

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

### **EXPLANATORY MEMORANDUM**

#### **General Background**

##### **The Royal Commission into Institutional Responses to Child Sexual Abuse**

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

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

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

**Object of the canon**

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

**Main provisions of the canon**

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

**Notes on clauses**

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