

# Church of England Clergy Provident Fund (Sydney) Act 1908 (Private Act)

[1908-cpf]



New South Wales

## Status Information

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Authorisation

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# Church of England Clergy Provident Fund (Sydney) Act 1908 (Private Act)



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An Act to provide for the amalgamation of the Clergy Widows and Orphans Fund and the Clergy Superannuation Fund into one fund, called “The Clergy Provident Fund (Sydney)”; and to provide for the administration of such fund, and for payment of contributions thereto, and to vest the property thereof in a board of directors to be incorporated hereby; and for other purposes.

## Preamble

WHEREAS by divers ordinances of the Synod of the then styled United Church of England and Ireland for the Diocese of Sydney, a fund called the Clergy Superannuation Fund was formed to provide annuities for bishops and clergymen of any diocese in Australia, Tasmania, or New Guinea: And whereas by a deed of settlement, dated the thirtieth day of July, one thousand eight hundred and sixty-eight, it was provided that a fund called the Clergy Widows and Orphans Fund, formed for the purpose of making provision for the widows and orphans of the clergymen of the Church of England within the then Colony of New South Wales, should be under the management of the Lord Bishop of the diocese and eight others: And whereas it is expedient that the said two funds should be amalgamated into one fund, to be called “The Clergy Provident Fund (Sydney)”, and to be held and administered upon the trusts and in the manner set forth in an ordinance passed by the Church of England Synod in the diocese of Sydney, in the State of New South Wales, in its session of one thousand nine hundred and six, and assented to by His Grace the Archbishop of Sydney on the ninth day of October in the same year, and styled “*The Clergy Provident Fund Ordinance of 1906 (Sydney)*”: And whereas it is expedient that power to enforce the payment of subscriptions in the twenty-first, twenty-second, and twenty-fourth clauses of the said ordinance should be granted to the board of directors mentioned in such ordinance: And whereas it is expedient, to prevent expense and complication of titles, that the investments of the said fund should be vested by operation of law in the board of directors to be appointed under the said ordinance, and to duly incorporate such board: And whereas these objects cannot be effected without the aid and authority of the Legislature:

Be it therefore enacted by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

## 1 Name of Act

This Act may be cited as the *Church of England Clergy Provident Fund (Sydney) Act 1908*.

## 2 Amalgamation of funds and date when ordinance to come into operation

On the first day of the month succeeding the month in which this Act is assented to, the said *Clergy Provident Fund Ordinance of 1906 (Sydney)* (hereinafter referred to as **the said ordinance**) shall come into operation, and thenceforward the respective funds, known as the Clergy Superannuation Fund and the Clergy Widows and Orphans Fund, and the investments representing the same, shall be deemed to form one amalgamated fund known as “The Clergy Provident Fund (Sydney)”, and shall be held upon the trusts and administered in the manner set forth in the said ordinance, or in any ordinance made in pursuance of this Act, but otherwise freed and discharged from the trusts upon which the said respective funds have heretofore been held.

## 3 Board of directors

- (1) The Board of Directors of the Clergy Provident Fund (Sydney) duly elected in accordance with the provisions of the said ordinance, or elected or appointed under any ordinance made in pursuance of this Act shall be and they are hereby constituted a body politic and corporate by the name of “The Board of Directors of the Clergy Provident Fund (Sydney)” (hereinafter referred to as **the said board**), and shall have perpetual succession and a common seal, and may sue and be sued, and may take and hold to them and their successors by grant, assignment, will, or otherwise, any property, real or personal (including the present investments representing the said funds); and may let any such real property on lease for any term of years not exceeding ninety-nine years, or in any case (where originally a power of sale shall have been given) may absolutely sell any such real or personal property.
- (2) The Church of England Synod of the Diocese of Sydney may from time to time by ordinance:
  - (a) change the name of the said board, and
  - (b) fix the number of members of the said board, prescribe the method of election or appointment and retirement of such members and prescribe the circumstances in which a vacancy in the office of any such member shall occur.
- (3) No act or proceeding of the said board shall be or shall be deemed to have been invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken or commenced, there was a vacancy in the office of any member of the said board.

## 4 Seal

The directors for the time being forming the said board shall have the custody of the

common seal of the said board, and the form thereof, and all other matters relating thereto shall from time to time be determined at a meeting of the said board, and the directors present at any meeting of the said board shall have the power to use the common seal of the said board for the affairs and concerns of the said fund.

## **5 Execution of documents**

- (1) Any deed or instrument executed or signed, and any other act, matter, or thing done by any three members of the said board in pursuance of a resolution of the said board, and under the common seal of the said board, shall be as effectual as if the same had been executed, signed, or done by all the members of the said board.
- (2) The receipt in writing under the seal of the said board, and signed by any three members of the said board, shall be a legal discharge for the money therein acknowledged to have been received, and all persons paying such money shall be exonerated from all liability in respect of the application thereof.
- (3) Section 51A of the *Conveyancing Act 1919–1939*, as amended by subsequent Acts, shall not apply to or in respect of any instrument executed by the said board.

## **6 Memorial of members of board of directors to be recorded**

- (1) The chairman of the said board for the time being or, in the case of his absence, inability, or refusal, one of the other members of the said board for the time being (appointed by resolution of the said board for this purpose) shall, within thirty days after the election of the members of the said board, cause a memorial of the names of the members of the said board for the time being in the form or to the effect for that purpose set forth in Schedule A to this Act annexed to be recorded in the office of the Registrar General of this State at Sydney, and when and so often as any person or persons shall become a member of the said board, then the chairman of the said board for the time being, or, in case of his absence, inability, or refusal, one of the other members of the said board for the time being (appointed by resolution of the said board for the purpose) shall, within thirty days thereafter, cause a like memorial of the names of the then members of the said board, including such new member, to be recorded as aforesaid.
- (2) Every such memorial shall be verified by the solemn declaration of the chairman of the said board for the time being, or, in case of his absence, inability, or refusal, then by the solemn declaration of one of the other members of the said board appointed as aforesaid.
- (3) The memorial so recorded shall be conclusive evidence of the persons named in such memorial as members of the said board being such members for the time being and of the regularity of their appointment.
- (4) A certificate purporting to be signed by the chairman for the time being of the said

board, or by a member appointed as aforesaid, shall be conclusive evidence in favour of the persons dealing with the said board, or with such alleged members of the said board, or with any three or more of them, that the said board has been incorporated, and that such members have been and still are duly appointed members of the said board, and are authorised to act as they then do by the instrument bearing such certificate.

## **7 Effect of certain clauses**

The provisions of the twenty-first, twenty-second, and twenty-fourth clauses of the said ordinance or any provision to the like effect in any ordinance made in pursuance of this Act shall be binding upon all persons therein referred to, and may be enforced by an action or suit by and in the name of the said board.

## **8 Power of Synod to make ordinances**

It shall be lawful for the Church of England Synod of the diocese of Sydney, in the State of New South Wales, from time to time by ordinance duly made by the said Synod:

- (a) to amend the said ordinance,
- (b) to repeal the said ordinance or any ordinance made in pursuance of this Act and to incorporate the provisions thereof with or without amendments or replace such provisions,
- (c) to amend any ordinance made in pursuance of this Act,
- (d) to change the name of the fund referred to in section two of this Act as “The Clergy Provident Fund (Sydney)”,
- (e) to provide for the admission to membership of that fund of:
  - (i) teachers employed in Church of England schools,
  - (ii) officials of Church of England Diocesan Registries, and
  - (iii) other lay persons permanently engaged in the work of the Church of England or employed by any institution, school or organisation of that Church.

## **Schedule A**

MEMORIAL of the names of the members of the board of directors of the “Clergy Provident Fund (Sydney)” to be recorded in the office of the Registrar General of New South Wales pursuant to an Act of Parliament of the said State, passed in the seventh year of the reign of His present Majesty, to be cited as the *Church of England Clergy Provident Fund (Sydney) Act 1908*.

*(Names of members of the board of directors.)*

I, \_\_\_\_\_ of \_\_\_\_\_, do solemnly and sincerely declare that the above memorial contains the names of the present members of the board of directors of the abovenamed fund. And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1900*.

Declared at \_\_\_\_\_, in the State aforesaid, the \_\_\_\_\_ day of \_\_\_\_\_, in the year one thousand nine hundred and \_\_\_\_\_

before me