

Church Discipline Ordinance 1996 Amendment Ordinance 2001

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No .2001

An Ordinance to amend the Church Discipline Ordinance 1996.

The Synod of the Diocese of Sydney Ordains -

1. Name

This Ordinance is the Church Discipline Ordinance 1996 Amendment Ordinance 2001.

2. Amendments

The Church Discipline Ordinance 1996 is amended as follows-

(a) in clause 2(1) -

(i) the following definition is inserted after the matter "In this ordinance -"

"Advisers' means such persons who are appointed by the Archbishop from time to time as his advisers for the purpose of clause 3(3)(h).";

(ii) paragraph (a) of the definition of "Unacceptable Behaviour" is amended as follows -

(A) the matter after the matter "Person -" becomes sub-paragraph (i);

(B) the word "or" is inserted at the end of sub-paragraph (i); and

(C) the following sub-paragraph is inserted after sub-paragraph (i) -

"(ii) sexual conduct prior to ordination which -

(A) if committed by a Christian minister would be regarded by right thinking members of the Church as disgraceful and inconsistent with the standards to be observed by a Christian minister; and

(B) at the time the Allegations are made is productive, or if known publicly would be productive, of scandal or evil report;";

(iii) paragraph (b) of the definition of "Unacceptable Behaviour" is amended as follows -

(A) the matter after the matter "ordained -" becomes subparagraph (i);

(B) the word "or" is substituted for the word "and" at the end of subparagraph (i); and

(C) the following subparagraph is inserted after subparagraph (i) -

"(ii) sexual conduct prior to holding a Position which -

(A) if committed by a Christian lay person holding such a Position would be regarded by right thinking members of the Church as disgraceful and inconsistent with the standards which should be observed by a Christian lay person holding that Position; and

(B) at the time the Allegations are made is productive, or if known publicly would be productive, of scandal or evil report; and";

(b) in clause 3(3) the word "The" is deleted and the matter "Subject to clause 3(5), the" is inserted instead;

(c) the matter "." at the end of clause 3(3)(f) is deleted and the matter ";" is inserted instead;

(d) after clause 3(3)(f) the following matter is inserted -

"(g) where there is insufficient evidence to warrant an investigation;

(h) where an alternative course of action has been endorsed by a meeting of at least 3 Advisers and the Archbishop and the Archbishop implements that course of action.";

(e) after clause 3(3) the following matter is inserted -

"(4) For the purposes of clause 3(3)(h) an alternative course of action is to be taken to have been endorsed by a meeting of at least 3 Advisers and the Archbishop only if -

(a) the Advisers present at that meeting include -

(i) an Experienced Lawyer; and

(ii) at least one man and one woman; and

(b) reasonable steps have been taken to consult -

(i) with each Injured Party, or where the Injured Party is a Disable Person a Representative of that Injured Party, whose address is known, as to the proposed alternative course of action; and

(ii) with the Subject after notification of the nature of the Allegations as to the proposed alternative course of action.

(5) Where the Archbishop has implemented an alternative course of action pursuant to clause 3(3)(h), at the conclusion of that course of action the Archbishop must promptly appoint a person or persons to investigate the Allegations or part of the Allegations if -

(a) none of the circumstances in clauses 3(3)(a) to (g) inclusive apply;

(b) the Injured Party, unless having had a reasonable excuse for not having done so, has fully participated in and complied with all requirements of that course of action; and

(c) the substance of the Allegations, or part, is disputed by the Subject.";

(f) in clause 2(1) the definition of "Other Person" is amended by inserting the words "or has held" after "holds";

(g) clause 7(1)(b) is amended by omitting the word "and" before the words "a Prohibition" and by substituting for it the words "and/or";

(h) in clause 2(2) insert the words "or suspend" after the word "terminate";

(i) in clause 11(2) insert the words "or decides" after the word "required";

(j) in clause 11(2)(b)(iii) omit the matter "7(1)(c)" and insert instead the matter "7(1)(b)";

(k) in clause 11(2)(b)(iv) omit the matter "under clause 7(1)(c)";

(l) insert a new clause 11(2A) as follows:

"(2A) If the Archbishop is required or decides to act under clause 5(1) and the Subject is an Other Person the Archbishop, with the consent of the Standing Committee, may issue a Prohibition to expire:

(a) if the Tribunal makes a recommendation under clause 7(1)(a) - on receipt by the Archbishop of the Tribunal's Report; and

(b) if the Tribunal makes a recommendation under clause 7(1)(c) that a Prohibition be issued in relation to the Subject - at the time the Archbishop decides whether to issue the Prohibition.";

(m) omit the matter "11(2)(a) or 11(2)(b)" in clause 11(3) and insert instead the matter "11(2) or 11(2A)"; and

(n) omit the matter "or 11(2)" in clause 11(4) and insert instead the matter ", 11(2) or 11(2A)" instead.

3. Operation

The amendments to the Church Discipline Ordinance 1996 made by clause 2 apply in respect of conduct whether occurring before or after the date on which this ordinance receives assent.

I Certify that the Ordinance as printed is in accordance with the Ordinance as reported.

Chairman of Committees

We Certify that this Ordinance was passed by the Synod of the Diocese of Sydney on 2001.

Secretaries of Synod

I Assent to this Ordinance.

Archbishop of Sydney

/ /2001