of subsection (2) the Bishop may at the expiration of four weeks from the date of such notice declare that a vacancy in the office of Parish Priest exists and thereupon a vacancy within the meaning of section 53 shall be deemed to exist.

(2) Within four weeks of the date of the notice referred to in subsection (1) the Parish Priest may appeal to the Diocesan Tribunal constituted under the Clergy Discipline Ordinance 1983 against the decision to declare a vacancy in the office of Parish Priest. If the Parish Priest shall prove to the satisfaction of the Tribunal that he or she was not absent from his or her cure as aforesaid then the Tribunal shall declare that no vacancy in the office of Parish Priest exists. If the Parish Priest shall not prove to the satisfaction of the Tribunal that he or she was not absent as aforesaid the Tribunal shall declare that a vacancy in the office of Parish Priest exists and thereupon a vacancy within the meaning of section 53 shall be deemed to exist.

Locum Tenens

63. The Bishop shall be at liberty to appoint a member of the clergy to officiate in the parish during any vacancy in the office of Parish Priest and the Synod shall admit such member of the clergy to officiate accordingly. The Parish Council shall be responsible for the payment of the travelling expenses and the appropriate stipend of the person or persons so appointed in accordance with the scale (if any) determined by the Synod. A member of the clergy so appointed shall have and may exercise all the powers and functions of the parish priest during the period of his or her appointment.

PART VI - APPROPRIATION OF PROPERTY

Licensed Buildings

64. The Synod with the consent of the Parish Council shall be at liberty to set apart any portion of Parish Trust Property for a church mission hall or other building intended to be licensed by the Bishop for the purpose of worship and for such other purposes (not being inconsistent with the Declaration of Trust pursuant to which the said land is vested in the Synod) and with the like consent to revoke any such setting apart. The name of the church mission hall or other building erected or to be erected upon any portion of the Parish Trust Property so set apart shall unless such name shall have been included in the said Declaration of Trust be determined by the Parish Council subject nevertheless to the approval of such name by the Bishop.

Rectory and Other Uses

65. The Synod with the consent of the Parish Council shall be at liberty to set apart any other portion of Parish Trust Property for a rectory glebe school hall cemetery or for any other purpose and with the like consent shall be at liberty from time to time to revoke such setting apart or to vary the purpose for which any such other portion of the Parish Trust Property shall have been set apart provided that the purpose for which any such other portion of the Parish Trust Property shall be set apart shall not be a purpose inconsistent with the said Declaration of Trust.

Other Christian Denominations

66. For the purposes of this Ordinance the use of a church mission hall or other building or any portion thereof or any other portion of Parish Trust Property for the purpose of any other Christian denomination shall not of itself be deemed to be a purpose inconsistent with the said Declaration of Trust.

Transitional

67. Any Parish Trust Property set apart for the purposes specified in section 64 or 65 of this Ordinance at the time such property becomes subject to the provisions of this Ordinance shall be deemed to have been so set apart pursuant to the provisions of this Ordinance.

PART VII - LICENSING OF CHURCH BUILDINGS

Petition to License

68. Upon the petition of the Parish Priest and the churchwardens of the congregation concerned the Bishop may license a building on Parish Trust Property. The form of petition shall be as prescribed by the Bishop.

Revocation of Licence

69. (1) A proposal to revoke a licence for a church building may be initiated after consultation with the parish by the Parish Priest, the Parish Council, the Archdeacon of the area in which the parish is situated or the Bishop.

(2) The proposal shall be considered by the Bishop who shall consult with the Diocesan Council and invite submissions from the Archdeacon of the area in which the parish is situated, the parish itself, members of the congregation who normally attend divine service in the building, the Parish Priest, the Parish Council and any other person or body the Bishop considers to be affected.

(3) The Bishop will consider any submission and may decide to revoke such licence by giving notice to the Parish Priest and the Parish Council.

(4) The revocation shall be in writing and shall state the reasons for the same a copy of which shall be tabled at the next ensuing session of the Synod and provided to each person or body who or which has provided a submission to the Bishop in accord with sub-section (2).

PART VIII - THE USE OF CHURCHES AND OTHER BUILDINGS

Use of Buildings

70. (1) A building licensed by the Bishop shall only be used for -

(a) the performance of divine service and administration of the sacraments and other rites and ceremonies of the Church according to the use of The Anglican Church of Australia;

(b) the giving of religious instruction according to the principles of The Anglican Church of Australia, and

(c) such other purposes as the Bishop, the Parish Priest, and the Parish Council may approve.

(2) No person other than the Parish Priest, the Bishop or a Commisary shall officiate at the performance of divine service or administer the sacraments or other rites and ceremonies as aforesaid in any building licensed by the Bishop unless the following consents are first obtained:

(a) for any other member of the clergy or lay reader licensed by the Bishop, that of the Parish Priest;

(b) for any other person, those of the Parish Priest and the Bishop save that if the Parish Priest be suspended from office or be incapable through sickness or injury of giving such consent the consent of the Bishop alone shall suffice.

(3) No unlicensed building or place on Parish Trust Property shall be used for the performance of divine service or the administration of the sacraments and other rites and ceremonies of the Church acco rding to the use of The Anglican Church of Australia unless the Bishop shall have given permission for such use in such building or place.

Consent for use of Buildings

71. No building on Parish Trust Property shall be used for any purposes without the consent of the Parish Priest or in the case of a vacancy in the parish without the consent of the Archdeacon of the district in which the parish is situated.

Parish Priest to have Access

72. The Parish Priest shall have access to the church and other buildings used for parochial purposes at all times and may officiate at the performance of divine service administer the sacraments and perform all other rites and ceremonies of the Church according to the use of The Anglican Church of Australia without hindrance except as hereinafter provided and shall for such purposes have the keys of the church and other buildings used for parochial purposes.

Rectory

73. The Synod shall permit the Parish Priest to occupy the Rectory (if any) but may with the consent in writing of the Parish Priest from time to time let the rectory in accordance with the provisions of section 77 of this Ordinance.

Forfeiture

74. In case the Parish Priest shall be legally divested of his or her office, he or she shall ipso facto forfeit and be absolutely deprived of all and singular his or her rights, privileges and interest in or respecting all property of the parish.

Schools

75. Where a school is conducted on any portion of Parish Trust Property the regulations governing the conduct of such school shall be such as shall from time to time be approved by the Diocesan Council.

PART IX - MANAGEMENT OF PROPERTY

Management and Control

76. In all cases not herein or in any other Ordinance otherwise specifically provided for the Parish Council shall be responsible for the management and control of Parish Trust Property.

Leasing

77. The Synod with the consent of the Parish Council shall be at liberty to let any land not for the time being set apart for the purpose referred to in section 64 of this Ordinance and any other land whether set apart for any of the purposes referred to in section 65 of this Ordinance or otherwise not for the time being required to be used for the purpose (if any) for which the same shall have been set apart provided however that no Parish Trust Property shall be let for a period exceeding twenty one years without the consent of the Bishop also being in each instance first had and obtained.

Mortgaging

78. Notwithstanding anything hereinbefore contained upon receiving from the Parish Council a resolution duly passed by it and certified in manner hereinafter appearing requesting the Synod so to do or consenting to the Synod so doing the Synod may in its discretion mortgage any Parish Trust Property other than property for the time being set apart for use as a cemetery or upon which any consecrated church shall be erected for such amount and upon such terms and conditions as shall seem fit to the Synod and the amount so raised on mortgage shall be applied for such purposes (being purposes either expressly stated in the said resolution or if no such purposes shall have been so stated then purposes in connection with the extension or development of the work of The Anglican Church of Australia within the Diocese) as the Synod shall determine. Moneys so raised on mortgage and applied not for any purpose expressly stated in the said resolution but for purposes in connection with the extension or development of the work of The Anglican Church of Australia within the Diocese selected by the Synod shall not be deemed to be "amounts borrowed by the parish" within the meaning of section 29 of this Ordinance.

Sale or Transfer: Parish Procedures

79. Where it is desired to sell or transfer any Parish Trust Property the following provisions shall apply –

(aa) An amount-

(i) equal to 40% of the net proceeds of sale shall be retained by the Synod for the purposes of ministry development determined by the Synod; and

(ii) equal to an additional 5% shall be set aside for the support of ministry and mission in areas of need beyond the Diocese at the discretion of the Bishop of the diocese after consultation with the Parish Council,

unless the Synod determines either generally or in a particular case that a lesser or no amount shall be so retained.

(a) The Parish Council on whose behalf the property is held shall first resolve that the Synod be requested to sell or transfer such property. Such resolution shall specify the purpose or purposes (not being a purpose or purposes inconsistent with the Declaration of Trust pursuant to which the property is vested in the Synod) for which the purchase money, subject to paragraph (aa), shall be applied and may specify any terms and conditions of the proposed sale or transfer. If the resolution does not specify any minimum price or by whom the minimum price shall be determined the Parish Council shall have power to determine the same at a subsequent time.

(b) A copy of the resolution and notice of the date of the meeting of the Parish Council at which confirmation of the resolution is to be considered shall be read at each service in the Parish held on the two consecutive Sundays immediately following the meeting at which the resolution is passed.

(c) Any objections to the resolution by members of the parish or groups of members of the parish shall be transmitted in writing to the Parish Priest or the parish secretary to reach them before the meeting of the Parish Council at which confirmation of the resolution is to be considered.

(d) Any such objections shall be considered by the Parish Council at a meeting held not less than three weeks after the meeting at which the resolution was passed and the resolution shall not be effective unless confirmed at such meeting or any adjournment thereof.

(e) The resolution so confirmed shall be effective for a period of twelve calendar months from the date of its first being passed as aforesaid.

Sale or Transfer: Synod Procedures:

80. (1) Upon receiving from the Parish Council a resolution duly passed and confirmed pursuant to section 79 of this Ordinance and certified in manner hereinafter appearing together with copies of any objections to the resolution the Synod may in its discretion sell or transfer any Parish Trust Property for such amount and on such terms and conditions as shall seem fit to the Synod. Subject to paragraph (aa) of section 79, the purchase money shall be applied for the purpose or purposes stated in the resolution and approved by the Synod.

(2) No such resolution shall be considered by the Synod unless accompanied by a certificate under the hand of the Parish Priest or the person or persons presiding at the meetings of the Parish Council at which the resolution was passed and confirmed and countersigned by not less than two members of the Parish Council that such resolution was duly passed and confirmed as aforesaid, that the provisions of sections 79 of this Ordinance have been complied with and certifying whether or not there were any objections to the resolution.

Extension of Time

81. (a) The Parish Council may by resolution passed within two calendar months prior to the expiration of the period determined pursuant to paragraph (e) of section 79 of this Ordinance apply to the Synod for an extension of not more than 12 calendar months to the period so determined.

(b) Upon receiving from the Parish Council a resolution duly passed pursuant to paragraph (a) of this section and certified in the manner hereinafter appearing together with a statement of the reason or reasons for such application the Synod may in its discretion extend by not more than 12 calendar months the period determined pursuant to paragraph (e) of section 79 of this Ordinance.

(c) No such resolution shall be considered by the Synod unless accompanied by a certificate under the hand of the Parish Priest or the person presiding at the meeting of the Parish Council at which the resolution was passed and countersigned by not less than two members of the Parish Council that such resolution was duly passed.

Termination of Registration

82. Notwithstanding anything hereinbefore contained if the Synod holds Parish Trust Property on behalf of a parish whose registration by the Synod has been terminated the Synod may upon the request of the Archdeacon of the district in which such Parish Trust Property is situated lease sell or transfer any such Parish Trust Property and may apply the proceeds of such leasing sale or transfer for such purpose or purposes of The Anglican Church of Australia within the Diocese of Adelaide as the Synod may determine.

Buildings, Fittings, Furniture and Ornaments

83. (1)(a) No building shall be erected or placed on the Parish Trust Property, and

(b) no building erected on the Parish Trust Property shall be altered, added to, demolished or removed from Parish Trust Property,

without the consent of the Parish Council, the Parish Priest and the Bishop being in each instance obtained.

(2)(a) No fittings furniture or ornaments shall be installed, placed in or removed from any building licensed for worship erected on Parish Trust Property, and

(b) no such fittings, furniture or ornaments shall be altered or added to

without the consent of the Vestry of the congregation concerned, the Parish Priest and the Bishop being in each instance obtained.

(3) Any erection, placement, installation, alteration, addition, demolition or removal contrary to the provisions of this section shall forthwith be demolished, removed, restored, rebuilt, replaced or made good as the case may be by the Parish Council or Vestry as the case may be upon the Bishop requiring the same to be done and in accordance with any directions or modifications which the Bishop may direct.

Insurance

84. (1) Subject to subsection (3) all buildings, fences and other improvements for the time being erected on Parish Trust Property and all personal property and money held on behalf of the parish shall be insured and kept insured to the satisfaction of the Diocesan Council in such amounts as the Diocesan Council may from time to time prescribe and in the meantime as the Parish Council or the Vestry as the case may be shall consider appropriate against loss or damage by fire, storm, tempest, theft, and such other contingencies (if any) as the Diocesan Council may from time to time determine.

(2) All such policies of insurance effected pursuant to the requirements of subsection (1) shall be in the name of the Synod for the benefit of the parish and shall be placed in the keeping of the Secretary of Synod provided that if any such buildings or improvements should be mortgaged such policies may if required be in the name of the mortgagee in addition and may be held by such mortgagee.

(3) The Diocesan Council in the name of the Synod and on behalf of and at the expense of the parish may effect such policies of insurance in respect of:

(a) The property and risks mentioned in subsection (1) upon the conditions agreed to by the Diocesan Council;

(b) The liability of the Synod or any officers of the Synod or of the parish for personal injury or damage to property; and

(c) Personal injury by accident to voluntary workers.

The amounts paid or payable by the Synod on behalf of the parish pursuant to this section shall be paid on demand by the Parish Council to the Synod or to such person or body as the Synod may from time to time direct.

(4) The Parish Council shall be entitled in the name and on behalf of the Synod to settle any claim or apply and expend the whole or any part of the proceeds received from any policy of insurance effected pursuant to sub-section (1) to replace, repair or rebuild the lost or damaged property or for any other purpose whatsoever where the aggregate amount of such claim or such proceeds does not exceed the amount fixed from time to time by the Diocesan Council for the entering into by the Parish of any agreement, contract or arrangement in accordance with Section 85 of this Ordinance. In all other cases the settlement of any insurance claim and the application and expenditure of any proceeds received therefrom shall be determined by the Diocesan Council which shall have regard to any expressed wish of the Parish Council.

Contracts by Parish

85. The Parish Council shall not enter into any agreement contract or arrangement at any time for the maintenance of property for the time being subject to the provisions of this Ordinance or for the erection of any building on Parish Trust Property for an amount in excess of the amount fixed from time to time by the Diocesan Council without the prior written consent of the Diocesan Council.

Parish Contracts and Synod Loans to Parishes Guaranteed by the Synod

85A (1) The Synod may

(a) agree to act as Guarantor of the undischarged obligations of a Parish Council with respect to any agreement, contract or arrangement;

(b) lend money to a Parish Council for any proper purpose upon such terms and conditions as the Synod shall think fit.

The provisions of this section shall apply as between the Synod and the Parish Council to any agreement, guarantee or loan.

(2) (a) If the Parish Council shall default in the performance of a Parish Obligation which has been guaranteed by the Synod and a demand is made upon the Synod to perform that obligation then the Synod shall forthwith give notice to the Parish Council that it has received such demand and call upon the Parish Council to remedy the default;

(b) If the Parish Council shall default in the performance of a Parish Obligation under an agreement for a loan from the Synod, the Synod

may give notice to the Parish Council demanding repayment of the outstanding principal and interest thereon.

(3) If within one (1) month of the date of the posting of the notice the Parish Council shall have failed to discharge the unfulfilled obligation then:-

(a) other than as to Parish Trust Property which is for the time being set apart for use as a cemetery or upon which any consecrated church shall be erected the foregoing provisions of this Ordinance which operate to vest the control and management of Parish Trust Property in the Parish Council as agent of the Synod shall cease to apply to all such other Parish Trust Property ("the applicable Parish Trust Property");

(b) the control and management of the applicable Parish Trust Property shall be vested in the Diocesan Council until the provisions of this sub-section cease to apply; and

(c) the right of any Church Warden, Parish Secretary or other person authorised to operate upon any Parish account ("the usual parish officers") opened pursuant to the provisions of paragraph (h) of sub-section (1) of Section 51 of this Ordinance shall be suspended (without prejudice to the obligation of the Church Warden to receive and bank money received on behalf of the Parish or congregation as the case may be).

(4) For the purpose of discharging the unfulfilled Parish Obligation the Synod may with respect to any applicable Parish Trust Property:-

(a) mortgage such applicable Parish Trust Property or any part thereof for such amount and upon such terms and conditions as shall seem fit to the Diocesan Council; or

(b) sell any such applicable Parish Trust Property or any part thereof in its absolute discretion for such amount and on such terms and conditions as shall seem fit to the Diocesan Council .

The Synod shall be entitled to receive the proceeds of any such mortgage or sale which it shall apply first towards the discharge of the unfulfilled Parish Obligation, secondly to pay any costs or expenses incurred by the Synod and thirdly to account to the Parish Council for and make payment of any surplus.

(5) Whilst the provisions of sub-section (3) apply then none of the usual parish officers shall be entitled to transact upon any general Parish operating account opened pursuant to the provisions of Section 51(1)(h) save for the obligation to ensure that all Parish money received during such period is nevertheless paid into such account. The Diocesan Council shall appoint an operator for any such account to effect the disbursement of moneys on behalf of the Parish. The Secretary of Synod shall forthwith give the Manager of the

branch of the bank or financial institution where such account is maintained notice of the operator appointed by Diocesan Council together with:

(a) a copy of the provisions of this Section; and

(b) a copy of the relevant resolution of the Diocesan Council; and

(c) the specimen signature of the new operator.

(6) Whilst the provisions of sub-section (3) apply (unless the Diocesan Council otherwise resolves) no person elected as a representative of the Parish or of any congregation thereof shall be entitled to attend or take part in the deliberations of any session of the Synod.

(7) Once the breach of a Parish Obligation has been remedied and, if applicable, the Synod has no outstanding obligation as Guarantor, the Diocesan Council may resolve that the provisions of subsection (3) hereof shall cease to apply to the Parish Trust Property under its control and thereupon:-

(a) the Parish Trust Property then remaining under the management and control of the Diocesan Council shall revert to the management and control of the Parish Council; and

(b) the person appointed by the Diocesan Council to operate upon any Parish account shall cease to be the operator and those persons who were authorised at the time the provisions of sub-section (3) hereof commenced shall again be entitled to operate upon such account.

(8) Any notice of the Parish Council on behalf of the Synod shall be signed by the Secretary of the Synod (or such other officer for the time being discharging the functions of the Secretary of Synod) and shall be deemed to be served upon the Parish Council if forwarded by ordinary pre-paid post to any two of the Parish Priest, a Warden or the Parish Secretary.

(9) In this Section -

(a) the expression "guarantor" or "guarantee" (whether used as a noun or a verb) shall mean and include in relation to any Agreement:-

(i) any liability incurred by the Synod at the request of a Parish Council which is based upon a promise that the Parish will pay, fulfil and discharge all the obligations arising from such Agreement; and

(ii) any Agreement entered into by a Parish Council or by any authorised officer on the understanding that the Synod will guarantee the due performance by the Parish or such parochial officer of the terms of such Agreement;

(b) "Parish Obligation" means -

(i) an obligation of a Parish Council with respect to any agreement, contract or arrangement of which the Synod has agreed to act as Guarantor, or

(ii) an obligation to repay a loan (together with interest if applicable) advanced by the Synod.

Manager of Parish Property and Financial Affairs

85B (l) If-

(a) A parish refuses to pay the whole or part of its synodal assessment, refuses to lodge a return in accordance with the Assessment Ordinance 1985 or refuses to comply with any other requirements under that Ordinance;

(b) the Parish Council refuses to carry out any of its duties under section 29(a), (b), (c), (g) or (j) of this Ordinance;

or

(c) the churchwardens refuse or fail to carry out any of their duties under section 51(1) (e) or (h) of this Ordinance;

Diocesan Council shall request the Archdeacon of the area to attempt to resolve the default either by conciliation or by a process of mediation before an independent mediator. The Archdeacon shall represent the Synod in any such process and shall report to Diocesan Council on the outcome of the process.

(2) If after conciliation or mediation the default remains unresolved the Diocesan Council may by written notice of default require the defaulting party to remedy the default within thirty days after service of the notice. A copy of the notice shall be sent to the Parish Priest and to each lay Synod representative of the Parish.

(3) (a) If the default is not rectified within the period of thirty days after service of notice upon the defaulting party the Diocesan Council may appoint a Manager to take control of and manage the property and financial affairs of the parish for such period as the Diocesan Council thinks fit. Before appointing a manager Diocesan Council, through the Archdeacon of the area, will consult with the vestry of the parish.

(b) The Diocesan Council may extend or terminate the term of appointment of a Manager if in the opinion of the Diocesan Council the circumstances require it.

(c) If the Manager dies, resigns or in the opinion of the Diocesan Council becomes physically or mentally incapable of performing his or her duties, the Diocesan Council may terminate the appointment of the Manager and appoint a new Manager for the balance of appointment.

(4) To be eligible for appointment as a Manager a person must have, in the

opinion of Diocesan Council, appropriate expertise and experience to act as a Manager and must:

(a) be a communicant member of the Anglican Church of Australia; or

(b) have signed a declaration in the form contained in the first Schedule.

(5) Under the appointment of a Manager the control and management of all Parish Trust Property and the financial affairs of the parish shall be vested in the Manager for and on behalf of the Diocesan Council until the provisions of this section cease to apply.

(6) During the term of appointment of a Manager or any extension thereof:

(a) neither the Parish Council nor any parish officer appointed by or assisting it shall be entitled to exercise any of the powers and duties contained in section 29(a), (b), (c), (d), (e), (f), (g), (h), (i), (j), and (l) and section 30;

(b) the Parish Council and any parish officer appointed by or assisting it may continue to exercise any power or duty not referred to in paragraph (a);

(c) neither the churchwardens nor any parish officer appointed by or assisting them shall be entitled to operate upon any banking account whether opened pursuant to the provisions of section 51(h) or otherwise save for the obligation to ensure that all parish money received by them is nevertheless paid into such account; and

(d) the power of the churchwardens to act as the executive officers of the Vestry and of the Parish Council shall be limited to matters other than the property and financial affairs of the parish.

(7) Upon the request of the Manager the Parish Council, the churchwardens or any other person holding property for the benefit of the parish shall forthwith deliver up to the Manager all documents and records in their possession relating to the property and financial affairs of the parish.

(8) The Manager shall:

(a) as soon after his or her appointment as is reasonably practicable take into his or her custody or under his or her control all the property to which the parish is or appears to be entitled;

(b) subject to any direction given in writing by or on behalf of the Diocesan Council, manage the property and financial affairs of the parish in such manner as he or she thinks most prudent and most beneficial to the interests of the parish and of the Diocese;

(c) comply with all requirements of this and all other ordinances applicable to the parish relating to the keeping of accounts, the lodging of annual reports, the payment of synodal assessments, stipends and any other accounts payable by the parish under any Ordinance and perform all

other duties which are applicable and are imposed on the parish, the Parish Council or the churchwardens by or under any ordinance relating to property or financial matters;

(d) convene a meeting of parishioners within one calendar month of his or her appointment for the purpose of explaining to the members of the parish the nature and purpose of his or her appointment and reporting on the financial state of the parish, notice of such meeting to be given in writing in the same manner as is prescribed for the calling of Vestry meetings;

(e) convene further meetings of parishioners during the term of his or her appointment at intervals of not more than six months from the preceding meeting for the purpose of reporting further on the financial state of the parish, notice of each meeting to be given in the same manner as is prescribed for the calling of Vestry meetings;

(f) within three months after his or her appointment report in writing to the Diocesan Council or to its nominated committee on the property and financial affairs of the parish in such form as may be directed by the Diocesan Council or its nominated committee and thereafter submit further reports to the Diocesan Council or its nominated committee at intervals of no less than six months during the period of management; and

(g) cooperate with and assist the Parish Council and the Churchwardens in carrying out the respective duties not abrogated to the Manager.

(9) The Manager shall have all the powers vested in the Parish Council and in the Churchwardens under this Ordinance with respect to property and financial affairs and without limiting the generality thereof shall have the following further powers:

(a) to take possession of all property and books of account held by or for the benefit of the parish (including property held by any organisation affiliated or associated with the parish or any congregation forming part of the parish) and all title deeds, certificates of investments and banking records relating to such property;

(b) to operate any bank accounts in the name of or for the benefit of the parish;

(c) to redeem any investments of or held for the benefit of the parish for the purpose of the proper administration of the financial affairs of the parish;

(d) to collect any rent which may be payable to or for the benefit of the parish;

(e) to do all acts and execute in the name of and on behalf of the parish all receipts and other documents;

(f) with the prior approval of the Diocesan Council to seek advice and assistance from a solicitor, accountant or other qualified professional

person to assist him or her in his or her duties;

(g) to refer any matter to Diocesan Council for advice or direction;

(h) to receive income from endowments whether received by a member of the clergy or the churchwardens;

(i) to collect and receive the annual income of the parish as defined in section 18 of the Assessment Ordinance 1985*;*

(j) to do all such other things as may be necessary for administering the financial affairs of the parish; and

(k) subject to any agreement made with Diocesan Council to recover his or her professional management fees from the income and financial investments of the parish.

(10) The Diocesan Council will indemnify and keep indemnified the Manager against all actions, proceedings, claims and demands in respect of, arising from or in any way connected with the due performance by him or her of his or her duties and the exercise of his or her powers as Manager of the property and financial affairs of the parish. Such indemnity shall be satisfied in the first instance out of the assets of the parish and to the extent that they are inadequate from the assets of the Synod.

(11) When the term of appointment of the Manager or extension thereof has expired the Diocesan Council shall notify the Parish Council and the churchwardens by notice in writing that the management of the property and financial affairs of the parish under this section has been completed. A copy of such notice shall be sent to the parish priest and to each lay synod representative of the parish. Upon such notification:

(a) the control and management of all parish property and financial affairs shall revert to the Parish Council;

(b) the Parish Council shall be again entitled to exercise all of its powers and duties under sections 29 and 30;

(c) the churchwardens shall be again entitled to exercise their powers as executive officers of the Vestry and of the Parish Council with respect to property and financial matters;

(d) the Manager shall cease to be an operator upon any parish account and those persons who were authorised at the date of the original appointment of the Manager shall again be entitled to operate upon such account; and

(e) each lay Synod representative of the parish or any congregation thereof shall again be entitled to attend or take part in the deliberations of sessions of the Synod.

(12) In this section 'property of a parish' or 'parish property' includes all parish trust property as defined in the Church of England Trust Property Act and relating to the parish in question, and all property real or personal held by the Parish

Council, the churchwardens, any officer appointed or assisting either the Parish Council or the churchwardens or any organisation affiliated or associated with the parish (or any congregation forming part of the parish) or held by any other person for the benefit of the parish (or any congregation forming part of the parish).

(13) Any notice required to be served upon a person under this section will be deemed to be properly served if served either personally or by pre-paid post to the person's last known address.

Exercise of Powers by Synod

86. The several rights duties and powers conferred upon the Synod pursuant to Parts VI and IX of this Ordinance may be exercised by the Diocesan Council or by a committee appointed for that purpose in accordance with section 7 of the Diocesan Council Ordinance 2007.

PART IXA – PARISH REVIEW

Institution of review

86A. (1) The Diocesan Council may direct and authorise the Secretary of Synod to review the affairs or activities of a parish to determine whether any aspect of the management of real property forming part of Parish Trust Property may give rise to unreasonable risk.

(2) In conducting the review, the Secretary of Synod must act in consultation with the Archdeacon for the relevant parish and seek to work co-operatively with the Parish Council.

(3) The Secretary of Synod must provide the Parish Council with a written explanation of Diocesan Council's reasons for initiating the review.

Parish co-operation

86B. (1) The Parish Council for a parish that is undergoing a review must comply with any reasonable request made by the Secretary of Synod for the purposes of the review.

(2) Without limiting subsection (1), a Parish Council must:

(a) if requested to do so, meet with the Secretary of Synod, or a person nominated by the Secretary of Synod; and

(b) answer questions put by the Secretary of Synod, or a person nominated by the Secretary of Synod; and

(c) provide or prepare documents, records, financial statements and other information requested by the Secretary of Synod or by a person nominated by the Secretary of Synod; and

(d) take reasonable steps to support the Secretary of Synod in any other way in connection with the review.

Report

86C. (1) The Secretary of Synod must prepare a written report at the conclusion of a review under this Part.

(2) The report must, insofar as is relevant to the review, include information about:

(a) the management of any Parish Trust Property; and

(b) the state of any Parish Trust Property; and

(c) the nature and extent of any risk to the Synod; and

(d) the likely costs involved in addressing any matter that is relevant to the circumstances outlined in the report; and

(e) the ability of the relevant parish to pay for the costs identified in the report, and any reasonable options to address any inability of the parish to pay for those costs.

(3) The Secretary of Synod must, before completing the report:

(a) provide a draft of the report to the Parish Council for the relevant parish; and

(b) allow the Parish Council to provide a response (including by providing additional information to the Secretary of Synod) to the report within a period, of at least 6 weeks, specified by the Secretary of Synod; and

(c) take into account any response or information provided by the Parish Council under paragraph (b).

(4) The Secretary of Synod must, as soon as practicable after completing the report, provide the report to the Diocesan Council.

(5) A copy of any written submission made by the relevant Parish Council must accompany the report provided to the Diocesan Council under subsection (4).

Action that may be taken by Diocesan Council

86D. (1) The Diocesan Council may, after receiving a report from the Secretary of Synod, determine what action (if any) should be taken in the circumstances.

(2) For example, the Diocesan Council may:

(a) require that the Parish Council engage a person to undertake any maintenance or remedial work on any Parish Trust Property or any part of Parish Trust Property; or

(b) require the Parish Council to set out a plan or scheme in connection with the management, maintenance, use or preservation of Parish Trust Property, or any part of Parish Trust Property; or

(c) require the Parish Council to provide reasons for why specified Parish Trust Property should not be sold.

Protocol

86E. (1) The Diocesan Council must develop and publish a protocol associated with the operation of this Part.

(2) Without limiting subsection (1), the protocol:

(a) must –

(i) outline a process that will be adopted before the Diocesan Council determines to initiate a review under this Part; and

(ii) set out criteria, indicators and factors that the Diocesan Council may take into account in deciding whether or not to initiate a review under this Part; and

(b) may –

(i) provide for additional processes and procedures in connection with the conduct of a review under this Part; and

(ii) set out or identify steps and action that should be taken by a Parish Council if their parish is the subject of a review under this Part; and

(iii) set out other steps and consultation that will be undertaken after a report has been prepared; and

(iv) deal with any other matter considered to be helpful or appropriate in connection with a review under this Part.

PART X - MISCELLANEOUS

Doubts and Disputes

87. The Diocesan Council may settle and determine all doubts and disputes that may arise with reference to any elections or transaction of business by churchwardens Vestries and Parish Councils and may from time to time make and alter rules not

inconsistent with the provisions of this Ordinance for the conduct of elections and the transaction of business as aforesaid and may also settle and determine all doubts and disputes with reference thereto.

Commencement

88. (1) Subject to subsection (2) and (3) this Ordinance shall take effect on and from the 1st day of April 1986.

(2) Parts III, IV and V of this Ordinance shall take effect in a parish as from the commencement of the first Annual Vestry Meeting held in the parish under the provisions of this Ordinance, provided that the provisions of section 19 shall apply to the convening of every Annual Vestry Meeting held after the lst day of April 1986.

(3) In any parish in which there is a vacancy in the office of Parish Priest as at the 1st day of April 1986 the provisions of Part V (other than section 63) shall not take effect in that parish until a member of the clergy shall have been admitted to that office. The selection of the parish priest for such parish shall be in the manner applicable to such parish as if The Model Declaration of Trust Ordinance 1985 had not been passed, and the provisions of section 59 shall apply to the person so appointed.

THE FIRST SCHEDULE
(Section 85B (4))

I .....

of .....

DO DECLARE

1. That I am over the age of 18 years;

2. That I submit to and agree to be bound by the Constitution of the Diocese of Adelaide and every Ordinance from time to time in force;

3. That I accept the office of

…….

and promise to perform my duties honestly, impartially, faithfully and to the best of my judgment and ability and in accordance with and subject to the said Constitution and Ordinances.

Signature: .....

Witness: .....

Date: .....

Legislative History

Passed on 22nd September 1985.

The Assessment Ordinance 1980-1983 mentioned in Section 4 hereof has been replaced by The Assessment Ordinance 1985

Amended 18th September 1987, sections 1 and 86

Amended 16th September 1989 by the Financial Year Ordinance, sections 1 and 30

Amended 14th September 1990 by the Annual Vestry Meeting Amendment Ordinance 1990, sections 17, 18, 19, 20, 34, 42, 45, 49, 88

Amended 14th September 1990, new section 84 (4)

Amended 14th September 1990 by the The Ordinances Publication Ordinance Amendment Ordinance 1990 - Title - Section 1

Amended 17 August 1997, new section 85A

Amended 29 May 1999, section 17, new section 18A

Amended 20 May 2000, sections 42, 45, 85A, new section 85B

Amended 26 May 2002, new section 30A, section 32

Amended 1 June 2003, section 86

Amended 22 May 2004, sections 4, 29, 60, 69, 79, 80

Amended 13 October 2007, section 53

Amended 16th October 2021; sections 4, 15, 17, 18A, 45, 48, 53, 69 amended, new section 28A, section 30 deleted and new section inserted: effective 1st November 2021

Amended 15th October 2022: sections 17, 32(2), 32(2A),32(3) and 85B(4): effective 15th October 2022

Amended 28th October 2023: insertion of new Part IXA: effective 28th October 2023

Legislative history notes relating to revisions under the Ordinances Publication Ordinance 2004

1. Revisions made in conjunction with amendments made on 23 May 2004

(1) Section 6(1) - "clergyman" deleted and "member of the clergy" substituted
(2) Section 6(1) - "synodsmen" deleted and "members of the Synod" substituted
(3) Section 9(1) - "clergyman" deleted and "member of the clergy" substituted
(4) Section 9(1) - "synodsmen" deleted and "members of the Synod" substituted
(5) Section 13(1) - "clergyman" deleted and "member of the clergy" substituted
(6) Section 13(1) - "synodsmen" deleted and "members of the Synod" substituted
(7) Section 16 - "he" deleted and "the Bishop" substituted
(8) Section 16 - "his" deleted and "the Bishop's" substituted
(9) Section 17(2)(h) - "Chairman" deleted and "Chairperson" substituted
(10) Section 17(2)(h) - "or her" inserted after "his"
(11) Section 18(1) - "he" deleted
(12) Section 18A(2) - "Synodsmen" deleted and "members of the Synod" substituted
(13) Section 20 - "or her" inserted after "his"
(14) Section 21 - "chairman" deleted and "chairperson" substituted
(15) Section 22(1) - "his" deleted and "the Bishop's" substituted
(16) Section 22(2) - "he" deleted and "the Bishop" substituted
(17) Section 23 - heading substituted
(18) Section 23 - "chairman" deleted (wherever occurring) and "chairperson" substituted (in each case)
(19) Section 23 - "his" deleted and "the Bishop's" substituted
(20) Section 23 - "or she" inserted after "he" (in two places)
(21) Section 29(a) - "clergyman" deleted and "member of the clergy" substituted
(22) Section 29(f) - "clergymen" deleted and "members of the clergy" substituted
(23) Section 29(g) - "clergymen" deleted and "members of the clergy" substituted
(24) Section 29(l) - "clergyman" deleted and "member of the clergy" substituted
(25) Section 33 - "He" deleted and "The Parish Priest" substituted
(26) Section 36 - "chairman" deleted and "chairperson" substituted
(27) Section 37(1) - "his" deleted and "the Bishop's" substituted
(28) Section 38 - "chairman" deleted (wherever occurring) and "chairperson" substituted (in each case)

(29) Section 38 - “his” deleted and “the Bishop’s” substituted
(30) Section 38 - “or she” inserted after “he”
(31) Section 42(1)(b) - “clergyman” deleted (wherever occurring) and “member of the clergy” substituted (in each case)
(32) Section 42(1)(e) - “or she” inserted after “he”
(33) Section 45(1)(b) - “clergyman” deleted (wherever occurring) and “member of the clergy” substituted (in each case)
(34) Section 45(1)(e) - “or she” inserted after “he”
(35) Section 48 - “synodsmen” deleted and “members of the Synod” substituted
(36) Section 49 - “or her” inserted after “his”
(37) Section 51(1)(a) - “his” deleted and “the” substituted
(38) Section 51(1)(f) - “or her” inserted after “his”
(39) Section 52 - “or she” inserted after “he” (in two places)
(40) Section 53(3) - “clergyman” deleted (wherever occurring) and “member of the clergy” substituted (in each case)
(41) Section 56 - heading substituted
(42) Section 56 - “he” deleted and “the Bishop” substituted
(43) Section 60 - “clergyman” deleted and “member of the clergy” substituted
(44) Section 61 - “clergymen” deleted (wherever occurring) and “members of the clergy” substituted (in each case)
(45) Section 61 - “clergyman” deleted (wherever occurring) and “member of the clergy” substituted (in each case)
(46) Section 62(1) - “”or herself” inserted after “himself”
(47) Section 62(1) - “or her” inserted after “his”
(48) Section 62(1) - “or she” inserted after “he”
(49) Section 62(1) - “he” deleted and “the Bishop” substituted
(50) Section 62(2) - “or she” inserted after “he” (in two places)
(51) Section 62(2) - “or her” inserted after “his”
(52) Section 63 - “clergyman” deleted (wherever occurring) and “member of the clergy” substituted (in each case)
(53) Section 63 - “or her” inserted after “his”
(54) Section 70(2) - “his” deleted and “a” substituted
(55) Section 70(2)(a) - “clergyman” deleted and “member of the clergy” substituted
(56) Section 70(3) - “his” deleted
(57) Section 74 - “or her” inserted after “his” (in two places)
(58) Section 74 - “or she” inserted after “he”
(59) Section 83(3) - “he” deleted and “the Bishop” substituted
(60) Section 88(3) - “clergyman” deleted and “member of the clergy” substituted

2. Revisions made pursuant to *Ordinances Publication Ordinance 2004* - prior to publication of amendments made to principal Ordinance on 28th October 2023.

Section 2 – Insertion of PART IXA into list of Parts comprised in principal Ordinance

Section 86 – *Diocesan Council Ordinance 2007* substituted for *Diocesan Council and Ministry Units Ordinance 2007* – name of Ordinance changed 15th October 2022.