

DIOCESAN WORK HEALTH AND SAFETY ORDINANCE 2012

Explanatory Memorandum

The Diocese has been identified as the person conducting a business or undertaking for the purposes of the Work Health and Safety Act 2011 but it has also been identified that there may be a question about the capacity of the Diocese as the PCBU to give binding directions to clergy and officers of parishes.

This Ordinance makes the Diocesan Work Health and Safety Policies a condition of a licence or permission to officiate for a member of the clergy. Conditions on a licence or pto are understood to be part of the ministerial duty of a licence or permission holder. Wilful failure of ministerial duties can be reviewed through the disciplinary processes of the Diocese.

The Bill creates the office of Parish Council Safety Delegate. The functions of the delegate will be spelt out in the Work Health and Safety Policies.

This Bill provides that the Diocesan Council can establish Work Health and Safety policies and provides a mechanism for giving directions under that policy. Given that the direction may involve matters relating to ministry as well as temporal matters both the Bishop and the Diocesan Business Manager may issue directions. Future policies may, if required, spell out further the manner in which directions should be given. The Bill also provides for a review mechanism of any direction. However the parish must comply with a direction as far as reasonably practicable while the review is underway.

The Bill imposes an additional duty on Churchwardens to report if the parish is unable to comply with the Work Health and Safety Policies.

The Bill allows the Diocese to change the recognition of a parish to 6(d) if in the opinion of the Diocesan Council it is unable to comply with the Work Health and Safety policies. This would allow, among other things, for the Bishop to appoint a delegate to address such matters in the parish.

The framework proposed allows the Diocesan Council to establish policies relation to safety arising from our obligations to insurers if the Diocesan Council understands it to be a policy relating to safety.

DIOCESAN WORK HEALTH AND SAFETY ORDINANCE 2012

WHEREAS the New South Wales Parliament has adopted the Work Health and Safety Act 2011 and that Act changes the responsibilities for ensuring the health and safety of some people involved in ministry in the Diocese and

WHEREAS the Diocese understands itself to be a person conducting a business or undertaking for the purposes of the Act and

WHEREAS the activities of parishes within the Diocese are activities of the Diocese as the person conducting or undertaking and

WHEREAS it is necessary to have the power to issue directions and require compliance to ensure the Diocese as a person conducting a business or undertaking complies with the Work Health and Safety Act 2011 and

BE IT ORDAINED By the Diocesan Council in accordance with the Synod (Delegation of Powers) Ordinance 2009 as follows:

1. This Ordinance may be cited as the Diocesan Work Health and Safety Ordinance 2012.
2. Where this Ordinance amends another Ordinance by the insertion of a new section or sub-section then
 - a. subsequent sections or sub-sections shall be renumbered;
 - b. the qualifier 'and' or 'or' shall apply to the last sub-section in a manner consistent with the Ordinance being amended.
3. The Clerical Ministry Ordinance 2009 is amended in the following manner
 - a) The insertion in section 6 of a new sub-section (ab) to read
Diocesan Work Health and Safety Policies means the Work Health and Safety Policies of the Diocese established in accordance with the Administration of Parishes Ordinance 2010.
 - b) The insertion of a new section 12A to read
Diocesan Work Health and Safety Policies shall be construed as a condition included in any licence or permission to officiate whenever granted.
4. The Administration of Parishes Ordinance 2010 is amended in the following manner
 - a. The insertion of a new definitions in section 3 to read
Diocesan Work Health and Safety Policies means the policies established in accordance with Part 10 of this Ordinance;
Parish Council Safety Delegate means the Safety Delegate elected by the Parish Council to undertake such roles as defined in the Diocesan Work Health and Safety Policies;
 - b. In sections 6(a), 6(b) and 6(c) by the insertion of a new sub-section (iv) to read
(iv) complies with Diocesan Work Health and Safety Policies; and;
 - c. In section 6(d) the insertion of a new sub-section a new sub-section 6(b)(iv) to read
(4) comply with Diocesan Work Health and Safety Policies

- d. In section 48 by
 - i. The insertion of a new sub-section 48(d) to read
(d) at each meeting consider matters relating to Work Health and Safety and examine compliance with Diocesan Work Health and Safety Policies;
 - ii. The insertion of a new sub-section 48(g) to read
(g) appoint a suitably qualified person who need not be an elector of the parish to be the Parish Council Safety Delegate;
- e. In section 49 to insert the word “,safety” following the word buildings.
- f. In section 50(a) insert the words “, Parish Council Safety Delegate” after the words “Parish Council Secretary”
- g. In section 52(c) to insert the words “or that the Parish is unable to comply with all or part of the Diocesan Work Health and Safety Policies”.
- h. The insertion of a new Part Ten and the renumbering of subsequent parts. The new part to read

Part Ten – Work Health and Safety

- 86A The Diocesan Council may establish, alter, rescind or amend policies for the purposes of ensuring welfare, health and safety of people within the parishes and ministries of the Diocese, and to ensure compliance with the Work Health and Safety Act 2011, these policies are to be known as Diocesan Work Health and Safety Policies.
- 86B The Parish, the Parish Council, Parish Officers and persons undertaking ministry or work within the parish shall comply with the Diocesan Work Health and Safety Policies.
- 86C The Bishop or the Diocesan Business Manager may give a direction in accordance with the Diocesan Work Health and Safety Policies and shall within 3 days of giving a direction ensure that any direction is recorded in writing.
- 86D The Bishop or the Diocesan Business Manager may delegate the authority conferred in section 86C provided that such delegation shall not limit the authority of the Bishop or Diocesan Business Manager.
- 86E Where a parish is aggrieved by a direction of the Bishop, Diocesan Business Manager or delegate given in accordance with section 86C it may in writing request the Diocesan Council to review the direction provided that as far as is reasonably practicable the direction shall be complied with until the review is completed.
- 86F A decision of the Diocesan Council by way of review shall be final.

PASSED BY DIOCESAN COUNCIL on the **23rd** day of **August 2012**.

Secretary, Diocesan Council

THE ASSENT of the Lord Bishop of the Diocese was given to the above Ordinance on the 23rd day of August 2012 in the Twenty First year of our Consecration and of our Translation to this See the Eighth.

PRESIDENT