

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

EXPLANATORY MEMORANDUM

General Background

The Royal Commission into Institutional Responses to Child Sexual Abuse

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

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

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

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

Object of the canon

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

Main provisions of the canon

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

Notes on Clauses

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