

DIOCESE OF GIPPSLAND

ACT NO. 2 of 1925 BISHOP'S APPOINTMENT ACT

Consolidated to Act No 356 of 2007

To Consolidate the Law relating to the Appointment of Bishops to the Diocese of Gippsland and for the performance of certain duties of a Bishop during a vacancy of the See.

Preamble

Be it enacted by the Bishop the Clergy and the Laity of the Church of England within the Diocese of Gippsland in Victoria duly met in Synod according to Law as follows:-

Short Title

1. This Act may be cited as the Bishops Appointment Act 1925.

Repeal

2. Repealed

Board of Electors

3. The Board for the purpose of electing in the event of a vacancy of the See of Gippsland a duly qualified person to be the Bishop of the Diocese of Gippsland shall continue to be styled the Board of Electors and the present Members thereof shall hold office until the election of their successors, as herein provided.

Election of Board

4. (1) At the first sitting of each Synod, 9 clerical members and 9 lay members shall be chosen by ballot by the members of Synod to be members of a Board of Electors, or members on a supplementary list of members, for the purpose of this Act.

Inserted 322/1999

- (2) The first 6 clerical members elected, and the first 6 lay members elected, shall be the members of the Board and the next 3 clerical members elected, and the next 3 lay members elected, shall be the members on the supplementary list.

- (3) Members on the supplementary list shall be included in the order of their election.

- (4) The office of member of the Board is vacant if the member fails to attend 3 meetings of the Board without leave of the Board or resigns by notice given to the Bishop, the Vicar-General or the Administrator and shall be filled by the clerk or lay person, as the case requires, whose name appears first in order on the supplementary list of clerical or lay members.

- (5) The quorum of the Board shall be 5 clerical members and 5 lay members.

- (6) A decision of the Board is not invalid by reason only of a vacancy in the office of a member of the Board.
- (7) Except as otherwise provided in this Act, the procedure of the Board is in its discretion.
- (8) The persons holding office as members of the Board or alternate members immediately before the commencement of section 4 of the Bishop's Appointment (Amendment) Act 1999 continue as such members or alternate members until the election of new members under this section.

5. Repealed

Mode of Resignation by Bishop

- 182 / 1974 6. (1) Whenever any Bishop desires to resign his See forthwith or on some certain date within six months following he shall present or send to the Metropolitan of the Province or if there be no Metropolitan resident therein to the Primate or the Senior Archbishop or Bishop exercising the functions of the Primate notice in writing of his desire and of the date upon which he desires his resignation to take effect and he shall send a copy of such notice to the Registrar of the Diocese.
- (2) The See shall be deemed vacant from the date specified in the Notice as the date on which the Bishop desires his resignation to take effect.

Board to proceed to election

- 182 / 1974 6A. Whenever any Bishop gives notice of his desire to resign his See on some future date pursuant to Section 6 the Vicar General shall convene the Board of Electors and the Board shall make such enquiries and take such action as it deems fit in preparation for the election of a Bishop of the Diocese.
- 182 \ 1974 7. Whenever any vacancy of the See occurs if the Board has not already been convened the Administrator of the Diocese as hereinafter mentioned shall without delay convene the Board and in any case the Board shall with all convenient speed proceed to the election of a Bishop of the Diocese of Gippsland and on such election having been made shall forthwith report the result to the Administrator.

Board Member as candidate

- 242/1985 7A. (a) A clerical member of the Board of Electors shall resign as a member of the Board of Electors immediately he becomes one of not more than six candidates in the election of a Bishop of the Diocese of Gippsland.
- (b) Every clerical member of the Board, who is a candidate for the election of a Bishop of the Diocese of Gippsland, shall absent himself from the deliberations and decisions of the Board of Electors concerning his candidature.
- Inserted 322/1999 7AA (1) A clerical member of the Board whose name is being considered by the Board shall not be present at a meeting of the Board while the Board is discussing the clerical member's name.

- (2) If the Board, by resolution passed by a majority of the members of the Board,
declares that there are not more than 6 names before the Board for consideration, a clerical member whose name is among those before the Board ceases to be a member of the Board.

Footnote: New Section 7AA was inserted by Act no 322 of 1999 as “Section 7A”.

Proceedings if election ineffective

8. When any such election has been made if effect cannot be given thereto the Administrator shall notify the same to the Board of Electors and thereupon the like proceedings shall be taken as are herein directed in the case of an original election and so on toties quoties until a Bishop shall have been elected and installed.

Majority of Clerical and Lay Members must assent to election

9. The members of the Board shall have the power to decide as to all matters connected with the election but no election shall be valid unless a majority of the Clerical and a Majority of the Lay members of the Board certify in writing to the Administrator their assent thereto.

Proceedings if Board fail to elect within twelve months

242 / 1985

10. In case of a vacancy in the See if any Board of Electors shall for a period of twelve months fail to elect a Bishop and to notify such election to the Administrator such Board shall be dissolved and a new Board of Electors and of alternate clerical and lay members shall be constituted in manner following:- The Administrator shall with all convenient speed for the purpose of electing another Board of Electors call a meeting (of which at least one month's notice specifying the objects thereof shall be given) of the persons who at the time of such failure shall be members of an existing Synod or who if no Synod be then existing shall have been members of the last preceding Synod at the time of its dissolution, and who still retain the necessary qualifications for membership. And the Administrator shall be the President of such meeting the business of which shall be conducted according to the standing orders of the Synod as far as they may be applicable and notwithstanding anything therein contained the meeting may proceed on the first day or any following day of sitting to the election of a new Board of Electors which election shall take place in accordance with the provisions of this Act and the persons elected shall take the place of and exercise the powers of those elected under this Act at the next preceding Session of Synod.

242 / 1985

Steps required to give effect to election

11. Upon an election having been made the Administrator shall take the necessary steps for giving effect thereto in accordance with the rules for the confirmation and consecration of Bishops made by the general Synod and accepted by this Synod.

Powers of the Bishop

12. When a Bishop of Gippsland shall have been installed he shall subject to all Acts of this Synod now or hereafter in force be a Bishop within the meaning of The Church of England Acts, and shall have and may exercise within the limits

of the Diocese of Gippsland all the powers and authorities which a Bishop of the Church of England may lawfully exercise within his Diocese and he shall be for all purposes the successor of the last preceding Bishop of Gippsland.

242 / 1985 13. Repealed.

Vicar General or Commissary to act during absence of Bishop

(11 / 1932) 14. During the absence of the Bishop from his See every person appointed Vicar General or Commissary by the Bishop by writing under his hand registered in the Registry of the Diocese shall and may during such absence until such appointment shall be revoked and its revocation registered as aforesaid use and exercise do and perform from time to time such authorities powers and Acts as may be committed to him by the Bishop in writing and in the absence of any such commission in writing he shall and may use and exercise do and perform from time to time such authorities powers and Acts as are hereinafter described as belonging to the office of Administrator and every authority power matter or thing so used exercised done or performed by such Vicar General or Commissary under or by virtue of his Commission or of the powers herein conferred upon him shall be as good and effectual to all intents and purposes as if the same had been used exercised done or performed by the Bishop.

Inserted
322/199
exercised by
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If there is no Vicar-General and Commissary appointed and willing and able to act, the duties and powers of the Vicar-General and Commissary may be the senior Archdeacon willing and able to act (seniority being date of collation) or if there be no such Archdeacon, by the Dean or if Dean is not willing or able to act, by the senior clerical canon of the Cathedral (seniority being determined by date of appointment).

Administrator

Inserted
322/1999 15. If the See is vacant, the person who, under section 14, would be the Vicar-General and Commissary if the See were not vacant shall be the Administrator of the Diocese.

When Vicar-General or Administrator unable to act

Inserted
322/1999 15A. For the purposes of sections 14 and 15, a person is not able to act as Vicar-General or Administrator if—

- (1) (a) the person is absent from the Diocese; or
 - (b) the person so declares in writing; or
 - (c) the Council of the Diocese, by resolution, determines that the person is unable to act as Vicar-General or Administrator.
- (2) The Council of the Diocese must not make a determination under subsection (1) unless it has given the person an opportunity to be heard either personally or through a representative and has obtained such medical or other advice as to the ability of the person to act as is reasonable in the circumstances.

Rights and powers of the Administrator

16. The Administrator of the Diocese for the time being and within the meaning of this Act shall administer the affairs of the Diocese in accordance with the Acts Resolutions and Regulations of this Synod regulating the administration of such affairs by the Bishop and shall and may use and exercise do and perform from time to time mutatis mutandis all and every the authorities powers and acts matters and things whatsoever which the Bishop is or may be empowered

or required to use exercise do or perform by virtue of any Act or Acts of the said Synod heretofore or hereafter to be passed except what is saved by **The Church of England Act 1854** and **The Church of England Act 1873** and **The Church of England Act 1904** and every authority power matter or thing so used exercised done or performed by such Administrator shall be as good and effectual to all intents and purposes as if the same had been used exercised done or performed by the Bishop.

Further powers

17. The Administrator may during the vacancy of the See do and perform subject to the Acts Resolution and Regulations of this Synod in force for the time being all such acts matters and things not provided for by such Acts Resolutions and Regulations as may be necessary in the opinion of the Council of the Diocese for the efficient management of such affairs. And any person holding at the time of the occurrence of such vacancy any office to which he shall have been duly appointed by the Bishop may unless removed by competent authority hold the same and continue to perform the duties thereof until a new Bishop shall be installed. And the Administrator may subject to the Acts Resolutions and Regulations aforesaid appoint fit and proper persons to fill during the vacancy of the See any lay office held by any person appointed by the Bishop which shall during such vacancy become vacant by death resignation or otherwise.

Inserted
322/1999

17A. *Convening of meeting of Synod members during vacancy of See*

- (1) If the Administrator considers it is necessary or desirable to do so, the Administrator may convene a meeting of members of Synod while the See is vacant.
- (2) The Administrator shall preside at a meeting convened under this section.
- (3) The business of a meeting convened under this section shall not include the passing of any legislation or the making of any resolution or rule that would be binding on the clergy and laity of the diocese if assented to by the bishop.
- (4) Subject to this section, the Synod Act 1997 applies to and in respect of the convening of a meeting under this section and the conduct of such a meeting.

Retirement

18. The Bishop ceases to hold office on attaining the age of 70 or on earlier resigning.