

HOLY ORDERS (REMOVAL FROM EXERCISE OF MINISTRY) CANON 2017

Canon 18, 2017

A canon to repeal the Holy Orders, Relinquishment and Deposition Canon 2004 and to provide for the removal of ordained persons from exercise of ministry.

The General Synod prescribes as follows:

Title

- 1 This Canon is the Holy Orders (Removal from Exercise of Ministry) Canon 2017.

Interpretation

- 2 (1) In this Canon –

deposition means (without derogating from or altering the effect of section 11 of this Canon) removal of the right to the exercise of ministry in all of the Holy Orders to which a person is ordained, and “**depose**” has a similar meaning;

national register means a National Register established pursuant to a Canon of General Synod for a purpose which includes the recording of determinations of a tribunal or the recommendations or determinations of a professional standards body;

person in Holy Orders means a person who, in accordance with the Canons of the General Synod or the law of this Church applying at the relevant time has been –

- (a) ordained to the order of bishop, priest or deacon by bishops, or a bishop, of this Church, or by bishops, or a bishop, of a Church in communion with this Church; or
- (b) received into an order of ministry of this Church by a bishop of this Church in accordance with the Holy Orders (Reception and Ministry) Canon 2004;

professional standards body means a body established by a Canon of General Synod or the ordinance of a diocese relating to professional standards or episcopal standards that has under that Canon or that ordinance the power to recommend or determine that a person in Holy Orders be deposed;

relevant bishop means –

- (a) in relation to a priest or deacon who is licensed, the Diocesan bishop of the diocese in which he or she is licensed or the Primate, or the Metropolitan of the Province in which that diocese is situated, authorized by that bishop to act in that behalf;
- (b) in relation to a priest or deacon who is not licensed, the Diocesan bishop of the diocese in which he or she resides or the Primate, or the Metropolitan of the Province in which that diocese is situated, authorized by that bishop to act in that behalf;
- (c) in relation to a person who is a bishop, the bishop other than that person who is –
 - (i) the Metropolitan of the Province in which that person is a Diocesan bishop, is licensed by a Diocesan bishop or (if neither a Diocesan bishop nor licensed) resides; or
 - (ii) where that person –
 - A. is the Diocesan bishop of; or
 - B. is licensed by the Diocesan bishop of; or
 - C. resides in –
an extra-provincial diocese, the Primate; or
 - (iii) where the person is a Metropolitan, the Primate; or
 - (iv) where the person is the Primate, the most senior Metropolitan by date of consecration;

relinquishment means (without derogating from or altering the effect of section 11 of this Canon) voluntary cessation of the right to the exercise of ministry in one or more of the orders of ministry to which a person is ordained, and “**relinquish**” has a similar meaning;

tribunal means a tribunal established in accordance with the provisions of Chapter IX of the Constitution and includes a body established by canon or by an ordinance of a diocese.

- (2) For the purposes of this Canon, a person who, during any vacancy in the office of, or during the incapacity of, a Diocesan bishop or during that bishop’s absence from the diocese for a period exceeding thirty days has been appointed by or under the constitution of that diocese to administer the affairs of the diocese, is to be taken to be the Diocesan bishop of that diocese.
- (3) In this Canon a reference to an “**order of ministry**” is a reference to the Holy Order of bishop, the Holy Order of priest or the Holy Order of deacon.

Relinquishment of Holy Orders

- 3 (1) A person in Holy Orders –
- (a) if a bishop, may relinquish the order of bishop, or the orders of bishop and priest, or the orders of bishop, priest and deacon; or
 - (b) if a priest but not a bishop, may relinquish the order of priest, or the orders of priest and deacon; or
 - (c) if a deacon but not a bishop or priest, may relinquish the order of deacon –
- by–
- (d) resigning all clerical licences and appointments held by that person as a person in the order or orders to be relinquished; and
 - (e) executing an instrument of relinquishment in or to the effect of the form in Schedule 1 endorsed with the consent, if given, of both –
 - (i) the bishop of the diocese in which the person last held a clerical licence or appointment, if that is a diocese other than the diocese in which the person resides; and
 - (ii) the relevant bishop.
- (2) Before giving consent under sub-section (1)(e)(ii), the relevant bishop must be satisfied that the person is not currently the subject of any information, complaint or charge in this Church (including in any diocese) concerning his or her conduct or fitness to hold office.

Liturgical context

- 4 The relinquishment under section 3 may, with the consent of the person, be set in a liturgical context by the bishop.

Prohibition from functioning after sentence of a tribunal

- 5 (1) A sentence of prohibition from functioning –
- (a) in relation to a bishop may concern only functioning –
 - (i) as a bishop, or
 - (ii) as a bishop and priest; or
 - (iii) as a bishop, priest and deacon;

- (b) in relation to a priest, may concern only functioning as a priest or as a priest and deacon;
 - (c) may be limited or not limited by reference to place, office, role or function, time or circumstance;
 - (d) subject to sub-section (2), may be permanent, indefinite or for a period of time, and may be permanent, indefinite or for a period of time in different respects in relation to different functions or different limitations.
- (2) A sentence of prohibition from functioning may not be permanent in respect of all the orders of ministry to which a person has been ordained.

Note: The proper sentence for a person who is to be prohibited permanently from all orders of ministry is deposition.

- (3) A relevant bishop gives effect to a sentence of prohibition by a tribunal or a recommendation or determination of prohibition by a professional standards body by executing an instrument of prohibition in or to the effect of Schedule 2.

Deposition

- 6 The deposition of a person by a bishop pursuant to the sentence of a tribunal or following the recommendation or determination of a professional standards body shall be effected by the execution by the relevant bishop of an instrument of deposition in or to the effect of the form in Schedule 3.

Registration

- 7 (1) In this section-
- "instrument" means-
- (a) an instrument of relinquishment in accordance with section 3; or
 - (b) an instrument of deposition or prohibition from functioning executed pursuant to sections 5 or 6.
- (2) Upon executing an instrument, the relevant bishop must forthwith-
- (a) cause the instrument to be registered in the register of that bishop;
 - (b) deliver a copy of the instrument to the bishop of the diocese in or for which the person who is the subject of the instrument was ordained; and

- (c) cause a copy of the instrument to be registered in the national register.

Giving notice of an instrument

- 8 (1) A bishop who executes an instrument under section 7 must give notice of that instrument and of the effect of that instrument in the form of Schedule 4 to the Primate, the General Secretary and such other persons as the bishop considers necessary.
- (2) The bishop may include in or with the notice under subsection (1) a statement of any circumstances relevant to the relinquishment, prohibition or deposition.
- (3) The General Secretary must as soon as reasonably practicable make available to the public the information contained in a notice executed under sub-section (1).

Effect of prohibition from functioning

- 9 (1) A prohibition from functioning has effect according to its terms.
- (2) Where a person is prohibited from functioning in an order of ministry, that person –
 - (a) must not act in contravention of or inconsistently with that prohibition by –
 - (i) officiating or acting in any manner that is reserved to that order of ministry; or
 - (ii) accepting or holding any office in this Church capable of being held only by a person in that order of ministry;
 - (b) ceases to have any right, privilege or advantage attached to that order of ministry; and
 - (c) must not hold himself or herself out as being in that order of ministry.

Effect of relinquishment of fewer than all Holy Orders

- 10 A person who has relinquished one or more but not all orders of ministry in respect of any order of ministry relinquished –

- (a) may not officiate or act in any manner that is reserved for that order or those orders;
- (b) may not accept or hold any office in this Church capable of being held only by a person in that order or those orders;
- (c) ceases to have any right, privilege or advantage attached to that order or those orders; and
- (d) must not hold himself or herself out as being in that order or those orders.

Effect of relinquishment of all Holy Orders and of deposition

11 A person who has relinquished all Holy Orders or who has been deposed in accordance with this or another Canon or following the sentence of a tribunal or the recommendation or determination of a professional standards body –

- (a) may not:
 - (i) officiate or act in any manner as a bishop, priest or deacon of this Church; or
 - (ii) accept or hold any 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 order of bishop, priest or deacon;
- (c) must not hold himself or herself out to be a member of the clergy;
- (d) may not hold an office in a diocese which may be held by a lay person without the consent of the bishop of the diocese; and
- (e) shall be considered to be a lay person for the purposes of all laws, canons, rules, ordinances and regulations of the Church except for any provision enacted under Chapter IX of the Constitution.

Revocation

12 (1) A person who has relinquished one or more orders of ministry in accordance with this Canon may petition the Metropolitan of the Province in which he or she resides or, if the person resides in an extraprovincial diocese, the Primate, to issue a certificate of revocation of the instrument of relinquishment.

- (2) The petition must include a statement of—
 - (a) the circumstances and reasons in and for which the petitioner executed the instrument of relinquishment;
 - (b) the nature of the work or employment upon or in which the petitioner has been engaged, and the place or places in which the petitioner has resided since executing the instrument of relinquishment; and
 - (c) the circumstances in which and the reasons for which the revocation is sought.
- (3) The Metropolitan or the Primate, as the case requires, must confer with the bishop of the diocese in which the petitioner last held a clerical licence or appointment and the bishop of the diocese in which the person resides and may make such other enquiries as seem appropriate.
- (4) The Metropolitan or the Primate, as the case requires, may by writing under seal certify that, for all purposes, the instrument of relinquishment ceases to have any force or effect.
- (5) A certificate under sub-section (4) must be registered in—
 - (a) the register of the bishop of the diocese in which the instrument of relinquishment or the instrument of deposition was registered;
 - (b) the register of the Primate; and
 - (c) the national register—and a copy of the certificate must be delivered to the bishop of the diocese in or for which the petitioner was ordained.

Effect of revocation

- 13 The provisions of sections 10 and 11 do not apply to a person whose relinquishment has been revoked in accordance with this Canon.

Offences under this Canon

- 14 (1) It is an offence for a person who has relinquished an order of ministry to hold out that the person continues to exercise that order, except for the purposes of any provision enacted under Chapter IX of the Constitution.
- (2) It is an offence for a person who has been deposed to act contrary to section 11(c), except for the purposes of any provision enacted under Chapter IX of the Constitution.

Canon 76 of the Canons of 1603 to have no effect

- 15 The Canon numbered 76 of the Canons of 1603, insofar as it may have any force, shall have no operation or effect in a diocese of this Church which adopts this canon.

Repeal and consequential amendment

- 16(1) The Holy Orders Relinquishment and Deposition Canon 2004 is repealed.
- (2) In—
- (a) section 17(3) of the Episcopal Standards Canon 2007; and
 - (b) section 23(3) of the Special Tribunal Canon 2007—
- for "Holy Orders, Relinquishment and Deposition Canon 2004" substitute "Holy Orders (Removal from Exercise of Ministry) Canon 2017".

Coming into force by adoption

- 17 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.

SCHEDULES

SCHEDULE 1

VOLUNTARY RELINQUISHMENT OF ONE OR MORE ORDERS OF MINISTRY

KNOW ALL PERSONS BY THESE PRESENTS THAT I, _____,
a person in Holy Orders in the Anglican Church of Australia (particulars of which are set out in the Schedule)

DECLARE that I have resigned the clerical licences and appointments and positions held by me as (*bishop, priest or deacon*) and **RELINQUISH** all rights and privileges as attached to the order/s of (*bishop, priest or deacon*) set out in the Schedule to this instrument in accordance with the Constitution and Canons of the Anglican Church of Australia and **FURTHER DECLARE** that I shall at all times from the date of this instrument conduct myself accordingly.

SCHEDULE

PARTICULARS OF HOLY ORDERS SUBJECT TO THIS DECLARATION

FULL NAME AND ADDRESS

	ORDAINING BISHOP(S)	PLACE	DATE
ORDINATION AS DEACON
ORDINATION AS PRIEST
CONSECRATION AS BISHOP

DATED:
EXECUTED BY
in the presence of:
(Bishop or Archdeacon or legal practitioner)

CONSENT OF BISHOP OF DIOCESE IN WHICH DECLARANT LAST HELD A CLERICAL LICENCE OR APPOINTMENT

I, _____ by Divine Providence Bishop (Archbishop) of _____ consent to the above relinquishment.

DATED:
EXECUTED BY:
in the presence of:

CONSENT OF BISHOP OF DIOCESE IN WHICH DECLARANT RESIDES:

I, _____ by Divine Providence Bishop (Archbishop) of _____ declare that I am the relevant bishop for the purposes of the Holy Orders (Removal from Exercise of Ministry) Canon 2017 and consent to the above relinquishment.

DATED:
EXECUTED BY:
in the presence of:

SCHEDULE 2

PROHIBITION FROM FUNCTIONING FOLLOWING THE SENTENCE OF A TRIBUNAL

I, _____ by Divine Providence Bishop (or Archbishop) of _____

To _____

GREETINGS

I declare that I am the relevant bishop for the purposes of the Holy Orders (Removal from Exercise of Ministry) Canon 2017 and I by these presents **prohibit you from functioning in the exercise of Holy Orders** in the Anglican Church of Australia (as set out in the Schedule) in accordance with the Constitution and Canons of the Anglican Church of Australia following the sentence of a duly constituted tribunal.

SCHEDULE

PARTICULARS OF HOLY ORDERS SUBJECT TO PROHIBITION

FULL NAME AND ADDRESS

	ORDAINING BISHOP(S)	PLACE	DATE
ORDINATION AS DEACON
ORDINATION AS PRIEST
CONSECRATION AS BISHOP

PARTICULARS OF PROHIBITION FROM FUNCTIONING

.....

DATED

SEALED

SCHEDULE 3

DEPOSITION

I, _____ by Divine Providence Bishop (or Archbishop) of

To

GREETINGS

I declare that I am the relevant bishop for the purposes of the Holy Orders (Removal from Exercise of Ministry) Canon 2017 and by these presents **depone you** in accordance with the Constitution and Canons of the Anglican Church of Australia following the sentence of a duly constituted tribunal *or* following the recommendation or determination of a professional standards body [delete as applicable] from the Holy Orders set out in the Schedule.

SCHEDULE

PARTICULARS OF HOLY ORDERS

FULL NAME AND ADDRESS

	ORDAINING BISHOP(S)	PLACE	DATE
ORDINATION AS DEACON
ORDINATION AS PRIEST
CONSECRATION AS BISHOP

DATED

SEALED

SCHEDULE 4

**NOTICE OF AN INSTRUMENT UNDER THE HOLY ORDERS (REMOVAL FROM
THE EXERCISE OF MINISTRY) CANON 2017**

I, _____ by Divine Providence Bishop (or Archbishop) of

GIVE NOTICE of the instrument dated that concerns [*name*] and
that is now attached being

- * an instrument of relinquishment
- * a prohibition from functioning pursuant to the sentence of a tribunal
- * an instrument of deposition.

**delete as applicable*

STATEMENT AS TO CIRCUMSTANCES

ATTACHMENT

DATED