



DIOCESAN TRUSTEES STATUTE 1961

The Diocesan Trustees Statute 1961, as amended by the Diocesan Trustees Statute Amendment Statute 1994, the Diocesan Trustees Statute Amendment Statute 2018, the Diocesan Trustees Statute Amendment Statute 2020 and the Diocesan Trustees Statute Amendment Statute 2021 and the Diocesan Trustees Statute Amendment Statute 2023.

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LONG TITLE

A Statute to provide, pursuant to the Anglican Church of Australia (Diocesan Trustees) Act 1888, Anglican Church of Australia Lands Act 1914, Anglican Church of Australia Diocesan Trustees and Lands Act 1918, and the Anglican Church of Australia (Diocese of North West Australia) Act 1961, for constitution of the Trustees of the Diocese of North West Australia, election of elected Trustees and for rules by which the Trustees shall operate.

The Synod of the Diocese of North West Australia resolves as follows.

Chapter 1 - Preliminary

NAME

1. This is the *Diocesan Trustees Statute 1961*.

Definitions

2. In this Statute:

Clergyman means a bishop, priest or deacon of the Anglican Church of Australia who holds a current licence issued by the Bishop and who resides in the Diocese;

Ecclesiastical District means a territory within the Diocese in accordance with section 3 of the *Constitution Statute 1961*, the boundaries of which may be adjusted from time to time;

Elected Clerical Trustee means a person elected pursuant to section 3(b);

Elected Lay Trustee means a person elected pursuant to section 3(c);

Non-Parochial Organisation has the meaning given in the *Diocesan Synod Statute 2021*;

Parish has the meaning given in the *Church Administration Statute 2020*;

Parish Council has the meaning given in the *Church Administration Statute 2020*;

Provisional Parish has the meaning given in the *Church Administration Statute 2020*;

Qualified Person has the meaning given in the *Synod Statute 2021*;

Trustee means a Trustee of the Diocese of the Diocese of North West Australia as provided by the Anglican Church of Australia (Diocesan Trustees) Act 1888 (WA) (as amended) and cognate legislation.

Chapter 2 – Scope of the Statute (Resolutions)

The composition and appointment of the Trustees

3. The Trustees shall comprise;
 - (a) the Bishop
 - (b) two Clergymen elected by Synod
 - (c) two lay persons who are Qualified Persons elected by Synod.
4.
 - (1) Subject to subsections (2), (3) and (4), the term of office of each Elected Clerical Trustee and Elected Lay Trustee shall expire at the commencement of the second Ordinary Meeting of Synod to be held after his or her election.
 - (2) The terms of office of the two Elected Clerical Trustees shall not expire at the same Ordinary Meeting of Synod but shall be staggered to expire at alternate Ordinary Meetings of Synod and the terms of office of the two Elected Lay Trustees shall not expire at the same Ordinary Meeting of Synod but shall be staggered to expire at alternate Ordinary Meetings of Synod.
 - (3) If two Elected Clerical Trustees are elected at the same Ordinary Meeting of Synod, the term of office of one of them shall terminate at the next Ordinary Meeting of Synod and the term of office of the other of them shall terminate in accordance with subsection (1). Lots shall be drawn to determine which of the Elected Clerical Trustees shall retire at the next Ordinary Meeting of Synod and which of them shall retire in accordance with subsection (1).
 - (4) If two Elected Lay Trustees are elected at the same Ordinary Meeting of Synod, the term office of one of them shall terminate at the next Ordinary Meeting of Synod and the term of office of the other of them shall terminate in accordance with subsection (1). Lots shall be drawn to determine which of the Elected Lay Trustees shall retire at the next Ordinary Meeting of Synod and which of them shall retire in accordance with subsection (1).
5. A Trustee whose office becomes vacant pursuant to section 4 shall be eligible for re-election.
6. An elected Trustee may resign his or her office by notice in writing to the Bishop.
7. A casual vacancy in the office of an elected Trustee occurs on;
 - (a) resignation in writing as provided in section 6;
 - (b) death;
 - (c) absence from three (3) consecutive meetings of the Trustees without leave;
 - (d) becoming a Trustee in another capacity;
 - (e) ceasing to be a Qualified Person;
 - (f) becoming an undischarged bankrupt;
 - (g) being declared by a court or tribunal as being incompetent to manage his or her own affairs;

- (h) being convicted of an offence listed in the Schedule 1 or Schedule 2 to the *Working with Children (Criminal Record Checking) Act 2004 (WA)*;
 - (i) being disqualified from managing corporations within the meaning of the *Corporations Act 2001 (Cth)*;
 - (j) being suspended or removed from being a responsible entity of a registered entity under the *Australian Charities and Not-for-profits Commission Act 2012*;
 - (k) the Bishop, having received and considered any submissions which the elected member may make and having consulted the Diocesan Council, removing the elected Trustee from office.
8. A person who is a Trustee by virtue of holding an office ceases to be a Trustee when the person ceases to hold that office.
9. When a casual vacancy occurs pursuant to section 7 the Diocesan Council may:
- (a) in the case of a casual vacancy amongst the elected Clergymen, appoint a Clergyman or
 - (b) in the case of a casual vacancy amongst the elected lay persons, appoint a Qualified Person
- to fill the vacancy for the remainder of the term of office of the Trustee whose office became vacant.

Functions, powers and authorities of the Trustees

10. Subject to section 13, all real and personal property now held or to be acquired hereafter by or on behalf of the Anglican Church of Australia within the Diocese of North West Australia shall be vested in the Trustees except that, with the consent of Synod, any such real or personal property may be otherwise vested.
11. The Trustees must satisfy their statutory obligations in relation to the property vested in them and shall hold and deal with all real and personal property vested in or held by them subject in all respects to the statutes, orders, directions, and regulations of the Synod of the Diocese.
12. No real property of the Diocese shall be sold or otherwise disposed of without the consent of:
- (a) the Diocesan Council; and;
 - (b) if the property is normally administered by a Parish or Provisional Parish, the Parish Council of that Parish or Provisional Parish; or
 - (c) if the property is normally administered by a Non-Parochial Organisation, the governing body of that organisation.
13. Money collected by the Diocese, an Ecclesiastical District or Non-Parochial Organisation to fund operational expenditure may be held and managed by the Diocese, ecclesiastical district or Diocesan organisation in accordance with the Statutes and regulations of the Diocese.

The operations of the Trustees

14. The Trustees shall meet at least four (4) times per year when a majority of the Trustees shall determine or when convened by the Bishop.
15. A Trustee may participate in a meeting of the Trustees either by personal attendance or by such electronic or other means as the Trustees may determine.
16. At any meeting of the Trustees, three (3) shall form a quorum.
17. The Bishop shall be the Chair of the Trustees and has a deliberative and casting vote. The Bishop may delegate to another Trustee the role of chairing the meetings of Trustees but retains his deliberative and casting vote.
18. The Trustees shall have power to make rules for the conduct of all business coming before them.
19. The Trustees may pass a circular resolution without a meeting being held. A circular resolution is passed if all the Trustees entitled to vote on the resolution sign or otherwise signify in writing their assent to the resolution.
20. If the Trustees believe on reasonable grounds that they are unable or ought not to comply with a direction of the Diocesan Council, they must:

- (a) pass a resolution setting out their position and their reasons for holding that position; and
 - (b) convey the resolution to the next meeting of the Diocesan Council.
21. Upon receiving a resolution of the Trustees made pursuant to section 20, the Diocesan Council must consider it, pass a resolution expressing its determination of the matter including its reasons and convey the resolution and reasons to the Trustees.
22. A determination made by the Diocesan Council pursuant to section 21 confirming its original direction shall be binding on the Trustees.
23. The Common Seal of the Trustees shall be kept at the Office of the Diocese in the custody of the Diocesan Registrar and shall be used or affixed by the Bishop and one Trustee in the presence of the Diocesan Registrar or by the Bishop and two Trustees. A record of all documents and papers to which the Seal is affixed shall be entered in a book or other record to be kept for that purpose.
24. The Diocesan Registrar shall function as the secretary for the Trustees and shall cause a record of the proceedings of and all resolutions made at every meeting of the Trustees to be made and maintained.
25. The financial accounts of the Trustees shall be distinct from the operational financial accounts of the Diocese.
26. All moneys vested in the Trustees shall be held separately from the operational funds of the Diocese.
27. The Trustees shall comply with the requirements of the Financial Management policy at the time. In the absence of such a policy the Trustees shall report each year to the Diocesan Council and include an audited financial statement showing the funds administered by them and the resources subject to Synod's control and the manner in which they are employed at the 31st December next preceding.

Chapter 3 – Regulations & Related Legislation

REGULATIONS

Regulation making power

28. The Diocesan Council may from time to time make, amend or repeal regulations (e.g. policies and procedures) not inconsistent with the provisions of this Statute providing for records arising out of or incidental to the operation of this Statute and for all or any of the purposes, whether general or to meet particular cases, which may be convenient for the administration of this Statute or which may be necessary or expedient to carry out the overriding purposes of this Statute.

Chapter 4 – General

RESPONSIBILITIES

Review

29. The Diocesan Council shall review the operation of this Statute within six years of its commencement, and at least every 6 years after that, and provide a report to Synod on its findings and any recommendations for amendment.

Records management

30. The Diocesan Registrar shall maintain all records relevant to administering this Statute.

Related Legislation

Anglican Church of Australia (Diocesan Trustees) Act 1888
Anglican Church of Australia Lands Act 1914
Anglican Church of Australia Diocesan Trustees and Lands Act 1918
Anglican Church of Australia (Diocese of North West Australia) Act 1961