

THE ANGLICAN CHURCH OF AUSTRALIA



Bills

The Eighteenth Session of General Synod

BOOK 1

8 — 13 MAY 2022



The Anglican Church of Australia

BILLS

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8 – 13 May 2022

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INTRODUCTION

This Book 1 of the papers for the Eighteenth Session of the General Synod contains Bills to be presented to the General Synod to make and to amend Canons and Rules. An explanatory memorandum precedes each Bill in this book.

Part 1 of the book presents Bills for Canons and Bills for Rules that are promoted at the request of the Standing Committee.

Part 2 of the book presents Bills for Canons and Bills for Rules that are promoted at the request of a Diocesan Synod or Council.

At the time of printing:

- The following Bills are promoted by request of the Standing Committee:
 - Bills for Canons – Bills 01 to 10, and Bills 12 to 14
 - Bills for Rules – Bills R01, R02 and R04
- The following Bills are promoted at the request of a Diocesan Synod or Council:
 - Bills for Canons – Bill 11
 - Bills for Rules – Bill R03

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

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.

NOTIFYING PROPOSED AMENDMENTS

It is possible to propose amendments to the Bills. Please note the requirements of Standing Orders 41 to 42A relating to amendments.

Proposed amendments notified to the General Secretary in writing before 9.00 am on Monday 2 May 2022 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 for the next sitting day.

Amendment to Bill forms can be downloaded from the GS18 Portal or accessed at the Secretaries desk during the synod session.

A BILL FOR THE SAFE MINISTRY LEGISLATION AMENDMENTS 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 September 2017, the General Synod passed the Safe Ministry to Children Canon 2017, the Episcopal Standards (Child Protection) Canon 2017, and the Disclosure of Information Canon 2017, and amendments to the Offences Canon 1962, the Canon concerning confessions 1989, the Special Tribunal Canon 2007, and the National Register Canon 2007. These measures enhanced the protection of children through national standards in areas of church worker screening, selection and training, the adoption of a consistent code of conduct and risk management strategies for persons of concern as well as the discipline and assessment of suitability for ministry of clergy.
4. In December 2017, the Final Report of the Royal Commission into Institutional Responses to Child Sexual Abuse made the following recommendations to this Church or all religious institutions on the following topics which are relevant to certain amendments in this canon:

(a) Managing actual or perceived conflicts of interest;

16.2 – The Anglican Church of Australia should adopt a policy relating to the management of actual or perceived conflicts of interest that may arise in relation to allegations of child sexual abuse, which expressly covers:

- a. members of professional standards bodies*
- b. members of diocesan councils (otherwise known as bishop-in council or standing committee of synod)*
- c. members of the Standing Committee of the General Synod*
- d. chancellors and legal advisers for dioceses*

16.39 – Consistent with Child Safe Standard 1, each religious institution should have a policy relating to the management of actual or perceived conflicts of interest that may arise in relation to allegations of child sexual abuse. The policy should cover all individuals who have a role in responding to complaints of child sexual abuse.

(b) Accountability of religious leaders

16.38 – Consistent with Child Safe Standard 1, each religious institution should ensure that religious leaders are accountable to an appropriate authority or body, such as a board of management or council, for the decisions they make with respect to child safety.

(c) Complaint handling policies

16.51 – All religious institutions' complaint handling policies should require that, upon receiving a complaint of child sexual abuse, an initial risk assessment is conducted to identify and minimise any risks to children.

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.

(d) Discipline

*16.55 – Any person in religious ministry who is the subject of a complaint of child sexual abuse which is substantiated on the balance of probabilities, having regard to the principles in *Briginshaw v Briginshaw*, or who is convicted of an offence relating to child sexual abuse, should be permanently removed from ministry. Religious institutions should also take all necessary steps to effectively prohibit the person from in any way holding himself or herself out as being a person with religious authority.*

16.56 – Any person in religious ministry who is convicted of an offence relating to child sexual abuse should, in the case of Anglican clergy, be deposed from holy orders.

5. 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 implementing these recommendations which will require diocesan adoption to be completed.

Issues arising from social media, cyber abuse and other technology related abuse

6. Recent developments in the area of online safety, including the establishment of the Office of the Safety Commissioner, has highlighted the need to consider issues that may arise in the context of safe ministry.
7. This canon seeks to update existing legislation to address issues arising from social media, cyber abuse and other technology related abuse.

Technical amendments

8. This canon also seeks to improve existing legislation by making various technical amendments.

Object of the canon

9. The object of this canon is to amend the following Canons in order to implement the above recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse, update existing legislation to reflect developments in technology, and make technical amendments:
 - (a) Chancellors Canon 2001;
 - (b) Episcopal Standards (Child Protection) Canon 2017;
 - (c) National Register Canon 2007;
 - (d) Offences Canon 1962;
 - (e) Safe Ministry to Children Canon 2017;
 - (f) Special Tribunal Canon 2007;
 - (g) Episcopal Standards Canon 2007;

Main provisions of the canon

10. Part 1 provides the introductory detail including the title, purpose, adoption mechanisms and a requirement that additional definitions to canons must be in alphabetical order. The adoption mechanism allows dioceses to adopt the Canon in Parts, Divisions or in its entirety.
11. Part 2 contains interpretation provisions and other drafting changes. This includes insertion of or amendments to various definitions as well as the replacement of references to working with children checks or working with vulnerable people checks with the term **statutory clearance**.
12. Part 3 contains provisions relating to the nature and audit of records and processes. In the National Register Canon 2007 the definition of child abuse is expanded to include image-based abuse, and the possession, production, or distribution of child exploitation material which has been found to constitute or may constitute a criminal offence. Further, a person's postal or electronic address may be used where that address is known and reasonably believed to be used by them. In the Safe Ministry to Children Canon 2017 there is an exemption to a diocese from the audit requirements where a

two-thirds majority of the Standing Committee is satisfied that an equivalent audit has taken place.

13. Part 4 contains provisions relating to conduct to support processes and protect children. In the Episcopal Standards (Child Protection) Canon 2017 the definition of examinable conduct by Bishops is expanded to include failure without reasonable excuse to exercise a power to initiate, or to investigate whether to initiate, a professional standards process; the failure without reasonable excuse to give effect to a recommendation to the Bishop under a professional standards process; ordaining or authorising to function a member of clergy or permitting to function a church worker without or contrary to the recommendation of a screening authority, or with actual knowledge or reasonable grounds for suspecting that the screening authority may not have properly discharged its functions; ordaining or authorising to function a member of clergy or permitting to function a church worker who poses a serious risk to the safety of children with actual knowledge or reasonable grounds for suspecting that the person poses that risk. In the Offences Canon 1962 there are new offences corresponding to the additional conduct included within examinable conduct. These offences apply only to conduct occurring after this canon has been adopted in the relevant diocese.
14. Part 5 contains provisions relating to responding to complaints and offences. Upon commencing an investigation of information under the Special Tribunal Canon 2007 or the Episcopal Standards (Child Protection) Canon 2017, the Episcopal Standards Commission is required to conduct an initial assessment to identify any risks to children and to take steps which are reasonably available and practicable to minimise the risks identified. Where an Episcopal Standards Board is satisfied that the bishop has been convicted of committing, while a member of the clergy, a sexual offence relating to a child, the Board must determine that the bishop be deposed from the exercise of Holy Orders. Only the Episcopal Standards Commission can bring a charge of sexual offence relating to a child against a Bishop in the Special Tribunal. This corresponds to the proposed amendment to the Constitution relating to tribunals in the Constitution Amendment (Mandatory Deposition) Canon 2021.
15. Part 6 contains provisions relating to conflicts of interest and loyalty. There is a definition of when a person has a conflict of interest. A member of a panel of the Episcopal Standards Board or of a Special Tribunal is required to disclose any conflict of interest that the member has in relation to a matter before the Board or Tribunal. A member of the panel of the Special Tribunal is disqualified where they have disclosed a conflict of interest, or in the opinion of a senior presidential member a conflict of interest exists. The Chancellors Canon 2017 is also amended to remove the ability of a chancellor to be the president of a diocesan tribunal.
16. Schedule 1 contains consequential amendments to the Episcopal Standards (Child Protection) Canon 2017, the Offences Canon 1962, the National Register Canon 2007, and the Safe Ministry to Children Canon 2017.

Coming into force in a diocese

17. Pursuant to section 30(a) when read with the definitions of “ceremonial” and “ritual” in section 74(1) and the definition of “discipline” in section 74(9)(a)(ii) of the Constitution this canon is deemed to affect the order and good government of the Church within a diocese because it affects the “ritual, ceremonial or discipline of this Church”. This means that the canon will not come into force in any diocese unless and until the diocese by ordinance adopts the canon.
18. If a diocesan synod does not assent to the canon in its entirety it may choose to adopt specific Parts or Divisions separately. Clear guidance will be provided to bishops, chancellors and registrars regarding the process of doing so in diocesan synods.

Special bill procedure

19. The special bill procedure set out in section 28 of the Constitution must be followed in relation to this bill, unless the General 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 1.1 | states the title of the canon. |
| Clause 1.2 | states the purpose of the canon. |
| Clause 1.3 | provides dioceses with an option to adopt this canon in parts or in its entirety. |
| Clause 1.4 | provides that any amendment to or insertion of definitions must continue to be in alphabetical order. |
| Clause 2.1 | inserts the definition of sexual offence relating to a child in the Episcopal Standards (Child Protection) Canon 2017. |
| Clause 2.2 | inserts the definition of child abuse reporting offence in the National Register Canon 2007 and omitting the definition of child offence . |
| Clause 2.3 | inserts the definition of child as having the same meaning in the Offences Canon 1962 as in the National Register Canon 2007. |
| Clause 2.4 | inserts the definition of child abuse as having the same meaning in the Special Tribunal Canon 2007 as in the National Register Canon 2007. |
| Clause 2.5 | inserts the definition of church worker in the Episcopal Standards (Child Protection) Canon 2017. |
| Clause 2.6 | inserts the definition of church worker in the Offences Canon 1962. |

- Clause 2.7 amends the definition of **church worker** in the Safe Ministry to Children Canon 2017 by clarifying that a church worker is not a member of clergy and including those who are permitted to function by the Bishop of a diocese, and removing reference to those who are licensed or authorised by the Bishop of a diocese.
- Clause 2.8 inserts the definition of **member of the clergy** in the Offences Canon 1962.
- Clause 2.9 inserts the definition of **member of the clergy** in the Episcopal Standards (Child Protection) Canon 2017.
- Clause 2.10 inserts the definition of **other clergy** in the Safe Ministry to Children Canon 2017.
- Clause 2.11 inserts the definition of **denomination** in the Safe Ministry to Children Canon 2017.
- Clause 2.12 amends the definition of **examinable conduct** in the Episcopal Standards (Child Protection) Canon 2017 by including a failure without reasonable excuse to perform a duty.
- Clause 2.13 inserts the definition of **authorisation to function** in the Episcopal Standards (Child Protection) Canon 2017.
- Clause 2.14 inserts the definitions of **authorisation to function** and **permission to function** in the Episcopal Standards (Child Protection) Canon 2017.
- Clause 2.15 inserts the definitions of **authorisation to function** and **permission to function** in the Offences Canon 1962.
- Clause 2.16 inserts the definitions of **authorisation to function** and **permission to function**, and repeals the definition of **licence** in the National Register Canon 2007.
- Clause 2.17 inserts the definitions of **authorisation to function** and **permission to function**, and repeals the definition of **licence** in the Safe Ministry to Children Canon 2017.
- Clause 2.18 repeals the definition of **licence** in Schedule 2 of the Safe Ministry to Children Canon 2017.
- Clause 2.19 provides that the consequential amendments set out in Schedule 1 of this Canon applies.

- Clause 2.20 inserts the definition of **standard of screening** in the Episcopal Standards (Child Protection) Canon 2017 as meaning either the standard of screening applying under Part 3 of the Safe Ministry to Children Canon 2017 or for the standard of screening applied within dioceses in which the Safe Ministry to Children Canon 2017 is not in force.
- Clause 2.21 inserts the definition of **standard of screening** in the Offences Canon 1962 as meaning either the standard of screening applying under Part 3 of the Safe Ministry to Children Canon 2017 or for the standard of screening applied within dioceses in which the Safe Ministry to Children Canon 2017 is not in force.
- Clause 2.22 amends the definitions of **standards for safe ministry with Persons of Concern**, **standards of screening**, and **standards of training** in the Safe Ministry to Children Canon 2017, by referring to the Part in which those standards are contained.
- Clause 2.23 inserts the definition of **statutory clearance** in the Safe Ministry to Children Canon 2017 as having the same meaning as in the National Register Canon 2007.
- Clause 2.24 inserts the definition of **statutory clearance** in the National Register Canon 2007.
- Clause 2.25 clarifies section 14 of the Episcopal Standards (Child Protection) Canon 2017 by specifying the power of suspension is under section 13.
- Clause 2.26 expands the power of the Episcopal Standards Board to inform itself from the record of any commission of inquiry.
- Clause 2.27 inserts the definition of **occasional ministry** in the Safe Ministry to Children Canon 2017.
- Clause 2.28 inserts the definitions of **institution**, **institutional assessment**, **institution authority**, and amends the definitions of **information**, **province** and **responsible authority**, in the Safe Ministry to Children Canon 2017.
- Clause 2.29 inserts the definition of **screened** in the Safe Ministry to Children Canon 2017.
- Clause 2.30 amends the definition of **adverse check** to refer to statutory clearance and omits the definitions of **working with children check**, or **working with vulnerable people check** in the National Register Canon 2007.

- Clause 2.31 amends the definition of **ministry to children** by substituting a **statutory clearance** for **working with children check**, or **working with vulnerable people check**, and omits the definitions of **working with children check**, or **working with vulnerable people check** in the Safe Ministry to Children Canon 2017.
- Clause 2.32 amends the definition of **safe ministry role** to correct spelling and grammatical errors.
- Clause 3.1 amends the definition of **child abuse** and **sexually inappropriate behaviour** and inserts the definition of **image-based abuse** in the National Register Canon 2007.
- Clause 3.2 provides that references to the Second Schedule within this Division means the Second Schedule of the Safe Ministry to Children Canon 2017.
- Clause 3.3 amends clause 2 of the Second Schedule of the Safe Ministry to Children Canon 2017 by omitting reference to **working with children check** or a **working with vulnerable people check** and referring to a **statutory clearance**.
- Clause 3.4 amends clause 3 of the Second Schedule of the Safe Ministry to Children Canon 2017 by substituting a **statutory clearance** for **working with children check**, or **working with vulnerable people check**.
- Clause 3.5 amends clause 4 of the Second Schedule of the Safe Ministry to Children Canon 2017 by substituting a **statutory clearance** for **working with children check**, or **working with vulnerable people check**.
- Clause 3.6 amends clause 5 of the Second Schedule of the Safe Ministry to Children Canon 2017 by substituting a **statutory clearance** for **working with children check**, or **working with vulnerable people check**.
- Clause 3.7 amends clause 6 of the Second Schedule of the Safe Ministry to Children Canon 2017 by substituting a **statutory clearance** for **working with children check**, or **working with vulnerable people check**.
- Clause 3.8 inserts section 12A to provide an exemption for dioceses having to undertake a diocesan audit under the Safe Ministry to Children Canon where a two-thirds majority of Standing Committee is satisfied that an equivalent audit has taken place.

- Clause 3.9 amends the National Register Canon 2017 to specify that a person's postal or electronic address may be used where that address is known and reasonably believed to be used by them.
- Clause 3.10 amends the National Register Canon 2017 to specify that a person's postal or electronic address may be used where that address is known and reasonably believed to be used by them.
- Clause 4.1 inserts the definition of **actual knowledge** and amends the definition of **examinable conduct** in the Episcopal Standards (Child Protection) Canon 2017.
- Clause 4.2 inserts an additional offence under the Offences Canon 1962 which correspond with the expansion of the definition of **examinable conduct** in the Episcopal Standards (Child Protection) Canon 2017.
- Clause 4.3 inserts additional offences under the Offences Canon 1962 which correspond with the expansion of the definition of **examinable conduct** in the Episcopal Standards (Child Protection) Canon 2017.
- Clause 4.4 inserts the definition of **actual knowledge** in the Offences Canon 1962.
- Clause 4.5 provides that the operation of the additional offences inserted by this Canon into the Offences Canon 1962 apply only to conduct occurring after Part 4 has been adopted by the relevant diocese.
- Clause 5.1 inserts section 18A to provide that when the Episcopal Standards Commission commences an investigation of information under the Special Tribunal Canon 2007, it must conduct an initial assessment to identify any risks to children and take whatever steps are reasonably available and practicable to minimise the risks identified.
- Clause 5.2 inserts section 18A to provide that when the Episcopal Standards Commission commences an investigation of information under the Episcopal Standards (Child Protection) Canon 2017, it must conduct an initial assessment to identify any risks to children and take whatever steps are reasonably available and practicable to minimise the risks identified.
- Clause 5.3 inserts section 43(1A) to provide that only the Episcopal Standards Commission can bring a charge of a sexual offence relating to a child against a Bishop in the Tribunal under the Special Tribunal Canon 2007.
- Clause 5.4 inserts section 49(2) in the Episcopal Standards (Child Protection) Canon 2017 to provide, if the Episcopal Standards Board finds that a bishop has been convicted by a court exercising criminal jurisdiction of

committing, while a member of the clergy, a sexual offence relating to a child, the Board must determine that the bishop be deposed from the exercise of Holy Orders.

- Clause 6.1 inserts section 2(1A) to specify the circumstances in which a person has a conflict of interest for the purposes of the Episcopal Standards (Child Protection) Canon 2017.
- Clause 6.2 inserts section 23(3A) to provide that a member of a panel under the Episcopal Standards (Child Protection) Canon 2017 must disclose to the President, any conflict of interest that they may have in relation to the matter before the Board, and amends section 23(4) and (5).
- Clause 6.3 inserts section 2(2) to specify the circumstances in which a person has a conflict of interest for the purposes of the Special Tribunal Canon 2007.
- Clause 6.4 inserts sections 30A and 30B to provide that a member of a panel under the Special Tribunal Canon 2007 must disclose to the senior presidential member, any conflict of interest that they may have in relation to the matter before the Tribunal, and for the disqualification of a member who has a conflict of interest.
- Clause 6.5 repeals section 2(3) of the Chancellors Canon 2017 which has the effect that a chancellor may not be president of a diocesan tribunal.
- Schedule 1 provides consequential amendments resulting from this Canon to the Episcopal Standards (Child Protection) Canon 2017, Offences Canon 1962, National Register Canon 2007, and Safe Ministry to Children Canon 2017.

5

A BILL FOR THE SAFE MINISTRY LEGISLATION AMENDMENTS BILL 2022

10 The General Synod prescribes as follows:

PART 1 — INTRODUCTORY

Title

15 1.1 This Canon may be cited as the Safe Ministry Legislation Amendments Canon 2021.

Purpose

20 1.2 The purpose of this Canon is to amend the following Canons in order to implement certain recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse and to make some other technical amendments to those Canons:

- (a) Chancellors Canon 2001;
- (b) Episcopal Standards (Child Protection) Canon 2017;
- (c) National Register Canon 2007;
- (d) Offences Canon 1962;
- 25 (e) Safe Ministry to Children Canon 2017;
- (f) Special Tribunal Canon 2007;
- (g) Episcopal Standards Canon 2007.

Adoption

- 30 1.3 (1) Subject to sub-section (2)—
- (a) each Part in this Canon other than Part 1; and
 - (b) each Division in a Part of this Canon—
- is to be considered and treated as—
- (c) a separate bill for the purposes of section 28 of the Constitution; and
 - 35 (d) a separate canon for the purposes of section 30 of the Constitution.
- (2) If this Canon is a provisional canon and a diocesan synod—
- (a) does not assent to this canon in its entirety; and
 - (b) assents to a Part or Division of this canon under sub-section (1)—

5 it is to be considered to have validly assented to the canon constituted by that Part or Division only if on the first occasion on which it assents to a Part or Division it also assents to Part 1 of this canon.

(3) If a diocese—

(a) does not adopt to this canon in its entirety; and

10 (b) adopts a Part or Division of this canon under sub-section (1)—

it is to be considered to have validly adopted the canon constituted by that Part or Division only if on the first occasion on which it adopts that Part or Division it also adopts Part 1 of this canon.

15 **Amendments adding definitions to sections listing definitions**

1.4 Where a provision of this Canon amends some other Canon by inserting into a section, sub-section, clause, sub-clause, Schedule or other provision of that other Canon the definition of a word or expression, that definition is to be inserted so that all the definitions in that section, sub-section, clause, sub-clause, Schedule or other provision are and continue to be in alphabetical order.

PART 2 — INTERPRETATION PROVISIONS AND OTHER DRAFTING CHANGES

Division 1 — Definitions of children and offences relating to children

25 **Definition of sexual offence relating to a child in Episcopal Standards (Child Protection) Canon**

2.1 In section 2(1) of the Episcopal Standards (Child Protection) Canon 2017 insert:

"sexual offence relating to a child means —

(a) sexual activity by a person against, with or in the presence of a child, or

30 (b) the possession, production or distribution by a person of any form of child pornography—

in respect of which—

(c) the person has been convicted, or been found guilty without a conviction being recorded, under the laws of the Commonwealth, State or Territory; or

35 (d) a court, commission or tribunal of the Commonwealth, a State or a Territory has made an adverse finding of fact in relation to that person; or

(e) the person has been convicted, or been found guilty without a conviction being recorded, in some other country under the laws of that country that are equivalent to a law of the Commonwealth or of a State or Territory; or

40 (f) the person has not been tried by a court of competent jurisdiction and which if proved—

- 5 (i) if alleged to have been committed within Australia, would constitute a criminal offence in the State or Territory in which it is alleged to have occurred; and
- 10 (ii) if alleged to have been committed in a country other than Australia, would if committed in Australia constitute a criminal offence under a law of the Commonwealth or of a State or Territory."

Definitions relating to child abuse in National Register Canon

2.2 In the Third Schedule of the National Register Canon 2007—

- 15 (a) in the definition of "child abuse" for "child offence" substitute "child abuse reporting offence";
- (b) following the definition of child abuse, insert:
- 20 "child abuse reporting offence means a criminal offence against the law of the Commonwealth, a State or a Territory, or against the law of another country which is equivalent to a criminal offence against the law of the Commonwealth, a State or a Territory, involving the failure by a person committing the offence to report child abuse;"
- (c) omit the definition of "child offence".

Definition of child in Offences Canon

25 2.3 In section 2B of the Offences Canon 1962 insert:

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

Consequential changes to definitions in Special Tribunal Canon

2.4 In section 2 of the Special Tribunal Canon 2007

- 30 (a) insert "child abuse has the same meaning as in the National Register Canon 2007;" and
- (b) insert "sexual offence relating to a child has the same meaning as in the Episcopal Standards (Child Protection) Canon 2017;"

35 Division 2 — Definition of "church worker"

Definition of church worker in Episcopal Standards (Child Protection) Canon

2.5 In section 2(1) of the Episcopal Standards (Child Protection) Canon 2017 insert:

"church worker means a person who is not a member of the clergy and who—

- 5 (a) is permitted to function by the Bishop of a diocese;
- (b) is employed by a Church body; or
- 10 (c) whether for payment or not, holds a position or performs a function with the actual or apparent authority of a Church authority or a Church body";

Definition of church worker in Offences Canon

2.6 In section 2B of the Offences Canon 1962 insert:

- 15 **"church worker** means a person who is not a member of the clergy and who—
- (a) is permitted to function by the Bishop of a diocese;
- (b) is employed by a Church body; or
- 20 (c) whether for payment or not, holds a position or performs a function with the actual or apparent authority of a Church authority or a Church body"

Definition of church worker in Safe Ministry to Children Canon

- 25 2.7 In section 3 of the Safe Ministry to Children Canon 2017 for the definition of "church worker" substitute:

"church worker means a person undertaking any ministry to children who is not a member of clergy and who —

- (a) is permitted to function by the Bishop of a diocese; or
- 30 (b) is employed by a Church body; or
- (c) whether for payment or not, holds a position or performs a function with the actual or apparent authority of a Church authority or a Church body."

Division 3 - Definitions relating to "clergy"

35 Definition of member of the clergy in Offences Canon

- 2.8 In section 2B of the Offences Canon 1962 insert **"member of the clergy** means a person who is a bishop, priest or deacon in the Church."

Definition of member of the clergy in Episcopal Standards (Child Protection) Canon

- 40 2.9 In section 2(1) of the Episcopal Standards (Child Protection) Canon 2017 insert **"member of the clergy** means a person who is a bishop, priest or deacon in the Church."

5 Definition of “other clergy” in Safe Ministry to Children Canon

2.10 In clause 1 of the Second Schedule of the Safe Ministry to Children Canon 2017 insert:

“other clergy means—

(a) a bishop, priest or deacon in a Province; and

10 (b) an ordained minister of a denomination;”.

Division 4 — Definition of “denomination”

Definition of denomination in Safe Ministry to Children Canon

15 2.11 In Clause 1 of the Second Schedule of the Safe Ministry to Children Canon 2017 insert:

“denomination means a religious body or a religious organisation declared to be a recognised denomination for the purposes of the *Marriage Act 1962* (Cth), other than the Anglican Church of Australia, that holds the Christian Faith as set forth in the Nicene Creed and the Apostles' Creed;”.

20

Division 5 — Definition of “examinable conduct”

Refinement to definition of examinable conduct in Episcopal Standards (Child Protection) Canon

25 2.12 In section 2(1) of the Episcopal Standards (Child Protection) Canon 2017 in the definition of “examinable conduct” in sub-paragraph (iii) after “to perform” insert “a duty or”.

Division 6 - Definition of authorisation to function and authorising to function

Definitions in Episcopal Standards Canon 2007

30 2.13 In section 2 of the Episcopal Standards Canon 2007 insert:

“authorisation to function means a licence or any written instrument by which a member of the clergy is appointed, authorised, permitted or sanctioned to exercise ministry as a member of the clergy and **authorising to function** and **authorised to function** have a corresponding meaning;”.

35 Definitions in Episcopal Standards (Child Protection) Canon

2.14 In section 2(1) of the Episcopal Standards (Child Protection) Canon 2017 insert:

40 (a) **“authorisation to function** means a licence or any written instrument by which a member of the clergy is appointed, authorised, permitted or sanctioned to exercise ministry as a member of the clergy and **authorising to function** and **authorised to function** have a corresponding meaning;” and

- 5 (b) **"permission to function** means a licence or any written instrument by which a person who is not a member of the clergy is appointed, authorised, permitted or sanctioned to exercise ministry and **permitting to function** and **permitted to function** have a corresponding meaning;"

10 **Definitions in Offences Canon**

2.15 In section 2B of the Offences Canon 1962—

- (a) insert:

15 **"authorisation to function** means a licence or any written instrument by which a member of the clergy is appointed, authorised, permitted or sanctioned to exercise ministry as a member of the clergy and **authorising to function** and **authorised to function** have a corresponding meaning;" and

- (b) insert:

20 **"permission to function** means a licence or any written instrument by which a person who is not a member of the clergy is appointed, authorised, permitted or sanctioned to exercise ministry and **permitting to function** and **permitted to function** have a corresponding meaning;"

Definitions in National Register Canon

2.16 In the Dictionary in the Third Schedule to the National Register Canon 2007—

- (a) insert:

25 (i) **"authorisation to function** means a licence or any written instrument by which a member of the clergy is appointed, authorised, permitted or sanctioned to exercise ministry as a member of the clergy and **authorising to function** and **authorised to function** have a corresponding meaning;" and

30 (ii) **"permission to function** means a licence or any written instrument by which a person who is not a member of the clergy is appointed, authorised, permitted or sanctioned to exercise ministry and **permitting to function** and **permitted to function** have a corresponding meaning;"

35 (b) the definition of "licence" is repealed.

Definitions in Safe Ministry to Children Canon

2.17 In section 3 of the Safe Ministry to Children Canon 2017—

- (a) insert:

40 (i) **"authorisation to function** means a licence or any written instrument by which a member of the clergy is appointed, authorised, permitted or sanctioned to exercise ministry as a member of the clergy and **authorising to function** and **authorised to function** have a corresponding meaning;" and

45 (ii) **"permission to function** means a licence or any written instrument by which a person who is not a member of the clergy is appointed,

5 authorised, permitted or sanctioned to exercise ministry and **permitting to function** and **permitted to function** have a corresponding meaning;";

(b) the definition of "licence" is repealed.

10 2.18 In clause 1 of Schedule 2 of the Safe Ministry to Children Canon 2017 the definition of "licensed clergy" is repealed.

Consequential amendments to Canons

2.19 Schedule 1 applies.

15 Division 7 — Definitions relating to prescribed standards

Definition of standard of screening in the Episcopal Standards (Child Protection) Canon

2.20 In section 2(1) of the Episcopal Standards (Child Protection) Canon 2017 insert:

"**standard of screening** means—

- 20 (a) in a diocese in which the Safe Ministry to Children Canon 2017 is in force, a standard of screening applying under Part 3 of that Canon; or
- (b) in a diocese in which the Safe Ministry to Children Canon 2017 is not in force, the standard of screening applying in that diocese;".

Definition of standard of screening in the Offences Canon

25 2.21 In section 2B of the Offences Canon 1962 insert:

"**standard of screening** means—

- (a) in a diocese in which the Safe Ministry to Children Canon 2017 is in force, a standard of screening applying under Part 3 of that Canon; or
- 30 (b) in a diocese in which the Safe Ministry to Children Canon 2017 is not in force, the standard of screening applying in that diocese."

Definition of expressions relating to standards in the Safe Ministry to Children Canon

2.22 In section 3 of the Safe Ministry to Children Canon 2017

- 35 (a) for the definition of "standards for safe ministry with Persons of Concern" substitute "**standards for safe ministry with Persons of Concern** means the standards in Part 4 of the Second Schedule;";
- (b) for the definition of "standards of screening" substitute "**standards of screening** means the standards in Part 2 of the Second Schedule;"; and
- 40

- 5 (c) for the definition of "standards of training" substitute "**standards of training** means the standards in Part 3 of the Second Schedule;".

Division 8 - Definition of statutory clearance

Definition of statutory clearance in Safe Ministry to Children Canon

- 10 2.23 In section 3 of the Safe Ministry to Children Canon 2017 insert "**statutory clearance** has the same meaning as in the National Register Canon 2007;".

Definition of statutory clearance in the National Register Canon

- 2.24 In the Third Schedule of the National Register Canon 2007, insert—
- 15 "**statutory clearance** means—
- (a) a working with children check; or
 - (b) a working with vulnerable people check by reason that the person has contact with a child as part of engaging in a regulated activity—
- under the laws of the Commonwealth or of a State or Territory;".

20

Division 9 —Other amendments to the Episcopal Standards (Child Protection) Canon 2017

Section 14 clarification

- 2.25 In the Episcopal Standards (Child Protection) Canon 2017 Canon, in section 14 following "the duties of office" insert "under section 13".
- 25

Use of information from commission of inquiry

- 2.26 In section 29(5) of the Episcopal Standards (Child Protection) Canon 2017, for "court or tribunal" where twice appearing substitute "court, tribunal or commission of inquiry".
- 30

Division 10 — Various amendments to Safe Ministry to Children Canon 2017 and consequential amendments

Definitions of "occasional ministry"

- 2.27 In section 3 of the Safe Ministry to Children Canon 2017 insert
- 35 "**occasional ministry** to children means the exercise of a pastoral ministry to children where the ministry is not regular and involves direct contact with children that is not incidental."

5 Definitions in Second Schedule of Safe Ministry to Children Canon

2.28 Clause 1 of the Second Schedule of the Safe Ministry to Children Canon 2017 is amended as follows:

(a) in the definition of "information"—

(i) after "or denomination" insert "or institution"; and

10 (ii) after "undertaking ministry" insert "or of persons working for the institution";

(b) insert:

"**institution** means an institution that is not an institution of this Church or of a Province or of a denomination;

15 **institutional assessment** means a reasonable endeavour made to obtain information about a person from an institution authority and includes consideration of any information so obtained;

20 **institution authority** means a person or body of an institution with the power to elect, appoint, suspend or dismiss a person as an officer, employee or volunteer of that institution;

(c) in the definition of "Province" after "Church" insert "or an extra-provincial church under the direct metro-political jurisdiction of the Archbishop of Canterbury";

(d) in the definition of "responsible authority" for paragraph (c) substitute:

"(c) a denominational authority; or

25 (d) an institution authority;"

Meaning of "screened"

2.29 After clause 1 of the Second Schedule of the Safe Ministry to Children Canon 2017, insert:

30 "1A. A person is **screened** if the prescribed standards of screening have been applied in respect of that person by the relevant screening authority."

Consequential amendment to National Register Canon 2007

2.30 In the Third Schedule to the National Register Canon 2007—

35 (a) in the definition of "adverse check", for "working with children check, or working with vulnerable people check" substitute "statutory clearance";

(b) omit the definition of "working with children check"; and

(c) omit the definition of "working with vulnerable people check".

40

5 Consequential amendment to Safe Ministry to Children Canon 2017

2.31 In section 3 of the Safe Ministry to Children Canon 2017—

(a) in paragraph (a) of the definition of “ministry to children”, for “working with children check, or working with vulnerable people check” substitute “statutory clearance;

10 (b) omit the definition of “working with children check”; and

(c) omit the definition of “working with vulnerable people check”.

15 Definition of safe ministry role

2.32 In section 3 of the Safe Ministry to Children Canon 2017 for the definition of "safe ministry role" substitute:

“safe ministry role means a role:

20 (a) in recommending or determining standards and guidelines for safe ministry to children or with a Person of Concern; or

(b) in recommending or determining or supervising safe ministry in a parish or congregation with a Person of Concern;

25 but excludes a role as a member of the synod of the diocese and, if a diocese has established a diocesan safe ministry authority separate from its diocesan council excludes a role as a member of the diocesan council;”

PART 3 — NATURE AND AUDIT OF RECORDS AND PROCESSES**30 Division 1 — Matters on National Register****Additional matters in National Register Canon**

3.1 In the Third Schedule of the National Register Canon 2007—

(a) in the definition of “child abuse”, after paragraph (ix) insert:

35 “or;

(x) imaged-based abuse;”;

40 (b) for paragraph (b), substitute:

“possessing, producing or distributing child exploitation material in circumstances that have been found to constitute, or may constitute, a criminal offence;”

(c) after paragraph (b) insert:

45 “however done, including by or through the use of the internet, electronic means and other like technology.”

5 (d) insert:

“**image-based abuse** means taking, distributing or threatening to distribute intimate, nude or sexual images of another person in circumstances that have been found to constitute, or may constitute, a criminal offence;”;

10

(e) in the definition of “sexually inappropriate behaviour” for “sexual exploitation or sexual harassment, or grooming” substitute “sexual exploitation, sexual harassment, grooming, or image-based abuse”.

15

Division 2 — Statutory clearances

Meaning of “Second Schedule”

3.2 In this Division, “Second Schedule” means the Second Schedule of the Safe Ministry to Children Canon 2017.

20

Amendment to clause 2 of Second Schedule

3.3 In clause 2(2) of the Second Schedule, for “a working with children check or a working with vulnerable people check by reason that the person has contact with a child as part of engaging in a regulated activity” substitute “a statutory clearance”.

25

Amendments to clause 3 of Second Schedule

3.4 In clause 3 of the Second Schedule—

30

(a) in sub-clause (1) for “working with children check, or an unconditional working with vulnerable people check by reason that the person has contact with a child as part of engaging in a regulated activity, where required by the laws of the Commonwealth or a State or Territory” substitute “statutory clearance”;

35

(b) in sub-clause (2)(a) for “where a working with children check, or a working with vulnerable people check by reason that the person has contact with a child as part of engaging in a regulated activity, is not required by the laws of the Commonwealth or a State or Territory, a criminal history assessment or a risk assessment” substitute “where a statutory clearance is not required by or is not able to be sought under the laws of a Commonwealth, State or Territory”.

Amendments to clause 4 of Second Schedule

3.5 In clause 4 of the Second Schedule—

40

(a) for sub-clause (1) substitute:

“(1) the person holds a statutory clearance; and”;

(b) in sub-clause (2)(a), for “where a working with children check, or a working with vulnerable people check by reason that the person has contact with a child as part of engaging in a regulated activity, is not required by the laws of

- 5 a Commonwealth, State or Territory" substitute "where an unconditional statutory clearance is not required by or is not able to be sought under the laws of a Commonwealth, State or Territory"

Amendments to clause 5 of Second Schedule

10 3.6 In clause 5 of the Second Schedule—

(a) for sub-clause (1) substitute:

"(1) the person holds a statutory clearance; and";

15 (b) in sub-clause (2)(a), for "where a working with children check, or a working with vulnerable people check by reason that the person has contact with a child as part of engaging in a regulated activity, is not required by the laws of a Commonwealth, State or Territory" substitute "where an unconditional statutory clearance is not required by or is not able to be sought under the laws of a Commonwealth, State or Territory".

Amendments to clause 6 of Second Schedule

20 3.7 In clause 6 of the Second Schedule—

(a) for sub-clause (1) substitute:

25 "(1) the person holds an unconditional statutory clearance or a conditional statutory clearance that enable the ministry to be undertaken where required by or is not able to be sought under the law of the Commonwealth or a State or Territory; and";

30 (b) in sub-clause (2)(a), for "where a working with children check, or a working with vulnerable people check by reason that the person has contact with a child as part of engaging in a regulated activity, is not required by the laws of a Commonwealth, State or Territory the person is not able to obtain either check" substitute "where an unconditional statutory clearance or a conditional statutory clearance that authorises the ministry to be undertaken is not required by or is not able to be sought under the laws of a Commonwealth, State or Territory".

35

Division 3 — Equivalent Audit

Provision for equivalent audit

3.8 After section 12 of the Safe Ministry to Children Canon 2017 insert:

"12A. (1) Where the Standing Committee is satisfied that—

40 (a) an audit equivalent to a diocesan audit is required pursuant to the laws of the Commonwealth or of a State or Territory; and

(b) the report of the audit is publicly available—

- 5 the Standing Committee may by a two-thirds majority on the application of that diocese exempt the diocese from a diocesan audit.
- (2) Where the Standing Committee is satisfied that—
- 10 (a) an audit equivalent to part of a diocesan audit is required pursuant to the laws of the Commonwealth or of a State or Territory; and
- (b) the report of the audit is publicly available—
- 15 the Standing Committee may by a two-thirds majority on the application of that diocese exempt the diocese from that part of a diocesan audit."

Division 4 — Records and notifications

Address for notice

- 20 3.9 Sections 8(3)(b) and 10(2)(a) of the National Register Canon 2007 are amended by substituting for the words "his or her last known postal or electronic address" the words "his or her postal or electronic address where that address is known and reasonably believed to be used by the member of clergy or the lay person".

Amendments to Dictionary in National Register Canon

- 25 3.10 In the Third Schedule of the National Register Canon 2007—
- (a) in the definition of "Information", after the word "Schedule" where twice appearing insert "so far as they are known";
- (b) for paragraph (b) of the definition of "notifiable complaint" substitute:
- 30 "(b) which the Director of Professional Standards has certified has been sent to the postal or electronic address of the member of clergy or lay person that is known or has not been sent to the member of clergy or lay person because neither their postal nor their electronic address is known; or".

35 PART 4 — CONDUCT TO SUPPORT PROCESSES AND PROTECT CHILDREN

Additional examinable conduct in relation to bishops

- 4.1 In section 2(1) of the Episcopal Standards (Child Protection) Canon 2017—
- (a) insert—
- 40 "actual knowledge includes wilfully shutting one's eyes to the obvious and wilfully and recklessly failing to make such inquiries as an honest and reasonable person would make;"

- 5 (b) in the definition of “examinable conduct”—
- (i) after sub-paragraph (a)(iii) insert:
- “(iia) the failure without reasonable excuse to exercise a power to initiate, or to investigate whether to initiate, a professional standards process;”;
- 10 (ii) after sub-paragraph (a)(iv) insert:
- “(v) subject to section 60(2) of the Constitution, the failure without reasonable excuse to give effect to a recommendation to the Bishop under a professional standards process;
- 15 (vi) the Bishop ordaining or authorising to function a member of the clergy or permitting to function a church worker contrary to, or in the absence of, a recommendation of a screening authority, or with actual knowledge or reasonable grounds for suspecting that the screening authority may not have properly discharged its statutory functions in making its relevant recommendation;
- 20
- (vii) the Bishop ordaining or authorising to function a member of the clergy, or permitting to function a church worker, who poses a serious risk to the safety of children with actual knowledge or reasonable grounds for suspecting that the person poses that risk;” and
- 25
- (iii) in the definition of “examinable conduct” in paragraph (b) after sub-paragraph (iv) insert:
- “(v) subject to section 60(2) of the Constitution, the failure without reasonable excuse to give effect to a recommendation given to the Bishop under a professional standards process;
- 30
- (vi) ordaining or authorising to function a member of the clergy or permitting to function a church worker contrary to, or in the absence of, a recommendation of a screening authority, or with actual knowledge or reasonable grounds for suspecting that the screening authority may not have properly discharged its statutory functions in making its relevant recommendation;
- 35
- (vii) the Bishop ordaining or authorising to function a member of the clergy, or permitting to function a church worker, who poses a serious risk to the safety of children with actual knowledge or reasonable grounds for suspecting that the person poses that risk.”
- 40
- 45

5 Additional offence relating to making appointments

4.2 In section 1 of the Offences Canon 1962, after item 8 insert:

- 10 "9. Authorising to function a member of the clergy or permitting to function a church worker contrary to, or in the absence of, a recommendation of a screening authority, or with actual knowledge or reasonable grounds for suspecting that the screening authority may not have properly discharged its statutory functions in making its relevant recommendation."

Additional offences within the jurisdiction of the Special Tribunal

15 4.3 (1) After Item 9 of section 2 of the Offences Canon 1962 insert:

- 20 "10. Subject to section 60(2) of the Constitution, failure without reasonable excuse to give effect to a recommendation given to the person under section 53 of the Constitution or by a Board established by or under an ordinance of a provincial synod or diocesan synod for dealing with the fitness of a member of the clergy or church worker to be or to remain in Holy Orders or in other ministry.
- 25 11. Ordaining or authorising to function a member of the clergy or permitting to function a church worker contrary to, or in the absence of, a recommendation of a screening authority, or with actual knowledge or reasonable grounds for suspecting that the screening authority may not have properly discharged its statutory functions in making its relevant recommendation.
- 30 12. Ordaining or authorising to function a member of the clergy, or permitting to function a church worker, who poses a serious risk to the safety of children with actual knowledge or reasonable grounds for suspecting that the person poses that risk."

(2) After Item 4 of section 2A of the Offences Canon 1962 insert:

- 35 "5. Subject to section 60(2) of the Constitution, failure without reasonable excuse to give effect to a recommendation given to the person under section 53 of the Constitution or by a Board established by or under an ordinance of a provincial synod or diocesan synod for dealing with the fitness of a member of the clergy or church worker to be or to remain in Holy Orders or in other ministry.
- 40 6. Ordaining or authorising to function a member of the clergy or permitting to function a church worker contrary to, or in the absence of, a recommendation of a screening authority, or with actual knowledge or reasonable grounds for suspecting that the screening authority may not have properly discharged its statutory functions in making its relevant recommendation.
- 45 7. Ordaining or authorising to function a member of the clergy, or permitting to function a church worker, who poses a serious risk to

- 5 the safety of children with actual knowledge or reasonable grounds for suspecting that the person poses that risk."

Meaning of "actual knowledge"

- 10 4.4 In section 2B of the Offences Canon 1962 insert—

"**actual knowledge** includes wilfully shutting one's eyes to the obvious and wilfully and recklessly failing to make such inquiries as an honest and reasonable person would make;"

15 Date of operation of new offences

- 4.5 After section 4 of the Offences Canon 1962, insert:

- 20 "5. The offences in Item 9 of section 1, Items 10, 11 and 12 of section 2 and Items 5, 6 and 7 of section 2A apply only to conduct occurring after Part 4 of the Safe Ministry Legislation Amendments Canon 2020 has been adopted in the diocese in which the offences allegedly have occurred."

PART 5 — RESPONDING TO COMPLAINTS AND OFFENCES

Risk assessment during investigation by ESC

- 25 5.1 After section 18 of the Special Tribunal Canon 2007 insert:

"18A. When the ESC has commenced an investigation of information under this Part, it must conduct an initial assessment to identify any risks to children and must take whatever steps are reasonably available and practicable to minimise risks identified."

30 Initial risks assessment by ESC

- 5.2 After section 12 of the Episcopal Standards (Child Protection) Canon 2017 insert:

- 35 "12A. When the ESC has commenced an investigation of information under this Part, it must conduct an initial assessment to identify any risks to children and must take whatever steps are reasonably available and practicable to minimise risks identified."

Bringing a charge of child abuse

- 5.3 Section 43 of the Special Tribunal Canon 2007 is amended as follows:

- (1) In sub-section (1), for "A charge against a bishop" substitute "Subject to sub-section (1A), a charge against a Bishop";
- 40 (2) After sub-section (1) insert:
- "(1A) Only the ESC can bring a charge of a sexual offence relating to a child against a Bishop in the Tribunal."

5 Amendments to section 49

5.4 In section 49 of the Episcopal Standards (Child Protection) Canon 2017—

- (a) for "If after investigating" substitute "(1) Subject to sub-section (2), if after investigating";
- (b) in paragraph (l), for "Bishop" substitute "bishop"; and
- (c) in paragraph (m), for "Bishop" substitute "bishop".
- (d) after the current section 49, insert:

"(2) Where the Board is satisfied that the bishop has been convicted by a court exercising criminal jurisdiction of committing while a member of the clergy a sexual offence relating to a child, the Board must determine that the bishop be deposed from the exercise of Holy Orders."

PART 6 — CONFLICTS OF INTEREST AND LOYALTY

Division 1 — Conflict of interest in panel for Episcopal Standards Board

Definition of conflict of interest in Episcopal Standards (Child Protection) Canon

6.1 In section 2 of the Episcopal Standards (Child Protection) Canon 2017 after sub-section (1) insert:

"(1A) For the purposes of this Canon, a person has a conflict of interest when their responsibilities arising from their role may be influenced or affected, or may be perceived as being influenced or affected, by—

- (a) their personal financial interest, or those of their family or friends;
- (b) their reputation, or that of their family or friends;
- (c) their obligations or loyalty to another person or organisation;
- (d) their previous or current relationship (whether personal or professional) with someone who might be affected by how they discharge those responsibilities; or
- (e) their previous or current involvement in another capacity in a matter now falling within those responsibilities."

Managing conflicts of interest

6.2 In section 23 of the Episcopal Standards (Child Protection) Canon 2017—

- (a) after sub-section (3) insert:

"(3A) A member of the panel must without delay disclose to the President, or if there is a vacancy in the office of President to the Deputy

5 President, any conflict of interest that the member has in relation to a matter before the Board.";

(b) in sub-section (4), for "a personal interest in" substitute "a conflict of interest in relation to";

10 (c) in sub-section (5), for "a personal interest in " substitute "a conflict of interest in relation to ".

Division 2 — Special Tribunal

Definition of conflict of interest for Special Tribunal

15 6.3 In section 2 of the Special Tribunal Canon—

(a) before the current section, insert "(1)"; and

(b) after the current section insert

20 “(2) For the purposes of this Canon, a person has a conflict of interest when their responsibilities arising from their role may be influenced or affected, or may be perceived as being influenced or affected, by—

(a) their personal financial interest, or those of their family or friends;

25 (b) their reputation, or that of their family or friends;

(c) their obligations or loyalty to another person or organisation;

30 (d) their previous or current relationship (whether personal or professional) with someone who might be affected by how they discharge those responsibilities; or

(e) their previous or current involvement in another capacity in a matter now falling within those responsibilities.”

35

Disqualification where conflict of interest

6.4 In the Special Tribunal Canon 2007 after section 30 insert:

40 "30A. A member of the panel must without delay disclose to the senior presidential member, or if there is a vacancy in the office of senior presidential member to the other presidential member, any conflict of interest that the member has in relation to a matter before the Tribunal.

- 5 30B. Where—
- (a) a member of the panel has disclosed a conflict of interest under
 section 30A; or
- (b) in the opinion of the senior presidential member, or if there is a
10 vacancy in the office of senior presidential member in the opinion of
 the other presidential member, a member of the panel has a conflict
 of interest in relation to a matter before the Tribunal—
- that member is disqualified from participating in the matter."

Division 3 — Chancellors as members of diocesan tribunals

15 Chancellor not to be president of diocesan tribunal

6.5 Section 2(3) of the Chancellors Canon 2017 is repealed.

5 **Schedule 1****Sch 1.1 Amendments to Episcopal Standards (Child Protection) Canon 2017**

In—

- 10 (a) the definition of "relevant diocesan Bishop" in section 2(1); and
(b) the paragraph (c) of the definition of "relevant Metropolitan" (where twice appearing)—
for "licensed" substitute "authorised to function".

15 **Sch 1.2 Amendment to Offences Canon 1962**

In section 1 of the Offences Canon 1962, for "licensed" substitute "authorised to function".

20 **Sch 1.3 Amendment to National Register Canon 2007**

(1) In the National Register Canon 2007, in—

- 25 (a) section 5(1)(e);
(b) section 6(1)(d);
for "issued with a licence" substitute "authorised to function".

(2) In the National Register Canon 2007, in—

- 30 (a) item 8 of the First Schedule (where three times appearing);
(b) item 21 of the First Schedule—
for "licence" substitute "licence or authorisation to function".

(3) In the National Register Canon 2007, in—

- 35 (a) item 5 of the Second Schedule (where three times appearing);
(b) item 16 of the First Schedule—
for "licence" substitute "licence or permission to function".

(4) In the Third Schedule of the National Register Canon 2007—

- 40 (a) in the definition of "adverse risk assessment" for "a licence" substitute "an authorisation to function";
(b) in the definition of "church authority" after "ordain," insert "authorise to function, permit to function,"; and
(c) in the definition of church worker for "licensed or authorised" substitute "permitted to function".

45 **Sch 1.4 Amendments to the Safe Ministry to Children Canon 2017**

(1) In the Safe Ministry to Children Canon 2017, in clause 1 of the Second Schedule in—

- 50 (a) the definition of "denominational authority";
(b) the definition of "diocesan authority"; and
(c) the definition of "provincial authority"—

- 5 after "ordain," insert "authorise to function, permit to function,".
- (2) In the Safe Ministry to Children Canon 2017, in clause 1 of the Second Schedule, in the definition of "screening authority" for "or a member of the clergy to be licensed, or a church worker to be licensed or authorised" substitute "or a member of the clergy to be authorised to function or a church worker permitted to function".
- 10
- (3) In the Safe Ministry to Children Canon 2017, in the Second Schedule, in—
- (a) in clause 2 (where four times appearing);
- (b) in clause 9 (where twice appearing—
- 15 for "licensed as clergy, appointed or elected as the bishop of a diocese, or licensed or authorised or appointed as church workers," substitute "authorised to function, appointed or elected as the bishop of a diocese, or permitted to function".
- (4) In the Safe Ministry to Children Canon 2017, in the Second Schedule, in clause 4—
- 20 (a) for the heading to the clause, substitute "The Bishop of the diocese and clergy authorised to function";
- (b) for "licensed" substitute "authorised to function".
- (5) In the Safe Ministry to Children Canon 2017, in the Second Schedule, in clause 5—
- 25 (a) for the heading to the clause, substitute "Church workers who are paid or permitted to function"; and
- (b) for "licensed or authorised" substitute "permitted to function".
- (6) In the Safe Ministry to Children Canon 2017, in the Second Schedule—
- 30 (a) in clause 7, for "a licensed member of the clergy, the bishop of the diocese, or a licensed, authorized, paid or voluntary church worker,"; and
- (b) in clause 10(1) for "a licensed member of the clergy, the bishop of the diocese, or a licensed, authorised, paid or voluntary church worker," (where twice appearing)—
- 35 substitute "authorised to function, appointed or elected as the bishop of a diocese, or permitted to function as a paid or voluntary church worker".
- (7) In the Safe Ministry to Children Canon 2017, in the Second Schedule, in clause 10(1) for paragraph (b) substitute:
- 40 "by deacons, clergy authorised to function, and church workers permitted to function, within three years prior to being ordained, authorised to function, permitted to function or appointed to undertake ministry to children, except where the bishop of the diocese or his or her delegate is satisfied there are exceptional circumstances in which case the training is to be completed as soon as practicable but not later than three months after the person is ordained, authorised to function, permitted to function or appointed
- 45 to undertake ministry to children; or".
-

**A BILL FOR THE
EPISCOPAL STANDARDS (CHILD PROTECTION) (AMENDMENT)
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 include “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 September 2017, the General Synod passed the Episcopal Standards (Child Protection) Canon 2017 which is designed that effective action to protect the members of the church and the public can be taken against a current or former diocesan bishop against whom a complaint of child abuse has been made.
4. In December 2017, the Final Report of the Royal Commission into Institutional Responses to Child Sexual Abuse made the following recommendation to all religious institutions on their complaint handling processes which are relevant to the amendments in this canon:

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.

5. 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 implement this recommendation.

Object of the canon

6. The object of this canon is to amend the Episcopal Standards (Child Protection) Canon 2017 in order to implement recommendation 16.52 of the Royal Commission into Institutional Responses to Child Sexual Abuse relating to complaints handling processes.

Main provisions of the canon

7. This canon provides for the mandatory suspension of a Bishop against whom a plausible complaint involving a sexual offence relating to a child is made.

Notes on clauses

Clause 1 states the title of the canon.

Clause 2 states the purpose of the canon.

Clause 3 provides that once the Episcopal Standards Commission has commenced an investigation of a complaint involving a sexual offence relating to a child by a person who is a Bishop, and the complaint is plausible, that Bishop must be suspended from their duties of office and is deemed to be on paid leave and to be absent from the jurisdiction of the office.

**A BILL FOR THE
EPISCOPAL STANDARDS (CHILD PROTECTION) (AMENDMENT)
CANON 2022**

The General Synod prescribes as follows:

Title

1. This Canon may be cited as the Episcopal Standards (Child Protection) (Amendment) Canon 2022.

Purpose

2. The purpose of this Canon is to amend the Episcopal Standards (Child Protection) Canon 2017 in order to implement certain recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse.

Action following risk assessment

3. The Episcopal Standards (Child Protection) Canon 2017 is amended as follows:
- (a) in section 13(1), for “At any time after the ESC has commenced or caused to be commenced an investigation of information under this Part in circumstances where it considers” substitute “Subject to section 14A, where at any time after the ESC has commenced or caused to be commenced an investigation of information under this Part it considers”;
- (b) after section 14 insert:
- “14A. This section applies if, at any time after it has commenced or caused to be commenced under this or any other Canon an investigation of a complaint, the ESC forms the opinion that—
- (a) the complaint involves a sexual offence relating to a child by a person who is a Bishop; and
- (b) the complaint is plausible.
- 14B. (1) If section 14A applies, the ESC must recommend to the President of the Board that the person be suspended from the duties of office.
- (2) Where the ESC makes a recommendation under sub-section (1), the President of the Tribunal must suspend the person from the duties of office.

- 5 (3) A person suspended under sub-section (2) from the duties of a paid office, or a person to whom section 14A applies who voluntarily stands aside from performing the duties of office, is deemed to be on paid leave and to be absent from the State or Territory in which the duties of office would otherwise be performed.
- 10 14C. (1) A person suspended from the duties of office under section 14B(2) remains suspended until—
- 15 (a) the ESC decides to refrain from further investigation under one or both of—
- 20 (i) paragraphs (a), (b) or (c) of section 19 of the Special Tribunal Canon 2007; or
- (ii) paragraphs (a), (b) or (c) of section 10 of this Canon—
- and there are no other investigations in relation to that person to which section 14A applies; or
- 25 (b) the conclusion of an investigation or legal proceedings referred to in section 19(b) of the Special Tribunal Canon 2007 or section 10(b) of this Canon when there are no other investigations to which 14A applies; or
- 30 (c) the person has been deposed from Holy Orders, prohibited from functioning in an order of ministry, or relinquished the exercise of some or all Holy Orders under the Constitution or a canon of the General Synod; or
- 35 (d) the ESC brings a charge of a sexual offence relating to a child against the person—
whichever occurs first.”
- (c) in section 15(1), for “section 13” substitute “sections 13 or 14A”.

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

- | | |
|----------|--|
| 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 child and sexual offence relating to a child , and repeals the definition of child in the Episcopal Standards (Child Protection) Canon 2017 and the National Register Canon 2007, and the definition of sexual offence relating to a child 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. |

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

The General Synod prescribes as follows.

Title

1. This Canon may be referred to as the "Constitution Amendment (Mandatory Suspension) Canon 2022".

Mandatory suspension of a Bishop charged with sexual offence relating to a child

2. In section 61A of the Constitution—

- (a) for "Where" substitute:

"(1) Subject to sub-section (2), where";

- (b) after "some lesser time." insert—

"(2) Where a charge which involves a sexual offence relating to a child has been promoted in the Special Tribunal against a person referred to in section 56(6), the President of the Special Tribunal must suspend the person from the duties of office until the determination of the charge."; and

- (c) for "If such suspension is made and is from" substitute "(3) If a person is suspended under sub-section (1) or (2) and that suspension is from".

Definition of "sexual offence relating to a child"

3. (1) Subject to sub-section (3)—

- (a) in section 74 of the Constitution, after the definition of "Ceremonial" insert—

' "child" means a person under the age of 18;'; and

- (b) there are repealed:

- (i) the definition of "child" in section 2(1) of the Episcopal Standards (Child Protection) Canon 2017; and

- (ii) the definition of "child" in the Third Schedule to the National Register Canon 2007.

- (2) In section 74 of the Constitution, after the definition of "See" insert—

' "sexual offence relating to a child" means —

- (a) sexual activity by a person against, with or in the presence of a child, or

5 (b) the possession, production or distribution by a person of
any form of child pornography—

in respect of which—

(c) the person has been convicted under the laws of the
Commonwealth, State or Territory; or

10 (d) a court, commission or tribunal of the Commonwealth, a
State or a Territory has made an adverse finding of fact
in relation to that person; or

15 (e) the person has been convicted in some other country
under the laws of that country that are equivalent to a law
of the Commonwealth or of a State or Territory; or

(f) the person has not been tried by a court of competent
jurisdiction and which if proved—

20 (i) if alleged to have been committed within
Australia, would constitute a criminal offence in
the State or Territory in which it is alleged to have
occurred; and

25 (ii) if alleged to have been committed in a country
other than Australia, would if committed in
Australia constitute a criminal offence under a
law of the Commonwealth or of a State or
Territory.”; and

(b) there are repealed—

30 (i) any definition of "sexual offence relating to a child" in section 2(1)
of the Episcopal Standards (Child Protection) Canon 2017; and

35 (ii) any definition of "sexual offence relating to a child" in section 2 of
the Special Tribunal Canon 2007.

(3) Sub-section (1) has effect only if at the time when this Canon comes into
effect there is no definition of "child" in section 74 of the Constitution.

40 **Repeal of Constitution Amendment (Suspension of Bishops) Canon 2007**

4. Canon No. 18 of 2007 is repealed.

45

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

- | | |
|----------|---|
| 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. |

5

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

10

The General Synod prescribes as follows.

15 **Title**

1. This Canon may be referred to as the “Constitution Amendment (Mandatory Deposition) Canon 2022”.

20

Mandatory deposition of a person convicted of a sexual offence relating to a child

25

2. In section 60 of the Constitution—

(a) in sub-section (1), for "A tribunal" substitute "Subject to sub-section (1A), a tribunal":

30

(b) after sub-section (1) insert—

"(1A) Where the tribunal is satisfied that the person so charged has been convicted under the laws of the Commonwealth, State or Territory or under the laws of some other country that are equivalent to a law of the Commonwealth or of a State or Territory of a sexual offence relating to a child committed while a member of the clergy, it must recommend a sentence of deposition from orders.

35

(1B) For the purposes only of sub-section (1A), “**sexual offence relating to a child**” means —

40

(a) sexual activity by a person against, with or in the presence of a child, or

(b) the possession, production or distribution of any form of child pornography.”

45

(c) in sub-section (2), after "is recommended," insert "other than a sentence of deposition from orders recommended under sub-section (1A),"; and

(d) in sub-section (4), for “The provisions” substitute “Subject to sub-section (1A), the provisions”.

50

5 **Definitions**

3. (1) Subject to sub-section (2)—

10 (a) in section 74 of the Constitution, after the definition of
"Ceremonial" insert—' "**child**" means a person under the age of 18;'; and

15 (b) there are repealed:

(i) the definition of "child" in section 2(1) of the Episcopal
Standards (Child Protection) Canon 2017; and20 (ii) the definition of "child" in the Third Schedule to the National
Register Canon 2007.(2) Sub-section (1) has effect only if at the time when this Canon comes
into effect there is no definition of "child" in section 74 of the
Constitution.

25

A BILL FOR THE CONSTITUTION (REPEAL OF CANON NO 9 OF 2010) CANON 2022

EXPLANATORY MEMORANDUM

General Background

Canon 9 of 2010 (Canon 9) would amend the range of sentences available to Tribunals under section 60(1) of the Constitution. It has not come into effect, as one Metropolitan Diocese has not assented to it. In 2017, the General Synod passed the Holy Orders (Removal from Exercise of Ministry) Canon 2017 (the Removal Canon). By a different legislative path, the Removal Canon provides scope for crafting sentences, as would have been achieved by Canon 9.

The Removal Canon was based on the existing wording of section 60 of the Constitution and assumed that Canon 9 would not come into effect. If Canon 9 were now to come into effect, it would be necessary to amend the Removal Canon to conform with the changes made by Canon 9.

The Standing Committee therefore decided to promote the repeal of Canon 9 as a tidying up exercise, when the purpose of Canon 9 had been overtaken by subsequent legislation.

It is arguable that the repeal of Canon 9 affects the discipline of this Church and that, pursuant to section 28(1) of the Constitution, the procedure for a special bill should be followed. It is therefore proposed to request the General Synod to consider a motion (for which the votes of a least three-fourths of the members present in each house are required for the motion to pass) that the bill not proceed as a special bill. If the bill is passed (and does not proceed as a special bill), it would not come into force in any diocese, until the diocese adopts the canon by ordinance.

Notes on Clauses

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|----------|----------------------------------|
| Clause 1 | contains the title of the canon. |
| Clause 2 | repeals Canon 9 of 2010. |

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**A BILL FOR THE
CONSTITUTION (REPEAL OF CANON NO 9 OF 2010) CANON 2022**

10 The General Synod prescribes as follows.

Title

15 1. This Canon may be referred to as the “Constitution (Repeal of Canon No 9 of 2010)
Canon 2022”.

Repeal of Canon No 9 of 2010

20 2. Canon No 9 of 2010 (Constitution Amendment (Sentences of Tribunals) Canon 2010) is
repealed.

**A BILL FOR THE
NATIONAL ABORIGINAL AND TORRES STRAIT ISLANDER
ANGLICAN COUNCIL AMENDMENT CANON 2022**

EXPLANATORY MEMORANDUM

General Background

1. The National Aboriginal and Torres Strait Islander Anglican Council's (NATSIAC) has recommended to General Synod that the provisions relating to the quorum requirement for a meeting of the Council be amended in the National Aboriginal and Torres Strait Islander Canon 2014.
2. NATSIAC has had difficulty meeting the quorum requirement of 'twenty current members of the Council' at recent meetings of the Council. This has impacted on the effective governance of the Council and delayed the confirmation of resolutions.
3. NATSIAC has requested that the quorum be reduced to one third of current members, excluding life members. There are currently 34 members of Council in addition to seven life members. On this basis the new quorum requirement would be at least ten members in attendance.

Notes on Clauses

Clause 3 Revises definition of **current member** to exclude life member.

Clause 4 Amends the quorum requirement to one third of current members.

5

**A BILL FOR THE
NATIONAL ABORIGINAL AND TORRES STRAIT ISLANDER
ANGLICAN COUNCIL AMENDMENT CANON 2022**

10

The General Synod prescribes as follows.

Title

15

1. This Canon may be referred to as the “National Aboriginal and Torres Strait Islander Anglican Council Canon 2022”.

Definition

20

2. In this canon ***principal Canon*** means the National Aboriginal and Torres Strait Islander Anglican Council Canon 2014.

Definition of “current member”

25

3. In section 3(1) of the principal Canon, after the definition of “Council” insert:

‘ “**current member**” means a member of the Council under section 10(1) other than a person appointed under paragraph (c);’.

30

Reduction of quorum for Council meetings

4. In section 15 of the principal canon, for “twenty” substitute “one third of the”.

Commencement

35

5. This canon will commence on 1 July 2022.
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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.

5

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

10 1 In this Canon the **Defence Force Ministry Canon 1985** is referred to as “the “Principal Canon”.

2 The Principal Canon is amended by repealing Section 4, and substituting:

15 “4. (1) The Bishop to the Defence Force shall continue in office notwithstanding any vacancy in the office of Primate.

 (2) The term of office of a Bishop to the Defence Force shall expire:

20 (a) after five years, or at the expiration of any subsequent fixed term;
 (b) upon resignation from office; or
 (c) upon removal from episcopal office;

 whichever first occurs.

25 (3) The appointment of the Bishop to the Defence Force may be extended by the Primate for a further term of up to five years provided that:

30 (a) the Primate and the Defence Force Board have together reviewed the position of the Bishop to the Defence Force no earlier than 12 months, and no later than 8 months, preceding the end of the term; and
 (b) the extension of the Bishop to the Defence Force’s appointment for a further term has been approved by a majority of the
35 Metropolitans and of the Defence Force Board.

 (4) The appointment of the Bishop to the Defence Force may be extended for further terms each of up to five years provided that the procedure described in section 4(3) is adopted.

40 3 If there is a Bishop to the Defence Force at the time this Canon commences, he or she is deemed to have been appointed for a term of five years from the date of his or her appointment under the Principal Canon, and in other respects section 4 of the Principal Canon as amended by this Canon applies in respect of that appointment.

45 4 This Canon comes into operation on 1 July 2022.

A BILL FOR THE SPECIAL TRIBUNAL (REMOVAL FROM OFFICE) CANON 2022

EXPLANATORY MEMORANDUM

General Background

1. Under s 56(1) of the Constitution the Special Tribunal consists of three persons being a person qualified to be a lay member of the Appellate Tribunal (who shall be the President of the Special Tribunal), a Diocesan Bishop and a priest of at least 7 years' standing. Section 56(3) permits members of the Special Tribunal to be appointed from a panel of persons elected by General Synod as prescribed by canon. Section 25 of the Special Tribunal Canon 2007 provides for the panel and the election of panel members by the General Synod. Section 26(1) of that Canon sets out each of the circumstances in which a member of the panel will cease to hold office. The circumstances include death, resignation, and reaching the retiring age (which is the commencement of the ordinary session of General Synod which takes place next after the member attains the age of 75 years). For a Diocesan Bishop, membership ceases on becoming Primate or ceasing to be a Diocesan Bishop. Membership of the panel by a priest ceases, if the priest becomes a bishop.
2. A person has the potential to remain a panel member for many years and there is presently no means by which the person's membership of the panel can be reviewed. The present circumstances in which a panel member ceases office results in some infrequent turnover of the membership. If, it is considered desirable to incorporate another means to bring to an end the membership of a panel member, the appropriate body to do so is the General Synod which is the body which elected the panel member in the first place.
3. The Bill inserts an additional paragraph into s 26(1) of the Special Tribunal Canon 2007 to enable a panel member to be removed from office by a resolution of the General Synod voting as a whole and passed by a two-thirds majority of those members present and voting.

Notes on Clauses

- Clause 3 Amends the section dealing with when a member of the panel ceases to hold office to include a provision that a member of the panel may be removed from office by a resolution of the General Synod voting as a whole and passed by a two-thirds majority of those members present and voting.

5

**A BILL FOR THE
SPECIAL TRIBUNAL (REMOVAL FROM OFFICE) CANON 2022**

10 The General Synod prescribes as follows:

Title

1. This canon is the Special Tribunal (Removal from Office) Canon 2022.

15

Interpretation

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

20

Amendment of s 26 of the principal canon

3. In s 26(1) of the principal canon, for paragraph (g) substitute:

25

“(g) in the case of a priest, on becoming a bishop;

(ga) being removed from office as a panel member by a resolution of the General Synod voting as a whole and passed by a two-thirds majority of those members present and voting; and”

A BILL FOR THE EPISCOPAL STANDARDS INVESTIGATIONS AMENDMENT CANON

EXPLANATORY MEMORANDUM

1. The Standing Committee proposes the amendment to the Episcopal Standards Canon 2007 (Principal Canon) as a result of a recommendation made by the Episcopal Standards Commission (ESC). The ESC has found that it spends a significant part of its time on matters concerning dissatisfaction with decisions made by bishops in the exercise of their functions that either have been dealt with, or would be better dealt with, under a complaints or grievance process in force in the bishop's diocese. Section 10 of the Principal Canon prescribes four circumstances where the ESC may decide not to investigate information or refrain from further investigation. It is therefore proposed to add a fifth circumstance where, in the ESC's opinion the allegations of examinable conduct have been dealt with adequately, or could be dealt with adequately, under a complaints or grievance process in force in the relevant diocese.
2. As the addition of a further circumstance for terminating an investigation requires the punctuation at the conclusion of paragraph (d) of s 10 of the Principal Canon to be amended and the word "or" inserted, it is simpler to delete the existing paragraph (d) and insert paragraph (d) and the new paragraph (e) as one amendment.

5

**A BILL FOR THE
EPISCOPAL STANDARDS INVESTIGATIONS AMENDMENT CANON
2022**

10

The General Synod prescribes as follows:

Title

15

1. This canon is the *Episcopal Standards Investigations Amendment Canon 2022*.

Principal canon

2. In this canon, the *Episcopal Standards Canon 2007* is called the “Principal Canon”.

Amendment of s 10

20

3. Delete all of paragraph (d) of s 10 of the Principal Canon and insert:

25

- “(d) in its opinion there is insufficient reliable evidence to warrant an investigation or further investigation; or
- (e) in its opinion the allegations of examinable conduct have been dealt with adequately, or could be dealt with adequately, under a complaints or grievance process in force in the relevant diocese.”

**LONG SERVICE LEAVE (SABBATICAL ALLOWANCE AMENDMENT)
CANON 2022
EXPLANATORY MEMORANDUM**

General Background

The Standing Committee approved this Bill for consideration at this General Synod after consideration of the report of the Long Service Leave Board dated 28 October 2021 on the proposal to extend the circumstances in which the sabbatical allowance would be payable to a participant (or the participant's estate) where the qualifying service of the participant terminates by reason of the participant's death or terminal medical condition. The Board proposed using the definition of Terminal Medical Condition used by the Australian Taxation Office for the purpose of allowing the member of a superannuation fund to access superannuation when they have a Terminal Medical Condition. Presently under section 45(2) of the schedule to the Long Service Leave Canon 2010 the amount payable where the qualifying service of a participant terminates by reason of the person's death is not to include the sabbatical allowance.

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 for the commencement date of the canon in accordance with section 30 of the Constitution. |
| Clause 3 | provides that the principal canon is the Long Service Leave Canon 2010. |
| Clause 4 | makes a consequential change to the definition of Sabbatical Allowance and inserts a new definition of Terminal Medical Condition in section 1(1) of the Schedule to the principal canon. |
| Clause 5 | amends the heading to section 45 of the Schedule to the principal canon. |
| Clause 6 | amends section 45 of the Schedule to the principal canon to provide for payment of the Sabbatical Allowance on death or Terminal Medical Condition. |
| Clause 7 | makes a consequential amendment to section 46(1) of the Schedule to the principal canon. |

**A BILL FOR THE
LONG SERVICE LEAVE (SABBATICAL ALLOWANCE AMENDMENT)
CANON 2022**

The General Synod prescribes as follows:

Title

1. This canon is the Long Service Leave (Sabbatical Allowance Amendment) Canon 2022.

Commencement date

2. This canon comes into force on and from the date appointed by the President in accordance with section 30 of the Constitution.

Interpretation

3. In this canon, **principal canon** is the Long Service Leave Canon 2010.

Amendment to definitions

4. In section 1(1) of the Schedule to the principal canon:
 - (a) in the definition **Sabbatical Allowance**, insert “or otherwise payable as set out in this Schedule” after “leave”;
 - (b) insert after the definition of **Standing Committee**:

“**Terminal Medical Condition** means an illness suffered by the participant or an injury to the participant that is likely to result in the participant’s death within 24 months of the date of certification by two registered medical practitioners who certify, jointly or separately, to that effect, where at least one of the registered medical practitioners is a specialist practising in an area related to the participant’s illness or injury and the certification period has not ended for each of the certificates.”

Payment of sabbatical allowance on death or terminal medical condition

5. Amend the heading to section 45 of the Schedule of the principal canon by adding “**or Terminal Medical Condition**”.
6. In section 45 of the Schedule to the principal canon:
 - (a) in subsection (1), insert “or terminal medical condition” after “death” where it first occurs;

- 5 (b) in subsection (1), insert “or termination of the qualifying service due to the participant’s terminal medical condition” after “death” where it second occurs;
 (c) in paragraph (a) of subsection (2), delete “not”.

10 **Consequential amendment to section 46(1)**

7. In section 46(1) of the Schedule to the principal canon, insert “or terminal medical condition” after “death”.

STRATEGIC ISSUES, COMMISSIONS, TASK FORCES AND NETWORKS AMENDMENT CANON 2022

EXPLANATORY MEMORANDUM

General Background

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 seven expert Reference Commissions are established. Under section 8A of the principal canon, the Standing Committee may establish additional expert Reference Commissions.

The Family Violence Working Group (FVWG) was established as a result of a resolution at the 17th Session of the General Synod. As recommended by the FVWG report dated 26 October 2021 to the Standing Committee, the Standing Committee at its 12-13 November 2021 meeting established a new Commission pursuant to section 8A of the principal canon to continue the work of the FVWG to be ratified at the 18th Session of General Synod and agreed that the Commission will be provisionally called the Families and Culture Commission. This Bill proposes amendments to the principal canon to enable the new Commission to be established as a Commission under section 8 of the principal canon.

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

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|----------|--|
| 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 | adds the Families and Culture Commission to the list of Expert Reference Commissions established under section 8 of the principal canon. |
| Clause 4 | inserts a new section 12D into the principal canon that sets out the functions of the Families and Culture Commission. |

**A BILL FOR THE
STRATEGIC ISSUES, COMMISSIONS, TASK FORCES AND
NETWORKS AMENDMENT CANON 2022**

The General Synod prescribes as follows:

Part 1 - Introduction

Title

1. This canon is the Strategic Issues, Commissions, Task Forces and Networks Amendment Canon 2022.

Interpretation

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

Part 2 – Families and Culture Commission

Establishment of the Families and Culture Commission

3. In section 8 of the principal canon:
 - (a) substitute “;” for “.” at the end of paragraph (g); and
 - (b) insert after paragraph (g):
“(h) The Families and Culture Commission.”

Functions of the Public Affairs Commission

4. After section 12C of the principal canon insert:

“12D The functions of the Families and Culture Commission are:

- (a) to examine questions that relate to family violence affecting members of the Church, the drivers of violence and the well-being of families and women referred to it by the Primate, the Standing Committee or the General Synod, and to report thereon to the referring party and to the Standing Committee, and
- (b) to make recommendations to the Standing Committee on matters relating to family violence affecting members of the Church, violence prevention and the well-being of families and women.”

EIGHTEENTH GENERAL SYNOD PARTICIPATION CANON 2022

EXPLANATORY MEMORANDUM

General Background

This bill has been prepared in case there are some members of Synod unable to be present in person, or are significantly impeded from being present in person, at the eighteenth session because of restrictions imposed by the laws of the Commonwealth or of a State or Territory.

At its meeting in March 2022 the Standing Committee resolved that the Provisional Business Committee should decide by 30 April 2022 whether the bill should proceed (or would be withdrawn). Following that meeting of the Standing Committee, the Provisional Business Committee decided (on 6 April 2022) that the Bill that was approved by the Standing Committee should proceed, now with additional provisions to address what should happen if after the Bill passes members of General Synod find themselves unable to participate in person on medical grounds. These additional provisions are to be found in paragraph (b) of the definition of "affected member" and in clause 3 of the Bill.

It is proposed that it be considered at the very start of the session, making consideration of the bill the only business of the Synod in which affected members would not be able to participate.

The Church Law Commission is of the view that the Constitution gives to the General Synod the right to prescribe the matters in this bill.

The Canon will be repealed at the conclusion of this session of the Synod, as it has no work to do after that time. Another bill, the General Synod Presence Bill 2022, deals with how provision might be made for participation by videoconference for the indefinite future.

NOTES ON CLAUSES

Clause 1 contains the title of the Canon.

Clause 2 defines certain terms.
"Affected member" is defined to include two categories of members. The first meaning is a person named or otherwise identified in the Schedule. (A person could be identified, for example, by reference to their Diocese.) The expectation is that the Schedule will be populated on the recommendation of the Provisional Business Committee at the commencement of the Synod. The second category is people who give notice to the General Secretary under clause 3. Notice would be given after the Canon has effect (that is, during the course of the General Synod), although there is no explicit requirement that the person could not have been included in the Schedule.

"This session of Synod" and "videoconference" are also defined.

Clause 3 allows a member of the General Synod at any time after this Canon comes into force by written notice to the General Secretary to state that they are unable on medical grounds to participate in person in the business of the meeting. While this could in theory extend to people who were not present at the Synod venue, its primary purpose is to deal with a situation where a

member may be forced into isolation (or become otherwise medically unable to participate in person) at the venue during the course of the meeting. The requirement is intentionally not onerous, and relies on the honesty and good faith of the member concerned. Given the multiplicity of circumstances that might arise, that seems the prudent approach to drafting the provision.

- Clause 4 obliges the General Synod to provide affected members with a means of participating by videoconference, but also allows them to be present in person if they so choose.
- Clause 5 sets out certain requirements relating to videoconferencing. Affected members must be able to participate in the same way as if they were present in person; the President may appoint people to assist in ensuring that participation (such as watching a screen to see whether they have asked to speak, or having someone present at a venue where a number of affected members have gathered together to ensure that they are recognized by the chair); allows an electronic system to be used to allow affected members to do those things that they could do if present in person.
- Clause 6 allows affected members to vote in elections by an electronic method that meets the requirements of Rule III and is approved by the Provisional Business Committee.
- Clause 7 provides that an affected member participating by videoconference is "present" for the purpose of the Constitution and any other General Synod legislation, including for the purposes of determining whether there is a quorum.
- Clause 8 repeals this canon at the end of the 18th session of General Synod.
- Schedule The Schedule will be amended by adding the names or means of identifying affected members of General Synod if the Bill proceeds.

A BILL FOR THE EIGHTEENTH GENERAL SYNOD PARTICIPATION CANON 2022

5 The General Synod prescribes as follows:

Title

10 1. This canon is the Eighteenth General Synod Participation Canon 2022.

Interpretation

15 2. In this canon—

affected member means—

- (a) a member of the General Synod named or otherwise identified in the Schedule; or
- (b) a member of the General Synod who has given notice under section 3.

20 **this session of Synod** means the eighteenth ordinary session of the General Synod

videoconference means a form of electronic communication that enables contemporaneous audio and visual communication between persons physically located at different places.

Members may give notice of inability to participate in person

30 3. A member of the General Synod may at any time after this Canon comes into force by written notice to the General Secretary state that they are unable on medical grounds to participate in person in the business of the meeting.

Affected members may participate by videoconference

- 35 4. (1) The General Secretary must make available to each affected member the means of participating in this session of Synod by videoconference, and an affected member may participate by videoconference.
- (2) Sub-section (1) does not operate to prevent an affected person from being present in person at this session of Synod.

Videoconferencing requirements

- 45 5. (1) An affected member of Synod participating by videoconference must be able and allowed to participate as if they were present at the venue at which the President is chairing the meeting.
- (2) The Primate for this session of Synod may appoint such persons as considered necessary to assist in the chairing and orderly conduct of the meeting and the equal and full participation of members of Synod.
- 50 (3) An electronic system approved by the Provisional Business Committee must be used for the purpose of allowing affected members to vote on the business before the meeting, rise in their places, or otherwise communicate a position in relation to the business before the meeting as fully as those members who are present in person at this session of the Synod.

Electronic balloting by affected members

6. (1) Where a ballot is conducted under rules 8, 9, 10, 11, 12 and 13 of Rule III, an affected member who is present may vote by an approved electronic method.
- 5 (2) In this section, **approved electronic method** means a method of conducting a ballot electronically recommended by the General Secretary and approved by the Provisional Business Committee that—
- (a) in all respects records and counts votes as if they had been recorded and counted under Rules 8, 9, 10, 11, 12 and 13; and
- 10 (b) is at least as confidential, secure, free from manipulation and corruption, accurate and reliable as a ballot conducted under Rules 8, 9, 10, 11, 12 and 13.

Affected members participating by videoconference to be considered as present

- 15 7. (1) An affected member participating by videoconference in this session of Synod is present for the purposes of the Constitution and any canon or rule that makes provision for members who are present.
- 20 (2) For the purpose of determining the number of members present at any time during this session of Synod, the number of members present is the total number present in person and by videoconference.

Repeal

- 25 8. This Canon is repealed at the close of this session of the Synod.

SCHEDULE

A BILL FOR THE GENERAL SYNOD PRESENCE CANON 2022

EXPLANATORY MEMORANDUM

GENERAL OVERVIEW

This bill is for a canon to give permanently the option of all General Synod to be conducted (wholly or partly) by videoconference in certain circumstances. The decision whether to do so would be made by the body or person that determines the place of the Synod under section 23 of the Constitution (the Standing Committee in the case of an ordinary session, the Primate in the case of a special session).

A Synod may be held wholly by videoconference by the decision of the relevant decision-maker. However, if it is only *partly* by videoconference (conveniently referred to as hybrid meeting), participation by videoconference would only be allowed for people who were unable to attend in person at all, or could only attend in person with significant and onerous impediments, due to the laws of the Commonwealth or a State or Territory. This canon does not give a general choice to members of General Synod to participate in a hybrid session according to their personal preference, or because of the other reasons that would cause them to have to be replaced as a representative from their diocese.

The bill then contains provisions regarding the minimum requirements for videoconferencing, and considering those participating by videoconference as being present.

The Church Law Commission is of the view that the Constitution gives to the General Synod the right to prescribe the matters in this bill.

The bill is for a canon, rather than for (say) a rule, because section 23 of the Constitution commences, "Until the General Synod by canon otherwise prescribes".

NOTES ON CLAUSES

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| Clause 1 | provides for the title of the canon. |
| Clause 2 | defines the word "videoconference" |
| Clause 3 | provides that the Standing Committee in convening an ordinary session of Synod, and the Primate in convening a special session of Synod, may decide that it is to be wholly by videoconference. Where this happens, a number of members may gather in one place to participate. |
| Clause 4 | concerns what is to happen when a session of Synod is <i>not</i> wholly by videoconference and some members are unable to attend in person at all, or could only attend in person with significant and onerous impediments, due to the laws of the Commonwealth or a State or Territory. To qualify for participation in this way, the member would require a certificate that they had met the criteria. For most members it would be given by their Diocesan bishop. For Diocesan bishops it would be given by their Metropolitan, and for Metropolitans and non-provincial Diocesan bishops it would be given by the Primate. |

Where a member does have such a certificate, the General Synod must arrange for participation by videoconference, and the member may participate in that way or (if they wish) by attending in person.

- Clause 5 sets out certain requirements relating to videoconferencing. Those attending in this way must be able to participate in the same way as if they were present in person; the President may appoint people to assist in ensuring that participation (such as watching a screen to see whether they have asked to speak, or having someone present at a venue where a number of members have gathered together to ensure that they are recognized by the chair); and an electronic system must be available to allow members participating in this way to do those things that they could do if present in person.
- Clause 6 provides that an affected member participating by videoconference is "present" for the purpose of the Constitution and any other General Synod legislation, including for the purposes of determining whether there is a quorum.

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A BILL FOR THE GENERAL SYNOD PRESENCE CANON 2022

10 The General Synod prescribes as follows:

Title

1. This canon is the General Synod Presence Canon 2022.

Interpretation

- 15 2. In this canon **videoconference** means a form of electronic communication that enables contemporaneous audio and visual communication between persons physically located at different places.

Sessions of General Synod may be by videoconference

- 20 3. (1) The Standing Committee may by resolution determine that an ordinary session of Synod is to be held wholly by videoconference.
- (2) The Primate may in convening a special session of Synod determine that it is to be held wholly by videoconference.
- (3) A member of Synod may attend a session held wholly by videoconference while in the same place as another member of Synod.

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Participation in General Synod by videoconference of members prevented from attending in person

- 30 4. (1) This section applies when—
- (a) in the case of a clerical or lay representative of a Diocese, the Bishop of that diocese;
- (b) in the case of a Bishop of a diocese who is not the Metropolitan, the Metropolitan of that Bishop;
- (c) in the case of a member of a Metropolitan or the Bishop of an extra-provincial diocese, the Primate—
- 35 certifies to the General Secretary that that representative or bishop, by reason of the laws of, or lawful directions given under the laws of, the Commonwealth, a State or a Territory—
- (d) is prevented from; or
- (e) will face significant and onerous impediments in—
- 40 travelling to or from, or being at, the place at which a session of the General Synod is to be held.
- (2) When this section applies—
- (a) the General Secretary must make available to the person the subject of the certificate the means of participating in the Synod by
- 45 videoconference; and

5 (b) the person the subject of the certificate may participate in the Synod by videoconference.

(3) A person the subject of a certificate under sub-section (1) may be present in person at the meeting of the Synod.

10 **Videoconferencing requirements**

5. (1) A member of Synod participating by videoconference must be able and allowed to participate as if present at a venue at which the President is chairing the meeting.

15 (2) At a meeting of the Synod in which members are participating by videoconference—

(a) the Primate may appoint such persons as considered necessary to assist in the chairing and orderly conduct of the meeting and the equal and full participation of members of Synod; and

20 (b) an electronic system approved by the Provisional Business Committee must be used for the purpose of allowing those members to vote on the business before the meeting, rise in their places, or otherwise communicate a position in relation to the business before the meeting as fully as those members who are present in person at that meeting.

25 **Member participating by videoconference to be considered as present**

6. (1) At a meeting of the Synod in which members are participating by videoconference a member who is participating by videoconference is present for the purposes of the Constitution and any canon or rule that makes provision for members who are present.

30 (2) For the purpose of determining the number of members present at any time during a meeting of the Synod in which members are participating by videoconference, the number of members present is the total number present in person and by videoconference.

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A RULE TO AMEND RULE II – STANDING COMMITTEE (CONFLICT OF INTEREST) 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 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.

16.2 – The Anglican Church of Australia should adopt a policy relating to the management of actual or perceived conflicts of interest that may arise in relation to allegations of child sexual abuse, which expressly covers...members of the Standing Committee of the General Synod.

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 Rule II to implement recommendation 16.2.

Object of the canon

5. The object of this canon is to amend the Rule II (Rules for the appointment of a Standing Committee of General Synod and Defining its Rule and Powers) in order to implement recommendation 16.2 of the Royal Commission into Institutional Responses to Child Sexual Abuse relating to the management of actual or perceived conflicts of interest that may arise in relation to allegations of child sexual abuse which expressly covers members of the General Synod Standing Committee.

Main provisions of the canon

6. This canon provides that where a member of the General Synod Standing Committee has a conflict of interest in relation to a matter that is to be considered by a meeting of the Standing Committee, that conflict must be declared to the meeting and that member must not be present while the matter is being discussed unless approved by the meeting.

Notes on Clauses

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| Clause 1 | amends rule 4(2) to refer to the addition of rule 4A |
| Clause 2 | amends rule 4(7) to include persons who do not declare that they have a conflict of interest |
| Clause 3 | inserts rule 4A which outlines what where a member has a conflict of interest in relation to a matter to be considered by a meeting of the Standing Committee they must declare that conflict to the meeting. The rule also provides that a member with a conflict of interest must not be present while the matter is being considered, subject to sub-rules (3) and (4). Sub-rule (3) allows the meeting to resolve to allow the member to return to the meeting to be present while the matter is being considered, but not to speak or to vote for the purposes of rule 4(4). Sub-rule (4) provides that where the meeting allows a member to return to the meeting, it must allow all relevant members who have left the meeting. Sub-rule (4) precludes the meeting from allowing some members but not others to return to the meeting. Sub-rule (7) outlines circumstances in which a member has or may be perceived to have a conflict of interest. |

5 **A RULE TO AMEND RULE II – STANDING COMMITTEE**
(CONFLICT OF INTEREST) 2022

10 The General Synod prescribes as follows:

1. In rule 4(2), for “A quorum” substitute “Subject to rule 4A(6), a quorum”.
2. In rule 4(7)(b), after “who do so respond” insert “and do not in that response declare that they have a conflict of interest”.
3. After rule 4 insert:
 - 15 “4A. (1) A member who has a conflict of interest in relation to a matter that is to be considered by a meeting of the Standing Committee must declare that conflict to the meeting—
 - 20 (a) if the matter is on the agenda of a meeting, at a time when considering or approving the agenda is a question before the meeting; or
 - (b) in any other case, where the matter is the question.
 - 25 (2) Subject to sub-rules (3) and (4), a member who has a conflict of interest in relation to a matter must not be present while the matter is being considered.
 - 30 (3) After a member who has a conflict of interest has left the meeting, the meeting may resolve to allow the member to return to be present (but not to speak or to vote or to be counted as a person who is present for the purposes of rule 4(4)).
 - 35 (4) In the exercise of its powers under sub-rule (3), a meeting may resolve that all members who have left the meeting may return and be present, but may not resolve that some of those members but not others of those members may return and be present.
 - 40 (5) In the case of a resolution proposed under rule 4(7)(b), a member who has a conflict of interest must declare that conflict by stating in their response to the notice that they have a conflict of interest.
 - 45 (6) Despite rule 4(2), a quorum of the Standing Committee for the purposes of disposing of the business of the meeting, in respect of which one or more members have left the meeting under sub-rule (3) due to a conflict of interest, is, until that business has been disposed of, the members who were present when that item of business was reached and who do not have a conflict.
 - 50 (7) For the purposes of this rule, a member of the Standing Committee has a conflict of interest when their responsibilities as a member may be influenced or affected, or may reasonably be perceived as being influenced or affected, by—

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- 5 (a) their personal financial interest, or those of their family or friends;
- (b) their reputation, or that of their family or friends;
- 10 (c) their obligations or loyalty to another person or organisation (other than a Diocese, or a body established by the Constitution or a canon of General Synod);
- 15 (d) their previous or current relationship (whether personal or professional) with someone who might be affected by how they discharge those responsibilities; or
- (e) their previous or current involvement in another capacity in a matter now falling within those responsibilities."

A RULE TO AMEND RULE I – STANDING ORDERS (SPEAKING TO MOTIONS) 2022

EXPLANATORY MEMORANDUM

Background

1. Standing Order 34(d) at present provides:
 - (d) Except in Committee of the whole Synod, no member shall be allowed to speak more than once on the same question, except in explanation.
2. The proper interpretation of this provision has been the subject of careful investigation and consideration. It has been accepted by the Standing Committee of General Synod that, where the question before the meeting is that a motion be agreed to, a member who speaks for the purposes of moving or seconding an amendment to that motion is speaking to the question that the motion be agreed to; in other words, a member who has already spoken cannot then move or second an amendment, and a member who has moved or seconded one amendment cannot move or second another, or speak later in the debate on the original motion.
3. Conversely, once an amendment has become the question before the meeting, any member is entitled to speak in the debate on *that* question, even if they have already spoken relation to the original motion (or some other amendment).
4. The proposed amendment has only two purposes:
 - (1) to put the interpretation set out above into plain text in the standing orders; and
 - (2) to impose shorter time limits on the those moving, seconding and debating amendments.
5. Clarity is much more readily achieved by rewriting and reordering Standing Order 34 as a whole than by trying to interpolate even more words into an already dated and complex provision.

Note on proposed text

Heading	The current heading is "Length of speeches", but the standing order covers not only the length of speeches but who has the right to speak at all. The heading "Speaking to motions" is therefore proposed.
Paragraph (a)	corresponds to the current paragraph (a), except that it uses the word "may" rather than "shall", since the purpose is simply to state what time is permitted. In particular, the seconder is not required to speak at all.
Paragraph (b)	uses the text of the current paragraph (b), but adds (in (ii), the right of reply currently in paragraph (d).

- Paragraph (c) uses the first sentence of the current paragraph (d), but then adds a clear statement regarding how that is to be interpreted in the case of amendments, namely, that moving or seconding an amendment is to be taken to constitute speaking on the original motion.
- Paragraph (d) sets out the time limits for those speaking regarding an amendment (5 minutes for the mover, 4 minutes for everyone else), and also states in sub-paragraph (ii) that participating in the debate on an amendment does not constitute speaking on the original motion. Strictly speaking sub-paragraph (ii) is probably unnecessary, but including it may avoid future uncertainty.
- Paragraph (e) is the current paragraph (c), with minor editorial improvements.
- Paragraph (f) contains what is left of the current paragraph (d) that is not now included in the other paragraphs (namely, that there is no right of reply except in relation to the motions covered by paragraphs (a) and (b) of this Standing Order).

5 **A RULE TO AMEND RULE I – STANDING ORDERS (SPEAKING TO MOTIONS)**

10 The General Synod prescribes as follows:

Rule I is amended as follows:

For Standing Order 34 and the heading to that Standing Order, substitute:

15 **"Speaking to motions**

34. (a) On a motion that a bill be approved in principle or that a bill be passed, the mover may speak for not more than fifteen minutes in support of the motion, and the seconder may speak for not more than ten minutes and any other member speaking to the motion and the mover speaking in reply may speak for not more than five minutes.
- 20
- (b) On any other motion—
- 25 (i) the mover may speak for not more than 10 minutes in support of a motion, and the seconder may speak for not more than 7 minutes and any other member speaking to the motion and the mover speaking in reply may speak for not more than 4 minutes; and
- 30 (ii) the mover has a right of reply, after which the question must be put forthwith.
- (c) On any motion referred to in paragraphs (a) or (b)—
- (i) subject to paragraph (d), and except in Committee of the whole Synod, a member may not speak more than once to the motion, except in explanation; and
- 35 (ii) for the purposes of sub-paragraph (i), a member who moves or seconds an amendment is to be taken to be speaking to the motion.
- (d) On an amendment to a motion—
- 40 (i) the mover of the amendment may speak for not more than 5 minutes in support of the amendment, and the seconder of the amendment and any other member speaking to the amendment may speak for not more than 4 minutes; and
- 45 (ii) for the purposes of paragraph (c)(ii), a member other than the mover or seconder speaking to the amendment is not to be taken to be speaking to the original motion.
- (e) Paragraph (b) does not apply to the member representing a point of view different from that of the mover of a motion to which Standing Order 37B applies (a group discussion motion). In such case, that member may speak for not more than 10 minutes.
- 50
- (f) Other than as provided for in paragraphs (a) and (b), the mover of a motion does not have a right of reply."

**A BILL FOR A RULE TO AMENDMENT TO RULE III—
NOMINATIONS AND BALLOTING****EXPLANATORY MEMORANDUM****GENERAL BACKGROUND**

This bill deals with two matters, electronic balloting for elections, and checking the names of candidates for election against the National Register.

In relation to electronic voting, the bill inserts into Rule III a new rule 7A that allows the use of an approved electronic method instead of a ballot conducted under rules 8 to 13.

In relation to the checking of candidates against the National Register, this extends the existing rule to cover all candidates for election by the General Synod: at present the rules cover only candidates for Standing Committee, the Appellate Tribunal and the Special Tribunal panel.

It is intended to introduce this Bill early on in this meeting so that Rule III as amended will apply to elections conducted during the session.

NOTES ON CLAUSES

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| Clause 1 | introduces a new rule 7A. It allows the Standing Committee to decide that a ballot that would otherwise be conducted under rules 8 to 13 will instead be conducted by an approved electronic method. An approved electronic method is one recommended by the General Secretary and approved by the Provisional Business Committee. It must record and counts in exactly the same way as would happen under rules 8 to 13, and be equally secure and accurate. |
| Clause 2 | amends rule 5(a1) so that that paragraph (which concerns information to be provided by nominees) applies to those nominated for any election conducted at the Synod. |
| Clause 3 | amends rule 6(a1) so that that paragraph (which obliges the General Secretary to check each candidate against the National Register) applies to all candidates for election at the Synod. |

5 **A BILL FOR A RULE TO AMENDMENT TO RULE III—**
 NOMINATIONS AND BALLOTING

10 The General Synod prescribes as follows:

15 **Electronic balloting under Rule III**

1. In Rule III – Rules for the conduct of elections ordered to be made by General Synod, after Rule 7 insert:

15 **"Electronic balloting**

7A. (1) The Standing Committee may determine that a ballot to which Rules 8, 9, 10, 11, 12 and 13 would otherwise apply is to be conducted using an approved electronic method.

20 (2) Where a ballot is conducted using an approved electronic method, each person present and entitled to vote at the relevant session of the Synod is entitled to vote by that method.

25 (3) In this rule, **approved electronic method** means a method of conducting a ballot electronically recommended by the General Secretary and approved by the Provisional Business Committee that—

- 25 (a) in all respects records and counts votes as if they had been recorded and counted under Rules 8, 9, 10, 11, 12 and 13; and
- (b) is at least as confidential, secure, free from manipulation and corruption, accurate and reliable as a ballot conducted under Rules 8, 9, 10, 11, 12 and 13.

30 **Information in nominations**

2. In Rule III – Rules for the conduct of elections ordered to be made by General Synod, in rule 5(a1), for "In respect of an election for the Standing Committee, Appellate Tribunal and the panel of persons from which the members of the Special Tribunal are appointed the nomination shall contain" substitute "A nomination must contain".

35 **Exhibition of nominations**

3. In Rule III – Rules for the conduct of elections ordered to be made by General Synod, in rule 6(a1), for "In respect of nominations for the Standing Committee, Appellate Tribunal and the Special Tribunal" substitute "In respect of all nominations".

A BILL FOR THE CANON CONCERNING SERVICES (AMENDMENT) CANON 2022

EXPLANATORY MEMORANDUM

1. The object of the amendment in this proposed Canon is to ensure that services authorised pursuant to section 5 of the *Canon Concerning Services 1992* are constitutionally valid.
2. According to section 5 of the Constitution, the plenary authority and power of the Church to make canons for the order and good government of the Church, and to administer the affairs thereof, is “subject to the Fundamental Declarations and the provisions of [the Ruling Principles]”. The implication of this is that the General Synod lacks power to make a canon that authorises actions inconsistent with the Fundamental Declarations or the Ruling Principles of the Constitution.
3. Section 4 of the Constitution provides that the “Book of Common Prayer, together with the Thirty-nine Articles, be regarded as the authorised standard of worship and doctrine in this Church, and no alteration in or permitted variations from the services or Articles therein contained shall contravene **any principle of doctrine or worship** laid down in such standard.” Section 4 then gives a diocesan Bishop a limited power to authorise deviations from the services in the Book of Common Prayer, but that power is subject to the limit – “not contravening **any principle of doctrine or worship** as aforesaid”.
4. Canons to authorise new prayer books have each contained express provisions to limit the scope of deviations from that liturgy to ensure consistency with the aforementioned Constitutional limits. For example, section 5(3) of the Australian Prayer Book Canon 1977 provides

(3) Nothing in this section permits a deviation contravening **a principle of doctrine or worship** referred to in section 4 of the Constitution.

Section 6(3) of the Prayer Book for Australia Canon 1995 is in identical terms.

(3) Nothing in this section permits a deviation contravening **a principle of doctrine or worship** referred to in section 4 of the Constitution.

5. In short, the effect of the Constitution and these two Canons is that a diocesan bishop has no power to permit a liturgy that contravenes any a principle of doctrine or worship laid down Book of Common Prayer or the 39 Articles.
6. When the *Canon Concerning Services* was passed in 1992, section 5(3) set out the limitation on the scope of deviations.

5(3) All variations in forms of service and all forms of service used must be reverent and edifying and **must not be contrary to or a departure from the doctrine of this Church**.

7. Until recently, it had been assumed that the phrase “the doctrine of this church” in 5(3) was a shorthand for, and functionally equivalent to, the phrase “a principle of doctrine or worship referred to in section 4 of the Constitution”, and therefore that, consistent with the Constitution and every other Canon, no service could be authorised under the *Canon Concerning Services* 1992 that contravened a principle of doctrine or worship in BCP or the 39 articles. That is, the assumption was that the “doctrine of this church” included both the fundamental declarations and the ruling principles.
8. However, the Majority Opinion of the Appellate Tribunal in the Wangaratta reference has determined that the phrase “doctrine of this Church” has a much more restricted meaning. “Doctrine” in the constitutional sense only includes those matters of faith which are required of necessity to be believed for salvation. “Doctrine” does not extend to the principles of doctrine and worship in the Book of Common Prayer or the 39 Articles, and it does not even extend to matters in the Fundamental Declarations such as “[Christ’s] sacraments of Holy Baptism and Holy Communion” and “the three orders of bishops, priests and deacons”, since these are not required of necessity to be believed for salvation.
9. The implication of this is that subsection 5(3) of the *Canon Concerning Services* 1992 could – purportedly – be used to authorise a service which contravened a principle of doctrine or worship referred to in section 4 of the Constitution, and potentially even a contravention of the Fundamental Declarations – a service for rebaptism, for example. However, this would then call into question the Constitutional validity of *Canon Concerning Services* 1992, to the extent that it authorises something beyond the plenary power of the Synod, as circumscribed by section 5.
10. The Amendment in this Bill cures this defect in the *Canon Concerning Services* 1992, by reverting to the phraseology used in 1977 (in the Australian Prayer Book Canon) and in 1995 (in the Prayer Book for Australia Canon). This involves replacing the phrase, “doctrine of this Church”, with “any principle of doctrine or worship referred to in section 4 of the Constitution”. The amended form of Clause 5(3) is shown below in marked-up form.

CANON CONCERNING SERVICES 1992

5. (1) The minister may make and use variations which are not of substantial importance in any form of service authorised by section 4 according to particular circumstances.
- (2) Subject to any regulation made from time to time by the Synod of a diocese, a minister of that diocese may on occasions for which no provision is made use forms of service considered suitable by the minister for those occasions.
- (3) All variations in forms of service and all forms of service used must be reverent and edifying and must not be contrary to or a departure from ~~the doctrine of this Church~~ **any principle of doctrine or worship referred to in section 4 of the Constitution.**
- (4) A question concerning the observance of the provisions of subsection 5(3) may be determined by the bishop of the diocese.

5 **A BILL FOR THE CANON CONCERNING SERVICES
(AMENDMENT) CANON 2022**

10 The General Synod prescribes as follows:

Title

1. This canon is the Canon Concerning Services (Amendment) Canon 2022.

15 **Interpretation**

2. In this canon, the principal canon is the Canon Concerning Services 1992.

Amendment to Section 5

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3. Section 5 of the principal canon is amended by deleting the words at subsection (3) 'the doctrine of this Church', and instead inserting the words 'any principle of doctrine or worship referred to in section 4 of the Constitution'.

A RULE TO AMEND RULE II – STANDING COMMITTEE (MEMBERSHIP) 2022

EXPLANATORY MEMORANDUM

General Background

1. This amendment to Rule II removes the Secretaries of Synod from membership of the Standing Committee (with effect from the 19th session of General Synod) and secondly removes the General Secretary's right to vote at meetings of the Standing Committee (with effect from the commencement of the next term of the General Secretary).
2. The present membership of the Standing Committee is determined by clause 2 of Rule II. There are 33 members consisting of 21 elected and 2 nominated members, with the remaining 10 members all ex-officio and all with full voting rights. In addition, the Treasurer, the Primate's assistant and the Primate's Chancellor are usually in attendance.

Membership of the Secretaries of Synod

3. The Secretaries of Synod, one clerical and one lay, are elected by the Synod pursuant to clause 4 of the Standing Orders of the Synod. Their duties are delineated in clause 5 of the Standing Orders. Those duties are concerned with the processes of Synod sessions and in particular legislation. The positions are not remunerated.
4. In the early days of the General Synod the office of the General Secretary was a part-time appointment. The assistance of the (voluntary) Synod Secretaries was a helpful support to the General Secretary in discharging the responsibilities of office.
5. The present work of the Standing Committee is facilitated by a full-time General Secretary assisted by the paid staff of the General Synod Office. The Secretaries of Synod play little part in the preparation for meetings of Standing Committee and no formal part in the deliberations of Standing Committee.
6. Removing the Secretaries of Synod from membership of the Standing Committee will reduce the size of Standing Committee without loss of critical function and bring a cost saving.
7. Part C of the proposed Rule will remove the Secretaries of Synod from membership of the Standing Committee with effect from the first day of the 19th session of the General Synod.

The General Secretary's right to vote

8. The General Secretary is effectively the 'CEO' of the General Synod and the position is remunerated. While the General Secretary's membership of the Standing Committee can be consistent with good governance principles, the right to vote is not.
9. Further, section 15 of the Constitution provides that the General Secretary is entitled to propose motions and speak at Synod, but not vote. It stands to reason that the same principles should apply to meetings of the Standing Committee.
10. Part B of the proposed Rule will remove the right of the General Secretary to vote at meetings of the Standing Committee, with the commencement of this change deferred during the current term of the General Secretary.

Chair of Committee

11. Part A of the proposed rule modernises and corrects the title 'Chairman of Committees', so that 'Chairman' is replaced by 'Chair'; and 'of Committees' is replaced by 'of Committee' (since "Committee" in this setting is "a Committee of the Whole General Synod", and there is only ever one committee).

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**A RULE TO AMEND RULE II – STANDING COMMITTEE
(MEMBERSHIP) 2022**

10 The General Synod prescribes as follows:

A. Rule II is amended as follows:

15 1. In rules 2 and 3 delete 'Chairman of Committees' and insert instead 'Chair of Committee'.

B. Rule II is amended as follows, with effect from the commencement of the next term of the General Secretary:

20 2. In rule 2 prior to the full stop in the sentence, 'The General Secretary for the time being of the Synod.', insert the matter ' , but without the right to vote'.

C. Rule II is amended as follows, with effect from the first day of the 19th session of the General Synod:

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3. In rule 2 delete 'The Secretaries for the time being of the Synod'.

4. In rule 3 delete the words 'or a Secretary of Synod'.

