

A BILL FOR THE SPECIAL TRIBUNAL CANON 2026

AMENDED FORM TO BE BROUGHT IN BY THE MOVER AND SECONDER

EXPLANATORY MEMORANDUM

BACKGROUND

This Bill shows the Bill for a Special Tribunal Canon 2026 in an amended form. Notice of those amendments has been given to Dioceses under Standing Order 63(4).

Most amendments consolidate into one Bill the legislation originally proposed in separate Bills. This follows the decision of the Appellate Tribunal that all the Bills concerned the discipline of the church. The remaining amendments are intended to ensure that nothing will be lost in the repeal of the Episcopal Standards (Child Protection) Canon 2017.

For a background to the proposed legislation and the project that led to it, members of General Synod are referred to the Explanatory Memoranda to the Bills as originally circulated to Dioceses.

NOTES ON CLAUSES

PART 1 – PRELIMINARY

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| Clause 1 | states the title of the canon. |
| Clause 2 | contains definitions. These are largely the same as in the Special Tribunal Canon 2007. There are new definitions relating to bishops to avoid confusion. |
| Clause 3 | replicates the provision of the Special Tribunal that allows dioceses to exclude the Episcopal Standards Director from investigating a complaint against their Bishop, except for a complaint relating to a matter in the Third Schedule. |

PART 2 – EPISCOPAL STANDARDS COMMISSION

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| Clause 4 | establishes the Episcopal Standards Commission. |
| Clause 5 | provides that the ESC must have at least 3 members (including a lawyer, a bishop who is not a Bishop referred to in s 56(6) of the Constitution, and a lay person with appropriate professional qualifications) and, so far as possible, have an equal number of men and women. |
| Clause 6 | provides for the appointment of members of the ESC by the Standing Committee. |
| Clause 7 | lists the circumstances in which a member of the ESC ceases to hold office. |
| Clause 8 | provides for the appointment of the convenor of the ESC by the Standing Committee and various other matters relating to its procedure. |
| Clause 9 | provides that a vacancy in the membership of the ESC does not invalidate its proceedings. |

- Clause 10 imposes a duty of confidentiality on the members of the ESC, the Episcopal Standards Director, and anyone else employed or engaged in their work.
- Clause 11 requires the Director to report annually to the ESC. The Director may not divulge the identity of a complainant or respondent, except in the case of a respondent who has been exonerated.
- The Director must also report as often as necessary to the Primate on every matter with which the Director is dealing.
- Clause 12 sets out the powers and duties of the ESC. They include implementing the protocol and recommending changes to it, overseeing and monitoring the performance of the Director, and authorizing expenditure for the purposes of the canon.
- The ESC cannot override a decision of the Director.

PART 3 – DIRECTOR OF EPISCOPAL STANDARDS

- Clause 13 establishes the office of Director of Episcopal Standards.
- Clause 14 sets out the Director's functions, which include supporting the ESC, receiving and investigating complaints, where required by law, reporting matters to governmental authorities, to bring charges under the canon, advising relevant Church bodies as to the financial, pastoral or other needs of a possible victim in a particular matter, and implementing the requirements of the protocol and rules.
- Clause 15 allows the Director to appoint an investigator.
- Clause 16 allows the General Secretary to engage temporary administrative support when there is no Director or the Director is unavailable.
- Clause 17 provides that the Director may act in a corresponding capacity for a diocese.

PART 4 – THE PROTOCOL

- Clause 18 provides that the Standing Committee must approve a protocol.
- The protocol must cover how complaints are made and received, informing complaints and alleged victims about the applicable procedures and providing non-pecuniary support (but not advising them of their rights, or providing pecuniary support), victim impact statements, dealing fairly with respondents and the administration of the provision in the canon relating to the cost of legal assistance, providing reports to the Primate and relevant Metropolitan, and liaising with secular authorities.

PART 5 – COMPLAINTS**DIVISION 1 – RECEIVING AND DEALING WITH COMPLAINTS**

- Clause 19 provides that a person may make a complaint against a Bishop.
- Clause 20 requires the Director to investigate a complaint unless it relates to allegations of a breach of faith, ritual or ceremonial, drunkenness or a wilful failure to pay just debts occurring more than a year before the complaint.
- Clause 21 is a provision not in the Special Tribunal Canon 2007. It allows the Director to commence or continue an investigation where there are compelling reasons to do so on the basis of information already available even where there is no complaint or the complainant has declined to provide additional information.
- Clause 22 requires the Director to make an initial assessment about whether there is any risk to a child and to take what action is practicable and available action if there is.
- Clause 23 requires the Director to report an allegation relating to the safety or well-being of a child to a governmental agency in accordance with the applicable law in that jurisdiction, even though someone else (such a diocesan authority) may also have an obligation to do so.
- It should be noted that this is an obligation to report, not an obligation to assume responsibility for meeting the consequential legal obligations of the diocese or other entity.
- Clause 24 provides for the circumstances in which the Director may refrain from further investigation. These circumstances are mostly the same as in the Special Tribunal Canon 2007, including where the allegations are vexatious or misconceived, or their subject matter is trivial, and where there is insufficient evidence to proceed or support charge. An additional ground, in the case of possible disgraceful conduct, is that the available evidence could not support the conclusion that the Bishop was not acting in the honest and lawful discharge of their duties.
- Clause 25 requires the Director to seek to obtain all necessary evidence and other material.
- Clause 26 requires the Director to inform a respondent of the substance of a complaint and the name of the complainant, and allow the respondent to provide a detailed report.
- Clause 27 provides that the Director may take steps where there are reasons to consider that the Bishop is incapable, bring a charge, or refer the investigation of a former Bishop to the Bishop of the Diocese in which the former Bishop now resides.
- Clause 28 allows the Director to proceed under section 27 even though the matter may have been resolved as between the complainant, the alleged victim and the Bishop. However, proceedings may not be commenced or continued against a person no longer in Holy Orders.
- Clause 29 requires the Director to inform the complainant in writing, with reasons, where an investigation is discontinued or no charge brought.

DIVISION 2 – SUSPENSION OF BISHOPS

- Clause 30 establishes when this section applies, which is when there is a plausible complaint of a sexual offence relating to a child by a Bishop. This replicates s14A of the Episcopal Standards (Child Protection) Canon 2017.
- Clause 31 provides for the mandatory suspension of a Bishop by the senior presidential member of the Special Tribunal when section 30 applies. This replicates s 14B of the Episcopal Standards (Child Protection) Canon 2017.
- Clause 32 provides duration of a suspension under section 31. This is derived from sections 14C and 15(1) of the Episcopal Standards (Child Protection) Canon 2017.
- Clause 33 provides for the effect of a suspension, including the Bishop's entitlements. This replicates s 15(2) of the Episcopal Standards (Child Protection) Canon 2017.

PART 6 – THE SPECIAL TRIBUNAL PANEL

- Clause 34 provides for the composition of a Special Tribunal Panel. It has three presidential members (one more than under the present canon), three Diocesan bishops and three priests of at least seven year's standing. An election for all presidential members must be conducted at each General Synod. If more than one presidential member is nominated there must be an election, and the member elected with the greatest number of votes becomes the senior presidential member.
- Clause 35 sets out how a member of the Special Tribunal panel ceases to hold office.
- Clause 36 provides that a Diocesan bishop on the Special Tribunal panel who is translated to a new Dioceses is reappointed to the panel on being installed to the new See.
- Clause 37 provides for the General Synod to fill vacancies on the Special Tribunal panel between meetings of General Synod.
- Clause 38 provides for vacancies not filled under clause 33 to be filled at the next meeting of General Synod.

PART 7 – BRINGING A CHARGE IN THE SPECIAL TRIBUNAL

- Clause 39 provides for the bringing of a charge.
- Subclause (1) provides that, subject to the other provisions of the section, a charge may be brought in the Special Tribunal by the Director, a Diocesan bishop or (if the synod of a diocese excludes the power of the Director to bring a charge) in accordance with the provisions of a Diocesan synod.
- Subclause (2) provides that where the ordinance of a Diocesan synod excludes the power of the Director to bring a charge, the Director cannot do so except in relation to an allegation relating to a matter in the Third Schedule.
- Under subclause (4), only the Director can bring a charge relating to a matter in the Third Schedule.

- Clause 40 provides that where a Diocesan bishop is the only person bringing a charge and that bishop ceases to be a Diocesan bishop, another Diocesan bishop can take over bringing the charge.
- Clause 41 provides that the General Synod is not responsible for the costs of a charge brought under a Diocesan ordinance, and that the Special Tribunal or the Appellate Tribunal may direct the General Synod to meet the costs of a charge brought by a Diocesan bishop.
- Clause 42 provides for the form of a charge.

PART 8 – PROCEEDINGS BEFORE THE SPECIAL TRIBUNAL

DIVISION 1 – CASE MANAGEMENT

- Clause 43 provides for the appointment of a case-management presidential member when a charge is brought.
- Clause 44 gives a case-management presidential member the duties and powers of a judicial officer in the case management of proceedings in the superior court of an Australian State.
- Clause 45 requires the parties to comply with the rules of the Special Tribunal and the directions of the case-management presidential member.

DIVISION 2 – CONFLICTS OF INTEREST

- Clause 46 requires that conflicts of interest by panel members be disclosed to the senior presidential member.
- Clause 47 provides that a member of the Special Tribunal panel who has a conflict of interest is disqualified in relation to that charge.

DIVISION 3 – HEARING

- Clause 48 requires the senior presidential member to appoint the members of the Tribunal to hear a charge.
- Clause 49 requires the Tribunal to deal with a charge as expeditiously as possible. It may proceed despite mediation and conciliation proceedings, an outstanding criminal charge, or the person charged ceasing to be a current Bishop.
- Clause 50 provides for giving notice of a sitting, and proceeding once notice has been given in the absence of the person charged.
- Clause 51 provides that sittings of the Tribunal are open, unless the Tribunal in its absolute discretion directs otherwise. Where it does so direct, the clause provides for who must be allowed to remain present—these do not include the complainant or alleged victim except when they are giving evidence.
- Clause 52 allows the Bishop to be represented by a legal practitioner or someone else.
- Clause 53 allows the Tribunal to obtain the opinion of the Board of Assessors of the Appellate Tribunal.

- Clause 54 provides for the presidential member to determine questions of law; for the Tribunal to act with fairness and according to equity, good conscience and the substantial merits of the case; for forms in which evidence may be received.
- Clause 55 provides that the decision of the Tribunal is the decision of the majority.
- Clause 56 requires the Tribunal to take into account the conduct of the Bishop as it finds it to have been, and any other relevant fact or circumstance in the material before it.
- Clause 57 requires the Tribunal to give written reasons for any determination unless the determination is by consent of the respondent.
- Clause 58 allows the Tribunal to make an order by consent of the parties.
- Clause 59 provides that the Tribunal has no power to award costs. The Bishop the subject of a charge may apply to the Standing Committee for legal assistance from the time of first being notified of the investigation or charge, and the Standing Committee may grant such legal assistance as may be reasonably necessary to enable the Bishop to be properly represented and may do so on the terms and subject to the conditions it determines are reasonably necessary.
- Clause 60 provides that where necessary recommendations of the Tribunal must be entered on the National Register.

DIVISION 4 - RULES, PROCEDURES AND ADMINISTRATION

- Clause 61 provides that the presidential members may make rules for the practice and procedure of the Tribunal, which are otherwise as directed by the President.
- Clause 62 provides that the Tribunal may be constituted by a single member sitting alone for certain purposes that do not include determining a charge or recommending a sentence.
- Clause 63 allows separately constituted Tribunals to sit simultaneously.
- Clause 64 provides that the Registrar of the Tribunal is the General Secretary.
- Clause 65 provides for public statements by the Director or the person bringing a charge.

DIVISION 5 - APPEAL

- Clause 66 provides that appeal to the Appellate Tribunal from the Special Tribunal, other than in respect of a breach of faith, ritual or ceremonial, must be by leave of the Appellate Tribunal

PART 9 – DEPOSITION FROM HOLY ORDERS

- Clause 67 provides for the Instrument of Deposition where a Bishop is deposed from Holy Orders.

PART 10 – STATUS, COMING INTO EFFECT AND TRANSITION**DIVISION 1 – AMENDMENTS TO OTHER CANONS**

Clause 68 amends the Offences Canon 1962.

It creates a new offence in relation to Bishops and former Bishops. The offence is conduct occurring at any time since the commencement of this Canon that would as at 10 August 2026 have constituted examinable conduct under the Episcopal Standards (Child Protection) Canon 2017 as enacted by the 17th General Synod and amended by Canon 11, 2022.

This means that any conduct that would be “examinable conduct” under the Episcopal Standards (Child Protection) Canon 2017 as at the commencement of the 19th General Synod will become an offence under the Offences Canon.

Conduct that is disgraceful is already an offence. A further amendment provides that a sexual offence relating to a child (a term defined in the Constitution) has always been disgraceful for the purposes of the offences that make disgraceful conduct an offence.

Clause 69 amends the Safe Ministry to Child Canon so that terms in that canon remain consistent with the Offences Canon 1962.

DIVISION 2 - ADOPTION AND TRANSITION

Clause 70 provides that this canon affects the discipline of the Church.

Clause 71 provides that when a diocese adopts this canon (which under section 30 of the Constitution it must do for the canon to come into force in that diocese):

- The Special Tribunal Canon 2007 ceases to operate in that diocese; and
- The Episcopal Standards Canon 2007 and the Episcopal Standards (Child Protection) Canon 2017 are excluded in that diocese if that diocese has adopted them.

Clause 72 is a provision to ensure that, despite the Special Tribunal Canon 2007, the Episcopal Standards Canon 2007 and the Episcopal Standards (Child Protection) Canon 2017 ceasing to operate in a diocese, existing investigations and proceedings can continue. It also means that if a diocese has excluded the operation of section 43(2) of the Special Tribunal Canon 2007 in that diocese, that exclusion is automatically retained as an exclusion under section 39(2) of this Canon.

Clause 73 maintains the continuity of office holders under the Special Tribunal Canon 2007 as office holders under this canon, but allows for the election of an additional presidential member for the purposes of this canon (but not the 2007 canon).

FIRST SCHEDULE

Schedule 1 lists the offences in relation to which a charge cannot be brought after 12 months: a breach of faith, ritual or ceremonial, drunkenness, or wilful refusal to pay just debts.

SECOND SCHEDULE

Schedule 2 contains the form of deposition to be used by the Primate or Metropolitan.

THIRD SCHEDULE

Schedule 3 sets out the matters regarding which a diocese cannot exclude the powers of the Episcopal Standards Director to investigate or bring charges. These are the same matters that the Episcopal Standards Commission can currently investigate and refer to the Episcopal Standards Board under the Episcopal Standards (Child Protection) Canon 2017.

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A BILL FOR THE SPECIAL TRIBUNAL CANON 2026

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AMENDED FORM TO BE BROUGHT IN BY THE MOVER AND SECONDER

A canon to provide for the investigation of matters which may become the subject of a charge before the Special Tribunal and to provide for the appointment and procedure of the Special Tribunal

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The General Synod prescribes as follows:

PART 1 - PRELIMINARY

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Title

1. This Canon may be cited as the "Special Tribunal Canon 2026".

Interpretation

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2. (1) In this Canon, unless the context otherwise requires:

Bishop means a person in respect of whom the Special Tribunal has jurisdiction under section 56(6) of the Constitution;

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bishop means a person in bishop's orders;

child abuse has the same meaning as in the Offences Canon 1962;

Church means the Anglican Church of Australia;

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Church body includes the Primate, the General Synod, a diocese, diocesan synod, diocesan council, diocesan trustee or trust corporation or other body responsible for administering the affairs of a diocese, or an institution or agency of this Church or of a diocese;

Commonwealth means the Commonwealth of Australia;

complaint means a complaint against a Bishop alleging a breach of faith, ritual, ceremonial or discipline or alleging an offence under a Canon;

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current Bishop means a person who is—

- (a) a member of the House of Bishops; or
- (b) a bishop assistant to the Primate in their capacity as Primate;

Director means the Director of Episcopal Standards appointed under Part 3;

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Episcopal Standards Commission or **ESC** means the Episcopal Standards Commission established under Part 2;

incapable means incapable for the purposes of the Bishop (Incapacity) Canon 1995;

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investigator means a person appointed under section 15;

5 **National Register** means a National Register established pursuant to a Canon of General Synod for a purpose which includes the recording of determinations of the Tribunal;

priest means a person who is in priest's orders and who is not a bishop;

10 **protocol** means the protocol approved under Part 4;

relevant Metropolitan, means—

(a) in relation to a Diocesan bishop—

15 (i) unless paragraph (iii) or (iv) applies, the Metropolitan of the Province in which the diocese is situated; or

(ii) if the diocese is an extra-provincial diocese, the Primate; or

20 (iii) if the Diocesan bishop is the Metropolitan but not the Primate, the Primate; or

 (iv) if the Diocesan bishop is the Primate, the person who, at the relevant time, is the next most senior Metropolitan who is available, seniority being determined by the date of consecration; and

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(b) in relation to any other Bishop, the Primate;

respondent means a Bishop whose alleged conduct or omission is the subject of a complaint;

rules mean rules made under section 61;

30 **senior presidential member** means the person who becomes the senior presidential member under section 34 or, if that person is unwilling or unable to act, or if there is a vacancy in the office of senior presidential member, the other or next most senior presidential member;

35 **Subsection 39(2) Exclusion** means an ordinance made by the synod of a diocese under subsection 39(2) that has not been revoked by that synod;

Tribunal means the Special Tribunal.

(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—

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

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

45 (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

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

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Effect of Subsection 39(2) Exclusion

3. (1) The Director and the ESC have no powers or duties under this canon, other than a duty under subsections (2) and (3), in relation to a diocese or its Diocesan bishop while there is a Subsection 39(2) Exclusion in effect in relation to that diocese.
- (2) Subject to subsection (3), if the Director receives a complaint in relation to a Diocesan bishop while there is a Subsection 39(2) Exclusion in effect in relation to that diocese, the Director must refer the complainant and the complaint:
- (a) where the diocese is part of a province and the complaint is not in respect of the Metropolitan of that province, to the Metropolitan of that province;
 - (b) where the diocese is part of a province and the complaint is in respect of the Metropolitan of that province, to the Metropolitan of another province, and
 - (c) where the diocese is not part of a province, to a Metropolitan.
- (3) This section does not apply to, and a Subsection 39(2) Exclusion does not operate to alter or affect, the powers and duties of the Director or the ESC in relation to a complaint, investigation or charge concerning a matter listed in the Third Schedule.

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PART 2 – EPISCOPAL STANDARDS COMMISSION**Episcopal Standards Commission**

4. There is an Episcopal Standards Commission.

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Composition of Episcopal Standards Commission

5. (1) The ESC has at least three members.
- (2) The membership of the ESC must collectively provide—
- (a) experience in law;
 - (b) a person in bishop's orders who is not a Bishop; and
 - (c) experience and appropriate professional qualifications in child protection, social work or counselling.
- (3) So far as is reasonably practicable the ESC must have an equal number of men and women.

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Membership of Episcopal Standards Commission

6. (1) The members of the ESC are appointed by the Standing Committee.
- (2) A member of the ESC holds office for a term of not more than 5 years (which may be renewed) and on such other terms and conditions as may be determined by

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the Standing Committee from time to time.

- (3) If a member of the ESC is unable to undertake their role by reason of incapacity or conflict of interest, the Standing Committee may appoint an additional member to the ESC in accordance with this Canon for such period as the Standing Committee may determine.

When ESC members cease to hold office

7. A member of the ESC ceases to hold office upon—

- (a) their death;
 - (b) their resignation;
 - (c) a declaration by a competent court or tribunal that the member is incapable of managing their affairs;
 - (d) ceasing to reside permanently in Australia;
 - (e) conviction or finding of guilt of the member in any court of an offence punishable by imprisonment;
 - (f) becoming a current Bishop;
 - (g) reaching the age of 75 years; or
 - (h) the passing of a resolution by—
 - (i) the Standing Committee by a two-thirds majority of those members present and voting, or
 - (ii) the General Synod voting as a whole passed by a two-thirds majority of those members present and voting—
- to remove the member from office.

ESC Convenor

8. (1) The convenor of the ESC is appointed by the Standing Committee.
- (2) The ESC may meet from time to time as determined by the convenor or a majority of its members and may conduct its business by telephone or electronic communication.
- (3) Subject to this Canon the procedures of the ESC are as determined by the ESC.
- (4) A majority of the members constitutes a quorum.
- (5) A decision taken other than at a meeting of the ESC, if supported by a majority of members of the ESC, constitutes a decision of the ESC.
- (6) The ESC must act in all things as expeditiously as possible.

ESC vacancy does not invalidate acts or proceedings

9. An act or proceeding of the ESC is not invalid by reason only of a vacancy in its membership and, notwithstanding the subsequent discovery of a defect in the nomination or appointment of a member, any such act or proceeding is as valid and effectual as if the member had been duly nominated or appointed.

5 Information not to be divulged

10. Subject to the provisions of this Canon, the Director, a member of the ESC and a person employed or engaged in work related to the affairs of the ESC must not divulge information that comes to their knowledge by virtue of that office or position except—

- 10 (a) in the course of carrying out the duties of that office or position;
- (b) as authorised by or under this or another Canon;
- (c) in any proceedings before the Special Tribunal;
- 15 (d) as may be required by law; or
- (e) to any insurer or insurance broker of a Church body where the information may give rise to or be relevant to a claim for indemnity by the Church body against the insurer or is relevant to obtaining or continuing insurance cover.

20 Annual report by the Director

11. (1) The Director must report annually to the Standing Committee on the Director's activities for that calendar year.
- 25 (2) Subject to subsection (3), the Director's report must not disclose the identity of a complainant or the respondent.
- (3) The Director may disclose the identity of a respondent where the respondent has been exonerated from an allegation the subject of a complaint or has been the subject of a determination or recommendation by the Tribunal.
- 30 (4) Subject to subsection (5) the Director must, in respect of every matter with which the Director is dealing, report either orally or in writing to the Primate with such frequency and as fully as the Primate may reasonably require.
- 35 (5) If a matter relates to the conduct of the Primate, a report under subsection (3) must be made to and at the direction of the senior Metropolitan at the time in Australia who is not the Primate.

Powers and duties of the ESC

- 40 12. (1) Subject to the provisions of this Canon, the ESC has these powers and duties:
- (a) to implement the protocol to the extent that the protocol is not inconsistent with this Canon;
- (b) where appropriate, to recommend to the Standing Committee any changes to the protocol and to any Canon conferring powers or duties on the ESC;
- 45 (c) to oversee the Director's performance of their functions;
- (d) to determine the additional functions of the Director;
- (e) to conduct or to arrange for a suitably qualified person to audit the Director's performance of their functions at any time and to obtain from the Director such records and explanations as are necessary to complete that audit;

- 5 (f) following an audit under paragraph (d)—
- (i) to take such remedial actions recommended by the audit report that are within its power; and
 - (ii) to report to the Standing Committee on the remedial actions recommended by the audit report that are not within its power;
- 10 (g) subject to any limit imposed by the Standing Committee, either generally or in a particular case, to authorise such expenditure on behalf of the General Synod as may be necessary to give, in a particular case, the provisions of this Canon, the protocol or the rules; and
- 15 (h) to report annually to the Standing Committee on its activities and decisions under this Canon.
- (2) The power of the ESC to oversee the Director's performance of their functions does not include a power to alter or override an action or decision of the Director, including the exercise of any discretion by the Director, under this Canon.
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PART 3 – DIRECTOR OF EPISCOPAL STANDARDS

Director of Episcopal Standards

- 25 13. (1) There is a Director of Episcopal Standards.
- (2) The Director is appointed by and holds office in accordance with a resolution of the Standing Committee.

30 Director's functions

14. The Director has these functions:
- (a) to be the executive officer of the ESC;
 - (b) to attend meetings of the ESC unless the ESC in respect of a particular meeting or part of a meeting otherwise determines;
 - 35 (c) to appoint suitable persons to fulfil the several roles required to implement the protocol in each particular case;
 - (d) to receive complaints;
 - (e) to investigate the subject matter of complaints in a timely and appropriate manner;
 - 40 (f) where the complaint relates to an alleged offence against the law of a State or Territory of the Commonwealth or against a law of the Commonwealth, to refer any information in their possession to a member of the appropriate law enforcement, prosecution or child protection authority and to co-operate as far as possible with any such authority;
 - 45 (g) to refer any information in their possession to a member of a law enforcement, prosecution or child protection authority of a State or Territory or of the Commonwealth of Australia to which the information is or may be relevant;

- 5 (h) to advise any relevant Church body as to the financial, pastoral or other needs of a person affected or allegedly affected by conduct the subject of complaint and as to any possible or actual legal proceedings against such Church body arising out of the alleged conduct of a Bishop;
- (i) to bring charges under this canon;
- 10 (j) to maintain proper records of all complaints and information received and of action taken in relation to such complaints and information;
- (k) to report either orally or in writing to the ESC in respect of every matter with which they are dealing, with such frequency and as fully as the ESC requires; and
- 15 (l) to exercise the powers conferred on, and to perform the duties imposed on, the Director by or under this Canon and the Protocol and rules made under this Canon or that are determined by the Standing Committee or the ESC.

Director may appoint an investigator

15. The Director may appoint a person to investigate, or to assist the Director in investigating, a complaint.

General Secretary may engage temporary support

16. During a period when the Director is unavailable, or when there is no Director, the General Secretary, after consultation with the Director (or, when there is no Director, with the chair of the ESC) may engage a person temporarily to discharge the administrative functions of the office.

Director acting in a corresponding capacity

17. The Director may act in a corresponding capacity for a diocese either generally or for a particular case or matter.

PART 4 – THE PROTOCOL

Approving a protocol

18. (1) The Standing Committee must from time to time approve a protocol in relation to complaints.
- (2) The protocol must include provisions and procedures in relation to:
- (a) making and receiving complaints;
- 35 (b) explaining the processes for investigating and dealing with complaints;
- (c) informing complainants, victims of alleged conduct the subject of complaints, and respondents of relevant procedures applicable to them;
- (d) as and when appropriate, providing non-pecuniary support to complainants, victims of alleged conduct the subject of complaints, and respondents;
- 40 (e) providing victim impact statements to the Special Tribunal before a sentence is decided;

- 5 (f) dealing fairly with respondents;
- (g) the cost of legal assistance under section 55(2);
- (h) mediation and conciliation in appropriate circumstances, including how such mediation or conciliation is arranged and funded;
- 10 (i) providing information, reports, advice and recommendations to the Primate, the relevant Metropolitan and to the relevant Administrator at each stage of the process of dealing with information; and
- (j) working, where appropriate, with law enforcement, prosecution or child protection authorities of the States and Territories and of the Commonwealth of Australia.
- 15 (3) The Standing Committee, through the ESC and by such other means as it may consider appropriate, must take such steps as may be necessary or desirable to promote throughout the Church a knowledge and understanding of the protocol.

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PART 5 – COMPLAINTS

DIVISION 1 – RECEIVING AND DEALING WITH COMPLAINTS

25 Making a complaint

19. A person may make a complaint against a Bishop as required and provided for in the protocol.

30 Duty to investigate complaint

20. (1) Subject to this Canon, the Director on receiving a complaint must investigate the allegations contained in it.
- 35 (2) The Director must not take action in respect of a complaint alleging an offence in the First Schedule where the complaint relates to conduct or an omission alleged to have occurred more than twelve calendar months prior to the date on which the complaint is received by the Director.
- 40 (3) For the purposes of subsection (2) a complaint is considered to have been received by the Director when it is received at the office of the General Secretary of the General Synod or, if posted by certified or registered mail to the Director or to the General Secretary of the General Synod, forty-eight hours after the posting of the complaint.

Director may commence or continue investigation of own motion

45 21. Where—

- (a) no complaint has been made; or
- (b) the person making the complaint fails, when requested by the Director, to provide further particulars or to verify the allegations by statutory declaration —

and the Director considers that there are compelling reasons in all the circumstances on

- 5 the basis of information already available to them to commence or continue an investigation, the Director may commence or continue that investigation.

Assessment of risks to children

- 10 22. After commencing an investigation under this Part, the Director must conduct an initial assessment to identify any risks to children and must take whatever steps are reasonably available and practicable to minimise risks so identified.

Reporting to government authorities

- 15 23. Where the law of the Commonwealth or any State or Territory requires that an allegation relating to the safety or well-being of a child be reported to an agency of the Commonwealth or that State or Territory, the Director must report any such allegation in a complaint to that agency in the time and manner required by that law, whether or not some other person or entity within the church may also do so or have done so.

Refraining from further investigation

- 20 24. The Director may refrain at any time from further investigation of the allegations if—
- (a) in the Director's opinion, the allegations are vexatious or misconceived, or their subject matter is trivial;
 - 25 (b) the alleged conduct, if proven, could not constitute an offence under the Offences Canon 1962;
 - (c) the allegations, either expressly or by implication, are that the conduct is disgraceful and, in the Director's opinion—
 - (i) the allegations if proven could not constitute an offence under any item in section 2 of the Offences Canon 1962 other than Item 4; and
 - 30 (ii) the available evidence could not support the conclusion that the Bishop in relation to those allegations was not acting in the honest and lawful discharge of the Bishop's duties;
 - 35 (d) the subject matter is under investigation by some other competent person or body or is the subject of legal proceedings;
 - (e) the person making the complaint has failed, when requested by the Director, to provide further particulars or to verify the allegations by statutory declaration; or
 - 40 (f) in the Director's opinion there is insufficient reliable evidence—
 - (i) to warrant an investigation or further investigation; or
 - (ii) to prove an offence.

Information to be obtained

- 45 25. For the purpose of an investigation the Director or an investigator must endeavour to obtain such statutory declarations, written statements, recorded conversations, reports, documents and other material as they consider necessary or desirable.

50

5 Respondent to receive summary of complaint

26. The Director must by notice in writing—

- (a) provide to a respondent a summary of the complaint including the substance of the allegations and the name of the complainant; and
- 10 (b) allow the respondent to provide a detailed report within the time specified in the notice in relation to any matter relevant to the investigation.

What the Director may do

27. (1) At any time after the commencement of an investigation into a complaint against a Bishop under this Part the Director may--

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(a) if the Bishop is a current Bishop and they consider on reasonable grounds that that Bishop may be incapable, report the matter in writing to the relevant Metropolitan;

20

(b) subject to section 35, institute proceedings by way of charge against the Bishop before the Tribunal; or

25

(c) if the person whose conduct is under investigation ceases to be a current Bishop and the complaint is not in respect of an offence under section 2A of the Offences Canon 1962, refer the matter, together with such information as it has received, to the Diocesan bishop of the diocese in which the person now resides.

30

(2) A report under subsection (1)(a) is a report for the purposes of section 4 of the Bishops (Incapacity) Canon 1995 as if it were made by three members of the synod of a diocese for the purposes of that section.

Director may proceed despite resolution of dispute

28. (1) The settlement or resolution of the subject matter of a complaint, in whole or in part, between the parties affected does not prevent the Director from taking any of the steps in section 27 in respect of the subject matter of the complaint.

35

(2) A term of a settlement or resolution referred to in subsection (1) which purports to prevent or to limit the institution of proceedings by way of charge against a Bishop is of no effect.

40

(3) Proceedings must not be instituted or maintained in the Tribunal against a person who is no longer in Holy Orders.

Informing complainant where complaint does not proceed

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29. If—

(a) following the receipt of a complaint, the Director under section 24 refrains from further investigation of the allegations contained in the complaint;

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(b) the Director does not recommend mediation or conciliation in relation to the complaint; or

(c) following an investigation under this Part of the allegations contained in a complaint, the Director does not bring a charge under section 39 against the Bishop in respect of the complaint--

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the Director must, without delay, provide the person who made the complaint with full and complete reasons, in writing, for that decision.

5

DIVISION 2 – SUSPENSION OF BISHOPS**Definition of when section 30 applies**

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30. This section applies if, at any time after having commenced or caused to be commenced under this or any other Canon an investigation of a complaint, the Episcopal Standards Director forms the opinion that—

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- (a) the complaint involves a sexual offence relating to a child by a person who is a Bishop; and
- (b) the complaint is plausible.

Mandatory suspension where section 30 applies

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31. (1) If section 30 applies, the Episcopal Standards Director must recommend to the senior presidential member that the person be suspended from the duties of office.

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(2) Where the Director makes a recommendation under sub-section (1), the senior presidential member must suspend the person from the duties of office.

30

(3) A person suspended under sub-section (2) from the duties of a paid office, or a person to whom section 30 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.

Duration of suspension under this Canon

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32. (1) A person suspended from the duties of office under this Canon remains suspended until—

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- (a) the Episcopal Standards Director decides to refrain from further investigation under section 24 and there are no other investigations in relation to that person to which section 30 applies;
- (b) a charge is brought under Part 6 when there are no other investigations to which section 30 applies; or
- (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—

45

whichever occurs first.

Effect of suspension

50

33. (1) A suspension under this Canon or a voluntary standing down from office by the Bishop as a result of an investigation by the Director has effect as an absence of the Bishop from the see or from office as the case may require.

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(2) During a period of suspension or voluntary standing down referred to in subsection (1), the Bishop is entitled to receive from the body normally responsible for their payment the stipend, allowances and other benefits that would otherwise have accrued.

5

PART 6 – THE SPECIAL TRIBUNAL PANEL**Special Tribunal panel**

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34. (1) For the purposes of this Canon there is a panel comprising—

(a) a senior presidential member and two other presidential members each of whom is qualified to be a lay member of the Appellate Tribunal;

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(b) three Diocesan bishops; and

(c) three priests of at least seven years' standing.

(2) The members of the panel are elected by each General Synod in accordance with any Rule of General Synod for the conduct of elections.

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(3) Where there are two or more candidates to become members of the panel, but regardless of the number of candidates, there must be one election for all the presidential members held at the same time and the person with the highest number of votes becomes the senior presidential member and any other person elected becomes a presidential member.

25

Ceasing to be a member of the Special Tribunal panel

35. (1) Subject to subsection (2), a member of the panel ceases to hold office upon:

30

(a) death;

(b) resignation;

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(c) declaration by any competent court or tribunal that the member is incapable of managing his or her affairs;

(d) ceasing to reside permanently in Australia;

40

(e) conviction or finding of guilt in any court of any offence punishable by imprisonment;

(f) in the case of a Diocesan bishop, ceasing to be a Diocesan bishop or on becoming the Primate;

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(g) in the case of a priest, becoming a current Bishop;

(h) subject to subsection (2), the conclusion of the second ordinary session of the General Synod following the General Synod at which they were elected; and

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(i) at the commencement of the ordinary session of General Synod which must take place next after the member attains the age of 75 years.

(2) A person who has ceased or will cease to hold office under subsection (1)(h) may be re-elected, and if they are re-elected the date of their re-election becomes the date of their election for the purposes of that paragraph.

55

5

- (3) A member of the panel who is
- (a) the case-managing presidential member; or
 - (b) a member of the Tribunal—

10

for particular proceedings of the Tribunal must continue to hold office until the completion of those proceedings even if they cease to be a Diocesan bishop or cease to be a member of the panel by virtue of subsections (1)(h) or (i).

Current Bishops on panel to continue despite translation

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36. (1) A Diocesan bishop who having accepted appointment to a different office of Diocesan bishop ceases to be a Diocesan bishop so as to take up that appointment is, upon being installed as Diocesan bishop in that different office, re-appointed to the panel or the Tribunal as the case may be.
- (2) For the purposes of section 35(1)(h) the date of election of a Diocesan bishop re-appointed under subsection (1) is the date of their most recent election by the General Synod.

20

Vacancies on panel

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37. (1) If a vacancy in the membership of the panel occurs while the General Synod is not in session and it becomes necessary or desirable for the vacancy to be filled before the next ordinary session of the General Synod, the Primate must cause the General Secretary to notify the members of the General Synod that such vacancy is to be filled.

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- (2) At the time when the General Secretary notifies the members of General Synod under subsection (1), the Primate must invite the members of General Synod to nominate candidates by a date not sooner than six weeks from the date of the notification.

- (3) A nomination under subsection (2) must be by at least five members of General Synod.

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- (4) If no more names are received than the number of vacant positions to be filled, the General Secretary must declare the persons named to be elected to the panel. Otherwise, the General Secretary must conduct a postal ballot of the members of General Synod to determine the person or persons to be elected.

40

- (5) A ballot for the purposes of subsection (4) must be conducted in accordance with the rules for the time being in force for the conduct of ballots with such modifications as are necessary, and the General Secretary must declare the person or persons who are successful in such ballot to be the person or persons elected by the General Synod to the panel.

45

- (6) Upon the General Secretary declaring a person to be elected to the panel, the person becomes a member of the panel.

- (7) For the purposes of subsection 35(1)(h), a person elected under this section is deemed to have been elected at the ordinary session General Synod next following their election.

5

Filling vacancies by General Synod

38. A vacancy not filled under section 37 must be filled at the next ordinary session of the General Synod.

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PART 7 – BRINGING A CHARGE IN THE SPECIAL TRIBUNAL**Who may bring a charge**

- 15 39. (1) Subject to this section, a charge against a Bishop in the Tribunal may be brought—
- (a) by the Director;
- 20 (b) by a Diocesan bishop; or
- (c) in respect of—
- (i) the Diocesan bishop of a diocese; or
- (ii) a Bishop holding a licence in a diocese—
- 25 in accordance with the provisions of an ordinance of the synod of that diocese.
- (2) If the synod of a diocese by ordinance declares that paragraph (a) of subsection (1) has no effect in respect of the Diocesan bishop of that diocese, that paragraph does not apply to a charge against that Diocesan bishop other than in relation to a charge relating to or alleging a matter listed in the Third Schedule.
- 30 (3) A declaration under subsection (2) –
- (a) does not affect any proceedings in respect of a charge brought before the diocesan ordinance takes effect; and
- 35 (b) does not limit in any other respect the powers of the ESC contained in this or any other Canon in force in a diocese.
- (4) Only the Director can bring a charge relating to or alleging a matter listed in the Third Schedule.
- 40

Where Diocesan bishop bringing a charge ceases to be a Diocesan bishop

40. (1) This section applies when a Diocesan bishop who is bringing a charge under section 39 is the only Diocesan bishop bringing that charge and—
- 45 (a) is suspended from the duties of office; or
- (b) ceases to be a Diocesan bishop and does not become the Diocesan bishop of another diocese within the next 30 days.
- (2) Subject to subsection (3), when this section applies the charge lapses.
- 50 (3) When this section applies a Diocesan bishop other than the Diocesan bishop who was bringing the charge may notify the Registrar within 14 days that they will become the Diocesan bishop bringing the charge, and that Diocesan bishop thereupon becomes the Diocesan bishop bringing the charge for the purposes of this Canon.

5 **Cost of bringing a charge**

41. (1) Where there is a Section 39(2) Exclusion in force, the General Synod is not responsible for the costs where a charge is brought under section 39(1)(c).

10 (2) In respect of a charge brought pursuant to –

(a) section 39(1)(b); or

15 (b) section 39(1)(c) where there is no declaration under section 39(2) in force in respect of that Bishop—

the Special Tribunal or the Appellate Tribunal (as the case may be) may direct the General Synod to indemnify the person or body who or which brought the charge in respect of the costs of bringing the charge, and the General Synod must indemnify that person or body accordingly.

20

Form of charge

42. (1) A charge against a Bishop must—

25 (a) be in writing;

(b) specify the alleged offence and provide particulars of the alleged offence;

(c) be signed by a member of the body or the person bringing the charge; and

(d) be lodged with the Registrar.

30

(2) A signed copy of the charge must be served on the Bishop personally or by leaving it at or posting it to the office of the Bishop's Registry in an envelope addressed to the Bishop and marked "**Private and Confidential**".

35 (3) A charge, once instituted, may be amended or withdrawn by the person or body instituting it.

(4) The amendment or withdrawal of a charge does not prevent another person or body from bringing or proceeding with a charge in terms the same as or similar to a charge before it was amended or withdrawn.

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PART 8 – PROCEEDINGS BEFORE THE SPECIAL TRIBUNAL

DIVISION 1 – CASE MANAGEMENT

45

Appointment of case-management presidential member

43. When a charge is brought in the Tribunal the senior presidential member must appoint a presidential member to be the case-management presidential member in relation to that charge.

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Duties and powers of case-management presidential member

44. (1) The case-management presidential member, to the fullest extent possible, has all the duties and powers of a judicial officer in the case management of proceedings in a superior court of an Australian State.

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- 5 (2) The case-management presidential member determines the place and time of the sitting of the Tribunal in relation to the charge.

Appointment of case-management presidential member

- 10 45. The person or body bringing the charge and the Bishop must comply with the rules of the Tribunal and with any directions given by a case-management presidential member or by a member of the Tribunal at a directions hearing.

DIVISION 2 – CONFLICTS OF INTEREST

Members to disclose a conflict of interest

- 15 46. A member of the panel must without delay disclose to the senior presidential member any conflict of interest that the member has in relation to a matter before the Tribunal.

Disqualification where conflict of interest

47. Where a member of the panel—
 (a) has disclosed a conflict of interest under section 46; or
20 (b) in the opinion of the senior presidential member has a conflict of interest in relation to a matter before the Tribunal—
 that member is disqualified from participating in the matter.

DIVISION 3 – HEARING

Members of the panel for a sitting of the Tribunal

- 25 48. (1) Once a charge is lodged with the Registrar, the senior president member must as soon as possible appoint the members of the Tribunal for the purpose of hearing the charge.
 (2) One member of the Tribunal must be a presidential member who becomes the President.

Requirements regarding hearing a charge

49. (1) The Tribunal must deal with any charge as expeditiously as possible.
 (2) The Tribunal may, if it sees fit, proceed with the hearing of a charge even though—
35 (a) there may be mediation or conciliation proceedings under this canon relating to the subject matter of the charge; and
 (b) there may be criminal or other proceedings being taken against the Bishop.
40 (3) The Tribunal may make a recommendation in relation to a person the subject of the charge who has ceased to be a current Bishop after the charge was lodged with the Registrar.

Notice of a sitting

- 45 50. (1) Subject to subsection (2), the Tribunal must give the following persons reasonable notice of the time and place of a sitting of the Tribunal:

- 5 (a) the person or body bringing the charge; and
- (b) the respondent; and
- 10 (c) such other persons as the Tribunal believes have a proper interest in the matter.
- (2) The Tribunal is not obliged to give notice of a sitting to a person whose whereabouts cannot, after reasonable enquiries, be ascertained.
- 15 (3) The Tribunal may conduct a hearing and make a determination in any proceedings in the absence of the respondent if satisfied that reasonable efforts were made to give that person an opportunity to appear.

Presence at a sitting

- 20 51. (1) Subject to subsection (2), a sitting of the Tribunal on a reference before the Tribunal is an open sitting.
- (2) On any such sitting before the Tribunal, the Tribunal has an absolute discretion to direct that persons other than—
- 25 (a) the respondent and any person representing the respondent in the proceedings; and
- (b) witnesses or persons making submissions (while giving evidence or making those submissions); and
- 30 (c) officers of the Tribunal or persons assisting the Tribunal; or
- (d) the person bringing the charge or their representatives—
- not be present in the room while the Tribunal is sitting.
- 35

Representation

- 40 52. At any hearing before the Tribunal or before a member of it the ESC and the Bishop may be represented by a legal practitioner or, with leave of the Tribunal, by any other person.

Board of Assessors may be used

- 45 53. At any time during the course of a hearing the Tribunal may obtain the opinion of the Board of Assessors of the Appellate Tribunal.

Conduct of the hearing and evidence

- 50 54. (1) In any proceedings of the Tribunal where the Tribunal is constituted by two or more members—
- (a) any question of law or procedure will be determined by the President; and
- (b) any other question will be determined by majority decision of the members, and in the case of an equality of votes the opinion of the President must prevail.
- 55

- 5 (2) The Tribunal must act with fairness and according to equity, good
conscience and the substantial merits of the case without regard to
technicalities or legal forms and is not bound by the rules of evidence but
may inform itself on any matter in such manner as it thinks fit.
- 10 (3) Without limiting the meaning and effect of subsection (4), the Tribunal may
receive evidence of a witness in the form of an affidavit, statutory
declaration or a signed statement without the need for the personal
attendance of the witness, and may also use electronic means such as
video link or conference telephone to receive evidence and submissions,
15 but must permit the respondent and his representative (if any) opportunity
to adequately cross-examine each witness.
- (4) The Tribunal may inform itself from the record of any court or tribunal and
may adopt any findings, and accept as its own, the record of any court or
tribunal.

Decision by majority of Tribunal

- 20 55. A decision of the Tribunal is the decision of a majority of the Tribunal.

What the Tribunal must take into account

56. In making any determination the Tribunal must take into account—
- 25 (a) the conduct of the Bishop as it finds it to have been; and
- (b) in the material before the Tribunal, any other fact or circumstance relevant to the determination of the question before it.

30 Tribunal to give reasons

57. The Tribunal must give written reasons for any determination, other than by way of directions in the course of a proceeding, unless the determination is made by consent of the respondent.

Tribunal may make an order by consent

- 35 58. The Tribunal may make an order by consent of the parties before it.

Costs and funding

59. (1) The Tribunal has no power to award costs of any proceedings before it.
- 40 (2) A Bishop who is the subject of a charge before the Tribunal may apply to the Standing Committee for the provision of legal assistance from the time of first being notified of the investigation or charge.
- 45 (3) The Standing Committee may grant such legal assistance as may be reasonably necessary to enable the Bishop to be properly represented and may do so on the terms and subject to the conditions it determines are reasonably necessary.

5 Entries on the National Register

60. In a case where entry is required under the National Register Canon 2007, a recommendation of the Tribunal, or the date and particulars of the recommendation, must be entered on the National Register together with a record of any action taken consequent upon the recommendation.

10 DIVISION 4 - RULES, PROCEDURES AND ADMINISTRATION**Rules**

61. (1) The presidential members of the panel may make rules of the Tribunal in relation to the practice and procedure of the Tribunal.
- 15 (2) Subject to this Canon and the rules, the practice and procedure of the Tribunal are as directed by the President of the Tribunal.

Tribunal constituted by a single member

- 20 62. (1) The rules may provide that, in relation to the exercise of specified functions, or in relation to matters of a specified class, the Tribunal may, at the direction of the President, be constituted by a single member sitting alone.
- (2) The Tribunal constituted by a single member sitting alone cannot determine a charge or make a recommendation as to sentence.
- 25 (3) Where the Tribunal is constituted by a member sitting alone who is not the President, any question of law that arises must be referred to the President for decision and any decision made on such a reference is a decision of the Tribunal.

Concurrent sittings

- 30 63. The Tribunal, separately constituted in accordance with this Part, may sit simultaneously for the purpose of matters referred to it or for conducting separate business of the Tribunal.

35 Registrar

64. The Registrar of the Tribunal is the General Secretary of the General Synod.

Public statements

- 40 65. (1) The Director may release to the public such material as they may determine with respect to any complaint.
- (2) At any time after the first directions hearing the Tribunal or, if so authorised by the Tribunal, the person or body bringing the charge, may make public a statement concerning the nature of the charge and the Bishop against whom the charge is brought.
- 45 (3) Upon the determination of any charge by the Tribunal and the recommendation of any sentence by the Tribunal, the Tribunal, or if so authorised by the Tribunal, the person or body bringing the charge, may make public a statement of the decision and, where appropriate, concerning the nature of the charge proved and the sentence imposed by the Tribunal, together with such reasons or a summary thereof as the Tribunal must direct or approve.
- 50

5

DIVISION 5 - APPEAL**Appeals**

66. An appeal to the Appellate Tribunal from the Tribunal, other than in respect of a breach of faith, ritual or ceremonial, must be by leave of the Appellate Tribunal.

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PART 9 – DEPOSITION FROM ORDERS**Deposition**

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67. (1) The deposition of a Bishop from Holy Orders by the Primate pursuant to the recommendation of the Tribunal must be effected by the execution by the Primate of an Instrument of Deposition in or to the effect of the form in the Second Schedule.

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- (2) The Primate must forthwith—

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- (a) register the Instrument in the Registry of the Primate;
- (b) deliver a copy of the Instrument to the Diocesan bishop of the diocese or dioceses in which the person who is the subject of the Instrument was ordained priest and bishop;
- (c) if the person was a Diocesan bishop, deliver a copy of the Instrument to the registrar of the diocese concerned; and
- (d) cause relevant details to be forwarded for entry into the National Register.

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PART 10 – STATUS, COMING INTO EFFECT AND TRANSITION**DIVISION 1 – AMENDMENTS TO OTHER CANONS****Amendments to the Offence Canon 1962 relating to child protection**

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68. In the Offences Canon 1962—

- (a) following Item 4 of section 2 insert:

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- “4A. Conduct occurring at any time since the commencement of this canon that is within the meaning of “examinable conduct” as defined in, and as the words and expressions used in that definition were defined in, the Episcopal Standards (Child Protection) Canon 2017 as enacted by the 17th General Synod and amended by Canon 11, 2022.”;

45

- (b) following Item 2 of section 2A insert:

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- “2A. Conduct occurring at any time since the commencement of this canon that is within the meaning of “examinable conduct” as defined in, and as the words and expressions used in that definition were defined in, the Episcopal Standards (Child Protection) Canon 2017 as enacted by the 17th General Synod and amended by Canon 11, 2022.”; and

55

- (c) after section 5 insert:

- “6. Since this canon first commenced a sexual offence relating to a child has always been disgraceful for the purposes of Item 5 in section 1 and Item 4 in section 2”.

5

Amendments to definitions in Safe Ministry to Children Canon 2007

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

(a) the definition of “professional standards process” is repealed; and

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(b) in the definition of “professional standards role” for “professional standards process” substitute:

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“a process for determining the fitness for office of clergy or lay persons under any canon of the General Synod or diocesan ordinance or a process under Chapter IX of the Constitution, where the conduct that is the subject of the process relates to child abuse”.

DIVISION 2 – ADOPTION AND TRANSITION**Canon affects the discipline of the Church**

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70. This canon affects the discipline of the Church.

Effect of a Diocesan synod adopting this Canon

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71. Subject to this Division, on the date on which a diocese adopts this Canon—

(a) the Special Tribunal Canon 2007 ceases to operate in that diocese;

(b) the Episcopal Standards Canon 2007 is excluded by that diocese if that diocese has previously adopted it; and

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(c) the Episcopal Standards (Child Protection) Canon 2017 is excluded by that diocese if that diocese has previously adopted it.

Savings

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72. (1) Despite this Canon being adopted by a Diocese, the Special Tribunal Canon 2007, the Episcopal Standards Canon 2007 and the Episcopal Standards (Child Protection) Canon 2017 continue to operate in that Diocese to the extent necessary to enable any allegation or complaint already made to be considered or investigated, and any charge or other proceeding heard or decided or otherwise disposed of.

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(2) A protocol made under or operating for the purposes of the Special Tribunal Canon 2007 continues in effect until the Standing Committee approves a protocol under section 18 of this Canon.

45

(3) When this Canon is adopted in a diocese that has excluded the operation of section 47(2) of that Canon in that diocese, that exclusion operates as an exclusion under section 39(2) of this Canon.

Office holders under the Special Tribunal Canon 2017 to continue

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73. (1) Subject to this section, a person who holds any office, role or position under the Special Tribunal Canon 2007 also holds the equivalent office, role or position under this Canon and in accordance with Part 6.

55

(2) Subsection (1) continues to have effect if the Special Tribunal Canon 2007 has ceased to operate in all Dioceses.

- 5 (3) At the time of conducting elections for presidential members of the Special Tribunal, the General Synod may elect a third presidential member for the purposes of section 34(1)(a), but a presidential member so elected does not become a member of the Special Tribunal panel established by the Special Tribunal Canon 2007.

FIRST SCHEDULE

(Section 20(2))

1 A breach of faith, ritual or ceremonial;

2 Drunkenness;

3 Wilful failure to pay just debts.

SECOND SCHEDULE

TO

I, PRIMATE/ARCHBISHOP of

by this instrument depose you from Holy Orders (particulars of which are set out below)
 in accordance with the recommendation of the Special Tribunal of the Anglican Church
 of Australia dated the day of

PARTICULARS OF HOLY ORDERS

FULL NAME
 AND
 ADDRESS

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

DATED:

SEALED

THIRD SCHEDULE

(Sections 3(3), 39(2) and 39(4))

- 10 1. Child abuse
2. Failure without reasonable excuse to comply with the laws of the Commonwealth or a State or Territory requiring the reporting of child abuse to the police or other authority.
- 15 3. Failure to comply with a direction of the Episcopal Standards Board established under the Episcopal Standards Canon 2007 or the Episcopal Standards (Child Protection) Canon 2017 or any other Board established under an ordinance of a provincial synod or diocesan synod for dealing with the fitness of a bishop to hold office or to be or remain in Holy Orders.
- 20 4. Failure without reasonable excuse to give effect to a recommendation given to the person under or for the purposes of section 60(1) of the Constitution.
- 25 5. 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 6. 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.
- 35 7. Conduct occurring at any time since the commencement of this canon that is within the meaning of “examinable conduct” as defined in, and as the words and expressions used in that definition were defined in, the Episcopal Standards (Child Protection) Canon 2017 as enacted by the 17th General Synod and amended by Canon 11, 2022.
- 40
