

THE ANGLICAN CHURCH OF AUSTRALIA

BILLS

*The
Sixteenth
General
Synod*

BOOK

2

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CONTENTS

	PAGE
INTRODUCTION	<u>2-001</u>
1 BILLS FOR CANONS	
1.1 <u>Bill 01 – A Bill for a National Aboriginal and Torres Strait Islander Anglican Council Canon 2014</u>	<u>2-005</u>
1.2 <u>Bill 02 – A Bill for a Canon to amend the Financial Protection Canon 1995</u>	<u>2-019</u>
1.3 <u>Bill 03 – A Bill for a Canon to amend the Holy Orders, Relinquishment and Deposition Canon 2004</u>	<u>2-023</u>
1.4 <u>Bill 04 – A Bill for a Canon to amend the Special Tribunal Canon 2007</u>	<u>2-026</u>
1.5 <u>Bill 05 – A Bill for a Canon to amend Section 54 of the Constitution with respect to Membership of the Diocesan Tribunal</u>	<u>2-029</u>
1.6 <u>Bill 06 – A Bill for a Canon to amend Section 55 of the Constitution with respect to Membership of the Provincial Tribunal</u>	<u>2-032</u>
1.7 <u>Bill 07 – A Bill for a Canon to amend Section 57 of the Constitution with respect to Appeals to the Appellate Tribunal</u>	<u>2-035</u>
1.8 <u>Bill 08 – A Bill for a Canon to amend Section 57 of the Constitution with respect to Membership of the Appellate Tribunal</u>	<u>2-039</u>
1.9 <u>Bill 09 – A Bill for a Canon to amend the Solemnization of Matrimony Canon 1981</u>	<u>2-042</u>
1.10 <u>Bill 10 – A Bill for a Canon to amend the National Register Canon 2007</u>	<u>2-051</u>
1.11 <u>Bill 11 – A Bill to amend the Protocol for access to and disclosure of Information in the National Register 2007</u>	<u>2-055</u>
1.12 <u>Bill 12 – A Bill for a Canon to amend the Primate Canon 1985</u>	<u>2-057</u>

	PAGE
1.13 <u>Bill 13 – A Bill for a Canon to amend the Canon concerning confessions 1989</u>	<u>2-060</u>
1.14 <u>Bill 14 – A Bill for a Canon to Alter the Proviso to Canon 113 of 1603</u>	<u>2-063</u>
2 BILLS FOR RULES	
2.1 <u>Bill R01 – A Rule to amend Rule I - Standing Orders (Standing Order 42A) – (Time limit for notification of amendments before a session of Synod commences)</u>	<u>2-069</u>
2.2 <u>Bill R02 – A Rule to amend Rule I – Standing Orders (Standing Order 42B) – (Distribution of materials relating to motions)</u>	<u>2-071</u>
2.3 <u>Bill R03 - A Rule to amend Rule I – Standing Orders (Standing Order 66) – (Certification of Rules)</u>	<u>2-074</u>
2.4 <u>Bill R04 – A Rule to amend Rule III – Rules for Conduct of Elections ordered to be made by the General Synod – (Disclosure of Information on National Register in uncontested elections)</u>	<u>2-076</u>

INTRODUCTION

This Book 2 of the papers for the Sixteenth Session of the General Synod contains Bills to be presented to the General Synod to make and to amend Canons and Rules.

Part 1 of the book presents Bills for Canons. Part 2 presents proposed Rules.

At the time of printing, the following Bills are to be promoted by request of the Standing Committee:

- Bills for Canons – Bills 01 to 09
- Bills for Rules – Bills R01 to R04

The procedures for making Canons are set out in Rule I – Standing Orders, particularly Standing Orders 63 to 65. The procedures for making Rules are set out in Standing Order 66. Rule I is reproduced in Chapter 8 of Book 1 of the Synod Papers, *Synod Process and Elections*.

The column of numbers at the left margin of each Bill denotes line numbers for ease of reference.

NOTIFYING AMENDMENTS

Please note the requirements of Standing Orders 41 to 42A relating to amendments.

Proposed amendments notified to the General Secretary in writing prior to 5:00 pm on Wednesday 25 June 2014 in accordance with Standing Order 42(a) will be tabled on the first sitting day of the session pursuant to Standing Order 7(d)(7).

Proposed amendments notified to the Secretaries of General Synod on the first or any subsequent day of sitting prior to 7.30 pm in accordance with Standing Order 42A(b) and (c) will be incorporated in the amendment sheet to be circulated on the next day of sitting.

Members are urged to submit amendments electronically to business@anglican.org.au using the prescribed form on the General Synod website, located at:
http://www.anglican.org.au/content/general_synods/general_synod_2014/Forms.aspx

If you prefer to use hard copy, you can print it from the website or obtain a form from the General Synod Office receptionist (Tel (02) 8267 2700).

A supply of forms will be available in the General Synod hall to facilitate notification of hard copy amendments after the session of the Synod commences.

It would greatly facilitate preparation of the Amendment Sheet if all proposed amendments are notified as early as possible. It will expedite the flow of business during the session if amendments are discussed and, if possible, agreed with the promoters. Promoters will be identified in the Business Paper for the first day of the session which will be published by 31 May 2014.

BILLS

BILL 01**A BILL FOR A NATIONAL ABORIGINAL AND TORRES STRAIT
ISLANDER ANGLICAN COUNCIL CANON 2014****EXPLANATORY MEMORANDUM****Background**

In 1998 the 11th session of General Synod established the National Aboriginal and Torres Strait Islander Anglican Council (NATSIAC) by Canon, and that Canon was later amended in 2004.

In 2007, the Standing Committee appointed a Committee to Review Aboriginal and Torres Strait Islander Ministry (“the Horsburgh Committee”) whose three reports are posted on the General Synod Website. One of the recommendations of the Horsburgh Committee was to review the National Aboriginal and Torres Strait Islander Anglican Council Canon 1998. The Standing Committee and the Executive of NATSIAC appointed a Joint Working Group to carry forward recommendations of the Horsburgh Committee, including a review of the Canon.

At the 15th session of General Synod the National Aboriginal and Torres Strait Islander Anglican Council Canon 2010 was passed. However, the Canon did not come into effect because section 4 was so expressed as to prevent the Canon’s activation until the day the General Secretary received notification from the Chair of NATSIAC that it had consented to the Canon. Such consent was not only not forthcoming, the Council declined to give assent, as it did not consider that it had been adequately consulted.

Following the 2010 General Synod the Standing Committee established a National and Torres Strait Islander Ministry Task Force to consult with NATSIAC, with a view to bringing a proposal for a revised Bill to the 2014 General Synod.

In 2012 the National Aboriginal and Torres Strait Islander Ministry Task Force reported to the Standing Committee with recommendations for a new National Aboriginal and Torres Strait Islander Anglican Council Canon. In November 2012 the Standing Committee adopted that recommendation in principle and asked for the preparation of a Bill reflecting the principles set out in the report of the Task Force.

This Bill has been considered and endorsed by the members of NATSIAC and by the Standing Committee of General Synod.

The present Bill uses the 2010 Canon as the starting point, but in all respects carefully follows the instructions provided by the National Aboriginal and Torres Strait Islander Ministry Task Force and the subsequent gatherings of NATSIAC.

Clause Notes

Part 1 — Preliminary

- Clause 1* provides for the title of the Canon once passed.
- Clause 2* provides that the Canon comes into operation on 1 January 2015.
- Clause 3* defines the following expressions used in the Bill:

Council

National Aboriginal Bishop

National Torres Strait Islander Bishop

NATSIAC Executive.

Sub-clause (2) also provides that the diocesan bishop is the bishop who is the diocesan bishop at the relevant time, so as to attach the rights and duties provided for in the legislation to the office, not to the individual bishop.

Part 2 - National Aboriginal and Torres Strait Islander Anglican Council

- Clause 4* establishes the National Aboriginal and Torres Strait Islander Anglican Council.
- Clause 5* establishes the NATSIAC Executive with the powers determined by the Council.
- Clause 6* sets out the objects of the Council, which cover (especially in relation to Anglicans who are Aboriginal people and Torres Strait Islanders)—
- promoting the proclamation of the gospel;
 - encouraging the provision of pastoral care;
 - providing resources to those engaged in ministry;
 - encourage the celebration of cultures;
 - representation of views within Australia and internationally;
 - developing and recommending policies and strategies for mission and ministry;
 - engaging with other Aboriginal people and Torres Strait Islanders in the wider church;
 - advocacy in relation to social justice;
 - other functions conferred through the laws of this Church.

These objects are newly drafted, although they reflect some of what was included in the 1998 and 2010 Canons.

Clause 7 provides a mechanism (in addition to subsequent amendment of this Canon) for adding to the objects of the Council. Following a request by the Council, the Standing Committee may confer additional objects, subject to disallowance by the General Synod at its next ordinary session.

An object added in this way may be removed again using the same process.

Clause 8 gives the Council the power to everything necessary and incidental to fulfilling its objects, powers and duties.

Clause 9 provides specifically that the Council may determine its own business; raise, administer and expend funds; and appoint staff.

Clause 10 sets out the membership of the Council of up to 50 members plus life members (which under the 1998 Canon had up to 68 members), as follows:

Status	Representing	Aboriginal person	Torres Strait Islander	Appointed by
National Bishop	—	1	—	The Primate under s 17(b) of the Constitution.
National Bishop	—	—	1	The Primate under s 17(b) of the Constitution.
Life member	—			The Council
	Diocese of North Queensland	4	4	Bishop of North Queensland
	Diocese of The Northern Territory	6		Bishop of The Northern Territory
	Diocese of North Western Australia	4		Bishop of North West Australia
	All other dioceses	1 (x 20)		Relevant Diocesan bishops
	—	10		The Council

- Clause 11* sets out the qualifications for membership of the Council or the NATSIAC Executive. Each member must be a communicant member of the Church aged 18 or more. A person in holy orders must hold the licence of a Diocesan bishop or, in the case of a bishop, hold an office in the Church.
- Clause 12* provides that a member of the Council or the NATSIAC Executive holds office for 3 years from their appointment, and is eligible for reappointment.
- Clause 13* provides that a person ceases to be a member of the Council or the NATSIAC Executive if the person dies, resigns, ceases to be qualified, is insolvent or becomes incapable of managing his or her affairs.
- Clause 14* provides that the diocesan bishop who appointed a member of the Council may revoke the appointment.
- Clause 15* provides that the quorum of a meeting of the Council is 20 members.
- Clause 16* provides that a decision of the Council is valid despite a vacancy in its membership.
- Clause 17* sets out the membership of the NATSIAC Executive:
- the National Aboriginal Bishop (or a substitute during a vacancy);
 - the National Torres Strait Islander Bishop (or a substitute during a vacancy);
 - one Aboriginal person and one Torres Strait Islander in holy orders (who is not a bishop), elected by the members of the Council;
 - two lay Aboriginal persons and two lay Torres Strait Islanders elected by the Council;
 - up to one additional Aboriginal person and one additional Torres Strait Islander elected by the Executive.

Part 3 —Other functions and responsibilities

- Clause 18* provides that the Council is the body appointed by Canon for the purposes of section 17(8)(b) of the Constitution, which provides that non-diocesan lay representatives to General Synod who are an Aboriginal lay person or a Torres Strait Islander shall be appointed by the Primate on the recommendation of a body appointed by Canon for that purpose.
- Clause 19* provides for the qualifications of non-diocesan representatives. Section 17(8)(d) provides that such a representative must be a communicant member of this Church and be otherwise qualified as may be specified by Canon. This clause provides that such a person must be a member of the Council (otherwise than as a life member) and not a diocesan bishop or a member of the General Synod as a clerical or lay representative of a diocese.

- Clause 20* sets out requirements on the Primate at the time of the General Synod mandate in support of the requirements in the Constitution.
- Clause 21* provides that the term of a member of the Standing Committee of General Synod nominated by the Council is until the next ordinary session of General Synod, meaning that it is the same as for any other member of the Standing Committee.
- Clause 22* requires the Council to have policies and procedures for the management of its finances and business which conform with prudence and best practice.
- Clause 23* declares that the Council is an Organisation for the purposes of the Financial Protection Canon 1995 and requires the Council to comply with the other Canons and Rules of the General Synod.
- Clause 24* requires the Council to provide a financial and operations report to the Standing Committee of General Synod each financial year, and to report on its activities and needs to each ordinary session of the General Synod.
- Clause 25* provides that the canon operates in the spirit of the Joint Commitment and Affirmation of Faith and Justice passed by resolution 48/07 of the 14th session of General Synod in 2007, which is reproduced in the Schedule to the Canon.

Part 4 —Repeal

- Clause 26* Repeals the National Aboriginal and Torres Strait Islander Anglican Council Canon 1998 and the National Aboriginal and Torres Strait Islander Anglican Council Canon 2010.

Schedule

The Schedule reproduced the Joint Commitment and Affirmation of Faith and Justice passed as resolution 48/07 of the 14th session of General Synod.

BILL 01**5 A BILL FOR A NATIONAL ABORIGINAL AND TORRES STRAIT
ISLANDER ANGLICAN COUNCIL CANON 2014**

10 The General Synod prescribes as follows:

Part 1 - Preliminary**Title**

15

1. This Canon is the “National Aboriginal and Torres Strait Islander Anglican Council Canon 2014”.

Commencement

20

2. This Canon comes into operation on 1 January 2015.

Interpretation

25

3. (1) In this Canon—

“Council” means the National Aboriginal and Torres Strait Islander Anglican Council established by this Canon;

30

“National Aboriginal Bishop” means the Aboriginal bishop most recently appointed by the Primate under section 17(8)(b) of the Constitution to be a member of the House of Bishops at a session of the Synod;

35

“National Torres Strait Islander Bishop” means the Torres Strait Islander bishop most recently appointed by the Primate under section 17(8)(b) of the Constitution to be a member of the House of Bishops at a session of the Synod; and

40

“NATSIAC Executive” means the NATSIAC Executive established by this Canon.

45

- (2) For the purposes of this Canon, the diocesan bishop is the bishop who is the diocesan bishop at the relevant time.

5 **Part 2 - National Aboriginal and Torres Strait Islander Anglican Council**

Establishment of the Council and NATSIAC Executive

- 10 4. There is established a National Aboriginal and Torres Strait Islander Anglican Council.
5. There is established a NATSIAC Executive which has the power to conduct business as determined by the Council consistent with this Canon.

15 **Objects of the Council**

6. The objects of the Council are—
- 20 (a) to promote the proclamation of the gospel especially to Aboriginal persons and to Torres Strait Islanders;
- (b) to encourage the provision of pastoral care especially to Aboriginal Anglicans and to Torres Strait Islander Anglicans;
- 25 (c) to provide resources to those engaged in ministry with Aboriginal Anglicans and Torres Strait Islander Anglicans;
- (d) to encourage and facilitate the celebration of Aboriginal culture and Torres Strait Islander culture within the Church and the community;
- 30 (e) to represent the views of Aboriginal Anglicans and Torres Strait Islander Anglicans both within Australia and internationally;
- (f) to develop and recommend to relevant bodies, policies and strategies for the purpose of facilitating Aboriginal and Torres Strait Islander mission and ministry;
- 35 (g) to engage with other Aboriginal people and Torres Strait Islanders in the wider church nationally and internationally;
- 40 (h) to advocate with Aboriginal people and Torres Strait Islanders nationally and internationally on issues relating to social justice; and
- 45 (i) to exercise the powers and perform the functions conferred on it by the Constitution, this Canon, and the Canons and rules of the General Synod.

Additional objects

- 50 7. (1) Subject to this section, the Standing Committee of General Synod may by resolution at the request of the Council confer on the Council additional objects.
- 55 (2) A resolution under sub-section (1) must be submitted to the next succeeding ordinary session of the General Synod for confirmation. Such additional objects, confirmed by resolution of General Synod, shall be noted in any subsequent reprinting of the Canon.

- 5 (3) If a resolution under sub-section (1) is not submitted under sub-section
 (2) or, having been submitted is not confirmed by the General Synod, it
 ceases to have effect from the commencement of that session of the
 General Synod, but not so as to affect the validity of anything done
10 before the commencement of that session.
- (4) Any object confirmed by resolution of General Synod under sub-section
 (2) may be rescinded by a resolution of the General Synod Standing
 Committee, at the request of the Council. A resolution under this sub-
15 section must be submitted to the next succeeding ordinary session of
 General Synod for confirmation, otherwise it ceases to have effect.

Powers of the Council

- 20 8. The Council may do all things necessary and incidental to fulfilling its objects,
 powers and duties.

Specific powers of the Council

- 25 9. In order to fulfil its objects, the Council may—
- (a) conduct such business as it may determine;
- (b) raise, administer and expend funds; and
- 30 (c) appoint such staff as it considers necessary.

Membership of the Council

- 35 10. (1) The members of the Council are:
- (a) the National Aboriginal Bishop;
- (b) the National Torres Strait Islander Bishop;
- 40 (c) any person appointed by the Council as a life member of the
 Council;
- 45 (d) four Aboriginal persons and four Torres Strait Islanders
 appointed by the Bishop of North Queensland, in consultation
 with the Aboriginal Bishop and the Torres Strait Islander
 Bishop, to represent the Diocese of North Queensland;
- 50 (e) six Aboriginal persons or Torres Strait Islanders appointed by
 the Bishop of The Northern Territory to represent the Diocese
 of The Northern Territory;
- (f) four Aboriginal persons or Torres Strait Islanders appointed by
 the Bishop of North West Australia to represent the Diocese of
 North West Australia;
- 55 (g) one Aboriginal person or Torres Strait Islander appointed by the
 Bishop of each Diocese, other than the Dioceses of North

5 Queensland, The Northern Territory and North West Australia,
to represent their respective Diocese; and

(h) 10 Aboriginal persons or Torres Strait Islanders appointed by
the Council.

10

(2) The General Secretary of the General Synod shall be responsible for
informing diocesan bishops of their responsibilities under this Canon

Qualification for membership of the Council or NATSIAC Executive

15

11. A person is qualified to be a member of the Council or the NATSIAC Executive
if the person—

(a) is a communicant member of the Church;

20

(b) is aged 18 or more years;

(c) in the case of a person in holy orders (other than a bishop), holds a
licence from a bishop of a diocese of the Church; and

25

(d) in the case of a bishop who is not a life member of the Council, holds
an office in the Church.

Term of Council or NATSIAC Executive member's office

30

12. A member of the Council or the NATSIAC Executive holds office for three years
from the date of their appointment, and is eligible for reappointment.

Ceasing to be a member of the Council or NATSIAC Executive

35

13. A person ceases to be a member of the Council or the NATSIAC Executive if
the person—

(a) dies;

40

(b) resigns to the diocesan bishop who appointed them;

(c) ceases to be qualified under section 11;

45

(d) has their estate administered in insolvency; or

(e) is declared by any court of competent jurisdiction to be incapable of
managing their affairs.

50

5 Revocation of appointment as member

14. The diocesan bishop who appointed a member of the Council may revoke the appointment.

10 Quorum of Council

15. The quorum of a meeting of the Council is twenty current members of the Council.
- 15 16. A decision of the Council is valid notwithstanding any vacancy in its membership.

Membership of NATSIAC Executive

- 20 17. The members of the NATSIAC Executive are:
- (a) the National Aboriginal Bishop;
 - (b) the National Torres Strait Islander Bishop;
 - 25 (c) one Aboriginal person in holy orders who is not a bishop, elected by the members of the Council;
 - (d) if there is no National Aboriginal Bishop, an Aboriginal person in holy orders, who may be a bishop, elected by the members of the Council, to hold office only for so long as there is no National Aboriginal Bishop;
 - 30 (e) one Torres Strait Islander in holy orders who is not a bishop, elected by the members of the Council;
 - 35 (f) if there is no National Torres Strait Islander Bishop, a Torres Strait Islander in holy orders, who may be a bishop, elected by the members of the Council, to hold office only for so long as there is no National Torres Strait Islander Bishop;
 - 40 (g) two Aboriginal lay persons elected by the members of the Council;
 - (h) two Torres Strait Islander lay persons elected by the members of the Council;
 - 45 (i) up to one additional Aboriginal person elected by the members of the NATSIAC Executive; and
 - 50 (j) up to one additional Torres Strait Islander elected by the members of the NATSIAC Executive.

5 **Part 3 —Other functions and responsibilities**

Appointment of non-diocesan representatives to General Synod

- 10 18. (1) The Council is the body appointed by Canon referred to in section
 17(8)(b) of the Constitution.
- (2) The Council must provide the names of the persons recommended
 when requested by the Primate to do so.

15 **Qualification for appointment as a non-diocesan representative**

19. A person is qualified to be a non-diocesan representative under section 17(8) of
 the Constitution if the person is qualified to be a member of the Council
 (otherwise than as a life member) and is not a diocesan bishop or a member of
20 the General Synod as a clerical or lay representative of a diocese.

Actions at time of Primatial mandate

- 25 20. At the time when the Primate by mandate summons the diocesan bishops to
 convene clerical and lay representatives to an ordinary or special session of the
 General Synod the Primate must—
- (a) appoint non-diocesan representatives of the General Synod and call them
 to that session; and
- 30 (b) cause Bills for Canons and other documents circulated to dioceses or
 accompanying the mandate to diocesan bishops to be sent to those non-
 diocesan representatives.

35 **Term of persons nominated to General Synod Standing Committee**

21. A person nominated by the Council to the Standing Committee of General
 Synod under rule 2 of Rule II continues in office until the commencement of the
 next ordinary session of General Synod.

40

Management policies and procedures

22. The Council must establish and maintain policies and procedures for the
 management of its finances and business which conform with the requirements
45 of prudence and best practice.

Compliance with General Synod legislation

- 50 23. The Council is an Organisation for the purposes of the Financial Protection
 Canon 1995 and must comply with that canon and all other relevant canons and
 rules of the General Synod.

5 Reporting

24. (1) The Council must provide to the Standing Committee of General Synod on or before 30 June each year a report on its activities and operations in the previous year to 31 December, including a report on its financial affairs.
- (2) The Council must report in writing to each ordinary session of General Synod as to its activities, needs and any other matter it considers appropriate.

Joint Commitment and Affirmation of Faith and Justice

25. This canon operates in the spirit of the Joint Commitment and Affirmation of Faith and Justice passed by resolution 48/07 of the fourteenth session of General Synod in 2007, which is reproduced in the Schedule to this Canon.

Part 4 —Repeal

26. The National Aboriginal and Torres Strait Islander Anglican Council Canon 1998 and the National Aboriginal and Torres Strait Islander Anglican Council Canon 2010 are repealed.

5

Schedule

10

Joint Commitment and Affirmation of Faith and Justice passed as resolution 48/07 of the fourteenth session of General Synod

15

AS members of the Anglican Church of Australia we are called to become a people of the new covenant of Jesus the Christ and to bear witness to justice and righteousness upon this land. We come together, Indigenous and non-Indigenous peoples, to strive for what our ancestors were not able to do.

20

TOGETHER we acknowledge with gratitude the apology given by our then Primate, Archbishop John Grindrod in 1988 for the hurt done to Aboriginal and Torres Strait Islander peoples and the apology of the General Synod in 1998 for the Stolen Generations. We acknowledge also the ceremonies, Church services and reconciliation projects done at parish level throughout the Country. Today we are able, by the grace of God to look back on these actions as steps on the road of a reconciling life together in the Church of God. We look to a future of walking together towards the image of Christ which points to shared faith and justice among us.

25

30

TOGETHER we commit ourselves to living out the new covenant written upon our hearts in our common faith and sharing in Word and Sacrament. In hope and prayer we look to fulfil our responsibilities to each other to share our cultures in the study and living of The Word and Sacrament, to share in our Church tradition, and to be a community of justice and righteousness.

35

WE, the people of the land and seas, the Aboriginal and Torres Strait Islander peoples, as guardians and custodians of the land and islands of Australia, seek a new day when our peoples can practise and share our culture and wisdom as partners with all who call Australia their home.

40

WE, the non-Indigenous peoples of Australia recognise the people of the land and the seas, the Aboriginal and the Torres Strait Islander peoples to be the original inhabitants, the indigenous peoples of this land.

45

WE, together through this shared commitment continue to seek to heal the wounds, hurts and sufferings of the Aboriginal and Torres Strait Islander peoples of Australia.

WE shall share with each other visions, hopes, needs and wants in constructive ways that will bring us closer together as peoples of this Church so we may better support each other.

50

AS peoples of Christ we are bound into a relationship that seeks to be the foundation of mutual trust, respect, and the sharing of power and resources to create a just and righteous Church and nation of Australia. Through this commitment our own homes, communities, parishes, dioceses and national organisations are to be sanctuaries where we will strive to live out to the fullest the tenets of this our shared faith.

55

WE are committed to celebrating together important Church festivals and cultural celebrations and commemorations in the life of our land and seas. This gives us the opportunity to share deeply our different ways of celebrating our faith through cultures as peoples and communities of prayer.

- 5 WE are committed to assisting, encouraging and resourcing ministry to Aboriginal and Torres Strait Islander people.

10 WE pledge to consult and work with each other as equal partners in the development of our Church and land, in our communities, parishes, dioceses and nationally and internationally.

WE shall establish means through which we can give witness and testimony accounting for the learnings, struggles, challenges and successes of our journey.

- 15 AND we invite all who call Australia their home to join with us as we continue the process of healing our peoples and this land and seas.

BILL 02**A BILL FOR A CANON TO AMEND THE FINANCIAL
PROTECTION CANON 1995****EXPLANATORY MEMORANDUM**

Section 3(1) of the *Financial Protection Canon 1995* (the “principal canon”) requires an organisation to report annually to the Standing Committee. For the purposes of the canon, an organisation is an entity within the meaning of Australian Accounting Standards which is established or governed by a resolution or a canon of General Synod that the Standing Committee “certifies” to be an organisation to which the principal canon applies – see section 2.

In about 2008, the Standing Committee established the Financial Protection Canon Review Group to review the annual reports of the organisations to which the principal canon applies. The Review Group subsequently advised the Standing Committee that it was impracticable to devise a single set of financial controls appropriate to the organisations specified by the Standing Committee under the principal canon and that it is sufficient for a biennial review of the independently audited financial statements of these organisations. It was also recommended that the review function under the principal canon could be conveniently carried out by the Diocesan Financial Advisory Group.

This measure has therefore been drafted to provide greater flexibility in relation to the operation of the scheme under the principal canon.

Clause Notes

In particular, the provisions of this measure are as follows:

Clause 1: This clause provides for the short title of the measure.

Clause 2: This clause is formal.

Clause 3: This clause provides for the enactment of a new section relating to the provision of reports under the principal canon. It is proposed that an organisation will submit a report on the financial affairs and operations of the organisation to Standing Committee in respect of a period determined by the Standing Committee. The report will contain such financial or other information as the Standing Committee may prescribe from time to time. The report will be required to be submitted by a date determined by the Standing Committee (being a date that allows the relevant organisation a reasonable period within which to prepare and submit the report). The Standing Committee will, on receipt of a report, provide the report to a person or body nominated by the Standing Committee for review and to provide a report back to the Standing Committee. As is the case now, the Standing Committee will, in its report to each session of General Synod, include a list of the organisations that are subject to

these requirements and include any comments or report to General Synod as the Standing Committee considers appropriate.

Clause 4: Section 5 of the principal canon currently allows the Primate, on sufficient cause being demonstrated, to appoint a person to review the management and financial affairs of an organisation and report on such a review to the Standing Committee. An amendment in this clause will also allow the Standing Committee to initiate such a review. Another amendment will allow such a review to be carried out by a body (rather than a specific person).

Clause 5

Clause 6

Clause 7

Clause 8

Clause 9

Each of these clauses contain consequential amendments.

BILL 02**5 A BILL FOR A CANON TO AMEND THE FINANCIAL
 PROTECTION CANON 1995**

10 The General Synod prescribes as follows:

Short Title

- 15 1. This canon may be cited as the *Financial Protection Canon 1995 Amendment Canon 2014*.

Principal Canon

- 20 2. In this canon, the *Financial Protection Canon 1995* is called the “principal canon”.

Substitution of section 3

- 25 3. Section 3 of the principal canon is repealed and the following section is substituted:

30 3 (1) An Organisation must, in respect of any period determined by the Standing Committee, submit to the Standing Committee a report on its financial affairs and operations in a form prescribed from time to time by the Standing Committee.

 (2) The report must contain such financial or other information as the Standing Committee may prescribe from time to time.

35 (3) Without limitation, the report to be prescribed by the Standing Committee may include audited financial statements or other information that may be reasonably required by the Standing Committee in relation to any audit that has been undertaken or from an auditor of such financial statements.

40 (4) A report required under this section must be submitted to the Standing Committee by a date determined by the Standing Committee (being a date that allows the relevant organisation a reasonable period within which to prepare and submit the report under this section).

45 (5) The Standing Committee may, on the receipt of a report under this section, provide the report to a person or body nominated by the Standing Committee for review and the provision of any comments or report to the Standing Committee

50 (6) The Standing Committee will, in its Report to each session of General Synod, include a list of the organisations which have been required to

- 5 submit a report under this section and include such comments or report
as the Standing Committee considers appropriate.

Amendment of section 5

- 10 4. Section 5 of the principal canon is amended—
- (a) by inserting “or Standing Committee” after “The Primate”;
- (b) by inserting “or body” after “may appoint a person”.
- 15

Amendment of section 6

5. Section 6 of the principal canon is amended—
- 20 (a) by inserting “or body” after “the person”;
- (b) by inserting “or body” after “such person”.

Amendment of section 7

- 25 6. Section 7 of the principal canon is amended by inserting “, or another body
nominated by the Standing Committee,” after “the General Secretary”.

Amendment of section 9

- 30 7. Section 9 of the principal canon is amended—
- (a) by inserting “or body” after “not fully co-operate with the person”;
- 35 (b) by inserting “or body” after “a person”;
- (c) by striking out “or person” and substituting “, person or body”.

Amendment of section 10

- 40 8. Section 10 of the principal canon is amended by inserting “, or to a person or
body appointed under this Canon,” after “Treasurer of General Synod”.

Amendment of section 11

- 45 9. Section 11 of the principal canon is amended by inserting “, or by another person
or body acting under this Canon,” after “Treasurer of General Synod”

BILL 03**A BILL FOR A CANON TO AMEND THE HOLY ORDERS,
RELINQUISHMENT AND DEPOSITION CANON 2004****EXPLANATORY MEMORANDUM**

Section 7(2) of the Holy Orders, Relinquishment and Deposition Canon 2004 provides:

*Upon relinquishment by instrument of the exercise of or the deposition
by instrument from Holy Orders the bishop must forthwith –*

....

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

A person may relinquish or be deposed from Holy Orders for any number of reasons.

However, the National Register was established:

*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...*

The National Register Canon 2007 provides for information relating to sexual misconduct and child abuse to be entered on the National Register.

Under section 5(2) of the National Register Canon 2007, and the definition of “Information”, the National Register must contain the following data specified in the First Schedule:

- 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.*

It is therefore proposed that the requirement in section 7(2) of the Holy Orders, Relinquishment and Deposition Canon 2004 to cause a copy of every instrument relinquishment of or deposition from Holy Orders to be registered on the National Register should be limited to registration of details of relinquishment and deposition arising out of sexual misconduct or child abuse (as contemplated by section 5(1)(b) of the National Register Canon 2007).

Further, the requirement to cause a copy of the instrument itself to be registered creates technical difficulties. It is therefore preferable to create some administrative flexibility by amending section 7(2)(c) so as to allow for the date and particulars of a relevant instrument to be registered rather than the instrument itself.

BILL 03**5 A BILL FOR A CANON TO AMEND THE HOLY ORDERS,
 RELINQUISHMENT AND DEPOSITION CANON 2004**

10 The General Synod prescribes as follows:

Short Title

- 15 1. This canon may be cited as the *Holy Orders, Relinquishment and Deposition Canon 2004 Amendment Canon 2014*.

Principal Canon

- 20 2. In this canon, the *Holy Orders, Relinquishment and Deposition Canon 2004* is called the “principal canon”.

Amendment of section 7

- 25 3. Section 7 of the principal canon is amended by striking out paragraph (c) of subsection (2) and substituting the following paragraph:
- 30 (c) in a case where registration is required under section 5(1)(b) of the *National Register Canon 2007*, cause a copy of the instrument, or the date and particulars of the instrument, to be registered in the national register.

BILL 04**A BILL FOR A CANON TO AMEND THE SPECIAL TRIBUNAL
CANON 2007****EXPLANATORY MEMORANDUM**

The *Special Tribunal Canon 2007*, amongst other things, establishes the Episcopal Standards Commission (the ESC) and provides for its functions. One function is to receive and investigate complaints against any Bishop alleging a breach of faith, ritual, ceremonial or discipline or alleging an offence as may be specified by Canon.

Section 13(1) of the canon states:

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.

The First Schedule reads as follows:

FIRST SCHEDULE

(Section 13(1))

1. Any breach of faith, ritual or ceremonial;
2. Drunkenness;
3. Wilful failure to pay just debts;
4. Wilful violation of the Constitution or of the Canons made thereunder or of the Ordinances of Provincial Synod or Diocesan Synod.

It has been suggested that the effect of section 13(1) is that if the ESC receives a complaint alleging an offence listed in section 2 of the *Offences Canon 1962* and it is alleged that the offence occurred more than 12 months before the date on which the complaint is received by the ESC, then the ESC has no jurisdiction in relation to the subject matter of that complaint. This argument is based on the proposition that conduct that falls within the ambit of section 2 of the *Offences Canon 1962* constitutes a violation of that canon. However, a view to the contrary is that the *Offences Canon 1962* simply lists a number of offences in respect of which the Special Tribunal is given jurisdiction. It does not create the offences - and the committing of any of these offences would not be a "violation" of the *Offences Canon 1962*, which is the test which applies for the purposes of the time limitation under the *Special Tribunal Canon 2007*.

Section 2 of the *Offences Canon 1962* states:

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 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 his diocesan synod.
6. Any conduct involving wilful and habitual disregard of his consecration vows.

In view of the fact that there is some uncertainty in relation to this matter, it has been decided to propose an amendment to the *Special Tribunal Canon 2007* that would ensure that the operation of section 13 of the Canon, when combined with the First Schedule, does not prevent the consideration of a complaint that occurred more than 12 months prior to the date on which the complaint is received by the ESC where the matter relates to conduct that would constitute a breach of items 1, 4 or 6 of the *Offences Canon 1962*, or any other breach of discipline. This would then ensure that relevant offences listed in the *Offences Canon 1962* would always be “covered”, as would other breaches of discipline. The concept of a “breach of discipline” is reflected in many other places - see, for example, references to “breaches of faith ritual ceremonial or discipline” in the Constitution.

BILL 04

5 **A BILL FOR A CANON TO AMEND THE SPECIAL TRIBUNAL**
 CANON 2007

10 The General Synod prescribes as follows:

Short Title

15 1. This canon may be cited as the *Special Tribunal Canon 2007 Amendment*
 Canon 2014.

Principal Canon

20 2. In this canon, the *Special Tribunal Canon 2007* is called the “principal canon”.

Amendment of First Schedule

3. In the First Schedule of the principal canon, at the end of item 4 insert—

, other than—

(a) wilful violation of an offence mentioned in item 1, 4 or 6 of section 2 of the *Offences Canon 1962*; and

(b) any other breach of discipline not mentioned in items 1, 2 and 3 of this Schedule.

BILL 05**A BILL FOR A CANON TO AMEND SECTION 54 OF THE
CONSTITUTION WITH RESPECT TO
MEMBERSHIP OF THE DIOCESAN TRIBUNAL****EXPLANATORY MEMORANDUM****Background**

1. The object of the constitutional amendments in this proposed Canon is to ensure that bishop to whom is made the recommendation of the diocesan tribunal, of the provincial tribunal on an appeal from a diocesan tribunal, or of the Appellate Tribunal following an appeal from the diocesan tribunal, is not a member of the diocesan tribunal.
2. The Constitution includes the following provisions with respect to a diocesan tribunal:
 - (a) that a diocesan tribunal shall be the court of the bishop and shall consist of a president, who shall be the bishop, or a deputy president appointed by him and not less than two other members as may be prescribed by ordinance of the synod of the diocese: section 54(1);
 - (b) the recommendation of the diocesan tribunal, and of the provincial tribunal on an appeal from a diocesan tribunal, and of the Appellate Tribunal on an appeal from a diocesan tribunal or a provincial tribunal, shall be made to the bishop of the diocese concerned: section 60(1).
3. The Constitution provides that the person to whom the recommendation is made shall give effect thereto, provided that if any sentence is recommended, he may consult with the tribunal and exercise a prerogative of mercy: section 60(2).
4. The possibility exists that if the bishop is a member of the diocesan tribunal, the bishop may hear a charge against a person and then have the responsibility of exercising the prerogative of mercy in respect of the sentence.
5. Justice and the appearance of justice in the Church's disciplinary system will be enhanced where the bishop who consults with the diocesan tribunal and exercises the executive power of the prerogative of mercy in respect of a recommended sentence has not already as a member of the diocesan tribunal exercised judicial power in recommending that sentence in the same matter. This separation will prevent allegations of apprehended bias, and perhaps actual bias, arising from the fact that the bishop who as a member of the diocesan tribunal has heard a charge against a person is then required to exercise the prerogative of mercy.

Clause Notes

Clause 1 states the title of the Canon.

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

Clause 3 amends section 54 of the Constitution by amending the first paragraph and inserting new paragraph after the first paragraph.

The first paragraph is amended to remove the bishop as ex-officio president of the diocesan tribunal and provide that the president shall be appointed by the bishop.

The new paragraph provides that the bishop is ineligible to be a member of the diocesan tribunal, and that a person who is a member of the diocesan tribunal shall cease to hold that office on becoming the bishop.

BILL 05

5 **A BILL FOR A CANON TO AMEND SECTION 54 OF THE
 CONSTITUTION WITH RESPECT TO
 MEMBERSHIP OF THE DIOCESAN TRIBUNAL**

10 The General Synod prescribes as follows:

15 **Title**

1. This Canon may be cited as the Constitution Amendment (Membership of the Diocesan Tribunal) Canon 2010.

20 **Commencement**

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

25 **Membership of the Diocesan Tribunal**

3. In the first paragraph of section 54(1) of the Constitution:
- (a) delete the words “who shall be the bishop,”; and
- 30 (b) delete the word “him” in the first paragraph of section 54(1) of the Constitution and substitute the words “the bishop”.
4. After the first paragraph of section 54(1) of the Constitution, insert the following paragraph:
- 35 “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.”

BILL 06**A BILL FOR A CANON TO AMEND SECTION 55 OF THE
CONSTITUTION WITH RESPECT TO MEMBERSHIP OF THE
PROVINCIAL TRIBUNAL****EXPLANATORY MEMORANDUM****Background**

1. The object of the constitutional amendments in this proposed Canon is to ensure that the metropolitan or another bishop of the province who has the responsibility to give effect to the recommendation of the provincial tribunal in respect of any matter is not a member of the provincial tribunal.
2. The Constitution contains the following provisions with respect to a provincial tribunal:
 - (a) that a provincial tribunal shall consist of a president who shall be the metropolitan, or a deputy president appointed by him, and not less than two other members as may be prescribed by ordinance of the synod of the province: section 55(1);
 - (b) that 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: section 55(2);
 - (c) that 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: section 55(3);
 - (d) the recommendation of the provincial tribunal shall be made to the bishop of the diocese concerned: section 60(1).
3. The Constitution provides that the person to whom the recommendation is made shall give effect thereto, provided that if any sentence is recommended, he may consult with the tribunal and exercise a prerogative of mercy: section 60(2).
4. The possibility exists that if the metropolitan or a bishop of the province is a member of the provincial tribunal, the metropolitan or the bishop may hear a charge against a person or an appeal from a determination of the diocesan tribunal, and then have the responsibility of exercising the prerogative of mercy in respect of the sentence.

5. Justice and the appearance of justice in the Church's disciplinary system will be enhanced where the bishop who consults with the provincial tribunal and exercises the executive power of the prerogative of mercy in respect of a recommended sentence has not already as a member of the provincial tribunal exercised judicial power in recommending that sentence in the same matter. This separation will prevent allegations of apprehended bias, and perhaps actual bias, arising from the fact that the metropolitan or another bishop who as a member of the provincial tribunal has heard a charge against a person, or an appeal from a determination of the diocesan tribunal, is then required to exercise the prerogative of mercy.

Clause Notes

Clause 1 states the title of the Canon.

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

Clause 3 amends section 55 of the Constitution by inserting new paragraph after the first paragraph.

The new paragraph provides that the metropolitan or another bishop of the province shall not be a member of the provincial tribunal in respect of any matter where its recommendation is made to the metropolitan or the bishop, and that the place of the metropolitan or the bishop shall be filled for the purposes of that matter by the other members co-opting a person qualified for the office.

BILL 06

5 **A BILL FOR A CANON TO AMEND SECTION 55 OF THE
CONSTITUTION WITH RESPECT TO MEMBERSHIP OF THE
PROVINCIAL TRIBUNAL**

10 The General Synod prescribes as follows:

Title

15 1 This Canon may be cited as the Constitution Amendment (Membership of the
Provincial Tribunal) Canon 2010.

Commencement

20 2 This Canon comes into effect on a date appointed by the President in
accordance with section 67(2) of the Constitution.

Membership of the Provincial Tribunal

25 3 After the first paragraph of section 55(1) of the Constitution, insert the following
paragraph:

30 “The metropolitan or another bishop of the province shall not be a member of the
provincial tribunal in respect of any matter where its recommendation is made to
the metropolitan or the bishop, and the place of the metropolitan or the bishop
shall be filled for the purposes of that matter by the other members co-opting a
person qualified for the office.”

BILL 07**A BILL FOR A CANON TO AMEND SECTION 57 OF THE
CONSTITUTION WITH RESPECT TO APPEALS TO THE
APPELLATE TRIBUNAL****EXPLANATORY MEMORANDUM****Background**

1. The object of the constitutional amendments in this proposed Canon is to ensure:
 - (a) that the Primate who has the responsibility to give effect to the recommendation of the Appellate Tribunal following an appeal from the Special Tribunal; and
 - (b) that a bishop who has the responsibility to give effect to the recommendation of the Appellate Tribunal following an appeal from a diocesan tribunal or a provincial tribunal whose recommendation is made to the bishop:

is not a member of the Appellate Tribunal for the purpose of the appeal.
2. The Constitution contains the following provisions with respect to appeals from the Special Tribunal:
 - (a) that 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: section 56(7);
 - (b) that the person who brings a charge 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 with a specified time limit institute an appeal to the Appellate Tribunal section 59(4);
 - (c) that the recommendation 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: section 60(1).

3. The Constitution contains the following provisions with respect to appeals from a diocesan tribunal or a provincial tribunal:
 - (a) that in matters involving any question of faith ritual ceremonial or discipline an appeal shall lie:
 - (i) from the determination of a diocesan tribunal to the Appellate Tribunal; and
 - (ii) where there is an appeal from the diocesan tribunal to the provincial tribunal, from the determination of the provincial tribunal to the Appellate Tribunal: section 54(4);
 - (b) that in other matters an appeal shall lie from a determination of the diocesan tribunal to the Appellate Tribunal and from a determination of the provincial tribunal to the Appellate Tribunal, as may be permitted by ordinance of the diocesan synod: section 54(4);
 - (c) that 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: section 57(2);
 - (d) that the person who brings a charge before a diocesan or provincial 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 with a specified time limit institute an appeal to the Appellate Tribunal section 59(4);
 - (e) the recommendation of the Appellate Tribunal on an appeal from a diocesan or provincial tribunal shall be made to the bishop of the diocese concerned: section 60(1).
4. The Constitution provides that the person to whom the recommendation is made shall give effect thereto, provided that if any sentence is recommended, he may consult with the tribunal and exercise a prerogative of mercy: section 60(2).
5. The Constitution contains provides that the Appellate Tribunal has a membership of seven persons including three bishops: section 57(1).
6. The possibility exists:
 - (a) that if the Primate is a member of the Appellate Tribunal, the Primate may hear an appeal from the Special Tribunal and then have the responsibility of exercising the prerogative of mercy in respect of the sentence;
 - (b) that a bishop who is a member of the Appellate Tribunal, may hear an appeal from a diocesan or provincial tribunal and then have the

7. Justice and the appearance of justice in the Church's disciplinary system will be enhanced where the Primate or the bishop who consults with the Appellate Tribunal and exercises the executive power of the prerogative of mercy in respect of a recommended sentence has not already as a member of the Appellate Tribunal exercised judicial power in recommending that sentence in the same matter. This separation will prevent allegations of apprehended bias, and perhaps actual bias, arising from the fact that the Primate or a bishop who as a member of the Appellate Tribunal has heard an appeal is then required to exercise the prerogative of mercy.
8. This amendment does not prevent the Primate or a bishop from being a member of the Appellate Tribunal except in the limited circumstance where there is an appeal and the Primate or a bishop receives the recommendation of the Appellate Tribunal. In all other appeals other than the situation of being a party and all other matters the Primate or a bishop who is a member of the Appellate Tribunal will be able to exercise that office.
9. This amendment is being made by an amendment to the Constitution rather than the Appellate Tribunal Canon 1981-1998 because of doubt that the powers of the General Synod in the first paragraph of section 57(2) would permit such an amendment. Even if such an amendment were possible by amending the Appellate Tribunal Canon 1981-1998, it is preferable to amend the Constitution because there should be a permanent disqualification upon the Primate or a bishop from being a member of the Appellate Tribunal in this limited circumstance.

Clause Notes

Clause 1 states the title of the Canon.

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

Clause 3 amends section 57 of the Constitution by inserting subsections (2A) and (2B).

Subsection (2A) provides that the Primate shall not be a member of the tribunal for the purpose of any appeal from the Special Tribunal and the place of the Primate shall be filled for the purpose of the appeal by the other members co-opting a person qualified for the office.

Subsection (2B) provides that a bishop shall not be a member of the tribunal for the purpose of any appeal from a diocesan tribunal or a provincial tribunal whose recommendation is made to the bishop and the place of the bishop shall be filled for the purpose of the appeal by the other members co-opting a person qualified for the office.

BILL 07**A BILL FOR A CANON TO AMEND SECTION 57 OF THE
CONSTITUTION WITH RESPECT TO APPEALS TO THE
APPELLATE TRIBUNAL**

The General Synod prescribes as follows:

Title

1. This Canon may be cited as the Constitution Amendment (Appeals to the Appellate Tribunal) 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.

Appeals to the Appellate Tribunal

3. After section 57(2) of the Constitution, insert the following subsections:

“(2A) The Primate shall not be a member of the tribunal for the purpose of any appeal from the Special Tribunal and the place of the Primate shall be filled for the purpose of the appeal by the other members co-opting a person qualified for the office.

(2B) A bishop shall not be a member of the tribunal for the purpose of any appeal from a diocesan tribunal or a provincial tribunal whose recommendation is made to the bishop and the place of the bishop shall be filled for the purpose of the appeal by the other members co-opting a person qualified for the office.”

BILL 08**A BILL FOR A CANON TO AMEND SECTION 57 OF THE
CONSTITUTION WITH RESPECT TO
MEMBERSHIP OF THE APPELLATE TRIBUNAL****EXPLANATORY MEMORANDUM****Background**

1. The object of the constitutional amendment in this proposed Canon is to ensure that where one or more members of the Appellate Tribunal are unable to be present for the hearing and determination of any appeal question or other matter made or referred to it the place of that member or those members can be filled for the purpose of the appeal question or other matter.
2. The Constitution provides that the Appellate Tribunal shall consist of seven members three of whom shall be diocesan bishops and four of whom shall be lay persons: section 57(1).
3. The Constitution contains the following provisions in section 57(3) with respect to the membership of the Appellate Tribunal for the hearing and determination of any appeal question or other matter made or referred to it:
 - (a) that not all members are required to be present unless otherwise prescribed by canon of General Synod provided there be present at least two bishops and three lay persons;
 - (b) that if during the hearing of any appeal a member attending should die or become unable to continue with the hearing the appeal may proceed so long as:
 - (i) the president two bishops and one other lay person be present; or
 - (ii) the deputy president two bishops and one other lay person be present;
 - (c) that if the number 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 deliberative vote.

4. The Constitution contains no provision to enable the co-option of a qualified person to enable the hearing and determination of any appeal question or other matter made or referred to it where a member or members are unable to be present for the purpose of the appeal question or other matter.
5. The absence of more than one member could prevent the Appellate Tribunal from hearing and determining any appeal question or other matter made or referred to it. This is no theoretical possibility. In the reference on Women Bishops there were applications that the President and the Deputy President disqualify themselves on the ground of apprehended bias. If these applications had been successful, there would not have been three lay persons remaining as required by section 57(3) of the Constitution.
6. To ensure that the Appellate Tribunal is able to have seven members to all hear and determine all appeals questions or other matters made or referred to it and is never in a position where it is prevented from hearing and determining any such appeal question or other matter this amendment confers power on the other members to co-opt a qualified person for the purpose of the appeal question or other matter. The same power is conferred by section 57(2) where a member of the Appellate Tribunal is party to an appeal.
7. This amendment is being made by a separate bill to the bill for the Constitution Amendment (Appeals to the Appellate Tribunal) Canon because it is possible that both bills may not be passed by General Synod, or if both are passed, the canons may not both receive and have in force at the same time the assents required under section 67(3) of the Constitution.

Clause Notes

Clause 1 states the title of the Canon.

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

Clause 3 amends section 57(3) of the Constitution by inserting a new paragraph which provides that where a member is unable to be present for the hearing and determination of any appeal question or other matter made or referred to the Appellate Tribunal, the other members may fill the place of that member by co-opting a person qualified for the office for the purpose of the appeal question or other matter.

BILL 08

5 **A BILL FOR A CANON TO AMEND SECTION 57 OF THE
 CONSTITUTION WITH RESPECT TO
 MEMBERSHIP OF THE APPELLATE TRIBUNAL**

10 The General Synod prescribes as follows:

15 **Title**

1. This Canon may be cited as the Constitution Amendment (Membership of the Appellate Tribunal) Canon 2010.

20 **Commencement**

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

25 **Membership of the Appellate Tribunal**

3. At the end of section 57(3) of the Constitution, insert the following new paragraph:

30 “Where a member is unable to be present for the hearing and determination of any appeal question or other matter made or referred to the Appellate Tribunal, the other members may fill the place of that member by co-opting a person qualified for the office for the purpose of the appeal question or other matter.”

BILL 09**A BILL FOR A CANON TO AMEND THE SOLEMNIZATION OF
MATRIMONY CANON 1981****EXPLANATORY MEMORANDUM**

At its 14th Session in 2007 the General Synod passed the Solemnization of Matrimony Canon 1981 Amendment Canon 2007 as a Provisional Canon. The Provisional Canon, after receiving assent from a majority of Dioceses, returned to the 15th Session of General Synod in 2010 in order for it to be passed as a Canon of the General Synod, in accordance with Section 28(3) of the Constitution.

After much debate the following voting results were declared:

	For	Against	Total	
House of Laity	89	22	111	80%
House of Clergy	78	30	108	72%
House of Bishops	14	9	23	60%

The Provisional Canon accordingly lapsed as the required 2/3 majority in the House of Bishops was not attained. However, when it was discovered that two members of the House of Bishops had inadvertently voted against the Bill, when they had intended to vote for the Bill, the Synod agreed to recommit the matter the following day.

The results on this occasion were:

	For	Against	Total	
House of Laity	77	29	106	72%
House of Clergy	66	45	111	59%

Since the required 2/3 majority in the House of Clergy was not attained, the House of Bishops did not vote and the Bill lapsed.

Given the majority support for this measure in both 2007 and 2010, the Bill returns to the General Synod for further consideration. Since it affects "ritual ceremonial and discipline of this Church" it is treated as a Special Bill, unless three-fourths of the members of each house agree that it need not proceed as a Special Bill. A Special Bill requires two-thirds of the members of each house to agree, whence it becomes a Provisional Canon. It is then referred to each diocesan synod for their assent or dissent, pursuant to Section 28(3)(ii) of the Constitution, before returning to the next Session of General Synod for consideration as to whether it is passed as a Canon of General Synod.

OoOOoo

The following explanatory information was prepared by Bishop Glenn Davies (as he then was) on behalf of the Doctrine Commission to be read with the Bill to amend the Solemnization of Matrimony Canon 1981 when it was first introduced in 2007.

Introduction

1. In 1981 the General Synod passed the Solemnization of Matrimony Canon. This canon repealed the relevant canons of 1604 and introduced rules, which by and large reflected the principles of 1604, though with some notable exceptions.
2. The changes in the main reflected differing circumstances between seventeenth century England and twentieth century Australia. The areas of adaptation between 1604 and 1981 included the following:

marriage can be performed by a deacon as well as a priest;
 the celebrant is to be registered under Commonwealth law;
 marriage requires at least one party to be baptised;
 marriage can be held in other than a church or chapel, with the bishop's permission;
 marriage can be held at times other than between 8am and 3pm;
 marriage of a minor is allowed under relevant Commonwealth law;
 marriage of divorced persons is allowed under relevant diocesan laws.

It is the third of these provisions, which is the subject of this paper.

3. It is not entirely clear why the General Synod chose to insert the requirement that one of the parties to be married must be baptised. The canons of 1604 make no reference to the baptismal status of either party seeking marriage. It is often supposed that the reason for this is that the *Book of Common Prayer* assumed all English people to be baptised as infants. However, the opening rubric in the Order for the Burial of the Dead, indicates that the office is not to be used for any unbaptised person.¹ Thus the existence of unbaptised persons in England was clearly recognised. Nonetheless, although baptism is not explicitly required of those who wish to be married, the form of Solemnisation of Matrimony implies that both parties are baptised and confirmed, given the admonition that they should partake of the holy communion either during the service or at the first opportunity thereafter.
4. When the Anglican Church of Australia considered changing the expectation that both parties must be baptised, two questions would naturally have arisen: (1) Can the Church solemnise the marriage of an unbeliever and a believer? (2) Can the Church solemnise the marriage of two unbelievers?²

¹ According to Canon 68, a minister could not refuse to bury a person unless that person "were denounced excommunicated". This dictum dates back as far as Pope Leo the Great (448): "we cannot hold communion in death with those who in life were not in communion with us." Presumably the 1662 *BCP* was expressing the same principle when it extended the exclusion from Christian burial to the unbaptised and those who have laid violent hands upon themselves, as well as the excommunicated. These exclusions continue in the Church of England today, although other orders of service are now permissible (Canon B38).

² The form of this canon when first proposed bore no reference to any requirement that either party be baptised. Nothing in the proceedings of the General Synod gives any evidence of the reasons for this

Mixed Marriages

5. Under the Mosaic covenant Israelites were forbidden marriage with the nations of Canaan (Deut 7:3). Abraham's concern that Isaac marry one of his own kin and not a Canaanite woman followed a similar principle, as it was for Isaac's son Jacob (Gen 28:1-2). This was not merely for the sake of racial purity, but a moral purity to produce godly seed (Ezra 9:2; Mal 2:15). Despite the deception of the sons of Jacob in relation to Shechem and Hamor, they rightly enunciated the principle that foreign males must be circumcised before taking Abrahamic daughters (Gen 34:15).³ Interracial marriages did take place (notable examples being Moses and Boaz), but in each case the non-Israelite woman was a woman of faith. Because the Lord's judgment was upon Israel for marrying pagan wives (Josh 23:12-13), Ezra demanded those Israelites who had transgressed this rule to divorce their wives (Ezra 9-10).
6. Under the new covenant, there does not seem to be any change in the expectation that Christians should marry Christians. Thus Paul explicitly states in 1 Corinthians 7:39 that a Christian widow, if she remarries, can only do so "in the Lord". Likewise the application of Paul's instructions about mixed partnerships, with its patent reference to the danger of mixed marriages under the old covenant, implies that Christians ought not to be mismatched with non-Christians (2 Cor 6:14). As O D Watkins states in his article on "Christian Marriage" in *The Prayer Book Dictionary* (1912), "The weight of Christian precedent is against sanctioning the solemnization of any marriage between a baptised person and a person unbaptised."⁴
7. Nonetheless, under the new covenant, the situation arises where an adult convert is already married to an unbeliever. In this case, Paul indicates that such a circumstance does not place the marriage of the Christian brother or sister in jeopardy. On the contrary, it may be the opportunity for the unbelieving spouse to be saved (1 Cor 7:13; cf 1 Peter 3:1), although this is not to be understood as providing any justification for a Christian to marry a non-Christian. However, if the unbelieving partner wishes to separate, then the believing spouse is not bound (1 Cor 7:15).
8. It is surprising, therefore, that the General Synod condoned the solemnisation of marriage between two parties where only one was baptised. It is against the teaching of Scripture, against the tenor of the *Book of Common Prayer* and has no precedent in any canon law of the Church of England.⁵

change and even the mover of the bill (Bishop D W B Robinson) was unable to recall the reason for its addition (from a private conversation during 2005).

³ This episode in patriarchal history also indicates the shallowness of using circumcision as a bargaining chip for marriage between the sons of Jacob and the nations. It was not only deceitfully used by the sons of Jacob but also considered by the Hivites to be a matter of little consequence or conviction, but only a means to an end.

⁴ The Roman Catholic position is similar. "An impediment known as DIFFERENCE OF WORSHIP, invalidates marriage contracted between a non-baptised person and one baptised." *The Teaching of the Catholic Church*, ed G D Smith (New York: Macmillan, 1964), II.1082.

⁵ The revised canons of the Church of England make no mention of baptism as a requirement of either party to a marriage, or that lack of baptism would be an impediment, notwithstanding the inclusion of certain other impediments to the solemnisation of matrimony. See Canons B30-36.

Marriage between two unbelievers

9. The possibility that marriage might be solemnised between two unbelievers in a church ceremony may seem at first an oddity. This raises the question of the relationship of the church to the world. Can the church pronounce a blessing upon two unbelievers? Is the institution of marriage, which at its deepest level reflects the union of Christ and the church something into which the unbeliever can enter? For those who consider marriage to be a sacrament,⁶ the notion of participation in such a sacrament by unbelievers may be more problematic.⁷
10. Marriage was instituted for humankind as God's image bearers. It is an ordinance for all humanity, rather than a redemptive ordinance. While it has specific Christian application, the Prayer Book's understanding of marriage bears equal application to marriage outside the covenant community. This may be seen in the threefold "causes for which matrimony was ordained": the procreation of children; a remedy against sin so as to avoid fornication; and the companionship between a man and a woman. Throughout the Bible, these three aspects of marriage are recognised both within and without the Abrahamic community. Nowhere is the marriage of unbelievers regarded as of a different order than that between the members of the household of faith.⁸ As Christopher Ash says:

The created order inheres precisely in all creation. It is not the preserve of any locality, any period of history or any culture. Nor is it applicable only to the people of God. This is important in view of the confusion surrounding the supposed difference between 'marriage' and 'Christian marriage'. Marriage is an ordinance of creation not a regulation of the church; it may be entered outside the sphere of faith, and when entered from within the sphere of faith it does not change its essential character. Couples may have different levels of understanding of the purposes for which marriage was ordained, but those who know neither the creation origins nor the redemptive significance of marriage may yet marry. And when they marry, they marry; they do not partially marry because they are outside the boundaries of the church, and they do not marry in some superior way if they are within.⁹

Similarly, Emil Brunner writes of marriage and other orders of creation:

They are all independent of faith, and of love which flows from faith. They exist because of the psychophysical nature of man. Their nature and their existence are recognised by means of reason, not by faith, by means of the purely natural powers of cognition which is given to very man just because, and in so far as, he

⁶ Albeit not a sacrament of the gospel, in accordance with Article XXV.

⁷ Even John Macquarie, who argues for recognition of marriage as a sacrament, agrees that 'Marriage, of course, is a "natural" institution as well as being a Christian sacrament, and as a natural institution, it is a far wider phenomenon. Here we must recognize the continuity between the natural institution and the Christian sacrament...The so-called "natural" institution already contains *in nuce* that which is unfolded and understood in depth in the light of Christian revelation.' *Principles of Christian Theology* (London: SCM, 1966), 453-55. Some would go further, arguing that marriage, even in Genesis 1, bears a redemptive and therefore sacramental character.

⁸ In fact it could be argued that an Egyptian Pharaoh (Gen 12:10-19) and Abimelech the King of Gerar (Gen 20:1-18) placed a higher value upon the marriage bond than even Abraham did.

⁹ C Ash, *Marriage. Sex in the Service of God* (Leicester: IVP, 2003), 75.

is a human being. In them the life of the community is achieved before faith comes upon the scene at all.¹⁰

11. Helmut Thielicke enunciates four points concerning what he calls the 'worldliness' of the estate of marriage
 1. It is asserted that the estate of marriage is not constituted by the fact that it is entered into by persons who are aware of its theological implications and who therefore, since they know the Creator and Redeemer, know it also in its affinity to the order of creation and redemption.
 2. It is asserted that marriage has no redemptive significance and that one is not 'saved' through it. We are not saved through an ordinance with which we are in conformity, but only through *faith*...
 3. It is asserted that as an order of creation marriage is an institution established for 'all men' and which can also be observed by 'all men', that is, independently of faith.
 4. And finally it is asserted that marriage is instituted as an order of preservation for 'the whole world'. In a way parallel to that in which for Luther the state constitutes the *social* basis for life and prevents the world from sinking into chaos, so marriage establishes the *biological* prerequisite for life. Both orders are required for the preservation of a world which is to be kept in being for its salvation, preserved for the chance of the day of salvation (*kairos*, 2 Cor 6:2). They do not themselves *mediate* salvation, but they do *preserve* for salvation. We are preserved because we must have the chance to be called.¹¹
12. When Jesus addresses the question of divorce with the Pharisees in Matthew 19:3-9, he reminds them of the basic constitution of marriage and its foundation in creation. It is not Hebrew marriage, *per se*, but human marriage, to which Jesus draws our attention.¹² Moreover, those who conform to God's ordinance of marriage¹³ are joined by God (Matt 19:6). As we have seen with Paul's instructions in 1 Corinthians, a recent convert who was previously married should continue to stay in the marriage, unless the unbeliever wishes a divorce. However, there is no suggestion that the marriage (originally between two unbelievers) is illegitimate or invalid. Unlike baptism and the Lord's Supper,

¹⁰ E. Brunner, *The Divine Imperative* (Butterworth, 1953), 335. Note Calvin's comment on the seventh commandment: "Man has been created in this condition that he may not lead a solitary life, but may enjoy a helper joined to himself...therefore the Lord sufficiently provided for us in this matter when he established marriage, the fellowship of which, begun on his authority, he also sanctified by his blessing. From this it is clear that any other union apart from marriage is accursed in his sight." *Institutes* 2.8.41.

¹¹ H Thielicke, *The Ethics of Sex* (ET London: James Clarke & Co., 1964), 139-140.

¹² "The ethical teaching of Jesus removes all limitations from the sphere of validity of divine law. In contrast to those who defined the people of God by nationality, Jesus' teaching is addressed to all men ('every one who...'). By referring back to Genesis and the creation narratives in his dialogue with the Pharisees on divorce, Jesus demonstrated that his teaching applies not just to Jewish (or Christian) marriage, but to human marriage in its totality." D Atkinson, *To Have and to Hold. The Marriage Covenant and the Discipline of Divorce* (London: Collins, 1979), 144.

¹³ The ordinance of marriage presupposes the exclusive and permanent union of a man and a woman. See John Murray, *Principles of Conduct* (London: Tyndale, 1957), 45-81.

which are redemptive ordinances for the people of God, marriage is an ordinance for all who are made in the image of God. In the words of Oliver O'Donovan:

In the ordinance of marriage there was given an end for human relationships, a teleological structure which was a fact of creation and therefore not negotiable. The dimorphic organization of human sexuality, the particular attraction of two adults of the opposite sex and of different parents, the setting up of a home distinct from the parental home and the uniting of their lives in a shared life...these form a pattern of human fulfilment which serves the wider end of enabling procreation to occur in a context of affection and loyalty. Whatever happens in history, Christians have wished to say, this is what marriage really is. Particular cultures may have distorted it; individuals may fall short of it. It is to their cost in either case, for it reasserts itself as God's creative intention for human relationships on earth; and it will be with us, in one form or another, as our natural good until (but not after) the kingdom of God shall appear.¹⁴

Conclusion

13. We live in a vastly different world from that of the sixteenth century. We can no longer proceed under the presumption that people seeking marriage are baptised. With the increase of civil celebrants and the majority of Australian marriages being registered without a minister of religion, it is surely time to reclaim the ordinance of marriage as an ordinance for all people, including those who are not yet baptised. It provides the opportunity for 'the church to speak to the world'.¹⁵ The Christian church is best placed to speak of the meaning of marriage and the alignment between creation and redemption. As Jesus assures his hearers that it is God who joins two people in marriage, the Christian minister can pronounce God's blessing upon such a union, where it accords with God's intentions for human marriage. For God's blessing in creation, like the rain and the sunshine, is for the evil and the good, for the just and the unjust, that they might seek after God and find him.¹⁶
14. The current legislation in the Anglican Church of Australia requires a minister to ascertain whether one of the parties is baptised. If neither one is baptised, nor wants to be baptised, merely to conform to canonical correctness,¹⁷ the minister cannot proceed. Yet one party could have been baptised as an infant and yet never personally professed Christ, never been confirmed and without any present association with the church, other than a desire for marriage in accordance with God's law. What justice is there in accepting such a person for marriage and denying one whose experience is identical, except that their parents did not bring them to baptism in their infancy? Surely even for those who consider marriage to be a sacrament, more than the evidence of baptism would be required to ensure

¹⁴ O O'Donovan, *Resurrection and Moral Order: An Outline for Evangelical Ethics* (Leicester: IVP, ²1994), 69.

¹⁵ Ash, *Marriage*, 76.

¹⁶ Matt 5:45; Acts 14:15-17; 17:26-27.

¹⁷ While it is a wonderful outcome for the parties to marriage to hear the gospel and be converted, it is another matter entirely to perform a perfunctory rite (in the mind of the recipient) in order to satisfy an ecclesiastical canon. Such a scenario is dangerously close to the deceptive requirement of circumcision for the Hivites, by the sons of Jacob, before any marriage with the daughters of Jacob could be contemplated (Gen 34:13-31).

that the sacrament had “a wholesome effect or operation”.¹⁸ Decisions as to whether such persons should be married in church are usually left in the hands of the minister. Yet there is no such liberty for a minister to exercise any discretion where neither party is baptised; no liberty to extend the blessing of God the Father to those outside the kingdom (Matt 5:45).

15. No doubt the intention of the General Synod in 1981 was to update the rules for marriage according to Anglican rites in the Australian context. It is understandable that there was a desire to see a relaxation of the expectation (though significantly not a previous requirement) for both persons to be baptised, though it is less clear why it was considered necessary that one party be baptised. After all, it is no longer a requirement that only baptised persons are eligible for a funeral service in accordance with Anglican rites. However, to go half way, requiring at least one of the parties to be baptised is an anomaly, if not a travesty of biblical teaching. In a day when less than half of all marriages are conducted as church ceremonies, it is hardly evangelistically enterprising or pastorally sensitive to insist that one party be baptised before a minister can accede to their request to be married. However, to receive the blessing of God in marriage does not require that both parties (let alone one party) be baptised. God desires that men and women live in the harmony of married relationships with all the benefits that such an estate conveys. If our Church is to engage effectively with unchurched Australians, we would do well to rejoice in the things we have in common with unbelievers; encourage them to get married in accordance with God’s laws, and in so doing invite them to receive the blessing of God in a public ceremony. We are more likely to save our hearers by sharing with them the benefits of being an image bearer, before we share with them the benefits of being a member of God’s family. To insist upon the necessity of baptism before marriage is to put the cart before the horse.

Options

16. If the General Synod is persuaded that the Solemnization of Matrimony Canon 1981 should be amended, two options present themselves: (1) to include a requirement that both parties must be baptised, or (2) to remove the requirement that either party has to be baptised.
17. Option (1) has the merit of seeking to make Christian marriage distinct from the marriage that is administered by a civil celebrant. However, it does not go far enough. For Christian marriage is a marriage between two professing Christians, baptised communicant members of Christ’s body. If the couple are seeking God’s blessing in accordance with the rites of the Anglican Church, should not both parties be communicant members of the Anglican Church? This would be theologically more consistent with the view that both parties should be baptised. Yet if we were to adopt such an amendment, a significant loss of contact with unchurched Australians would eventuate. We would be restricting our access to Australian society by refusing to marry other than our own.
18. Option (2) has the merit of reasserting marriage as an ordinance of God for all humanity and preserves the integrity of the estate of marriage in our society. It is

¹⁸ “And in such only as worthily receive the same [sacraments] they have a wholesome effect or operation: but they that receive them unworthily purchase to themselves damnation, as Saint *Paul* saith.” Article xxv.

mission-minded as it provides opportunity to bring people into a closer relationship with God, even if they are not ready to become disciples of Jesus in the pressured timetable between first interview and the date of the wedding. Furthermore, it leaves the decision in the hands of the minister as to the appropriateness of marrying two unbaptised persons in accordance with Anglican rites.

19. The Doctrine Commission discussed the merits of these options and agreed that option 2 was to be preferred. Accordingly, the Commission agreed that a bill which amended the Solemnization of Matrimony Canon 1981 by deleting paragraph 3(b) was worthy of consideration by the General Synod.

Glenn N. Davies
For and on behalf of the Doctrine Commission
7 February 2007

BILL 09

5 **A BILL FOR A CANON TO AMEND THE SOLEMNIZATION OF
MATRIMONY CANON 1981**

10 The General Synod prescribes as follows:

Short Title

- 15 1. This Canon may be cited as the “Solemnization of Matrimony Canon 1981
Amendment Canon 2014”

Amendment of Section 3

- 20 2. Section 3 of the Solemnization of Matrimony Canon 1981 is amended by deleting
subsection (b).
- 25 3. The provisions of this canon affect the order and good government of this Church
within a diocese and shall not come into force in any diocese unless and until the
diocese by ordinance adopts it.

BILL 10**A BILL FOR A CANON TO AMEND
THE NATIONAL REGISTER CANON 2007****EXPLANATORY MEMORANDUM****Background**

1. The object of this Canon is to amend the National Register Canon 2007 to ensure that investigations by the police are not prejudiced by the notification to the member of the clergy or lay person concerned of the entry of Information relating to that person.
2. There have been instances where a Director of Professional Standards has received a request from a police service that a member of the clergy or lay person not be notified of the entry of Information in the National Register relating to that person so as to ensure that investigations by the police are not prejudiced.
3. The amendment will ensure that where such a request is received the member of the clergy or lay person concerned not be notified of the entry of Information in the National Register relating to that person for a limited period which may be extended where a further request is received or further requests are received.

Clause Notes

Clause 1 states the title of the Bill and that the National Register Canon 2007 is referred to as the principal Canon.

Clause 2 provides that the existing section 9 is renumbered as subsection (1) and that:

- (a) in subsection (1) the word “The” is deleted and the words “Subject to subsection (3), the” are substituted;
- (b) subsections (2) and (3) are inserted whereby:
 - (i) subsection (2) provides that a Director of Professional Standards who receives a police request or the withdrawal of a police request shall forthwith enter a notation of the police request in the National Register, or remove that notation, as the case may be, and notify the General Secretary of a police request or the withdrawal of a police request;
 - (ii) subsection (3) provides that where the General Secretary receives a police request or the withdrawal of a police request the General

Secretary shall forthwith enter a notation of the police request in the National Register, or remove that notation, as the case may be;

- (iii) subsection (4) provides that 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 where he receives or is notified of a police request until the sooner of the expiration of three months or he receives or is notified of the withdrawal a police request.

Clause 3 provides for the amendment of the Third Schedule by inserting definitions of “police request”, “police service” and “withdrawal of the police request”.

BILL 10

5

**A BILL FOR A CANON TO
AMEND THE NATIONAL REGISTER CANON 2007**

10 The General Synod prescribes as follows:

Title

15

1 (1) This Canon may be cited as the National Register Canon 2007
(Amendment) Canon 2014.

(2) The National Register Canon 2007 is hereinafter referred to as “the
principal Canon”.

20

Amendment of section 6

2. Section 9 of the principal Canon is amended by:

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(a) renumbering the existing section as subsection (1) and in the
renumbered subsection (1) deleting the word “The” and substituting the
words “Subject to subsection (3), the”;

30

(b) inserting the following subsections after subsection (1):

“(2) Where a Director of Professional Standards receives a
police request or the withdrawal of a police request, the
Director of Professional Standards shall forthwith:

35

(a) enter a notation of the police request in the National
Register, or remove that notation, as the case may
be; and

40

(b) notify the General Secretary of the police request or
the withdrawal of the police request, as the case may
be.

45

(3) Where the General Secretary receives a police request or
the withdrawal of a police request, the General Secretary
shall forthwith enter a notation of the police request in the
National Register, or remove that notation, as the case
may be.

50

(4) Where the General Secretary receives a police request or
notification of a police request 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

5 person until the sooner of the expiration of three months
or the receipt of the withdrawal of the police request or
notification of the withdrawal of the police request from a
Director of Professional Standards.”

10 **Amendment of the Third Schedule**

3. The Third Schedule of the principal Canon is amended by:

15 (a) inserting the following definitions after the definition of “physical abuse”:
“**“police request”** means a request in writing from a police service that
a member of the clergy or lay person not be notified of the entry of
Information in the National Register relating to that person;”

20 “**police service**” means the Australian Federal Police or the police
service of a State or Territory of Australia;

(b) inserting the following definition after the definition of “Standing
Committee”:

25 “**withdrawal of the police request**” means a notification in writing by
the police service concerned that it withdraws the police request relating
to a particular member of the clergy or lay person;”

BILL 11

A BILL FOR A CANON TO AMEND THE PROTOCOL FOR ACCESS TO AND DISCLOSURE OF INFORMATION IN THE NATIONAL REGISTER 2007.

EXPLANATORY MEMORANDUM

Background

1. The object of this Bill is to amend the Protocol for access to and disclosure of Information in the National Register 2007 to ensure that investigations by the police are not prejudiced by the notification to the member of the clergy or lay person concerned of the entry of Information relating to that person.
2. This Bill is consequential to the Bill for the National Register Canon 2007 (Amendment) Canon 2014.

Clause Notes

Clause 1 states the title of the Bill and that the Protocol for access to and disclosure of Information in the National Register 2007 is referred to as the Protocol.

Clause 2 provides that the addition of clause 6A which provides that 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.

BILL 11

5 **A BILL TO AMEND THE PROTOCOL**
FOR ACCESS TO AND DISCLOSURE OF INFORMATION
IN THE NATIONAL REGISTER 2007.

10 The General Synod prescribes as follows:

Title

- 15 1. (1) This Canon may be cited as the Protocol for access to and disclosure
 of Information in the National Register 2007 (Amendment) Protocol
 2014.
- 20 (2) The Protocol for access to and disclosure of Information in the National
 Register 2007 is hereinafter referred to as “the Protocol”.

Addition of clause 6A

- 25 2. The Protocol is amended by the addition in Part 2 of clause 6A after clause 6:

“Non- disclosure of information where there is a police request

6A 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
30 not disclose the existence or substance of the Information to the person
 to whom the Information relates.”

BILL 12**A BILL FOR A CANON TO AMEND THE PRIMATE CANON 1985****EXPLANATORY MEMORANDUM**

The purpose of this Bill is to re-enact s12(5) of the Primate Canon Amendment Canon 2007 ("the Amendment Canon") to clarify when a person elected to office pursuant to s10(1) of the Primate Canon 1985 ("the Principal Canon")

Sections 10(1) and (2) of the Principal Canon provide:

- (1) When the office of Primate is due to become vacant on a date that is known in advance the Primate shall cause to be convened a meeting of the Board to be held not less than 3 months but not more than 9 months before the office is due to become vacant.*
- (2) Where it is not possible to convene a meeting of the Board within the time specified in subsection (1) or where a vacancy in the office of Primate occurs without notice the Primate or, if the office has become vacant, the Acting Primate shall cause to be convened a meeting of the Board to be held as soon as possible.*

To make it clear that the outgoing Primate continues in office until his or her term expires or comes to an end for some other reason, the Fourteenth Session of the General Synod in 2010 passed s12(5) of the Amendment Canon which provided:

A person elected to the office of Primate in accordance with the procedure in section 10(1) holds office only from the date the office becomes vacant and until that time is Primate Elect.

The text of s12(5) was not in the Bill presented to the Synod in 2007. It may be assumed that s12(5) was an amendment moved during the committee stage. As no minutes are kept of resolutions of the Synod in Committee, the history of s12(5) cannot be readily determined.

The text of s12(5) of the Amendment Canon did not specify whether the Principal Canon was to be amended by insertion of a new section or by amending an existing section. It is therefore doubtful whether the amendment has any force or effect.

S12(5) was not carried into the consolidated Principal Canon published in the 2007 edition of *The Constitution Canons and Rules of the Anglican Church of Australia (the Green Book)*. However, footnote 9 which appears after the heading “Procedure on Vacancy” immediately preceding section 10 on page 96 of the 2007 Green Book states:

Heading and Section 10 replaced by Canon 01, 2007. A person elected to the office of Primate in accordance with the procedures in section 10(1) holds office only from the date the office becomes vacant and until that time is Primate Elect (see Primate Canon Amendment Canon 2007, section 12(5)).

It is clear that the compiler of the consolidated Principal Canon in the Green Book believed section 12(5) had been passed by the Synod but, for reasons unknown, did not include the text of the amending section in the consolidated canon.

However, because there is doubt whether section 12(5) of the Amendment Canon has any force or effect, the Standing Committee recommends that the Synod remove the doubt by passing this Bill.

It is proposed that the amendment be effected by inserting a new s14(2B) in the Principal Canon in terms of s12(5) of the Amendment Canon.

BILL 12**5 A BILL FOR A CANON TO AMEND THE PRIMATE CANON 1985**

10 The General Synod prescribes as follows:

Title

- 15 1. (a) This Canon may be cited as the Primate Canon 1985 Amendment Canon 2014.
(b) The Primate Canon 1985 is herein after referred to as “the Principal Canon”.

20 **Amendment of Section 14**

2. Section 14 of the Principal Canon is amended by inserting the following subsection (2B) immediately after subsection (2A):
- 25 “(2B) A person elected to the office of Primate in accordance with the procedure in section 10(1) holds office only from the date the office becomes vacant and until that time is Primate Elect.”

30

BILL 13**A BILL FOR A CANON TO AMEND THE CANON CONCERNING
CONFESSIONS 1989****EXPLANATORY MEMORANDUM****Background**

1. The object of this Canon is to amend the Canon concerning confessions 1989 by providing an exception to the obligation of an ordained minister to keep confidential a confession of a sexual offence involving a child.
2. This amendment is designed to give effect to:
 - (a) the principles relating to private confessions of child sexual abuse and the scope of section 2 of the Canon concerning confessions 1989 set out in the report of the Clergy Discipline Working Group dated 23rd March 2001;
 - (b) the principles relating to private confessions of child sexual abuse in the protocol entitled *Private Confessions: Pastoral Guidelines with special reference to Child Sexual Abuse* of the House of Bishops which was agreed on 8 March 2006 and revised on 1 March 2011.
3. The amendment will ensure that canon law does not impose a duty on an ordained minister who receives a confession of a sexual offence involving a child to keep the confession confidential unless reasonably satisfied that the person making the confession has reported the sexual offence to the police.

Clause Notes

Clause 1 states the title of the Bill and that the Canon concerning confessions 1989 is referred to as the principal Canon.

Clause 2 provides for the amendment of section 2 by providing that the obligation of confidentiality of the ordained minister specified in that section is subject to section 3.

Clause 3 provides the insertion of a new section 3 and renumbers the remaining sections. The new section 3:

- (c) in subsection (1) provides for definitions of “child”, “police” and “sexual offence”;
- (d) in subsection (2) provides that where a person confesses that he or she has committed a sexual offence the ordained minister is only obliged to keep confidential the sexual offence so confessed where the ordained minister is

reasonably satisfied that the person has reported the sexual offence to the police.

Clause 4 provides the Canon shall not come into force in a diocese unless and until the diocese adopts it by ordinance of the synod of the diocese.

BILL 13**5 A BILL FOR A CANON TO AMEND THE CANON CONCERNING
CONFESSIONS 1989**

10 The General Synod prescribes as follows:

Title

- 15 1 (1) This Canon may be cited as the Canon concerning confessions 1989
Amendment Canon 2014.
- (2) The Canon concerning confessions 1989 is hereinafter referred to as
20 “the principal Canon”.

Amendment of the principal Canon

2. Section 2 of the principal Canon is amended by deleting the word “If” and
substituting the words “Subject to section 3, if”.
- 25 3. The principal Canon is amended by inserting a new section 3 and renumbering
the remaining sections:

- 30 “3. (1) In this section –
- “child” means a person under the age of 18 years;
- “police” means the Australian Federal Police or the police
service of a State or Territory of Australia;
- 35 “sexual offence” means a criminal offence involving a
sexual element that is committed against, with or in the
presence of a child.
- 40 (2) Where a person confesses that he or she has committed
a sexual offence an ordained minister is only obliged to
keep confidential the sexual offence so confessed where
the ordained minister is reasonably satisfied that the
person has reported the sexual offence to the police.”

Canon affects order and good government

4. 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
50 until the diocese adopts this Canon by ordinance of the synod of the diocese.

BILL 14**A BILL FOR A CANON TO ALTER THE PROVISIO TO CANON
113 OF THE CANONS OF 1603****EXPLANATORY MEMORANDUM****Background**

1. The object of this Canon is to alter the proviso to Canon 113 of the Canons of 1603 in so far as it may have any force by providing a further exception to the obligation of a minister to keep confidential a confession of a sexual offence involving a child.
2. The proviso to Canon 113 of the Canons of 1603 provides:

“Provided always, that if any man confess his secret and hidden sins to the minister, for the unburdening of his conscience, and to receive spiritual consolation and ease of mind from him; we do not any way bind the said minister by this our Constitution, but do straitly charge and admonish him, that he do not at any time reveal and make known to any person whatsoever any crime or offence so committed to his trust and secrecy, (except they be such crimes as by the laws of this realm his own life may be called into question for concealing the same,) under pain of irregularity.”
3. This amendment is designed to give effect to:
 - (a) the principles relating to private confessions of child sexual abuse and the scope of the proviso to Canon 113 of the Canons of 1603 set out in the report of the Clergy Discipline Working Group dated 23rd March 2001;
 - (b) the principles relating to private confessions of child sexual abuse in the protocol entitled *Private Confessions: Pastoral Guidelines with special reference to Child Sexual Abuse* of the House of Bishops which was agreed on 8 March 2006 and revised on 1 March 2011.
4. The amendment will ensure that canon law does not impose a duty on a minister who receives a confession of a sexual offence involving a child to keep the confession confidential unless reasonably satisfied that the person making the confession has reported the sexual offence to the police.

Clause Notes

Clause 1 states the title of the Bill and that the proviso to Canon 113 of the Canons of 1603 is referred to as the Proviso.

Clause 2 provides for the alteration of the Proviso by the insertion of an additional exception to the obligation of confidentiality imposed on a minister who receives a confession where the confession is of a sexual offence involving a child unless the minister is reasonably satisfied that the person making the confession has reported the sexual offence to the police.

Clause 3 provides for definitions of “child”, “man”, “police” and “sexual offence” in the altered Proviso.

Clause 4 provides the Canon shall not come into force in a diocese unless and until the diocese adopts it by ordinance of the synod of the diocese.

RULES

BILL R01

A RULE TO AMEND RULE I – STANDING ORDERS (STANDING ORDER 42A)

EXPLANATORY MEMORANDUM

1. Paragraph (a) of Standing Order 42A currently provides for two business days between closure of the time for notifying amendments to motions, rules and bills and the commencement of the session of Synod. This period is too short for the preparation of the business paper for the first day of the session, when the general Synod office team usually has to travel to the venue and set up for Synod.
2. It is therefore proposed to alter the time period for notifying amendments to five business days before the commencement of the session of Synod and then preclude notification of amendments until the commencement of the session of Synod.
3. Any amendments notified after the time specified in paragraph (a) (as amended) will be then be dealt with under paragraph (c) of Standing Order 42A.

BILL R01

5 **A RULE TO AMEND RULE I – STANDING ORDERS
(STANDING ORDER 42A)**

- 10 1. In Rule I, paragraph (a) of Standing Order 42A is amended by deleting “5 pm on
the third” and inserting instead “9 am on the fifth”.
2. In Rule I, Standing Order 42A is amended by inserting a new paragraph after
paragraph (a):
- 15 “(a1) A member may not propose an amendment between the time specified
in paragraph 42A(a) and the commencement of the session of Synod.”

BILL R02**A RULE TO AMEND RULE 1 – STANDING ORDERS
(STANDING ORDER 42B)****EXPLANATORY MEMORANDUM**

1. The genesis of this proposed new Standing Order is the experience from the Fifteenth General Synod of the amount of time and effort required before and at Synod of the General Secretary and staff in responding to requests from movers, seconders and other speakers to motions for distribution of materials relating to motions to members of the General Synod.
2. The practice has been for members to seek the consent of Synod to distribute material in support of motions or for the passing of a motion that provides for an ad hoc process for approval to distribute such material at that session of Synod.
3. The proposed new Standing Order deals with the establishment of a Materials Distribution Committee with the responsibility of giving approval for distribution of materials relating to motions at Synod.
4. The ideal position is for the materials to be submitted to the Materials Distribution Committee for approval before the Synod commences, but at the latest the materials should be submitted one day before the relevant motion is debated.
5. Paragraph (a) provides for Standing Committee to appoint the three members of Synod who will comprise the Materials Distribution Committee.
6. In order to ensure that only materials approved by the Materials Distribution Committee are distributed, those that are approved must be endorsed with a statement to that effect, as prescribed by paragraph (c).
7. Paragraph (f) limits the materials for which approval may be given. It is proposed that if the materials are in hard copy, they must not exceed two A4 pages, but if they are in soft copy, they must not exceed ten A4 pages.
8. Paragraph (i) deals with the cost of hard copies, if the member who obtains the approval for distribution of materials in hard copy does not provide sufficient copies of the materials for distribution to members of Synod.

BILL R02**A RULE TO AMEND RULE I – STANDING ORDERS
(STANDING ORDER 42B)**

In Rule I, after Standing Order 42A insert the heading “Distribution of Materials relating to Motions” followed by a new Standing Order 42B:

- “42B(a) Standing Committee must before each session of Synod appoint a Materials Distribution Committee comprising three members of Synod, one from each House and each from a different Diocese to the others, to approve the distribution of materials to members relating to motions or proposed motions before the Synod.
- (b) Any mover, seconder or other speaker to a motion or a proposed motion before the Synod may distribute to members materials relating to the motion or proposed motion approved by the Materials Distribution Committee and in the manner approved by the Materials Distribution Committee.
- (c) The materials approved by the Distribution of Materials Committee must be endorsed with a statement to the effect that the approval for distribution of these materials to members of Synod was given by the Materials Distribution Committee and the date on which the approval was given.
- (d) A member of the Synod may seek the approval of the Materials Distribution Committee to the distribution of materials relating to an identified motion by submitting the request for approval to the General Secretary with a copy of the materials proposed to be distributed and identifying the preferred manner of distribution.
- (e) The request for approval must be submitted as soon as the materials are available and, if the session of the Synod has commenced, no later than one day before it is proposed to distribute the materials.
- (f) The materials for which approval may be given must not exceed two A4 pages if in written form (hard copy) or ten A4 pages if in electronic form (soft copy).
- (g) If the request for approval is made more than two weeks before the commencement of the session of the Synod, the Materials Distribution Committee must give or refuse the approval within one week of the date on which the request is received by the General Secretary.
- (h) The Materials Distribution Committee must otherwise give or refuse the approval as soon as practicable.

- 5 (i) If the approval is given for the distribution of the materials in hard copy,
the member who obtains the approval must provide sufficient copies of
the materials to distribute to members of the Synod under the
supervision of the General Secretary or pay for the cost of the materials
to be copied and distributed under the supervision of the General
10 Secretary.
- (j) If the approval is given for the distribution of the materials in soft copy,
that will be undertaken under the supervision of the General Secretary.”

BILL R03

A RULE TO AMEND RULE I – STANDING ORDERS (STANDING ORDER 66)

EXPLANATORY MEMORANDUM

1. Standing Order 63 of Rule 1 deals with the processes to be followed for General Synod to pass a Bill, so that it becomes a Canon. The process includes certification under Standing Order 63(20) by the clerical and lay secretaries on a copy of the Canon that it is a copy of the Canon as passed and the date of its passing.
2. Standing Order 66 of Rule 1 deals with the processes to be followed for General Synod to pass a Rule. It is largely the same process that applies under Standing Order 63, by virtue of Standing Order 66(3).
3. One of the differences between the two processes is that under Standing Order 66, there is no procedure for certification of a copy of the Rule as passed, because Standing Order 63(20) does not apply.
4. It is prudent that there is a means of ensuring the accuracy of any Rule that is passed, when the process that is otherwise used for the passing of a Rule is similar to the process of passing a Canon.
5. The same process of certification that is used for a Bill that is passed as a Canon can apply to a Rule, if the reference to Standing Order 63(20) is deleted from Standing Order 66(3).

BILL R03

5 **A RULE TO AMEND RULE I – STANDING ORDERS
(STANDING ORDER 66)**

10 In Rule I, Standing Order 66(3) is amended by deleting “, (19) and (20)” and
inserting instead “and (19)”.

BILL R04

A RULE TO AMEND RULE III FOR THE CONDUCT OF ELECTIONS ORDERED TO BE MADE BY THE GENERAL SYNOD

EXPLANATORY MEMORANDUM

1. The objective of this Rule is to amend Rule III – Rules for the Conduct of Elections Ordered to be made by the General Synod to make the provisions for uncontested elections or membership of the Appellate Tribunal and the Special Tribunal consistent with contested elections in circumstances where access by the General Secretary to the National Register discloses that there is Information relating to a person nominated.
2. Rule 6 of Rule III provides for a search to be made of the National Register in respect of candidates for election to the Appellate Tribunal and the Special Tribunal. If a search discloses that there is Information on the National Register in relation to a candidate, then the candidate is informed and may withdraw his or her nomination. If the candidate wishes to proceed with the candidature, the Information is disclosed on the list of candidates which is available to Members of the General Synod.
3. Rule III does not currently provide for the Members to be informed if there is Information on the National Register relating to a candidate where the election is uncontested.
4. The amendment provides a mechanism to address the anomaly.
5. A secondary purpose of this Rule is to achieve gender neutrality in its terms.

BILL R04

5 **A RULE TO AMEND RULE III FOR THE CONDUCT**
 OF ELECTIONS ORDERED TO BE MADE
 BY THE GENERAL SYNOD

10 The General Synod resolves as follows:

15 **Candidates regarding whom there is information on the National Register**

1. (1) In Rule III rule 7, for “Where” substitute “Subject to rule 16A, where”.
- (2) After rule 16 insert:

20 **“Confirmation of certain elections**

- 16A. (a) In this rule, “identified candidate” means a candidate in
 relation to whom Information in the National Register has
 been included pursuant to rule 6(a1)(ii) in the list of
25 candidates.
- (b) If in any election the number of candidates who are not
 identified candidates is less than the number of positions to
 be filled, the President may not declare an identified
30 candidate to be elected under rule 7, and the election of any
 identified candidate shall not be complete, until the election
 of each such identified candidate has been confirmed by a
 majority of voters in a secret ballot conducted for the
 purpose.”

35

Other amendments to Rule III

2. In Rule III—
- 40 (a) in rule 1, for the definition of “Voter” substitute “ ‘voter’ means a member
 of Synod exercising a right to vote in an election by the whole Synod or
 by a portion of the Synod.”;
- 45 (b) in rules 6(a) and 6(a1)(ii), for “person so nominated” substitute
 “candidate”;
- (c) in rules 6(a1)(i) and 7, for “persons so nominated” substitute
 “candidates”;
- 50 (d) for rule 6(b), substitute:
- “Any candidate may, by notice in writing addressed to Secretaries,
 withdraw consent to his or her nomination at any time prior to the

- 5 exhibition of the lists as aforesaid, and thereupon that nomination shall
 be withdrawn and the person's name omitted from the list of
 candidates.";
- 10 (e) in rules 7 and 8, for "persons nominated" substitute "candidates";
- (f) in rule 12, for "to him" wherever that expression appears substitute "to
 that voter";
- 15 (g) in rule 13, for "his vote" substitute "a vote";
- (h) in rule 16, for "his casting vote" substitute "a casting vote";
- (i) in the Schedule, for "Laymen" substitute "Laity"; and
- 20 (j) in the Schedule, for "he desires to vote" substitute "he or she desires to
 vote".

Time of coming into effect

- 25 3. This resolution has effect immediately it is passed.