

## BISHOPRIC ACT 2013

### 1. Short Title

This Act may be cited as the “Bishopric Act”.

### 2. Definitions

“the Board” means the Electoral Board elected pursuant to section 5;

“candidate” means a person selected by the Board for the short list in accordance with section 8.1;

“Chair” means the Chair of the Electoral Board;

“current Bishop” means the Right Reverend Andrew Curnow;

“incapable” means incapable as defined in and determined by the procedure provided for by the Bishop (Incapacity) Canon 1995 of General Synod;

“parishioner” means a person who is on the electoral roll of a parish in the Diocese of Bendigo;

“senior cleric” means the most senior member of the clergy determined according to section 14.4;

“Synod” means an Electoral Synod convened in accordance with section 9;

“tenure” means the tenure of the Bishop and includes any period of extension of the original tenure of the Bishop;

“vacancy date” means the date on which the office of Bishop becomes vacant pursuant to section 4, save that in the event that the Bishop gives notice of resignation pursuant to section 4.2, the date of that notice shall be the vacancy date.

### 3. Role and power of the Bishop

3.1 The Bishop’s exercise of authority and responsibility is guided by the traditional rights, roles and responsibilities of an Anglican Diocesan Bishop and is subject to the laws of the Anglican Church of Australia.

3.2 The Bishop shall exercise episcopal authority and responsibility in matters spiritual, including being chief pastor of the diocese, presiding and teaching, baptising and confirming, ordaining and licensing and other matters and may take counsel of any type on such matters.

- 3.3 The Bishop shall exercise episcopal authority in matters temporal only after due and appropriate consultation, in particular with senior clergy and lay leaders, the Council of the Diocese, the Bendigo Anglican Diocesan Corporation incorporated under the Bendigo Anglican Diocesan Corporation Act 2014<sup>1</sup> or other relevant diocesan bodies.

4. Vacancy

- 4.1 The office of Bishop shall become vacant upon –
- (a) the death of the Bishop;
  - (b) the date on which the resignation of the Bishop becomes effective;
  - (ba) The Bishop resigns as a director of the Bendigo Anglican Diocesan Corporation incorporated under the Bendigo Anglican Diocesan Corporation Act 2014<sup>2</sup>;
  - (c) the determination of the incapacity of the Bishop;
  - (d) the expiration of the Bishop's tenure;
  - (e) the Bishop's 70<sup>th</sup> birthday; or
  - (f) the termination of the Bishop's office by order of any court or tribunal.
- 4.2 If the Bishop wishes to resign the office, on a date not later than six months before the completion of the Bishop's term of office the Bishop shall give notice in writing to the Metropolitan of the Province and to the Registrar of the Diocese.
- 4.3 The resignation shall take effect on the date specified in the notice, or on the expiration of the Bishop's tenure, whichever first occurs.
- 4.4 The Bishop shall continue to exercise the functions and powers attaching to the office of Bishop until the office becomes vacant.

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<sup>1</sup> Subsection 3.3 amended in 2014 according to Schedule 2 of the Bendigo Anglican Diocesan Corporation Act 2014.

<sup>2</sup> Subsection 4.1 (ba) added in 2014 according to Schedule 2 of the Bendigo Anglican Diocesan Corporation Act 2014.

## 5. Electoral Board

- 5.1 The Bishop shall be appointed by the electoral board which shall be taken as an appointment of that person to the office of Bishop by the Bendigo Anglican Diocesan Corporation incorporated under the Bendigo Anglican Diocesan Corporation Act 2014.<sup>3</sup>
- 5.2 (a) The Board shall consist of six clerical members elected by the House of Clergy and six lay members elected by the House of Laity at the first session of each Synod.
- (b) Three supplementary members of the Board shall be elected by each House, and they shall be declared elected in order according to the number of votes received.
- (c) Board members shall be parishioners but are not required to be members of Synod.
- (d) A vacancy on the Board shall be filled from the supplementary members in order of their election. In the event that the supplementary membership is exhausted, the Council of the Diocese shall fill the vacancy.
- 5.3 (a) The Board shall meet for the first time within one month of the vacancy date.
- (b) The Vicar General shall convene the first meeting of the Board. At the first meeting of the Board, the members of the Board shall elect a chair from the members of the Board.
- 5.4 A quorum of the Board shall be a majority of the clerical members of the Board and a majority of the lay members of the Board.
- 5.5 Decisions of the Board shall not be invalid by reason only of a vacancy or vacancies in the membership of the Board.
- 5.6 The Registrar shall act as Secretary to the Board, but shall not be a member of the Board and shall not attend meetings. The role of the Secretary shall be:
- (a) To convene meetings in consultation with the Chair;
- (b) To receive nominations;
- (c) To act as requested by the Board.

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<sup>3</sup> Subsection 5.1 amended in 2014 according to Schedule 2 of the Bendigo Anglican Diocesan Corporation Act 2014.

## 6. Procedure

- 6.1 The Board shall hold at least one open meeting within the Diocese to which all parishioners within the Diocese shall be invited. The purpose of the meeting is to:-
- (a) Advise of the procedure to be adopted by the Board;
  - (c) To invite nominations;
  - (d) Any other matters that the Board considers appropriate.
- 6.2 (a) The Board shall seek nominations from within the Diocese from parishes and clergy by whatever means seems appropriate.
- (b) The Board may advertise outside the Diocese, and make enquiries as it sees fit.
- 6.3 The Board shall as soon as possible appoint an independent consultant whose duties shall include:
- (a) Assisting the Board in determining the qualities needed in a Bishop;
  - (b) Assisting to prepare the diocesan profile; and
  - (c) Assisting the Board to review its progress from time to time.
- 6.4 The consultant
- (a) shall not be a member of the Board;
  - (b) is not required to attend all meetings of the Board and
  - (c) is not to participate in meetings where candidates are discussed.
- 6.5 The Board may consult with the retiring Bishop in any way that seems appropriate or helpful to the Board, but the retiring Bishop shall otherwise play no part in the election process.

## 7 Short List

- 7.1 After appropriate deliberations the Board shall develop a short list of no more than six candidates.
- 7.2 The Chair or a member of the Board shall contact each candidate and request:
- (a) the written consent of the candidate;
  - (b) a curriculum vitae;

- (c) a professional standards check form which shall include a consent form for a police check from the appropriate police force or forces.
- 7.3 Upon receipt of a signed consent form the Secretary shall send the professional standards check form to the Director of Professional Standards.
- 7.4 (a) The Director of Professional Standards shall be requested to make such enquiries and give such consideration as may be necessary to express an opinion to the Board as to whether there is any matter that might render a candidate unfit for the office of Bishop or which otherwise ought to be disclosed, without identifying the matter.
  - (b) The Director of Professional Standards must not, without the consent of the candidate, disclose to any other person other than the nominee any information received from or about the candidate, other than as provided for in this Act.
  - (c) If the Director of Professional Standards determines that the candidate is not fit or that there is a matter that ought to be disclosed, the Director of Professional Standards must first refer the information to the nominee and seek a response from the candidate.
  - (d) The Director of Professional Standards shall report the information and the response of the candidate to the Secretary as soon as possible. The Board may request the Director of Professional Standards seek further clarification of the response from the candidate.
- 7.5 In the event that a member of the Board consents to be a candidate, the member shall cease to be a member of the Board and shall be replaced from the supplementary list.

## 8. Election of Bishop

- 8.1 The Board shall conduct its meetings at all times guided by prayer and with an openness to the views of other Board members. The Board shall seek to reach a consensus decision, recognising at all times that human frailty may mean that a consensus decision is not possible.
- 8.2 The required majority for a candidate to be declared elected shall be at least three-quarters of the Board members.

## 9. Failure to Elect

- 9.1 In the event that the Board

(a) is not able to reach the required majority within 12 months from the vacancy date; or

(b) earlier unanimously resolves that it is unable to reach the required majority

an Electoral Synod shall be convened.

9.2 The most senior cleric who is not a candidate shall convene the Electoral Synod at a date, time and place to be most convenient but to be no later than 18 months after the vacancy date.<sup>4</sup>

9.3 The business of the Electoral Synod shall be conducted according to the standing orders of Synod as far as applicable.

9.4 The Electoral Synod shall be closed to the public and may be attended only by members of the Electoral Synod.

9.5 No member of the Electoral Synod shall reveal to any person other than another member of the Synod details of any of the proceedings of the Electoral Synod including, but not limited to, the name of any person who was considered by the Electoral Synod.

9.6 (a) The Board shall present at least two but no more than three nominations to the Electoral Synod which shall consider no other nominations.

(b) The Board shall prepare information statements on each nominee, a copy of which shall be provided to each member of the Electoral Synod.

(c) The information statements are to be prepared and agreed to by the Board as a whole, but in the event that the Board cannot agree, a majority of at least three-quarters of the Board shall be sufficient.

9.7 (a) The Board members shall jointly present a verbal report of their deliberations as a Board which explains the qualities of the different candidates, and how they meet the needs of the Diocese reflected in the diocesan profile.

(b) Board members shall be available to answer questions from members of Synod.

9.8 A member of the diocesan clergy who is nominated as a candidate for consideration by the Electoral Synod is ineligible to attend any part of the Electoral Synod proceedings.

9.9 The most senior cleric who is not a candidate shall preside at the Synod.

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<sup>4</sup> Section 9.2 amended according to the Miscellaneous Amendments Act 2017

9.10 In the event that no senior cleric is willing or able to preside, the Synod shall elect one of its members to preside.

10. Procedure of Electoral Synod

10.1 (a) After receiving the report of the Board, the Electoral Synod may debate the merits of the candidates, bearing in mind the qualities they each may bring to the office of Bishop and the needs of the Diocese.

(b) Debate shall at all times be conducted in a spirit of generosity, good faith and Christian charity. Debate shall not be conducted on the private lives of candidates.

10.2 Any of the following motions, which require a majority in each of the houses, may be moved at any time during proceedings of the Synod:

(a) That the Synod proceeds to the election;

(b) That Synod elects a new Board to commence a new process of election in accordance with this Act.

10.3 The Registrar shall be the returning officer.

10.4 Voting shall be a series of secret ballots using this procedure:

(a) The vote shall be taken by houses;

(b) Each member including the Chair shall be entitled to one vote;

(c) The vote shall be exercised by writing the name of one candidate on the ballot paper;

(d) The votes shall be counted by scrutineers elected by the Synod from within its membership;

(e) The results of the voting shall be disclosed to the meeting.

(f) If a candidate receives the votes of not less than two thirds of the House of Clergy and not less than two thirds of the House of Laity the candidate shall be duly elected.

(g) If on a ballot a candidate receives a two thirds majority in one house and a simple majority being less than a two thirds majority in the other house, a further ballot shall be held solely on the question of whether that candidate shall be elected.

(h) If on a ballot of three candidates no candidate is elected the candidate with the least number of votes across both houses shall be eliminated.

(i) Further ballots shall be held until a candidate is elected or until a motion to elect a new Board is carried.

- 10.5 In the event that a new Board is appointed pursuant to section 10.2 (b), the procedure prescribed by this Act shall apply, save that the Board shall have 12 months from the date the Board was elected by the Electoral Synod in which to elect a Bishop.
- 10.6 In the event the new Board is not able to elect a Bishop, a further Electoral Synod shall be convened pursuant to section 9.1.

11. Confirmation of Election

- 11.1 The election of the Bishop shall be subject to confirmation of the canonical fitness of the person elected.
- 11.2 (a) The Chair shall enquire of the Bishop-elect whether the office is accepted;
- (b) The administrator shall certify to the Metropolitan under the Canonical Fitness of Bishops Ordinance 1979 of the Provincial Synod of Victoria:
- (1) the election of that person;
- (2) that the see is vacant.<sup>5</sup>

12. Ineffective Election

- 12.1 The election of the Bishop shall be ineffective if:-
- (a) The Bishop-elect declines to accept the office or
- (b) the appointment is not confirmed under the hand and seal of the Metropolitan or
- (c) for some other reason the Bishop-elect is unable to take office.<sup>6</sup>
- 12.2 If the election is ineffective, the Chair shall re-convene the Electoral Board, which shall have the power using the procedures prescribed by this Act to elect a Bishop from:
- (a) the candidates previously considered by the Board;
- (b) any other nominees.

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<sup>5</sup> Subsection 11.2 amended in 2015 in accordance with the Bishopric and Assistant Bishop's Amendment Act 2015

<sup>6</sup> Subsection 12.1 amended in 2015 in accordance with the Bishopric and Assistant Bishop's Amendment Act 2015



- 12.3 If the Board is unable to elect a Bishop within six months of the last day of the Electoral Synod the senior cleric shall convene a further Electoral Synod.

13 Tenure and review

- 13.1 (a) The appointment of the Bishop shall be for a period of ten (10) years or until the Bishop's 70th birthday, whichever occurs first.
- (b) The terms of appointment shall be contained in a letter of appointment.
- 13.2 The tenure of the Bishop may be extended:
- (a) on no more than two occasions;
- (b) for periods not to exceed three years at any one time
- provided that in no event shall the tenure of the Bishop extend beyond the age of 70 years.
- 13.3 The Tenure Review Committee shall be comprised of:
- (a) A person nominated by the Bishop; and
- (b) One cleric and one layperson appointed by the Council of the Diocese.
- 13.4 The Tenure Review Committee shall be constituted:
- (a) At the expiry of five years of the tenure of the Bishop; and
- (b) Eighteen months prior to the expiry of the tenure of the Bishop.
- 13.5 (a) A separate Tenure Review Committee shall be appointed in order to conduct each review required by this section.
- (b) Upon completion of the review, the members shall no longer hold office.
- (c) A member may be appointed on more than one occasion to a Tenure Review Committee.
- 13.6 A vacancy occurring on the Tenure Review Committee shall be filled by the Council of the Diocese, and by the Bishop in respect to the person nominated pursuant to section 13.3(a).
- 13.7 The Tenure Review Committee shall meet the Bishop after the expiry of the first five years of tenure on at least two occasions, to mutually reflect with the Bishop on his role and to review the Bishop's

performance. The Tenure Review Committee shall provide a written report to the Council of the Diocese following these meetings.

13.8 The Tenure Review Committee shall meet at least three times in the period commencing twelve months prior to the expiration of the tenure of the Bishop for the purposes of:

- (a) preparing a report on the performance of the Bishop, and
- (b) to recommend whether the tenure of the Bishop ought to be extended.

13.9 The Bishop or his representative (other than the person nominated by the Bishop pursuant to section 13.3(a)) may meet with and make submissions to the Tenure Review Committee before any recommendation is made.

13.10 The Tenure Review Committee shall provide a written report containing its recommendation to the Council of the Diocese no later than three months prior to the expiration of the Bishop's tenure.

13.11 The Council of the Diocese, meeting in the absence of the Bishop, shall consider the report of the Tenure Review Committee and any other relevant matters in deciding whether to extend the tenure of the Bishop from time to time in accordance with the provisions of this Act.

#### 14. Administration of Diocese

14.1 During

- (a) a vacancy in the office of Bishop;
- (b) the absence from the Diocese of the Bishop for a period exceeding 30 days; or
- (c) the incapacity of the Bishop arising from illness or any cause other than absence from the Diocese

the Administrator of the Diocese shall administer the affairs of the Diocese and exercise the authorities, powers, rights and duties conferred or imposed upon the Bishop.

14.2 The Administrator of the Diocese shall be the next most senior member of clergy of the Diocese who is willing and able to act as Administrator.

14.3 The Bishop may on behalf of the Bendigo Anglican Diocesan Corporation incorporated under the Bendigo Anglican Diocesan

Corporation Act 2014 appoint a member of the clergy licensed in the Diocese to be Vicar-General on such terms and conditions and with such duties as the Bishop considers appropriate.<sup>7</sup>

14.4 For the purposes of this section, and listed in order of seniority, the next most senior member of the Clergy shall be:-

- a) the Assistant Bishop;
- b) the Vicar General;
- c) the Dean of the Cathedral;
- d) the Archdeacons by order of their collation in this Diocese;
- e) a priest appointed by the Council of the Diocese.

## 15 Dispute Resolution

15.1 The Council of the Diocese may approve a process (“the dispute process”) to deal with complaints about the behaviour of the Bishop.

15.2 The Bishop’s appointment is subject to the Bishop agreeing to adopt the provisions of the dispute process.

## 16 Incapacity of Bishop

16.1 The Diocese hereby adopts the Bishop (Incapacity) Canon 1995 of General Synod.

## 17 Transitional provisions

17.1 The provisions of this Act apply to the current Bishop, save that the current Bishop’s tenure shall end upon him attaining the age of 65, subject to the provisions for extension of tenure.

17.2 The members of the Board of Nominators previously appointed pursuant to the Bishop’s Appointment Act 1998 and who remain members on 1 August 2013 shall become the members of the Board until a new Board is elected at the Thirty-Ninth Synod.

## 18. Commencement

18.1 This Act shall commence on 1 September 2013.

## 19. Repeal

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<sup>7</sup> Subsection 14.3 amended in 2014 according to Schedule 2 of the Bendigo Anglican Diocesan Corporation Act 2014.

19.1 The Bishop's Appointment Act 1998 is repealed.

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**Bishop's Assent**

Passed by Synod 1 August 2013

Signed by Bishop Andrew W Curnow, Bishop of Bendigo, 9 August 2013