



Anglican Diocese
of Adelaide

2022

SYNOD PAPERS



FOR THE FIRST SESSION OF
THE 45TH TRIENNIAL SYNOD

168TH ANNUAL SESSION

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Synod

Almighty and everliving God,
give wisdom and understanding,
to the members of the Synod of this Diocese of Adelaide.
Teach us in all things
to seek first your honour and glory.
May we perceive what is right
have courage to pursue it
and grace to accomplish it,
through Jesus Christ our Lord. **Amen.**

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Anglican Diocese
of Adelaide



Welcome to St Peter's College for the Annual Session of Synod 2022

Welcome to this 168th Annual Session of Synod 2022. A special welcome is extended to new members of Synod at the commencement of the 45th triennium.

Location

The 2022 session of Synod will occur in Memorial Hall, located at the centre of the St Peter's College campus. **Please find a map overleaf.**

Parking

Synod attendees are requested to park in the Hackney Road Car Park. This is the main car park with 110 spaces. It is located immediately inside the Hackney Road entrance, to the right.

Further parking spaces are available via Pembroke Street, North Terrace and Trinity Street entrances.

Catering

Lunch, Morning and Afternoon Tea will be provided on Saturday. Afternoon Tea will be provided on Sunday, if necessary.

Gluten Free and Vegetarian options will be available for lunch and for the morning/afternoon tea on the day, and do not need to be pre-ordered. Please ask at the counter in the Da Costa Dining Hall if you require assistance relating to gluten free and vegetarian options.

Please advise special dietary requirements to the Secretary of Synod by 30th September 2022.

Space for Prayer & Reflection

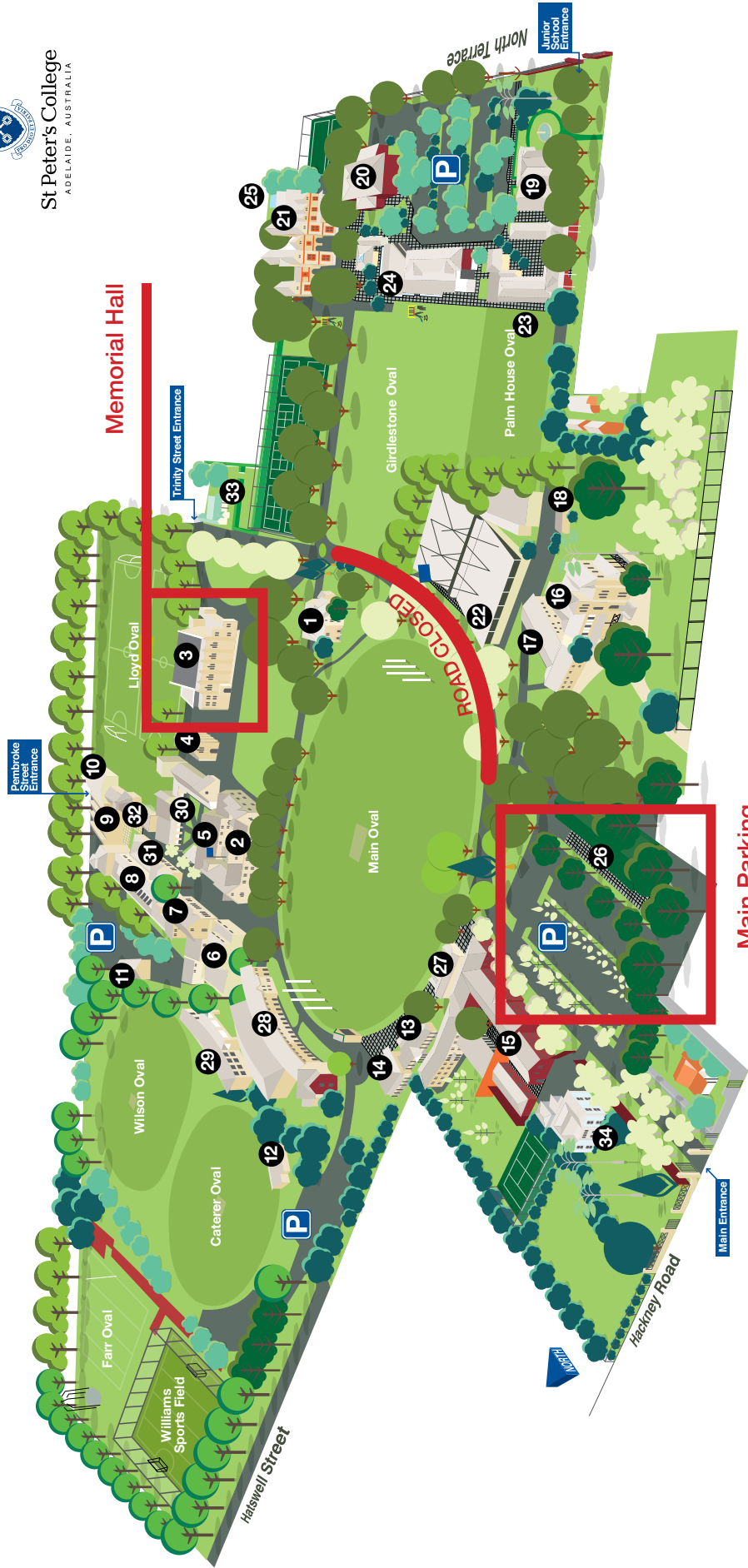
The Chapel, adjacent to Memorial Hall, will be open for use by Synod members during Synod until 5.00 pm on Sunday.

Information

While attending Synod, if you have any questions about the site, please speak to the staff at the Registration Desk in Memorial Hall.

If you have specific queries in relation to Synod 2022, please do not hesitate to contact the Secretary of Synod on 8305 9357 or synod@adelaideanglicans.com

Joe Thorp
Secretary of Synod



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St Peters, Adelaide, Australia, 5069
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@SPC_Adelaide

- 1. Oval House (visitors and enquiries)
- 2. Old School House / Headmaster's Office (Senior School administration)
- 3. Memorial Hall
- 4. Chapel
- 5. Big School Room
- 6. Miller Library
- 7. Da Costa Dining Hall and Kitchen
- 8. Florey Science
- 9. Art and Technology
- 10. Drama
- 11. Maintenance and Grounds Workshops
- 12. Brookman Pavilion
- 13. Health Centre
- 14. Tuck Shop
- 15. Boarding House
- 16. Athelney House
- 17. Hill Wing Music Centre
- 18. Uniform Shop
- 19. Old Palm House (Early Learning Centre)
- 20. Junior School Hall
- 21. Shinkfield Building
- 22. Burchmail Sports Centre
- 23. New Palm House
- 24. Bickersteth (Junior School administration)
- 25. Junior School Pool
- 26. Goat Paddock Shed
- 27. Nitschke Pavilion
- 28. Pentreath Building (Middle Years)
- 29. Gordon Building
- 30. Big Quad
- 31. Information Technology
- 32. Senior School Changerooms
- 33. College House
- 34. Allen House

CRICOS Provider No. 015595E. The Anglican Church of Australia Collegiate School of Saint Peter, trading as St Peter's College.

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Order of Business

Friday 14 October – Sunday 16 October 2022

The First Annual Session of the Forty Fifth Triennial Synod

168th Annual Session

The Synod of the Diocese of Adelaide of the Anglican Church of Australia Inc.

Please note that the order of the Notice Paper will not be varied by the President, The Most Rev'd Geoffrey Smith without good reason.

If a matter is not concluded when the President declares a break, that matter will be resumed after the break.

FRIDAY, 14 OCTOBER	7:00pm	Synod Eucharist, St Peter's Cathedral
SATURDAY, 15 OCTOBER		St Peter's College, Memorial Hall, Hackney Road, Hackney
	8:30am	Registration
	9:00am	Morning Prayer followed by the President's Address to the Diocese
	9:30am	Business Session – <ul style="list-style-type: none"> • Welcome and Procedural Motions • Petitions & Questions • Motions without Notice (including motions arising from the President's Address)
	10.30am	Morning Tea
	10.30 am	VOTING BEGINS
	11.00 am	Business Session - Finance Report & Legislation
	12:45pm	Lunch
	1.30 pm	Workshop: Vision
	2.30 pm	Business Session - Legislation
	3.30 pm	Afternoon Tea
	4.00 pm	VOTING CONCLUDES
	4.00 pm - 5.00pm	Business Session
	5.00 pm	AnglicareSA Ltd Annual General Meeting
	5.50 pm	Evening Prayer
	6:00pm	Synod adjourns



Anglican Diocese
of Adelaide



**SUNDAY,
16 OCTOBER**

12.30 pm

St Peter's College, Memorial Hall,
Hackney Road, Hackney

Registration Opens

1.00pm

Open Session

1.20pm

Business Session

3.30 pm

Afternoon Tea

4.00 pm

Business Session

5.50 pm

Evening Prayer

6.00 pm

Synod close



1. Welcome and introductory remarks by the President, The Most Rev'd Geoffrey Smith – Archbishop of Adelaide.

2. **PROCEDURAL MOTION**

Moved by Mr Joe Thorp, Secretary of Synod

Seconded by The Venerable David Bassett

That this Synod welcomes:

- The Observers from the Diocese of Willochra (Mrs Rosemary O'Leary, The Rev'd David Thompson & Mr Gavin Tyndale) and the Diocese of The Murray (The Rev'd Wayne Corker, Ms Madeline Jenkins);
- Sudanese Missional Congregations;
 - The Pastor and Observers from the Dinka Sudanese Anglican (Episcopal) Missional Congregation at Playford;
 - The Pastor and Observers from The Lakes Province of Sudan (Episcopal) Missional Congregation at St Luke's Whitmore Square;
 - The Pastor and Observers from the Sudanese Anglican (Episcopal) Congregation at Church of the Holy Redeemer, Ingle Farm;
- The Observer from the Emmanuel Tamil Community, Parish of Lockleys
- The Observers from the Congregation of St Barnabas' Croydon;
- The Observer from MarThoma Church, Adelaide;
- Ms Susan Arnold, Diocesan Finance Manager;
- Mr Blaine Fitzgerald, Head Anglican Funds South Australia (AFSA);
- Delegates from Kooyoora;
- Mrs Susan McLeod, Senior Chaplain;
- Ms Sharon Lockwood, Survivor Advocate;
- Members of the Property, Finance and Resource Committee (PFRC) who are not members of Synod;
- Members of the Diocesan Risk & Audit Committee who are not members of Synod;
- Members of the Drafting Committee who are not members of Synod;
- Directors of the Board of AnglicareSA Ltd & AnglicareSA Housing Ltd who are not members of Synod;
- ABM Key Relations Manager, Ms Meagan Schwarz;
- Cathedral Chapter Canons who are not members of Synod; and
- Ordinands;

and accords them a seat on the floor of Synod with the right to speak but not to vote or move or second motions.

3. **PROCEDURAL MOTION**

Moved by Mr Joe Thorp, Secretary of Synod

Seconded by The Venerable David Bassett

That so much of Standing Orders be suspended to allow for the timetable of Synod to be as outlined on the Notice Paper noting several orders of the day.



4. **PROCEDURAL MOTION**

Moved by Mr Joe Thorp, Secretary of Synod

Seconded by The Venerable David Bassett

That this Synod suspends so much of Standing Orders as is necessary to allow for the use of electronic voting, in accordance with the memorandum circulated to members of Synod, at this Session of Synod as and when the President shall determine.

5. The President announces the appointment of the Synod Minutes Secretaries and Scrutineers.
6. The President tables the register of members of the Synod, announces the procedure for recording attendance, and welcomes members new to this session.
7. The President tables the names of those members whom he has excused from attendance and tables the register of alternate lay members of Synod.
8. The Secretary of Synod explains matters of procedure and personal comfort.
9. The President tables the parochial statistics and “Reports and Accounts for Synod 2021”, containing the following Annual and Special Reports and Accounts, previously distributed.

Members of Synod	Clergy Representatives
	Lay Representatives
Diocesan Reports	Diocesan Council Report to Synod
	Secretary of Synod Report
	Property Finance & Resource Committee
	Children & Youth Ministry Unit
	Leadership & Education Ministry Unit
	Community Engagement Ministry Unit
	Diocesan Risk and Audit Committee
	Anglican Funds – South Australia
	St Barnabas College
	Formation & Ministry Discernment
	Chaplaincy
	Financial Operations
	ACNC – Annual Information Statement
Parish Ministry	Adelaide Area Deanery inc St Peter’s Cathedral
	Eastern Suburbs Area Deanery
	Gawler Area Deanery
	South Eastern Area Deanery
	South Western Area Deanery
	Western Suburbs Area Deanery
Anglican Societies	Evangelical Fellowship in the Anglican Communion SA
	Girls’ Friendly Society in SA Inc



	Mothers' Union Australia – Diocese of Adelaide
Anglican Entities	AnglicareSA Ltd
	AnglicareSA Housing Ltd
	St Mark's College
	Leigh Trust
Anglican Networks	Anglicans for Makarrata
	Anglican Ecumenical Network
	Anglican Creation Care Network
	Movement for the Ordination of Women
	Domestic & Family Violence Working Group
Anglican Schools	Schools Chaplaincy
	St John's Grammar School
	St Peter's College
	St Peter's Girls
	St Peter's Woodlands
	Trinity College
Partner Organisations	Anglican Board of Mission
	Churches Together SA (formerly SA Council of Churches)
	Bush Church Aid Society
	Schools Ministry Group
	Church Missionary Society SA/NT
	Engage Work Faith
	Converge International
	SparkLit

10. Petitions and Questions may be presented.

11. **APPOINTMENT TO CHAIR OF COMMITTEES**

Moved by Mr Joe Thorp, Secretary of Synod

Seconded by The Rev'd Canon Jenny Wilson

That Mr Grant Chapman be appointed Chair of Committees for this session of Synod.

12. **VOTE OF THANKS to the President for his Address to the Diocese**

Moved by Ms Sandy Mitchell

Seconded by Mr Reuben Jacob

That a Vote of Thanks be accorded to the President for his Pastoral Address to the Synod.

13. Motions without Notice.



14. The President calls over the Notice Paper.
Any members of Synod (except the member in whose name the motion stands) may call “Object” if he or she wishes the matter to be debated. In the absence of any such objection, the motion will be regarded as formal and will be put forthwith without amendment or debate.

Order of the Day - FINANCE – 11.00 am Saturday, 15 October 2022

15. FINANCE (p36)

A presentation by Ms Susan Arnold, Finance Manager & Mr Joe Thorp, Registrar and Secretary of Synod.

(Leave will be sought from Synod for Ms Susan Arnold to present.)

15.1 **Moved by Mr Kevin Stracey**

Seconded by Mr Joe Thorp, Secretary of Synod

That Synod receives the Financial Statement for the year ended 30 June 2022 and the Synod Operations Finance Report for the year ended 2022 as dispatched with the Notice Paper.

15.2 **Moved by Mr Kevin Stracey**

Seconded by Mr Joe Thorp, Secretary of Synod

That Synod adopts the Synod Operations budget for the year ending 30 June 2023 as dispatched with the Notice Paper.

ASSESSMENT

15.3 **Moved by Mr Kevin Stracey**

Seconded by Mr Joe Thorp, Secretary of Synod

That Synod adopts the estimate of Diocesan Expenses for the 2023 year and the rate of assessment of 14.00% of assessable income for the 2023 year.

LEGISLATION

16. CONSTITUTION - (COMMISSARY, VIRTUAL MEETINGS, LAY MEMBERS OF SYNOD) AMENDMENT MEASURE

Moved by Mr Philip Adams (Chancellor)

Seconded by Mr Joe Thorp (Secretary of Synod)

That the Measure to amend the Constitution passed at the 2021 session of Synod be now confirmed.

17. CANONS FOR ASSENT AND ADOPTION – EIGHTEENTH SESSION OF GENERAL SYNOD

17.1 CONSTITUTION AMENDMENT (Mandatory Suspension)

Moved by The Rev'd Canon Peter Sandeman

Seconded by Ms Ann Nadge

That this Synod agrees in principle to a Measure for an Ordinance to assent to the *Constitution Amendment (Mandatory Suspension) Canon 2022 (Canon 07, 2022)*.



- 17.2 CONSTITUTION AMENDMENT (Mandatory Deposition)
Moved by The Rev'd Canon Peter Sandeman
Seconded by Ms Ann Nadge
That this Synod agrees in principle to a Measure for an Ordinance to assent to the *Constitution Amendment (Mandatory Deposition) Canon 2022 (Canon 08, 2022)*.
- 17.3 EPISCOPAL STANDARDS (CHILD PROTECTION) (Amendment)
Moved by The Rev'd Canon Peter Sandeman
Seconded by Ms Ann Nadge
That this Synod agrees in principle to a Measure for an Ordinance to adopt the *Episcopal Standards (Child Protection) (Amendment) Canon 2022 (Canon 09, 2022)*.
- 17.4 SAFE MINISTRY LEGISLATION AMENDMENTS
Moved by The Rev'd Canon Peter Sandeman
Seconded by Ms Ann Nadge
That this Synod agrees in principle to a Measure for an Ordinance to adopt the *Safe Ministry Legislation Amendments Canon 2022 (Canon 11, 2022)*.
- 17.5 EPISCOPAL STANDARDS INVESTIGATIONS AMENDMENT
Moved by The Rev'd Canon Peter Sandeman
Seconded by Ms Ann Nadge
That this Synod agrees in principle to a Measure for an Ordinance to adopt the *Episcopal Standards Investigations Amendment Canon 2022 (Canon 12, 2022)*.
18. COMMISSARY ORDINANCE 2022
Moved by Mr Philip Adams
Seconded by The Right Rev'd Dr Tim Harris
That this Synod agrees in principle to a Measure for an Ordinance relating to the appointment of a Commissary and for other purposes.
19. PROFESSIONAL STANDARDS ORDINANCE 2015
Moved by Mr Joe Thorp, Secretary of Synod
Seconded by The Venerable David Bassett
That this Synod agrees in principle to a Measure to amend the Professional Standards Ordinance.
20. EPISCOPAL STANDARDS ORDINANCE 2015
Moved by Mr Philip Adams (Chancellor)
Seconded by Mr Joe Thorp (Secretary of Synod)
That this Synod agrees in principle to a Measure to repeal the Episcopal Standards Ordinance.



21. PAROCHIAL ADMINISTRATION ORDINANCE 1985
Moved by Ms Katherine Dellit
Seconded by The Rev'd Michael Lane
That this Synod agrees in principle to a Measure to amend the Parochial Administration Ordinance.
22. CONSTITUTION (REDUCTION OF MEMBERSHIP OF DIOCESAN COUNCIL)
Moved by The Rev'd Canon Peter Sandeman
Seconded by The Rev'd Michael Lane
That this Synod agrees in principle to a Measure to amend the Constitution.
23. DIOCESAN COUNCIL AND MINISTRY UNITS ORDINANCE 2007
Moved by The Rev'd Canon Peter Sandeman
Seconded by The Rev'd Michael Lane
That this Synod agrees in principle to a Measure to amend the Diocesan Council and Ministry Units Ordinance

MOTIONS

24. THANK YOU TO THE MINISTRY UNITS, PARISH OFFICERS, COMMITTEE MEMBERS & VOLUNTEERS
Moved by The Rev'd Canon Jenny Wilson
Seconded by Mrs Vivien Bleby
That this Synod gives thanks to God for the work undertaken by the Ministry Units and for the commitment of Parish Officers, committee members and volunteers to further God's work in the Diocese of Adelaide.
25. RECOGNITION OF FAITHFUL SERVICE, AND COMMITMENT TO RESPECTFUL DIALOGUE
Moved by The Rev'd Canon Steve Daughtry
Seconded by The Rev'd Paula Bullock
That this Synod recognises and thanks the clergy and people of the Diocese of Adelaide for their faithful and ongoing ministry and worship during the pandemic.
We commend all those who are managing to maintain churches and ministries in a time when exhaustion, illness and less people to share the load, have been added to an already onerous workload.
We celebrate that the Spirit of God has been present in the darkness and light of the last few years and remind ourselves that God's love for us is constant, and that our response must be one of constant love of God and neighbour.
We commit ourselves to acting with grace, generosity and patience during this Synod, bringing to mind the stresses and tiredness so many have carried here with them. We will disagree boldly and honestly, but with love. We will agree joyfully but respectfully, with love.
We will honour the people we represent through our choice to act with grace at all times.



ORDER OF THE DAY – SYNOD CONFERENCE

26. ORDER OF THE DAY, SATURDAY 15 OCTOBER – 1.30 PM – SYNOD CONFERENCE - VISION

27. BISHOP ARTHUR MALCOLM

Moved by The Rev'd Canon Steve Daughtry

Seconded by The Right Rev'd Chris McLeod

(Leave will be sought from Synod asking that, if this motion should be passed, that we stand and pray this prayer together on the floor of Synod.)

That this Synod celebrates and gives thanks for the life and ministry of Bishop Arthur Malcolm, Australia's first Aboriginal Bishop.

Bishop Arthur Malcolm made an extraordinary contribution to the Anglican Church of Australia. His committed leadership and his faithfulness to the Gospel of Christ, devotion to the wellbeing of all First Nations people in Australia, and unstinting service to his church, are gifts which we have treasured and which we honour.

We recognise Bishop Arthur's courage and wisdom, serving both his God and his culture with humility and strength. He inspired many indigenous leaders who are now helping lead our church into a fuller understanding of our spiritual and geographical gifts and heritage.

This Synod sends condolences to Aunty Coleen, and to Bishop Arthur's family, while committing ourselves to the ongoing work of reconciliation, as expressed in the prayer that Arthur and Coleen wrote together:

*Lord God, bring us together as one,
reconciled with you and reconciled with each other.
You made us in your likeness,
you gave us your Son Jesus Christ.
He has given us forgiveness from sin.
Lord God, bring us together as one,
different in culture,
but given new life in Jesus Christ,
together as your body, your Church, your people.
Lord God, bring us together as one,
reconciled, healed, forgiven,
sharing you with others as you have called us to do.
In Jesus Christ, let us be together as one.
Amen. (APBA)*



28. CLIMATE CHANGE

Moved by The Rev'd Dr Steven Ogden

Seconded by The Rev'd Canon Jenny Wilson

That this Synod, noting the importance of GS-18 resolution R55/18 and the complexities involved in its implementation, and noting the excellent work of the Anglican Creation Care Network and Anglican Schools:

- a) establishes a Climate Action Working Group which will be tasked with development and implementation of the Diocesan response to GS-18 R55/18;
- b) that response will include actions for the Synod to achieve net zero carbon emissions by 2040; public advocacy and events to raise public awareness and lobby policy makers, and ongoing co-ordination with the activities of the Anglican Creation Care Network;
- c) encourages Diocesan Council to allocate resources to the implementation of projects, initiatives and plans to ensure the Diocese of Adelaide fulfils its obligations towards achieving net zero by 2040;
- d) the Working Group will be appointed by the Archbishop in consultation with Diocesan Council; and
- e) the Working Group will report to the Diocesan Council with the status of a subcommittee of Diocesan Council and will report on its progress to Synod each year during this triennium.

This Synod authorises the Diocesan Council to establish a Climate Action Working Group for the purpose of expressing our concern in the public square.

29. 30TH ANNIVERSARY OF THE ORDINATION OF WOMEN

Moved by The Rev'd Michael Lane

Seconded by Ms Meriel Wilson

That this Synod noting that,

- a) this year marks the 30th anniversary of the ordination of the first women priests in the Anglican Church of Australia and that by the end of 1992, 92 women had been ordained priests Australia wide; and
- b) currently, according to the Anglican Church Directory 2020/21 there are 3,831 clergy of whom 888 (23%) are women. Of this number there are 7 bishops, 397 active priests, 171 active deacons, 66 whose position is not specified and 247 who are retired,
 1. acknowledges the important contribution ordained women have made and continue to make to worship, ministry and leadership in the Anglican church; and
 2. affirms that women who are priests or bishops, teach and lead with full spiritual authority in this diocese.



30. MORAL ISSUES AND ORTHODOX BELIEF

Moved by The Rev'd Mike Russell

Seconded by Mr Daniel Clark

That this Synod,

- a) noting that the Bible, Book of Common Prayer and 39 Articles mandate true repentance as necessary to receive forgiveness of sins; and
- b) noting that the Bible and Book of Common Prayer not only enjoin general repentance, but also specific repentance with respect to specified moral commandments;
- c) affirms that, while they are absent from the historic creeds, such moral commandments make an important contribution to orthodox belief, and to the things necessary for salvation.

31. ST BARNABAS COLLEGE

Moved by The Rev'd Canon Peter Sandeman

Seconded by The Venerable Andrew Mintern

That this Synod,

- a) notes the large amount of work involved in finding a new tertiary provider;
- b) thanks the Principal of St Barnabas College, The Rev'd Dr Joan Riley, SBC staff and the College Council for their leadership in enabling the ongoing viability of St Barnabas Theological College;
- c) commends the College Staff for the high quality of the theological education provided and research conducted; and
- d) encourages the College to continue to also provide theological and ministry education programs at non-degree level, expanding accessibility to short courses, certificate and diploma programs to better equip all members of the church and the community for the mission and ministry of God.

32. THE PROVISION OF ORDAINED MINISTRY

Moved by The Rev'd Gwilym Henry-Edwards

Seconded by The Rev'd David Covington-Groth

Synod acknowledges and supports the aims of Vision 2022; Growth in Discipleship, Leadership Development, Flourishing Churches, Innovation & Advocacy, and notes:

- a) the need to provide ordained ministry for Anglican faith communities;
- b) the increasing cost of providing full-time stipendiary clergy;
- c) the increasing number of parishes unable to pay full time stipends;
- d) the number of vacancies for parish ministry;
- e) the shortage of appropriately educated and trained clergy;
- f) the shortage of clergy available for locum tenens ministry;

and therefore requests Diocesan Council to consult widely and to prepare a discussion paper that reviews and develops a variety of options for the provision of ordained ministry, with this paper being presented for discussion at the next session of Synod.



33. DIOCESE OF ADELAIDE PRIORITIES

Moved by Dr David Phillips

Seconded by The Rev'd Paul Devenport

That this Synod requests Diocesan Council, as it develops plans for the next three years, to foster flourishing and united church communities by giving priority to:

- a) encouraging all-age church communities, including preschool and school-age children, young adults, young couples and young families;
- b) encouraging greater involvement of males of all ages in church communities, to remedy the current imbalance of women outnumbering men by about two to one; and
- c) encouraging unity based on upholding the Christian faith and Christian living as set out in the Creeds, the Holy Scriptures, the teachings of Christ, the Book of Common Prayer, and the resolutions of the General Synod and Lambeth Conference.

34. SUPPORTING INCLUSION OF PEOPLE WITH DISABILITIES IN PARISH LIFE

Moved by The Rev'd David Brown

Seconded by The Rev'd Ben Woodd

That this Synod:

- a) notes that recent studies indicate that while a majority of church communities believe that they are fully inclusive of people with disabilities, many people with disabilities, their supports and their families experience barriers in accessing churches;
- b) recognises that full inclusion of people with disabilities within church communities is a necessary outworking of the gospel, and that people with disabilities are essential and contributing members of the body of Christ;
- c) commits to the development of a policy that reflects this desire for inclusion, and which describes pathways by which parishes may work towards full inclusion; and
- d) establishes a working committee which exists to support parishes to grow through this process via evaluation of existing practices and assist in the development and implementation of accessible meetings and facilities.

35. ABM PROVINCIAL COMMITTEE

Moved by The Rev'd Paul Devenport

Seconded by Mr Peter Burke

That this Synod gives thanks to Bishop Chris McLeod as the previous Chair of the ABM Provincial Committee and to Bishop John Stead as the subsequent Acting Chair of the ABM Provincial Committee until September 2021 and to all parishes, church groups and individuals for their support to the ABM and its partners with funds totalling \$67,500 in 2021 and \$46,000 for the first six months of 2022.



36. IMPORTANCE OF ABORIGINAL & TORRES STRAIT ISLANDER VOICES

Moved by The Rev'd Cameron Burr

Seconded by Mrs Vivien Bleby

That this Synod, recognising the proposal for a constitutional referendum on an Aboriginal and Torres Strait Islander Voice:

- a) encourages all Australians to read and reflect upon the words of the *Uluru Statement from the Heart*;
- b) recommends study of the ABM publication *A Voice in the Wilderness: Listening to the Statement from the Heart* which is available from www.abmission.org/voice; and
- c) affirms the importance of Aboriginal and Torres Strait Islander voices in the Anglican Church, especially the role of NATSIAC (National Aboriginal and Torres Strait Islander Anglican Council) and the National Aboriginal Bishop.

37. SOUTH SUDANESE COMMUNITIES

Moved by The Rev'd Canon William Deng

Seconded by The Rev'd Jo Smith

That this Synod:

- a) affirms and acknowledges the worshipping communities of South Sudanese that gather in the Diocese of Adelaide under a Missional congregation's licence;
- b) agrees to support and work with the South Sudanese clergy to develop and grow the ministry within the Diocese; and
- c) requests Diocesan Council to work with these "Missional congregations" to encourage them to transition to full membership of this Synod of the Diocese of Adelaide with the right to speak and vote by the next Synod.

38. ANGLICAN CHURCH OF AUSTRALIA DIRECTORY

Moved by Mr Joe Thorp, Secretary of Synod

Seconded The Rev'd Paula Bullock

That this Synod, noting GS-18 resolution R44/18 Broughton Publishing - Anglican Church of Australia Directory, commends the Board and management of Broughton Publishing and editor Colin Reilly on the production of the Anglican Church of Australia Directory in both print and online editions, and encourages parishes and members of the clergy to fully support this project by offering every assistance in keeping information up to date.

39. JOBSEEKER

Moved by The Rev'd Canon Peter Sandeman

Seconded by The Rev'd Canon Stephen Daughtry

That this Synod noting that:

- a) more than a million people across Australia live on government payments that do not cover the cost of housing, food, transport and healthcare;
- b) the next generation is paying the price of poverty. Over one million children live in households reliant on JobSeeker. Living on JobSeeker is the biggest risk to growing up in poverty; and



- c) the Government has previously briefly raised the rate of JobSeeker above the poverty line, lifting hundreds of thousands of people out of poverty. It has the power to do this again,
calls for:
- a) an immediate raise to the rate of JobSeeker above the poverty line; and
 - b) the establishment of an independent Social Security Commission with the power to set government payments, to make sure payments never again fall below the poverty line.

40. COMMUNICANT MEMBERS & PARISH ROLLS

Moved by The Rev'd Stephen Bloor

Seconded by Mr Neil Woolman

That this Synod requests that Diocesan Council explores the option of parish electoral rolls, to help define who communicant members of parishes are, reporting back to Synod next year.

41. MOTIONS WITHOUT NOTICE – arising from Item 13

42. VOTE OF THANKS FOR SYNOD ARRANGEMENTS

Moved by The Rev'd Stephen Bloor

Seconded by Ms Emma Riggs

43. **CLOSING WORSHIP**

NOTICE OF ANNUAL GENERAL MEETING

Notice is hereby given of the Ninth Annual General Meeting of Anglicare SA Ltd. ACN 169 715 762 ("the Company")

DATE: Saturday, 15 October 2022
TIME: 5.00pm
LOCATION: Memorial Hall
St Peter's College
Hackney Road, Hackney SA 5069

Anglicare SA Ltd.
ABN 69 187 578 153
ACN 169 715 762
159 Port Road
Hindmarsh SA 5007
P: 08 8305 9200
F: 08 8305 9211
admin@anglicaresa.com.au
www.anglicaresa.com.au

At the meeting, Members will have the opportunity to:

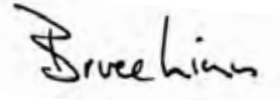
- Ask questions about operations and finances of AnglicareSA
- Speak about any items on the agenda
- Vote on any resolutions proposed

At the meeting, Members will be asked to vote to:

- Confirm the minutes of the Annual General Meeting held 16 October 2021
- Receive the Annual Report of the Board for the year ended 30 June 2022
- Receive the Financial Statements for the year ended 30 June 2022
- Receive the auditor's report for the year ended 30 June 2022
- Appoint an auditor for the next 12 months
- Exercise their power to appoint Board Members pursuant to clause 22 of the Constitution

Agenda and papers will be made available on 30 September 2022, and the annual report and audited financial statements will be made available on 8 October 2022 following approval by the AnglicareSA Ltd Board.

On behalf of the Board



Bruce Linn AM

Chair of the Board

3 September 2022



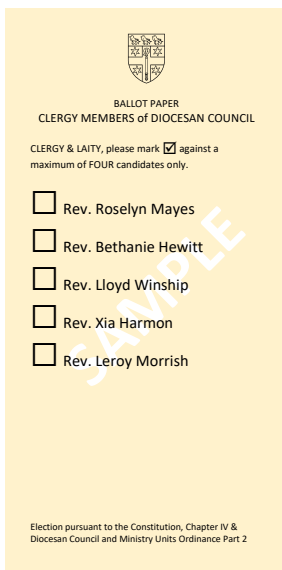
Working towards a
reconciled Australia

How to cast a Ballot

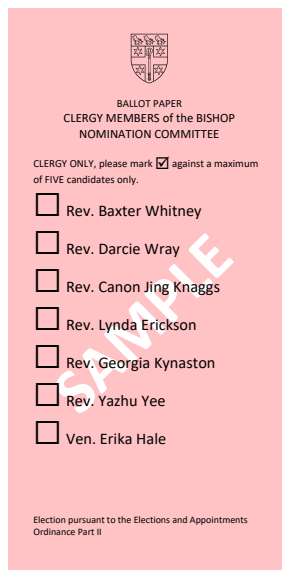
The 2022 Annual Session of Synod is an Election Synod. A secret ballot of Members of Synod will be conducted during the Saturday Business Session for various offices and positions, according to the process specified in the [Elections and Appointments Ordinance 1980](#).

Information about those standing for election will be published at <https://adelaideanglicans.com/synod-gatherings/synod-2022/> as soon as practicable following the closure of nominations and will also be provided in the Supplementary Papers provided at the Saturday Business Session.

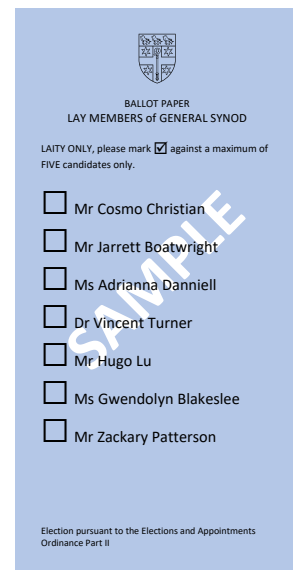
At Registration on Saturday, you will be provided with a ballot paper pack according to whether you are CLERGY or LAITY. Ballot Papers will include YELLOW where CLERGY AND LAITY may vote; RED where ONLY CLERGY may vote and BLUE where ONLY LAITY may vote.



YELLOW Ballot Paper
Both CLERGY & LAITY may vote

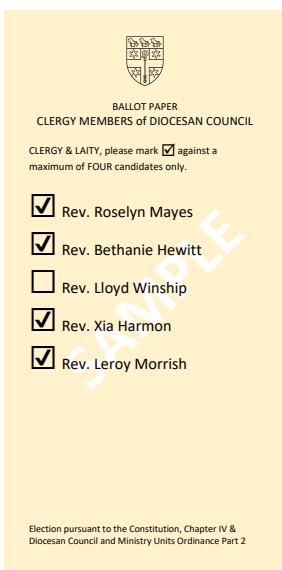


PINK Ballot Paper
ONLY CLERGY may vote

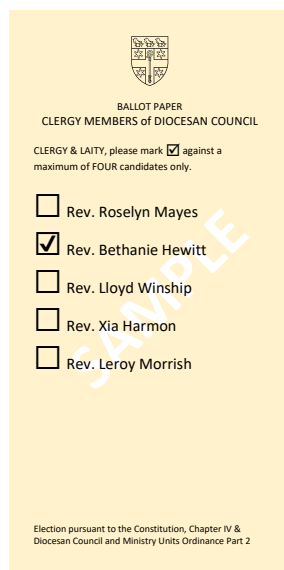


BLUE Ballot Paper
ONLY LAITY may vote

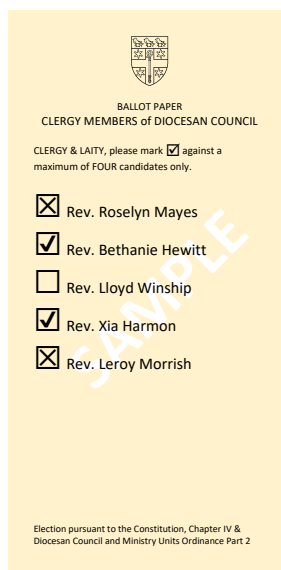
Please vote according to the instructions on each Ballot Paper. Scrutineers will determine whether the “voter’s intent is clear?” Some examples of clear intent and unclear or ambiguous voting intention are shown below:



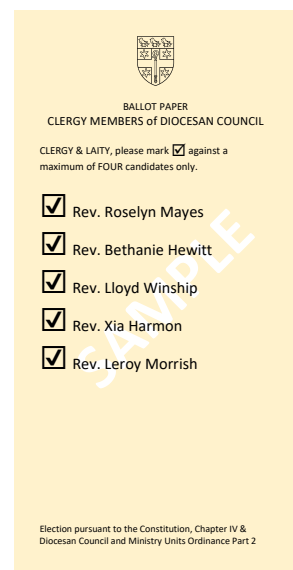
Clear marks against the maximum number of candidates.



A clear mark against a candidate. You don’t need to vote for the *maximum* number.



Two types of marks and a blank box. Unclear if this is a vote for four candidates or two.



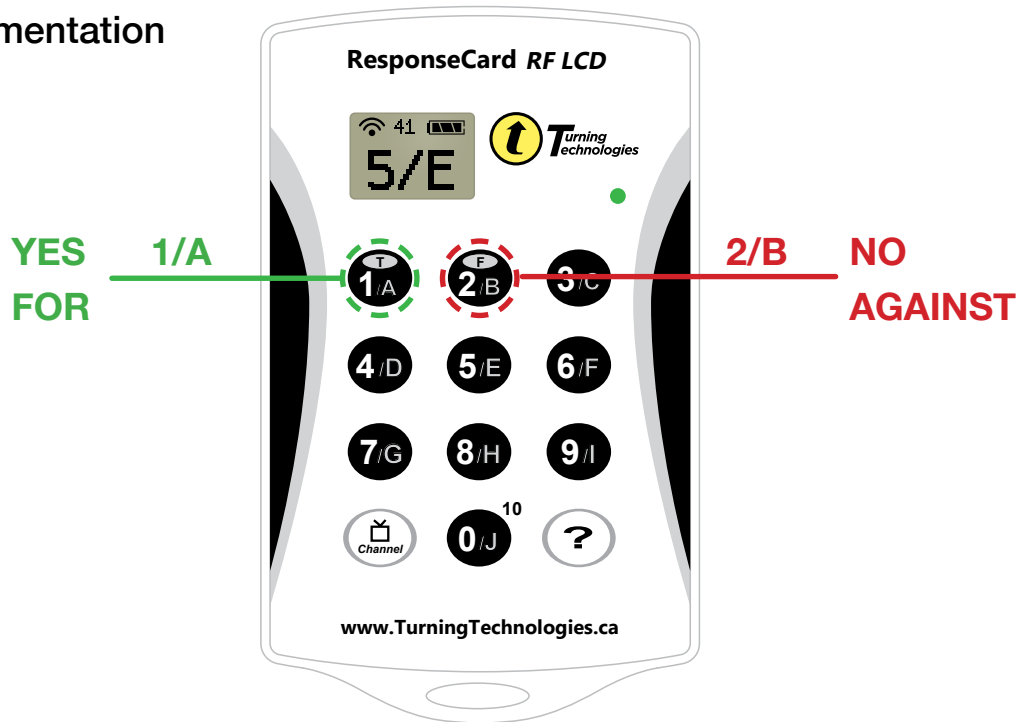
Maximum votes exceeded (five instead of four). The entire ballot paper is invalid.

Electronic Voting at Synod

Diocesan Council, at its August 2013 meeting, endorsed the following proposal to implement Electronic Voting at Synod sessions. Key points relating to the planned system:

- Electronic voting will only be used where voting by voices is unclear and a manual count is required, or when voting by orders is requested.
- A motion will be moved to suspend Standing Orders so far as required to implement Electronic Voting

Implementation



Each voting member of Synod will receive upon registration a lanyard with a name card, and a voting device. The rear of the name card will include directions on the use of the voting device. Each device will be uniquely identified with the member of Synod.

During a session of Synod, there are generally four types of votes that may occur. Electronic voting will apply to two of these votes.

Voting on the voices	Synod Standing Orders Section 28	Procedure unchanged
Voting by orders	Constitution Section 18 (4) Synod Standing Orders Section 28	Electronic voting
Voting by standing (Challenged or unclear result on voices)	Synod Standing Orders Section 28	Electronic voting
Elections & Ballots	Elections and Appointments Ordinance	Procedure unchanged

QUESTIONS FOR SYNOD

1) **Assessment Ordinance**

Submitted by: The Rev'd David Covington-Groth – Mitcham

In accordance with the Assessment Ordinance s.3(7) “The secretary of Synod shall provide to Diocesan Council a summary of assessable income, assessment, total instalments already paid and resulting balance with respect to each parish” has this information been provided to Diocesan Council each year over the last three years? If not why not? Recognising the significant effect Covid has had on the income of parishes and subsequently the Assessment they have been required to pay, can a summary of the assessable income, assessment, total instalments for the last three years be provided to the Members of Synod through its inclusion in synod papers or handed out at synod? If not why not?

Diocesan Council is appraised of this information in the budgeting and planning process each year. Further, each year Diocesan Council considers the detailed circumstances of Parishes which may be excluded from sessions of Synod as a result of non-payment of Assessment or recoverable charges in accordance with S.17 of the Assessment Ordinance.

The information has been provided to Diocesan Council.

Diocesan Council has authorised distribution of the 2021 summary to Synod.

A copy of the Summaries for 2019, 2020 and 2021 are attached

2021 Assessment Acquittals

Parish	Net Assessable Income 2021	Assessment 2021	Provisional Paid 2021	Acquittal Adjustment	
Belair	0	0	18,100		outstanding
Brighton	200,088	32,014	35,986	(3,972)	
Broadview Enfield	85,617	13,699	18,769	(5,070)	
Burnside	135,321	21,651	12,384	9,267	
Campbelltown	174,556	27,929	27,592	337	
Christ Church North Adelaide	565,961	90,554	46,791	43,763	
Clarence Gardens	133,728	21,396	22,242	(845)	
Coromandel Valley	0	0	24,396		outstanding
Elizabeth	33,282	5,325	12,632	(7,306)	
Elizabeth Downs	39,792	6,367	5,148	1,219	
Fullarton	102,760	16,442	16,585	(143)	
Gawler	104,975	16,796	16,162	634	
Glen Osmond	132,585	21,214	16,749	4,464	
Glenelg	237,503	38,000	34,977	3,023	
Golden Grove	83,492	13,359	15,886	(2,527)	
Goodwood	82,197	13,152	18,855	(5,703)	
Hawthorn	167,824	26,852	26,696	156	
Henley and Grange	134,716	21,555	19,351	2,204	
Holy Trinity Adelaide	55,220	8,835	14,886	(6,050)	
Ingle Farm/Para Hills	157,925	25,268	22,925	2,343	
Kangaroo Island	49,506	7,921	9,922	(2,001)	
Kapunda	35,799	5,728	6,690	(962)	
Kensington	188,338	30,134	29,912	222	
Kidman Park & Mile End	124,609	19,937	19,024	913	
Largs Bay	102,302	16,368	13,227	3,141	
Lockleys	101,856	16,297	13,241	3,055	
Magill	181,236	28,998	29,060	(62)	
Mallala	5,467	875	743	132	
Mitcham	261,568	41,851	38,149	3,701	
Modbury	164,954	26,393	26,204	189	
Norton Summit	7,737	1,238	1,805	(567)	
Norwood	103,271	16,523	21,224	(4,700)	
Parafield Gardens	41,024	6,564	5,954	610	
Parkside	126,016	20,163	21,484	(1,321)	
Payneham	84,188	13,470	12,043	1,428	
Plympton	91,459	14,633	16,711	(2,077)	
Port Adelaide	91,728	14,676	12,357	2,319	
Prospect	89,587	14,334	16,574	(2,240)	
Salisbury	189,171	30,267	25,872	4,395	
Seacliff	61,093	9,775	4,729	5,046	
Semaphore	107,801	17,248	15,481	1,767	
Somerton Park	112,836	18,054	18,279	(225)	
St Cyprian's North Adelaide	37,324	5,972	4,574	1,398	
St Francis' Trinity College	17,688	2,830	5,437	(2,607)	
St John's Halifax Street			26,530	-	outstanding
St Luke's Adelaide	151,772	24,284	23,245	1,039	
St Mary Magdalene's	93,502	14,960	13,403	1,558	
St Mary's South Road			42,634		received, queries
St Peters All Souls	133,465	21,354	20,587	768	
St Peter's Cathedral	319,035	51,046	55,478	(4,433)	
Stirling			30,465		outstanding
Tea Tree Gully	137,987	22,078	23,235	(1,157)	
The Barossa	140,143	22,423	21,857	565	
Toorak Gardens	92,963	14,874	11,639	3,236	
Two Wells	10,653	1,704	2,933	(1,229)	
Unley	317,066	50,731	50,165	566	
Walkerville	115,282	18,445	20,451	(2,006)	
Warradale	137,679	22,029	20,455	1,573	
Woodville	91,339	14,614	11,315	3,299	
Total	6,744,986	1,079,197	1,170,200	51,123	

2020 Assessment Acquittals

Parish	Net Assessable	Assessment	Provisional	Acquittal	
	Income		Paid	Adjustment	
	2020	2020	2020		
Belair	113,123	18,100	20,115	(2,015)	
Brighton	224,915	35,986	32,358	3,628	
Broadview Enfield	117,306	18,769	11,284	7,485	
Burnside	137,500	22,000	18,182	3,818	
Campbelltown	172,449	27,592	21,123	6,469	
Christ Church North Adelaide	237,746	38,039	86,904	(48,865)	
Clarence Gardens	139,010	22,242	17,351	4,891	
Coromandel Valley	-	-	24,396	-	outstanding
Elizabeth	78,947	12,632	9,435	3,197	
Elizabeth Downs	32,174	5,148	3,377	1,771	
Fullarton	103,654	16,585	15,474	1,111	
Gawler	101,012	16,162	16,989	(827)	
Glen Osmond	104,683	16,749	16,085	664	
Glenelg	218,609	34,977	22,100	12,877	
Golden Grove	99,287	15,886	14,378	1,508	
Goodwood	117,843	18,855	15,977	2,878	
Hawthorn	166,850	26,696	25,699	997	
Henley and Grange	120,944	19,351	12,028	7,323	
Holy Trinity Adelaide	93,035	14,886	44,070	(29,184)	
Ingle Farm/Para Hills	143,282	22,925	17,101	5,824	
Kangaroo Island	62,015	9,922	5,677	4,245	
Kapunda	41,814	6,690	6,011	679	
Kensington	186,952	29,912	49,621	(19,709)	
Kidman Park & Mile End	118,901	19,024	16,760	2,264	
Largs Bay	82,669	13,227	13,383	(156)	
Lockleys	82,759	13,241	17,898	(4,657)	
Magill	181,624	29,060	29,297	(237)	
Mallala	4,643	743	1,003	(260)	
Mitcham	238,434	38,149	29,734	8,415	
Modbury	163,772	26,204	16,763	9,441	
Norton Summit	11,280	1,805	5,296	(3,491)	
Norwood	132,647	21,224	20,513	711	
Parafield Gardens	37,212	5,954	5,516	438	
Parkside	136,504	21,841	15,504	6,337	
Payneham	75,266	12,043	9,814	2,229	
Plympton	104,442	16,771	12,211	4,560	
Port Adelaide	77,233	12,357	9,441	2,916	
Prospect	103,587	16,574	14,501	2,073	
Salisbury	112,410	17,986	21,564	(3,578)	
Seacliff	29,555	4,729	4,663	66	
Semaphore	96,755	15,481	11,082	4,399	
Somerton Park	114,243	18,279	16,254	2,025	
St Cyprian's North Adelaide	28,587	4,574	5,759	(1,185)	
St Francis' Trinity College	33,984	5,437	5,216	221	
St John's Halifax Street	165,814	26,530	22,960	3,570	
St Luke's Adelaide	145,280	23,245	30,925	(7,680)	
St Mary Magdalene's	83,767	13,403	15,642	(2,239)	
St Mary's South Road	266,465	42,634	52,825	(10,191)	
St Peters All Souls	128,666	20,587	10,124	10,463	
St Peter's Cathedral	346,740	55,478	50,551	4,927	
Stirling	190,409	30,465	34,919	(4,454)	
Tea Tree Gully	145,218	23,235	19,914	3,321	
The Barossa	136,609	21,857	14,985	6,872	
Toorak Gardens	72,741	11,639	11,151	488	
Two Wells	18,332	2,933	2,637	296	
Unley	313,530	50,165	23,429	26,736	
Walkerville	127,821	20,451	19,508	943	
Warradale	127,845	20,455	13,583	6,872	
Woodville	70,720	11,315	11,862	(547)	
Total	7,119,614	1,139,200	1,122,922	40,674	

2019 Assessment Acquittals

Parish	Net Assessable	Assessment	Provisional	Acquittal
	Income	2019	Paid	Adjustment
	2019	2019	2019	
Belair	125,713	20,114	21,452	(1,338)
Brighton	233,385	37,342	34,979	2,363
Broadview Enfield	90,291	14,447	15,823	(1,376)
Burnside	126,204	20,193	29,172	(8,979)
Campbelltown	186,840	29,894	30,973	(1,079)
Christ Church North Adelaide	344,781	55,165	115,876	(60,711)
Clarence Gardens	145,269	23,243	27,414	(4,171)
Coromandel Valley	152,477	24,396	25,856	(1,460)
Elizabeth	58,968	9,435	14,196	(4,761)
Elizabeth Downs	35,814	5,730	6,089	(359)
Fullarton	122,945	19,671	17,974	1,697
Gawler	106,183	16,989	17,742	(753)
Glen Osmond	132,257	21,161	21,599	(438)
Glenelg	247,335	39,574	41,944	(2,370)
Golden Grove	109,633	17,541	17,054	487
Goodwood	117,206	18,753	21,249	(2,496)
Hawthorn	160,588	25,694	27,311	(1,617)
Henley and Grange	135,663	21,706	19,305	2,401
Holy Trinity Adelaide	275,434	44,069	47,210	(3,141)
Ingle Farm/Para Hills	150,570	24,091	22,845	1,246
Kangaroo Island	51,662	8,266	7,355	911
Kapunda	39,315	6,290	5,637	653
Kensington	310,115	49,618	44,983	4,635
Kidman Park & Mile End	125,782	20,125	16,985	3,140
Largs Bay	99,757	15,961	17,106	(1,145)
Lockleys	113,070	18,091	16,264	1,827
Magill	251,721	40,275	43,932	(3,657)
Mallala	6,266	1,003	999	4
Mitcham	244,643	39,143	36,119	3,024
Modbury	178,416	28,547	26,874	1,673
Norton Summit	33,101	5,296	5,768	(472)
Norwood	128,197	20,512	11,111	9,401
Parafield Gardens	53,886	8,622	8,149	473
Parkside	108,177	17,308	15,504	1,804
Payneham	101,368	16,219	15,692	527
Plympton	114,501	18,320	16,314	2,006
Port Adelaide	90,478	14,476	12,477	1,999
Prospect	106,836	17,094	16,759	335
Salisbury	135,785	21,726	21,561	165
Seacliff	50,447	8,072	8,048	24
Semaphore	117,615	18,818	14,800	4,018
Somerton Park	119,905	19,185	19,287	(102)
St Cyprian's North Adelaide	35,980	5,757	8,576	(2,819)
St Francis' Trinity College	42,829	6,853	10,027	(3,174)
St John's Halifax Street	211,400	33,824	34,041	(217)
St Luke's Adelaide	193,285	30,926	31,434	(508)
St Mary Magdalene's	97,756	15,641	14,986	655
St Mary's South Road	336,211	53,794	53,251	543
St Peters All Souls	139,579	22,333	22,735	(402)
St Peter's Cathedral	353,070	56,491	52,375	4,116
Stirling	218,249	34,920	35,087	(167)
Tea Tree Gully	180,017	28,803	22,109	6,694
The Barossa	158,436	25,350	25,367	(17)
Toorak Gardens	95,078	15,212	18,653	(3,441)
Two Wells	20,643	3,303	2,452	851
Unley	235,202	37,632	29,616	8,016
Walkerville	141,186	22,590	22,805	(215)
Warradale	145,169	23,227	21,818	1,409
Woodville	93,724	14,996	14,261	735
Total	8,336,413	1,333,827	1,377,380	(43,553)

QUESTIONS FOR SYNOD (cont)

2) Cemeteries

Submitted by: The Rev'd Stephen Bloor - Christ Church North Adelaide

Can you please advise:

the number of vacant burial plots held in cemeteries on property held in trust by the Synod and the number of total plots, both those under the management of North Road Cemetery and also under the management of parishes.

This information is for Synod Cemeteries – North Road and Mitcham. All other cemeteries are managed by Parishes. The Synod does not hold data on parish cemeteries.

As at 30 June 2022 there are just under 300 earth burial sites that are available for reuse under current regulations.

The current market value of these burial plots.

The market value of these plots is approximately \$1.5m at current rates.

The general maintenance state of all cemeteries that are associated with the Diocese.

Synod managed cemeteries at North Road and Mitcham are well maintained by a small professional team.

What risk assessments are being carried out by the Diocese on poorly maintained and managed cemeteries and policies to manage cemeteries.

North Road Cemetery is included in the Synod Risk Management planning process.

If any plans are in place for Digitising of Records owned by the Diocese and its entities.

North Road Cemetery has all records stored on an electronic database (Paradox) including

- Burial records
- Licence records; and
- Plot information

The Synod Cemetery Manager and Secretary of Synod are evaluating options for a new Cemetery Management software package.

Are there any plans for general marketing of available burial plots held by the Diocese and its entities?

North Road Cemetery is well known amongst Adelaide's Funeral Directors with whom our Cemetery Manager maintains active relationships. North Road maintains an informative website and Facebook presence.

Are there enough funds being placed into investments for the long term viability and maintenance of North Road Cemetery?

There is currently approximately \$2 in investment funds under management which relate to North Road Cemetery. North Road cemetery manages comfortably on its annual operating cashflow and provides a small surplus to the Synod.

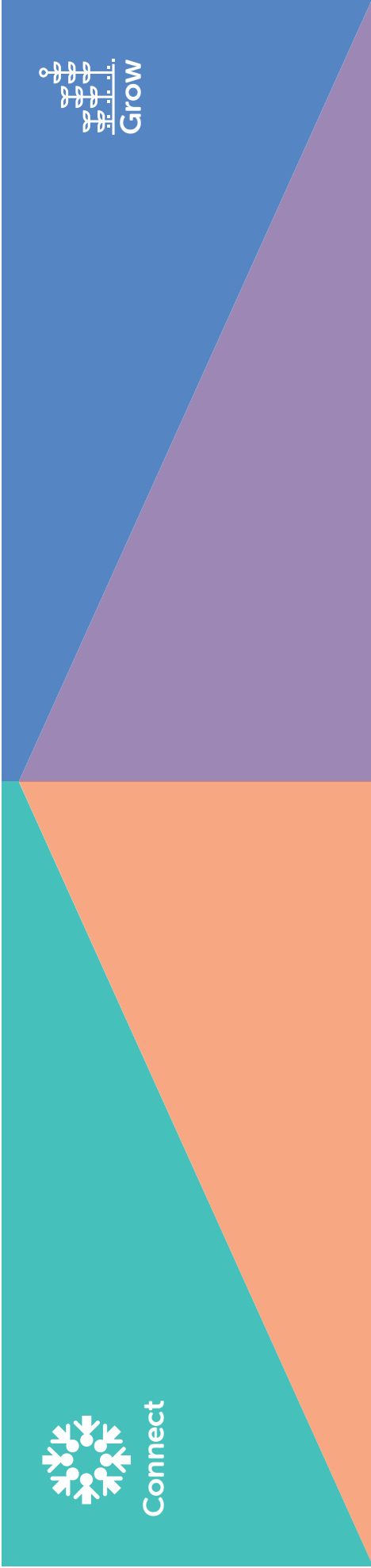
And are there policies in place to ensure that other entities associated with the Diocese also are placing enough funds into investments for the long-term viability and maintenance of their cemeteries?

No

In late 2017 Diocesan Council considered a report prepared by external consultants entitled "Aspects of North Road Cemetery". A number of changes to the operations of North Road cemetery ensued. On his appointment in 2020, Secretary of Synod identified governance and management of both Synod controlled as well as parish cemeteries as an issue and included it in the 2021 work plan. To that end in late 2021 we launched cemeteries review and strategy project. Synod is now being assisted in that work by an external consultant. Issues to be addressed in that review include:

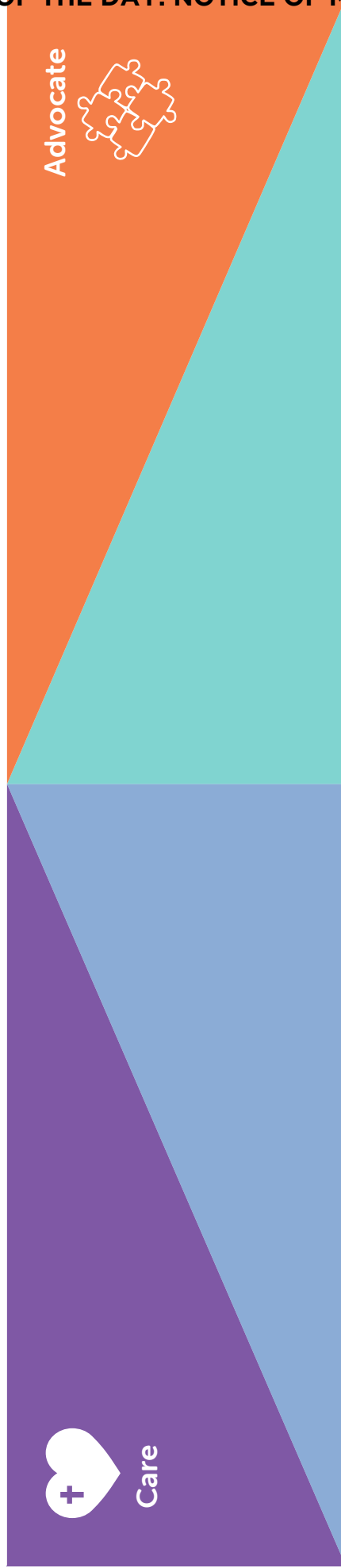
- Governance and ownership structure, operating structures and approach – including the potential for an Anglican Cemetery Authority or similar. This question to include policies, pricing, operating rules etc;
- Viability, adequacy of reserves and improving commercial return;
- What investments might make sense to improve viability and returns – for example investment in columbarium's, mausoleums etc - and if so at what locations.

That work will be reported through the Property Finance and Resources Committee to Diocesan Council.



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Adelaide Anglicans Flourishing & United in God's Love



Anglican Diocese
of Adelaide





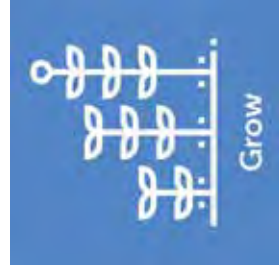
vision



Adelaide Anglicans Flourishing & United in God's Love

Adelaide Anglicans are:

- Followers of Christ, growing in discipleship, sharing the good news of Jesus Christ and making disciples of others
- Diverse, connected and engaged with community
- Courageous advocates, working together for social justice
- Committed to caring for creation & each other



Anglican Diocese
of Adelaide

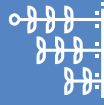




Strategies for 2023 - 2025

Focus Area 1:

Growing in discipleship & sharing the good news of Jesus Christ



Adelaide Anglicans are committed to spiritual growth, deeper knowledge of the Christian faith and sharing the gospel. We will live out our faith every day, and we will reach out to new Christians by encouraging a culture of innovation and support for new ideas and not be constrained in finding new ways to gather and connect.

Focussing on discipleship and sharing the gospel means we need to equip leaders to teach and to lead and manage diverse teams.

An increase in the equipping and training of lay people, and better utilisation of gifts and skill, will reduce dependence on clergy.

Strategies:

1. **Actively engage laity in ministry development focus areas:**
 - a. Confidence in the Gospels; How to pray; how to lead prayer; How to share the good news of Jesus Christ; Training for children's ministry; and Understanding & articulating Anglican distinctives
2. **Equip clergy & laity for leadership:**
 - a. Leadership skills & approaches; Dealing with conflict; and Working in teams
3. **Encourage a culture of innovation:**
 - a. Creating a culture of permission given, it's ok to try & fail, do what you need to do – we will support you.
 - b. Encouraging diverse, alternative forms of community and of worship & expression that are attractive to young people
 - c. Invite the curious & the lapsed to share in God's love
 - d. Encouraging youth ministry from school to university and beyond
 - e. Support & facilitate new forms of gathering and ministry - gatherings, sharing, home groups, coffee meetings





Strategies for 2023 - 2025

Focus Area 2:

Connecting in and with communities



It is God who does the uniting – one spirit, one baptism, one Lord, one faith.

We will lovingly and respectfully hear each other, be free to do things differently, be united, but not uniform.

We will facilitate networks across parishes, schools, chaplains, Anglicare and improve and encourage communication, networking, consultation, collaboration, combined celebrations, gatherings and encouragement of one another.

We will be welcoming, accessible, listening, sharing, nurturing and caring, hopeful and joyous, positive, serving, and generous inclusive communities of spirituality, social connection and love.

Facilities will reflect community needs and expectations, with visible signs of life, good signage and open doors.

We will connect with the community intentionally through advocacy and service.

Strategies:

1. **Encourage networks & sharing:**
 - a. Facilitate connections & co-ordinate activities between parishes and people
 - b. Promote shared use of resources, collectively organising events, education, ministries
 - c. Co-ordinate regular forums and get together for collaboration, information sharing, companionship, development
 - d. Facilitate engagement with chaplains, Anglican schools, Anglicare
 - e. Cultivate a culture of togetherness, sharing and communicating
2. **Use our resources creatively:**
 - a. Encourage use of churches and church buildings in novel ways for community use & engagement
 - b. Create critical mass by rationalising worship centres and parishes and creating hubs, team ministry, co-operation & collaboration



Anglican Diocese
of Adelaide





Adelaide Anglicans Flourishing & United in God's Love



Strategies for 2023 - 2025

Focus Area 3:

Advocating and working together for social justice



Adelaide Anglicans will advocate to defend and promote Christianity, and the qualities of Anglicanism.

We will be a strong voice for social justice and will speak confidently into public debates on relevant issues (for example climate change, women's and children's rights, status and safety, integrity and transparency, multiculturalism, indigenous affairs, and reconciliation).

We will also work for social justice, advocacy is one thing, doing work on the ground to help the disadvantaged and the marginalised is a core mission of the Church.

We will proactively work to eliminate domestic & family violence in Anglican communities.

We will continue to support survivors of abuse and work toward reconciliation between them, the church and their families.

Strategies:

1. **Understand and articulate Anglican distinctiveness:**
 - a. See also focus area 1 Growing in discipleship
2. **Advocate for social justice:**
 - a. Develop tools and resources to enable advocacy by clergy and lay leaders
 - b. Proactively engage media on issues & public policy relevant to the community
 - c. Join or create networks and groups to share our perspective
 - d. Contribute to the adoption and implementation of the Uluru Statement from the heart, take action in the church for reconciliation, healing & peace
3. **Work for social justice by encouraging and supporting parishes to:**
 - a. Run emergency assistance programs
 - b. Run or participate in food relief or community support programs
 - c. Run community gardens
 - d. Run op shops
 - e. Equip volunteers with skills and tools
 - f. Facilitate networks and connections between parishes, and between parishes and Anglicare.
4. **Support survivors of abuse and work toward reconciliation between them, the church and their families**
5. **Implement the 10 Commitments for preventing and responding to domestic and family violence**



Anglican Diocese of Adelaide





Strategies for 2023 - 2025

Focus Area 4:

**Caring
for creation
& each other**



Adelaide Anglicans care deeply for creation and responding to climate change we will reduce our carbon footprint and water use and encourage others in the community too.

To facilitate the focus on discipleship and to care for our community we will find better and more strategic use of our resources, identify key missional goals, and where common affinities exist, co-ordinate the infrastructure, ministries and resources required.

We will review governance structures, hierarchy models, legislation, administration and compliance so it is lighter and simpler enabling more enthusiasm and flexibility.

Strategies:

1. **Measure & Take action to reduce our carbon footprint:**
 - a. Develop carbon footprint measurement and reporting tools to enable reporting to General Synod
 - b. Deploy environmental audit tool to parishes, schools and Anglicare
 - c. Develop program to facilitate take up of Solar by parishes
 - d. Facilitate take up of electric vehicles for all Synod vehicles
2. **Make life simpler for parishes:**
 - a. Develop a program of Ordinance simplification
 - b. Reform our governance & administration to make parish life simpler & easier
 - c. Reduce compliance burden through simple tools, or administration hubs
 - d. Provide business manager / bookkeeping service for parishes
 - e. Explore new models of administration – hubs, shared services
3. **Care for our ageing congregations:**
 - a. Develop Initiatives, programs, and approaches to support continuing engagement
4. **Create a supportive working environment:**
 - a. Provide alternatives to the sole clergy in a parish model
 - b. Rethink deaneries and archdeaconries
 - c. Encourage hubs and teams
 - d. Provide more structured support for clergy



Anglican Diocese
of Adelaide





Anglican Diocese
of Adelaide

Synod Operations Finance Report

This report details the Synod Operations component of the Synod consolidated financial statements for the year ended 30 June 2022. Transactions relating to Anglican Funds SA, Trust Funds, The See are only included to the extent of income received and grants paid by Synod Operations.

For the year ended 30 June 2022 Synod Operations recorded an operating surplus of \$706k, a positive variance against the budgeted position. After allowing for redress settlements of \$55k, and previously capitalised property project costs of \$438k, a net surplus of \$213k was recorded.

The 2022-23 budget was approved by Diocesan Council at its meeting in July 2022 and is presented to Synod to assist with the setting of the assessment rate for the 2023 year.

		2021-22	2021-22	2021-22	2022-23
Synod Operations Summary		Actual	Budget	Variance	Budget
		\$'000	\$'000	\$'000	\$'000
Assessment		1,238	1,000	238	1,075
Investment Income		354	349	5	360
External Grants	Leigh Trust	754	750	4	772
	Anglican Funds SA	500	500	0	500
Special Fund Grants		422	418	4	425
Other Income		121	0	121	0
Total Income		3,389	3,017	372	3,132
Less: Grants Paid	The See	-34	-34	0	-44
Net Synod Operations Income		3,355	2,983	372	3,088
Synod Office Funding:					
Bishops Office		-243	-450	207	-413
Corporate		-641	-667	26	-598
Governance		-695	-670	-25	-702
Ministry Services		-281	-390	109	-342
Operations		-166	-135	-31	-282
Professional Standards		-352	-338	-14	-361
St Barnabas College		-271	-333	62	-388
Total Funding		-2,649	-2,983	334	-3,086
Operating Surplus/Deficit		706	0	706	2
Critical Incident Settlements		-55	0	-55	0
Property Project Costs		-438	0	-438	0
Net Surplus/Deficit		213	0	213	2

2021-22 Actual to Budget variances:

The operating surplus of \$706k was a result of \$372k higher than budgeted income combined with \$334k less expenditure than budgeted.

Assessment income received was \$238k higher budgeted. At the time of preparing the budget only 40% of returns had been lodged so the budget was left at unchanged from 2020-21 which had been reduced to allow for the impact of Covid-19.

Other Income includes several bequests received totalling \$95k.

Bishops Office expenses were \$207k less than budget mostly due to FTE vacancies and delays to the start of the Lay & Ministry Development initiative.

Ministry Services was \$109k below budget with amounts set aside for grants not being required.

Redress Settlements of \$191k were paid during the year. After adjustments for end of year accruals, an expense of \$55k has been recorded for the year ended 30 June 2022.

Property Project Costs of \$438k in relation to the investigation of various property development proposals that had previously been capitalised, were taken to the profit and loss this year as the projects are unlikely to go ahead in the near future.

2022-23 Budget

Summary

A conservative approach has been taken for the 2022-23 budget, with no significant changes to Synod operations and a breakeven position being budgeted.

Assessment

As a result of increased income generated from investments and continued conservative expenditure it is believed that it is now achievable to reduce the assessment rate. The budget has been prepared based on assessment reducing from a rate of 16% to 14%.

The 2% decrease of the assessment rate equates to a \$150k drop in income over a calendar year. The impact on the 2022/23 financial year budget will be a \$75k decrease in assessment income.

Investment Income

The distribution from the Endowment Fund is budgeted to increase from 7.5 to 7.6 cents per unit. The Endowment Fund distribution should remain relatively stable for the next few years due to the calculation method employed by the Fund.

Grant Income

Grant income received from Anglican Funds SA is budgeted to remain at \$500k.

The Leigh Trust regular grant is expected to increase slightly from a total of \$754k to \$772k based on advice received from the Trust.

Anglicare SA Support

Anglicare SA financial support in this budget reduces significantly for the 2022/23 year with funding for the Senior Chaplain reducing by 50%. In addition, funding has also ceased for the Bishop Missioner to Playford following the move of Bishop Tim to Kensington.

Chaplaincy

Chaplaincy has seen a significant rise in cost due to Anglicare SA's funding cut and an increase in FTE during 2021/22. Whilst Local Area Health Networks continue to push for increased chaplaincy services while funding only 24% of the cost of providing those services, we have budgeted for a total FTE of 5.0, a total cost to Synod of \$341k.

Settlements

Consistent with previous years, no allowance has been made for critical incident or National Redress Scheme settlements to be paid in 2022/23. The Synod will continue to face these settlements in coming years.

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Please note there is no significance in the different colours used to show tracked changes in Diocesan Constitution starting at page 48.
Changes to the ACA Constitution (at page 80) made by Canon 7 are shown in turquoise.
Changes to the ACA Constitution made by Canon 8 are shown in blue

A MEASURE

to amend the *Constitution*.

NOW THE SYNOD HEREBY DETERMINES:

Part 1 - Preliminary

1 - Short title

This may be cited as the *Constitution (Commissary, Virtual Meetings, Lay Members of Synod) Amendment Measure 2021*.

2 - Commencement

This Measure will come into operation after it has been confirmed by the Synod in accordance with section 30(b) of the *Constitution*.

3 - Amendment of the Constitution

The *Constitution* is amended in the manner set out in Part 2.

Part 2 - Amendment of the *Constitution*

4 – Insertion of section 6A

After section 6 insert:

Position of Commissary or Administrator

- 6A.(1) During the absence of the Bishop from the Province or during any period which may be proposed by the Bishop and agreed to by the Diocesan Council, the following provisions will apply:
- (a) subject to subsection (3), the powers vested in the Bishop by this Constitution will be exercised by a Commissary appointed in such manner as the Synod will determine by Ordinance;
 - (b) if no Commissary has been appointed pursuant to paragraph (a), or if the person appointed is unable or unwilling to act, and subject to subsection (3), the

powers vested in the Bishop by this Constitution will be exercised by an Administrator appointed in accordance with subsection (2).

- (2) In the event of the Bishop's death, resignation or becoming incapable, and subject to subsection (3), the powers vested in the Bishop by this Constitution will be exercised by an Administrator who will be the Assistant Bishop (if any) or (if more than one) the Assistant Bishops in order of their appointment as Assistant Bishops, or if none, or in his or her or their absence or incapacity or unwillingness to act, the person or persons appointed in order by the Diocesan Council to be the Administrator (which appointments may be made and rescinded from time to time as the Diocesan Council may determine), or if none or in his or her or their absence or incapacity or unwillingness to act, the Dean or in his or her absence or incapacity or unwillingness to act, the Archdeacons in order of seniority.
- (3) The powers and authorities to be exercised by a Commissary or Administrator will not include powers and authorities vested in the Bishop by Chapter I, Chapter II and sections 17, 18, 19, 20 and 30 of this Constitution, and will not include the authority to appoint an Archdeacon or the Dean.
- (4) In this section –

incapable, in relation to the Bishop, has the meaning contained in the *Bishop (Incapacity) Canon 1995*.

5 – Amendment of section 13 – Lay members of Synod

- (1) Section 13(1)(c) – after “for which the election is conducted” insert:

and does not purport to be a member of any other parish in the Diocese

(2) Section 13(2) – after paragraph (b) insert:

and

(c) is a member of the parish for which the election is conducted or the appointment is made and does not purport to be a member of any other parish in the Diocese,

(3) Section 13(3) – after paragraph (d) insert:

or

(e) the Bishop is satisfied following receipt of a notice in writing from the parish council of the parish which the person was elected or appointed to represent, that the person has ceased to be a member of the parish; or

(f) the parish which the person was elected or appointed to represent ceases to be a registered parish.

6 – Amendment of section 15 – Sessions of Synod

(1) Section 15(1) – delete “There” and substitute:

Subject to subsection (4), there

(2) Section 15 – after subsection (3) insert:

(4) A session of the Synod may, instead of being held at a place with members of the Synod being physically present, be held:

(a) remotely; or

(b) with some members of the Synod being physically present at one or more venues and other members participating remotely,

if:

(c) the Bishop, after consultation with the Diocesan Council, determines that, because of special or extenuating

circumstances, the session should be conducted under this subsection; and

(d) arrangements have been put in place (as determined to be appropriate by the Bishop after consultation with the Diocesan Council) so that the session may be conducted insofar as members are participating remotely, by:

(i) audio visual means; or

(ii) audio means; or

(iii) any other means of communication determined by the Bishop after consultation with the Diocesan Council.

(5) If arrangements are put in place under subsection (4):

(a) a member of the Synod will be taken to be at the relevant meeting (and to form part of the quorum for the meeting) if the member registers as a participant at the meeting in a manner determined or approved by the Bishop as part of the arrangements put in place under subsection (4); and

(b) voting (including voting by orders) on any question or motion will be conducted in a manner (and using technology) determined or approved by the Bishop after consultation with the Diocesan Council; and

(c) other procedures specified, determined or approved by or under an Ordinance for the purposes of facilitating the conduct of the business of the Synod in the relevant circumstances may apply.

7 – Amendment of section 21 – Composition of Diocesan Council

Section 21(1)(a) – delete paragraph (a) and substitute:

(a) the Bishop, the Assistant Bishop (if any), the Commissary (if any) or the Administrator (as the case requires and, if not already a member of the Diocesan Council) and the Dean *ex officio*;

8 – Amendment of section 31 – Definitions

- (1) Section 31(a), definition of “Administrator” – delete the definition and substitute:

“Administrator” means the administrator of the Diocese appointed pursuant to section 6A;

- (2) Section 31(a), definition of “Archdeacon” – delete “other than the Archdeacon of Adelaide”

- (3) Section 31(a), definition of “Archdeacon of Adelaide” – delete the definition

- (4) Section 31(a), definition of “Bishop” – delete ““Archdeacon of Adelaide”,”

- (5) Section 31(a), definition of “Bishop” – delete “Administrator” and substitute:

Commissary or Administrator as the case requires

- (6) Section 31(a), definitions commencing “Clergyman” – delete ““Clergyman” or “licensed clergyman” or”

- (7) Section 31(a) – after the definition of “member of the clergy” insert:

“Commissary” means a Commissary appointed pursuant to section 6A;

- (8) Section 31(a), definition of “Communicant” – delete “of which Easter shall be one”

- (9) Section 31(a), definition of “Dean and Chapter” – delete the definition

- (10) Section 31(a), definition of “Dean of Adelaide” – delete the definition and substitute:

“Dean” means the person appointed as the Dean of the Cathedral Church of St Peter by the Bishop, subject to such conditions (if any) as may be lawfully prescribed;

(11) Section 31(a), definitions commencing “Lay synodsmen” – delete
““Lay synodsmen” or”

(12) Section 31(d) – delete “, Archdeacon or member of the Dean and
Chapter” and substitute:

or Archdeacon

9 – Amendment of Fourth Schedule

Fourth Schedule – delete the declaration and substitute:

I DO HEREBY DECLARE that I am a member of The Anglican Church of Australia, that I am a communicant of the said Church, that I do not belong to any other religious denomination, that I have received the Holy Communion not less than three times during the past twelve months, that I have attained the age of sixteen years, that I am a member of the parish of:

.....

and that I do not consider myself to be a member of any other parish in the Diocese of Adelaide

10 – Amendment of Fifth Schedule

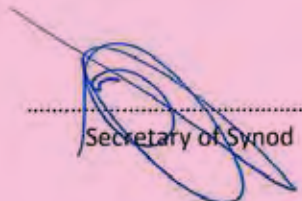
Fifth Schedule – delete the declaration and substitute:

DO HEREBY DECLARE

1. That I am a member of The Anglican Church of Australia and that I am a communicant of the said Church.
2. That I belong to no other religious denomination.
3. That I am a member of the Anglican Parish of and that I do not consider myself to be a member of any other Anglican parish in the Diocese of Adelaide.

4. That I have received the Holy Communion not less than three times during the past twelve months.
5. That I have attained the age of 18 years.
6. That I submit to and agree to be bound by:
 - (a) the Constitution of the Diocese of Adelaide; and
 - (b) every Ordinance from time to time in force; and
 - (c) any lawful direction made under the Constitution or any Ordinance that applies to lay members of the Synod.
7. That I hereby accept the office of lay member of the Synod and any other office to which I may be elected or appointed pursuant to the said Constitution and Ordinances and promise to perform the duties thereof honestly, impartially, faithfully and to the best of my judgement and ability and in accordance with and subject to the said Constitution and Ordinances.
8. That I acknowledge that my appointment to the Synod relates to my membership of the Parish of for the duration of the three years of the current Synod triennium and that I may be removed from office if I cease to be a member of that Parish.

CERTIFIED as a copy of the Measure as passed by the Synod on 16 October 2021.


.....
Secretary of Synod

CONSTITUTION

Arrangement

1. This Constitution is divided into Chapters as follows:-

CHAPTER I	THE DIOCESE OF ADELAIDE
CHAPTER II	THE BISHOP
CHAPTER III	THE SYNOD
CHAPTER IV	THE DIOCESAN COUNCIL
CHAPTER V	PARISHES
CHAPTER VI	THE SEAL
CHAPTER VII	AMENDMENT OF THE CONSTITUTION
CHAPTER VIII	INTERPRETATION

CHAPTER 1 - THE DIOCESE OF ADELAIDE

Membership of The Anglican Church of Australia

2. The Diocese is a diocese of The Anglican Church of Australia and where this Constitution or any Ordinance made hereunder is inconsistent with the Constitution of The Anglican Church of Australia or any Canon or Rule made thereunder and which is in force in or applies to or has force and effect in or is not excluded from operation within the Diocese, the latter shall prevail and the former shall to the extent of the inconsistency have no effect.

Government

3. Subject to the provisions of section 2 of this Constitution the authority and power to provide for the life and growth, the order and good government and the management of the affairs of the Diocese is vested in -
- (a) the Bishop, and

- (b) the Synod which for such purposes may exercise the powers hereinafter provided.

Operation of Constitution

4. This Constitution and all Ordinances made hereunder shall be binding on the Bishop, all members of the clergy and lay persons as members of the Church residing or worshipping within the Diocese and for all purposes connected with or relating to Church property including trust property.

CHAPTER II - THE BISHOP

Election

5. (1) Subject to the provisions of section 8 of the Constitution of The Anglican Church of Australia the Bishop shall be elected or appointed in such manner as the Synod shall by Ordinance determine.
- (2) A person elected or appointed Bishop shall not take office without first having signed a declaration in the form contained in the First Schedule hereto and a declaration of assent to the doctrine and formularies of The Anglican Church of Australia.

Bishop's Powers

6. Subject to this Constitution and the Ordinances of the Synod and to the Constitution of The Anglican Church of Australia and to the Canons or Rules mentioned in section 2 of this Constitution the Bishop as Ordinary and Chief Pastor of the Diocese shall have and may exercise within the Diocese all and singular the powers and authorities which are inherent in his office.
- 6A. (1) During the absence of the Bishop from the Province or during any period which may be proposed by the Bishop and agreed to by the Diocesan Council, the following provisions will apply:
- (a) subject to subsection (3), the powers vested in the Bishop by this Constitution will be exercised by a Commissary appointed in such manner as the Synod will determine by Ordinance;
 - (b) if no Commissary has been appointed pursuant to paragraph (a), or if the person appointed is unable or unwilling to act, and subject to subsection (3), the powers vested in the Bishop by this Constitution will be exercised by an Administrator appointed in accordance with subsection (2).

- (2) In the event of the Bishop's death, resignation or becoming incapable, and subject to subsection (3), the powers vested in the Bishop by this Constitution will be exercised by an Administrator who will be the Assistant Bishop (if any) or (if more than one) the Assistant Bishops in order of their appointment as Assistant Bishops, or if none, or in his or her or their absence or incapacity or unwillingness to act, the person or persons appointed in order by the Diocesan Council to be the Administrator (which appointments may be made and rescinded from time to time as the Diocesan Council may determine), or if none or in his or her or their absence or incapacity or unwillingness to act, the Dean or in his or her absence or incapacity or unwillingness to act, the Archdeacons in order of seniority.
- (3) The powers and authorities to be exercised by a Commissary or Administrator will not include powers and authorities vested in the Bishop by Chapter I, Chapter II and sections 17, 18, 19, 20 and 30 of this Constitution and will not include the authority to appoint an Archdeacon or the Dean.
- (4) In this section –

incapable, in relation to the Bishop, has the meaning contained in the *Bishop (Incapacity) Canon 1995*.

CHAPTER III - THE SYNOD

The Synod

7. Without limiting the effect of section 3 of this Constitution there shall be a governing body for the management of the affairs of the Diocese which shall be The Synod of the Diocese of Adelaide of The Anglican Church of Australia Incorporated.

Object

8. The object of the Synod is to provide for the life and growth and the order and good government of The Anglican Church of Australia within the Diocese in accordance with the provisions of the said Constitution of The Anglican Church of Australia.

Powers of Synod

9. (1) Subject to the provisions of this Constitution the Synod shall have the following powers:-
- (a) to consider and if thought necessary to pass motions upon any matter concerning or affecting the Church of God or any part thereof and its members whether within or outside the Diocese;
 - (b) To consult with the Bishop on any matter on which the Bishop may agree to being consulted and to advise the Bishop;
 - (c) To make alter or repeal such Ordinances (not being repugnant to this Constitution) as shall in its opinion be necessary for or conducive to the order and good government of The Anglican Church of Australia within the Diocese;
 - (d) To purchase take on lease or in exchange, hire or otherwise acquire and hold any real or personal property, including any rights and privileges, for the purposes of the Synod, the general purposes of the Diocese, any special diocesan purpose, any purpose of or connected with The Anglican Church of Australia (whether within or outside the Diocese) or for any other religious purpose or purposes or for the advancement of religion (whether within or outside the Diocese);
 - (e) To erect buildings and to renovate repair reconstruct alter improve add to and demolish any buildings or structures now or hereafter vested in the Synod;
 - (f) To sell exchange lease let mortgage pledge hire dispose of turn to account or otherwise deal with all or any of the real and personal property of the Synod;
 - (g) To accept donations whether of real or personal estate and devises and bequests whether or not such donations devises or bequests are subject to any trusts;
 - (h) To raise or borrow money and secure the repayment thereof in such manner as the Synod shall think fit with power to issue debentures, grant mortgages, charges or securities upon or charging all or any of the property whether real or personal present or future of the Synod and to redeem or pay off either wholly or in part any existing or future security;

A3

- (i) To receive moneys on deposit, current account or otherwise with or without allowance of interest and to receive on deposit titles deeds leases and other securities of any description;
- (j) To lend or advance money to any person or body either at interest or without interest and with or without security and in particular to persons parishes congregations and organisations within the Diocese and generally to receive hold invest and lay out moneys or securities for money upon and subject to such terms and conditions without any restriction whatever as the Synod may determine;
- (k) To give any guarantee in relation to mortgages loans investments and securities whether made or effected or acquired through the agency of the Synod or otherwise and generally to guarantee or become surety for the performance of any contracts and obligations;
- (l) To invest and deal with the moneys of the Synod not immediately required upon such securities and in such manner as may from time to time be determined by the Synod and for that purpose to acquire and hold shares, stocks, debentures, debenture stock bonds, obligations securities or notes issued or guaranteed by any company or corporation constituted or carrying on business in Australia or elsewhere and debentures debenture stock bonds obligations and securities issued or guaranteed by any government commission public body or authority, municipal, local or otherwise in Australia or elsewhere and to acquire any such shares stock debentures debenture stock bonds obligations notes or securities by original subscription tender purchase exchange or otherwise and to subscribe for the same either conditionally or otherwise and to guarantee the subscription thereof and to exercise and enforce all rights and powers conferred by and incidental to the ownership thereof;
- (m) To hold and administer any property on trust;
- (n) To appoint regulate and dissolve such committees for such purposes as the Synod may from time to time determine;
- (o) To delegate to any person persons or body any right authority or power conferred upon or exercisable by the Synod save and except the making altering or repealing of any Ordinance, the amendment of this Constitution and the exercise of any right authority or power to which the Synod shall by Ordinance declare that this paragraph shall not apply;

- (p) To employ or dismiss such officers and employees as may from time to time be required;
 - (q) To do all such things as may be required by the provisions of any trust deed relating to Church property or the exercise of patronage;
 - (r) To do all such other acts matters or things as shall be or may appear to be incidental or conducive to the life and growth and the order and good government of The Anglican Church of Australia in the Diocese including the power to carry out exercise and accept the transfer of the powers functions and property of any other body or organisation within The Anglican Church of Australia in the Diocese;
- (2) Nothing herein contained shall be deemed to restrict or in any way limit the powers conferred upon the Synod by virtue of the provisions of the Associations Incorporation Act 1956-1965 or any Act amending or replacing that Act or by any other law of the State of South Australia or the Commonwealth of Australia.

Composition of Synod

10. The Synod shall consist of:-
- (a) The Bishop;
 - (b) The Chancellor;
 - (c) Every licensed member of the clergy;
 - (d) Lay members of the Synod representing each parish of the Diocese according to the following scale:-
 - I (i) for each parish having not more than 74 communicants, one lay member of the Synod;
 - (ii) for each parish having not fewer than 75 communicants nor more than 149 communicants, two lay members of the Synod;
 - (iii) for each parish having not fewer than 150 nor more than 249 communicants, three lay members of the Synod;
 - (iv) for each parish having not fewer than 250 nor more than 399 communicants, four lay members of the Synod;
 - (v) for each parish having not fewer than 400 communicants, five lay members of the Synod;
- OR

II for each parish comprised of two or more congregations, a number of lay members of the Synod equal to the number of congregations comprising the parish; whichever is the greater.

- (d1) The Secretary of Synod;
- (d2) Not more than five lay members appointed by the Bishop;
- (d3) Lay members each representing a congregation (whether registered or not) which functions independently of a parish and which, in the opinion of the Diocesan Council, may in time become a parish and which the Diocesan Council has resolved should in the meantime be accorded representation by one lay member in the Synod.
- (e) Such other persons (if not already members of the Synod) as may be appointed to the Diocesan Council pursuant to the provisions of paragraph (f) of section 21(1) hereof but only for the duration of their appointment as aforesaid.

Chancellor

- 11. (1) The Chancellor shall be appointed by and shall hold office during the pleasure of the Bishop provided that a person shall not be Chancellor unless he or she is a communicant and or is or has been qualified for appointment as a Justice of the High Court of Australia, the Federal Court of Australia or the Supreme Court of South Australia and provided also that any appointment to the office of Chancellor shall not terminate upon a vacancy occurring in the See but shall terminate upon a new Bishop taking office.
- (2) The Chancellor shall not take office without first having signed a declaration in the form contained in the Second Schedule hereto

Members of the Clergy

- 12. No member of the clergy shall be licensed by the Bishop without first having signed a declaration in the form contained in the Third Schedule hereto.

Lay Members of the Synod

- 13. (1) No person shall vote for the election of a lay member of the Synod unless at the time of such election he or she:
 - (a) is a communicant, and

- (b) has attained the age of sixteen years, and
 - (c) is a member of the parish for which the election is conducted and does not purport to be a member of any other parish in the Diocese, and
 - (d) shall have signed a declaration in the form contained in the Fourth Schedule hereto.
- (2) No person shall be elected or appointed a lay member of the Synod pursuant to the provisions of paragraph (d) or (d1) or (d2) or (d3) or (e) of section 10 hereof unless at the time of such election or appointment he or she:
- (a) is a communicant, and
 - (b) has attained the age of eighteen years, and
 - (c) is a member of the parish for which the election is conducted or the appointment is made and does not purport to be a member of any other parish in the Diocese,
- and the election or appointment shall not be effective until he or she shall have signed a declaration in the form contained in the Fifth Schedule hereto.
- (3) A person shall cease to be lay member of the Synod if:
- (a) by notice in writing to the Bishop he or she resigns, or
 - (b) in the opinion of the Bishop he or she has ceased to be a communicant, or
 - (c) he or she has been convicted or found guilty of any offence punishable either by imprisonment or by death and the Bishop declares his or her seat to be vacant, or
 - (d) he or she has failed to attend any session of the Synod without leave of the Bishop and the Bishop declares his or her seat to be vacant, or
 - (e) the Bishop is satisfied following receipt of a notice in writing from the parish council of the parish which the person was elected or appointed to represent, that the person has ceased to be a member of the parish, or

- (f) the parish which the person was elected or appointed to represent ceases to be a registered parish.

Term of Office

14. (1) All lay members of the Synod, other than those referred to in paragraphs (d1) and (e) of section 10 of this Constitution, shall be elected or appointed in an election year in such manner as the Synod shall by Ordinance determine and shall take office on the 1st day of July of that election year and shall hold office until the 30th day of June of the election year next following.
- (2) For the purposes of this section an election year shall be the third year after the last preceding election year provided that the Bishop with the approval of the Diocesan Council may in a particular case determine that an election year shall be the first or second year after the last preceding election year.
- (3) A casual vacancy arising under paragraph (d2) of section 10 may be filled by the Bishop. Any other casual vacancy in the office of lay member of the Synod shall be filled in such manner as the Synod shall by Ordinance determine.
- (3a) A lay member appointed under paragraph (d2) of section 10 shall be eligible for reappointment for one, but not more than one, consecutive term.
- (4) The Secretary of Synod shall keep a register of all members of the Synod and unless the Synod shall otherwise determine such register shall be *prima facie* evidence as to any person's entitlement to membership of the Synod and his or her lawful election or appointment.

Sessions of Synod

15. (1) Subject to subsection (4), there shall be a session of the Synod at least once in each calendar year to be held at a time and place to be determined by the Bishop after consultation with the Diocesan Council.
- (2) A special session of the Synod may be called at any time by the Bishop and shall be called whenever the Bishop receives a request for a special session under the hand of ten lay members of the Synod from at least three parishes and five members of the clergy and the request is supported by the Diocesan Council.

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- (3) The Synod may by Ordinance provide for the exclusion from sessions of the Synod of any member thereof who or whose parish is in default in complying with any provisions of this Constitution or of any Ordinance.
- (4) A session of the Synod may instead of being held at a place with members of the Synod being physically present, be held:
 - (a) remotely; or
 - (b) with some members of the Synod being physically present at one or more venues and other members participating remotely,
if
 - (c) the Bishop, after consultation with the Diocesan Council, determines that, because of special or extenuating circumstances, the session should be conducted under this subsection; and
 - (d) arrangements have been put in place (as determined to be appropriate by the Bishop after consultation with the Diocesan Council) so that the session may be conducted insofar as members are participating remotely, by:
 - (i) audio visual means; or
 - (ii) audio means; or
 - (iii) any other means of communication determined by the Bishop after consultation with the Diocesan Council.
- (5) If arrangements are put in place under subsection (4):
 - (a) a member of the Synod will be taken to be at the relevant meeting (and to form part of the quorum for the meeting) if the member registers as a participant at the meeting in a manner determined or approved by the Bishop as part of the arrangements put in place under subsection (4); and
 - (b) voting (including voting by orders) on any question or motion will be conducted in a manner (and using technology) determined or approved by the Bishop after consultation with the Diocesan Council; and
 - (c) other procedures specified, determined or approved by or under an Ordinance for the purposes of facilitating the conduct of the business of the Synod in the relevant circumstances may apply.

Quorum

16. A quorum of the Synod shall comprise not fewer than one fifth of the total number of members of the clergy and not fewer than one fifth of the total number of lay members of the Synod entitled to be present.

President

17. At every meeting of the Synod the Bishop shall preside. In his absence the person who, during any incapacity or absence from the Diocese of the Bishop would be the Administrator, shall preside.

Voting

- 18 (1) Except as otherwise provided in this Constitution the decision of the Synod shall be the decision of the majority of those members present and voting. The President of the Synod, whenever the Synod does not vote by orders, shall have a casting as well as a deliberative vote.
- (2) A decision in the election of a Bishop shall be made in such manner as the Synod shall by Ordinance prescribe: provided that general licence clergy shall not vote in such an election or in any separate meeting of the clergy forming part of the process of election.
- (3) Except as otherwise provided in this Constitution any member of the Synod may before a vote is taken require a vote by orders.
- (4) In the event of a vote by orders being required the question shall be put first to the lay members of the Synod voting separately then to the members of the clergy voting separately and then to the Bishop if present (other than general licence clergy) and no question shall be deemed to be resolved in the affirmative unless it is so resolved by a vote of the majority of those present in each of the orders of members of the clergy and lay members of the Synod and by the Bishop if present.
- (5) The members of the clergy who are entitled to vote or to require a vote by orders are those members of the clergy who are not general licence clergy.

Validity of Proceedings

19. (1) The Synod may proceed to the despatch of its business notwithstanding the failure of any parish to provide for its representation or any casual vacancy in the office of lay member of the Synod, notwithstanding a vacancy in the office of Bishop or Chancellor.
- (2) Neither the making altering or repealing of any Ordinance nor the exercise of any power of the Synod shall be vitiated by reason of:
- (a) the fact that any person to be elected or appointed to the Synod has not been elected or appointed; or
 - (b) any informality with respect to the election or appointment of any member of the Synod; or
 - (c) the failure to give or send a summons or notice of any kind or a copy of any measure to any member of the Synod, unless at the session of the Synod at which the power is exercised or the measure for the Ordinance is considered the Synod by a majority of two thirds of its members present and voting as a whole shall otherwise determine.

Ordinances

20. An Ordinance shall be made altered or repealed by measure passed in accordance with the following procedure:-
- (a) A copy of the measure shall have been sent to each member of the Synod not less than fourteen days before the first day of the session of the Synod at which the measure is to be presented;
 - (b) On the passing of the measure (with or without amendment) the President may declare that the measure shall not take effect until it has been confirmed at a subsequent session of the Synod, or any member of the Synod may thereupon move that the measure shall not take effect until it has been confirmed at a subsequent session of the Synod. It shall not be possible to require a vote by orders for such a motion, and any such motion shall be deemed to have been passed if not less than one third of the members of the Synod present and voting vote in favour of the motion;
 - (c) If the Bishop be absent or the See be vacant the measure shall not take effect until it has been confirmed at a subsequent session of the Synod at which the Bishop is present;

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- (d) Subject to the passing or confirmation of the measure as the case may require, the Ordinance shall take effect from the date specified therein or, if no such date is specified, from the date of such passing or confirmation.

CHAPTER IV - THE DIOCESAN COUNCIL

Composition

21. (1) There shall be a Diocesan Council which shall consist of :-
- (a) the Bishop, the Assistant Bishop (if any), the Commissary (if any) or the Administrator (as the case requires and if not already a member of the Diocesan Council) and the Dean ex officio;
 - (b) two Archdeacons appointed by the Bishop;
 - (c) the Chancellor and the Secretary of Synod ex officio, who shall be non-voting members;
 - (d) so many members of the Synod being not fewer than three members of the clergy and six lay members of the Synod as the Synod shall by Ordinance determine;
 - (e) such other communicants not exceeding six in number as the Synod shall by Ordinance determine who need not be members of the Synod;
 - (f) not more than two other communicants whom the Diocesan Council may from time to time appoint and who need not be members of the Synod.
- (2) For the purposes of this section a non-voting member means a person who is entitled to be given notice of and to attend a meeting of the Diocesan Council and to speak at such meeting but not to vote thereat.
- (3) The method of election or appointment of the persons mentioned in paragraphs (d) and (e) of subsection (1) shall be as prescribed by Ordinance.

Powers

22. The Diocesan Council shall be a council of advice to the Bishop and the executive committee of the Synod and subject to the provisions of the several Ordinances of the Synod and to any general or special direction of the Synod shall have power in the name and on behalf of the Synod to exercise or perform all or any of the rights authorities and powers of the Synod save and except the making altering or repealing of any Ordinance the altering or repealing of this Constitution and the exercise of any right authority or power to which the Synod shall by Ordinance declare that this Section shall not apply.

Regulation of Affairs

23. The election or appointment of persons to and the regulation of the affairs of and the term of office of members of the Diocesan Council shall be prescribed by Ordinance of the Synod.

CHAPTER V - PARISHESRegistration

24. Subject to the provisions of Section 25 of this Constitution the conditions for registration and termination of registration of a parish, the qualifications for membership of a parish and the conditions for registration of changes in the composition or name of a parish shall be determined and may be varied from time to time in such manner as the Synod shall by Ordinance determine.

Procedure for Registration of a Parish

25. The Synod shall not register a new parish unless the persons desiring to form it shall have held a meeting presided over by the Bishop or his nominee at which a resolution in the form contained in the Sixth Schedule hereto shall have been passed by a majority of those present and voting and the person presiding thereat shall have signed and delivered to the Secretary of Synod a certificate in the form of the Sixth Schedule.

Church Property

26. The fee simple or any other right title or interest of the Synod or of any parish or congregation or of any members of the Church in any land used for the purposes of the Church within the Diocese shall be vested in the Synod or in such other trustee or trustees as the Synod shall approve and upon such trusts as the Synod shall from time to time have approved or adopted.

CHAPTER VI - THE SEALSealholders

27. The sealholders of the Synod shall comprise the Bishop and seven members of the Synod of whom not fewer than two shall be members of the clergy and not fewer than three shall be lay members of the Synod and who shall be elected by the Synod.

Use of Seal

28. Any deed instrument or document required to be made or executed under the seal of the Synod shall be deemed not to be duly made or executed unless two of the sealholders for the time being shall have signed the same and the Secretary of Synod or some other person authorised by the Diocesan Council to do so shall have countersigned the same.

Authority

29. The seal shall not be affixed to any deed instrument or document without the authority of the Diocesan Council or of a committee of the Diocesan Council if the Diocesan Council shall so determine.

CHAPTER VII - AMENDMENT OF THE CONSTITUTIONProcedure

30. This Constitution may be amended or repealed by measure passed in accordance with the following procedure:-
- (a) A copy of the measure shall be sent to each member of the Synod not less than fourteen days before the first day of the session of the Synod at which the measure is to be presented;
 - (b) Voting on the measure (with or without amendment) shall be by orders in accordance with the provisions of section 18 hereof provided that the measure shall be deemed not to have been passed unless it is agreed to by two thirds of those present in each of the orders of lay members of the Synod and members of the clergy and by the Bishop and unless it is confirmed in like manner at a subsequent session of the Synod.

CHAPTER VIII - INTERPRETATION

Definitions

31 In this Constitution and in any Ordinance unless the context or subject matter otherwise indicates:-

(a) "Administrator" means the administrator of the Diocese appointed pursuant to section 6A; ~~during any incapacity or absence from the Diocese of the Bishop or during a vacancy of the See and shall be the Assistant Bishop (if any) or (if more than one) the Assistant Bishops in order of their appointment as Assistant Bishops, or if none, or in his or their absence or incapacity to act, the person or persons appointed in order by the Bishop to be the Administrator (which appointments may be made and rescinded from time to time as the Bishop may determine), or if none or in his or her or their absence or incapacity to act, the Dean of Adelaide or in his or her absence or incapacity to act, the Archdeacon of Adelaide, or in his or her absence or incapacity to act the other Archdeacons in order of seniority.~~

"Archdeacon" means a person ~~other than the Archdeacon of Adelaide~~ appointed to such office by the Bishop who shall hold office for such period and shall have such powers and functions as the Bishop may from time to time determine;

~~" Archdeacon of Adelaide" means the person appointed to such office by the Bishop.~~

"Assistant Bishop" means a person in bishop's orders appointed to such office in accordance with any ordinance provided that where the context requires reference to one such person only and there is more than one office of Assistant Bishop it shall mean the Assistant Bishops in order of seniority.

"Bishop" means the Bishop of the Diocese for the time being who is by virtue of the constitution of the Province of South Australia the Metropolitan Bishop of the Province and is styled the Archbishop of Adelaide. Except for the purposes of Chapters I and II and sections 17, 18, 19, 20 and 30 and the definitions of "Archdeacon", ~~"Archdeacon of Adelaide"~~, and "Dean", the expression shall include the ~~Commissary or Administrator as the case requires~~ during any incapacity or absence from the Diocese of the Bishop or during any vacancy of the See;

"Chancellor" means the Chancellor of the Diocese appointed pursuant to section 11 hereof;

~~"Clergyman" or "licensed clergyman" or~~ "member of the clergy" or "licensed member of the clergy" means a bishop, priest or deacon holding a licence from the Bishop;

~~"Commissary" means a Commissary appointed pursuant to section 6A;~~

"Communicant" means a member of the Church who communicates at least three times in the year of which Easter shall be one;

"Congregation" means a congregation of members of the Church who meet regularly for worship and which has been registered as a congregation by the Synod in such manner as the Synod shall by Ordinance determine;

~~"Dean and Chapter" means the Dean and Chapter of the Diocese of Adelaide Incorporated or if that body ceases to be incorporated, such body as the Synod shall by Ordinance determine;~~

~~"Dean of Adelaide" means the person appointed to such office by the Bishop, subject to such conditions (if any) as may be lawfully prescribed;~~

"

"Dean" means the person appointed as the Dean of the Cathedral Church of St Peter by the Bishop, subject to such conditions (if any) as may be lawfully prescribed;

"Diocese" means the Diocese of Adelaide of The Anglican Church of Australia;

~~"Lay synodsmen" or~~ "lay member of the Synod" means a member of the Synod other than the Bishop, and any member of the clergy, and includes, if the Synod shall by Ordinance provide for the appointment or election of such persons, an alternate lay member of the Synod;

"Member of the Church" means a baptised person who attends the public worship of The Anglican Church of Australia and who declares that he or she is a member of The Anglican Church of Australia and not a member of any other religious denomination;

"Parish" means an ecclesiastical unit comprising members of the Church the pastoral care of whom has been committed to one or more members of the clergy licensed thereto by the Bishop and which has been registered as a parish in such manner as the Synod shall by Ordinance determine;

"General licence clergy" means members of the clergy who hold a general licence to officiate and no other licence.

"Secretary of Synod" means the secretary for the time being of the Synod appointed in such manner as the Synod shall by Ordinance determine. The Secretary of Synod shall be the Public Officer of the Synod;

"Synod" means The Synod of the Diocese of Adelaide of The Anglican Church of Australia.

- (b) Words importing the masculine shall include the feminine and vice versa;
- (c) Words importing the singular shall include the plural and vice versa;
- (d) Seniority of an Assistant Bishop ~~or Archdeacon, Archdeacon or member of the Dean and Chapter~~ shall be determined by the length of his or her continuous service in such office, and where two or more have the same length of service, by his or her seniority in priest's orders;
- (e) Headings to sections are for reference only and shall not affect the proper interpretation of this Constitution or any Ordinance;
- (f) Any reference to the Constitution of The Anglican Church of Australia includes any amendment thereof.

Reference of Questions to Appellate Tribunal

- 32. (1) Any resolution of the Synod referred to in section 63 of the Constitution of The Anglican Church of Australia shall be deemed to have been made if not less than one quarter of all the members of the Synod vote in favour of the resolution.
- (2) It shall not be possible to require a vote of orders for such a resolution.

THE FIRST SCHEDULE

(Section 5)

I _____ having been duly
elected or appointed as Bishop of the See of Adelaide DO HEREBY DECLARE

1. That subject to the provisions of The Anglican Church of Australia Constitution Act 1961-80 I submit to and agree to be bound by the Constitution of The Anglican Church of Australia and the Canons and Rules made thereunder from time to time in force insofar as they may apply.
2. That I submit to and agree to be bound by the Constitution of the Diocese of Adelaide and every Ordinance of the Synod from time to time in force.
3. That I will hold the said Office under and subject to all terms stipulations and provisions of the Trusts of the said See from time to time in force and will well and faithfully observe and perform the same and conform thereto in every respect.
4. That I will submit and conform to any sentence lawfully passed upon me and that I undertake and agree to give up to the Synod or other trustee for the time being on demand of the Administrator, the Synod or other trustee possession of such real and personal estate and effects as I may hold or be entitled to by virtue of my office at the time if and when sentenced according to the Constitution of The Anglican Church of Australia to suspension from office, expulsion from office, deprivation of rights or emoluments appertaining to office or deposition from holy orders and that in the event of such sentence I shall hold such real and personal estate and effects as tenant at will of the Synod or other trustee.

IN WITNESS whereof I have hereunto set my hand and seal this

day of _____

in the year of our Lord

in the presence of:

THE SECOND SCHEDULE

(Section 11)

I _____ having been appointed
Chancellor of the Diocese of Adelaide HEREBY ACKNOWLEDGE that The
Anglican Church of Australia, being an Apostolic Church, receives and retains
the Catholic Faith, which is grounded in Holy Scripture and expressed in the
Creeds, and within its own history, in the Thirty-nine Articles, in the Book of
Common Prayer and in the Ordering of Bishops, Priests and Deacons.
Accordingly, I do solemnly make the following declarations:

1. I firmly and sincerely believe the Catholic Faith and I give my assent to
the doctrine of The Anglican Church of Australia as expressed in the
Thirty-nine Articles of Religion, the Book of Common Prayer and the
Ordering of Bishops, Priests and Deacons and I believe that doctrine to
be agreeable to the Word of God.
2. I submit to and agree to be bound by the Constitution of the Diocese of
Adelaide and every Ordinance made thereunder from time to time in
force.
3. I promise to perform the duties of my office honestly, impartially,
faithfully and to the best of my judgement and ability and in accordance
with and subject to the said Constitution and Ordinances.

Signature: _____

Witness: _____

Date: _____

A3**THE THIRD SCHEDULE**

(Section 12)

I _____ being about to be licensed as a
member of the clergy in the Diocese of Adelaide DO HEREBY DECLARE

1. That subject to the provisions of The Anglican Church of Australia Constitution Act 1961-80 I submit to and agree to be bound by the Constitution of The Anglican Church of Australia and the Canons and Rules made thereunder from time to time in force insofar as they may apply in the Diocese.
2. That I submit to and agree to be bound by the Constitution of the Diocese of Adelaide and every Ordinance from time to time in force.
3. That as a member of The Synod of the Diocese of Adelaide of The Anglican Church of Australia Incorporated I promise to perform the duties thereof and the duties of any office to which I may be elected or appointed pursuant to the said Constitution and Ordinances honestly, impartially, faithfully and to the best of my judgement and ability and in accordance with and subject to the said Constitution and Ordinances.
4. That I undertake and agree to give up to the Synod or other trustee for the time being on demand by the Bishop possession of such real and personal estate and effects as I may hold or be entitled to by virtue of any office or appointment or charge which I may now or hereafter hold or possess within the Diocese if and when sentenced according to the Constitution and Ordinances of the Diocese to deprivation or suspension or if and when my licence or authority or appointment is lawfully revoked or cancelled by the Bishop and that in the event of such deprivation, suspension, revocation or cancellation I shall hold such real and personal estate and effects as tenant at will of the Bishop for the time being.

Signature: _____

Witness: _____

Date: _____

THE FOURTH SCHEDULE

(Section 13 (1))

~~I DO HEREBY DECLARE that I am a member of The Anglican Church of Australia, that I am a communicant of the said Church, that I belong to no other religious denomination, that I have received the Holy Communion not less than three times during the past twelve months, that I have attained the age of sixteen years, and that I am a member of the parish of:~~

I DO HEREBY DECLARE that I am a member of The Anglican Church of Australia, that I am a communicant of the said Church, that I do not belong to any other religious denomination, that I have received the Holy Communion not less than three times during the past twelve months, that I have attained the age of sixteen years, that I am a member of the parish of:

.....

and that I do not consider myself to be a member of any other parish in the Diocese of Adelaide

Signature: _____ Witness: _____

Date: _____

THE FIFTH SCHEDULE

(Section 13(2))

I

of

~~DO HEREBY DECLARE~~

- ~~1. That I am a member of The Anglican Church of Australia and that I am a communicant of the said Church;~~
- ~~2. That I belong to no other religious denomination;~~
- ~~3. That I have received the Holy Communion not less than three times during the past twelve months;~~
- ~~4. That I have attained the age of 18 years;~~
- ~~5. That I submit to and agree to be bound by the Constitution of the Diocese of Adelaide and every Ordinance from time to time in force;~~
- ~~6. That I hereby accept the office of lay member of the Synod and any other office to which I may be elected or appointed pursuant to the said Constitution and Ordinances and promise to perform the duties thereof honestly, impartially, faithfully and to the best of my judgement and ability and in accordance with and subject to the said Constitution and Ordinances.~~

DO HEREBY DECLARE

- 1. That I am a member of The Anglican Church of Australia and that I am a communicant of the said Church;
- 2. That I belong to no other religious denomination;
- 3. That I am a member of the Anglican Parish of and that I do not consider myself to be a member of any other Anglican parish in the Diocese of Adelaide.
- 4. That I have received the Holy Communion not less than three times during the past twelve months;

5. That I have attained the age of 18 years;
6. That I submit to and agree to be bound by:
 - (a) the Constitution of the Diocese of Adelaide;
 - (b) every Ordinance from time to time in force; and
 - (c) any lawful direction made under the Constitution or any Ordinance that applies to lay members of the Synod.
7. That I hereby accept the office of lay member of the Synod and any other office to which I may be elected or appointed pursuant to the said Constitution and Ordinances and promise to perform the duties thereof honestly, impartially, faithfully and to the best of my judgement and ability and in accordance with and subject to the said Constitution and Ordinances.
8. That I acknowledge that my appointment to the Synod relates to my membership of the Parish of for the duration of the three years of the current Synod triennium and that I may be removed from office if I cease to be a member of that Parish.

Signature: _____ Witness: _____

Date: _____

THE SIXTH SCHEDULE

(Section 25)

I

..... HEREBY
CERTIFY that at a meeting at which I presided held at
.....(place) ondate) of persons all of whom
declared themselves to be members of The Anglican Church of Australia and who
agreed to be bound by the Constitution of the Diocese of Adelaide and every
Ordinance from time to time in force thereunder and the pastoral care of whom has
been committed to one or more members of the clergy licensed thereto by the Bishop
the following motion was passed:-

"That this meeting, comprising members of The Anglican Church of Australia the
pastoral care of whom has been committed to one or more members of the clergy
licensed thereto by the Bishop being desirous of being registered as a parish under the
title of

.....

hereby requests the Synod to register such parish.

Signature: _____

Date: _____

Passed 19th September 1977. Confirmed 10th April 1980

References: The Constitution has been amended by the following Measures:

Constitution Amendment Measure 1980

Passed 10th April 1980. Confirmed 16th September 1980

Constitution Amendment Measure (No. 1) 1984

Passed 15th September 1984 - Confirmed 22nd September 1985

Constitution Amendment Measure (No. 2) 1984

Passed 17th September 1984 - Confirmed 20th September 1985

Constitution Amendment Measure 1986

Passed 22nd September 1986 - Confirmed 18th September 1987

Constitution Amendment Measure 1987

Passed 20th September 1987 - Confirmed 16th September 1988

The Constitution Amendment (Administrator) Measure 1989

Passed 17th September 1989 - Confirmed 16th September 1990

The Constitution Amendment (Membership of Synod) Measure 1994

Passed 17th September 1994 - Confirmed 28 July 1995.

The Constitution Amendment (Voting Age) Measure 1994

Passed 17th September 1994 - Confirmed 28 July 1995

The Constitution Amendment (Sessions of Synod) Measure 1998

Passed 6th September 1998 – Confirmed 16th December 1998

The Constitution Amendment (Term of Office) Measure 2000

Passed 29 May 1999 – Confirmed 20 May 2000

The Constitution Amendment (Diocesan Council) Measure 2006

Passed 29 October 2006 – Confirmed 26 May 2007

The Constitution Amendment (Date of Synod) Ordinance 2008

Passed 25 October 2008 – Confirmed 23 May 2009

The Constitution Amendment (Election of Lay Members of Synod) Ordinance 2009

Passed 24 October 2009 – Confirmed 22 October 2010

The Constitution Amendment (Section 31, Interpretation “Assistant Bishop”)

Passed 22 October 2010 – Confirmed 21 October 2011

**A BILL FOR THE
CONSTITUTION AMENDMENT (MANDATORY SUSPENSION)
CANON 2022**

EXPLANATORY MEMORANDUM

General Background

The Royal Commission into Institutional Responses to Child Sexual Abuse

1. In January 2013, the Royal Commission into Institutional Responses to Child Sexual Abuse was established and its terms of reference included “what institutions ... should do to better protect children against child sexual abuse and related matters in institutional contexts in the future”.
2. In March 2017, the failure to achieve a nationally consistent approach to child protection in this Church was highlighted by the Royal Commission at its public hearing in Case Study 52 inquiring into the current policies and procedures of Anglican Church authorities in Australia in relation to child-protection and child-safety standards, including responding to allegations of child sexual abuse. Leaders of this Church appearing before the Royal Commission in Case Study 52 committed to core national minimum standards for safe ministry to children.
3. In December 2017, the Final Report of the Royal Commission into Institutional Responses to Child Sexual Abuse made a recommendation to all religious institutions as to the suspension of clergy who are the subject of a plausible complaint of child sexual abuse against, and there is a risk that they may come into contact with children in the course of their ministry.

16.52 – All religious institutions’ complaint handling policies should require that, if a complaint of child sexual abuse against a person in religious ministry is plausible, and there is a risk that person may come into contact with children in the course of their ministry, the person be stood down from ministry while the complaint is investigated.

4. Since 2018, this Church has been publicly accountable on its progress towards implementing the recommendations from the Royal Commission into Institutional Child Sexual Abuse through an annual report to the National Office of Child Safety. By passing this canon this Church will commence the process of amending its Constitution to implement recommendation 16.52 for complaint of child sexual abuse before the Special Tribunal. This amendment will not come into effect until the conditions in section 67(1)(c) of the Constitution have been satisfied.

Object of the canon

5. The object of this canon is to amend the Constitution of the Anglican Church of Australia in order to implement recommendation 16.52 of the Royal Commission into Institutional Responses to Child Sexual Abuse relating to the mandatory suspension of persons in ministry who are subject to a plausible complaint of child sexual abuse.

Main provisions of the canon

6. This canon provides that where a charge involving a sexual offence relating to a child has been promoted against Bishop of a diocese or a bishop assistant to the Primate in their capacity as Primate, the Bishop shall be suspended until the charge has been determined.

Notes on clauses

- | | |
|----------|--|
| Clause 1 | states the title of the canon. |
| Clause 2 | amends section 61A to provide that where a charge which involves a sexual offence relating to a child has been promoted against the Bishop of a diocese or a bishop assistant to the Primate in their capacity as Primate, the President of the Special Tribunal must suspend the Bishop from their duties of office until the charge has been determined. |
| Clause 3 | amends section 74 to add definitions of child and sexual offence relating to a child , and repeals the definition of child in the Episcopal Standards (Child Protection) Canon 2017 and the National Register Canon 2007, and the definition of sexual offence relating to a child in the Episcopal Standards (Child Protection) Canon 2017 and the Special Tribunal Canon 2007. These provisions will only come into force if these definitions are not already included in section 74 by the earlier coming into effect of the Constitution Amendment (Mandatory Deposition) Canon 2022. |
| Clause 4 | repeals the Constitution Amendment (Suspension of Bishops) Canon 2007. |

A MEASURE FOR

AN ORDINANCE to assent to the Constitution Amendment (Mandatory Suspension) Canon 2022 (Canon 7, 2022).

THE SYNOD HEREBY DETERMINES:

Title

1. This Ordinance may be cited as the *Constitution Amendment (Mandatory Suspension) Canon Assent Ordinance 2022*.

Assent to Canon

2. The Synod assents to the Constitution Amendment (Mandatory Suspension) Canon 2022 (Canon 7, 2022)

CERTIFIED as a copy of the Measure as recommended in Committee

..... Date

CERTIFIED as a copy of the Measure as passed on theday of2022

..... Date

CONSTITUTION AMENDMENT (MANDATORY SUSPENSION) CANON 2022

Canon 7, 2022

The General Synod prescribes as follows.

Title

1. This Canon may be referred to as the "Constitution Amendment (Mandatory Suspension) Canon 2022".

Mandatory suspension of a Bishop charged with sexual offence relating to a child

2. In section 61A of the Constitution—
 - (a) for "Where" substitute:
"(1) Subject to sub-section (2), where";
 - (b) after "some lesser time." insert—
"(2) Where a charge which involves a sexual offence relating to a child has been promoted in the Special Tribunal against a person referred to in section 56(6), the President of the Special Tribunal must suspend the person from the duties of office until the determination of the charge."; and
 - (c) for "If such suspension is made and is from" substitute "(3) If a person is suspended under sub-section (1) or (2) and that suspension is from".

Definition of "sexual offence relating to a child"

3. (1) Subject to sub-section (3)—
 - (a) in section 74 of the Constitution, after the definition of "Ceremonial" insert—
' "child" means a person under the age of 18;'; and
 - (b) there are repealed:
 - (i) the definition of "child" in section 2(1) of the Episcopal Standards (Child Protection) Canon 2017; and
 - (ii) the definition of "child" in the Third Schedule to the National Register Canon 2007.
- (2) In section 74 of the Constitution, after the definition of "See" insert—
' "sexual offence relating to a child means —

(a) sexual activity by a person against, with or in the presence of a child, or

(b) the possession, production or distribution by a person of any form of child pornography—

in respect of which—

(c) the person has been convicted under the laws of the Commonwealth, State or Territory; or

(d) a court, commission or tribunal of the Commonwealth, a State or a Territory has made an adverse finding of fact in relation to that person; or

(e) the person has been convicted in some other country under the laws of that country that are equivalent to a law of the Commonwealth or of a State or Territory; or

(f) the person has not been tried by a court of competent jurisdiction and which if proved—

(i) if alleged to have been committed within Australia, would constitute a criminal offence in the State or Territory in which it is alleged to have occurred; and

(ii) if alleged to have been committed in a country other than Australia, would if committed in Australia constitute a criminal offence under a law of the Commonwealth or of a State or Territory.”; and

(b) there are repealed—

(i) any definition of "sexual offence relating to a child" in section 2(1) of the Episcopal Standards (Child Protection) Canon 2017; and

(ii) any definition of "sexual offence relating to a child" in section 2 of the Special Tribunal Canon 2007.

(3) Sub-section (1) has effect only if at the time when this Canon comes into effect there is no definition of "child" in section 74 of the Constitution.

Repeal of Constitution Amendment (Suspension of Bishops) Canon 2007

4. Canon No. 18 of 2007 is repealed.

Secretaries' Certification of copy of Canon as passed [SO63(20)]

We certify that the Canon above is a copy of the Canon as passed on the 9th day of May 2022.

Dated: 13 May 2022



The Very Rev'd Katherine Bowyer
Clerical Secretary



Mr Timothy Reid
Lay Secretary

**THE CONSTITUTION
OF THE ANGLICAN CHURCH OF AUSTRALIA ¹**

PART I

CHAPTER I. - FUNDAMENTAL DECLARATIONS

1. The Anglican Church of Australia,² being a part of the One Holy Catholic and Apostolic Church of Christ, holds the Christian Faith as professed by the Church of Christ from primitive times and in particular as set forth in the creeds known as the Nicene Creed and the Apostles' Creed.
2. This Church receives all the canonical scriptures of the Old and New Testaments as being the ultimate rule and standard of faith given by inspiration of God and containing all things necessary for salvation.
3. This Church will ever obey the commands of Christ, teach His doctrine, administer His sacraments of Holy Baptism and Holy Communion, follow and uphold His discipline and preserve the three orders of bishops, priests and deacons in the sacred ministry.

CHAPTER II. - RULING PRINCIPLES

4. This Church, being derived from the Church of England, retains and approves the doctrine and principles of the Church of England embodied in the Book of Common Prayer together with the Form and Manner of Making Ordaining and Consecrating of Bishops, Priests and Deacons and in the Articles of Religion sometimes called the Thirty-nine Articles but has plenary authority at its own discretion to make statements as to the faith ritual ceremonial or discipline of this Church and to order its forms of worship and rules of discipline and to alter or revise such statements, forms and rules, provided that all such statements, forms, rules or alteration or revision thereof are consistent with the Fundamental Declarations contained herein and are made as prescribed by this Constitution. Provided, and it is hereby further declared, that the above-named Book of Common Prayer, together with the Thirty-nine Articles, be regarded as the authorised standard of worship and doctrine in this Church, and no alteration in or permitted variations from the services or Articles therein contained shall contravene any principle of doctrine or worship laid down in such standard.

Provided further that until other order be taken by canon made in accordance with this Constitution, a bishop of a diocese may, at his discretion, permit such

¹ The change of name from Church of England in Australia was made by Canon 16, 1966 which came into effect on 24 August 1981, following enactments by the Parliaments of all States and Territories.

² See Note 1 above.

deviations from the existing order of service, not contravening any principle of doctrine or worship as aforesaid, as shall be submitted to him by the incumbent and churchwardens of a parish.

Provided also that no such request shall be preferred to the bishop of a diocese until the incumbent and a majority of the parishioners present and voting at a meeting of parishioners, duly convened for the purpose, shall signify assent to such proposed deviations. Such meeting shall be duly convened by writing, placed in a prominent position at each entrance to the church and by announcement at the morning and evening services, or at the service if only one, at least two Sundays before such meeting, stating the time and place of such meeting, and giving full particulars of the nature of the proposed deviation.

5. Subject to the Fundamental Declarations and the provisions of this chapter this Church has plenary authority and power to make canons, ordinances and rules for the order and good government of the Church, and to administer the affairs thereof. Such authority and power may be exercised by the several synods and tribunals in accordance with the provisions of this Constitution.
6. This Church will remain and be in communion with the Church of England in England and with churches in communion therewith so long as communion is consistent with the Fundamental Declarations contained in this Constitution.

PART II

THE GOVERNMENT OF THE CHURCH

CHAPTER III. - OF THE BISHOPS

7. A diocese shall in accordance with the historic custom of the One Holy Catholic and Apostolic Church continue to be the unit of organisation of this Church and shall be the see of a bishop.
8. There shall be a bishop of each diocese who shall be elected as may be prescribed by or under the constitution of the diocese, provided that the election shall as to the canonical fitness of the person elected be subject to confirmation as prescribed by ordinance of the provincial synod, or if the diocese is not part of a province then as prescribed by canon of General Synod.

During any vacancy in the office or incapacity of the bishop of any diocese or during his absence from the diocese for a period exceeding thirty days the authorities powers rights and duties conferred or imposed on him by this constitution shall be exercised by the person appointed by or under the constitution of the diocese to administer the affairs of the diocese.

General Synod may by canon confer upon a bishop of a diocese the title of Archbishop provided that such canon shall be carried by an affirmative vote of at least two-thirds of the members of each house and shall receive the approval of all the metropolitans.

9. There shall be a Metropolitan (to be called Archbishop) of each province of this Church who shall hold office as prescribed by any Act of Parliament or by the constitution of the province or by ordinance of the provincial synod.

During any vacancy in the office or incapacity of the metropolitan of any province, or during his absence from the province for a period exceeding thirty days the authorities powers rights and duties of the metropolitan under this Constitution shall be exercised by the senior diocesan bishop of the province at the time in the province able and willing to act, seniority being determined by the date of consecration.

10. There shall be a Primate of this Church who shall be elected and hold office as may be prescribed by canon of the General Synod.

During any vacancy in the office or incapacity of the Primate or during his absence from Australia for a period exceeding thirty days, the authorities powers rights and duties of the Primate under this Constitution shall be exercised by the Senior Metropolitan at the time in Australia able and willing to act, or if there is no metropolitan able and willing to act, then by the senior diocesan bishop at the time in Australia able and willing to act, seniority in every case being determined by the date of consecration.

- 11.³ The members of the House of Bishops may apart from their meetings as a House of Bishops of the General Synod meet from time to time for the discharge of the functions assigned to a meeting of them under this Constitution.
12. Such a meeting of the said bishops shall be convened by the Primate on his own initiative or at the request in writing of not less than one-third of the bishops, and shall have power to regulate its own business.
13. The presence of at least one-half of the said bishops shall be necessary to constitute such a meeting of the bishops for the discharge of its functions under this Constitution.
14. A certificate signed by the Primate or metropolitan or bishop presiding in the absence of the Primate and purporting to state a decision of such a meeting of the bishops or the votes of individual bishops shall be evidence of the matters so stated.

CHAPTER IV. - OF GENERAL SYNOD

COMPOSITION AND PROCEDURE

15. General Synod shall consist of the House of Bishops, the House of Clergy and the House of Laity.

The three houses shall sit together in full Synod and shall deliberate and transact business therein and shall vote together unless a vote by houses is required by not less than five members of the House of Bishops or by ten members of the House of Clergy, or by ten members of the House of Laity.

In the event of a vote by houses being required, all questions shall be put first to the House of Laity, then to the House of Clergy, and finally to the House of Bishops and no question shall be deemed to be resolved in the affirmative by General Synod unless it is so resolved by a vote of the majority of those present in each of the three houses.

A house by a majority of its members voting may decide to consider separately any matter in debate whereupon further discussion of the matter shall be postponed until there has been an opportunity of separate consideration.

The person who holds office as General Secretary or Treasurer of the General Synod shall be entitled to attend the meetings of the General Synod and shall be entitled to propose motions and speak. However, unless such a person is otherwise a member of the General Synod, that person shall not be permitted to vote nor to be counted in a quorum.⁴

- 16.⁵ The House of Bishops shall be composed of the Primate, metropolitans, the diocesan bishops and any bishop who becomes a member of General Synod pursuant to the provisions of subsection 17(8)(a)(i).

³ Amended by Canon 16, 1998 which came into effect on 1 March 2000.

⁴ Paragraph inserted by Canon 17, 1995 which came into effect on 17 September, 1997.

⁵ Amended by Canon 16, 1998 which came into effect on 1 March 2000.

- 17.⁶ (1) The House of Clergy shall be composed of clerical representatives of each diocese and any bishop, priest or deacon who becomes a member of General Synod pursuant to the provisions of Section 17(8)(a)(ii).
- (2) The House of Laity shall be composed of lay representatives of each diocese and any lay person who becomes a member of General Synod pursuant to the provisions of Section 17(8).
- (3) Clerical and lay representatives of a diocese shall be elected or appointed, and any vacancy in the place of a representative shall be filled at such time and in such a manner as may be prescribed by or under the constitution of the diocese.
- (4) The number of representatives of a diocese shall be determined in accordance with the table annexed to this Constitution and shall be so determined on or as at each date on which the Primate shall sign and seal a mandate summoning the diocesan bishops to convene representatives to an ordinary session or a special session of the General Synod and shall remain fixed until the next such date.⁷
- (5) Every bishop priest or deacon⁸ shall be qualified to be a clerical representative of a diocese if he is resident therein at the date of his appointment and holds a licence from the diocesan bishop, provided however that the qualification of residence in the diocese shall not be necessary in the case of⁹ a diocese having less than thirty-one clergymen resident and duly licensed to officiate therein.
- (6) Every layman who is not under the age of eighteen¹⁰ years and is a communicant of this Church shall be qualified to be a lay representative of a diocese, whether he does or does not reside therein.
- (7) The bishop of each diocese shall certify and transmit to the Primate a list of names and addresses of the clerical and lay representatives of the diocese.

In the event of any change in the representation of a diocese the bishop shall certify and transmit to the Primate a supplementary list showing the change.

Any list or supplementary list so certified shall be evidence that a representative therein named is entitled to be such representative unless a subsequent list shows that he has ceased to be a representative.

⁶ "Whereas the General Synod recognises the unique historical status of the Aboriginal and Torres Strait Island people, and hence also, the unique relationship between indigenous and non-indigenous people, both within and without the Anglican Church of Australia." In accordance with Resolution 59/98 of General Synod, the Preamble to Canon 16, 1998 is printed here. S.17 was amended by this Canon which came into effect on 1 March 2000.

⁷ Words added by Canon 13, 1992 which came into effect on 25 June 1995.

⁸ Words "or deacon" added by Canon 22, 1985 and Bill 2, 1985 which came into effect on 1 July 1988.

⁹ Words deleted by Schedule Three of Canon 14, 1992 which came into effect on 31 July 1995.

¹⁰ Word "eighteen" substituted for "twenty-one" by Schedule One of Canon 14, 1992 which came into effect on 25 June 1995.

- (8)¹¹ (a) For every session of Synod the members of Synod shall include non-diocesan representatives being
- (i) an Aboriginal bishop and a Torres Strait Islander bishop who shall be members of the House of Bishops;
 - (ii) an Aboriginal bishop, priest or deacon and a Torres Strait Islander bishop, priest or deacon who shall be members of the House of Clergy; and
 - (iii) an Aboriginal lay person and a Torres Strait Islander lay person who shall be members of the House of Laity.
- (b) Non-diocesan representatives shall be appointed by the Primate on the recommendation of the body appointed by Canon for that purpose.
- (c) The Primate shall cause non-diocesan representatives to be summoned or convened to a session of Synod as may be specified by Canon.
- (d) A non-diocesan representative must be a communicant member of this Church who is otherwise qualified as may be specified by Canon.
- (e) A non-diocesan representative shall be entitled to such vote in Synod as is permitted or authorised by the Constitution but such vote shall not be counted for the purpose of determining whether a canon or resolution has been assented to by a majority of all dioceses.
18. General Synod in such manner as it may deem proper may determine whether any person who claims to be a member of the Synod or of any house is entitled to be a member thereof and whether he has been duly and lawfully elected appointed or summoned to the Synod.
19. (1) General Synod may proceed to the despatch of business notwithstanding the failure of any diocese to provide for its representation in the Synod and notwithstanding any failure to elect or appoint any non-diocesan representatives of Synod and notwithstanding a vacancy in the office of Primate or a metropolitan or a diocesan bishop.¹²
- (2) No canon rule act or exercise of power of General Synod shall be vitiated by reason only of the fact that any person to be elected appointed or summoned to the Synod has not been elected appointed or summoned, or by reason only of any informality with respect of the election appointing or summoning.
20. The Primate or in his absence the Senior Metropolitan present, or if there is no metropolitan present, the senior diocesan bishop present shall be President of the House of Bishops and of General Synod, seniority in every case being determined by the date of consecration.

The President may take part in any discussion and vote on any question.

¹¹ S.17(8) added by Canon 16, 1998 which came into effect on 1 March 2000.

¹² Words added by Canon 16, 1998 which came into effect on 1 March 2000.

The President of the House of Bishops and of General Synod may, at any time during a meeting of that house, or of General Synod, call upon a metropolitan, or if there is no metropolitan present, the senior diocesan bishop present to preside, temporarily, at the meeting, whether or not the President is present at the meeting.¹³

21. Until General Synod otherwise prescribes the presence of at least seven members of the House of Bishops and at least fifteen members of the House of Clergy representing not less than seven dioceses and of at least fifteen members of the House of Laity representing not less than seven dioceses shall be necessary to constitute a meeting of General Synod for the exercise of its powers.
22. At each session of Synod the House of Clergy and the House of Laity shall elect its own chairman and such other officers as it considers necessary.

SESSIONS

23.¹⁴ Until General Synod by canon otherwise prescribes:-

- (a) Ordinary sessions of Synod shall be held at intervals not exceeding four years, and at such time and place as Synod may by resolution appoint or failing any such resolution then as the Standing Committee of Synod may by resolution appoint provided that the Standing Committee of Synod may on grounds of emergency or other special grounds by resolution defer the summoning of Synod for a period exceeding four years from the previous Synod but not exceeding twelve months from the date of such resolution and may do so from time to time provided further that Synod shall meet at least once in every six years.
- (b) A special session of Synod shall be convened by the Primate at the request in writing of not less than one-half of the members of the House of Bishops or of one-third of the members of the House of Clergy or of one-third of the members of the House of Laity or upon a resolution of the Standing Committee.

Each request made by members of the House of Bishops, of the House of Clergy or of the House of Laity as aforesaid shall have attached thereto or incorporated therein the bills for canons, rules, statements and resolutions and specify any other business which those who make the request require the synod to consider at such special session.

- (c) At least four months before the time for any ordinary or special session of Synod the Primate shall by mandate under his hand and seal (bearing the date on which the mandate was signed and sealed, as aforesaid) summon the diocesan bishops, and require them to convene the prescribed number of clerical and lay representatives of their respective dioceses at the appointed time and place.
- (d) The procedure and powers of Synod in a special and an ordinary session shall be the same, provided that in a special session no business other than the

¹³ Paragraph added by Canon 8, 1989 and Bill 4, 1989 which came into effect on 24 August 1989.

¹⁴ Words added to paragraphs (b), (c) and (d), and paragraph (e) inserted by Canon 13, 1992 which came into effect on 25 June 1995.

business specified in the mandate the conduct of such business and matters of procedure shall be transacted.

- (e) The mandate for a special session shall:
 - (i) be accompanied by a copy of the bills for canons, rules, statements and resolutions and specify any other business attached to or incorporated in the request for such special session, and
 - (ii) be accompanied by a schedule listing such business which the Primate or the Standing Committee decide should be considered at the special session.

RECORDS AND SEAL

- 24. The proceedings of General Synod shall be duly recorded and be authenticated by the signature of the President.

Every canon of General Synod shall be printed in duplicate, and each duplicate shall be certified as correct by the President, the chairman of committees and the secretaries of the Synod, authenticated by the official seal, and filed in books.

- 25. (1) General Synod shall have an official seal, which shall be judicially noted.

The seal shall not be used to authenticate any canon rule resolution instrument or document or any copy thereof except upon a resolution of Synod or of the Standing Committee of Synod and by and in the presence of at least three members of the said Committee.

- (2) Any canon rule resolution instrument or document authenticated by the official seal shall be admissible in evidence without further proof.

A document purporting to be a copy of any canon rule or resolution so authenticated and purporting to be certified by at least three members of the Standing Committee as a true copy shall be evidence of the canon rule or resolution and be admissible in evidence without further proof.

CHAPTER V. - OF THE POWERS OF GENERAL SYNOD

- 26. Subject to the terms of this Constitution Synod may make canons rules and resolutions relating to the order and good government of this Church including canons in respect of ritual, ceremonial and discipline and make statements as to the faith of this Church and declare its view on any matter affecting this Church or affecting spiritual, moral or social welfare, and may take such steps as may be necessary or expedient in furtherance of union with other Christian communions.

- 27.¹⁵ (1) A canon shall be made by a bill passed by General Synod in accordance with the Synod's standing orders provided that -
- (i) the bill shall have been circulated to each diocese and to each non-diocesan representative at least three months before the first day of the session of Synod at which the bill is to be presented, provided that the Standing Committee may allow a shorter period of notice but not less than one month and provided further that General Synod by an affirmative vote in each house of at least three-fourths of the members present may declare a bill to be a matter of urgency and permit it to be included in the agenda without previous notice,¹⁶ and
 - (ii) a special bill shall follow the procedure prescribed in section 28.
- (2) The authentication of a canon in accordance with section 24 is conclusive evidence that the requirements of this section have been complied with.
- 28.¹⁷ (1) A bill (not being a bill for a canon to alter this Constitution) which deals with or concerns the ritual ceremonial or discipline of this Church shall follow the procedure of this section as a special bill unless, at any time before it votes on a motion that the bill do pass, Synod by votes of at least three-fourths of the members present in each house decides that it need not proceed as a special bill.
- (2) In the case of any other bill (not being a bill for a canon to alter this Constitution) if, at any time before it votes on a motion that the bill do pass, not less than twenty-five members of General Synod petition the President that the bill should be treated as a special bill the President shall put to General Synod the motion that it be so treated and if General Synod so decides the bill shall be dealt with as a special bill.
- (3) A special bill shall be dealt with as other bills are dealt with subject to the following qualifications -
- (i) a motion that the bill do pass shall be deemed not to be agreed to unless it is agreed to by at least two-thirds of the members of each of the three houses present; upon such a motion being so agreed to the special bill shall stand as a canon provisionally made.
 - (ii) The provisional canon shall then be referred to the synod of each diocese for its consideration and each diocesan synod shall submit to the President within a period specified by canon or by the provisional canon its assent to or dissent from the provisional canon together with such report and recommendation as it may think fit.
 - (iii) If every diocesan synod reports that it assents to the provisional canon the President shall so declare and thereupon it shall be a canon duly

¹⁵ S.27 repealed and a new sec. 27 inserted by Canon 5, 1989 and Bill 2, 1989 which came into effect on 5 June 1995.

¹⁶ Words added by Canon 16, 1998 which came into effect on 1 March 2000.

¹⁷ S.28 repealed and a new sec. 28 inserted by Canon 5, 1989 and Bill 2, 1989 which came into effect on 5 June 1995.

passed otherwise the reports and recommendations received from the diocesan synods shall be presented to General Synod and the provisional canon shall be presented to the synod as if it were a bill.

- (iv) If a subsequent motion that the bill do pass is agreed to by at least two-thirds of the members of each of the three houses present it shall be a canon duly passed unless General Synod, immediately before the vote is taken, by a majority of the three houses voting together shall resolve that it shall be a provisional canon only, whereupon the procedure given above shall again be followed.

28A¹⁸ (1) In this section "**bill**" does not include a bill for a canon to alter this Constitution or a bill which deals with or concerns the ritual ceremonial or discipline of this Church.

(2) Subject to subsection (3) in addition to the procedure in section 27 (1), a canon may be made by a bill sent by the Standing Committee to each diocesan synod and if at least 3/4 of the diocesan synods of this Church including all Metropolitan Sees assent to it by ordinance and if all such assents be in force at the same time, the General Secretary shall certify that fact to the Primate in writing, and on that date the canon shall come into force.

(3) A bill for a canon which would impose a financial liability on a diocese may be made in the manner provided by subsection (2) only if all diocesan synods of this Church assent to it by ordinance and such assents are in force at the same time.

(4) A diocesan synod of a diocese may, by ordinance:

- (a) delegate its power to assent to a bill under subsection (2) and (3) to the diocesan council of the diocese, and
- (b) permit the diocesan council to assent to the bill in exercise of such delegated authority by ordinance or resolution.

(5) An assent to a bill given by a diocesan council by ordinance or resolution pursuant to a delegated authority given under subsection (4) shall be as effectual as if the synod of the diocese had assented to the bill by ordinance.

29.¹⁹ (1) For the purposes of this section -

- (a) "Act" means a canon, provisional canon, rule, resolution or statement made by General Synod notwithstanding that the canon, the provisional canon, the rule, the resolution or the statement is or may be in whole or in part void; and
- (b) "Proposal" means any proposal that General Synod make a canon or a rule or a statement or that General Synod pass a resolution, being a proposal of which notice has been given to the General Synod in

¹⁸ Inserted by Canon 12, 2010 which came into effect on 1 July 2014.

¹⁹ S.29 repealed and a new sec. 29 inserted by Canon 1, 1987 and Bill 1, 1987 which came into effect on 1 July 1992.

accordance with any requirements applicable thereto (notwithstanding that consideration may or may not have been given to the proposal by General Synod) but does not include an Act.

- (2) A reference under this section to the Appellate Tribunal may be made by -
 - (a) twenty-five members of the General Synod; or
 - (b) one third of the members of the House of Bishops; or
 - (c) one third of the members of the House of Clergy; or
 - (d) one third of the members of the House of Laity; or
 - (e) the Primate.

- (3) A reference under this section to the Appellate Tribunal shall:
 - (a) be in writing addressed to the President of the Appellate Tribunal;
 - (b) identify the Act or Proposal to which the reference relates;
 - (c) state the question which is or the questions which are to be considered by the Appellate Tribunal;
 - (d) be signed by the Primate or the other persons making the same; and
 - (e) except in the case of a reference by the Primate, be delivered to the Primate.

- (4) The questions which may be stated in a reference under this Section to the Appellate Tribunal are:

Is any part of the Act or Proposal identified in the reference inconsistent with the Fundamental Declarations or the Ruling Principles?

Does any part of the Act or Proposal identified in the reference deal with or concern or affect the ritual ceremonial or discipline of this Church?

- (5) If a reference is made under this section to the Appellate Tribunal in relation to a Proposal, the Proposal may become an Act thereafter but the Act shall have no effect prior to the date on which the Appellate Tribunal delivers to the Primate its answer to the question or questions in the reference.

- (6) Subject to sub-section (7) the Appellate Tribunal shall:
 - (a) give its opinion or determination with respect to a reference made to it under this section;
 - (b) where a question is answered in the affirmative -

- (i) incorporate in the answer particulars of each part of the Act or Proposal which caused the question to be so answered, and
 - (ii) where the question concerns inconsistency identify the part or parts of the Fundamental Declarations and Ruling Principles with which that part of the Act or Proposal is inconsistent;
 - (c) provide reasons for its decision; and
 - (d) deliver to the Primate its answers and the reasons for its decision.
- (7) (a) The Appellate Tribunal shall in no case provide an answer in the negative except with the concurrence of at least four members, and where the question involves any question of faith ritual ceremonial or discipline shall not provide an answer in the negative except with the concurrence of at least two bishops and two lay members of the Tribunal; and
- (b) if the Appellate Tribunal is unable to provide an answer to a question in either the affirmative or the negative the President shall so report to the Primate and advise him in writing of the reasons for that inability.
- (8) The Appellate Tribunal may, with its answers and reasons:
- (a) where it provides an answer in the affirmative, specify a change or changes to the Act or Proposal which, if adopted or incorporated therein, as the case may require, would permit a similar question or similar questions relating thereto to be answered in the negative, and
 - (b) add such comment or opinion as the members deem may be of value to the General Synod.
- (9) Notwithstanding the provisions of sub-section (10) and sub-section (11) of this section and sub-section (2) of Section 73, a decision of the Appellate Tribunal given in an answer pursuant to this section shall be final.
- (10) An Act which is inconsistent with the Fundamental Declarations and an Act, other than a canon to alter the Ruling Principles, which is inconsistent with the Ruling Principles shall to the extent of the inconsistency, be void.
- (11) An Act which deals with concerns or affects the ritual ceremonial or discipline of this Church and which has not been made in accordance with the requirements of this Constitution shall, to the extent to which it so deals concerns or affects, be void.
30. Subject to sections 28A and 29²⁰ and unless the canon itself otherwise provides, a canon duly passed by General Synod shall come into force on and from a date appointed by the President, being not later than one calendar month from the date upon which the canon was passed. The canon as on and from the appointed date shall apply to every diocese of this Church and any ordinance of any diocesan synod inconsistent with the canon shall to the extent of the inconsistency have no effect.

²⁰ Inserted by Canon 12, 2010 which came into effect on 1 July 2014.

Provided that:-

- (a) Any canon affecting the ritual, ceremonial or discipline of this Church shall be deemed to affect the order and good government of the Church within a diocese, and shall not come into force in any diocese unless and until the diocese by ordinance adopts the said canon.
- (b) If General Synod declares that the provisions of any other canon affect the order and good government of the Church within, or the church trust property of a diocese, such canon shall not come into force in any diocese unless and until the diocese by ordinance adopts the said canon.
- (c) If General Synod should not so declare the synod of a diocese or the diocesan council may declare its opinion that the provisions of the said canon affect the order and good government of the Church within or the church trust property of such diocese and notify the President within one month thereafter and then the following provisions shall apply:-
 - (i) If the said diocesan synod or council declare its opinion as aforesaid within a period of two years from the date of the passing of the said canon and the Standing Committee advises the President that it agrees with the said opinion the canon shall not and shall be deemed not to have come into force in such diocese unless and until it is adopted by ordinance of the diocesan synod;
 - (ii) If the said diocesan synod or council declare its opinion at any time after the expiration of the said period of two years and the Standing Committee advises the President that it agrees with the said opinion the said canon shall cease to apply to the said diocese as from the date of the said declaration and shall not after such date again come into force in such diocese unless and until it is adopted by ordinance of the diocesan synod;
 - (iii) If the Standing Committee in either case should not so advise the President he shall refer the question raised by the said opinion to the Appellate Tribunal for its determination and unless the Appellate Tribunal determines the question in the negative the canon shall be deemed not to have come into force in the said diocese in the first case or to have force or effect in the said diocese after the date of the said declaration in the second case until the diocesan synod by ordinance adopts the said canon.
- (d) Any canon adopted as aforesaid by a diocesan synod may by ordinance be excluded at a subsequent date.
- (e) This section shall not apply and shall be deemed never to have applied to a canon to alter this Constitution.²¹

²¹ Proviso (e) added by Canon 22, 1985 which came into effect on 1 July 1988. No alteration to section 30 was made by Bill 2, 1985. The proviso was also added by Canon 1, 1987 and Bill 1, 1987 which came into effect on 1 July 1992.

31.²² Repealed.

- 32.²³ (1) Synod shall not make any canon or rule imposing any financial liability on any diocese except in accordance with this section.
- (2) Synod may by canon or rule provide for the costs charges and expenses in or in connection with -
- (a) The carrying into effect of this Constitution;
 - (b) The holding of synod and the conduct of its business;
 - (b1) The implementation of and giving effect to any canon rule or resolution of Synod;
 - (c) The meetings and the conduct of the affairs of the Standing Committee and any other committee, board or commission established by Synod;
 - (d) The sittings of the Appellate Tribunal to hear and determine any appeal question or matter made or referred to it and the sittings of the Special Tribunal to hear and determine any charge brought before it;
 - (e) The maintenance of the registry of the Primate, and primatial travelling expenses;
 - (f) The election or appointment of the corporate trustees and the administration of the affairs of the body corporate.

Provided that in respect of the calendar year next following an ordinary session of Synod such canon or rule shall not impose any financial liability on the dioceses pursuant to paragraphs (a), (b1), (c) and (e) which in the aggregate exceeds an estimate of the costs charges and expenses for that year in connection with those matters approved by Synod.

- (3) Notwithstanding subsection (2), Synod may make any canon or rule imposing a financial liability on any diocese of this church in respect of matters not included in subsection (2) but such liability shall only be incurred by that diocese if by ordinance it assents to the same.
- (4) Subject to this section, Synod may by canon or rule provide for the levying of assessments on dioceses of this Church, the method of calculating such assessments and their apportionment between the said dioceses.
- (5) Subject to the provisions of any canon rule or resolution of Synod the Standing Committee is empowered to determine or approve the amounts to be expended in respect of any of the matters for which Synod may, in accordance with this section, impose a financial liability on a diocese.
33. (1) General Synod may make rules prescribing anything necessary or convenient for carrying out and giving effect to any canon or for controlling and

²² S.31 repealed by Canon 1, 1987 and Bill 1, 1987 which came into effect on 1 July 1992.

²³ S.32 substantially altered by Canon 2, 1989 and Bill 1, 1989 which came into effect on 23 August 1989.

regulating the administration of its affairs, and in particular may make rules prescribing -

- (a) The procedure for any election or appointment to be made by or under the authority of Synod to any office;
- (b) The authorities powers rights and duties of any officer committee board or commission of Synod.

A rule shall be made by resolution after notice has been duly given in accordance with the standing orders.

- (2) General Synod may regulate the conduct of its business under standing orders or otherwise as it may deem proper.

CHAPTER VI. - COMMITTEES BOARDS AND COMMISSIONS

- 34. There shall be a Standing Committee of General Synod which shall consist of so many members not less than ten as may be prescribed by any rule of Synod.

The members of the Committee shall be elected or appointed and shall hold office as may be prescribed by any rule of the Synod.

The seal books and records of General Synod shall be in the care and control of the Standing Committee.

The functions, duties and powers of the Standing Committee shall be those prescribed by canon or rule of Synod (whether made before or after the commencement of this paragraph).²⁴

- 35. General Synod shall appoint such boards of assessors as may be required for the purposes of this Constitution and may appoint any committee board or commission that it may deem proper for carrying out or giving effect to any canon rule or resolution of Synod, and the following provisions of this section shall apply to a board of assessors as well as to any such committee board or commission.

The power to appoint under this section may be exercised by the General Synod itself, or may be exercised by the Standing Committee.²⁵

Unless otherwise provided by any canon or rule of Synod -

- (a) The committee board or commission may include or consist of persons who are not members of Synod;
- (b) The members of the committee board or commission shall be elected or appointed and shall hold office as may be determined by resolution of Synod but shall not, unless the resolution so provide, cease to be members of the

²⁴ Paragraph added by Canon 2, 1989 and Bill 1, 1989 which came into effect on 23 August 1989.

²⁵ Sentence added by Canon 6, 1998 which came into effect on 1 March 1998.

committee board or commission by reason only of ceasing to be members of Synod;

- (c) The committee board or commission shall have such powers and duties as may be conferred or imposed by resolution of Synod;
- (d) The committee board or commission may, if Synod by resolution so directs, continue to exist and to exercise and perform its powers and duties, until the expiration of the first week of the next following ordinary session of Synod.

CHAPTER VII - THE PROVINCES AND PROVINCIAL SYNODS

PROVINCES

- 36. A province of the Church of England in the Dioceses of Australia and Tasmania shall subject to this Constitution continue as at the date on which this Constitution takes effect, until altered in accordance therewith.
- 37. A new province may be formed by any four or more dioceses associating for that purpose, provided that the formation of the province is approved by ordinance of the diocesan synod of each of such dioceses, and ratified by canon of General Synod. Nevertheless General Synod may upon a petition preferred to it by less than four dioceses declare that such petitioning dioceses may proceed under this section and the same shall then apply to them accordingly.
- 38. A province may be altered in accordance with the constitution of the province either by an increase or by a decrease in the number of dioceses forming the province, provided that the alteration shall not take effect until ratified by canon of General Synod.

PROVINCIAL SYNODS

- 39. The constitution of each province of the Church of England in the dioceses of Australia and Tasmania shall subject to this Constitution continue as at the date on which this Constitution takes effect, until altered in accordance with the provisions of this Constitution.
- 40. The constitution of a new province may provide either for a provincial synod or for a provincial council, and in either case may contain such provisions as the diocesan synod of each of the dioceses to be included in the province may think fit, provided that the constitution shall not take effect until ratified by canon of the General Synod.
- 41. The constitution of a province may be altered in accordance therewith, or with the consent of all the dioceses of the province given by ordinance of the synod of each diocese, provided that the alteration shall not take effect until ratified by canon of General Synod.

This section extends to altering the constitution of a province by substituting a provincial council for a provincial synod, or by substituting a provincial synod for a provincial council.

42. A provincial synod or a provincial council shall have such powers for the order and good government of this Church, within the province as may be prescribed by the constitution of the province.

CHAPTER VIII. - THE DIOCESES AND DIOCESAN SYNODS

DIOCESES

43. A diocese of the Church of England in Australia and Tasmania shall subject to this Constitution continue as at the date on which this Constitution takes effect, until altered in accordance therewith.
44. (1)²⁶ A new diocese may be formed in any of the following ways, that is to say -
- (a) by separation of territory from a diocese;
 - (b) by the union of two or more dioceses or parts of dioceses.
 - (c) out of territory in Australia which is not part of any diocese, and either out of such territory alone or out of such territory together with any diocese or part of a diocese.
- (2) Where a new diocese is formed by separation of territory from a diocese or by the union of two or more dioceses or parts of dioceses, the proposal to form the new diocese may be initiated by the diocese or dioceses concerned or by the province, if any, in which the diocese or dioceses are included but the new diocese shall not be formed unless such diocese or dioceses and province, if any, agree by ordinance of their respective synods that the new diocese shall be formed, and General Synod by canon ratify the formation of the new diocese.
- (3) In any other case the proposal to form a new diocese may be initiated in General Synod, but where any diocese or part of a diocese is to be included, the new diocese shall not be formed unless the synod of the diocese and the synod of the province in which the diocese is included concur by ordinance and the new diocese shall be deemed to be formed as General Synod may by canon determine.
- (4) Upon the formation of a new diocese any church trust property allocated to the new diocese by ordinance of the synod of any diocese concerned, and any church trust property allocated to the new diocese by canon of General Synod in any case where a diocese is not concerned, shall by virtue of the ordinance or canon, as the case may be, and without any other assurance in the law, be held by and be vested in the trustees then or thereafter appointed for the

²⁶ S.44(1) amended by Schedule Three of Canon 14, 1992 which came into effect on 31 July 1995.

purpose and upon and subject to the trusts affecting the same, but for the use benefit and purposes of this Church within the new diocese.

45. (1) A diocese may by ordinance surrender the whole or any part of its territory to any other diocese, and that other diocese may by ordinance accept the territory so surrendered. Provided however a diocese which has been formed by the separation of territory from a diocese or dioceses shall not surrender such territory to any diocese other than the diocese from which the territory was last separated without the consent of such last-mentioned diocese given by an ordinance of the synod thereof.

The surrender and acceptance may be made upon such terms and conditions, including the allocation of church trust property as may be agreed upon by ordinances made by the dioceses concerned.

- (2) A diocese may by ordinance alter its boundaries so as to include territory which is not part of any diocese or so as to exclude territory otherwise than by surrender to another diocese.
- (3) Any surrender or alteration under this section shall not take effect until ratified by or under canon of General Synod.
46. General Synod may by canon admit to the synod any diocese the territory of which is partly or wholly outside Australia and may upon such admission impose such terms and conditions, including the extent of representation in the House of Clergy and in the House of Laity, as the Synod thinks fit.

DIOCESAN SYNODS

47. The constitution of each diocese of the Church of England in Australia and Tasmania shall subject to this Constitution continue as at the date on which this Constitution takes effect, until altered in accordance therewith.
48. The constitution of a new diocese shall provide for the election or appointment of the first bishop of the diocese and shall contain such other provisions as may be deemed necessary or convenient, whether set forth expressly or adopted by reference to the provisions set forth in a canon of General Synod, or adopted by reference to the provisions of the constitution of any other diocese, and whether so adopted with or without modifications and additions.

The constitution of the new diocese shall not take effect until ratified by or under canon of General Synod.

- 49.²⁷ In a diocese in which less than ten priests are licensed if there be no diocesan synod and until General Synod by or under any canon otherwise prescribes there shall be a diocesan council with such constitution as General Synod thinks fit.

²⁷ S.49 amended by Schedule Three of Canon 14, 1992 which came into effect on 31 July 1995.

If in any diocese in which there is no provision for a synod the office of the bishop become vacant, the office shall be filled as prescribed by canon of General Synod, or if there is no such canon, then in accordance with the provisions under which the last election or appointment was made.

If in any diocese there is no synod or diocesan council the General Synod may by canon appoint a synod or council.

50. The constitution of a diocese may be altered in accordance therewith or as the synod of the diocese may by ordinance determine in accordance with any canon of General Synod.
51. Subject to this Constitution a diocesan synod may make ordinances for the order and good government of this Church within the diocese, in accordance with the powers in that behalf conferred upon it by the constitution of such diocese.

CONSENT OF DIOCESE TO ALTERATION

52. (1) Notwithstanding any provision to the contrary contained in this Constitution or anything done thereunder General Synod shall not without the assent by ordinance of the diocese concerned alter or permit the alteration of -
- (a) The constitution or boundaries of a diocese or any of the powers rights or duties of the synod of a diocese or of any diocesan society council board agency or authority, including the powers rights and duties relating to church trust property and the rights of a diocese with regard to the election of its bishop;
 - (b) The qualifications or mode of election of the representatives of a diocese in General Synod;
 - (c) The status of any diocese as a metropolitan see or the title to or tenure of office of any metropolitan.
- (2) Except with its own assent by ordinance no metropolitan see shall cease to be a metropolitan see or to have associated with it three dioceses.

CHAPTER IX. - THE TRIBUNALS

53. There shall be a diocesan tribunal of each diocese, the Special Tribunal and the Appellate Tribunal, and there may be a provincial tribunal of any province.
54. (1)²⁸ A diocesan tribunal shall be the court of the bishop and shall consist of a president appointed by the bishop and not less than two other members as may be prescribed by ordinance of the synod of the diocese.

The bishop is ineligible to be a member of the diocesan tribunal. A person who is a member of the diocesan tribunal shall cease to hold that office on becoming the bishop.

The president shall be a person qualified to be a lay member of the Appellate Tribunal in accordance with the provisions of section 57 (1) of this Constitution and will cease to hold office as prescribed by ordinance of the synod of the diocese. The members other than the president shall be elected in such manner, hold office for such period, have such qualifications and be subject to such disqualifications, and vacancies shall occur and be filled in such manner, as may be prescribed by ordinance of the synod of the diocese.

In any province the provincial synod if so requested by the synod of a diocese may by ordinance of the provincial synod prescribe any matter directed or permitted by this section to be prescribed by ordinance of the synod of the diocese, provided that the synod of the diocese may at any time otherwise prescribe.

²⁸ Amended by Canon 4, 2014 which came into effect on 1 July 2019.

(2) A diocesan tribunal shall in respect of a person licensed by the bishop of the diocese, or any other person in holy orders resident in the diocese, have jurisdiction to hear and determine charges of breaches of faith ritual ceremonial or discipline and of such offences as may be specified by any canon ordinance or rule.

(2A)²⁹ A diocesan tribunal shall also have and always be deemed to have had jurisdiction to hear a charge relating to an offence of unchastity, an offence involving sexual misconduct or an offence relating to a conviction for a criminal offence that is punishable by imprisonment for twelve months or upwards in respect of a member of clergy if:-

- (a) the act of the member of clergy which gave rise to the charge occurred in the diocese;
- (b) the member of clergy was licensed by the bishop of the diocese or was resident in the diocese within two years before the charge was laid; or
- (c) the member of clergy is in prison as a convicted person at the time the charge was laid, but within two years before such imprisonment was licensed by the bishop of the diocese or was ordinarily resident therein.

(2B) Where a person has been found guilty of an offence by a diocesan tribunal in the exercise of its jurisdiction under sub-section (2A), the bishop of the diocese shall consult as to penalty with the bishop of the diocese by whom the person is licensed or in which the person resides at the time of the finding and no penalty may be imposed to which the latter bishop does not express concurrence.

(3) A person appointed by the bishop of a diocese or any five adult communicant members of this Church resident within the diocese may promote a charge against any person licensed by the bishop of the diocese or against any other person in holy orders resident in the diocese in respect of breach of faith ritual or ceremonial either before the diocesan tribunal or before the provincial tribunal in its original jurisdiction. Provided that if a charge be preferred against an incumbent of a parish with reference to an offence alleged to have been committed within that parish the aforesaid communicants shall be bona fide parishioners of that parish.

Provided further that before any charge relating to faith ritual or ceremonial be heard by the tribunal it shall be referred to a board of enquiry appointed by ordinance of the diocesan synod and may proceed to a hearing if the said board allows it as a charge proper to be heard.

(4) In matters involving any question of faith ritual ceremonial or discipline an appeal shall lie from the determination of a diocesan tribunal to the Appellate Tribunal, provided that in any province in which there is a provincial tribunal and an appeal thereto is permitted by ordinance of the diocesan synod, an appeal may lie in the first instance to the provincial tribunal, and provided

²⁹ Sub-sections (2A) and (2B) added by Canon 10, 1998 as amended by Canon 8, 2001 both of which came into effect on 16 June 2003.

that in any such case an appeal shall lie from the determination of the provincial tribunal to the Appellate Tribunal.

In other matters an appeal shall lie in such cases as may be permitted by ordinance of the diocesan synod from a determination of the diocesan tribunal to the provincial tribunal, if any, or to the Appellate Tribunal, and from a determination of the provincial tribunal to the Appellate Tribunal.

55. (1)³⁰ A provincial tribunal shall consist of a president who shall be appointed by the metropolitan and not less than two other members as may be prescribed by ordinance of the synod of the province.

The metropolitan and any other bishop of the province is ineligible to be a member of the provincial tribunal. A person who is a member of the provincial tribunal shall cease to hold that office on becoming the metropolitan or other bishop of a diocese of the province.

The president shall be a person qualified to be a lay member of the Appellate Tribunal in accordance with the provisions of s.57(1) of this Constitution and will cease to hold office as prescribed by ordinance of the synod of the province. The members other than the president shall be elected in such manner, hold office for such period, have such qualifications and be subject to such disqualifications and vacancies shall occur and be filled in such manner, as may be prescribed by ordinance of the synod of the province.

- (2) A provincial tribunal shall have jurisdiction to hear and determine appeals from any determination of any diocesan tribunal of the province in any case in which an appeal lies there from to the provincial tribunal.

Every appeal to a provincial tribunal shall be by way of re-hearing.

- (3) A provincial tribunal shall, in respect of a person licensed by the bishop of a diocese within the province, have original jurisdiction to hear and determine charges of breaches of faith ritual ceremonial or discipline, and of such offences as may be specified by any canon ordinance or rule, provided that such original jurisdiction shall not be exercised except as prescribed by ordinance of the synod of the diocese.

- (4) An appeal shall lie to the Appellate Tribunal from a determination of a provincial tribunal in its original jurisdiction.

- 56.³¹ (1) Subject to this section, the Special Tribunal shall consist of three persons being:

- (a) a person qualified to be a lay member of the Appellate Tribunal who shall be the President of the Special Tribunal;
- (b) a diocesan bishop; and
- (c) a priest of at least seven years' standing.

³⁰ Amended by Canon 5, 2014 which came into effect on 1 July 2019.

³¹ S.56 extensively amended by Canon 14, 2001 which came into effect on 16 June 2003.

- (2) No person by or against whom proceedings in the Tribunal are brought shall be a member of the Special Tribunal.
 - (3) Members of the Special Tribunal shall be elected by or shall be appointed from a panel of persons elected by General Synod as prescribed by canon.
 - (4) The period of office of members of the Tribunal shall be as prescribed by canon.
 - (5) Until the Synod shall by canon otherwise prescribe:
 - (a) the members of the Special Tribunal shall be appointed by the Primate on the nomination of the Standing Committee to hold office for up to five years;
 - (b) in the absence of a member from Australia or in the event of the inability of a member to act, the Primate may appoint a person eligible to be appointed as that member to act in place of that member during the absence or inability. Such acting member shall continue to act in respect of any charge whose hearing commences whilst he or she is Acting President or member.
 - (6)³² The Special Tribunal shall have jurisdiction to hear and determine charges against:
 - (a) any member of the House of Bishops; and
 - (b) any bishop assistant to the Primate in his capacity as Primate; and
 - (c) any former member of the House of Bishops and any former bishop assistant to the Primate in the Primate's capacity as Primate of such offences as may be specified by canon in respect of conduct while a member of the House of Bishops or assistant to the Primate

of breaches of faith, ritual, ceremonial or discipline and of such offences as may be specified by canon.
 - (7) An appeal shall lie from the determination of the Special Tribunal to the Appellate Tribunal, subject to any limitation as may be prescribed by canon.
 - (8) The provisions of this section and of sections 60 and 61 as in force before the date of the coming into effect of the Constitution Alteration (Special Tribunal) Canon 2001 shall continue to apply to any proceedings commenced in the Special Tribunal before that date.³³
57. (1) The Appellate Tribunal shall consist of seven members three of whom shall be diocesan bishops and four of whom shall be laymen.

³² Amended by Canon 6, 2017 which came into effect on 1 November 2019.

³³ The Constitution Alteration (Special Tribunal) Canon 2001 came into effect on 16 June 2003.

No party to an appeal shall be a member of the tribunal for any purpose of the appeal.³⁷

The Appellate Tribunal shall have jurisdiction to hear and determine appeals from any determination of the Special Tribunal and from any determination of any diocesan or provincial tribunal in any case in which an appeal lies there from to the Appellate Tribunal.

Every appeal to the Appellate Tribunal shall be by way of re-hearing.

Any person charged before a diocesan tribunal and aggrieved by any sentence recommended by it who has no right of appeal under this Constitution or under an ordinance of the diocesan synod may petition the metropolitan of the province or, if the diocese be not part of a province, the Primate that his case be reviewed and the metropolitan or Primate as the case may be may refer the same to the Appellate Tribunal for review and any case so referred shall be heard and determined as an appeal provided however that no such petition may be presented in respect of an order for costs only.

- (3) Unless otherwise prescribed by canon of General Synod, the Appellate Tribunal may hear and determine any appeal question or matter made or referred to it although all the members thereof be not present at such hearing or determination, provided that there be present at least two bishops and three laymen. And provided further that if during the hearing of any appeal a member attending the tribunal should die or become unable to continue with the hearing the appeal may proceed so long as the president two bishops and one other lay member or the deputy president two bishops and one other lay member be present provided further that if the number of those present on any appeal should be evenly divided on any question of evidence or procedure the president (or in his absence the deputy president) shall have a casting as well as a deliberate vote.
58. (1) Before determining any appeal or giving an opinion on any reference the Appellate Tribunal shall in any matter involving doctrine upon which the members are not unanimous upon the point of doctrine and may, if it thinks fit, in any other matter, obtain the opinion of the House of Bishops, and a board of assessors consisting of priests appointed by or under canon of General Synod.
- (2) In any case where the House of Bishops is consulted under this section, the House of Bishops shall aid the tribunal with such information in writing as it thinks proper, provided that if all members of the House of Bishops do not concur each of the members at the time in Australia may aid the tribunal with such information in writing as he thinks proper. For the purposes of this subsection the House of Bishops shall not include the bishops who are members of the Appellate Tribunal.
59. (1) In all appeals and references to the Appellate Tribunal in any matter involving any question of faith ritual ceremonial or discipline the concurrence of at least two bishops and two laymen and in any other matter the concurrence of at

³⁷

Amended by Canon 2, 2017 which came into effect on 1 December 2019.

least four members, shall be necessary for the determination of an appeal or the giving of an opinion upon a reference.

- (2) General Synod may by canon prescribe any matter incidental to the exercise of any jurisdiction vested by this constitution in the Special Tribunal or in the Appellate Tribunal including the power to award costs.
- (3) Unless otherwise prescribed by or under any canon of General Synod, the procedure with respect to hearings and determinations of the Special Tribunal, and with respect to appeals or references to the Appellate Tribunal shall be regulated in such manner as the tribunal thinks fit.
- (4) The person who brings a charge before a diocesan or provincial tribunal or before the Special Tribunal if dissatisfied with its determination or recommendation and the person so charged if dissatisfied with the recommendation or sentence pronounced upon such recommendation may within twenty-eight days or within such further time as the president of the Appellate Tribunal may in writing allow after the making of the determination recommendation or the pronouncing of the sentence as the case may be, institute an appeal to the Appellate Tribunal by lodging a notice of appeal in the registry of the Primate and in the registry of the bishop of the diocese or metropolitan concerned and in the case of any sentence or deprivation of or suspension from office the bishop or metropolitan who has pronounced such sentence may thereupon if he sees fit intermit the operation of such sentence.

60. (1)³⁸ Subject to sub-section (1A), a tribunal, ³⁹ ~~A tribunal~~ shall make such recommendation as it thinks just in the circumstances, but shall not recommend any sentence other than one or more of the following:

- (a) deposition from orders;
- (b) prohibition from functioning;
- (c) removal from office;
- (d) rebuke.

Except as otherwise provided herein such recommendation shall be made to the bishop of the diocese concerned.

The recommendation of the Special Tribunal, or of the Appellate Tribunal on an appeal from the Special Tribunal, shall be made to the Primate, provided that if the Primate be a party to the appeal or is disqualified from acting or considers that he should disqualify himself from acting, the recommendation shall be made to the metropolitan or bishop who would exercise the authorities powers rights and duties of the Primate, if the office were then vacant.

(1A) Where the tribunal is satisfied that the person so charged has been convicted under the laws of the Commonwealth, State or Territory or under the laws of

³⁸ S.60 (1) amended by Canon 14, 2001 which came into effect on 16 June 2003.

³⁹ Amended by section 2(a) of Canon 8, 2022

some other country that are equivalent to a law of the Commonwealth or of a State or Territory of a sexual offence relating to a child committed while a member of the clergy, it must recommend a sentence of deposition from orders.

(1B) For the purposes only of sub-section (1A), “sexual offence relating to a child” means —

(a) sexual activity by a person against, with or in the presence of a child, or

(b) the possession, production or distribution of any form of child pornography.⁴⁰

(2) The person to whom the recommendation is made shall give effect thereto, provided that if any sentence is recommended other than a sentence of deposition from orders recommended under sub-section (1A), he may consult with the tribunal and in the exercise of his prerogative of mercy (a) mitigate the sentence or (b) suspend its operation or (c) mitigate the sentence and suspend its operation. In each case he shall pronounce the sentence recommended even though he mitigate or suspend it. Provided that if the operation of a sentence or mitigated sentence has been suspended and remains suspended for a period of two years such sentence shall thereafter have no operation. ^{.41}

(3) If in any case the Appellate Tribunal is precluded from determining the appeal, either because the members present at the hearing are equally divided or because there is no such concurrence as is required by this Constitution, the provisions of this sub-section shall have effect, that is to say:-

(a) where any recommendation adverse to the person charged made by a diocesan or a provincial tribunal or by the Special Tribunal, or

(b) where any sentence pronounced against him would but for this sub-section continue in force,

the person to whom the recommendation was made or who pronounced the sentence shall in consultation with the Appellate Tribunal. review the recommendation or sentence, and after such review may give effect or abstain from giving effect to the recommendation, or may confirm, mitigate or annul the sentence and may give or abstain from giving directions for restoration of office rights and emoluments as he shall think proper and for such compensation where compensation is available as in the circumstances he may deem to be fair and reasonable.

(4) The Subject to sub-section (1A), the provisions of this Constitution with respect to an appeal from the determination of a tribunal shall extend to and authorise an appeal from the recommendation or sentence but shall not extend to a ruling of a tribunal of an interlocutory nature.⁴²

⁴⁰ Subsections (1A) and (1B) inserted by section 2(b) of Canon 8, 2022

⁴¹ Amended by section 2(c) of Canon 8, 2022

⁴² Amended by section 2(d) of Canon 8, 2022

- 61.⁴³ (1) Where a charge has been promoted before a tribunal against any person licensed by the bishop of a diocese, the bishop with the concurrence of the diocesan council may suspend such person from the duties of his office until the determination of the charge or for some lesser time, and may make such arrangements for the performance of the duties of the office as may be authorised by any canon ordinance or rule or in the absence of such canon ordinance or rule as the bishop may deem proper.
- (2) The bishop of a diocese may suspend a person referred to in Section 54(2) from the duties of his office where –
- (a) the bishop or some other person authorised by ordinance proposes to promote a charge against the person;
 - (b) the charge will not allege a breach of faith, ritual or ceremonial; and
 - (c) the charge relates to an offence that is punishable by imprisonment for twelve months or upwards of which the person has been charged or convicted or in respect of which the bishop has received a report from a lay person qualified to be a member of the Appellate Tribunal stating that there is a prima facie case of the person having committed the offence.
- (3) Suspension under subsection (2) must be by written instrument signed by the bishop, served on the person to be suspended, and which states –
- (a) the intention of the bishop or any other authorised person to promote the charge;
 - (b) the conduct complained of; and
 - (c) the period of suspension.
- The period of suspension may not exceed 28 days from the date of service on the person to be suspended. Where –
- (d) a person has been suspended under subsection (2);
 - (e) the period of suspension has elapsed; and
 - (f) a charge has not been promoted during the period of suspension;
- no further suspension is possible under subsection (2) in relation to the conduct specified in the instrument.
- (4) If during the period of suspension referred to in subsection (2) the bishop or other authorised person promotes the charge the suspension of the person shall continue until the first meeting of the diocesan council thereafter.

⁴³ S.61 extensively amended by Canon 13, 2001 and further amended by Canon 14, 2001 both of which came into effect on 16 June 2003.

- (5) The bishop of a diocese may revoke the suspension of a person suspended by him under this section and may do so at any time during the period of suspension.
- (6) Suspension of a person from the duties of office under this section does not deprive that person of the emoluments appertaining to that office.

61A.⁴⁴ ~~Where (1) Subject to sub-section (2), where:~~ a charge has been promoted against the bishop of a diocese, the President of the Special Tribunal with the concurrence of the Diocesan Council, meeting when the bishop is not present, may, after considering any submission from the bishop, suspend the bishop from the duties of office until the determination of such charge or for some lesser time.

~~(2) Where a charge which involves a sexual offence relating to a child has been promoted in the Special Tribunal against a person referred to in section 56(6), the President of the Special Tribunal must suspend the person from the duties of office until the determination of the charge.~~⁴⁵

~~If such suspension is made and is from (3) If a person is suspended under sub-section (1) or (2) and that suspension is from~~ a paid office, or if the person voluntarily stands aside from performing the duties of office, the person shall be deemed to be on paid leave and to be absent from the State or Territory in which the duties of office would otherwise be performed.⁴⁶

- 62.⁴⁸ (1) For the purpose of securing the attendance of witnesses and the production of documents and for the examination of witnesses on oath or otherwise a tribunal shall be deemed to be an arbitrator within the meaning of any law in force in the State or Territory in which the tribunal sits and shall have power to administer an oath to or take an affirmation from any witness and for the same purpose any party to a proceeding before a tribunal or any person permitted by a tribunal to submit evidence to it shall be deemed to be a party to a reference or submission to arbitration within the meaning of any such law.
- (2) In any proceeding before a tribunal, the tribunal shall admit as evidence that a person charged has been convicted of an offence, and proof of such conviction shall be evidence of the facts giving rise to such conviction. This provision shall not apply if such conviction has been quashed or set aside or in respect of which a pardon has been given.
- (3) In any proceedings before a tribunal, the transcript of any criminal proceedings in which the member of clergy the subject of a charge before the tribunal was a party shall be admitted as evidence in the same way as if the persons whose evidence appears in the transcript had given evidence in person before the tribunal. Provided that, the tribunal may exclude the whole

⁴⁴ S.61A inserted by Canon 14, 2001 which came into effect on 16 June 2003.

⁴⁵ Amended by section 2(a) of Canon 7, 2022

⁴⁶ Added by section 2(b) of Canon 7, 2022

⁴⁷ Amended by section 2(c) of Canon 7, 2022

⁴⁸ S.62 amended by the addition of sub-sections (2) and (3) by Canon 10, 1998 as amended by Canon 8, 2001 both of which came into effect on 16 June 2003.

or any part of such evidence should it consider that admission of the same would be likely to cause a serious injustice to the member of clergy charged.

63. (1) Wherever a question arises under this Constitution and in the manner provided and subject to the conditions imposed by this Constitution the question is referred for determination or for an opinion to the Appellate Tribunal the tribunal shall have jurisdiction to hear and determine the same or to give its opinion as the case may require provided that if provision is not otherwise made under this Constitution for the reference of such question to the tribunal the Primate may and shall at the request of General Synod by resolution or at the written request of twenty-five members thereof or at the request by resolution of the provincial or diocesan synod affected refer the question to the tribunal which shall have jurisdiction as aforesaid.
- (2) The tribunal may direct that any synod person or class of persons or association claiming to be interested in the question shall be notified of the hearing and be entitled to appear or be represented thereat.

CHAPTER X. - THE CORPORATE TRUSTEES

64. (1) There shall be a body corporate to be known as "The Anglican Church of Australia Trust Corporation"⁴⁹ and in this section referred to as the corporate trustees.

The body corporate shall be deemed to be constituted as soon as this constitution takes effect.

- (2) The corporate trustees shall have perpetual succession and a common seal, may sue and be sued in and by their corporate name, and may acquire and hold any real and personal property or any estate or interest therein.
- (3) The corporate trustees shall consist of seven or such less number of persons as may be prescribed by canon of the General Synod, and such persons shall be elected or appointed and hold office, and may be removed therefrom, as may be prescribed by canon of the General Synod.
- (4) The corporate trustees may be appointed to be the trustees of any church trust property, whether the appointment is made by a person giving or settling property by will or otherwise or by a person entitled under the trust instrument, if any, or by law to appoint a trustee, provided that where the property is under the control of the synod of a diocese or is held exclusively for the benefit of or in connection with a diocese or any part thereof the appointment shall not be made unless the consent of the synod of the diocese is first obtained, and provided that where the property is not under such control or is not so held but is under the control of any society council board agency or authority, whether a body corporate or otherwise, the appointment shall not be made unless the consent of the society council board agency or authority is first obtained.

⁴⁹ The name of the Corporation was changed from The Church of England in Australia Trust Corporation by Canon 16, 1966 which came into effect on 24 August 1981.

- (5) Nothing contained in this section or done thereunder shall remove any church trust property from the control of any diocesan synod or from the control of any such society council board agency or authority.

CHAPTER XI. - THE ALTERATION OF THIS CONSTITUTION

65. This Constitution shall not be altered except in accordance with the provisions of this chapter.
66. This Church takes no power under this Constitution to alter sections one, two and three and this section other than the name of this Church.

- 67.⁵⁰ (1) Subject to the provisions hereinafter mentioned other sections of this Constitution may be altered by canon of General Synod subject to the following conditions:-

- (a) (i) A bill for a canon to alter the provisions of this Constitution mentioned at the foot of this clause which does not deal with or concern or affect the ritual ceremonial or discipline of this Church shall be a canon duly made if it has been passed by a vote of at least two thirds of the members of each house and it has been assented to by a majority of all dioceses of which two at least shall be metropolitan sees. For the purposes of this sub-paragraph (a)(i) a diocese shall be deemed to have assented to a bill if a majority of its lay representatives and a majority of its clerical representatives and the bishop thereof have voted in favour of its passing.
- (ii) Any other bill for a canon to alter the provisions of this Constitution mentioned at the foot of this clause shall be a canon duly made if passed by a vote of a majority of the members of each house but the canon shall not come into effect until at least three quarters of the diocesan synods of this Church including all the metropolitan sees have assented to it by ordinance and all such assents be in force at the same time.
- (iii) A bill of the kind referred to in sub-paragraph (i) shall be a canon duly made and shall come into effect if it is passed and assented to in the manner prescribed by sub-paragraph (ii).

Sections 11-14, inclusive; 18-25, inclusive; 27; 32-35, inclusive; 64(1)(2) and (3); 68-70, inclusive; 75.

- (b) A bill for a canon to alter the name of this Church or the provisions of this Constitution mentioned at the foot of this clause shall be a canon duly made if passed by a vote of a majority of the members of each house but the canon shall not come into effect unless and until every diocesan synod

⁵⁰ S.67 repealed and a new sec. 67 inserted by Canon 1, 1987 and Bill 1, 1987 which came into effect on 1 July 1992. S.67 again repealed and a new sec. 67 inserted by Canon 5, 1989 and Bill 2, 1989 which came into effect on 5 June 1995.

of this Church has assented to it by ordinance and all such assents be in force at the same time.

Sections 64 (4) (5); 67 (1)(b).

- (c) A bill for a canon to alter the provisions of this Constitution mentioned at the foot of this clause or to add a new section to this Constitution (not being a new section that alters a provision referred to in paragraph (a) or paragraph (b) of this sub-section) shall be a canon duly made if passed by a vote of a majority of the members of each house but the canon shall not come into effect unless and until at least three quarters of the diocesan synods of this Church including all of the metropolitan sees have assented to it by ordinance and all such assents be in force at the same time.

Sections 4-10, inclusive; 15-17, inclusive; 26; 28-30, inclusive; 36-63, inclusive; 65; 67 (1) (a) and (c); 71-74, inclusive; the Table annexed to the Constitution.

- (2) Upon a canon to alter the Constitution being duly made in accordance with this Section and upon the President determining that there is no condition, or that no condition remains, to which the coming into effect is subject the President shall appoint a date, being not earlier than three months nor later than six months from the date upon which he so determines, on which the canon shall come into effect; the date appointed shall be notified in the Commonwealth of Australia Gazette and in the Government Gazette of each State.
- (3) Where a member of synod is administering a diocese during a vacancy in the see or during the absence or incapacity of the bishop of the diocese, the bishop shall be deemed, for the purpose of sub-paragraph (1)(a)(i), to have voted in favour of the passing of the bill if the member so administering the diocese has voted in favour of the passing of the bill.
- (4) Where:
- (a) the only lay or clerical representative of a diocese is absent from Synod;
 - (b) one or more lay or clerical representatives are absent from the Synod and only one-half of the number of lay or clerical, as the case may be, representatives have voted in favour of the passing of the bill;

a majority of the lay or clerical, as the case may be, representatives shall be deemed, for the purpose of sub-paragraph (1)(a)(i), to have voted in favour of the passing of the bill if a majority of all the representatives of the diocese present have voted in favour of the passing of the bill.

CHAPTER XII. - THE OPERATION OF THIS CONSTITUTION

68. (1) This Constitution shall take effect on and from a day to be appointed in accordance with this section.

The day shall not be appointed until the Parliaments of five States have passed Acts for giving effect to this Constitution.

The day shall be appointed by a deed signed by the diocesan bishops of not less than eighteen dioceses of the Church of England in Australia and Tasmania declaring that their respective dioceses have assented to this Constitution.

The bishops signing the deed shall include at least two metropolitans.

- (2) The day appointed shall be notified in the Commonwealth Gazette by one or more of the metropolitans by whom the deed appointing the day is signed and shall also be notified in the Government Gazette of each State concerned by any one or more of the diocesan bishops by whom the deed appointing the day is signed.

A copy of the Commonwealth Gazette containing a notification of the appointed day which purports to be signed by one or more of the metropolitans shall be conclusive evidence that the day has been duly appointed in accordance with this section.

- (3) The diocesan bishops signing the deed or such of them as shall still be in office shall be a commission for convening the first session of General Synod, and notwithstanding any other provision of this Constitution the commission may do or cause to be done anything necessary or convenient for the convening and holding of the session.

The commission shall appoint the place for the session and the time which shall be not later than twelve months after the day on which this Constitution takes effect, and shall at least three months before the time for the session in such manner as the commission deems proper summon the diocesan bishops of the dioceses to which this Constitution applies, and require them to convene the prescribed number of clerical and lay representatives of their respective dioceses at the appointed time and place.

69. (1) Subject to all necessary parliamentary enactments this Constitution shall apply to every diocese of the Church of England in Australia and Tasmania which assents to the constitution, whether before or after this Constitution takes effect, and to every diocese formed or admitted to General Synod under this Constitution. The assent of a diocese shall be given by an ordinance of its synod or if there be no synod or diocesan council by a certificate of its bishop.
- (2) Where all the dioceses of any province so assent to this Constitution, it shall apply to the province as well as to each diocese.

If four or more dioceses of a province assent such dioceses shall constitute a province under this Constitution.

- (3) If any diocese in Australia does not assent to this Constitution such diocese shall not by reason only of that fact cease to be in fellowship or communion with this Church or with the Church of England in the dioceses of Australia and Tasmania, but may have association with this Church on such terms and conditions as may be agreed upon by ordinance of the diocesan synod of the diocese and by canon of General Synod.
70. This Constitution and all canons and rules passed and made hereunder shall be binding on the bishops clergy and laity as members of this Church and for all purposes connected with or in any way relating to church trust property.
71. (1) Every consensual compact and every enactment in force in the Church of England in the dioceses of Australia and Tasmania, or in any province or diocese which has become or becomes a province or diocese to which this Constitution applies shall insofar as they are not inconsistent with this Constitution, continue in force in this Church or in the province or diocese, until altered under this Constitution or under the constitution of the province or diocese.
- This sub-section extends to any determination rule or regulation made by the Synod known as the General Synod of the Church of England in the dioceses of Australia and Tasmania, any constitution act canon or ordinance made by the provincial synods of New South Wales, Victoria, Queensland, and Western Australia respectively, and any constitution act canon ordinance rule or regulation made by the diocesan synod of any diocese in Australia.
- Nothing in this Constitution shall authorise the synod of a diocese or of a province to make any alteration in the ritual or ceremonial of this Church except in conformity with an alteration made by General Synod.
- (2) The law of the Church of England including the law relating to faith ritual ceremonial or discipline applicable to and in force in the several dioceses of the Church of England in Australia and Tasmania at the date upon which this Constitution takes effect shall apply to and be in force in such dioceses of this Church unless and until the same be varied or dealt with in accordance with this Constitution.
72. Where any question arises as to the faith ritual ceremonial or discipline of this Church or as to the authorities powers rights and duties of bishops priests and deacons of this Church, or of any officer or member thereof, nothing in this Constitution shall prevent reference being made to the history of the Church of England in England to the same extent as such reference might have been made for the purposes of the Church of England in the dioceses of Australia and Tasmania immediately before the day on which this Constitution takes effect.
73. (1) In determining any question as to the faith ritual ceremonial or discipline of this Church any tribunal may take into consideration but shall not be bound to follow its previous decisions on any such questions or any decision of any judicial authority in England on any questions of the faith ritual ceremonial or discipline of the Church of England in England.

- (2) A determination of any tribunal which is inconsistent or at variance with any decision of such a judicial authority in England shall have permissive effect only and shall not be obligatory or coercive.
- (3) A determination of a provincial tribunal shall be binding upon a diocesan tribunal in the province and a determination of the Appellate Tribunal shall be binding upon the Special Tribunal the provincial tribunal and the diocesan tribunal provided however that the synod of a diocese may by ordinance direct that a diocesan tribunal shall not follow or observe a particular determination of the Appellate or provincial tribunal which has permissive effect only.
74. (1) In the constitution unless the context or subject matter otherwise indicates -
- "**Alteration**" includes repeal, and "**alter**" and "**altered**" have a meaning corresponding with that of alteration.
- "**Australia**" includes the Commonwealth of Australia and any Territory under the control of the Commonwealth of Australia whether by trusteeship or otherwise.
- "**Canonical fitness**" means, as regards a person, that:
- (a) the person has attained at least 30 years of age;
 - (b) the person has been baptised; and
 - (c) the person is in priests' orders⁵¹
- "**Canonical Scriptures**" means the canonical books as defined by the sixth of the Thirty-nine Articles.
- "**Ceremonial**" includes ceremonial according to the use of this Church, and also the obligation to abide by such use.
- "**Child**" means a person under the age of 18.⁵²
- "**child**" means a person under the age of 18.⁵³
- "**Church trust property**" means property held in trust for or on behalf of or for the use of this Church and includes property held for the benefit of or in connection with any diocese or parish or otherwise.
- "**Diocesan bishop**" means the bishop of a diocese.
- "**Diocesan council**" in a diocese where there is a synod means -
- (a) the body exercising powers and functions of the synod on its behalf when it is not in session, or

⁵¹ Definition substituted for previous definition by Canon 9, 1989 and Bill 5, 1989 which came into effect on 5 June 1995.

⁵² Inserted by section 3(1)(a) of Canon 7, 2022

⁵³ Definition inserted by Clause 3(1)(a) of Canon 8, 2022

- (b) where there is no such body, the body constituted or determined by the relevant synod to be the diocesan council.⁵⁴

"**Diocesan synod**" and "**synod of a diocese**" include a diocesan council where there is no diocesan synod.

"**Diocese**" means a diocese of this Church.

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"**Doctrine**" means the teaching of this Church on any question of faith.

"**Faith**" includes the obligation to hold the faith.

"**General Synod**" or "**Synod**" means the General Synod under this Constitution.

"**Incumbent**" includes the minister in charge of a parish, a parochial district or similar pastoral division.⁵⁶

"**Licence**" means a licence under seal of the bishop of a diocese, and "**licensed**" has a meaning corresponding with that of licence.

"**Member of this Church**" means a baptised person who attends the public worship of this Church and who declares that he is a member of this Church and of no church which is not in communion with this Church.⁵⁷

"**Metropolitan**" includes the bishop exercising the authorities powers rights and duties of the metropolitan.

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"**Month**" means a calendar month, that is, a period commencing at the beginning of a day of one of the twelve months of the year and ending immediately before the beginning of the corresponding day of the next month or, if there is no such corresponding day, ending at the expiration of the next month.⁵⁹

"**Ordinance**" includes any act canon constitution statute legislative measure or provision of a provincial or diocesan synod or of the competent authority in or with respect to a missionary diocese.

"**Parish**" includes any parochial district or similar pastoral division constituted by or under ordinance of the synod of a diocese.

⁵⁴ Definition inserted by Canon 1, 2010 which came into effect on 1 March 2016.

⁵⁵ Definition "Discipline" deleted by Canon 18, 1998 which came into effect on 14 April 2003 – see new section 74 (9).

⁵⁶ Definition inserted by Canon 9, 1995 which came into effect on 1 May 1997.

⁵⁷ Altered by Canon 12, 1985 and Bill 1, 1985 which came into effect on 1 July 1988.

⁵⁸ Definition of "Missionary diocese" deleted by Schedule Three of Canon 14, 1992 which came into effect on 31 July, 1995.

⁵⁹ Added by Canon 2, 1998 which came into effect on 14 May 2001.

"**Parishioner**" means a member of this Church who is entitled to vote at a meeting of a parish for the election of churchwardens, or who if no such meeting is provided for is at least eighteen years of age.⁶⁰

"**Primate**" includes the metropolitan or bishop exercising the authorities powers rights and duties of the Primate.

"**Printing**" shall include typing, duplicating or any other method of producing facsimile copies.

"**Provincial synod**" includes a provincial council.

"**Ritual**" includes rites according to the use of this Church, and also the obligation to abide by such use.

"**See**" means a see of this Church.

"**sexual offence relating to a child**" means —

(a) sexual activity by a person against, with or in the presence of a child, or

(b) the possession, production or distribution by a person of any form of child pornography —

in respect of which —

(c) the person has been convicted under the laws of the Commonwealth, State or Territory; or

(d) a court, commission or tribunal of the Commonwealth, a State or a Territory has made an adverse finding of fact in relation to that person; or

(e) the person has been convicted in some other country under the laws of that country that are equivalent to a law of the Commonwealth or of a State or Territory; or

(f) the person has not been tried by a court of competent jurisdiction and which if proved —

(i) if alleged to have been committed within Australia, would constitute a criminal offence in the State or Territory in which it is alleged to have occurred; and

(ii) if alleged to have been committed in a country other than Australia, would if committed in Australia constitute a criminal offence under a law of the Commonwealth or of a State or Territory; and⁶¹

⁶⁰ Word "eighteen" substituted for "twenty-one" by Schedule One of Canon 14, 1992 which came into effect on 25 June 1995.

⁶¹ Definition inserted by section 3(2) of Canon 7, 2022

"**State**" means a State of the Commonwealth of Australia.

"**This Church**" means the Anglican Church of Australia.⁶²

"**This Constitution**" or "**the Constitution**" means the Constitution of this Church.

"**Voting by houses**" means the procedure whereby three distinct votes are taken, that is to say, a vote of the House of Laity, a vote of the House of Clergy, and a vote of the House of Bishops.

- (2) In this Constitution "**the Book of Common Prayer**" means the Book of Common Prayer as received by the Church of England in the dioceses of Australia and Tasmania before and in the year of our Lord one thousand nine hundred and fifty-five, that is to say, the book entitled "The Book of Common Prayer and Administration of the Sacraments and other rites and ceremonies of the Church according to the use of the Church of England together with the Psalter or Psalms of David pointed as they are to be sung or said in churches and the form or manner of making ordaining and consecrating of bishops, priests and deacons," and generally known as the Book of Common Prayer 1662.
- (3) In this Constitution "the doctrine and principles of the Church of England embodied in the Book of Common Prayer" and the "articles of religion" sometimes called the "**Thirty-nine Articles**" means the body of such doctrine and principles.
- (4) In this Constitution, unless the context or subject matter otherwise indicates, any reference to faith shall extend to doctrine.
- (5) In this Constitution "**decision of any judicial authority**" shall include any judgment order decree sentence or order in council and the reasons report or recommendation therefor, and "**judicial authority**" shall include any court judge tribunal body or person having either secular or ecclesiastical jurisdiction whether before or after the date on which this Constitution takes effect, and without affecting the generality of any other provision of this Constitution it is hereby declared that "**judicial authority**" shall include the Court which was commonly called the High Court of Delegates, the King's Majesty in Council to which the powers of that Court were transferred, and the Judicial Committee of the Privy Council.
- (6) In the case of lay but not clerical persons words in this Constitution importing the masculine shall include the feminine.
- (7) This Constitution shall, unless the context or subject matter otherwise indicate, be construed as if the Acts Interpretation Act 1901-1948 of the Parliament of the Commonwealth of Australia applied to this Constitution.
- (8) Where any period of time, dating from a given day, act or event is prescribed or allowed for any purpose by this Constitution or by any canon made under

⁶² See Note 1 above.

this Constitution, the time shall, unless the contrary intention appears, be reckoned exclusive of such day or of the day of such act or event. Where the last day of any period prescribed or allowed for the doing of anything falls on a Saturday, on a Sunday or on a day which is a public or bank holiday in the place in which the thing is to be done or may be done, the thing may be done on the first day following, which is not a Saturday, a Sunday or a public or bank holiday in that place.⁶³

(9)⁶⁴ In this Constitution "**discipline**" means

- (a) in Chapters II to VII and X to XII the obligation to adhere to, to observe and to carry out (as appropriate):
 - (i) the faith, ritual and ceremonial of this Church; and
 - (ii) the other rules of this Church which impose on the members of the clergy obligations regarding the religious and moral life of this Church; and
- (b) in Chapter IX, as regards a person in Holy Orders licensed by the bishop of a diocese or resident in a diocese both:
 - (i) the obligations in the ordinal undertaken by that person; and
 - (ii) the ordinances in force in that diocese.

(10)⁶⁵ In this Constitution a reference to an Aboriginal person is a reference to a person of the Aboriginal race of Australia; and a reference to a Torres Strait Island person is a reference to a person who is a descendent of the indigenous inhabitants of the Torres Strait Islands.

⁶³ Added by Canon 2, 1998 which came into effect on 14 May 2001.

⁶⁴ Added by Canon 18, 1998 which came into effect on 14 April 2003.

⁶⁵ Added by Canon 16, 1998 which came into effect on 1 March 2000.

75. This Constitution is divided into the following parts and chapters: -

PART I.

Chapter I. - FUNDAMENTAL DECLARATIONS (Sections 1-3).

Chapter II. - RULING PRINCIPLES (Sections 4-6).

PART II. - THE GOVERNMENT OF THE CHURCH

Chapter III. - OF THE BISHOPS (Sections 7-14).

Chapter IV. - OF THE GENERAL SYNOD (Sections 15-25).

Chapter V. - OF THE POWERS OF GENERAL SYNOD (Sections 26-33).

Chapter VI. - COMMITTEES, BOARDS AND COMMISSIONS (Sections 34-35).

Chapter VII. - THE PROVINCES AND PROVINCIAL SYNODS (Sections 36-42).

Chapter VIII. - THE DIOCESES AND DIOCESAN SYNODS (Sections 43-52).

Chapter IX. - THE TRIBUNALS (Sections 53-63).

Chapter X. - THE CORPORATE TRUSTEES (Section 64).

Chapter XI. - THE ALTERATION OF THIS CONSTITUTION (Sections 65-67).

Chapter XII. - THE OPERATION OF THIS CONSTITUTION (Sections 68-75).

THE TABLE ANNEXED TO THE CONSTITUTION

CLERICAL AND LAY REPRESENTATIVES IN GENERAL SYNOD

1. The number of clerical and lay representatives respectively of each diocese shall be in proportion to the number of clergy¹ of the diocese and shall be determined by dividing that number by a quota, namely, twenty, and if on the division there is a remainder of ten or more the diocese shall be entitled to one more clerical and one more lay representative.
2. Notwithstanding any other provision in this table each diocese shall be entitled to at least one clerical and one lay representative.
- 3.² In this Table 'clergy' means the number of persons in the Order of Bishop, Priest or Deacon ordinarily resident in the diocese who are:-
 - (a) incumbents, whether full or part time, stipendiary, part stipendiary or non-stipendiary;
 - (b) clergy engaged on a full time basis or substantially full time basis in providing services for or in connection with The Anglican Church of Australia or any part thereof and paid a stipend or other remuneration for such services who are not incumbents, whether attached to a parish or otherwise.

¹ Changed from "clergymen" by Canon 9, 1995 which came into effect on 1 May, 1997.

² Clause 3 amended by Canon 9, 1995 which came into effect on 1 May, 1997.

NOTES ON THE CONSTITUTION

1. The Constitution of the Church of England in Australia was approved by the General Synod of the Church of England in Australia and Tasmania on 6 October 1955, and revised by the Continuation Committee appointed at the time, which was authorised to make such corrections of a non-contentious character as might seem to it necessary or desirable. The Chairman of Committees signed the final form of the text on 7 February 1956. This text was submitted to the dioceses for their assent, and it also formed the schedule to the New South Wales Act No. 16, 1961. The Constitution came into effect pursuant to section 68 on 1 January 1962.
2. The text printed here follows the official N.S.W. version, with very minor style changes such as the standardisation of upper and lower case.
3. The alteration of the name of the Church from *The Church of England in Australia* to *The Anglican Church of Australia* came into effect on 24 August 1981.
4. Appendix 1 immediately following lists the alterations to the Constitution which had come into effect as at 1 July 2014. These alterations are incorporated in the text of the Constitution. Footnotes to the text draw attention to these alterations.
5. Canons and Bills for the alteration of the Constitution which have not come into effect are listed in Appendix 2 immediately following Appendix 1. The text of those Canons and Bills is set out immediately following Appendix 2.
6. In 1981 the General Synod passed two Bills to alter the Constitution. These Bills required the assent of at least three-fourths of the diocesan synods including the synods of all the metropolitan sees in order to come into effect. When they were considered by the diocesan synods, some synods acted on legal advice that the Constitution could be altered only by Canons and not by Bills. Other diocesan synods acted on advice that Bills were the proper way to alter the Constitution. To ensure that alterations made at the 1985, 1987 and 1989 sessions of General Synod would not be rejected by diocesan synods on the same grounds, General Synod legislated for changes to the Constitution by passing both a Canon and a Bill, each making the same changes.
7. Alterations to the Constitution passed by General Synod in 1987 came into effect on 1 July 1992, prior to the 1992 session of the General Synod. One effect of these alterations was to make it clear that alterations to the Constitution would in future be made by Canon.
8. One of the Bills passed in 1981 [Bill 2, 1981] was further dealt with in Canon 1, 1987 and Bill 1, 1987, which came into effect on 1 July 1992. Sec. 2 of the Canon and of the Bill of 1987 provide together a method for Bill 2, 1981 to be brought into effect without a matching Canon.

APPENDIX 1 TO NOTES ON THE CONSTITUTION

LIST OF ALTERATIONS TO THE CONSTITUTION WHICH HAVE COME INTO EFFECT

No.	Title	Date came into effect	Sections affected
Canon 16, 1966	The Anglican Church of Australia Canon 1966	24 August 1981	1, 64, 74
Canon 12, 1985	Constitution Alteration (Definition of 'Member') Canon 1985	1 July 1988	74
Canon 22, 1985	Constitution Alteration (Deacons and the Houses of Synod) Canon 1985	1 July 1988	17, 30
Bill 1, 1985	Constitution Alteration (Definition of 'Member') Bill 1985	1 July 1988	74
Bill 2, 1985	Constitution Alteration (Deacons and the Houses of Synod) Bill 1985	1 July 1988	17
Canon 2, 1989	Constitution Alteration (Financial Provisions) Canon 1989	23 August 1989	32, 34
Bill 1, 1989	Constitution Alteration (Financial Provisions) Bill 1989	23 August 1989	32, 34
Canon 8, 1989	Constitution Alteration (Chairing of Meetings) Canon 1989	24 August 1989	20
Bill 4, 1989	Constitution Alteration (Chairing of Meetings) Bill 1989	24 August 1989	20
Canon 1, 1987	Constitution Alteration Canon 1987	1 July 1992	28, 29, 30, 31, 67
Bill 1, 1987	Constitution Alteration Bill 1987	1 July 1992	28, 29, 30, 31, 67
Canon 5, 1989	Constitution Alteration (Making of Canons) Canon 1989	5 June 1995	27, 28, 67
Bill 2, 1989	Constitution Alteration (Making of Canons) Bill 1989	5 June 1995	27, 28, 67
Canon 9, 1989	Constitution Alteration (Canonical Fitness) Canon 1989	5 June 1995	74
Bill 5, 1989	Constitution Alteration (Canonical Fitness) Bill 1989	5 June 1995	74

No.	Title	Date came into effect	Sections affected
Canon 13, 1992	Constitution Alteration (Sections 17 and 23) Canon 1992	25 June 1995	17, 23
Canon 14, 1992	Constitution Alteration (Miscellaneous Sections) Canon 1992	25 June 1995 [Schedules 1 & 2] 31 July, 1995 [Schedule 3]	17, 57, 74 17, 44, 49, 74
Canon 9, 1995	Constitution Amendment (Table Annexed) Canon 1995	1 May, 1997	74, Table Annexed
Canon 17, 1995	Constitution Amendment (Rights of Non-Members of General Synod) Canon 1995	17 September, 1997	15
Canon 6, 1998	Constitution Alteration (Committees Appointment) Canon 1998	1 March, 1998	35
Canon 16, 1998	Constitution Alteration (Composition of General Synod) Canon 1998	1 March 2000	11, 16, 17, 19, 27, 74
Canon 2, 1998	Revised Constitution Amendment (Interpretation) Canon 1998	14 May 2001	74 [repeals Canon 15, 1995]
Canon 18, 1998	Constitution Alteration (Discipline Clarification) Canon 1998	16 April 2003	74
Canon 10, 1998	Constitution Alteration (Tribunals) Canon 1998	16 June 2003	54, 62
Canon 8, 2001	Constitution Alteration (Tribunals) Amendment Canon 2001	16 June 2003	54 [amends Canon 10, 1998]
Canon 13, 2001	Constitution Alteration (Suspension From Duties) Canon 2001	16 June 2003	61 [repeals Canon 9, 1998]
Canon 14, 2001	Constitution Alteration (Special Tribunal) Canon 2001	16 June 2003	56, 60, 61
Canon 1, 2010	Constitution Amendment (Diocesan Council) Canon 2010	1 March 2016	74(1)
Canon 12, 2010	Constitution Amendment (Chapter V) Canon 2010	1 July 2014	28A, 30
Canon 4, 2014	Constitution Amendment (Memberships of the Diocesan Tribunal) Canon 2014	1 July 2019	54(1)

No.	Title	Date came into effect	Sections affected
Canon 5, 2014	Constitution Amendment (Membership of the Provincial Tribunal) Canon 2014	1 July 2019	55(1)
Canon 2, 2017	Constitution (Appellate Tribunal) Amendment Canon 2017	1 December 2019	57(1), 57(2) [repeals Canon 3, 2010)
Canon 6, 2017	Constitution (Jurisdiction of Special Tribunal) Amendment Canon 2017	1 November 2019	56(6)

APPENDIX 2 TO NOTES ON THE CONSTITUTION

ALTERATIONS TO THE CONSTITUTION NOT IN EFFECT

No.	Title	Sections affected
Bill 1, 1981	A Bill To Alter The Constitution of the Anglican Church of Australia with respect to the Ordination of Women	4, 74 (6A)
Bill 2, 1981	A Bill to Alter the Constitution of the Anglican Church of Australia with respect to the Mode of Appointment of the Appellate Tribunal	57 (1)
Canon 1, 1987	Constitution Alteration Canon 1987 ¹	Section 2 has not come into operation
Bill 1, 1987	Constitution Alteration Bill 1987 ²	Section 2 has not come into operation
Canon 6, 1989	Constitution Alteration (Title of the Primate) Canon 1989	10
Bill 3, 1989	Constitution Alteration (Title of the Primate) Bill 1989	10
Canon 7, 1992	Constitution Amendment (Section 51) Canon 1992	51 and Table annexed to the Constitution
Canon 11, 2004	Constitution Amendment (Relations with other Churches) Canon 2004	6
Canon 13, 2004	Constitution Alteration (Chapter IX) Canon 2004	63A; S67(1)(c)
Canon 6, 2007	Constitution Alteration (Chapter IX) Canon Amendment Canon 2007	2 subsections (2), (3), (4), (7), (8), (9), (10) and (11)
Canon 8, 2007	Constitution Amendment (Section 10) Canon 2007	10
Canon 16, 2007	Constitution Amendment (Section 54A) Canon 2007	54A
Canon 18, 2007	Constitution Amendment (Suspension of Bishops) Canon 2007	61A
Canon 19, 2007	Constitution Amendment (Provinces and Dioceses) Canon 2007	38A; 38B; 45A
Canon 8, 2010	Constitution Amendment (Section 30) Canon 2010	30
Canon 9, 2010	Constitution Amendment (Sentences of Tribunals) Canon 2010	60(1)

¹ This canon came into effect on 1 July 1992.

² This bill came into effect on 1 July 1992.

**BILLS AND CANONS
FOR THE ALTERATION OF THE CONSTITUTION NOT
IN EFFECT
OR NOT IN FULL OPERATION**

BILL TO ALTER THE CONSTITUTION OF THE ANGLICAN CHURCH OF AUSTRALIA WITH RESPECT TO THE ORDINATION OF WOMEN

Bill 1, 1981

The General Synod prescribes as follows:

1. The Constitution of this Church is altered as follows:
 - (1) In Section 4 for the expression "**4. This**" there is substituted the expression "**4. (1) This**".
 - (2) At the end of Section 4 there is added the following sub-section:

"(2) Nothing in this section prevents this Church from authorising by canon the ordaining of women into the three orders of bishops, priests and deacons in the sacred ministry."
 - (3) There is inserted in Section 74 after sub-section (6), the following sub-section:

"(6A) Notwithstanding anything in sub-section (6), in Chapters II to XII both inclusive and in the Table annexed to this Constitution words importing the masculine shall include the feminine."
2. This bill shall come into effect upon a date to be declared by the Primate on the advice of the Standing Committee of General Synod provided that at least three quarters of the diocesan synods of this Church including the synods of all metropolitan Sees have assented to it by ordinance, all such assents being in force at the same time.

BILL TO ALTER THE CONSTITUTION OF THE ANGLICAN CHURCH OF AUSTRALIA WITH RESPECT TO THE MODE OF APPOINTMENT OF THE APPELLATE TRIBUNAL

Bill 2, 1981

1. The Constitution of this Church is altered by omitting from Sub-section (1) of Section 57 the paragraph which begins "The members shall be appointed" and which ends "of the House of Laity."

CONSTITUTION ALTERATION CANON 1987¹

Canon 1, 1987
See: Bill 1, 1987

A canon to alter the Constitution with respect to alteration of the Constitution.

The General Synod prescribes as follows:

1. The Constitution is altered to the extent provided by this Canon and the Schedule to this Canon.
- 2.² Notwithstanding any provision of this Canon or of the Constitution in the event that three-quarters of the diocesan synods including the metropolitan synods of this Church shall have assented by ordinance to an instrument mentioned at the foot of this clause, all such assents being in force at the same time, the President shall appoint a date being not earlier than three months nor later than six months from the date upon which he so appoints on which that instrument shall come into effect and upon the day so appointed this Constitution shall be altered as provided by that instrument; the date appointed and sufficient particulars to identify the instrument shall be notified in the Commonwealth of Australia Gazette and in the Government Gazette of each State.

The instrument entitled "A Bill to Alter the Constitution of the Church of England in Australia with Respect to the Mode of Appointment of the Appellate Tribunal" and numbered in the Official Report of the Proceedings of the Sixth General Synod "No. 2, 1981".

3. The amendments to the Constitution that are made by this canon shall come into force on a date to be appointed and declared by the Primate who shall follow *mutatis mutandis*, the notification procedure prescribed by Rule XX.
4. This Canon may be cited as "Constitution Alteration Canon 1987".

SCHEDULE³

¹ This canon came into effect on 1 July 1992.

² Section 2 has not come into operation.

³ The alterations set out in the Schedule came into effect on 1 July 1992 and are incorporated in the text of the Constitution in this book.

CONSTITUTION ALTERATION BILL 1987¹**Bill 1, 1987****See: Canon 1, 1987****A bill to alter the Constitution with respect to alteration of the Constitution.**

The General Synod prescribes as follows:

1. The Constitution is altered to the extent provided in this Bill and the Schedule to this Bill.
- 2.² Notwithstanding any provision of this Bill or of the Constitution in the event that three-quarters of the diocesan synods including the metropolitan synods of this Church shall have assented by ordinance to an instrument mentioned at the foot of this clause, all such assents being in force at the same time, the President shall appoint a date being not earlier than three months nor later than six months from the date upon which he so appoints on which that instrument shall come into effect and upon the day so appointed this Constitution shall be altered as provided by that instrument; the date appointed and sufficient particulars to identify the instrument shall be notified in the Commonwealth of Australia Gazette and in the Government Gazette of each State.

The instrument entitled "A Bill to Alter the Constitution of the Church of England in Australia with Respect to the Mode of Appointment of the Appellate Tribunal" and numbered in the Official Report of the Proceedings of the Sixth General Synod "No. 2, 1981".

3. This Bill may be cited as "Constitution Alteration Bill 1987".

SCHEDULE³

¹ This bill came into effect on 1 July 1992.

² Section 2 has not come into operation.

³ The alterations set out in the Schedule came into effect on 1 July 1992 and are incorporated in the text of the Constitution in this book.

CONSTITUTION ALTERATION (TITLE OF THE PRIMATE) CANON 1989

Canon 6, 1989
See: Bill 3, 1989

A canon to alter the Constitution with respect to the title of a Primate who is not a Metropolitan.

The General Synod prescribes as follows:

1. The Constitution is altered to the extent provided in the Schedule to this canon.
2. The amendment of the Constitution that is made by this canon shall come into force on a date to be appointed and declared by the Primate, who shall follow, *mutatis mutandis*, the notification procedure prescribed by Rule XX.
3. This canon may be cited as the "Constitution Alteration (Title of the Primate) Canon 1989".

SCHEDULE

Section 10 is altered by inserting, after the first paragraph, the following paragraph:

"A Primate who is not also a metropolitan has the same title as a metropolitan. The title shall confer no rights, powers or jurisdiction."

CONSTITUTION AMENDMENT (SECTION 51) CANON 1992

Canon 7, 1992

A canon to amend section 51 of the Constitution and the Table annexed to the Constitution.

The General Synod prescribes as follows:

Title

1. This Canon may be cited as the Constitution Amendment (Section 51) Canon 1992.

Amendment of section 51

2. Section 51 of the Constitution is deleted and the following section is inserted in lieu thereof:

51. (1) Subject to the terms of this Constitution the synod of a diocese may make ordinances for or relating to the order and good government of this Church within the diocese, including ordinances in respect of discipline.
- (2) An ordinance of the synod of a diocese must be made in accordance with the procedure in that behalf prescribed by or under the constitution of the diocese.
- (3) An ordinance may be for or relating to the order and good government of this Church within the diocese notwithstanding that it may have some effect outside the diocese or may relate to some matter affecting the order and good government of this Church which is within the powers of General Synod.
- (4) An ordinance of the synod of a diocese that is inconsistent with this Constitution or with a canon of General Synod in force in the diocese is, to the extent of the inconsistency, of no effect.
- (5) It is declared for the avoidance of doubt that nothing in this section prevents the synod of a diocese from making ordinances under this section in respect of ordination or anything relating thereto.
- (6) The Primate may refer to the Appellate Tribunal any question whether a particular ordinance of the synod of a diocese is of no effect because of an inconsistency referred to in subsection (4), and section 63 does not apply to any such question.
- (7) The answer of the Appellate Tribunal on a question referred to it under subsection (6) is final.

- (8) A provision of an ordinance of the synod of a diocese -
 - (a) made before the date on which this section comes into effect; and
 - (b) in force before that date or to come into operation or effect after that date

is as valid and effective as it would have been if this section had been in force at the time the ordinance was made.

- (9) Subsection (8) does not apply to a provision that -
 - (a) was invalid or ineffective before the date on which this section comes into effect; and
 - (b) would have been invalid or ineffective even if this section had been in force at the time the provision was made.

Amendment of Table Annexed to the Constitution.

- 3. (1) Paragraph 1 of the Table Annexed to the Constitution (hereinafter is called "**The Table**") is amended by deleting therefrom the word "**clergymen**" and by inserting in lieu thereof the words "**the clergy**".
- (2) The first sentence of paragraph 3 of the Table is amended by:
 - (a) deleting the word "clergymen" and by inserting in lieu thereof the words "the clergy"; and
 - (b) deleting the words "priests' orders" and by inserting in lieu thereof the words "priests' orders or in deacons' orders and, in each case,".
- (3) The second sentence of paragraph 3 of the Table is amended by:
 - (a) inserting after the words "priests' orders" (first occurring) the words "or in deacons' orders"; and
 - (b) deleting the words "clergyman in priests' orders" and inserting in lieu thereof the words "person in priests' orders or in deacons' orders".

**CONSTITUTION AMENDMENT (RELATIONS WITH OTHER CHURCHES)
CANON 2004**

Canon 11, 2004

A canon to amend the constitution with respect to the relations of this Church with other Churches.

The General Synod prescribes as follows:

Short title

1. This Canon may be cited as the Constitution Amendment (Relations with other Churches) Canon 2004.

New Section 6 substituted – Churches in communion

2. Section 6 of the Constitution is deleted and the following substituted-
 - "6 (1) This Church shall continue in communion with the Church of England in England so long as communion is consistent with the Fundamental Declarations
 - (2) Unless otherwise prescribed by canon of General Synod, this Church shall continue in communion with churches in communion with the Church of England in England so long as communion is consistent with the Fundamental Declarations.
 - (3) The General Synod may make canons:
 - (a) declaring those churches with which this Church is in communion, or
 - (b) specifying the conditions for entering into communion with other churches.
 - (4) The General Synod cannot make a canon referred to in subsection (3) in relation to a church unless communion with the church is, or will be if the conditions specified for entering into communion with the church are complied with, consistent with the Fundamental Declarations.
 - (5) No canon referred to in subsection (3) shall come into effect unless and until at least three quarters of the diocesan synods of this church including all of the metropolitan dioceses have assented to it by ordinance and all such assents be in force at the same time.

- (6) This Church shall continue in communion with:
 - (a) a church the subject of a declaration referred to in subsection (3)(a),
or
 - (b) a church with which communion has been entered into in
accordance with conditions referred to in subsection (3)(b),so long as communion is consistent with the Fundamental Declarations.

- (7) Nothing in this section prevents the bishop of a diocese, or the synod of a diocese, from determining, in accordance with the powers, authorities, duties or functions of the bishop or synod, any matter relating to communion affecting the diocese."

CONSTITUTION ALTERATION (CHAPTER IX) CANON 2004**Canon 13, 2004**

A canon to amend the constitution with respect to administrative bodies and appeals therefrom and for incidental matters.

The General Synod prescribes as follows:

1. This Canon may be cited as the "Constitution Alteration (Chapter IX) Canon 2004".
2. In Chapter IX of the Constitution, after section 63 insert:

"63A (1) Despite anything to the contrary in this Constitution:

 - (a) a diocese may establish by ordinance any board or other body whose jurisdiction includes jurisdiction to inquire into the conduct of a person specified in such ordinance, including a person in respect of whom a diocesan tribunal may exercise jurisdiction;
 - (b) General Synod may establish by canon any board or other body which has jurisdiction to inquire into the conduct of a person:-
 - (i) in respect of whom the Special Tribunal may exercise jurisdiction; or
 - (ii) who holds a licence from the Primate in his capacity as Primate.

(2) A board or body referred to in subsection (1) may, in respect of whom it exercises jurisdiction, exercise such powers as may be specified in the ordinance or canon creating the board or body.

(3) The powers referred to in subsection (2) may include:

 - (a) the powers conferred on a tribunal by section 60 and subsections (2) and (3) of section 62 of this Constitution; and
 - (b) the power to suspend a person from the duties of office or employment pending the completion of any inquiry by such board or body into the conduct of such person upon such terms and conditions as may be prescribed by such ordinance or canon, as the case may be, but without deprivation of emoluments pertaining to the office or employment of the person.

(4) The powers referred to in subsection (3) may be exercised in respect of a person notwithstanding that the person is a person in respect of whom a diocesan tribunal or the Special Tribunal may exercise jurisdiction.

- (5) A person authorised by ordinance of a diocese or by canon of General Synod as the case may require may give effect to any recommendation or determination of a board or body referred to in this section.
 - (6) A board or body referred to in this section shall not have power to hear, determine or make recommendations concerning:
 - (a) an alleged breach of faith, ritual or ceremonial; or
 - (b) any act or omission which is the subject of a charge before or a determination of a diocesan tribunal or the Special Tribunal.
 - (7) Subject to subsection (8), an appeal shall lie to a Review Tribunal from any recommendation or determination, other than by way of an interlocutory order, of a board or body referred to in this section.
 - (8) An appeal referred to in subsection (7) shall only lie by leave of the Review Tribunal and be by way of review of the recommendation or determination that is the subject of the appeal and not by way of re-hearing.
 - (9) In this section a reference to a Review Tribunal is a reference:
 - (a) to a Review Tribunal constituted and having such powers as are conferred on it by canon of General Synod; and
 - (b) in the absence of any such canon, to the Appellate Tribunal.
 - (10) This section applies and shall be deemed always to have applied to a board or body created by ordinance of a diocese or by canon of General Synod having or purporting to have effect at the time when the Constitution Alteration (Chapter IX) Canon 2004 comes into effect."
3. Section 67(1)(c) of the Constitution is amended by deleting the figure "63' and by substituting therefor the figure "63A'.

CONSTITUTION ALTERATION (CHAPTER IX) CANON AMENDMENT
CANON 2007

Canon 6, 2007

The General Synod prescribes as follows:

1. This Canon may be cited as the "Constitution Alteration (Chapter IX) Canon Amendment Canon 2007".
2. Section 2 of the Constitution Alteration (Chapter IX) Canon 2004 is amended:
 - (a) By deleting the word "A" at the commencement of subsection (2) of proposed section 63A of the Constitution and by inserting in lieu thereof the expression **"Subject to this section a"**;
 - (b) By adding at the end of paragraph (b) of subsection (3) of proposed section 63A of the Constitution the following:

"provided that the power to suspend the bishop of a diocese may only be exercised with the concurrence of the Diocesan Council of the diocese meeting when the bishop is not present";
 - (c) By adding at the end of subsection (4) of proposed section 63A of the Constitution the following:

"provided that in the case of the bishop of a diocese such a board or body may only make a recommendation to the Primate or if the Primate is a party to the proceedings or is disqualified from acting or considers that he should disqualify himself from acting, the recommendation shall be made to the metropolitan or bishop who would exercise the authorities powers rights and duties of the Primate if the office were vacant".
 - (d) By adding at the end of subsection (7) of proposed section 63A of the Constitution the following:

"created by canon of General Synod";
 - (e) By deleting from subsection (8) the words **"shall only lie by leave of the Review Tribunal and"** and by inserting at the end thereof the words **"and shall be limited to such grounds as may be specified by Canon of General Synod"**.
 - (f) By adding after subsection (9) the following new subsection and by renumbering subsection (10) subsection (11):

"(10) In respect of any recommendation or determination of a board or body referred to in this section created by ordinance of a diocesan synod,

any appeal or review shall be subject to and in accordance with the provisions of an ordinance of the diocesan synod."

CONSTITUTION AMENDMENT (SECTION 10) CANON 2007

Canon 8, 2007

The General Synod prescribes as follows:

Title

1. This Canon may be cited as the "**Constitution Amendment (Section 10) Canon 2007**".

Amendment of section 10

2. Section 10 of the Constitution is amended -
 - (a) by deleting the expression "**or incapacity of the Primate or during his absence from Australia for a period exceeding thirty days**" and by inserting in lieu thereof the expression, "**of Primate or in the event of the Primate being unable to perform the duties of Primate, or declaring, by written statement furnished in accordance with the provisions of this section, that he is unavailable to perform the duties of Primate, for a period of more than fourteen days because of illness, incapacity, absence from Australia or annual or long service leave**";
 - (b) by inserting after the paragraph amended above the following paragraph:

A written statement prepared by the Primate for the purposes of the preceding paragraph shall be furnished to the Metropolitan or bishop who is to act in the place of the Primate under that paragraph with a copy filed in the registry of the Primate.

CONSTITUTION AMENDMENT (SECTION 54A) CANON 2007

Canon 16, 2007

A canon to amend the Constitution in respect of persons licensed by the Primate in his capacity as Primate.

The General Synod prescribes as follows:

1. This Canon may be cited as the "Constitution Amendment (Section 54A) Canon 2007".
2. The Constitution is amended by inserting after section 54 the following new section:

54A (1) For the purposes of this section:

"Primate's licensee" means a person who holds or who has at any time held a licence from a Primate in the capacity as Primate, other than a bishop assistant to the Primate in the capacity as Primate;

"professional standards matter" means any information of whatever nature and from whatever source relating to the alleged misconduct or omission of a Primate's licensee wherever or whenever occurring, other than information concerning any alleged breach of faith, ritual or ceremonial.

- (2) In respect of a Primate's licensee either of the following tribunals shall have jurisdiction to hear and determine a charge referred to in subsections (2) or (2A) of section 54 whenever or wherever the event or events giving rise to the charge may have occurred:
 - (a) the diocesan tribunal of the diocese of the Primate at the time when the charge is brought; or
 - (b) the diocesan tribunal of a diocese nominated by the Primate at the time when the charge is brought.
- (3) Before nominating the tribunal of a diocese under subsection (2)(b) the Primate shall consult with the bishop of that diocese and with such other persons as may be prescribed by canon.
- (4) Subject to the provisions of this section, in respect of proceedings brought against a Primate's licensee in a diocesan tribunal:

- (a) the provisions of this Part and of any relevant diocesan ordinance shall apply as if the person were licensed by the bishop of the diocese in the tribunal of which the charge is brought and as if the Primate were the bishop;
 - (b) only a person nominated by the Primate may promote a charge against a Primate's licensee;
 - (c) only the Primate may suspend a Primate's licensee from the duties of his or her office to the extent that these duties arise from the Primate's licence, and the consent of the diocesan council shall not be required;
 - (d) a recommendation of the tribunal shall be made to the Primate;
 - (e) no appeal shall lie to a provincial tribunal;
 - (f) any costs and expenses reasonably incurred by -
 - (i) the diocese in the tribunal of which the charge is brought, and
 - (ii) by or on behalf of the Primate in respect of such a charge shall be paid out of funds under the control of the Synod and may be included in any assessment referred to in section 32.
- (5) In respect of a Primate's licensee also holding a licence from a diocesan bishop:
- (a) if the Primate suspends the Primate's licensee under sub-section (4)(c) the bishop may exercise the power of suspension referred to in sub-section 61(1) notwithstanding that no charge other than one under this section has been promoted against the Primate's licensee; and
 - (b) if the diocesan bishop suspends a Primate's licensee under section 61 the Primate may exercise the power of suspension referred to in sub-section (4)(a) notwithstanding that no charge has been promoted under this section.
- (6) The Primate or his nominee may refer any professional standards matter concerning a Primate's licensee to the appropriate person or body of either:
- (a) the diocese of the Primate; or
 - (b) a diocese nominated by the Primate.
- (7) Before nominating a diocese under subsection (5) the Primate shall consult with the bishop of that diocese and with such other persons as may be prescribed by canon.

- (8) Any professional standards matter referred under subsection (5) shall be dealt with in accordance with the provisions of any relevant ordinance of the diocesan synod or a rule or protocol in force in the diocese as if the Primate's licensee were licensed by the bishop of that diocese and as if the Primate were the bishop of that diocese.
- (9) Any costs and expenses reasonably incurred -
 - (a) by the diocese to which a professional standards matter is referred under subsection (5), and
 - (b) by or on behalf of the Primate in respect of any such professional standards matter

shall be paid out of funds under the control of the Synod and may be included in any assessment referred to in section 32.
- (10) Nothing contained in this section shall prevent the operation of any other provision of this Chapter in a diocese in respect of a Primate's licensee, provided that a Primate's licensee cannot be the subject of proceedings in more than one diocesan tribunal for the same charge or for a charge based on the same conduct.
- (11) Nothing contained in this section shall prevent a Primate's licensee from being dealt with in respect of a professional standards matter in accordance with the provisions of any relevant ordinance of the diocesan synod of a diocese or a rule or protocol in force in that diocese.
- (12) The exercise of any power under this section by the Primate or by any person nominated by the Primate shall be subject to and in accordance with the provisions of any canon of the General Synod.

3. This canon shall not come into effect until after the General Synod by canon authorises the President to appoint a date on which this canon shall come into effect in accordance with section 67(2) of the Constitution.

**CONSTITUTION AMENDMENT (SUSPENSION OF BISHOPS)
CANON 2007**

Canon 18, 2007

~~A canon to amend the Constitution with respect to the suspension of bishops subject to the jurisdiction of the Special Tribunal.~~

~~The General Synod prescribes as follows:~~

~~Title~~

~~1. This Canon may be cited as the "Constitution Amendment (Suspension of Bishops) Canon 2007".~~

~~Amendment of s 61A~~

~~2. Section 61A of the Constitution is amended by deleting the whole of the first sentence and by inserting in lieu thereof the following:~~

~~"Where a charge has been promoted against a bishop in respect of whom the Special Tribunal has jurisdiction, the President of the Special Tribunal, with the concurrence of—~~

~~(a) in the case of a diocesan bishop, the Diocesan Council convened by the Primate and chaired by a diocesan bishop appointed by the Primate with the concurrence of a majority of the Metropolitans meeting when the bishop is not present; and~~

~~(b) in any other case, the Primate and the bishop of any diocese by whom the bishop is licensed;~~

~~may, after considering any submission from the bishop, suspend the bishop from the duties of office until the determination of such charge or for some lesser time.~~

~~At a meeting convened under paragraph (a), the diocesan bishop appointed shall not have a vote."~~

~~Further amendment of section 61A~~

~~3. Section 61A of the Constitution is further amended by designating the section subsection (1) and by inserting the following additional subsections:~~

~~(2) Where a charge has been promoted against the Primate the powers and functions of the Primate under subsection (1) shall be exercised by the person who would exercise the authorities powers rights and duties of the Primate if there were a vacancy in the office.~~

~~(3) For the purposes of this section a reference to the Metropolitans excludes a Metropolitan who at the time is the subject of a charge."~~

~~_____~~

**CONSTITUTION AMENDMENT (PROVINCES AND DIOCESES)
CANON 2007**

Canon 19, 2007

A canon to amend the Constitution with respect to provinces and dioceses.

The General Synod prescribes as follows:

Short title

1. This Canon may be cited as the "Constitution Amendment (Provinces and Dioceses) Canon 2007".

Provinces

2. The Constitution is amended by adding new sections 38A and 38B:

"38A. Subject to section 38B, a province shall comprise a Metropolitan Diocese and one or more other dioceses.

38B. A province may consist of a Metropolitan Diocese only, and for so long as that is the case, the provincial synod, the provincial council and the constitution of the province remain suspended and all powers of the provincial synod vest in the synod of the Metropolitan Diocese."

Emergencies

3. The Constitution is further amended by inserting after section 45 the following new section 45A:

"45A. A diocesan Bishop, or if there be none in office, the administrator of a diocese, with the concurrence of the Diocesan Council and the approval of the Metropolitan and the Primate, may make such administrative arrangements for the emergency administration of that diocese as the bishop or administrator as the case may be considers appropriate provided that no such arrangement shall last longer than the termination of the next ordinary session of the General Synod unless such session by resolution authorizes its continuation."

Ancillary Amendments

4. The Constitution is further amended as follows:

(a) By amending section 52(2)

(i) by substituting the words "Metropolitan Diocese" for the words "metropolitan see"; and

(ii) by deleting the words "or to have associated with it three dioceses."

(b) By adding to section 74(1) in the appropriate alphabetical order:

"Metropolitan Diocese" means each of the dioceses of Sydney, Melbourne, Brisbane, Perth and Adelaide.

CONSTITUTION AMENDMENT (SECTION 30) CANON 2010

Canon 8, 2010

A canon to amend Section 30 of the Constitution.

The General Synod prescribes as follows:-

1. This Canon is the Constitution Amendment (Section 30) Canon, 2010
2. Section 30 of the Constitution is amended by adding immediately after the word "**thereafter**" in proviso (c) the words "**of its opinion and its reasons therefor**".
3. Section 30 of the Constitution is further amended by adding immediately after the word "**opinion**" where first occurring in proviso (c)(ii) the words "**as aforesaid**".

CONSTITUTION AMENDMENT (SENTENCES OF TRIBUNALS) CANON 2010**Canon 9, 2010**

The General Synod prescribes as follows:

Title

1. This Canon may be cited as the Constitution Amendment (Sentences of Tribunals) Canon 2010.

Commencement

2. This Canon comes into effect on a date appointed by the President in accordance with section 67(2) of the Constitution.

Sentences of Tribunals

3. In section 60(1) of the Constitution:
 - (a) in paragraph (b) delete the word "functioning" and insert the words "performing any function without limit of time or for a specific period of time";
 - (b) after paragraph (c) insert the following new paragraphs:
 - "(d) revocation of any licence;
 - (e) an order that the holding of an office or a licence or the performance of a function be subject to a condition or restriction without limit of time or for a specific period of time;
 - (f) an order without limit of time or for a specific period of time to do a specified act, or to refrain from engaging in specified conduct or from doing a specified act;"
 - (c) renumber paragraph (d) as paragraph (g).

BOOK 1: BILLS

BILL 4: CONSTITUTION AMENDMENT (MANDATORY DEPOSITION)

**A BILL FOR THE
CONSTITUTION AMENDMENT (MANDATORY DEPOSITION) CANON
2022**

EXPLANATORY MEMORANDUM

General Background

The Royal Commission into Institutional Responses to Child Sexual Abuse

1. In January 2013, the Royal Commission into Institutional Responses to Child Sexual Abuse was established and its terms of reference included “what institutions ... should do to better protect children against child sexual abuse and related matters in institutional contexts in the future”.
2. In March 2017, the failure to achieve a nationally consistent approach to child protection in this Church was highlighted by the Royal Commission at its public hearing in Case Study 52 inquiring into the current policies and procedures of Anglican Church authorities in Australia in relation to child-protection and child-safety standards, including responding to allegations of child sexual abuse. Leaders of this Church appearing before the Royal Commission in Case Study 52 committed to core national minimum standards for safe ministry to children.
3. In December 2017, the Final Report of the Royal Commission into Institutional Responses to Child Sexual Abuse made a recommendation to this Church as to the action to be taken against clergy who are convicted of an offence relating to child sexual abuse.

16.56 – Any person in religious ministry who is convicted of an offence relating to child sexual abuse should:

b. in the case of Anglican clergy, be deposed from holy orders.

4. Since 2018, this Church has been publicly accountable on its progress towards implementing the recommendations from the Royal Commission into Institutional Child Sexual Abuse through an annual report to the National Office of Child Safety. By passing this canon this Church will commence the process of amending its Constitution to implement recommendation 16.56 in its tribunals. This amendment will not come into effect until the conditions in section 67(1)(c) of the Constitution have been satisfied.

Object of the canon

5. The object of this canon is to amend the Constitution of the Anglican Church of Australia in order to implement recommendation 16.56 of the Royal Commission into Institutional Responses to Child Sexual Abuse relating to the mandatory deposition of persons in religious ministry who are convicted of an offence relating to child sexual abuse.

Main provisions of the canon

6. This canon provides for an amendment of the Constitution to provide that, where a diocesan tribunal or provincial tribunal hearing a charge is satisfied that the member of the clergy, or the Special Tribunal hearing a charge is satisfied that the bishop, has been convicted of a sexual offence relating to a child committed while a member of the clergy, the applicable tribunal must recommend a sentence of deposition from orders. It also provides for definitions to enable this effectuate amendment.

Notes on Clauses

- | | |
|----------|---|
| Clause 1 | states the title of the canon. |
| Clause 2 | amends section 60 to provide that where a tribunal is satisfied that the person has been convicted under the laws of the Commonwealth, State or Territory or under the laws of some other country with equivalent laws of a sexual offence relating to a child committed while a member of the clergy, it must recommend a sentence of deposition from orders. Amends section 60 to add definition of sexual offence relating to a child |
| Clause 3 | amends section 74 to add definition of child and repeals the definition of child in the Episcopal Standards (Child Protection) Canon 2017 and the National Register Canon 2007. These provisions will only come into force if these definitions are not already included in section 74 by the earlier coming into effect of the Constitution Amendment (Mandatory Suspension) Canon 2021. |

A MEASURE FOR

AN ORDINANCE to assent to the Constitution (Mandatory Deposition) Amendment Canon 2022 (Canon 8, 2022).

THE SYNOD HEREBY DETERMINES:

Title

1. This Ordinance may be cited as the *Constitution Amendment (Mandatory Deposition) Canon Assent Ordinance 2022*.

Assent to Canon

2. The Synod assents to the *Constitution Amendment (Mandatory Deposition) Canon 2022 (Canon 8, 2022)*.

CERTIFIED as a copy of the Measure as recommended in Committee

.....
Chair of Committees

.....
Date

CERTIFIED as a copy of the Measure as passed on the day of October 2022

.....
Secretary of Synod

.....
Date

CONSTITUTION AMENDMENT (MANDATORY DEPOSITION) CANON 2022

Canon 8, 2022

The General Synod prescribes as follows.

Title

1. This Canon may be referred to as the "Constitution Amendment (Mandatory Deposition) Canon 2022".

Mandatory deposition of a person convicted of a sexual offence relating to a child

2. In section 60 of the Constitution—
 - (a) in sub-section (1), for "A tribunal" substitute "Subject to sub-section (1A), a tribunal";
 - (b) after sub-section (1) insert—
 - "(1A) Where the tribunal is satisfied that the person so charged has been convicted under the laws of the Commonwealth, State or Territory or under the laws of some other country that are equivalent to a law of the Commonwealth or of a State or Territory of a sexual offence relating to a child committed while a member of the clergy, it must recommend a sentence of deposition from orders.
 - (1B) For the purposes only of sub-section (1A), "**sexual offence relating to a child**" means —
 - (a) sexual activity by a person against, with or in the presence of a child, or
 - (b) the possession, production or distribution of any form of child pornography."
 - (c) in sub-section (2), after "is recommended," insert "other than a sentence of deposition from orders recommended under sub-section (1A),"; and
 - (d) in sub-section (4), for "The provisions" substitute "Subject to sub-section (1A), the provisions".

Definitions

3. (1) Subject to sub-section (2)—
- (a) in section 74 of the Constitution, after the definition of "Ceremonial" insert—

' "child" means a person under the age of 18;'; and
 - (b) there are repealed:
 - (i) the definition of "child" in section 2(1) of the Episcopal Standards (Child Protection) Canon 2017; and
 - (ii) the definition of "child" in the Third Schedule to the National Register Canon 2007.
- (2) Sub-section (1) has effect only if at the time when this Canon comes into effect there is no definition of "child" in section 74 of the Constitution.



Secretaries' Certification of copy of Canon as passed [SO63(20)]

We certify that the Canon above is a copy of the Canon as passed on the 9th day of May 2022.

Dated: 13 May 2022



The Very Rev'd Katherine Bowyer
Clerical Secretary



Mr Timothy Reid
Lay Secretary

**A BILL FOR THE
EPISCOPAL STANDARDS (CHILD PROTECTION) (AMENDMENT)
CANON 2022**

EXPLANATORY MEMORANDUM

General Background

The Royal Commission into Institutional Responses to Child Sexual Abuse

1. In January 2013, the Royal Commission into Institutional Responses to Child Sexual Abuse was established and its terms of reference include “what institutions ... should do to better protect children against child sexual abuse and related matters in institutional contexts in the future”.
2. In March 2017, the failure to achieve a nationally consistent approach to child protection in this Church was highlighted by the Royal Commission at its public hearing in Case Study 52 inquiring into the current policies and procedures of Anglican Church authorities in Australia in relation to child-protection and child-safety standards, including responding to allegations of child sexual abuse. Leaders of this Church appearing before the Royal Commission in Case Study 52 committed to core national minimum standards for safe ministry to children.
3. In September 2017, the General Synod passed the Episcopal Standards (Child Protection) Canon 2017 which is designed that effective action to protect the members of the church and the public can be taken against a current or former diocesan bishop against whom a complaint of child abuse has been made.
4. In December 2017, the Final Report of the Royal Commission into Institutional Responses to Child Sexual Abuse made the following recommendation to all religious institutions on their complaint handling processes which are relevant to the amendments in this canon:

16.52 – All religious institutions’ complaint handling policies should require that, if a complaint of child sexual abuse against a person in religious ministry is plausible, and there is a risk that person may come into contact with children in the course of their ministry, the person be stood down from ministry while the complaint is investigated.
5. Since 2018, this Church has been publicly accountable on its progress towards implementing the recommendations from the Royal Commission into Institutional Child Sexual Abuse through an annual report to the National Office of Child Safety. By passing this canon this Church will implement this recommendation.

Object of the canon

6. The object of this canon is to amend the Episcopal Standards (Child Protection) Canon 2017 in order to implement recommendation 16.52 of the Royal Commission into Institutional Responses to Child Sexual Abuse relating to complaints handling processes.

Main provisions of the canon

7. This canon provides for the mandatory suspension of a Bishop against whom a plausible complaint involving a sexual offence relating to a child is made.

Notes on clauses

- | | |
|----------|---|
| Clause 1 | states the title of the canon. |
| Clause 2 | states the purpose of the canon. |
| Clause 3 | provides that once the Episcopal Standards Commission has commenced an investigation of a complaint involving a sexual offence relating to a child by a person who is a Bishop, and the complaint is plausible, that Bishop must be suspended from their duties of office and is deemed to be on paid leave and to be absent from the jurisdiction of the office. |

A MEASURE FOR

AN ORDINANCE to adopt the Episcopal Standards (Child Protection) Amendment Canon 2022 (Canon 09, 2022).

THE SYNOD HEREBY DETERMINES:

Title

- 1. This Ordinance may be cited as the *“Episcopal Standards (Child Protection) Amendment Canon Adoption Ordinance 2022”*.

Adoption of Canon

- 2. The Synod adopts the *Episcopal Standards (Child Protection) Amendment Canon 2022 (Canon 09, 2022)*.

CERTIFIED as a copy of the Measure as recommended in Committee

.....
Chair of Committees

.....
Date

CERTIFIED as a copy of the Measure as passed on theday of October 2022.

.....
Secretary of Synod

.....
Date

EPISCOPAL STANDARDS (CHILD PROTECTION) (AMENDMENT) CANON 2022

Canon 9, 2022

The General Synod prescribes as follows:

Title

1. This Canon may be cited as the Episcopal Standards (Child Protection) (Amendment) Canon 2022.

Purpose

2. The purpose of this Canon is to amend the Episcopal Standards (Child Protection) Canon 2017 in order to implement certain recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse.

Action following risk assessment

3. The Episcopal Standards (Child Protection) Canon 2017 is amended as follows:
 - (a) in section 13(1), for "At any time after the ESC has commenced or caused to be commenced an investigation of information under this Part in circumstances where it considers" substitute "Subject to section 14A, where at any time after the ESC has commenced or caused to be commenced an investigation of information under this Part it considers";
 - (b) after section 14 insert:
 - "14A. This section applies if, at any time after it has commenced or caused to be commenced under this or any other Canon an investigation of a complaint, the ESC forms the opinion that—
 - (a) the complaint involves a sexual offence relating to a child by a person who is a Bishop; and
 - (b) the complaint is plausible.
 - 14B. (1) If section 14A applies, the ESC must recommend to the President of the Board that the person be suspended from the duties of office.

(2) Where the ESC makes a recommendation under sub-section (1), the President of the Tribunal must suspend the person from the duties of office.

(3) A person suspended under sub-section (2) from the duties of a paid office, or a person to whom section 14A applies who voluntarily stands aside from performing the duties of office, is deemed to be on paid leave and to be absent from the State or Territory in which the duties of office would otherwise be performed.

14C. (1) A person suspended from the duties of office under section 14B(2) remains suspended until—

(a) the ESC decides to refrain from further investigation under one or both of—

(i) paragraphs (a), (b) or (c) of section 19 of the Special Tribunal Canon 2007; or

(ii) paragraphs (a), (b) or (c) of section 10 of this Canon—

and there are no other investigations in relation to that person to which section 14A applies; or

(b) the conclusion of an investigation or legal proceedings referred to in section 19(b) of the Special Tribunal Canon 2007 or section 10(b) of this Canon when there are no other investigations to which 14A applies; or

(c) the person has been deposed from Holy Orders, prohibited from functioning in an order of ministry, or relinquished the exercise of some or all Holy Orders under the Constitution or a canon of the General Synod; or

(d) the ESC brings a charge of a sexual offence relating to a child against the person—
whichever occurs first.”

(c) in section 15(1), for “section 13” substitute “sections 13 or 14A”.

4. Coming into force by adoption

The provisions of this Canon affect the order and good government of this Church within a diocese and do not come into force in a diocese unless and until the diocese adopts this canon by ordinance of the synod of the diocese.

Primate's appointment when the canon shall come into force [SO63(19)]

I appoint the 9th May 2022 as the date on which this canon shall come into force.

Secretaries' Certification of copy of Canon as passed [SO63(20)]

We certify that the Canon above is a copy of the Canon as passed on the 9th day of May 2022.

Dated: 13 May 2022



The Very Rev'd Katherine Bowyer
Clerical Secretary



Mr Timothy Reid
Lay Secretary

EPISCOPAL STANDARDS (CHILD PROTECTION) CANON 2017

Incorporating in full the provisions of the Episcopal Standards Canon 2007 as incorporated and modified for the purpose of examinable conduct as defined in the Episcopal Standards (Child Protection) Canon 2017

Canon 5, 2017

The General Synod prescribes as follows:

PART 1

Title

1. This Canon is the Episcopal Standards (Child Protection) Canon 2017.

Definitions

2. (1) In this Canon, unless the context otherwise requires:

Administrator means the person who would, in the absence or incapacity of a Bishop, be the administrator of a diocese;

assistant to the Primate means any bishop assistant to the Primate in the Primate's capacity as Primate;

Bishop means a bishop who is or was a member of the House of Bishops or an assistant to the Primate;

bishop means a person in bishop's orders;

Board means the Episcopal Standards Board established under Part 6;

child has the same meaning as in the National Register Canon 2007;

child abuse has the same meaning as in the National Register Canon 2007;

Church means the Anglican Church of Australia;

- (a) **Church body** includes the Primate, the General Synod, a diocese, diocesan synod, diocesan council, diocesan trustee or trust corporation or other body responsible for administering the affairs of a diocese, or an institution or agency of this Church or of a diocese;

Code of Conduct means a code of conduct approved from time to time under Part 2;

complying ordinance means an ordinance of a diocese relating to episcopal standards or professional standards in which examinable conduct or misconduct which may give rise to a question of fitness to be determined by the board constituted under that ordinance is defined as including examinable conduct as defined in this canon and which applies to a Bishop;

Director means the Director of the ESC appointed under the Special Tribunal Canon 2007;

Episcopal Standards Commission or **ESC** means the Episcopal Standards Commission appointed under the Special Tribunal Canon 2007;

examinable conduct means:

(a) in relation to a Bishop who is a member of the House of Bishops or assistant to the Primate, any conduct or omission, other than exempt conduct, involving:

- (i) child abuse; or
- (ii) conduct that impedes or undermines a professional standards process;
or
the failure without reasonable excuse to perform a function under a professional standards process; or
- (iii) the failure without reasonable excuse to comply with the laws of the Commonwealth, a State or Territory requiring the reporting of child abuse to the police or other authority;

wherever or whenever occurring, and the subject of information which, if established, might call into question the fitness of the Bishop to hold office or to remain in Holy Orders, but excludes any breach of faith, ritual or ceremonial;

(b) in relation to a Bishop who was a member of the House of Bishops or an assistant to the Primate, any conduct or omission involving:

- (i) child abuse; or
- (ii) conduct that impedes or undermines a professional standards process;
or
- (iii) the failure without reasonable excuse to perform a function under a professional standards process; or
- (iv) the failure without reasonable excuse to comply with the laws of the Commonwealth, a State or Territory requiring the reporting of child abuse to the police or other authority;

occurring while a member of the House of Bishops or assistant to the Primate whether before or after the commencement of this canon, and the subject of information which, if established, might call into question the fitness of the Bishop to hold office or to remain in Holy Orders, but excludes any breach of faith, ritual or ceremonial;

exempt conduct means any conduct or omission which would be examinable conduct, had not the Bishop disclosed the material facts of such conduct to the ordaining bishop prior to the Bishop's ordination as a deacon;

former Bishop means a Bishop whose conduct falls within paragraph (b) of the definition of examinable conduct;

information means information of whatever nature and from whatever source relating to the alleged misconduct or omission of a Bishop wherever or whenever occurring;

national register means a national register established pursuant to a Canon of General Synod for a purpose which includes the recording of determinations of the Board;

professional standards process means a process for determining the fitness for office of clergy or lay persons under any canon of the General Synod or diocesan ordinance or a process under Chapter IX of the Constitution, where the conduct that is the subject of the process relates to child abuse;

protocol means the protocol approved from time to time by the Standing Committee under Part 3;

relevant diocesan bishop in relation to a former Bishop means the bishop of the diocese in which the former Bishop is licensed or resides.

relevant Metropolitan, means:

(a) in relation to the bishop of a diocese:

- (i) unless paragraph (iii) or (iv) applies, the Metropolitan of the Province in which the diocese is situated; or
- (ii) if the diocese is an extra-provincial diocese, the Primate; or
- (iii) if the bishop is the Metropolitan but not the Primate, the Primate; or
- (iv) if the bishop is the Primate, the person who, at the relevant time, is the next most senior Metropolitan who is available, seniority being determined by the date of consecration; and

(b) in relation to any other member of the House of Bishops or an assistant to the Primate, the Primate;

(c) in relation to a former Bishop;

- (i) the Metropolitan of the Province in which the Bishop is licensed or resides; or
- (ii) if the Bishop is licensed or resides in an extra provincial diocese, the Primate.

respondent means a Bishop whose alleged conduct or omission is the subject of information;

(a) **Standing Committee** means the Standing Committee of General Synod;

Tribunal means the Special Tribunal.

- (2) Where there is examinable conduct in relation to a former Bishop, the examinable conduct extends to any other conduct or omission of the former Bishop that falls within subparagraphs (i) to (iv) of paragraph (b) of the definition of examinable conduct (other than exempt conduct), but occurring before or after any period in which the Bishop was a member of the House of Bishops or an assistant to the Primate, and is the subject of information that, if established, together with the relevant conduct or omission occurring while a member of the House of Bishops or assistant to the Primate, might call into question the fitness of the Bishop to hold

office or to remain in Holy Orders (but excluding any breach of faith, ritual or ceremonial).

PART 2 - CODE OF CONDUCT

3. The General Synod or the Standing Committee shall from time to time by resolution approve a Code of Conduct for observance by Bishops, which does not make provision for any matter concerning faith, ritual or ceremonial, provided that any changes to the Code of Conduct made by the Standing Committee shall be referred to the next session of General Synod for ratification.
4. The Standing Committee through the ESC and by such other means as may be considered appropriate shall take such steps as may be necessary or desirable to promote the knowledge, understanding and observance in this Church of the Code of Conduct. A code of conduct must not make provision for any matter concerning faith, ritual or ceremonial.

PART 3 - THE PROTOCOL

5. (1) The Standing Committee shall from time to time consider and approve a protocol for implementation in relation to information.
- (2) The protocol must include:
 - (a) procedures for receiving information;
 - (b) provision for informing complainants and victims of alleged conduct the subject of information, and respondents, of rights, remedies and relevant procedures available to them;
 - (c) provision for assisting or supporting, as appropriate, all persons affected by alleged conduct the subject of information;
 - (d) an explanation of the processes for investigating and dealing with information;
 - (e) provisions for dealing fairly with respondents;
 - (f) processes for referral to mediation and conciliation in appropriate circumstances;
 - (g) provisions for information, reports, advice and recommendations to the Primate, the relevant Metropolitan and to the relevant Administrator at each stage of the process of dealing with information;
 - (h) procedures for working, where appropriate, with law enforcement, prosecution or child protection authorities of the States and Territories and of the Commonwealth of Australia.
6. The Standing Committee through the ESC and by such other means as it may consider appropriate shall take such steps as may be necessary or desirable to promote throughout the Church a knowledge and understanding of the protocol.

PART 4 - THE EPISCOPAL STANDARDS COMMISSION

7. (1) In addition to the powers conferred on it by the Special Tribunal Canon 2007 and subject to the provisions of this Canon the ESC has the following powers and duties:
 - (a) to implement the protocol to the extent that the protocol is not inconsistent with this Canon;
 - (b) to receive information;
 - (c) to act on information in accordance with the provisions of this Canon, and the protocol to the extent that it is not inconsistent with this Canon;
 - (d) to appoint suitable persons to fulfil the several roles required to implement the protocol in each particular case;
 - (e) where appropriate, to arrange for the conciliation or mediation of any complaint the subject of information;
 - (f) to investigate information in a timely and appropriate manner;
 - (g) where appropriate, to recommend to the Standing Committee any changes to the protocol;
 - (h) subject to any limit imposed by the Standing Committee to authorise such expenditure on behalf of the General Synod as may be necessary or appropriate to implement, in a particular case, the protocol and the provisions of this Canon;
 - (i) to advise any relevant Church body as to the financial, pastoral or other needs of a person affected by conduct the subject of information and as to any possible or actual legal proceedings against such Church body arising out of the alleged conduct of a bishop;
 - (j) to refer any information in its possession to a member of a law enforcement, prosecution or child protection authority of a State or Territory or of the Commonwealth of Australia to which the information is or may be relevant;
 - (k) to maintain proper records of all information received and of action taken in relation to such information;
 - (l) to have carriage under this Canon of the referral of a question to the Board from an equivalent body to the ESC under a complying ordinance.
- (2) The Director may receive information on behalf of the ESC and shall carry out such functions under this Canon as the ESC may determine.
8. (1) In the exercise of its powers and duties under this Canon the provisions of sections 8, 9 and 10 of the Special Tribunal Canon 2007 shall apply to the ESC as if reference therein to the Tribunal were a reference to the Board and reference to a complaint were a reference to information.
- (2) Subject to subsection (3), the ESC may delegate, upon such terms and conditions as the ESC may approve, any of its powers or functions under this Canon to any person.
- (3) The ESC cannot delegate:
 - (a) its powers under subsection (2);

- (b) its powers under section 13; or
 - (c) its powers under section 16.
- (4) A delegation under this section must be made by instrument in writing signed by a member of the ESC.

PART 5 - EXAMINABLE CONDUCT

9. Subject to this Canon, where the ESC considers that the subject matter of information constitutes examinable conduct it shall investigate the information.
10. The ESC may decide not to investigate the information or may refrain from further investigation of the information if:
- (a) in its opinion, the allegations the subject of the information are vexatious or misconceived, or their subject matter is trivial;
 - (b) the subject matter is under investigation by some other competent person or body or is the subject of legal proceedings;
 - (c) the person making allegations of examinable conduct or a person affected by the conduct the subject of the information has failed, when requested by the ESC, to provide further particulars or to verify the allegations by statutory declaration; or
 - (d) in its opinion there is insufficient reliable evidence to warrant an investigation or further investigation.
11. For the purpose of an investigation the ESC or an investigator shall obtain such statutory declarations, written statements, recorded conversations, reports, documents and other material as the ESC or its delegate considers necessary or desirable.
12. (1) The ESC may by notice in writing to a respondent require the respondent to provide a detailed report to the ESC within the time specified in the notice in relation to any matter relevant to the investigation.
- (2) It is the obligation of a respondent:
- (a) not to mislead the ESC or a member or delegate of the ESC;
 - (b) not unreasonably to delay or obstruct the ESC or a member or delegate of the ESC in the exercise of powers conferred by this Canon.
- (3) If a respondent declines to answer a question on the ground that the answer might tend to incriminate the person a written record shall be made of the question and of the ground of refusal.
13. (1) ~~At any time after the ESC has commenced or caused to be commenced an investigation of information under this Part in circumstances where it considers~~ Subject to section 14A, where at any time after the ESC has commenced or caused to be commenced an investigation of information under this Part it considers that action may be taken under paragraph (b) or (c) of section 16, it may recommend to the Diocesan Council or, in the case of a Bishop who is not a diocesan bishop, to the Primate, that the Bishop be suspended from the duties of office.¹

¹ Amended by Clause 3(a) of Canon 9, 2022

- (2) If the Diocesan Council, meeting when the Bishop is not present, or the Primate, as the case may be, concurs in the recommendation, the President of the Board, after considering any submission from the Bishop, may suspend the Bishop from the duties of office.
 - (3) The meeting of the Diocesan Council referred to in sub-section (2) shall be chaired by a Diocesan Bishop appointed by the Primate with the concurrence of a majority of the Metropolitans. The Diocesan Bishop so appointed shall not have a vote at the meeting.
 - (4) Where an investigation has been commenced against the Primate under this part, the powers and functions of the Primate under sub-section (3) shall be exercised by the person who would exercise the authorities, powers, rights and duties of the Primate if there were a vacancy in the office.
 - (5) For the purposes of this section a reference to the Metropolitans excludes a Metropolitan who at the time is the subject of an investigation under this part.
14. Before suspending a Bishop from the duties of office the President of the Board shall take into account:
- (a) the seriousness of the conduct alleged in the information;
 - (b) the nature of the material to support or negate the allegations;
 - (c) whether any person is at risk of harm;
 - (d) after consultation with the relevant Diocesan Council or its representative, the effect on the respondent, a relevant Church body and on the Church in the diocese of acting and of not acting under section 13; and
 - (e) any other allegation of similar examinable conduct previously made to the ESC or to an equivalent body within the previous ten years;

and may take into account any other relevant matter.

14A This section applies if, at any time after it has commenced or caused to be commenced under this or any other Canon an investigation of a complaint, the ESC forms the opinion that—

- (a) the complaint involves a sexual offence relating to a child by a person who is a Bishop; and
- (b) the complaint is plausible.

14B. (1) If section 14A applies, the ESC must recommend to the President of the Board that the person be suspended from the duties of office.

(2) Where the ESC makes a recommendation under sub-section (1), the President of the Tribunal must suspend the person from the duties of office.

(3) A person suspended under sub-section (2) from the duties of a paid office, or a

person to whom section 14A applies who voluntarily stands aside from performing the duties of office, is deemed to be on paid leave and to be absent from the State or Territory in which the duties of office would otherwise be performed.

14C. (1) A person suspended from the duties of office under section 14B(2) remains suspended until –

(a) the ESC decides to refrain from further investigation under one or both of –

(i) paragraphs (a), (b) or (c) of section 19 of the Special Tribunal Canon 2007;

or

(ii) paragraphs (a), (b) or (c) of section 10 of this Canon –

and there are no other investigations in relation to that person to which section 14A applies; or

(b) the conclusion of an investigation or legal proceedings referred to in section 19(b) of the Special Tribunal Canon 2007 or section 10(b) of this Canon when there are no other investigations to which 14A applies; or

(c) the person has been deposed from Holy Orders, prohibited from functioning in an order of ministry, or relinquished the exercise of some or all Holy Orders under the Constitution or a canon of the General Synod; or

(d) the ESC brings a charge of a sexual offence relating to a child against the person –

whichever occurs first.”²

15. (1) A suspension under ~~section 13~~ sections 13 or 14A or a voluntary standing down from office by the Bishop as a result of an investigation by the ESC:³

(a) has effect as an absence of the Bishop from the see or from office as the case may require; and

(b) continues until it ceases to have effect by reason of:

(i) the ESC terminating the investigation without taking action under section 16;

(ii) a determination to that effect by the Board or the Tribunal as the case may be; or

(iii) the see or the office becoming vacant (whether or not under this Canon);

whichever first occurs.

(2) During any such suspension or voluntary standing down the Bishop is entitled to receive whatever stipend, allowances and other benefits that would otherwise have

² Sections 14A, 14B and 14C inserted by section 3(B) of Canon 9, 2022

³ Amended by Clause 3(c) of Canon 9, 2022

accrued and which are to be met or reimbursed by the body normally responsible for their payment.

16. At any time after the commencement of an investigation under this Part the ESC may:
 - (a) if it considers on reasonable grounds that the Bishop may be incapable, report the matter in writing to the relevant Metropolitan, and such report shall be a report for the purposes of section 4 of the Bishop (Incapacity) Canon 1995 as if it were made by three members of the synod of a diocese pursuant to that section;

- (b) refer to the Board the fitness of the Bishop, whether temporarily or permanently, to hold office or to remain in Holy Orders;
 - (c) whether or not the information the subject of the investigation is also the subject of a complaint under the Special Tribunal Canon 2007, institute, amend or withdraw proceedings by way of charge against the Bishop before the Tribunal.
17. (1) The fact that the subject matter of a complaint or dispute concerning examinable conduct may be settled or resolved in whole or in part between the parties affected thereby does not prevent the ESC from taking any of the steps referred to in section 16 in respect of the subject matter of the complaint or dispute.
- (2) Any term of settlement or resolution referred to in sub-section (1) which purports to prevent or to limit the institution of such proceedings shall be of no effect.
- (3) A matter shall not be referred to the Board, a reference to the Board shall not continue and proceedings shall not be instituted or maintained in the Special Tribunal where the bishop concerned has relinquished or has been deposed from Holy Orders in accordance with the Holy Orders Relinquishment and Deposition Canon 2004.

PART 6 - EPISCOPAL STANDARDS BOARD

- 18.¹ There shall be an Episcopal Standards Board constituted and appointed in accordance with the provisions of this Part.
19. (1) Subject to the provisions of this Canon the function of the Board is to inquire into and determine a question referred to it pursuant to section 16 or pursuant to a corresponding provision of a complying ordinance, to make a determination referred to in section 49 and where appropriate to make a recommendation in accordance with the provisions of this Canon.
- (2) Subject to section 17(3) the Board may make a determination and recommendation referred to in sub-section (1) notwithstanding that the bishop whose conduct is the subject of the reference has ceased, after the reference, to be a Bishop.
- (3) Where there is a referral of a question to the Board from an equivalent body to the ESC under a complying ordinance, if the equivalent body would have, but for this Canon, referred at the same time other complaints against the Bishop to the board constituted under the complying ordinance in respect of conduct that does not fall within examinable conduct as defined in this Canon which might call into question the fitness of the Bishop to hold office or to remain in Holy Orders, the equivalent body may refer to the Board, and the Board may determine, the question arising from the conduct other than the examinable conduct in conjunction with the question arising from the examinable conduct.

¹ The Episcopal Standards Board established by Part 6 of the Episcopal Standards Canon 2007 is the Episcopal Standards Board for the purpose of this Canon.

20. (1) The members of the Board in a particular case shall be appointed from a panel comprising:
 - (a) a President and a Deputy President, both of whom shall be persons who are eligible for appointment as lay members of the Appellate Tribunal;
 - (b) five persons in bishop's orders; and
 - (c) five persons who are members of the Church not in bishop's orders.
- (2) A person who is a member of the panel from whom the members of the Tribunal may be appointed is eligible for appointment to the panel.
21. The members of the panel shall be appointed by the Standing Committee and shall hold office in accordance with a resolution of the Standing Committee.
22. Any vacancy in the membership of the panel shall be filled by or in accordance with a resolution of the Standing Committee.
23. (1) The members of the panel to be convened for any reference to the Board shall be determined by the President or, if there is a vacancy in the office of President, by the Deputy President.
- (2) For the purpose of any reference to the Board, the Board shall consist of the President or Deputy President, who shall be the presiding member, and an equal number not exceeding two of the episcopal and other members of the panel.
- (3) Where possible, the Board shall include at least one man and at least one woman.
- (4) Where, in the opinion of the President or, if there is a vacancy in the office of the President, in the opinion of the Deputy President a member of the panel has a personal interest in a matter before the Board the member shall be disqualified from participating in the reference.
- (5) For the purposes of this section a vacancy in the office of President includes a situation in which the President is not able to act because of a personal interest in a matter, illness or absence from Australia.
24. (1) The Rules of the Board made under this Part may provide that, in relation to the exercise of specified functions, or in relation to matters of a specified class, the Board may, at the direction of the presiding member, be constituted by a single member sitting alone.

- (2) The Board, if constituted by a single member sitting alone, cannot make a determination under section 49.
25. If a member of the Board, other than the presiding member, dies or is for any other reason unable to continue with any matter referred to the Board, the Board constituted of the presiding member and the other member or members may, if the presiding member so determines, continue and complete the reference.
26. The Board, separately constituted in accordance with this Part, may sit simultaneously for the purpose of matters referred to it or for conducting separate business of the Board.
27. An act or proceeding of the Board is not invalid by reason only of a vacancy in its membership or of the membership of the panel and, notwithstanding the subsequent discovery of a defect in the nomination or appointment of members of the panel or the Board, any such act or proceeding is as valid and effectual as if the member had been duly nominated or appointed.
28. There shall be a Secretary to the Board who shall be appointed by or in accordance with a resolution of the Standing Committee, and whose duties shall be defined by the President.
29. (1) In any proceedings of the Board where the Board is constituted by two or more members:
- (a) any question of law or procedure will be determined by the presiding member; and
- (b) any other question will be determined by majority decision of the members, and in the case of an equality of votes the opinion of the presiding member shall prevail.
- (2) Where the Board is constituted by a member sitting alone who is not the President or the Deputy President, any question of law that arises must be referred to the President or Deputy President for decision and any decision made on such a reference is a decision of the Board.
- (3) The Board must act with fairness and according to equity, good conscience and the substantial merits of the case without regard to technicalities or legal forms and is not bound by the rules of evidence but may inform itself on any matter in such manner as it thinks fit.
- (4) Without limiting the meaning and effect of sub-section (3), the Board may receive evidence of a witness in the form of an affidavit, statutory declaration or a signed statement without the need for the personal attendance of the witness, and may also use electronic means such as video link or conference telephone to receive evidence and submissions, but must permit the respondent and his representative (if any) opportunity to adequately cross-examine each witness

- (5) The Board may inform itself from the record of any court or tribunal and may adopt any findings, and accept as its own, the record of any court or tribunal.
30. The Board may, for the purpose of any particular reference and at the cost of the General Synod, appoint such person or persons, including the Director, to assist it in inquiring into (but not determining) that reference as the Board thinks fit.
31. The Board must give reasons for any determination, other than by way of directions in the course of an inquiry, unless the determination is made by consent of the respondent.
32. (1) The Board has no power to award costs of any proceedings before it.
- (2) A bishop in relation to whom a question is the subject of a reference to the Board may apply to the Standing Committee for the provision of legal assistance.
- (3) The Standing Committee may grant legal assistance to a bishop on such terms and subject to such conditions as it shall determine.
33. (1) The President may make Rules of the Board reasonably required by or pursuant to this Canon and in relation to the practice and procedure of the Board.
- (2) Subject to this Canon and the relevant Rules, the practice and procedure of the Board will be as directed by the presiding member of the Board.

PART 7 - REFERENCE OF MATTERS TO THE EPISCOPAL STANDARDS BOARD

34. A question shall be referred to the Board by delivering to the Secretary of the Board a written report of the investigation of the ESC signed by a member of the ESC.
35. The Board shall not, in the course of inquiring into any question:
- (a) inquire into any matter which is or has been the subject of any formal investigation or enquiry conducted;
- (i) under or pursuant to any provision of the Constitution; or
- (ii) under or pursuant to a Canon of the General Synod or an Ordinance of a diocese relating to the discipline of clergy or Church workers by a board of enquiry, tribunal or other body;
- but may take into account the finding of any such formal investigation or enquiry;
- (b) inquire into, make any findings in relation to or take into account any alleged breach of:
- (i) faith of the Church, including the obligation to hold the faith;

- (ii) ritual of the Church, including the rites according to the use of the Church and the obligation to abide by such use; or
- (iii) ceremonial of the Church, including ceremonial according to the use of the Church and the obligation to abide by such use.
36. (1) Upon delivery of the report to the Secretary of the Board, the President or Deputy President as the case may be shall as soon as possible determine the membership of the Board for the purpose of the reference.
- (2) The President or Deputy President as the case may require shall thereupon cause to be convened a sitting for the purpose of giving directions.
- (3) A person or body appearing or represented before the Board shall comply with the Rules of the Board and with any directions given by the Board.
37. Within 14 days of the date of the reference of a matter to the Board or within 14 days of the date of the document or material coming to existence, whichever is the later, the ESC shall cause to be delivered to the Secretary of the Board any documents and material relevant to the reference.
38. The ESC, as soon as practicable after delivering the report referred to in section 34 to the Secretary of the Board, shall cause a signed copy of the report to be delivered to the respondent.
39. The Board may at any time and from time to time give directions:
- (a) as to the inspection by and supply of copies to the respondent or any other person of the documents or material relevant to the reference;
- (b) as to the conduct of its inquiry into the reference.
40. The Board may at any time and from time to time give directions to the ESC as to any further inquiries or investigation it requires to be carried out for the purposes of the reference and the ESC shall to the best of its ability cause such directions to be carried out.
41. (1) The Board shall deal with any reference as expeditiously as possible.
- (2) The Board may, if it sees fit, proceed with the determination of a reference notwithstanding that there may be mediation or conciliation proceedings relating to the subject matter of the reference being conducted by or at the direction of the ESC and notwithstanding that there may be criminal or other proceedings being taken against the respondent or some other person.
42. (1) The place and time of sitting of the Board comprising two or more members shall be as determined by the presiding member.
- (2) The place and time of sitting of the Board comprising one member shall be as determined by that member.

43. (1) Subject to sub-section (2), the Board must give the following persons reasonable notice of the time and place of a sitting of the Board:
- (a) the Director; and
 - (b) the respondent; and
 - (c) such other persons as the Board believes have a proper interest in the matter.
- (2) The Board is not obliged to give notice of a sitting to a person whose whereabouts cannot, after reasonable enquiries, be ascertained.
44. In any proceedings before the Board:
- (a) the ESC and any person may be represented by a legal practitioner or, with leave of the Board, by any other person;
 - (b) the ESC or its appointed representative shall do all in its power to assist the Board and shall carry out any directions of the Board;
 - (c) the Board:
 - (i) must give the ESC and the respondent a reasonable opportunity to call or give evidence, to examine or cross-examine witnesses and to make submissions to the Board; and
 - (ii) must give any other person to whom notice of the proceedings was given or who satisfies the Board that he or she has a proper interest in the matter a reasonable opportunity to make submissions to the Board.
45. (1) Subject to sub-section (2), a sitting of the Board on a reference before the Board is an open sitting.
- (2) On any such sitting before the Board, the Board has an absolute discretion:
- (a) to direct that no person other than:
 - (i) the respondent and any person representing him or her in the proceedings; and
 - (ii) witnesses or persons making submissions (while giving evidence or making those submissions); and
 - (iii) officers of the Board or persons assisting the Board; and
 - (iv) members of or persons appointed by the ESC; be present in the room while the Board is sitting; or

(b) to direct that a particular person (other than a person referred to in paragraph (a)) not be present in the room while the Board is sitting.

46. The Board may make a determination in any proceedings in the absence of a person affected by the determination if satisfied that reasonable efforts were made to give that person an opportunity to appear.

47. (1) The Board may require a respondent to submit within a specified time to a medical, psychiatric or psychological examination by a person approved by the Board the cost of which shall be met from funds under the control of the General Synod.

(2) A copy of the report of an examination under subsection (1) shall be provided to the respondent and to the Board.

48. In making any determination the Board shall take into account:

(a) the conduct of the bishop as it finds it to have been;

(b) in the material before the Board, any other fact or circumstance relevant to the determination of the question before it; and

(c) any failure of the bishop to comply with a provision of this Canon or with a direction of the Board.

49. If, after investigating the question referred to it about a bishop, the Board is satisfied that:

(a) the bishop should be counselled;

(b) the bishop's continuation in office should be subject to conditions or restrictions;

(c) the bishop is unfit, whether temporarily or permanently, to hold office; or

(d) the bishop is unfit to remain in Holy Orders;

the Board may determine accordingly and may:

(e) direct that the bishop be counselled;

(f) direct that the bishop's holding of office shall be subject to such conditions or restrictions as the Board may specify;

(g) direct that the bishop cease to carry out the duties and functions of his office from such time and for such period determined by the Board;

(h) direct that the bishop resign from the office, within such time as is specified by the Board;

- (i) direct that the operation of a determination referred to in paragraphs (f) to (h) shall be suspended for such period and upon such conditions as the Board shall specify;
 - (j) direct that the bishop relinquish Holy Orders within such time as is specified by the Board;
 - (k) give such other direction as the Board sees fit;
 - (l) determine that the Bishop be prohibited, either temporarily or permanently, from functioning as a bishop or as a bishop and priest; or
 - (m) determine the Bishop be deposed from the exercise of Holy Orders.
50. The Board shall cause a copy of each determination and direction to be provided:
- (a) to the Primate;
 - (b) to the relevant Metropolitan;
 - (c) to the respondent;
 - (d) to the relevant administrator;
 - (e) to the ESC;
 - (f) where appropriate, to any relevant complainant;
 - (g) in the case of a former Bishop, to the relevant diocesan bishop; and
- shall cause relevant details to be forwarded for entry into the national register.
- 50A. The relevant Metropolitan and, where applicable, the relevant diocesan bishop, is authorised and must give effect to the determination of the board.
51. (1) The bishop shall comply with a direction of the Board.
- (2) [deleted]
- (3) The ESC may institute proceedings forthwith in the Tribunal in respect of an offence against this section or, if the bishop is no longer a Bishop, shall refer the matter, together with such relevant information concerning the alleged offence as may be in its possession, to the bishop of the diocese in which the bishop is then resident.

PART 8 - APPEAL

52. In this Part, unless the context otherwise requires

reviewable decision means a recommendation or determination of the Board other than by way of an interlocutory order;

Review Board means the Episcopal Standards Review Board constituted for the purposes of this Part.

53. [deleted]

54. A Bishop or the ESC, if aggrieved by a reviewable decision, may appeal by notice to the General Secretary.

55. (1) The Review Board will be constituted from the members of the panel referred to in section 20 and the members of the panel to be convened for an appeal to the Review Board will be determined by whichever of the President or the Deputy President was not a member of the Board which made the determination that is the subject of the appeal, as soon as possible after the appeal is notified to the President or Deputy President.

(2) For the purpose of an appeal, the Review Board shall consist of the President or Deputy President, who shall be the presiding member, and an equal number not exceeding two from the episcopal members and two from the other members of the panel who were not members of the Board which made the determination that is the subject of the appeal.

(3) Subsections (3) to (5) of section 23, subsection (1) of section 24, sections 25 to 27, 29 and 31 to 33, subsections (2) and (3) of section 36, and sections 41(1), 42, 45 and 46 apply to an appeal to the Review Board, as if the reference to the Board is a reference to the Review Board.

56. For a reviewable decision, the provisions of section 51 shall not apply until the time for lodging an appeal has passed, and no application has been lodged.

57. The making of an appeal acts as a stay of the reviewable decision pending determination by the Review Board.

58. For a reviewable decision, the Board shall not cause the relevant details to be forwarded for entry into the national register under section 50 until:

(a) the time for lodging an appeal has passed, and no notice of appeal has been lodged;
or

(b) where an appeal has been heard and determined, the determination has been made.

59. If the Review Board on appeal confirms, varies or makes another determination in substitution for a reviewable decision, the Review Board must cause the details of the confirmed, varied or substituted determination to be forwarded to the General Section and the persons referred to in section 50 and the General Secretary shall cause relevant details to be forwarded for entry into the national register.
60. If a Review Board's determination refers a matter back to the Board, then the Board must:
- (a) determine to take no further action in respect of the matter; or
 - (b) deal with the matter in accordance with Part VII of this Canon, in accordance with such directions or recommendations as the Review Board may make in the Review Board's determination; or
 - (c) deal with the matter in accordance with Part VII of this Canon applying such of the provisions of Part VII as, in the discretion of the Board and in accordance with the Review Board's determination, the Board sees fit.
61. An appeal against the reviewable decision must be made within 28 days of a copy of the Board's determination under section 50 being provided to the Bishop and the ESC. The notice of appeal must:
- (a) be in writing addressed to the General Secretary; and
 - (b) set out the grounds for appeal in the application.
62. On receipt of an application for review², the General Secretary must immediately seek the appointment of a Review Board.
63. [deleted]
64. Unless otherwise specified in this Canon, the manner in which the appeal is to be conducted will be determined by the Review Board.
65. On an appeal of a reviewable decision, the Review Board may make all or any of the following determinations:
- (a) a determination quashing or setting aside the reviewable decision and making another determination in substitution for it;
 - (b) a determination referring the matter to which the reviewable decision relates to the Board for further consideration, subject to such directions (including the setting of time limits for the further consideration, and for the steps to be taken in the further consideration) as the Review Board determines;
 - (c) [deleted]

² Consistent with other changes made to this Part, the reference to 'an application for review' should be read as 'a notice of appeal'.

(d) [deleted]

(e) a determination confirming or varying the reviewable decision.

66. [deleted]

67. The appeal shall be by way of rehearing.

PART 9 - REGULATIONS

68. The Standing Committee may from time to time make, amend or repeal Regulations, not inconsistent with the provisions of this Canon, providing for records arising out of or incidental to the operation of this Canon, and for all or any of the purposes whether general or to meet particular cases, which may be convenient for the administration of this Canon or which may be necessary or expedient to carry out the objects and purposes of this Canon.

Coming into force by adoption

69.³ The provisions of this Canon affect the order and good government of this Church within a diocese and do not come into force in a diocese unless and until the diocese adopts this canon by ordinance of the synod of the diocese.

Saving provision

7. (1) Subject to subsection (2), this canon shall not apply so as to call into question in any respect whatsoever the qualification, mode of appointment, tenure of office, decisions or actions of any person appointed a chancellor in a diocese prior to the date of adoption of this Canon by such diocese.
- (2) A Chancellor or Deputy Chancellor appointed before this Canon comes into force in a diocese shall cease to hold office in accordance with the provisions of section 4 of this Canon.

Repeal of Canons

8. If in any diocese Canons 127 and 128 of the Canons of 1603 continue to have or may have any force or operation, the adoption of this Canon by ordinance of the synod of the diocese shall effect the repeal of those Canons in that diocese.

Inconsistency

9. If this Canon is inconsistent with the constitution of a diocese in which this Canon comes into force then such constitution shall prevail to the extent of the inconsistency.

Canon affects order and good government

10. The provisions of this Canon affect the order and good government of this Church within a diocese and shall not come into force in a diocese unless and until the diocese adopts this Canon by ordinance of the synod of the diocese.

A BILL FOR THE SAFE MINISTRY LEGISLATION AMENDMENTS CANON 2022

EXPLANATORY MEMORANDUM

General Background

The Royal Commission into Institutional Responses to Child Sexual Abuse

1. In January 2013, the Royal Commission into Institutional Responses to Child Sexual Abuse was established and its terms of reference included “what institutions ... should do to better protect children against child sexual abuse and related matters in institutional contexts in the future”.
2. In March 2017, the failure to achieve a nationally consistent approach to child protection in this Church was highlighted by the Royal Commission at its public hearing in Case Study 52 inquiring into the current policies and procedures of Anglican Church authorities in Australia in relation to child-protection and child-safety standards, including responding to allegations of child sexual abuse. Leaders of this Church appearing before the Royal Commission in Case Study 52 committed to core national minimum standards for safe ministry to children.
3. In September 2017, the General Synod passed the Safe Ministry to Children Canon 2017, the Episcopal Standards (Child Protection) Canon 2017, and the Disclosure of Information Canon 2017, and amendments to the Offences Canon 1962, the Canon concerning confessions 1989, the Special Tribunal Canon 2007, and the National Register Canon 2007. These measures enhanced the protection of children through national standards in areas of church worker screening, selection and training, the adoption of a consistent code of conduct and risk management strategies for persons of concern as well as the discipline and assessment of suitability for ministry of clergy.
4. In December 2017, the Final Report of the Royal Commission into Institutional Responses to Child Sexual Abuse made the following recommendations to this Church or all religious institutions on the following topics which are relevant to certain amendments in this canon:

(a) Managing actual or perceived conflicts of interest;

16.2 – *The Anglican Church of Australia should adopt a policy relating to the management of actual or perceived conflicts of interest that may arise in relation to allegations of child sexual abuse, which expressly covers:*

- a. members of professional standards bodies*
- b. members of diocesan councils (otherwise known as bishop-in council or standing committee of synod)*
- c. members of the Standing Committee of the General Synod*
- d. chancellors and legal advisers for dioceses*

16.39 – *Consistent with Child Safe Standard 1, each religious institution should have a policy relating to the management of actual or perceived conflicts of interest that may arise in relation to allegations of child sexual abuse. The policy should cover all individuals who have a role in responding to complaints of child sexual abuse.*

(b) Accountability of religious leaders

16.38 – *Consistent with Child Safe Standard 1, each religious institution should ensure that religious leaders are accountable to an appropriate authority or body, such as a board of management or council, for the decisions they make with respect to child safety.*

(c) Complaint handling policies

16.51 – *All religious institutions' complaint handling policies should require that, upon receiving a complaint of child sexual abuse, an initial risk assessment is conducted to identify and minimise any risks to children.*

16.52 – *All religious institutions' complaint handling policies should require that, if a complaint of child sexual abuse against a person in religious ministry is plausible, and there is a risk that person may come into contact with children in the course of their ministry, the person be stood down from ministry while the complaint is investigated.*

(d) Discipline

16.55 – *Any person in religious ministry who is the subject of a complaint of child sexual abuse which is substantiated on the balance of probabilities, having regard to the principles in *Briginshaw v Briginshaw*, or who is convicted of an offence relating to child sexual abuse, should be permanently removed from ministry. Religious institutions should also take all necessary steps to effectively prohibit the person from in any way holding himself or herself out as being a person with religious authority.*

16.56 – *Any person in religious ministry who is convicted of an offence relating to child sexual abuse should, in the case of Anglican clergy, be deposed from holy orders.*

5. Since 2018, this Church has been publicly accountable on its progress towards implementing the recommendations from the Royal Commission into Institutional Child Sexual Abuse through an annual report to the National Office of Child Safety. By passing this canon this Church will commence the process of implementing these recommendations which will require diocesan adoption to be completed.

Issues arising from social media, cyber abuse and other technology related abuse

6. Recent developments in the area of online safety, including the establishment of the Office of the Safety Commissioner, has highlighted the need to consider issues that may arise in the context of safe ministry.
7. This canon seeks to update existing legislation to address issues arising from social media, cyber abuse and other technology related abuse.

Technical amendments

8. This canon also seeks to improve existing legislation by making various technical amendments.

Object of the canon

9. The object of this canon is to amend the following Canons in order to implement the above recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse, update existing legislation to reflect developments in technology, and make technical amendments:
 - (a) Chancellors Canon 2001;
 - (b) Episcopal Standards (Child Protection) Canon 2017;
 - (c) National Register Canon 2007;
 - (d) Offences Canon 1962;
 - (e) Safe Ministry to Children Canon 2017;
 - (f) Special Tribunal Canon 2007;
 - (g) Episcopal Standards Canon 2007;

Main provisions of the canon

10. Part 1 provides the introductory detail including the title, purpose, adoption mechanisms and a requirement that additional definitions to canons must be in alphabetical order. The adoption mechanism allows dioceses to adopt the Canon in Parts, Divisions or in its entirety.
11. Part 2 contains interpretation provisions and other drafting changes. This includes insertion of or amendments to various definitions as well as the replacement of references to working with children checks or working with vulnerable people checks with the term **statutory clearance**.
12. Part 3 contains provisions relating to the nature and audit of records and processes. In the National Register Canon 2007 the definition of child abuse is expanded to include image-based abuse, and the possession, production, or distribution of child exploitation material which has been found to constitute or may constitute a criminal offence. Further, a person's postal or electronic address may be used where that address is known and reasonably believed to be used by them. In the Safe Ministry to Children Canon 2017 there is an exemption to a diocese from the audit requirements where a

two-thirds majority of the Standing Committee is satisfied that an equivalent audit has taken place.

13. Part 4 contains provisions relating to conduct to support processes and protect children. In the Episcopal Standards (Child Protection) Canon 2017 the definition of examinable conduct by Bishops is expanded to include failure without reasonable excuse to exercise a power to initiate, or to investigate whether to initiate, a professional standards process; the failure without reasonable excuse to give effect to a recommendation to the Bishop under a professional standards process; ordaining or authorising to function a member of clergy or permitting to function a church worker without or contrary to the recommendation of a screening authority, or with actual knowledge or reasonable grounds for suspecting that the screening authority may not have properly discharged its functions; ordaining or authorising to function a member of clergy or permitting to function a church worker who poses a serious risk to the safety of children with actual knowledge or reasonable grounds for suspecting that the person poses that risk. In the Offences Canon 1962 there are new offences corresponding to the additional conduct included within examinable conduct. These offences apply only to conduct occurring after this canon has been adopted in the relevant diocese.
14. Part 5 contains provisions relating to responding to complaints and offences. Upon commencing an investigation of information under the Special Tribunal Canon 2007 or the Episcopal Standards (Child Protection) Canon 2017, the Episcopal Standards Commission is required to conduct an initial assessment to identify any risks to children and to take steps which are reasonably available and practicable to minimise the risks identified. Where an Episcopal Standards Board is satisfied that the bishop has been convicted of committing, while a member of the clergy, a sexual offence relating to a child, the Board must determine that the bishop be deposed from the exercise of Holy Orders. Only the Episcopal Standards Commission can bring a charge of sexual offence relating to a child against a Bishop in the Special Tribunal. This corresponds to the proposed amendment to the Constitution relating to tribunals in the Constitution Amendment (Mandatory Deposition) Canon 2021.
15. Part 6 contains provisions relating to conflicts of interest and loyalty. There is a definition of when a person has a conflict of interest. A member of a panel of the Episcopal Standards Board or of a Special Tribunal is required to disclose any conflict of interest that the member has in relation to a matter before the Board or Tribunal. A member of the panel of the Special Tribunal is disqualified where they have disclosed a conflict of interest, or in the opinion of a senior presidential member a conflict of interest exists. The Chancellors Canon 2017 is also amended to remove the ability of a chancellor to be the president of a diocesan tribunal.
16. Schedule 1 contains consequential amendments to the Episcopal Standards (Child Protection) Canon 2017, the Offences Canon 1962, the National Register Canon 2007, and the Safe Ministry to Children Canon 2017.

Coming into force in a diocese

17. Pursuant to section 30(a) when read with the definitions of “ceremonial” and “ritual” in section 74(1) and the definition of “discipline” in section 74(9)(a)(ii) of the Constitution this canon is deemed to affect the order and good government of the Church within a diocese because it affects the “ritual, ceremonial or discipline of this Church”. This means that the canon will not come into force in any diocese unless and until the diocese by ordinance adopts the canon.
18. If a diocesan synod does not assent to the canon in its entirety it may choose to adopt specific Parts or Divisions separately. Clear guidance will be provided to bishops, chancellors and registrars regarding the process of doing so in diocesan synods.

Special bill procedure

19. The special bill procedure set out in section 28 of the Constitution must be followed in relation to this bill, unless the General Synod by votes of at least three-fourths of the members present in each house decides that it need not proceed as a special bill.

Notes on Clauses

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| Clause 1.1 | states the title of the canon. |
| Clause 1.2 | states the purpose of the canon. |
| Clause 1.3 | provides dioceses with an option to adopt this canon in parts or in its entirety. |
| Clause 1.4 | provides that any amendment to or insertion of definitions must continue to be in alphabetical order. |
| Clause 2.1 | inserts the definition of sexual offence relating to a child in the Episcopal Standards (Child Protection) Canon 2017. |
| Clause 2.2 | inserts the definition of child abuse reporting offence in the National Register Canon 2007 and omitting the definition of child offence . |
| Clause 2.3 | inserts the definition of child as having the same meaning in the Offences Canon 1962 as in the National Register Canon 2007. |
| Clause 2.4 | inserts the definition of child abuse as having the same meaning in the Special Tribunal Canon 2007 as in the National Register Canon 2007. |
| Clause 2.5 | inserts the definition of church worker in the Episcopal Standards (Child Protection) Canon 2017. |
| Clause 2.6 | inserts the definition of church worker in the Offences Canon 1962. |

- Clause 2.7 amends the definition of **church worker** in the Safe Ministry to Children Canon 2017 by clarifying that a church worker is not a member of clergy and including those who are permitted to function by the Bishop of a diocese, and removing reference to those who are licensed or authorised by the Bishop of a diocese.
- Clause 2.8 inserts the definition of **member of the clergy** in the Offences Canon 1962.
- Clause 2.9 inserts the definition of **member of the clergy** in the Episcopal Standards (Child Protection) Canon 2017.
- Clause 2.10 inserts the definition of **other clergy** in the Safe Ministry to Children Canon 2017.
- Clause 2.11 inserts the definition of **denomination** in the Safe Ministry to Children Canon 2017.
- Clause 2.12 amends the definition of **examinable conduct** in the Episcopal Standards (Child Protection) Canon 2017 by including a failure without reasonable excuse to perform a duty.
- Clause 2.13 inserts the definition of **authorisation to function** in the Episcopal Standards (Child Protection) Canon 2017.
- Clause 2.14 inserts the definitions of **authorisation to function** and **permission to function** in the Episcopal Standards (Child Protection) Canon 2017.
- Clause 2.15 inserts the definitions of **authorisation to function** and **permission to function** in the Offences Canon 1962.
- Clause 2.16 inserts the definitions of **authorisation to function** and **permission to function**, and repeals the definition of **licence** in the National Register Canon 2007.
- Clause 2.17 inserts the definitions of **authorisation to function** and **permission to function**, and repeals the definition of **licence** in the Safe Ministry to Children Canon 2017.
- Clause 2.18 repeals the definition of **licence** in Schedule 2 of the Safe Ministry to Children Canon 2017.
- Clause 2.19 provides that the consequential amendments set out in Schedule 1 of this Canon applies.

- Clause 2.20 inserts the definition of **standard of screening** in the Episcopal Standards (Child Protection) Canon 2017 as meaning either the standard of screening applying under Part 3 of the Safe Ministry to Children Canon 2017 or for the standard of screening applied within dioceses in which the Safe Ministry to Children Canon 2017 is not in force.
- Clause 2.21 inserts the definition of **standard of screening** in the Offences Canon 1962 as meaning either the standard of screening applying under Part 3 of the Safe Ministry to Children Canon 2017 or for the standard of screening applied within dioceses in which the Safe Ministry to Children Canon 2017 is not in force.
- Clause 2.22 amends the definitions of **standards for safe ministry with Persons of Concern, standards of screening, and standards of training** in the Safe Ministry to Children Canon 2017, by referring to the Part in which those standards are contained.
- Clause 2.23 inserts the definition of **statutory clearance** in the Safe Ministry to Children Canon 2017 as having the same meaning as in the National Register Canon 2007.
- Clause 2.24 inserts the definition of **statutory clearance** in the National Register Canon 2007.
- Clause 2.25 clarifies section 14 of the Episcopal Standards (Child Protection) Canon 2017 by specifying the power of suspension is under section 13.
- Clause 2.26 expands the power of the Episcopal Standards Board to inform itself from the record of any commission of inquiry.
- Clause 2.27 inserts the definition of **occasional ministry** in the Safe Ministry to Children Canon 2017.
- Clause 2.28 inserts the definitions of **institution, institutional assessment, institution authority**, and amends the definitions of **information, province and responsible authority**, in the Safe Ministry to Children Canon 2017.
- Clause 2.29 inserts the definition of **screened** in the Safe Ministry to Children Canon 2017.
- Clause 2.30 amends the definition of **adverse check** to refer to statutory clearance and omits the definitions of **working with children check, or working with vulnerable people check** in the National Register Canon 2007.

- Clause 2.31 amends the definition of **ministry to children** by substituting a **statutory clearance** for **working with children check**, or **working with vulnerable people check**, and omits the definitions of **working with children check**, or **working with vulnerable people check** in the Safe Ministry to Children Canon 2017.
- Clause 2.32 amends the definition of **safe ministry role** to correct spelling and grammatical errors.
- Clause 3.1 amends the definition of **child abuse** and **sexually inappropriate behaviour** and inserts the definition of **image-based abuse** in the National Register Canon 2007.
- Clause 3.2 provides that references to the Second Schedule within this Division means the Second Schedule of the Safe Ministry to Children Canon 2017.
- Clause 3.3 amends clause 2 of the Second Schedule of the Safe Ministry to Children Canon 2017 by omitting reference to **working with children check** or **a working with vulnerable people check** and referring to a **statutory clearance**.
- Clause 3.4 amends clause 3 of the Second Schedule of the Safe Ministry to Children Canon 2017 by substituting a **statutory clearance** for **working with children check**, or **working with vulnerable people check**.
- Clause 3.5 amends clause 4 of the Second Schedule of the Safe Ministry to Children Canon 2017 by substituting a **statutory clearance** for **working with children check**, or **working with vulnerable people check**.
- Clause 3.6 amends clause 5 of the Second Schedule of the Safe Ministry to Children Canon 2017 by substituting a **statutory clearance** for **working with children check**, or **working with vulnerable people check**.
- Clause 3.7 amends clause 6 of the Second Schedule of the Safe Ministry to Children Canon 2017 by substituting a **statutory clearance** for **working with children check**, or **working with vulnerable people check**.
- Clause 3.8 inserts section 12A to provide an exemption for dioceses having to undertake a diocesan audit under the Safe Ministry to Children Canon where a two-thirds majority of Standing Committee is satisfied that an equivalent audit has taken place.

- Clause 3.9 amends the National Register Canon 2017 to specify that a person's postal or electronic address may be used where that address is known and reasonably believed to be used by them.
- Clause 3.10 amends the National Register Canon 2017 to specify that a person's postal or electronic address may be used where that address is known and reasonably believed to be used by them.
- Clause 4.1 inserts the definition of **actual knowledge** and amends the definition of **examinable conduct** in the Episcopal Standards (Child Protection) Canon 2017.
- Clause 4.2 inserts an additional offence under the Offences Canon 1962 which correspond with the expansion of the definition of **examinable conduct** in the Episcopal Standards (Child Protection) Canon 2017.
- Clause 4.3 inserts additional offences under the Offences Canon 1962 which correspond with the expansion of the definition of **examinable conduct** in the Episcopal Standards (Child Protection) Canon 2017.
- Clause 4.4 inserts the definition of **actual knowledge** in the Offences Canon 1962.
- Clause 4.5 provides that the operation of the additional offences inserted by this Canon into the Offences Canon 1962 apply only to conduct occurring after Part 4 has been adopted by the relevant diocese.
- Clause 5.1 inserts section 18A to provide that when the Episcopal Standards Commission commences an investigation of information under the Special Tribunal Canon 2007, it must conduct an initial assessment to identify any risks to children and take whatever steps are reasonably available and practicable to minimise the risks identified.
- Clause 5.2 inserts section 18A to provide that when the Episcopal Standards Commission commences an investigation of information under the Episcopal Standards (Child Protection) Canon 2017, it must conduct an initial assessment to identify any risks to children and take whatever steps are reasonably available and practicable to minimise the risks identified.
- Clause 5.3 inserts section 43(1A) to provide that only the Episcopal Standards Commission can bring a charge of a sexual offence relating to a child against a Bishop in the Tribunal under the Special Tribunal Canon 2007.
- Clause 5.4 inserts section 49(2) in the Episcopal Standards (Child Protection) Canon 2017 to provide, if the Episcopal Standards Board finds that a bishop has been convicted by a court exercising criminal jurisdiction of

BOOK 1: BILLS

BILL 1: SAFE MINISTRY LEGISLATION AMENDMENTS

committing, while a member of the clergy, a sexual offence relating to a child, the Board must determine that the bishop be deposed from the exercise of Holy Orders.

- Clause 6.1 inserts section 2(1A) to specify the circumstances in which a person has a conflict of interest for the purposes of the Episcopal Standards (Child Protection) Canon 2017.
- Clause 6.2 inserts section 23(3A) to provide that a member of a panel under the Episcopal Standards (Child Protection) Canon 2017 must disclose to the President, any conflict of interest that they may have in relation to the matter before the Board, and amends section 23(4) and (5).
- Clause 6.3 inserts section 2(2) to specify the circumstances in which a person has a conflict of interest for the purposes of the Special Tribunal Canon 2007.
- Clause 6.4 inserts sections 30A and 30B to provide that a member of a panel under the Special Tribunal Canon 2007 must disclose to the senior presidential member, any conflict of interest that they may have in relation to the matter before the Tribunal, and for the disqualification of a member who has a conflict of interest.
- Clause 6.5 repeals section 2(3) of the Chancellors Canon 2017 which has the effect that a chancellor may not be president of a diocesan tribunal.
- Schedule 1 provides consequential amendments resulting from this Canon to the Episcopal Standards (Child Protection) Canon 2017, Offences Canon 1962, National Register Canon 2007, and Safe Ministry to Children Canon 2017.

A MEASURE FOR

AN ORDINANCE to adopt the Safe Ministry Legislation Amendments Canon 2022 (Canon 11, 2022).

THE SYNOD HEREBY DETERMINES:

Title

1. This Ordinance may be cited as the *“Safe Ministry Legislation Amendments Canon Adoption Ordinance 2022”*.

Adoption of Canon

2. The Synod adopts the *Safe Ministry Legislation Amendments Canon 2022 (Canon 11, 2022)*.

CERTIFIED as a copy of the Measure as recommended in Committee

..... Date

CERTIFIED as a copy of the Measure as passed on theday of October 2022.

..... Date

SAFE MINISTRY LEGISLATION AMENDMENTS CANON 2022

Canon 11, 2022

The General Synod prescribes as follows:

PART 1 — INTRODUCTORY

Title

1.1 This Canon may be cited as the Safe Ministry Legislation Amendments Canon 2022.

Purpose

1.2 The purpose of this Canon is to amend the following Canons in order to implement certain recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse and to make some other technical amendments to those Canons:

- (a) Chancellors Canon 2001;
- (b) Episcopal Standards (Child Protection) Canon 2017;
- (c) National Register Canon 2007;
- (d) Offences Canon 1962;
- (e) Safe Ministry to Children Canon 2017;
- (f) Special Tribunal Canon 2007;
- (g) Episcopal Standards Canon 2007.

Adoption

- 1.3 (1) Subject to sub-section (2)—
- (a) each Part in this Canon other than Part 1; and
 - (b) each Division in a Part of this Canon—
- is to be considered and treated as—
- (c) a separate bill for the purposes of section 28 of the Constitution; and
 - (d) a separate canon for the purposes of section 30 of the Constitution.
- (2) If this Canon is a provisional canon and a diocesan synod—
- (a) does not assent to this canon in its entirety; and
 - (b) assents to a Part or Division of this canon under sub-section (1)—

it is to be considered to have validly assented to the canon constituted by that Part or Division only if on the first occasion on which it assents to a Part or Division it also assents to Part 1 of this canon.

- (3) If a diocese—
- (a) does not adopt this canon in its entirety; and
 - (b) adopts a Part or Division of this canon under sub-section (1)—

it is to be considered to have validly adopted the canon constituted by that Part or Division only if on the first occasion on which it adopts that Part or Division it also adopts Part 1 of this canon.

Amendments adding definitions to sections listing definitions

- 1.4 Where a provision of this Canon amends some other Canon by inserting into a section, sub-section, clause, sub-clause, Schedule or other provision of that other Canon the definition of a word or expression, that definition is to be inserted so that all the definitions in that section, sub-section, clause, sub-clause, Schedule or other provision are and continue to be in alphabetical order.

PART 2 — INTERPRETATION PROVISIONS AND OTHER DRAFTING CHANGES

Division 1 — Definitions of children and offences relating to children

Definition of sexual offence relating to a child in Episcopal Standards (Child Protection) Canon

- 2.1 In section 2(1) of the Episcopal Standards (Child Protection) Canon 2017 insert:

"sexual offence relating to a child means —

- (a) sexual activity by a person against, with or in the presence of a child, or
- (b) the possession, production or distribution by a person of any form of child pornography—

in respect of which—

- (c) the person has been convicted, or been found guilty without a conviction being recorded, under the laws of the Commonwealth, State or Territory; or
- (d) a court, commission or tribunal of the Commonwealth, a State or a Territory has made an adverse finding of fact in relation to that person; or
- (e) the person has been convicted, or been found guilty without a conviction being recorded, in some other country under the laws of that country that are equivalent to a law of the Commonwealth or of a State or Territory; or
- (f) the person has not been tried by a court of competent jurisdiction and which if proved—

- (i) if alleged to have been committed within Australia, would constitute a criminal offence in the State or Territory in which it is alleged to have occurred; and
- (ii) if alleged to have been committed in a country other than Australia, would if committed in Australia constitute a criminal offence under a law of the Commonwealth or of a State or Territory."

Definitions relating to child abuse in National Register Canon

2.2 In the Third Schedule of the National Register Canon 2007—

- (a) in the definition of "child abuse" for "child offence" substitute "child abuse reporting offence";
- (b) following the definition of child abuse, insert:

"child abuse reporting offence means a criminal offence against the law of the Commonwealth, a State or a Territory, or against the law of another country which is equivalent to a criminal offence against the law of the Commonwealth, a State or a Territory, involving the failure by a person to report child abuse;"
- (c) omit the definition of "child offence".

Definition of child in Offences Canon

2.3 In section 2B of the Offences Canon 1962 insert:

"child has the same meaning as in the National Register Canon 2007;"

Consequential changes to definitions in Special Tribunal Canon

2.4 In section 2 of the Special Tribunal Canon 2007

- (a) insert "child abuse has the same meaning as in the National Register Canon 2007;" and
- (b) insert "sexual offence relating to a child has the same meaning as in the Episcopal Standards (Child Protection) Canon 2017;"

Division 2 — Definition of "church worker"

Definition of church worker in Episcopal Standards (Child Protection) Canon

2.5 In section 2(1) of the Episcopal Standards (Child Protection) Canon 2017 insert:

"church worker means a person who is not a member of the clergy and who—

- (a) is permitted to function by the Bishop of a diocese;

- (b) is employed by a Church body; or
- (c) whether for payment or not, holds a position or performs a function with the actual or apparent authority of a Church authority or a Church body";

Definition of church worker in Offences Canon

2.6 In section 2B of the Offences Canon 1962 insert:

"church worker means a person who is not a member of the clergy and who—

- (a) is permitted to function by the Bishop of a diocese;
- (b) is employed by a Church body; or
- (c) whether for payment or not, holds a position or performs a function with the actual or apparent authority of a Church authority or a Church body"

Definition of church worker in Safe Ministry to Children Canon

2.7 In section 3 of the Safe Ministry to Children Canon 2017 for the definition of "church worker" substitute:

"church worker means a person undertaking any ministry to children who is not a member of clergy and who —

- (a) is permitted to function by the Bishop of a diocese; or
- (b) is employed by a Church body; or
- (c) whether for payment or not, holds a position or performs a function with the actual or apparent authority of a Church authority or a Church body."

Division 3 - Definitions relating to "clergy"

Definition of member of the clergy in Offences Canon

2.8 In section 2B of the Offences Canon 1962 insert "**member of the clergy** means a person who is a bishop, priest or deacon in the Church."

Definition of member of the clergy in Episcopal Standards (Child Protection) Canon

2.9 In section 2(1) of the Episcopal Standards (Child Protection) Canon 2017 insert "**member of the clergy** means a person who is a bishop, priest or deacon in the Church."

- (b) **"permission to function** means a licence or any written instrument by which a person who is not a member of the clergy is appointed, authorised, permitted or sanctioned to exercise ministry and **permitting to function** and **permitted to function** have a corresponding meaning;".

Definitions in Offences Canon

2.15 In section 2B of the Offences Canon 1962—

- (a) insert:

"authorisation to function means a licence or any written instrument by which a member of the clergy is appointed, authorised, permitted or sanctioned to exercise ministry as a member of the clergy and **authorising to function** and **authorised to function** have a corresponding meaning;"; and

- (b) insert:

"permission to function means a licence or any written instrument by which a person who is not a member of the clergy is appointed, authorised, permitted or sanctioned to exercise ministry and **permitting to function** and **permitted to function** have a corresponding meaning;".

Definitions in National Register Canon

2.16 In the Dictionary in the Third Schedule to the National Register Canon 2007—

- (a) insert:

- (i) **"authorisation to function** means a licence or any written instrument by which a member of the clergy is appointed, authorised, permitted or sanctioned to exercise ministry as a member of the clergy and **authorising to function** and **authorised to function** have a corresponding meaning;"; and

- (ii) **"permission to function** means a licence or any written instrument by which a person who is not a member of the clergy is appointed, authorised, permitted or sanctioned to exercise ministry and **permitting to function** and **permitted to function** have a corresponding meaning;";

- (b) the definition of "licence" is repealed.

Definitions in Safe Ministry to Children Canon

2.17 In section 3 of the Safe Ministry to Children Canon 2017—

- (a) insert:

- (i) **"authorisation to function** means a licence or any written instrument by which a member of the clergy is appointed, authorised, permitted or sanctioned to exercise ministry as a member of the clergy and **authorising to function** and **authorised to function** have a corresponding meaning;" and

- (ii) **"permission to function** means a licence or any written instrument by which a person who is not a member of the clergy is appointed, authorised, permitted or sanctioned to exercise ministry and

permitting to function and **permitted to function** have a corresponding meaning;";

(b) the definition of "licence" is repealed.

2.18 In clause 1 of Schedule 2 of the Safe Ministry to Children Canon 2017 the definition of "licensed clergy" is repealed.

Consequential amendments to Canons

2.19 Schedule 1 applies.

Division 7 — Definitions relating to prescribed standards

Definition of standard of screening in the Episcopal Standards (Child Protection) Canon

2.20 In section 2(1) of the Episcopal Standards (Child Protection) Canon 2017 insert:

"standard of screening means—

- (a) in a diocese in which the Safe Ministry to Children Canon 2017 is in force, a standard of screening applying under Part 3 of that Canon; or
- (b) in a diocese in which the Safe Ministry to Children Canon 2017 is not in force, the standard of screening applying in that diocese;"

Definition of standard of screening in the Offences Canon

2.21 In section 2B of the Offences Canon 1962 insert:

"standard of screening means—

- (a) in a diocese in which the Safe Ministry to Children Canon 2017 is in force, a standard of screening applying under Part 3 of that Canon; or
- (b) in a diocese in which the Safe Ministry to Children Canon 2017 is not in force, the standard of screening applying in that diocese."

Definition of expressions relating to standards in the Safe Ministry to Children Canon

2.22 In section 3 of the Safe Ministry to Children Canon 2017

- (a) for the definition of "standards for safe ministry with Persons of Concern" substitute "**standards for safe ministry with Persons of Concern** means the standards in Part 4 of the Second Schedule;";
- (b) for the definition of "standards of screening" substitute "**standards of screening** means the standards in Part 2 of the Second Schedule;"; and

- (c) for the definition of "standards of training" substitute "**standards of training** means the standards in Part 3 of the Second Schedule;".

Division 8 - Definition of statutory clearance

Definition of statutory clearance in Safe Ministry to Children Canon

- 2.23 In section 3 of the Safe Ministry to Children Canon 2017 insert "**statutory clearance** has the same meaning as in the National Register Canon 2007;".

Definition of statutory clearance in the National Register Canon

- 2.24 In the Third Schedule of the National Register Canon 2007, insert—

"statutory clearance means—

- (a) a working with children check; or
- (b) a working with vulnerable people check by reason that the person has contact with a child as part of engaging in a regulated activity—

under the laws of the Commonwealth or of a State or Territory;".

Division 9 —Other amendments to the Episcopal Standards (Child Protection) Canon 2017

Section 14 clarification

- 2.25 In the Episcopal Standards (Child Protection) Canon 2017 Canon, in section 14 following "the duties of office" insert "under section 13".

Use of information from commission of inquiry

- 2.26 In section 29(5) of the Episcopal Standards (Child Protection) Canon 2017, for "court or tribunal" where twice appearing substitute "court, tribunal or commission of inquiry".

Division 10 — Various amendments to Safe Ministry to Children Canon 2017 and consequential amendments

Definitions of "occasional ministry"

- 2.27 In section 3 of the Safe Ministry to Children Canon 2017 insert

"occasional ministry to children means the exercise of a pastoral ministry to children where the ministry is not regular and involves direct contact with children that is not incidental."

Definitions in Second Schedule of Safe Ministry to Children Canon

2.28 Clause 1 of the Second Schedule of the Safe Ministry to Children Canon 2017 is amended as follows:

- (a) in the definition of "information"—
 - (i) after "or denomination" insert "or institution"; and
 - (ii) after "undertaking ministry" insert "or of persons working for the institution";
- (b) insert:

"institution means an institution that is not an institution of this Church or of a Province or of a denomination;

institutional assessment means a reasonable endeavour made to obtain information about a person from an institution authority and includes consideration of any information so obtained;

institution authority means a person or body of an institution with the power to elect, appoint, suspend or dismiss a person as an officer, employee or volunteer of that institution;
- (c) in the definition of "Province" after "Church" insert "or an extra-provincial church under the direct metro-political jurisdiction of the Archbishop of Canterbury";
- (d) in the definition of "responsible authority" for paragraph (c) substitute:
 - "(c) a denominational authority; or
 - (d) an institution authority;"

Meaning of "screened"

2.29 After clause 1 of the Second Schedule of the Safe Ministry to Children Canon 2017, insert:

- "1A. A person is **screened** if the prescribed standards of screening have been applied in respect of that person by the relevant screening authority."

Consequential amendment to National Register Canon 2007

2.30 In the Third Schedule to the National Register Canon 2007—

- (a) in the definition of "adverse check", for "working with children check, or working with vulnerable people check" substitute "statutory clearance";
- (b) omit the definition of "working with children check"; and
- (c) omit the definition of "working with vulnerable people check".

Consequential amendment to Safe Ministry to Children Canon 2017

- 2.31 In section 3 of the Safe Ministry to Children Canon 2017—
- (a) in paragraph (a) of the definition of “ministry to children”, for “working with children check, or working with vulnerable people check” substitute “statutory clearance;
 - (b) omit the definition of “working with children check”; and
 - (c) omit the definition of “working with vulnerable people check”.

Definition of safe ministry role

- 2.32 In section 3 of the Safe Ministry to Children Canon 2017 for the definition of "safe ministry role" substitute:

“safe ministry role means a role:

- (a) in recommending or determining standards and guidelines for safe ministry to children or with a Person of Concern; or
- (b) in recommending or determining or supervising safe ministry in a parish or congregation with a Person of Concern;

but excludes a role as a member of the synod of the diocese and, if a diocese has established a diocesan safe ministry authority separate from its diocesan council excludes a role as a member of the diocesan council;”

PART 3 — NATURE AND AUDIT OF RECORDS AND PROCESSES

Division 1 — Matters on National Register

Additional matters in National Register Canon

- 3.1 In the Third Schedule of the National Register Canon 2007—
- (a) in the definition of “child abuse”, after paragraph (ix) insert:
 - “or;
 - (x) image-based abuse;”;
 - (b) for paragraph (b), substitute:
 - “possessing, producing or distributing child exploitation material in circumstances that have been found to constitute, or may constitute, a criminal offence;”
 - (c) after paragraph (b) insert:
 - “however done, including by or through the use of the internet, electronic means and other like technology.”

(d) insert:

“image-based abuse means taking, distributing or threatening to distribute intimate, nude or sexual images of another person in circumstances that have been found to constitute, or may constitute, a criminal offence;”;

(e) in the definition of “sexually inappropriate behaviour” for “sexual exploitation or sexual harassment, or grooming” substitute “sexual exploitation, sexual harassment, grooming, or image-based abuse”.

Division 2 — Statutory clearances

Meaning of “Second Schedule”

3.2 In this Division, “Second Schedule” means the Second Schedule of the Safe Ministry to Children Canon 2017.

Amendment to clause 2 of Second Schedule

3.3 In clause 2(2) of the Second Schedule, for “a working with children check or a working with vulnerable people check by reason that the person has contact with a child as part of engaging in a regulated activity” substitute “a statutory clearance”.

Amendments to clause 3 of Second Schedule

3.4 In clause 3 of the Second Schedule—

- (a) in sub-clause (1) for “working with children check, or an unconditional working with vulnerable people check by reason that the person has contact with a child as part of engaging in a regulated activity, where required by the laws of the Commonwealth or a State or Territory” substitute “statutory clearance”;
- (b) in sub-clause (2)(a) for “where a working with children check, or a working with vulnerable people check by reason that the person has contact with a child as part of engaging in a regulated activity, is not required by the laws of the Commonwealth or a State or Territory, a criminal history assessment or a risk assessment” substitute “where a statutory clearance is not required by or is not able to be sought under the laws of a Commonwealth, State or Territory”.

Amendments to clause 4 of Second Schedule

3.5 In clause 4 of the Second Schedule—

- (a) for sub-clause (1) substitute:

“(1) the person holds a statutory clearance; and”;
- (b) in sub-clause (2)(a), for “where a working with children check, or a working with vulnerable people check by reason that the person has contact with a child as part of engaging in a regulated activity, is not required by the laws of a Commonwealth, State or Territory” substitute “where an unconditional

statutory clearance is not required by or is not able to be sought under the laws of a Commonwealth, State or Territory"

Amendments to clause 5 of Second Schedule

3.6 In clause 5 of the Second Schedule—

- (a) for sub-clause (1) substitute:

"(1) the person holds a statutory clearance; and";
- (b) in sub-clause (2)(a), for "where a working with children check, or a working with vulnerable people check by reason that the person has contact with a child as part of engaging in a regulated activity, is not required by the laws of a Commonwealth, State or Territory" substitute "where an unconditional statutory clearance is not required by or is not able to be sought under the laws of a Commonwealth, State or Territory".

Amendments to clause 6 of Second Schedule

3.7 In clause 6 of the Second Schedule—

- (a) for sub-clause (1) substitute:

"(1) the person holds an unconditional statutory clearance or a conditional statutory clearance that enable the ministry to be undertaken where required by or is not able to be sought under the law of the Commonwealth or a State or Territory; and";
- (b) in sub-clause (2)(a), for "where a working with children check, or a working with vulnerable people check by reason that the person has contact with a child as part of engaging in a regulated activity, is not required by the laws of a Commonwealth, State or Territory the person is not able to obtain either check" substitute "where an unconditional statutory clearance or a conditional statutory clearance that authorises the ministry to be undertaken is not required by or is not able to be sought under the laws of a Commonwealth, State or Territory".

Division 3 — Equivalent Audit

Provision for equivalent audit

3.8 After section 12 of the Safe Ministry to Children Canon 2017 insert:

- "12A. (1) Where the Standing Committee is satisfied that—
- (a) an audit equivalent to a diocesan audit is required pursuant to the laws of the Commonwealth or of a State or Territory; and
 - (b) the report of the audit is publicly available—

the Standing Committee may by a two-thirds majority on the application of that diocese exempt the diocese from a diocesan audit.

- (2) Where the Standing Committee is satisfied that—
- (a) an audit equivalent to part of a diocesan audit is required pursuant to the laws of the Commonwealth or of a State or Territory; and
 - (b) the report of the audit is publicly available—

the Standing Committee may by a two-thirds majority on the application of that diocese exempt the diocese from that part of a diocesan audit."

Division 4 — Records and notifications

Address for notice

- 3.9 Sections 8(3)(b) and 10(2)(a) of the National Register Canon 2007 are amended by substituting for the words "his or her last known postal or electronic address" the words "his or her postal or electronic address where that address is known and reasonably believed to be used by the member of clergy or the lay person".

Amendments to Dictionary in National Register Canon

- 3.10 In the Third Schedule of the National Register Canon 2007—
- (a) in the definition of "Information", after the word "Schedule" where twice appearing insert "so far as they are known";
 - (b) for paragraph (b) of the definition of "notifiable complaint" substitute:
 - "(b) which the Director of Professional Standards has certified has been sent to the postal or electronic address of the member of clergy or lay person that is known or has not been sent to the member of clergy or lay person because neither their postal nor their electronic address is known; or".

PART 4 — CONDUCT TO SUPPORT PROCESSES AND PROTECT CHILDREN

Additional examinable conduct in relation to bishops

- 4.1 In section 2(1) of the Episcopal Standards (Child Protection) Canon 2017—
- (a) insert—
 - "**actual knowledge**" includes –
 - (a) wilfully shutting one's eyes to the obvious; or

(b) wilfully and recklessly failing to make such inquiries as an honest and reasonable person would make;

“recommendation” includes a recommendation validly varied or modified pursuant to a diocesan ordinance;

(b) in the definition of “examinable conduct”—

(i) after sub-paragraph (a)(iii) insert:

"(iii) the failure without reasonable excuse to exercise a power to initiate, or to investigate whether to initiate, a professional standards process;"

(ii) after sub-paragraph (a)(iv) insert:

"(v) subject to section 60(2) of the Constitution, the failure without reasonable excuse to give effect to a recommendation to the Bishop under a professional standards process;

(vi) the Bishop ordaining or authorising to function a member of the clergy or permitting to function a church worker contrary to, or in the absence of, a recommendation of a screening authority, or with actual knowledge or reasonable grounds for suspecting that the screening authority may not have properly discharged its statutory functions in making its relevant recommendation;

(vii) the Bishop ordaining or authorising to function a member of the clergy, or permitting to function a church worker, who poses a serious risk to the safety of children with actual knowledge or reasonable grounds for suspecting that the person poses that risk;" and

(iii) in the definition of "examinable conduct" in paragraph (b) after sub-paragraph (iv) insert:

"(v) subject to section 60(2) of the Constitution, the failure without reasonable excuse to give effect to a recommendation given to the Bishop under a professional standards process;

(vi) ordaining or authorising to function a member of the clergy or permitting to function a church worker contrary to, or in the absence of, a recommendation of a screening authority, or with actual knowledge or reasonable grounds for suspecting that the screening authority may not have properly discharged its statutory functions in making its relevant recommendation;

(vii) the Bishop ordaining or authorising to function a member of the clergy, or permitting to function a church worker, who poses a serious risk to the safety of children with actual knowledge or reasonable grounds for suspecting that the person poses that risk."

Additional offence relating to making appointments

4.2 In section 1 of the Offences Canon 1962, after item 8 insert:

- "9. Authorising to function a member of the clergy or permitting to function a church worker contrary to, or in the absence of, a recommendation of a screening authority, or with actual knowledge or reasonable grounds for suspecting that the screening authority may not have properly discharged its statutory functions in making its relevant recommendation."

Additional offences within the jurisdiction of the Special Tribunal

4.3 (1) After Item 9 of section 2 of the Offences Canon 1962 insert:

- "10. Subject to section 60(2) of the Constitution, failure without reasonable excuse to give effect to a recommendation given to the person under section 53 of the Constitution or by a Board established by or under an ordinance of a provincial synod or diocesan synod for dealing with the fitness of a member of the clergy or church worker to be or to remain in Holy Orders or in other ministry.
11. Ordaining or authorising to function a member of the clergy or permitting to function a church worker contrary to, or in the absence of, a recommendation of a screening authority, or with actual knowledge or reasonable grounds for suspecting that the screening authority may not have properly discharged its statutory functions in making its relevant recommendation.
12. Ordaining or authorising to function a member of the clergy, or permitting to function a church worker, who poses a serious risk to the safety of children with actual knowledge or reasonable grounds for suspecting that the person poses that risk."

(2) After Item 4 of section 2A of the Offences Canon 1962 insert:

- "5. Subject to section 60(2) of the Constitution, failure without reasonable excuse to give effect to a recommendation given to the person under section 53 of the Constitution or by a Board established by or under an ordinance of a provincial synod or diocesan synod for dealing with the fitness of a member of the clergy or church worker to be or to remain in Holy Orders or in other ministry.
6. Ordaining or authorising to function a member of the clergy or permitting to function a church worker contrary to, or in the absence of, a recommendation of a screening authority, or with actual knowledge or reasonable grounds for suspecting that the screening authority may not have properly discharged its statutory functions in making its relevant recommendation.
7. Ordaining or authorising to function a member of the clergy, or permitting to function a church worker, who poses a serious risk to the safety of children with actual knowledge or reasonable grounds for suspecting that the person poses that risk."

Meaning of “actual knowledge”

4.4 In section 2B of the Offences Canon 1962 insert—

“**actual knowledge**” includes-

- (a) wilfully shutting one's eyes to the obvious; or
- (b) wilfully and recklessly failing to make such inquiries as an honest and reasonable person would make;

“**recommendation**” includes a recommendation validly varied or modified pursuant to a diocesan ordinance;”

Date of operation of new offences

4.5 After section 4 of the Offences Canon 1962, insert:

“5. The offences in Item 9 of section 1, Items 10, 11 and 12 of section 2 and Items 5, 6 and 7 of section 2A apply only to conduct occurring after Part 4 of the Safe Ministry Legislation Amendments Canon 2022 has been adopted in the diocese in which the offences allegedly have occurred.”

PART 5 — RESPONDING TO COMPLAINTS AND OFFENCES

Risk assessment during investigation by ESC

5.1 After section 18 of the Special Tribunal Canon 2007 insert:

“18A. When the ESC has commenced an investigation of information under this Part, it must conduct an initial assessment to identify any risks to children and must take whatever steps are reasonably available and practicable to minimise risks identified.”

Initial risks assessment by ESC

5.2 After section 12 of the Episcopal Standards (Child Protection) Canon 2017 insert:

“12A. When the ESC has commenced an investigation of information under this Part, it must conduct an initial assessment to identify any risks to children and must take whatever steps are reasonably available and practicable to minimise risks identified.”

Bringing a charge of child abuse

5.3 Section 43 of the Special Tribunal Canon 2007 is amended as follows:

(1) In sub-section (1), for “A charge against a bishop” substitute “Subject to sub-section (1A), a charge against a Bishop”;

(2) After sub-section (1) insert:

“(1A) Only the ESC can bring a charge of a sexual offence relating to a child against a Bishop in the Tribunal.”

Amendments to section 49

- 5.4 In section 49 of the Episcopal Standards (Child Protection) Canon 2017—
- (a) for "If after investigating" substitute "(1) Subject to sub-section (2), if after investigating";
 - (b) in paragraph (l), for "Bishop" substitute "bishop"; and
 - (c) in paragraph (m), for "Bishop" substitute "bishop".
 - (d) after the current section 49, insert:
 - "(2) Where the Board is satisfied that the bishop has been convicted by a court exercising criminal jurisdiction of committing while a member of the clergy a sexual offence relating to a child, the Board must determine that the bishop be deposed from the exercise of Holy Orders."

PART 6 — CONFLICTS OF INTEREST AND LOYALTY

Division 1 — Conflict of interest in panel for Episcopal Standards Board

Definition of conflict of interest in Episcopal Standards (Child Protection) Canon

- 6.1 In section 2 of the Episcopal Standards (Child Protection) Canon 2017 after sub-section (1) insert:
- "(1A) For the purposes of this Canon, a person has a conflict of interest when their responsibilities arising from their role may be influenced or affected, or may be perceived as being influenced or affected, by—
 - (a) their personal financial interest, or those of their family or friends;
 - (b) their reputation, or that of their family or friends;
 - (c) their obligations or loyalty to another person or organisation;
 - (d) their previous or current relationship (whether personal or professional) with someone who might be affected by how they discharge those responsibilities; or
 - (e) their previous or current involvement in another capacity in a matter now falling within those responsibilities."

Managing conflicts of interest

- 6.2 In section 23 of the Episcopal Standards (Child Protection) Canon 2017—
- (a) after sub-section (3) insert:
 - "(3A) A member of the panel must without delay disclose to the President, or if there is a vacancy in the office of President to the Deputy President, any conflict of interest that the member has in relation to a matter before the Board."

- (b) in sub-section (4), for "a personal interest in" substitute "a conflict of interest in relation to";
- (c) in sub-section (5), for "a personal interest in " substitute "a conflict of interest in relation to ".

Division 2 — Special Tribunal

Definition of conflict of interest for Special Tribunal

6.3 In section 2 of the Special Tribunal Canon—

- (a) before the current section, insert "(1)"; and
- (b) after the current section insert
 - "(2) For the purposes of this Canon, a person has a conflict of interest when their responsibilities arising from their role may be influenced or affected, or may be perceived as being influenced or affected, by—
 - (a) their personal financial interest, or those of their family or friends;
 - (b) their reputation, or that of their family or friends;
 - (c) their obligations or loyalty to another person or organisation;
 - (d) their previous or current relationship (whether personal or professional) with someone who might be affected by how they discharge those responsibilities; or
 - (e) their previous or current involvement in another capacity in a matter now falling within those responsibilities."

Disqualification where conflict of interest

6.4 In the Special Tribunal Canon 2007 after section 30 insert:

- "30A. A member of the panel must without delay disclose to the senior presidential member, or if there is a vacancy in the office of senior presidential member to the other presidential member, any conflict of interest that the member has in relation to a matter before the Tribunal.

30B. Where—

- (a) a member of the panel has disclosed a conflict of interest under section 30A; or
- (b) in the opinion of the senior presidential member, or if there is a vacancy in the office of senior presidential member in the opinion of the other presidential member, a member of the panel has a conflict of interest in relation to a matter before the Tribunal—

that member is disqualified from participating in the matter."

Division 3 — Chancellors as members of diocesan tribunals

Chancellor not to be president of diocesan tribunal

6.5 Section 2(3) of the Chancellors Canon 2001 is repealed.

Schedule 1

Sch 1.1 Amendments to Episcopal Standards (Child Protection) Canon 2017

In—

- (a) the definition of "relevant diocesan Bishop" in section 2(1); and
 - (b) the paragraph (c) of the definition of "relevant Metropolitan" (where twice appearing)—
- for "licensed" substitute "authorised to function".

Sch 1.2 Amendment to Offences Canon 1962

In section 1 of the Offences Canon 1962, for "licensed" substitute "authorised to function".

Sch 1.3 Amendment to National Register Canon 2007

(1) In the National Register Canon 2007, in—

- (a) section 5(1)(e);
- (b) section 6(1)(d);

for "issued with a licence" substitute "authorised to function".

(2) In the National Register Canon 2007, in—

- (a) item 8 of the First Schedule (where three times appearing);
- (b) item 21 of the First Schedule—

for "licence" substitute "licence or authorisation to function".

(3) In the National Register Canon 2007, in—

- (a) item 5 of the Second Schedule (where three times appearing);
- (b) item 16 of the First Schedule—

for "licence" substitute "licence or permission to function".

- (4) In the Third Schedule of the National Register Canon 2007—
- (a) in the definition of "adverse risk assessment" for "a licence" substitute "an authorisation to function";
 - (b) in the definition of "church authority" after "ordain," insert "authorise to function, permit to function,;" and
 - (c) in the definition of church worker for "licensed or authorised" substitute "permitted to function".

Sch 1.4 Amendments to the Safe Ministry to Children Canon 2017

- (1) In the Safe Ministry to Children Canon 2017, in clause 1 of the Second Schedule in—
- (a) the definition of "denominational authority";
 - (b) the definition of "diocesan authority"; and
 - (c) the definition of "provincial authority"—
- after "ordain," insert "authorise to function, permit to function,".
- (2) In the Safe Ministry to Children Canon 2017, in clause 1 of the Second Schedule, in the definition of "screening authority" for "or a member of the clergy to be licensed, or a church worker to be licensed or authorised" substitute "or a member of the clergy to be authorised to function or a church worker permitted to function".
- (3) In the Safe Ministry to Children Canon 2017, in the Second Schedule, in—
- (a) in clause 2 (where four times appearing);
 - (b) in clause 9 (where twice appearing)—
- for "licensed as clergy, appointed or elected as the bishop of a diocese, or licensed or authorised or appointed as church workers," substitute "authorised to function, appointed or elected as the bishop of a diocese, or permitted to function".
- (4) In the Safe Ministry to Children Canon 2017, in the Second Schedule, in clause 4—
- (a) for the heading to the clause, substitute "The Bishop of the diocese and clergy authorised to function";
 - (b) for "licensed" substitute "authorised to function".
- (5) In the Safe Ministry to Children Canon 2017, in the Second Schedule, in clause 5—
- (a) for the heading to the clause, substitute "Church workers who are paid or permitted to function"; and
 - (b) for "licensed or authorised" substitute "permitted to function".
- (6) In the Safe Ministry to Children Canon 2017, in the Second Schedule—
- (a) in clause 7, for "a licensed member of the clergy, the bishop of the diocese, or a licensed, authorized, paid or voluntary church worker,;" and
 - (b) in clause 10(1) for "a licensed member of the clergy, the bishop of the diocese, or a licensed, authorised, paid or voluntary church worker," (where twice appearing)—
- substitute "authorised to function, appointed or elected as the bishop of a diocese, or permitted to function as a paid or voluntary church worker".
- (7) In the Safe Ministry to Children Canon 2017, in the Second Schedule, in clause 10(1) for paragraph (b) substitute:

"by deacons, clergy authorised to function, and church workers permitted to function, within three years prior to being ordained, authorised to function, permitted to function or appointed to undertake ministry to children, except where the bishop of the diocese or his or her delegate is satisfied there are exceptional circumstances in which case the training is to be completed as soon as practicable but not later than three months after the person is ordained, authorised to function, permitted to function or appointed to undertake ministry to children; or".

Primate's appointment when the canon shall come into force [SO63(19)]

I appoint the 11th May 2022 as the date on which this canon shall come into force.

Secretaries' Certification of copy of Canon as passed [SO63(20)]

We certify that the Canon above is a copy of the Canon as passed on the 11th day of May 2022.

Dated: 13 May 2022


The Very Rev'd Katherine Bowyer
Clerical Secretary


Mr Timothy Reid
Lay Secretary

CHANCELLORS CANON 2001¹

Canon No. 4, 2001

A canon to provide for the appointment of chancellors and for other purposes.

The General Synod prescribes as follows:-

Title

1. This Canon may be cited as the "Chancellors Canon 2001".

Office of Chancellor

2. (1) The chancellor of a diocese is the principal confidential adviser to the bishop of the diocese in legal and related matters.
(2) Subject to the chancellor's overriding duty to the bishop, the chancellor may provide advice to the synod and other agencies of the diocese.

~~(3) — The chancellor may preside in the diocesan tribunal as deputy president, if appointed so to do by the bishop pursuant to section 54(1) of the Constitution of the Anglican Church of Australia.~~

- (4) The chancellor has such other powers duties and responsibilities and holds such other positions as may be prescribed by the Constitution of the Anglican Church of Australia, the constitution of a diocese, canons or ordinances.

Qualifications

3. (1) A person to be appointed as a chancellor -
 - (a) shall be a communicant member of the Anglican Church of Australia, and
 - (b) shall be or shall have been
 - (i) a Justice of the High Court of Australia, a Justice of the Federal Court of Australia or the Family Court of Australia, a Justice of the Supreme Court of a State or Territory of Australia, a Judge of the Family Court of Western Australia, a Judge of a District or County Court of a State or Territory of Australia, or a Justice of a Court prescribed by canon of the General Synod; or

¹ See Appendix B on page 490.

² Section 2(3) repealed by Division 3 Clause 6.5 of Canon 11, 2022

(ii) a barrister or solicitor of at least seven years standing of the Supreme Court of a State or Territory; or

(iii) a graduate in law and a teacher of law of at least seven years standing as such holding the position of Senior Lecturer or above in law at a University in Australia.

- (2) When making an appointment, the bishop of a diocese should, wherever possible, be satisfied that the person to be appointed has a sound working knowledge of the law and polity of the Anglican Church of Australia.

Appointment and Tenure

4. (1) Whenever a vacancy occurs, a chancellor may be appointed by the bishop of the diocese and the appointment shall be under seal in the form contained in the Schedule or in some other appropriate form.
- (2) A chancellor ceases to hold office at the end of the period for which he or she was appointed or at the end of six months after the installation of the successor to the appointing bishop, whichever occurs first, unless appointed to the position of chancellor by that successor within that period.
- (3) Notwithstanding the provisions of subsection (2), a chancellor -
- (a) may resign the office by notice in writing to the bishop; and
 - (b) may be removed from office by the bishop.

Deputy chancellor

5. The Bishop may appoint a deputy chancellor, by whatever title, either as a continuing office or to act in the absence of the chancellor or during a vacancy in the office of chancellor. Sections 3 and 4 (2) and (3) shall apply to a deputy chancellor.

Oaths and declarations

6. A chancellor and a person appointed to act as deputy chancellor, before that person enters upon the execution of the office, is required to take and subscribe before the bishop of the diocese or a person nominated by the bishop entitled to administer an oath:
- (a) the following oath or affirmation:

"I, AB, do swear that I will, to the utmost of my understanding, in all things deal uprightly and justly in my office: So help me God."; or

"I, AB, do solemnly and sincerely affirm that I will, to the utmost of my understanding, in all things deal uprightly and justly in my office."

and
 - (b) such other oaths and declarations as are usual in the diocese in the case of senior appointments.

Saving provision

7. (1) Subject to subsection (2), this canon shall not apply so as to call into question in any respect whatsoever the qualification, mode of appointment, tenure of office, decisions or actions of any person appointed a chancellor in a diocese prior to the date of adoption of this Canon by such diocese.
- (2) A Chancellor or Deputy Chancellor appointed before this Canon comes into force in a diocese shall cease to hold office in accordance with the provisions of section 4 of this Canon.

Repeal of Canons

8. If in any diocese Canons 127 and 128 of the Canons of 1603 continue to have or may have any force or operation, the adoption of this Canon by ordinance of the synod of the diocese shall effect the repeal of those Canons in that diocese.

Inconsistency

9. If this Canon is inconsistent with the constitution of a diocese in which this Canon comes into force then such constitution shall prevail to the extent of the inconsistency.

Canon affects order and good government

10. The provisions of this Canon affect the order and good government of this Church within a diocese and shall not come into force in a diocese unless and until the diocese adopts this Canon by ordinance of the synod of the diocese.

THE SCHEDULE

LET IT BE KNOWN that I A.B., by Divine Providence, Bishop/ Archbishop of X, do appoint C.D. [state qualifications] to be my Chancellor in the Diocese of X, to hold and exercise that Office for the term of and subject to the Chancellors Canon 2001 of the General Synod of the Anglican Church of Australia, **AND**, subject to the provisions of the law of the Anglican Church of Australia having force in this Diocese and to the Constitution and Ordinances of the Diocese from time to time in force, do grant and confirm in C.D. the authority jurisdiction rights and powers of the office of Chancellor and to do and perform all things pertaining to such office as may be prescribed or permitted by law or custom in this Diocese.

IN WITNESS WHEREOF I have caused my seal to be affixed and have signed this document as a deed this
day of 20 .

EPISCOPAL STANDARDS (CHILD PROTECTION) CANON 2017
Incorporating in full the provisions of the Episcopal Standards Canon 2007 as
incorporated and modified for the purpose of examinable conduct as defined in
the Episcopal Standards (Child Protection) Canon 2017

Canon 5, 2017

The General Synod prescribes as follows:

PART 1

Title

1. This Canon is the Episcopal Standards (Child Protection) Canon 2017.

Definitions

2. (1) In this Canon, unless the context otherwise requires:

actual knowledge includes –

- (a) wilfully shutting one’s eyes to the obvious; or
- (b) wilfully and recklessly failing to make such inquiries as an honest and reasonable person would make;¹

Administrator means the person who would, in the absence or incapacity of a Bishop, be the administrator of a diocese;

assistant to the Primate means any bishop assistant to the Primate in the Primate’s capacity as Primate;

authorisation to function means a licence or any written instrument by which a member of the clergy is appointed, authorised, permitted or sanctioned to exercise ministry as a member of the clergy and **authorising to function** and

¹ New definition inserted by Part 4 section 4.1(a) of Canon 11, 2022

authorised to function have a corresponding meaning;²

Bishop means a bishop who is or was a member of the House of Bishops or an assistant to the Primate;

bishop means a person in bishop's orders;

Board means the Episcopal Standards Board established under Part 6;

child has the same meaning as in the National Register Canon 2007;

child abuse has the same meaning as in the National Register Canon 2007;

Church means the Anglican Church of Australia;

Church body includes the Primate, the General Synod, a diocese, diocesan synod, diocesan council, diocesan trustee or trust corporation or other body responsible for administering the affairs of a diocese, or an institution or agency of this Church or of a diocese;

Church Worker means a person who is not a member of the clergy and who –

- (a) is permitted to function by the Bishop of a diocese;
- (b) is employed by a Church body; or
- (c) whether for payment or not, holds a position or performs a function with the actual or apparent authority of a Church authority or a Church body.³

Code of Conduct means a code of conduct approved from time to time under Part 2;

complying ordinance means an ordinance of a diocese relating to episcopal standards or professional standards in which examinable conduct or misconduct which may give rise to a question of fitness to be determined by the board constituted under that ordinance is defined as including examinable conduct as defined in this canon and which applies to a Bishop;

² New definition inserted by Part 2 Division 6 section 2.14(a) of Canon 11, 2022

³ New definition inserted by Part 2, Division 2 section 2.5 of Canon 11, 2022

Director means the Director of the ESC appointed under the Special Tribunal Canon 2007;

Episcopal Standards Commission or **ESC** means the Episcopal Standards Commission appointed under the Special Tribunal Canon 2007;

examinable conduct means:

(a) in relation to a Bishop who is a member of the House of Bishops or assistant to the Primate, any conduct or omission, other than exempt conduct, involving:

- (i) child abuse; or
- (ii) conduct that impedes or undermines a professional standards process; or
- (iii) the failure without reasonable excuse to perform a duty or a function under a professional standards process; or⁴
- (iiia) the failure without reasonable excuse to exercise a power to initiate, or to investigate whether to initiate, a professional standards process;⁵
- (iv) the failure without reasonable excuse to comply with the laws of the Commonwealth, a State or Territory requiring the reporting of child abuse to the police or other authority;
- (v) subject to section 60(2) of the Constitution, the failure without reasonable excuse to give effect to a recommendation to the Bishop under a professional standards process;
- (vi) the Bishop ordaining or authorising to function a member of the clergy or permitting to function a church worker contrary to, or in the absence of, a recommendation of a screening authority, or with actual knowledge or reasonable grounds for suspecting that the screening authority may not have properly discharged its statutory functions in making its relevant recommendation;
- (vii) the Bishop ordaining or authorising to function a member of the clergy, or permitting to function a church worker, who poses a serious risk to the safety of children with actual knowledge or reasonable grounds for suspecting that the person poses that risk;⁶

wherever or whenever occurring, and the subject of information which, if established, might call into question the fitness of the Bishop to hold office or to remain in Holy Orders, but excludes any breach of faith, ritual or ceremonial;

⁴ Amended by Part 2 Division 5 section 2.12 of Canon 11, 2022

⁵ Inserted by Part 4 section 4.1(b)(i) of Canon 11, 2022

⁶ Subsections (a) (v), (vi) and (vii) inserted by Part 4 section 4.1(b)(ii) of Canon 11, 2022

(b) in relation to a Bishop who was a member of the House of Bishops or an assistant to the Primate, any conduct or omission involving:

- (i) child abuse; or
- (ii) conduct that impedes or undermines a professional standards process; or
- (iii) the failure without reasonable excuse to perform a function under a professional standards process; or
- (iv) the failure without reasonable excuse to comply with the laws of the Commonwealth, a State or Territory requiring the reporting of child abuse to the police or other authority;
- (v) subject to section 60(2) of the Constitution, the failure without reasonable excuse to give effect to a recommendation given to the Bishop under a professional standards process;
- (vi) ordaining or authorising to function a member of the clergy or permitting to function a church worker contrary to, or in the absence of, a recommendation of a screening authority, or with actual knowledge or reasonable grounds for suspecting that the screening authority may not have properly discharged its statutory functions in making its relevant recommendation;
- (vii) the Bishop ordaining or authorising to function a member of the clergy, or permitting to function a church worker, who poses a serious risk to the safety of children with actual knowledge or reasonable grounds for suspecting that the person poses that risk.⁷

occurring while a member of the House of Bishops or assistant to the Primate whether before or after the commencement of this canon, and the subject of information which, if established, might call into question the fitness of the Bishop to hold office or to remain in Holy Orders, but excludes any breach of faith, ritual or ceremonial;

exempt conduct means any conduct or omission which would be examinable conduct, had not the Bishop disclosed the material facts of such conduct to the ordaining bishop prior to the Bishop's ordination as a deacon;

former Bishop means a Bishop whose conduct falls within paragraph (b) of the definition of examinable conduct;

information means information of whatever nature and from whatever source relating to the alleged misconduct or omission of a Bishop wherever or whenever occurring;

⁷ Subsections (b) (v), (vi) and (vii) inserted by Part 4 Clause 4.1(b)(iii) of Canon 11, 2022

member of the clergy means a person who is a bishop, priest or deacon in the Church.⁸

national register means a national register established pursuant to a Canon of General Synod for a purpose which includes the recording of determinations of the Board;

permission to function means a licence or any written instrument by which a person who is not a member of the clergy is appointed, authorised, permitted or sanctioned to exercise ministry and **permitting to function** and **permitted to function** have a corresponding meaning.⁹**professional standards process** means a process for determining the fitness for office of clergy or lay persons under any canon of the General Synod or diocesan ordinance or a process under Chapter IX of the Constitution, where the conduct that is the subject of the process relates to child abuse;

protocol means the protocol approved from time to time by the Standing Committee under Part 3;

recommendation includes a recommendation validly varied or modified pursuant to a diocesan ordinance;¹⁰

relevant diocesan bishop in relation to a former Bishop means the bishop of the diocese in which the former Bishop is **authorised to function** or resides.¹¹

relevant Metropolitan, means:

- (a) in relation to the bishop of a diocese:
 - (i) unless paragraph (iii) or (iv) applies, the Metropolitan of the Province in which the diocese is situated; or
 - (ii) if the diocese is an extra-provincial diocese, the Primate; or
 - (iii) if the bishop is the Metropolitan but not the Primate, the Primate; or
 - (iv) if the bishop is the Primate, the person who, at the relevant time, is

⁸ New definition inserted by Part 2 Division 3 section 2.9 of Canon 11, 2022

⁹ New definition inserted by Part 2 Division 6 section 2.14(b) of Canon 11, 2022

¹⁰ New definition inserted by Part 4, section 4.1(a) of Canon 11, 2022

¹¹ Amended by Schedule 1.1(a) of Canon 11, 2022

the next most senior Metropolitan who is available, seniority being determined by the date of consecration; and

- (b) in relation to any other member of the House of Bishops or an assistant to the Primate, the Primate;
- (c) in relation to a former Bishop;
 - (i) the Metropolitan of the Province in which the Bishop is **authorised to function** or resides; or¹²
 - (ii) if the Bishop is **authorised to function** or resides in an extra provincial diocese, the Primate.¹³

respondent means a Bishop whose alleged conduct or omission is the subject of information;

sexual offence relating to a child means –

- (a) sexual activity by a person against, with or in the presence of a child, or
- (b) the possession, production or distribution by a person of any form of child pornography –

in respect of which –

- (c) the person has been convicted, or been found guilty without a conviction being recorded, under the laws of the Commonwealth, State or Territory; or
- (d) a court, commission or tribunal of the Commonwealth, a State or a Territory has made an adverse finding of fact in relation to that person; or
- (e) the person has been convicted, or been found guilty without a conviction being recorded, in some other country under the laws of that country that are equivalent to a law of the Commonwealth or of a State or Territory; or
- (f) the person has not been tried by a court of competent jurisdiction and which if proved –
 - (i) if alleged to have been committed within Australia, would constitute a criminal offence in the State or Territory in which it is alleged to have occurred; and
 - (ii) if alleged to have been committed in a country other than Australia, would if committed in Australia constitute a criminal offence under a

¹² Amended by Schedule 1.1(b) of Canon 11, 2022

¹³ Amended by Schedule 1.1(b) of Canon 11, 2022

law of the Commonwealth or of a State or Territory.¹⁴

Standing Committee means the Standing Committee of General Synod;

Standard of screening means –

- (a) in a diocese in which the Safe Ministry to Children Canon 2017 is in force, a standard of screening applying under Part 3 of that Canon; or
- (b) in a diocese in which the Safe Ministry to Children 2017 Canon is not in force, the standard of screening applying in that diocese;¹⁵

Tribunal means the Special Tribunal.

- (1A) For the purposes of this Canon, a person has a conflict of interest when their responsibilities arising from their role may be influenced or affected, or may be perceived as being influenced or affected, by –
 - (a) their personal financial interest, or those of their family or friends;
 - (b) their reputation, or that of their family or friends;
 - (c) their obligations or loyalty to another person or organisation;
 - (d) their previous or current relationship (whether personal or professional) with someone who might be affected by how they discharge those responsibilities; or
 - (e) their previous or current involvement in another capacity in a matter now falling within those responsibilities.¹⁶

- (2) Where there is examinable conduct in relation to a former Bishop, the examinable conduct extends to any other conduct or omission of the former Bishop that falls within subparagraphs (i) to (iv) of paragraph (b) of the definition of examinable conduct (other than exempt conduct), but occurring before or after any period in which the Bishop was a member of the House of Bishops or an assistant to the Primate, and is the subject of information that, if established, together with the relevant conduct or omission occurring while a member of the House of Bishops or assistant to the Primate, might call into question the fitness of the Bishop to hold office or to remain in Holy Orders (but excluding any breach of faith, ritual or ceremonial).

¹⁴ New definition inserted by Part 2, Division 1 section 2.1 of Canon 11, 2022

¹⁵ New definition inserted by Part 2 Division 7 section 2.20 of Canon 11, 2022

¹⁶ New section 1A inserted by Part 6 Division 1 section 6.1 of Canon 11, 2022

PART 2 – CODE OF CONDUCT

3. The General Synod or the Standing Committee shall from time to time by resolution approve a Code of Conduct for observance by Bishops, which does not make provision for any matter concerning faith, ritual or ceremonial, provided that any changes to the Code of Conduct made by the Standing Committee shall be referred to the next session of General Synod for ratification.
4. The Standing Committee through the ESC and by such other means as may be considered appropriate shall take such steps as may be necessary or desirable to promote the knowledge, understanding and observance in this Church of the Code of Conduct. A code of conduct must not make provision for any matter concerning faith, ritual or ceremonial.

PART 3 – THE PROTOCOL

5. (1) The Standing Committee shall from time to time consider and approve a protocol for implementation in relation to information.
- (2) The protocol must include:
 - (a) procedures for receiving information;
 - (b) provision for informing complainants and victims of alleged conduct the subject of information, and respondents, of rights, remedies and relevant procedures available to them;
 - (c) provision for assisting or supporting, as appropriate, all persons affected by alleged conduct the subject of information;
 - (d) an explanation of the processes for investigating and dealing with information;
 - (e) provisions for dealing fairly with respondents;
 - (f) processes for referral to mediation and conciliation in appropriate circumstances;
 - (g) provisions for information, reports, advice and recommendations to the Primate, the relevant Metropolitan and to the relevant Administrator at each stage of the process of dealing with information;
 - (h) procedures for working, where appropriate, with law enforcement,

prosecution or child protection authorities of the States and Territories and of the Commonwealth of Australia.

6. The Standing Committee through the ESC and by such other means as it may consider appropriate shall take such steps as may be necessary or desirable to promote throughout the Church a knowledge and understanding of the protocol.

PART 4 - THE EPISCOPAL STANDARDS COMMISSION

7. (1) In addition to the powers conferred on it by the Special Tribunal Canon 2007 and subject to the provisions of this Canon the ESC has the following powers and duties:
 - (a) to implement the protocol to the extent that the protocol is not inconsistent with this Canon;
 - (b) to receive information;
 - (c) to act on information in accordance with the provisions of this Canon, and the protocol to the extent that it is not inconsistent with this Canon;
 - (d) to appoint suitable persons to fulfil the several roles required to implement the protocol in each particular case;
 - (e) where appropriate, to arrange for the conciliation or mediation of any complaint the subject of information;
 - (f) to investigate information in a timely and appropriate manner;
 - (g) where appropriate, to recommend to the Standing Committee any changes to the protocol;
 - (h) subject to any limit imposed by the Standing Committee to authorise such expenditure on behalf of the General Synod as may be necessary or appropriate to implement, in a particular case, the protocol and the provisions of this Canon;
 - (i) to advise any relevant Church body as to the financial, pastoral or other needs of a person affected by conduct the subject of information and as to any possible or actual legal proceedings against such Church body arising out of the alleged conduct of a bishop;
 - (j) to refer any information in its possession to a member of a law enforcement, prosecution or child protection authority of a State or Territory or of the Commonwealth of Australia to which the information is or may be relevant;
 - (k) to maintain proper records of all information received and of action taken in relation to such information;

- (1) to have carriage under this Canon of the referral of a question to the Board from an equivalent body to the ESC under a complying ordinance.
 - (2) The Director may receive information on behalf of the ESC and shall carry out such functions under this Canon as the ESC may determine.
- 8.
 - (1) In the exercise of its powers and duties under this Canon the provisions of sections 8, 9 and 10 of the Special Tribunal Canon 2007 shall apply to the ESC as if reference therein to the Tribunal were a reference to the Board and reference to a complaint were a reference to information.
 - (2) Subject to subsection (3), the ESC may delegate, upon such terms and conditions as the ESC may approve, any of its powers or functions under this Canon to any person.
 - (3) The ESC cannot delegate:
 - (a) its powers under subsection (2);
 - (b) its powers under section 13; or
 - (c) its powers under section 16.
 - (4) A delegation under this section must be made by instrument in writing signed by a member of the ESC.

PART 5 - EXAMINABLE CONDUCT

- 9. Subject to this Canon, where the ESC considers that the subject matter of information constitutes examinable conduct it shall investigate the information.
- 10. The ESC may decide not to investigate the information or may refrain from further investigation of the information if:
 - (a) in its opinion, the allegations the subject of the information are vexatious or misconceived, or their subject matter is trivial;
 - (b) the subject matter is under investigation by some other competent person or body or is the subject of legal proceedings;
 - (c) the person making allegations of examinable conduct or a person affected by the conduct the subject of the information has failed, when requested by the ESC, to provide further particulars or to verify the allegations by statutory declaration; or

- (d) in its opinion there is insufficient reliable evidence to warrant an investigation or further investigation.
11. For the purpose of an investigation the ESC or an investigator shall obtain such statutory declarations, written statements, recorded conversations, reports, documents and other material as the ESC or its delegate considers necessary or desirable.
12. (1) The ESC may by notice in writing to a respondent require the respondent to provide a detailed report to the ESC within the time specified in the notice in relation to any matter relevant to the investigation.
- (2) It is the obligation of a respondent:
- (a) not to mislead the ESC or a member or delegate of the ESC;
 - (b) not unreasonably to delay or obstruct the ESC or a member or delegate of the ESC in the exercise of powers conferred by this Canon.
- (3) If a respondent declines to answer a question on the ground that the answer might tend to incriminate the person a written record shall be made of the question and of the ground of refusal.

12A When the ESC has commenced an investigation of information under this Part, it must conduct an initial assessment to identify any risks to children and must take whatever steps are reasonably available and practicable to minimise risks identified.¹⁷

13. (1) At any time after the ESC has commenced or caused to be commenced an investigation of information under this Part in circumstances where it considers that action may be taken under paragraph (b) or (c) of section 16, it may recommend to the Diocesan Council or, in the case of a Bishop who is not a diocesan bishop, to the Primate, that the Bishop be suspended from the duties of office.
- (2) If the Diocesan Council, meeting when the Bishop is not present, or the Primate, as the case may be, concurs in the recommendation, the President of the Board, after considering any submission from the Bishop, may suspend the Bishop from the duties of office.
- (3) The meeting of the Diocesan Council referred to in sub-section (2) shall be chaired by a Diocesan Bishop appointed by the Primate with the concurrence of a majority of the Metropolitans. The Diocesan Bishop so appointed shall not have a vote at the meeting.

¹⁷ New section 12A inserted by Part 5 section 5.2 of Canon 11, 2022

- (4) Where an investigation has been commenced against the Primate under this part, the powers and functions of the Primate under sub-section (3) shall be exercised by the person who would exercise the authorities, powers, rights and duties of the Primate if there were a vacancy in the office.
 - (5) For the purposes of this section a reference to the Metropolitans excludes a Metropolitan who at the time is the subject of an investigation under this part.
14. Before suspending a Bishop from the duties of office **under section 13** the President of the Board shall take into account:¹⁸

- (a) the seriousness of the conduct alleged in the information;
- (b) the nature of the material to support or negate the allegations;
- (c) whether any person is at risk of harm;
- (d) after consultation with the relevant Diocesan Council or its representative, the effect on the respondent, a relevant Church body and on the Church in the diocese of acting and of not acting under section 13; and
- (e) any other allegation of similar examinable conduct previously made to the ESC or to an equivalent body within the previous ten years;

and may take into account any other relevant matter.

15. (1) A suspension under section 13 or a voluntary standing down from office by the Bishop as a result of an investigation by the ESC:
- (a) has effect as an absence of the Bishop from the see or from office as the case may require; and
 - (b) continues until it ceases to have effect by reason of:
 - (i) the ESC terminating the investigation without taking action under section 16;
 - (ii) a determination to that effect by the Board or the Tribunal as the case may be; or
 - (iii) the see or the office becoming vacant (whether or not under this Canon);

whichever first occurs.

¹⁸ Amended by Part 2 Division 9 Clause 2.25 of Canon 11, 2022

- (2) During any such suspension or voluntary standing down the Bishop is entitled to receive whatever stipend, allowances and other benefits that would otherwise have accrued and which are to be met or reimbursed by the body normally responsible for their payment.

16. At any time after the commencement of an investigation under this Part the ESC may:
 - (a) if it considers on reasonable grounds that the Bishop may be incapable, report the matter in writing to the relevant Metropolitan, and such report shall be a report for the purposes of section 4 of the Bishop (Incapacity) Canon 1995 as if it were made by three members of the synod of a diocese pursuant to that section;
 - (b) refer to the Board the fitness of the Bishop, whether temporarily or permanently, to hold office or to remain in Holy Orders;
 - (c) whether or not the information the subject of the investigation is also the subject of a complaint under the Special Tribunal Canon 2007, institute, amend or withdraw proceedings by way of charge against the Bishop before the Tribunal.

17.
 - (1) The fact that the subject matter of a complaint or dispute concerning examinable conduct may be settled or resolved in whole or in part between the parties affected thereby does not prevent the ESC from taking any of the steps referred to in section 16 in respect of the subject matter of the complaint or dispute.
 - (2) Any term of settlement or resolution referred to in sub-section (1) which purports to prevent or to limit the institution of such proceedings shall be of no effect.
 - (3) A matter shall not be referred to the Board, a reference to the Board shall not continue and proceedings shall not be instituted or maintained in the Special Tribunal where the bishop concerned has relinquished or has been deposed from Holy Orders in accordance with the Holy Orders Relinquishment and Deposition Canon 2004.

PART 6 - EPISCOPAL STANDARDS BOARD

- 18.¹⁹ There shall be an Episcopal Standards Board constituted and appointed in accordance with the provisions of this Part.
19. (1) Subject to the provisions of this Canon the function of the Board is to inquire into and determine a question referred to it pursuant to section 16 or pursuant to a corresponding provision of a complying ordinance, to make a determination referred to in section 49 and where appropriate to make a recommendation in accordance with the provisions of this Canon.
- (2) Subject to section 17(3) the Board may make a determination and recommendation referred to in sub-section (1) notwithstanding that the bishop whose conduct is the subject of the reference has ceased, after the reference, to be a Bishop.
- (3) Where there is a referral of a question to the Board from an equivalent body to the ESC under a complying ordinance, if the equivalent body would have, but for this Canon, referred at the same time other complaints against the Bishop to the board constituted under the complying ordinance in respect of conduct that does not fall within examinable conduct as defined in this Canon which might call into question the fitness of the Bishop to hold office or to remain in Holy Orders, the equivalent body may refer to the Board, and the Board may determine, the question arising from the conduct other than the examinable conduct in conjunction with the question arising from the examinable conduct.
20. (1) The members of the Board in a particular case shall be appointed from a panel comprising:
- (a) a President and a Deputy President, both of whom shall be persons who are eligible for appointment as lay members of the Appellate Tribunal;
 - (b) five persons in bishop's orders; and
 - (c) five persons who are members of the Church not in bishop's orders.
- (2) A person who is a member of the panel from whom the members of the Tribunal may be appointed is eligible for appointment to the panel.
21. The members of the panel shall be appointed by the Standing Committee and shall hold office in accordance with a resolution of the Standing Committee.
22. Any vacancy in the membership of the panel shall be filled by or in accordance with a resolution of the Standing Committee.

¹⁹ The Episcopal Standards Board established by Part 6 of the Episcopal Standards Canon 2007 is the Episcopal Standards Board for the purpose of this Canon.

23. (1) The members of the panel to be convened for any reference to the Board shall be determined by the President or, if there is a vacancy in the office of President, by the Deputy President.
- (2) For the purpose of any reference to the Board, the Board shall consist of the President or Deputy President, who shall be the presiding member, and an equal number not exceeding two of the episcopal and other members of the panel.
- (3) Where possible, the Board shall include at least one man and at least one woman.
- (3A) A member of the panel must without delay disclose to the President, or if there is a vacancy in the office of President to the Deputy President, any conflict of interest that the member has in relation to a matter before the Board.²⁰
- (4) Where, in the opinion of the President or, if there is a vacancy in the office of the President, in the opinion of the Deputy President a member of the panel has a conflict of interest in relation to a matter before the Board the member shall be disqualified from participating in the reference.²¹
- (5) For the purposes of this section a vacancy in the office of President includes a situation in which the President is not able to act because of a conflict of interest in relation to a matter, illness or absence from Australia.²²
24. (1) The Rules of the Board made under this Part may provide that, in relation to the exercise of specified functions, or in relation to matters of a specified class, the Board may, at the direction of the presiding member, be constituted by a single member sitting alone.
- (2) The Board, if constituted by a single member sitting alone, cannot make a determination under section 49.
25. If a member of the Board, other than the presiding member, dies or is for any other reason unable to continue with any matter referred to the Board, the Board constituted of the presiding member and the other member or members may, if the presiding member so determines, continue and complete the reference.
26. The Board, separately constituted in accordance with this Part, may sit simultaneously for the purpose of matters referred to it or for conducting separate business of the Board.
27. An act or proceeding of the Board is not invalid by reason only of a vacancy in its membership or of the membership of the panel and, notwithstanding the subsequent discovery of a defect in the nomination or appointment of members of the panel or the

²⁰ New sub section inserted by Part 6 Division 1 section 6.2(a) of Canon 11, 2022

²¹ Amended by Part 6 Division 1 section 6.2(b) of Canon 11, 2022

²² Amended by Part 6 Division 1 section 6.2(c) of Canon 11, 2022

Board, any such act or proceeding is as valid and effectual as if the member had been duly nominated or appointed.

28. There shall be a Secretary to the Board who shall be appointed by or in accordance with a resolution of the Standing Committee, and whose duties shall be defined by the President.
29. (1) In any proceedings of the Board where the Board is constituted by two or more members:
 - (a) any question of law or procedure will be determined by the presiding member; and
 - (b) any other question will be determined by majority decision of the members, and in the case of an equality of votes the opinion of the presiding member shall prevail.
- (2) Where the Board is constituted by a member sitting alone who is not the President or the Deputy President, any question of law that arises must be referred to the President or Deputy President for decision and any decision made on such a reference is a decision of the Board.
- (3) The Board must act with fairness and according to equity, good conscience and the substantial merits of the case without regard to technicalities or legal forms and is not bound by the rules of evidence but may inform itself on any matter in such manner as it thinks fit.
- (4) Without limiting the meaning and effect of sub-section (3), the Board may receive evidence of a witness in the form of an affidavit, statutory declaration or a signed statement without the need for the personal attendance of the witness, and may also use electronic means such as video link or conference telephone to receive evidence and submissions, but must permit the respondent and his representative (if any) opportunity to adequately cross-examine each witness
- (5) The Board may inform itself from the record of any court, tribunal or commission of inquiry and may adopt any findings, and accept as its own, the record of any court, tribunal or commission of inquiry.²³
30. The Board may, for the purpose of any particular reference and at the cost of the General Synod, appoint such person or persons, including the Director, to assist it in inquiring into (but not determining) that reference as the Board thinks fit.
31. The Board must give reasons for any determination, other than by way of directions in the course of an inquiry, unless the determination is made by consent of the respondent.
32. (1) The Board has no power to award costs of any proceedings before it.

²³ Amended by Part 2 Division 9 section 2.26 of Canon 11, 2022

- (2) A bishop in relation to whom a question is the subject of a reference to the Board may apply to the Standing Committee for the provision of legal assistance.
 - (3) The Standing Committee may grant legal assistance to a bishop on such terms and subject to such conditions as it shall determine.
- 33.
- (1) The President may make Rules of the Board reasonably required by or pursuant to this Canon and in relation to the practice and procedure of the Board.
 - (2) Subject to this Canon and the relevant Rules, the practice and procedure of the Board will be as directed by the presiding member of the Board.

PART 7 – REFERENCE OF MATTERS TO THE EPISCOPAL STANDARDS BOARD

34. A question shall be referred to the Board by delivering to the Secretary of the Board a written report of the investigation of the ESC signed by a member of the ESC.
35. The Board shall not, in the course of inquiring into any question:
- (a) inquire into any matter which is or has been the subject of any formal investigation or enquiry conducted;
 - (i) under or pursuant to any provision of the Constitution; or
 - (ii) under or pursuant to a Canon of the General Synod or an Ordinance of a diocese relating to the discipline of clergy or Church workers by a board of enquiry, tribunal or other body;but may take into account the finding of any such formal investigation or enquiry;
 - (b) inquire into, make any findings in relation to or take into account any alleged breach of:
 - (i) faith of the Church, including the obligation to hold the faith;
 - (ii) ritual of the Church, including the rites according to the use of the Church and the obligation to abide by such use; or
 - (iii) ceremonial of the Church, including ceremonial according to the use of the Church and the obligation to abide by such use.
36. (1) Upon delivery of the report to the Secretary of the Board, the President or Deputy President as the case may be shall as soon as possible determine the membership of the Board for the purpose of the reference.
- (2) The President or Deputy President as the case may require shall thereupon cause to be convened a sitting for the purpose of giving directions.
- (3) A person or body appearing or represented before the Board shall comply with the Rules of the Board and with any directions given by the Board.
37. Within 14 days of the date of the reference of a matter to the Board or within 14 days of the date of the document or material coming to existence, whichever is the later, the ESC shall cause to be delivered to the Secretary of the Board any documents and material relevant to the reference.

38. The ESC, as soon as practicable after delivering the report referred to in section 34 to the Secretary of the Board, shall cause a signed copy of the report to be delivered to the respondent.
39. The Board may at any time and from time to time give directions:
 - (a) as to the inspection by and supply of copies to the respondent or any other person of the documents or material relevant to the reference;
 - (b) as to the conduct of its inquiry into the reference.
40. The Board may at any time and from time to time give directions to the ESC as to any further inquiries or investigation it requires to be carried out for the purposes of the reference and the ESC shall to the best of its ability cause such directions to be carried out.
41.
 - (1) The Board shall deal with any reference as expeditiously as possible.
 - (2) The Board may, if it sees fit, proceed with the determination of a reference notwithstanding that there may be mediation or conciliation proceedings relating to the subject matter of the reference being conducted by or at the direction of the ESC and notwithstanding that there may be criminal or other proceedings being taken against the respondent or some other person.
42.
 - (1) The place and time of sitting of the Board comprising two or more members shall be as determined by the presiding member.
 - (2) The place and time of sitting of the Board comprising one member shall be as determined by that member.
43.
 - (1) Subject to sub-section (2), the Board must give the following persons reasonable notice of the time and place of a sitting of the Board:
 - (a) the Director; and
 - (b) the respondent; and
 - (c) such other persons as the Board believes have a proper interest in the matter.
 - (2) The Board is not obliged to give notice of a sitting to a person whose whereabouts cannot, after reasonable enquiries, be ascertained.
44. In any proceedings before the Board:

- (a) the ESC and any person may be represented by a legal practitioner or, with leave of the Board, by any other person;
 - (b) the ESC or its appointed representative shall do all in its power to assist the Board and shall carry out any directions of the Board;
 - (c) the Board:
 - (i) must give the ESC and the respondent a reasonable opportunity to call or give evidence, to examine or cross-examine witnesses and to make submissions to the Board; and
 - (ii) must give any other person to whom notice of the proceedings was given or who satisfies the Board that he or she has a proper interest in the matter a reasonable opportunity to make submissions to the Board.
45. (1) Subject to sub-section (2), a sitting of the Board on a reference before the Board is an open sitting.
- (2) On any such sitting before the Board, the Board has an absolute discretion:
- (a) to direct that no person other than:
 - (i) the respondent and any person representing him or her in the proceedings; and
 - (ii) witnesses or persons making submissions (while giving evidence or making those submissions); and
 - (iii) officers of the Board or persons assisting the Board; and
 - (iv) members of or persons appointed by the ESC; be present in the room while the Board is sitting; or
 - (b) to direct that a particular person (other than a person referred to in paragraph (a)) not be present in the room while the Board is sitting.
46. The Board may make a determination in any proceedings in the absence of a person affected by the determination if satisfied that reasonable efforts were made to give that person an opportunity to appear.
47. (1) The Board may require a respondent to submit within a specified time to a medical, psychiatric or psychological examination by a person approved by the Board the cost of which shall be met from funds under the control of the General Synod.
- (2) A copy of the report of an examination under subsection (1) shall be provided to the respondent and to the Board.

48. In making any determination the Board shall take into account:

- (a) the conduct of the bishop as it finds it to have been;
- (b) in the material before the Board, any other fact or circumstance relevant to the determination of the question before it; and
- (c) any failure of the bishop to comply with a provision of this Canon or with a direction of the Board.

49. (1) Subject to subsection (2), if after investigating the question referred to it about a bishop, the Board is satisfied that:²⁴

- (a) the bishop should be counselled;
- (b) the bishop's continuation in office should be subject to conditions or restrictions;
- (c) the bishop is unfit, whether temporarily or permanently, to hold office; or
- (d) the bishop is unfit to remain in Holy Orders;

the Board may determine accordingly and may:

- (e) direct that the bishop be counselled;
- (f) direct that the bishop's holding of office shall be subject to such conditions or restrictions as the Board may specify;
- (g) direct that the bishop cease to carry out the duties and functions of his office from such time and for such period determined by the Board;
- (h) direct that the bishop resign from the office, within such time as is specified by the Board;
- (i) direct that the operation of a determination referred to in paragraphs (f) to (h) shall be suspended for such period and upon such conditions as the Board shall specify;
- (j) direct that the bishop relinquish Holy Orders within such time as is specified by the Board;
- (k) give such other direction as the Board sees fit;
- (l) determine that the bishop be prohibited, either temporarily or permanently, from functioning as a bishop or as a bishop and priest; or²⁵

²⁴ Amended by Part 5 section 5.4(a) of Canon 11, 2022

²⁵ Amended by Part 5 section 5.4(b) of Canon 11, 2022

(m) determine the bishop be deposed from the exercise of Holy Orders.²⁶

(2) Where the Board is satisfied that the bishop has been convicted by a court exercising criminal jurisdiction of committing while a member of the clergy a sexual offence relating to a child, the Board must determine that the bishop be deposed from the exercise of Holy Orders.²⁷

50. The Board shall cause a copy of each determination and direction to be provided:

- (a) to the Primate;
- (b) to the relevant Metropolitan;
- (c) to the respondent;
- (d) to the relevant administrator;
- (e) to the ESC;
- (f) where appropriate, to any relevant complainant;
- (g) in the case of a former Bishop, to the relevant diocesan bishop; and

shall cause relevant details to be forwarded for entry into the national register.

50A. The relevant Metropolitan and, where applicable, the relevant diocesan bishop, is authorised and must give effect to the determination of the board.

51. (1) The bishop shall comply with a direction of the Board.

(2) [deleted]

(3) The ESC may institute proceedings forthwith in the Tribunal in respect of an offence against this section or, if the bishop is no longer a Bishop, shall refer the matter, together with such relevant information concerning the alleged offence as may be in its possession, to the bishop of the diocese in which the bishop is then resident.

²⁶ Amended by Part 5 section 5.4(c) of Canon 11, 2022

²⁷ Sub section (2) inserted by Part 5 section 5.4(d) of Canon 11, 2022

PART 8 - APPEAL

52. In this Part, unless the context otherwise requires

reviewable decision means a recommendation or determination of the Board other than by way of an interlocutory order;

Review Board means the Episcopal Standards Review Board constituted for the purposes of this Part.

53. [deleted]

54. A Bishop or the ESC, if aggrieved by a reviewable decision, may appeal by notice to the General Secretary.

55. (1) The Review Board will be constituted from the members of the panel referred to in section 20 and the members of the panel to be convened for an appeal to the Review Board will be determined by whichever of the President or the Deputy President was not a member of the Board which made the determination that is the subject of the appeal, as soon as possible after the appeal is notified to the President or Deputy President.

(2) For the purpose of an appeal, the Review Board shall consist of the President or Deputy President, who shall be the presiding member, and an equal number not exceeding two from the episcopal members and two from the other members of the panel who were not members of the Board which made the determination that is the subject of the appeal.

(3) Subsections (3) to (5) of section 23, subsection (1) of section 24, sections 25 to 27, 29 and 31 to 33, subsections (2) and (3) of section 36, and sections 41(1), 42, 45 and 46 apply to an appeal to the Review Board, as if the reference to the Board is a reference to the Review Board.

56. For a reviewable decision, the provisions of section 51 shall not apply until the time for lodging an appeal has passed, and no application has been lodged.

57. The making of an appeal acts as a stay of the reviewable decision pending determination by the Review Board.

58. For a reviewable decision, the Board shall not cause the relevant details to be forwarded for entry into the national register under section 50 until:

(a) the time for lodging an appeal has passed, and no notice of appeal has been lodged; or

- (b) where an appeal has been heard and determined, the determination has been made.
59. If the Review Board on appeal confirms, varies or makes another determination in substitution for a reviewable decision, the Review Board must cause the details of the confirmed, varied or substituted determination to be forwarded to the General Section and the persons referred to in section 50 and the General Secretary shall cause relevant details to be forwarded for entry into the national register.
60. If a Review Board's determination refers a matter back to the Board, then the Board must:
- (a) determine to take no further action in respect of the matter; or
 - (b) deal with the matter in accordance with Part VII of this Canon, in accordance with such directions or recommendations as the Review Board may make in the Review Board's determination; or
 - (c) deal with the matter in accordance with Part VII of this Canon applying such of the provisions of Part VII as, in the discretion of the Board and in accordance with the Review Board's determination, the Board sees fit.
61. An appeal against the reviewable decision must be made within 28 days of a copy of the Board's determination under section 50 being provided to the Bishop and the ESC. The notice of appeal must:
- (a) be in writing addressed to the General Secretary; and
 - (b) set out the grounds for appeal in the application.
62. On receipt of an application for review²⁸, the General Secretary must immediately seek the appointment of a Review Board.
63. [deleted]
64. Unless otherwise specified in this Canon, the manner in which the appeal is to be conducted will be determined by the Review Board.
65. On an appeal of a reviewable decision, the Review Board may make all or any of the following determinations:
- (a) a determination quashing or setting aside the reviewable decision and making another determination in substitution for it;
 - (b) a determination referring the matter to which the reviewable decision relates to the Board for further consideration, subject to such directions (including the

²⁸ Consistent with other changes made to this Part, the reference to 'an application for review' should be read as 'a notice of appeal'.

setting of time limits for the further consideration, and for the steps to be taken in the further consideration) as the Review Board determines;

(c) [deleted]

(d) [deleted]

(e) a determination confirming or varying the reviewable decision.

66. [deleted]

67. The appeal shall be by way of rehearing.

PART 9 - REGULATIONS

68. The Standing Committee may from time to time make, amend or repeal Regulations, not inconsistent with the provisions of this Canon, providing for records arising out of or incidental to the operation of this Canon, and for all or any of the purposes whether general or to meet particular cases, which may be convenient for the administration of this Canon or which may be necessary or expedient to carry out the objects and purposes of this Canon.

Coming into force by adoption

69.³ The provisions of this Canon affect the order and good government of this Church within a diocese and do not come into force in a diocese unless and until the diocese adopts this canon by ordinance of the synod of the diocese.

NATIONAL REGISTER CANON 2007**Canon 15, 2007 as amended by
Canon 13, 2010
Canon 9, 2014
Canon 10, 2017**

The General Synod prescribes as follows:

Short title

1. This Canon may be cited as the "National Register Canon 2007".

Definitions

2. The dictionary in the Third Schedule defines particular words and expressions used in this Canon.

Object

3. The object of this Canon is to assist in providing for the physical, emotional and spiritual welfare and safety, and the protection from the risk of abuse, of all people having dealings with clergy and church workers by establishing a National Professional Standards Register to which authorised persons may have access and make disclosures of the Information therein.

Establishment of the National Register

4. There shall be a National Professional Standards Register of clergy and lay persons established and maintained in accordance with the provisions of this Canon.

Information about clergy

- 5.¹ (1) The National Register shall be a register of all clergy:
 - (a) against whom a notifiable complaint or a notifiable charge has been made unless it is exhausted; or
 - (b) in respect of whom there has been a relinquishment of, or consent to deposition from, Holy Orders arising out of sexual misconduct or child abuse;
 - (c) who have made an adverse admission or are the subject of an adverse finding; or

¹ Amended by Canon 13, 2010.

(d)² in respect of whom there has been an adverse check or an adverse criminal history check or an adverse Safe Ministry Check; or

(e) who have not been ordained as a priest or as a bishop, or **authorised to function** or appointed by a Church authority, because of an adverse risk assessment.³

(2) The register of clergy shall contain the following matters:

(a) Information relating to clergy; and

(b) in relation to each member of the clergy included in the register, a notation of the date on which the register was last altered.

Information about lay persons

6.⁴ (1) Subject to this Canon the National Register shall be a register of all lay persons:

(a) against whom a notifiable complaint or a notifiable charge has been made unless it is exhausted; or

(b) who have made an adverse admission or are the subject of an adverse finding; or

(c)⁵ in respect of whom there has been an adverse check or an adverse criminal history check or an adverse Safe Ministry Check; or

(d) who have not been ordained as a deacon, or **authorised to function** or appointed by a Church authority, because of an adverse risk assessment.⁶

(2) The register of lay persons shall contain the following matters:

(a) Information relating to lay persons; and

(b) in relation to each lay person included in the register, a notation of the date on which the register was last altered.

Maintenance of the National Register

7. (1) Subject to this Canon, the National Register shall be maintained by the General Secretary in such form as the Standing Committee shall approve so as to ensure the security of the Information therein.

² Amended by Canon 10, 2017.

³ Amended by Schedule 1.3(1)(a) of Canon 11, 2022

⁴ Amended by Canon 13, 2010.

⁵ Amended by Canon 10, 2017.

⁶ Amended by Schedule 1.3(1)(b) of Canon 11, 2022

- (2) The General Secretary shall issue forms necessary for the operation of the National Register and publish these forms on the website of the General Synod.

Provision of Information for inclusion in the National Register

- 8.7 (1) A Director of Professional Standards shall enter information in the National Register relating to any member of the clergy or lay person to which he or she has access in carrying out his or her responsibilities, in accordance with a protocol approved by the General Synod, or the Standing Committee by a two-thirds majority, as soon as practicable, and no later than one month after he or she has access to the Information.
- (2) A Director of Professional Standards shall advise the General Secretary if Information of which he or she is aware has not been entered in accordance with subsection (1) as soon as practicable after the expiration of the period specified in subsection (1).
- (3) The General Secretary shall:
- (a) after receipt of advice under subsection (2), promptly enter a caution in the National Register in relation to the member of the clergy or lay person, the subject of that Information; and
- (b) no later than one month after the entry of that caution in the National Register, notify the member of the clergy or lay person concerned, by letter sent to his or her postal or electronic address where that address is known and reasonably believed to be used by the member of clergy or the lay person, of:⁸
- (i) the entry of the caution; and
- (ii) the right of that person to request in writing of the General Secretary the removal of the caution in accordance with subsection (5).
- (4) A Director of Professional Standards who has given the General Secretary advice in accordance with subsection (2) shall as soon as practicable after giving such advice notify that Information to the General Secretary.
- (5) The General Secretary shall promptly after the earlier of:
- (a) notification by a Director of Professional Standards under subsection (4); and
- (b) the expiration of two months from receipt of a request in writing from the member of the clergy or lay person the subject of the caution requesting its removal,
- remove the caution from the National Register.

⁷ Amended by Canon 13, 2010; amended by Canon 10, 2017.

⁸ Amended by Part 3 Division 4 section 3.9 of Canon 11, 2022

Exclusion from operation of the canon

- 8A.⁹ (1) The General Synod, or the Standing Committee, may establish exclusion criteria, and shall publish any such criteria on the General Synod website.
- (2) If exclusion criteria are established they must include:
- (a) a system of screening for sexual misconduct in relation to adults and child abuse;
 - (b) a code of conduct; and
 - (c) a system for making and dealing with complaints of sexual misconduct in relation to adults and child abuse.
- (3) The General Synod, or Standing Committee by a two-thirds majority, on application by a province or diocese may exclude from the operation of this Canon for such period as it determines:
- (a) a Church body other than a parish; and
 - (b) a category of church workers;
- if it is satisfied that the Church body or the category of church workers meets the exclusion criteria.
- (4) The exclusion of a Church body from the operation of this Canon shall not apply to any clergy employed by or exercising ministry within the Church body unless otherwise specified in the exclusion.
- (5) The General Synod, or the Standing Committee by a two-thirds majority, may in respect of an exclusion referred to in subsection (3) revoke the exclusion if it is satisfied that the Church body or the category of church workers no longer meets the exclusion criteria.
- (6) The General Secretary shall publish on the website of the General Synod a list of all Church bodies and categories of church workers excluded from the operation of this Canon and the date on which the exclusion took effect and if applicable the period during which the exclusion had effect.

Notification of Information in the National Register

- 9.¹⁰ (1) Subject to subsection (5), the General Secretary shall, as soon as practicable, and no later than one month, after the entry of Information in the National Register relating to a member of the clergy or a lay person (other than a changed entry relating to item 4 of each of the First and Second Schedules), notify the member of the clergy or lay person concerned of the entry of that Information by letter sent to his or her last known postal or electronic address where that address is known.

⁹ Added by Canon 13, 2010.

¹⁰ Amended by Canon 9, 2014.

- (2)¹¹ Where a Director of Professional Standards receives a police request or a withdrawal of the police request and is reasonably satisfied of its authenticity, the Director of Professional Standards shall forthwith:
- (a) enter a notation of the police request in the National Register, or remove that notation, as the case may be; and
 - (b) make a police request record or a withdrawal of the police request record, as the case may be, and provide that record to the General Secretary.
- (3)¹² Where the General Secretary receives a police request or a withdrawal of the police request and is reasonably satisfied of its authenticity, the General Secretary shall forthwith:
- (a) enter a notation of the police request in the National Register, or remove that notation, as the case may be; and
 - (b) make a police request record or a withdrawal of the police request record, as the case may be.
- (4)¹³ The General Secretary shall keep any such police request record or withdrawal of the police request record, as the case may be.
- (5)¹⁴ Where the General Secretary receives a police request, or a police request record from a Director of Professional Standards, the General Secretary shall not notify the member of the clergy or lay person of the entry of Information in the National Register relating to that person until the sooner of the expiration of six months after the receipt of the police request or the receipt of a withdrawal of the police request, or a withdrawal of the police request record from a Director of Professional Standards, as the case may be.

Removal of Information in the National Register

- 10.¹⁵ (1) A Director of Professional Standards shall notify the General Secretary as soon as practicable after becoming aware that a notifiable complaint or a notifiable charge against a member of clergy or a lay person has been exhausted.
- (2) Where notification is received from the applicable Director of Professional Standards that a notifiable complaint or notifiable charge against a member of the clergy or a lay person has been exhausted, the General Secretary shall, as soon as practicable and no later than one month after receipt of the notification, remove Information in the National Register relating to that notifiable complaint or notifiable charge and notify:

¹¹ Inserted by Canon 9, 2014.

¹² Inserted by Canon 9, 2014.

¹³ Inserted by Canon 9, 2014.

¹⁴ Inserted by Canon 9, 2014.

¹⁵ Amended by Canon 13, 2010.

(a) the member of the clergy or lay person concerned of the removal of that Information by written notification sent to his or her postal or electronic address where that address is known and reasonably believed to be used by the member of clergy or the lay person;¹⁶ and

(b) each authorised person who has had access to that Information, other than the person or persons in subsections 11(d) and (e), of the removal of that Information, by written notification.

- (3) Each authorised person referred to in subsection (2)(b), shall, as soon as practicable and no later than one month after the receipt of the notification referred to in that subsection, forward a copy of that notification to each Church authority to whom the authorised person has disclosed the Information.
- (4) Where notification is received from the applicable Director of Professional Standards that a member of the clergy or a lay person relating to whom there is Information in the National Register has died, the General Secretary shall, as soon as practicable and no later than one month after receipt of the notification, remove Information in the National Register relating to that member of the clergy or lay person.

Access to and disclosure of Information in the National Register

11. Access to and disclosure of Information in the National Register shall, subject to sections 12 and 13, be limited to the following authorised persons:

- (a) a diocesan bishop or delegate;
- (b) the Bishop to the Defence Force or delegate;
- (c) a Director of Professional Standards;
- (d) the General Secretary;
- (e) any person within the General Synod Office whose duties include assisting the General Secretary in maintaining the National Register; and
- (f) such other persons as may be determined by the Standing Committee by a two-thirds majority;

who agree to abide by the protocols under this Canon approved by the General Synod, or the Standing Committee by a two-thirds majority.

Entitlement to ascertain the existence and obtain a copy of any Information in the National Register

- 12.¹⁷ The General Secretary, on application by a person to ascertain whether there is any Information, and if so to obtain a copy of the Information, in the National Register relating to that person, shall, other than in respect of Information which is the subject of a police request, notify the person whether there is any such Information, and if so provide a copy of that Information to that person, in accordance with a protocol approved by the General Synod, or the Standing Committee by a two-thirds majority.

Entitlement to ascertain details of access to Information in the National Register

13. The General Secretary, on application by a person to ascertain whether there has been access to any Information in the National Register relating to that person by an authorised person, shall notify the person whether there has been any such access, and if so provide details of that access to that person, in accordance with a protocol approved by the General Synod, or the Standing Committee by a two-thirds majority.

Amendment of Information in the National Register

14. (1) The General Secretary, on application by a person to amend the Information in the National Register relating to that person, shall:
- (a) amend the Information in the National Register relating to that person, or
 - (b) include a statement of the person in the National Register,
- subject to any limitation on the length of any amendment or statement determined by the Standing Committee, in accordance with a protocol approved by the General Synod, or the Standing Committee by a two-thirds majority.
- (2) The General Secretary shall, as soon as practicable and no later than one month after making the amendment or including the statement referred to in subsection (1), notify by written notification each authorised person who has had access to that Information, other than the person or persons in subsections 11(d) and (e), of the making of that amendment or the inclusion of that statement.
- (3) Each authorised person referred to in subsection (2) shall, as soon as practicable and no later than one month after the receipt of the notification referred to in subsection (2), forward a copy of that notification to each Church authority to whom the authorised person has disclosed the Information.

Annual report and audit

15. (1) The General Secretary shall, as soon as practicable after the end of each calendar year, provide a report as to the operation of the National Register to the Standing Committee for that year containing such information as the Standing Committee may determine.

¹⁷ Amended by Canon 9, 2014.

- (2) The Standing Committee shall:
- (a) determine the scope of an audit of the operation of the National Register to verify compliance with this Canon and the protocols under this Canon; and
 - (b)¹⁸ appoint an independent person to undertake an audit of the operation of the National Register for each calendar year and provide a report to the Standing Committee as soon as practicable after the end of that year.
- (3)¹⁹ Each diocese shall provide access to such of its records and provide such information as requested by the independent person undertaking the audit as is reasonably necessary to enable the audit to be undertaken.
- (4)²⁰ The General Secretary shall, as soon as practicable after the report of the audit has been provided to the Standing Committee, publish the report on the General Synod website.

Protocols

16. The Standing Committee by a two-thirds majority may revise any protocol or make any additional protocol under this Canon where it is necessary or convenient to carry out or give effect to this Canon.

Report to the General Synod

17. The Standing Committee shall prepare a report on the operation of this Canon for each ordinary session of the General Synod which shall include:
- (a) any protocol under this Canon which the Standing Committee has approved or revised, and
 - (b) any other decision under this Canon which the Standing Committee has made,
- since the last ordinary session of the General Synod.

¹⁸ Amended by Canon 10, 2017.

¹⁹ Added by Canon 10, 2017.

²⁰ Added by Canon 10, 2017.

Coming into force of particular provisions

18. (1) Paragraphs (a), (b), (c) and (f) of section 11 of this Canon shall not come into force until 1 March 2008.
- (2) The provisions of this Canon relating to the Episcopal Standards Board shall not come into force in a diocese unless and until the diocese adopts the Episcopal Standards Canon 2007 by ordinance of the synod of the diocese.

Repeal of the National Register Canon 2004

19. The National Register Canon 2004 is hereby repealed.

THE FIRST SCHEDULE - INFORMATION ABOUT CLERGY

1. Full name.
2. Date of birth.
3. Gender.
4. Last known postal and electronic address, and telephone numbers.
5. Date of ordination as a deacon and name of the diocese in which ordained.
6. Date of ordination as a priest and name of the diocese in which ordained.
7. Date of consecration as a bishop and name of the diocese in which consecrated.
8. Particulars of any current **licence or authorisation to function**, and any past **licence or authorisation to function** if available, including the diocese for which the **licence or authorisation to function** is or was held.²¹
9. Particulars of any current appointment, and any past appointment if available, including the Church authority by which the appointment was made, and the diocese in which the appointment is or was held.
10. Date of a notifiable complaint, and date or period and category of the alleged sexual misconduct or child abuse.
11. Date and reason the Investigator refrained from investigating a notifiable complaint.
12. Date of recommendation by the Investigator to the Church authority of a suspension from duties, office or an appointment by a Church body, or of a prohibition order, arising out of a notifiable complaint.
13. Date of reference of a notifiable complaint to a Determiner.
14. Date and particulars of a determination or recommendation of a Determiner relating to a notifiable complaint.
15. Date and particulars of any disciplinary action taken arising out of a notifiable complaint.
16. Date and particulars of any relinquishment of Holy Orders arising out of sexual misconduct or child abuse.
17. Date and particulars of any consent deposition from Holy Orders arising out of sexual misconduct or child abuse.
- 18.²² Date, applicable jurisdiction and particulars of any adverse check.

²¹ Amended by Schedule 1.3(2)(a) of Canon 11, 2022

²² Amended by Canon 10, 2017.

19. Date, applicable jurisdiction and particulars of any adverse criminal history check.
20. Date, applicable diocese and particulars of any adverse Safe Ministry Check.
21. Name of the bishop or bishops and date of any decision by the bishop not to ordain the person as a priest or to issue a **licence or authorisation to function** to the person or any refusal by the bishops to consecrate the person as a bishop because of an adverse risk assessment.²³
22. Name of the Church authority and date of any refusal by the Church authority to appoint the person because of an adverse risk assessment.
- 23.²⁴ Date, applicable jurisdiction and particulars of a notifiable charge.
- 24.²⁵ Date, applicable jurisdiction and particulars of an adverse admission.
- 25.²⁶ Date, applicable jurisdiction and particulars of an adverse finding.

²³ Amended by Schedule 1.3(2)(b) of Canon 11, 2022

²⁴ Added by Canon 13, 2010.

²⁵ Added by Canon 13, 2010.

²⁶ Added by Canon 13, 2010.

THE SECOND SCHEDULE - INFORMATION ABOUT LAY PERSONS

1. Full name.
2. Date of birth.
3. Gender.
4. Last known postal and electronic address, and telephone numbers.
5. Particulars of any current **licence or permission to function**, and any past **licence or permission to function** if available, including the diocese for which the **licence or permission to function** is or was held.²⁷
6. Particulars of any current appointment, and any past appointment if available, including the Church authority by which the appointment was made, and the diocese in which the appointment is or was held.
7. Date of a notifiable complaint, and date or period and category of the alleged sexual misconduct or child abuse.
8. Date and reason the Investigator refrained from investigating a notifiable complaint.
9. Date of recommendation by the Investigator to the Church authority of a suspension from duties, office or an appointment by a Church body, or of a prohibition order, arising out of a notifiable complaint.
10. Date of reference of a notifiable complaint to a Determiner.
11. Date and particulars of a determination or recommendation of a Determiner arising out of a notifiable complaint.
12. Date and particulars of any disciplinary action taken arising out of a notifiable complaint.
- 13.²⁸ Date, applicable jurisdiction and particulars of any adverse check.
14. Date, applicable jurisdiction and particulars of any adverse criminal history check.
15. Date, applicable diocese and particulars of any adverse Safe Ministry Check.
16. Name of the bishop and the date of any decision by the bishop not to ordain the person as a deacon or to issue a **licence or permission to function** to the person because of an adverse risk assessment.²⁹

²⁷ Amended by Schedule 1.3(3)(a) of Canon 11, 2022

²⁸ Amended by Canon 10, 2017.

²⁹ Amended by Schedule 1.3(3)(b) of Canon 11, 2022

17. Name of the Church authority and date of any refusal by the Church authority to appoint the person because of an adverse risk assessment.
- 18.³⁰ Date, applicable jurisdiction and particulars of a notifiable charge.
- 19.³¹ Date, applicable jurisdiction and particulars of an adverse admission.
- 20.³² Date, applicable jurisdiction and particulars of an adverse finding.

³⁰ Added by Canon 13, 2010.

³¹ Added by Canon 13, 2010.

³² Added by Canon 13, 2010.

THE THIRD SCHEDULE - DICTIONARY

In this Canon, and protocols approved under this Canon, unless the context otherwise requires:

adverse admission³³ means an admission by a person of conduct occurring within or outside of Australia:

- (a) in proceedings before a court or tribunal within or outside of Australia;
- (b) to a Church authority; or
- (c) to a Director of Professional Standards;

which is made or recorded in writing and which a Director of Professional Standards certifies constitutes sexual misconduct or child abuse by that person;

adverse check³⁴ means the cancellation, revocation, suspension of, and refusal to issue, a **statutory clearance** on account of known or suspected child abuse or sexual misconduct;³⁵

adverse criminal history check means a criminal history check of a person provided under legislation of the Commonwealth, a State or Territory, or another country disclosing the commission of a criminal offence by that person which a Director of Professional Standards certifies arises out of sexual misconduct or child abuse by that person;

adverse finding³⁶ means:

- (a) the conviction of a person of a criminal offence;
- (b) the finding that a person is guilty of a criminal offence without proceeding to a conviction; or
- (c) a finding against a person;

by a court or tribunal within or outside of Australia, which a Director of Professional Standards certifies constitutes sexual misconduct or child abuse by that person;

adverse risk assessment means an assessment that a person is unsuitable for ordination or the issue of **an authorisation to function** or an appointment;³⁷

- (a) made by or on behalf of a Church authority on the grounds of; or
- (b) certified by a Director of Professional Standards to arise out of; the risk of sexual misconduct or child abuse by that person;

³³ Added by Canon 13, 2010.

³⁴ Added by Canon 10, 2017.

³⁵ Definition amended by Part 2 Division 10 section 2.30(a) of Canon 11, 2022

³⁶ Added by Canon 13, 2010.

³⁷ Amended by Schedule 1.3(4)(a) of Canon 11, 2022

adverse Safe Ministry Check means a Safe Ministry Check of a person disclosing sexual misconduct or child abuse or the risk of sexual misconduct or child abuse by that person;

Appellate Tribunal means the Appellate Tribunal established in accordance with the provisions of Chapter IX of the Constitution;

appointment includes employment;

authorisation to function means a licence or any written instrument by which a member of the clergy is appointed, authorised, permitted or sanctioned to exercise ministry as a member of the clergy and **authorising to function** and **authorised to function** have a corresponding meaning;³⁸

authorised person means a person referred to in section 11;

bullying³⁹ means behaviour directed to a person which:

- (a) is repeated;
- (b) is unreasonable (being behaviour that a reasonable person, having considered the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening); and
- (c) creates a risk to the person's health and safety;

caution⁴⁰ means a notice that Information of which a Director of Professional Standards is aware and to which he or she has access in carrying out his or her responsibilities has not been entered in the National Register within the time specified in section 8(1);

child means anyone under the age of 18;

child abuse⁴¹ means:

- (a) the following conduct in relation to a child:
 - (i) bullying⁴²; or
 - (ii) emotional abuse; or
 - (iii) neglect; or
 - (iv) physical abuse; or
 - (v) sexual assault, sexual exploitation, sexual harassment or sexually inappropriate behaviour⁴³; or
 - (vi) spiritual abuse; or
 - (vii)⁴⁴ grooming; or

³⁸ Inserted by Part 2 Division 6 section 2.16(a)(i) of Canon 11, 2022

³⁹ Added by Canon 13, 2010; amended by Canon 10, 2017.

⁴⁰ Added by Canon 13, 2010.

⁴¹ Renumbered by Canon 9, 2014.

⁴² Amended by Canon 13, 2010.

⁴³ Amended by Canon 13, 2010; amended by Canon 10, 2017.

⁴⁴ Added by Canon 10, 2017.

- (viii)⁴⁵ a **child abuse reporting offence**; or⁴⁶
- (ix)⁴⁷ failure without reasonable excuse to report child abuse; or
- (x) imaged-based abuse;⁴⁸

- (b) possessing, producing or distributing child exploitation material in circumstances that have been found to constitute, or may constitute, a criminal offence;⁴⁹

however done, including by or through the use of the internet, electronic means and other like technology;⁵⁰

child abuse reporting offence means a criminal offence against the law of the Commonwealth, a State or a Territory, or against the law of another country which is equivalent to a criminal offence against the law of the Commonwealth, a State or a Territory, involving the failure by a person to report child abuse;⁵¹

child exploitation material⁵² means material that describes or depicts a person who is or who appears to be a child:

- (a) engaged in sexual activity; or
- (b) in a sexual context; or
- (c) as the subject of torture, cruelty or abuse (whether or not in a sexual context) in a way that a reasonable person would regard as being, in all the circumstances, offensive. Child exploitation material can include any film, printed matter, electronic data, computer image or any other depiction;

⁵³
Church authority means a diocesan bishop or a person or body having authority to ordain, **authorise to function, permit to function**, license, elect, appoint, dismiss or suspend a member of the clergy or a lay person;⁵⁴

Church body⁵⁵ means any body corporate, organisation or association that exercises ministry within, or on behalf of, or in the name of, the Church, and is controlled by a diocese or province or the General Synod;

church worker means a lay person:

⁴⁵ Added by Canon 10, 2017.

⁴⁶ Amended by Part 2 Division 1 section 2.2(a) of Canon 11, 2022

⁴⁷ Added by Canon 10, 2017.

⁴⁸ Inserted by Part 3 Division 1 section 3.1(a) of Canon 11, 2022

⁴⁹ Amended by Part 3 Division 1 section 3.1(b) of Canon 11, 2022

⁵⁰ Amended by Part 3 Division 1 section 3.1(c) of Canon 11, 2022

⁵¹ Inserted by Part 2 Division 1 section 2.2(b) of Canon 11, 2022.

⁵² Inserted by Canon 9, 2014.

⁵³ Definition of 'child offence' deleted by Part 2 section 2.2(c) of Canon 11, 2022

⁵⁴ Amended by Schedule 1.3(4)(b) of Canon 11, 2022

⁵⁵ Amended by Canon 13, 2010; amended by Canon 10, 2017.

- (a) who is or was **permitted to function** by the bishop of a diocese; or⁵⁶
- (b) who is or was employed by a Church body⁵⁷; or
- (c)⁵⁸ who, for payment or not, holds or has held a position or performs a function with the actual or apparent authority of a Church authority or Church body, including an office, position or function:
 - (i) of leadership in a parish, diocese or General Synod body; and
 - (ii) as a member of the General Synod or a diocesan synod; and
 - (iii)⁵⁹ as a member of a body controlled by a diocese or province or the General Synod; and
 - (iv) as a churchwarden, member of any parish council or member of any committee constituted by or by the authority of the General Synod, a diocesan synod or a parish council;

clergy means a person who is or has been a bishop, priest or deacon in this Church, but does not include a deceased person;

Controlled by a diocese or province or the General Synod⁶⁰ means that the majority of the members of the body with management responsibility is elected or appointed:

- (a) in the case of a diocese, under an ordinance of the diocese, or under the constitution of the Church body by one or more of the bishop, the diocesan synod and the diocesan council;
- (b) in the case of a province, under an ordinance of the province, or under the constitution of the Church body by one or more of the metropolitan, the provincial synod and the provincial council;
- (c) in the case of the General Synod, under a canon of the General Synod, or under the constitution of the Church body by one or more of the Primate, the General Synod and the Standing Committee;

court or tribunal⁶¹ means, in relation to an adverse finding or an adverse admission, a court or tribunal which has jurisdiction:

- (a) to make the adverse finding, or
- (b) to make an adverse finding in relation to the conduct which is subject to the adverse admission;

⁵⁶ Amended by Schedule 1.3(4)(c) of Canon 11, 2022

⁵⁷ Amended by Canon 13, 2010.

⁵⁸ Amended by Canon 13, 2010.

⁵⁹ Amended by Canon 10, 2017.

⁶⁰ Added by Canon 10, 2017.

⁶¹ Added by Canon 13, 2010.

Defence Force Representative means the Bishop to the Defence Force or delegate or the Director of Professional Standards of the Defence Force or their successors in office;

Determiner means:

- (a) the person or body in a diocese having power to make findings or recommendations relating to the conduct of clergy or church workers; or
- (b) the Special Tribunal; or
- (c) the Episcopal Standards Board; or
- (d) the Appellate Tribunal; or
- (e) any other person or body determining an appeal from a person or body having power to make findings or recommendations relating to the conduct of clergy or church workers;

diocesan bishop means the bishop of a diocese, or in the absence of the bishop the commissary appointed by the bishop, or in the time of a vacancy in the see the administrator of the diocese or their successors in office;

Diocesan Representative means the diocesan bishop or delegate or the Director of Professional Standards of the diocese;

Director of the Episcopal Standards Commission means:

- (a) the Director of the Episcopal Standards Commission appointed under the Special Tribunal Canon 2007; or
- (b) a person acting in that office;

Director of Professional Standards means:

- (a) the Director of Professional Standards of a diocese or the Defence Force or his or her successor in office; or
- (b) the person who carries out the functions of a Director of Professional Standards in a diocese or the Defence Force or his or her successor in office; or
- (c) the person who works in conjunction with the Investigator; or
- (d) the Director of the Episcopal Standards Commission or his or her successor in office; or
- (e) a person acting in such an office;

emotional abuse means acts or omissions in relation to a child where the child has suffered, or is likely to suffer, significant harm to his or her wellbeing or development;

Episcopal Standards Board means the Episcopal Standards Board constituted under the Episcopal Standards Canon 2007;

Episcopal Standards Commission means the Episcopal Standards Commission constituted under the Special Tribunal Canon 2007;

Exempt Information⁶² means Information relating to a notifiable complaint or a notifiable charge, where the notifiable complaint or the notifiable charge has been exhausted;

exhausted⁶³ means a notifiable complaint or a notifiable charge which:

- (a) has been withdrawn; or
- (b) has been determined to be false, vexatious or misconceived; or
- (c) is one where a Determiner finds that it is more likely than not that the subject matter of the complaint did not occur; or
- (d) is one where a court or tribunal finds that it is more likely than not that the subject matter of the charge did not occur;

Failure without reasonable excuse to report child abuse⁶⁴ means the failure without reasonable excuse to comply with the laws of the Commonwealth or a State or Territory requiring the reporting of child abuse to the police or other authority;

General Secretary means:

- (a) the General Secretary of the General Synod or his or her successor in office; or
- (b) a person acting in that office;

grooming⁶⁵ means conduct deliberately undertaken with the aim of engaging and influencing a person for the purpose of sexual activity;

image-based abuse means taking, distributing or threatening to distribute intimate, nude or sexual images of another person in circumstances that have been found to constitute, or may constitute, a criminal offence;⁶⁶

independent person⁶⁷ means a person who

- (a) is not a member of the clergy; or church worker; and
- (b) has experience in undertaking audits of a similar nature to an audit of the operation of the National Register;

⁶² Amended by Canon 13, 2010.

⁶³ Amended by Canon 13, 2010.

⁶⁴ Added by Canon 10, 2017.

⁶⁵ Added by Canon 10, 2017.

⁶⁶ Inserted by Part 3 Division 1 section 3.1(d) of Canon 11, 2022

⁶⁷ Added by Canon 10, 2017.

Information⁶⁸ means the matters other than Exempt Information, whether occurring before or after this Canon came into force:

- (a) relating to clergy specified in section 5(1):
 - (i) which are referred to in the First Schedule **so far as they are known**⁶⁹; and
 - (ii) which, as to any additional matters, are determined by the Standing Committee; or
- (b) relating to lay persons specified in section 6(1):
 - (i) which are referred to in the Second Schedule **so far as they are known**⁷⁰; and
 - (ii) which, as to any additional matters, are determined by the Standing Committee;

Investigator means the person or body in a diocese having power to investigate or cause to be investigated the conduct of clergy or lay persons or the Episcopal Standards Commission;

lay person means a person who has not been ordained, but does not include a deceased person;

⁷¹
National Register means the National Professional Standards Register referred to in section 4;

neglect means the neglect of a child where the child has suffered, or is likely to suffer, significant harm to his or her wellbeing or development;

notifiable charge⁷² means the charge of a person of:

- (a) the commission of a criminal offence; or
- (b) the engagement in professional misconduct; occurring within or outside of Australia, which a Director of Professional Standards certifies arises out of alleged sexual misconduct or child abuse by that person;

notifiable complaint means a complaint in accordance with the relevant canon, ordinance, rule or protocol received by a Director of Professional Standards of sexual misconduct or child abuse by a member of the clergy or a lay person, whenever and wherever occurring:

- (a) which has been communicated to the member of the clergy or lay person; or
- (b) **which the Director of Professional Standards has certified has been sent to the postal or electronic address of the member of clergy or lay person that is known or**

⁶⁸ Amended by Canon 13, 2010.

⁶⁹ Amended by Part 3 Division 4 section 3.10(a) of Canon 11, 2022

⁷⁰ Amended by Part 3 Division 4 section 3.10(a) of Canon 11, 2022

⁷¹ Definition of 'licence' repealed by Part 2 Division 6 section 2.16(b) of Canon 11, 2022

⁷² Added by Canon 13, 2010.

has not been sent to the member of clergy or lay person because neither their postal nor their electronic address is known; or⁷³

(c)⁷⁴ which is the subject of a police request;

permission to function means a licence or any written instrument by which a person who is not a member of the clergy is appointed, authorised, permitted or sanctioned to exercise ministry and **permitting to function** and **permitted to function** have a corresponding meaning;⁷⁵

physical abuse means the physical assault of a child other than lawful discipline by a parent or guardian;

police request⁷⁶ means:

- (a) a request made orally or in writing by an officer of a police service that a member of the clergy or lay person not be notified of Information relating to that person; or
- (b) a further request or further requests up to a maximum of three further requests, each made before the expiry of the request or immediately preceding further request orally or in writing by an officer of a police service that a member of the clergy or lay person not be notified of the Information referred to in paragraph (a); or
- (c) a further request made before the expiry of a third further request referred to in paragraph (b) or any further requests after that, but made before the expiry of the immediately preceding further request, orally or in writing by an officer of a police service that a member of the clergy or lay person not be notified of the Information referred to in paragraph (a), but only when the General Secretary is satisfied that, for special or exceptional reasons, the further requests should have effect under subsection 9(5).

police request record⁷⁷ means a written record containing the name of the officer of the police service making a police request and his or her police service, the date of the making of the police request, the medium by which the police request is made, and the Information the subject of the police request;

police service⁷⁸ means the Australian Federal Police or the police service of a State or Territory of Australia;

professional standards role means a role undertaken as part of the professional standards policies and procedures and includes the role of a contact person, support person, Investigator and Determiner;

⁷³ Amended by Part 3 Division 4 section 3.10(b) of Canon 11, 2022

⁷⁴ Added by Canon 9, 2014.

⁷⁵ Inserted by Part 2 Division 6 section 2.16(a)(ii) of Canon 11, 2022

⁷⁶ Added by Canon 9, 2014.

⁷⁷ Added by Canon 9, 2014.

⁷⁸ Added by Canon 9, 2014.

prohibition order means an order prohibiting a member of the clergy or a church worker from holding a specified position or office in or being appointed by a Church body or Church authority or from carrying out any specified functions in relation to any office or position in the diocese or in relation to any appointment by a Church body;

Safe Ministry Check means the questionnaire for the selection of ordination candidates, for the screening of clergy, and for the screening of church workers who have contact with children in his or her ministry, in use in a diocese or the Defence Force;

sexual assault⁷⁹ means any intentional or reckless act, use of force or threat to use force involving some form of sexual activity against a person;

- (a) without their consent: or
- (b) with their consent in circumstances where consent is not a defence to such conduct under the applicable laws:
 - (i) of the Commonwealth, a State or Territory; or
 - (ii) another country where those law are of a substantially similar nature to a law of the Commonwealth, a State or Territory which provides that consent is not a defence to such conduct;

sexual exploitation⁸⁰ means any form of sexual contact or invitation to sexual contact with a person, with whom there is a professional or pastoral or supervisory relationship, regardless of who initiated the contact, but does not include such contact or invitation within a marriage;

sexual harassment⁸¹ means:

- (a) an unwelcome sexual advance, or an unwelcome request for sexual favours, by a person to another person, or
- (b) other unwelcome conduct of a sexual nature by a person in relation to another person,

whether intended or not, in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated;

sexually inappropriate behaviour⁸² means conduct of a sexual nature, other than sexual assault, **sexual exploitation, sexual harassment, grooming, or image-based abuse** which is inconsistent with the standards of sexual conduct applicable to clergy or church workers;⁸³

⁷⁹ Added by Canon 10, 2017.

⁸⁰ Added by Canon 13, 2010; amended by Canon 10, 2017.

⁸¹ Added by Canon 10, 2017.

⁸² Added by Canon 10, 2017.

⁸³ Amended by Part 3 Division 1 section 3.1(e) of Canon 11, 2022

sexual misconduct⁸⁴ means the following conduct in relation to an adult:

- (a) sexual assault; or
- (b) sexual exploitation; or
- (c) sexual harassment; or
- (d) sexually inappropriate behaviour; or
- (e) grooming;

Special Tribunal means the Special Tribunal established in accordance with the provisions of Chapter IX of the Constitution;

spiritual abuse means the mistreatment of a child by actions or threats when justified by appeal to God, faith or religion where the child has suffered, or is likely to suffer, significant harm to his or her wellbeing or development;

Standing Committee means the Standing Committee of General Synod;

Statutory clearance means –

- (a) a working with children check; or
- (b) a working with vulnerable people check by reason that the person has contact with a child as part of engaging in a regulated activity –

under the laws of the Commonwealth or of a State or Territory;⁸⁵

withdrawal of the police request⁸⁶ means a notification made orally or in writing by an officer of the police service concerned that it withdraws the police request relating to a member of the clergy or lay person;

withdrawal of the police request record⁸⁷ means a written record containing the name of the officer of the police service making a withdrawal of the police request and his or her police service, the date of the making of the withdrawal of the police request, the medium by which the withdrawal of the police request is made, and the Information the subject of the withdrawal of the police request.

withdrawn in relation to a notifiable complaint includes the circumstance in which a Director of Professional Standards certifies that the person making the complaint has failed without reasonable excuse to comply with the relevant canon, ordinance, rule or protocol under which the complaint has been made;

⁸⁴ Amended by Canon 13, 2010 and Canon 10, 2017.

⁸⁵ Inserted by Part 2 Division 8 section 2.24 of Canon 11, 2022

⁸⁶ Added by Canon 9, 2014.

⁸⁷ Added by Canon 9, 2014.

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| 88 Definition 'working with children check' deleted by Part 2 Division 10 section 2.30(b) of Canon 11, 2022

| 89 Definition of 'working with vulnerable people check' deleted by Part 2 Division 10 section 2.30(c) of Canon 11, 2022

PROTOCOL FOR PROVISION OF INFORMATION FOR INCLUSION IN THE NATIONAL REGISTER

Title

1. The Protocol may be cited as the "Protocol for provision of Information for inclusion in the National Register 2007".

Definitions

2. The words and expressions used in this Protocol have the same meaning as in the National Register Canon 2007.

Entry of Information by the Director of Professional Standards¹

- 3.² A Director of Professional Standards who is required to enter information in the National Register relating to any member of the clergy or lay person shall do so by entering information electronically on the National Register and satisfying themselves that the Information is accurate.

3A.³ [deleted]

Accuracy and completeness of Information⁴

- 4.⁵ The Director of Professional Standards, whenever satisfied that Information on the National Register is inaccurate or incomplete, shall amend the Information to ensure its accuracy and completeness.

5.⁶ [deleted]

6. [deleted]

¹ Amended at the Seventeenth Session of General Synod 6 September 2017.

² Amended by General Synod Standing Committee Resolution SC2013/1/22; amended at the Seventeenth Session of General Synod 6 September 2017.

³ Added by General Synod Standing Committee Resolution SC2009/1/041; deleted by General Synod Standing Committee Resolution SC2013/1/22.

⁴ Added by SC2013/1/22; amended at the Seventeenth Session of General Synod 6 September 2017.

⁵ Amended by General Synod Standing Committee Resolution SC2009/1/041; amended by General Synod Standing Committee Resolution SC2013/1/22; amended at the Seventeenth Session of General Synod 6 September 2017.

⁶ Clauses 5 - 6 deleted by General Synod Standing Committee Resolution SC2013/1/22.

PROTOCOL FOR ACCESS TO AND DISCLOSURE OF INFORMATION IN THE NATIONAL REGISTER

Part 1 General

Title

1. The Protocol may be cited as the "Protocol for access to and disclosure of Information in the National Register 2007".

Part 2 Access by authorised persons

Acknowledgment and agreement of authorised persons

2. The General Secretary must not allow an authorised person other than himself or herself to have any access to Information in the National Register unless he or she has received a signed document in the form of the acknowledgement and agreement at the end of this Schedule from the authorised person. The General Secretary must sign this form of acknowledgement and agreement before undertaking any responsibility under this Canon. The acknowledgment and agreement will remain in force unless withdrawn or the signatory ceases to be an authorised person.

Register of authorised persons

3. The General Secretary must maintain a register of the name, contact details, and the period of access to the National Register, of each authorised person.

Record of reason for access

4. Each time an authorised person has access to Information in the National Register relating to a member of the clergy or lay person (other than the General Secretary, or any person within the General Synod Office whose duties include assisting the General Secretary in maintaining the National Register), he or she must declare to the General Secretary the reason for the access, and the Church authority to which the Information will be disclosed.

Log of access by authorised persons

5. The General Secretary must maintain a log of each access recording the name of the authorised person and the member of the clergy or lay person, the details on the declaration relating to the access, and the date of access.

Access by and disclosure to third parties under compulsion of law

6. Subject to this Protocol, an authorised person may only give access to, and disclose, Information in the National Register relating to a member of the clergy or lay person to a person if compelled by law to do so.

Non- disclosure of information where there is a police request

- 6A.¹ An authorised person who has access to Information in the National Register in respect of which there is a notation of a police request must not disclose the existence or substance of the Information to the person to whom the Information relates.

Part 3 Access and disclosure by a Diocesan Representative

Ordination, the issue of a licence or appointment to a position within the diocese

7. Where a Church authority proposes to ordain, or issue a licence to, or to appoint to a position within the diocese, a member of the clergy or lay person, the Diocesan Representative, where required to by the procedures of the Church authority, is authorised to have access to any Information in the National Register relating to the member of the clergy or lay person and disclose whether there is any such, and if so what, Information to the Church authority.

Application for ordination, the issue of a licence or appointment to a position within the diocese

8. Where a member of the clergy or lay person applies for ordination, or the issue of a licence, or appointment to a position within the diocese, the Diocesan Representative, where required to by the procedures of the Church authority, is authorised to have access to any Information in the National Register relating to the member of the clergy or lay person and disclose whether there is any such, and if so what, Information to the Church authority.

Invitation to apply for ordination, the issue of a licence or appointment to a position within the diocese

9. Where a Church authority invites a member of the clergy or lay person to apply for ordination, or the issue of a licence, or appointment to a position within the diocese, and the member of the clergy or lay person expresses interest in making an application, the Diocesan Representative, where required to by the procedures of the Church authority, is authorised to have access to any Information in the National Register relating to the member of the clergy or lay person and disclose whether there is any such, and if so what, Information to the Church authority.

Part 4 Access and disclosure by the Defence Force Representative

10. The Defence Force Representative, where required to by the Primate or the Bishop to the Defence Force, is authorised to have access to and disclose any Information in the National Register relating to a member of the clergy or lay person in the same circumstances as a Diocesan Representative.

Part 5 Access and disclosure by a Director of Professional Standards

Abuse and allegations of abuse

¹ Inserted at the Sixteenth Session of General Synod 1 July 2014.

11. Where a Director of Professional Standards receives information relating to sexual misconduct or child abuse or alleged sexual misconduct or child abuse by a member of the clergy or a lay person, he or she is authorised to have access to any Information in the National Register relating to the member of the clergy or lay person. The Director of Professional Standards is authorised to disclose whether there is any such, and if so what, Information to an Investigator, Determiner or other applicable Church authority.

Appointment of persons to professional standards roles

12. Where a Church authority proposes to appoint a member of the clergy or lay person to or in a professional standards role, and the member of the clergy or lay person has expressed interest in accepting the appointment, the Director of Professional Standards, where required by the relevant procedures for the appointment of persons to professional standards roles, is authorised to have access to any Information in the National Register relating to the member of the clergy or lay person. The Director of Professional Standards is authorised to disclose whether there is any such, and if so what, Information to the person expressing interest in the appointment, and the Church authority.

Election of bishop

- 13.² Where a member of the clergy accepts nomination, or expresses interest in accepting nomination, for appointment as a bishop, or has been so nominated and consents to a search of the National Register for Information relating to the nominee, the Director of Professional Standards, where required by the procedures of the diocese for the election of a bishop, is authorised to have access to any Information in the National Register relating to the member of the clergy. The Director of Professional Standards is authorised to disclose whether there is any such, and if so what, Information to each member of the clergy accepting nomination or expressing interest in accepting nomination, and the Church authority or nomination committee.

Election of persons by a Church authority

14. Where a Church authority holds an election for which members of the clergy or lay persons are candidates, the Director of Professional Standards, where required by the procedures of the diocese for the conduct of elections, is authorised to have access to any Information in the National Register relating to the candidates. The Director of Professional Standards is authorised to disclose whether there is any such, and if so what, Information to the candidates, and the Church authority.

Consecration of bishop

15. Where a person in priest's orders is to be consecrated bishop:
- (a) the Director of Professional Standards of the diocese for or in respect of which the consecration is to take place; or
 - (b) the Director of Episcopal Standards in any other case; is authorised to have access to any Information in the National Register relating to the person. The

² Amended by General Synod Standing Committee Resolution SC2010/1/54.

Director of Professional Standards is authorised to disclose whether there is any such, and if so what, Information to the person to be consecrated and the Metropolitan, Primate or other bishop as the case requires.

Disclosure to third parties where there is consent

16. A Director of Professional Standards is authorised to have access to any Information in the National Register relating to a member of the clergy or lay person and disclose in writing whether there is any such, and if so what, Information to a third party, where he or she has received the consent in writing of the member of the clergy or lay person. The Director of Professional Standards must take reasonable steps to check the postal or electronic address of the third party before sending a letter containing the disclosure to the third party at that address.

Disclosure to third parties where necessary to protect persons from the risk of abuse

17. A Director of Professional Standards is authorised to have access to any Information in the National Register relating to a member of the clergy or lay person and disclose that Information to a third party, where he or she reasonably believes that disclosure is necessary to protect the third party or any other person from the risk of abuse by the member of the clergy or lay person.

Part 6 Access and disclosure by the General Secretary

Election of the Primate

18. When an election is held for the Primate, each of the General Secretary and the Director of Episcopal Standards, where required to by the Primate Canon 1985, is authorised to have access to any Information in the National Register relating to the candidates and disclose whether there is any such, and if so what, Information to the candidates, and the Board of Electors.

Election and appointment of persons by the General Synod

19. Where the General Synod holds an election for which members of the clergy or lay persons are candidates, or proposes to appoint a member of the clergy or lay person to a position and the member of the clergy or lay person expresses interest in the appointment, the General Secretary, where required to by the procedures of the General Synod for the conduct of elections and making appointments, is authorized to have access to any Information in the National Register relating to the candidates or the member of the clergy or lay person and disclose whether there is any such, and if so what, Information to the candidates or persons expressing interest in the appointment, and the General Synod.

Election, appointment and nomination of persons by the Standing Committee³

- 20.⁴ Where the Standing Committee holds an election for which members of the clergy or lay persons are candidates, or proposes to appoint or nominate a member of the clergy or lay person to a position or for election by the General Synod under rule

³ Amended by General Synod Standing Committee Resolution SC2017/02/47.

⁴ Amended by General Synod Standing Committee Resolution SC2017/02/47.

7(c)(1) and (2) of the Standing Orders and the member of the clergy or lay person expresses interest in the appointment or nomination, the General Secretary, where required to by the procedures of the Standing Committee for the conduct of elections and making appointments, is authorised to have access to any Information in the National Register relating to the candidates or the member of the clergy or lay person and disclose whether there is any such, and if so what, Information to the candidates or persons expressing interest in the appointment, and the Standing Committee.

Advice by the Standing Committee to the Primate regarding the appointment of members of a Reference Commission

20A.⁵ Where the Primate seeks the advice of the Standing Committee regarding the appointment of a member of a Reference Commission under s 14 of the Strategic Issues, Commissions, Task Forces and Networks Canon 1998, and a person expresses interest in the appointment, the General Secretary, where required to by the procedures of the Standing Committee for giving advice regarding such an appointment, is authorised to have access to any Information in the National Register relating to the person and disclose whether there is any such, and if so what, Information to the person, and the Standing Committee.

Preparation of material for and submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse⁶

20B.⁷ The General Secretary is authorised to have access to Information relating to child abuse and to disclose it in de-identified form to the Royal Commission Working Group and to any lawyer or other person retained on behalf of the General Synod for any purpose in connection with providing advice to the Primate, Dioceses and Anglican organisations with the preparation of material for and submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse.

Information for a Determiner

20C.⁸ Where a request is received from or on behalf of a Determiner as to whether there is any Information in the National Register relating to a member of the clergy or lay person, the General Secretary is authorised to have access to the National Register and disclose whether there is any such, and if so what, Information therein to the Determiner.

20D.⁹ When the General Secretary receives an application for information about a church worker from a prescribed person, whether directly or through a diocesan authority or otherwise, within the meaning of the Disclosure of Information Canon 2017, the General Secretary is authorised to have access to any Information in the National Register relating to the church worker and disclose whether there

⁵ Inserted by General Synod Standing Committee Resolution SC2009/3/036; amended by General Synod Standing Committee Resolution SC2016/2/35.

⁶ Inserted by General Synod Standing Committee Resolution SC2016/2/30.

⁷ Inserted by General Synod Standing Committee Resolution SC2013/1/22.

⁸ Inserted by General Synod Standing Committee Resolution SC2016/2/30.

⁹ Inserted at the Seventeenth Session of General Synod 6 September 2017.

is any such, and if so what, Information relating to the church worker to the prescribed person.

Certificate as to Information in the National Register

21. The General Secretary will provide to a member of the clergy or lay person, at his or her request, a certificate stating whether there is any, and if so what, Information in the National Register relating to the member of the clergy or lay person.

Part 6A Access and Disclosure by the Primate

Appointment of the General Secretary

- 21A.¹⁰ Where the Standing Committee proposes to appoint the General Secretary (whether in a permanent or acting capacity), and a person expresses interest in the appointment, the Primate, where required to by the procedures of the Standing Committee for making such an appointment, is authorized to have access to any Information in the National Register relating to the person and disclose whether there is any such, and if so what, Information to the person, and the Standing Committee.

Part 7 Access by staff of the General Synod Office

- 22.¹¹ Any person within the General Synod Office whose duties include assisting the General Secretary in maintaining the National Register is authorised to have access to any Information in the National Register for the purposes of:
- (a) providing assistance to another authorised person and carrying out any maintenance or enhancement of the National Register; and
 - (b) disclosing to a person duly authorised by the Bishop of a diocese to conduct an audit or other formal review of compliance by personnel of that diocese with duties under the National Register Canon 2007 and the protocols made thereunder subject to the person so authorised signing a confidentiality agreement in a form approved by the General Secretary.

Part 8 Disclosure to independent person for the purpose of audit under the Safe Ministry to Children Canon 2017 or equivalent ordinance of a diocese

- 23¹² Where a General Synod audit or a diocesan audit is undertaken under the Safe Ministry to Children Canon 2017 or an equivalent ordinance of a diocese and a Diocesan Representative, a Director of Professional Standards, the Defence Force Representative, the General Secretary or the Primate has been authorised to access and disclose Information in the National Register under this Protocol, they are also authorised to disclose that information to the independent person or person

¹⁰ Inserted by General Synod Standing Committee Resolution SC2009/3/036.

¹¹ Amended by General Synod Standing Committee Resolution SC2014/3/27.

¹² Inserted by General Synod Standing Committee Resolution SC2020/2/41.

undertaking the audit under the equivalent ordinance of a diocese for the purposes of the person determining whether a national register assessment has occurred in relation to a member of clergy or layperson, on the condition that the person have signed a confidentiality agreement in a form approved by the General Secretary.

Acknowledgment and agreement

I (insert name), the (insert position and diocese if applicable) acknowledge that I have read the protocols approved under the National Register Canon 2007:

- (a) Protocol for provision of Information for inclusion in the National Register 2007;
- (b) Protocol for access to and disclosure of Information in the National Register 2007;
- (c) Protocol to ascertain the details of any Information and access to that Information in the National Register 2007;
- (d) Protocol for amendment of Information in the National Register 2007.

I agree to abide by these protocols, and not to disclose my password to any other person.

(Date)

(Signature).

**PROTOCOL TO ASCERTAIN DETAILS OF ANY INFORMATION AND
ACCESS TO THAT INFORMATION IN THE NATIONAL REGISTER**

Title

1. The Protocol may be cited as the "Protocol to ascertain details of any Information and access to that Information in the National Register 2007".

Application to ascertain details of any Information and access to that Information in the National Register

2. A person applying:
 - (a) to ascertain the existence and obtain a copy of any Information relating to himself or herself; or
 - (b) to obtain details of any access to any Information relating to himself or herself by an authorized person;

shall complete the form issued by the General Secretary in which is specified the postal or electronic address to which they General Secretary is to send the reply, and send the completed form to the General Secretary.

Notification of the details of any Information and access to that Information in the National Register

3. As soon as practical after receiving the application referred to in clause 2, the General Secretary shall, after being reasonably satisfied that the application is being made by the person specified therein, notify the person by written notification sent to his or her nominated postal or electronic address whether:
 - (a) there is any Information in the National Register, and if so provide a copy of that Information; or
 - (b) any authorised person has had access to any Information in the National Register relating to the person, and if so details of each declaration made by each authorised person under clause 4 of the Protocol for access to and disclosure of Information in the National Register 2007.

PROTOCOL FOR AMENDMENT OF INFORMATION IN THE NATIONAL REGISTER

Title

1. The Protocol may be cited as the "Protocol for amendment of Information in the National Register 2007".

Application for amendment of Information in the National Register

2. A person making an application for the amendment of the Information in the National Register relating to himself or herself shall complete the form issued by the General Secretary, in which is specified:
 - (a) the Information which is sought to be amended, and
 - (b) the ground on which the amendment is sought, and
 - (c) any evidence in support of the amendment, and
 - (d) the corrected or additional Information that would be entered in the National Register, and the deleted Information that would be removed from the National Register, if the amendment were made, and

send the completed form to the General Secretary.

Provision of the application to the Director of Professional Standards

3. As soon as practical after receiving the application referred to in clause 2, the General Secretary shall provide a copy of the application to the Director of Professional Standards who notified the General Secretary of the Information for inclusion in the National Register.

Review of the application by the Director of Professional Standards

4. As soon as practical, and no later than one month, after receiving a copy of the application referred to in clause 3 unless an extension of time is granted by the General Secretary, the Director of Professional Standards shall review the application and notify the General Secretary as to whether he or she agrees, disagrees or has insufficient information to be able to agree or disagree, with the proposed amendment.

Amendment of Information or inclusion of statement in the National Register

5. As soon as practical after receiving the notification of the Director of Professional Standards referred to in clause 4, the General Secretary, subject to the exclusion of irrelevant or scandalous matter, shall:
 - (a) where the Director of Professional Standards agrees with the proposed amendment, make the amendment;
 - (b) where the Director of Professional Standards disagrees with the proposed amendment, include a statement containing the proposed amendment in the National Register with a notation that the Director of Professional Standards,

who notified the General Secretary of the Information for inclusion in the National Register, disagrees with the proposed amendment;

- (c) where the Director of Professional Standards has insufficient information to be able to agree or disagree with the proposed amendment, include a statement containing the proposed amendment in the National Register with a notation that the Director of Professional Standards, who notified the General Secretary of the Information for inclusion in the National Register, has insufficient information to be able to agree or disagree with the proposed amendment, and notify the person making the application of its outcome.

OFFENCES CANON 1962

Canon 4, 1962 as amended by
Canon 7, 1981
Canon 12, 1992
Canon 20, 1998
Canon 5, 2007
Canon 7, 2017

A canon to specify offences under sections 54, 55 & 56 of the Constitution.

The General Synod prescribes as follows:

- 1.¹ A diocesan tribunal and a provincial tribunal in its original jurisdiction in addition to their respective powers under section 54(2) and section 55(3) of the Constitution may hear and determine charges made in respect of the following offences alleged to have been committed by a person who, at the time the charge is preferred, is **authorised to function** by the bishop of the diocese or is in holy orders resident in the diocese:²
1. Unchastity.
 2. Drunkenness.
 3. Habitual and wilful neglect of ministerial duty after written admonition in respect thereof by the bishop of the diocese.
 4. Wilful failure to pay just debts.
 5. Conduct, whenever occurring,
 - (a) which would be disgraceful if committed by a member of the clergy, and
 - (b) which at the time the charge is preferred is productive, or if known publicly would be productive, of scandal or evil report.
 6. Any other offence prescribed by an ordinance of the synod of the diocese.
- 7.³ Child abuse.

¹ Amended by Canon 7, 1981; amended by Canon 20, 1998.

² Amended by Schedule 1.2 of Canon 11, 2022

³ Added by Canon 7, 2017.

- 8.⁴ Failure without reasonable excuse to comply with the laws of the Commonwealth or a State or Territory requiring the reporting of child abuse to the police or other authority.
9. Authorising to function a member of the clergy or permitting to function a church worker contrary to, or in the absence of, a recommendation of a screening authority, or with actual knowledge or reasonable grounds for suspecting that the screening authority may not have properly discharged its statutory functions in making its relevant recommendation.⁵
- 2.⁶ The Special Tribunal in addition to its powers under section 56(6) of the constitution may hear and determine charges against any person referred to in paragraphs (a) and (b) of section 56(6) of the constitution made in respect of the following offences:
1. Unchastity.
 2. Drunkenness.
 3. Wilful failure to pay just debts.
 4. Conduct, whenever occurring,
 - (a) which would be disgraceful if committed by a member of the clergy, and
 - (b) which at the time the charge is preferred is productive, or if known publicly would be productive, of scandal or evil report.
 5. Wilful violation of the constitution or of the canons made thereunder or of the ordinances of provincial synod or of his diocesan synod.
 6. Any conduct involving wilful and habitual disregard of his consecration vows.
 - 7.⁷ Child abuse.
 8. Failure without reasonable excuse to comply with the laws of the Commonwealth or a State or Territory requiring the reporting of child abuse to the police or other authority.
 9. Failure to comply with a direction of the Episcopal Standards Board established under the Episcopal Standards Canon 2007 or the Episcopal Standards (Child Protection) Canon 2017 or any other Board established under an ordinance of a provincial synod or diocesan synod for dealing with the fitness of a bishop to hold office or to be or remain in Holy Orders.

⁴ Added by Canon 7, 2017.

⁵ Inserted by Part 4 section 4.2 of Canon 11, 2022

⁶ Amended by Canon 7, 1981; sub-section (2) repealed by Canon 12, 1992, amended by Canon 20, 1998; further amended by Canon 5, 2007, amended by Canon 7, 2017.

⁷ Sub-sections 2(7) to 2B added by Canon 7, 2017.

10. Subject to section 60(2) of the Constitution, failure without reasonable excuse to give effect to a recommendation given to the person under section 53 of the Constitution or by a Board established by or under an ordinance of a provincial synod or diocesan synod for dealing with the fitness of a member of the clergy or church worker to be or to remain in Holy Orders or in other ministry.⁸
11. Ordaining or authorising to function a member of the clergy or permitting to function a church worker contrary to, or in the absence of, a recommendation of a screening authority, or with actual knowledge or reasonable grounds for suspecting that the screening authority may not have properly discharged its statutory functions in making its relevant recommendation.⁹
12. Ordaining or authorising to function a member of the clergy, or permitting to function a church worker, who poses a serious risk to the safety of children with actual knowledge or reasonable grounds for suspecting that the person poses that risk.¹⁰

2A. The Special Tribunal may hear and determine charges against any person referred to in paragraph (c) of section 56(6) of the Constitution made in respect of the following offences committed while a member of the House of Bishops or assistant to the Primate:

1. Wilful violation of the constitution or of the canons made thereunder or of the ordinances of provincial synod or of the bishop's diocesan synod relating to child abuse.
2. Child abuse.
3. Failure without reasonable excuse to comply with the laws of the Commonwealth or a State or Territory requiring the reporting of child abuse to the police or other authority.
4. Conduct relating to child abuse (whenever the child abuse occurred),
 - (a) which would be disgraceful if committed by a member of the clergy, and

(b) which at the time the charge is preferred is productive, or if known publicly would be productive, of scandal or evil report.⁵ Subject to section 60(2) of the Constitution, failure without reasonable excuse to give effect to a recommendation given to the person under section 53 of the Constitution or by a Board established by or under an ordinance of a provincial synod or diocesan synod for dealing with the fitness of a member of the clergy or church worker to be or to remain in Holy Orders or in other ministry.¹¹

⁸ Inserted by Part 4 section 4.3(1) of Canon 11, 2022

⁹ Inserted by Part 4 section 4.3(1) of Canon 11, 2022

¹⁰ Inserted by Part 4 section 4.3(1) of Canon 11., 2022

¹¹ Inserted by Part 4 section 4.3(2) of Canon 11, 2022

6. Ordaining or authorising to function a member of the clergy or permitting to function a church worker contrary to, or in the absence of, a recommendation of a screening authority, or with actual knowledge or reasonable grounds for suspecting that the screening authority may not have properly discharged its statutory functions in making its relevant recommendation.¹²
7. Ordaining or authorising to function a member of the clergy, or permitting to function a church worker, who poses a serious risk to the safety of children with actual knowledge or reasonable grounds for suspecting that the person poses that risk.¹³

2B. In this canon, unless the context otherwise requires,

actual knowledge includes –

- (a) wilfully shutting one's eyes to the obvious; or
- (b) wilfully and recklessly failing to make such inquiries as an honest and reasonable person would make;¹⁴

authorisation to function means a licence or any written instrument by which a member of the clergy is appointed, authorised, permitted or sanctioned to exercise ministry as a member of the clergy and **authorising to function** and **authorised to function** have a corresponding meaning;¹⁵

child has the same meaning as in the National Register Canon 2007;¹⁶

child abuse has the same meaning as in the National Register Canon 2007;

church worker means a person who is not a member of the clergy and who –

- (a) is permitted to function by the Bishop of a diocese;
- (b) is employed by a Church body; or
- (c) whether for payment or not, holds a position or performs a function with the actual or apparent authority of a Church authority or a Church body.¹⁷

member of the clergy means a person who is a bishop, priest or deacon in the Church;¹⁸

¹² Inserted by Part 4 section 4.3(2) of Canon 11, 2022

¹³ Inserted by Part 4 section 4.3(2) of Canon 11, 2022

¹⁴ Definition inserted by Part 4 section 4.4 of Canon 11, 2022

¹⁵ Definition inserted by Part 2 Division 6 section 2.15(a) of Canon 11, 2022

¹⁶ Definition inserted by Part 2 Division 1 section 2.3 of Canon 11, 2022

¹⁷ Definition inserted by Part 2 Division 2 section 2.6 of Canon 11, 2022

¹⁸ Definition inserted by Part 2 Division 3 section 2.8 of Canon 11, 2022

permission to function means a licence or any written instrument by which a person who is not a member of the clergy is appointed, authorised, permitted or sanctioned to exercise ministry and **permitting to function** and **permitted to function** have a corresponding meaning;¹⁹

recommendation includes a recommendation validly varied or modified pursuant to a diocesan ordinance;²⁰

standard of screening means –

- (a) in a diocese in which the Safe Ministry to Children Canon 2017 is in force, a standard of screening applying under Part 3 of that Canon; or
- (b) in a diocese in which the Safe Ministry to Children Canon 2017 is not in force, the standard of screening applying in that diocese.²¹

3. This canon may be cited as the "Offences Canon 1962".
- 4.²² The offences added to this canon by the Offences Amendment Canon 2017 apply to conduct committed after the date the Offences Amendment Canon 2017 was passed by the General Synod.
5. The offences in Item 9 of section 1, Items 10, 11 and 12 of section 2 and Items 5, 6 and 7 of section 2A apply only to conduct occurring after Part 4 of the Safe Ministry Legislation Amendments Canon 2022 has been adopted in the diocese in which the offences allegedly have occurred.²³

¹⁹ Definition inserted by Part 2 Division 6 section 2.15(b) of Canon 11, 2022

²⁰ Definition inserted by Part 4 section 4.4 of Canon 11, 2022

²¹ Definition inserted by Part 2 Division 7 section 2.21 of Canon 11, 2022

²² Added by Canon 7, 2017.

²³ Inserted by Part 4 Clause 4.5 of Canon 11, 2022

SAFE MINISTRY TO CHILDREN CANON 2017

Canon 4, 2017 as amended by

General Synod Standing Committee Resolution SC2018/03/39¹

General Synod Standing Committee Resolution SC2018/03/40²

General Synod Standing Committee Resolution SC2021/2/25³

General Synod Standing Committee Resolution SC2021/2/26⁴

Whereas –

- A. in 2004 the General Synod adopted the Safe Ministry Policy Statement which states that this Church is committed to the physical, emotional and spiritual welfare and safety of all people, particularly within its own community, and includes the commitments to carefully recruit and train its clergy and church workers, adopt and encourage safe ministry practices by its clergy and lay church workers, and provide pastoral support to and supervision of any person known to have abused a child or another vulnerable person,
- B. in 2014 the General Synod adopted the Charter for the Safety of People within the Churches of the Anglican Communion which includes the commitments to adopt standards for the practice of pastoral ministry by clergy and other church personnel, to assess the suitability of persons for ordination as clergy or appointment to positions of responsibility in the church, and to promote a culture of safety in parishes and church organisations by education and training;

now the General Synod prescribes as follows:

PART 1 - PRELIMINARY

Title

1. This canon is the Safe Ministry to Children Canon 2017.

Object

2. The object of this canon is:
 - (a) to prescribe a code of conduct for safe ministry to children;

¹ Amended by General Synod Standing Committee Resolution SC2018/03/39 which came into effect on 1 January 2019.

² Amended by General Synod Standing Committee Resolution SC2018/03/40 which came into effect on 1 January 2019.

³ Amended by General Synod Standing Committee Resolution SC2021/2/25 which came into effect on 1 July 2021.

⁴ Amended by General Synod Standing Committee Resolution SC2021/2/26 which came into effect on 1 January 2022.

- (b) to prescribe minimum standards and guidelines for safe ministry to children; and
- (c) to implement the Protocol so far as it provides for obtaining and taking into account Ministry Suitability Information before authorising clergy and church workers to undertake ministry to children.

Interpretation

3. In this canon, unless the context otherwise requires:

authorisation to function means a licence or any written instrument by which a member of the clergy is appointed, authorised, permitted or sanctioned to exercise ministry as a member of the clergy and **authorising to function** and **authorised to function** have a corresponding meaning;⁵

child has the same meaning as in the National Register Canon 2007;

child abuse has the same meaning as in the National Register Canon 2007;

Church authority has the same meaning as in the National Register Canon 2007;

Church body means any body corporate, organisation or association that exercises ministry within, or on behalf of, or in the name of, the Church, and is controlled by a diocese or province or the General Synod;

church worker means a person undertaking any ministry to children who is not a member of clergy and who—

- (a) is permitted to function by the Bishop of a diocese; or
- (b) is employed by a church body; or
- (c) whether for payment or not, holds a position or performs a function with the actual or apparent authority of a Church authority or a Church body.⁶

clergy means a person who is a bishop, priest or deacon in this Church;

code of conduct means a code of conduct for safe ministry to children;

cogent means clear, logical and convincing;

contact means physical contact, oral communication (whether face-to-face or by telephone), written communication or electronic communication (which includes email, instant messaging, social media and video chats);

⁵ Inserted by Part 2 Division 6 section 2.17(a)(i) of Canon 11, 2022

⁶ New definition inserted by Part 2 Division 2 section 2.7 of Canon 11, 2022

controlled by a diocese or province or the General Synod has the same meaning as in the National Register Canon 2007;

diocesan audit means an audit as to whether:

- (a) any diocesan code of conduct containing additional standards of conduct for observance, and additional guidelines for conduct to be followed, is inconsistent with the standards of conduct and the guidelines for conduct contained in the prescribed code of conduct, or an equivalent code of conduct in respect of which the Standing Committee has made a determination under section 5(3);
- (b) a diocese has standards, and guidelines unless there are cogent reasons for not doing so, that give effect to the prescribed standards and guidelines;
- (c) a diocese has in place procedures which:
 - (i) effectively monitor observance by clergy and church workers in the diocese of the standards, and guidelines unless there are cogent reasons for not doing so, applicable to them that give effect to the prescribed standards and guidelines; and
 - (ii) provide for an appropriate response to instances of non-observance; and
- (d) the procedures in paragraph (c) have, in all material respects, been followed, and
- (e) any additional standards and guidelines for safe ministry to children prescribed by a diocese are inconsistent with the prescribed standards and guidelines, or equivalent standards and guidelines applicable to a Church body in respect of which the Standing Committee has made a determination under section 9(3);

diocesan safe ministry authority means a Church body with responsibility for safe ministry to children in a diocese, and where not established is the diocesan council;

General Synod audit means an audit as to whether:

- (a) any code of conduct that applies to clergy and church workers in a Church body in respect of which the Standing Committee has made a determination under section 5(3) gives substantial effect to the standards of conduct and the guidelines for conduct contained in the prescribed code of conduct as appropriately adapted to the context of the Church body;
- (b) the prescribed standards have been observed, and guidelines have been followed unless there are cogent reasons for not doing so, by the person or body appointing or electing clergy and church workers to a General Synod professional standards role or a General Synod safe ministry role;
- (c) any standards and guidelines for safe ministry to children that apply to clergy and church workers in a Church body in respect of which the Standing Committee has made a determination under section 9(3) give substantial effect to the applicable prescribed standards and guidelines as appropriately adapted to the context of the Church body;

General Synod professional standards role means a professional standards role to which a person is elected or appointed by the General Synod or the Standing Committee or the Primate or the General Secretary;

General Synod safe ministry role means a safe ministry role to which a person is elected or appointed by the General Synod or the Standing Committee or the Primate or the General Secretary;

ministry to children means work of a kind where a person:

- (a) is required to hold a **statutory clearance** by reason that the person has contact with a child as part of engaging in a regulated activity; or⁷
- (b) exercises a pastoral ministry which has direct, regular and not incidental contact with children; or
- (c) provides services to children that are ancillary to the exercise of a pastoral ministry within paragraph (b) which involve:
 - (i) contact with children during an overnight activity (such as camps and similar activities); or
 - (ii) close, personal contact with children (such as changing clothes, washing and toileting); or
- (d) supervises the ministry of a person within any one or more of paragraphs (a) to (c); or
- (e) performs a professional standards role; or
- (f) performs a safe ministry role;

occasional ministry to children means the exercise of a pastoral ministry to children where the ministry is not regular and involves direct contact with children that is not incidental;⁹

pastoral ministry includes the provision of spiritual advice and support, education, counselling, medical care, and assistance in times of need;

permission to function means a licence or any written instrument by which a person who is not a member of the clergy is appointed, authorised, permitted or sanctioned to exercise ministry and **permitting to function** and **permitted to function** have a corresponding meaning;¹⁰

⁷ Definition 'licence' repealed by Part 2 Division 6 section 2.17(b) of Canon 11, 2022

⁸ Amended by Part 2 Division 10 section 2.31(a) of Canon 11, 2022

⁹ Inserted by Part 2 Division 10 section 2.27 of Canon 11, 2022

¹⁰ Inserted by Part 2 Division 6 section 2.17(a)(ii) of Canon 11, 2022

Person of Concern is a person who is currently participating or wishes to participate in the life of a parish or congregation and whose presence constitutes a risk of harm from sexual abuse to others in the parish or congregation;

prescribed code of conduct means the code of conduct prescribed under this canon from time to time;

prescribed standards and guidelines means the standards and guidelines prescribed under this canon from time to time;

professional standards process has the same meaning as in the Episcopal Standards (Child Protection) Canon 2017;

professional standards role means a role in:

- (a) recommending or determining whether an action is to be taken; or
- (b) providing support to a person;

under a professional standards process;

Protocol means the Protocol for the disclosure of ministry suitability information between the churches of the Anglican Communion which the Anglican Consultative Council referred to in resolution 16.27 passed in 2016, and the text of which is set out in the Third Schedule;

Safe Ministry Commission means the Safe Ministry Commission established pursuant to the Strategic Issues, Commissions, Task Forces and Networks Canon 1998;

Safe ministry role means a role:

- (a) in recommending or determining standards and guidelines for safe ministry to children or with a Person of Concern; or
- (b) in recommending or determining or supervising safe ministry in a parish or congregation with a Person of Concern;

but excludes a role as a member of the synod of the diocese and, if a diocese has established a diocesan safe ministry authority separate from its diocesan council excludes a role as a member of the diocesan council;¹¹

spiritual abuse has the same meaning as in the National Register Canon 2007;

standards for safe ministry with Persons of Concern means the standards in Part 4 of the Second Schedule;¹²

¹¹ Amended by Part 2 Division 10 section 2.32 of Canon 11, 2022

¹² Amended by Part 2 Division 7 section 2.22(a) of Canon 11, 2022

standards of screening means the standards in Part 2 of the Second Schedule;¹³

standards of training means the standards in Part 3 of the Second Schedule;¹⁴

statutory clearance has the same meaning as in the National Register Canon 2007;¹⁵

¹⁶ ¹⁷

PART 2 - CODES OF CONDUCT

Prescribed code of conduct

4. (1) The code of conduct is prescribed in the First Schedule.
- (2) The General Synod, or the Standing Committee by a two-thirds majority, may by resolution amend the First Schedule by:
 - (a) prescribing amendments to the prescribed code of conduct or a substituted code of conduct; and
 - (b) determining the date on which the amendments to the prescribed code of conduct, or the substituted code of conduct, shall come into force.
- (3) The Standing Committee prior to amending the First Schedule shall consult with the Safe Ministry Commission and diocesan safe ministry authorities as to the proposed amendments to the prescribed code of conduct or the proposed substituted code of conduct, and the date on which the proposed amendments to the prescribed code of conduct, or the proposed substituted code of conduct, shall come into force.
- (4) Any amendments to the prescribed code of conduct, or any substituted code of conduct, shall not deal with or concern the faith ritual or ceremonial of this Church other than in relation to the spiritual abuse of a child or the confession of child abuse.
- (5) Subject to section 5, clergy and church workers shall:
 - (a) observe the standards of conduct, and
 - (b) follow the guidelines for conduct unless there are cogent reasons for not doing so,contained in the prescribed code of conduct.

¹³ Amended by Part 2 Division 7 section 2.22(b) of Canon 11, 2022

¹⁴ Amended by Part 2 Division 7 section 2.22(c) of Canon 11, 2022

¹⁵ Inserted by Part 2 Division 8 section 2.23 of Canon 11, 2022

¹⁶ Definition 'working with children check' deleted by Part 2 Division 10 section 2.31(b) of Canon 11, 2022

¹⁷ Definition 'working with vulnerable people check' deleted by Part 2 Division 10 section 2.31(c) of Canon 11, 2022

Equivalent code of conduct

5. (1) In this section **Church body** does not include a diocese or a diocesan safe ministry authority.
- (2) The prescribed code of conduct shall not apply to clergy and church workers in a Church body which has a code of conduct applicable to them pursuant to:
 - (a) the laws of the Commonwealth or a State or Territory; or
 - (b) a requirement or condition for registration, approval or funding to provide services for children under the laws of the Commonwealth or a State or Territory; or
 - (c) a contract or arrangement with the Commonwealth or a State or Territory or an agency or authority of the Commonwealth or a State or Territory.
- (3) Subject to subsection (2), the prescribed code of conduct shall apply to clergy and church workers in a Church body unless the Standing Committee by a two-thirds majority, on application by a province or diocese, determines that the Church body has a code of conduct containing equivalent standards of conduct for observance, and guidelines for conduct to be followed, by its clergy and church workers as appropriately adapted to the context of the Church body that give substantial effect to the standards of conduct and the guidelines for conduct contained in the prescribed code of conduct.
- (4) The General Secretary shall publish on the General Synod website a list of all Church bodies that have been determined under subsection (3) to have an equivalent code of conduct, the date on which the determination was made, and if applicable the period during which the determination had effect.

Additional code of conduct

6. (1) A diocese may prescribe a code of conduct containing additional standards of conduct for observance, and additional guidelines for conduct to be followed, by the following persons, other than clergy and church workers in a Church body specified in section 5(2):
 - (a) in the case of clergy and church workers to whom the prescribed code of conduct applies, that are not inconsistent with the standards of conduct and the guidelines for conduct contained in the prescribed code of conduct; or
 - (b) in the case of clergy and church workers to whom a code of conduct specified in section 5(3) applies, that are not inconsistent with the standards of conduct and the guidelines for conduct contained in that code of conduct.

Publication of prescribed code of conduct

7. (1) The General Secretary shall publish the prescribed code of conduct on the General Synod website.

- (2) The General Secretary shall table at each ordinary session of the General Synod any amendments to the prescribed code of conduct, or any substituted code of conduct, prescribed by the Standing Committee since the preceding ordinary session of the General Synod.

PART 3 - STANDARDS AND GUIDELINES

Prescribed standards and guidelines

8. (1) Standards of screening, standards of training and standards for safe ministry with Persons of Concern are prescribed in the Second Schedule.
- (2) The General Synod, or Standing Committee by a two-thirds majority, may by resolution amend the Second Schedule by:
 - (a) prescribing amendments to the prescribed standards and guidelines or substituted standards and guidelines;
 - (b) prescribing further minimum standards for observance, and guidelines to be followed, for safe ministry to children; and
 - (c) determining the date on which the amendments to the prescribed standards and guidelines, or substituted standards and guidelines, or further standards and guidelines, shall come into force.
- (3) The Standing Committee prior to amending the Second Schedule shall consult with the Safe Ministry Commission and diocesan safe ministry authorities as to the proposed amendments to the prescribed standards and guidelines, or proposed substituted standards and guidelines, or proposed further standards and guidelines, and the date on which the proposed amendments to the prescribed standards and guidelines, or proposed substituted standards and guidelines, or proposed further standards and guidelines, shall come into force.
- (4) Any amendments to the prescribed standards and guidelines, or any substituted standards and guidelines, or any further standards and guidelines, shall not deal with or concern the faith ritual or ceremonial of this Church other than in relation to the spiritual abuse of a child or the confession of child abuse.
- (5) Subject to section 9:
 - (a) each diocese shall have standards, and guidelines unless there are cogent reasons for not doing so, that give effect to the prescribed standards and guidelines; and
 - (b) clergy and church workers in a diocese shall observe:
 - (i) the standards, and
 - (ii) the guidelines unless there are cogent reasons for not doing so, applicable to them that give effect to the prescribed standards and guidelines.

- (6) The prescribed standards and guidelines apply to clergy and church workers who perform a General Synod professional standards role or a General Synod safe ministry role.

Equivalent standards and guidelines

9. (1) In this section **Church body** does not include a diocese or a diocesan safe ministry authority.
- (2) The prescribed standards and guidelines shall not apply to clergy and church workers in a Church body which:
 - (a) is registered or approved or funded to provide services to children pursuant to the laws of the Commonwealth or a State or Territory; or
 - (b) provides services to children pursuant to a contract or arrangement with the Commonwealth or a State or Territory or an agency or authority of the Commonwealth or a State or Territory.
- (3) Subject to subsection (2), the prescribed standards and guidelines shall apply to clergy and church workers in a Church body unless the Standing Committee by a two-thirds majority, on application by a province or diocese, determines that the Church body has equivalent standards for observance, and guidelines to be followed, by its clergy and church workers for safe ministry to children as appropriately adapted to the context of the Church body that give substantial effect to the applicable prescribed standards and guidelines.
- (4) The General Secretary shall publish on the General Synod website a list of all Church bodies that have been determined under subsection (3) to have equivalent standards and guidelines, the date on which the determination was made, the applicable prescribed standards and guidelines for which the Church body has equivalent standards and guidelines, and if applicable the period during which the determination had effect.

Additional standards and guidelines

10. (1) A diocese may prescribe additional standards and guidelines for safe ministry to children, other than for a Church body specified in section 9(2):
 - (a) that are not inconsistent with the prescribed standards and guidelines; or
 - (b) in the case of a Church body specified in section 9(3), that are not inconsistent with the standards and guidelines applicable to that Church body.

Publication of prescribed standards and guidelines

11. (1) The General Secretary shall publish the prescribed standards and guidelines on the General Synod website.
- (2) The General Secretary shall table at each ordinary session of the General Synod any amendments to the prescribed standards and guidelines, or substituted

standards and guidelines, or further standards and guidelines, prescribed by the Standing Committee since the preceding ordinary session of the General Synod.

PART 4 – AUDIT

Audit

12. (1) In this section:
 - church worker** has the same meaning as in the National Register Canon 2007;
 - independent person** means a person who:
 - (a) is not a member of the clergy or a church worker; and
 - (b) has experience in undertaking audits of a similar nature to a General Synod audit and a diocesan audit.
- (2) The General Secretary shall appoint an independent person to undertake a General Synod audit and a diocesan audit of each diocese at intervals of three years or such lesser period as determined by the Standing Committee, and provide as soon as practicable after the completion of the audit:
 - (a) a report of the General Synod audit to the Standing Committee; and
 - (b) a report of the diocesan audit to the diocesan council of the diocese concerned, the diocesan safe ministry authority of that diocese and the Standing Committee.
- (3) The General Secretary shall consult with diocesan safe ministry authorities as to when the audit of each diocese shall be conducted.
- (4) The Standing Committee shall determine the scope of the General Synod audit and a diocesan audit.
- (5) The Primate and the General Secretary shall provide access to such of their records, the records of the General Synod and the records of the Standing Committee, and provide such information, as requested by the independent person undertaking the General Synod audit as is reasonably necessary to enable the General Synod audit to be undertaken.
- (6) Each diocesan safe ministry authority shall provide access to such of the records of the diocese, and provide such information, as requested by the independent person undertaking the diocesan audit as is reasonably necessary to enable the diocesan audit to be undertaken.
- (7) The General Secretary shall as soon as practicable after:
 - (a) the report of the General Synod audit has been provided to the Standing Committee, and

(b) the report of the diocesan audit has been provided to the diocesan council of the diocese concerned, the diocesan safe ministry authority of that diocese and the Standing Committee,

publish the report on the General Synod website.

(8) The General Secretary is authorised to provide:

(a) the report of the General Synod audit to an agency or authority of the Commonwealth or a State or Territory with responsibility for child safe standards in institutions providing services for children; and

(b) agency or authority of the State or Territory in which the diocese is located, with responsibility for child safe standards in institutions providing services for children.

12A. (1) Where the Standing Committee is satisfied that –

(a) an audit equivalent to a diocesan audit is required pursuant to the laws of the Commonwealth or of a State or Territory; and

(b) the report of the audit is publicly available –

the Standing Committee may by a two-thirds majority on the application of that diocese exempt the diocese from a diocesan audit.

(2) Where the Standing Committee is satisfied that –

(a) an audit equivalent to part of a diocesan audit is required pursuant to the laws of the Commonwealth or of a State or Territory; and

(b) the report of the audit is publicly available –

the Standing Committee may by a two-thirds majority on the application of that diocese exempt the diocese from that part of a diocesan audit. ¹⁸**PART 5 – GENERAL**

Diocesan safe ministry authority

13. (1) Each diocese shall have a diocesan safe ministry authority.

(2) A diocesan safe ministry authority shall at the request of General Secretary promptly inform the General Secretary of the details of the screening and training of persons from the diocese who are being considered for appointment or election for a General Synod professional standards role or a General Synod safe ministry role.

PART 6 – COMING INTO FORCE

Coming into force of particular provisions

¹⁸ Inserted by the Part 3 Division 3 section 3.8 of Canon 11, 2022

14. (1) Subject to this section, this canon will come into force on and from the date appointed by the President, being not later than one calendar month from the date on which the canon is passed.
- (2) The standards of screening, standards of training and standards for safe ministry with Persons of Concern prescribed under section 8(1) shall come into force on the date specified in the Second Schedule.
- (3) Section 12 shall come into force on 1 January 2019.
- (4) Section 13 shall come into force on 1 January 2018.

Coming into force in a diocese

15. The provisions of this canon affect the order and good government of the Church within a diocese and shall not come into force in a diocese unless and until the diocese by ordinance adopts this canon.

SCHEDULES

FIRST SCHEDULE

Interpretation

1. In this Schedule:

Faithfulness in Service means Faithfulness in Service: A national code for personal behaviour and the practice of pastoral ministry by clergy and church workers as tabled at the 17th ordinary session of the General Synod held in 2017.

Code of conduct

2. The code of conduct is the standards and guidelines of Faithfulness in Service set out in:
 - (a) section 3 (Putting this Code into Practice) so far as they relate to section 5 (Children), and
 - (b) section 5 (Children),

when read in each case with section 1 (About this Code) and section 2 (Key Terms).

SECOND SCHEDULE PART 1 - INTERPRETATION

Interpretation

1. In this Schedule, unless the context otherwise requires:

accredited training means:

- (a) training that:
 - (i) includes the course content in the Safe Ministry Training National Benchmarks so far as it relates to ministry to children, with reasonable adjustments for cultural, linguistic and ability diversity; and
 - (ii) is delivered by persons who are accredited, and/or online training which is accredited, by a diocesan safe ministry authority; or
- (b) training of another Church body or organisation that a diocesan safe ministry authority has determined is equivalent to the training in paragraph (a);

church ministry assessment means a reasonable endeavour made to obtain information about the person from the responsible authority, and if obtained consideration of that information;

criminal history assessment means consideration of a National Police History Check of the person;

denomination means a religious body or a religious organisation declared to be a recognised denomination for the purposes of the *Marriage Act 1962* (Cth), other than the Anglican Church of Australia, that holds the Christian Faith as set forth in the Nicene Creed and the Apostles' Creed;¹⁹

denominational authority means a person or body of another denomination having authority to ordain, **authorise to function, permit to function**, license, elect, appoint, dismiss or suspend a member of the clergy or a lay person of that denomination;²⁰

diocesan authority means a person or body of another diocese of this Church having authority to ordain, **authorise to function, permit to function**, license, elect, appoint, dismiss or suspend a member of the clergy or a lay person of that diocese;²¹

information means a written statement by a responsible authority which discloses:

- (a) whether or not there has been, and
- (b) if there has been, the substance of,

any untested allegation, charge, finding or admission of the commission of a criminal offence, or a breach of the rules in force in the applicable Province or diocese or denomination **or institution** regarding the moral conduct of clergy and lay persons undertaking ministry **or of persons working for the institution**, including rules relating to sexual conduct and conduct towards children and vulnerable adults;²²

institution means an institution that is not an institution of this Church or of a Province or of a denomination;²³

institutional assessment means a reasonable endeavour made to obtain information about a person from an institution authority and includes consideration of any information so obtained;²⁴

institution authority means a person or body of an institution with the power to elect, appoint, suspend or dismiss a person as an officer, employee or volunteer of that institution;²⁵

²⁶

¹⁹ Definition inserted by Part 2 Division 4 section 2.11 of Canon 11, 2022

²⁰ Amended by Schedule 1.4(1)(a) of Canon 11, 2022

²¹ Amended by Schedule 1.4(1)(b) of Canon 11, 2022

²² Amended by Part 2 Division 10 section 2.28(a)(i) and (ii) of Canon 11, 2022

²³ Definition inserted by Part 2 Division 10 section 2.28(b) of Canon 11, 2022

²⁴ Definition inserted by Part 2 Division 10 section 2.28(b) of Canon 11, 2022

²⁵ Definition inserted by Part 2 Division 10 section 2.28(b) of Canon 11, 2022

²⁶ Definition 'licensed clergy' repealed by Part 2 Division 6 section 2.18 of Canon 11, 2022

medical assessment means consideration of a medical report of the person by a registered medical practitioner;

National Register means the National Register established under the National Register Canon 2007;

national register assessment means a check whether there is any information about the person entered in the National Register, and if so consideration of that information;

other clergy means –

- (a) a bishop, priest or deacon in a Province; and
- (b) an ordained minister of a denomination;²⁷

Persons of Concern Policy means the Policy for Safe Ministry in a parish where there is a risk of sexual abuse by a Person of Concern as tabled at the 17th ordinary session of the General Synod held in 2017;

professional standards personnel means clergy and church workers performing a professional standards role;

Province means a member church of the Anglican Consultative Council other than this Church or an extra-provincial church under the direct metro-political jurisdiction of the Archbishop of Canterbury and includes part of a Province;²⁸

provincial authority means the person or body in a Province having authority to ordain, authorise to function, permit to function, license, elect, appoint, dismiss or suspend a member of the clergy or a lay person of that Province;²⁹

³⁰ **psychological assessment** means consideration of a psychological report that includes an assessment of the personal, social and psychosexual maturity of the person by a registered psychologist experienced in psychological assessment;

responsible authority means:

- (a) a provincial authority; or
- (b) a diocesan authority; or
- (c) a denominational authority; or
- (d) an institution authority;³¹

²⁷ Definition inserted by Part 2 Division 3 section 2.10 of Canon 11, 2022

²⁸ Amended by Part 2 Division 10 section 2.28(c) of Canon 11, 2022

²⁹ Amended by Schedule 1.4(1)(c) of Canon 11, 2022

³⁰ Amended by General Synod Standing Committee Resolution SC2021/2/25 which came into effect on 1 July 2021.

³¹ Amended by Part 2 Division 10 section 2.28(d) of Canon 11, 2022

risk assessment means a risk assessment provided by the Department for Communities and Social Inclusion Screening Unit of South Australia;

safe ministry assessment means consideration of the person's completed Safe Ministry Check, and if applicable referees' completed Safe Ministry Checks;

³² **Safe Ministry Check** means a check that includes the applicable Safe Ministry Check as tabled at the meeting of the Standing Committee held on 9–10 November 2018;

safe ministry personnel means clergy and church workers performing a safe ministry role;

Safe Ministry Training National Benchmarks means the Safe Ministry Training National Benchmarks as tabled at the 17th ordinary session of the General Synod held in 2017;

screening authority means:

- (a) in the case of a person to be ordained as a deacon, or a member of the clergy to be authorised to function or a church worker permitted to function,³³ the bishop of the diocese or his or her delegate; or
- (b) in the case of a member of the clergy to be elected or appointed as the bishop of the diocese, the electing or appointing body or its delegate; or
- (c) in the case of a church worker to undertake paid or voluntary ministry to children, the appointing person or body or their delegate; or
- (d) in the case of a professional standards personnel and safe ministry personnel, the electing or appointing body or its delegate.

1A A person is **screened** if the prescribed standards of screening have been applied in respect of that person by the relevant screening authority.³⁴**PART 2 - STANDARDS OF SCREENING**

Application

2. (1) This Part applies to all persons ordained as deacons, or authorised to function, appointed or elected as the bishop of a diocese, or permitted to function, after this Part comes into force.³⁵
- (2) This Part so far as it requires a statutory clearance³⁶, or a criminal history assessment, or a risk assessment, applies to all persons authorised to function,

³² Amended by General Synod Standing Committee Resolution SC2018/03/39 which came into effect on 1 January 2019.

³³ Amended by Schedule 1.4(2) of Canon 11, 2022

³⁴ Inserted by Part 2 Division 10 section 2.29 of Canon 11, 2022

³⁵ Amended by Schedule 1.4(3)(a) of Canon 11, 2022

³⁶ Amended by Part 3 Division 2 section 3.3 of Canon 11, 2022

appointed or elected as the bishop of a diocese, or permitted to function, when this Part comes into force.³⁷

- (3) This Part so far as it requires a national register assessment and a safe ministry assessment by the screening authority applies to all persons authorised to function, appointed or elected as the bishop of a diocese, or permitted to function, when this Part comes into force, except where the screening authority is reasonably satisfied this has previously been done, and where not so satisfied provided that these assessments are undertaken by 1 January 2021.³⁸
- (4) Subject to subclauses (2) and (3), this Part does not apply to persons ordained as deacons, authorised to function, appointed or elected as the bishop of a diocese, or permitted to function, when this Part comes into force.³⁹

Deacons

3. The standards of screening for a person to be ordained as a deacon are:

- (1) the person holds an unconditional statutory clearance; and⁴⁰
- (2) the following assessments by the screening authority:
 - (a) where a statutory clearance is not required by or is not able to be sought under the laws of a Commonwealth, State or Territory;⁴¹
 - (b) a national register assessment;
 - (c) a safe ministry assessment;
 - (d) a medical assessment;
 - (e) a psychological assessment; and
 - (f) where the person was previously authorised for ministry in a Province or in another diocese of this Church or another denomination, a church ministry assessment, except where reasonably satisfied this has previously been done.

The Bishop of the diocese and clergy authorised to function⁴²

4. The standards of screening for a member of the clergy to be authorised to function, or to be elected or appointed as the bishop of the diocese, are:⁴³

³⁷ Amended by Schedule 1.4(3)(a) of Canon 11, 2022

³⁸ Amended by Schedule 1.4(3)(a) of Canon 11, 2022

³⁹ Amended by Schedule 1.4(3)(a) of Canon 11, 2022

⁴⁰ Amended by Part 3 Division 2 section 3.4(a) of Canon 11, 2022

⁴¹ Amended by Part 3 Division 2 section 3.4(b) of Canon 11, 2022

⁴² Amended by Schedule 1.4(4)(a) of Canon 11, 2022

⁴³ Amended by Schedule 1.4(4)(b) of Canon 11, 2022

- (1) the person holds a statutory clearance; and⁴⁴
- (2) the following assessments by the screening authority:

- (a) where an unconditional statutory clearance is not required by or is not able to be sought under the laws of a Commonwealth, State or Territory, a criminal history assessment or a risk assessment;⁴⁵

- (b) a national register assessment;

- (c) a safe ministry assessment; and

- (d) where the person was previously authorised for ministry in a Province or in another diocese of this Church or another denomination, a church ministry assessment, except where reasonably satisfied this has previously been done.

Church workers who are paid or permitted to function⁴⁶

5. The standards of screening for church workers to be permitted to function or to undertake paid ministry to children are:⁴⁷

- (1) the person holds a statutory clearance; and⁴⁸

- (2) the following assessments by the screening authority:

- (a) where an unconditional statutory clearance is not required by or is not able to be sought under the laws of a Commonwealth, State or Territory, a criminal history assessment or a risk assessment;⁴⁹

- (b) a national register assessment;

- (c) a safe ministry assessment; and

- (d) where the person was previously authorised for ministry in a Province or in another diocese of this Church or another denomination, a church ministry assessment, except where reasonably satisfied this has previously been done.

Voluntary church workers

6. The standards of screening for church workers, who are not professional standards personnel and safe ministry personnel, to undertake voluntary ministry to children are:

⁴⁴ Amended by Part 3 Division 2 section 3.5(a) of Canon 11, 2022

⁴⁵ Amended by Part 3 Division 2 section 3.5(b) of Canon 11, 2022

⁴⁶ Amended by Schedule 1.4(5)(a) of Canon 11, 2022

⁴⁷ Amended by Schedule 1.4(5)(b) of Canon 11, 2022

⁴⁸ Amended by Part 3 Division 2 section 3.6(a) of Canon 11, 2022

⁴⁹ Amended by Part 3 Division 2 section 3.6(b) of Canon 11, 2022

- (1) the person holds an unconditional statutory clearance or a conditional statutory clearance that enable the ministry to be undertaken where required by or is not able to be sought under the law of the Commonwealth or a State or Territory; and⁵⁰
- (2) the following assessments by the screening authority:

(a)⁵¹ where an unconditional statutory clearance or a conditional statutory clearance that authorises the ministry to be undertaken is not required by or is not able to be sought under the laws of a Commonwealth, State or Territory and the person is aged 18 years or over, a criminal history assessment where a National Police History Check can be applied for by the person or a risk assessment;⁵²

(b) a national register assessment; and

(c)⁵³ a safe ministry assessment when the person is aged 13 years and over.

Professional standards personnel and safe ministry personnel

7. The standards of screening for professional standards personnel, and safe ministry personnel, who have not otherwise been screened as a deacon, authorised to function, appointed or elected as the bishop of a diocese, or permitted to function as a paid or voluntary church worker, are a national register assessment by the screening authority.⁵⁴

Creation and retention of records

8. Accurate records of the screening of clergy and church workers are to be created and maintained in a secure manner.

PART 3 - STANDARDS OF TRAINING

Application

9. (1) This Part applies to all persons ordained as deacons, or authorised to function, appointed or elected as the bishop of a diocese, or permitted to function, or elected or appointed as professional standards personnel or safe ministry personnel, after this Part comes into force.⁵⁵

⁵⁰ Amended by Part 3 Division 2 section 3.7(a) of Canon 11, 2022

⁵¹ Amended by General Synod Standing Committee Resolution SC2018/03/40 which came into effect on 1 January 2019.

⁵² Amended by Part 3 Division 2 section 3.7(b) of Canon 11, 2022

⁵³ Amended by General Synod Standing Committee Resolution SC2018/03/39 which came into effect on 1 January 2019.

⁵⁴ Amended by Schedule 1.4(6)(a) of Canon 11, 2022

⁵⁵ Amended by Schedule 1.4(3)(b) of Canon 11, 2022

- (2) This Part applies to all persons authorised to function, appointed or elected as the bishop of a diocese, or permitted to function, or elected or appointed as professional standards personnel or safe ministry personnel, when this Part comes into force, provided that accredited training is undertaken by 1 January 2021.⁵⁶

Accredited training

10. The standards of training for clergy and church workers are satisfactory completion of accredited training:

(1) (a) by the bishop of the diocese, within three years prior to his or her election or appointment, or in exceptional circumstances prior to his or her installation; or

(b) by deacons, clergy authorised to function, and church workers permitted to function, within three years prior to being ordained, authorised to function, permitted to function or appointed to undertake ministry to children, except where the bishop of the diocese or his or her delegate is satisfied there are exceptional circumstances in which case the training is to be completed as soon as practicable but not later than three months after the person is ordained, authorised to function, permitted to function or appointed to undertake ministry to children; or⁵⁷

(c) by professional standards personnel, who are not a deacon, authorised to function, appointed or elected as the bishop of a diocese, or permitted to function as a paid or voluntary church worker, within three years prior to election or appointment to a professional standards role; or⁵⁸

(d) by safe ministry personnel, who are not a deacon, authorised to function, appointed or elected as the bishop of a diocese, or permitted to function as a paid or voluntary church worker, within three years prior to election or appointment to a safe ministry role; and⁵⁹

- (2) by clergy and church workers in paragraph (a), at intervals of not more than three years after prior satisfactory completion of accredited training.

Creation and retention of records

11. Accurate records of the satisfactory completion of accredited training by clergy and church workers are to be created and maintained in a secure manner.

PART 4 - STANDARDS FOR SAFE MINISTRY WITH PERSONS OF CONCERN

Standards

⁵⁶ Amended by Schedule 1.4(3)(b) of Canon 11, 2022

⁵⁷ Amended by Schedule 1.4(7) of Canon 11, 2022

⁵⁸ Amended by Schedule 1.4(6)(b) of Canon 11, 2022

⁵⁹ Amended by Schedule 1.4(6)(b) of Canon 11, 2022

12. (1) The standards for safe ministry with a Person of Concern in a parish are the actions required to implement the process specified in section 5 of the Persons of Concern Policy.
- (2) The standards for safe ministry with a Person of Concern in a congregation are the actions required to implement the process specified in section 5 of the Persons of Concern Policy as adapted by a diocesan safe ministry authority to apply to a congregation.

Creation and retention of records

13. Accurate records relating to the implementation of the Persons of Concern Policy in respect of each Person of Concern are to be created and maintained in a secure manner.

PART 5 - STANDARDS OF SUPERVISION⁶⁰

Application

14. This part applies to all persons licensed or authorised or appointed as church workers who are under the age of 16 years.
15. A church worker who is under the age of 16 years shall, except in an emergency, undertake all ministry to children under the direct supervision of at least one church worker who is aged 18 years or over.

Creation and retention of records

16. Accurate records relating to the supervision of church workers who are under the age of 16 years are to be created and maintained in a secure manner.

PART 6 - COMING INTO FORCE OF PARTICULAR PROVISIONS⁶¹

- 17.⁶² (1) Parts 2 (except paragraph (b) of clause 6(2)) and 3 when read with Part 1 of this Schedule shall come into force on 1 January 2018.
- (2) Paragraph (b) of clause 6(2) when read with Part 1 of this Schedule shall come into force on a date determined by the Standing Committee.
- (3) Part 4 when read with Part 1 of this Schedule shall come into force on 1 January 2019.

⁶⁰ Inserted by General Synod Standing Committee Resolution SC2021/2/26 which came into effect on 1 January 2022.

⁶¹ Renumbered by General Synod Standing Committee Resolution SC2021/2/26 which came into effect on 1 January 2022.

⁶² Renumbered by General Synod Standing Committee Resolution SC2021/2/26 which came into effect on 1 January 2022.

(4)⁶³ Part 5 shall come into force on 1 January 2021.

THIRD SCHEDULE

Protocol for the disclosure of ministry suitability information between the churches of the Anglican Communion.

Definitions

1. In this Protocol:

Assessing Province means the Province in which a Church authority is to assess whether the Church worker should be authorised for ministry;

Authorising Province means the Province or Provinces in which the Church worker is authorised, or has previously been authorised, to undertake ministry by a Church authority;

Church authority means the person or body responsible for authorising Church workers to undertake ministry in the Authorising Province or the Assessing Province;

Church worker means a member of the clergy or a lay person who:

- (a) is authorised, or has previously been authorised, to undertake ministry by a Church authority of the Authorising Province; and
- (b) has applied to undertake authorised ministry, or has been nominated for appointment to a position or office involving the undertaking of authorised ministry, in the Assessing Province;

Ministry Suitability Information means a written statement by a Church authority of the Authorising Province about the Church worker that discloses:

- (a) whether or not there has been; and
- (b) if so, the substance of;

any allegation, charge, finding or admission of the commission of a criminal offence, or the breach of the Authorising Province's rules regarding the moral conduct of clergy and lay persons undertaking ministry, including rules relating to sexual conduct and conduct towards children and vulnerable adults;

Province includes part of a Province.

System for the disclosure of Ministry Suitability Information by the Authorising Province

⁶³ Added by General Synod Standing Committee Resolution SC2021/2/26 which came into effect on 1 January 2022.

2. The Authorising Province will have and maintain a system for the disclosure of Ministry Suitability Information about a Church worker of the Province to the applicable Church authority of the Assessing Province that includes the following requirements:
 - (a) the applicable Church authority of the Province is to promptly deal with an application by the applicable Church authority of the Assessing Province for the disclosure of Ministry Suitability Information; and
 - (b) the applicable Church authority of the Province is to disclose the Ministry Suitability Information to the applicable Church authority of the Assessing Province.

System for assessing the suitability of a Church worker for authorised ministry in the Assessing Province

3. The Assessing Province will have and maintain a system for the assessment of the suitability of a Church worker to undertake authorised ministry in the Province that includes the following requirements:
 - (a) the applicable Church authority is to make an application to the Authorising Province for Ministry Suitability Information;
 - (b) the applicable Church authority is not to authorise the Church worker to undertake ministry in the Province unless and until it has carried out an assessment of whether the Church worker is a risk to the physical, emotional and spiritual welfare and safety of people that takes into account the Ministry Suitability Information disclosed by the Authorising Province; and
 - (c) the applicable Church authority is to keep the Ministry Suitability Information confidential, except where its disclosure:
 - (i) is required by law; or
 - (ii) is reasonably believed to be necessary to protect any person from the risk of being harmed by the Church worker; or
 - (iii) is necessary for the purpose of undertaking the assessment of whether the Church worker is suitable to undertake authorised ministry in the Province or any disciplinary action against the Church worker.

SPECIAL TRIBUNAL CANON 2007

Canon 13, 2007 as amended by
 Canon 11, 2010
 Canon 14, 2010
 Canon 3, 2014
 Canon 8, 2014
 Canon 11, 2017
 Canon 12, 2017
 Canon 18, 2017

A canon to provide for the investigation of matters which may become the subject of a charge before the Special Tribunal and to provide for the appointment and procedure of the Special Tribunal.

The General Synod prescribes as follows:

PART 1 - PRELIMINARY

1. This Canon may be cited as the "Special Tribunal Canon 2007".
2. (1)¹ In this Canon, unless the context otherwise requires: "Bishop" means a bishop referred to in section 56(6) of the Constitution; and
 "bishop" means a person in bishop's orders.
 "child abuse" has the same meaning as in the National Register Canon 2007.²
 "Church" means the Anglican Church of Australia;
 "Church body" includes the Primate, the General Synod, a diocese, diocesan synod, diocesan council, diocesan trustee or trust corporation or other body responsible for administering the affairs of a diocese, or an institution or agency of this Church or of a diocese;
 "Commonwealth" means the Commonwealth of Australia;
 "complaint" means a complaint against a Bishop alleging a breach of faith, ritual, ceremonial or discipline or alleging an offence as may be specified by Canon;
 "Director" means the Director of the Episcopal Standards Commission appointed under Part 3;
 "Episcopal Standards Commission" or "ESC" means the Episcopal Standards Commission established under Part 2;

¹ Inserted by Part 6 Division 2 section 6.3(a) of Canon 11, 2022

² Definition inserted by Part 2 Division 1 section 2.4(a) of Canon 11, 2022

"**incapable**" means incapable for the purposes of the Bishop (Incapacity) Canon 1995;

"**National Register**" means a National Register established pursuant to a Canon of General Synod for a purpose which includes the recording of determinations of the Tribunal;

"**priest**" means a person who is in priest's orders who is not a bishop;

"**protocol**" means the protocol approved under Part 3 of the Episcopal Standards Canon 2004;

"**relevant Metropolitan**", means:

- (a) in relation to the bishop of a diocese:
 - (i) unless paragraph (iii) or (iv) applies, the Metropolitan of the Province in which the diocese is situated; or
 - (ii) if the diocese is an extra-provincial diocese, the Primate; or
 - (iii) if the bishop is the Metropolitan but not the Primate, the Primate; or
 - (iv) if the bishop is the Primate, the person who, at the relevant time, is the next most senior Metropolitan who is available, seniority being determined by the date of consecration; and
- (b) in relation to any other Bishop, the Primate;

"**respondent**" means a bishop whose alleged conduct or omission is the subject of a complaint;

"**sexual offence relating to a child**" has the same meaning as in the Episcopal Standards (Child Protection) Canon 2017.³

"**Subsection 43(2) Exclusion**"⁴ means an ordinance made by the synod of a diocese under subsection 43(2) which:

- (a) declares that paragraph (a) of subsection 43(1) shall have no effect in respect of the Bishop of that diocese; and
- (b) has not been revoked by that synod.

"**Tribunal**" means the Special Tribunal.

(2) For the purposes of this Canon, a person has a conflict of interest when their responsibilities arising from their role may be influenced or affected, or may be perceived as being influenced or affected, by –

- (a) their personal financial interest, or those of their family or friends;

³ Definition inserted by Part 2 Division 1 section 2.4(b) of Canon 11, 2022

⁴ Added by Canon 11, 2010.

- (b) their reputation, or that of their family or friends;
- (c) their obligations or loyalty to another person or organisation;
- (d) their previous or current relationship (whether personal or professional) with someone who might be affected by how they discharge those responsibilities; or
- (e) their previous or current involvement in another capacity in a matter now falling within those responsibilities.⁵

- 2A.⁶ (1) The ESC has no powers or duties under this canon, apart from the duty imposed by subsection (2), in relation to a diocese or the Bishop thereof while there is a Subsection 43(2) Exclusion in effect in relation to that diocese.
- (2) If the ESC receives a complaint in relation to the Bishop of a diocese while there is a Subsection 43(2) Exclusion in effect in relation to that diocese, the ESC must refer the complainant and the complaint:
- (a) where the diocese is part of a province and the complaint is not in respect of the Metropolitan of that province, to the Metropolitan of that province;
 - (b) where the diocese is part of a province and the complaint is in respect of the Metropolitan of that province, to the Metropolitan of another province, and
 - (c) where the diocese is not part of a province and the complaint is in respect of the Bishop of that diocese, to a Metropolitan.

PART 2 - EPISCOPAL STANDARDS COMMISSION

3. There shall be an Episcopal Standards Commission.
4. (1) The ESC shall have at least three members.
- (2) The membership of the ESC shall be constituted so as collectively to provide:
- (a) experience in law;
 - (b)⁷ a person in bishops' orders who is not a Bishop; and
 - (c) experience and appropriate professional qualifications in child protection, social work or counselling.
- (3) The ESC so far as is reasonably practicable shall have an equal number of men and women.

⁵ Inserted by Part 6 Division 2 section 6.3(b) of Canon 11, 2022

⁶ Added by Canon 11, 2010.

⁷ Amended by Canon 14, 2010.

- 5.⁸ (1) The members of the ESC shall be appointed by the Standing Committee.
- (2) The members of the ESC shall hold office for a term of not more than 5 years (which may be renewed) and on such other terms and conditions as may be determined by the Standing Committee from time to time.
- (3) Notwithstanding the provisions of this Canon (other than section 5A) or of any other canon, the members of the ESC holding office immediately before the Special Tribunal Canon 2007 Amendment Canon 2010 comes into force, will cease to hold office at the conclusion of the second meeting of the Standing Committee following the 15th General Synod.
- (4) If a member of the ESC is unable to undertake their role by reason of incapacity or conflict of interest, the Standing Committee may appoint an additional member to the ESC in accordance with this Canon for such period as the Standing Committee may determine.

5A.⁹ A member of the ESC shall cease to hold office upon:

- (a) death of the member;
- (b) resignation of the member;
- (c) declaration by a competent court or tribunal that the member is incapable of managing his or her affairs;
- (d) the member ceasing to reside permanently in Australia;
- (e) conviction or finding of guilt of the member in any court of any offence punishable by imprisonment;
- (f) the member becoming a Bishop;
- (g)¹⁰ the member reaching the age of 75 years; or
- (h) the passing of a resolution –
- (i) by the Standing Committee by a two-thirds majority of those members present and voting, or
- (ii) by the General Synod voting as a whole passed by a two-thirds majority of those members present and voting
- to remove the member from office.

6. (1) The convenor of the ESC shall be appointed by the Standing Committee.

⁸ Amended by Canon 14, 2010.

⁹ Inserted by Canon 14, 2010.

¹⁰ Amended by Canon 11, 2017.

- (2) The ESC may meet from time to time as determined by the convenor or a majority of its members and may conduct its business by telephone or electronic communication.
 - (3) Subject to this Canon the procedures of the ESC shall be as determined by the ESC.
 - (4) A majority of the members shall constitute a quorum.
 - (5) A decision taken other than at a meeting of the ESC, if supported by a majority of members of the ESC, constitutes a decision of the ESC.
 - (6) The ESC shall act in all things as expeditiously as possible.
7. An act or proceeding of the ESC is not invalid by reason only of a vacancy in its membership and, notwithstanding the subsequent discovery of a defect in the nomination or appointment of a member, any such act or proceeding is as valid and effectual as if the member had been duly nominated or appointed.
8. Subject to the provisions of this Canon, the Director, a member of the ESC and a person employed or engaged on work related to the affairs of the ESC must not divulge information that comes to his or her knowledge by virtue of that office or position except:
 - (a) in the course of carrying out the duties of that office or position;
 - (b) as may be authorised by or under this or another Canon;
 - (c) in any proceedings before the Special Tribunal;
 - (d) as may be required by law; or
 - (e) to any insurer or insurance broker of a Church body where the information may give rise to or be relevant to a claim for indemnity by the Church body against the insurer or is relevant to obtaining or continuing insurance cover.
9. Subject to section 51, the ESC may release to the public such material as it may determine with respect to any complaint.
10.
 - (1) Without disclosing the identity of any complainant or the respondent, the ESC shall report annually to the Standing Committee on its activities for that calendar year.
 - (2) Notwithstanding subsection (1), the report of the ESC pursuant to that subsection may identify a respondent who has been exonerated from an allegation the subject of a complaint or who has been the subject of a determination or recommendation by the Tribunal.
 - (3) Subject to sub-section (4) the ESC shall, in respect of every matter with which it is dealing, report either orally or in writing to the Primate with such frequency and as fully as the Primate may reasonably require.

- (4) If the matter relates to the conduct of the Primate, such reports shall be made to and at the direction of the senior Metropolitan at the time in Australia who is not the Primate.
11.
 - (1) Subject to sub-section (2), the ESC may delegate, upon such terms and conditions as the ESC may approve, any of its powers or functions under this Canon to any person.
 - (2) The ESC cannot delegate:
 - (a) its powers under subsection (1);
 - (b) its powers under section 12(1)(g); or
 - (c) its powers under section 22.
 - (3) A delegation under this section must be made by instrument in writing signed by a member of the ESC.
12.
 - (1) Subject to the provisions of this Canon the ESC has the following powers and duties:
 - (a) to receive complaints;
 - (b) to investigate the subject matter of complaint in a timely and appropriate manner;
 - (c) where appropriate to arrange for the conciliation and mediation of any complaint;
 - (d) where the complaint relates to an alleged offence against the law of a State or Territory of the Commonwealth or against a law of the Commonwealth, to refer any information in its possession to a member of the appropriate law enforcement, prosecution or child protection authority and to co-operate as far as possible with any such authority;
 - (e) to maintain proper records of all complaints received and of action taken in relation to such complaints;
 - (f) subject to any limit imposed by the Standing Committee to authorise such expenditure on behalf of the General Synod as may be necessary to implement, in a particular case, the provisions of this Canon;
 - (g) to promote a charge against a Bishop before the Tribunal.
 - (2) In exercising its powers under this Canon the ESC may, where it considers it to be appropriate, adopt the provisions of the protocol.
13.
 - (1) The ESC shall only take action in respect of a complaint alleging an offence mentioned in the First Schedule where the complaint relates to conduct or an omission alleged to have occurred not more than twelve calendar months prior to the date on which the complaint is received by the ESC.

- (2) For the purposes of this section a complaint will be deemed to have been received by the ESC when received at the office of the General Secretary of the General Synod or, if posted by certified or registered mail to the Director or to the General Secretary of the General Synod, forty-eight hours after the posting of the complaint.

PART 3 – DIRECTOR OF EPISCOPAL STANDARDS COMMISSION

14. (1) There shall be a Director of the Episcopal Standards Commission.
 - (2) The Director shall be appointed by and shall hold office in accordance with a resolution of the Standing Committee.
15. The Director shall have the following functions:
 - (a) to be the executive officer of the ESC;
 - (b) to attend meetings of the ESC unless the ESC in respect of a particular meeting or part of a meeting shall otherwise determine;
 - (c) such other functions and duties as may be prescribed by this or any other Canon or as may be determined by the Standing Committee or the ESC.
16. The Director may act in a corresponding capacity for a diocese either generally or for a particular case or matter.

PART 4 – COMPLAINTS

17. A person may make a complaint against a Bishop by writing signed by the person making the complaint.
18. Subject to this Canon, when the ESC receives a complaint it shall investigate the allegations contained in the complaint.
- 18A. When the ESC has commenced an investigation of information under this Part, it must conduct an initial assessment to identify any risks to children and must take whatever steps are reasonably available and practicable to minimise risks identified.¹¹
19. The ESC may refrain from further investigation of the allegations if:
 - (a) in its opinion, the allegations are vexatious or misconceived, or their subject matter is trivial;
 - (b) the subject matter is under investigation by some other competent person or body or is the subject of legal proceedings;
 - (c) the person making the complaint has failed, when requested by the ESC, to provide further particulars or to verify the allegations by statutory declaration; or
 - (d) in its opinion there is insufficient reliable evidence to warrant an investigation or further investigation.
20. For the purpose of an investigation the ESC or an investigator shall endeavour to obtain such statutory declarations, written statements, recorded conversations, reports, documents and other material as the ESC or its delegate considers necessary or desirable.

¹¹ Section inserted by Part 5 section 5.1 of Canon 11, 2022

21. (1) The ESC must by notice in writing allow the respondent to provide a detailed report to the ESC within the time specified in the notice in relation to any matter relevant to the investigation, and must provide a summary of the complaint including the substance of the allegations and the name of the complainant.
- (2) If a respondent declines to answer a question on the ground that the answer might tend to incriminate the person a written record shall be made of the question and of the ground of refusal.
22. At any time after the commencement of an investigation into a complaint against a Bishop under this Part the ESC may:
- (a) if it considers on reasonable grounds that the Bishop may be incapable, report the matter in writing to the relevant Metropolitan, and such report shall be a report for the purposes of section 4 of the Bishops (Incapacity) Canon 1995 as if it were made by three members of the synod of a diocese pursuant to that section;
- (b) subject to section 43, institute proceedings by way of charge against a bishop before the Tribunal; or
- (c) in the event that the bishop whose conduct is under investigation ceases to be a Bishop, refer the matter, together with such information as it shall have received, to the bishop of the diocese in which the former Bishop then resides.
23. (1) The fact that the subject matter of a complaint may be settled or resolved in whole or in part between the parties affected thereby does not prevent the ESC from taking any of the steps referred to in section 22 in respect of the subject matter of the complaint.
- (2) Any term of settlement or resolution referred to in sub-section (1) which purports to prevent or to limit the institution of proceedings by way of charge against a bishop shall be of no effect.
- (3)¹² Proceedings shall not be instituted or maintained in the Tribunal where the bishop concerned has relinquished or has been deposed from Holy Orders in accordance with the Holy Orders (Removal from Exercise of Ministry) Canon 2017.
24. If:
- (a) following the receipt of a complaint, the ESC, under section 19, refrains from further investigation of the allegations contained in the complaint;
- (b) the ESC does not arrange for the conciliation and mediation of the complaint, or
- (c) following an investigation, under this Part, of the allegations contained in a complaint, the ESC does not bring a charge, under section 43, against the bishop in respect of whom the complaint is made, or

¹² Amended by Canon 18, 2017.

the ESC must, without delay, provide the person who made the complaint with full and complete reasons, in writing, for its decision.

PART 5 - THE SPECIAL TRIBUNAL

25. (1) The members of the Tribunal shall be appointed from a panel comprising:
- (a) A senior presidential member and another presidential member each of whom is qualified to be a lay member of the Appellate Tribunal;
 - (b) three Bishops; and
 - (c) three priests of at least seven years' standing;
- elected by General Synod in accordance with any Rule of General Synod for the conduct of elections.
- (2) In the event that a presidential member is nominated for election as the senior presidential member or that an election is otherwise required for the two presidential members, an election for both presidential members shall be held at the same time and the person with the highest number of votes shall be the senior presidential member and the person with the next highest number of votes shall be the other presidential member.
26. (1) Subject to sub-section (2), a member of the panel shall cease to hold office upon:
- (a) death;
 - (b) resignation;
 - (c)¹³ declaration by any competent court or tribunal that the member is incapable of managing his or her affairs;
 - (d) ceasing to reside permanently in Australia;
 - (e) conviction or finding of guilt in any court of any offence punishable by imprisonment;
 - (f) in the case of a Bishop, ceasing to be a Bishop or on becoming the Primate;
 - (g) in the case of a priest, on becoming a bishop; and
 - (h)¹⁴ in any event at the commencement of the ordinary session of General Synod which shall take place next after the member attains the age of 75 years.
- (2) A member of the panel who is a member of the Tribunal for particular proceedings of the Tribunal shall continue to hold office until the completion of the proceedings notwithstanding that the member may cease to be a Bishop or may otherwise cease to be a member of the panel by virtue of age.

¹³ Amended by Canon 14, 2010.

¹⁴ Amended by Canon 11, 2017.

27. Any Bishop who vacates office upon ceasing to be a Bishop, having accepted appointment to a different office of Bishop, shall, upon installation as Bishop in the different office, be automatically re-appointed to the panel or the Tribunal as the case may be.
28. If any vacancy in the membership of the panel occurs while the General Synod is not in session and it becomes necessary or desirable for the vacancy to be filled before the next ordinary session of the General Synod, the Primate shall cause the General Secretary to notify the members of the General Synod that such vacancy is to be filled, to invite the submission of names of candidates for nomination, and to notify them of the date fixed by the Primate, being a date not less than six weeks after posting such notification, by which names should be submitted. If no more names are received than the number of vacant positions to be filled, the General Secretary shall declare the persons named to be elected to the panel. Otherwise, the General Secretary shall conduct a postal ballot of the members of General Synod to determine the person or persons to be elected, such ballot to be conducted in accordance with the rules for the time being in force for the conduct of ballots with such modifications as are necessary, and the General Secretary shall declare the person or persons who are successful in such ballot to be the person or persons elected by the General Synod to the panel. Upon the Secretary declaring a person to be elected to the panel, the person or persons shall become a member or members of the panel.
29. Any vacancy not filled pursuant to section 27 or section 28 shall be filled at the next ordinary session of the General Synod by the election by the General Synod of a person qualified to fill the vacancy.
30. The members of the panel to be convened for any sitting of the Tribunal shall be appointed by the senior presidential member or, if he or she is unwilling or unable to act, or if there is a vacancy in the office of senior presidential member, by the other presidential member.
- 30A. A member of the panel must without delay disclose to the senior presidential member, or if there is a vacancy in the office of senior presidential member to the other presidential member, any conflict of interest that the member has in relation to a matter before the Tribunal.¹⁵
- 30B. Where –
- (a) a member of the panel has disclosed a conflict of interest under section 30A; or
- (b) in the opinion of the senior presidential member, or if there is a vacancy in the office of senior presidential member in the opinion of the other presidential member, a member of the panel has a conflict of interest in relation to a matter before the Tribunal –
- that member is disqualified from participating in the matter.¹⁶
31. (1) The Rules of the Tribunal made under this Part may provide that, in relation to the exercise of specified functions, or in relation to matters of a specified class,

¹⁵ Section inserted by Part 6 Division 2 section 6.4 of Canon 11, 2022

¹⁶ Section inserted by Part 6 Division 2 section 6.4 of Canon 11, 2022

the Tribunal may, at the direction of the President, be constituted by a single member sitting alone.

- (2) The Tribunal constituted by a single member sitting alone cannot determine a charge or make a recommendation as to sentence.
32. The Tribunal, separately constituted in accordance with this Part, may sit simultaneously for the purpose of matters referred to it or for conducting separate business of the Tribunal.
33. An act or proceeding of the Tribunal is not invalid by reason only of a vacancy in its membership or the membership of the panel and, notwithstanding the subsequent discovery of a defect in the nomination or appointment of a member of the panel or the Tribunal, any such act or proceeding is as valid and effectual as if the member had been duly nominated or appointed.
34. The Registrar of the Tribunal shall be the General Secretary of the General Synod.
35.
 - (1) The place and time of sitting of the Tribunal shall be as determined by the President of the Tribunal.
 - (2) In any proceedings of the Tribunal where the Tribunal is constituted by two or more members:
 - (a) any question of law or procedure will be determined by the President; and
 - (b) any other question will be determined by majority decision of the members, and in the case of an equality of votes the opinion of the President shall prevail.
 - (3) Where the Tribunal is constituted by a member sitting alone who is not the President, any question of law that arises must be referred to the President for decision and any decision made on such a reference is a decision of the Tribunal.
 - (4) The Tribunal must act with fairness and according to equity, good conscience and the substantial merits of the case without regard to technicalities or legal forms and is not bound by the rules of evidence but may inform itself on any matter in such manner as it thinks fit.
 - (5) Without limiting the meaning and effect of sub-section (4), the Tribunal may receive evidence of a witness in the form of an affidavit, statutory declaration or a signed statement without the need for the personal attendance of the witness, and may also use electronic means such as video link or conference telephone to receive evidence and submissions, but must permit the respondent and his representative (if any) opportunity to adequately cross-examine each witness
 - (6) The Tribunal may inform itself from the record of any court or tribunal and may adopt any findings, and accept as its own, the record of any court or tribunal.
36. The Tribunal must give reasons for any determination, other than by way of directions in the course of a proceeding, unless the determination is made by consent of the respondent.

37. At any hearing before the Tribunal or before a member of it the ESC and the bishop may be represented by a legal practitioner or, with leave of the Tribunal, by any other person.
38. A decision of the Tribunal is the decision of a majority of the Tribunal.
39. At any time during the course of a hearing the Tribunal may, if it sees fit, obtain the opinion of the Board of Assessors of the Appellate Tribunal.
40. The Tribunal may make an order by consent of the parties before it.
41. (1) The Tribunal has no power to award costs of any proceedings before it.
- (2) A bishop who is the subject of a charge before the Tribunal may apply to the Standing Committee for the provision of legal assistance.
- (3) The Standing Committee may grant legal assistance to the bishop on such terms and subject to such conditions as it shall determine.
42. (1) The presidential members of the panel may make rules of the Tribunal in relation to the practice and procedure of the Tribunal.
- (2) Subject to this Canon and the relevant rules, the practice and procedure of the Tribunal will be as directed by the President of the Tribunal.

PART 6 - PROMOTION OF A CHARGE BEFORE THE SPECIAL TRIBUNAL

43. (1) **Subject to sub-section (1A), a charge against a Bishop in the Tribunal may be brought:**¹⁷
- (a) by the ESC;
- (b) by another Bishop; or
- (c) in respect of a Bishop holding office or a licence in a diocese, in accordance with the provisions of an ordinance of the synod of that diocese.
- (1A) Only the ESC can bring a charge of a sexual offence relating to a child against a Bishop in the Tribunal.**¹⁸
- (2) The synod of a diocese may by ordinance declare that paragraph (a) of subsection (1) shall have no effect in respect of the Bishop of that diocese, in which case paragraph (a) of subsection (1) will not apply to that Bishop.
- (3) A declaration under subsection (2) -
- (a) shall not affect any proceedings in respect of a charge brought before such ordinance takes effect; and

¹⁷ Amended by Part 5 section 5.3(1) of Canon 11, 2022

¹⁸ Added by Part 5 section 5.3(2) of Canon 11, 2022

(b) does not limit in any other respect the powers of the ESC contained in this or any other Canon in force in a diocese.

(4) In respect of a charge brought pursuant to paragraph (c) of subsection (1) against the Bishop of a diocese in respect of whom there is in force a declaration under subsection (2), the General Synod shall not be responsible for the costs of bringing such a charge.

(5) In respect of a charge brought pursuant to -

(a) paragraph (b) of subsection (1), or

(b) paragraph (c) of subsection (1) where there is no declaration under subsection (2) in force in respect of that Bishop,

the Special Tribunal or the Appellate Tribunal as the case may be may direct the General Synod to indemnify the person or body who or which brought the charge in respect of the costs of bringing the charge, and the General Synod will indemnify such person or body accordingly.

44. (1) A charge against a Bishop must:

(a) be in writing;

(b) specify the alleged offence and provide particulars of the alleged offence;

(c) be signed by a member of the body or the person bringing the charge; and

(d) be lodged with the Registrar.

(2) A signed copy of the charge shall be served on the Bishop personally or by leaving it at or posting it to the office of the Bishop's Registry in an envelope addressed to the bishop and marked "**Private and Confidential**".

(3) A charge, once instituted, may be amended or withdrawn by the person or body which instituted it.

(4) Amendment or withdrawal of a charge does not prevent another person or body from bringing or proceeding with a charge in terms the same as or similar to a charge before it was amended or withdrawn.

PART 7 - PROCEEDINGS BEFORE THE SPECIAL TRIBUNAL

45. (1) Upon lodgement of a charge with the Registrar, the presidential member referred to in section 30 shall as soon as possible appoint the members of the Tribunal for the purpose of hearing the charge.

(2) The President of the Tribunal shall thereupon cause to be convened a directions hearing presided over by a member of the Tribunal.

- (3) The person or body bringing the charge and the bishop shall comply with the rules of the Tribunal and with any directions given by a member of the Tribunal at a directions hearing.
46. (1) The Tribunal shall deal with any charge as expeditiously as possible.
- (2) The Tribunal may, if it sees fit, proceed with the hearing of a charge notwithstanding that there may be mediation or conciliation proceedings relating to the subject matter of the charge being conducted by the ESC and notwithstanding that there may be criminal or other proceedings being taken against the bishop.
- (3) Subject to section 23(3) the Tribunal may make a recommendation notwithstanding that the bishop the subject of the charge has ceased, after lodgement of the charge with the Registrar, to be a Bishop.
47. (1) Subject to sub-section (2), the Tribunal must give the following persons reasonable notice of the time and place of a sitting of the Tribunal:
- (a) the person or body bringing the charge; and
 - (b) the respondent; and
 - (c) such other persons as the Tribunal believes have a proper interest in the matter.
- (2) The Tribunal is not obliged to give notice of a sitting to a person whose whereabouts cannot, after reasonable enquiries, be ascertained.
48. (1) Subject to sub-section (2), a sitting of the Tribunal on a reference before the Tribunal is an open sitting.
- (2) On any such sitting before the Tribunal, the Tribunal has an absolute discretion to direct that persons other than -:
- (a) the respondent and any person representing the respondent in the proceedings; and
 - (b) witnesses or persons making submissions (while giving evidence or making those submissions); and
 - (c) officers of the Tribunal or persons assisting the Tribunal; or
 - (d) the person or members of the body bringing the charge or their representatives;
- not be present in the room while the Tribunal is sitting.
49. The Tribunal may make a determination in any proceedings in the absence of a person affected by the determination if satisfied that reasonable efforts were made to give that person an opportunity to appear.
50. In making any determination the Tribunal shall take into account:

- (a) the conduct of the bishop as it finds it to have been; and
 - (b) in the material before the Tribunal, any other fact or circumstance relevant to the determination of the question before it.
51. (1) At any time after the first directions hearing the Tribunal or, if so authorised by the Tribunal, the person or body bringing the charge, may make public a statement concerning the nature of the charge and the bishop against whom the charge is brought.
- (2) Upon the determination of any charge by the Tribunal and the recommendation of any sentence by the Tribunal, the Tribunal, or if so authorised by the Tribunal, the person or body bringing the charge, may make public a statement of the decision and, where appropriate, concerning the nature of the charge proved and the sentence imposed by the Tribunal, together with such reasons or a summary thereof as the Tribunal shall direct or approve.
- 52.¹⁹ In a case where entry is required under the *National Register Canon 2007*, a recommendation of the Tribunal, or the date and particulars of the recommendation, shall be entered on the National Register together with a record of any action taken consequent upon the recommendation.
53. Any appeal to the Appellate Tribunal from the Tribunal, other than in respect of a breach of faith, ritual or ceremonial, shall be by leave of the Appellate Tribunal.

PART 8 - DEPOSITION FROM ORDERS

54. (1) The deposition of a bishop from Holy Orders by the Primate pursuant to the recommendation of the Tribunal shall be effected by the execution by the Primate of an Instrument of Deposition in or to the effect of the form in the Second Schedule.
- (2) The Primate must forthwith:
- (a) register the Instrument in the Registry of the Primate;
 - (b) deliver a copy of the Instrument to the bishop of the diocese or dioceses in which the former Bishop who is the subject of the Instrument was ordained priest and bishop;
 - (c) if the former Bishop was a diocesan bishop, deliver a copy of the Instrument to the registrar of the diocese concerned; and
 - (d) cause relevant details to be forwarded for entry into the National Register.

PART 9 - TRANSITIONAL

55. The persons named hereunder shall hold the respective offices until their successors are appointed or elected in accordance with the provisions of this Canon:

¹⁹ Amended by Canon 8, 2014.

Episcopal Standards Commission

Convenor: Mr Geoffrey Spring

Members: Ms Margaret Fuller, OAM; The Right Rev'd Ronald Stone.

Director of the Episcopal Standards Commission:

Ms Rena Sofroniou

Special Tribunal Panel

Senior Presidential Member: Sir Robert Woods, CBE.

Presidential Member: The Hon Justice Debra Mullins

Diocesan Bishops: The Most Rev'd Jeffrey Driver

The Most Rev'd Philip Freier

The Right Rev'd John Harrower

Priests:

The Rev'd Canon Dr Colleen O'Reilly

The Ven. Dr Chris R Jones

The Very Rev'd Andrew J Sempell

FIRST SCHEDULE

(Section 13(1))

- 1 Any breach of faith, ritual or ceremonial;
- 2 Drunkenness;
- 3 Wilful failure to pay just debts.
- 4²⁰ ²¹ [deleted]

SECOND SCHEDULE

TO

I, PRIMATE/ARCHBISHOP of
do hereby depose you from Holy Orders (particulars of which are set out below) in
accordance with the recommendation of the Special Tribunal of the Anglican Church of
Australia dated the day of

PARTICULARS OF HOLY ORDERS

FULL NAME AND ADDRESS

	ORDAINING BISHOP(S)	PLACE	DATE
ORDINATION AS DEACON
ORDINATION AS PRIEST
CONSECRATION AS BISHOP

DATED:

SEALED

²⁰ Amended by Canon 3, 2014.

²¹ Deleted by Canon 12, 2017.

EPISCOPAL STANDARDS CANON 2007

Canon 14, 2007¹ as amended by Canon 18, 2017

A canon relating to professional standards of bishops and for other purposes.

The General Synod prescribes as follows:

PART 1 - PRELIMINARY

1. This Canon may be cited as the "Episcopal Standards Canon 2007".
2. In this Canon, unless the context otherwise requires:

"**Administrator**" means the person who would, in the absence or incapacity of a Bishop, be the administrator of a diocese;

"**Authorisation to function**" means a licence or any written instrument by which a member of the clergy is appointed, authorised, permitted or sanctioned to exercise ministry as a member of the clergy and **authorising to function** and **authorised to function** have a corresponding meaning;

"**Bishop**" means a bishop referred to in section 56(6) of the Constitution; and

"**bishop**" means a person in bishop's orders;

"**Board**" means the Episcopal Standards Board established under Part 6;

"**Church**" means the Anglican Church of Australia;

"**Church body**" includes the Primate, the General Synod, a diocese, diocesan synod, diocesan council, diocesan trustee or trust corporation or other body responsible for administering the affairs of a diocese, or an institution or agency of this Church or of a diocese;

"**Code of Conduct**" means a code of conduct approved from time to time under Part 2;

"**Director**" means the Director of the ESC appointed under the Special Tribunal Canon 2007;

"**Episcopal Standards Commission**" or "**ESC**" means the Episcopal Standards Commission appointed under the Special Tribunal Canon 2007;

¹ This Canon was provisionally made as Canon P4, 2004, and was amended and passed in 2007.

² Inserted by Part 2 Division 6 section 2.13 of Canon 11, 2022

"**examinable conduct**" means any conduct or omission wherever or whenever occurring the subject of information which, if established, might call into question the fitness of a Bishop to hold office or to be or remain in Holy Orders but excludes any breach of faith, ritual or ceremonial;

"**information**" means information of whatever nature and from whatever source relating to the alleged misconduct or omission of a Bishop wherever or whenever occurring;

"**national register**" means a national register established pursuant to a Canon of General Synod for a purpose which includes the recording of determinations of the Board;

"**protocol**" means the protocol approved from time to time by the Standing Committee under Part 3;

"**relevant Metropolitan**", means:

- (a) in relation to the bishop of a diocese:
 - (i) unless paragraph (iii) or (iv) applies, the Metropolitan of the Province in which the diocese is situated; or
 - (ii) if the diocese is an extra-provincial diocese, the Primate; or
 - (iii) if the bishop is the Metropolitan but not the Primate, the Primate; or
 - (iv) if the bishop is the Primate, the person who, at the relevant time, is the next most senior Metropolitan who is available, seniority being determined by the date of consecration; and
- (b) in relation to any other Bishop, the Primate;

"**respondent**" means a Bishop whose alleged conduct or omission is the subject of information;

"**Standing Committee**" means the Standing Committee of General Synod;

"**Tribunal**" means the Special Tribunal.

PART 2 - CODE OF CONDUCT

3. The General Synod or the Standing Committee shall from time to time by resolution approve a Code of Conduct for observance by Bishops, which does not make provision for any matter concerning faith, ritual or ceremonial, provided that any changes to the Code of Conduct made by the Standing Committee shall be referred to the next session of General Synod for ratification.
4. The Standing Committee through the ESC and by such other means as may be considered appropriate shall take such steps as may be necessary or desirable to promote the knowledge, understanding and observance in this Church of the Code of

Conduct. A code of conduct must not make provision for any matter concerning faith, ritual or ceremonial.

PART 3 - THE PROTOCOL

5. (1) The Standing Committee shall from time to time consider and approve a protocol for implementation in relation to information.
- (2) The protocol must include:
 - (a) procedures for receiving information;
 - (b) provision for informing complainants and victims of alleged conduct the subject of information, and respondents, of rights, remedies and relevant procedures available to them;
 - (c) provision for assisting or supporting, as appropriate, all persons affected by alleged conduct the subject of information;
 - (d) an explanation of the processes for investigating and dealing with information;
 - (e) provisions for dealing fairly with respondents;
 - (f) processes for referral to mediation and conciliation in appropriate circumstances;
 - (g) provisions for information, reports, advice and recommendations to the Primate, the relevant Metropolitan and to the relevant Administrator at each stage of the process of dealing with information;
 - (h) procedures for working, where appropriate, with law enforcement, prosecution or child protection authorities of the States and Territories and of the Commonwealth of Australia.
6. The Standing Committee through the ESC and by such other means as it may consider appropriate shall take such steps as may be necessary or desirable to promote throughout the Church a knowledge and understanding of the protocol.

PART 4 - THE EPISCOPAL STANDARDS COMMISSION

7. (1) In addition to the powers conferred on it by the Special Tribunal Canon 2007 and subject to the provisions of this Canon the ESC has the following powers and duties:
 - (a) to implement the protocol to the extent that the protocol is not inconsistent with this Canon;
 - (b) to receive information;
 - (c) to act on information in accordance with the provisions of this Canon, and the protocol to the extent that it is not inconsistent with this Canon;

- (d) to appoint suitable persons to fulfil the several roles required to implement the protocol in each particular case;
 - (e) where appropriate, to arrange for the conciliation or mediation of any complaint the subject of information;
 - (f) to investigate information in a timely and appropriate manner;
 - (g) where appropriate, to recommend to the Standing Committee any changes to the protocol;
 - (h) subject to any limit imposed by the Standing Committee to authorise such expenditure on behalf of the General Synod as may be necessary or appropriate to implement, in a particular case, the protocol and the provisions of this Canon;
 - (i) to advise any relevant Church body as to the financial, pastoral or other needs of a person affected by conduct the subject of information and as to any possible or actual legal proceedings against such Church body arising out of the alleged conduct of a bishop;
 - (j) to refer any information in its possession to a member of a law enforcement, prosecution or child protection authority of a State or Territory or of the Commonwealth of Australia to which the information is or may be relevant;
 - (k) to maintain proper records of all information received and of action taken in relation to such information.
- (2) The Director may receive information on behalf of the ESC and shall carry out such functions under this Canon as the ESC may determine.
8. (1) In the exercise of its powers and duties under this Canon the provisions of sections 8, 9 and 10 of the Special Tribunal Canon 2007 shall apply to the ESC as if reference therein to the Tribunal were a reference to the Board and reference to a complaint were a reference to information.
- (2) Subject to subsection (3), the ESC may delegate, upon such terms and conditions as the ESC may approve, any of its powers or functions under this Canon to any person.
- (3) The ESC cannot delegate:
- (a) its powers under subsection (2);
 - (b) its powers under section 13; or
 - (c) its powers under section 16.
- (4) A delegation under this section must be made by instrument in writing signed by a member of the ESC.

PART 5 - EXAMINABLE CONDUCT

9. Subject to this Canon, where the ESC considers that the subject matter of information constitutes examinable conduct it shall investigate the information.
10. The ESC may decide not to investigate the information or may refrain from further investigation of the information if:
 - (a) in its opinion, the allegations the subject of the information are vexatious or misconceived, or their subject matter is trivial;
 - (b) the subject matter is under investigation by some other competent person or body or is the subject of legal proceedings;
 - (c) the person making allegations of examinable conduct or a person affected by the conduct the subject of the information has failed, when requested by the ESC, to provide further particulars or to verify the allegations by statutory declaration; or
 - (d) in its opinion there is insufficient reliable evidence to warrant an investigation or further investigation.
11. For the purpose of an investigation the ESC or an investigator shall obtain such statutory declarations, written statements, recorded conversations, reports, documents and other material as the ESC or its delegate considers necessary or desirable.
12.
 - (1) The ESC may by notice in writing to a respondent require the respondent to provide a detailed report to the ESC within the time specified in the notice in relation to any matter relevant to the investigation.
 - (2) It is the obligation of a respondent:
 - (a) not to mislead the ESC or a member or delegate of the ESC;
 - (b) not unreasonably to delay or obstruct the ESC or a member or delegate of the ESC in the exercise of powers conferred by this Canon.
 - (3) If a respondent declines to answer a question on the ground that the answer might tend to incriminate the person a written record shall be made of the question and of the ground of refusal.
13.
 - (1) At any time after the ESC has commenced or caused to be commenced an investigation of information under this Part in circumstances where it considers that action may be taken under paragraph (b) or (c) of section 16, it may recommend to the Diocesan Council or, in the case of a Bishop who is not a diocesan bishop, to the Primate, that the Bishop be suspended from the duties of office.

- (2) If the Diocesan Council, meeting when the Bishop is not present, or the Primate, as the case may be, concurs in the recommendation, the President of the Board, after considering any submission from the Bishop, may suspend the Bishop from the duties of office.
 - (3) The meeting of the Diocesan Council referred to in sub-section (2) shall be chaired by a Diocesan Bishop appointed by the Primate with the concurrence of a majority of the Metropolitans. The Diocesan Bishop so appointed shall not have a vote at the meeting.
 - (4) Where an investigation has been commenced against the Primate under this part, the powers and functions of the Primate under sub-section (3) shall be exercised by the person who would exercise the authorities, powers, rights and duties of the Primate if there were a vacancy in the office.
 - (5) For the purposes of this section a reference to the Metropolitans excludes a Metropolitan who at the time is the subject of an investigation under this part.
14. Before suspending a Bishop from the duties of office the President of the Board shall take into account:
- (a) the seriousness of the conduct alleged in the information;
 - (b) the nature of the material to support or negate the allegations;
 - (c) whether any person is at risk of harm;
 - (d) after consultation with the relevant Diocesan Council or its representative, the effect on the respondent, a relevant Church body and on the Church in the diocese of acting and of not acting under section 13; and
 - (e) any other allegation of similar examinable conduct previously made to the ESC or to an equivalent body within the previous ten years;
- and may take into account any other relevant matter.
15. (1) A suspension under section 13 or a voluntary standing down from office by the Bishop as a result of an investigation by the ESC:
- (a) has effect as an absence of the Bishop from the see or from office as the case may require; and
 - (b) continues until it ceases to have effect by reason of:
 - (i) the ESC terminating the investigation without taking action under section 16;
 - (ii) a determination to that effect by the Board or the Tribunal as the case may be; or
 - (iii) the see or the office becoming vacant (whether or not under this Canon);

whichever first occurs.

- (2) During any such suspension or voluntary standing down the Bishop is entitled to receive whatever stipend, allowances and other benefits that would otherwise have accrued and which are to be met or reimbursed by the body normally responsible for their payment.
16. At any time after the commencement of an investigation under this Part the ESC may:
- (a) if it considers on reasonable grounds that the Bishop may be incapable, report the matter in writing to the relevant Metropolitan, and such report shall be a report for the purposes of section 4 of the Bishop (Incapacity) Canon 1995 as if it were made by three members of the synod of a diocese pursuant to that section;
 - (b) refer to the Board the fitness of the Bishop, whether temporarily or permanently, to hold office or to remain in Holy Orders;
 - (c) whether or not the information the subject of the investigation is also the subject of a complaint under the Special Tribunal Canon 2007, institute, amend or withdraw proceedings by way of charge against the Bishop before the Tribunal; or
 - (d) in the event that the bishop whose conduct is under investigation ceases to be a Bishop, refer the matter, together with such information as it shall have received, to the bishop of the diocese in which the former Bishop then resides.
17. (1) The fact that the subject matter of a complaint or dispute concerning examinable conduct may be settled or resolved in whole or in part between the parties affected thereby does not prevent the ESC from taking any of the steps referred to in section 16 in respect of the subject matter of the complaint or dispute.
- (2) Any term of settlement or resolution referred to in sub-section (1) which purports to prevent or to limit the institution of such proceedings shall be of no effect.
- (3)³ A matter shall not be referred to the Board, a reference to the Board shall not continue and proceedings shall not be instituted or maintained in the Special Tribunal where the bishop concerned has relinquished or has been deposed from Holy Orders in accordance with the Holy Orders (Removal from Exercise of Ministry) Canon 2017.

PART 6 - EPISCOPAL STANDARDS BOARD

18. There shall be an Episcopal Standards Board constituted and appointed in accordance with the provisions of this Part.
19. (1) Subject to the provisions of this Canon the function of the Board is to inquire into and determine a question referred to it pursuant to section 16, to make a

³ Amended by Canon 18, 2017.

determination referred to in section 49 and where appropriate to make a recommendation in accordance with the provisions of this Canon.

- (2) Subject to section 17(3) the Board may make a determination and recommendation referred to in sub-section (1) notwithstanding that the bishop whose conduct is the subject of the reference has ceased, after the reference, to be a Bishop.
20. (1) The members of the Board in a particular case shall be appointed from a panel comprising:
 - (a) a President and a Deputy President, both of whom shall be persons who are eligible for appointment as lay members of the Appellate Tribunal;
 - (b) five persons in bishop's orders; and
 - (c) five persons who are members of the Church not in bishop's orders.
- (2) A person who is a member of the panel from whom the members of the Tribunal may be appointed is eligible for appointment to the panel.
21. The members of the panel shall be appointed by the Standing Committee and shall hold office in accordance with a resolution of the Standing Committee.
22. Any vacancy in the membership of the panel shall be filled by or in accordance with a resolution of the Standing Committee.
23. (1) The members of the panel to be convened for any reference to the Board shall be determined by the President or, if there is a vacancy in the office of President, by the Deputy President.
 - (2) For the purpose of any reference to the Board, the Board shall consist of the President or Deputy President, who shall be the presiding member, and an equal number not exceeding two of the episcopal and other members of the panel.
 - (3) Where possible, the Board shall include at least one man and at least one woman.

- (4) Where, in the opinion of the President or, if there is a vacancy in the office of the President, in the opinion of the Deputy President a member of the panel has a personal interest in a matter before the Board the member shall be disqualified from participating in the reference.
 - (5) For the purposes of this section a vacancy in the office of President includes a situation in which the President is not able to act because of a personal interest in a matter, illness or absence from Australia.
24.
 - (1) The Rules of the Board made under this Part may provide that, in relation to the exercise of specified functions, or in relation to matters of a specified class, the Board may, at the direction of the presiding member, be constituted by a single member sitting alone.
 - (2) The Board, if constituted by a single member sitting alone, cannot make a determination under section 49.
25. If a member of the Board, other than the presiding member, dies or is for any other reason unable to continue with any matter referred to the Board, the Board constituted of the presiding member and the other member or members may, if the presiding member so determines, continue and complete the reference.
26. The Board, separately constituted in accordance with this Part, may sit simultaneously for the purpose of matters referred to it or for conducting separate business of the Board.
27. An act or proceeding of the Board is not invalid by reason only of a vacancy in its membership or of the membership of the panel and, notwithstanding the subsequent discovery of a defect in the nomination or appointment of members of the panel or the Board, any such act or proceeding is as valid and effectual as if the member had been duly nominated or appointed.
28. There shall be a Secretary to the Board who shall be appointed by or in accordance with a resolution of the Standing Committee, and whose duties shall be defined by the President.
29.
 - (1) In any proceedings of the Board where the Board is constituted by two or more members:
 - (a) any question of law or procedure will be determined by the presiding member; and
 - (b) any other question will be determined by majority decision of the members, and in the case of an equality of votes the opinion of the presiding member shall prevail.
 - (2) Where the Board is constituted by a member sitting alone who is not the President or the Deputy President, any question of law that arises must be referred to the President or Deputy President for decision and any decision made on such a reference is a decision of the Board.
 - (3) The Board must act with fairness and according to equity, good conscience and the substantial merits of the case without regard to technicalities or legal forms

and is not bound by the rules of evidence but may inform itself on any matter in such manner as it thinks fit.

- (4) Without limiting the meaning and effect of sub-section (3), the Board may receive evidence of a witness in the form of an affidavit, statutory declaration or a signed statement without the need for the personal attendance of the witness, and may also use electronic means such as video link or conference telephone to receive evidence and submissions, but must permit the respondent and his representative (if any) opportunity to adequately cross-examine each witness
 - (5) The Board may inform itself from the record of any court or tribunal and may adopt any findings, and accept as its own, the record of any court or tribunal.
30. The Board may, for the purpose of any particular reference and at the cost of the General Synod, appoint such person or persons, including the Director, to assist it in inquiring into (but not determining) that reference as the Board thinks fit.
 31. The Board must give reasons for any determination, other than by way of directions in the course of an inquiry, unless the determination is made by consent of the respondent.
 32.
 - (1) The Board has no power to award costs of any proceedings before it.
 - (2) A bishop in relation to whom a question is the subject of a reference to the Board may apply to the Standing Committee for the provision of legal assistance.
 - (3) The Standing Committee may grant legal assistance to a bishop on such terms and subject to such conditions as it shall determine.
 33.
 - (1) The President may make Rules of the Board reasonably required by or pursuant to this Canon and in relation to the practice and procedure of the Board.
 - (2) Subject to this Canon and the relevant Rules, the practice and procedure of the Board will be as directed by the presiding member of the Board.

PART 7 - REFERENCE OF MATTERS TO THE EPISCOPAL STANDARDS BOARD

34. A question shall be referred to the Board by delivering to the Secretary of the Board a written report of the investigation of the ESC signed by a member of the ESC.

35. The Board shall not, in the course of inquiring into any question:
- (a) inquire into any matter which is or has been the subject of any formal investigation or enquiry conducted;
 - (i) under or pursuant to any provision of the Constitution; or
 - (ii) under or pursuant to a Canon of the General Synod or an Ordinance of a diocese relating to the discipline of clergy or Church workers by a board of enquiry, tribunal or other body;but may take into account the finding of any such formal investigation or enquiry;
 - (b) inquire into, make any findings in relation to or take into account any alleged breach of:
 - (i) faith of the Church, including the obligation to hold the faith;
 - (ii) ritual of the Church, including the rites according to the use of the Church and the obligation to abide by such use; or
 - (iii) ceremonial of the Church, including ceremonial according to the use of the Church and the obligation to abide by such use.
36. (1) Upon delivery of the report to the Secretary of the Board, the President or Deputy President as the case may be shall as soon as possible determine the membership of the Board for the purpose of the reference.
- (2) The President or Deputy President as the case may require shall thereupon cause to be convened a sitting for the purpose of giving directions.
- (3) A person or body appearing or represented before the Board shall comply with the Rules of the Board and with any directions given by the Board.
37. Within 14 days of the date of the reference of a matter to the Board or within 14 days of the date of the document or material coming to existence, whichever is the later, the ESC shall cause to be delivered to the Secretary of the Board any documents and material relevant to the reference.
38. The ESC, as soon as practicable after delivering the report referred to in section 34 to the Secretary of the Board, shall cause a signed copy of the report to be delivered to the respondent.
39. The Board may at any time and from time to time give directions:
- (a) as to the inspection by and supply of copies to the respondent or any other person of the documents or material relevant to the reference;
 - (b) as to the conduct of its inquiry into the reference.
40. The Board may at any time and from time to time give directions to the ESC as to any further inquiries or investigation it requires to be carried out for the purposes of the

reference and the ESC shall to the best of its ability cause such directions to be carried out.

41. (1) The Board shall deal with any reference as expeditiously as possible.
- (2) The Board may, if it sees fit, proceed with the determination of a reference notwithstanding that there may be mediation or conciliation proceedings relating to the subject matter of the reference being conducted by or at the direction of the ESC and notwithstanding that there may be criminal or other proceedings being taken against the respondent or some other person.
42. (1) The place and time of sitting of the Board comprising two or more members shall be as determined by the presiding member.
- (2) The place and time of sitting of the Board comprising one member shall be as determined by that member.
43. (1) Subject to sub-section (2), the Board must give the following persons reasonable notice of the time and place of a sitting of the Board:
 - (a) the Director; and
 - (b) the respondent; and
 - (c) such other persons as the Board believes have a proper interest in the matter.
- (2) The Board is not obliged to give notice of a sitting to a person whose whereabouts cannot, after reasonable enquiries, be ascertained.
44. In any proceedings before the Board:
 - (a) the ESC and any person may be represented by a legal practitioner or, with leave of the Board, by any other person;
 - (b) the ESC or its appointed representative shall do all in its power to assist the Board and shall carry out any directions of the Board;
 - (c) the Board:
 - (i) must give the ESC and the respondent a reasonable opportunity to call or give evidence, to examine or cross-examine witnesses and to make submissions to the Board; and
 - (ii) must give any other person to whom notice of the proceedings was given or who satisfies the Board that he or she has a proper interest in the matter a reasonable opportunity to make submissions to the Board.
45. (1) Subject to sub-section (2), a sitting of the Board on a reference before the Board is an open sitting.
- (2) On any such sitting before the Board, the Board has an absolute discretion:

- (a) to direct that no person other than:
 - (i) the respondent and any person representing him or her in the proceedings; and
 - (ii) witnesses or persons making submissions (while giving evidence or making those submissions); and
 - (iii) officers of the Board or persons assisting the Board; and
 - (iv) members of or persons appointed by the ESC; be present in the room while the Board is sitting; or
 - (b) to direct that a particular person (other than a person referred to in paragraph (a)) not be present in the room while the Board is sitting.
46. The Board may make a determination in any proceedings in the absence of a person affected by the determination if satisfied that reasonable efforts were made to give that person an opportunity to appear.
47. (1) The Board may require a respondent to submit within a specified time to a medical, psychiatric or psychological examination by a person approved by the Board the cost of which shall be met from funds under the control of the General Synod.
- (2) A copy of the report of an examination under subsection (1) shall be provided to the respondent and to the Board.
48. In making any determination the Board shall take into account:
- (a) the conduct of the bishop as it finds it to have been;
 - (b) in the material before the Board, any other fact or circumstance relevant to the determination of the question before it; and
 - (c) any failure of the bishop to comply with a provision of this Canon or with a direction of the Board.
49. If, after investigating the question referred to it about a bishop, the Board is satisfied that:
- (a) the bishop should be counselled;
 - (b) the bishop's continuation in office should be subject to conditions or restrictions;
 - (c) the bishop is unfit, whether temporarily or permanently, to hold office; or
 - (d) the bishop is unfit to remain in Holy Orders;
- the Board may determine accordingly and may:
- (e) direct that the bishop be counselled;

- (f) direct that the bishop's holding of office shall be subject to such conditions or restrictions as the Board may specify;
 - (g) direct that the bishop cease to carry out the duties and functions of his office from such time and for such period determined by the Board;
 - (h) direct that the bishop resign from the office, within such time as is specified by the Board;
 - (i) direct that the operation of a determination referred to in paragraphs (f) to (h) shall be suspended for such period and upon such conditions as the Board shall specify;
 - (j) direct that the bishop relinquish Holy Orders within such time as is specified by the Board;
 - (k) give such other direction as the Board sees fit.
50. The Board shall cause a copy of each determination and direction to be provided:
- (a) to the Primate;
 - (b) to the relevant Metropolitan;
 - (c) to the respondent;
 - (d) to the relevant administrator; and
- shall cause relevant details to be forwarded for entry into the national register.
51. (1) The bishop shall comply with a direction of the Board.
- (2) Failure of the bishop to comply with a direction of the Board is an offence.
- (3) The ESC may institute proceedings forthwith in the Tribunal in respect of an offence against this section or, if the bishop is no longer a Bishop, shall refer the matter, together with such relevant information concerning the alleged offence as may be in its possession, to the bishop of the diocese in which the bishop is then resident.

PART 8 - APPEAL

52. In this Part, unless the context otherwise requires
- "**reviewable decision**" means a recommendation or determination of the Board other than by way of an interlocutory order;
- "**Review Tribunal**" means the Review Tribunal referred to in section 63A of the Constitution or, if no such section has been enacted, a Review Tribunal constituted for the purposes of this Part;
- "**the appropriate State professional body**" means the Bar Association or equivalent body or, if there is no such body, the Law Society of the State or Territory in which the Bishop when a Bishop resides or resided as the case may be;
- "**the relevant Chancellor**" means the Primate's Chancellor or, if the intended subject of a review under this Part is the Primate, the Chancellor of the Senior Metropolitan referred to in section 10 of the Constitution.
53. For the purposes of this Canon the Review Tribunal shall consist of a barrister of not less than 5 years standing appointed by the President of the appropriate State professional body or, if the President is unwilling to appoint, or unreasonably delays doing so, appointed by the relevant Chancellor.
54. A bishop who is aggrieved by a reviewable decision may apply to the Director for a review of the decision.
55. The application may be made on any one or more of the following grounds:
- (a) That a breach of the rules of natural justice happened in relation to the making of the reviewable decision which materially affected the decision;
 - (b) That procedures that were required by this Canon to be observed in relation to the making of the reviewable decision were not observed, and the non-observance materially affected the decision;
 - (c) That the Board did not have jurisdiction to make the reviewable decision; or
 - (d) That the reviewable decision was so devoid of any plausible justification that no reasonable Board could have made it.
56. For a reviewable decision, the provisions of section 51 shall not apply until the time for lodging an application for review has passed, and no application has been lodged.
57. The making of an application for review acts as a stay of the reviewable decision pending determination by the Review Tribunal.
58. For a reviewable decision, the Board shall not cause the relevant details to be forwarded for entry into the national register under section 50 until:
- (a) the time for lodging an application for review has passed, and no application has been lodged; or

- (b) where an application for review has been heard and determined, the determination has been made.
59. If leave to appeal is refused or a determination on review confirms or varies a reviewable decision, then the Board must cause the details of the confirmed or varied decision to be forwarded for entry into the national register as soon as it receives the Review Tribunal's determination.
60. If a Review Tribunal's determination refers a matter back to the Board, then the Board must:
- (a) determine to take no further action in respect of the matter; or
 - (b) deal with the matter in accordance with Part VII of this Canon, in accordance with such directions or recommendations as the Review Tribunal may make in the Tribunal's determination; or
 - (c) deal with the matter in accordance with Part VII of this Canon applying such of the provisions of Part VII as, in the discretion of the Board and in accordance with the Review Tribunal's determination, the Board sees fit.
61. An application to the Director for review of the reviewable decision must be made within 14 days of the bishop's being provided with a copy of the Board's determination and recommendation under section 50. The application for review must:
- (a) be in writing addressed to the Director; and
 - (b) set out the grounds for review in the application.
62. On receipt of an application for review, the Director must immediately seek the appointment of a Review Tribunal.
63. Upon appointment of a Review Tribunal, the Director must ask the Review Tribunal for the Tribunal's estimate of the fee to be charged by the Review Tribunal in making a determination under this Part. Upon receipt of advice as to the estimated fee, the Director must immediately notify the applicant. Within 7 days of receipt of the Director's advice, or such further time as the Review Tribunal may allow, the applicant must pay one half of the estimated fee to the Review Tribunal, or to a person nominated by the Tribunal. If the applicant fails to make the payment within the time specified, then the application for review will lapse.
64. Unless otherwise specified in this Canon, the manner in which the review is to be conducted will be determined by the Review Tribunal.

65. On an application for review of a reviewable decision, the Review Tribunal may make all or any of the following determinations:
- (a) a determination quashing or setting aside the reviewable decision;
 - (b) a determination referring the matter to which the reviewable decision relates to the Board for further consideration, subject to such directions (including the setting of time limits for the further consideration, and for the steps to be taken in the further consideration) as the Review Tribunal determines;
 - (c) a determination declaring the rights of the applicant in relation to any matter to which the reviewable decision relates;
 - (d) a determination directing either the applicant or the Board, to do, or to refrain from doing, anything that the Review Tribunal considers necessary to do justice between the parties; or
 - (e) a determination confirming the reviewable decision.
66. The Review Tribunal may make such order as to the costs of the review as the Tribunal thinks fit.
67. The review shall be by way of a review of the recommendation or determination that is the subject of the review and not by way of re-hearing.

PART 9 - REGULATIONS

68. The Standing Committee may from time to time make, amend or repeal Regulations, not inconsistent with the provisions of this Canon, providing for records arising out of or incidental to the operation of this Canon, and for all or any of the purposes whether general or to meet particular cases, which may be convenient for the administration of this Canon or which may be necessary or expedient to carry out the objects and purposes of this Canon.

PART 10 - ADOPTION

69. The provisions of this canon affect the order and good government of this Church within a diocese and shall not come into force in a diocese unless and until the diocese adopts this canon by ordinance of the synod of the Diocese.
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BOOK 1: BILLS

BILL 9: EPISCOPAL STANDARDS INVESTIGATIONS

**A BILL FOR THE
EPISCOPAL STANDARDS INVESTIGATIONS AMENDMENT CANON
2022**

EXPLANATORY MEMORANDUM

1. The Standing Committee proposes the amendment to the Episcopal Standards Canon 2007 (Principal Canon) as a result of a recommendation made by the Episcopal Standards Commission (ESC). The ESC has found that it spends a significant part of its time on matters concerning dissatisfaction with decisions made by bishops in the exercise of their functions that either have been dealt with, or would be better dealt with, under a complaints or grievance process in force in the bishop's diocese. Section 10 of the Principal Canon prescribes four circumstances where the ESC may decide not to investigate information or refrain from further investigation. It is therefore proposed to add a fifth circumstance where, in the ESC's opinion the allegations of examinable conduct have been dealt with adequately, or could be dealt with adequately, under a complaints or grievance process in force in the relevant diocese.
2. As the addition of a further circumstance for terminating an investigation requires the punctuation at the conclusion of paragraph (d) of s 10 of the Principal Canon to be amended and the word "or" inserted, it is simpler to delete the existing paragraph (d) and insert paragraph (d) and the new paragraph (e) as one amendment.

A MEASURE FOR

AN ORDINANCE to adopt the Episcopal Standards (Investigations) Amendment Canon 2022 (Canon 12, 2022).

THE SYNOD HEREBY DETERMINES:

Title

1. This Ordinance may be cited as the *“Episcopal Standards (Investigations) Amendment Canon Adoption Ordinance 2022”*.

Adoption of Canon

2. The Synod adopts the *Episcopal Standards (Investigations) Amendment Canon 2022 (Canon 12, 2022)*.

CERTIFIED as a copy of the Measure as recommended in Committee

.....

Chair of Committees

.....

Date

CERTIFIED as a copy of the Measure as passed on theday of October 2022.

.....

Secretary of Synod

.....

Date

EPISCOPAL STANDARDS INVESTIGATIONS AMENDMENT CANON 2022

Canon 12, 2022

The General Synod prescribes as follows:

Title

1. This canon is the *Episcopal Standards Investigations Amendment Canon 2022*.

Principal canon

2. In this canon, the *Episcopal Standards Canon 2007* is called the "Principal Canon".

Amendment of s 10

3. Delete all of paragraph (d) of s 10 of the Principal Canon and insert:

- (d) in its opinion there is insufficient reliable evidence to warrant an investigation or further investigation; or
- (e) in its opinion the allegations of examinable conduct have been dealt with adequately.

Primate's appointment when the canon shall come into force [SO63(19)]

I appoint the 11th May 2022 as the date on which this canon shall come into force.

Secretaries' Certification of copy of Canon as passed [SO63(20)]

We certify that the Canon above is a copy of the Canon as passed on the 11th day of May 2022.

Dated: 13 May 2022



The Very Rev'd Katherine Bowyer
Clerical Secretary



Mr Timothy Reid
Lay Secretary

EPISCOPAL STANDARDS CANON 2007

Canon 14, 2007¹ as amended by Canon 18, 2017

A canon relating to professional standards of bishops and for other purposes.

The General Synod prescribes as follows:

PART 1 - PRELIMINARY

1. This Canon may be cited as the "Episcopal Standards Canon 2007".
2. In this Canon, unless the context otherwise requires:

"**Administrator**" means the person who would, in the absence or incapacity of a Bishop, be the administrator of a diocese;

"**Bishop**" means a bishop referred to in section 56(6) of the Constitution; and

"**bishop**" means a person in bishop's orders;

"**Board**" means the Episcopal Standards Board established under Part 6;

"**Church**" means the Anglican Church of Australia;

"**Church body**" includes the Primate, the General Synod, a diocese, diocesan synod, diocesan council, diocesan trustee or trust corporation or other body responsible for administering the affairs of a diocese, or an institution or agency of this Church or of a diocese;

"**Code of Conduct**" means a code of conduct approved from time to time under Part 2;

"**Director**" means the Director of the ESC appointed under the Special Tribunal Canon 2007;

"**Episcopal Standards Commission**" or "**ESC**" means the Episcopal Standards Commission appointed under the Special Tribunal Canon 2007;

"**examinable conduct**" means any conduct or omission wherever or whenever occurring the subject of information which, if established, might call into question the fitness of a Bishop to hold office or to be or remain in Holy Orders but excludes any breach of faith, ritual or ceremonial;

¹ This Canon was provisionally made as Canon P4, 2004, and was amended and passed in 2007.

"**information**" means information of whatever nature and from whatever source relating to the alleged misconduct or omission of a Bishop wherever or whenever occurring;

"**national register**" means a national register established pursuant to a Canon of General Synod for a purpose which includes the recording of determinations of the Board;

"**protocol**" means the protocol approved from time to time by the Standing Committee under Part 3;

"**relevant Metropolitan**", means:

- (a) in relation to the bishop of a diocese:
 - (i) unless paragraph (iii) or (iv) applies, the Metropolitan of the Province in which the diocese is situated; or
 - (ii) if the diocese is an extra-provincial diocese, the Primate; or
 - (iii) if the bishop is the Metropolitan but not the Primate, the Primate; or
 - (iv) if the bishop is the Primate, the person who, at the relevant time, is the next most senior Metropolitan who is available, seniority being determined by the date of consecration; and
- (b) in relation to any other Bishop, the Primate;

"**respondent**" means a Bishop whose alleged conduct or omission is the subject of information;

"**Standing Committee**" means the Standing Committee of General Synod;

"**Tribunal**" means the Special Tribunal.

PART 2 - CODE OF CONDUCT

3. The General Synod or the Standing Committee shall from time to time by resolution approve a Code of Conduct for observance by Bishops, which does not make provision for any matter concerning faith, ritual or ceremonial, provided that any changes to the Code of Conduct made by the Standing Committee shall be referred to the next session of General Synod for ratification.
4. The Standing Committee through the ESC and by such other means as may be considered appropriate shall take such steps as may be necessary or desirable to promote the knowledge, understanding and observance in this Church of the Code of Conduct. A code of conduct must not make provision for any matter concerning faith, ritual or ceremonial.

PART 3 - THE PROTOCOL

5. (1) The Standing Committee shall from time to time consider and approve a protocol for implementation in relation to information.
- (2) The protocol must include:
 - (a) procedures for receiving information;
 - (b) provision for informing complainants and victims of alleged conduct the subject of information, and respondents, of rights, remedies and relevant procedures available to them;
 - (c) provision for assisting or supporting, as appropriate, all persons affected by alleged conduct the subject of information;
 - (d) an explanation of the processes for investigating and dealing with information;
 - (e) provisions for dealing fairly with respondents;
 - (f) processes for referral to mediation and conciliation in appropriate circumstances;
 - (g) provisions for information, reports, advice and recommendations to the Primate, the relevant Metropolitan and to the relevant Administrator at each stage of the process of dealing with information;
 - (h) procedures for working, where appropriate, with law enforcement, prosecution or child protection authorities of the States and Territories and of the Commonwealth of Australia.
6. The Standing Committee through the ESC and by such other means as it may consider appropriate shall take such steps as may be necessary or desirable to promote throughout the Church a knowledge and understanding of the protocol.

PART 4 - THE EPISCOPAL STANDARDS COMMISSION

7. (1) In addition to the powers conferred on it by the Special Tribunal Canon 2007 and subject to the provisions of this Canon the ESC has the following powers and duties:
 - (a) to implement the protocol to the extent that the protocol is not inconsistent with this Canon;
 - (b) to receive information;
 - (c) to act on information in accordance with the provisions of this Canon, and the protocol to the extent that it is not inconsistent with this Canon;

- (d) to appoint suitable persons to fulfil the several roles required to implement the protocol in each particular case;
 - (e) where appropriate, to arrange for the conciliation or mediation of any complaint the subject of information;
 - (f) to investigate information in a timely and appropriate manner;
 - (g) where appropriate, to recommend to the Standing Committee any changes to the protocol;
 - (h) subject to any limit imposed by the Standing Committee to authorise such expenditure on behalf of the General Synod as may be necessary or appropriate to implement, in a particular case, the protocol and the provisions of this Canon;
 - (i) to advise any relevant Church body as to the financial, pastoral or other needs of a person affected by conduct the subject of information and as to any possible or actual legal proceedings against such Church body arising out of the alleged conduct of a bishop;
 - (j) to refer any information in its possession to a member of a law enforcement, prosecution or child protection authority of a State or Territory or of the Commonwealth of Australia to which the information is or may be relevant;
 - (k) to maintain proper records of all information received and of action taken in relation to such information.
- (2) The Director may receive information on behalf of the ESC and shall carry out such functions under this Canon as the ESC may determine.
8. (1) In the exercise of its powers and duties under this Canon the provisions of sections 8, 9 and 10 of the Special Tribunal Canon 2007 shall apply to the ESC as if reference therein to the Tribunal were a reference to the Board and reference to a complaint were a reference to information.
- (2) Subject to subsection (3), the ESC may delegate, upon such terms and conditions as the ESC may approve, any of its powers or functions under this Canon to any person.
- (3) The ESC cannot delegate:
- (a) its powers under subsection (2);
 - (b) its powers under section 13; or
 - (c) its powers under section 16.
- (4) A delegation under this section must be made by instrument in writing signed by a member of the ESC.

PART 5 – EXAMINABLE CONDUCT

9. Subject to this Canon, where the ESC considers that the subject matter of information constitutes examinable conduct it shall investigate the information.
10. The ESC may decide not to investigate the information or may refrain from further investigation of the information if:
 - (a) in its opinion, the allegations the subject of the information are vexatious or misconceived, or their subject matter is trivial;
 - (b) the subject matter is under investigation by some other competent person or body or is the subject of legal proceedings;
 - (c) the person making allegations of examinable conduct or a person affected by the conduct the subject of the information has failed, when requested by the ESC, to provide further particulars or to verify the allegations by statutory declaration; or
 - (d) ~~in its opinion there is insufficient reliable evidence to warrant an investigation or further investigation~~ in its opinion there is insufficient reliable evidence to warrant an investigation or further investigation; or.
 - (e) in its opinion the allegations of examinable conduct have been dealt with adequately²
11. For the purpose of an investigation the ESC or an investigator shall obtain such statutory declarations, written statements, recorded conversations, reports, documents and other material as the ESC or its delegate considers necessary or desirable.
12. (1) The ESC may by notice in writing to a respondent require the respondent to provide a detailed report to the ESC within the time specified in the notice in relation to any matter relevant to the investigation.
 - (2) It is the obligation of a respondent:
 - (a) not to mislead the ESC or a member or delegate of the ESC;
 - (b) not unreasonably to delay or obstruct the ESC or a member or delegate of the ESC in the exercise of powers conferred by this Canon.
 - (3) If a respondent declines to answer a question on the ground that the answer might tend to incriminate the person a written record shall be made of the question and of the ground of refusal.
13. (1) At any time after the ESC has commenced or caused to be commenced an investigation of information under this Part in circumstances where it considers that action may be taken under paragraph (b) or (c) of section 16, it may recommend to the Diocesan Council or, in the case of a Bishop who is not a diocesan bishop, to the Primate, that the Bishop be suspended from the duties of office.

² Section 10(d) amended and 10(e) added by section 6 of Canon 12, 2022

- (2) If the Diocesan Council, meeting when the Bishop is not present, or the Primate, as the case may be, concurs in the recommendation, the President of the Board, after considering any submission from the Bishop, may suspend the Bishop from the duties of office.
 - (3) The meeting of the Diocesan Council referred to in sub-section (2) shall be chaired by a Diocesan Bishop appointed by the Primate with the concurrence of a majority of the Metropolitans. The Diocesan Bishop so appointed shall not have a vote at the meeting.
 - (4) Where an investigation has been commenced against the Primate under this part, the powers and functions of the Primate under sub-section (3) shall be exercised by the person who would exercise the authorities, powers, rights and duties of the Primate if there were a vacancy in the office.
 - (5) For the purposes of this section a reference to the Metropolitans excludes a Metropolitan who at the time is the subject of an investigation under this part.
14. Before suspending a Bishop from the duties of office the President of the Board shall take into account:
- (a) the seriousness of the conduct alleged in the information;
 - (b) the nature of the material to support or negate the allegations;
 - (c) whether any person is at risk of harm;
 - (d) after consultation with the relevant Diocesan Council or its representative, the effect on the respondent, a relevant Church body and on the Church in the diocese of acting and of not acting under section 13; and
 - (e) any other allegation of similar examinable conduct previously made to the ESC or to an equivalent body within the previous ten years;
- and may take into account any other relevant matter.
15. (1) A suspension under section 13 or a voluntary standing down from office by the Bishop as a result of an investigation by the ESC:
- (a) has effect as an absence of the Bishop from the see or from office as the case may require; and
 - (b) continues until it ceases to have effect by reason of:
 - (i) the ESC terminating the investigation without taking action under section 16;
 - (ii) a determination to that effect by the Board or the Tribunal as the case may be; or
 - (iii) the see or the office becoming vacant (whether or not under this Canon);

whichever first occurs.

- (2) During any such suspension or voluntary standing down the Bishop is entitled to receive whatever stipend, allowances and other benefits that would otherwise have accrued and which are to be met or reimbursed by the body normally responsible for their payment.
16. At any time after the commencement of an investigation under this Part the ESC may:
- (a) if it considers on reasonable grounds that the Bishop may be incapable, report the matter in writing to the relevant Metropolitan, and such report shall be a report for the purposes of section 4 of the Bishop (Incapacity) Canon 1995 as if it were made by three members of the synod of a diocese pursuant to that section;
 - (b) refer to the Board the fitness of the Bishop, whether temporarily or permanently, to hold office or to remain in Holy Orders;
 - (c) whether or not the information the subject of the investigation is also the subject of a complaint under the Special Tribunal Canon 2007, institute, amend or withdraw proceedings by way of charge against the Bishop before the Tribunal; or
 - (d) in the event that the bishop whose conduct is under investigation ceases to be a Bishop, refer the matter, together with such information as it shall have received, to the bishop of the diocese in which the former Bishop then resides.
17. (1) The fact that the subject matter of a complaint or dispute concerning examinable conduct may be settled or resolved in whole or in part between the parties affected thereby does not prevent the ESC from taking any of the steps referred to in section 16 in respect of the subject matter of the complaint or dispute.
- (2) Any term of settlement or resolution referred to in sub-section (1) which purports to prevent or to limit the institution of such proceedings shall be of no effect.
- (3)³ A matter shall not be referred to the Board, a reference to the Board shall not continue and proceedings shall not be instituted or maintained in the Special Tribunal where the bishop concerned has relinquished or has been deposed from Holy Orders in accordance with the Holy Orders (Removal from Exercise of Ministry) Canon 2017.

³ Amended by Canon 18, 2017.

PART 6 - EPISCOPAL STANDARDS BOARD

18. There shall be an Episcopal Standards Board constituted and appointed in accordance with the provisions of this Part.
19. (1) Subject to the provisions of this Canon the function of the Board is to inquire into and determine a question referred to it pursuant to section 16, to make a determination referred to in section 49 and where appropriate to make a recommendation in accordance with the provisions of this Canon.
- (2) Subject to section 17(3) the Board may make a determination and recommendation referred to in sub-section (1) notwithstanding that the bishop whose conduct is the subject of the reference has ceased, after the reference, to be a Bishop.
20. (1) The members of the Board in a particular case shall be appointed from a panel comprising:
 - (a) a President and a Deputy President, both of whom shall be persons who are eligible for appointment as lay members of the Appellate Tribunal;
 - (b) five persons in bishop's orders; and
 - (c) five persons who are members of the Church not in bishop's orders.
- (2) A person who is a member of the panel from whom the members of the Tribunal may be appointed is eligible for appointment to the panel.
21. The members of the panel shall be appointed by the Standing Committee and shall hold office in accordance with a resolution of the Standing Committee.
22. Any vacancy in the membership of the panel shall be filled by or in accordance with a resolution of the Standing Committee.
23. (1) The members of the panel to be convened for any reference to the Board shall be determined by the President or, if there is a vacancy in the office of President, by the Deputy President.
- (2) For the purpose of any reference to the Board, the Board shall consist of the President or Deputy President, who shall be the presiding member, and an equal number not exceeding two of the episcopal and other members of the panel.
- (3) Where possible, the Board shall include at least one man and at least one woman.

- (4) Where, in the opinion of the President or, if there is a vacancy in the office of the President, in the opinion of the Deputy President a member of the panel has a personal interest in a matter before the Board the member shall be disqualified from participating in the reference.
 - (5) For the purposes of this section a vacancy in the office of President includes a situation in which the President is not able to act because of a personal interest in a matter, illness or absence from Australia.
24.
 - (1) The Rules of the Board made under this Part may provide that, in relation to the exercise of specified functions, or in relation to matters of a specified class, the Board may, at the direction of the presiding member, be constituted by a single member sitting alone.
 - (2) The Board, if constituted by a single member sitting alone, cannot make a determination under section 49.
25. If a member of the Board, other than the presiding member, dies or is for any other reason unable to continue with any matter referred to the Board, the Board constituted of the presiding member and the other member or members may, if the presiding member so determines, continue and complete the reference.
26. The Board, separately constituted in accordance with this Part, may sit simultaneously for the purpose of matters referred to it or for conducting separate business of the Board.
27. An act or proceeding of the Board is not invalid by reason only of a vacancy in its membership or of the membership of the panel and, notwithstanding the subsequent discovery of a defect in the nomination or appointment of members of the panel or the Board, any such act or proceeding is as valid and effectual as if the member had been duly nominated or appointed.
28. There shall be a Secretary to the Board who shall be appointed by or in accordance with a resolution of the Standing Committee, and whose duties shall be defined by the President.
29.
 - (1) In any proceedings of the Board where the Board is constituted by two or more members:
 - (a) any question of law or procedure will be determined by the presiding member; and
 - (b) any other question will be determined by majority decision of the members, and in the case of an equality of votes the opinion of the presiding member shall prevail.
 - (2) Where the Board is constituted by a member sitting alone who is not the President or the Deputy President, any question of law that arises must be referred to the President or Deputy President for decision and any decision made on such a reference is a decision of the Board.
 - (3) The Board must act with fairness and according to equity, good conscience and the substantial merits of the case without regard to technicalities or legal forms

and is not bound by the rules of evidence but may inform itself on any matter in such manner as it thinks fit.

- (4) Without limiting the meaning and effect of sub-section (3), the Board may receive evidence of a witness in the form of an affidavit, statutory declaration or a signed statement without the need for the personal attendance of the witness, and may also use electronic means such as video link or conference telephone to receive evidence and submissions, but must permit the respondent and his representative (if any) opportunity to adequately cross-examine each witness
 - (5) The Board may inform itself from the record of any court or tribunal and may adopt any findings, and accept as its own, the record of any court or tribunal.
30. The Board may, for the purpose of any particular reference and at the cost of the General Synod, appoint such person or persons, including the Director, to assist it in inquiring into (but not determining) that reference as the Board thinks fit.
31. The Board must give reasons for any determination, other than by way of directions in the course of an inquiry, unless the determination is made by consent of the respondent.
32. (1) The Board has no power to award costs of any proceedings before it.
- (2) A bishop in relation to whom a question is the subject of a reference to the Board may apply to the Standing Committee for the provision of legal assistance.
- (3) The Standing Committee may grant legal assistance to a bishop on such terms and subject to such conditions as it shall determine.
33. (1) The President may make Rules of the Board reasonably required by or pursuant to this Canon and in relation to the practice and procedure of the Board.
- (2) Subject to this Canon and the relevant Rules, the practice and procedure of the Board will be as directed by the presiding member of the Board.

PART 7 - REFERENCE OF MATTERS TO THE EPISCOPAL STANDARDS BOARD

34. A question shall be referred to the Board by delivering to the Secretary of the Board a written report of the investigation of the ESC signed by a member of the ESC.
35. The Board shall not, in the course of inquiring into any question:
- (a) inquire into any matter which is or has been the subject of any formal investigation or enquiry conducted;
 - (i) under or pursuant to any provision of the Constitution; or
 - (ii) under or pursuant to a Canon of the General Synod or an Ordinance of a diocese relating to the discipline of clergy or Church workers by a board of enquiry, tribunal or other body;
- but may take into account the finding of any such formal investigation or enquiry;

- (b) inquire into, make any findings in relation to or take into account any alleged breach of:
 - (i) faith of the Church, including the obligation to hold the faith;
 - (ii) ritual of the Church, including the rites according to the use of the Church and the obligation to abide by such use; or
 - (iii) ceremonial of the Church, including ceremonial according to the use of the Church and the obligation to abide by such use.
- 36. (1) Upon delivery of the report to the Secretary of the Board, the President or Deputy President as the case may be shall as soon as possible determine the membership of the Board for the purpose of the reference.
- (2) The President or Deputy President as the case may require shall thereupon cause to be convened a sitting for the purpose of giving directions.
- (3) A person or body appearing or represented before the Board shall comply with the Rules of the Board and with any directions given by the Board.
- 37. Within 14 days of the date of the reference of a matter to the Board or within 14 days of the date of the document or material coming to existence, whichever is the later, the ESC shall cause to be delivered to the Secretary of the Board any documents and material relevant to the reference.
- 38. The ESC, as soon as practicable after delivering the report referred to in section 34 to the Secretary of the Board, shall cause a signed copy of the report to be delivered to the respondent.
- 39. The Board may at any time and from time to time give directions:
 - (a) as to the inspection by and supply of copies to the respondent or any other person of the documents or material relevant to the reference;
 - (b) as to the conduct of its inquiry into the reference.
- 40. The Board may at any time and from time to time give directions to the ESC as to any further inquiries or investigation it requires to be carried out for the purposes of the reference and the ESC shall to the best of its ability cause such directions to be carried out.
- 41. (1) The Board shall deal with any reference as expeditiously as possible.
- (2) The Board may, if it sees fit, proceed with the determination of a reference notwithstanding that there may be mediation or conciliation proceedings relating to the subject matter of the reference being conducted by or at the direction of the ESC and notwithstanding that there may be criminal or other proceedings being taken against the respondent or some other person.

42. (1) The place and time of sitting of the Board comprising two or more members shall be as determined by the presiding member.
- (2) The place and time of sitting of the Board comprising one member shall be as determined by that member.
43. (1) Subject to sub-section (2), the Board must give the following persons reasonable notice of the time and place of a sitting of the Board:
- (a) the Director; and
 - (b) the respondent; and
 - (c) such other persons as the Board believes have a proper interest in the matter.
- (2) The Board is not obliged to give notice of a sitting to a person whose whereabouts cannot, after reasonable enquiries, be ascertained.
44. In any proceedings before the Board:
- (a) the ESC and any person may be represented by a legal practitioner or, with leave of the Board, by any other person;
 - (b) the ESC or its appointed representative shall do all in its power to assist the Board and shall carry out any directions of the Board;
 - (c) the Board:
 - (i) must give the ESC and the respondent a reasonable opportunity to call or give evidence, to examine or cross-examine witnesses and to make submissions to the Board; and
 - (ii) must give any other person to whom notice of the proceedings was given or who satisfies the Board that he or she has a proper interest in the matter a reasonable opportunity to make submissions to the Board.
45. (1) Subject to sub-section (2), a sitting of the Board on a reference before the Board is an open sitting.
- (2) On any such sitting before the Board, the Board has an absolute discretion:
- (a) to direct that no person other than:
 - (i) the respondent and any person representing him or her in the proceedings; and
 - (ii) witnesses or persons making submissions (while giving evidence or making those submissions); and
 - (iii) officers of the Board or persons assisting the Board; and

- (iv) members of or persons appointed by the ESC; be present in the room while the Board is sitting; or
 - (b) to direct that a particular person (other than a person referred to in paragraph (a)) not be present in the room while the Board is sitting.
- 46. The Board may make a determination in any proceedings in the absence of a person affected by the determination if satisfied that reasonable efforts were made to give that person an opportunity to appear.
- 47. (1) The Board may require a respondent to submit within a specified time to a medical, psychiatric or psychological examination by a person approved by the Board the cost of which shall be met from funds under the control of the General Synod.
- (2) A copy of the report of an examination under subsection (1) shall be provided to the respondent and to the Board.
- 48. In making any determination the Board shall take into account:
 - (a) the conduct of the bishop as it finds it to have been;
 - (b) in the material before the Board, any other fact or circumstance relevant to the determination of the question before it; and
 - (c) any failure of the bishop to comply with a provision of this Canon or with a direction of the Board.
- 49. If, after investigating the question referred to it about a bishop, the Board is satisfied that:
 - (a) the bishop should be counselled;
 - (b) the bishop's continuation in office should be subject to conditions or restrictions;
 - (c) the bishop is unfit, whether temporarily or permanently, to hold office; or
 - (d) the bishop is unfit to remain in Holy Orders;
 the Board may determine accordingly and may:
 - (e) direct that the bishop be counselled;
 - (f) direct that the bishop's holding of office shall be subject to such conditions or restrictions as the Board may specify;
 - (g) direct that the bishop cease to carry out the duties and functions of his office from such time and for such period determined by the Board;
 - (h) direct that the bishop resign from the office, within such time as is specified by the Board;

- (i) direct that the operation of a determination referred to in paragraphs (f) to (h) shall be suspended for such period and upon such conditions as the Board shall specify;
 - (j) direct that the bishop relinquish Holy Orders within such time as is specified by the Board;
 - (k) give such other direction as the Board sees fit.
50. The Board shall cause a copy of each determination and direction to be provided:
- (a) to the Primate;
 - (b) to the relevant Metropolitan;
 - (c) to the respondent;
 - (d) to the relevant administrator; and
- shall cause relevant details to be forwarded for entry into the national register.
51. (1) The bishop shall comply with a direction of the Board.
- (2) Failure of the bishop to comply with a direction of the Board is an offence.
- (3) The ESC may institute proceedings forthwith in the Tribunal in respect of an offence against this section or, if the bishop is no longer a Bishop, shall refer the matter, together with such relevant information concerning the alleged offence as may be in its possession, to the bishop of the diocese in which the bishop is then resident.

PART 8 - APPEAL

52. In this Part, unless the context otherwise requires
- "**reviewable decision**" means a recommendation or determination of the Board other than by way of an interlocutory order;
- "**Review Tribunal**" means the Review Tribunal referred to in section 63A of the Constitution or, if no such section has been enacted, a Review Tribunal constituted for the purposes of this Part;
- "**the appropriate State professional body**" means the Bar Association or equivalent body or, if there is no such body, the Law Society of the State or Territory in which the Bishop when a Bishop resides or resided as the case may be;
- "**the relevant Chancellor**" means the Primate's Chancellor or, if the intended subject of a review under this Part is the Primate, the Chancellor of the Senior Metropolitan referred to in section 10 of the Constitution.
53. For the purposes of this Canon the Review Tribunal shall consist of a barrister of not less than 5 years standing appointed by the President of the appropriate State professional body or, if the President is unwilling to appoint, or unreasonably delays doing so, appointed by the relevant Chancellor.
54. A bishop who is aggrieved by a reviewable decision may apply to the Director for a review of the decision.
55. The application may be made on any one or more of the following grounds:
- (a) That a breach of the rules of natural justice happened in relation to the making of the reviewable decision which materially affected the decision;
 - (b) That procedures that were required by this Canon to be observed in relation to the making of the reviewable decision were not observed, and the non-observance materially affected the decision;
 - (c) That the Board did not have jurisdiction to make the reviewable decision; or
 - (d) That the reviewable decision was so devoid of any plausible justification that no reasonable Board could have made it.
56. For a reviewable decision, the provisions of section 51 shall not apply until the time for lodging an application for review has passed, and no application has been lodged.
57. The making of an application for review acts as a stay of the reviewable decision pending determination by the Review Tribunal.
58. For a reviewable decision, the Board shall not cause the relevant details to be forwarded for entry into the national register under section 50 until:
- (a) the time for lodging an application for review has passed, and no application has been lodged; or

- (b) where an application for review has been heard and determined, the determination has been made.
59. If leave to appeal is refused or a determination on review confirms or varies a reviewable decision, then the Board must cause the details of the confirmed or varied decision to be forwarded for entry into the national register as soon as it receives the Review Tribunal's determination.
60. If a Review Tribunal's determination refers a matter back to the Board, then the Board must:
- (a) determine to take no further action in respect of the matter; or
 - (b) deal with the matter in accordance with Part VII of this Canon, in accordance with such directions or recommendations as the Review Tribunal may make in the Tribunal's determination; or
 - (c) deal with the matter in accordance with Part VII of this Canon applying such of the provisions of Part VII as, in the discretion of the Board and in accordance with the Review Tribunal's determination, the Board sees fit.
61. An application to the Director for review of the reviewable decision must be made within 14 days of the bishop's being provided with a copy of the Board's determination and recommendation under section 50. The application for review must:
- (a) be in writing addressed to the Director; and
 - (b) set out the grounds for review in the application.
62. On receipt of an application for review, the Director must immediately seek the appointment of a Review Tribunal.
63. Upon appointment of a Review Tribunal, the Director must ask the Review Tribunal for the Tribunal's estimate of the fee to be charged by the Review Tribunal in making a determination under this Part. Upon receipt of advice as to the estimated fee, the Director must immediately notify the applicant. Within 7 days of receipt of the Director's advice, or such further time as the Review Tribunal may allow, the applicant must pay one half of the estimated fee to the Review Tribunal, or to a person nominated by the Tribunal. If the applicant fails to make the payment within the time specified, then the application for review will lapse.
64. Unless otherwise specified in this Canon, the manner in which the review is to be conducted will be determined by the Review Tribunal.

65. On an application for review of a reviewable decision, the Review Tribunal may make all or any of the following determinations:
- (a) a determination quashing or setting aside the reviewable decision;
 - (b) a determination referring the matter to which the reviewable decision relates to the Board for further consideration, subject to such directions (including the setting of time limits for the further consideration, and for the steps to be taken in the further consideration) as the Review Tribunal determines;
 - (c) a determination declaring the rights of the applicant in relation to any matter to which the reviewable decision relates;
 - (d) a determination directing either the applicant or the Board, to do, or to refrain from doing, anything that the Review Tribunal considers necessary to do justice between the parties; or
 - (e) a determination confirming the reviewable decision.
66. The Review Tribunal may make such order as to the costs of the review as the Tribunal thinks fit.
67. The review shall be by way of a review of the recommendation or determination that is the subject of the review and not by way of re-hearing.

PART 9 - REGULATIONS

68. The Standing Committee may from time to time make, amend or repeal Regulations, not inconsistent with the provisions of this Canon, providing for records arising out of or incidental to the operation of this Canon, and for all or any of the purposes whether general or to meet particular cases, which may be convenient for the administration of this Canon or which may be necessary or expedient to carry out the objects and purposes of this Canon.

PART 10 - ADOPTION

69. The provisions of this canon affect the order and good government of this Church within a diocese and shall not come into force in a diocese unless and until the diocese adopts this canon by ordinance of the synod of the Diocese.

EXPLANATORY MEMORANDUM

Measure for the Commissary Ordinance 2022

In an earlier notice of motion at this session of Synod, Synod is being asked to confirm amendments to the Constitution. These amendments include the ability to appoint a Commissary to perform the duties of the Bishop during periods of planned absence.

The proposed Ordinance details the procedures to be followed when appointing a Commissary. The procedures are like those required when appointing an Assistant Bishop. Before a Commissary is appointed, the Bishop must consult with Diocesan Council and may consult with other bodies. Matters to be considered include the timeframe of the appointment, the duties and applicable remuneration and the ministry and leadership needs of the Diocese during the proposed period of the appointment.

An appointment of a Commissary must be for a set period. In specified circumstances that period can be foreshortened. For example, the Bishop can revoke the appointment before the proposed end date. In addition, the Measure recognises the Commissary's right to resign. It also provides a mechanism for Diocesan Council to revoke the appointment. This would only occur in exceptional circumstances, and the Diocesan Council is required to try to consult with the Bishop before initiating this procedure and the Diocesan Council motion to revoke the Commissary's appointment would need 75% vote in favour.

Clause Notes

Part 1 deals with necessary preliminary matters.

Clause 1 provides for the short title of the Ordinance.

Clause 2 is a relatively standard provision stipulating that the measure will come into operation on a date determined by the President.

Clause 3 provides for definitions of words used in the Measure.

Clause 4 provides that the Bishop can appoint a Commissary.

Clause 5 stipulates that the Bishop must consult with Diocesan Council before making an appointment.

Clause 6 provides for the matters which must be considered during the consultation between the Bishop and Diocesan Council.

Clause 7 provides that Diocesan Council approval must be obtained before an appointment can be made.

Clause 8 stipulates that the appointment is for a specified period and outlines the ways in which the appointment can be terminated.

Clause 9 outlines the duties that a Commissary may perform and makes it clear that a Commissary cannot exercise certain powers and authorities which are reserved for the Bishop.

A MEASURE FOR

AN ORDINANCE with respect to the appointment of a Commissary.

NOW THE SYNOD HEREBY DETERMINES:

Part 1 - Preliminary

1 - Short title

This Ordinance may be cited as the *Commissary Ordinance 2022*.

2 - Commencement

This Ordinance will come into operation on a date and at a time to be determined by the President.

3 - Definitions

In this Ordinance, unless the context or subject matter otherwise dictates:

“Bishop” means the bishop of the diocese for the time being.

“Commissary” means a person appointed pursuant to section 6A of the Constitution and in accordance with the provisions of this Ordinance..

“consultation” means a consultation conducted in accordance with the provisions of this Ordinance.

4 – Appointment

Subject to the provisions of this Ordinance, the Bishop may appoint a person as Commissary for the purposes of section 6A of the Constitution.

5 – Consultation

- (1) The Bishop must undertake a consultation process before appointing a Commissary.
- (2) The consultation:
 - (a) must be between the Bishop and the Diocesan Council; and
 - (b) may include other bodies and persons determined by the Bishop after consultation with the Diocesan Council.

6 – Matters to be considered

The matters to be considered as part of the consultation required by this Ordinance include:

- (a) the period of the appointment and the terms, duties and stipend applicable to the appointment; and
- (b) the leadership and ministry requirements of the Diocese during the period for which the Commissary will be acting; and
- (c) any other matters or conditions relevant to the appointment.

7 – Approval of Diocesan Council

A person must not be appointed Commissary without the approval of the Diocesan Council.

8 – Period and termination of appointment

- (1) The appointment of a Commissary is to be limited as to duration (and applies subject to the operation of subsection (2)).
- (2) The appointment of the Commissary is terminated:
 - (a) if the Bishop revokes the appointment; or
 - (b) if the Commissary resigns by giving notice in writing to the Diocesan Council; or
 - (c) if the Diocesan Council, after taking reasonable steps to consult with the Bishop, passes a special resolution revoking the appointment.
- (3) In this section -
special resolution means a resolution for which 75% of the votes cast are in favour.

11 – Duties of Commissary

- (1) Subject to subsection (2), a Commissary appointed by the Bishop will exercise the powers vested in the Bishop by the Constitution.
- (2) The powers and authorities to be exercised by a Commissary will not include powers and authorities vested in the Bishop by Chapter I, Chapter II and sections 17, 18, 19, 20 and 30 of the Constitution and will not include the authority to appoint an Archdeacon or Dean.

EXPLANATORY MEMORANDUM

Measure for the Professional Standards Ordinance Amendment Ordinance 2022

The purpose of this Measure is to amend the Professional Standards Ordinance 2015.

The proposed amendments incorporate recommendations made following an extensive review of the Ordinance which led to the development of the Professional Standards Protocol 2020.

The Ordinance is by necessity detailed and procedures are complex. Most of the changes relate to ensuring that the procedures are, and are seen to be, fair and even-handed.

They also make it explicit that the Professional Standards Director and members of the Professional Standards Committee cannot be involved in matters where they have a conflict of interest.

The remaining amendments remove identified ambiguities and adopt consistent terminology.

Clause Notes

Part 1 deals with necessary preliminary matters.

Clause 1 provides for the short title of the Ordinance.

Clause 2 is a relatively standard provision stipulating that the measure will come into operation on a date determined by the President.

Clause 3 provides for the amendment of the Ordinance in the manner set out in Part 2 of the Ordinance.

Part 2 contains the amendments proposed to the Ordinance.

Clause 4 provides for the amendment of section 10 to enshrine the need for the Professional Standards Committee to follow the principles of natural justice.

Clause 5 stipulates that members of the Professional Standards Committee must not act in relation to matters where they have a conflict of interest.

Clause 6 stipulates that the Professional Standards Director must not act in relation to matters where they have a conflict of interest.

Clause 7 provides for the procedures to be followed by the Professional Standards Director where the alleged misconduct (if proven) constitutes an indictable offence on the one hand and where it does not constitute an indictable offence on the other.

Clause 8 provides for the use of consistent terminology and processes when the Professional Standards Committee reports to the Bishop.

Clause 9 provides for the use of consistent terminology.

A MEASURE FOR

AN ORDINANCE to amend the *Professional Standards Ordinance 2015*.

NOW THE SYNOD HEREBY DETERMINES:

Part 1 - Preliminary

1 - Short title

This Ordinance may be cited as the *Professional Standards Amendment Ordinance 2022*.

2 - Commencement

This Ordinance will come into operation on a date and at a time to be determined by the President.

3 - Amendment of principal ordinance

The *Professional Standards Ordinance 2015* is amended in the manner set out in Part 2.

Part 2 - Amendment of *Professional Standards Ordinance 2015*

4 – Amendment of section 10 – Functions of the PSC

Section 10 – after subsection (2) insert:

- (3) Any action taken by the PSC must be consistent with the principles of procedural fairness and natural justice.

5 – Insertion of section 14A

After section 14 insert:

Conflicts of interest

14A. If a member of the PSC has a personal interest in a matter that is, or forms part of, the subject matter of a complaint (including on account of their relationship with the complainant or the

respondent), the member of the PSC must not act in relation to the matter.

6 – Insertion of section 16A

After section 16 insert:

Conflicts of interest

16A. If the Director has a personal interest in a matter that is, or forms part of, the subject matter of a complaint (including on account of their relationship with the complainant or the respondent), the Director must not act in relation to the matter.

7 – Amendment of section 23 – Investigation and report

Section 23(3) – delete subsection (3) and substitute:

- (3) If, in the opinion of the Director, the alleged misconduct constitutes an offence –
 - (a) if the offence is an indictable offence – the Director must take the action specified in subsection (3a); and
 - (b) if the offence is not an indictable offence – the Director may take the action specified in subsection (3a).
- (3a) For the purposes of subsection (3), the action is to refer any information concerning the alleged misconduct in the possession of the PSC to a member of a law enforcement, prosecution or child protection authority to which the information may be relevant.

8 – Amendment of section 40 – PSC to report to the Bishop

- (1) Section 40(1)(a) – delete “unfit” and substitute:

fit

- (2) Section 40 – after subsection (1) insert:

(1a) In acting under subsection (1), the PSC must take into account:

- (a) the seriousness of the misconduct alleged in the complaint;
- (b) the nature of the material provided in connection with the investigation;
- (c) the extent to which it appears that any person is or has been at risk of harm;
- (d) any findings of misconduct previously made in relation to the respondent; and
- (e) any other relevant matter.

9 – Amendment of section 57 – Reference after investigation

Section 57(a) – delete “unfit” and substitute:

fit

PROFESSIONAL STANDARDS ORDINANCE 2015

An Ordinance relating to professional standards within the Church, and for other purposes

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The Synod hereby determines:

PART 1 - PRELIMINARY

Title

1. This Ordinance may be cited as the “Professional Standards Ordinance 2015”.

Interpretation

2. (1) In this Ordinance, unless the context otherwise requires:

"Board" means the Professional Standards Board established under Part 12.

"ceremonial" has the same meaning as that expression has in the Constitution;

"Certificate of Conviction" means a certificate of conviction given under or in accordance with sections 42 or 43 of the *Evidence Act 1929* (SA) certifying as to the conviction of a Church worker of a criminal offence referred to in Part 3, Divisions 11, 11A or 12 of the *Criminal Law Consolidation Act 1935* (SA) or Parts 6 or 7 of the *Summary Offences Act 1953* (SA) or any equivalent provision in legislation which repeals or replaces those Acts, or any equivalent provision in any Commonwealth, State or Territory legislation;

"child" means a person under the age of 18;

"Church" means the Anglican Church of Australia;

"Church authority" means the Bishop or a person or body having administrative authority of or in a Church body to license, appoint, authorise, dismiss or suspend a Church worker;

"Church body" includes a parish, school and any body corporate, organisation or association that exercises ministry within, or on behalf of, the Church;

"Church worker" means a person who is or who at any relevant time was:

- (a) a member of the clergy; or
- (b) a person employed by a Church body; or
- (c) a person holding a position or performing a function with the actual or apparent authority of a Church authority or Church body;

but excludes a bishop subject to the jurisdiction of the Special Tribunal of the Church;

"Code of Conduct" means a code of conduct approved from time to time under Part 2;

"complainant" means a person who makes a complaint;

"complaint" means a complaint under section 19 of this Ordinance;

"Constitution" means the Constitution of the Anglican Church of Australia;

"Director" means the Director of Professional Standards appointed under Part 5;

"equivalent body" means a body of another diocese exercising powers, duties or functions equivalent to those of the Director, the PSC the Board or the Review Board as the case may be, or where there is no such body, the bishop of the diocese;

"faith" has the same meaning as that expression has in the Constitution;

"information" means information of whatever nature and from whatever source relating to alleged misconduct on the part of a Church worker;

"member of the clergy" means a person in Holy Orders;

"misconduct" has the meaning in subsection (3) of this section;

"national register" means any national register established pursuant to a Canon of General Synod or a resolution of the Standing Committee of General Synod for the purpose of recording determinations of the Board and other equivalent bodies;

"Professional Standards Committee" or **"PSC"** means the Professional Standards Committee established under Part 4;

"prohibition order" means an order prohibiting a Church worker from holding a specified position or office in or being employed by a Church body or Church authority or from carrying out any specified functions in relation to any office or position in the diocese or in relation to employment by a Church body, and includes a variation of a prohibition order;

"protocol" means a protocol approved from time to time by the Diocesan Council under Part 3;

"respondent" means a Church worker whose alleged conduct is the subject of a complaint;

"Review Board" means the Professional Standards Review Board established under Part 14;

"ritual" has the same meaning as that expression has in the Constitution;

"suspension order" has the meaning in section 32.

(2) For the purposes of this Ordinance –

- (a) a person employed by a Church body; or
- (b) a person holding a position or performing a function with the actual or apparent authority of a Church authority or Church body;

will be taken to be engaged by a Church authority.

(3) The expression “**misconduct**” in relation to a Church worker means an activity or wilful or careless inactivity that –

- a) involves harassment, or causes harm to a person's physical, spiritual, emotional or financial well-being or, in the case of a child, to his or her development; or
- b) is carried out by a person in a position of power or authority over another –
 - (i) for the inappropriate gratification of that person; or
 - (ii) for the exploitation of the other; or
- c) involves the exploitation of an office or position within the Church or a Church body; or
- d) brings an office within the Church or a Church body or, if relevant, brings the Church or a Church body more generally into disrepute; or
- e) involves a breach of the standards of sexual conduct prescribed in the Code of Conduct;
and includes:
 - f) wilful or careless failure to comply with an undertaking given to or a direction imposed by a Church authority under section 104 of this Ordinance;
 - g) wilful or careless failure to comply with an undertaking given to the Board, the Review Board or the Church authority;
 - h) wilful or careless failure to comply with the provisions of section 17; and
 - i) a breach of the Offences Canon 1962 or any Canon amending or replacing that Canon which is in force in and is not excluded from this diocese;¹

by the Church worker whenever occurring which, if established, would on its face call into question:

- (i) the fitness of the Church worker, whether temporarily or permanently, to hold a particular or any office, licence or position of responsibility in the Church or to be or remain in the employment of a Church body,

¹ . Section 1 of the *Offences Canon 1962* provides for the following offences in respect of a person licensed by the Bishop:

1. Unchastity.
2. Drunkenness.
3. Habitual and wilful neglect of ministerial duty after written admonition in respect thereof by the bishop of the diocese.
4. Wilful failure to pay just debts.
5. Conduct, wherever occurring,
 - (a) which would be disgraceful if committed by a member of the clergy, and
 - (b) which at the time the charge is preferred is productive, or if known publicly would be productive, of scandal or evil report.
6. Any other offence prescribed by an ordinance of the Synod of the diocese.

or in Holy Orders; or

- (ii) whether, in the exercise of the Church worker's ministry or employment, or in the performance of any duty or function, the Church worker should be subject to any condition ;

but excludes for the purposes of this Ordinance any breach of faith ritual or ceremonial.

Membership of equivalent bodies

- 3. 1) The Director, the members of the PSC, the Board and the Review Board may constitute or be members of an equivalent body either generally or for a particular case or matter.
- 2) The Diocesan Council may enter into such agreements or arrangements as it sees fit with the relevant authority of another diocese as to the terms on which the powers and functions of the equivalent bodies or persons of that diocese are to be exercised by the persons holding office in or as delegates of the PSC, or by the members or the secretary of the Board or of the Review Board.

Overriding Purposes

- 4. The overriding purposes of this Ordinance and of any protocol made under this Ordinance, in their application to any complaint under this Ordinance, are to facilitate the just, quick and inexpensive resolution of the real issues in the complaint and to regulate fitness for ministry for the protection of the community.

Purposes to be given effect

- 5. The Director, the PSC, the Board and the Review Board must each seek to give effect to the overriding purposes when exercising any power given by this Ordinance or by any protocol and when interpreting any provision of this Ordinance or of any such protocol.

PART 2 – CODE OF CONDUCT

Approval of Code of Conduct

- 6. The Synod or the Diocesan Council shall from time to time by resolution approve a Code of Conduct for observance by Church workers in the diocese.

Promotion of Code of Conduct

- 7. The Diocesan Council through the PSC and by such other means as may be considered appropriate shall take such steps as may be necessary or desirable to promote the knowledge, understanding and observance in this Church of any code of conduct applicable in the diocese.

PART 3 – PROTOCOLS*Making and content of protocols*

8. (1) The Diocesan Council must from time to time consider and approve a protocol or protocols not inconsistent with this Ordinance for implementation in relation to information and complaints.
- (2) The protocol or protocols must include:
- (a) procedures for dealing with information and complaints;
 - (b) the appointment, role and function of contact persons;
 - (c) provision for informing complainants and victims of alleged misconduct, and respondents, of rights, remedies and relevant procedures available to them;
 - (d) provision for assisting or supporting, as appropriate, any person affected by alleged misconduct the subject of information;
 - (e) an explanation of the processes for investigating and dealing with information and complaints;
 - (f) provisions for dealing fairly with each party to a complaint;
 - (g) processes for mediation, conciliation and reconciliation, as appropriate;
 - (h) provisions for information, reports, advice and recommendations to the Bishop and any other relevant Church authority at each stage of the process of dealing with a complaint or information;
 - (i) procedures for working, where necessary, with law enforcement, prosecution and child protection authorities of the States and Territories of the Commonwealth of Australia.
- (3) The Diocesan Council, through the Director and the PSC and by such other means as they may consider appropriate, must take such steps as may be necessary or desirable to promote throughout the community a knowledge and understanding of any protocol.

PART 4 – PROFESSIONAL STANDARDS COMMITTEE*Establishment of PSC*

9. There shall be a Professional Standards Committee for the diocese constituted in accordance with the provisions of this Part.

Functions of the PSC

10. (1) The PSC has the following functions:
- (a) to implement a protocol;
 - (b) to receive information;

- (c) to act on information in accordance with the provisions of this Ordinance and any protocol;
 - (d) to receive a complaint against a Church worker;
 - (e) to act on a complaint in accordance with the provisions of this Ordinance and any protocol and, where appropriate, to obtain independent legal advice for that purpose;
 - (f) to appoint suitable persons to fulfil the several roles required to implement the protocol in each particular case;
 - (g) where appropriate, to recommend conciliation or mediation;
 - (h) to investigate a complaint in a timely and appropriate manner;
 - (i) where appropriate, to recommend to the Diocesan Council any changes to a protocol and any other changes to Church processes, structures and education programmes that would reduce the risk of misconduct;
 - (j) subject to any limit imposed by the Diocesan Council to authorise such expenditure as may be necessary or appropriate to implement, in a particular case, a protocol and the provisions of this Ordinance;
 - (k) to advise any relevant Church body as to the financial, pastoral or other needs of a person affected by misconduct the subject of a complaint and in connection with any legal proceedings, anticipated or existing, against such Church body arising out of that alleged misconduct;
 - (l) to refer any information in its possession to a law enforcement, prosecution or child protection authority of a State or Territory or of the Commonwealth of Australia for which the information is or may be relevant;
 - (m) to maintain proper records of all information and complaints received and of action taken in relation to each of them; and
 - (n) to exercise such other powers and functions as are conferred on it by this or any other Ordinance or by a protocol.
- (2) The exercise of functions by the PSC under this Ordinance arises in respect of alleged misconduct of a Church worker:
- (a) resident or licensed in the diocese, or engaged by a Church authority;
 - (b) not resident or licensed in the diocese nor engaged by a Church authority but whose misconduct is alleged to have occurred in the diocese or when the Church worker was resident or licensed in the diocese or was engaged by a Church authority;
 - (c) wherever and whenever it is alleged to have been engaged in by a Church worker; and
 - (d) whether such misconduct is alleged to have occurred before or after the commencement of this Ordinance.
- (3) [Any action taken by the PSC must be consistent with the principles of procedural fairness and natural justice.](#)

Membership of the PSC

11. (1) The members of the PSC shall be appointed by the Diocesan Council.

- (2) The members of the PSC shall hold office on such terms and conditions as may be determined from time to time by the Diocesan Council.
- (3) The PSC must have at least three members including the chair, any of whom may reside outside the diocese.
- (4) The membership of the PSC must be constituted so far as reasonably possible so as collectively to provide experience and appropriate professional qualifications in –
 - (a) law;
 - (b) the ordained ministry; and
 - (c) human resources, pastoral ministry, investigations, social work, ethics or counselling.
- (5) The PSC must –
 - (a) include at least one person who is not a member of the Church;
 - (b) so far as is reasonably practicable have at least one man and one woman.
- (6) The chair of the PSC must be appointed by the Diocesan Council.
- (7) The members of the PSC may constitute or include the members of an equivalent body either generally or for a particular complaint or matter.
- (8) A member of the PSC must not act unless the member has agreed in writing to abide by this Ordinance.

Conduct of business

12. (1) The PSC may meet from time to time as determined by the chair or a majority of its members and may conduct its business by telephone or electronic communication.
- (2) The chair must convene a meeting of the PSC at the request of the Director.
- (3) The procedures of the PSC shall be as determined by the PSC.
- (4) A majority of the members shall constitute a quorum.
- (5) A decision taken other than at a meeting of the PSC, if supported by a majority of members of the PSC, constitutes a decision of the PSC.
- (7) The PSC must act in all things as expeditiously as possible.

Validity of proceedings

13. An act or proceeding of the PSC is not invalid by reason only of a vacancy in its membership and, notwithstanding the subsequent discovery of a defect in the nomination or appointment of a member, any such act or proceeding is as valid and effectual as if the member had been duly nominated or appointed.

Delegation of functions

14. (1) Subject to subsection (2), the PSC may delegate, upon such terms and conditions as the PSC may approve, any of its functions under this Ordinance to any person.
- (2) The PSC cannot delegate:

- (a) its functions under subsection (1);
 - (b) its functions under paragraphs (g) and (j) of section 10(1);
 - (c) its functions under Part 10; or
 - (d) its functions under section 57.
- (3) A delegation under this section must be made by instrument in writing signed by a member of the PSC.

Conflicts of interest

14A. If a member of the PSC has a personal interest in a matter that is, or forms part of, the subject matter of a complaint (including on account of their relationship with the complainant or the respondent), the member of the PSC must not act in relation to the matter.

PART 5 – DIRECTOR OF PROFESSIONAL STANDARDS

Appointment

15. (1) There shall be a Director of Professional Standards.
- (2) The Director shall be appointed by the Diocesan Council.
- (3) The Director shall hold office on such terms and conditions as may be determined from time to time by the Diocesan Council.
- (4) The Director may act in a corresponding capacity or as Director of Episcopal Standards for another diocese either generally or for a particular case or matter.

Functions of the Director

16. (1) The Director shall have the following functions:
- (a) to receive information and complaints on behalf of the PSC;
 - (b) in his or her discretion to make a complaint against a Church worker;
 - (c) to manage the implementation of any protocol in respect of any information and complaint;
 - (d) to be the executive officer of the PSC;
 - (e) to attend meetings of the PSC except for any part of a meeting which deals with the conditions of employment, remuneration or performance of the Director?
 - (f) to provide advice about the code of conduct, the protocol and procedures under this Ordinance;
 - (g) to provide or arrange care or treatment of the complainant and respondent;
 - (h) to provide input into education and vocational training programs for Church workers;
 - (i) to provide advice to complainants and the respondent about the operation of the protocol, with particular emphasis on helping the respondent to understand and discharge his responsibilities under the protocol;

- (j) to keep proper records of complaints, decisions, meetings, employment screening details, police checks and people affected by any allegation of misconduct;
 - (k) to consult and co-operate with other persons and bodies in the Church with responsibility for professional standards;
 - (l) in cases of alleged illegal behaviour, to support the complainant in making a report to police or child protection authorities;
 - (m) to report to the PSC on any recommended changes to the protocol and any other changes to Church processes, structures and education programmes that would reduce the risk of misconduct; and
 - (n) such specific functions and duties, consistent with this Ordinance, as may be determined from time to time by the PSC.
- (2) The Director must act in all things as expeditiously as possible.

Conflicts of interest

16A. If the Director has a personal interest in a matter that is, or forms part of, the subject matter of a complaint (including on account of their relationship with the complainant or the respondent), the Director must not act in relation to the matter.

PART 6 – INFORMATION

Disclosure of information

17. (1) A member of the Clergy and a Church authority in the diocese must as soon as possible refer any information in his her or its possession or knowledge to the Director unless there are reasonable grounds to believe that the information is already known to the Director or the PSC.
- (2) This section does not affect the operation of the Canon Concerning Confessions 1989 of the General Synod or any other Canon or legislative instrument relating to confessions in force in the diocese.

Director to Report

18. Subject to this Ordinance, where the Director considers that the subject matter of information, if established, would constitute misconduct the Director must report the conduct to the PSC or, if appropriate, to an equivalent body.

PART 7 – COMPLAINTS

Who may make a complaint

19. Any person, including the Director, may make a complaint of misconduct to the PSC in relation to a Church worker.

Form of complaint

20. (1) A complaint may be in any form, oral or in writing, whether by electronic means or otherwise.
- (2) Where a complaint is oral, the Director must make a written record of the complaint as soon as practicable after receiving it.
- (3) A complaint must include details of the misconduct complained about.
- (4) The Director must not make a complaint based only on information provided anonymously.
- (5) The PSC may not act on an anonymous complaint.
- (6) Non-compliance with a provision of this section shall not invalidate a complaint unless the Board determines otherwise.

Further information and verification

21. (1) The PSC may require a complainant to –
- (a) give further details of the complaint; and
- (b) verify any details of the complaint by a statutory declaration.
- (2) A requirement under subsection (1) must be in writing and allow the complainant a reasonable time to comply.

Power to dismiss or take no further action

22. (1) The PSC may dismiss a complaint or take no further action in relation to a complaint if—
- (a) the PSC is of opinion that the complaint does not fall within the provisions of this Ordinance;
- (b) the complainant has failed to provide further details to the PSC or to verify the allegations by statutory declaration when requested by the Director to do so;
- (c) the complainant (other than the Director) has not given consent to the Director's giving notice of the complaint to the respondent and to the PSC's dealing with it under this Ordinance;
- (d) the PSC is of opinion that the complaint is false, vexatious, misconceived, frivolous or lacking in substance; or
- (e) the PSC is of opinion that there is insufficient reliable evidence to warrant an investigation or further investigation
- and may take no further action or delay further action in relation to a complaint if—
- (f) the behaviour the subject matter of the complaint has been or can properly be dealt with by other means; or
- (g) the subject matter of a complaint is under investigation by some other competent person or body or is the subject of legal proceedings.

- (2) If a complaint is dealt with by the PSC under the preceding subsection, the PSC must give the complainant a written notice of the outcome including the reasons for the outcome.

PART 8 – INVESTIGATIONS

Investigation and report

23. (1) Subject to this Ordinance, the PSC must investigate each complaint as expeditiously as possible.
- (2) The PSC may investigate the conduct of the Church worker if –
- (a) the PSC has reason to believe that the conduct may amount to misconduct under this Ordinance; and
- (b) notwithstanding that a complaint about the conduct has been withdrawn.
- ~~(3) If, in the opinion of the Director, the alleged misconduct constitutes an indictable offence the Director must refer any information concerning the alleged misconduct in the possession of the PSC to a member of a law enforcement, prosecution or child protection authority to which the information may be relevant.~~
- (3) If, in the opinion of the Director, the alleged misconduct constitutes an offence –
- (a) if the offence is an indictable offence – the Director must take the action specified in subsection (3a); and
- (b) if the offence is not an indictable offence – the Director may take the action specified in subsection (3a).
- (3a) For the purposes of subsection (3), the action is to refer any information concerning the alleged misconduct in the possession of the PSC to a member of a law enforcement, prosecution or child protection authority to which the information may be relevant.
- (4) In this section the expression "indictable offence" means an offence whether committed in or outside South Australia that is an indictable offence against a law of the Commonwealth or against a law of the State in which the offence is alleged to have been committed.

Investigation by equivalent bodies

24. (1) The Director may, if the Director thinks it appropriate to do so, refer the complaint, or the investigation of the complaint, to an equivalent body or bodies.
- (2) When the PSC and an equivalent body or equivalent bodies have the power and duty to investigate a complaint concerning the alleged misconduct of the same Church worker and the respective bodies cannot agree on:
- (a) which body shall carry out the investigation or any parts of such investigation; or

- (b) whether the complaint should be referred to the Board or to an equivalent body which has jurisdiction;

then the PSC must prefer the disagreement for decision by the Director and the persons acting in a corresponding capacity for every other diocese acting together.

- (3) The PSC shall act in accordance with the unanimous decision of the persons referred to in subsection (2) or, if such persons cannot agree within a reasonable time of the disagreement being referred, in accordance with the decision of the Primate or a member of the House of Bishops appointed by the Primate.
- (4) In all matters affecting the operation of this Ordinance the PSC and the Director shall cooperate with and assist an equivalent body.

- (5) In making a decision under subsection (2) the Director shall not be bound by the views or instruction of the PSC but shall take into account the most convenient course for all concerned and the proper and expeditious conduct of the investigation or referral as the case may be

Material to be obtained

25. For the purpose of an investigation the PSC or an investigator shall obtain such statutory declarations, written statements, recorded conversations, reports, documents and other material as the PSC or its delegate considers necessary or advisable for presentation to the Board.

Response of respondent

26. The PSC may by notice in writing to the respondent require the respondent –
- (a) to meet with an investigator to answer questions in relation to a complaint;
 - (b) to provide a detailed report to the PSC within a reasonable time specified in the notice in relation to any matter relevant to the investigation;
 - (c) to verify the report by statutory declaration or another specified manner.

Duties of the respondent

27. (1) The respondent must, subject to subsection (2) –
- (a) comply with a requirement of the PSC pursuant to paragraphs (a), (b) and (c) of the previous section; and
 - (b) truthfully answer any questions put by or on behalf of the PSC in the exercise of powers conferred by this Ordinance.
- (2) If the respondent declines to answer a question on the ground that the answer might tend to incriminate the person, a written record shall be made of the question and of the ground of refusal.
- (3) The respondent must –
- (a) not mislead the PSC or a member or delegate of the PSC;
 - (b) not unreasonably delay or obstruct the PSC or a delegate of the PSC in the exercise of powers conferred by this Ordinance; and
 - (c) attend a mediation, conciliation, neutral evaluation or other dispute resolution meeting arranged by the PSC in relation to a complaint.

Exercise of powers by the PSC

28. (1) At any time after the PSC receives a complaint, the PSC may:
- (a) recommend mediation, conciliation, neutral evaluation or other alternative resolution of the complaint; and
 - (b) exercise its powers under section 22 of this Ordinance to dismiss a complaint or to take no further action in relation to a complaint.

- (2) The fact that the subject matter of a complaint may be settled or resolved in whole or in part between the parties affected thereby does not prevent the PSC from taking any further action in accordance with the provisions of this Ordinance in respect of the complaint.
- (3) Any term of settlement or resolution referred to in subsection (2) which purports to prevent or to limit the taking of any such further action shall, for the purposes of this Ordinance, be of no effect.

PART 9 – CERTIFICATE OF CONVICTION

Summary hearing and recommendations

29. If, during the course of carrying out their duties under this Ordinance, the Director, the PSC or the Board receives a Certificate of Conviction of a Church worker, then:
 - (a) If the person who receives the Certificate of Conviction is not the Director, the person must immediately hand the Certificate of Conviction to the Director;
 - (b) The Director must immediately provide a copy of the Certificate of Conviction to the secretary of the Board, stating that it is provided pursuant to this section;
 - (c) Upon receipt of the Certificate of Conviction by the secretary of the Board the President or Deputy President as the case may be must as soon as possible determine the membership of the Board for the purpose of making a recommendation under this Part;
 - (d) The Board may act pursuant to this section whether or not a complaint against the Church worker has been referred to the Board;
 - (e) Subject to giving the Church worker opportunity to show cause by such means as the Board may in its absolute discretion allow, the Board may make any of the recommendations referred to in section 51(1) in respect of the Church worker to whom the Certificate of Conviction relates.

No review of determination

30. A determination under this Part is not a reviewable decision for the purposes of Part 14.

Effect on other proceedings

31. No action taken under this Part shall, of itself, stay or preclude any act, proceeding, investigation or enquiry otherwise in progress or proposed under this Ordinance in respect of the Church worker to whom the Certificate of Conviction relates.

PART 10 – SUSPENSION AND PROHIBITION*Interpretation*

32. (1) For the purposes of this Ordinance –

"suspension order" means an order suspending a respondent to a complaint from the duties of office or employment by a Church body and may include an order:

- (a) that from a specified date the respondent and his or her immediate family cease to reside in any accommodation provided by the Church body;
- (b) restricting or prohibiting the use by the respondent of a motor vehicle and any other property provided by the Church body;
- (c) prohibiting the attendance of the respondent at a particular church or place of worship or within a specified geographical area;

and includes a variation of a suspension order.

- (2) If a suspension order includes an order under paragraph (a) of subsection (1) the suspension order must include, for the duration of any period involved, an order that the respondent and, if appropriate, his or her immediate family be provided with a reasonable accommodation allowance from funds under the control of the Synod at a rate specified in the order.

PSC may recommend

- 33. (1) Subject to section 34, at any time after the PSC has commenced or caused to be commenced an investigation of a complaint it may recommend to the relevant Church authority that a suspension order or a prohibition order or both be made against the respondent.
- (2) Subject to section 34, the PSC may at any time and from time to time recommend the variation of a suspension order or a prohibition order or both.
- (3) Before making or varying a recommendation under this Part the PSC must give the respondent an opportunity to be heard.

Matters to be taken into account

- 34. Before making or varying a recommendation under section 33 the PSC must take into account:
 - (a) the seriousness of the misconduct alleged in the complaint;
 - (b) the nature of the material to support or negate the allegations;
 - (c) whether any person is at risk of harm;
 - (d) after consultation with the relevant Church body or its representative, the effect on the respondent, a relevant Church body and on the Church in the diocese of acting and of not acting under section 33;

- (e) any other allegations of misconduct previously made to the PSC or to an equivalent body within the previous 10 years; and
- (f) any other relevant matter.

Mandatory orders

35. If the PSC forms the opinion that –
- (a) the evidence of misconduct, if accepted, would establish misconduct on the part of the Church worker which would be likely to call into question the fitness of the Church worker, whether temporarily or permanently, to hold the office, licence or position then held or to be or remain in Holy Orders and that the evidence is sufficiently strong to justify such a finding; or
 - (b) there is an unacceptable risk of harm to any person; or
 - (c) as a result of the alleged misconduct there is, or there is an unacceptable risk that there will be, serious damage to the reputation of the Church or a Church body;
- the PSC must recommend to the relevant Church authority that a suspension order or a prohibition order or both, as the case may require, be made against the respondent.

Church authority may give effect to a recommendation

36. The relevant Church authority is authorised to give effect to a recommendation under sections 33 or 35.

Termination of suspension or prohibition

37. (1) Subject to subsection (2), a suspension order or prohibition order made by a Church authority pursuant to a recommendation under this Part must be terminated by the Church authority:
- (a) if the PSC terminates the investigation without referring the matter to the Board;
 - (b) upon any direction to that effect given by the Board;
 - (c) upon an agreement being made and in force in accordance with the provisions of Part 10; or
 - (d) upon the Church authority giving effect to a recommendation of the Board or the Review Board under section 103.
- (2) Upon an application being made to the Review Board in accordance with Part 15, the PSC must reconsider whether a suspension order or prohibition order should be made, continued, varied or revoked and may recommend accordingly to the Church authority.

Effect of suspension order or prohibition order

38. During the period of operation of a suspension order or prohibition order pursuant to the provisions of this Part or during a period when a person voluntarily stands down from a position while a complaint is dealt with under this Ordinance:
- (a) the respondent must comply with the terms of any suspension order or prohibition order;
 - (b) the respondent is ineligible for appointment to any position or function covered by any suspension order or prohibition order;
 - (c) the vacancy caused by the suspension order, prohibition order or standing down may be filled by another suitably qualified person; and
 - (d) subject to the terms of the suspension order or prohibition order the respondent is entitled to whatever stipend, salary, allowances and other benefits that he or she would otherwise have received and which are to be met or reimbursed from funds under the control of the Synod.

PART 11 – CONSENT DETERMINATION*Application and interpretation*

39. (1) For the purposes of this Part:

"a recommendation" means any recommendation that the Board could make in respect of the respondent under section 61 if the alleged misconduct the subject of the complaint were established; and

"the report" means the report referred to in section 40 (1) and any amended report referred to in this Part and includes any documents and material referred to in or relevant to any part of the report.

- (2) This Part only applies if the Church authority is the Bishop.

PSC to report to the Bishop

40. (1) As soon as practicable after investigation of a complaint in accordance with Part 8, where the PSC has formed the opinion that the alleged misconduct the subject of the complaint, if established, would call into question whether—
- (a) the respondent is ~~unfit fit~~—
 - (i) to hold office or to be or remain in Holy Orders; or
 - (ii) whether temporarily or permanently to exercise ministry and perform any duty or function of the office; or
 - (b) in the exercise of ministry or in the performance of any duty or function the respondent should be subject to any condition or restriction;
- the PSC must prepare a written report comprising a report of its investigation and opinion and a recommendation.

(1a) In acting under subsection (1), the PSC must take into account:

- (a) the seriousness of the misconduct alleged in the complaint;
 - (b) the nature of the material provided in connection with the investigation;
 - (c) the extent to which it appears that any person is or has been at risk of harm;
 - (d) any findings of misconduct previously made in relation to the respondent;
and
 - (e) any other relevant matter.
- (2) In preparing the report the PSC may consult with the complainant and with the respondent and must include in the report any expressed view of the respondent on the taking of action under this Part.
- (3) The report must-
- (a) state the facts on which its opinion and recommendations are based;
 - (b) be accompanied by copies of any documents and material referred to in or relevant to any part of the report; and
 - (c) state whether the PSC considers it appropriate for action to be taken under section 43.
- (4) A copy of the report signed by a member of the PSC must be delivered to the Bishop.

Bishop may request reconsideration

41. (1) Within 10 days of receiving a recommendation from the PSC the Bishop may request the PSC to reconsider the report.
- (2) if the Bishop does not request a reconsideration in accordance with the provisions of subsection (1) the provisions of section 43 shall apply.

Reconsideration by the PSC

42. (1) If the Bishop does request a reconsideration in accordance with section 41 (1) the PSC must as soon as practicable reconsider the report in the light of any further information made available to it.
- (2) If upon the reconsideration referred to in subsection (1) the PSC decides that the complaint should be dealt with under section 22 it shall inform the Bishop as if it were a direction made by the Bishop to give effect to a recommendation under section 103.
- (3) If upon the reconsideration referred to in subsection (1) the PSC decides not to alter the report it must inform the Bishop accordingly and cause a copy of the report to be delivered to the respondent, and the provisions of section 43 shall apply.
- (4) If upon the reconsideration referred to in subsection (1) the PSC decides to amend the report it shall deliver an amended copy of the report to the Bishop and to the respondent, and the provisions of section 43 shall apply.

Bishop to determine

43. Within 14 days of an event occurring which gives rise to the operation of this section the Bishop must determine either –
- (a) that implementation by agreement of the recommendation contained in the report would be appropriate; or
 - (b) that implementation of the recommendation by agreement would not be appropriate.

Implementation by agreement

44. (1) If the Bishop makes a determination under paragraph (a) of section 43 the Bishop must invite the respondent to indicate whether or not he or she would agree to the implementation of the recommendation.
- (2) If the respondent agrees to the implementation of the recommendation the Bishop must cause the determination to be reduced to writing and be signed by the Bishop and the respondent and, subject to subsection (3), the determination shall take effect as if it were a direction made by the Bishop to give effect to a recommendation under section 103.
- (3) Where it is agreed that the determination should include a provision that –
- (a) the Church worker's licence or authority be permanently revoked;
 - (b) the Church worker cease permanently to hold any office then or previously held; or
 - (c) the Church worker be deposed from Holy Orders;
- the respondent may, within the period of seven days following the date of the signed agreement, withdraw from the agreement by written notice to the Bishop, whereupon the agreement will be ineffective and the determination will not be implemented in accordance with this section.
- (4) If no agreement is reached or if an agreement becomes ineffective under subsection (3), the Bishop must inform the PSC accordingly.
- (5) If agreement is reached under this section and is not rendered ineffective, the Bishop must inform the PSC accordingly and the facts referred to in section 40(3)(a) shall constitute a finding that the conduct referred to therein occurred for the purpose of –
- (a) any requirement by law to notify a person or authority that a finding has been made that the respondent engaged in conduct the subject of any such requirement to notify; and
 - (b) entering on the National register the details of information required by the provisions of the National Register Canon 2007.

Consequence of no agreement

45. If the Bishop informs the PSC either –
- (a) that implementation by agreement of any recommendation would not be appropriate; or
 - (b) that an agreement in accordance with this Part has not been reached or has become ineffective;

the PSC must refer the complaint to the Board in accordance with the provisions of this Ordinance.

Director to notify complainant

46. The Director must notify the complainant as soon as practicable of the result of any action taken pursuant to this Part.

PART 12 – PROFESSIONAL STANDARDS BOARD*Constitution*

47. There shall be a Professional Standards Board comprising three persons constituted and appointed in accordance with the provisions of this Part.

Functions of the Board

48. (1) Subject to the provisions of this Ordinance, the functions of the Board are –
- (a) to enquire into and determine a complaint referred to it under section 57; and
 - (b) to make a determination and, where appropriate, make a recommendation under section 61.
- (2) The Board has jurisdiction to exercise its functions in respect of a Church worker:
- (a) resident or licensed in the diocese, or engaged by a Church authority; and
 - (b) not resident or licensed in the diocese or engaged by a Church authority but whose conduct giving rise to the reference is alleged to have occurred in the diocese or whose omission giving rise to the reference is alleged to have occurred when the Church worker was resident or licensed in the diocese or was engaged by a Church authority.

Panel

49. (1) The members of the Board in a particular case shall be appointed from a panel comprising:
- (a) a President and a Deputy President, both of whom shall be or shall have been either a judicial officer or a practising barrister or solicitor of at least 10 years' standing of the Supreme Court of a State or Territory and who are members of the Church;
 - (b) three members of the clergy of at least seven years' standing; and
 - (c) three laypersons who may or may not be members of the Church and at least two of whom are persons who are considered by the Diocesan Council as having professional experience, training or skills in a field that is relevant to addressing the needs of persons who are subjected to misconduct.
- (2) As far as reasonably practicable the members of the panel should comprise an equal number of men and women.

Appointment of the panel

50. (1) The members of the panel shall be appointed by the Diocesan Council and shall hold office on such terms and conditions as may be determined from time to time by the Diocesan Council.
- (2) Any vacancy in the membership of the panel shall be filled by the Diocesan Council.

Appointment of the Board

51. (1) The members of the panel to be convened for a complaint referred to the Board shall be determined by the President or, if there is a vacancy in the office of President or if the President is unable to act, by the Deputy President.
- (2) For the purpose of any reference to the Board, the Board shall consist of the President or Deputy President, who shall be the presiding member, and one clerical and one lay member of the panel.
- (3) The Board must, so far as reasonably practicable, have at least one man and at least one woman.
- (4) A member of the Board may reside outside the diocese.
- (5) A member of the Board must not act in a matter unless the member has agreed in writing to abide by this Ordinance.
- (6) The members of the Board may constitute or include the members of an equivalent body either generally or for a particular complaint or matter.

Vacancies on the Board

52. (1) If a member of the Board, other than the presiding member, dies or is for any other reason unable to continue with any matter referred to the Board –
- (a) the Board constituted of the presiding member and the other member may, if the presiding member so determines, continue and complete the reference; or
- (b) if the presiding member so determines, a substitute member may be appointed to fill the vacancy.

Secretary

53. (1) There shall be a secretary to the Board who shall be appointed by or in accordance with a resolution of the Diocesan Council, and whose duties shall be defined by the President.
- (2) The secretary to the Board may act in a corresponding capacity for another diocese either generally or for a particular case or matter.

Quorum

54. The quorum for a meeting of the Board shall be all the members of the Board except where the Board by its presiding member makes directions under section 84 of this Ordinance.

Simultaneous sittings

55. The Board, separately constituted in accordance with this Part, may sit simultaneously for the purpose of matters referred to it or for conducting separate business of the Board.

Validity of proceedings

56. An act or proceeding of the Board is not invalid by reason only of a vacancy in its membership or of the membership of the panel and, notwithstanding the subsequent discovery of a defect in the nomination or appointment of members of the panel or the Board, any such act or proceeding is as valid and effectual as if the member had been duly nominated or appointed.

PART 13 – REFERENCE OF A COMPLAINT TO THE BOARD*Reference after investigation*

57. As soon as practicable after investigation of a complaint in accordance with Part 8, and subject to the provisions of Part 11, where the PSC has formed the opinion that the alleged misconduct the subject of the complaint, if established, would call in question whether:

- (a) the respondent is ~~unfit~~fit—
- (i) to hold office or to be or remain in Holy Orders; or
 - (ii) whether temporarily or permanently to exercise ministry and perform any duty or function of the office; or
- (b) in the exercise of ministry or in the performance of any duty or function the respondent should be subject to any condition or restriction;
- the PSC must refer the complaint to the Board.

Procedure for reference

58. (1) The PSC must refer the complaint to the Board by delivering to the secretary of the Board a written report of its investigation and opinion signed by a member of the PSC.
- (2) Within 14 days of the date of the reference of the complaint to the Board or within 14 days of the date of the document or material coming into existence, whichever is the later, the PSC must cause to be delivered to the secretary of the Board any documents and material relevant to the reference.
- (3) The PSC, as soon as practicable after delivering the report referred to in subsection (1) to the secretary of the Board, shall, if they have not already been delivered to the respondent, cause to be delivered to the respondent a copy of the report and opinion and notice that the respondent may advance any submissions to the Board if he or she wishes to do so.

- (4) The report referred to in subsection (1) may be the report referred to in Part 11 without any reference to any action taken or not taken under Part 11.

Convening of the Board

59. (1) Upon a complaint being referred to the Board, the President or Deputy President as the case may be shall as soon as possible determine the membership of the Board for the purpose of the reference.
- (2) The President or Deputy President as the case may require must thereupon cause to be convened a sitting for the purpose of giving directions.

Board to act expeditiously

60. (1) The board must deal with a complaint as expeditiously as possible.
- (2) The Board may, if it sees fit, proceed with the determination of a reference notwithstanding that there may be mediation or conciliation proceedings relating to the subject matter of the reference being conducted by or at the direction of the PSC and notwithstanding that there may be criminal or other proceedings being taken against the respondent or some other person.

Powers of the Board

61. (1) If the Board is satisfied² that the Church worker did commit any misconduct and that:
- (a) the Church worker is unfit-
 - (i) to hold a particular or any office, licence or position of responsibility in the Church or to be or remain in the employment of a Church body or in Holy Orders; or
 - (ii) whether temporarily or permanently to exercise ministry or employment or perform any duty or function of the office, licence or position;

or

 - (b) in the exercise of the Church worker's ministry or employment or in the performance of any duty or function, the Church worker should be subject to any condition;

the Board may determine in writing accordingly and may recommend to the relevant Church authority any one or more of the following:

- (c) that the Church worker be counselled;
- (d) that the Church worker be suspended from office or employment or from performing the function as the case may be for such period determined by the Board;
- (e) that the licence or authority of the Church worker be revoked;

² See section 90.

- (f) that the Church worker's contract of employment (if any) be terminated;
 - (g) that the Church worker cease to hold any office then held;
 - (h) that a prohibition order be made in terms specified by the Board;
 - (i) that the Church worker's holding of office or employment or performance of the function, as the case may be, shall be subject to such conditions or restrictions as the Board may specify;
 - (j) that the Church worker be directed to do or to refrain from doing a specified act;
 - (k) that a charge be promoted against the respondent before the Diocesan Tribunal;
 - (l) that the operation of a determination shall be suspended for such period and upon such conditions as the Board shall specify;
 - (m) that the Church worker should be deposed from Holy Orders;
 - (n) otherwise as the Board sees fit.³
- (2) If the Board is satisfied⁴ that the Church worker is unfit –
- (a) to hold a particular or any office, licence or position of responsibility in the Church or to be or remain in Holy Orders or in the employment of a Church body; or
 - (b) whether temporarily or permanently to exercise Ministry and perform any duty or function of office;

its recommendation must include any one or more of those specified in paragraphs (d), (e), (f), (g), (h) or (m) of subsection (1).

Power to dismiss or take no further action

62. (1) If the Board is not satisfied that the Church worker committed any misconduct or that the complaint is false, vexatious or misconceived, the Board may determine accordingly and must dismiss the complaint.
- (2) If the Board is satisfied that the Church worker did commit misconduct but is not satisfied as to any of the matters in paragraphs (a) and (b) of subsection (1) of section 61, the Board may determine accordingly and must take no further action in relation to the complaint.

Power to defer final recommendation

63. (1) The Board may defer making any final recommendation on a complaint and may for that purpose adjourn any hearing from time to time for a period or periods not exceeding in the aggregate 12 months, on terms that the Church worker undertake for a specified period and in a form approved by the Board to do one or more of the following acts or omissions –

³ Recommendations which might be made under paragraph (n) include participation in conciliation or mediation; an apology; an admonition; retraining of a specified nature; reparation of a specified nature.

⁴ See section 90.

- (a) stand down from the office or employment or from performing specified duties of office or employment;
 - (b) undertake counselling from a person approved by the Board;
 - (c) submit to periodic medical examination by a person approved by the Board;
 - (d) undertake a specified program of medical treatment or rehabilitation whether as an outpatient or inpatient;
 - (e) provide medical or other evidence requested by the Board to assist it in deciding on any final recommendation; and
 - (f) perform or refrain from performing some other specified act.
- (2) If at the time of deferring a final recommendation in accordance with this section the Board is satisfied that the Church worker is at that time either unfit to hold office or to exercise ministry or to perform any duty or function of the office or employment, any undertaking given by the Church worker must include an undertaking under paragraph (a) of subsection (1) in such form as the circumstances may require and as the Board may approve.
- (3) If within a period specified by the Board the Church worker declines to give an undertaking in accordance with subsection (1), the Board must proceed to make a determination and recommendation.
- (4) The Board may take into account the failure of the Church worker to comply with his or her undertaking under subsection (1) in deciding on any final recommendation on a complaint.

PART 14 – PROFESSIONAL STANDARDS REVIEW BOARD

Establishment of Review Board

64. There shall be a Professional Standards Review Board comprising 3 persons and constituted and appointed in accordance with the provisions of this Part.

Function of the Review Board

65. Subject to the provisions of this Ordinance the function of the Review Board is to determine any application authorised by this Ordinance for review of a decision of the Board.

Panel of Review Board members

66. The members of the Review Board in a particular case shall be appointed from a panel of 8 persons comprising:
- (a) a President and a Deputy President, both of whom shall be or shall have been either a judicial officer or a practising barrister or solicitor of at least 10 years' standing of the Supreme Court of a State or Territory; and
 - (b) six other persons of whom –
 - (i) three shall be members of the clergy; and
 - (ii) three shall be laypersons.

Appointment of Panel

67. (1) The members of the panel shall be appointed by the Diocesan Council.
- (2) The members of the panel shall hold office on such terms and conditions as may be determined from time to time by the Diocesan Council.
- (3) The members of the panel may constitute or include the members of an equivalent body either generally or for a particular complaint or matter.
- (4) Any vacancy on the membership of the panel shall be filled by the Diocesan Council.

Convening a Review Board

68. (1) The members of the Review Board to be convened for any review of a decision of the Board shall be determined by the President or, if there is a vacancy in the office of President, by the Deputy President.
- (2) For the purpose of any application to the Review Board, the Review Board shall consist of the President or Deputy President, who shall be the presiding member, one member of the clergy and one lay person.
- (3) So far as it is reasonably practicable, the Review Board shall include at least one man and least one woman.
- (4) The quorum for a meeting of the Review Board shall be all the members of the Review Board except where the Review Board by its presiding member makes directions under section 84 of this Ordinance .
- (5) A member of the Review Board shall not act as a member unless the member has agreed in writing to abide by this Ordinance.

Vacancies on the Review Board

69. (1) If a member of the Review Board, other than the presiding member, dies or is for any other reason unable to continue with any matter referred to the Review Board –
- (a) the Review Board constituted of the presiding member and the other member may, if the presiding member so determines, continue and complete the review; or
 - (b) if the presiding member so determines, a substitute member may be appointed to fill the vacancy.
- (2) Any vacancy in the membership of the Review Board, if required to be filled, shall be filled by the President or, if the President is not available, the Deputy President.

Secretary

70. There shall be a secretary to the Review Board who shall be appointed on such terms and conditions as may be determined from time to time by the Diocesan Council.

Simultaneous sittings

71. The Review Board, separately constituted in accordance with this Part, may act simultaneously for the purpose of applications made to it.

Validity of proceedings

72. An act or proceeding of the Review board is not invalid by reason only of a vacancy in its membership or in the membership of the panel and, notwithstanding the subsequent discovery of a defect in the nomination or appointment of a member of the panel or the Review Board, any such act or proceeding is as valid and effectual as if the member had been duly nominated or appointed.

PART 15 – APPLICATION FOR REVIEW

Interpretation

73. In this Part, "**reviewable decision**" means any finding of fact, determination or recommendation by the Board under sections 61 or 62 of this Ordinance.

Application to Review Board

74. Where the Board has made any reviewable decision, the respondent or the PSC may within 14 days from the date of the decision or such further period as the Review Board may allow, apply to the Review Board for review of the decision.

Documents and material to be delivered following application

75. Within 14 days of the date of the application to the Review Board or within 14 days of the date of the document or material coming to existence, whichever is the later, the PSC shall cause to be delivered to the secretary of the Review Board any documents and material relevant to the application for review including the reasons of the Board for its determination and any recommendations.

President to determine membership of Review Board

76. Upon delivery to the secretary of the Review Board the documents and material relevant to the application for review, the President or Deputy President of the Review Board as the case may be shall as soon as possible determine the membership of the Review Board for the purpose of the application for review.

Review Board may exercise the powers of the Board

77. The Review Board may exercise all the powers of the Board under this Ordinance and may—
- (a) affirm the decision under review;
 - (b) vary the decision under review;
 - (c) set aside the decision under review and make another decision in substitution for it;
or
 - (d) set aside the decision under review and remit the matter for reconsideration by the Board in accordance with any directions or recommendations of the Review Board.

Review Board to deal with application expeditiously

78. The Review Board must deal with the application as expeditiously as possible and must consider any further submissions from the respondent or the PSC.

PART 16 – PROCEEDINGS OF THE BOARD AND THE REVIEW BOARD*Conduct of proceedings*

79. Subject to the provisions of this Ordinance each of the Board and the Review Board—
- (a) must act with fairness and according to equity, good conscience, natural justice and the substantial merits of the case without regard to technicalities or legal forms; and
 - (b) is not bound by the rules of evidence but may inform itself on any matter in such manner as it thinks fit.

Failure to appear

80. (1) The Board may make a determination in any proceedings in the absence of a person affected by the determination if satisfied that reasonable efforts were made to give that person an opportunity to appear.
- (2) The Review Board may make a determination in the proceedings in the absence of any submissions from or on behalf of a person affected by the determination if satisfied that reasonable opportunity was given to that person to make submissions.

Powers and duties

81. (1) Subject to this Ordinance, each of the Board and the Review Board –
- (a) may regulate the proceedings of its meetings as it sees fit;
 - (b) may inform itself from the record of or transcript of proceedings in any court or tribunal and may adopt any findings in, and accept as its own, the record of or transcript of proceedings in of any court or tribunal;
 - (c) may conduct its business and any proceedings by video link, conference telephone or by any electronic means of communication; and
 - (d) must give written reasons for any determination and recommendation, other than by way of directions in the course of an application, unless the determination is made by consent of the respondent and the PSC.

- (2) The Board must give the PSC and the respondent a reasonable opportunity to adduce evidence, to examine and cross-examine witnesses and to make submissions to the Board.
- (3) The Board may give any other person to whom notice of the proceedings was given or who satisfies the Board that he or she has a proper interest in the matter a reasonable opportunity to make submissions to the Board.

Review Board proceedings

82. (1) Subject to this Ordinance a review by the Review Board will be conducted upon a review of the material referred to in subsection (2) of section 83.
- (2) Subject to this Ordinance, the Review Board is not obliged –
- (a) to hold a hearing at which -
 - (i) evidence is adduced, whether by oral examination or signed statement or statutory declaration; or
 - (ii) submissions are heard orally; or
 - (b) to admit evidence that was not adduced before the Board in relation to the facts relevant to the complaint unless –
 - (i) the evidence could not have been obtained with reasonable diligence for use at the hearing before the Board; and
 - (ii) that there is a high probability that the result would have been different had it been received at that hearing.

Matters to be considered

83. (1) Where a matter is referred to the Board the Board must consider the complaint and may make any finding on any relevant question of fact, taking into account –
- (a) the final report (if any) of the investigator including any attachments;
 - (b) such report of the PSC as may be submitted;
 - (c) any further material received from the complainant and the Church worker relevant to its consideration;
 - (d) any other relevant evidentiary material;
 - (e) whenever the conduct may have occurred, any standards prescribed by the code of conduct approved under this Ordinance;
 - (f) the conduct of the Church worker as it finds it to have been; and
 - (g) any failure of the Church worker to comply with a provision of this Ordinance.

- (2) Where an application for review is made to the Review Board, the Review Board may make any finding on any relevant question of fact, and in making its determination must take into account –
- (a) the determination and reasons of the Board;
 - (b) the evidentiary and any other material that was before the Board;
 - (c) any submissions made to the Review Board in relation to the review;
 - (d) any evidence admitted by the Review Board under section 82;
 - (e) whenever the conduct may have occurred, any standards prescribed by the code of conduct approved under this Ordinance;
 - (f) the conduct of the Church worker as it finds it to have been; and
 - (g) any failure of the Church worker to comply with a provision of this Ordinance.

Legal representation

84. The PSC may and the respondent at the respondent's own expense may appoint a legal representative to assist in the process.

Directions

85. Each of the Board and the Review Board may at any time and from time to time give directions:
- (a) as to the inspection by and supply of copies to the respondent or any other person of the documents or material relevant to the reference; and
 - (b) as to the conduct of its inquiry into the reference or review;
- and for that purpose the Board or the Review Board may be constituted by the presiding member or by a member appointed for the purpose by the presiding member.

Appointment of a person to assist

86. Each of the Board and the Review Board may, for the purpose of any particular reference, appoint such person or persons to assist it in inquiring into (but not determining) a reference as the Board or the Review Board thinks fit.

Directions to PSC

87. Each of the Board and the Review Board may at any time and from time to time give directions to the PSC as to any further inquiries or investigation it requires to be carried out for the purposes of the reference and the PSC must to the best of its ability cause such directions to be carried out.

Written evidence

88. Without limiting the meaning and effect of section 82, each of the Board and the Review Board may receive a statutory declaration or a signed statement without the need for the personal attendance of the maker of the statutory declaration or statement and may also in its discretion use electronic means such as video link or conference telephone to receive evidence and submissions.

Decisions of other bodies

89. (1) In any proceedings before it, where the Board or the Review Board is satisfied that the respondent—
- (a) has been convicted by a court within Australia of an offence involving misconduct;
 - (b) has been found guilty (without conviction) by a court within Australia of an offence involving misconduct;
 - (c) has admitted in proceedings before a court or tribunal within Australia having engaged in conduct involving misconduct;
 - (d) has been found by a court or tribunal within Australia to have engaged in conduct involving misconduct; or
 - (e) has been disqualified by a court or tribunal within Australia from professional practice on account of conduct involving misconduct;
- then—
- (f) a certificate, reasons for judgment or other record from the court or tribunal (as the case may be) shall be conclusive evidence that the respondent engaged in the conduct concerned; and
 - (g) neither the respondent nor any other party shall be at liberty to call or give evidence or make submissions for the purpose of calling into question the conviction or finding of guilt of the respondent or denying that the respondent engaged in the conduct concerned.
- (2) Nothing in this section affects the operation of Part 9 of this Ordinance.

Standard of proof

90. (1) The standard of proof to establish an allegation is that of a reasonable satisfaction on the balance of probabilities.
- (2) Each of the Board and the Review Board must scrutinize evidence with greater care if there is a serious allegation to be established, or an inherent unlikelihood of an occurrence of a given description or if there are grave consequences that would flow from a particular finding.

Members of Board and Review Board not to meet with parties

91. No member of the Board or the Review Board shall individually meet with either the complainant or the respondent or anyone acting on their behalf while the matter is in progress.

Disqualification where personal interest

92. (1) Where a member of the Board or the Review Board has a personal interest in a matter before it the member shall be disqualified from participating in the matter.
- (2) The opinion of the presiding member of the Board or the Review Board, as the case may be, as to whether any other member of the Board or the Review Board has a personal interest in a matter shall be conclusive.

Medical examination

93. (1) The PSC or the Board or the Review Board may require the respondent to submit within a specified time to a medical, psychiatric or psychological examination by a person approved by the PSC or the Board or the Review Board (as the case may be) the cost of which shall be met from church funds under the control of the Synod.
- (2) A copy of the report of an examination under subsection (1) shall be provided to the respondent, the Director, the PSC, the Board and, if applicable, the Review Board.

Duties of the respondent

94. (1) The respondent must, subject to subsection (2), truthfully answer any question put by on behalf of the Board or the Review Board in the exercise of powers conferred by this Ordinance.
- (2) If the respondent declines to answer a question on the ground that the answer might tend to incriminate the respondent, a written record shall be made of the question and of the ground of refusal.
- (3) The respondent must –
- (a) not mislead the Board or the Review board or a member of either of them;
 - (b) not unreasonably delay or obstruct the Board or the Review Board or a member of either of them in the exercise of powers conferred by this Ordinance.

Limitation on promotion of a charge in the Diocesan Tribunal

95. If the Board or the Review Board is satisfied that there is no reasonable likelihood that the Diocesan Tribunal would find the respondent guilty of any offence, the Board or the Review Board shall not recommend that a charge be promoted against the respondent in the Diocesan Tribunal.

Certain matters not to be inquired into

96. (1) Neither the Board nor the Review Board shall, in the course of considering a complaint or reconsidering a decision respectively:
- (a) inquire into any matter which is the subject of a completed inquiry by a Board under the Professional Standards Ordinance 2006 or this Ordinance; or
 - (b) inquire into any matter which is or has been the subject of any completed formal investigation or inquiry and determination conducted pursuant to any provision of the Constitution, the Clergy Discipline Ordinance 1983 or an ordinance of a diocesan synod in any case relating to the discipline or professional standards of Church workers by a board of inquiry, tribunal or other body;
- save to the extent of any fresh evidence that was not reasonably available during the previous formal investigation or enquiry, but may take into account the finding of any such formal investigation or enquiry.
- (2) Neither the Board nor the Review Board shall inquire into, make any findings in relation to or take into account any alleged breach of faith, ritual or ceremonial.

Costs

97. (1) Neither the Board nor the Review Board has the power to award costs of any complaint or matter before it.
- (2) A Church worker who is a respondent to a complaint to the Board or a party to proceedings before the Review Board may apply to the Diocesan Council for the provision of legal assistance.
- (3) The Diocesan Council may grant legal assistance to a Church worker on such terms and subject to such conditions as it shall determine.

Making of rules

98. (1) The President of the Board may make rules of the Board reasonably required in relation to the practice and procedure of the Board.
- (2) The President of the Review Board may make rules of the Review Board reasonably required in relation to the practice and procedure of the Review Board.
- (3) The rules of the Board or the Review Board made under this section may provide that, in relation to the exercise of specified functions, or in relation to matters of a specified class, other than the determination of an application including the making of a recommendation, the Board or the Review Board, as the case may be, may, at the direction of the presiding member, be constituted by a single member sitting alone.
- (4) The PSC, the respondent and any other party joined to a complaint or matter by leave of the Board or the Review Board must comply with the rules of the Board or the Review Board, as the case may be, and with any directions given by either the Board or the Review Board.

Practice and procedure

99. Subject to this Ordinance and the relevant rules-
- (a) the practice and procedure of the Board will be as directed by the presiding member of the Board; and
 - (b) the practice and procedure of the Review Board will be as directed by the presiding member of the Review Board.

Determination of questions

100. (1) In any proceedings of the Board or the Review Board:
- (a) any question of law or procedure shall be determined by the presiding member; and
 - (b) any other question will be determined by majority decision of the members, and in the case of an equality of votes the opinion of the presiding member shall prevail.
- (2) Where the Board or the Review Board is constituted by a member sitting alone who is not the President or the Deputy President, any question of law that arises must be referred to the President or Deputy President for decision and any decision made on such a reference is a decision of the Board or the Review Board, as the case may be.

Open sittings

101. (1) Subject to subsections (2) and (3), any hearing of the Board or the Review Board must be held in public.
- (2) Each of the Board and the Review Board may direct –
- (a) that the whole or part of a proceeding be held in private; or
 - (b) that only persons or classes of persons specified by it may be present during the whole or any part of a proceeding.
- (3) Each of the Board and the Review Board may only make a direction under the preceding subsection if satisfied that the direction is necessary on one or more of the following grounds -
- (a) to comply with applicable legislation of the State or a Territory or the Commonwealth;
 - (b) prevent a real and substantial risk to the proper administration of justice that cannot be prevented by other reasonably available means;
 - (c) to protect the safety of any person;
 - (d) to avoid causing undue distress or embarrassment to a complainant (other than the Director) or witness (other than the respondent) in a proceeding that relates in whole or part to a complaint of a sexual offence as defined in section 4 of the *Evidence Act 1929* (SA);
 - (e) to avoid the disclosure of confidential information; and

- (f) for any other reason in the interests of justice.

Provision of copies of determination and recommendation

- 102 (1) The Board and the Review board must cause a copy of the determination and recommendations, together with reasons, to be provided to –
- (a) the relevant Church authority;
 - (b) the complainant;
 - (c) the respondent; and
 - (d) the Director and the PSC.
- (2) The Director must cause to be entered in the national register all details of information required by the provisions of the National Register Canon 2007.

PART 17 – CHURCH AUTHORITY AND COMPLIANCE

Church authority to give effect

103. The Church authority to whom a recommendation under this Ordinance is made must and is empowered to do any acts to give effect to –
- (a) a recommendation of the PSC, the Board, an equivalent body or, if applicable, the Review Board; or
 - (b) any variation or modification of the recommendation consistent with any facts found by the body making the recommendation provided that the body making the recommendation agrees that the substance of the recommendation is preserved.

Compliance by Church worker

104. (1) A Church worker must –
- (a) comply with any undertaking given to the Board, the Review Board or the Church authority;
 - (b) comply with a direction made by the Church authority to give effect to a recommendation of the PSC, the Board or the Review Board, as the case may be, or any permitted variation or modification that recommendation; and
 - (c) comply with an agreement made under section 44 which is not rendered ineffective.
- (2) Failure of a Church worker who is a member of the clergy to comply with an undertaking, direction or agreement referred to in sub-section (1) is an offence.

- (3) Subject to section 95, the PSC may institute proceedings forthwith in the Diocesan Tribunal in respect of an offence against this section or, if the Church worker is no longer a Church worker, shall refer the matter, together with such relevant information concerning the alleged offence as may be in its possession, to the bishop of the diocese in which the former Church worker is then resident.

PART 18 – DEPOSITION FROM HOLY ORDERS

Effect of deposition

105. A person who has been deposed from Holy Orders in accordance with this Ordinance or in accordance with the provisions of any ordinance, act, canon, constitution, statute, legislative measure or provision of the General Synod or the diocesan synod of another diocese of this Church –
- (a) is incapable of:
 - (i) officiating or acting in any manner as a bishop, priest or deacon of this Church;
 - (ii) accepting or holding an office in this Church capable of being held only by a person in Holy Orders;
 - (b) ceases to have any right privilege or advantage attached to the office of bishop priest or deacon;
 - (c) shall not hold himself or herself out to be a member of the clergy; and
 - (d) is not capable of holding an office in the Church which may be held by a lay person without the prior consent of the Bishop.

Instrument of deposition

106. (1) The deposition of a person from Holy Orders by the Bishop pursuant to the recommendation of the Board or an equivalent body shall be effected by the execution by the Bishop of an Instrument of Deposition in or to the effect of the form in the Schedule.
- (2) The Bishop must forthwith:
- (a) register the Instrument in the Registry of the Diocese;
 - (b) deliver a copy of the Instrument to the Bishop of the Diocese in which the person who is the subject of the Instrument was ordained;
 - (c) deliver a copy of the Instrument to the Registrar of the Primate;
 - (d) cause relevant details to be forwarded to the Director for entry into the national register.

PART 19 – CONFIDENTIALITY AND PUBLICATION*Duty of confidentiality*

107. (1) Subject to the provisions of this Ordinance, the Director, a member of the PSC, a member of the Board or the Review Board and a person employed or engaged on work related to the affairs of the PSC, the Board or the Review Board must not divulge information that comes to his or her knowledge by virtue of that office or position except:
- (a) in the course of carrying out the duties of that office or position;
 - (b) as may be authorised by or under this Ordinance or any protocol;
 - (c) as may be authorised or required by or under the National Register Canon 2007 or any canon prescribed by General Synod in substitution for that canon;
 - (d) in any proceedings before a diocesan tribunal, a provincial tribunal, the Special Tribunal or the Appellate Tribunal;
 - (e) as may be required by law; or
 - (f) to any insurer or insurance broker of a Church body where the information may give rise to or be relevant to a claim for indemnity by the Church body is against the insurer or is relevant to obtaining or continuing insurance cover.
- (2) The PSC may release to any person, including a Church authority, such material as it may determine with respect to any information or complaint.

Release of information by PSC

108. (1) The PSC must disclose to an equivalent body information in its possession concerning the alleged misconduct of a Church worker:
- (a) which is information relevant to, or arising during the course of, an investigation being undertaken by the PSC where the PSC knows that the Church worker is residing in the diocese of the equivalent body; or
 - (b) which is information concerning misconduct alleged to have occurred in the diocese of the equivalent body;
- and must co-operate with any equivalent body.
- (2) The PSC may disclose to a person or body of another church or Christian denomination exercising powers, duties or functions similar to those of the PSC, details of information in its possession concerning the alleged misconduct of a Church worker and the PSC must co-operate with such person or body to whom the information is disclosed.

Church authority may release information

109. The relevant Church authority may release to any person such material as the Church authority may determine with respect to any information, complaint or finding.

PSC reports

110. (1) Without disclosing the identity of any complainant or the details of any complaint, the PSC must report annually to the Diocesan Council on its activities for that calendar year.
- (2) Notwithstanding subsection (1), the report of the PSC pursuant to that subsection may identify a Church worker who has been exonerated from an allegation the subject of the complaint or who has been the subject of a determination or recommendation by the Board or the Review Board favourable to the Church worker.
- (3) The PSC must, in respect of every complaint with which it is dealing under this Ordinance, report either orally or in writing to the Bishop with such frequency and as fully as the Bishop may reasonably require.

PART 20 – INDEMNITY*Obligation to indemnify*

111. The Diocesan Council must and is hereby authorised out of church funds under the control of the Synod to indemnify –

- (a) the Director and any delegate of the Director;
- (b) any carer appointed under this Ordinance or any protocol;
- (c) the members of the PSC and each of them;
- (d) any delegate of the PSC;
- (e) the members of the Board and each of them;
- (f) the secretary of the Board;
- (g) any person appointed by the Board pursuant to this Ordinance;
- (h) the members of the Review Board and each of them;
- (i) the secretary of the Review Board;
- (j) any person appointed by the Review Board pursuant to this Ordinance; and
- (k) the Bishop;

in respect of any act or omission respectively by them in good faith and in the exercise or purported exercise of powers or functions, or in the discharge or purported discharge of duties, under this Ordinance in relation to a Church worker.

PART 21 – REGULATIONS*Regulation making power*

112. The Diocesan Council may from time to time make, amend or repeal regulations not inconsistent with the provisions of this Ordinance providing for records arising out of or incidental to the operation of this Ordinance and for all or any of the purposes, whether general or to meet particular cases, which may be convenient for the administration of this Ordinance or which may be necessary or expedient to carry out the objects and purposes of this Ordinance.

PART 22 – REPEAL, COMMENCEMENT AND TRANSITIONAL*Repeal*

113. The Professional Standards Ordinance 2006 (hereinafter referred to as "the repealed Ordinance") is repealed.

Commencement

114. This Ordinance shall take effect on a date ("the commencement date") to be determined by the Bishop after consultation with the Diocesan Council.

Transitional

115. (1) The Code of Conduct approved under the repealed Ordinance as at the commencement date shall continue as a Code of Conduct approved under this Ordinance.
- (2) The members of the Professional Standards Committee and the Director of Professional Standards holding office under the repealed Ordinance at the commencement date shall continue in their respective offices under this Ordinance.
- (3) Any delegation of a function made by the Professional Standards Committee under the repealed Ordinance, other than a delegation not permitted under section 14 of this Ordinance, shall remain in force under this Ordinance.
- (4) Any step taken to refer any information, as defined in the repealed Ordinance, to a member of the Professional Standards Committee or the Director of Professional Standards under the repealed Ordinance shall continue to have effect under this Ordinance, unless the matter has been resolved or determined before the commencement date, and any action taken under Parts 4, 5 or 6 of the repealed Ordinance by the Professional Standards Committee, the Director of Professional Standards or any delegate in relation to such information shall continue to have effect as if it were action taken under this Ordinance and, in the case of a matter before the Professional Standards Committee, as if it were the subject of a complaint under this Ordinance, subject nevertheless to any decision of the Professional Standards Committee, director or delegate made after the commencement date.

- (5) Any suspension or prohibition order made under Part 6 of the repealed Ordinance having effect on the commencement date shall continue to have effect as if it were a suspension order or a prohibition order as the case may be under this Ordinance.
- (6) A Professional Standards Board constituted under the repealed Ordinance and holding office at the commencement date shall continue in office for the duration of the matter before it and shall have and may exercise any of the powers of a Board under this Ordinance in relation to that matter as if the matter were a complaint referred to the Board under this Ordinance.
- (7) If any question arises as to the powers of a Professional Standards Board acting under subsection (6) the matter shall be resolved by the President of that Board having regard to the matters referred to in section 79 of this Ordinance.
- (8) Any determination, recommendation or finding of fact of a Professional Standards Board acting under subsection (6) shall take effect as if it were a determination, recommendation or finding of fact made under this Ordinance.
- (9) Nothing in this Ordinance shall affect the validity or operation of any determination or recommendation made or given effect under the repealed Ordinance.

Approved Synod 18 October, 2015

THE SCHEDULE

TO

I, _____ ARCHBISHOP
OF ADELAIDE do by these presents hereby depose you from Holy Orders
(particulars of which are set out below) in accordance with the recommendation of
the Professional Standards Board of the Diocese of Adelaide.

PARTICULARS OF HOLY ORDERS:

FULL NAME AND ADDRESS:

	ORDAINING BISHOP	PLACE	DATE
ORDINATION DEACON:	AS _____	_____	_____
ORDINATION PRIEST:	AS _____	_____	_____
CONSECRATION BISHOP:	AS _____	_____	_____

DATED:

SEALED:

EXPLANATORY MEMORANDUM

Measure for the Episcopal Standards Ordinance Repeal Ordinance 2022

The main purpose of this Measure is to repeal the Episcopal Standards Ordinance 2015.

At present both the diocesan Episcopal Standards Ordinance 2015 and the national Episcopal Standards Canon 2007 apply in the diocese. This legislation is equivalent to the Professional Standards Ordinance and applies only to diocesan Bishops i.e. the Archbishop of Adelaide.

The diocese passed the 2015 Ordinance when it was believed there were benefits to having local legislation instead of relying on the Canon. Since then, the national Canon has been amended so that it effectively covers the same ground as the Ordinance. It is unsatisfactory to have two sets of legislation covering the same ground in the diocese, so it is proposed that Synod simply repeal the Ordinance.

There is significant merit in having a national episcopal standards regime. Not only is this consistent with many of the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse, but it also allows for a single national body to develop expertise in handling alleged breaches of professional standards by diocesan Bishops.

Clause Notes

Part 1 deals with necessary preliminary matters.

Clause 1 provides for the short title of the Ordinance.

Clause 2 is a relatively standard provision stipulating that the measure will come into operation on a date determined by the President.

Clause 3 provides for the repeal of the Ordinance.

A MEASURE FOR

AN ORDINANCE to repeal the *Episcopal Standards Ordinance 2015*.

NOW THE SYNOD HEREBY DETERMINES:

Part 1 - Preliminary

1 - Short title

This Ordinance may be cited as the *Episcopal Standards Repeal Ordinance 2022*.

2 - Commencement

This Ordinance will come into operation on a date and at a time to be determined by the President.

3 - Repeal of principal ordinance

The *Episcopal Standards Ordinance 2015* is repealed.

EPISCOPAL STANDARDS ORDINANCE 2015**An Ordinance relating to professional standards of the Bishop and for other purposes.**

Now the Synod hereby determines:

PART 1 – PRELIMINARY

Short title

1. This Ordinance may be cited as the *Episcopal Standards Ordinance 2015*.

Commencement

2. This Ordinance or provisions of this Ordinance come into operation on a day or days to be appointed by the Bishop so that the Bishop may appoint -
 - (a) a day for the Ordinance or provisions of the Ordinance to come into operation; or
 - (b) different days for different provisions of the Ordinance to come into operation.

Interpretation

3. (1) In this Ordinance, unless the context otherwise requires:

“**abuse**” means bullying, emotional abuse, harassment, physical abuse, neglect of a child, sexual abuse or spiritual abuse;

“**Administrator**” means the person who would, in the absence or incapacity of a bishop, be the administrator of a Diocese;

“**Board**” means the Episcopal Standards Board established under Part 11;

“**bullying**” means repeated behaviour directed to a person or persons -

 - (a) which a reasonable person, having regard to all the circumstances, would expect to victimise, humiliate, undermine or threaten the person or persons; and
 - (b) which creates a real risk to the health and safety of the person or persons,

but does not include excluded conduct as defined in this Ordinance;

“**ceremonial**” has the same meaning as that expression has in the Constitution;

“**child**” means a person under 18 years of age;

“**Church**” means the Anglican Church of Australia within the Diocese;

“**Church body**” includes a parish, an incumbent, a parish council, a vestry, a school, and any body corporate, organization or association that exercises ministry within, or on behalf of, the Church;

“**code of conduct**” means a code of conduct approved from time to time under Part 2;

“complainant” means a person who makes a complaint;

“complaint” means a complaint under section 16 of this Ordinance;

“Constitution” means the Constitution of the Anglican Church of Australia;

“Council of Bishops” in relation to a complaint has the meaning in subsections (3), (4) and (5) of this section;

“Diocese” means a diocese of the Anglican Church of Australia and in relation to the Bishop means the Diocese of Adelaide of the Anglican Church of Australia;

“Diocesan bishop” means the Archbishop of Adelaide and former Diocesan bishop has a corresponding meaning and **“diocesan bishop”** in relation to another diocese or a body constituted under this Ordinance, means the Bishop of another Diocese holding office as a diocesan bishop under the Constitution;

“Director” means the Director of Episcopal Standards appointed under Part 7;

“emotional abuse” means:

- (a) subjecting a person to excessive and repeated personal criticism;
- (b) ridiculing a person, including the use of insulting or derogatory terms to refer to that person;
- (c) threatening or intimidating a person;
- (d) ignoring a person openly and pointedly;
- (e) behaving in a hostile manner or in any way that could reasonably result in another person feeling isolated or rejected; or
- (f) any other act or omission in relation to a person,

which has caused, or is likely to cause physical or mental harm including self-harm but does not include excluded conduct;

“Episcopal Standards Committee” or **“ESC”** means the Episcopal Standards Committee established under Part 6;

“equivalent body” means a body of another Diocese exercising powers, duties or functions under legislation with respect to professional standards or discipline of a church worker, similar to those of the ESC or the Board as the case may be, or where there is no such body, the bishop of the Diocese;

“excluded conduct” has the meaning in subsection (6) of this section;

“faith” has the same meaning as that expression has in the Constitution;

“harassment” means unwelcome conduct, whether intended or not, in relation to a person where the person reasonably feels in all circumstances offended, belittled or threatened which has caused, or is likely to cause physical or mental harm including self-harm but does not include excluded conduct;

“incapable” in relation to the Diocesan bishop has the meaning in section 2 of the *Bishop (Incapacity) Canon 1995*¹;

¹ Section 2 provides-
“Incapable”, in relation to a person who is the bishop of a diocese, means-
(a) *incapable, continuously or intermittently, of managing the person’s affairs; or*

“**medical**” includes psychiatric, psychological and other areas of health practice;

“**misconduct**” has the meaning in subsection (7) of this section;

“**ministry**” means ordained ministry in Bishop’s orders;

“**national register**” means the national register established pursuant to the *National Register Canon 2007* or any canon prescribed by General Synod in substitution for that canon;

“**neglect of a child**” means the neglect of a child where the child has suffered, or is likely to suffer, significant harm to his or her wellbeing or development;

“**physical abuse**” means any intentional or reckless act, use of force or threat to use force causing injury to, or involving unwelcome physical contact with, another person but does not include lawful discipline by a parent or guardian;

“**prescribed person**” means –

- (a) the complainant other than the Director; or
- (b) any witness other than either the respondent or a witness as to character; or
- (c) any person against whom a prescribed sexual offence is alleged to have been committed;

“**prescribed sexual offence**” means-

- (a) a sexual offence; or
- (b) such other offence as may be prescribed under legislation of the State for the purposes of prohibiting the publication of details of the identity of a victim of crime;

“**protocol**” means the protocol approved from time to time by the Diocesan Council under Part 5;

“**Provincial Tribunal**” means the Provincial Tribunal of a province established under Chapter IX of the Constitution;

“**Registrar**” in relation to the Diocesan bishop, means the Registrar of the Diocesan bishop;

“**respondent**” means the Diocesan bishop in respect of whom a complaint is made;

“**relevant Metropolitan**” in relation to a Diocesan bishop means:

- (a) unless paragraph (c) or (d) applies, the Metropolitan of the Province in which the diocese of the Diocesan bishop is situated; or
- (b) if the Diocesan bishop is the Metropolitan but not the Primate, the Primate;
- (c) if the Diocese is an extra-provincial Diocese, the Primate;

(b) *by reason of a physical or mental disability of any kind, unable, continuously or intermittently, to make reasonable judgments in respect of matters relating to all or any part of the carrying out of the person’s affairs or the affairs of the person’s office as the bishop of the diocese;*

- (d) if the Diocesan bishop is the Primate, the person who, at the relevant time, is the next most senior Metropolitan who is available, seniority being determined by the date of consecration²;

“Review Board” means the Episcopal Standards Review Board established under Part 14;

“ritual” has the same meaning as that expression has in the Constitution;

“sexual abuse” means sexual assault, sexual exploitation or sexual harassment and in relation to a child includes the use of a child for a person’s own sexual stimulation or gratification or for that of others;

“sexual assault” means any intentional or reckless act, use of force or threat to use force involving some form of sexual activity against an adult without consent or against a child;

“sexual exploitation” means any form of sexual contact or invitation to sexual contact with another person, with whom there is a pastoral or supervisory relationship, whether or not there is consent and regardless of who initiated the contact, but does not include such contact or invitation within a marriage;

“sexual harassment” means unwelcome conduct of a sexual nature, whether intended or not, in relation to a person where the person reasonably feels in all circumstances offended, belittled or threatened;

“sexual offence” means-

- (a) a sexual offence as defined by section 4 of the *Evidence Act 1929* of South Australia; or
- (b) an attempt to commit an offence referred to in paragraph (a); or
- (c) an assault with intent to commit an offence referred to in paragraph (a);

“spiritual abuse” means the mistreatment of a person by actions or threats directed specifically to that person and justified by appeal to God, faith or religion, which mistreatment has caused, or is likely to cause physical or mental harm including self-harm but does not include excluded conduct;

“Special Tribunal” means the Special Tribunal established under the Constitution.

- (2) In this Ordinance, a reference to conduct shall be read as a reference to—
- (a) doing or refusing to do any act; or
 - (b) refraining (otherwise than inadvertently) from doing an act; or
 - (c) making it known that an act will not be done.

Council of Bishops

- (3) **“Council of Bishops”** in relation to a complaint, means a council of Bishops comprising-
- (a) the Primate; and

² See s2 of the *Bishop (Incapacity) Canon 1985*.

- (b) the two most senior Diocesan bishops in office as at the date of the complaint (seniority being determined by date of consecration), one of whom shall be a Metropolitan, if willing and able -

each of whom shall have consented in writing to act as a member of the Council of Bishops in relation to the complaint and to abide by the provisions of Part 18 (Confidentiality and Publication).

- (4) If an office holder referred to in subsection (3) -
- (a) is a respondent to the complaint; or
 - (b) is a respondent to any other complaint that, as at the date of the first mentioned complaint, has been—
 - (i) either referred to the Board under Part 12 or Part 13 of this Ordinance and has not yet been dealt with by the Board or Review Board; or
 - (ii) if it has been dealt with, has resulted in a recommendation to the Council of Bishops pursuant to section 40, 45 or 58 of this Ordinance; or
 - (c) is unable to act because of illness or absence from his or her Diocese; or
 - (d) otherwise ceases to hold office; or
 - (e) declines for whatever reason to consent in writing as set out in subsection (3) —

that office holder shall (as the case may be) be ineligible, or shall cease, to be a member of the Council of Bishops and the place of that office holder —

- (f) if the Primate, shall be taken by the Primate's successor in office or, if the office is vacant or the Primate is incapable, by the Metropolitan or bishop who would exercise the authorities powers rights and duties of the Primate during such vacancy or incapacity;
 - (g) if a Metropolitan (other than the Primate), shall be taken by the Metropolitan next senior to that bishop (if any); and
 - (h) in any other case, shall be taken by the next most senior diocesan bishop.
- (5) If the Metropolitan or bishop who would exercise the authorities powers rights and duties of the Primate, when the office was then vacant, takes the place of the Primate and is already or would otherwise be a member of the Council of Bishops as Senior Metropolitan, the place shall be taken by the Metropolitan next senior to that bishop not already or otherwise a member of the Council of Bishops.

Excluded conduct

- (6) The expression “excluded conduct” in relation to the Diocesan bishop means—
- (a) any act or omission or refusal of the Diocesan bishop to ordain, appoint, correct, discipline, counsel, admonish, transfer, demote, suspend, retrench or dismiss a person; or
 - (b) any other act or omission or refusal of the Diocesan bishop in the course of episcopal ministry; or
 - (c) any decision of the Diocesan bishop relating to the same,

if the Diocesan bishop has acted or omitted or refused to act or decided —

- (d) in good faith;
- (e) reasonably; and
- (f) in the lawful discharge of the duties and functions of the Diocesan bishop.

Nothing in this definition shall be read as imposing any duty or function on the Diocesan bishop.

Misconduct

- (7) *The expression “misconduct” in relation to the Diocesan bishop means –*
- (a) bullying;
 - (b) emotional abuse;
 - (c) harassment;
 - (d) physical abuse;
 - (e) neglect of a child;
 - (f) sexual abuse;
 - (g) spiritual abuse;
 - (h) any offence under an ordinance of the Diocese;
 - (i) any of the following offences under the *Offences Canon 1962*³ or any canon in substitution or amendment of that canon-
 - (i) unchastity;
 - (ii) drunkenness;
 - (iii) wilful failure to pay just debts;
 - (iv) wilful violation of the Constitution or of the canons made thereunder or of the Ordinances of Synod; and
 - (v) any conduct involving wilful and habitual disregard of the consecration vows of the Diocesan bishop;
 - (j) wilful or reckless failure to comply with a condition imposed by the Council of Bishops under section 100 of this Ordinance;
 - (k) wilful or reckless failure to comply with an undertaking given to the Board, the Review Board or the Council of Bishops;
 - (l) an act or omission, or series of acts or omissions, made inappropriately or unreasonably in response to a complaint about the conduct of a person who is subject to a canon of General Synod or an ordinance of a diocesan synod relating to discipline or professional or episcopal standards;
 - (m) any breach of the duty to report a matter referred to below in section 8;
 - (n) any other conduct (other than excluded conduct) that is unbecoming or inappropriate to the office and duties and functions of a diocesan bishop,

³ Section 2 of the *Offences Canon 1962 – 1998* provides-

- (1) *The Special Tribunal in addition to its powers under section 56(2) of the Constitution may hear and determine charges against any member of the House of Bishops made in respect of the following offences:*
1. *Unchastity.*
 2. *Drunkenness.*
 3. *Wilful failure to pay just debts.*
 4. *Conduct, whenever occurring,*
 - (a) *which would be disgraceful if committed by a member of the clergy, and*
 - (b) *which at the time the charge is preferred is productive, or if known publicly would be productive, of scandal or evil report.*
 5. *Wilful violation of the Constitution or of the canons made thereunder or of the ordinances of provincial synod or of his diocesan synod.*
 6. *Any conduct involving wilful and habitual disregard of his consecration vows.*

by the Diocesan bishop whenever occurring (whether before or after the commencement of this Ordinance) which, if established, would on its face call into question:

- (i) the fitness of the Diocesan bishop to hold office, or to be or remain in Holy Orders; or
- (ii) the fitness of the Diocesan bishop, whether temporarily or permanently, to exercise ministry and perform any duty or function of the office; or
- (iii) whether, in the exercise of ministry or in the performance of any duty or function, the Diocesan bishop should be subject to any condition,

but excludes for the purposes of this Ordinance any breach of faith ritual or ceremonial.

Overriding purposes of Ordinance

- 4. The overriding purposes of this Ordinance and of any protocol made under this Ordinance, in their application to any complaint under this Ordinance, are to facilitate the just, quick and inexpensive resolution of the real issues in the complaint and to regulate fitness for ministry for the protection of the community.
- 5. The Director, the ESC, the Board and the Review Board must each seek to give effect to the overriding purposes when exercising any power given by this Ordinance or by any protocol and when interpreting any provision of this Ordinance or of any such protocol.

PART 2 – CODE OF CONDUCT

Approval of code of conduct

- 6. The Synod or the Diocesan Council may from time to time by resolution approve a code of conduct for observance by the Diocesan bishop, which does not make provision for any matter concerning faith, ritual or ceremonial.

Promotion of code of conduct

- 7. The Diocesan Council through the ESC and by such other means as may be considered appropriate must take such steps as may be necessary or desirable to promote the knowledge, understanding and observance in the Church of the code of conduct.

PART 3 – DUTY TO REPORT

- 8. (1) If the Diocesan bishop –
 - (a) believes on reasonable grounds that a person has suffered harm or is at risk of harm as a result of abuse by a person who is subject to a canon of General Synod or an ordinance of a Diocese relating to discipline or professional or episcopal standards; and
 - (b) has no reason to believe that the Director of Professional Standards or the Director of Episcopal Standards (as the case may be) appointed under that canon or ordinance or any member of the Professional Standards Committee or Episcopal Standards Committee appointed under that canon or ordinance is aware of those facts,

the Diocesan bishop must as soon as possible report the matter to that Director or to a member of that Professional Standards Committee or that Episcopal Standards Committee as the case may be.

- (2) This section does not affect the operation of the *Canon Concerning Confessions 1989* of General Synod or any other canon or legislative instrument relating to confessions in force in the Diocese.

PART 4 – OTHER DUTIES OF THE RESPONDENT

Duties concerning the process

9. (1) The Diocesan bishop must subject to subsection (2)–
- (a) comply with a requirement of the ESC pursuant to section 27(a) of this Ordinance to meet with an investigator to answer questions in relation to a complaint;
 - (b) comply with a requirement of the ESC pursuant to section 27(b) and (c) of this Ordinance to provide a verified detailed report to the ESC within a reasonable time; and
 - (c) truthfully answer any question put by or on behalf of the ESC or the Board or the Review Board in the exercise of powers conferred by this Ordinance.
- (2) *If the respondent declines to answer a question on the ground that the answer might tend to incriminate the person, a written record shall be made of the question and of the ground of refusal.*
- (3) The Diocesan bishop must–
- (a) not mislead the ESC or the Board or the Review Board or a member of any of them or a delegate of the ESC;
 - (b) not unreasonably delay or obstruct the ESC, the Board or the Review Board or a member of any of them or a delegate of the ESC in the exercise of powers conferred by this Ordinance; and
 - (c) attend a mediation, conciliation, neutral evaluation or other dispute resolution meeting arranged by the ESC in relation to a complaint.

Duty to comply with an undertaking or direction

10. (1) The Diocesan bishop must –
- (a) comply with any undertaking given to the Board, the Review Board or the Council of Bishops; and
 - (b) comply with a direction made by the Council of Bishops to give effect to a recommendation of the ESC, the Board or the Review Board (as the case may be) or any permitted variation or modification of that recommendation.
- (2) *Failure of the Diocesan bishop to comply with an undertaking or direction is an offence.*
- (3) *The ESC may institute proceedings forthwith in the Special Tribunal in respect of an offence against this section or, if the bishop is no longer a Diocesan bishop, shall refer the matter, together with such relevant information concerning the alleged offence as may be in its possession, to the*

diocesan bishop of the Diocese in which the former Diocesan bishop is then resident.

PART 5 – PROTOCOL

Making and content of protocols

11. (1) The Diocesan Council must from time to time consider and approve a protocol or protocols not inconsistent with this Ordinance for implementation in relation to complaints.
- (2) The protocol or protocols must include:
 - (a) procedures for receiving a complaint;
 - (b) the appointment, role and function of support persons and carers;
 - (c) provision for informing a complainant and victim of alleged misconduct, and the respondent, of rights, remedies and relevant procedures available to them;
 - (d) provision for assisting or supporting, as appropriate, any person affected by alleged conduct the subject of a complaint or the respondent;
 - (e) an explanation of the processes for investigating and dealing with a complaint;
 - (f) provisions for dealing fairly with each party to a complaint;
 - (g) processes for mediation, conciliation and reconciliation, as appropriate, of a complaint or grievance;
 - (h) provisions for information, reports, advice and recommendations to the Primate and the relevant Metropolitan or the relevant Administrator at each stage of the process of dealing with a complaint;
 - (i) procedures for working, where necessary, with law enforcement, prosecution or child protection authorities of the States and Territories and of the Commonwealth of Australia.

Promoting knowledge and understanding of any protocol

12. The Diocesan Council through the Director and the ESC and by such other means as they may consider appropriate must take such steps as may be necessary or desirable to promote throughout the community knowledge and understanding of any protocol.

PART 6 – EPISCOPAL STANDARDS COMMITTEE

Establishment of ESC

13. (1) There shall be an Episcopal Standards Committee constituted in accordance with the provisions of this Part.
- (2) *The members of the ESC including its chair shall be appointed by the Diocesan Council, meeting when the Diocesan bishop is not present.*

- (3) *The members of the ESC shall hold office on such terms and conditions as may be determined from time to time by the Diocesan Council, meeting when the Diocesan bishop is not present.*
- (4) *The ESC shall have at least 3 members including the chair, any of whom may reside outside the Diocese.*
- (5) *The membership of the ESC shall be constituted, so far as reasonably possible, so as collectively to provide experience and appropriate professional qualifications in:*
 - (a) law;
 - (b) episcopal ministry; and
 - (c) human resources, pastoral ministry, investigations, social work, ethics or counselling.
- (6) *The ESC shall –*
 - (a) include at least one person who is not a member of the Anglican Church of Australia;
 - (b) so far as it is reasonably practicable have at least one man and at least one woman; and
 - (c) not include a person who is a Diocesan bishop or a clergy person holding a licence or other authority from the Diocesan bishop.
- (7) *The members of the ESC may constitute or include the members of an equivalent body either generally or for a particular complaint or matter.*
- (8) *A member of the ESC must not act in a matter unless the member has agreed in writing to abide by this Ordinance.*

Conduct of business

14. (1) The ESC may meet from time to time as determined by the chair or a majority of its members and may conduct its business by telephone or electronic communication.
- (2) *The chair must convene a meeting of the ESC at the request of the Director.*
- (3) *The procedures of the ESC shall be as determined by the ESC.*
- (4) *A majority of the members shall constitute a quorum.*
- (5) *A decision taken other than at a meeting of the ESC, if supported by a majority of members of the ESC, constitutes a decision of the ESC.*
- (6) *The ESC must act in all things as expeditiously as possible.*

Validity of proceedings

15. An act or proceeding of the ESC is not invalid by reason only of a vacancy in its membership and, notwithstanding the subsequent discovery of a defect in the nomination or appointment of a member, any such act or proceeding is as valid and effectual as if the member had been duly nominated or appointed.

Functions of ESC

16. The ESC has the following functions:

- (a) to implement a protocol;
- (b) to receive a complaint against the Diocesan bishop;
- (c) to act on a complaint in accordance with the provisions of this Ordinance and any protocol and to obtain independent legal advice for that purpose;
- (d) to appoint suitable persons to fulfil the several roles required to implement a protocol in each particular case;
- (e) where appropriate, to recommend the conciliation or mediation of any complaint;
- (f) to investigate or cause to be investigated a complaint in a timely and appropriate manner;
- (g) where appropriate, to recommend to the Diocesan Council any changes to a protocol and any other changes to Church processes, structures and education programmes that would reduce the risk of misconduct;
- (h) subject to any limit imposed by the Diocesan Council to authorise such expenditure as may be necessary or appropriate to implement, in a particular case, a protocol and the provisions of this Ordinance;
- (i) to advise any relevant Church body as to the financial, pastoral or other needs of a person affected by conduct the subject of a complaint and in connection with any legal proceedings, anticipated or existing, against such Church body arising out of that alleged conduct;
- (j) to refer any information in its possession to a law enforcement, prosecution or child protection authority of a State or Territory or of the Commonwealth of Australia for which the information is or may be relevant;
- (k) to maintain proper records of all complaints received and of action taken in relation to each of them; and
- (l) to exercise such other powers and functions as are conferred on it by this or any other Ordinance or by a protocol.

Power of ESC to delegate

17. (1) Subject to subsection (2), the ESC may delegate, upon such terms and conditions as the ESC may approve, any of its functions under this Ordinance to any person.
- (2) *The ESC cannot delegate:*
- (a) its functions under subsection (1);
 - (b) its functions under paragraphs (e) and (g) of subsection 16;
 - (c) its functions under Part 12 (suspension); or
 - (d) its functions under sections 28 and 29.
- (3) *A delegation under this section must be made by instrument in writing signed by a member of the ESC.*

PART 7 – DIRECTOR OF EPISCOPAL STANDARDS*Appointment of Director*

18. (1) There shall be a Director of Episcopal Standards.
- (2) *The Director shall be appointed by the Diocesan Council meeting when the Diocesan bishop is not present.*
- (3) *The Director shall hold office on such terms and conditions as may be determined from time to time by the Diocesan Council meeting when the Diocesan bishop is not present.*
- (4) *The Director may act in a corresponding capacity as a Director of Episcopal Standards for another diocese either generally or for a particular case or matter.*

Functions of Director

19. (1) The Director shall have the following functions under this Ordinance:
- (a) to receive any complaint on behalf of the ESC;
 - (b) in his or her discretion to make a complaint against the Diocesan bishop;
 - (c) to manage the implementation of the protocol in respect of any complaint or grievance;
 - (d) to be the executive officer of the ESC;
 - (e) to attend meetings of the ESC except for any part of a meeting which deals with conditions of employment, remuneration or performance of the Director;
 - (f) to provide advice about the code of conduct, the protocol and procedures under this Ordinance;
 - (g) to provide or arrange care or treatment of the complainant and respondent;
 - (h) to provide input into education and vocational training programs for the Diocesan bishop;
 - (i) to provide information to complainants and the respondent about the operation of the protocol, with particular emphasis on helping the respondent to understand and discharge his or her responsibilities under the protocol;
 - (j) to keep proper records of complaints, decisions, meetings, employment screening details, police checks and people affected by any allegation of misconduct;
 - (k) to consult and co-operate with other persons and bodies in the Church with responsibility for professional standards;
 - (l) in cases of alleged illegal behaviour, to support the complainant in making a report to police or child protection authorities;
 - (m) to report to the ESC on any recommended changes to the protocol and any other changes to Church processes, structures and education programmes that would reduce the risk of misconduct; and
 - (n) such specific functions and duties, consistent with this Ordinance, as may be determined from time to time by the ESC.

- (2) *The Director must act in all things as expeditiously as possible.*

PART 8 – COMPLAINTS

Making a complaint of misconduct

20. (1) Any person including the Director may make a complaint of misconduct to the ESC in relation to the Diocesan bishop.
- (2) *If the Director receives or makes a complaint against the Diocesan bishop, the Director must request the Registrar to, and the Registrar must, constitute the Council of Bishops in accordance with subsections (3), (4) and (5) of section 3 of this Ordinance.*

Form of a complaint

21. (1) A complaint may be in any form, oral or in writing, whether by electronic means or otherwise.
- (2) Where a complaint is oral, the Director must make a written record of the complaint as soon as practicable after receiving it.
- (3) *A complaint must include details of the misconduct complained about.*
- (4) *The Director must not make a complaint based only on information provided anonymously.*
- (5) *The ESC must not act on an anonymous complaint.*
- (6) *Non compliance with subsection (2) and (3) of this section does not invalidate a complaint.*

ESC may require more information and verification

22. (1) The ESC may require a complainant to—
- (a) give further details of the complaint; and
 - (b) verify any details of the complaint by statutory declaration.
- (2) *A requirement under subsection (1) must be in writing and allow the complainant a reasonable time to comply.*

ESC may dismiss a complaint or take no further action

23. The ESC may dismiss a complaint or take no further action in relation to a complaint if—
- (a) the ESC is of the opinion that the complaint does not fall within the provisions of this Ordinance; or
 - (b) the complainant has failed to provide further details to the ESC or to verify the allegations by statutory declaration when requested by the Director to do so; or
 - (c) the ESC is of the opinion that the complaint is false, vexatious, misconceived, frivolous or lacking in substance; or
 - (d) the ESC is of the opinion that there is insufficient reliable evidence to warrant an investigation or further investigation,

and may take no further action or may delay further action in relation to a complaint if—

- (e) the behaviour, the subject matter of the complaint, can properly be dealt with by other means; or
- (f) the subject matter of the complaint is under investigation by some other competent person or body or is the subject of legal proceedings.

ESC must give complainant notice of outcome of complaint and reasons

24. If a complaint is dealt with by the ESC under the preceding section, the ESC must give the complainant a written notice of the outcome including the reasons for the outcome.

PART 9 – INVESTIGATIONS

When ESC is to investigate

25. (1) Subject to this Ordinance, the ESC must investigate each complaint as expeditiously as possible⁴.
- (2) *The ESC may investigate the conduct of the Diocesan bishop if—*
- (a) the ESC has reason to believe that the conduct may amount to misconduct under this Ordinance; and
 - (b) a complaint about the conduct has been withdrawn.
- (3) *The Director must prior to any investigation seek from the complainant his or her written consent to—*
- (a) the giving by the Director of notice of the complaint to the respondent;
 - (b) the investigation of the complaint by the ESC or its delegate;
 - (c) the ESC otherwise dealing with it under this Ordinance;
 - (d) the hearing and determination of the complaint by the Board and on any review, the Review Board, either by hearing or otherwise in accordance with this Ordinance; and
 - (e) the making of recommendations to the Council of Bishops in accordance with this Ordinance.
- (4) *If the complainant (other than the Director) has not given the written consent referred to in the preceding subsection—*
- (a) the ESC shall not be required to investigate the complaint and otherwise to refer it to the Board; and
 - (b) the ESC may dismiss the complaint or take no further action in relation to the complaint.

ESC to obtain material

26. For the purpose of an investigation the ESC or its delegate shall obtain such statutory declarations, written statements, recorded conversations, reports, documents and other material as the ESC or its delegate considers necessary or advisable for presentation to the ESC.

⁴ The ESC may delegate its investigation of a complaint: see clause 14.

Respondent to respond to ESC

27. The ESC may by notice in writing to the respondent require the respondent—
- (a) to meet with an investigator to answer questions in relation to a complaint;
 - (b) to provide a detailed report to the ESC within a reasonable time specified in the notice in relation to any matter relevant to the investigation; and
 - (c) to verify the report by statutory declaration or another specified manner.

PART 10 – OUTCOMES OF ESC

How ESC may or must respond after receipt of complaint

28. At any time after the ESC receives a complaint, the ESC may:
- (a) recommend mediation, conciliation, neutral evaluation or other alternative resolution of the complaint;
 - (b) if it considers on reasonable grounds that the Diocesan bishop may be incapable, report the matter in writing to the relevant Metropolitan;
 - (c) if the Diocesan bishop whose conduct is under investigation ceases to be the Diocesan bishop prior to any reference of the complaint to the Board, refer the complaint, together with such information as it shall have received, to the equivalent body having jurisdiction in the Diocese by whose Bishop the former Diocesan bishop is licensed or, where the former Diocesan bishop is not licensed, in which the former Diocesan bishop resides; and
 - (d) exercise its powers under section 23 of this Ordinance to dismiss a complaint or to take no further action in relation to a complaint.
29. At any time after investigation of a complaint in accordance with Part 9, the ESC:
- (a) must, if required under section 52 of this Ordinance to do so, refer the complaint to the Board; and
 - (b) may institute, amend or withdraw proceedings by way of charge against the Diocesan bishop before the Special Tribunal.

If a complaint is settled or resolved

30. (1) The fact that the subject matter of a complaint may be settled or resolved in whole or in part between the parties affected thereby does not prevent the ESC from taking any of the steps referred to in sections 28(b), (c) and (d) and 29 in respect of the subject matter of the complaint.
- (2) *Any term of settlement or resolution referred to in subsection (1) which purports to prevent or to limit the institution of action under either of sections 28(b), (c) and (d) and 29 shall be of no effect.*
- (3) *The ESC may agree with the Diocesan bishop for the submission to the Board or the Review Board of either or both a statement of the facts relevant to the complaint and any recommendation proposed to be made by the Board or the Review Board to the Council of Bishops.*
- (4) *The Board or the Review Board may in its discretion proceed on the basis of the statement of agreed facts and determine any recommendation to be made to the Council of Bishops, having regard to but not bound by any proposed recommendation agreed between the ESC and the Diocesan bishop.*

PART 11 – EPISCOPAL STANDARDS BOARD*Establishment of Board*

31. There shall be an Episcopal Standards Board comprising 3 persons and constituted and appointed in accordance with the provisions of this Part.

Functions of Board

32. Subject to the provisions of this Ordinance, the functions of the Board are –
- (a) to make a determination and where appropriate make a recommendation under section 45 of this Ordinance;
 - (b) to enquire into and determine a complaint referred to it under section 55; and
 - (c) to make a determination and where appropriate make a recommendation under section 58.

Board appointed from a panel

33. (1) The members of the Board in a particular case shall be appointed from a panel of at least 6 persons comprising:
- (a) a President and a Deputy President, both of whom shall be or shall have been either a judicial officer or a practising barrister or solicitor of at least 10 years' standing of the Supreme Court of a State or Territory and who are members of the Anglican Church of Australia; and
 - (b) at least four other persons of whom at least—
 - (i) two shall be clergy who are or have been a diocesan bishop; and
 - (ii) two shall be lay persons who are members of the Anglican Church of Australia.
- (2) *As far as reasonably practicable the lay members of the panel should comprise an equal number of men and women.*

Appointment of members of panel

34. (1) The members of the panel shall be appointed by the Diocesan Council, meeting when the Diocesan bishop is not present.
- (2) The members of the panel shall hold office on such terms and conditions as may be determined from time to time by the Diocesan Council, meeting when the Diocesan bishop is not present.
- (3) Any vacancy in the membership of the panel shall be filled by the Diocesan Council, meeting when the Diocesan bishop is not present.

Appointment of members of Board

35. (1) The members of the Board to be convened for a complaint referred to the Board shall be determined by the President or, if there is a vacancy in the office of President, by the Deputy President.
- (2) *For the purpose of any reference to the Board, the Board shall consist of—*

- (a) the President or Deputy President, who shall be the presiding member;
 - (b) one person who is or has been a diocesan bishop; and
 - (c) one lay person.
- (3) The Board must so far as reasonably practicable have at least one man and at least one woman.
- (4) *A member of the Board may reside outside the Diocese.*
- (5) *A member of the Board must not act in a matter unless the member has agreed in writing to abide by this Ordinance.*
- (6) The members of the Board may constitute or include the members of an equivalent body either generally or for a particular complaint or matter.

Quorum of Board

36. The quorum for a meeting of the Board shall be all the members of the Board except where the Board by its presiding member makes directions under section 81 of this Ordinance.

Secretary to the Board

37. There shall be a Secretary to the Board who shall be appointed by the President of the Board on such terms and conditions as may be determined from time to time by the President of the Board.

Filling vacancies on the Board

38. (1) Any vacancy in the membership of the Board shall be filled by the President of the Board, or if the President is not available, the Deputy President of the Board.
- (2) Where a member of the Board is unable to enquire into and determine a complaint, a substitute member may be appointed by the President of the Board, or if the President is not available, the Deputy President of the Board.

Validity of proceedings

39. An act or proceeding of the Board is not invalid by reason only of the subsequent discovery of a defect in the nomination or appointment of a member of the Board or the Panel, and any such act or proceeding is as valid and effectual as if the member had been duly nominated or appointed.

PART 12 – SUSPENSION

ESC may refer to Board or recommend suspension

40. Where after receipt of a complaint and at any time during the progress of a complaint under this Ordinance, the ESC is satisfied that if the Diocesan bishop remains in office pending the outcome of the complaint–
- (a) *there is an unacceptable risk of harm to any person; or*
 - (b) *there will be serious damage to the reputation of the Church,*

the ESC must refer the matter to the Board or, as the urgency of the matter requires, make a recommendation to the Council of Bishops that pending that outcome—

- (c) the Diocesan bishop be suspended from the duties of office or certain of those duties; and
- (d) such other action be taken as may be thought fit.

Respondent to be given notice

41. Before making a recommendation pursuant to section 40 or referring the matter to the Board, the ESC must give the Diocesan bishop notice that grounds exist for the ESC to be satisfied as stated in section 40 (specifying the same) and notice of any proposed recommendation and request the Diocesan bishop to show cause in writing within 7 days why the recommendation should not be made.

No notice where immediate unacceptable risk

42. The provisions of the preceding section shall not apply if the ESC is satisfied that there is an immediate unacceptable risk of harm to any person if the Diocesan bishop remains in office.

Referral to the Board

43. Where the ESC is satisfied that there is an immediate unacceptable risk of harm to any person if the Diocesan bishop remains in office and makes a recommendation to the Council of Bishops pursuant to section 40—
- (a) the ESC must forthwith refer the matter to the Board; and
 - (b) the Director must as soon as practicable give the Diocesan bishop notice that—
 - (i) the recommendation has been made without notice and the grounds relied on;
 - (ii) the ESC will report the recommendation to the Board at its next meeting and that the Board will consider whether the recommendation should stand; and
 - (iii) the Diocesan bishop may advance submissions to the Board if he or she wishes to do so.

ESC or Board to consider respondent's response

44. (1) The ESC or the Board (as the case may be) must consider the response if any from the Diocesan bishop received within the time specified above or any further period allowed, before making a decision on the recommendation to be made.
- (2) The provisions of subsection (1) shall not apply in relation to any recommendation of the ESC to the Council of Bishops under section 40 where the ESC is satisfied that there is an immediate unacceptable risk of harm to any person if the Diocesan bishop remains in office and for that reason the provisions of section 41 do not apply.

Powers of Board if satisfied as to unacceptable risk or serious damage to reputation

45. If the Board is satisfied –
- (a) that if the Diocesan bishop remains in office pending the outcome of the complaint—

- (i) there is an unacceptable risk of harm to any person; or
- (ii) there will be serious damage to the reputation of the Church,

the Board may after considering the response if any from the Diocesan bishop—

- (b) determine accordingly and make a recommendation to the Council of Bishops that pending that outcome action be taken as referred to above in section 40;

or where the ESC has already made a recommendation under section 40—

- (c) affirm or vary that recommendation; or
- (d) set aside that recommendation and make another in substitution for it.

Matters to be considered by ESC or Board before recommending

46. Before making a recommendation under this Part, the ESC or the Board (as the case may be) must take into account:

- (a) the seriousness of any alleged misconduct;
- (b) the nature of the material to support or negate the allegations;
- (c) the extent to which any person is at risk of harm;
- (d) any breach of a duty imposed on the Diocesan bishop under this ordinance;
- (e) after consultation with the Diocesan Council, the effect on the Diocesan bishop, and on the Church and its reputation of acting and of not acting under this Part; and
- (f) any other allegation of similar conduct previously made to the ESC or to an equivalent body,

and may take into account any other relevant matter.

Suspension by the Council of Bishops

47. (1) The Council of Bishops to whom a recommendation is made under this Part must, and is hereby empowered to give effect to –

- (a) that recommendation of the ESC or the Board; or
- (b) any variation or modification of that recommendation, consistent with any facts found by the body making the recommendation provided that the substance of that recommendation is preserved, as the Council of Bishops sees fit.

(2) Subject to subsection (3), the Council of Bishops must release to the public as soon as practicable a written statement disclosing their decision on the recommendation received and the steps to be taken or that have been taken pursuant to this section to give effect to it.

(3) The Council of Bishops must ensure that any statement so released is anonymised and redacted so as not to contain any particulars that identify or are likely to lead to the identification of a prescribed person.

Decision of the Council of Bishops to be decided by a majority of the votes

48. A question before the Council of Bishops under this Part may be decided by a majority of the votes of the members of the Council of Bishops.

Criminal charges – Notice of suspension by the relevant Metropolitan

49. (1) If the Diocesan bishop has been charged in any jurisdiction in Australia with a sexual offence or an offence relating to child pornography whether committed within or outside the Diocese, the Diocesan bishop must forthwith stand down from the duties of office pending the determination of the charge.
- (2) If the Diocesan bishop fails to do so, the relevant Metropolitan may serve on the Diocesan bishop a notice of suspension signed by the relevant Metropolitan.
- (3) Upon service of that notice, the Diocesan bishop shall be deemed to have been suspended pending the outcome of the hearing of the charge.

Effect and consequences of suspension

50. A suspension of the Diocesan bishop made by the Council of Bishops following a recommendation under this Ordinance or a suspension deemed under the preceding section:
- (a) has effect as an absence of the Diocesan bishop from the see; and
- (b) continues until it ceases to have effect by reason of:
- (i) the ESC terminating the investigation of the complaint without referring the matter to the Board; or
- (ii) a determination to that effect by the Council of Bishops; or
- (iii) the Council of Bishops giving effect to a recommendation of the Board or such a recommendation as varied or modified by the Council of Bishops under section 100; or
- (iv) the see becoming vacant (whether or not under this Ordinance), whichever first occurs.

Continuation of stipend, allowances and other benefits

51. During any such suspension or any voluntary standing down from the duties of office pending the outcome of a complaint, the Diocesan bishop is entitled to receive whatever stipend, allowances and other benefits as would otherwise have accrued and they are to be met or reimbursed by the body normally responsible for their payment.

PART 13 – REFERENCE OF A COMPLAINT TO THE BOARD*ESC to refer certain matters to the Board*

52. After investigation of a complaint in accordance with Part 9, where the ESC has formed the opinion that the conduct the subject of the complaint if established would call into question whether—
- (a) the Diocesan bishop is unfit –
- (i) to hold office or to be or remain in Holy Orders; or
- (ii) whether temporarily or permanently, to exercise ministry and perform any duty or function of the office; or
- (b) in the exercise of ministry or in the performance of any duty or function, the Diocesan bishop should be subject to any condition,

the ESC must refer the complaint to the Board.

How ESC to refer matters

53. The ESC must refer the complaint to the Board by delivering to the Secretary of the Board a written report of its investigation and opinion signed by a member of the ESC.

If Diocesan bishop resigns from office

54. If after a complaint is referred to the Board, the Diocesan bishop resigns from office, the Board may continue to enquire into and determine the complaint, notwithstanding such resignation.

Documents and materials to be delivered to the Board

55. (1) Within 14 days of the date of the reference of a complaint to the Board or within 14 days of the date of the document or material coming into existence, whichever is the later, the ESC must cause to be delivered to the Secretary of the Board any documents and material relevant to the reference.
- (2) *The ESC, as soon as practicable after delivering the report referred to in section 53 to the Secretary of the Board, shall cause to be delivered to the Diocesan bishop as the respondent a copy of the report and opinion and notice that the respondent may advance any submissions to the Board if he or she wishes to do so.*
56. The Board must deal with a complaint as expeditiously as possible.

Powers of Board

57. (1) If the Board is not satisfied that the Diocesan bishop committed any misconduct or that the complaint is false, vexatious or misconceived, the Board may determine accordingly and must dismiss the complaint.
- (2) If the Board is satisfied that the Diocesan bishop did commit misconduct but is not satisfied as to any of the matters in paragraphs (a) and (b) of section 58, the Board may determine accordingly and must take no further action in relation to the complaint.
58. (1) If the Board is satisfied⁵ that the Diocesan bishop did commit any misconduct and that—
- (a) the Diocesan bishop is unfit –
- (i) to hold office or to be or remain in Holy Orders; or
- (ii) whether temporarily or permanently, to exercise ministry and perform any duty or function of the office; or
- (b) in the exercise of ministry or in the performance of any duty or function, the Diocesan bishop should be subject to any condition,
- the Board may determine in writing accordingly and may recommend to the Council of Bishops any one or more of the following:
- (c) that the Diocesan bishop be counselled;

⁵ See section 77.

- (d) that for a specified period the Diocesan bishop's holding of office or performance of a function as the case may be, shall be subject to such conditions or restrictions as the Board may specify;
- (e) that the Diocesan bishop be suspended from office or from performing a function as the case may be for such period recommended by the Board;
- (f) that the Diocesan bishop be directed to do or to refrain from doing a specified act;
- (g) that the Diocesan bishop be removed from office and the See be declared vacant;
- (h) that the implementation of a determination shall be suspended for such period and upon such conditions as the Board shall specify;
- (i) that a charge be promoted against the Diocesan bishop before the Special Tribunal;
- (j) that the Diocesan bishop be prohibited from functioning as a bishop;
- (k) that the Diocesan bishop be deposed from Holy Orders;
- (l) otherwise as the Board sees fit.

59. If the Board is satisfied that the Diocesan bishop is unfit-

- (a) to hold office or to be or remain in Holy Orders; or
- (b) whether temporarily or permanently, to exercise ministry and perform any duty or function of the office,

its recommendation must include any one or more of those specified above in paragraphs (e), (g), (j) and (k).

Board may adjourn on terms

60. (1) The Board may defer making any recommendation under section 58 on a complaint and may for that purpose adjourn any hearing from time to time for a period or periods not exceeding in the aggregate 12 months, on terms that the Diocesan bishop undertake for a specified period and in a form approved by the Board to do one or more of the following acts or omissions –
- (a) stand down from the duties of office or from performing specified episcopal duties;
 - (b) undertake counselling from a person approved by the Board;
 - (c) submit to periodic medical examination by a person approved by the Board;
 - (d) undertake a specified program of medical treatment or rehabilitation whether as an outpatient or inpatient;
 - (e) provide medical or other evidence requested by the Board to assist it in deciding on any final recommendation; and
 - (f) perform or refrain from performing some other specified act.
- (2) If, within a period specified by the Board, the Diocesan bishop declines to give an undertaking in accordance with subsection (1), the Board must proceed to make a determination and recommendation.

- (3) The Board may take into account the failure of the Diocesan bishop to comply with his or her undertaking under subsection (1) in deciding on any recommendation on a complaint.

PART 14 – EPISCOPAL STANDARDS REVIEW BOARD

Establishment of the Review Board

61. There shall be an Episcopal Standards Review Board comprising 5 persons and constituted and appointed in accordance with the provisions of this Part.

Function of the Review Board

62. Subject to the provisions of this Ordinance, the function of the Review Board is to determine any application authorised by this Ordinance for review of a decision of the Board.

Panel of Review Board members

63. The members of the Review Board in a particular case shall be appointed from a panel of 10 persons comprising:
- (a) a President and a Deputy President, both of whom shall be or shall have been either a judicial officer or a practising barrister or solicitor of at least 10 years' standing of the Supreme Court of a State or Territory; and
 - (b) eight other persons of whom—
 - (i) two shall be clergy who are or have been a Diocesan bishop;
 - (ii) two shall be clergy not in bishop's orders; and
 - (iii) four shall be lay persons.

Appointment of members of Review Board Panel

64. (1) The members of the panel shall be appointed by the Diocesan Council, meeting when the Diocesan bishop is not present.
- (2) The members of the panel shall hold office on such terms and conditions as may be determined from time to time by the Diocesan Council, meeting when the Diocesan bishop is not present.
- (3) The members of the panel may constitute or include the members of an equivalent body either generally or for a particular complaint or matter.
- (4) Any vacancy in the membership of the panel shall be filled by the Diocesan Council, meeting when the Diocesan bishop is not present.

Convening a Review Board

65. (1) The members of the Review Board to be convened for any review of a decision of the Board shall be determined by the President or, if there is a vacancy in the office of President, by the Deputy President.
- (2) For the purpose of any application to the Review Board, the Review Board shall consist of the President or Deputy President, who shall be the presiding member, one clergy person in bishop's orders, one clergy person not in bishop's orders and two lay persons.

- (3) So far as it is reasonably practicable, the Review Board shall include at least one man and at least one woman.
- (4) The quorum for a meeting of the Review Board shall be all the members of the Review Board except where the Review Board by its President or Deputy President makes directions under section 81 of this Ordinance.
- (5) A member of the Review Board shall not act as such a member unless the member has agreed in writing to abide by this Ordinance.

Secretary to Review Board

- 66. There shall be a Secretary to the Review Board who shall be appointed on such terms and conditions as may be determined from time to time by the President of the Review Board.

Separately constituted Review Boards may sit simultaneously

- 67. The Review Board, separately constituted in accordance with this Part, may act simultaneously for the purpose of applications made to it.

Review Board's proceedings valid despite vacancies etc

- 68. An act or proceeding of the Review Board is not invalid by reason only of a vacancy in its membership or in the membership of the panel and, notwithstanding the subsequent discovery of a defect in the nomination or appointment of a member of the panel or the Review Board, any such act or proceeding is as valid and effectual as if the member had been duly nominated or appointed.

PART 15 – APPLICATION FOR REVIEW*Interpretation*

69. In this Part, “reviewable decision” means any finding of fact, determination or recommendation by the Board under section 58 of this Ordinance.

Application to Review Board

70. Where the Board has made any reviewable decision, the respondent or the ESC may within 30 days from the date of the decision or such further period as the Review Board may allow, apply to the Review Board for review of the decision.

Stay

71. Except in so far as the Board or the Review Board may direct otherwise, the application for review shall not operate as a stay of the action on any recommendation by the Council of Bishops required under this Ordinance.

Documents and material to be delivered following application

72. Within 14 days of the date of the application to the Review Board or within 14 days of the date of the document or material coming to existence, whichever is the later, the ESC shall cause to be delivered to the Secretary of the Review Board any documents and material relevant to the application for review including the reasons of the Board for its determination and any recommendations.

President to determine membership of Review Board

73. Upon delivery to the Secretary of the Review Board the documents and material relevant to the application for review, the President or Deputy President of the Review Board as the case may be shall as soon as possible determine the membership of the Review Board for the purpose of the application for review.

Review Board may exercise the powers of the Board

74. The Review Board may exercise all the powers of the Board under this Ordinance and may—
- (a) affirm the decision under review;
 - (b) vary the decision under review;
 - (c) set aside the decision under review and make another decision in substitution for it; or
 - (d) set aside the decision under review and remit the matter for reconsideration by the Board in accordance with any directions or recommendations of the Review Board.

Review Board to deal with application expeditiously

75. The Review Board must deal with the application as expeditiously as possible and must consider any further submissions from the respondent or the ESC.

PART 16 - PROCEEDINGS OF THE BOARD AND THE REVIEW BOARD*Conduct of proceedings*

76. Each of the Board and the Review Board—
- (a) must act with fairness and according to equity, good conscience, natural justice and the substantial merits of the case without regard to technicalities or legal forms; and
 - (b) is not bound by the rules of evidence but may inform itself on any matter in such manner as it thinks fit.

Powers and duties of the Board and Review Board

77. (1) Subject to this Ordinance, each of the Board and the Review Board—
- (a) may regulate the proceedings of its meetings as it sees fit;
 - (b) may conduct its business and any proceedings by video link, conference telephone or by any electronic means of communication;
 - (c) may inform itself from the transcript or other record of proceedings in any court or tribunal and may adopt any findings, and accept as its own, the record of any court or tribunal;
 - (d) may give any other person to whom notice of the proceedings was given or who satisfies them that he or she has a proper interest in the matter a reasonable opportunity to make submissions to them; and
 - (e) must give written reasons for any determination and recommendation, other than by way of directions in the course of an application, unless the determination is made by consent of the respondent and the ESC.
- (2) *The Board must give the ESC and the respondent a reasonable opportunity to adduce evidence, to examine or cross-examine witnesses and to make submissions to the Board.*
78. (1) Subject to subsections (2) and (3), any hearing of the Board or the Review Board must be held in public.
- (2) Each of the Board and the Review Board may direct –
- (a) that the whole or part of a proceeding be held in private; or
 - (b) that only persons or classes of persons specified by it may be present during the whole or any part of a proceeding.
- (3) Each of the Board and the Review Board may only make a direction under the preceding subsection if satisfied that the direction is necessary on or more of the following grounds-
- (a) to comply with applicable legislation of the State or a Territory or the Commonwealth;
 - (b) prevent a real and substantial risk to the proper administration of justice that cannot be prevented by other reasonably available means;
 - (c) to protect the safety of any person;
 - (d) to avoid causing undue distress or embarrassment to a complainant (other than the Director) or witness (other than the respondent) in a

- proceeding that relates in whole or part to a complaint of a prescribed sexual offence;
- (e) to avoid the disclosure of confidential information; and
- (f) for any other reason in the interests of justice.

Review Board not obliged to hold hearing or admit certain evidence

79. Subject to this Ordinance, the Review Board is not obliged –
- (a) to hold a hearing at which-
 - (i) evidence is adduced, whether by oral examination or signed statement or statutory declaration; or
 - (ii) submissions are heard orally; or
 - (b) to admit evidence that was not adduced before the Board in relation to the facts relevant to the complaint unless –
 - (i) the evidence could not have been obtained with reasonable diligence for use at the hearing before the Board; and
 - (ii) that there is a high probability that the result would have been different had it been received at that hearing.

Legal representation

80. The ESC may and the respondent at the respondent's own expense may appoint a legal representative to assist in the process.

Directions

81. Each of the Board and the Review Board may at any time and from time to time give directions:
- (a) as to the inspection by and supply of copies to the respondent or any other person of the documents or material relevant to the reference; and
 - (b) as to the conduct of its inquiry into the reference,
- and for that purpose the Board or the Review Board may be constituted by the President or Deputy President alone.

Board and Review Board may appoint a person to assist

82. Each of the Board and the Review Board may, for the purpose of any particular reference, appoint such person or persons, to assist it in inquiring into (but not determining) a reference as the Board or the Review Board thinks fit.

Directions to ESC

83. Each of the Board and the Review Board may at any time and from time to time give directions to the ESC as to any further inquiries or investigation it requires to be carried out for the purposes of the reference and the ESC must to the best of its ability cause such directions to be carried out.

Board and Review Board may receive written evidence

84. Without limiting the meaning and effect of sections 76 and 77, each of the Board and the Review Board may receive a statutory declaration or a signed statement without the need for the personal attendance of the maker of the statutory declaration or

statement and may also in its discretion use electronic means such as video link or conference telephone to receive evidence and submissions.

Board and Review Board may rely on decisions of other bodies

85. In any proceedings before it, where the Board or the Review Board is satisfied that the respondent—
- (a) has been convicted by a court within Australia of an offence involving conduct as described in any of paragraphs (a) to (i) and (l) of subsection 3(7) of this Ordinance (“specified conduct”);
 - (b) has been found guilty (without conviction) by a court within Australia of an offence involving specified conduct;
 - (c) has admitted in proceedings before a court or tribunal within Australia having engaged in specified conduct;
 - (d) has been found by a court or tribunal within Australia to have engaged in specified conduct; or
 - (e) has been disqualified by a court or tribunal within Australia from professional practice on account of specified conduct,
- then—
- (f) a certificate, reasons for judgment or other record from the court or tribunal (as the case may be) shall be conclusive evidence that the respondent engaged in the specified conduct; and
 - (g) neither the respondent nor any other party shall be at liberty to call or give evidence or make submissions for the purpose of calling into question the conviction or finding of guilt of the respondent or denying that the respondent engaged in the specified conduct.

Standard of proof applying to Board and Review Board

86. (1) The standard of proof to establish an allegation is that of a reasonable satisfaction on the balance of probabilities.
- (2) *Each of the Board and the Review Board must scrutinize evidence with greater care if there is a serious allegation to be established, or an inherent unlikelihood of an occurrence of a given description or if there are grave consequences that would flow from a particular finding.*

Individual members of Board and Review Board not to meet with parties

87. No member of the Board or the Review Board shall individually meet with either the complainant or the respondent or anyone acting on their behalf while the matter is in progress.

Disqualification where personal interest

88. (1) Where a member of the Board or the Review Board has a personal interest in a matter before it the member shall be disqualified from participating in the matter.
- (2) The opinion of the presiding member of the Board or the Review Board (as the case may be) as to whether any other member of the Board or the Review Board has a personal interest in a matter shall be conclusive.

Medical examination

89. (1) The ESC or the Board or the Review Board may request the respondent to submit within a specified time to a medical examination by a person approved by the ESC or the Board or the Review Board (as the case may be) the cost of which shall be met from church funds under the control of the Diocesan Council.
- (2) *A copy of the report of an examination under subsection (1) shall be provided to the respondent, the Director, the ESC, the Board and, if applicable, the Review Board.*

No further action where Special Tribunal unlikely to find respondent guilty

90. If the Board or the Review Board is satisfied that there is no reasonable likelihood that the Special Tribunal would find the respondent guilty of any offence, the Board or the Review Board shall not recommend that a charge be promoted against the respondent in the Special Tribunal.

Certain matters not to be inquired into

91. Neither the Board nor the Review Board shall, in the course of considering a complaint or reconsidering a decision respectively:
- (a) inquire into any matter which is the subject of any completed formal investigation or enquiry and determination conducted—
- (i) pursuant to any provision of the Constitution; or
- (ii) pursuant to this Ordinance or the *Episcopal Standards Canon 2007*, a canon or an ordinance of a diocesan Synod in any case relating to the discipline or professional standards of Church workers by a board of enquiry, tribunal or other body,
- save to the extent of any fresh evidence that was not reasonably available during the previous formal investigation or enquiry, but may take into account the finding of any such formal investigation or enquiry; or
- (b) inquire into, make any findings in relation to or take into account any alleged breach of faith ritual or ceremonial.

Matters Board and Review Board to consider

92. Where a matter is referred to the Board or application for review is made to the Review Board, the Board or Review Board (as the case may be) shall consider the complaint or decision and may make any finding on any relevant question of fact, taking into account—
- (a) the final report (if any) of the investigator including any attachments;
- (b) such report of the ESC as may be submitted;
- (c) any further material received from the complainant and the Diocesan bishop relevant to its consideration;
- (d) any other relevant evidentiary material;
- (e) any standards prescribed by the code of conduct approved under this Ordinance, whenever the conduct may have occurred;
- (f) the conduct of the Diocesan bishop as it finds it to have been;
- (g) any failure of the Diocesan bishop to comply with a provision of this Ordinance; and

- (h) in the case of the Review Board, the determination and reasons of the Board.

No costs to be awarded

93. Neither the Board nor the Review Board has the power to award costs of any complaint or matter before it.

Making of rules

94. (1) The President of the Board may make rules of the Board reasonably required in relation to the practice and procedure of the Board.
- (2) *The President of the Review Board may make rules of the Review Board reasonably required in relation to the practice and procedure of the Review Board.*
- (3) *The ESC, the respondent and any other party joined to a complaint or matter by leave of the Board or the Review Board shall comply with the rules of the Board or the Review Board (as the case may be) and with any directions given by either the Board or the Review Board.*
95. The rules of the Board or the Review Board made under this Part may provide that, in relation to the exercise of specified functions, or in relation to matters of a specified class, other than the determination of an application including the making of a recommendation, the Board or the Review Board (as the case may be) may, at the direction of the presiding member, be constituted by a single member sitting alone.

Practice and procedure

96. Subject to this Ordinance and the relevant rules-
- (a) the practice and procedure of the Board will be as directed by the presiding member of the Board; and
- (b) the practice and procedure of the Review Board will be as directed by the presiding member of the Review Board.
97. (1) In any proceedings of the Board or the Review Board:
- (a) any question of law or procedure shall be determined by the presiding member; and
- (b) any other question will be determined by majority decision of the members, and in the case of an equality of votes the opinion of the presiding member shall prevail.
- (2) *Where the Board or the Review Board is constituted by a member sitting alone who is not the President or the Deputy President, any question of law that arises must be referred to the President or Deputy President for decision and any decision made on such a reference is a decision of the Board or the Review Board (as the case may be).*
98. If a member of the Board or the Review Board, other than the presiding member, dies or is for any other reason unable to continue with any complaint referred to the Board or any matter before the Review Board, the Board or the Review Board constituted by the presiding member and the other member or members may, if the presiding member so determines, continue and complete the matter.

To whom a copy of the determination and recommendation to be provided.

99. (1) Subject to this section, each of the Board and the Review Board must cause a copy of the determination and recommendations together with reasons (whether under section 45, 58 or 74) to be provided to—
- (a) the Council of Bishops;
 - (b) the complainant;
 - (c) the respondent;
 - (d) the Director and the ESC;
 - (e) the Diocesan Council; and
 - (f) the Professional Standards Commission of the Anglican Church of Australia,
- and must cause any required relevant details to be forwarded for entry onto the national register.
- (2) Each of the Board and the Review Board must ensure that the determination and recommendations together with reasons are anonymised and redacted so as not to contain any particulars that identify or are likely to lead to the identification of a prescribed person.
- (3) Each of the Board and the Review Board must release to the public as soon as practicable –
- (a) its determination and reasons for decision ; and
 - (b) the recommendations made to the Council of Bishops, anonymised and redacted as referred to above.
- (4) If to be effective, a recommendation must identify a prescribed person, the Board or the Review Board may communicate confidentially the name of that person to the Council of Bishops.

PART 17 - THE COUNCIL OF BISHOPS

Council of Bishops must give effect

100. Subject to section 71 of this Ordinance, the Council of Bishops to whom a recommendation under section 58 or 74 of this Ordinance must, and is hereby empowered to give effect to—
- (a) the recommendation of the Board or if applicable, the Review Board; or
 - (b) any variation or modification of that recommendation, consistent with any facts found by the body making the recommendation provided that the substance of that recommendation is preserved, as the Council of Bishops sees fit.

Decision by majority of votes

101. A question before the Council of Bishops may be decided by a majority of the votes of the members of the Council of Bishops.

Publication of decision of the Council of Bishops

102. (1) Subject to subsection (2), the Council of Bishops –

- (a) must release to the public as soon as practicable a written statement disclosing its decision on any recommendation received and the steps to be taken or that have been taken pursuant to section 100 to give effect to it; and
 - (b) may release to the public such further material as it may determine with respect to the exoneration of the Diocesan bishop or any action taken against the Diocesan bishop.
- (2) The Council of Bishops must ensure that any statement or further material so released is anonymised and redacted so as not to contain any particulars that identify or are likely to lead to the identification of a prescribed person.
- (3) The Council of Bishops must cause any required relevant details of a variation or modification to a recommendation made to it to be forwarded for entry onto the national register.

PART 18 – CONFIDENTIALITY AND REPORTING

Duty of confidentiality

103. Subject to the provisions of this Ordinance, the Director, a member of the ESC, a member of the Board or the Review Board or of a Council of Bishops or a person employed or engaged on work related to the affairs of the ESC, the Board or the Review Board must not divulge information that comes to his or her knowledge by virtue of that office or position except:
- (a) in the course of carrying out the duties of that office or position;
 - (b) as may be authorised by or under this Ordinance or any protocol;
 - (c) as may be authorised or required by or under the National Register Canon 2007 or any canon prescribed by General Synod in substitution for that canon;
 - (d) in any proceedings before a Diocesan Tribunal, a provincial tribunal, the Special Tribunal or the Appellate Tribunal;
 - (e) as may be required by law; or
 - (f) to any insurer or insurance broker of a Church body or Council of Bishops where the information may give rise to or be relevant to a claim for indemnity by the Church body or Council of Bishops against the insurer or is relevant to obtaining or continuing insurance cover.

Duty of disclosure to other church bodies

104. (1) The ESC must disclose to an equivalent body information in its possession concerning alleged misconduct of a former Diocesan bishop:
- (a) which is information relevant to, or coming to notice during the course of an investigation undertaken by the equivalent body of the Diocese by whose Bishop the former Diocesan bishop is licensed or in which the former Diocesan bishop is residing; or
 - (b) which is information concerning misconduct alleged to have occurred in the diocese of the equivalent body,
- and must co-operate with the equivalent body.
- (2) *The ESC may disclose to a person or body of another church or Christian denomination exercising powers, duties or functions similar to those of the ESC, in relation to clergy, details of information in its possession concerning*

the alleged misconduct of a former Diocesan bishop and the ESC must cooperate with such person or body to whom the information is disclosed.

ESC to report annually to Diocesan Council

105. (1) The ESC must report annually to the Diocesan Council on its activities for that calendar year.
- (2) *The report of the ESC pursuant to the preceding subsection may identify the Diocesan bishop as the respondent who has been exonerated from an allegation the subject of a complaint or who has been the subject of a determination or recommendation by the Board or the Review Board, favourable to the Diocesan bishop.*

ESC to report to Primate or senior Metropolitan

106. (1) Subject to subsection (2), the ESC must, in respect of every complaint with which it is dealing under this Ordinance, report either orally or in writing to the Primate with such frequency and as fully as the Primate may reasonably require.
- (2) *If the matter relates to the conduct of the Diocesan bishop who is the Primate, such reports must be made to and at the direction of the senior Metropolitan at the time in Australia who is not the Primate.*

PART 19 – INDEMNITY

Indemnification of those with functions under the Act

107. The Diocesan Council must and is hereby authorised, out of church funds under the control of the Diocesan Council, to indemnify –
- (a) the Director and any delegate of the Director;
 - (b) any carer appointed under this Ordinance or any protocol;
 - (c) the members of the ESC and each of them;
 - (d) any delegate of the ESC;
 - (e) the members of the Board and each of them;
 - (f) the Secretary to the Board;
 - (g) any person appointed by the Board pursuant to this Ordinance;
 - (h) the members of the Review Board and each of them;
 - (i) the Secretary to the Review Board;
 - (j) any person appointed by the Review Board pursuant to this Ordinance; and
 - (k) the members of the Council of Bishops and each of them,
- for any act or omission respectively by them in good faith and in the exercise or purported exercise of powers or functions, or in the discharge or purported discharge of duties under this Ordinance in relation to the Diocesan bishop.

PART 20 – REGULATIONS

Making amending or repealing regulations

108. The Diocesan Council may from time to time make amend or repeal regulations, not inconsistent with the provisions of this Ordinance, providing for records arising out of or incidental to the operation of this Ordinance, and for all or any of the purposes whether general or to meet particular cases, which may be convenient for the administration of this Ordinance or which may be necessary or expedient to carry out the objects and purposes of this Ordinance.
-

Approved Synod 18 October 2015

EXPLANATORY MEMORANDUM

Measure for the Parochial Administration Ordinance Amendment Ordinance 2022

The purpose of this Measure is to amend the Parochial Administration Ordinance 1985.

The amendments can be broken into 4 main topics;

1. Recognising the role of the Safe Ministry Co-ordinator
2. Strengthening financial accountability in the parish
3. Amending the prerequisites for appointment as a Parish Manager
4. Addressing an oversight from the 2021 amendments to the Ordinance.

1. Recognising the role of the Safe Ministry Co-ordinator

Having adopted the national Safe Ministry to Children Canon in 2017, the Synod has developed policies and procedures that enable the diocese to comply with its obligations under the Canon.

The diocesan Safe Ministry Policy outlines the roles and responsibilities of various bodies within the diocese, including the Bishop, Diocesan Council and parish councils. It also outlines the role of the Safe Ministry Coordinator, which is key to the diocese's ability to comply with the Safe Ministry to Children Canon. By mandating the appointment of a Safe Ministry Coordinator in the Ordinance, the diocese's commitment to safe ministry in the church is affirmed.

2. Strengthening the financial accountability in the parish

The parish council is responsible for the financial affairs of the parish. Currently the treasurer does not have to be a member of the parish council, nor indeed a communicant Anglican. It would be better if the Treasurer was a member of Parish Council, was a communicant Anglican and therefore bound by all the rules of the Synod.

Under this proposed change, whilst the Treasurer must be a member of Parish Council, they won't have to personally do the accounts, they could instead cause the financial accounts and budget to be prepared by a bookkeeper, or other person who is not a member of parish council. That person could also attend parish council meetings to talk to the financial statements if necessary.

Ambiguity as to whether various officers need to be members of Parish Council is removed, by stating explicitly which roles require a person to be a member of Parish Council.

3. Amending the prerequisites for appointment as Parish Manager

In some circumstances, Diocesan Council can appoint a parish manager to look after the financial affairs of a parish. At present a parish manager must be a communicant member of the Anglican Church (s85B(4)).

This section of the Ordinance was introduced in 2000 and has not been amended since. Twenty years down the track it is becoming increasingly difficult to find suitably qualified people who meet the prerequisite.

The key issue is to ensure that the person appointed will uphold the aims and purposes of, and be accountable to, the Synod. That being the case, it is proposed to amend the relevant section(s85B(4)) to provide that either:

- the person to be appointed is a communicant member of the Church; or
- the person to be appointed has signed a declaration undertaking to submit to the internal governance of the Synod, and undertaking to act in the Synod's best interests.

This approach is consistent with the requirements for non-communicants who accept appointment to Synod committees– s9A Elections and Appointments Ordinance.

4. Addressing oversights from 2021 amendments

Amendments to s30 mean that parish accounts can in certain circumstances be reviewed instead of audited. A consequential amendment should have been made to section 17, which requires audited parish accounts to be presented to the Annual Vestry Meeting. This oversight is being addressed.

Clause Notes

Part 1 deals with necessary preliminary matters.

Clause 1 provides for the short title of the Ordinance.

Clause 2 is a relatively standard provision stipulating that the measure will come into operation on a date determined by the President.

Clause 3 provides for the amendment of the Ordinance in the manner set out in Part 2 of the Ordinance.

Part 2 contains the amendments proposed to the Ordinance.

Clause 4 provides for the amendment of section 17 to allow for the presentation of reviewed parish accounts.

Clause 5 provides for amendments

- to clarify that a treasurer must be a member of Parish Council, but does not have to maintain the parish accounts personally
- mandating the role of safe ministry co-ordinator
- removes ambiguity by clarifying which officers do and which do not need to be members of Parish Council.

Clause 6 removes the prerequisite that a Manager must be a communicant member of the Anglican Church of Australia and provides the option of signing a declaration that they submit to diocesan governance instead.

Clause 7 inserts the declaration for a prospective non Anglican Manager.

A MEASURE FOR

AN ORDINANCE to amend *The Parochial Administration Ordinance 1985*

NOW THE SYNOD HEREBY DETERMINES:

Part 1 - Preliminary

1. – Short title

This Ordinance may be cited as *The Parochial Administration Ordinance Amendment Ordinance 2022*.

2. – Commencement

This Ordinance will come into operation on a date and at a time to be determined by the President.

3. – Amendment of principal ordinance

The Parochial Administration Ordinance is amended in the manner set out in Part 2.

Part 2 - Amendment of *The Parochial Administration Ordinance*

4. – Amendment of section 17 – Annual Vestry Meeting

Section 17(3)(a) – delete “an” and substitute “a reviewed or”

5. – Amendment of section 32 – Parish Officers

(1) Amendment of Section 32(2) –

a. after “The Parish Council” insert:

(from among its own number)

b. after “to maintain” insert:

or cause to be maintained

c. after “required to” insert:

the Synod,

(2) Insertion of Section 32 (2A)

After section 32(2) insert:

32(2A) The Parish Council (not necessarily from among its own number) shall appoint a safe ministry co-ordinator to assess and advise the Synod as to the activities of the parish concerning children and vulnerable persons, and to maintain accurate records of parish safe ministry clearances.

(3) Amendment of Section 32 (3)

After “The Parish Council” insert:

(not necessarily from among its own number)

6. - Amendment of section 85B(4) – Manager of Parish Property and Financial Affairs

Section 85B(4) – delete subsection (4) and substitute:

To be eligible for appointment as a Manager a person must have, in the opinion of Diocesan Council, appropriate expertise and experience to act as a Manager and must:

- (a) be a communicant member of the Anglican Church of Australia; or
- (b) have signed a declaration in the form contained in the first Schedule.

7 – Insertion of First Schedule

After section 88 insert:

THE FIRST SCHEDULE

(Section 85B (4))

I

of

DO DECLARE

1. That I am over the age of 18 years;

2. That I submit to and agree to be bound by the Constitution of the Diocese of Adelaide and every Ordinance from time to time in force;

3. That I accept the office of

.....

and promise to perform my duties honestly, impartially, faithfully and to the best of my judgment and ability and in accordance with and subject to the said Constitution and Ordinances.

Signature:

Witness:

Date:

THE PAROCHIAL ADMINISTRATION ORDINANCE 1985

AN ORDINANCE for the management and regulation of the property and affairs of parishes and matters incidental thereto.

WHEREAS certain church trust property is or is to become vested in the Synod AND WHEREAS the Synod holds or is to hold such trust property for and on behalf of the respective parishes mentioned in the respective trust deeds relating to such trust property

AND WHEREAS it is expedient to provide for the several trusts conditions and purposes upon which the Synod holds such trust property and to provide for the administration and good government of the parishes for and on behalf of which the Synod holds such trust property NOW THE SYNOD HEREBY DETERMINES:

PART I - PRELIMINARY

Title

1. This Ordinance may be cited as "The Parochial Administration Ordinance 1985".

Arrangement

2. This Ordinance is divided into parts as follows:

PART I - PRELIMINARY (Sections 1-4)

PART II - VESTRIES

Division I - Parishes comprising one congregation
(Sections 5-7)

Division II - Parishes comprising more than one
congregation (Sections 8-11)

Division III - Optional Parish Vestries (Sections 12-16)

Division IV - Provisions applicable to all vestries
(Sections 17-27)

PART III - PARISH COUNCILS

Division I - Provisions applicable to all parishes
(Sections 28-40)

Division II - Parishes with one Vestry (Sections 41-43)

Division III - Parishes with more than one Vestry
(Sections 44-46)

PART IV - CHURCHWARDENS AND OTHER OFFICERS(Sections 47-52)

PART V - THE PARISH PRIEST (Sections 53-63)

PART VI - APPROPRIATION OF PROPERTY (Sections 64-67)

PART VII - LICENSING OF CHURCH BUILDINGS (Sections 68-69)

PART VIII - THE USE OF CHURCHES AND OTHER BUILDINGS
(Sections 70-75)

PART IX - MANAGEMENT OF PROPERTY (Sections 76-86)

PART X - MISCELLANEOUS (Sections 87 - 88)

Operation

3. This Ordinance applies to any parish on whose behalf the Synod holds any Parish Trust Property and insofar as the provisions of this Ordinance affect the management and user of trust property generally shall only affect Parish Trust Property so held for or on behalf of such parish.

Definition

4. In this Ordinance wherever the context so permits-

"licence" means a licence under the seal of the Bishop and "licensed" has a corresponding meaning;

“parish in need of support” means –

- (a) a parish which in the preceding two consecutive years has failed to pay the whole of any of the following:
 - (i) the minimum stipend of the Parish Priest determined pursuant to any Ordinance;
 - (ii) the assessment determined in accordance with The Assessment Ordinance 1985; or
 - (iii) any instalment of principal or interest due by the parish pursuant to any agreement or loan between the parish and the Synod ;
- (b) a parish which in the preceding twelve months has received a grant from the Synod towards the stipend of the Parish Priest; or
- (c) a parish which within one month of the commencement of a vacancy in the office of the Parish Priest advises the Archdeacon of the area in which the parish is situated or the Synod that in the ensuing twelve months it will be unable to pay the whole of the following:
 - (i) the minimum stipend of the Parish Priest determined pursuant to any Ordinance;
 - (ii) the assessment determined in accordance with the Assessment Ordinance 1985; and
 - (iii) any instalment of principal or interest due by the parish pursuant to any agreement for loan between the parish and the Synod;

"Parish Priest" means the member of the clergy for the time being holding the licence of the Bishop for the cure of souls in the parish;

"Parish Trust Property" means property or any estate or interest therein vested in the Synod and held by the Synod for or on behalf of any parish upon the terms of any trust deed by which it is declared that the Synod holds such property for the several trusts conditions and purposes set forth and described in this Ordinance;

"The Model Trust Deed of 1969" means the Model Trust Deed and its amendments the whole of which were revoked by The Model Declaration of Trust Ordinance 1985.

PART II - VESTRIES

Division I - Parishes comprising one congregation

Application of Division I

5. This Division applies only to a parish comprising one congregation.

Composition of Vestry

6. (1) There shall be a Vestry consisting of the Parish Priest, any assistant member of the clergy, the churchwardens and all members of the parish qualified at the time of any meeting thereof to elect lay members of the Synod in accordance with the Constitution.

(2) A quorum of the Vestry shall be 15 or such lesser number as may be approved by the Bishop on application by the Parish Priest.

Powers and Functions of Vestry

7. The Vestry shall under the leadership of and with the Parish Priest be responsible for the pastoral, educational, evangelistic and missionary work of the parish and shall have and may exercise such powers and duties as are prescribed by this Ordinance.

Division II - Parishes comprising more than one congregation

Application of Division II

8. This Division applies only to a parish comprising more than one congregation and to which Division III of this Part does not apply.

Composition of Vestry

9. (1) For each congregation in the parish there shall be a Vestry consisting of the Parish Priest, any assistant member of the clergy and all members of the

congregation qualified at the time of any meeting thereof to elect lay members of the Synod in accordance with the provisions of the Constitution.

- (2) A quorum of a Vestry shall be 5.

Powers and Functions of Vestry

10. The Vestry shall under the leadership of and with the Parish Priest be responsible for the pastoral, educational, evangelistic and missionary work of the congregation and shall have and may exercise such powers and duties as are prescribed by this Ordinance or as may be delegated to it pursuant to the provisions of section 46 of this Ordinance or with respect to the welfare and work of the congregation as distinct from the parish as a whole.

Combined Vestry Meetings

11. (1) Subject to the provisions of subsection (4) any two or more Vestry meetings of congregations in the parish may be convened at the same time and place and if a majority of the members of each Vestry present and voting shall separately resolve that the meeting proceed as a combined Vestry Meeting the provisions of subsection (2) shall apply for the duration of the meeting and any adjournment thereof.
- (2) A combined Vestry Meeting shall comprise the members of each of the Vestries which have passed the resolution referred to in subsection (1) and shall have and may exercise in relation to each congregation so represented such powers and functions of the Vestry of that congregation as are conferred on such Vestry by the provisions of this or any other Ordinance as if it were the Vestry of that congregation.
- (3) A combined Vestry Meeting shall continue to act only so long as there is present a quorum of each Vestry concerned.
- (4) This section shall not apply to any congregation on whose behalf there is held any property other than Parish Trust Property.

Division III - Optional Parish Vestries

Parish Vestry

12. In any parish comprising more than one congregation and on behalf of which or on behalf of any congregation therein there is held no property other than Parish Trust Property the Vestry of any congregation of such parish may at any time by resolution duly passed declare that the provisions of this Division shall apply to such parish. Upon all the Vestries of such parish passing such resolution (none of such resolutions in the meantime having been rescinded) the provisions of this Division shall apply to such parish.

Composition of Parish Vestry

13. (1) For every parish to which this Division applies there shall be a Parish Vestry consisting of the Parish Priest, any assistant member of the clergy and all members of the parish qualified at the time of any meeting thereof to elect lay members of the Synod in accordance with the provisions of the Constitution.
- (2) A quorum of a Parish Vestry shall be 15.

Powers and functions of Parish Vestry

14. A Parish Vestry constituted in accordance with this Division shall under the leadership of and with the Parish Priest undertake responsibility for the pastoral, educational, evangelistic and missionary work of the Parish and shall have and may exercise all the powers and duties conferred on Vestries by virtue of the provisions of this Ordinance in respect of each of the congregations in the parish, as if such Vestry were the Vestry for that congregation and shall have and may exercise any powers and duties with respect to the welfare and work of any congregation in the parish and of the parish as a whole.

Churchwardens and Nomination Committee

15. In any parish to which this Division applies -
 - (a) Churchwardens shall pursuant to Part IV of this Ordinance be elected or appointed as the case may be in respect of every congregation in the parish and shall be elected or appointed from the lay members of the congregation in respect of which they are elected or appointed;
 - (b) Subject to section 53(2a), members of the Nomination Committee to be elected by the Vestry pursuant to section 53 of this Ordinance may be any members of the Vestry.

Cessation of Operation of this Division

16. Upon receiving a petition to that effect signed by not less than ten members of any congregation in a parish to which this Division applies the Bishop may after making such enquiries as the Bishop thinks fit and in the Bishop's discretion determine that the provisions of this Division shall no longer apply to such parish and thereafter the provisions of this Division shall no longer apply to such parish, unless and until the provisions of section 12 of this Ordinance are again fulfilled.

Division IV - Provisions applicable to All Vestries

Annual Vestry Meeting

17. (1) Subject to section 20, a Vestry shall meet each year before the 31st day of March. Such meeting shall be called the Annual Vestry Meeting and shall be convened by the Parish Priest.
- (2) At every Annual Vestry Meeting the business to be transacted after prayers shall be:
- (a) Confirmation of the minutes of the preceding Annual Vestry Meeting and of every other meeting of the Vestry which may have been held since the preceding Annual Vestry Meeting, unless all such minutes shall have been confirmed by the Parish Council;
 - (b) The presentation of reports by the Parish Priest and the Churchwardens, and of any reports by members of the Synod and others;
 - (c) The reception of an audited statement of accounts of the parish and of any organisation connected with the parish;
 - (d) The appointment or election of such of the following officers as shall be requisite-
 - (i) Churchwardens
 - (ii) A representative or representatives on the Parish Council
 - (iii) Representatives on the Nomination Committee
 - (iv) Such other officers as the Vestry may be authorised to appoint;
 - (e) Consideration of recommendations (if any) from the Parish Council;
 - (f) Consideration of a budget of income and expenditure for the parish submitted by the Parish Council;
 - (g) Such other business as shall have been specified in the notice convening the meeting;
 - (h) Any other business which the Chairperson in his or her discretion shall permit to be discussed.
- (3) At every Annual Vestry Meeting in a parish to which Division II of this Part applies the business to be transacted shall also include:
- (a) The presentation of a reviewed or ~~n~~-audited statement or statements of the financial affairs of the congregation and of any organisations connected with the congregation; and
 - (b) Adoption of a budget of income and expenditure for the congregation.

Special Vestry Meetings

18. (1) The Parish Priest shall have power to convene a Special Vestry Meeting at any time and shall convene a Special Vestry Meeting whenever requested to do so by the churchwardens or by any five members of the Vestry. If having been so requested the Parish Priest shall fail to convene a Special Vestry Meeting within one calendar month of the receipt of such request the churchwardens or the five members as the case may be shall have power to convene such meeting. Where there is no Parish Priest the churchwardens shall have power to convene the Annual Vestry Meeting or a Special Vestry Meeting. The Bishop shall be given prior notice of any Vestry Meeting convened by the churchwardens or five members of the Vestry.
- (2) The only business to be transacted at a Special Vestry Meeting shall be that specified in the notice convening the meeting.

Synod Election Meeting

- 18A (1) In every parish to which Division I or Division III of Part II of the Parochial Administration Ordinance 1985 applies, if the election of lay members of the Synod does not occur at the parish's Annual Vestry Meeting in an election year referred to in section 14 of the Constitution, a Special Vestry Meeting must be convened on or before 30 June in that election year (and any such meeting will be called the Synod Election Meeting and will be convened by the parish priest).
- (2) At every Synod Election Meeting the business to be transacted after prayers shall be the election of lay members of the Synod and such other business of which proper notice shall have been given.
- (3) In every parish to which Division II of Part II of this Ordinance applies, the provisions of section 8 of the Election of Members of Synod Ordinance 1985 will apply to the election of lay members of Synod.

Notice of Meetings

19. A notice convening an Annual Vestry Meeting or a Special Vestry Meeting (as the case may be) shall be given at all services on the two Sundays next before the day upon which the meeting is to be held. Such notice shall specify the time and place of the meeting and the general nature of the business to be transacted thereat and may be given orally or in writing.

Adjournments

20. If at any Annual Vestry Meeting or at any adjournment thereof a quorum shall not be present the meeting shall stand adjourned to a day and time being not later than fourteen days thereafter as the Parish Priest or in his or her absence such churchwardens as may be present or if no churchwardens shall be present then the majority of the members of the Vestry present shall decide. A Vestry Meeting other than an Annual Vestry Meeting at which a quorum shall not be present shall

lapse. Any Vestry Meeting at which a quorum is present may by resolution of a majority of members of the Vestry present be adjourned to such time and place as such majority may decide. It shall not be requisite to give any notice of an adjourned Vestry Meeting.

Voting

21. At every meeting of a Vestry the votes of a majority of the persons present and voting shall decide every question. In the case of an equality of votes the chairperson shall be entitled to a casting vote.

Attendance by Bishop

22. (1) The Bishop or the Bishop's nominee shall be entitled to attend any meeting of a Vestry.

(2) The Bishop may at any time by notice in writing addressed to the Parish Priest, a churchwarden or the secretary of the Parish Council require to be notified of all meetings of a Vestry for such period as the notice shall specify or until further notice and the Bishop shall be given notices of such meetings accordingly.

Chairperson

23. At all meetings of a Vestry the Parish Priest shall preside as chairperson provided however that if the Bishop or the Bishop's nominee is present he or she may preside as chairperson. If there shall be no person present entitled to preside as chairperson or if being present he or she shall decline to act (either during the whole or any portion of the meeting) the Vestry shall elect one of its members to preside.

Minutes

24. Minutes shall be kept of all the proceedings of all Vestries and such minutes shall be open at all reasonable times to the inspection of any member of the Vestry.

Regulation of Business

25. Subject to the express provisions of this Ordinance a Vestry may from time to time adjourn and may regulate the conduct of its business as it shall see fit.

Power to Act in Vacancy

26. A Vestry may act notwithstanding any vacancy in the office of Parish Priest or Churchwardens.

Interpretation

27. Any reference in section 18 to churchwardens shall for the purposes of a parish to which Division III of this Part applies mean any two churchwardens in this parish.

PART III - PARISH COUNCILS

Division 1 - Provisions applicable to all parishes

Parish Councils

28. For each parish for or on behalf of which the Synod holds Parish Trust Property there shall be a Parish Council for the management of such property and the affairs of the parish.

Eligibility

28A. A person is eligible to be elected as a member of Parish Council provided that:

- (a) the person is a lay person: and
- (b) the person has attained the age of 16 years.

Powers and Functions

29. The Parish Council together with the Parish Priest is responsible for the worship, ministry and mission of the parish under the leadership of the Parish Priest. The Parish Council will work to fund and fulfil these responsibilities and, subject to the provisions of this Ordinance, shall have the following powers and duties:-

- (a) The insurance, maintenance (including in that expression all repairs), rental (where applicable) of and the payment of rates taxes and other outgoings and so much of the telephone and other charges (if any) as is not attributable to private use in respect of the rectory or other dwelling house for the time being occupied by the Parish Priest or any assistant member of the clergy;
- (b) The insurance, maintenance (including in that expression all repairs), rental (where applicable) of and the payment of rates taxes and other outgoings in respect of all churches, halls, schools and other buildings (except the rectory) erected on Parish Trust Property;
- (c) The payment of all amounts owing and payable in respect of amounts borrowed by the parish (whether for capital or interest and whether secured upon Parish Trust Property or not);
- (d) In all cases not specifically provided for in any Ordinance of the Synod, the maintenance and control of all Parish Trust Property;
- (e) The preservation and safe custody of all registers, records, documents, plate and other valuables of the parish;

- (f) Subject to the provisions of any Ordinance of the Synod, the determination of the amount of the stipends and other allowances of the Parish Priest and all assisting members of the clergy;
- (g) The payment of stipends, travelling and other allowances to the Parish Priest and assistant members of the clergy;
- (h) The payment of diocesan assessments and all other expenses payable by the parish;
- (i) The determination of the amount to be provided by each congregation in the parish to meet the expenses of the parish;
- (j) The management of the financial affairs of the parish and in particular (but without limiting the generality of the foregoing expression) the appropriation and application of all voluntary contributions (other than Baptismal offerings) and of any moneys raised or held by any organisation connected with the parish;
- (k) The provision of all things necessary for the decent performance of divine service and the administration of the sacraments;
- (l) The payment of fees and travelling expenses of any member of the clergy relieving the Parish Priest during such annual or other leave as the Parish Priest may be entitled to take;
- (m) Confirmation of the minutes of any meeting of a vestry within the Parish;
- (n) Such other powers and duties as may be specifically provided for in this or in any other Ordinance or as may be referred to it by a Vestry or by the Synod.

External Oversight of Accounts and Audit

30(1) The Parish Council must cause proper accounts to be kept of all moneys received and disbursed by it for each year ending 31 December and must cause those accounts and the accounts of all moneys received and disbursed by the Vestry or other governing body of any congregation or organisation within the parish for the same period to be reviewed or audited by a person who is authorised by the Australian Charities and Not-for-Profits Commission to conduct reviews or audits of charity accounts as the case may be, and must furnish a copy of the duly reviewed or audited accounts to each Vestry or other governing body of the congregations represented on the Parish Council.

30(2) A Parish Council may determine to have its accounts reviewed rather than audited if its annual revenue does not exceed the amount allowed for financial reports submitted to the Australian and Charities and Not-for-Profits Commission to be reviewed rather than audited.

Compliance with Legislative Requirements

- 30A The Parish Council shall ensure that all financial records are kept and all payments are made in accordance with the requirements from time to time of the Australian Taxation Office or other lawful authority.

Agent of the Synod

31. Except as in this Ordinance expressly or impliedly otherwise provided the Parish Council shall be the agent of the Synod to execute carry out and perform all matters connected with the administration of Parish Trust Property held by the Synod for or on behalf of the parish, and shall fulfil and give effect to all the duties powers and trusts undertaken by entrusted to or conferred upon the Synod, provided that if and so often as the Parish Council shall neglect or refuse to carry out exercise and fulfil the duties powers and trusts undertaken by entrusted to or conferred upon the Synod, then the Synod may appoint some other person to be its agent to execute carry out or perform any or all of such duties powers and trusts.

Parish Officers

32. (1) The Parish Council (not necessarily from among its own number) shall appoint a parish secretary who shall be the liaison officer to whom diocesan notices and correspondence may be sent and who shall perform such other functions as the Parish Council shall determine.

- (2) The Parish Council ([from among its own number](#)) shall appoint a treasurer to maintain [or cause to be maintained](#) accurate financial records and to report as required to the [Synod, the](#) Vestry, the Parish Council, and the Australian Taxation Office.

- [\(2A\) The Parish Council \(not necessarily from among its own number\) shall appoint a safe ministry co-ordinator to assess and advise the Synod as to the activities of the parish concerning children and vulnerable persons, and to maintain accurate records of parish safe ministry clearances.](#)

- (3) The Parish Council ([not necessarily from among its own number](#)) may appoint such other officers to perform such functions as it may determine.

Meetings of Parish Council

33. The Parish Priest shall convene meetings of the Parish Council at such intervals as the Parish Council shall from time to time determine but in any event not less frequently than once in every four months. The Parish Priest shall also convene a meeting of the Parish Council whenever requested in writing to do so by not less than one third of its members. Where there is no Parish Priest any two churchwardens may convene meetings of the Parish Council.

Quorum

34. One half of the members of the Parish Council shall constitute a quorum unless, at its first meeting after the Annual Vestry Meeting of the parish or of each congregation of the parish as the case may be, the Council shall determine otherwise, provided that the quorum so determined shall be not less than one third of the members of the Parish Council or five, whichever shall be the greater. The Council may act notwithstanding any vacancy in its membership or any failure on the part of the Parish Priest or any Vestry to appoint or elect members.

Vacancies

35. In the event of a casual vacancy occurring in the members of the Parish Council appointed by the Parish Priest the same shall be filled by the Parish Priest. In the event of a casual vacancy occurring in the members elected by a Vestry the same shall be filled by that Vestry.

Voting

36. At every meeting of the Parish Council the votes of a majority of the persons present and qualified to vote shall decide every question. In the case of an equality of votes the chairperson shall be entitled to a casting vote.

Attendance by Bishop

37. (1) The Bishop or the Bishop's nominee shall be entitled to attend any meeting of the Parish Council.
- (2) The Bishop may at any time by notice in writing addressed to the Parish Priest, a churchwarden or the secretary of the Parish Council require to be notified of all meetings of the Parish Council for such period as the notice shall specify or until further notice and shall be given notices of such meetings accordingly.

Chairperson

38. At all meetings of the Parish Council the Parish Priest shall preside as chairperson provided however that if the Bishop or the Bishop's nominee is present he or she may preside as chairperson. If there shall be no person present entitled to preside as chairperson or if being present shall decline to act (either during the whole or any portion of the meeting) the Parish Council shall elect one of its members to preside.

Minutes

39. Minutes shall be kept of all the proceedings of the Parish Council and such minutes shall be open at all reasonable times to the inspection of any member of the Parish Council.

Regulation of Business

40. Subject to the express provisions of this Ordinance the Parish Council may from time to time adjourn and may regulate the conduct of its business as it shall see fit.

Division II - Parishes with One Vestry

Application of this Division

41. This Division applies only to a parish comprising one congregation and a parish to which the provisions of Division III of Part II apply.

Composition of Parish Council

42. (1) The Parish Council shall consist of –
- (a) The Parish Priest;
 - (b) Any full-time assistant member of the clergy of the parish and any permanent part-time assistant member of the clergy in receipt of not less than one-third of the minimum stipend paid by the parish;
 - (c) The churchwardens of every congregation within the parish;
 - (d) Such other members of the Vestry as may be elected by the Vestry in accordance with subsection (2); and
 - (e) For every three members elected pursuant to paragraph (d) of this subsection, one member of the Vestry appointed by the Parish Priest if he or she so desires.
- (2) The number of members of the Vestry to be elected to the Parish Council shall be determined by the Vestry and such members shall be elected at the Annual Vestry Meeting and at such other times as a vacancy shall occur. Members so elected to the Parish Council may be appointed for one or two years as determined from time to time by the Annual Vestry Meeting.
- (3) Any determination made pursuant to subsection (2) shall remain in force until any further determination is made.

Exercise of Powers

43. The Parish Council shall exercise its powers subject to any directions or recommendations of the Vestry.

Division III - Parishes with more than One Vestry

Application of this Division

44. This Division applies only to a parish to which the provisions of Division II of Part II apply.

Composition of Parish Council

45. (1) The Parish Council shall consist of -
- (a) The Parish Priest,
 - (b) Any full-time assistant member of the clergy of the parish and any permanent part-time assistant member of the clergy in receipt of not less than one-third of the minimum stipend paid by the parish,
 - (c) The churchwardens of every congregation within the parish (whether the land on which the congregation meets is Parish Trust Property or not),
 - (d) Such other eligible members of Vestries within the Parish as may be elected in accordance with the provisions of subsection (2),
- and
- (e) For every three members elected pursuant to paragraph (d) of this subsection, one communicant appointed by the Parish Priest, if he or she so desires.
- (2) The number (if any) of members of Vestries within the Parish to be elected to the Parish Council and the Vestry or Vestries by which they shall be elected shall be determined by a majority of the Parish Priest and all the churchwardens as aforesaid and such member or members shall be elected at the Annual Vestry Meeting of the Vestry or Vestries concerned and at such other time as a vacancy shall occur. Members so elected to the Parish Council may be elected for one or two years as determined from time to time by a majority of the Parish Priest and all the churchwardens as aforesaid.
- (3) Any determination made pursuant to subsection (2) shall remain in force until any further determination is made.

Delegation of Powers

46. Subject to the over-riding powers of the Parish Council in respect of other paragraphs of section 29 of this Ordinance the Parish Council may from time to time delegate to the Vestries or other governing bodies of any congregations or organisations within the parish all or any of the powers and duties specified in paragraphs (b), (d), (j), (k) and (m) of section 29 of this Ordinance insofar as they affect the congregation or organisation concerned.

PART IV - CHURCHWARDENS AND OTHER OFFICERS

Initial Appointment

47. In any case, where no churchwardens have already been appointed to a congregation, churchwardens being communicant members of the Church shall be appointed in the first instance by the Bishop. Until there shall be a Vestry the churchwardens so appointed shall have power to act in all matters as fully and effectually as if they constituted a Vestry.

Qualifications

48. After there shall be a Vestry, churchwardens shall be lay persons who are qualified to elect lay members of the Synod for the Parish in accordance with the Constitution of the Diocese and shall be not less than eighteen years of age.

Election

49. At each Annual Vestry Meeting the Vestry shall elect one churchwarden and at or within seven days after each Annual Vestry Meeting the Parish Priest shall appoint a churchwarden. If at any Vestry Meeting at which a churchwarden should be elected the Vestry shall neglect or refuse to appoint a churchwarden then the Parish Priest shall be at liberty to appoint a churchwarden on behalf of the Vestry but such appointment shall not take effect until ratified by the Bishop. If at any time the Parish Priest shall neglect or refuse to appoint a churchwarden as aforesaid then the Bishop shall make the appointment on his or her behalf.

Vacancies

50. (1) In the event of a casual vacancy in the office of churchwarden occasioned by death or resignation or in the event of the Bishop certifying that a churchwarden is unable or refuses to act in accordance with the lawful instructions of the Vestry, the Parish Priest shall appoint a qualified person to fill such vacancy if the churchwarden whose place is to be supplied was appointed by the Parish Priest; if the churchwarden whose place is to be supplied was appointed by the Vestry then a Special Vestry Meeting shall be held to fill the vacancy. It shall be lawful for the Bishop to appoint a person to fill any extraordinary vacancy which shall remain unfilled at the expiration of two calendar months after the happening of the contingency giving rise to such vacancy.
- (2) If on any occasion when a churchwarden should be appointed by the Parish Priest there is a vacancy in the office of Parish Priest the appointment shall be made by the Vestry but the appointment shall not take effect until ratified by the Bishop.

Duties

51. (1) In addition to those duties prescribed in the Book of Common Prayer the duties of churchwardens shall include the following -
- (a) To co-operate with the Parish Priest in the initiation conduct and development of the work of God and the Church within the parish;

- (b) To be the executive officers of the Vestry and of the Parish Council in respect of matters pertaining to the congregation to which they are appointed;
 - (c) To maintain order in the church and church grounds;
 - (d) To ensure that all things pertaining to the celebration of divine service are provided and to see that everything is fit and proper for the due performance thereof;
 - (e) To make available all books muniments and records for the inspection of the Bishop or the Archdeacon of the district in which the parish is situated and to supply them with any information or explanations when requested to do so.
 - (f) To report to the Bishop any serious neglect or failure on the part of the Parish Priest in the fulfilment of his or her pastoral duties;
 - (g) To perform such duties as are prescribed by this or any other Ordinance;
 - (h) Subject to any direction of the Parish Council or the Vestry as the case may be to receive bank and disburse moneys on behalf of the parish or congregations as the case may be.
- (2) The Parish Council may determine that any of the functions referred to in subsection (1) shall be carried out by the parish secretary.

Other Officers

52. The Parish Priest shall have the right to appoint organists, vergers, servers of the sanctuary, superintendents and other officers of any Sunday School and any other officers he or she may deem advisable, and he or she shall have the right to dismiss any such officers, but the salaries or allowances of such officers shall be determined by the Parish Council or a Vestry as the case may be.

PART V - THE PARISH PRIEST

Nomination Committee

53. (1) When a vacancy occurs in the office of Parish Priest a Nomination Committee constituted as hereinafter provided shall nominate to the Bishop a suitable person being a Clerk in Holy Orders to be licensed to the parish.
- (2) Subject to subsections (2a), (3) and (5), the Nomination Committee will be constituted by—
- (a) the Bishop; and
 - (b) the Archdeacon of the district in which the parish is situated; and

- (c) the churchwardens; and
 - (d) one clerical Diocesan Nominator selected by the Bishop; and
 - (e) one lay Diocesan Nominator selected by the Bishop; and
 - (f) —
 - (i) in the case of a parish comprising only one congregation which is subject to Part II Division 1 of this Ordinance—up to three eligible lay persons appointed by the Vestry to be representatives on the Nomination Committee;
 - (ii) in the case of a parish comprising two or more congregations which is subject to Part II Division 2 of this Ordinance —one eligible lay person for each congregation, with each Vestry making an appointment of an eligible lay person to be a representative on the Nomination Committee;
 - (iii) in the case of a parish comprising two or more congregations which is subject to Part II Division 3 of this Ordinance — one eligible lay person for each congregation, appointed by the Vestry to be representatives on the Nomination Committee.
- (2a) For the purposes of subsection (2)(f), a member of the Vestry is eligible to be a representative on the Nomination Committee if —
- (a) the person is not an employee of the parish; and
 - (b) no other member of the same family household is a member of the Nomination Committee at the same time.
- (3) When a parish includes a congregation on behalf of which the Synod holds no Parish Trust Property and which is governed by an instrument of trust which makes provision for the appointment of a member of the clergy to the congregation, the Nomination Committee shall not (unless they are otherwise appointed pursuant to such instrument of trust) include the churchwardens of that congregation or any person appointed by the Vestry of that congregation, but shall include the persons appointed pursuant to such instrument of trust to nominate a Clerk in Holy Orders for appointment as the member of the clergy to that congregation.
- (4) For the purposes of subsection (2)(d) and (e), the Synod is to elect—
- (a) four members of the clergy to be clerical Diocesan Nominators; and
 - (b) four lay members of the Synod to be lay Diocesan Nominators.
- (5) A Vestry is not required to make an appointment under subsection (2)(f).

Meetings of Nomination Committee

54. (1) When a vacancy in the office of Parish Priest shall have occurred or when the Bishop shall have received notice that such a vacancy will occur, the Bishop shall convene a meeting of the Nomination Committee. Such meeting and any subsequent meeting of the Nomination Committee, other than an adjournment of a meeting, shall be convened by giving not less than fourteen days' notice in writing to the Archdeacon of the district in which the parish is situated, the Diocesan Nominators and the churchwardens. The churchwardens shall give not less than 7 days' notice to the persons (if any) appointed to the Nomination Committee by the Vestry or Vestries.
- (2) Notwithstanding the provisions of section 17 (2)(d), a Nomination Committee which has once met, shall remain in office until a person nominated in accordance with this Part and whom the Bishop is willing to license to the office accepts the office.

Information to the Bishop

55. Before the meeting of the Nomination Committee the Parish Council and Churchwardens shall furnish to the Bishop in writing such financial and other information regarding the parish as the Bishop may require.

Chairperson of Nomination Committee

56. At all meetings of the Nomination Committee the Bishop if present and willing to act shall preside. In the absence of the Bishop or if the Bishop being present shall decline to act the Archdeacon of the district shall preside.

Quorum

57. The proceedings of the Nomination Committee shall not be invalidated by reason of the absence or unwillingness to act of any of its members. One half of the members of the Nomination Committee shall constitute a quorum provided that either the Bishop or the Archdeacon of the district in which the parish is situated is present.

Nomination

58. The nomination of a person to be licensed to be the parish priest shall be in writing in a form prescribed by the Bishop.

Admission of Nominee

59. Subject to the person nominated accepting the office and to the Bishop granting him or her a licence in respect thereof, the Synod shall admit the person so nominated to exercise the office of Parish Priest in the parish, and the Synod shall give effect to every sentence of suspension or withdrawal of licence by the Bishop which shall or may at any time be pronounced in accordance with the terms of the licence given to the Parish Priest by the Bishop or pursuant to any Ordinance.

Power of Bishop to Appoint

60. Notwithstanding anything hereinbefore contained the Bishop shall have the power to appoint a member of the clergy to fill a vacancy in the office of Parish Priest (and the Synod shall admit a Parish Priest so appointed):

(a) if within six calendar months of the date of any notice given by the Bishop pursuant to section 54 convening a meeting of the Nomination Committee such Committee shall not have nominated to the Bishop a duly qualified person to be licensed to the parish;

or

(b) if the parish at the time of commencement of the vacancy is a parish in need of support.

Exchange of Offices

61. The Bishop may at any time and at the request of the members of the clergy concerned shall propose an exchange of offices between that of the Parish Priest and that of some other member of the clergy and may give effect thereto with consent of the members of the clergy concerned, the Nomination Committee and the person or body entitled to appoint a member of the clergy to that other office. The provisions of section 59 shall apply mutatis mutandis to any person so appointed as the Parish Priest as if such person had been nominated by the Nomination Committee to exercise the office of Parish Priest in the parish.

Declaration of Vacancy

- 62.(1) If in the opinion of the Bishop the Parish Priest (except in the case of sickness or injury) has absented himself or herself from his or her cure for more than four weeks in any one calendar year over and above any annual or long service leave to which he or she may be entitled without having first obtained the consent of the Bishop the Bishop may notify the Parish Priest by notice in writing posted to the last known address of the Parish Priest and in such case shall notify the parish secretary that the Bishop intends to declare that a vacancy in the office of Parish Priest exists. Subject to the provisions of subsection (2) the Bishop may at the expiration of four weeks from the date of such notice declare that a vacancy in the office of Parish Priest exists and thereupon a vacancy within the meaning of section 53 shall be deemed to exist.
- (2) Within four weeks of the date of the notice referred to in subsection (1) the Parish Priest may appeal to the Diocesan Tribunal constituted under the Clergy Discipline Ordinance 1983 against the decision to declare a vacancy in the office of Parish Priest. If the Parish Priest shall prove to the satisfaction of the Tribunal that he or she was not absent from his or her cure as aforesaid then the Tribunal shall declare that no vacancy in the office of Parish Priest exists. If the Parish Priest shall not prove to the satisfaction of the Tribunal that he or she was not absent as aforesaid the Tribunal shall declare that a vacancy in the office of Parish Priest exists and thereupon a vacancy within the meaning of section 53 shall be deemed to exist.

Locum Tenens

63. The Bishop shall be at liberty to appoint a member of the clergy to officiate in the parish during any vacancy in the office of Parish Priest and the Synod shall admit such member of the clergy to officiate accordingly. The Parish Council shall be responsible for the payment of the travelling expenses and the appropriate stipend of the person or persons so appointed in accordance with the scale (if any) determined by the Synod. A member of the clergy so appointed shall have and may exercise all the powers and functions of the parish priest during the period of his or her appointment.

PART VI - APPROPRIATION OF PROPERTY

Licensed Buildings

64. The Synod with the consent of the Parish Council shall be at liberty to set apart any portion of Parish Trust Property for a church mission hall or other building intended to be licensed by the Bishop for the purpose of worship and for such other purposes (not being inconsistent with the Declaration of Trust pursuant to which the said land is vested in the Synod) and with the like consent to revoke any such setting apart. The name of the church mission hall or other building erected or to be erected upon any portion of the Parish Trust Property so set apart shall unless such name shall have been included in the said Declaration of Trust be determined by the Parish Council subject nevertheless to the approval of such name by the Bishop.

Rectory and Other Uses

65. The Synod with the consent of the Parish Council shall be at liberty to set apart any other portion of Parish Trust Property for a rectory glebe school hall cemetery or for any other purpose and with the like consent shall be at liberty from time to time to revoke such setting apart or to vary the purpose for which any such other portion of the Parish Trust Property shall have been set apart provided that the purpose for which any such other portion of the Parish Trust Property shall be set apart shall not be a purpose inconsistent with the said Declaration of Trust.

Other Christian Denominations

66. For the purposes of this Ordinance the use of a church mission hall or other building or any portion thereof or any other portion of Parish Trust Property for the purpose of any other Christian denomination shall not of itself be deemed to be a purpose inconsistent with the said Declaration of Trust.

Transitional

67. Any Parish Trust Property set apart for the purposes specified in section 64 or 65 of this Ordinance at the time such property becomes subject to the provisions of this Ordinance shall be deemed to have been so set apart pursuant to the provisions of this Ordinance.

PART VII - LICENSING OF CHURCH BUILDINGS

Petition to License

68. Upon the petition of the Parish Priest and the churchwardens of the congregation concerned the Bishop may license a building on Parish Trust Property. The form of petition shall be as prescribed by the Bishop.

Revocation of Licence

69. (1) A proposal to revoke a licence for a church building may be initiated after consultation with the parish by the Parish Priest, the Parish Council, the Archdeacon of the area in which the parish is situated or the Bishop.
- (2) The proposal shall be considered by the Bishop who shall consult with the Diocesan Council and invite submissions from the Archdeacon of the area in which the parish is situated, the parish itself, members of the congregation who normally attend divine service in the building, the Parish Priest, the Parish Council and any other person or body the Bishop considers to be affected.
- (3) The Bishop will consider any submission and may decide to revoke such licence by giving notice to the Parish Priest and the Parish Council.
- (4) The revocation shall be in writing and shall state the reasons for the same a copy of which shall be tabled at the next ensuing session of the Synod and provided to each person or body who or which has provided a submission to the Bishop in accord with sub-section (2).

PART VIII - THE USE OF CHURCHES AND OTHER BUILDINGS

Use of Buildings

70. (1) A building licensed by the Bishop shall only be used for -
- (a) the performance of divine service and administration of the sacraments and other rites and ceremonies of the Church according to the use of The Anglican Church of Australia;
 - (b) the giving of religious instruction according to the principles of The Anglican Church of Australia, and
 - (c) such other purposes as the Bishop, the Parish Priest, and the Parish Council may approve.
- (2) No person other than the Parish Priest, the Bishop or a Commisary shall officiate at the performance of divine service or administer the sacraments or other rites and ceremonies as aforesaid in any building licensed by the Bishop unless the following consents are first obtained:

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- (2) No person other than the Parish Priest, the Bishop or a Commisary shall officiate at the performance of divine service or administer the sacraments or other rites and ceremonies as aforesaid in any building licensed by the Bishop unless the following consents are first obtained:

- (a) for any other member of the clergy or lay reader licensed by the Bishop, that of the Parish Priest;
 - (b) for any other person, those of the Parish Priest and the Bishop save that if the Parish Priest be suspended from office or be incapable through sickness or injury of giving such consent the consent of the Bishop alone shall suffice.
- (3) No unlicensed building or place on Parish Trust Property shall be used for the performance of divine service or the administration of the sacraments and other rites and ceremonies of the Church according to the use of The Anglican Church of Australia unless the Bishop shall have given permission for such use in such building or place.

Consent for use of Buildings

71. No building on Parish Trust Property shall be used for any purposes without the consent of the Parish Priest or in the case of a vacancy in the parish without the consent of the Archdeacon of the district in which the parish is situated.

Parish Priest to have Access

72. The Parish Priest shall have access to the church and other buildings used for parochial purposes at all times and may officiate at the performance of divine service administer the sacraments and perform all other rites and ceremonies of the Church according to the use of The Anglican Church of Australia without hindrance except as hereinafter provided and shall for such purposes have the keys of the church and other buildings used for parochial purposes.

Rectory

73. The Synod shall permit the Parish Priest to occupy the Rectory (if any) but may with the consent in writing of the Parish Priest from time to time let the rectory in accordance with the provisions of section 77 of this Ordinance.

Forfeiture

74. In case the Parish Priest shall be legally divested of his or her office, he or she shall ipso facto forfeit and be absolutely deprived of all and singular his or her rights, privileges and interest in or respecting all property of the parish.

Schools

75. Where a school is conducted on any portion of Parish Trust Property the regulations governing the conduct of such school shall be such as shall from time to time be approved by the Diocesan Council.

PART IX - MANAGEMENT OF PROPERTY

Management and Control

76. In all cases not herein or in any other Ordinance otherwise specifically provided for the Parish Council shall be responsible for the management and control of Parish Trust Property.

Leasing

77. The Synod with the consent of the Parish Council shall be at liberty to let any land not for the time being set apart for the purpose referred to in section 64 of this Ordinance and any other land whether set apart for any of the purposes referred to in section 65 of this Ordinance or otherwise not for the time being required to be used for the purpose (if any) for which the same shall have been set apart provided however that no Parish Trust Property shall be let for a period exceeding twenty one years without the consent of the Bishop also being in each instance first had and obtained.

Mortgaging

78. Notwithstanding anything hereinbefore contained upon receiving from the Parish Council a resolution duly passed by it and certified in manner hereinafter appearing requesting the Synod so to do or consenting to the Synod so doing the Synod may in its discretion mortgage any Parish Trust Property other than property for the time being set apart for use as a cemetery or upon which any consecrated church shall be erected for such amount and upon such terms and conditions as shall seem fit to the Synod and the amount so raised on mortgage shall be applied for such purposes (being purposes either expressly stated in the said resolution or if no such purposes shall have been so stated then purposes in connection with the extension or development of the work of The Anglican Church of Australia within the Diocese) as the Synod shall determine. Moneys so raised on mortgage and applied not for any purpose expressly stated in the said resolution but for purposes in connection with the extension or development of the work of The Anglican Church of Australia within the Diocese selected by the Synod shall not be deemed to be "amounts borrowed by the parish" within the meaning of section 29 of this Ordinance.

Sale or Transfer: Parish Procedures

79. Where it is desired to sell or transfer any Parish Trust Property the following provisions shall apply –

(aa) An amount-

- (i) equal to 40% of the net proceeds of sale shall be retained by the Synod for the purposes of ministry development determined by the Synod; and

- (ii) equal to an additional 5% shall be set aside for the support of ministry and mission in areas of need beyond the Diocese at the discretion of the Bishop of the diocese after consultation with the Parish Council,

unless the Synod determines either generally or in a particular case that a lesser or no amount shall be so retained.

- (a) The Parish Council on whose behalf the property is held shall first resolve that the Synod be requested to sell or transfer such property. Such resolution shall specify the purpose or purposes (not being a purpose or purposes inconsistent with the Declaration of Trust pursuant to which the property is vested in the Synod) for which the purchase money, subject to paragraph (aa), shall be applied and may specify any terms and conditions of the proposed sale or transfer. If the resolution does not specify any minimum price or by whom the minimum price shall be determined the Parish Council shall have power to determine the same at a subsequent time.
- (b) A copy of the resolution and notice of the date of the meeting of the Parish Council at which confirmation of the resolution is to be considered shall be read at each service in the Parish held on the two consecutive Sundays immediately following the meeting at which the resolution is passed.
- (c) Any objections to the resolution by members of the parish or groups of members of the parish shall be transmitted in writing to the Parish Priest or the parish secretary to reach them before the meeting of the Parish Council at which confirmation of the resolution is to be considered.
- (d) Any such objections shall be considered by the Parish Council at a meeting held not less than three weeks after the meeting at which the resolution was passed and the resolution shall not be effective unless confirmed at such meeting or any adjournment thereof.
- (e) The resolution so confirmed shall be effective for a period of twelve calendar months from the date of its first being passed as aforesaid.

Sale or Transfer: Synod Procedures:

80. (1) Upon receiving from the Parish Council a resolution duly passed and confirmed pursuant to section 79 of this Ordinance and certified in manner hereinafter appearing together with copies of any objections to the resolution the Synod may in its discretion sell or transfer any Parish Trust Property for such amount and on such terms and conditions as shall seem fit to the Synod. Subject to paragraph (aa) of section 79, the purchase money shall be applied for the purpose or purposes stated in the resolution and approved by the Synod.
- (2) No such resolution shall be considered by the Synod unless accompanied by a certificate under the hand of the Parish Priest or the person or persons presiding at the meetings of the Parish Council at which the resolution was passed and confirmed and countersigned by not less than two members of the Parish Council that such resolution was duly passed and confirmed as aforesaid, that the provisions of sections 79 of this Ordinance have been complied with and certifying whether or not there were any objections to the resolution.

Extension of Time

81. (a) The Parish Council may by resolution passed within two calendar months prior to the expiration of the period determined pursuant to paragraph (e) of section 79 of this Ordinance apply to the Synod for an extension of not more than 12 calendar months to the period so determined.
- (b) Upon receiving from the Parish Council a resolution duly passed pursuant to paragraph (a) of this section and certified in the manner hereinafter appearing together with a statement of the reason or reasons for such application the Synod may in its discretion extend by not more than 12 calendar months the period determined pursuant to paragraph (e) of section 79 of this Ordinance.
- (c) No such resolution shall be considered by the Synod unless accompanied by a certificate under the hand of the Parish Priest or the person presiding at the meeting of the Parish Council at which the resolution was passed and countersigned by not less than two members of the Parish Council that such resolution was duly passed.

Termination of Registration

82. Notwithstanding anything hereinbefore contained if the Synod holds Parish Trust Property on behalf of a parish whose registration by the Synod has been terminated the Synod may upon the request of the Archdeacon of the district in which such Parish Trust Property is situated lease sell or transfer any such Parish Trust Property and may apply the proceeds of such leasing sale or transfer for such purpose or purposes of The Anglican Church of Australia within the Diocese of Adelaide as the Synod may determine.

Buildings, Fittings, Furniture and Ornaments

83. (1)(a) No building shall be erected or placed on the Parish Trust Property, and
- (b) no building erected on the Parish Trust Property shall be altered, added to, demolished or removed from Parish Trust Property,
- without the consent of the Parish Council, the Parish Priest and the Bishop being in each instance obtained.
- (2)(a) No fittings furniture or ornaments shall be installed, placed in or removed from any building licensed for worship erected on Parish Trust Property, and
- (b) no such fittings, furniture or ornaments shall be altered or added to
- without the consent of the Vestry of the congregation concerned, the Parish Priest and the Bishop being in each instance obtained.
- (3) Any erection, placement, installation, alteration, addition, demolition or removal contrary to the provisions of this section shall forthwith be demolished, removed, restored, rebuilt, replaced or made good as the case may be by the Parish Council or Vestry as the case may be upon the Bishop requiring the same to be done and in accordance with any directions or modifications which the Bishop may direct.

Insurance

84. (1) Subject to subsection (3) all buildings, fences and other improvements for the time being erected on Parish Trust Property and all personal property and money held on behalf of the parish shall be insured and kept insured to the satisfaction of the Diocesan Council in such amounts as the Diocesan Council may from time to time prescribe and in the meantime as the Parish Council or the Vestry as the case may be shall consider appropriate against loss or damage by fire, storm, tempest, theft, and such other contingencies (if any) as the Diocesan Council may from time to time determine.
- (2) All such policies of insurance effected pursuant to the requirements of subsection (1) shall be in the name of the Synod for the benefit of the parish and shall be placed in the keeping of the Secretary of Synod provided that if any such buildings or improvements should be mortgaged such policies may if required be in the name of the mortgagee in addition and may be held by such mortgagee.
- (3) The Diocesan Council in the name of the Synod and on behalf of and at the expense of the parish may effect such policies of insurance in respect of:
- (a) The property and risks mentioned in subsection (1) upon the conditions agreed to by the Diocesan Council;

(b) The liability of the Synod or any officers of the Synod or of the parish for personal injury or damage to property; and

(c) Personal injury by accident to voluntary workers.

The amounts paid or payable by the Synod on behalf of the parish pursuant to this section shall be paid on demand by the Parish Council to the Synod or to such person or body as the Synod may from time to time direct.

(4) The Parish Council shall be entitled in the name and on behalf of the Synod to settle any claim or apply and expend the whole or any part of the proceeds received from any policy of insurance effected pursuant to sub-section (1) to replace, repair or rebuild the lost or damaged property or for any other purpose whatsoever where the aggregate amount of such claim or such proceeds does not exceed the amount fixed from time to time by the Diocesan Council for the entering into by the Parish of any agreement, contract or arrangement in accordance with Section 85 of this Ordinance. In all other cases the settlement of any insurance claim and the application and expenditure of any proceeds received therefrom shall be determined by the Diocesan Council which shall have regard to any expressed wish of the Parish Council.

Contracts by Parish

85. The Parish Council shall not enter into any agreement contract or arrangement at any time for the maintenance of property for the time being subject to the provisions of this Ordinance or for the erection of any building on Parish Trust Property for an amount in excess of the amount fixed from time to time by the Diocesan Council without the prior written consent of the Diocesan Council.

Parish Contracts and Synod Loans to Parishes Guaranteed by the Synod

85A (1) The Synod may

(a) agree to act as Guarantor of the undischarged obligations of a Parish Council with respect to any agreement, contract or arrangement;

(b) lend money to a Parish Council for any proper purpose upon such terms and conditions as the Synod shall think fit.

The provisions of this section shall apply as between the Synod and the Parish Council to any agreement, guarantee or loan.

(2) (a) If the Parish Council shall default in the performance of a Parish Obligation which has been guaranteed by the Synod and a demand is made upon the Synod to perform that obligation then the Synod shall forthwith give notice to the Parish Council that it has received such demand and call upon the Parish Council to remedy the default;

(b) If the Parish Council shall default in the performance of a Parish Obligation under an agreement for a loan from the Synod, the Synod

may give notice to the Parish Council demanding repayment of the outstanding principal and interest thereon.

- (3) If within one (1) month of the date of the posting of the notice the Parish Council shall have failed to discharge the unfulfilled obligation then:-
- (a) other than as to Parish Trust Property which is for the time being set apart for use as a cemetery or upon which any consecrated church shall be erected the foregoing provisions of this Ordinance which operate to vest the control and management of Parish Trust Property in the Parish Council as agent of the Synod shall cease to apply to all such other Parish Trust Property ("the applicable Parish Trust Property");
 - (b) the control and management of the applicable Parish Trust Property shall be vested in the Diocesan Council until the provisions of this sub-section cease to apply; and
 - (c) the right of any Church Warden, Parish Secretary or other person authorised to operate upon any Parish account ("the usual parish officers") opened pursuant to the provisions of paragraph (h) of sub-section (1) of Section 51 of this Ordinance shall be suspended (without prejudice to the obligation of the Church Warden to receive and bank money received on behalf of the Parish or congregation as the case may be).
- (4) For the purpose of discharging the unfulfilled Parish Obligation the Synod may with respect to any applicable Parish Trust Property:-
- (a) mortgage such applicable Parish Trust Property or any part thereof for such amount and upon such terms and conditions as shall seem fit to the Diocesan Council; or
 - (b) sell any such applicable Parish Trust Property or any part thereof in its absolute discretion for such amount and on such terms and conditions as shall seem fit to the Diocesan Council .

The Synod shall be entitled to receive the proceeds of any such mortgage or sale which it shall apply first towards the discharge of the unfulfilled Parish Obligation, secondly to pay any costs or expenses incurred by the Synod and thirdly to account to the Parish Council for and make payment of any surplus.

- (5) Whilst the provisions of sub-section (3) apply then none of the usual parish officers shall be entitled to transact upon any general Parish operating account opened pursuant to the provisions of Section 51(1)(h) save for the obligation to ensure that all Parish money received during such period is nevertheless paid into such account. The Diocesan Council shall appoint an operator for any such account to effect the disbursement of moneys on behalf of the Parish. The Secretary of Synod shall forthwith give the Manager of the

branch of the bank or financial institution where such account is maintained notice of the operator appointed by Diocesan Council together with:

- (a) a copy of the provisions of this Section; and
 - (b) a copy of the relevant resolution of the Diocesan Council; and
 - (c) the specimen signature of the new operator.
- (6) Whilst the provisions of sub-section (3) apply (unless the Diocesan Council otherwise resolves) no person elected as a representative of the Parish or of any congregation thereof shall be entitled to attend or take part in the deliberations of any session of the Synod.
- (7) Once the breach of a Parish Obligation has been remedied and, if applicable, the Synod has no outstanding obligation as Guarantor, the Diocesan Council may resolve that the provisions of subsection (3) hereof shall cease to apply to the Parish Trust Property under its control and thereupon:-
- (a) the Parish Trust Property then remaining under the management and control of the Diocesan Council shall revert to the management and control of the Parish Council; and
 - (b) the person appointed by the Diocesan Council to operate upon any Parish account shall cease to be the operator and those persons who were authorised at the time the provisions of sub-section (3) hereof commenced shall again be entitled to operate upon such account.
- (8) Any notice of the Parish Council on behalf of the Synod shall be signed by the Secretary of the Synod (or such other officer for the time being discharging the functions of the Secretary of Synod) and shall be deemed to be served upon the Parish Council if forwarded by ordinary pre-paid post to any two of the Parish Priest, a Warden or the Parish Secretary.
- (9) In this Section -
- (a) the expression "guarantor" or "guarantee" (whether used as a noun or a verb) shall mean and include in relation to any Agreement:-
 - (i) any liability incurred by the Synod at the request of a Parish Council which is based upon a promise that the Parish will pay, fulfil and discharge all the obligations arising from such Agreement; and
 - (ii) any Agreement entered into by a Parish Council or by any authorised officer on the understanding that the Synod will guarantee the due performance by the Parish or such parochial officer of the terms of such Agreement;

- (b) "Parish Obligation" means -
 - (i) an obligation of a Parish Council with respect to any agreement, contract or arrangement of which the Synod has agreed to act as Guarantor, or
 - (ii) an obligation to repay a loan (together with interest if applicable) advanced by the Synod.

Manager of Parish Property and Financial Affairs

85B (1) If-

- (a) A parish refuses to pay the whole or part of its synodal assessment, refuses to lodge a return in accordance with the Assessment Ordinance 1985 or refuses to comply with any other requirements under that Ordinance;
- (b) the Parish Council refuses to carry out any of its duties under section 29(a), (b), (c), (g) or (j) of this Ordinance;
or
- (c) the churchwardens refuse or fail to carry out any of their duties under section 51(1) (e) or (h) of this Ordinance;

Diocesan Council shall request the Archdeacon of the area to attempt to resolve the default either by conciliation or by a process of mediation before an independent mediator. The Archdeacon shall represent the Synod in any such process and shall report to Diocesan Council on the outcome of the process.

- (2) If after conciliation or mediation the default remains unresolved the Diocesan Council may by written notice of default require the defaulting party to remedy the default within thirty days after service of the notice. A copy of the notice shall be sent to the Parish Priest and to each lay Synod representative of the Parish.
- (3) (a) If the default is not rectified within the period of thirty days after service of notice upon the defaulting party the Diocesan Council may appoint a Manager to take control of and manage the property and financial affairs of the parish for such period as the Diocesan Council thinks fit. Before appointing a manager Diocesan Council, through the Archdeacon of the area, will consult with the vestry of the parish.
- (b) The Diocesan Council may extend or terminate the term of appointment of a Manager if in the opinion of the Diocesan Council the circumstances require it.
- (c) If the Manager dies, resigns or in the opinion of the Diocesan Council becomes physically or mentally incapable of performing his or her duties, the Diocesan Council may terminate the appointment of the Manager and appoint a new Manager for the balance of appointment.

- (4) To be eligible for appointment as a Manager a person must [be a communicant](#)

~~member of the Anglican Church of Australia and~~ have, in the opinion of Diocesan Council, appropriate expertise and experience to act as a Manager and must:

- (a) be a communicant member of the Anglican Church of Australia; or
- (b) have signed a declaration in the form contained in the first Schedule.

- (5) Under the appointment of a Manager the control and management of all Parish Trust Property and the financial affairs of the parish shall be vested in the Manager for and on behalf of the Diocesan Council until the provisions of this section cease to apply.
- (6) During the term of appointment of a Manager or any extension thereof:
 - (a) neither the Parish Council nor any parish officer appointed by or assisting it shall be entitled to exercise any of the powers and duties contained in section 29(a), (b), (c), (d), (e), (f), (g), (h), (i), (j), and (l) and section 30;
 - (b) the Parish Council and any parish officer appointed by or assisting it may continue to exercise any power or duty not referred to in paragraph (a);
 - (c) neither the churchwardens nor any parish officer appointed by or assisting them shall be entitled to operate upon any banking account whether opened pursuant to the provisions of section 51(h) or otherwise save for the obligation to ensure that all parish money received by them is nevertheless paid into such account; and
 - (d) the power of the churchwardens to act as the executive officers of the Vestry and of the Parish Council shall be limited to matters other than the property and financial affairs of the parish.
- (7) Upon the request of the Manager the Parish Council, the churchwardens or any other person holding property for the benefit of the parish shall forthwith deliver up to the Manager all documents and records in their possession relating to the property and financial affairs of the parish.
- (8) The Manager shall:
 - (a) as soon after his or her appointment as is reasonably practicable take into his or her custody or under his or her control all the property to which the parish is or appears to be entitled;
 - (b) subject to any direction given in writing by or on behalf of the Diocesan Council, manage the property and financial affairs of the parish in such manner as he or she thinks most prudent and most beneficial to the interests of the parish and of the Diocese;
 - (c) comply with all requirements of this and all other ordinances applicable to the parish relating to the keeping of accounts, the lodging of annual reports, the payment of synodal assessments, stipends and any other accounts payable by the parish under any Ordinance and perform all other duties which are applicable and are imposed on the parish, the

Parish Council or the churchwardens by or under any ordinance relating to property or financial matters;

- (d) convene a meeting of parishioners within one calendar month of his or her appointment for the purpose of explaining to the members of the parish the nature and purpose of his or her appointment and reporting on the financial state of the parish, notice of such meeting to be given in writing in the same manner as is prescribed for the calling of Vestry meetings;
 - (e) convene further meetings of parishioners during the term of his or her appointment at intervals of not more than six months from the preceding meeting for the purpose of reporting further on the financial state of the parish, notice of each meeting to be given in the same manner as is prescribed for the calling of Vestry meetings;
 - (f) within three months after his or her appointment report in writing to the Diocesan Council or to its nominated committee on the property and financial affairs of the parish in such form as may be directed by the Diocesan Council or its nominated committee and thereafter submit further reports to the Diocesan Council or its nominated committee at intervals of no less than six months during the period of management; and
 - (g) cooperate with and assist the Parish Council and the Churchwardens in carrying out the respective duties not abrogated to the Manager.
- (9) The Manager shall have all the powers vested in the Parish Council and in the Churchwardens under this Ordinance with respect to property and financial affairs and without limiting the generality thereof shall have the following further powers:
- (a) to take possession of all property and books of account held by or for the benefit of the parish (including property held by any organisation affiliated or associated with the parish or any congregation forming part of the parish) and all title deeds, certificates of investments and banking records relating to such property;
 - (b) to operate any bank accounts in the name of or for the benefit of the parish;
 - (c) to redeem any investments of or held for the benefit of the parish for the purpose of the proper administration of the financial affairs of the parish;
 - (d) to collect any rent which may be payable to or for the benefit of the parish;
 - (e) to do all acts and execute in the name of and on behalf of the parish all receipts and other documents;
 - (f) with the prior approval of the Diocesan Council to seek advice and assistance from a solicitor, accountant or other qualified professional person to assist him or her in his or her duties;

- (g) to refer any matter to Diocesan Council for advice or direction;
 - (h) to receive income from endowments whether received by a member of the clergy or the churchwardens;
 - (i) to collect and receive the annual income of the parish as defined in section 18 of the Assessment Ordinance 1985;
 - (j) to do all such other things as may be necessary for administering the financial affairs of the parish; and
 - (k) subject to any agreement made with Diocesan Council to recover his or her professional management fees from the income and financial investments of the parish.
- (10) The Diocesan Council will indemnify and keep indemnified the Manager against all actions, proceedings, claims and demands in respect of, arising from or in any way connected with the due performance by him or her of his or her duties and the exercise of his or her powers as Manager of the property and financial affairs of the parish. Such indemnity shall be satisfied in the first instance out of the assets of the parish and to the extent that they are inadequate from the assets of the Synod.
- (11) When the term of appointment of the Manager or extension thereof has expired the Diocesan Council shall notify the Parish Council and the churchwardens by notice in writing that the management of the property and financial affairs of the parish under this section has been completed. A copy of such notice shall be sent to the parish priest and to each lay synod representative of the parish. Upon such notification:
- (a) the control and management of all parish property and financial affairs shall revert to the Parish Council;
 - (b) the Parish Council shall be again entitled to exercise all of its powers and duties under sections 29 and 30;
 - (c) the churchwardens shall be again entitled to exercise their powers as executive officers of the Vestry and of the Parish Council with respect to property and financial matters;
 - (d) the Manager shall cease to be an operator upon any parish account and those persons who were authorised at the date of the original appointment of the Manager shall again be entitled to operate upon such account; and
 - (e) each lay Synod representative of the parish or any congregation thereof shall again be entitled to attend or take part in the deliberations of sessions of the Synod.
- (12) In this section 'property of a parish' or 'parish property' includes all parish trust property as defined in the Church of England Trust Property Act and relating to the parish in question, and all property real or personal held by the Parish Council, the churchwardens, any officer appointed or assisting either the

Parish Council or the churchwardens or any organisation affiliated or associated with the parish (or any congregation forming part of the parish) or held by any other person for the benefit of the parish (or any congregation forming part of the parish).

- (13) Any notice required to be served upon a person under this section will be deemed to be properly served if served either personally or by pre-paid post to the person's last known address.

Exercise of Powers by Synod

86. The several rights duties and powers conferred upon the Synod pursuant to Parts VI and IX of this Ordinance may be exercised by the Diocesan Council or by a committee appointed for that purpose in accordance with section 7 of the Diocesan Council and Ministry Units Ordinance 2007.

PART X - MISCELLANEOUS

Doubts and Disputes

87. The Diocesan Council may settle and determine all doubts and disputes that may arise with reference to any elections or transaction of business by churchwardens Vestries and Parish Councils and may from time to time make and alter rules not inconsistent with the provisions of this Ordinance for the conduct of elections and the transaction of business as aforesaid and may also settle and determine all doubts and disputes with reference thereto.

Commencement

88. (1) Subject to subsection (2) and (3) this Ordinance shall take effect on and from the 1st day of April 1986.
- (2) Parts III, IV and V of this Ordinance shall take effect in a parish as from the commencement of the first Annual Vestry Meeting held in the parish under the provisions of this Ordinance, provided that the provisions of section 19 shall apply to the convening of every Annual Vestry Meeting held after the 1st day of April 1986.
- (3) In any parish in which there is a vacancy in the office of Parish Priest as at the 1st day of April 1986 the provisions of Part V (other than section 63) shall not take effect in that parish until a member of the clergy shall have been admitted to that office. The selection of the parish priest for such parish shall be in the manner applicable to such parish as if The Model Declaration of Trust Ordinance 1985 had not been passed, and the provisions of section 59 shall apply to the person so appointed.

THE FIRST SCHEDULE
(Section 85B (4))

I

of

DO DECLARE

1. That I am over the age of 18 years;

2. That I submit to and agree to be bound by the Constitution of the Diocese of Adelaide and every Ordinance from time to time in force;

6. That I accept the office of

.....

and promise to perform my duties honestly, impartially, faithfully and to the best of my judgment and ability and in accordance with and subject to the said Constitution and Ordinances.

Signature:

Witness:

Date:

Legislative History

Passed on 22nd September 1985.

The Assessment Ordinance 1980-1983 mentioned in Section 4 hereof has been replaced by The Assessment Ordinance 1985

Amended 18th September 1987, sections 1 and 86

Amended 16th September 1989 by the Financial Year Ordinance, sections 1 and 30

Amended 14th September 1990 by the Annual Vestry Meeting Amendment Ordinance 1990, sections 17, 18, 19, 20, 34, 42, 45, 49, 88

Amended 14th September 1990, new section 84 (4)

Amended 14th September 1990 by the The Ordinances Publication Ordinance Amendment Ordinance 1990 - Title - Section 1

Amended 17 August 1997, new section 85A

Amended 29 May 1999, section 17, new section 18A

Amended 20 May 2000, sections 42, 45, 85A, new section 85B

Amended 26 May 2002, new section 30A, section 32

Amended 1 June 2003, section 86

Amended 22 May 2004, sections 4, 29, 60, 69, 79, 80

Amended 13 October 2007, section 53

Amended 16th October 2021; sections 4, 15, 17, 18A, 45, 48, 53, 69 amended, new section 28A, section 30 deleted and new section inserted: effective 1st November 2021

Legislative history notes relating to revisions under the Ordinances Publication Ordinance 2004

1. Revisions made in conjunction with amendments made on 23 May 2004

- (1) Section 6(1) - “clergyman” deleted and “member of the clergy” substituted
- (2) Section 6(1) - “synodsmen” deleted and “members of the Synod” substituted
- (3) Section 9(1) - “clergyman” deleted and “member of the clergy” substituted
- (4) Section 9(1) - “synodsmen” deleted and “members of the Synod” substituted
- (5) Section 13(1) - “clergyman” deleted and “member of the clergy” substituted
- (6) Section 13(1) - “synodsmen” deleted and “members of the Synod” substituted
- (7) Section 16 - “he” deleted and “the Bishop” substituted
- (8) Section 16 - “his” deleted and “the Bishop’s” substituted
- (9) Section 17(2)(h) - “Chairman” deleted and “Chairperson” substituted
- (10) Section 17(2)(h) - “or her” inserted after “his”
- (11) Section 18(1) - “he” deleted
- (12) Section 18A(2) - “Synodsmen” deleted and “members of the Synod” substituted
- (13) Section 20 - “or her” inserted after “his”
- (14) Section 21 - “chairman” deleted and “chairperson” substituted
- (15) Section 22(1) - “his” deleted and “the Bishop’s” substituted
- (16) Section 22(2) - “he” deleted and “the Bishop” substituted
- (17) Section 23 - heading substituted
- (18) Section 23 - “chairman” deleted (wherever occurring) and “chairperson” substituted (in each case)
- (19) Section 23 - “his” deleted and “the Bishop’s” substituted
- (20) Section 23 - “or she” inserted after “he” (in two places)
- (21) Section 29(a) - “clergyman” deleted and “member of the clergy” substituted
- (22) Section 29(f) - “clergymen” deleted and “members of the clergy” substituted
- (23) Section 29(g) - “clergymen” deleted and “members of the clergy” substituted
- (24) Section 29(l) - “clergyman” deleted and “member of the clergy” substituted
- (25) Section 33 - “He” deleted and “The Parish Priest” substituted
- (26) Section 36 - “chairman” deleted and “chairperson” substituted
- (27) Section 37(1) - “his” deleted and “the Bishop’s” substituted
- (28) Section 38 - “chairman” deleted (wherever occurring) and “chairperson” substituted (in each case)
- (29) Section 38 - “his” deleted and “the Bishop’s” substituted
- (30) Section 38 - “or she” inserted after “he”

- (31) Section 42(1)(b) - “clergyman” deleted (wherever occurring) and “member of the clergy” substituted (in each case)
- (32) Section 42(1)(e) - “or she” inserted after “he”
- (33) Section 45(1)(b) - “clergyman” deleted (wherever occurring) and “member of the clergy” substituted (in each case)
- (34) Section 45(1)(e) - “or she” inserted after “he”
- (35) Section 48 - “synodsmen” deleted and “members of the Synod” substituted
- (36) Section 49 - “or her” inserted after “his”
- (37) Section 51(1)(a) - “his” deleted and “the” substituted
- (38) Section 51(1)(f) - “or her” inserted after “his”
- (39) Section 52 - “or she” inserted after “he” (in two places)
- (40) Section 53(3) - “clergyman” deleted (wherever occurring) and “member of the clergy” substituted (in each case)
- (41) Section 56 - heading substituted
- (42) Section 56 - “he” deleted and “the Bishop” substituted
- (43) Section 60 - “clergyman” deleted and “member of the clergy” substituted
- (44) Section 61 - “clergymen” deleted (wherever occurring) and “members of the clergy” substituted (in each case)
- (45) Section 61 - “clergyman” deleted (wherever occurring) and “member of the clergy” substituted (in each case)
- (46) Section 62(1) - “”or herself” inserted after “himself”
- (47) Section 62(1) - “or her” inserted after “his”
- (48) Section 62(1) - “or she” inserted after “he”
- (49) Section 62(1) - “he” deleted and “the Bishop” substituted
- (50) Section 62(2) - “or she” inserted after “he” (in two places)
- (51) Section 62(2) - “or her” inserted after “his”
- (52) Section 63 - “clergyman” deleted (wherever occurring) and “member of the clergy” substituted (in each case)
- (53) Section 63 - “or her” inserted after “his”
- (54) Section 70(2) - “his” deleted and “a” substituted
- (55) Section 70(2)(a) - “clergyman” deleted and “member of the clergy” substituted
- (56) Section 70(3) - “his” deleted
- (57) Section 74 - “or her” inserted after “his” (in two places)
- (58) Section 74 - “or she” inserted after “he”
- (59) Section 83(3) - “he” deleted and “the Bishop” substituted
- (60) Section 88(3) - “clergyman” deleted and “member of the clergy” substituted

EXPLANATORY MEMORANDUM*Constitution (Reduction of Membership of Diocesan Council)
Amendment Measure 2022.**Diocesan Council Governance Amendment Ordinance 2022.***Introduction**

The proposed Measure to amend the *Constitution* seeks to change the composition of Diocesan Council by restricting the number of Assistant Bishops on the Diocesan Council to one, deleting the ex officio membership of the two Archdeacons appointed by the Bishop, and removing the potential for appointment of up to six communicant members who need not be members of Synod.

This would reduce the size of the Diocesan Council by 9 members from up to 23¹ members to a more manageable 14 and have a higher proportion of members directly elected by and from the Synod.

The Measure also includes a clause to make subdelegation of powers to committees unavailable unless specified in an Ordinance.

If approved by Synod these changes would only come into effect if confirmed by a subsequent meeting of the Synod. Given the high bar for the approval of changes to the Constitution², I have taken the precaution of also proposing a parallel reduction of the size of the Diocesan Council by amendment of the Diocesan Council and Ministry Units Ordinance.

The proposed Measure for an Ordinance to amend the existing *Diocesan Council and Ministry Units Ordinance 2007* (DC & MU Ordinance) reduces the size of the Diocesan Council by removing the 6 communicant members appointed by the Ministry Units to the Diocesan Council. The Measure also seeks to improve governance by improving accountability and transparency, thereby making it more directly accountable to the Synod when it acts on behalf of the Synod.

The proposed Measure removes the non-operational Ministry Units and the Ministry Forums and deletes those transitional arrangements which are no longer necessary.

¹ Since one of the Assistant Bishops is also Dean of the Cathedral this reduces the potential size of the Diocesan Council from 24 to 23 which is far too large.

² Changes require 2/3 of Members of both houses and the Bishop in voting favour.

A number of minor consequential amendments are included, and the title of the Ordinance is changed to reflect the elimination of the Ministry Units.

Transparency and Accountability

The role of Diocesan Council is to provide advice to the Archbishop and as the Executive Committee of Synod to exercise the powers of the Synod (with specified exceptions). In exercising the powers of the Synod in between the annual sessions of Synod, it's particularly important that members of Synod are informed about these decisions and that the Diocesan Council can therefore be held accountable to the Synod for its decisions.

The Diocesan Council has the power to delegate its powers to the committees which it may choose to appoint, and it is important that the operations of these committees are also transparent, in the first instance to the Diocesan Council, and likewise accountable for their actions.

At the last session of Synod, concern was raised from the floor about the lack of transparency and accountability of the important Property Finance and Resources Committee (PRFC) due to a very short and uninformative report to the Synod. I'm very pleased to report that I understand these concerns have been taken seriously and the report of the PRFC to this session of Synod will provide a much fuller account of its activities.

While our current Archbishop and Secretary of Synod occupy their current roles, I am confident that these principles of good governance will be applied, however past events have shown that in the future not everyone will have the same understanding of the need for transparency and accountability.

I think it's important understand that this is not about lack of trust in Council and Committee members but rather setting the standard by which future powers will be exercised and openly reported. Our church is going through some very turbulent times when unnecessary secrecy can give rise to uninformed speculation and even conflict. I believe it is important therefore, to be open and transparent in the decisions that are made by the bodies which exercise the powers of the Synod.

At the moment committees established by the Diocesan Council to exercise the powers of the Synod on behalf of the Diocesan Council under subsection 7 (1) of the current DC & MU Ordinance have the (unspecified) ability to further sub delegate their powers. This weakens accountability to the Diocesan Council and

ultimately to the Synod and therefore this practice should not be permitted. The proposed change at Section 20A of the Constitution is to add this restriction of sub delegation unless specifically provided for in an Ordinance.

Please note that this restriction is not intended to be applied to matters delegated by the Diocesan Council to the Secretary of Synod who would retain the ability as manager to delegate his or her powers and functions from time to time to other members of staff to enable them to undertake their assigned responsibilities. (Similarly, the Archbishop is not restricted in his or her ability to delegate Episcopal powers and functions to the Bishop's Commissary, Assistant Bishops, and Archdeacons, etc.)

An important part of transparency is for powers exercised under delegation from the Diocesan Council to committees to be reported in a timely fashion. The addition of a new subsection 7 (5) requires delegations to be precise and the decisions made by committees to be reported to the next meeting of Diocesan Council.

In order to reinforce the understanding of transparency and to preserve the good governance reforms instituted by the Secretary of Synod, the Measure clarifies reporting requirements regarding the exercise of the powers of Synod by Diocesan Council and its committees and the establishment and variation of policies. These matters are dealt with in the Reports Section of the DC and MU Ordinance by amendments to subsection 8 (1) and the insertion of a new subsection 8 (3).

The Size and Composition of the Diocesan Council

As the Executive Committee of the Synod with the ability to act on behalf of the Synod between sessions of the Synod, it is important that the composition of the Diocesan Council reflects its accountability to the Synod. One of the chief ways this occurs in any company or association is by the election of members of the Board or Council at the Annual General meeting of shareholders or members.

The current composition of the Diocesan Council has a large number of ex officio and appointed members who are not elected by the Synod and in that sense are not accountable to the Synod by virtue of election. Simply put, their continuing membership of Diocesan Council is not subject to re-election.

Of the potential 23 members of the Diocesan Council only twelve are elected by the Synod, less than half of the members of DC and only a small majority of the voting members.³

Given our Episcopal structure it is appropriate that the Bishop, (and in his or her absence the Administrator), and now the Bishop's Commissary are ex officio members of the Diocesan Council. Given the role of the Cathedral as our mother church, it is also useful to have the Dean of the Cathedral as an ex officio member.

It is also appropriate that the Secretary of Synod and the Chancellor are ex officio non-voting members of Diocesan Council. We need both "in the room where it happens"⁴ when decisions are made.

However, the presence of the six Ministry Unit appointees, the two Archdeacons chosen by the Bishop and three Assistant Bishops make the Diocesan Council too large, too top heavy and insufficiently accountable to the Synod.

The composition of Diocesan Council is established by both the Constitution and by the Diocesan Council and Ministry Units Ordinance 2007. The DC & MU Ordinance is subject to the provisions of the Constitution regarding the composition of the Diocesan Council:

CONSTITUTION

CHAPTER IV - THE DIOCESAN COUNCIL

Composition

21. (1) *There shall be a Diocesan Council which shall consist of:-*
- (a) the Bishop, the Assistant Bishop (if any), the Administrator (if not already a member of the Diocesan Council) and the Dean of Adelaide ex officio;*
 - (b) two Archdeacons appointed by the Bishop;*
 - (c) the Chancellor and the Secretary of Synod ex officio, who shall be nonvoting members;*
 - (d) so many members of the Synod being not fewer than three members of the clergy and six lay members of the Synod as the Synod shall by Ordinance determine;*

³ Please note that the DC & MU Ordinance has 4 clergy and 8 lay members of Synod elected to the Diocesan Council compared to the Constitution which provides for a minimum of 3 Clergy and 6 lay members of synod on the DC.

⁴ "The Room Where it Happens". Song from Hamilton Act 2

- (e) such other communicants not exceeding six in number as the Synod shall by Ordinance determine who need not be members of the Synod;*
- (f) not more than two other communicants whom the Diocesan Council may from time to time appoint and who need not be members of the Synod.*

(2) For the purposes of this section a non-voting member means a person who is entitled to be given notice of and to attend a meeting of the Diocesan Council and to speak at such meeting but not to vote thereat.

(3) The method of election or appointment of the persons mentioned in paragraphs (d) and (e) of subsection (1) shall be as prescribed by Ordinance

The Ministry Unit nominees will not be filled this triennium since notice has been given the Ministry Units themselves will not be activated. The structures are clearly redundant, and the later amendments propose the removal of the Ministry Units from the Ordinance. Accordingly, the appointment of up to six representatives of the Ministry Units is unnecessary and Section 7 of the Measure to amend the DC & MU Ordinance removes subsection 3 (e) from the Ordinance.

I have proposed the separate Measure to change the Constitution to downsize the Diocesan Council. Section 4 (3) of the Measure deletes subsection 21 (1) (e) of the constitution removing the provision to appoint to the Diocesan Council of up to 6 communicant persons who need not be members of Synod. Amending the DC & MU Ordinance to delete the appointments to DC from Ministry Units under this constitutional provision has the same effect in downsizing the Diocesan Council as would changing the Constitution. Ideally, we would do both but amending the Ordinance is faster.

Amending the DC & MU Ordinance to remove the Ministry Unit appointments would downsize Diocesan Council from 23 to 17 and increase the proportion of members directly elected by the Synod.

The appointment of two Archdeacons by the Bishop to the Diocesan Council was a compromise in the last rearrangement of membership of Diocesan Council as previously all the Archdeacons were members. The current arrangement may also deter an Archdeacon who is not appointed by the Bishop to stand for election as a clergy member of the Diocesan Council

The Archdeacon membership of the Diocesan Council is established in the Constitution and cannot be changed by an amendment to the DC & MU

Ordinance. Section 4 (2) of the separate Measure to change the Constitution proposes to delete subsection 21 (1) (b) under which the two Archdeacons are appointed.

My reading of subsection 21 (1) (a) of the Constitution suggested that what was anticipated was the appointment of only one Assistant Bishop and that person should be an ex officio member of Diocesan Council. The Drafting Committee has informed me this assumption is not correct and all Assistant Bishops are ex officio members of Diocesan Council. We now have three Assistant Bishops one of whom is also the Dean of the Cathedral.

The current practice is to have all three Assistant Bishops as members of Diocesan Council and while all are fine Episcopal leaders, four bishops as members of the Diocesan Council is I suggest, far more purple than was contemplated by the framers of our Constitution.

To return to the situation which I believe was contemplated in the Constitution; “*the Assistant Bishop (if any)*” being the ex officio member of Diocesan Council requires a change to the constitution. I have therefore proposed the insertion of a new subsection 21 (1A) to provide should there be more than one Assistant Bishop, to give the Bishop the responsibility of nominating which Assistant Bishop is the ex officio member of Diocesan Council

Should all the changes to the composition of Diocesan Council proposed by the Measure to change the Constitution be adopted, the size of the Diocesan Council would drop from the current unwieldy up to 23 to a more manageable 14. Synod would elect 9 of the 14 members of the Diocesan Council.

The Ministry Units and Ministry Forms

The creation of Ministry Units and the Ministry Forums was the grand experiment in governance in the last revision of the DC & MU Ordinance. I confess I was the Secretary of Synod at the time. While much good work has been done the consensus seems to be that these arrangements no longer serve a useful purpose. This is manifested in the decision not to appoint Ministry Units for this triennium. A much more flexible structure is required.

Should formal groups be required to be established, the Diocesan Council has the powers to establish committees and delegate powers and functions. The transition of the previous finance and resources ministry unit into the PFRC is a good example of the use of the committee provision rather than the Ministry Unit arrangement.

Accordingly the Measure to amend the DC & MU Ordinance removes the requirement for Ministry Units and Ministry Forums by the deletion of Parts 3 and 4 of the DC and MU Ordinance.

Consequential Amendments

In order to ensure internal consistency, there are a small number of consequential amendments to the DC and MU Ordinance including a change of title, filling of casual vacancies etc.

It is proposed that casual vacancies in the members of Diocesan Council elected by the Synod should be filled by a by election at the next session of Synod rather than by the Diocesan Council.

I realise that this is rather a dense package of reforms, and this document conflates amendments to the DC & MU Ordinance and proposed changes to the Constitution. These matters are closely entwined and I'm unsure that I have managed to explain them adequately. (Some extensive redrafting by the Drafting Committee and subsequent discussions my have caused some proposed changes to move around slightly in the Ordinance.)

If members of Synod would like to contact me with questions and any suggestions, I may be contacted on 0417 815 586 or peter@sandeman.org

Peter

The Rev'd Canon Prof Peter Sandeman MAICD

13 September 2022

A MEASURE

to amend the *Constitution*.

NOW THE SYNOD HEREBY DETERMINES:

Part 1 -

Preliminary 1 -

Short title

This may be cited as the *Constitution (Reduction of Membership of Diocesan Council) Amendment Measure 2022*.

2 - Commencement

This Measure will come into operation after it has been confirmed by the Synod in accordance with section 30(b) of the *Constitution*.

3 - Amendment of the Constitution

The *Constitution* is amended in the manner set out in Part 2.

Part 2 - Amendment of the *Constitution*

4 – Insertion of Section 20A

After section 20 insert:

Sub-delegations

20A - Unless otherwise specified in the Ordinance, there is no power to sub-delegate a power or function delegated under a provision of the Ordinance.

5 – Amendment of Section 21 Composition

- (1) Section 21(1)(b) – delete the paragraph
- (2) Section 21(1)(e) – delete the paragraph

(3) After subsection (1)– insert:

(1A) For the purposes of subsection(1)(a), if there is more than one Assistant Bishop, the Bishop will from time to time nominate one of the Assistant Bishops to be the ex officio member of the Diocesan Council (and the Assistant Bishop will hold office until the Bishop appoints another Assistant Bishop in his or her place).

1

CONSTITUTION

Arrangement

1. This Constitution is divided into Chapters as follows:-

CHAPTER I	THE DIOCESE OF ADELAIDE
CHAPTER II	THE BISHOP
CHAPTER III	THE SYNOD
CHAPTER IV	THE DIOCESAN COUNCIL
CHAPTER V	PARISHES
CHAPTER VI	THE SEAL
CHAPTER VII	AMENDMENT OF THE CONSTITUTION
CHAPTER VIII	INTERPRETATION

CHAPTER 1 - THE DIOCESE OF ADELAIDE

Membership of The Anglican Church of Australia

2. The Diocese is a diocese of The Anglican Church of Australia and where this Constitution or any Ordinance made hereunder is inconsistent with the Constitution of The Anglican Church of Australia or any Canon or Rule made thereunder and which is in force in or applies to or has force and effect in or is not excluded from operation within the Diocese, the latter shall prevail and the former shall to the extent of the inconsistency have no effect.

Government

3. Subject to the provisions of section 2 of this Constitution the authority and power to provide for the life and growth, the order and good government and the management of the affairs of the Diocese is vested in -

- (a) the Bishop, and
- (b) the Synod which for such purposes may exercise the powers hereinafter provided.

Operation of Constitution

4. This Constitution and all Ordinances made hereunder shall be binding on the Bishop, all members of the clergy and lay persons as members of the Church residing or worshipping within the Diocese and for all purposes connected with or relating to Church property including trust property.

CHAPTER II - THE BISHOPElection

5. (1) Subject to the provisions of section 8 of the Constitution of The Anglican Church of Australia the Bishop shall be elected or appointed in such manner as the Synod shall by Ordinance determine.
- (2) A person elected or appointed Bishop shall not take office without first having signed a declaration in the form contained in the First Schedule hereto and a declaration of assent to the doctrine and formularies of The Anglican Church of Australia.

Bishop's Powers

6. Subject to this Constitution and the Ordinances of the Synod and to the Constitution of The Anglican Church of Australia and to the Canons or Rules mentioned in section 2 of this Constitution the Bishop as Ordinary and Chief Pastor of the Diocese shall have and may exercise within the Diocese all and singular the powers and authorities which are inherent in his office.

CHAPTER III - THE SYNODThe Synod

7. Without limiting the effect of section 3 of this Constitution there shall be a governing body for the management of the affairs of the Diocese which shall be The Synod of the Diocese of Adelaide of The Anglican Church of Australia Incorporated.

Object

8. The object of the Synod is to provide for the life and growth and the order and good government of The Anglican Church of Australia within the Diocese in accordance with the provisions of the said Constitution of The Anglican Church of Australia.

Powers of Synod

9. (1) Subject to the provisions of this Constitution the Synod shall have the following powers:-
- (a) to consider and if thought necessary to pass motions upon any matter concerning or affecting the Church of God or any part thereof and its members whether within or outside the Diocese;
 - (b) To consult with the Bishop on any matter on which the Bishop may agree to being consulted and to advise the Bishop;
 - (c) To make alter or repeal such Ordinances (not being repugnant to this Constitution) as shall in its opinion be necessary for or conducive to the order and good government of The Anglican Church of Australia within the Diocese;
 - (d) To purchase take on lease or in exchange, hire or otherwise acquire and hold any real or personal property, including any rights and privileges, for the purposes of the Synod, the general purposes of the Diocese, any special diocesan purpose, any purpose of or connected with The Anglican Church of Australia (whether within or outside the Diocese) or for any other religious purpose or purposes or for the advancement of religion (whether within or outside the Diocese);
 - (e) To erect buildings and to renovate repair reconstruct alter improve add to and demolish any buildings or structures now or hereafter vested in the Synod;
 - (f) To sell exchange lease let mortgage pledge hire dispose of turn to account or otherwise deal with all or any of the real and personal property of the Synod;
 - (g) To accept donations whether of real or personal estate and devises and bequests whether or not such donations devises or bequests are subject to any trusts;
 - (h) To raise or borrow money and secure the repayment thereof in such manner as the Synod shall think fit with power to issue debentures, grant mortgages, charges or securities upon or charging all or any of the property whether real or personal present or future of the Synod and to redeem or pay off either wholly or in part any existing or future security;
 - (i) To receive moneys on deposit, current account or otherwise with or without allowance of interest and to receive on deposit titles deeds leases and other securities of any description;

- (j) To lend or advance money to any person or body either at interest or without interest and with or without security and in particular to persons parishes congregations and organisations within the Diocese and generally to receive hold invest and lay out moneys or securities for money upon and subject to such terms and conditions without any restriction whatever as the Synod may determine;
- (k) To give any guarantee in relation to mortgages loans investments and securities whether made or effected or acquired through the agency of the Synod or otherwise and generally to guarantee or become surety for the performance of any contracts and obligations;
- (l) To invest and deal with the moneys of the Synod not immediately required upon such securities and in such manner as may from time to time be determined by the Synod and for that purpose to acquire and hold shares, stocks, debentures, debenture stock bonds, obligations securities or notes issued or guaranteed by any company or corporation constituted or carrying on business in Australia or elsewhere and debentures debenture stock bonds obligations and securities issued or guaranteed by any government commission public body or authority, municipal, local or otherwise in Australia or elsewhere and to acquire any such shares stock debentures debenture stock bonds obligations notes or securities by original subscription tender purchase exchange or otherwise and to subscribe for the same either conditionally or otherwise and to guarantee the subscription thereof and to exercise and enforce all rights and powers conferred by and incidental to the ownership thereof;
- (m) To hold and administer any property on trust;
- (n) To appoint regulate and dissolve such committees for such purposes as the Synod may from time to time determine;
- (o) To delegate to any person persons or body any right authority or power conferred upon or exercisable by the Synod save and except the making altering or repealing of any Ordinance, the amendment of this Constitution and the exercise of any right authority or power to which the Synod shall by Ordinance declare that this paragraph shall not apply;
- (p) To employ or dismiss such officers and employees as may from time to time be required;
- (q) To do all such things as may be required by the provisions of any trust deed relating to Church property or the exercise of patronage;

- (r) To do all such other acts matters or things as shall be or may appear to be incidental or conducive to the life and growth and the order and good government of The Anglican Church of Australia in the Diocese including the power to carry out exercise and accept the transfer of the powers functions and property of any other body or organisation within The Anglican Church of Australia in the Diocese;
- (2) Nothing herein contained shall be deemed to restrict or in any way limit the powers conferred upon the Synod by virtue of the provisions of the Associations Incorporation Act 1956-1965 or any Act amending or replacing that Act or by any other law of the State of South Australia or the Commonwealth of Australia.

Composition of Synod

10. The Synod shall consist of:-

- (a) The Bishop;
- (b) The Chancellor;
- (c) Every licensed member of the clergy;
- (d) Lay members of the Synod representing each parish of the Diocese according to the following scale:-

- I (i) for each parish having not more than 74 communicants, one lay member of the Synod;
- (ii) for each parish having not fewer than 75 communicants nor more than 149 communicants, two lay members of the Synod;
- (iii) for each parish having not fewer than 150 nor more than 249 communicants, three lay members of the Synod;
- (iv) for each parish having not fewer than 250 nor more than 399 communicants, four lay members of the Synod;
- (v) for each parish having not fewer than 400 communicants, five lay members of the Synod;

OR

- II for each parish comprised of two or more congregations, a number of lay members of the Synod equal to the number of congregations comprising the parish; whichever is the greater.

- (d1) The Secretary of Synod;
- (d2) Not more than five lay members appointed by the Bishop;

- (d3) Lay members each representing a congregation (whether registered or not) which functions independently of a parish and which, in the opinion of the Diocesan Council, may in time become a parish and which the Diocesan Council has resolved should in the meantime be accorded representation by one lay member in the Synod.
- (e) Such other persons (if not already members of the Synod) as may be appointed to the Diocesan Council pursuant to the provisions of paragraph (f) of section 21(1) hereof but only for the duration of their appointment as aforesaid.

Chancellor

11. (1) The Chancellor shall be appointed by and shall hold office during the pleasure of the Bishop provided that a person shall not be Chancellor unless he or she is a communicant and or is or has been qualified for appointment as a Justice of the High Court of Australia, the Federal Court of Australia or the Supreme Court of South Australia and provided also that any appointment to the office of Chancellor shall not terminate upon a vacancy occurring in the See but shall terminate upon a new Bishop taking office.
- (2) The Chancellor shall not take office without first having signed a declaration in the form contained in the Second Schedule hereto

Members of the Clergy

12. No member of the clergy shall be licensed by the Bishop without first having signed a declaration in the form contained in the Third Schedule hereto.

Lay Members of the Synod

13. (1) No person shall vote for the election of a lay member of the Synod unless at the time of such election he or she:
- (a) is a communicant, and
 - (b) has attained the age of sixteen years, and
 - (c) is a member of the parish for which the election is conducted, and
 - (d) shall have signed a declaration in the form contained in the Fourth Schedule hereto.
- (2) No person shall be elected or appointed a lay member of the Synod pursuant to the provisions of paragraph (d) or (d1) or (d2) or (d3) or (e) of section 10 hereof unless at the time of such election or appointment he or she:

- (a) is a communicant, and
- (b) has attained the age of eighteen years,

and the election or appointment shall not be effective until he or she shall have signed a declaration in the form contained in the Fifth Schedule hereto.

- (3) A person shall cease to be lay member of the Synod if:
 - (a) by notice in writing to the Bishop he or she resigns, or
 - (b) in the opinion of the Bishop he or she has ceased to be a communicant, or
 - (c) he or she has been convicted or found guilty of any offence punishable either by imprisonment or by death and the Bishop declares his or her seat to be vacant, or
 - (d) he or she has failed to attend any session of the Synod without leave of the Bishop and the Bishop declares his or her seat to be vacant.

Term of Office

- 14. (1) All lay members of the Synod, other than those referred to in paragraphs (d1) and (e) of section 10 of this Constitution, shall be elected or appointed in an election year in such manner as the Synod shall by Ordinance determine and shall take office on the 1st day of July of that election year and shall hold office until the 30th day of June of the election year next following.
- (2) For the purposes of this section an election year shall be the third year after the last preceding election year provided that the Bishop with the approval of the Diocesan Council may in a particular case determine that an election year shall be the first or second year after the last preceding election year.
- (3) A casual vacancy arising under paragraph (d2) of section 10 may be filled by the Bishop. Any other casual vacancy in the office of lay member of the Synod shall be filled in such manner as the Synod shall by Ordinance determine.
- (3a) A lay member appointed under paragraph (d2) of section 10 shall be eligible for reappointment for one, but not more than one, consecutive term.
- (4) The Secretary of Synod shall keep a register of all members of the Synod and unless the Synod shall otherwise determine such register shall be *prima facie* evidence as to any person's entitlement to membership of the Synod and his or her lawful election or appointment.

Sessions of Synod

15. (1) There shall be a session of the Synod at least once in each calendar year to be held at a time and place to be determined by the Bishop after consultation with the Diocesan Council.
- (2) A special session of the Synod may be called at any time by the Bishop and shall be called whenever the Bishop receives a request for a special session under the hand of ten lay members of the Synod from at least three parishes and five members of the clergy and the request is supported by the Diocesan Council.
- (3) The Synod may by Ordinance provide for the exclusion from sessions of the Synod of any member thereof who or whose parish is in default in complying with any provisions of this Constitution or of any Ordinance.

Quorum

16. A quorum of the Synod shall comprise not fewer than one fifth of the total number of members of the clergy and not fewer than one fifth of the total number of lay members of the Synod entitled to be present.

President

17. At every meeting of the Synod the Bishop shall preside. In his absence the person who, during any incapacity or absence from the Diocese of the Bishop would be the Administrator, shall preside.

Voting

- 18 (1) Except as otherwise provided in this Constitution the decision of the Synod shall be the decision of the majority of those members present and voting. The President of the Synod, whenever the Synod does not vote by orders, shall have a casting as well as a deliberative vote.
- (2) A decision in the election of a Bishop shall be made in such manner as the Synod shall by Ordinance prescribe: provided that general licence clergy shall not vote in such an election or in any separate meeting of the clergy forming part of the process of election.
- (3) Except as otherwise provided in this Constitution any member of the Synod may before a vote is taken require a vote by orders.

- (4) In the event of a vote by orders being required the question shall be put first to the lay members of the Synod voting separately then to the members of the clergy voting separately and then to the Bishop if present (other than general licence clergy) and no question shall be deemed to be resolved in the affirmative unless it is so resolved by a vote of the majority of those present in each of the orders of members of the clergy and lay members of the Synod and by the Bishop if present.
- (5) The members of the clergy who are entitled to vote or to require a vote by orders are those members of the clergy who are not general licence clergy.

Validity of Proceedings

19. (1) The Synod may proceed to the despatch of its business notwithstanding the failure of any parish to provide for its representation or any casual vacancy in the office of lay member of the Synod, notwithstanding a vacancy in the office of Bishop or Chancellor.
- (2) Neither the making altering or repealing of any Ordinance nor the exercise of any power of the Synod shall be vitiated by reason of:
 - (a) the fact that any person to be elected or appointed to the Synod has not been elected or appointed; or
 - (b) any informality with respect to the election or appointment of any member of the Synod; or
 - (c) the failure to give or send a summons or notice of any kind or a copy of any measure to any member of the Synod, unless at the session of the Synod at which the power is exercised or the measure for the Ordinance is considered the Synod by a majority of two thirds of its members present and voting as a whole shall otherwise determine.

Ordinances

20. An Ordinance shall be made altered or repealed by measure passed in accordance with the following procedure:-
 - (a) A copy of the measure shall have been sent to each member of the Synod not less than fourteen days before the first day of the session of the Synod at which the measure is to be presented;

- (b) On the passing of the measure (with or without amendment) the President may declare that the measure shall not take effect until it has been confirmed at a subsequent session of the Synod, or any member of the Synod may thereupon move that the measure shall not take effect until it has been confirmed at a subsequent session of the Synod. It shall not be possible to require a vote by orders for such a motion, and any such motion shall be deemed to have been passed if not less than one third of the members of the Synod present and voting vote in favour of the motion;
- (c) If the Bishop be absent or the See be vacant the measure shall not take effect until it has been confirmed at a subsequent session of the Synod at which the Bishop is present;
- (d) Subject to the passing or confirmation of the measure as the case may require, the Ordinance shall take effect from the date specified therein or, if no such date is specified, from the date of such passing or confirmation.

Sub-delegations

20A. Unless otherwise specified in the Ordinance, there is no power to sub-delegate a power or function delegated under a provision of the Ordinance.

CHAPTER IV - THE DIOCESAN COUNCIL

Composition

21. (1) There shall be a Diocesan Council which shall consist of :-
- (a) the Bishop, the Assistant Bishop (if any), the Administrator (if not already a member of the Diocesan Council) and the Dean of Adelaide ex officio;
 - ~~(b) two Archdeacons appointed by the Bishop;~~
 - (c) the Chancellor and the Secretary of Synod ex officio, who shall be non-voting members;
 - (d) so many members of the Synod being not fewer than three members of the clergy and six lay members of the Synod as the Synod shall by Ordinance determine;
 - ~~(e) such other communicants not exceeding six in number as the Synod shall by Ordinance determine who need not be members of the Synod;~~
 - (f) not more than two other communicants whom the Diocesan Council may from time to time appoint and who need not be members of the Synod.

(1A) For the purposes of subsection(1)(a), if there is more than one Assistant Bishop, the Bishop will from time to time nominate one of the Assistant Bishops to be the ex officio member of the Diocesan Council (and the Assistant Bishop will hold office until the Bishop appoints another Assistant Bishop in his or her place).

- (2) For the purposes of this section a non-voting member means a person who is entitled to be given notice of and to attend a meeting of the Diocesan Council and to speak at such meeting but not to vote thereat.
- (3) The method of election or appointment of the persons mentioned in paragraphs (d) and (e) of subsection (1) shall be as prescribed by Ordinance.

Powers

22. The Diocesan Council shall be a council of advice to the Bishop and the executive committee of the Synod and subject to the provisions of the several Ordinances of the Synod and to any general or special direction of the Synod shall have power in the name and on behalf of the Synod to exercise or perform all or any of the rights authorities and powers of the Synod save and except the making altering or repealing of any Ordinance the altering or repealing of this Constitution and the exercise of any right authority or power to which the Synod shall by Ordinance declare that this Section shall not apply.

Regulation of Affairs

23. The election or appointment of persons to and the regulation of the affairs of and the term of office of members of the Diocesan Council shall be prescribed by Ordinance of the Synod.

CHAPTER V - PARISHES

Registration

24. Subject to the provisions of Section 25 of this Constitution the conditions for registration and termination of registration of a parish, the qualifications for membership of a parish and the conditions for registration of changes in the composition or name of a parish shall be determined and may be varied from time to time in such manner as the Synod shall by Ordinance determine.

Procedure for Registration of a Parish

25. The Synod shall not register a new parish unless the persons desiring to form it shall have held a meeting presided over by the Bishop or his nominee at which a resolution in the form contained in the Sixth Schedule hereto shall have been passed by a majority of those present and voting and the person presiding thereat shall have signed and delivered to the Secretary of Synod a certificate in the form of the Sixth Schedule.

Church Property

26. The fee simple or any other right title or interest of the Synod or of any parish or congregation or of any members of the Church in any land used for the purposes

of the Church within the Diocese shall be vested in the Synod or in such other trustee or trustees as the Synod shall approve and upon such trusts as the Synod shall from time to time have approved or adopted.

CHAPTER VI - THE SEALSealholders

27. The sealholders of the Synod shall comprise the Bishop and seven members of the Synod of whom not fewer than two shall be members of the clergy and not fewer than three shall be lay members of the Synod and who shall be elected by the Synod.

Use of Seal

28. Any deed instrument or document required to be made or executed under the seal of the Synod shall be deemed not to be duly made or executed unless two of the sealholders for the time being shall have signed the same and the Secretary of Synod or some other person authorised by the Diocesan Council to do so shall have countersigned the same.

Authority

29. The seal shall not be affixed to any deed instrument or document without the authority of the Diocesan Council or of a committee of the Diocesan Council if the Diocesan Council shall so determine.

CHAPTER VII - AMENDMENT OF THE CONSTITUTIONProcedure

30. This Constitution may be amended or repealed by measure passed in accordance with the following procedure:-
 - (a) A copy of the measure shall be sent to each member of the Synod not less than fourteen days before the first day of the session of the Synod at which the measure is to be presented;
 - (b) Voting on the measure (with or without amendment) shall be by orders in accordance with the provisions of section 18 hereof provided that the measure shall be deemed not to have been passed unless it is agreed to by two thirds of those present in each of the orders of lay members of the Synod and members of the clergy and by the Bishop and unless it is confirmed in like manner at a subsequent session of the Synod.

CHAPTER VIII - INTERPRETATION

Definitions

31 In this Constitution and in any Ordinance unless the context or subject matter otherwise indicates:-

(a) "Administrator" means the administrator of the Diocese during any incapacity or absence from the Diocese of the Bishop or during a vacancy of the See and shall be the Assistant Bishop (if any) or (if more than one) the Assistant Bishops in order of their appointment as Assistant Bishops, or if none, or in his or their absence or incapacity to act, the person or persons appointed in order by the Bishop to be the Administrator (which appointments may be made and rescinded from time to time as the Bishop may determine), or if none or in his or her or their absence or incapacity to act, the Dean of Adelaide or in his or her absence or incapacity to act, the Archdeacon of Adelaide, or in his or her absence or incapacity to act the other Archdeacons in order of seniority.

"Archdeacon" means a person other than the Archdeacon of Adelaide appointed to such office by the Bishop who shall hold office for such period and shall have such powers and functions as the Bishop may from time to time determine;

"Archdeacon of Adelaide" means the person appointed to such office by the Bishop.

"Assistant Bishop" means a person in bishop's orders appointed to such office in accordance with any ordinance provided that where the context requires reference to one such person only and there is more than one office of Assistant Bishop it shall mean the Assistant Bishops in order of seniority.

"Bishop" means the Bishop of the Diocese for the time being who is by virtue of the constitution of the Province of South Australia the Metropolitan Bishop of the Province and is styled the Archbishop of Adelaide. Except for the purposes of Chapters I and II and sections 17, 18, 19, 20 and 30 and the definitions of "Archdeacon", "Archdeacon of Adelaide", and "Dean", the expression shall include the Administrator during any incapacity or absence from the Diocese of the Bishop or during any vacancy of the See;

"Chancellor" means the Chancellor of the Diocese appointed pursuant to section 11 hereof;

"Clergyman" or "licensed clergyman" or "member of the clergy" or "licensed member of the clergy" means a bishop, priest or deacon holding a licence from the Bishop;

"Communicant" means a member of the Church who communicates at least three times in the year of which Easter shall be one;

"Congregation" means a congregation of members of the Church who meet regularly for worship and which has been registered as a congregation by the Synod in such manner as the Synod shall by Ordinance determine;

"Dean and Chapter" means the Dean and Chapter of the Diocese of Adelaide Incorporated or if that body ceases to be incorporated, such body as the Synod shall by Ordinance determine;

"Dean of Adelaide" means the person appointed to such office by the Bishop, subject to such conditions (if any) as may be lawfully prescribed;

"Diocese" means the Diocese of Adelaide of The Anglican Church of Australia;

"Lay synodsmen" or "lay member of the Synod" means a member of the Synod other than the Bishop, and any member of the clergy, and includes, if the Synod shall by Ordinance provide for the appointment or election of such persons, an alternate lay member of the Synod;

"Member of the Church" means a baptised person who attends the public worship of The Anglican Church of Australia and who declares that he or she is a member of The Anglican Church of Australia and not a member of any other religious denomination;

"Parish" means an ecclesiastical unit comprising members of the Church the pastoral care of whom has been committed to one or more members of the clergy licensed thereto by the Bishop and which has been registered as a parish in such manner as the Synod shall by Ordinance determine;

"General licence clergy" means members of the clergy who hold a general licence to officiate and no other licence.

"Secretary of Synod" means the secretary for the time being of the Synod appointed in such manner as the Synod shall by Ordinance determine. The Secretary of Synod shall be the Public Officer of the Synod;

"Synod" means The Synod of the Diocese of Adelaide of The Anglican Church of Australia.

- (b) Words importing the masculine shall include the feminine and vice versa;
- (c) Words importing the singular shall include the plural and vice versa;

- (d) Seniority of an Assistant Bishop, Archdeacon or member of the Dean and Chapter shall be determined by the length of his or her continuous service in such office, and where two or more have the same length of service, by his or her seniority in priest's orders;
- (e) Headings to sections are for reference only and shall not affect the proper interpretation of this Constitution or any Ordinance;
- (f) Any reference to the Constitution of The Anglican Church of Australia includes any amendment thereof.

Reference of Questions to Appellate Tribunal

32. (1) Any resolution of the Synod referred to in section 63 of the Constitution of The Anglican Church of Australia shall be deemed to have been made if not less than one quarter of all the members of the Synod vote in favour of the resolution.
- (2) It shall not be possible to require a vote of orders for such a resolution.

THE FIRST SCHEDULE

(Section 5)

I _____ having been duly
elected or appointed as Bishop of the See of Adelaide DO HEREBY DECLARE

1. That subject to the provisions of The Anglican Church of Australia Constitution Act 1961-80 I submit to and agree to be bound by the Constitution of The Anglican Church of Australia and the Canons and Rules made thereunder from time to time in force insofar as they may apply.
2. That I submit to and agree to be bound by the Constitution of the Diocese of Adelaide and every Ordinance of the Synod from time to time in force.
3. That I will hold the said Office under and subject to all terms stipulations and provisions of the Trusts of the said See from time to time in force and will well and faithfully observe and perform the same and conform thereto in every respect.
4. That I will submit and conform to any sentence lawfully passed upon me and that I undertake and agree to give up to the Synod or other trustee for the time being on demand of the Administrator, the Synod or other trustee possession of such real and personal estate and effects as I may hold or be entitled to by virtue of my office at the time if and when sentenced according to the Constitution of The Anglican Church of Australia to suspension from office, expulsion from office, deprivation of rights or emoluments appertaining to office or deposition from holy orders and that in the event of such sentence I shall hold such real and personal estate and effects as tenant at will of the Synod or other trustee.

IN WITNESS whereof I have hereunto set my hand and seal this

day of _____

in the year of our Lord

in the presence of:

THE SECOND SCHEDULE

(Section 11)

I _____ having been appointed
 Chancellor of the Diocese of Adelaide HEREBY ACKNOWLEDGE that The
 Anglican Church of Australia, being an Apostolic Church, receives and retains
 the Catholic Faith, which is grounded in Holy Scripture and expressed in the
 Creeds, and within its own history, in the Thirty-nine Articles, in the Book of
 Common Prayer and in the Ordering of Bishops, Priests and Deacons.
 Accordingly, I do solemnly make the following declarations:

1. I firmly and sincerely believe the Catholic Faith and I give my assent to the doctrine of The Anglican Church of Australia as expressed in the Thirty-nine Articles of Religion, the Book of Common Prayer and the Ordering of Bishops, Priests and Deacons and I believe that doctrine to be agreeable to the Word of God.
2. I submit to and agree to be bound by the Constitution of the Diocese of Adelaide and every Ordinance made thereunder from time to time in force.
3. I promise to perform the duties of my office honestly, impartially, faithfully and to the best of my judgement and ability and in accordance with and subject to the said Constitution and Ordinances.

Signature: _____

Witness: _____

Date: _____

THE THIRD SCHEDULE

(Section 12)

I _____ being about to be licensed as a member of the clergy in the Diocese of Adelaide DO HEREBY DECLARE

1. That subject to the provisions of The Anglican Church of Australia Constitution Act 1961-80 I submit to and agree to be bound by the Constitution of The Anglican Church of Australia and the Canons and Rules made thereunder from time to time in force insofar as they may apply in the Diocese.
2. That I submit to and agree to be bound by the Constitution of the Diocese of Adelaide and every Ordinance from time to time in force.
3. That as a member of The Synod of the Diocese of Adelaide of The Anglican Church of Australia Incorporated I promise to perform the duties thereof and the duties of any office to which I may be elected or appointed pursuant to the said Constitution and Ordinances honestly, impartially, faithfully and to the best of my judgement and ability and in accordance with and subject to the said Constitution and Ordinances.
4. That I undertake and agree to give up to the Synod or other trustee for the time being on demand by the Bishop possession of such real and personal estate and effects as I may hold or be entitled to by virtue of any office or appointment or charge which I may now or hereafter hold or possess within the Diocese if and when sentenced according to the Constitution and Ordinances of the Diocese to deprivation or suspension or if and when my licence or authority or appointment is lawfully revoked or cancelled by the Bishop and that in the event of such deprivation, suspension, revocation or cancellation I shall hold such real and personal estate and effects as tenant at will of the Bishop for the time being.

Signature: _____

Witness: _____

Date: _____

THE FOURTH SCHEDULE

(Section 13 (1))

I DO HEREBY DECLARE that I am a member of The Anglican Church of Australia, that I am a communicant of the said Church, that I belong to no other religious denomination, that I have received the Holy Communion not less than three times during the past twelve months, that I have attained the age of sixteen years, and that I am a member of the parish of:

.....

Signature: _____

Witness: _____

Date: _____

THE FIFTH SCHEDULE

(Section 13(2))

I

of

DO HEREBY DECLARE

- 1. That I am a member of The Anglican Church of Australia and that I am a communicant of the said Church;
- 2. That I belong to no other religious denomination;
- 3. That I have received the Holy Communion not less than three times during the past twelve months;
- 4. That I have attained the age of 18 years;
- 5. That I submit to and agree to be bound by the Constitution of the Diocese of Adelaide and every Ordinance from time to time in force;
- 6. That I hereby accept the office of lay member of the Synod and any other office to which I may be elected or appointed pursuant to the said Constitution and Ordinances and promise to perform the duties thereof honestly, impartially, faithfully and to the best of my judgement and ability and in accordance with and subject to the said Constitution and Ordinances.

Signature: _____ Witness: _____

Date: _____

Passed 19th September 1977. Confirmed 10th April 1980

References: The Constitution has been amended by the following Measures:

Constitution Amendment Measure 1980

Passed 10th April 1980. Confirmed 16th September 1980

Constitution Amendment Measure (No. 1) 1984

Passed 15th September 1984 - Confirmed 22nd September 1985

Constitution Amendment Measure (No. 2) 1984

Passed 17th September 1984 - Confirmed 20th September 1985

Constitution Amendment Measure 1986

Passed 22nd September 1986 - Confirmed 18th September 1987

Constitution Amendment Measure 1987

Passed 20th September 1987 - Confirmed 16th September 1988

The Constitution Amendment (Administrator) Measure 1989

Passed 17th September 1989 - Confirmed 16th September 1990

The Constitution Amendment (Membership of Synod) Measure 1994

Passed 17th September 1994 - Confirmed 28 July 1995.

The Constitution Amendment (Voting Age) Measure 1994

Passed 17th September 1994 - Confirmed 28 July 1995

The Constitution Amendment (Sessions of Synod) Measure 1998

Passed 6th September 1998 – Confirmed 16th December 1998

The Constitution Amendment (Term of Office) Measure 2000

Passed 29 May 1999 – Confirmed 20 May 2000

The Constitution Amendment (Diocesan Council) Measure 2006

Passed 29 October 2006 – Confirmed 26 May 2007

The Constitution Amendment (Date of Synod) Ordinance 2008

Passed 25 October 2008 – Confirmed 23 May 2009

The Constitution Amendment (Election of Lay Members of Synod) Ordinance 2009

Passed 24 October 2009 – Confirmed 22 October 2010

The Constitution Amendment (Section 31, Interpretation “Assistant Bishop”)

Passed 22 October 2010 – Confirmed 21 October 2011

EXPLANATORY MEMORANDUM

*Constitution (Reduction of Membership of Diocesan Council)
Amendment Measure 2022.*

Diocesan Council Governance Amendment Ordinance 2022.

Introduction

The proposed Measure to amend the *Constitution* seeks to change the composition of Diocesan Council by restricting the number of Assistant Bishops on the Diocesan Council to one, deleting the ex officio membership of the two Archdeacons appointed by the Bishop, and removing the potential for appointment of up to six communicant members who need not be members of Synod.

This would reduce the size of the Diocesan Council by 9 members from up to 23¹ members to a more manageable 14 and have a higher proportion of members directly elected by and from the Synod.

The Measure also includes a clause to make subdelegation of powers to committees unavailable unless specified in an Ordinance.

If approved by Synod these changes would only come into effect if confirmed by a subsequent meeting of the Synod. Given the high bar for the approval of changes to the Constitution², I have taken the precaution of also proposing a parallel reduction of the size of the Diocesan Council by amendment of the Diocesan Council and Ministry Units Ordinance.

The proposed Measure for an Ordinance to amend the existing *Diocesan Council and Ministry Units Ordinance 2007* (DC & MU Ordinance) reduces the size of the Diocesan Council by removing the 6 communicant members appointed by the Ministry Units to the Diocesan Council. The Measure also seeks to improve governance by improving accountability and transparency, thereby making it more directly accountable to the Synod when it acts on behalf of the Synod.

The proposed Measure removes the non-operational Ministry Units and the Ministry Forums and deletes those transitional arrangements which are no longer necessary.

¹ Since one of the Assistant Bishops is also Dean of the Cathedral this reduces the potential size of the Diocesan Council from 24 to 23 which is far too large.

² Changes require 2/3 of Members of both houses and the Bishop in voting favour.

A number of minor consequential amendments are included, and the title of the Ordinance is changed to reflect the elimination of the Ministry Units.

Transparency and Accountability

The role of Diocesan Council is to provide advice to the Archbishop and as the Executive Committee of Synod to exercise the powers of the Synod (with specified exceptions). In exercising the powers of the Synod in between the annual sessions of Synod, it's particularly important that members of Synod are informed about these decisions and that the Diocesan Council can therefore be held accountable to the Synod for its decisions.

The Diocesan Council has the power to delegate its powers to the committees which it may choose to appoint, and it is important that the operations of these committees are also transparent, in the first instance to the Diocesan Council, and likewise accountable for their actions.

At the last session of Synod, concern was raised from the floor about the lack of transparency and accountability of the important Property Finance and Resources Committee (PRFC) due to a very short and uninformative report to the Synod. I'm very pleased to report that I understand these concerns have been taken seriously and the report of the PRFC to this session of Synod will provide a much fuller account of its activities.

While our current Archbishop and Secretary of Synod occupy their current roles, I am confident that these principles of good governance will be applied, however past events have shown that in the future not everyone will have the same understanding of the need for transparency and accountability.

I think it's important understand that this is not about lack of trust in Council and Committee members but rather setting the standard by which future powers will be exercised and openly reported. Our church is going through some very turbulent times when unnecessary secrecy can give rise to uninformed speculation and even conflict. I believe it is important therefore, to be open and transparent in the decisions that are made by the bodies which exercise the powers of the Synod.

At the moment committees established by the Diocesan Council to exercise the powers of the Synod on behalf of the Diocesan Council under subsection 7 (1) of the current DC & MU Ordinance have the (unspecified) ability to further sub delegate their powers. This weakens accountability to the Diocesan Council and

ultimately to the Synod and therefore this practice should not be permitted. The proposed change at Section 20A of the Constitution is to add this restriction of sub delegation unless specifically provided for in an Ordinance.

Please note that this restriction is not intended to be applied to matters delegated by the Diocesan Council to the Secretary of Synod who would retain the ability as manager to delegate his or her powers and functions from time to time to other members of staff to enable them to undertake their assigned responsibilities. (Similarly, the Archbishop is not restricted in his or her ability to delegate Episcopal powers and functions to the Bishop's Commissary, Assistant Bishops, and Archdeacons, etc.)

An important part of transparency is for powers exercised under delegation from the Diocesan Council to committees to be reported in a timely fashion. The addition of a new subsection 7 (5) requires delegations to be precise and the decisions made by committees to be reported to the next meeting of Diocesan Council.

In order to reinforce the understanding of transparency and to preserve the good governance reforms instituted by the Secretary of Synod, the Measure clarifies reporting requirements regarding the exercise of the powers of Synod by Diocesan Council and its committees and the establishment and variation of policies. These matters are dealt with in the Reports Section of the DC and MU Ordinance by amendments to subsection 8 (1) and the insertion of a new subsection 8 (3).

The Size and Composition of the Diocesan Council

As the Executive Committee of the Synod with the ability to act on behalf of the Synod between sessions of the Synod, it is important that the composition of the Diocesan Council reflects its accountability to the Synod. One of the chief ways this occurs in any company or association is by the election of members of the Board or Council at the Annual General meeting of shareholders or members.

The current composition of the Diocesan Council has a large number of ex officio and appointed members who are not elected by the Synod and in that sense are not accountable to the Synod by virtue of election. Simply put, their continuing membership of Diocesan Council is not subject to re-election.

Of the potential 23 members of the Diocesan Council only twelve are elected by the Synod, less than half of the members of DC and only a small majority of the voting members.³

Given our Episcopal structure it is appropriate that the Bishop, (and in his or her absence the Administrator), and now the Bishop's Commissary are ex officio members of the Diocesan Council. Given the role of the Cathedral as our mother church, it is also useful to have the Dean of the Cathedral as an ex officio member.

It is also appropriate that the Secretary of Synod and the Chancellor are ex officio non-voting members of Diocesan Council. We need both "in the room where it happens"⁴ when decisions are made.

However, the presence of the six Ministry Unit appointees, the two Archdeacons chosen by the Bishop and three Assistant Bishops make the Diocesan Council too large, too top heavy and insufficiently accountable to the Synod.

The composition of Diocesan Council is established by both the Constitution and by the Diocesan Council and Ministry Units Ordinance 2007. The DC & MU Ordinance is subject to the provisions of the Constitution regarding the composition of the Diocesan Council:

CONSTITUTION

CHAPTER IV - THE DIOCESAN COUNCIL

Composition

21. (1) *There shall be a Diocesan Council which shall consist of:-*
- (a) the Bishop, the Assistant Bishop (if any), the Administrator (if not already a member of the Diocesan Council) and the Dean of Adelaide ex officio;*
 - (b) two Archdeacons appointed by the Bishop;*
 - (c) the Chancellor and the Secretary of Synod ex officio, who shall be nonvoting members;*
 - (d) so many members of the Synod being not fewer than three members of the clergy and six lay members of the Synod as the Synod shall by Ordinance determine;*

³ Please note that the DC & MU Ordinance has 4 clergy and 8 lay members of Synod elected to the Diocesan Council compared to the Constitution which provides for a minimum of 3 Clergy and 6 lay members of synod on the DC.

⁴ "The Room Where it Happens". Song from Hamilton Act 2

- (e) such other communicants not exceeding six in number as the Synod shall by Ordinance determine who need not be members of the Synod;*
- (f) not more than two other communicants whom the Diocesan Council may from time to time appoint and who need not be members of the Synod.*

(2) For the purposes of this section a non-voting member means a person who is entitled to be given notice of and to attend a meeting of the Diocesan Council and to speak at such meeting but not to vote thereat.

(3) The method of election or appointment of the persons mentioned in paragraphs (d) and (e) of subsection (1) shall be as prescribed by Ordinance

The Ministry Unit nominees will not be filled this triennium since notice has been given the Ministry Units themselves will not be activated. The structures are clearly redundant, and the later amendments propose the removal of the Ministry Units from the Ordinance. Accordingly, the appointment of up to six representatives of the Ministry Units is unnecessary and Section 7 of the Measure to amend the DC & MU Ordinance removes subsection 3 (e) from the Ordinance.

I have proposed the separate Measure to change the Constitution to downsize the Diocesan Council. Section 4 (3) of the Measure deletes subsection 21 (1) (e) of the constitution removing the provision to appoint to the Diocesan Council of up to 6 communicant persons who need not be members of Synod. Amending the DC & MU Ordinance to delete the appointments to DC from Ministry Units under this constitutional provision has the same effect in downsizing the Diocesan Council as would changing the Constitution. Ideally, we would do both but amending the Ordinance is faster.

Amending the DC & MU Ordinance to remove the Ministry Unit appointments would downsize Diocesan Council from 23 to 17 and increase the proportion of members directly elected by the Synod.

The appointment of two Archdeacons by the Bishop to the Diocesan Council was a compromise in the last rearrangement of membership of Diocesan Council as previously all the Archdeacons were members. The current arrangement may also deter an Archdeacon who is not appointed by the Bishop to stand for election as a clergy member of the Diocesan Council

The Archdeacon membership of the Diocesan Council is established in the Constitution and cannot be changed by an amendment to the DC & MU

Ordinance. Section 4 (2) of the separate Measure to change the Constitution proposes to delete subsection 21 (1) (b) under which the two Archdeacons are appointed.

My reading of subsection 21 (1) (a) of the Constitution suggested that what was anticipated was the appointment of only one Assistant Bishop and that person should be an ex officio member of Diocesan Council. The Drafting Committee has informed me this assumption is not correct and all Assistant Bishops are ex officio members of Diocesan Council. We now have three Assistant Bishops one of whom is also the Dean of the Cathedral.

The current practice is to have all three Assistant Bishops as members of Diocesan Council and while all are fine Episcopal leaders, four bishops as members of the Diocesan Council is I suggest, far more purple than was contemplated by the framers of our Constitution.

To return to the situation which I believe was contemplated in the Constitution; “*the Assistant Bishop (if any)*” being the ex officio member of Diocesan Council requires a change to the constitution. I have therefore proposed the insertion of a new subsection 21 (1A) to provide should there be more than one Assistant Bishop, to give the Bishop the responsibility of nominating which Assistant Bishop is the ex officio member of Diocesan Council

Should all the changes to the composition of Diocesan Council proposed by the Measure to change the Constitution be adopted, the size of the Diocesan Council would drop from the current unwieldy up to 23 to a more manageable 14. Synod would elect 9 of the 14 members of the Diocesan Council.

The Ministry Units and Ministry Forms

The creation of Ministry Units and the Ministry Forums was the grand experiment in governance in the last revision of the DC & MU Ordinance. I confess I was the Secretary of Synod at the time. While much good work has been done the consensus seems to be that these arrangements no longer serve a useful purpose. This is manifested in the decision not to appoint Ministry Units for this triennium. A much more flexible structure is required.

Should formal groups be required to be established, the Diocesan Council has the powers to establish committees and delegate powers and functions. The transition of the previous finance and resources ministry unit into the PFRC is a good example of the use of the committee provision rather than the Ministry Unit arrangement.

Accordingly the Measure to amend the DC & MU Ordinance removes the requirement for Ministry Units and Ministry Forums by the deletion of Parts 3 and 4 of the DC and MU Ordinance.

Consequential Amendments

In order to ensure internal consistency, there are a small number of consequential amendments to the DC and MU Ordinance including a change of title, filling of casual vacancies etc.

It is proposed that casual vacancies in the members of Diocesan Council elected by the Synod should be filled by a by election at the next session of Synod rather than by the Diocesan Council.

I realise that this is rather a dense package of reforms, and this document conflates amendments to the DC & MU Ordinance and proposed changes to the Constitution. These matters are closely entwined and I'm unsure that I have managed to explain them adequately. (Some extensive redrafting by the Drafting Committee and subsequent discussions my have caused some proposed changes to move around slightly in the Ordinance.)

If members of Synod would like to contact me with questions and any suggestions, I may be contacted on 0417 815 586 or peter@sandeman.org

Peter

The Rev'd Canon Prof Peter Sandeman MAICD

13 September 2022

A MEASURE FOR

AN ORDINANCE to amend the *Diocesan Council and Ministry Units Ordinance 2007*.

NOW THE SYNOD HEREBY DETERMINES:

Part 1 - Preliminary

1 - Short title

This Ordinance may be cited as the *Diocesan Council Governance Amendment Ordinance 2022*.

2 - Commencement

This Ordinance will come into operation on a date and at a time to be determined by the President.

3 - Amendment of principal ordinance

The *Diocesan Council and Ministry Units Ordinance 2007* is amended in the manner set out in Part 2.

Part 2 - Amendment of the *Diocesan Council and Ministry Units Ordinance 2007*

4 - Amendment of Long Title

Long Title – delete the long title and substitute:

DIOCESAN COUNCIL ORDINANCE 2007

AN ORDINANCE to provide for the appointment and regulation of the affairs of the Diocesan Council; to repeal The Diocesan Council Ordinance 1980; and for other purposes.

5 – Amendment of section 1 – Title

Section 1 – delete “and Ministry Units”

6 – Amendment of section 2 – Interpretation

Section 2 – delete the definition of “**MU Tiennium**”

7 – Amendment of section 3 – Composition

Section 3 – delete paragraph (e)

8 – Amendment of section 4 – Election and appointment of members

(1) Section 4(1) – delete “decides to appoint” and substitute:

appoints

(2) Section 4(3) – delete subsection (3)

9 – Amendment of section 5 – Vacancies

(1) Section 5(1) – delete “, (e)”

(2) Section 5(3) – delete “, (e)”

(3) Section 5(4)(a) – delete “the Diocesan Council” and substitute:

election at the next meeting of Synod

(4) Section 5(4)(b) – delete paragraph (b)

10 – Amendment of section 6 – Meetings and quorum

(1) Section 6(3) – after “Nine members of the Diocesan Council” insert:

, comprising not less than four ordained persons and not less than four lay persons,

(2) Section 6 – after subsection (3) insert:

(4) In determining whether a quorum for a meeting has been established, non-voting members of Diocesan Council are not to be counted.

11 – Amendment of Section 7 – Committees

- (1) Section 7(2) – delete “A committee appointed under this section” and substitute:

A committee of the Diocesan Council may include members who are not members of the Diocesan Council but”

- (2) Section 7(3) – delete the subsection and substitute:

A committee of the Diocesan Council has such functions as are specified by the Diocesan Council.

- (3) Section 7(4) – delete the subsection

12 – Insertion of Section 7A

After section 7 insert:

Delegations

7A(1) The Diocesan Council may delegate any of its functions or powers –

- (a) to a committee of the Diocesan Council; or
- (b) to a person occupying a specified office or position.

7A(2) A delegation under this section –

- (a) may be subject to such conditions as the Diocesan Council thinks fit; and
- (b) is revocable at will and does not derogate from the power of the Diocesan Council to act in any matter itself.

13 – Amendment of Section 8 – Records

- (1) Section 8(1)(a) – delete “and”

- (2) Section 8(1)(b) – delete the subsection and substitute:
- (b) furnish to the Synod an annual report of its activities including the exercise of its powers on behalf of the Synod and of the activities of its committees including the exercise of their delegated powers and functions on behalf of the Diocesan Council, and any other report required by the Synod from time to time;
- (3) Section 8(1) – after paragraph (b) insert:
- (c) ensure proper records of its Committees are kept; and
 - (d) maintain a delegation register.
- (4) Section 8 – after subsection 8(2) insert:
- (3) Diocesan Council shall report to Synod all new policies established by the Diocesan Council and amendments to existing policies, and Synod may by resolution amend any such policy.

14 – Repeal of Part 3

Part 3 – delete the Part

15 – Repeal of Part 4

Part 4 – delete the Part

16 – Repeal of section 17 – Transitional arrangements

Section 17- delete the section

DIOCESAN COUNCIL AND MINISTRY UNITS ORDINANCE 2007

AN ORDINANCE to provide for the appointment and the regulation of the affairs of the Diocesan Council; ~~to provide for the appointment of Ministry Units within the structures of the Church; to provide for the convening of an annual Ministry Forum;~~ to repeal The Diocesan Council Ordinance 1980; and for other purposes.

THE SYNOD HEREBY DETERMINES:

Part 1—Preliminary

Title

1. This Ordinance may be cited as the “Diocesan Council ~~and Ministry Units~~ Ordinance 2007”.

Interpretation

2. In this Ordinance, unless the context or the subject matter otherwise indicates:

“**election Synod**” means a Synod at which the elections held pursuant to *The Elections and Appointment Ordinance 1980* take place;

“**election year**” means an election year under section 14 of the Constitution;

~~“**MU triennium**” means each period of 3 years beginning on 1 January immediately following an election year.~~

Part 2—Diocesan Council

Composition

3. The Diocesan Council will consist of:
 - (a) the persons referred to in paragraph (a) of section 21(1) of the Constitution *ex officio*;
 - (b) two Archdeacons appointed by the Bishop pursuant to paragraph (b) of section 21(1) of the Constitution;
 - (c) the Chancellor and the Secretary of Synod *ex officio* pursuant to paragraph (c) of section 21(1) of the Constitution (who will be non-voting members);
 - (d) pursuant to paragraph (d) of section 21(1) of the Constitution, four members of the clergy and eight lay members of the Synod elected by the Synod;

- ~~(e) pursuant to paragraph (e) of section 21(1) of the Constitution, one member of each Ministry Unit appointed by the Ministry Unit (being a communicant member of the Church but not necessarily a member of the Synod);~~
- (f) not more than two other communicant members of the Church, as may be appointed by the Diocesan Council pursuant to paragraph (f) of section 21(1) of the Constitution.

Election and appointment of members

4. (1) An Archdeacon appointed under section 3(b) will hold office until the Bishop ~~decides to appoints~~ another Archdeacon in his or her place.
- (2) The persons referred to in section 3(d) will be elected by ballot at each election Synod and a person so elected will hold office until a successor is elected at an election Synod.
- ~~(3) A person referred to in section 3(e) will be appointed by the end of February in the first year of an MU triennium and will hold office until the end of February in the first year of the next MU triennium (and will then be eligible for re-appointment).~~
- (4) A person referred to in section 3(f) may be appointed by the Diocesan Council at any time and will hold office for such period as the Diocesan Council may determine or until the day preceding the date appointed for the first meeting of the Diocesan Council after an election Synod, whichever period is the shorter.

Vacancies

5. (1) A member of the Diocesan Council holding office under section 3(d), ~~(e)~~ or (f) may resign by notice in writing to the Bishop.
- (2) A lay member of the Diocesan Council holding office under section 3(d) will cease to be a member by force of this subsection if he or she ceases to be a member of the Synod other than in accordance with section 14(1) of the Constitution.
- (3) A member of the Diocesan Council holding office under section 3(d), ~~(e)~~ or (f) will cease to be a member by force of this subsection if he or she is absent from three consecutive meetings of the Diocesan Council without leave of absence.
- (4) A casual vacancy—
- (a) under section 3(d) will be filled by election at the next meeting of Synod; the Diocesan Council;

- (b) ~~under section 3(e) will be filled by the relevant Ministry Unit;~~
- (c) under section 3(f) will be filled by the Diocesan Council.
- (5) A person appointed under subsection (4) will hold office for the balance of the term of the person's predecessor.
- (6) The Diocesan Council may continue to act despite a vacancy in an office.

Meetings and quorum

6. (1) The Diocesan Council must meet at least six times in each calendar year, at times and places determined by the Diocesan Council.
- (2) The Bishop will preside at a meeting of the Diocesan Council and in the absence of the Bishop the Assistant Bishop (if any) will preside and in the absence of the Assistant Bishop (if any) or in any other case the members present at the meeting will elect a chair.
- (3) Nine members of the Diocesan Council, comprising not less than four ordained persons and not less than four lay persons, form a quorum of the Diocesan Council.
- ~~(4) In determining whether a quorum for a meeting has been established, non-voting members of Diocesan Council are not to be counted.~~

Committees

7. (1) The Diocesan Council may appoint such committees as the Diocesan Council thinks fit to assist the Diocesan Council in the performance of any function or to exercise any power of the Diocesan Council on behalf of the Diocesan Council.
- (2) A committee of the Diocesan Council may include members who are not members of the Diocesan Council but ~~A committee appointed under this section~~ must have at least one member of the Diocesan Council as a member of the Committee.
- (3) A committee of the Diocesan Council has such functions as are specified by the Diocesan Council. If it is within the powers of a committee under this section to do so, the committee may appoint and dissolve other bodies to carry out specified functions or to advise it and other diocesan bodies on matters such as property and insurance, accounting and budgeting, investment policy, legal affairs and other matters as the committee may from time to time determine.

~~(4) The Diocesan Council may at any time exercise the powers referred to in subsection (3) whether or not such powers have been conferred under subsection (1) or (3).~~

~~7A. (1) The Diocesan Council may delegate any of its functions or powers-~~

~~(a) to a committee of the Diocesan Council; or~~

~~(b) to a person occupying a specified office or position.~~

~~(2) A delegation under this section -~~

~~(a) may be subject to such conditions as the Diocesan Council thinks fit; and~~

~~(a)(b) is revocable at will and does not derogate from the power of the Diocesan Council to act in any matter itself.~~

Records

8. (1) The Diocesan Council must—

(a) keep proper records of its proceedings; and

~~(b) furnish to the Synod an annual report of its activities including the exercise of its powers on behalf of the Synod and of the activities of its committees including the exercise of their delegated powers and functions on behalf of the Diocesan Council; and any other report required by the Synod from time to time;~~

~~(c) ensure proper records of its Committees are kept; and~~

~~(d) maintain a delegations register.~~

(2) The annual report of the Diocesan Council must include a full account of the income and expenditure of all funds under the control and management of the Synod.

~~(3) Diocesan Council shall report to Synod all new policies established by the Diocesan Council and amendments to existing policies, and Synod may by resolution amend any such policy.~~

Part 3—Ministry Units

Establishment

9. ~~(1) The Diocesan Council must, at least three months before each election Synod—~~
- ~~———— (a) determine the number of Ministry Units that will be established for the next MU triennium; and~~
 - ~~———— (b) in respect of each Ministry Unit, determine the terms of reference of the Ministry Unit.~~
- ~~(2) The Diocesan Council must not establish more than six Ministry Units for a particular MU triennium.~~
- ~~(3) A Ministry Unit will be established on 1 January in the first year of a MU triennium for the period of the MU triennium.~~
- ~~(4) The Diocesan Council may, from time to time, vary the terms of reference of a Ministry Unit during the MU triennium.~~
- ~~(5) The Diocesan Council must, in acting under this section, take into account the views and requirements of the Bishop as to the constitution and terms of reference of any Ministry Unit.~~

~~———— Composition~~

10. ~~(1) A Ministry Unit will consist of:~~
- ~~———— (a) one member of the clergy and two lay members elected by the Synod at the election Synod immediately preceding the relevant MU triennium;~~
 - ~~———— (b) not more than two persons appointed by the Bishop before the commencement of the relevant MU triennium;~~
 - ~~———— (c) not more than two persons appointed by the Diocesan Council before the commencement of the relevant MU triennium;~~
 - ~~———— (d) not more than two other persons whom the Ministry Unit may from time to time appoint.~~
- ~~(2) Subject to subsection (3), a member of a Ministry Unit will hold office until the end of the relevant triennium.~~
- ~~(3) A person appointed under subsection (1)(d) may be appointed by the Ministry Unit at any time and may hold office for a period determined by the Ministry Unit.~~
- ~~(4) The presiding member of a Ministry Unit will be appointed by the Bishop after consultation with the Diocesan Council.~~

Vacancies

11. (1) A member of a Ministry Unit may resign by notice in writing to the Diocesan Council.
- (2) A casual vacancy will be filled by the person or body that made the original appointment except that a casual vacancy under section 10(1)(a) will be filled by the Diocesan Council.
- (3) A person appointed under subsection (2) will hold office for the balance of the term of the person's predecessor.

Meetings and quorum

12. (1) A Ministry Unit must call a meeting if so directed by the Bishop or the Diocesan Council but otherwise a Ministry Unit may meet at such times and places as the Ministry Unit thinks fit.
- (2) The Bishop is entitled to attend any meeting of a Ministry Unit.
- (3) The Presiding Member will preside at a meeting of a Ministry Unit and in the absence of the Presiding Member the members present at the meeting will elect a chair.
- (4) A majority of the members of a Ministry Unit form a quorum of the Ministry Unit.

Committees

13. (1) A Ministry Unit may appoint such committees as the Ministry Unit thinks fit to assist the Ministry Unit in the performance of any of its functions or to exercise any power of the Ministry Unit on behalf of the Ministry Unit.
- (2) A committee appointed under this section need not be constituted by one or more persons who are members of the Ministry Unit.
- (3) The appointment of a committee under this section does not limit the Ministry Unit in the performance of its functions or the exercise of its powers.

Part 4 — Ministry ForumsMinistry Forums

14. (1) The Bishop will, after consultation with the Diocesan Council, convene a Ministry Forum consisting of:

- ~~———— (a) ——— the members of the Diocesan Council;~~
- ~~———— (b) ——— the members of the Ministry Units;~~
- ~~———— (c) ——— members or representatives of key diocesan agencies, boards or committees invited to the Ministry Forum by the Bishop after consultation with the Diocesan Council;~~
- ~~———— (d) ——— other persons determined by the Bishop after consultation with the Diocesan Council.~~
- ~~———— (2) ——— The Bishop should convene at least one Ministry Forum in each calendar year.~~
- ~~———— (3) ——— The Bishop will determine, after consultation with the Diocesan Council —~~
 - ~~———— (a) ——— the day, time and place for a Ministry Forum; and~~
 - ~~———— (b) ——— the matters to be discussed at a Ministry Forum; and~~
 - ~~———— (c) ——— organisational matters associated with a Ministry Forum.~~

Part 5—Interim arrangements following repeal of MDC Ordinance

15. (1) The Diocesan Council will ensure the continued operation of St Barnabas’ Theological College and may make, amend and repeal rules for the governance of the College provided that no rule may be made, amended or repealed without the consent of the Bishop.
- (2) The Diocesan Council, or a committee appointed by the Diocesan Council, may act as the governing body of St Barnabas’ Theological College.
- (3) The Diocesan Council may exercise such powers as may be conferred on it by the Rules of the Anglican Home Mission Society Inc.

Part 6—Repeal and Transitional arrangements

Repeal

16. *The Diocesan Council Ordinance 1980* is repealed.

Transitional arrangements

- ~~17. (1) ——— Until the commencement of the election Synod in 2007, the Diocesan Council will be constituted by all members holding office under *The*~~

~~*Diocesan Council Ordinance 1980* immediately before its repeal by this Ordinance.~~

~~(2) The first appointment under section 3(e) will take effect on the last day of February, 2008.~~

~~(3) The first Ministry Forum under Part 4 need not be held until 2008.~~

~~Passed 26 May 2007.~~

**THE SYNOD OF THE DIOCESE OF ADELAIDE OF THE ANGLICAN
CHURCH OF AUSTRALIA INC**

Report of the Drafting Committee – Synod October 2022

In the opinion of the Drafting Committee, the Synod has power to pass the following measures, and the drafting of the measures is consistent with the Constitution and the Ordinances:

Constitution (Commissary, Virtual Meetings, Lay Members of Synod and definitions) Amendment Measure 2021 – confirmation

Constitution (Mandatory Deposition) Amendment Canon Assent Ordinance 2022

Constitution (Mandatory Suspension) Amendment Canon Assent Ordinance 2022

Episcopal Standards (Child Protection) Amendment Canon Adoption Ordinance 2022

Safe Ministry Legislation Amendments Canon Adoption Ordinance 2022

Commissary Ordinance 2022

Professional Standards Amendment Ordinance 2022

Episcopal Standards Repeal Ordinance 2022

The Parochial Administration Ordinance Amendment Ordinance 2022


Chair of the Drafting Committee

16 September 2022

**THE SYNOD OF THE DIOCESE OF ADELAIDE OF THE ANGLICAN
CHURCH OF AUSTRALIA INC**

Report of the Drafting Committee (No. 2) – Synod October 2022

In the opinion of the Drafting Committee, the Synod has power to pass the following measures, and the drafting of the measures is consistent with the Constitution and the Ordinances:

*Constitution (Reduction of Membership of Diocesan Council)
Amendment Measure 2022.*

Diocesan Council Governance Amendment Ordinance 2022



Chair of the Drafting Committee

September 2022

