

## **A BILL FOR A DEFENCE FORCE MINISTRY (AMENDMENT) CANON 2022**

### **EXPLANATORY MEMORANDUM**

The primary purpose of this Bill is to provide for a fixed term of 5 years for the Bishop to the Defence Force. There is further provision for extensions to the initial term, each not to exceed 5 years. In addition, the provision for compulsory retirement at age 65 has been removed.

The Bishop to the Defence Force has the status of a bishop assisting the Primate, and is appointed by the Primate and the Defence Force Board. The current Canon provides that the Bishop is appointed “at the discretion” of the Primate, but otherwise has no limit on the appointment, other than retirement at age 65 or resignation.

The Primate and the Defence Force Board have requested that the Canon be amended to provide for a minimum five year fixed term, and to remove the compulsory age retirement. The effect of this amendment will be to provide limited tenure for the Bishop’s appointment, and clarify the circumstances in which the appointment will end.

One of the reasons for changing to a five year fixed term is that the Department of Defence has recently changed the appointment terms for members of the Religious Advisory Council to the Services (RACS) to five year terms. As the Bishop to the Defence Force is a member of RACS, the Defence Force Board has recommended that the term of appointment for the Bishop be consistent with the Bishop’s term on the RACS.

As the appointment of the Bishop is limited in time, and is subject to regular review, it is considered that there is no need for a compulsory retirement age. The ambiguous phrase “at the discretion of the Primate” has been removed, making it clear that upon appointment the Bishop is secure in the position for the duration of the appointed term.

Consideration was given to whether explicit reference ought to be made to the professional standards regime, and the impact of a finding by the relevant board or tribunal on the Bishop’s position. It is considered that it is not necessary to explicitly refer to the relevant professional standards legislation, which will apply of its own force. Instead, reference is made at the new clause 4(2)(c) to removal from episcopal office.

Clause 1 is the formal clause.

Clause 2 repeals section 4 of the principal Canon, and inserts a new section 4. The new section 4 is modelled on the form of the current section, but has these new features:

- In sub-section (1), the reference to the Primate’s discretion is removed, while retaining the proviso that the appointment continues in the event of a vacancy in the office of Primate.
- There are new provisions for expiry of the Bishop’s term in sub-section (2), added to the current reference to resignation, being the end of the fixed term, and removal from episcopal office. The compulsory retirement at age 65 is removed, providing flexibility in any renewal of the Bishop’s term.

- Sub-section (3) provides that the Primate and the Defence Force Board together review the Bishop's position prior to the expiry of the initial term, and to extend the Bishop's appointment for a maximum of five years at a time. The requirement that a majority of the Metropolitans agree to the extension mirrors the procedure set out in the current section 2A(1).
- Sub-section (4) provides that further extensions may be made to the Bishop's appointment, using the same procedure in section 4(3).

Clause 3 is a transitional provision to clarify that any recent appointment as Bishop to the Defence Force will be deemed to be on the terms introduced by this amendment, even if the appointment precedes the commencement of this Canon.

Clause 4 provides that the Canon will come into operation with effect from 1 July 2022.