



The Anglican Church of Australia

BILLS

The Seventeenth Session of General Synod

BOOK 1

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The Standing Committee of the General Synod of The Anglican Church of Australia

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INTRODUCTION

This Book 1 of the papers for the Seventeenth 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 Bills for 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 14
- 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.

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 Friday 25 August 2017 in accordance with Standing Order 42A(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 requested to submit amendments electronically to gs17business@anglican.org.au using the prescribed form on the GS17 portal on the General Synod website, located at: www.anglican.org.au/synod-portal.

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 on 18 August 2017.

BILLS FOR CANONS

BILL 01

A BILL FOR THE APPELLATE TRIBUNAL AMENDMENT (QUALIFICATION) CANON 2017

EXPLANATORY MEMORANDUM

General Background

1. The purpose of this bill is to alter two provisions relating to qualification for membership of the Appellate Tribunal.
2. One is to make the Primate automatically ineligible to become, or continue as, a member of the Appellate Tribunal. The other is to make 75 rather than 69 the age at which tribunal members become ineligible to continue.
3. This bill also takes the opportunity to address some issues of drafting and outdated language in the present canon.

Status of Bill and Canon

4. Under s 30 of the Constitution, this Canon having been duly passed by General Synod will come into force on and from a date appointed by the President, being not later than one calendar month from the date on which it was passed.
5. Clause 7 anticipates that the President may fix a day before the conclusion of the first ordinary session of the 17th General Synod.

Notes on Clauses

- | | |
|----------|--|
| Clause 1 | contains the short title of the canon. |
| Clause 2 | provides that "principal canon" means the Appellate Tribunal Canon 1981 |
| Clause 3 | insert a new s 3A that states that the Primate is disqualified from become a member of the tribunal. |

- Clause 4 rewrites the current section 4, which sets out the grounds on which a member of the tribunal is taken to have vacated that office. The new section includes reference to the ineligibility of the Primate, changes the age of involuntarily relinquishing the office from 69 to 75, removes gender-specific language, and reconstructs the section.
- Clause 5 removes gender specific language in section 5.
- Clause 6 includes a new section 11 that makes it clear that the word "Primate" does not include an Acting Primate.
- Clause 7 provides that this canon comes into effect on the day fixed by the President under section 30 of the Constitution.

Subsection (2) provides that, if the President fixes as the day on which this amending canon a day before the conclusion of the 17th General Synod, any member of the Appellate Tribunal who ceased to be a member at the commencement of the General Synod due having turned 69 will be deemed to have been (re)nominated and (re)elected.

BILL 01

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**A BILL FOR THE
APPELLATE TRIBUNAL AMENDMENT (QUALIFICATION)
CANON 2017**

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The General Synod prescribes as follows.

Title

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1. This canon is the Appellate Tribunal Amendment (Qualification) Canon 2017.

Interpretation

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2. In this canon principal canon means the Appellate Tribunal Canon 1981.

Primate ineligible to be a member of the Appellate Tribunal

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3. In the principal canon after section 3 insert—

"3A. The Primate is disqualified from becoming a member of the Appellate Tribunal."

Vacating office of member

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4. In the principal canon, for section 4 substitute:

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"4. The office of a member of the Appellate Tribunal is vacated at the commencement of the ordinary session of Synod that next occurs after the member has attained the age of 75 years or when the member -

(a) dies;

(b) resigns;

(c) is declared by any competent Court incapable of managing his or her affairs;

(d) ceases to reside permanently in Australia;

(e) is convicted by any Court of any offence punishable by imprisonment;

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(f) being a bishop, ceases to be a diocesan bishop; or

(g) becomes the Primate."

Removal of gender specific language

5. In the principal canon, in section 5 for "he shall conduct" **substitute** "he or she shall conduct".

5

Definition of Primate

6. In the principal canon, after section 10 insert:

- 10 "11. In this canon, Primate means the person who holds the office of Primate under the Primate Canon 1995 and does not include the Acting Primate."

Date of effect and continuation in office

- 15 7. (1) This canon comes into effect on the date appointed by the President.

- (2) If—

- (a) the date appointed by the President is a date before the conclusion of the first ordinary session of the Seventeenth General Synod; and
- 20 (b) the seat of a member of the tribunal became vacant at the commencement of that ordinary session because the member had attained the age of 69 years -
- that member is to be considered to have been duly nominated to fill that vacancy under and for the purposes of section 4A by the members of the
- 25 same house that previously nominated the member, and to have been duly elected by the members of that house under and for the purposes of that section.

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BILL 02**A BILL FOR THE APPELLATE TRIBUNAL AMENDMENT (RESERVE LIST) CANON 2017****EXPLANATORY MEMORANDUM****General Background**

1. The purpose of this bill is to amend the Appellate Tribunal Canon 1981 to create a mechanism to fill temporary vacancies. The approach recommended by the Standing Committee of General Synod is for the General Synod to elect two reserve panels, one of two bishops and the other of two lay persons, with temporary vacancies being filled from that panel when necessary.
2. This bill has been drawn on the basis that the General Synod has passed the bill for the Appellate Tribunal Amendment (Qualification) Canon 2017. If has not, consequential changes to this bill will be required in committee.
3. The bill returns to what was covered by Canon 5 of 2010, which allowed members of the Appellate Tribunal who ceased to hold office at a time when a matter was part heard to continue to hear the matter until it was concluded. It repeats that policy, but extends it to apply also to those temporarily involved in a hearing. (Given that everything covered by Canon 5 of 2010 is caught by this new Bill, and that it has not yet been adopted by all Metropolitan dioceses, it is considered appropriate that that canon should now be repealed.)
4. This bill also takes the opportunity to address some issues of drafting and outdated language in the present canon.

Status of Bill and Canon

5. This canon once duly passed by General Synod would come into force on and from a date appointed by the President, being not later than one calendar month from the date upon which the canon was passed, the canon itself otherwise provided. Clause 6 does provide otherwise, as it cannot come into force until the amendments to the Constitution on which it depends have themselves come into force.

Notes on Clauses

- Clause 1 contains the short title of the canon.
- Clause 2 provides that "principal canon" means the Appellate Tribunal Canon 1981.
- Clause 3 contains the proposal regarding the primary purpose of the Bill.

By way of background, the structure of the Appellate Tribunal provided for in s 57 of the Constitution is as follows:

Elected by the House of Bishops: one diocesan bishop, one layman

Elected by the House of Clergy: one diocesan bishop, one layman

Elected by the House of Laity: one diocesan bishop, two laymen

Each member of the tribunal once elected remains a member of the tribunal until the occurrence of one of the events in section 4 of the canon (eg, they reach a specified age; they die or resign; etc).

The proposal is that at each ordinary session of General Synod all members voting together will elect two (diocesan) bishops and two qualified lay persons to an Appellate Tribunal Reserve List. Elections for the reserve list would be held at every General Synod. In each case one of those elected would be the first reserve for that category.

A temporary vacancy may occur in the ways set out in the proposed s 7B(1). In some cases this will be because of defined circumstances (eg, the matter would involve the exercise of discipline in the diocese of a member who is a bishop); in other cases it may be simply because the person is unavailable for personal reasons. There is a conscious acceptance that a member may simply make themselves unavailable in a particular matter.

When that happens, the member's place is to be filled by the first reserve in the equivalent category or, the first reserve is also unavailable or there are two vacancies, by the other reserve.

Proposed s 7C provides that a person on a reserve list ceases to be on that list in the same circumstances as they would cease to be a member of the tribunal unless they have already begun to hear a matter.

- Clause 4 enables a member of the Appellate Tribunal or a person sitting as a reserve who has begun (in either case) to participate in the hearing of a matter to complete it, even after the next General Synod, or reaching the age of disqualification, or ceasing to be a diocesan bishop.
- Clause 5 addresses any misunderstanding that might arise in relation to s 57(3) of the Constitution. The first sentence of that section provides that unless

otherwise prescribed by a canon of General Synod, the tribunal may hear and determine any appeal even though all the members are not present if there are at least two bishops and three laymen. The proposed section 11 provides that the Appellate Tribunal Canon is not a canon that "prescribes otherwise". This means that even if after drawing from the reserve lists there remain fewer than 7 members, two bishop and three lay members will be sufficient.

This amendment is premised on the assumption that the Appellate Tribunal Amendment (Qualification) Canon 2017 has added a new section 11. If the bill for that canon is not passed, then this clause will be amended to insert a new section 11 after section 10.

Clause 6 provides that this canon comes into effect on the same day as the Constitution (Appellate Tribunal) Amendment Canon 2017 comes into effect. This is because the legal foundation for this canon is the amendment to the Constitution.

Clause 7 repeals Canon 5 of 2010 for the reasons given in the general background above.

BILL 02

**A BILL FOR THE
APPELLATE TRIBUNAL AMENDMENT (RESERVE LIST) CANON
2017**

The General Synod prescribes as follows.

Title

1. This canon is the Appellate Tribunal Amendment (Reserve List) Canon 2017.

Interpretation

2. In this canon **principal canon** means the Appellate Tribunal Canon 1981.

Creation and use of reserve lists

3. In the **principal canon**, after section 7 insert:

- "7A. (1) At each ordinary Session there is to be elected to an Appellate Tribunal Reserve List by the General Synod voting together and not by houses—

- (a) two diocesan bishops; and
- (b) two members of the laity qualified to be lay members of the Appellate Tribunal.

- (2) One diocesan bishop on the Appellate Tribunal Reserve List is the first reserve diocesan bishop and the other is the second reserve diocesan bishop determined by agreement between them or, in the absence of agreement, by lot.

- (3) One member of the laity on the Appellate Tribunal Reserve List is the first reserve lay member and the other is the second reserve lay member determined by agreement between them or, in the absence of agreement, by lot.

- 7B. (1) This section applies if, before the Appellate Tribunal commences to dispose of an appeal, question or matter (to an extent greater than conducting directions hearings or other procedural steps) made or referred to the Appellate Tribunal, a member of the Appellate Tribunal—

- (a) has vacated office as a member by virtue of section 4;

- 5 (b) is unavailable to participate in the hearing of a matter due to an apprehension of bias or a conflict of interest;
- (c) in relation to a matter that involves or may involve the exercise of discipline within a diocese, is the diocesan bishop of that diocese;
- (d) declares that he or she is unavailable to participate in the hearing of a matter for any reason; or
- (e) is or becomes temporarily incapable of acting.
- 10 (2) If this section applies, the member may not have any further part in hearing or disposing of that appeal, question or matter, and the place of that member on the Appellate Tribunal in relation to that appeal, question or matter is to be taken -
- (a) if the member is or was a bishop -
- 15 (i) by the first reserve diocesan bishop; or
- (ii) where if the first reserve diocesan bishop were a member of the Appellate Tribunal this section would apply in respect of that bishop, by the second reserve diocesan bishop; and
- (b) if the member is or was a member of the laity -
- 20 (i) by the first reserve lay member; or
- (ii) where if the first reserve lay member were a member of the Appellate Tribunal this section would apply in respect of that lay member, by the second reserve lay member.
- 25 7C. A person ceases to be a member of the Appellate Tribunal Reserve List at the commencement of the next ordinary session of Synod or when the person -
- (a) dies;
- (b) resigns;
- 30 (c) is declared by any competent Court incapable of managing his or her affairs;
- (d) ceases to reside permanently in Australia;
- (e) is convicted by any Court of any offence punishable by imprisonment or death;
- (f) being a bishop, ceases to be a diocesan bishop; or
- 35 (g) becomes the Primate."

Completing the hearing of a matter

4. In the principal canon, for section 4AB substitute:
- 40 "4AB (1) Despite section 4, if the office of a member of the Appellate Tribunal has become vacant only because the person who was that member -
- (a) has attained the age of 75 years,
- (b) being a bishop has ceased to be a diocesan bishop, or
- 45 (c) has become the Primate -
- and at the time of the office becoming vacant the member is participating in the disposition of an appeal, question or matter

(to an extent greater than participating in directions hearing or other procedural steps) that person remains a member of the Appellate Tribunal for the purposes only of participating in and concluding that appeal, question or matter.

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(2) Sub-section (1) does not affect the operation of section 4.

(3) Despite section 7C, if -

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(a) the place of a member of the Appellate Tribunal has been taken by another person under section 7B(2),

15

(b) that other person is participating in the disposition of an appeal, question or matter (to an extent greater than participating in directions hearings or other procedural steps) made or referred to the Appellate Tribunal; and

20

(c) the appeal, question or matter has not been disposed of at a time when, but for this sub-section, the person would cease to be eligible to participate in the disposition of that appeal, question or matter because of the commencement of the next ordinary session of Synod or because that other person -

25

(i) has attained the age of 75 years,

(ii) being a bishop has ceased to be a diocesan bishop, or

(iii) has become the Primate -

that other person remains eligible to participate in and conclude that appeal, question or matter."

Clarification

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5. In the principal canon, after section 11 insert:

"12. This canon is not a canon referred to in the first sentence of section 57(3) of the Constitution."

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Date of effect

6. This canon comes into effect on the date when the Constitution (Appellate Tribunal) Amendment Canon 2017 comes into effect.

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Repeal of Canon 5 of 2010

7. Canon 5 of 2010 (Appellate Tribunal Amendment (Part Heard Matters) Canon 2010) is repealed.

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BILL 03**A BILL FOR THE CONSTITUTION (APPELLATE TRIBUNAL)
AMENDMENT CANON 2017****EXPLANATORY MEMORANDUM****General Background**

1. This Bill complements the proposed changes to the Appellate Tribunal Canon in a cognate Bill.
2. It amends the Constitution to allow explicitly for General Synod to do by canon what it is proposed it do in that other canon; that is, it provides clear Constitutional authority for it to make the proposed canon.
3. In addition, the Constitution at present provides, "No Party to an appeal shall be a member of the tribunal for the purpose of the appeal and his place shall be filled for the purpose of the appeal by the other members co-opting a person qualified for the office." It is proposed to remove all the words after "purpose of the appeal", for two reasons: (1) the same subject matter will now be covered by the reserve list proposal, and (2) in any case it is now considered undesirable that the members of the tribunal should themselves select people to replace members unable to sit.

Status of Bill and Canon

4. By s 67(1)(c) of the Constitution, this bill shall be a canon duly made if passed by a vote of a majority of the members of each house, but the canon does not come into effect unless and until at least three quarters of the diocesan synods of this Church, including all of the metropolitan sees, have assented to it by ordinance and all such assents be in force at the same time.

Notes on Clauses

- Clause 1 provides the title of the canon.
- Clause 2 sets out the additional matters in respect of which the General Synod may legislate in relation to the Appellate Tribunal. These are:
1. members of the Appellate Tribunal completing part heard matters even once they have gone out of office;

2. the appointment of reserves;
3. reserves completing part heard matters even though they have ceased to be reserves.

The amendment also makes it clear that members of the reserve list are not members of the tribunal for the purposes of the Constitution.

Clause 3 amends s 57(2) of the Constitution so that, while it will continue to be the case that a party to an appeal cannot remain as a member of the tribunal for the purpose of that appeal, there is no provision for the place of such a member to be filled by the other members of the tribunal co-opting someone.

Clause 4 repeals Canon 3 of 2010, which covered some of the same matters and which has not been adopted by all Metropolitan dioceses and therefore has not come into effect.

BILL 03**5 A BILL FOR THE CONSTITUTION (APPELLATE TRIBUNAL)
 AMENDMENT CANON 2017**

10 The General Synod prescribes as follows.

Title

1. This Canon is the Constitution (Appellate Tribunal) Amendment Canon 2017.

15

Continuing to hear part-heard matters

2. After s 57(1) of the Constitution, insert:

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"(1A) Despite s 57(1), the General Synod may by canon provide for -

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(a) a member of the tribunal whose office is to be vacated, but who is participating in the disposition of an appeal, question or matter made or referred to the tribunal where that appeal, questions or matter will not be disposed of before the date on which the member's office is to be vacated, continuing as a member of the tribunal for the purposes only of participating in and concluding that appeal, question or matter even though the office of that member will for all other purposes be vacated on that date;

30

(b) the appointment of a qualified person to take the place of a member who is unable to participate in the disposition of an appeal, question or matter (whether because that member's office is vacant, or the member is disqualified or for some other reason) for the purposes only of participating in the disposition of that appeal, question or matter; and

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(c) a person referred to in paragraph (b) who is participating in the disposition of an appeal, question or matter made or referred to the tribunal continuing to participate in the disposition of that appeal, question or matter until it is concluded.

40

(1B) A person participating in the disposition of an appeal, question or matter by virtue of a canon of the General Synod made under sub-section (1A) is not a member of the tribunal for the purposes of the first sentence in sub-section (1)."

Removal of right of co-option

- 5 3. In section 57(2) of the Constitution the words "and his place shall be filled for the purpose of the appeal by the other members co-opting a person qualified for the office" are repealed.

Repeal of Canon No 3 of 2010

- 10 4. Canon No. 3 of 2010 (Constitution Amendment (Appellate Tribunal Part Heard Matters) Canon 2010) is repealed.

.BILL 04**A BILL FOR THE SPECIAL TRIBUNAL AMENDMENT CANON 2017****EXPLANATORY MEMORANDUM****General Background**

1. The Standing Committee proposes the amendment to the Special Tribunal Canon 2007 to increase the retiring age for members of the Episcopal Standards Commission (ESC) at the request of the ESC.
2. It is proposed the retiring age for a member of the ESC increase from 72 years to 75 which is anticipated will allow for longer service by any retired person, including a bishop or judge, appointed to the ESC.
3. The same rationale has been applied to propose an increase to the retiring age for a member of the panel from which members of the Special Tribunal can be appointed from 69 years to 75 years. Under paragraph (h) of section 26(1) of the principal canon, the retirement of a member of the panel takes effect at the commencement of the ordinary session of General Synod which takes place next after the member attains the specified retirement age.
4. As the panel for the Special Tribunal must include three Bishops who are referred to in section 56(6) of the Constitution, their retirement is more likely to occur under paragraph (f) of section 26(1) of the principal canon (when the Bishop ceases to be a Bishop or becomes the Primate) rather than paragraph (h).
5. If this Bill were passed by the General Synod, pursuant to section 30 of the Constitution it would come into force on and from the date appointed by the President, being not later than one calendar month from the date upon which the canon was passed.

Notes on Clauses

- | | |
|----------|---|
| Clause 1 | contains the title of the canon. |
| Clause 2 | provides that the principal canon is the Special Tribunal Canon 2007. |

Clause 3 increases the retiring age for a member of the ESC from 72 years to 75 years.

Clause 4 increases the retiring age from 69 years to 75 years for a member of the panel from which the members of the Special Tribunal can be appointed.

BILL 04

5 **A BILL FOR THE SPECIAL TRIBUNAL AMENDMENT CANON
2017**

10 The General Synod prescribes as follows:

Title

1. This canon is the Special Tribunal Amendment Canon 2017.
- 15

Interpretation

2. In this canon, the **principal canon** is the Special Tribunal Canon 2007.

20 **Amendment of retiring age for members of the Episcopal Standards Commission**

3. In paragraph (g) of section 5A of the principal canon for “72” substitute “75”.

Amendment of retiring age for a member of the panel for the Special Tribunal

- 25 4. In paragraph (h) of section 26(1) of the principal canon for “sixty-nine” substitute
“75”.

BILL 05**A BILL FOR THE SPECIAL TRIBUNAL (LIMITATION PERIOD)
CANON 2017****EXPLANATORY MEMORANDUM****General Background**

1. Under section 13(1) of the Special Tribunal Canon 2007 the Episcopal Standards Commission (ESC) is permitted to take action only 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 12 months prior to the date on which the complaint is received by the ESC.
2. The structure of the First Schedule is awkward. It sets out offences in paragraphs 1, 2 and 3 that are subject to the limitation period of 12 months. They are offences of the type that are commonly listed in the canons dealing with discipline of bishops or clergy: any breach of faith, ritual or ceremonial; drunkenness; wilful failure to pay just debts.
3. Paragraph 4 of the First Schedule sets out as a category of offence that is subject to the limitation period of 12 months as “Wilful Violation of the Constitution or of the Canons made thereunder or of the Ordinances of Provincial Synod or Diocesan Synod”, but then excludes from the operation of that limitation period of 12 months the offences that are listed in subparagraphs (a) and (b) of paragraph 4:

“(a) wilful commission 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 the Schedule.”
4. The ESC proposed to Standing Committee that item 5 of section 2 of the *Offences Canon 1962* should also be exempt from the limitation period of 12 months. Rather than carve out more exceptions to paragraph 4 of the First Schedule which would leave paragraph 4 with little work to do, it is proposed to delete paragraph 4 of the First Schedule to the Special Tribunal Canon 2007.
5. This will have the effect that the only offences that will be the subject of the limitation period of 12 months will be those that are set out in paragraphs 1, 2 and 3 of the First Schedule.

6. On the basis this bill deals with or concerns the discipline of the church, the procedure of a special bill must be followed, unless Synod by votes of at least three-fourths of the members present in each house decides that it need not proceed as a special bill. Pursuant to section 30(a) of the Constitution any canon affecting the discipline of the church is deemed to affect the order and good government of the church within a diocese, and will not come into force in any diocese unless and until the diocese by ordinance adopts the canon.

Notes on Clauses

Clause 1 contains the title of the canon.

Clause 2 provides that the principal canon is the Special Tribunal Canon 2007.

Clause 3 deletes paragraph 4 of the First Schedule to the principal canon which has the effect of making the offences listed in paragraphs 1, 2 and 3 of the First Schedule the only offences that are subject to the limitation period set out in section 13(1) of the principal canon.

BILL 05

5 **A BILL FOR THE SPECIAL TRIBUNAL (LIMITATION PERIOD)**
 CANON 2017

10 The General Synod prescribes as follows:

Title

1. This canon is the Special Tribunal Amendment Canon 2017.

15

Interpretation

2. In this canon, the **principal canon** is the Special Tribunal Canon 2007.

20 **Amendment of First Schedule**

3. Delete paragraph 4 of the First Schedule to the principal canon.

BILL 06**A BILL FOR THE LONG SERVICE LEAVE (REVISION OF
ENTITLEMENT) CANON 2017****EXPLANATORY MEMORANDUM****General Background**

1. The Long Service Leave Canon 2010 (principal canon) commenced on 1 January 2015. It increased the rate of leave accrual from one week for each year of service to 1.3 weeks of service. This 30 per cent increase in benefit has had a substantial impact upon the funding model of the Long Service Leave Fund.
2. On the basis of modelling provided by the Fund's actuary, the Long Service Leave Board recommended to the Standing Committee of General Synod that a return to the previous provision of one week for each year of service would enable contributions to remain at current levels.
3. The Standing Committee resolved at its meeting on 21-23 May 2015 to accept the recommendation of the Board to revise the entitlement of long service leave for a participant, so that it is calculated in future at the rate of 10 weeks for 10 years qualifying service, and thereafter at a rate of one week for each year of qualifying service.
4. The Board advised Standing Committee that delay in implementing the revision of the entitlement of long service leave will have a financial impact on the Fund. Accordingly, Standing Committee approved the bill that would revise the entitlement and resolved to circulate the bill under s 28A of the Constitution, rather than wait until the 17th General Synod. The bill and accompanying explanatory memorandum were circulated to all dioceses on 7 August 2015 accompanied by the Primate's Chancellor's opinion that it was not a bill within subsection (3) of section 28A of the Constitution, as the effect of the amendments is to reduce the financial liability on a diocese.
5. As the circulating bill did not have the requisite number of Diocesan assents to come into force before the 17th General Synod, the bill is now presented to the General Synod. It is substantially in the same terms as the circulating bill, but some drafting errors have been addressed. The first error was in the new definition of "Revised Entitlement Date" in clause 4 of the bill. In the circulating bill, the definition of Revised Entitlement Date was related to the commencement of the principal canon when it

should have been related to the commencement of the amendment canon. The second error was in the amendments to section 33(b)(ii) and (iii) of the Schedule to the principal canon where “13 weeks for 10 years” and “10 weeks for 10 years” should have been expressed respectively as “1.3 weeks for each year” and “one week for each year”.

6. If this bill is passed by the General Synod, it will come into force, pursuant to section 30 of the Constitution, on and from the date appointed by the President, being not later than one calendar month from the date upon which the canon is passed. It will not be necessary for each diocese to assent to the canon for it to be effective. Dioceses were previously requested to assent to the bill when it was a circulating bill, as that is the process for enacting canons under section 28A of the Constitution between sessions of the General Synod.

Notes on Clauses

- | | |
|-----------------|---|
| Clause 1 | contains the title of the canon. |
| Clause 2 | provides for the commencement date of the amendment canon. |
| Clause 3 | provides that the principal canon is the Long Service Leave Canon 2010. |
| Clause 4 | inserts new definitions into the schedule to the principal canon to facilitate the calculation of entitlements after the Revised Entitlement Date at the rate of 10 weeks for 10 years qualifying service and thereafter at the rate of one week for each year of qualifying service. The Revised Entitlement Date will be the last day of the quarter (as newly defined) in which the amendment canon comes into force. |
| Clause 5 | amends section 33(1)(a) of the schedule to the principal canon to provide for the calculation at the rate of 13 weeks for 10 years qualifying service to apply between the Commencement Date of the principal canon until and including the Revised Entitlement Date and thereafter at the rate of 10 weeks for 10 years qualifying service in respect of each year of qualifying service after the Revised Entitlement Date. |
| Clause 6 | makes the consequential amendments to section 33(1)(b) of the schedule to the principal canon for the calculation of the entitlement on completion of each subsequent year of qualifying service after the completion of 10 years qualifying service. |
| Clauses 7 to 10 | make consequential amendments to sections 35(1), 45(1), 46(1) and 47(6) of the schedule to the principal canon. |

- “(ii) at the rate of 13 weeks for 10 years qualifying service in respect of each year of qualifying service from and after the Commencement Date until and including the Revised Entitlement Date; and
- 5 “(iii) at the rate of 10 weeks for 10 years qualifying service in respect of each year of qualifying service after the Revised Entitlement Date.”

Reduction in rate of leave for subsequent qualifying service after the Revised Entitlement Date

- 10 6. In section 33(1)(b) of the Schedule to the principal canon, delete subparagraph (ii) and substitute:

15 “(ii) at the rate of 1.3 weeks for each year of qualifying service in respect of each year of qualifying service from and after the Commencement Date until and including the Revised Entitlement Date; and

20 “(iii) at the rate of one week for each year of qualifying service in respect of each year of qualifying service after the Revised Entitlement Date.”

Consequential amendment to section 35(1)

- 25 7. In section 35(1) of the Schedule to the principal canon, delete “13” wherever it occurs and substitute “10”.

Substitution of section 45(1)

- 30 8. In section 45 of the Schedule to the principal canon, for subsection (1) substitute:

35 “(1) When the qualifying service of a participant terminates by reason of the participant’s death then an amount for each completed year of service is to be paid, equal to –

- 40 (a) one week for each year of qualifying service performed prior to the Commencement Date; and
- (b) 1.3 weeks for each year of qualifying service performed on or after the Commencement Date until and including the Revised Entitlement Date; and
- (c) one week for each year of qualifying service performed after the Revised Entitlement Date –

45 of the notional stipend current at the date of the participant’s death together with a proportionate payment for any incomplete year of qualifying service rendered.”

Substitution of section 46(1)

9. In section 46 of the Schedule to the principal canon, for subsection (1) substitute:

5 “When the qualifying service of a participant terminates other than
by reason of the participant’s death and –

- (a) the participant has completed at least 5 years qualifying
service; and
- 10 (b) subsection 33(3) does not apply –

then the participant is to be paid an amount equal to –

- (c) one week for each year of qualifying service performed
15 prior to the Commencement Date; and
- (d) 1.3 weeks for each year of qualifying service performed on
or after the Commencement Date until and including the
Revised Entitlement Date; and
- 20 (e) one week for each year of qualifying service performed
after the Revised Entitlement Date –

of the then current notional stipend and pro-rated for the nature of
service together with a proportionate payment for any incomplete
year of qualifying service rendered and pro-rated for the nature of
25 service.”

Substitution of section 47(6)

10. In section 47 of the Schedule to the principal canon, for subsection (6) substitute:

30 “The amount payable under this section is an amount equal to –

- (a) one week for each year of qualifying service performed
prior to the Commencement Date; and
- 35 (b) 1.3 weeks for each year of qualifying service performed on
or after the Commencement Date until and including the
Revised Entitlement Date; and
- (c) one week for each year of qualifying service performed
after the Revised Entitlement Date –

40 of the then current notional stipend and pro-rated for the nature of
service together with a proportionate payment for any incomplete
year of qualifying service rendered and pro-rated for the nature of
service.”

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BILL 07**A BILL FOR THE LONG SERVICE LEAVE (NOTIFICATION OF PARTICIPATING ORGANISATION) CANON 2017****EXPLANATORY MEMORANDUM****General Background**

1. The Long Service Leave Canon 2010 establishes the Long Service Leave scheme for the national church. The terms of the scheme are contained in the schedule to that canon (now referred to as "the Schedule").
2. By section 1(1) of the Schedule "Participant" means a member of the clergy in receipt of an ordinary stipend or a person employed by a participating diocese or participating organisation who with the consent of the Long Service Leave Board is nominated as a participant or is in a class of persons nominated as participants by the relevant participating diocese or participating organisation.
3. In the same sub-section "Participating Organisation" is defined to include an organisation admitted under Part V of the Schedule to be a participating organisation.
4. Section 27(1) provides that an organisation that engages at least one member of the clergy and agrees to the terms and conditions of participation in the scheme, upon application to and approval by the Board, becomes a participating organisation.
5. The question has arisen as to what should happen if an organisation that employs clergy who could be licensed by a Diocesan bishop instead seeks to become a participating organisation with a view to those clergy being nominated as a participant in the scheme by that participating organisation without holding a licence.
6. The amendment does not seek to change in any way the formal legal position, nor does this bill imply that what it proposes would not happen in any case. What it does propose is that there be a formal legal requirement of consultation by the Long Service Leave Board with all relevant diocesans before the decision whether or not to approve an organisation as a participating organisation is made.

Status of Bill and Canon

7. Under s 30 of the Constitution, this Canon having been duly passed by General Synod will come into force on and from a date appointed by the President, being not later than one calendar month from the date on which it was passed.

Notes on Clauses

Clause 1 states the title of the canon.

Clause 2 adds an additional sub-section to section 27 of the Schedule to the Long Service Leave Canon 2010.

On receiving an application by an organisation to become a participating organisation under s 27(1), the Board must—

- (i) first inform the bishop(s) of every diocese in which clergy employed by the organisation are licensed or reside, and of every diocese in which the organisation itself is expected to function;
- (ii) then consider any advice received from those bishops regarding the discharge of the Board's responsibilities under sub-section (1).

The amendment does not seek or purport to anticipate what that advice might be. As already stated, it does not alter or limit the operation of that sub-section without the amendment. It does mean, however, that each diocesan bishop has the opportunity to communicate in response to the notification before the Board decides whether to give its approval.

BILL 07**5 A BILL FOR THE LONG SERVICE LEAVE (NOTIFICATION OF
PARTICIPATING ORGANISATION) CANON 2017**

10 The General Synod prescribes as follows:

Short title

- 15 1. This canon is the Long Service Leave (Notification of Participating Organisation)
Canon 2017.

New sub-section in section 27 of the Schedule

- 20 2. In section 27 of the Schedule to the Long Service Leave Canon 2010 after sub-
section (1) insert:

25 “(1A) On receiving an application from an organisation to become a
participating organisation under sub-section (1), the Board must notify,
and consider any advice relevant to the responsibilities of the Board under
that sub-section, from the bishop of each diocese in which a member of
the clergy who is engaged by the organisation is licensed or resides and
the bishop of any other diocese in which the organisation is expected to
function.”

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BILL 08**A BILL FOR A CANON TO RATIFY THE AMENDED NEW SOUTH WALES PROVINCIAL SYNOD CONSTITUTION****EXPLANATORY MEMORANDUM****General Background**

1. By the Provincial Synod Constitution Amendment Ordinance 2011 the New South Wales Provincial Synod amended its constitution to reduce the number of representatives each diocesan synod could elect to the provincial synod. All dioceses in the province have by ordinance assented to the provincial ordinance. Section 41 of the Constitution provides that alterations to the constitution of a Province shall not take effect until ratified by Canon of General Synod.
2. This topic and this process was anticipated by the General Synod when it met in 2014. The amendments will reduce the size of the provincial synod and provide for a regular provincial conference.

Armidale	6	becomes	2
Bathurst	6	becomes	2
Canberra/Goulburn	10	becomes	4
Grafton	6	becomes	2
Newcastle	10	becomes	4
Riverina	4	becomes	2
Sydney	24	becomes	10
	66		26
Diocesan Bishops	7		7
Total	73		33

3. The 16th General Synod resolved (30/14) to ask the Standing Committee of General Synod, once the proposed change has been approved by all dioceses in NSW, to seek approval by General Synod canon by implementing the procedures of a circular canon as provided in section 28A of the Constitution.

4. If this Bill is assented to by the required number of dioceses, it will become the Canon of General Synod that is needed for the changes to the New South Wales Provincial Synod Constitution to take effect. If the assents from the required number of dioceses are not obtained before the commencement of the 17th General Synod, the Bill will be promoted at that Synod.

BILL 08**5 A BILL FOR A CANON TO RATIFY THE AMENDED NEW SOUTH WALES PROVINCIAL SYNOD CONSTITUTION**

10 Whereas

- A. By section 41 of the Constitution alterations to the constitution of a Province shall not take effect until ratified by Canon of General Synod.
- 15 B. The Provincial Synod of New South Wales passed the Provincial Synod Constitution Amendment Ordinance 2011 in the form of the Schedule to this Canon and that Ordinance has been adopted by all the Diocesan Synods in New South Wales.
- 20 C. Ratification by the General Synod is now needed for the amendments to take effect.

The General Synod prescribes as follows:

- 25 1. This Canon may be cited as the "New South Wales Provincial Synod Constitution Amendment Ratification Canon 2017".
2. This Canon comes into effect on the date appointed by the President in accordance with s 30 of the Constitution.
- 30 3. The amendments made to the provisions of the Schedule to the Provincial Synod Constitution Ordinance 1907-1970 by the Ordinance of the Provincial Synod of New South Wales known as the "Provincial Synod Constitution Amendment Ordinance 2011" are ratified.

SCHEDULE

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PROVINCIAL SYNOD CONSTITUTION AMENDMENT ORDINANCE 2011

AN ORDINANCE to amend the Schedule to the Provincial Synod Constitution Ordinance 1907-1970.

40

WHEREAS

- A. For many years past, the Provincial Synod of New South Wales has had little legislative work,

B. It is costly to hold Provincial Synod meetings with a large gathering,

C. It is expedient to reduce the size of Provincial Synod,

5

NOW the Synod of the Province of New South Wales ordains as follows:

1. This ordinance may be cited as 'Provincial Synod Constitution Amendment Ordinance 2011'.

10 2. In accordance with s 41 of the Schedule to the Anglican Church of Australia Act 1961, the amendments in 3 shall come into effect upon ratification by canon of the General Synod provided each of the dioceses of the Province has passed an assenting ordinance.

15 3. The Schedule to the Provincial Synod Constitution Ordinance 1907-1970 is amended as follows:

a. Clause 2 is repealed and the following substituted:

To consist of three houses

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

25

In the event of a vote by Houses being required, all questions shall be put first to the House of Laity, then to the House of Clergy and finally to the House of Bishops and no question shall be deemed to be resolved in the affirmative by Provincial Synod unless it is so resolved by a vote of the majority of those present in each of the three Houses. A House by a majority of its own members voting may decide to consider separately any matter in debate whereupon further discussion of the matter shall be postponed until there has been an opportunity of separate consideration.

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b. Clause 3 is repealed and the following substituted:

Representatives of Dioceses

40 3. The Diocese of Sydney shall be entitled to send to any future Synod five clerical and five lay representatives.

The Diocese of Newcastle shall be entitled to send two representatives of each order as aforesaid.

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The Diocese of Canberra and Goulburn shall be entitled to send two representatives of each order as aforesaid.

The Diocese of Armidale shall be entitled to send one representative of each order as aforesaid.

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The Diocese of Bathurst shall be entitled to send one representative of each order as aforesaid.

The Diocese of Grafton shall be entitled to send one representative of each order as aforesaid.

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The Diocese of Riverina shall be entitled to send one representative of each order as aforesaid.

- c. Clause 12 is repealed and the following substituted:

Quorum

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12. The presence of at least three bishops of the House of Bishops and seven clerical representatives of the House of Clergy and seven lay representatives of the House of Laity representing at least two Dioceses shall be necessary to constitute a quorum.

20

- d. Insert the following as a new Clause 15—

Provincial Conferences

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15. The Metropolitan or the Metropolitan at the request of 3 other Diocesan Bishops, may convene a Provincial Conference. All members of the synod will be invited together with such other persons as each Diocesan Bishop may invite. The business of the Conference will be determined by the Metropolitan in consultation with the other Diocesan Bishops.”

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BILL 09**A BILL FOR THE HOLY ORDERS (REMOVAL FROM EXERCISE OF MINISTRY) CANON 2017****EXPLANATORY MEMORANDUM****General Background**

1. The Doctrine Commission in a report to the Standing Committee of General Synod (attached) considered the nature and scope of what is referred to as deposition from Holy Orders.
2. As a result of that report it became clear that the Holy Orders Relinquishment and Deposition Canon 2004 needed to be reconsidered and rewritten. Three areas in particular needed to be addressed clearly and consistently.
 - a. The limit of what any process can achieve is to remove a cleric from the *exercise of Holy Orders*.
 - b. Deposition in English canon law (and therefore as used in our Constitution) can be only from the exercise of *all* orders; however, the Constitution also refers to prohibition from functioning, and that sentence can include prohibition from functioning in some only orders of ministry.
 - c. Allowing both voluntary relinquishment and disciplinary removal to be from only some of the offices of Bishop, Priest and Deacon (although only in descending order, as it were).
3. The new bill is based on the 2004 Canon, and substantially preserves many of its provisions. The Standing Committee decided that consideration of this proposal by the General Synod would be facilitated by having it presented in the form of a new Canon rather than as an amending Bill.
4. The option of voluntary deposition in the present (2004) Canon has been removed, as there appears to be no circumstances in which it differs from voluntary relinquishment.

Status of this bill and canon

5. This canon concerns the discipline of the church and is therefore a special bill for the purposes of section 28 of the Constitution. Unless the General Synod otherwise determines, it will therefore become a provisional canon. By section 30 of the Constitution, the canon once made will not come into force in any diocese unless and until the diocese by ordinance adopts it.

Notes on Individual Clauses

- Clause 1 contains the title of the Canon.
- Clause 2 defines the words and expressions used in the Canon.

"deposition" is defined to refer to the removal of the right to exercise Holy Orders, and to refer to all of those orders.

"national register" has the same meaning as in the present Canon.

"person in Holy Orders" now means not only a person ordained in this church, but also a person received into an order of ministry of this church.

"relevant bishop" for a priest or deacon means the Diocesan bishop of the diocese in which the clerk is licensed, and, for a priest or deacon who is unlicensed, the Diocesan bishop of the diocese in which they reside. In the case of a person who is a bishop, the relevant bishop is the Metropolitan of the Province in which the bishop is a Diocesan bishop or resides, with special provision made for bishops in extraprovincial dioceses and for Metropolitans and the Primate.

"relinquishment" means the voluntary cessation of the exercise of one or more of the orders of ministry.

"tribunal" has the same meaning as in the present Canon, being a tribunal established under Chapter IX of the Constitution or by diocesan legislation.

Further provisions extend the meaning of Diocesan bishop to include the administrator of a Diocese pro tempore; and define **"order of ministry"** to be a reference to the Holy Order of bishop, of priest or of deacon.

- Clause 3 provides that a bishop may relinquish the order of bishop, or the order of bishop and priest, or the orders of bishop, priest and deacon; a priest may relinquish the order of priest, or the orders of priest and deacon;

and a deacon may relinquish the order of deacon. This is done by executing an instrument to that effect that is endorsed with the consent of the bishop of the last diocese in which the person held a license (if that is not the diocese in which she or he now resides) and with the consent of the relevant bishop. That consent cannot be given if the person is currently the subject of a disciplinary investigation or charge.

Clause 4 allows for relinquishment to take place in a liturgical context.

Clause 5 sets out the options available for the sentence of prohibition from functioning. This is the first time a Canon of General Synod has sought to do this.

The options allow for infinite mixing and matching, covering some or all orders of ministry, conditions, limited or unlimited periods of time, and different roles, places and circumstances. For example, a prohibition could be from the exercise of any order of ministry permanently in Diocese X, from the exercise of the order of bishop in any Diocese, and from the exercise of the order of priest as the incumbent or priest in charge of a parish for the next five years.

Sub-clause (2) makes it clear that a permanent prohibition on the exercise of all orders of ministry must be by deposition.

Sub-clause (3) provides that effect is given to such a sentence by an instrument in the form of Schedule 2.

Clause 6 provides that deposition following the sentence of a tribunal is effected by the form in Schedule 3.

Clause 7 provides that any of the instruments made under this Canon must be registered in the registry of the relevant bishop and of the diocese(s) in or for which the person was ordained, and registered in the national register.

Clause 8 provides that the bishop executing an instrument must also give notice of it, and of the reasons for it, to such persons as the bishop considers necessary.

Clause 9 provides that a prohibition from functioning has effect according to what is in it, and reinforces that by providing that the person prohibited must not act inconsistently with the prohibition.

Clause 10 provides that a person who has relinquished the exercise of some orders of ministry must not act inconsistently with the terms of that relinquishment.

Clause 11 provides that a person who has relinquished or been deposed from the exercise of all orders of ministry must not act or present himself or herself as in any way as a person in Holy Orders.

- Clause 12 provides for a process by which a person who has relinquished the exercise or some or all orders of ministry may seek to have that relinquishment revoked.
- Clause 13 provides that clauses 10 and 11 do not apply to a person whose relinquishment of orders has been revoked.
- Clause 14 creates offences where a person who has relinquished an order of ministry holds out that the person continues to exercise that order, or where a person who has been deposed holds himself or herself out to be a member of the clergy.
- Clause 15 provides that Canon 76 of the Canons of 1603 has no effect. Although it is arguable that this is unnecessary given that the 2004 Canon has already provided to that effect, it is considered helpful to carry that provision forward into the current Canon.
- Clause 16 repeals the 2004 Canon.
- Clause 17 states that the Canon affects the order and good government of this Church within a diocese and does not come into force in a diocese unless and until the diocese adopts this canon by ordinance of the synod of the diocese.
- Schedule 1 contains the instruments relevant to the relinquishment of the exercise of one or more orders of ministry.
- Schedule 2 contains the instruments necessary following the sentence of a tribunal that include prohibition from functioning.
- Schedule 3 contains the instruments relevant to deposition.
- Schedule 4 contains the forms of notice consequence on relinquishment, prohibition from functioning or deposition.

BILL 09**5 A BILL FOR THE HOLY ORDERS (REMOVAL FROM EXERCISE
OF MINISTRY) CANON 2017**

10 The General Synod prescribes as follows:

Title

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

15 Interpretation

2. (1) In this Canon—

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

25 “**national register**” means a National Register established pursuant to a Canon of General Synod for a purpose which includes the recording of determinations of a tribunal;

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

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

“**relevant bishop**” means—

- (a) in relation to a priest or deacon who is licensed, the Diocesan bishop of the diocese in which he or she is licensed;
- 40 (b) in relation to a priest or deacon who is not licensed, the Diocesan bishop of the diocese in which he or she resides;
- (c) in relation to a person who is a bishop, the bishop other than that person who is -

- (i) the Metropolitan of the Province in which that person is a Diocesan bishop, is licensed by a Diocesan bishop or (if neither a Diocesan bishop nor licensed) resides; or
- (ii) where that person is—
 - A. the Diocesan bishop of; or
 - B. is licensed by the Diocesan bishop of; or
 - C. resides in -
an extra-provincial diocese, the Primate; or
- (iii) where the person is a Metropolitan, the Primate; or
- (iv) where the person is the Primate, the most senior Metropolitan by date of consecration;

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

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

(2) For the purposes of this Canon, a person who, during any vacancy in the office of or during the incapacity of the bishop of any diocese or during that bishop’s absence from the diocese for a period exceeding thirty days has been appointed by or under the constitution of that diocese to administer the affairs of the diocese, is to be taken to be the Diocesan bishop of that diocese.

(3) In this Canon a reference to an “**order of ministry**” is a reference to the Holy Order of bishop, the Holy Order of priest or the Holy Order of deacon.

Relinquishment of Holy Orders

3. (1) A person in Holy Orders—
- (a) if a bishop, may relinquish the order of bishop, or the orders of bishop and priest, or the orders of bishop, priest and deacon; or
 - (b) if a priest but not a bishop, may relinquish the order of priest, or the orders of priest and deacon; or
 - (c) if a deacon but not a bishop or priest, may relinquish the order of deacon -
by -
 - (d) resigning all clerical licences and appointments held by that person as a person in the order or orders to be relinquished; and
 - (e) executing an instrument of relinquishment in or to the effect of the form in Schedule 1 endorsed with the consent, if given, of both—

- (i) the bishop of the diocese in which the person last held a clerical licence or appointment, if that is a diocese other than the diocese in which the person resides; and

5 (ii) the relevant bishop.

- (2) Before giving consent under sub-section (1)(e)(ii), the relevant bishop must be satisfied that the person is not currently the subject of any information, complaint or charge in any diocese concerning his or her conduct or fitness to hold office.

Liturgical context

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

Prohibition from functioning after sentence of a tribunal

- 5 (1) A sentence of prohibition from functioning—

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- (a) in relation to a bishop may concern only functioning -

- (i) as a bishop, or
- (ii) as a bishop and priest; or
- (iii) as a bishop, priest and deacon;

25

- (b) in relation to a priest, may concern only functioning as a priest or as a priest and deacon;

- (c) may be limited or not limited by reference to place, office, role or function, time or circumstance;

30

- (d) subject to sub-section (2), may be permanent, indefinite or for a period of time, and may be permanent, indefinite or for a period of time in different respects in relation to different functions or different limitations.

35

- (2) A sentence of prohibition from functioning may not be permanent in respect of all the orders of ministry to which a person has been ordained.

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

40

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

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Deposition after sentence of a tribunal

6. The deposition of a person by a bishop pursuant to the sentence of a tribunal shall be effected by the execution by the relevant bishop of an instrument of deposition in or to the effect of the form in Schedule 3.

Registration

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

Giving notice of an instrument

8. (1) A bishop who executes an instrument under section 7 must give notice of that instrument and of the effect of that instrument in the form of Schedule 4 to such persons as the bishop considers necessary.
- (2) The bishop may include in or with the notice under subsection (1) a statement of any circumstances relevant to the relinquishment, prohibition or deposition.

Effect of prohibition from functioning

9. (1) A prohibition from functioning has effect according to its terms.
- (2) Where a person is prohibited from functioning in an order of ministry, that person -
- (a) must not act in contravention of or inconsistently with that prohibition by—
 - (i) officiating or acting in any manner that is reserved to that order of ministry; or

(ii) accepting or holding any office in this Church capable of being held only by a person in that order of ministry;

(b) ceases to have any right, privilege or advantage attached to that order of ministry; and

(c) shall not hold himself or herself out as being in that order of ministry.

Effect of relinquishment of fewer than all Holy Orders

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

(a) may not officiate or act in any manner that is reserved for that order or those orders;

(b) may not accept or hold any office in this Church capable of being held only by a person in that order or those orders;

(c) ceases to have any right, privilege or advantage attached to that order or those orders; and

(d) shall not hold himself or herself out as being in that order or those orders.

Effect of relinquishment of all Holy Orders and of deposition

11. A person who has relinquished all Holy Orders or who has been deposed in accordance with this or another Canon or following the sentence of a tribunal -

(a) may not:

(i) officiate or act in any manner as a bishop, priest or deacon of this Church; or

(ii) accept or hold any office in this Church capable of being held only by a person in Holy Orders;

(b) ceases to have any right, privilege or advantage attached to the order of bishop, priest or deacon;

(c) shall not hold himself or herself out to be a member of the clergy;

(d) may not hold an office in a diocese which may be held by a lay person without the consent of the bishop of the diocese; and

- (e) shall be considered to be a lay person for the purposes of all laws, canons, rules, ordinances and regulations of the Church except for any provision enacted under Chapter IX of the Constitution.

5 **Revocation**

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

(2) The petition shall include a statement of—

15 (a) the circumstances and reasons in and for which the petitioner executed the instrument of relinquishment;

(b) the nature of the work or employment upon or in which the petitioner has been engaged, and the place or places in which the petitioner has
20 resided since executing the instrument of relinquishment; and

(c) the circumstances in which and the reasons for which the revocation is sought.

25 (3) The Metropolitan or the Primate, as the case requires, shall confer with the bishop of the diocese in which the petitioner last held a clerical licence or appointment and the bishop of the diocese in which the person resides and may make such other enquiries as seem appropriate.

30 (4) The Metropolitan or the Primate, as the case requires, may by writing under seal certify that, for all purposes, the instrument of relinquishment ceases to have any force or effect.

(5) A certificate under sub-section (4) shall be registered in—

35 (a) the register of the bishop of the diocese in which the instrument of relinquishment or the instrument of deposition was registered;

(b) the register of the Primate; and

40 (c) the national register -

and a copy of the certificate shall be delivered to the bishop of the diocese in or for which the petitioner was ordained.

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Effect of revocation

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

5

Offences under this Canon

14. (1) It is an offence for a person who has relinquished an order of ministry to hold out that the person continues to exercise that order, except for the purposes of any provision enacted under Chapter IX of the Constitution.

10

- (2) It is an offence for a person who has been deposed to act contrary to section 11(c), except for the purposes of any provision enacted under Chapter IX of the Constitution.

15

Canon 76 of the Canons of 1603 to have no effect

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

20

Repeal

16. The Holy Orders Relinquishment and Deposition Canon 2004 is repealed.

25

Coming into force by adoption

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

30

SCHEDULES**SCHEDULE 1**

5

VOLUNTARY RELINQUISHMENT OF ONE OR MORE ORDERS OF MINISTRY

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

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

SCHEDULE

20

PARTICULARS OF HOLY ORDERS SUBJECT TO THIS DECLARATION

FULL NAME AND ADDRESS

25

ORDAINING BISHOP(S) PLACE DATE

ORDINATION AS DEACON

ORDINATION AS PRIEST

30

CONSECRATION AS BISHOP

DATED:

EXECUTED BY

35

in the presence of:

(Bishop or Archdeacon or legal practitioner)

40

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

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

45

DATED:

EXECUTED BY:

in the presence

of:

50

CONSENT OF BISHOP OF DIOCESE IN WHICH DECLARANT
RESIDES:

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

10 DATED:
EXECUTED BY:
in the presence
of:

SCHEDULE 2**PROHIBITION FROM FUNCTIONING FOLLOWING THE SENTENCE OF A
TRIBUNAL**

5

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

10 To

GREETINGS

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

15

20

SCHEDULE**PARTICULARS OF HOLY ORDERS SUBJECT TO PROHIBITION**

25

FULL NAME AND ADDRESS

ORDAINING BISHOP(S) PLACE DATE

30

ORDINATION AS DEACON

ORDINATION AS PRIEST

35

CONSECRATION AS BISHOP

PARTICULARS OF PROHIBITION FROM FUNCTIONING

40

.....

DATED

45

SEALED

SCHEDULE 3**DEPOSITION**

5

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

To

10

GREETINGS

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

15

SCHEDULE

20

PARTICULARS OF HOLY ORDERS

25 FULL NAME AND ADDRESS

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

30

35

DATED

SEALED

40

SCHEDULE 4

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

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

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

* an instrument of relinquishment

15 * a prohibition from functioning pursuant to the sentence of a tribunal

* an instrument of deposition.

**delete as applicable*

20

STATEMENT AS TO CIRCUMSTANCES

25

ATTACHMENT

30

DATED

ATTACHMENT TO BILL 09



*The Doctrine Commission
of the Anglican Church of Australia*

Deposition from Holy Orders – February 2017

1. This report was produced in response to a proposal to promote a Bill to General Synod in 2017 to provide for the option of “deposition/relinquishment by degrees”. Under current canon law, both deposition from Holy Orders and the relinquishment of the exercise of Holy Orders apply to all Orders concurrently. It is not possible, for example, to relinquish the Order of bishop but retain the Order of priest and deacon. The proposal to modify this to allow deposition/relinquishment “by degrees” has prompted our theological reflection on the nature and mutability of Holy Orders.
2. Broadly speaking, there are two main points of view held in Anglican thought. Both views would hold in common that Anglicans recognise three clerical Orders – Bishop, Priest and Deacon – and that Holy Orders are entered into for life. These Orders are cumulative – one must first be a deacon to be ordained a priest, and a priest to be consecrated a bishop. The point of divergence between the two points of view involves the extent to which these Orders can be “removed”. On one view, the effect of deposition/relinquishment is to remove an ordained person entirely from Holy Orders, whereas on the other view the intrinsic character of the Holy Order remains, and the “clergyperson” is removed from the exercise of their office.
3. The Scriptures are silent on this question, and our formularies (the 1662 *Book of Common Prayer*, the Ordinal and the 39 Articles) do not provide a clear

answer either. In light of this, this paper will provide a brief overview of the variations in understanding and practice both within the Anglican Communion and ecumenically, outline the current situation as established by the Constitution and Canons of the Anglican Church of Australia, and conclude with some theological reflections and suggestions for possible ways forward.

4. Within the Western churches, there is a long tradition that emphasises the permanence or “indelibility” of Orders. This was given classic expression by Thomas Aquinas, who spoke of Holy Orders as one of three catholic sacraments that made “an indelible mark” on the soul of the recipient.¹ Despite some debate at the time, the Thomistic view became the standard in the Roman Catholic Church. The Council of Florence in 1439 affirmed the indelibility and unrepeatability of these three “character-conferring” sacraments and the seventh session of the Council of Trent in 1547 anathematised those who did not hold to this position.² So while the Roman Catholic Church speaks of deposition and “laicisation”, it is clear that this involves cessation of the rights and obligations of the ordained, while the indelible character of ordination is retained (this is evidenced by an exceptional provision for a laicised priest to give absolution to someone in the danger of death). The other important aspect of the Thomistic approach to Orders is that because each Order is part of one “sacrament” of Orders, there is an intrinsic unity between them.
5. The nature of Eastern Orthodoxy, as a communion of autocephalous churches, means some qualification may be needed in speaking of a single “Orthodox” position on doctrinal matters. It is clear, however, that within Orthodox churches the distinctive status resulting from ordination is intended to last permanently, although this is not couched in the language of the “indelibility” of Orders as in parts of the Western tradition. An Orthodox cleric, however, may be the subject of deposition because of serious sin that creates a permanent canonical hindrance to performing his sacred function. In such a

¹ *Summa Theologiae* III, 63, 5.

² Excerpts from these councils in *The Christian Faith in the Doctrinal Documents of the Catholic Church*, eds. Josef Neuner, S.J. and Jacques Dupuis, S.J. 6th edition (New York: Alba House, 1996), 520-23.

case, even though there may be repentance, the priest cannot be restored to clerical status. On the other hand, there are some offences for which the penalty of deposition is foreseen, but which are not necessarily an obstacle to canonical restoration.³

6. A number of other denominations see ordination as a life-long calling. The Uniting Church of Australia (UCA), for instance, describes ordination as a changed relationship with the Church “normally for life”,⁴ and the Presbyterian Church in Australia maintains that a person, once ordained, remains so for life, unless removed through disciplinary processes.⁵ In the instance of withdrawal of recognition (UCA) or removal from office in these churches, there does not seem to be an assumption of a residual character of ordination in the person so removed.
7. In Anglicanism, the nature of the ordination vows in various rites, with their shared heritage in the *Book of Common Prayer*, would support the affirmation that ordination is normally for life. The lack of any provision for re-ordination would seem to confirm this conclusion. However, there are Anglicans within some traditions who would want to go further than this and, for them, the language of the “indelibility” of Orders would find comfortable acceptance. An alternate position is represented within a 2001 report to the General Synod of the Anglican Church of Australia which noted that, for some Anglicans, “ordination (which is not a sacrament) is very different from baptism (which is), and there is no necessary or essential reason to regard the former as ‘for life’”.⁶
8. Some Churches within the Anglican Communion have formally articulated an

³ “Ordination”, Joint Committee of Orthodox and Catholic Bishops, Boston 1988. Retrieved 13 Feb 2017 from <http://www.assemblyofbishops.org/ministries/dialogue/orthodox-catholic-bishops/1988ordination>

⁴ “Docbyte: Ordination”, National Working Group on Doctrine, Uniting Church of Australia, 2009. Retrieved 13 Feb 2017 from <https://assembly.uca.org.au/doctrine/item/856-docbytes>.

⁵ “How the Presbyterian Church Functions”, Presbyterian Church of Australia. Retrieved 13 Feb 2017 from <http://www.presbyterian.org.au/index.php/functions>

⁶ “The Three-Fold Ordained Ministry in the life and Mission of this Church – An Interim Report to the General Synod”, 2001. Retrieved 13 Feb 2017 from http://www.anglican.org.au/community/working-groups/defunct/documents/ordained_ministry_wg_interim_report_july_2001.doc

understanding of the enduring character of Orders. Canon C 1.2 of the Church of England, for instance, states:

No person who has been admitted to the order of bishop, priest, or deacon can ever be divested of the character of his order, but a minister may either by legal process voluntarily relinquish the exercise of his orders and use himself as a layman, or may by legal and canonical process be deprived of the exercise of his orders or deposed therefrom.

At the same time, it must be noted the Church of England has in recent times chosen not to use the terminology of “deposition” in regard to the removal of clergy from ministry. The *Clergy Discipline Measure 2003*⁷ provides for a range of sanctions up to life-long prohibition (which is arguably equivalent to deposition, given the affirmation of Canon C 1.2 and probably reflecting concern in the Church of England about the lack of a right of appeal after deposition should further information come to light that might lead to an acquittal in a secular court).

9. The Episcopal Church uses the terminology of deposition, but makes it clear that the person is “removed from the Ministry of this Church and from the obligations attendant thereto, and ... is deprived of the right to exercise in The Episcopal Church the gifts and spiritual authority conferred in Ordination.”⁸ In this understanding deposition does not remove the intrinsic character of Orders but does remove the opportunity and responsibilities of exercising those ministerial gifts within the life of that Church. Ordination is thus assumed to be for life.⁹

⁷ Found at <http://www.legislation.gov.uk/ukcm/2003/3/section/40>.

⁸ The Episcopal Church Canon IV.16(B).4. found at http://www.episcopalarchives.org/sites/default/files/publications/2015_CandC.pdf

⁹ In the Canadian Church, the position is less clear. In a glossary of terms, deposition is described as being from the “office and character conferred by ordination”, while the Discipline Canon of that Church refers to deposition as only from the *exercise* of ordained ministry. The fact that following deposition there can be a process of appeal would suggest that some character of Orders is retained. (Anglican Church of Canada, Handbook of the General Synod, available at <http://www.anglican.ca/about/handbook/>).

THE ANGLICAN CHURCH IN AUSTRALIA

10. The current situation in Australia is regulated by the *Holy Orders, Relinquishment and Deposition Canon 2004*. The Canon provides three alternative pathways – relinquishment from the exercise of Holy Orders, deposition with consent, and deposition resulting from a sentence of a tribunal. There is a distinction in terminology in this canon, in that one relinquishes the exercise of Holy Orders (e.g., clause 3), whereas one is deposed from Holy Orders (e.g., clause 4). However, notwithstanding this distinction in terminology in the Canon, relinquishment and deposition are functionally equivalent, in that clause 9 applies to both in equal terms:

Effect of relinquishment or deposition¹⁰

9 A person who has relinquished the exercise of Holy Orders or who has been deposed from Holy Orders in accordance with this or another Canon or following the sentence of a tribunal

- (a) may not:
 - i. officiate or act in any manner as a bishop, priest or deacon of this Church; or
 - ii. accept or hold any office in this Church capable of being held only by a person in Holy Orders;
- (b) ceases to have any right, privilege or advantage attached to the office of bishop, priest or deacon;
- (c) shall not hold himself or herself out to be a member of the clergy;
- (d) may not hold an office in a diocese which may be held by a lay person without the consent of the bishop of the diocese.
- (e) shall be considered to be a lay person for the purposes of all laws, canons, rules, ordinances and regulations of the Church except for any provision enacted under Chapter IX of the Constitution.¹¹

11. The language of the 2004 Canon *permits* the view that the intrinsic character of Orders cannot be removed, but it does not *require* it. This allows the inclusion

¹⁰ This definition is (largely) reflected in s.72 of the model Professional Standards Ordinance.

¹¹ The phrase “considered to be a lay person” does not necessarily imply that the clerical character remains after relinquishment/deposition. This clause is a merely a “deeming provision” that ensures that former clergy could still be subject to disciplinary proceedings under Chapter IX of the constitution. The jurisdiction of a diocesan tribunal is limited “to a person licensed by the bishop of the diocese, or any other person in holy orders resident in the diocese” (s.54(2)). A deposed clergy person no longer holding a bishop’s licence might otherwise be outside the jurisdiction of a tribunal.

of the various viewpoints held in our Church about the nature of the Orders. The fact that the effect of both relinquishment and deposition is identical (see clause 9, quoted above) may be seen as supportive of the conclusion that deposition, like relinquishment, is from **the exercise of** Holy Orders (notwithstanding the difference in terminology in the 2004 Canon).

12. The 2004 Canon does not make provision for “relinquishment/deposition by degrees”. Furthermore, any contemplated changes to the Canon need to be consistent with the limits imposed by the Constitution, which stipulates that deposition resulting from a sentence of a tribunal is “from Orders” (i.e., every Order, not some Orders). According to Section 60(1)

A tribunal shall make such recommendation as it thinks just in the circumstances, but shall not recommend any sentence other than one or more of the following:

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

According to *Canon Law in the Anglican Communion*, six forms of censure are commonly used which, in order of severity, are as follows.

- **Deposition** is the permanent taking away of the right to perform the duties of every office for which Holy Orders is required,
- **Deprivation** is the permanent taking away of the right to perform the acts and functions of a particular office or appointment held by an ordained or lay minister,
- **Suspension** is the temporary taking away of the right to perform acts and functions of the Ministry, or of a particular clerical or lay office or appointment.
- **Inhibition** disqualifies a person from exercising certain ministerial functions.
- **Admonition**, or monition, is a formal written warning, order, or injunction.

- The least severe censure is **rebuke**.¹²

Taking “deposition from orders” in s. 60(1)(a) to mean “the permanent taking away of the right to perform the duties of **every** office ...”, the implication is that a Tribunal has no power to impose a sentence that only takes away “a **particular** office” (i.e., deprivation). However, the same result can be achieved by another route, because of the breadth of “prohibition from function” in 60(1)(b).

13. This brief survey of the current situation, both within the Anglican Church of Australia and more broadly, provides the context for further theological reflection.

THEOLOGICAL THEMES

14. Ordained ministry is a particular expression of the priesthood of Christ manifest in the priesthood of all believers. “There is one priesthood in the Church, the priesthood of Christ”, and all “Christian priesthood is directly related to Christ’s priesthood.”¹³ Similarly, through the Holy Spirit, all Christians participate in Christ’s priesthood, as “the whole Church is taken into the movement of Christ’s self-offering and his eternal praise of the Father.”¹⁴ In and by ordination, the Church recognises that some members from within the priesthood of all believers are called by Christ and empowered by his Spirit to exercise their priestly calling by serving a Christian community as messengers, shepherds and stewards of the Lord.

15. Although ministerial ordination occurs in and through the Church, it recognises the prior call and gift of God through the Holy Spirit.¹⁵ The opening prayer in

¹² Norman Doe, *Canon Law in the Anglican Communion*. Oxford, OUP: 1998, pp.88-89.

¹³ *The Church of the Triune God*, (the Cyprus agreed statement from the International Anglican-Orthodox Theological Commission), Section VI, para 1

¹⁴ *The Church of the Triune God*, Section VI, para 11.

¹⁵ The Ordinal consistently places the ministry of the ordained into the context of the whole People of God, so statements about the nature of ordained ministry are usually best heard in relationship to statements about all baptised believers.

the service for the ordination of both deacons and priests in *A Prayer Book for Australia* begins with the acknowledgement that ordained ministry is above all the call and gift of God:

Almighty God, giver of all that is good,
by your Holy Spirit you have appointed
various orders of ministry in your church...

16. In response to God's call and gift, the Church has a threefold responsibility in Ordination – to discern, recognise and authorise. This threefold response is reflected in the structure and shape of the Ordinal.¹⁶ The culmination of the discernment process occurs in the public context of the ordination service. In response to this discernment, the Church then recognises God's gift and call to ordained ministry, and authorises the ordinand to exercise the office of deacon, priest or bishop. The expectation that ordained ministry is for life speaks of the nature of God's gift and calling within the person. This gift and calling is not just functional. It is a call to serve; more than that, it is a wholehearted response to the love of God (1 John 4:10). Ordained ministry is not extrinsic to the individual, as an activity or task, but is an expression of who the person is and is becoming under God.

17. The Church's role in deposition from / relinquishment of the exercise of Holy Orders parallels its role in ordination. Through a process of examination that ends with a public act, the Church makes a discernment about a person's fitness to exercise an office, and accordingly may withdraw its recognition and authorisation. In the case of relinquishment, a variation of the same threefold

¹⁶ The process of discernment is formally acknowledged in the Ordinal during the presentation of candidates. The Ordinal in *A Prayer Book for Australia* reflects earlier rites at this point, with the bishop asking whether the candidates are "suited by their learning and godly living" (The Ordination of Priests, section 12) and those presenting providing the assurance that "Enquiries have been made among the people of God ... and we believe that these candidates are fit for this office". The process of discernment continues through the Exhortation and Examination. This culminates in a question to the congregation: "Will you accept them as ...?", and the response, "We accept them gladly!" (section 16). Discernment thus culminates in recognition and authorisation. In the laying on of hands with prayer (section 18) the focus is on the work of God through the Holy Spirit within the People of God. Those upon whom hands have been laid are authorised as they are presented with a copy of the Scriptures and hear the words, "Take authority to preach the word of God and to minister the holy sacraments" (section 19). Recognition is expressed by the newly ordained being "appropriately vested" before the congregation, and in the presentation of the newly ordained to the congregation (section 20).

process occurs.¹⁷ The hesitancy in some parts of the Church to presume that it has the power to remove in entirety what God has given recognises the limits to the Church's role in ordination. Given that the Church should not exceed its own nature, it can deal only with the expression of ministry in its midst, through discernment, recognition and authorisation or withdrawal of the same.

18. The hesitancy, which is prepared to remove a minister from exercising the ministry of the ordained but which is unwilling to claim to remove the inner character of the Order, also reflects an appropriate modesty about the nature of the Church. Even in its holy calling, the knowing of the Church is, as Paul puts it, a knowing "in part" (1 Cor 13:12). What the Articles point out about General Councils is true of churches: they can err. Even in an area as important as clergy discipline, poor or inadequately informed decisions can occur and weakness of human process can produce failings.

19. The affirmation of the ministerial call to ordination as a call for life can be seen to be expressive of important themes: that ministry above all comes as the call and gift of God; and that it involves not just the activity of an individual, but that person's very being. The hesitancy noted above recognises that the Church, waiting its final fulfilment, is incomplete, contingent and susceptible to making inadequately formed and erroneous decisions.

20. These are important theological themes to be affirmed in the context of Holy Orders. But they must also be placed alongside the great and grave responsibilities of those Orders:

Remember that you will be called to give account before Jesus Christ; if it should come about that the Church or any of its members, is hurt or hindered as a result of your negligence,

¹⁷ The elements of discernment, recognition and authorisation are not as public in the relinquishment of or deposition from Holy Orders, but are still present. Deposition involves a formal disciplinary process of examination (i.e., discernment) which may result in the formal and public removal of both recognition and authority. Relinquishment involves a private discernment, in that the Bishop is required to consider the application for relinquishment and to give consent. The bishop must give public notice of relinquishment in the manner prescribed by section 7(2) of the Holy Orders, Relinquishment and Deposition Canon 2004.

you know the greatness of the fault and the judgement that will follow.¹⁸

That some actions or omissions by those in ministry are regarded as justifying the severest censure is not merely a matter of public expectation. It is the accountability of faithfulness to a Lord who warned his followers:

If any of you put a stumbling-block before one of these little ones who believe in me, it would be better for you if a great millstone were hung around your neck and you were thrown into the sea (Mark 9:42).

21. The grace and forgiveness of God always awaits those who repent, but some acts (or inactions) have consequences that can be life-long, not just for those who have been sinned against, but also for the person whose action or inaction has caused harm. The Ordinal gives particular emphasis to this responsibility on the part of the ordained.

CONCLUSION

22. The view of the Doctrine Commission is that the provision for deposition should continue to have as its focus the withdrawal of recognition of and authorisation for the exercise of all ordained ministry. This approach recognises the theological affirmations associated with ordination outlined above and maintains continuity with the wider Church. It remains within the limits imposed by s.60 of the Constitution and appropriately recognises the gravity of serious failings by the ordained.
23. We further suggest that Canon be amended to include the category of “prohibition from functioning”, to provide a mechanism for a tribunal to stipulate a permanent or temporary taking away of the right to perform the acts and functions of a particular office (equivalent to ‘deprivation’ and ‘suspension’ in the list in paragraph 12). The Canon might also be amended so that “relinquishment” might be from the exercise of all Orders, or of a

¹⁸ APBA p. 794.

particular Order.

24. The Commission also suggests that the proposed amendments to the *Holy Orders, Relinquishment and Deposition Canon 2004* should make clear that both relinquishment and deposition are from the *exercise of* Holy Orders, leaving open the question as to whether there remains any underlying character of Orders.

25. Providing for deposition, prohibition from functioning, and relinquishment in this way would allow for the effective removal of the exercise of an Order of ministry, while allowing continued participation in other Orders.¹⁹ The overall unity and inter-connectedness of Holy Orders, in terms of their essential character would be retained, while the recognition and authorisation of a particular Order could be removed or prohibited for life.

¹⁹ There is a sequential aspect to this, of course. Priestly/presbyteral ministry presumes ordination to the diaconate, just as episcopal ministry presumes ordination the Order of priests. Removal of Diaconal Orders from a priest would not be contemplated any more than removal of Priestly Orders from a bishop.

BILL 10**A BILL FOR THE CANON CONCERNING CONFESSIONS
(REVISION) CANON 2017****EXPLANATORY MEMORANDUM****General Background**

1. The Canon Concerning Confessions 1989 (Amendment) Canon 2014 (the 2014 canon) was passed at the 16th General Synod. After the 16th General Synod concerns were raised about the validity of the 2014 canon on the basis that the procedure for a special bill should have been followed. To address those concerns, the Standing Committee appointed a Confessions Working Group (comprising the chairs of the Church Law Commission, Doctrine Commission and the Professional Standards Commission, the Archbishop of Sydney and the Bishops of Ballarat and the Murray). A report was prepared by the Church Law Commission on the legal issues that concluded, by reference to section 2A(4) inserted by the 2014 canon, that the bill for the 2014 canon should have followed the procedure for a special bill.
2. The Standing Committee resolved (SC2015/1/20) to refer the subject matter of the 2014 canon to the House of Bishops to consider all liturgical and theological issues raised by the subject matter of 2014 for advice on how the primary purpose of the 2014 canon could be achieved.
3. At their meeting in March 2016, the national Bishops resolved:

“That this Bishops’ meeting recommends to the Standing Committee that a new form of the Canon Concerning Confessions Amendment Bill be promoted as a special bill at the 2017 session of General Synod, which addresses the concerns raised in relation to the 2014 Amendment Canon and takes into account subsequent discussions and the following recommendations. We recommend that the special bill be drafted in such a way as to give expression to the following key principles.

 - The context in which every confession is heard is the desire of the penitent to be reconciled to God, to the church, and to those who have been harmed by their sin. We are therefore dealing with matters of eternal salvation.

- Priests are required to keep all matters disclosed in the context of a confession strictly confidential, except in cases of **grave criminal offences involving the abuse of a vulnerable person or persons**. After appropriate consideration, the strong imperative of confidentiality may be overridden in these exceptional circumstances.
 - The decision as to what constitutes a **grave criminal offence involving the abuse of a vulnerable person** rests with the judgment of the priest who has heard the confession. If a priest is uncertain as to whether disclosure is permissible or appropriate, they should seek counsel from the bishop or a person appointed by the bishop for this purpose. This may be in the form of general advice, without the disclosure of identity or other particulars.
 - The canon should be permissive ('may reveal'), not coercive ('must reveal') – e.g. ... that priest **may** reveal the contents of a confession to the civil and/or church authorities."
4. Subsequent to the Bishops' meeting, the Doctrine Commission prepared a report dated March 2016 that supports the March 2016 resolution of the national Bishops. A copy of the Doctrine Commission report is attached to this Explanatory Memorandum.
 5. At the 2017 Bishops' meeting, the Bishops favoured a further exception to confidentiality where the conduct confessed by the penitent to an ordained minister did not constitute a criminal offence of the type specified to justify an exception to confidentiality, but gives the ordained minister reasonable grounds to believe that a vulnerable person is at risk of significant harm.
 6. The object of the Bill is to repeal the 2014 canon and to re-enact the amendment, taking into account the further consideration which has been given to the subject matter of the 2014 canon since the 16th General Synod. A copy of the Canon Concerning Confessions 1989 without any amendments made by the Canon Concerning Confessions 1989 (Amendment) Canon 2014 is attached to this Explanatory Memorandum.
 7. In light of the emphasis on principle in the Doctrine Commission's report that also underlined the national Bishops' advice on how to proceed with a canon to replace the 2014 canon, it is proposed to insert a recital in the Canon Concerning Confessions 1989 to remind all of the principle of confession.
 8. Consistent with the approach of the national Bishops, the application of the exception to confidentiality is confined to criminal offending in the categories of child abuse and abuse of a vulnerable person (other than a child) and other conduct which is defined to mean conduct confessed by the penitent to an ordained minister which does not constitute a defined criminal offence, but gives the ordained minister reasonable grounds to believe that a vulnerable person is at risk of significant harm.

9. A diocese which did adopt the 2014 canon is advised to exclude the 2014 canon by ordinance pursuant to section 30(d) of the Constitution. This is prudent, even though clause 6 repeals the 2014 canon.
10. The special bill procedure set out in section 28 of the Constitution must be followed in relation to this bill, unless Synod by votes of at least three-fourths of the members present in each house decides that it need not proceed as a special bill.

Notes on Clauses

- | | |
|----------|---|
| Clause 1 | contains the title of the canon. |
| Clause 2 | provides that the principal canon is the Canon Concerning Confessions 1989 without any amendments made by the Canon Concerning Confessions 1989 (Amendment) Canon 2014. |
| Clause 3 | inserts a preamble before the enacting words of the principal canon. |
| Clause 4 | provides for the amendment of section 2 of the principal canon by making the obligation of confidentiality of the ordained minister subject to section 2A and inserts the new section 2A which is based on section 2A that was inserted by the 2014 canon, but has been refined by the further consideration given to the extent of the exception to the obligation of confidentiality by the national Bishops and Doctrine Commission. New definitions are inserted in subsection (1) of section 2A of abuse , Church authority , other confessed conduct and vulnerable person . The definition of child exploitation material that was inserted in subsection (1) of section 2A by the 2014 canon has been omitted, as the definition of child abuse extends to the possession, production or distribution of child exploitation material. |
| Clause 5 | provides that the canon does not come into force in a diocese until the diocese adopts it by ordinance, as the canon affects the order and good government of the Church. |
| Clause 6 | repeals the 2014 canon. |

BILL 10**5 A BILL FOR THE CANON CONCERNING CONFESSIONS
 (REVISION) CANON 2017**

10 The General Synod prescribes as follows:

Title

11. This canon is the Canon Concerning Confessions (Revision) Canon 2017.
15

Interpretation

12. In this canon, the principal canon is the Canon Concerning Confessions 1989
without any amendments made by the Canon Concerning Confessions 1989
20 (Amendment) Canon 2014.

Insertion of preamble

13. In the principal canon before the enacting words insert:
25

“Whereas every confession to an ordained minister is heard in the context of
the desire of the penitent to be reconciled to God, to the fellowship of the
church, and to those who have been harmed by the penitent’s sin:”

30 Exception to confidentiality

14. Section 2 of the principal canon is amended by:
(a) deleting the word “If” and substituting the words “Subject to section 2A, if”. and
(b) after section 2 of the principal canon, inserting:

35 “2A. (1) In this section –

abuse means sexual assault, sexual exploitation or physical
 abuse;

40 **child** means a person under the age of 18 years;

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

Church authority has the same meaning as in the National
 Register Canon 2007;

church worker has the same meaning as in the National Register Canon 2007;

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

5 **Director of Professional Standards** has the same meaning as in the National Register Canon 2007;

10 **grave offence** means conduct that amounts to a criminal offence against the laws of the Commonwealth, a State or Territory, or another country which is equivalent to a criminal offence of the Commonwealth, a State or Territory involving:

(a) child abuse; or

(b) abuse of a vulnerable person (other than a child);

ordained minister has the same meaning as **clergy**;

15 **penitent** means a person who makes a confession to an ordained minister;

20 **other conduct** means conduct confessed by the penitent to an ordained minister which does not constitute a grave offence, but gives the ordained minister reasonable grounds to believe that a vulnerable person is at risk of significant harm;

police means the Australian Federal Police or the police service of a State or Territory of Australia;

25 **vulnerable person** includes a person who by reason of an intellectual disability, mental illness or other impairment, age or circumstance, has reduced capacity, whether permanently or temporarily, to protect himself or herself from abuse.

30 (2) Subject to subsection (3), where a penitent confesses to an ordained minister that he or she has or may have committed a grave offence or confesses to other conduct, that ordained minister is obliged to keep confidential the grave offence so confessed or the other conduct if he or she is reasonably satisfied that the penitent has reported the grave offence or the other conduct to the police and, if the person is a church worker or a member of the clergy, to the Director of Professional Standards or other relevant Church authority.

40 (3) An ordained minister to whom a penitent has confessed that he or she has or may have committed a grave offence or has confessed to other conduct may, for the purpose of obtaining advice as to whether that conduct constitutes a grave offence or other conduct, reveal the nature of that confession to a person nominated by the bishop of the diocese for the purpose of giving
45 that advice.

(4) It is a defence to a charge of breach of discipline or any offence brought against an ordained minister,

(a) arising from his or her disclosure to any person of conduct confessed by a penitent that did not constitute a grave offence, that the ordained minister believed in good faith and on reasonable grounds that the conduct may have constituted a grave offence; or

(b) arising from his or her disclosure to any person of other conduct that the ordained minister believed in good faith and on reasonable grounds that a vulnerable person was at risk of significant harm.

Order and good government

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

Repeal

16. The Canon Concerning Confessions 1989 (Amendment) Canon 2014 is repealed.



ATTACHMENT 1 TO BILL 10

*The Doctrine Commission
of the Anglican Church of Australia*

Confessions and Confidentiality – March 2016

Confession

The practice of confession needs to be shaped by our theological framework, especially the doctrines of creation, sin, and redemption, and their application to the understanding of human society. All people have been made in God's image and must be treated with dignity and respect. We are also all corrupted and affected by sin. The atonement tells us that God takes sin seriously – so seriously, in fact, that God became incarnate and Christ died so that our sins might be forgiven. God desires reconciliation and the restoration of broken relationships, both with God and with one another. Through Christ, forgiveness is freely offered to the sinner, calling for the acknowledgment of sin, true repentance and amendment of life, bearing 'fruits worthy of repentance' (Luke 3:8). This is the proper context for the practice of confession. First John 1:8-9 tells us 'If we say that we have no sin, we deceive ourselves, and the truth is not in us. If we confess our sins, he who is faithful and just will forgive us our sins and cleanse us from all unrighteousness.'

Similarly, the Risen Christ, in 'sending' the disciples into the world (as he was sent by his Father), and breathing the Holy Spirit on them, gave to his disciples the authority to pronounce, or withhold, God's forgiveness (see John 20:21–23; c.f. Matthew 16:19). The Church has continually exercised this ministry, part of the wider ministry given to it by its Lord. It is in this context that the 'Reconciliation of a Penitent' (c.f. APBA p. 773 ff), which entails the making (and hearing) of confession, and the pronouncing of absolution, arises. From this gospel imperative comes the clear sense that in this ministry we are dealing with matters of eternal salvation.

The New Testament recognises a corporate dimension to confession: 'confess your sins to each other and pray for each other so that you may be healed' (James 5:16). There is a basic human reluctance to confront our own sin, and the involvement of others can encourage

repentance and provide an opportunity for pastoral care of the penitent. Although public confession is recorded in the Scriptures (e.g., Jer 29, Ezra 9-10) and was sometimes practised in the early church, there is often a reluctance to confess private sins in public.

Over time, the wisdom and experience of the church led to the principles of private confession, recognising the pastoral importance of ‘the unburdening of conscience and [receiving] spiritual consolation and ease of mind’ by the confession of ‘secret and hidden sins’. While BCP provides for regular corporate confession and absolution in the context of public worship services, it also recognises that private confession may be helpful in some cases. This is articulated in the first exhortation in the Order for the Administration of the Lord’s Supper.

[B]ecause it is requisite, that no man should come to the holy Communion, but with a full trust in God's mercy, and with a quiet conscience; therefore if there be any of you, who by this means cannot quiet his own conscience herein, but requireth further comfort or counsel, let him come to me, or to some other discreet and learned Minister of God's Word, and open his grief; that by the ministry of God's holy Word he may receive the benefit of absolution, together with ghostly counsel and advice, to the quieting of his conscience, and avoiding of all scruple and doubtfulness.

The role of the minister in pronouncing absolution is to declare God’s forgiveness to those who repent. As the service of Evening Prayer in BCP reminds us,

[God] hath given power, and commandment, to his Ministers, to declare and pronounce to his people, being penitent, the Absolution and Remission of their sins: He pardoneth and absolveth all them that truly repent, and unfeignedly believe his holy Gospel.

Therefore confession and absolution are of utmost significance. The context in which every confession is heard is the desire of the penitent to be reconciled to God, to the church, and to those who have been harmed by their sin.

Confidentiality of Confessions

It is for this reason that the church has guarded confessions with strict confidentiality. Otherwise, those whose consciences are burdened may be too afraid or ashamed to seek and find forgiveness for their sins. Just as legal professional privilege is necessary to enable a client to be completely open with his or her legal counsel, so also the confidentiality of confessions encourages full disclosure from a penitent.

The historic law of our Church regarding the confidentiality of confessions is as set out in the Proviso to Canon 113 of the Canons of 1603. In most dioceses in Australia, this has been replaced by the Canon Concerning Confessions 1989, which is a modernised version of the 1603 Canon that for the most part mirrors the 1603 version.²⁰

Proviso to Canon 113 of 1603	Canon Concerning Confessions 1989
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 in 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 ...	If any person confess his or her secret and hidden sins to an ordained minister for the unburdening of conscience and to receive spiritual consolation and ease of mind, such minister shall not at any time reveal or make known any crime or offence or sin so confessed and committed to trust and secrecy by that person without the consent of that person.

While the 1603 Canon strongly urges confidentiality for what is revealed in a confession, this confidentiality was not absolute. The Proviso to Canon 113 recognised that confidentiality had to be maintained unless ‘they [the sins confessed] be such crimes as by the laws of this realm his own life may be called into question for concealing the same’. For example, a 17th century minister who heard a confession of treason was not required to keep that confession confidential. This single exception is very important, because it establishes both that confidentiality is of the utmost importance, and also that exceptions could be made under extraordinary circumstances. At this point, the Anglican understanding of the confessional is markedly different to the Roman Catholic understanding, in which the so-called ‘Seal of the Confessional’ allows no possible exceptions.²¹ The single exception in the 1603 Canon demonstrates that, in a particular historical circumstance, it was not considered contrary to the doctrine of our Church for there to be an exception to the principle of strict confidentiality in certain extreme circumstances. As indicated above, however, that understanding of our doctrine was not articulated in the wording of the Canon of 1989.

²⁰ An important difference between the two canons is that the 1603 Canon allowed an exception to the principle of absolute confidentiality (as further discussed below).

²¹ According to Canon 983.1 of the Code of Canon Law, “[t]he sacramental seal is inviolable; therefore it is absolutely forbidden for a confessor to betray in any way a penitent in words or in any manner and for any reason.”

An Exception for Confessions of Criminal Abuse of the Vulnerable?

To be authentic in character, a confession of thoughts, words or actions needs to include a concern for any who might have been hurt or harmed by the matters confessed. In some cases it is a first step whereby the needs of others are addressed, and refusal to do so may bring the genuineness of the confession into question, and, in the view of some, thereby remove the obligation of confidentiality. We cannot separate our relationship with God from our relationship with others. Human existence is innately multi-dimensional, so sin is multi-dimensional, as is forgiveness.

The Biblical principle of love and the call to promote fullness of life calls us to do everything in our power to further the welfare of all, especially the vulnerable. In addition to the pastoral responsibility to minister to those who come in genuine repentance and seeking forgiveness, there is also an obligation to victims of past and present actions and potential victims of future actions. Where there is an irreconcilable tension between these two responsibilities, the pastoral priority must lie with the vulnerable in matters of abuse. Here we can identify an exception to the high calling of confidentiality in the confessional which is different in context but not unrelated in principle to the exception provided in the 1603 canons. It remains a limited and relatively specific provision and aligns with the priority that Jesus consistently gave to the vulnerable. There remains a lack of clarity as to whether the 1989 canon, in the current historical circumstances, pays sufficient attention to this priority of the vulnerable.

The Commission recognises that difficulties are posed by the lack of consistency in the civil law across Australia in relation to the priest-penitent privilege. Furthermore, the Church is subject to mandatory reporting rules which are in partial conflict with the 1989 Canon, and ministers may be compelled to give evidence before a Royal Commission, which may be subject to different evidentiary rules. While we are grateful that the civil law protects ministers from civil prosecution for non-disclosure of confessions in some jurisdictions, we believe that it will be sometimes be appropriate not to rely on these legal privileges, out of a consideration of the welfare of the vulnerable.

At the same time, we also recognise that the practice of confession depends on the expectation of confidentiality, and that to undercut confidentiality in a substantive way is likely to put an obstacle in the path of those who are in deep spiritual need. Ministers should keep in strictest confidence all that has been 'committed to them in trust' and should not reveal pastoral information to others or gossip. The national code of conduct, *Faithfulness in Service*, in para. 4.8 establishes confidentiality in pastoral relationships as a standard of ministerial behaviour. This expectation should only be relieved in exceptional cases involving 'grave criminal offences involving the abuse of the vulnerable'.

As noted above, the Proviso to Canon 113 of 1603 recognised that confidentiality had to be maintained unless 'they [the sins confessed] be such crimes as by the laws of this realm his own life may be called into question for concealing the same'. This establishes both that confidentiality is of the utmost importance, and also that exceptions could be made under extraordinary circumstances. We now recognise that grave criminal offences involving abuse of a vulnerable person or persons may constitute such extraordinary circumstances as to override the pastoral imperative of confidentiality.

Recommendations

The Doctrine Commission supports the March 2016 resolution of the national bishops,

that a new form of the Canon Concerning Confessions Amendment Bill be promoted as a special bill at the 2017 session of General Synod, which addresses the concerns raised in relation to the 2014 Amendment Canon and takes into account subsequent discussions and the following recommendations. We recommend that the special bill be drafted in such a way as to give expression to the following key principles.

- *The context in which every confession is heard is the desire of the penitent to be reconciled to God, to the church, and to those who have been harmed by their sin. We are therefore dealing with matters of eternal salvation.*
- *Priests are required to keep all matters disclosed in the context of a confession strictly confidential, except in cases of **grave criminal offences involving the abuse of a vulnerable person or persons**. After appropriate consideration, the strong imperative of confidentiality may be overridden in these exceptional circumstances.*
- *The decision as to what constitutes a **grave criminal offence involving the abuse of a vulnerable person** rests with the judgment of the priest who has heard the confession. If a priest is uncertain as to whether disclosure is permissible or appropriate, they should seek counsel from the bishop or a person appointed by the bishop for this purpose. This may be in the form of general advice, without the disclosure of identity or other particulars.*
- *The canon should be permissive ('may reveal'), not coercive ('must reveal') - E.g. '... that priest may reveal the contents of a confession to the civil and/or church authorities.'*

The Doctrine Commission of the Anglican Church of Australia

March 2016.

ATTACHMENT 2 TO BILL 10

CANON CONCERNING CONFESSIONS 1989¹

Canon 10, 1992² as amended by
Canon 11, 2014

A canon concerning confessions.

The General Synod prescribes as follows:

1. This canon may be cited as "Canon concerning confessions 1989".
 - 2.³ Subject to section 2A, if any person confess his or her secret and hidden sins to an ordained minister for the unburdening of conscience and to receive spiritual consolation and ease of mind, such minister shall not at any time reveal or make known any crime or offence or sin so confessed and committed to trust and secrecy by that person without the consent of that person.
- 2A.⁴ (1) In this section -
- "**child**" means a person under the age of 18 years;
- "**child abuse**" has the same meaning as in the *National Register Canon 2007*;
- "**child exploitation material**" has the same meaning as in the *National Register Canon 2007*;
- "**church worker**" has the same meaning as in the *National Register Canon 2007*;
- "**clergy**" has the same meaning as in the *National Register Canon 2007*;
- "**Director of Professional Standards**" has the same meaning as in the *National Register Canon 2007*;
- "**ordained minister**" has the same meaning as "clergy";
- "**police**" means the Australian Federal Police or the police service of a State or Territory of Australia;
- "**serious offence**" means a criminal offence of the Commonwealth, of a State or of a Territory, or of another country which is equivalent to such a criminal offence of the Commonwealth, of a State or of a Territory:
- (a) involving child abuse; or

¹ See Appendix B on page 447.

² This canon was passed provisionally as Canon P3, 1989.

³ Amended by Canon 11, 2014.

⁴ Inserted by Canon 11, 2014.

- (b) involving child exploitation material; or
 - (c) punishable by imprisonment for life or for a term of 5 years or more.
 - (2) Subject to subsection (3), where a person confesses that he or she has committed a serious offence an ordained minister is only obliged to keep confidential the serious offence so confessed where the ordained minister is reasonably satisfied that the person has reported the serious offence to the police and, if the person is a church worker or a member of the clergy, to the Director of Professional Standards.
 - (3) An ordained minister may reveal the conduct so confessed to a professional advisor for the purpose of obtaining advice as to whether that conduct constitutes a serious offence.
 - (4) It is a defence to a charge of breach of discipline or any offence against the ordained minister arising from his or her disclosure to any person of the conduct so confessed that does not constitute a serious offence that the ordained minister in good faith believed that the conduct did constitute a serious offence.
3. The proviso to canon numbered 113 of the Canons of 1603, and any other law of this Church concerning the making of confessions to an ordained minister, in so far as the same may have any force, shall have no operation or effect in this Church.
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 until the diocese adopts this canon by ordinance of the synod of the diocese.

BILL 11**A BILL FOR THE CANON CONCERNING SERVICES AMENDMENT
CANON 2017****EXPLANATORY MEMORANDUM****General Background**

1. The Canon Concerning Services 1992 includes provisions relating to the forms of service authorised for use within the Anglican Church of Australia.
2. Section 4(2) of that canon provides that every minister must use only the authorised forms of service, except so far as the minister may exercise the discretion allowed by section 5. (Section 5 in turn provides for a limited range of variations which are either not of substantial importance for particular occasions for which no provision is made in the authorised forms of service.)
3. Section 4(1) provides for two forms only of authorised service, those in the Book of Common Prayer, and those authorised, as regards a parish, pursuant to the Constitution or a canon of the General Synod in force in that parish's diocese.
4. The church, through the leadership and insight of the Liturgy Commission, will continue to develop fresh language, metaphors and forms for services used in public worship, and some diocese and ministers will want to use them. It is improbable that these will be published in the form of a new prayer book, and even if a new prayer book were being considered (which it is not) there is a category of liturgical resource that falls between what needs to be authorised by canon and what is covered by section 5 of the Canon Concerning Services.
5. The amendment is directed to materials in that space. The ambition is to find a mechanism that retains the principle of church authority over liturgy and the authentication of properly considered and high quality materials, while at the same time allowing for such materials to be disseminated and used within the church without the need for a canon of General Synod in every case.
6. The proposed amendments require five forms of approval before any form of service can be used in reliance on this section of the canon: recommendation by the Liturgy Commission, concurrence in that recommendation by the Doctrine Commission,

approval by two-thirds of diocesan bishops (including a majority of Metropolitans), and approval for use within any diocese by the diocesan council of that diocese.

Status of this Bill and Canon

7. As this bill affects ritual and ceremonial, it will be a special bill for the purposes of section 28 of the Constitution unless three-quarters of the members of each House otherwise determine. In addition, it is deemed by paragraph (a) of s 30 of the Constitution to affect the order and good government of the Church and therefore not to come into force in a diocese unless and until that diocese by ordinance adopts it.

Notes on Clauses

- Clause 1 provides for the short title of the canon.
- Clause 2 provides that the term "principal canon" means the Canon Concerning Services 1992.
- Clause 3 amends clause 4 of the Canon Concerning Services 1992 by authorising additional forms of service for use by Anglican ministers in Australia. To be used in a parish, a form must satisfy five criteria:
- a. it has been recommended by the Liturgy Commission;
 - b. the Doctrine Commission has concurred in that recommendation;
 - c. it has been approved by a decision of at least two-thirds of the Diocesan bishops;
 - d. it has been approved by a majority of Metropolitans;
 - e. it has been approved for use within that parish's diocese by its diocesan council.
- It is noted that the first, second and fifth criteria recognize lay as well as clerical involvement in the approval process.
- Clause 4 provides that the canon affects the ritual, ceremonial or discipline of this Church.

BILL 11**A BILL FOR THE
CANON CONCERNING SERVICES AMENDMENT CANON 2017**

The General Synod prescribes as follows:

Title

1. This canon is the Canon Concerning Services Amendment Canon 2017.

Interpretation

2. In this canon principal canon means the Canon Concerning Services 1992.

Additional Forms of Service Authorised

3. In the principal canon—

- (a) in section 4(1)(b) for "part." substitute "part;"; and

- (b) after paragraph 4(1)(b) insert:

- "(c) for use within a diocese, any other form that has been -

- (i) approved for use, on the recommendation of the Liturgy Commission with the concurrence of the Doctrine Commission, by a decision of at least two-thirds of the diocesan bishops including by a majority of the Metropolitans; and

- (ii) approved for use within the diocese by the diocesan council of that diocese."

Canon affects the ritual, ceremonial or discipline of this Church

4. The provisions of this canon affect the ritual, ceremonial or discipline of this Church.

BILL 12**A BILL FOR THE NATIONAL ABORIGINAL AND TORRES STRAIT
ISLANDER ANGLICAN COUNCIL AMENDMENT CANON 2017****EXPLANATORY MEMORANDUM****General Background**

1. The National Aboriginal and Torres Strait Islander Anglican Council Canon 2014 (the principal canon) came into force on 1 January 2015. It reflected the NATSIAC proposal for membership of the Council when the principal canon was passed and provided for the Archbishop of Brisbane to appoint either one Aboriginal person or Torres Strait Islander as a member of the Council.
2. At the 2015 annual NATSIAC gathering, NATSIAC resolved to seek an amendment to the principal canon to enable the Archbishop of Brisbane to appoint one Aboriginal person and one Torres Strait Islander as members of the Council. This decision was made in recognition of the diversity of the indigenous communities in the Diocese of Brisbane.

Notes on Clauses

- Clause 1 contains the title of the canon.
- Clause 2 provides that the principal canon is the National Aboriginal and Torres Strait Islander Anglican Council Canon 2014.
- Clause 3 inserts paragraph (d1) in section 10(1) of the principal canon to provide for the appointment by the Archbishop of Brisbane of one Aboriginal person and one Torres Strait Islander as members of the Council.
- Clause 4 makes the consequential amendment to paragraph (g) of section 10(1) of the principal canon.

BILL 12

5 **A BILL FOR THE**
 NATIONAL ABORIGINAL AND TORRES STRAIT ISLANDER
 ANGLICAN COUNCIL AMENDMENT CANON 2017

10

The General Synod prescribes as follows:

Title

- 15 1. This canon is the National Aboriginal and Torres Strait Islander Anglican Council Amendment Canon 2017.

Principal Canon

- 20 2. In this canon, the principal canon is the National Aboriginal and Torres Strait Islander Anglican Council Canon 2014.

Change to Appointments of Members of the Council

- 25 3. In section 10(1) of the principal canon, insert after paragraph (d):

 “(d1) one Aboriginal person and one Torres Strait Islander appointed by the Archbishop of Brisbane to represent the Diocese of Brisbane;”.

- 30 4. In paragraph (g) of section 10(1) of the principal canon, insert “Brisbane,” after “Queensland,”.

BILL 13**A BILL FOR STRATEGIC ISSUES, COMMISSIONS, TASK FORCES
AND NETWORKS AMENDMENT CANON 2017****EXPLANATORY MEMORANDUM****General Background**

1. One of the means for the Standing Committee to identify issues of strategic importance to the Church is through the Commissions and Task Forces created under the Strategic Issues, Commissions, Task Forces and Networks Canon 1998 (principal canon). Under section 8 of the principal canon five expert Reference Commissions are established. Under section 8A of the principal canon, the Standing Committee may establish additional expert Reference Commissions. The functions of the Commissions under section 8 are set out in the principal canon, while those established under section 8A are set out in the resolutions of Standing Committee that established those Reference Commissions.
2. There are two Reference Commissions established under section 8A that have been longstanding: the Public Affairs Commission and the Ecumenical Relations Commission. It is proposed by this Bill that they now be treated as established as Commissions under section 8. The Bill also updates other provisions in the principal canon.
3. Section 14 of the principal canon provides that the appointment of members of each Reference Commission established under section 8 of the principal canon shall be for a 5 year renewable term. It is proposed to give greater flexibility in the appointments of members of the Reference Commissions by substituting “of up to five years and may be reappointed” for “5 year renewable”. That will allow the appointment to be fixed by reference to the next General Synod after the appointment.
4. If this Bill were passed by the General Synod, pursuant to section 30 of the Constitution it would come into force on and from the date appointed by the President, being not later than one calendar month from the date upon which the canon was passed.

Notes on Clauses

- Clause 1 contains the title of the canon.
- Clause 2 provides that the principal canon is the Strategic Issues, Commissions, Task Forces and Networks Canon 1998.
- Clause 3 changes the name of the Ministry Commission to the Mission and Ministry Commission which is the name by which that Commission is now known.
- Clause 4 changes the name of the Professional Standards Commission to the Safe Ministry Commission which better reflects the nature of its functions.
- Clause 5 inserts an additional function into the list of functions in paragraph (a) of section 12A of the principal canon which recognises the overarching aim of the work undertaken by that Commission. The same change is made to paragraph (b) of section 12A.
- Clause 6 adds the Public Affairs Commission to the list of Expert Reference Commissions established under section 8.
- Clause 7 inserts a new section 12B into the principal canon that sets out the functions of the Public Affairs Commission.
- Clause 8 adds the Ecumenical Relations Commission to the list of expert Reference Commissions established under section 8.
- Clause 9 inserts a new section 12C into the principal canon that sets out the functions of the Ecumenical Relations Commission.
- Clause 10 substitutes “5 year renewable” with “of up to five years and may be reappointed”, to give greater flexibility in the appointment of members of the Reference Commissions.

BILL 13

5

**A BILL FOR THE
STRATEGIC ISSUES, COMMISSIONS, TASK FORCES AND
NETWORKS AMENDMENT CANON**

10

The General Synod prescribes as follows:

Part 1 - Introduction**Title**

15

1. This canon is the Strategic Issues, Commissions, Task Forces and Networks Amendment Canon 2017.

Interpretation

20

2. In this canon, principal canon means the Strategic Issues, Commissions, Task Forces and Networks Canon 1998.

Part 2 - Ministry Commission

25

Change of name of the Ministry Commission

3. In sections 8(b) and 10 of the principal canon insert "Mission and" before "Ministry".

30

Part 3 - Professional Standards Commission**Change of name of the Professional Standards Commission**

35

4. In sections 8(e) and 12A of the principal canon for "Professional Standards" substitute "Safe Ministry".

Additional function of the Professional Standards Commission

40

5. In section 12A (a) and (b) of the principal canon insert "the protection of children and adults from abuse," after "training".

Part 4 - Public Affairs Commission

Establishment of the Public Affairs Commission

- 5 6. In section 8 of the principal canon:
- (a) substitute “,” for “.” at the end of paragraph (e); and
 - (b) insert after paragraph (e):]
 - “(f) The Public Affairs Commission;”

10 Functions of the Public Affairs Commission

7. After section 12A of the principal canon insert:

 “12B The functions of the Public Affairs Commission are:

- 15 (a) to develop a process to assist people engage with public affairs;
- (b) to respond within its capacity to aspects of public affairs referred by the Primate, the Standing Committee or the General Synod or initiated by the Commission;
- 20 (c) to work collaboratively with any diocesan body engaged in public affairs or any network of diocesan bodies engaged in public affairs.”

Part 5 - Ecumenical Relations Commission

Establishment of the Ecumenical Relations Commission

- 25 8. In section 8 of the principal canon insert after paragraph (f):
- “(g) The Ecumenical Relations Commission.”

30 Functions of the Ecumenical Relations Commission

9. Insert after section 12B of the principal canon:

 “12C The functions of the Ecumenical Relations Commission are:

- 35 (a) to advise the Standing Committee on-
 - (i) contact between ecumenical organisations and the Anglican Communion Office in regard to ecumenical matters;
 - (ii) the nurturing of people interested in and with knowledge about ecumenical matters within the life of the Church;
 - 40 (iii) liaison between the representatives of the Church engaged in bilateral dialogue with other groups;
 - (iv) responding to requests from other Churches or ecumenical bodies; and
 - 45 (v) the appointment of representatives of this Church to ecumenical bodies;
- (b) to advise the Primate, the Standing Committee or the General Synod on other ecumenical matters specifically referred to the Commission.”

Part 6 – Term of Appointment of Members

10. In section 14 of the principal canon for “5 year renewable” substitute “of up to 5
5 years and may be reappointed”.

BILL 14**A BILL FOR THE MISSIONARY DIOCESES (AMENDMENT) CANON
2017****EXPLANATORY MEMORANDUM****General Background**

1. This proposal to amend the Missionary Dioceses Canon has arisen out of discussion between the bishops of the Province of NSW in relation to the work of the Viability and Structures Task Force. These amendments are intended as an emergency parachute for use by a diocese experiencing financial collapse.
2. At present, the options for a diocese in financial difficulties are extremely limited. Historically, the solution has been a merger with an adjacent diocese. However, in the current climate, the merger of dioceses is fraught with difficulties, because it exposes another diocese to the financial risks and legal obligations of a struggling diocese. There are further complications if the two dioceses do not share common patterns of ministry.
3. The Canons of the Anglican Church of Australia include the Missionary Dioceses Canon 1977 – 1995. This Canon has been used in the past to provide a framework for Dioceses which are not financially viable, namely, the Diocese of Carpentaria and the Diocese of Northern Territory. There are no Missionary Dioceses in existence at present.
4. The Canon provides a mechanism to create a new Missionary Diocese (clause 3), the election of its Bishop (Clause 4), funding and assessments (Clauses 5-6) and the change of status as a Missionary Diocese (clause 7).

The Limitations of the Current Canon

5. The Missionary Diocese Canon in its present form is too inflexible to provide a useful and timely option for an existing Diocese in financial difficulties to become a Missionary Diocese. Clause 5 requires that all other dioceses pay an additional assessment to cover the costs for a bishop for the missionary diocese, and Clause 6 stipulates that the missionary diocese is exempted from paying its general assessment (clause 6). This single funding model means that any application to become a

Missionary Diocese under the current Canon is unlikely to receive widespread support from other dioceses.

6. Moreover, a diocese on the brink of financial collapse is not in the position to wait until it has the broad support from other dioceses for it to become a missionary diocese, and it may be difficult to gain that broad support for pragmatic or even political reasons. It would be better if the Canon allowed for the possibility of other funding models – e.g. the metropolitan diocese, or a cluster of provincial dioceses providing financial and other support for a struggling diocese.

How is an application triggered?

7. The proposed amendments envisage that the application for an existing Diocese to become a Provisional Missionary Diocese is triggered by the Diocese itself. Inserting a provision to allow an entity external to the Diocese (e.g. the Standing Committee) to initiate an application or, at least, a review of a Diocese's viability has not been proposed, as such a measure would probably raise concerns about diluting the autonomy of Dioceses and be unlikely to gain support in the General Synod.
8. The involvement of the other dioceses of the Province could, however, be helpful to a struggling Diocese through the provision of financial, in-kind and pastoral support. The proposed amendments encourage such involvement by requiring that the request for Provisional Missionary Status must come to Standing Committee at the joint request of the Bishop in Council of the diocese in difficulties and the Metropolitan of that Province, with the support of the majority of the dioceses in the province.

Proposed Amendments

9. This proposal to amend the Missionary Diocese Canon seeks to –
 - provide a flexible mechanism to allow a diocese to be recognised as a temporary missionary diocese
 - encourage the participation of the other dioceses of the province to be an active part of the plan to support and/or restructure the ministry in the provisional missionary diocese
 - remove the requirement that all other dioceses must necessarily provide financial support to a missionary diocese, and instead allow the Standing Committee the discretion to grant a range of temporary financial concessions, as appropriate to the circumstances.
10. As noted above, the Standing Committee will have the discretion to grant a range of temporary financial concessions. As the level of financial impost on other dioceses increases, the voting threshold for approval increases, in recognition of the fact that it will be only the rarest of cases that Standing Committee will grant the full level of financial relief presently mandated by clauses 5 and 6 of the Missionary Dioceses Canon.

11. The proposed amendments to the Missionary Dioceses Canon leave the current Missionary Diocese provisions unchanged, and create a new sub-category of missionary diocese – a “Provisional Missionary Diocese” – which can be recognised by a resolution of the Standing Committee. The reclassification of a diocese as a Provisional Missionary Diocese would be subject to ratification by Canon at the next session of the General Synod.

Constitutional Amendment (Provinces and Dioceses) Canon 2007

12. In the course of developing the present proposal it has been noted that the Constitutional Amendment (Provinces and Dioceses) Canon 2007 proposed the inclusion of a new section 45A A diocesan Bishop, or if there be none in office, the administrator of a diocese, with the concurrence of the Diocesan Council and the approval of the Metropolitan and the Primate, may make such administrative arrangements for the emergency administration of that diocese as the bishop or administrator as the case may be considers appropriate provided that no such arrangement shall last longer than the termination of the next ordinary session of the General Synod unless such session by resolution authorizes its continuation.
13. This constitutional amendment is not in effect as the necessary assents have not been obtained (75 percent of all dioceses including all Metropolitans). To come into effect it would be necessary for the metropolitan dioceses of Melbourne and Sydney to assent in addition to one other diocese to assent.
14. Should it comes into effect, s 45A would allow latitude for a struggling diocese to implement “administrative arrangements for emergency administration”. This would be a very helpful adjunct to the options provided by these Provisional Missionary Diocese provisions. The Standing Committee of General Synod has urged all Diocese that have not yet done so to assent to the 2007 Canon to amend the Constitution. It is not yet known if they will do so.

Status of this Bill and Canon

15. Unless the canon itself otherwise provides or the General Synod (or later a diocese) declares that the provisions of this canon affect the order and good government of the Church within a diocese, it will come into force on and from a date appointed by the President, being not later than one calendar month from the date on which it is passed.

Notes on Clauses

- Clause 1 states the title of the canon.
- Clause 2 states that "principal canon" means the Missionary Dioceses Canon 1977.
- Clause 3 defines "Provisional Missionary Diocese"
- Clause 4 inserts a part heading before the provisions of the current canon.
- Clause 5 contains the new Part 2 in the canon.
- Proposed section 7A provides for a process by which a diocese (by resolution of its Synod or diocesan council) may apply to become a provisional missionary diocese. In all cases that application must be consented to by the Metropolitan of the Province and by a majority of other diocesan councils in the province (of which the applicant diocese is taken to be one).
- Proposed section 7B sets out what the information that a diocese must provide as part of its application.
- Proposed section 7C provides for what Standing Committee of General Synod may do in response to an application, including waiving its fixed assessments to General Synod, and requiring other dioceses to contribute an amount to support it. The financial contribution requires the approval of General Synod.
- Proposed section 7D provides for the matters to be considered by the Standing Committee in determining the amount of the recommended contribution.
- Proposed section 7E provides that the provisions of the present canon that relate to a missionary diocese do not apply to a provisional missionary diocese unless Standing Committee otherwise determines.
- Clause 6 creates a part heading for the remaining sections of the existing canon.

BILL 14**A BILL FOR THE MISSIONARY DIOCESES (AMENDMENT)
CANON 2017****Title**

1. This is the Missionary Dioceses (Amendment) Canon 2017.

Interpretation

2. In this Canon principal canon means the Missionary Dioceses Canon 1977.

New definition of "Provisional Missionary Diocese"

3. In section 1 of the principal canon before "Standing Committee" insert:

' "Provisional Missionary Diocese" means a diocese presently subject a declaration under section 7C.'

New Part 1

4. Before section 3 of the principal canon, insert the heading "Part 1 – Missionary Dioceses"

Provisional Missionary Dioceses

5. After section 7 of the principal canon, insert:

"Part 2 – Provisional Missionary Dioceses

- 7A. (a) A diocese may apply to the Standing Committee to be declared a Provisional Missionary Diocese.
- (b) Subject to paragraph (c), an application must be made by resolution of the Synod of the diocese and with the consent of -
- (i) the Metropolitan of the Province; and
- (ii) a majority of the diocesan councils of the Province (of which the diocesan council of the applicant diocese is to be counted as a consent in favour).
- (c) If—
- (i) the diocesan council considers that the application is urgent; and

(ii) the Synod of that diocese is not due to meet for at least two months from the date of the application -
the application may be made by resolution of the diocesan council instead of by the Synod of the diocese.

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7B. The application must set out the reasons for the diocese seeking to be declared to be a Provisional Missionary Diocese, and must:

(a) provide financial statements for the past three years;

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(b) provide a financial plan for the future of the diocese;

(c) provide for appropriate episcopal oversight of the diocese;

(d) provide for appropriate synodical governance of the diocese;

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(e) provide for compliance with the minimum legal and regulatory framework necessary for the diocese to function;

(f) give consideration to the structures necessary to support the diocese in the future.

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7C. (1) If the Standing Committee is satisfied that an application complies with the sections 7A and 7B, it may—

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(a) declare a diocese to be a Provisional Missionary Diocese;

(b) by a majority of two-thirds of the members of the Standing Committee declare that the Provisional Missionary Diocese is not required to pay the fixed assessments of General Synod;

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(c) by a majority of three-quarters of the members of the Standing Committee, such majority to include all Metropolitans, declare that all other dioceses (other than missionary or provisional missionary dioceses) must pay the amount for the support of the Provisional Missionary Diocese that is determined by resolution of Standing Committee; and

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(d) require the diocese to provide such information as the Standing Committee may require from time to time, including detailed financial reports.

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(2) A declaration under sub-section (1) is valid for no more than three years, or for the period not exceeding three years determined by the Standing Committee at the time it is made.

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- (3) The Standing Committee may extend the validity of a declaration for one or more further periods of no more than three years at the request of the Synod of the diocese made by resolution.

- 5 7D. In determining and amount for the purposes of section 7C(1)(c), Standing
Committee must take into account:
- 10 (a) the costs of the bishop of the diocese, including remuneration, travel
and accommodation; and
- (b) other costs of running the diocese which seem relevant to Standing
Committee.

7E. Sections 3 to 7 of this canon do not apply to a Provisional Missionary
Diocese.

- 15 7F. A Provisional Missionary Diocese is a diocese for the purposes of the
Constitution, remains subject to the Constitution and must at all times
comply with the Constitution."

20 **New Part 3**

6. Before section 8 of the principal canon, insert the heading "Part 3 –
Miscellaneous"

BILLS FOR RULES

BILL R01**A RULE TO AMEND RULE I – STANDING ORDERS
(FORMAL MOTIONS)****EXPLANATORY MEMORANDUM****General Background**

1. Standing Order 10(b) at present provides:

Before the orders of the day or motions are proceeded with the President at each sitting shall call the motions on the business paper and any motion may be taken as a formal motion, unless objection be taken thereto by the word "**Object**" being called by a person other than the mover, and such motion on being declared formal shall be forthwith put without debate.

2. There are three issues.

3. The three issues are:

- Whether when a motion is taken formally the mover should be able to address the General Synod at all in relation to it;
- Whether when there is objection to a motion being taken formally the member(s) objecting should be asked to identify themselves and to indicate the reason for the objection;
- Whether the President should be able from the chair to determine that a motion should not be taken formally, regardless of whether some other member objects.

Addressing the Synod when a motion is formal

4. Allowing the mover to address the Synod briefly in relation to a motion that is to be taken as formal means any motivation for a friend of the mover to object simply in order to allow speeches in its favour to be given. It is also a matter of respect and courtesy: if a member of the General Synod has a motion on the notice paper and it is unopposed, it remains a reasonable expectation that the member be permitted to say something about the circumstances giving rise to the motion and to what its implications might be. Equally, some members of the General Synod may wish to hear something about those matters even though they have no objection to passing it. Allowing a short speech in relation to a formal motion therefore shows that the General Synod is attentive to and

informed about all those matters to which it has agreed, even those that it has seen fit to pass without debate.

5. A limit of three minutes (without extension) is proposed.

Asking a member who objects to indicate the reason for the objection

6. There are good reasons, however, to establish who objects and why. In particular, once the mover has that information, he or she can approach the member who has objected with a view to providing information or discussing possible amendments which may mean that the motion can be improved and passed without objection in an amended form. In other words, the process of objecting can do more to facilitate the dispatch of the business of the meeting than simply establishing that the motion is not universally acceptable.
7. It is hard to see how it could be considered undesirable for movers and objectors to be put in touch with each other ahead of when a motion is called on for debate.

Allowing the President to determine that a motion should not be taken formally

8. There may be situations where the President considers that a matter should be open for debate before it is agreed to by the Synod. By way of illustration, they might include where he or she was aware of reservations that had not yet crystallised into grounds for objection; or where the gravity of the matter meant that it should be properly considered; or where the wording of the motion required further work even if the sentiment was unobjectionable.
9. As a matter of strict logic, it is probably correct that the President does not in any case by virtue of being in the chair lose the right as a member to object; nonetheless, formally recognising this option in the Standing Orders may be considered desirable.

Note on proposed text

The amendment incorporates all the matters discussed above.

A motion will be taken as formal unless someone other than the mover

1. calls "Object",
2. states their name, and
3. states that they intend in relation to the motion to oppose it, to seek to amend it, or to seek further information in relation to it,

or unless the President determines that the motion should not be taken formally.

Then, If a motion is to be taken formally, the mover may address the meeting for no longer than 3 minutes (with no extension) in relation to the motion, after which the motion shall be put forthwith without debate.

BILL R01

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A RULE TO AMEND RULE I – STANDING ORDERS (FORMAL MOTIONS)

10 The General Synod prescribes as follows:

Rule I is amended as follows:

15 In Standing Order 10(b), omit all the words after "taken as a formal motion," and insert
"unless someone other than the mover calls "**Object**", states their name, and states that
they intend in relation to the motion to oppose it, to seek to amend it, or to seek further
information in relation to it, or unless the President determines that the motion should not
be taken formally. If a motion is to be taken formally, the mover may address the meeting
20 for no longer than 3 minutes (with no extension) in relation to the motion, after which the
motion shall be put forthwith without debate."

BILL R02**A RULE TO AMEND RULE III – RULES FOR THE CONDUCT OF ELECTIONS ORDERED TO BE MADE BY THE GENERAL SYNOD****EXPLANATORY MEMORANDUM****General Background**

1. The object of these proposed amendments to Rule III is to provide for a check of the existence and details of any Information in the National Register to be undertaken before the election of persons by the relevant House of the General Synod as members of the Standing Committee.
2. It will make the election of persons to the Standing Committee consistent with the process presently undertaken for election of persons as members of the Appellate Tribunal and the panel of persons from which members of the Special Tribunal are appointed.
3. Rule III must be amended to authorise the General Secretary's access to the National Register for the purpose of the election of members of the Standing Committee, as section 19 of the Protocol for Access to and Disclosure of Information in the National Register specifies the General Secretary must be required by the procedures of the General Synod for the conduct of elections to access the National Register.

Notes on Clauses

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| Clause 1 | inserts the reference to the Standing Committee into rule 5(a1), so that the nomination process provided for in rule 5(a1) will apply to election of members of the Standing Committee. |
| Clause 2 | inserts the reference to the Standing Committee into rule 6(a1), so that the process of checking the National Register and the disclosure of Information relating to that candidate on the lists of candidates for election will apply to the election of members to Standing Committee. |

BILL R02

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

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The General Synod prescribes as follows:

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1. In rule 5(a1) insert “the Standing Committee,” before “the Appellate Tribunal”.
2. In rule 6(a1) insert “the Standing Committee,” before “the Appellate Tribunal”.

BILL R03

A RULE TO AMEND RULE II – RULES FOR THE APPOINTMENT OF A STANDING COMMITTEE OF GENERAL SYNOD AND DEFINING ITS POWERS AND DUTIES

EXPLANATORY MEMORANDUM

General Background

1. The Standing Committee procedure for a circular resolution pursuant to rule 4(7) of Rule II was adopted by Standing Committee resolution SC2009/2/033, the terms of which are attached to this explanatory memorandum.
2. Rule 4(7)(b) currently requires that at least three-quarters of Standing Committee members express their concurrence with the resolution that is proposed by way of circular resolution.
3. When a number of members of Standing Committee are on leave or not accessing email, circular resolutions on uncontentious matters have failed to gain the requisite majority.
4. This amendment will allow a circular resolution to pass by three-quarters of the members who vote on the resolution, provided at least two-thirds of the members of Standing Committee vote on the resolution.

Notes on Clause

- Clause 1 substitutes a new paragraph (b) for the existing paragraph (b) of rule 4(7) to allow a circular resolution to pass by three-quarters of the members of Standing Committee who vote on the resolution, provided at least two-thirds of the members of Standing Committee vote on the resolution.

BILL R03

5 **A RULE TO AMEND RULE II – RULES FOR THE APPOINTMENT
 OF A STANDING COMMITTEE OF GENERAL SYNOD AND
 DEFINING ITS POWERS AND DUTIES**

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The General Synod prescribes as follows:

1. Delete paragraph (b) of rule 4(7) and substitute:

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“(b) at least two-thirds of the members respond in writing to the notice and of those who so respond at least three-quarters express their concurrence with the proposed resolution.”

BILL R04**A RULE TO AMEND RULE I – STANDING ORDERS
(ELECTRONIC VOTING)****EXPLANATORY MEMORANDUM****General Background**

1. At the 17th General Synod we will be using electronic voting. This will use a system already used by the synod of the Diocese of Adelaide.
2. Rule 45 of the Standing Orders provides:

Unless a vote by Houses is requested in accordance with section 15 of the Constitution a question shall be resolved by the majority of the voices "**Aye**" or "**No**", or by a show of hands, and the President shall state which side has the majority; but on demand being made by five members a division shall take place.
3. It is not proposed that electronic voting replace resolving a question on the voices, which is quick and convenient when the matter is uncontroversial or the preponderance of voices clear. Nor is it proposed that it replace a formal division, although in practice it may mean that there a few times when members perceive a need to call for a division.
4. The time when electronic voting would be faster and more accurate is when there would otherwise be a show of hands.
5. It is arguable that rule 45 can be interpreted as allowing members to show their hands by recording a vote on an electronic device. To place the question beyond doubt, it is therefore proposed to insert after the words "a show of hands" the words "or an electronic equivalent to a show of hands". This does not preclude use of a show of hands (for example, in the event of a system failure), but it does recognise that there may be an electronic means of voting that is functionally equivalent and that can properly be used instead.

BILL R04

5 **A RULE TO AMEND RULE I – STANDING ORDERS
(ELECTRONIC VOTING)**

10 The General Synod prescribes as follows:

Rule I is amended as follows:

15 In Standing Order 45, after "a show of hands" insert "or an electronic equivalent to a
show of hands".